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**T-PVS (2011) 5**

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE  
AND NATURAL HABITATS

Standing Committee

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**Meeting of the Bureau**

Strasbourg, 11 April 2011

**MEETING REPORT**

*Secretariat Memorandum  
prepared by  
the Directorate of Culture and Cultural and Natural Heritage*

## **1. ADOPTION OF THE AGENDA**

Mr Jan Plesnik, Chair of the Standing Committee of the Convention, opened the meeting on 11 April 2011 and welcomed the other Bureau members, Mr. Olivier Biber, Mr Jón Gunnar Ottósson, Ms Snezana Prokic and Mr Silviu Megan, as well as the representatives of the Secretariat.

The Chair introduced the Draft Agenda of the meeting, which was amended and further adopted (see appendix 1).

## **2. IMPLEMENTATION OF THE 2011 PROGRAMME OF ACTIVITIES**

### **2.1 Monitoring of Species and Habitats: General overview**

The Secretariat informed on the progress made in the implementation of the work programme, as well as on the meetings and other activities taking place in the first half of 2011, including the meetings of the Groups of Experts on Invasive Alien Species (Malta, 18-20 May) and on Island Biodiversity (France, 9-11 June), as well as the 6<sup>th</sup> Planta Europa Conference, scheduled to take place in Krakow, Poland on 23-27 May.

The Secretariat additionally informed that more detailed communications would follow under other agenda items concerning the meetings organised within the framework of the Emerald Network, the Group of Specialists on the European Diploma of Protected Areas and the preparation of the European Conference on Illegal Killing of Birds.

Regarding biodiversity and climate change, the Secretariat communicated that an internal Task Force has been established to streamline Council of Europe activities in the field of climate change, at the initiative of the Director of Culture and Cultural and Natural Heritage. The proposal to organise a transversal Conference to analyse the issue of “Climate Change and Human Rights”, as well as the possible role of the Council of Europe towards the necessary changes in societal values is being studied. The Conference would contribute to raising awareness with regards to protection of the environment, protection of human health, social cohesion, welfare and equity, educational needs especially of young generations, and cultural and natural heritage. It would take place in 2012 (second half).

Furthermore, the Secretariat briefly updated the Bureau members on the outcomes of the 10<sup>th</sup> meeting of the EU Coordination Group on Biodiversity and Nature (Brussels, 8 April), particularly focussing on the adoption of the EU 2020 Biodiversity Strategy (on 4<sup>th</sup> May), the new biogeographical process which is being studied for Natura 2000 sites, and the possible implications of the draft policy guidelines under discussion in DG MARE, DG AGRI and DG REGIO.

Moreover, the Secretariat informed that this year the independent legal analysis of the implementation of the Convention in at least one Contracting Party will concern Switzerland and will be prepared by Prof. Jean Untermaier (France). The Secretariat also briefed that so far 13 country analysis have been prepared and discussed by the Standing Committee; in 2011 the Secretariat suggested to focus on Switzerland as the country is engaged in the implementation of the Emerald Network of Areas of Special Conservation Interest and the legal report could back Swiss national authorities in assessing the related legal and administrative measures currently being in force. In addition, the legal analysis could be then used by Swiss authorities in their communication with the wider public on the application of the Bern Convention in the country.

Finally, the Secretariat informed that the report of the 30<sup>th</sup> meeting of the Standing Committee has been forwarded to the Council of Europe Committee of Ministers for information, and published on the Biological Diversity Unit’s website; a number of publications will be issued in 2011 (six reports including guidance on biodiversity and climate change, the European Charter on Recreational Fishing and Biodiversity, new editions of the European strategy on invasive alien species and of the Code of conduct on horticulture and invasive alien plants, the Georgian and Russian versions of the Emerald Network information brochure). Other visibility actions include the publication on the Council of Europe main web-page of a thematic file on the Bern Convention as well as the production of an information radio podcast available in English, French and Spanish.

The Bureau thanked the Secretariat for the work done and the progress made in implementing the Convention's work programme.

