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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE  
AND NATURAL HABITATS

**Standing Committee**

32<sup>nd</sup> meeting  
Strasbourg, 27-30 November 2012

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**APPLICATION OF THE CONVENTION**  
**- Summary of case files and complaints -**

**SEPTEMBER 2012**

*Secretariat memorandum  
prepared by  
the Directorate of Democratic Governance, Culture and Diversity*

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## **1. IMPLEMENTATION OF THE CONVENTION: FILES**

### **1.1 Specific sites - Files open**

#### **a. Ukraine: Project for a waterway in the Bystroe estuary (Danube delta)**

This case concerns the excavation of a shipping canal in Bystroe estuary of the Danube delta in Ukraine, which is likely to affect adversely both the Ukrainian Danube Biosphere Reserve – the most important of Ukraine’s wetlands – and the whole Danube delta dynamics.

The first phase of the project was conducted in 2004.

In 2004, the Standing Committee adopted Recommendation No.111 (2004) on the proposed navigable waterway through the Bystroe estuary (Danube Delta), inviting Ukraine to suspend works, except for the completion of phase I, and not to proceed with phase II of the project until certain conditions were met.

Ukraine did not send a delegate to the Standing Committee meeting in 2008, but they sent information to the Secretariat afterwards, concerning the repeal of the Final Decision regarding Phase II of the Project and confirming that the amended and updated EIA documentation would be sent to the Secretariat, and that measures would be undertaken to ensure public consultation and participation on this Project. Furthermore, the Secretariat was informed that a document entitled “Draft Time-Schedule” had been signed with the Romanian authorities for further mutual implementation of the steps to be taken by both countries.

In March 2009, the Ukrainian authorities reported to the Secretariat confirming the repeal of the Final Decision regarding Phase II of the Project, in line with Recommendation 111 (2004) of Bern Convention. The report also confirmed that “the works on the Phase II never started and are not going to start until the appropriate procedures are being implemented”.

At the 2009 meeting of the Standing Committee, the delegate of Ukraine outlined the measures taken by his government, including the initiative to collaborate with the International Commission on the Protection of the Danube River regarding research and monitoring of the transboundary part of the Danube Delta. The Standing Committee welcomed the positive co-operation underway between Ukraine and Romania, but it agreed to keep the case file open and asked Ukraine to continue to report to in 2010.

In March 2010, the European Union informed the Council of Europe that Ukraine adopted a final decision on the project at the end of January 2010. Ukraine decided to start works related to the full-scale implementation of the Danube-Black Sea Navigation Route, thus initiating the implementation of Phase II of the Bistroe Channel project.

The Secretariat asked Ukrainian authorities to inform on the issue; however, the national report was only sent on 1<sup>st</sup> December 2010, a day before the Standing Committee meeting.

Following a long discussion and after calling for an improved and regular exchange of information with the Secretariat, the Standing Committee decided to keep the case file open and agreed to set-up a Select Group of Experts to facilitate dialogue on the issue. The Group should have met after relevant Parties and the Chair of the Standing Committee agree on the terms of reference. These were sent to both Parties in January 2011; however, the Ukrainian Party was not in a position to agree on them.

In September 2011 the Bureau expressed again strong dissatisfaction towards the lack of communication from Ukrainian authorities and decided to keep the case-file opened, as well as to request to Ukraine a detailed report on the state of implementation of the Danube-Black Sea Navigation Route, as well as on the compliance with the Standing Committee Recommendation (2004) 111.

At last Standing Committee meeting, the delegate of Ukraine presented the government report, stressing that - according to the data collected through the monitoring process - no negative impacts for the Bern Convention species and habitats, as well as for the Romanian delta ecosystems could be

identified in relation with the Bystroe Channel project. He further recalled that Ukraine proposed to elaborate a common Plan for the management of the basin of the Danube Delta within the framework of the International Commission for the Protection of Danube River. He informed about the content of the EIA which was elaborated by a pool of independent experts and concluded by stating that Phase II of the Bystroe Channel project has not started.

The delegate of Poland, speaking as EU Presidency, requested the case-file to be kept open. She expressed doubts on the way the recommendation was implemented and stressed the need for more detailed and precise information.

The delegate of Romania regretted the lack of clear information from Ukraine, while contesting the quality of the EIA which should be improved before being agreed by all concerned Parties. He welcomed the monitoring project while stressing that this cannot erase the concerns related to the digging of a channel in the Danube delta. He concluded by recalling that both the Aarhus and Espoo Convention have issued warnings for possible non-compliance to Ukraine, as well as by requesting that shorter but clearer and timely reports should be submitted to the Bureau by Ukrainian authorities.

The Committee decided to keep the case-file open asking the three concerned Parties, namely Republic of Moldova, Romania and Ukraine, to ensure that the Secretariat receive updated reports on the current state of the situation as well as on the implementation of the provisions included in Recommendation No. 111 (2004).

In February 2012 **Ukrainian authorities** sent a full report highlighting that the works related to the implementation of Phase II of the Bystroe Channel project have not started. Moreover, according to the report, Ukraine prepared an EIA which was handed to the Government of Romania and discussed by a panel of international experts before being amended – in 2008 - according to the comments made; a separate analysis of the impacts of the full implementation of the Channel in a transboundary context was also available; public hearings on the issue were organised without the cooperation of the Romanian government. Ukrainian government further affirmed having looked into all possible alternatives to the route of the waterway before deciding to consider the Bystroe one.

Regarding the ecological compensation and mitigation of possible damages to the environment, the Ukrainian government informed having identified specific measures to mitigate the potential negative transboundary environmental impact of the Bystroe project; furthermore, the authorities informed that appropriate measures have been taken over the past years to enhance the conservation status of the Danube Delta Biosphere Reserve and to expand its territory.

Finally, for what concerns the monitoring measures, Ukraine informed of a number of initiatives implemented since 2004, including long-term hydrobiological studies for 2004-2011 whose conclusions allow to affirm the absence of direct impact of the renewing and maintenance of waterway Danube Black Sea to the biotic communities of phytoplankton, zooplankton, zoobenthos, fish fauna, with only a few local and limited exceptions.

The report submitted in February 2012 by the **authorities of the Republic of Moldova** informs on different mechanisms for trilateral co-operation among which the implementation of the Agreement for the Establishment and Management of a Cross-Border Protected Area between the Republic of Moldova, Romania and Ukraine in the Danube Delta and the Lower Prut Nature Protected Areas. The report stresses the strong political will of the Joint Commission towards the full implementation of existing legal instruments, scientific and technical co-operation at the Delta level, a stable socio-economic context in the Delta, exchange of information, data and methodologies, and long-term harmonised monitoring.

Furthermore, the report provides information on a number of projects targeting the area of the future Lower Prut River and Lower Dniester Biosphere Reserves, including the designation of the concrete areas to be included in the future reserves, the integrated management of the Danube Delta region, the cross-border cooperation and capacity building for introducing a river basin approach to the management of natural resources in the Danube Delta Sub-basin.

More concretely, the report informs on the current status of the project “Joint environmental monitoring, assessment and exchange of information for integrated management of the Danube Delta region” funded by “Environment and Security” Initiative (November 2010 – November 2012) which was presented to be an essential step towards – among others - the establishment of a monitoring program to assess, in the long term, the environmental state of the Danube delta, including the effects of the navigable waterway and the success of any mitigation and compensation measures to be undertaken in the frameworks of the Danube Delta Sub-basin Management Plan.

In a report submitted in March 2012 the **authorities of Romania** informed that Ukraine has finalised the implementation of Phase I of the Bystroe project, but has also completed some of the works foreseen in the framework of Phase II (such as the retaining dam off the mouth of the Bystroe branch of the Danube, which was continuously extended until it reached the length envisaged for Phase II of the project). Romanian authorities recognised that Ukraine has taken some positive steps in order to comply with its obligations. However, they pointed out that the works in the area had steadily continued (including maintenance dredging to reach navigational depths and work at the engineering structures in the Ukrainian side); the authorities further regretted that the bilateral cooperation was interrupted with the notification, by the authorities of Ukraine, of the “final decision” regarding the construction of the deep navigation canal, without taking into account the concern expressed by the Romanian authorities (including the persistence of gaps in the EIA). Romania maintained its view that, in its current design, the project poses significant risks of an adverse impact on the environment, including on the territory of Romania.

The report further stressed that the decision V/4 adopted by the Meeting of the Parties to the Espoo Convention at its fifth session (Geneva, 20-23 June 2011) endorsed the finding of the Implementation Committee established under this Convention that, while Ukraine had fulfilled some of its obligations under paragraph 10 of decision IV/2 with respect to both phases of the Bystroe Canal project, it had not fulfilled all of these obligations. The finding of Implementation Committee was caused by the failure of Ukraine to comply with the request of the Committee to provide a written statement confirming clearly and unambiguously that the conditions imposed in the Decision IV/2 of the Meeting of the Parties have been met.

