

## **8th Meeting Expert Group – Amphibian & Reptiles.**

### **Agenda Item 5. Taking the past to the future – how can we best Encourage progress on past Recommendations and Action Plans ?**

While it is good to have this opportunity to front this subject with the Experts, coming from an NGO stable I do not have access to the bureaucracy behind the scenes and the real diplomatic constraints to necessary changes; so please take a deep breath and risk being offended :

Shortly after the Convention was launched, one early Standing Committee witnessed a heated discussion on the proposed and infamous Hainburg Dam just upstream of Vienna. The inaugural Chair had the Austrian WWF delegation removed from the meeting though the problem stemmed from an intransigent Austrian delegate (ex Finance Ministry).

We were then lectured on the lines that this Convention was a Gentlemen's Club where such disagreements were unacceptable. [To be fair, when this Chair eventually retired he did explain fairly that his motive had been to encourage, not deter, more States' to join.]

#### Member States.

Over succeeding years a number of troublesome issues were raised via Recommendations and/or Case Files. One of the best was on the (UK) Dorset Heathlands; the worst undoubtedly was the

Zakynthos (Greece) Loggerhead Turtle nesting beaches.

It was then increasingly noted that some M.S.s began to ignore their obligations to Recommendations, and even more latterly not to attend T-PVS where national criticism was implied. In great if welcome contrast to the earlier Hainburg situation some heated exchanges even occurred between M.S. and the Secretariat. Some like Germany began to make questionable “legal” claims that ‘*where appropriate*’ and to ‘*consider*’ simply gave a brief to choose not to consider, or to view that it was not appropriate, despite prior evidence to the opposite. Then we have the current reluctance to discharge the simplest but sometimes key obligation on reporting back on progress (or problems) in their implementation of Recommendations or Action Plans. Most worryingly, far too many EU. MSs began to claim obligations only, or at least primarily, to the Habitats Directive rather than to Berne. The UK., Germany, and NL have tended to be prominent here.

## EU.

The initial appearance of a turf war over Europe’s wildlife thankfully appears to have subsided, and it is understood that Brussels & Strasbourg’s co-operation and dialogue is more positive these days. But they still seem to ignore their Directive’s basic stated tenet ***To better implement the Berne Convention in the Member States.***

This could/should provide more thought if not potential input towards helping to solve some of the current M.S.problems outlined above ?

The EU have also removed Berne's only real sanction against what one might describe as a persistent M.S. offender, ie. after due process of negotiation, an option for a Member State to take another to the European Court.

After c.10 years of prolonged debate over the lack of any meaningful progress over Zakynthos, Sweden had agreed to act in that capacity, but just before the deadline the EU announced that under the Treaty of..... an EU M.S. was not allowed to take another EU M.S. to Court. There then followed another 10 years of Brussels procedural enquiry over Zakynthos. Then just as their 10 year deadline approached, a new EU Environment Supremo was appointed, A Greek whose first notable action was to close their Zakynthos File; Quel surpris !!!

Perhaps their Directive's best potential for positively influencing species and habitat conservation would be via the implementation of F.C.S. Favourable Conservation Status but the delay in applying this important concept, let alone basic definitions, are disappointing.

NGOs.

For reasons unknown the EU's Environment Division is rather reluctant to meet with individual NGOs., much preferring meetings with groupings. (unless you are a big cheese like Birdlife International or

WWF who both have offices in Brussels). That format is OK if you don't mind a) never having the discussions with the M.S.s., and b) too often having the senior eurocrat withdraw due to "other commitments" as happens at their Wildlife Habitats Forum

My own personal experience is perhaps illustrative as after pursuing a series of unwelcome conservation issues, I was offered a lucrative contract as an EU Advisor, subject to the one simple condition that I resigned all membership and contacts with NGOs, including my then Charitable employer !

There is another potential EU democratic route Via European parliamentarians; problem there is even if your input succeeds progress can still be thwarted by the unelected Commission.

Another recent example of failure of an EU wildlife issue was closure of an advanced Complaints Procedure File on UK.Crested Newt protection. While it was fully accepted that the legal case was sound, it appeared that other unstated pressures from 'above' were to blame ?

Finally, mention must be made of the EU 'performance' at Berne Standing Committees. in relation to attending NGOs.

Their policy is to call pre-meetings before all sessions over the four days in order to arrive at a "Common Position" for the Agenda items, which M.S.s are then required to follow. NGOs can request access at the end of the EU discussion meeting, for 10 or so minutes, and may even address them on a key point. But, as this is after their Common Position has been reached without hearing from the NGOs

who are often those bringing the Agenda issue to T-PVS in the first place, and will not

be informed of that position. To put this bluntly, the EU MSs can be committed to a Common Position without having heard upto half of the case.

This is undemocratic, and remains in my view as intolerable.

It has long been recognised that input and information brought by NGOs to the Convention has been a major feature of its working. This has been stated notably by the late legal brain Cyril de Klemm, and by arguably their best Chairman the Dane, Veit Koester. We are pleased to accept such recognition !

It could be claimed that SEH CC. had been the biggest Berne supporter and indeed we have provided a wealth of herpetofaunal detail as can be appreciated by reading Tom Langton's circulated document :

Checklist of European Herpetological Society (SEHCC) reports and Major publications 1982 – 2007. Most of this work was achieved via unpaid dedicated field work in many countries, by the generous granting of time and facilities by some employers, and initially by modest grant aid via SEH member's subscriptions. However, the downside has been an inevitable erosion of enthusiasm, worsened considerably by disappointments when related Recommendations and Action plans are not implemented or apparently followed up, and required safeguards and improvements in species and habitat status are not achieved.

How could this be changed and by whom ?

Lack of reporting and implementation of adopted measures :

It seems logical that any chasing up could best be done by a joint plan involving the Berne Secretariat and Bureau, and which ideally could include some reporting if MS.s to fail to attend should their State be clearly involved via the T-PVS Agenda

How to urge the EU to become more co-operative, and more democratic at the Standing Committee

This is completely outside of my experience, but perhaps the Bureau could at least give some thought to this as well ?