## 2.2 Progress in the setting-up of the Emerald Network

The Secretariat informed the Bureau on the state of progress of the joint CoE / EU project aimed at the setting-up of the Emerald Network in 7 Central and Eastern European countries and South Caucasus.

More concretely, the Secretariat informed that in 2011 four national seminars have already taken place as well as the sub-regional seminar gathering the national teams from Belarus, Moldova, the Russian Federation and Ukraine. Three more national seminars and one sub-regional seminar will take place in Armenia, Georgia and Azerbaijan during the next 3 months. The Secretariat reminded that this is the last implementation year for the project and that the final results are expected by early December; the second interim report to the European Commission has been recently adopted and is now published on the website.

In view of preparing the project's follow-up, a meeting with the European Commission (DG ENV and EuropeAid) is scheduled for 27<sup>th</sup> May 2011. The possibility of engaging in a new joint project for Morocco and Tunisia should also be further developed.

The Secretariat further informed that preparatory work to complete Phase I and start Phase II is underway for Norway and Switzerland. A technical seminar will be organised in Norway on 6-7 September this year, in co-operation with ETC/BD. During the autumn, another technical seminar will take place in Switzerland, although the dates are still to be confirmed.

In addition, the Secretariat informed the Bureau that technical and political coordination meetings with the European Environment Agency and the European Topic Centre are taking place in the framework of Phase II of the Emerald Network constitution process. In this respect, the Secretariat reported the outcomes of the Preparatory biogeographical seminar for 6 West Balkans countries (Albania, Bosnia and Herzegovina, Croatia, Montenegro, Serbia and "the former Yugoslav Republic of Macedonia) organised in Paris, on 26-27 January 2011, in co-operation with the EEA and its ETC/BD. The Seminar was held as a preparatory step towards an assessment of the Emerald Candidate sites in the region, and set the ground for the main seminar to be held in autumn 2011.

As a result of the Preparatory Seminar held in Paris the national "Emerald teams" should now update the database delivered to the Bern Convention Secretariat in 2008, including revising possible technical inconsistencies. A clear timetable and individualised guidelines have been produced for each country, in order to support their work and ensure the completion of the national database on time for the main biogeographical West Balkan Emerald seminar.

Mr Plesnik, who chaired the preparatory biogeographical seminar, informed that its results are encouraging, particularly because all the participating countries submitted high quality as well as comprehensive databases. He stressed that the seminar confirmed that the majority of habitat types included in the Annex I to the Habitats Directive and in Resolution 4 (1996) of the Bern Convention are the same or easily convertible; he pointed out that the practice showed that the decision of the Standing Committee to adopt the EUNIS Habitats classification system in spite of the Palaearctic classification has allowed for a simplification as well as for the harmonisation of approaches. **Hence, it is now largely agreed among all actors that the Emerald biogeographical assessment will help any future Natura 2000 biogeographical assessment.**

Ms Snezana Prokic congratulated the Secretariat for the co-ordination of the work related to the setting-up of the Emerald Network. She confirmed the commitment of her authorities towards the completion of the Emerald Network, although she stressed that it is crucial to ensure good communication with the European Union in order to get their support and active involvement towards the harmonisation of both the networks. Ms Prokic finally noted that it would certainly be necessary to start working on European management guidelines, to avoid that heterogeneous, national management policies are implemented instead.

The Secretariat explained that co-ordination with both the EU and the EEA/ETC-BD specifically aims at allowing progress within the Emerald Network without putting an additional work burden over

participating countries. Furthermore, the Secretariat confirmed that measures have been undertaken to ensure that the evaluation of the Emerald data will, as far as possible, take into account the experience and criteria of establishing the Natura 2000 Network. Finally, the Secretariat recalled that the Calendar for the implementation of the Emerald Network, adopted by the Standing Committee at its 30<sup>th</sup> meeting in 2010, includes clear deadlines for the preparation and adoption of management guidelines.