Furthermore, the report informed on the progress done under the Joint Commission, such as the adoption of the Rules of procedure and the discussions about the means to reinforce direct links between relevant scientists, national authorities and local authorities within the territories of the protected areas in the zone of the Danube Delta and Lower Prut. However, there is still no agreement by the concerned Parties on the date for the second meeting of the Commission.

Finally, the European Union informed that the European Commission is financing a project on entitled: "Support to Ukraine to implement the Espoo and Aarhus Conventions – follow-up activities", which was launched on 25 October 2011. The inception report was already prepared although it was being assessed by the competent EC officers.

The Bureau acknowledged good progress in communication from all the concerned Parties, who generally submitted their reports within the deadlines and focussed on key information. However, it noted on the one hand that it has not been possible to assess the analysis, prepared by Ukraine, of the impacts of the full implementation of the Channel in a transboundary context, as this is not available in one of the two official languages of the Council of Europe; on the other hand, the discrepancy of views between Ukraine and Romania with regards to the implementation of Phase II.

Following an extensive discussion, the Bureau decided to request Ukrainian authorities to send, not later than August 2012, the English translation of the analysis of the impacts of the full implementation of the Channel in a transboundary context. It further instructed the Secretariat to contact the Ramsar Convention for its support, and the European Commission for more information on the activities foreseen under the project for the implementation of the Aarhus Convention which could have an added value to

solve the Bystroe case-file. Finally the Bureau decided that the possibility of an on-the-spot appraisal could be considered at next Bureau meeting if the situation will remain unclear by then.

In August 2012, Ukraine submitted the Final Decision on the Implementation of the Full-Scale Phase of the Danube-Black Sea Navigation Route Project in the Ukrainian Part of the Danube Delta. An annex to EIA report entitled "Assessment of Likely Transboundary Environmental impact (EIA) of the Danube-Black Sea Navigation route in the Ukrainian Part of the Danube Delta" was also attached. The documents submitted address additional aspects that were not considered in previous reports. They offer a rationale conduct for the transboundary EIA process. The Annex to the EIA is based on fundamental principles enshrined within the Espoo Convention but also it is aimed to address the social-economic situation in the areas of the Lower Danube Basin.

According to the information reported by the authorities, alternative navigation route options (viz. Bystre Branch, Starostambulske Branch, deepened navigation route along the Ochakiv, sluiced canal Solomoniv Branch, Zhebriyansky Bay, sluiced canal Solomoniv Branch – Sasyk Lake – Zhebriyansky Bay Branch and Prirva Canal and Sluiced canal connecting the Ochakiv Branch and Ust-Dunaisk port) and their environmental impacts were also considered.

The conclusions of the authorities was that the Bystroe option would represent "the least-impact" alternative to the Danube Biosphere reserve (DBR) in terms of long-term viability with respect to the sustainable natural resource management and suitable governance of anthropogenic activities taking place in the areas of the Bystroe Branch.

Furthermore, the annex reports a series of scientific projection (evidenced on scientific data input and assumption) which have been carried on to determine the potential impact of Phase II on the restoration of the environment in the affected zones. Accordingly, factors such as climate, water, air, soils, vegetation, fauna but also the social behaviour of certain bird species were evaluated.

In addition, an updated assessment of transboundary aspects of some project activities and their habitat loss has been added and identified riparian dumpsites. This has permitted certain dredge spoils ponds location to be closed and decommissioned. The report highlights that this was considered to be an important move to provide protection to local birds' communities.

The last part of the annex reiterates and further emphasises on the finding and conclusion stemming from the detailed analysis of likely transboundary impacts associated with the full-scale implementation of the Danube-Black Sea Navigation Route Project. An Annex II is also attached to the EIA report and, according to the authorities, has been introduced to secure answers to questions and comments expressed by the Romanian Non-Governmental Organizations, International Non-Governmental Organizations, Romanian Public and representatives of the Roman authorities. It also lists of species according to their character and nature (e.g. migratory bird species, fish species and mammal species) and further enlightened ancillary categories such as , inter alia, the numerical modelling technique and Integrated Environmental Monitoring Programme for the Danube-Black Sea Navigation Route Restoration Project

The report sent in August by the European Commission informs that Ukraine has prepared a draft law on Environmental Impact Assessment in Transboundary Context, in the framework of the new EU-funded project: "Support to Ukraine to implement the Espoo and Aarhus Conventions – follow-up activities". The draft law has been already submitted to the Ukrainian Parliament which will examine it at its autumn session. According to the Commission, the report which is being prepared through the EU funds should help Ukraine to improve implementation of the Espoo and Aarhus Conventions.

#### **b. Cyprus: Akamas Peninsula**

This case concerns plans for the tourist development in the Peninsula of Akamas (Cyprus), with detrimental effect on an ecologically valuable area with many rare plant and animal species protected under the Bern Convention.

The case was first discussed at the 16<sup>th</sup> meeting of the Standing Committee in 1996. Two on-the-spot appraisals were carried out in 1997 and 2002 and a recommendation adopted in 1997 [Recommendation No. 63 (1997)] on the conservation of the Akamas peninsula in Cyprus and, in particular, of the nesting beaches of *Caretta caretta* and *Chelonia mydas*.

In 2008, the Standing Committee asked Cyprus to send the management plan for the area as soon as it would be ready, and wished that the area of Limni would also get adequate protection. The Committee asked Cyprus to fully implement Recommendation No. 63 (1997); to create a National Park and ensure the maintenance of the ecological integrity of the area; as well as to apply the ecosystem approach to the Akamas peninsula, including Limni.

At the 29<sup>th</sup> meeting of the Standing Committee, the delegate of Cyprus informed that there had been no great changes since the previous year.

In 2010 the Committee took note of the report presented by the Secretariat in the absence of delegate of Cyprus. It further took note of the observations and reports from the NGOs and decided to keep the file open while asking Cyprus to present a report for its next meeting; to send to the Secretariat as soon as possible the translation into English of the management plan for Limni area; to fully implement its Recommendation No. 63 (1997).

In August 2011 Cyprus authorities sent the translation of the Executive Summary of the Draft Management Plan for the Limni Area, specifying that this only referred to the Natura 2000 “Polis Gialia” site (thus not including the proposed “Chersonisos Akama” site) and informing that the Government of Cyprus designated a wider area that would be managed via development regulations and restrictions, to ensure the highest possible protection of the peninsula.

The report from the NGO (Terra Cypria) informed that a formal notice letter and a reasoned opinion were sent by the EU to the Republic of Cyprus regarding the insufficient SPA proposal for the area. It is expected that the issue will be led to the European Court of Justice.

In the absence of a delegate from Cyprus at the 31<sup>st</sup> Standing Committee meeting, the Secretariat presented the case-file and called the attention of the Committee on the report on the management plan for the Natura 2000 “Polis Gialia” Natura 2000 site.

The representative of Terra Cypria argued that the size and extent of the Natura site was still being considered at the EU level. The proposal by the Cyprus government to regulate part of the area not as a Natura site, but through Town Planning regulations relating to land use (rather than conservation), was an indirect admission that the area is inadequate. She further considered that in the case of Limni, while a management plan exists, this was not implemented yet and, in any case, the area designated comprises such a narrow strip of land that it cannot protect turtles from human interventions taking place just beyond. Moreover, according to Terra Cypria, the plan proposed does not seem to include policy for foraging turtles. In both cases, developments are taking place all the time. The local authorities are allowing unsuitable activities and the threats to wildlife are continuing. Therefore, she urged that the file against Cyprus remains open.

These views were supported by the representative of MEDASSET, who pointed the attention of the Committee to deaths on the sea in different areas of Cyprus. The representative of Birdlife noted the importance of the Akamas Peninsula for some threatened birds, for which not enough Natura 2000 sites were designated.

The delegate of the European Union informed the Committee that the European Commission was analysing the information sent by Cyprus authorities in reply to a letter of formal notice for insufficient designation of the area. A decision on the follow-up to infringement procedure was expected by January 2012.

The Committee decided to keep the case file open requesting from Cyprus the full implementation of its Recommendation No. 63 (1997) as well as more information on the protection of sites in the whole of

the Akamas Peninsula and Limni. The Committee asked the Secretariat to follow-up the file in close co-operation with the European Commission.

The Secretariat sent out official letters requesting updated detailed information to both the Government of Cyprus and the NGO on 19 January 2012.

In a succinct report sent in March 2012 the Government of Cyprus apologised for not having participated in the last Standing Committee meeting and expressed disagreement towards the NGO's claim of inadequate designation of both the Akamas and the "Polis Gialia" areas. More particularly regarding the latter, the authorities wanted to reassure the Committee that the developments surrounding the area were being controlled by the competent authorities and the procedures for granting building permits were observed. Furthermore, the Government stressed that maximum efforts were put in place to ensure the protection of birds, particularly by designating large SPAs.

