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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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**FOLLOW-UP  
OF CASE FILES**

***REPORT BY THE EUROPEAN UNION***

*Document prepared by  
Directorate B – Nature, Biodiversity and Land Use, ENV.B.2 – Biodiversity  
European Commission*

## FOLLOW-UP OF CASE FILES (UPDATED OCTOBER 2012)

### ➤ **Ukraine: Proposed navigable 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 and the whole Danube delta dynamics.*

*Bureau acknowledged good progress in communication from all the concerned Parties, who generally submitted their reports within the deadlines and focused 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.*

**February 2012:** Following the preparation of the report on implementation of Espoo and Aarhus Conventions in Ukraine, also in the context of the Bystroe case, which was finalised in 2010 and approved by Ukraine during the Espoo MOP in Geneva in June 2011, the European Commission is currently financing another project on this topic: "Support to Ukraine to implement the Espoo and Aarhus Conventions – follow-up activities". The project was launched on 25 October 2011. The inception report has been already prepared.

In 2011 Ukraine received warnings for non-compliance at the above mentioned Espoo MOP as well as at the MOP of the Aarhus Convention, which took place in Chisinau. The final report that is being prepared should help Ukraine to improve implementation of the Espoo and Aarhus Conventions.

**Decision:** *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.*

**August 2012:** Following the preparation of the report on implementation of Espoo and Aarhus Conventions in Ukraine, also in the context of the Bystroe case, which was finalised in 2010 and approved by Ukraine during the Espoo MOP in Geneva in June 2011, the European Commission is currently financing another project on this topic: "Support to Ukraine to implement the Espoo and Aarhus Conventions – follow-up activities". The project was launched on 25 October 2011.

Thanks to the project Ukraine prepared a draft law on Environmental Impact Assessment in Transboundary Context and submitted it to the Ukrainian Parliament which will examine the law in its autumn session.

In 2011 Ukraine received cautions for non-compliance at the above mentioned Espoo MOP as well as at the MOP of the Aarhus Convention, which took place in Chisinau. The final report that is being prepared should help Ukraine to improve implementation of the Espoo and Aarhus Conventions.

**October 2012:** In the context of the Bystroe case, the European Commission has been involved in financing the preparation of two reports aiming to facilitate the implementation of the Espoo and Aarhus Conventions in Ukraine. The first report was finalized in 2010. During the Espoo MOP in June 2011, Ukraine approved the report.

Following the outcomes from this report, the European Commission is currently financing a second project, i.e. "Support to Ukraine to implement the Espoo and Aarhus Conventions – follow-up activities". This project has been launched on 25 October 2011. The EU intention is to extend it until February 2013, subject to request by the Ministry of Ecology and Natural Resources of Ukraine.

As a result of the second project, Ukraine prepared a draft law on Environmental Impact Assessment in Transboundary Context, and submitted the draft to the Ukrainian Parliament. The

Parliament was to examine the law in its autumn session this year. However, the law was not adopted during the session. It is unlikely that it will be adopted after the parliamentary elections in Ukraine on 28 October 2012.

In 2011 the Meetings of the Parties to both Espoo and Aarhus Conventions, issued cautions for Ukraine's non-compliance with both Conventions. The Implementation Committee of the Espoo Convention and the Compliance Committee of the Aarhus Convention are to discuss the steps taken by the Government of Ukraine to bring about compliance with its obligations under these Conventions at their next sessions in November and December 2012 respectively.

➤ **Cyprus: Akamas Peninsula**

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

*The Committee requested from Cyprus the full implementation of its Recommendation No. 63 (1997) and decided to keep the file open, further requesting from Cyprus 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.*

**February 2012:** Following a complaint on the issue of insufficient designation and protection of the Akamas area under the Natura 2000 network the Commission requested relevant information from the Cypriot authorities. Following the reply of Cypriot authorities the Commission issued a Letter of Formal Notice under Article 258 of the Treaty for insufficient designation of the area. The Commission has analysed the reply and has requested a number of further clarifications and results of studies to the Cypriot authorities. This new information is expected in June/July 2012, after which the Commission will decide on next steps that it might take.