In this respect, the Chair noted that, in due time, the Emerald Network will certainly be able to take advantage from the lessons learnt through the new EU biogeographical process, scheduled to be launched the end of this year and which will focus on effective management of ecological networks; the CBD's work in the framework of its Programme of Work on Protected Areas, and the assessment of the Natura 2000 Network which will be presented by the EEA at the Rio +20 Conference to take place in 2012 should also be taken into account.

The Chair concluded the discussions on this agenda item by recalling that the EEA is also in charge of preparing an "Assessment of Assessments" report for the Seventh "Environment for Europe" Ministerial Conference, to take place in Astana (Kazakhstan) from 21 to 23 September 2011. The overall goal of this report is to assess the regional needs, priorities and sustainable long-term mechanisms to keep the pan-European environment under continuous review. The good co-operation between the Council of Europe and the EEA will be an added value for keeping the Bern Convention up-to-date on the progress made in the field of biodiversity in other *fora*.

### **2.3 European Diploma of Protected Areas: Report from the meeting of the Group of Specialists and draft renewals in 2011**

The Secretariat presented the main outcomes of the meeting of the Group of Specialists on the European Diploma of Protected Areas, held in Strasbourg on 14-15 March 2011.

The Secretariat informed that, at the request of the Czech authorities, the Group of Specialist postponed to 2012 the discussion on the on-the-spot appraisal's report (July 2010), prepared following the application submitted by the *Sumava* National Park (Czech Republic) in 2009. The Secretariat stressed the exceptional European interest of this area which forms, together with the trans-boundary *Bayerischer Wald* National Park, the largest area of natural and semi-natural forest between the Atlantic and the Urals. However, the recent organisational changes in the National Park, the question of the bark beetle plague prevention as well as the opposition to the recent park administration's policy expressed by some local inhabitants advised for reporting the discussion concerning the award.

The Group examined the reports from the renewal visits prior to the analysis of the draft Resolutions for the renewal of the Diploma. The Group identified the question of the management plans as being one of the main issues, and thus decided to systematically consider the existence of an effective management plan as a condition (i.e. not anymore a recommendation) for the renewal of the Diploma. The Group agreed to a joint renewal to the transboundary *Vanoise* (France) and *Gran Paradiso* (Italy) National Parks, at the concerned authorities' request. It further recommended the renewal of the European Diploma for a period of 10 years to 11 Diploma sites.

Concerning the 2 non-renewals still pending, the Secretariat informed that on-the-spot appraisals will be carried out in autumn at both the *Bialowieza* National Park (Poland) and the *Belovezhskaya Pushcha* National Park (Belarus), with a view of analysing the implementation of their management plans.

The Secretariat further informed that the Group held a long discussion on the future of the European Diploma and made proposals concerning its institutional aspects, the reporting system, the setting-up of an apposite financial system to mobilise private contributions, the visibility of the Diploma as well as its links with other labels and the role of the Diploma in the implementation of the *Aichi* targets.

Finally, the Secretariat informed the Bureau that, in keeping with the principle of rotation, the Group's current membership would be modified; the representatives of Germany, Italy and the Netherlands would leave the Group. The term of office of the other 3 specialists (France, Russian Federation, and United Kingdom) was renewed for 2 years.

Mr Megan informed that he personally visited the *Sumava* National Park and that this can be considered as an interesting laboratory of ideas where new management options are being tested, for

instance to prevent bark beetle plagues. However, it is impossible to know beforehand if these options will be effective; the managers of the Park will need time before being able to assess their results.

Mr Biber recalled that the Secretariat's report also informed on several proposals formulated by the Group of Experts concerning its future work, which would worth to be further discussed; he suggested that the Secretariat prepares a consolidated document on the issue, to be discussed at next Bureau meeting.

**Decision:** The Bureau took note of the information provided by the Secretariat. It welcomed the discussion on the future of the European Diploma and instructed the Secretariat to present an updated version of document T-PVS/DE (2011) 12 – Future of the European Diploma of Protected Areas at next Bureau meeting, in September 2011.

The Bureau agreed to forward the 11 draft Resolutions on the renewal of the European Diploma to the Committee of Ministers for adoption.