Finally, the authorities informed that a full scientific package of information was under preparation in the framework of the complaint opened under the Commission and that this information would be forwarded at the same time to the Secretariat of the Bern Convention (around end of June).

The European Union also informed that, in the framework of a complaint on the issue of insufficient designation and protection of the Akamas area under the Natura 2000 network, a reply was received from Cypriot authorities following which the Commission issued a Letter of Formal Notice under Article 258 of the Treaty for insufficient designation of the area. The Commission analysed the reply and requested a number of further clarifications, after which they would decide on next steps.

The Bureau decided to keep the case file open and instructed the Secretariat to contact both the European Commission and Cyprus authorities by mid-July 2012 for information on further developments concerning the infringement procedure.

No substantial new information has been submitted by the European Union, which in August 2012 was still expecting the reply of the authorities to its request of clarifications. No information was submitted by Cyprus authorities either.

### **c. Bulgaria: Wind farms in Balchik and Kaliakra – Via Pontica**

This case concerns the building of windfarms in Bulgaria, at Balchik and Kaliakra, on the Black Sea coast. The NGO is challenging the chosen sites located on the Via Pontica which is one of the main migratory routes in Europe especially for soaring birds.

An on-the-spot visit was carried out in September 2005, on the basis of which the Committee adopted Recommendation No. 117 (2005), asking the Bulgarian government to reconsider its decision to approve the proposed wind farm in Balchik in view of its potential negative impact on wildlife and taking account of Bulgaria's obligations under the Convention.

In 2006, the Bulgarian government informed the Secretariat that it did not intend to review the decision approving the wind farm project. The Secretariat received information from NGOs on a similar case involving plans to build 129 windmills 20 KMs away from Balchik, between the town of Kavarna and the Kaliakra Cape.

A new on-the-spot appraisal was carried out on 20-22 June 2007. On the basis of the expert's conclusions the 27<sup>th</sup> meeting of the Standing Committee adopted Recommendation No. 130 (2007) "on the windfarms planned near Balchik and Kaliakra, and other wind farm developments on the Via Pontica route (Bulgaria)".

In June 2008, the European Commission opened an infringement procedure against Bulgaria because of insufficient designation of 6 sites as SPAs under the Bird Directive, one of which is the Kaliakra IBA.

In 2009, the delegate of Bulgaria informed the Committee that a "Strategic Environmental Assessment (SEA)" of Bulgaria's Energy Strategy and National Plan for Renewable Energy Sources had been initiated in spring 2009, with meetings at expert level. Bulgaria's Ministry of Environment and

Water expressed their readiness and intention to co-operate with civil society and business representatives to achieve the necessary results and fulfil the country's obligations for the protection of its nature and biodiversity.

At the Standing Committee meeting in 2010 the delegate of Bulgaria presented the government report informing, among others, of measures taken concerning the preventive protection of NATURA 2000 sites. Furthermore, she confirmed that no new authorisations for development in SPA Kaliakra and IBA Kaliakra have been issued in 2010.

Following information provided by the delegate of the European Union as well as by the representatives of BirdLife and the AEWA the Committee decided to keep the case file open and continue to follow it up in close co-operation with the European Commission, taking into account the three infringement procedures opened.

At the 2011 Standing Committee meeting the Secretariat presented the report forwarded by the Bulgarian Government, which concerned the following issues: (i.) the energy strategy up to 2020 should not bring about any significant negative effects if certain conditions were respected and if mitigating measures were taken; (ii) the national action plan for renewable energies had not been finalised as the public consultation had highlighted serious omissions; the Ministry had issued formal instructions for the General Inspectorate of the Environment and Water, asking it to reduce the number of authorisations issued pending the launching of the national plan; (iii.) there was a slowing down of projects already authorised owing to financial and technical problems (1 project involving 32 turbines had been stopped); (iv.) in April 2011 plans had been launched to map the most important sites for birds and to minimise risks.

The representative of BirdLife/Bulgaria expressed her great concern about the lack of progress made and underlined the gap between the government's promises and the situation on the ground; she also protested at the energy sector's very powerful lobby. The building of wind turbines already approved was continuing, and 3,600 were planned in the Dobrutza region. BirdLife/Bulgaria stressed the urgent need not to authorise any further new wind turbines and consequently asked the Standing Committee: (i.) to support the efforts of the European Commission (EC) to achieve proper implementation of the EU legislation, as well as to encourage the EC to move from the Infringement to the Reasoned Opinion stage with regards to windfarms in Bulgaria; (ii.) to encourage the government of Bulgaria to speed-up the Natura 2000 site designation in the area, as well as to ensure adequate protection and consequent of the Kaliakra SPA and IBA; (iii.) to urge the government of Bulgaria to adopt and implement the Environmental Impact Assessment of the national plan on renewable energy sources and to stop any approval of new windfarms; (iv.) to consider the possibility of a second on-the-spot appraisal to Bulgaria.

The Committee decided to keep the case file open, asking the authorities of Bulgaria to present a report for its next meeting, as well as to take into consideration the provisions of Recommendation No. 130 (2007). The Committee further instructed the Secretariat to continue to follow this complaint up in close co-operation with the European Union, taking into account the three ongoing infringement procedures.

The Secretariat sent out, on 18 January 2012, an official request to the authorities of Bulgaria for updated detailed information; despite several reminders, the Secretariat didn't receive a reply on time for the first meeting of the Bureau.

The complainant submitted an updated report in March 2012 providing the NGO's analysis of the implementation of Recommendation No. 130 (2007) by the government of Bulgaria.

According to the report, Bulgarian authorities are failing to fully implement the Standing Committee Recommendation while the case-file continues to be at a very critical stage. In addition to the wind farm projects in object, Balchik and Kaliakra proposed Emerald Network/Natura 2000 sites are under serious threat by a large number of other developments, including tourist complexes, golf courses and infrastructures, for which authorisations are being issued disregarding the natural value of the sites.

According to the complainant, the authorisations for new windturbines are being issued on the basis of poor EIAs which do not examine alternative solutions or locations, nor the possible negative and cumulative impacts.

The Strategic Environmental Assessment of the National Plan on Development of Renewable, which opposes to development of the windfarms in *Dobrudzha*, is still pending for final approval, although it has followed all the necessary steps.

The complainant stressed that the globally endangered Red-breasted goose, is already severely affected by windfarm developments in an area, Dobrudzha, where the majority of the entire world population stays during the winter

The NGO further recalled the procedures opened under the European Commission and noted the need for urgent international intervention to stop a situation which already caused irreparable damage and which would be in contravention of Articles 2, 3, 4 and 6 of the Convention.

Most urgently, the NGOs requested that the Bureau (i.) urges the authorities of Bulgaria to transmit a progress report on the implementation of the Recommendation, as well as a clear action plan of activities and measures envisaged for implementing the recommendation; (ii.) that Bulgarian authorities immediately stop issuing authorisations and licences regarding wind farm developments in the area; (iii.) that the European Commission speeds-up the on-going infringement procedures.

In a report sent in January 2011, the European Commission informed that it was assessing new information received from both the Bulgarian Government and the NGO on this issue.

Finally, the Secretariat received copy of a letter addressed by the Chair of the AEWA Standing Committee to the Government of Bulgaria regarding plans to construct a windfarm adjacent to Durankulak Lake, a key wintering site for the globally threatened Red-breasted Goose (*Branta ruficollis*), as well as a Ramsar site, a Special Protected Area (SPA) within the EU Natura 2000 network and an Important Bird Area (IBA).

In fact, AEWA Standing Committee was alerted on the new windfarm plan under the framework of the Implementation Review Process (IRP). The Committee considered that the windfarm project "has the potential to endanger the coherence of the area as a wintering ground for the Red-breasted Goose as the windfarm is foreseen to be built in the main feeding area of the geese". The Committee was further informed that the project has been approved by the Regional Inspectorate of Environment and Water in Varna in spite of the objections raised and argumentations provided by nature conservation NGOs, the local hunting organisation and local residents. The Committee further noted that this is not an isolated development and that a number of windfarms have already been established in the vicinity of Lakes Durankulak and Shabla in areas previously providing feeding habitat to wintering geese which are now avoided by the birds. In its correspondence, the Chair of the AEWA Standing Committee requests more detailed information and offers to send an IRP mission to Bulgaria in order to assess the issue on the ground and to recommend solutions to the country's Government.

The Bureau decided to keep the case-file open and instructed the Secretariat to contact the authorities of Bulgaria for an updated report to be assessed at next Bureau meeting; the Bureau further instructed the Secretariat to inform the AEWA about the readiness of the Bern Convention to join a field visit should this be organised.