**Decision:** *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.*

**August 2012:** Following a complaint on the issue of insufficient designation and protection of the Akamas area under the Natura 2000 network the Commission requested relevant information from the Cypriot authorities. Following the reply of Cypriot authorities the Commission issued a Letter of Formal Notice under Article 258 of the Treaty for insufficient designation of the area. The Commission has analysed the reply and has requested a number of further clarifications and results of studies to the Cypriot authorities. This new information, along with other relevant information from NGOs, is expected in July/August 2012, after which the Commission will decide on next steps that it might take.

**October 2012:** The Commission is expecting field data from the Cypriot authorities and NGOs concerning the distribution of critical species and habitats in the area. These data are due by the end of October and will then be analysed in order to determine the follow-up of the case.

➤ **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 challenged the chosen sites located on the Via Pontica which is one of the main migratory routes in Europe especially for soaring birds.*

*The representative of Birdlife Bulgaria asked the Standing Committee, among others, to encourage the EC to move from the Infringement to the Reasoned Opinion stage with regards to windfarms in 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) on the windfarms planned near Balchick and Kaliakra, and other windfarm developments on the Via Pontica route (Bulgaria). The Committee further instructed the Secretariat to continue to*

*follow this complaint up in close co-operation with the European Commission, taking into account the three ongoing infringement procedures.*

**February 2012:** Since the last meeting of the Bern Convention Standing Committee there are no new developments in regards to the Kaliakra case. In January 2011 the Commission services received new information both from the Bulgarian Government and from the NGO on this issue, which we are currently assessing. On 30<sup>th</sup> September 2011 the European Commission sent a complementary Letter of Formal Notice in order to expand the scope of the recent case. The reply from Bulgarian authorities has just been received and the EC will analyze it.

**Decision:** *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 (...)*

**August 2012:** The Commission is advancing with its infringement procedure against Bulgaria concerning wind farms and other developments in "Kaliakra complex" SCI, "Kaliakra" SPA, "Belite Skali" SPA and an area that should have been designated as a SPA but it was not. A reasoned opinion was sent to Bulgaria on 21/06/2012 and more information could be seen on the following link:

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/12/654&format=HTML&aged=0&language=EN&guiLanguage=en>

**October 2012:** The Commission sent a reasoned opinion to Bulgaria on 21 June 2012 (<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/12/654&format=HTML&aged=0&language=EN&guiLanguage=en>).

The reply to the reasoned opinion was received on 22 August 2012. The information presented in the report to the Bern Convention is also part of the reply to the reasoned opinion. The Commission is still analysing the reply of the Bulgarian authorities. Therefore and at this stage, it is not in a position to provide an opinion.

➤ **France: Habitats for the survival of the Common Hamster (*Cricetus cricetus*) in Alsace**

*The Committee took note of the information presented by the delegate of France, the representatives of NGOs and the representative of the European Commission. 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 Committee decided to keep the case file open.*

**February 2012:** In its ruling dated 09/06/2011 (Case-383/09) the ECJ condemned France for failing to effectively avoid deterioration or destruction of Hamster's breeding sites or resting places. Further to this judgment the Commission asked France which measures they intend to implement to restore the favourable conservation status of the species. France sent new information on the population status of the species and the implementation of the measures aimed at improving its status, as well as envisaged changes and improvements to the current measures. France met the Commission in November 2011 to present their plans to comply with the ruling. The issue was briefly discussed again in Paris at the annual meeting on environmental infringements (so called "package meeting"). The Commission stressed the need to take swift measures to comply with the ruling. Moreover the Commission wrote to France on 12/07/2011 to ask how the presence of the Common Hamster and the Green Toad (*Bufo viridis*) has been taken into account in the context of the building of the by-pass road around Strasbourg (A355). The Commission is assessing the reply provided by France.