The government report was submitted to the Secretariat a day before the Bureau meeting and therefore it was not assessed on that occasion.

However, in August 2012 the Commission informed that in June a reasoned opinion was sent to Bulgaria on the infringement procedure concerning wind farms and other developments in "Kaliakra complex" SCI, "Kaliakra" SPA, "Belite Skali" SPA. Through the reasoned opinion the Commission asked Bulgaria to comply with applicable EU laws. If Bulgaria fails to do so in a period of two months, the

Commission may refer the case to the EU Court of Justice. Should the case reach the Court, the Commission may ask for interim measures as well as the removal of offending projects.

**d. France: Habitats for the survival of the common hamster (*Cricetus cricetus*) in Alsace**

This complaint concerns the measures implemented by France to ensure the preservation of habitats needed for the survival of the common hamster. In 1998 the Standing Committee adopted its Recommendation No. 68 (1998) on the protection of the common hamster (*Cricetus cricetus*) in Alsace (France).

On 9 June 2011 the European Court of Justice ruled against France for failing to take adequate measures to protect the species.

At the last Standing Committee meeting the delegate of France said that her government had taken note of the criticisms regarding the protection of the hamster in Alsace; a major evaluation of the 2007-2011 action plan had been undertaken, which would serve as a basis for drawing up the next plan.

The representative of DREAL Alsace said that remedial measures had been taken following the ECJ ruling. Reviewing the actions carried out, she noted a few strong points: improvement in breeding conditions, release operations, clarification of regulatory procedures for obtaining exemptions, emphasis on monitoring and publication of a methodological guide.

The representative of *Sauvegarde Faune Sauvage* felt that the situation with regard to the Common Hamster was still very worrying: 50 to 100 specimens were disappearing every year; contractual measures were not taken in cases where the species had been found to be present and there was insufficient funding to maintain breeding. He asked the Committee not to close the file until a viable population had been established (1,500 specimens per ZAP).

The representative of the *Centre d'études, de recherches et de protection de l'environnement en Alsace* (CERPEA) condemned the framework agreement signed with all the stakeholders: every year dozens of sites suitable for the common hamster were built on, without any compensatory measures. He expressed concern about an urban development scheme 20 km from Obernai, in an area highly suitable for the hamster.

The representatives of *France Nature Environnement* and *Alsace Nature* likewise emphasised that the area where the species had historically been present was decreasing and said the authorities' efforts were overly concentrated on ZAPs.

The delegate of the European Union reiterated the importance of implementing the ECJ ruling and asked the French authorities to keep the European Commission better informed.

The Committee decided to keep the case file open, it welcomed the efforts made by the French authorities and asked them to fully take into account the judgment issued on 9 June by the European Court of justice.

The Secretariat sent out, in January and June 2012 official requests for updated detailed information to both the national authorities and the complainant; however, this didn't reach the Secretariat by the preparation of the present summary. Nonetheless, the Secretariat was pleased to note that, in June 2012, the road project better known as "*Grand Contournement Ouest*", foreseen within areas where the presence of the Common Hamster was confirmed, has been abandoned.

Furthermore, in August 2012 the European Commission informed that the issue was briefly discussed at the annual bilateral meeting on environmental infringements (so called "package meeting"), where the need to take swift measures to comply with the ECJ ruling was again stressed.

**e. Italy: Eradication and trade of the American grey squirrel (*Sciurus carolinensis*)**

In 1999, the Standing Committee adopted its Recommendation No. 78 (1999) on the conservation of the red squirrel (*Sciurus vulgaris*) in Italy. Moreover, in 2005 the Committee adopted its Recommendation

No. 114 (2005) on the control of the grey squirrel (*Sciurus carolinensis*) and other alien squirrels in Europe, asking Italy to start without delay an eradication programme.

In 2007, the Standing Committee asked the Bureau to examine the possibility of opening a file for a possible breach of the Convention by Italy on this case. An on-the-spot appraisal was carried out in May 2008. The main conclusions of the expert's visit were that the presence of the American grey squirrel in Italy was a serious threat for the survival of the protected native red squirrel, and that this expansive trend had the full potential to turn the invasion into a continental problem, where France and Switzerland would become the next countries to be affected.

In 2008, the Standing Committee agreed to open a case file and decided that a new Recommendation was not necessary. Instead it asked the Secretariat to communicate a list of actions to the Italian government.

In September 2009, the Italian government reported on progress to finalise the signature of a Memorandum of Understanding between the regions concerned, and the preparation of a LIFE+ project on: "Eradication and control of grey squirrel: actions for preservation of biodiversity in forest ecosystems", with the involvement of the three regions (Lombardia, Piemonte and Liguria) and the Ministry of Environment. Regarding the decree to ban the trade and keeping of American grey squirrel which should cover the whole national territory, the final text was agreed in late July 2009, and should have been shortly examined by the legal offices of the three Ministries involved (Agriculture & Forestry; International Trade; and Public Health).

At the 29<sup>th</sup> meeting of the Standing Committee, the delegate of Italy announced that the Ministry of Environment was fully committed to implementing Recommendation No. 123 and therefore had concluded a MoU in August 2009 with the three regions involved and two research institutions. A number of activities had been planned, including control of the species, monitoring of grey and red squirrels and awareness campaigns. The Ministry was preparing a decree to prohibit the trading and keeping of the grey squirrel.

The Committee took note of the information presented and welcomed progress in the conclusion of a MoU among all the actors involved in the control of the species, as well as of plans to pass a legislation banning trade on the species. However, it considered that since there had not been yet neither any action on the ground nor legislation approved, the case file should be kept open, asking Italy to fully implement Recommendation No. 123 (2007).

At the 2010 Standing Committee meeting, the delegate of Italy presented the report from the government, informing on the state of progress of the Memorandum of cooperation to be signed by the competent Provinces before entering into force; on the negotiation around the draft decree for banning the trading and keeping of the grey squirrel; and on a Life+ Project, launched in September 2010 which was likely to contribute to solving the situation.

Noting that the decree concerning the banning of the trade and keeping of the American grey squirrel was not approved yet, the Committee decided to keep the file open and asked Italy to inform the Committee and the Bureau of progress made in the implementation of the LIFE+ Project and the adoption of appropriate legislative tools.

At last Standing Committee meeting the Italian delegate presented the Government report, informing on the implementation of the LIFE+ Project, particularly focussing on the elaboration of a communication action plan to target the wider and general public. The delegate stressed that obtaining a wide consensus of the civil society is a real challenge since the species is introduced in Italy – and therefore regarded to – as a pet; therefore the species cannot be shot. Moreover, it is crucial to ensure that the traps which should be installed for trapping it are made native-species safe.

Regarding the decree on the banning of the trade and keeping of the species, the Government stressed that this is a sectoral issue involving other Ministries which, so far, showed resistances to approve a decree without a solid legal basis. Therefore the process leading to the adoption of the trade ban was suspended for the moment.

The delegate of Switzerland recognised the difficulties in eradicating a pet species but noted that there are some successes which could be useful for supporting Italy in its efforts. He concluded by stressing that, in order to avoid the spread of this species in neighbouring countries, Italian authorities should be requested to speed-up efforts towards the eradication and ban of the trade of the species.

The delegate of Norway stated that the situation is extremely worrying particularly because it highlights that there are still countries in Europe where the banning of invasive species at legal level is a challenge. He invited the Committee to send a strong and clear message that this is an issue of high relevance for all the Contracting Parties, as the grey squirrel put at stakes the future survival of the red squirrel (*S. vulgaris*), while at the same time having an impact on the wood industry.

The delegate of Iceland stressed that the Bureau was not informed on time on progress made in Italy at its 2011 meetings and requested the Italian authorities to improve communication with the institutional bodies of the Convention.

The Committee expressed deep concern for this longstanding situation which represents a serious threat for the long-term survival of the native Red squirrel, while damaging the woodland. The Committee was particularly worried to note that inaction may result in the spread of the invasive alien species to other Contracting Parties.

Acknowledging the charm and appeal of the American grey squirrel, which makes it difficult to eradicate the species, the Committee stressed that some examples of good practices are available. In addition, the Committee regretted the delays in the adoption of a legislative instrument aimed at banning the trade of this invasive species, and recalled both its Recommendations No. 123 (2007) on limiting the dispersal of the American grey squirrel in Italy and other Contracting Parties, and No. 114 (2005) on the control of the American grey squirrel and other alien squirrels in Europe.

The Committee agreed to keep the case-file open and instructed the Bureau to closely follow up this issue to ensure that reporting from Italian authorities is improved and include information on concrete measures towards both the eradication of the species and the adoption of a legislative instrument to ban its trade in Italy.

In a report sent in February 2012, Italian authorities informed on several progress made concerning the control and eradication of the alien species, namely under the LIFE+ Project "EC-SQUARE".

In order to obtain a wide consensus among civil society, a number of meetings were organised in the three concerned regions to present the project to local stakeholders (particularly in provinces and parks interested by the conservation activities foreseen in grey squirrel management actions). The surveys to determine the population size and the distribution of the species were completed, so as the survey to evaluate the societal perception for each site where the presence of the grey squirrel has been proved. These results were used for the preparation of the CAP (Communication Action Plan) and the GMP (General Management Plan for the grey squirrel) has been prepared. The implementation of the latter started in January 2012: Piedmont and Lombardy regions have started the authorisation procedures; Liguria has triggered a technical coordination of different authorities to evaluate the concrete strategies foreseen to be implemented in the sites where the species is present.

Furthermore, the report informed that, in January 2012, some guidelines for forest ecosystem management to improve the habitat quality and connectivity for red squirrel have been finalised and relevant surveys were made in Piedmont and Genoa.

Regarding the keeping and import of the species, Italian authorities made reference to CITES and EU international regulations.

Finally, on the decree to ban the trade of the species the authorities believed that the negative opinions expressed by the CITES Scientific Review Group regarding the import of the grey squirrel will provide a more solid ground toward the approval of the draft decree at national level.

The Bureau expressed satisfaction for the very good progress in the planning for the implementation of the Life+ Project, as well as for the complete and timely information provided by the Italian authorities. However, the Bureau decided to keep this complaint under scrutiny, asking for an updated report to be assessed at its next meeting, as it noted that the real eradication actions has not started yet. In addition, the Bureau was particularly concerned by the delays in the adoption of a decree banning the trade of the species in the country. It therefore gave mandate to the Chair for addressing directly the Minister of Environment in order to bring these worries to his kind attention and to ask for tangible progress in this respect.

In a report submitted in August 2012 Italian authorities informed about some difficulties encountered with the implementation of the operational part of the LIFE+ project regarding eradication in Piedmont Region. In fact, the procedure aimed at delivering the necessary authorisations for the capture of the American grey squirrel were temporarily suspended due to an appeal presented by animal welfare NGOs to the Regional Administrative Court of law. However, the authorities informed that in Liguria and Lombardy Regions the implementation of the measures foreseen in the project's action plan on eradication is ongoing, despite a wide negative mass-media campaign by the same NGOs.

Regarding the decree banning the trade of the species in the country the authorities informed that, following a long consultation process, the Ministry of Environment has finally obtained positive advices by the Directorates of the State Forestry Corps of the Ministry of Agricultural, Food and Forestry Policies and the Ministry of Economic Development. As a consequence, the draft decree has been forwarded to the Legal Services of other related Ministries on 2<sup>nd</sup> August 2012 for their respective visa. The authorities are confident that a positive reply will be given to their request, although they cannot provide any deadline for such a communication.

## 1.2 Possible files

### - **France: Conservation of the European green toad (*Bufo viridis*) in Alsace**

A complaint was lodged in 2006 by the Association BUFO (*Association pour l'étude et la protection des amphibiens et reptiles d'Alsace*) focusing on threats to the green toad's few remaining habitats in Alsace. It specifically targeted shortcomings in the impact studies carried out for a major bypass and urban development projects, and a project for the construction of a leisure complex.

In 2008, the French government reported that a restoration plan for the common spadefoot (*Pelobates fuscus*) and the green toad (*Bufo viridis*) was under development, at the initiative of the regional authorities (DIREN Lorraine). The plan would be ready at the end of 2009, with specific actions starting in 2010.

In 2009, the delegate of France informed the Committee about the National Action Plan, which would pay special attention to awareness-raising.

The representative of the *Association Sauvegarde Faune Sauvage* stressed that the situation is highly critical for the green toad, as out of seven sites of reproduction in the *Haut-Rhin* only one remains, showing that the viable population has been decimated. He asked for the opening of a file.

The Committee took note of the information presented by the French delegate and by the NGO, and considering the very limited progress achieved, decided to treat this pending complaint as a "possible case file" at its next meeting in 2010.

At the 2010 Standing Committee meeting, the French delegate announced that the National Action Plan was to be validated in the spring by the Ministry of Ecology. Activities had already started. Attempts

to find out more about the species and consult a very wide range of stakeholders had held up the finalisation of the plan.

The representative of the regional environment, planning and housing directorate (DREAL) said that the regional implementation of the plan would be a priority in 2011 and that all planning files were carefully monitored.

The representative of ASFS said that the population was at threat of extinction.

The Committee decided to keep the file as a possible case file as the procedure for drawing up the National Action Plan was not completed.

At last Standing Committee meeting the representative of the regional environment, planning and housing directorate (DREAL) informed that the delay in finalising the national action plan was due to a failure on the part of the consultancy tasked with drawing up the plan; the plan's completion, however, was not in danger. At regional level, DREAL Alsace was working with the associations and partners concerned, in particular the Bufo association, which had been mandated to draw up a regional action plan.

The representatives of the relevant NGOs, *Sauvegarde Faune Sauvage*, CERPEA and the European Environment Bureau, expressed deep concern about the delay in finalising the national action plan, the ever-growing pressures of urban development and the proliferation of schemes, slicing up land. The representative of CERPEA asked that a file be opened.

The Committee decided to keep the file as a possible file and urged the French authorities to finalise the procedure for drawing up the National Action Plan in view of its final adoption.

In a report submitted in March 2012, the French authorities indicated that the contract with the consultancy tasked with drafting the action plan had been terminated on 23 December 2011. An agreement had subsequently been signed with the National Museum of Natural History (MNHN). A new version of the plan would be sent to the members of the relevant committee during summer 2012 for approval at its meeting due in September 2012.

In Alsace, the regional action plan for the green toad had been submitted on 30 January 2012 to the Alsatian steering group of the regional action plans for amphibians. Priority measures for 2012 had also been agreed, including, in particular, monitoring of population trend indicators, continued study of the inclusion of the species in the "green and blue infrastructure" policy, inclusion in regulatory zoning and integration of the species in spatial planning strategies.

In the case of Lorraine, where the Green Toad had also been identified as a priority species requiring the establishment of protected areas, three sites had been identified and were currently being studied: the Merle gravel quarries in Freyming-Merlebach and St Avold, Rosselmont in Forbach and Petite Rosselle, and a 35-ha site in the municipality of Morsbach. Three other projects which could have an impact on the Green Toad or its habitats had been examined in 2011 or were in the process of being examined. The outcome had been either the abandonment of the project or avoidance, reduction or compensation measures: a planned urban development zone (ZAC) in Warndt community of municipalities; a photovoltaic project in Freyming-Merlebach; and the planned extension of a gravel quarry in Sentzich.

Around ten nature reserves of ecological interest for fauna and flora (ZNIEFF) had already been designated for the green toad in 2006. A Lorraine working group would be updating these reserves and proposing new ZNIEFFs. A map entitled "Green Toad ecological corridors" had also been drawn up. Lastly, a technical guide would be produced on integrating the green toad in development projects.

The Bureau welcomed the information provided by the French authorities and noted the encouraging developments at regional level, including the strengthened co-operation with the Association BUFO. The Bureau decided to keep this complaint as a possible file and instructed the Secretariat to contact French authorities for an updated report to be assessed at next Bureau meeting.

French authorities were requested to send a report by 24<sup>th</sup> August 2012. However, the updated information didn't reach the Secretariat by the preparation of the present summary.

**- Greece: threats to marine turtles in Thines Kiparissias**

On 22nd August 2010 the Secretariat received a complaint from MEDASSET (The Mediterranean Association to Save the Sea Turtles) regarding development plans in a NATURA 2000 site (THINES KYPARISSIAS - GR2550005) which would affect *Caretta caretta*, a threatened species protected under the Bern Convention. The NGO reported about uncontrolled development on the site (summer houses building, construction of coastal roads, occupation of the beach by, among others, bars, umbrellas and deck chairs) and expressed concerns over the intensive pressure on the nesting activity of turtles, which can lead to reducing the unique population of *Caretta caretta*.

The complainant referred to the obligations for the Contracting Parties mentioned in articles 4 and 6 of the Bern Convention, and highlighted that *Caretta caretta* is also protected by other international agreements, among which CMS, CITES and the Barcelona Convention for the protection of the Mediterranean Sea against pollution, and the EU Habitats Directive.

At the second Bureau meeting in 2010, the Secretariat informed the Bureau that a letter requesting further information had been addressed to Greek authorities on 7 September. The Bureau took note of the information provided; due to the very short notice given to the Greek authorities to provide a reply, the Bureau decided to re-consider the complaint at its next meeting.