**Decision:** *In the absence of updated reports, the Bureau decided to keep the case-file open and discuss it again at its next meeting.*

**August 2012:** As the issue was briefly discussed again in Paris at the annual meeting on environmental infringements (so called "package meeting"), the Commission stressed the need to take swift measures to comply with the ruling. Moreover the Commission wrote to France on 12/07/2011 to ask how the presence of the Common Hamster and the Green Toad (*Bufo viridis*) has been taken into account in the context of the building of the by-pass road around Strasbourg (A355). The Commission is assessing the reply provided by France. For more updates you may contact Joseph Van der Stegen, Natura 2000 Unit, responsible for contacts with France.

## POSSIBLE FILES:

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

France adopted the **RBMP** for the **Rhône-Mediterranean river basin district** in December 2009, which includes the Doubs River.

The Commission is currently assessing the River Basin Management Plans (RBMPs) that Member States have prepared for the implementation of the Water Framework Directive (WFD), and will publish an implementation report in November 2012.

The **Doubs Franco-Suisse sub-basin** has indeed been reported as being in bad chemical status from 2006 to 2011, while the ecological status has been good for the last four years (and moderate in 2007).

Some of the main problems identified in the RBMP for this area include the alteration of the biological continuity, the lack of quantitative balance due to abstractions and problems related to the management of existing infrastructure.

Improvement on the water management in existing infrastructure and measures to restore the river continuity have been defined as priorities for the first planning cycle (2010-2015).

A number of supplementary measures have been adopted in the Programme of Measures of the RBMP, including the following:

- Enhance local water management
- Measures to tackle hazardous substances, which includes the assessment of the status, improved knowledge of pollution and pressures, assessment of discharges and analysis of substances
- Measures to tackle the biological continuity by the creation or improvement of fish passes, for both upstream and downstream migration.
- Measures for the quantitative balance, which will entail a coordinated management of all infrastructures at river basin district level

➤ **France: Conservation of the European Green Toad (*Bufo viridis*) in Alsace**

*This case concerns 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.*

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

**February 2012:** Please see above.

**Decision:** *The Bureau welcomed the information provided by the authorities of France and noted the encouraging developments at regional level, including the strengthened cooperation 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.*

**August 2012:** Please see above.

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

*This complaint was submitted in August 2010 to denounce uncontrolled development plans in a NATURA 2000 site (THINES KYPARISSIAS - GR2550005) putting at threat a unique population of the Loggerhead sea turtle (*Caretta caretta*).*

**Decision:** *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.*

**August 2012:** Following a complaint it received, the Commission inquired about the issue with the Greek authorities and, on the basis of replies it received, it issued a Letter of Formal Notice under Article 258 of the Treaty for insufficient protection of the area. In the light of the reply received, and additional information gathered, the Commission will now decide on next steps to be taken.

**October 2012:** The Commission services carried out a field visit in July 2012. In the light of the findings, as well as the reply of the Greek authorities to the Letter of Formal Notice, the Commission issued in September 2012 a Reasoned Opinion under Article 258 of the Lisbon Treaty for insufficient protection of the area. In case of referral to the Court of Justice of the EU, the Commission does not exclude to ask the Court for interim measures.

## COMPLAINT IN STAND-BY

### ➤ **Threat to the Brown bear (*Ursus arctos*) in Croatia**

*This complaint denounces the presumed unsustainable management of the Brown bear population (*Ursus arctos*) in Croatia, putting at risk the conservation of the species in the country.*

**Decision:** *The Bureau discussed the complaint thoroughly and recognised that the issues of the estimate of the population and of the methodologies for data gathering are controversial. It instructed the Group of Experts on the Conservation of Large Carnivores, which will hold its next meeting on 24-25 May 2012, to address these issues and collect additional information. The Bureau further considered that this complaint could make the object of mediation in case the Standing Committee would decide to introduce this new framework. The Bureau will re-discuss this complaint as a complaint in stand-by at its next meeting.*

**August 2012:** EC attended the expert group meeting on large carnivores in May, but this complaint was not discussed. The Commission itself has received no complaint regarding this case.