In March 2011 the Greek authorities forwarded to the Secretariat the response sent on 22<sup>nd</sup> December 2010 to a letter of the European Commission in relation to the protection of priority species in the Natura GR 2550005 site.

The response informed that a law concerning Conservation & Biodiversity was recently approved by the Greek Parliament to ensure a more effective protection regime for the priority species in all Natura 2000 sites. The law should have entered into force by the end of March 2011. In addition to that, the Ministry of Environment was in the process of drafting a Joint Ministerial Decision, based on a specific environmental study of 2002, which should regulate all activities within the GR 2550005 Natura 2000 site by providing a specific legal protection regime. The Joint Ministerial Decision should allow facing conservation problems in an integrated way for the whole *Thines Kyparissias* Natura 2000 site.

Among the measures taken, national authorities forwarded to Local Authorities the specific environmental study mentioned above, along with a Presidential Draft Decree which includes a Management Plan for the Area, with the request of taking these into account to enforce the necessary Environmental Protection measures. The response additionally informed that a recently adopted Ministerial Decision required the official approval of the Ministry of the Environment for any license of exploitation of the sandy seashore sites issued by the Local Authorities. However, the responsibility concerning the compliance with obligations related to the exploitation itself lies down to the Local Authorities and the State Property Service.

In a report sent in September 2011 the NGO informed that, although the law on Conservation and Biodiversity entered into force in March 2011, enforcement of specific protective measures was still poor, and a number of illegal activities continued to exert a considerable amount of pressure on the nesting activity of marine turtles. In addition, according to the NGO, the Joint Ministerial Decision announced by Greek authorities was drafted yet; furthermore, none of the demolition protocols issued by the State Property Service of the Prefecture of Messinia for the illegal constructions in the area was executed.

The NGO report denounced the degradation and erosion of the sand dunes and coastal forests, due to roads and buildings illegally developed; the lack of restoration measures to compensate the destruction part of the sand dunes; the absence of specific protection measures and lack of provision of appropriate information to local residents. The NGO considered that it would be appropriate to draft an updated Special Environmental Study (the current one was prepared in 2002), which would take into account the

new developments and assist competent Local Authorities to identify specific conservation measures for the area in question.

The Bureau took note of the information provided by the NGO, which questions the effectiveness of the measures undertaken by Greek authorities, as described in the report submitted the government in March 2011. However, because of the lack of reply by Greek authorities, as well as of new information from the European Commission, the Bureau was not in a position to properly assess the situation. It decided to consider this complaint as a complaint in stand-by at its first meeting in 2012.

In a report sent end of March 2012, Greek authorities forwarded the “Response to the letter of the European Commission in relation to the protection of priority species in the Natura GR 2550005 site” (sent on 22 December 2010) and further informed that the procedure for the special protection of the above area and the issuance of a Joint Ministerial Decision (J.M.D.) applicable for a period of 2 years would be jointly prepared by the competent Legislative authority of the Ministry. The updating of the Special Environmental Impact Assessment (S.E.I.A.) prepared specifically for this referenced area had been included in the overall planning for the time period 2012 - 2015.

Finally, the authorities confirmed that the Administration of Messinia Prefecture had been instructed on the need to protect the site in order to ensure that the requirements set under the EC Directive 92/43 were met.

The report sent by the complainant informed that enforcement of the specific protective measures for THINES KYPARISSIAS, included in the law concerning the Conservation and Biodiversity (entered into force at the end of March 2011) is lacking. At the same time, the provision of information to local residents by the Prefecture of Messinia regarding appropriate use of the nesting beach is also missing, while a number of activities and illegal constructions on the site continue to exert a considerable amount of pressure on the nesting activity of marine turtles. The NGO also stressed that the situation remained unchanged since last reporting, as the JMD had not yet been drafted by the National authorities and in the meantime local authorities had not prepared any specific protection measure for the area.

Finally, the NGO recalled that, to date, none of the demolition protocols issued by the State Property Service of the Prefecture of Messinia for the constructions illegally built in the area had been executed; extensions of already existing beach bars were recorded by the Land Property Service in 2011 for which new demolition protocols were issued but not executed. The same concern remained for the three beach bars that operated illegally in 2011 within the core zone of the protected area (Kalo Nero) which the NGO feared that they could restart their illegal activity soon.

The Bureau decided to consider the complaint as a possible file and to forward it to the Standing Committee to decide whether or not to open a case-file. The Bureau further instructed the Secretariat to organise an on-the-spot appraisal for putting mediation in place and gathering additional information for the attention of the Standing Committee.

In June 2012 the Secretariat addressed an official letter to Greek authorities informing about the decision of the Bureau and requesting their agreement for an on-the-spot visit which would serve to gather additional information for the Standing Committee’s attention. However, despite a reminder sent by mid-August, the Secretariat didn’t receive a reply by the preparation of the present summary.

- **Turkey: threats to the Mediterranean monk seal (*Monachus monachus*)**

End of June 2011 the Secretariat received a complaint from the Middle East Technical University Institute of Marine Sciences regarding the development plans comprising the construction of a road as well as of a new marine terminal near Yesilovacık village (Silifke district, Mersin Province) which would eventually have a detrimental impact on the Mediterranean monk seal (*Monachus monachus*), a species listed in Appendix II of the Bern Convention (strictly protected fauna species).

The complainant expressed concern with regards to the location of the planned marine terminal, foreseen at just 500 meters away from a breeding cave acting as a bridge between the core monk seal colony of the area and the pioneers moving further east.

Moreover, the complainant considered that the breeding cave, formed by soft geological material, could eventually collapse once the planned road will be opened to lorry traffic, and that pollution, turbidity and noise will force the actual inhabitants to abandon the cave without having in the vicinity other caves with similar morphology. The complainant informed that an Environmental Impact Assessment was made by the Ministry of Environment and Forestry for the marine terminal although this had not apparently taken into account the critical importance of the chosen area for the Mediterranean monk seal.

The complainant highlighted that the Mediterranean monk seal is also protected by other international agreements, among which CMS, CITES and the Barcelona Convention.

The Bureau took note of the information provided, stressing that the Monk Seal is one of the world's most endangered mammal.

However, the Bureau considered necessary to give Turkish authorities enough time to provide a reply. Therefore it instructed the Secretariat to contact Turkish authorities for a complete report, in particular concerning the status of the project and the populations of the species affected. The Bureau further required the Secretariat to contact the complainant for more detailed information and data regarding the morphology of the habitat under threat as well as on the possible habitats in the vicinity and the population likely to be affected.

The report sent in March 2012 by the complainant was accurate and provided a summary of the main studies carried-out on this issue since the '90s. However, it stressed the difficulties in providing exact information on the population size in the Mediterranean because of the fact that the seals on the Aegean coast are transboundary and move between Greece and Turkey. Nonetheless, the complainant highlighted that even if the last available estimation (2007) for the narrower coastal band between Antalya and Syria was given at 38 individuals (thus showing a certain increase if compared with the '90s), the Monk Seal population is still low enough to consider the species as one of the most endangered as well as to concentrate conservation efforts on the protection of those habitats - more particularly the caves - in which crucial biological requirements for the species are fulfilled.

Regarding more concretely the breeding cave which is the object of this complaint, Balıklı cave, the plaintiff first stressed that Mediterranean monk seal was forced to abandon beach habitat due to human disturbance, hunting and habitat fragmentation, choosing, as a consequence, cave habitat for resting and reproduction; he further presents the results of long-term studies revealing that the total number of suitable caves in Mersin area is 37 out of which only 7 caves are located in the coast between Tasucu and Aydincik, and only one of them, Balıklı has the morphology suitable for whelping (and hence is used by pregnant mothers) which consists of an entrance with a barrier against strong waves, a deep and wide beach located at the very far end, and a shallow protected pool in front.

Taking into account the scarcity of suitable habitats, Mersin (Cilician) coast and the targeted breeding caves and the foraging areas were designated by the competent authorities as "No-take-zone" (sea) and "1st Degree Natural Asset" (land) already in 2007. The further studies carried out right after the enforcement of conservation measures showed that the response of the seals in Mersin was very positive with increased success in breeding as from 2002.

Concerning the morphology of the Balikli cave the complainant explained that the West side of Mersin coast (Cilician basin), where the cave is located, is characterised by ruggedness with steep mountain sand shoreline cliffs plunging into the Mediterranean. The geography on the coast is dominated by karst topography, but also by sand and sedimentary rocks. Balikli is built by soft material mainly deposition of soil at the outskirts of the coastal ridge and therefore has a very fragile structure and a delicate ceiling. However, it is protected from prevailing winds (no risk for the pup to be wounded or die

during very harsh winter storms as it is the case for other caves), and a shallow pool is located inside the cave, surrounded from right to left by a small platform, a beach, and some flat-topped rock blocks. For these reasons the complainant considered that the conservation of Balikli cave is directly linked to the survival of the monk seal population in Mersin.

Regarding the report from the government, the Secretariat informed that an official letter requesting updated detailed information was sent to Turkish authorities on 4 October 2011, followed by several reminders in February and March 2012. The Secretariat regretted to note the absence of a reply.

The Secretariat recalled the “Criteria for selecting underground habitats of biological value” appended to Recommendation No. 36 (1992) on the conservation of underground habitats, which suggest considering as underground habitats of ecological value or value for the heritage, those habitats where – among others- vulnerable, endemic or rare species are present; those habitats whose vulnerability may result either from danger of destruction of the habitat itself (quarrying, filling in, development) or from the destruction of its fauna by chemical or organic pollution, over-visiting or thoughtless hunting; those habitats which can either serve as a reference or be used for long-term follow up of populations and biotic communities.

The Bureau considered that this issue is serious enough to deserve attention at the international level. It therefore decided to forward the complaint to the Standing Committee as a possible file; it further instructed the Secretariat to continue seeking for the opinion of the national authorities, to be referred to the Standing Committee directly.

- **France / Switzerland: threats to the Rhone streber (*Zingel asper*) in the Doubs (France) and in the cantons of Jura and Neuchâtel (Switzerland)**

On 21st June 2011 the Secretariat received a complaint by the NGO Pro Natura – Swiss League for the protection of nature, concerning the threat of decline of a strictly protected species, the Rhone streber (*Zingel asper*) also known as “king of the Doubs”. The species is included in Appendix II of the Bern Convention (strictly protected fauna species) as well as in Annex II of the Habitats Directive.

The complainant denounced the pollution of its habitat, the Doubs River, as well as the lack of investigation by the relevant authorities concerning the causes of that pollution.

Furthermore, the NGO denounced the lack of intervention to stop hydraulic engineering works such as dams and weirs, which act as impassable barriers to the species and isolate sub-populations from each other. Pro-Natura additionally noted that the micropollutants related to human activities and the waste waters which fall directly into the river are leading to a severe degradation of the species’ habitat.

In conclusion, the complainant evoked a possible violation by both Switzerland and France of articles 7 and 9 of the Bern Convention of Bern in the departments of Doubs (France), and in the cantons of the Jura and Neuchâtel (Switzerland).

On 12th July the Secretariat addressed a letter to both French and Swiss authorities requesting a report for the Bureau. However, both governments informed that a reply was under preparation but that this would not be ready by the Bureau meeting due to the short delay.

The Secretariat further informed the Bureau that a LIFE+ Project was implemented in France in 2004-2010 and suggested to contact the project managers for more updated information.

The Bureau noted that this is a transboundary complaint and thus sufficient time should be given to the concerned government for the preparation of their respective replies. The Bureau instructed the Secretariat to contact the authorities of France and Switzerland for a report to be examined at the first Bureau meeting in 2012.

In a report submitted in February 2012, the Swiss authorities indicated that the Rhone streber is a species endemic to the Doubs which is under threat of extinction in Switzerland and is strictly protected within the meaning of the Bern Convention. Its current distribution in Switzerland is limited to a 20-km

stretch of the Doubs in Jura. A study carried out in 1999 by the Federal Office for the Environment (BAFU/OFEV) and a monitoring programme running since 2000 had confirmed its critical situation in Switzerland. The population in the Doubs in Jura comprised 80 to 160 adult fish.

The authorities underline that the Doubs is a complex ecosystem subject to much disturbance. Conservation of the species therefore demands action plans co-ordinated at international level. There are many threats to the species: hydroelectric schemes on the Franco-Swiss Doubs, water quality, breaks in ecological continuum and leisure and recreational activities.

The Federal Government and the cantons (Neuchâtel and Jura) are working to improve the quality of the habitat and its capacity. The issues are being addressed comprehensively through a governance body institutionalised by France and Switzerland in May 2011.

The steps taken involve the following:

- changes to the operation of the three hydroelectric plants on the border stretch so as to reduce the sluice effects;
- improvement of water quality and control of the spread of algae: a binational working group had met in May 2011 to fine-tune knowledge and agree a general framework for action; the revised federal legislation on water protection had entered into force in 2011;
- a sectoral water plan for the Republic and Canton of Jura would be drawn up by 2014;
- upgrading of the three weirs to restore migration of the fish into the Clos du Doubs.

In conclusion, the Swiss authorities say that the overall strategy for the conservation of the Rhone streber and the corresponding operational arrangements are in place. However, the matter remains complex in material terms and some aspects such as the international nature of the problem, the experimental nature of the certain measures already taken and the lack of knowledge of certain issues justify a cautious approach. The efforts undertaken at both federal and cantonal level should be continued and, indeed, stepped up.

The French authorities submitted a report in March 2012 concerning the situation, the threats to the species and the measures taken.

The Rhone streber is regarded as one of the four species in the country under serious threat of extinction. It is currently found in only 11% (240 km) of the length of waters where it had traditionally been found (2 200 km). There are three populations in France, in the Loue, the Ardèche basin, and the Durance and Verdon basin, in addition to the population in Switzerland.

The threats and limiting factors involve: (i) degradation of habitats because of loss of natural river dynamics; (ii) work carried out in riverbeds; (iii) variations in water volumes and quality; (iv) the presence of dams/weirs blocking access by breeders to spawning beds and fragmenting habitats; (v) genetic deterioration.

The Rhone streber in the Swiss stretches of the Doubs and the Loue are particularly vulnerable because, being far from the Durance basin (the cradle of the population), they are genetically much less diverse.

On the section concerned, the Doubs is greatly fragmented by the presence of a large number of hydroelectric dams and weirs. In recent years, water quality seemed to have deteriorated in the Doubs and also in its affluent, the Loue. This was being accompanied by serious eutrophication of the water, reflected in substantial growth of algae.

The two LIFE Nature programmes had played a major part in improving knowledge and identifying the threats. A conservation strategy had been agreed during the first programme (1998-2001) and then implemented during the second (2004-2010). At the end of the second programme, a national action plan (2012-2016) has been drawn up and validated in September 2011. The goal is to achieve the following:

improved knowledge, increased populations and genetic mixing, conservation and restoration of habitats, consideration of the species in public policies, public awareness-raising and co-ordination of measures with Switzerland through the establishment and operation of a co-operation network. Several bi-national working groups have been set up, including one to improve the quality of water and aquatic environments in the Franco-Swiss Doubs. The countries are also both working on the establishment of a cross-border regional nature reserve for the Doubs.

The cross-border context significantly complicates practical measures concerning the Doubs. While there is a shared desire to act, the geopolitical context and hydroelectric and agricultural activities are slowing down progress. The steps taken to expand cross-border co-operation should, however, help to optimise the efforts on the two sides of the border.

The Bureau thanked both Parties for the good reports submitted.

In consideration of the complex transboundary context, the Bureau decided that the complaint deserves to be considered by the Standing Committee as a possible file. Therefore, unless the situation changes in the meantime, the Bureau will not discuss it at its next meeting.

Furthermore, the Bureau instructed the Secretariat to request, for next Standing Committee meeting, the opinion of the European Commission with regards to the pollution of the French part of the Doubs River in the context of the EU Water Framework Directive.

#### - **Sport and recreation facilities in Ciralı key turtle nesting beach (Turkey)**

In May 2012 the Secretariat received a complaint submitted by the Ulupinar – Çıralı community, questioning the allocation of a land including 75% of Çıralı beach to “Orman Spor” – a football society - for the establishment of football grounds and recreation facilities. Çıralı beach is in fact among the 20 key nesting areas in Turkey and has been designated as 1<sup>st</sup> Degree Natural Site, belonging to the National Park Olimpos-Beydaglari. Furthermore, the area is well known in Turkey as it has been pioneer in establishing eco-agriculture; for instance, the local community set-up a Cooperative which is in charge of managing and conserving the area.

According to the complainants, the land was allocated to the sport society by the Ministry of Forests, while the Ministry of Environment and Development delivered a permit to use the area as “C Class” excursion area”, i.e. allowing for the touristic exploitation of the site. The complainants highlighted that Orman Spor’s sponsor is in fact a tourism promoter. Therefore the complainants expressed strong worries regarding the impact that new infrastructures and an increased human presence will certainly have on the nesting activity of *Caretta caretta*.

The Secretariat has requested a report to Turkish authorities by the 2<sup>nd</sup> of September which was not delivered by the preparation of the present summary.

In the meantime, the Secretariat received a notification by the complainants informing that some local residents and the Bar Association of Antalya lodged a complaint against the Ministry of Environment and Development, requesting both the cancellation of the decision converting the area into a “forest recreation area” and the decision to allocate it to “Orman Spor”. The 2<sup>nd</sup> Administrative Court of Antalya delivered its ruling, quashing the decision consisting in allocating to Orman Spor the land in question, but confirmed the decision regarding the land uses and development of the area.

As a result, the complainants applied to a regional, higher, court which, in June 2012, quashed the array of the Antalya 2<sup>nd</sup> Administrative Court which has now to reconsider its position and emit a new judgment.

## **2. FOLLOW-UP OF RECOMMENDATIONS AND EVOLUTION OF THE SITUATION IN**

### **➤ Recommendation No. 119 (2006) on the conservation of certain endangered species of amphibians and reptiles in Europe**

Following the endorsement by the Standing Committee of the European action plans for the conservation of the Italian agile frog (*Rana latastei*), the crested newt (*Triturus cristatus*), the meadow viper (*Vipera ursinii*), the aesculapian snake (*Zamenis longissimus*), and the sand lizard (*Lacerta agilis*), Contracting parties were requested to draw up and implement their own national action plans on these species, as well as to co-operate as appropriate for their conservation and to keep the Standing Committee informed on the measures taken to implement the recommendation.

Six Contracting parties responded to the reporting requesting. The conservation of the species is taken into account, either by the national legislation or by their inclusion in the national Red Books. However, only few Parties have adopted specific action plans and started implemented target measures. As further confirmed by the report of the European Commission, much needs to be done as more than two-thirds of the amphibians species assessed by the EU Member States by biogeographical region (104) included in the Annexes of the Habitats Directive has an unfavourable conservation status. Furthermore, some 40% of the reptile species assessed presents an unfavourable conservation status, although the MS did not provide enough data to assess the conservation status of 63 of the 149 reptile species.

### **➤ Recommendation No. 128 (2007) on the European Charter on Hunting and biodiversity**

Through this recommendation the Standing Committee invited Contracting parties to refer to the principles and guidelines included in the European Charter on Hunting and Biodiversity and apply its principles in the elaboration and implementation of their hunting policies so as to ensure that hunting is carried out in a sustainable way.

### **➤ Recommendation No. 141 (2009) on potentially invasive alien plants being used as biofuel crops**

Through this recommendation the Standing Committee invited Contracting parties to take a number of specific measures, namely in order to avoid that species used as biofuel crops escape from cultivation and become invasive alien species, with negative effects on native biological diversity

Only one Contracting party reported on the follow up of this recommendation to date.

### **➤ Recommendation No. 151 (2010) on protection of the Hermann tortoise (*Testudo hermanni*) in the Massif des Maures and Plaine des Maures localities (Var) in France**

This Recommendation was adopted following two interlinked complaints lodged in 2008.

At its 29<sup>th</sup> meeting the Standing Committee decided to organise an on-the-spot appraisal which was carried-out in June 2010.

At the 2010 Standing Committee meeting, following the analysis of the findings of the expert's report, as well as of the reports by the French authorities and the representatives of the NGOs, the Committee decided not to open a file. It adopted Recommendation No. 151 (2010) on protection of the Hermann tortoise (*Testudo hermanni*) in the Massif des Maures and Plaine des Maures localities (Var) in France and decided to review its follow-up at its 31<sup>st</sup> meeting.

The delegate of France gave the Committee the following information: the Var General Council had been appointed manager of the Plaine des Maures National Nature Reserve; the search for alternative solutions to the Balançon waste storage centre had not yet produced results; the Combes Jauffret housing project in Ramatuelle, which had been the subject of a complaint, had been delayed because the local urban development plan (PLU) had been cancelled; the issue of biodiversity and, in particular, the Hermann tortoise, was a key consideration in the preparatory work for the LGV (high-speed rail-link)

project; the implementation of the national action plan was proceeding apace, not only through the LIFE + Hermann tortoise programme, but also through the introduction of regional co-ordination. In January 2011 a note on “Ways of including the Hermann tortoise and its habitats in development projects” and the accompanying “sensitivity map” had been distributed.

The representative of the association *Vivre dans la Presqu’île de Saint Tropez* which had lodged the complaint pointed out that the background to the case was one of speculation and tourism. He said that the town’s application for an exemption from the ban on destroying protected species was based on figures that were clearly underestimated; in the search for alternative sites, of the 11 selection criteria, none was concerned with the impact on flora and fauna biodiversity; further, DREAL had apparently sent a damning note to the prefecture, listing numerous subjects that had not been examined. In the light of the above, he asked that the case be immediately reopened so that the Standing Committee could sift through all the information it had received in 2010.

The Standing Committee invited the French Government and the NGOs to submit updated reports on follow-up to the above recommendation at its next meeting. More specifically, the Committee asked the French Government to make sure that its report included more detailed population data and information about the viability of the population at national level.

Following the Standing Committee’s meeting, the association *Vivre dans la Presqu’île de Saint-Tropez* sent the Secretariat its analysis of the environmental impact assessment (which it had received very late from the municipality of Ramatuelle) and the choice of alternative sites. It wished the Standing Committee to take urgent action to have the clearing work stopped.

The Secretariat asked the complainant to consult the report on the on-the-spot visit, which referred to shortcomings in the initial analysis of the environmental issues related to the site but nevertheless stated that the Combes Jauffret housing project could go ahead subject to certain conditions and if appropriate reduction, compensation and accompanying measures were taken. The decision to grant an exemption was therefore justified and once they had been taken the measures would help maintain the sub-population of tortoises in the Ramatuelle and Saint Tropez peninsula area.

The French authorities submitted a report to the Secretariat in March 2012. With more particular regard to the Combes Jauffret housing project, the report provides answers to the various points raised by the NGO. According to the French authorities, the NGO had not brought forward any fresh information which had not been taken into account in the prefectural order granting an exemption (for which the two-month appeal period had long since lapsed). The work to prepare the ground to ensure the protection and transfer of the Hermann tortoises in the area concerned had started in early February 2012, a consultancy had been appointed to perform environmental monitoring of the site and frequent reports were being submitted to DREAL, which checked that the work was progressing properly. *Isoetes duriaei* had been taken into account in the prefectural order and compensation measures were being taken to make up for its destruction. The estimate of 100 specimens was based on the flora section of the impact assessment. The figure was very likely to change from one year to the next because the plant had an extremely irregular cycle. As far as the capture and transfer of specimens of Hermann tortoises was concerned, the estimate was that there were around 10 and that 3.32 hectares of habitat favourable to the species would be affected by the works. The specimens would be captured, marked and released in favourable sites away from the building site.

In the application for an exemption, the areas with the greatest environmental challenges had been automatically excluded from the area assessed and other criteria had then been chosen. In the opinion prepared for the National Council for Nature Protection (CNP), DREAL had highlighted the failure to take account of biodiversity in these other criteria (level 2 environmental issues). The CNPN had nevertheless therefore issued a positive recommendation in full knowledge of the facts. 70 of the 110 dwellings planned were social housing units (30 for rent and 40 for subsidised purchase), with 30 for ordinary purchase (social mix, overall balance of the cost of the project). The municipality’s aim was to enable the working population to find housing in Ramatuelle, where social housing currently accounted for only 2% of main residences.

With regard to the NGO's claim that the project did not comply with the national action plan, the compensation measures on which the CNPN had based its favourable recommendation were likely to ensure the long-term survival of the local Hermann tortoise population.

With regard to the identification of alternatives to the Balançon waste storage centre to date, the response to Pizzorno's managing director's request for extension of the operation of the Balançon centre had been negative.

The two alternatives put forward since 2009 had not materialised. However, the updating of the 2004 department plan, for which Var Conseil général (department council) was responsible, had started at last.

With regard to the management of the Plaine des Maures national nature reserve, the scientific manager had taken up his duties on 1 March 2012 and the scientific board had been appointed, the method for drawing up the management plan would be approved shortly; in addition, an agreement had been signed by the manager and the National Forestry Department (ONF) on monitoring within the reserve, and further agreements would follow.

➤ **Recommendation No. 66 (1998) on the conservation status of some nesting beaches for marine turtles in Turkey**

In August 2009 MEDASSET submitted a complaint regarding the supposed severe degradation of the nesting beaches at Fethiye Specially Protected Area (Turkey), due to unplanned construction and tourism developments.

In 2010, the Standing Committee discussed the issue in relation to the implementation of Recommendation No. 66 (1998) on the conservation status of some nesting beaches for marine turtles in Turkey.

In 2011, the NGO reported on some valuable steps made to protect the loggerhead nesting areas at Fethiye SPA. However, in 2012 the NGO informed that several of these measures were no longer sustained and that, additionally, one new beachfront hotel had been built, apparently destroying the last section of the remaining wetland. Moreover, one new wooden hut and a concrete patio had been installed directly onto the nesting beach.

In the light of these new elements, the Bureau decided to put the implementation of Recommendation No. 66 on the agenda of the 32nd Standing Committee meeting.