## 2.4 Illegal killing of Birds

The Secretariat informed on the state of preparation of the European Conference on Illegal Killing of Birds, organised by the Council of Europe in co-operation with the Game Fund of Cyprus (Ministry of Interior), to take place in Larnaka (Cyprus) on 6-8 July 2011.

A preparatory meeting held in February in Brussels gathered together the representatives of the Council of Europe, the Game Fund, the European Commission, BirdLife International and FACE, to discuss the aims and goals of the Conference, as well as to define its practical structure.

Regarding the goals of the conference, the preparatory group agreed that this should contribute to identify the extent of the problem in Contracting Parties; to provide an overview of law enforcement mechanisms; to examine options for supporting national authorities to enforce their legislation and improve compliance with obligations; to take stock of national experiences and put forward examples of good practices; to identify priorities on a conservation point of view. The Conference should have a “positive” focus, aiming at suggesting to the Standing Committee of the Bern Convention practical measures, options and/or strategies to be implemented to stop illegal killing, trapping and trade of birds in Contracting Parties.

Regarding the scope of the Conference, this will concern “activities which are illegal under national or regional law, and which are aimed at marketing birds, or deliberately killing or catching them alive, thus not covering indirect or side effects (like for example accidental bird poisoning due to the use of pesticides). Such activities include: shooting/trapping in closed period, shooting/trapping in areas with shooting prohibition, shooting/trapping by unauthorized persons, killing of protected species, use of prohibited means, non-respect of bag limits, voluntary poisoning...”.

The Secretariat further informed that the Conference will have plenary sessions, devoted to presentations of practical experience from both national authorities and nature conservation NGOs, as well as three working groups which will analyse the legal, biological and cultural/educational aspects of the phenomenon. The Conference will be opened by the Ministers of Justice and of Interior of Cyprus, and officials from Contracting Parties to the Bern Convention, the European Commission, other international multilateral environmental conventions, Cyprus national authorities, nature conservation NGOs, experts and other relevant stakeholders will participate in this important event.

Contracting Parties have been invited to prepare short reports on the situation in their country, which will complement the information gathered by the EU in the frame of an overview of law enforcement mechanisms.

The Secretariat noted that the Draft Agenda, as well as the goals and objectives of the Conference are very ambitious, and that this initiative raises high expectations and interest from many stakeholders. However, the Secretariat highlighted that the estimate budget allocated to this task has

consequently increased if compared to what initially agreed by the Standing Committee, while no additional financial contribution has been proposed by other partners or beneficiaries.

Mr Biber thanked the Secretariat for the work carried out for the preparation of the Conference and welcomed the involvement of FACE, noting that the commitment of the hunters will be a valuable tool for tackling the issue. He further asked if the Conference could end up with a Declaration or another instrument to raise the political commitment towards stopping illegal killing of birds.

The Secretariat informed that a Declaration can be considered among the possible outputs.

The Chair welcomed the Secretariat's efforts to prepare this and encouraged the Bureau members to support this process.

### **3. INSTITUTIONAL MATTERS**

#### **3.1 The application of article 9.1 of the Convention**

The Secretariat recalled that the Standing Committee, at its 30<sup>th</sup> meeting, decided to report to 2011 meeting the discussion and possible adoption of the Draft Revised Resolution No. 2 (1993) on the scope of articles 8 and 9 of the Bern Convention, in view of ensuring the coherence of the interpretation of Article 9 with other relevant instruments at European level. It therefore asked the European Commission to compare the proposed interpretation under the Bern Convention with the interpretation and reporting requirements under relevant EU instruments, and to forward its findings to the Bureau for analysis. In addition, the Committee asked the Bureau to examine proposals for improving the reporting system, including the possibility of using electronic reporting tools, similar to those provided for Member States by the European Union.

The Secretariat informed that the European Commission is still working on the assessment of the comments received by its Member States on the issue, which will be co-ordinated through the WPIEI process. The EU opinion should be therefore ready by next June.

However, the Secretariat informed that it received copy of the U.K. comments on the issue and that these express some concern on the direct link which seems to have been drawn between EU law and the Bern Convention. The U.K. considers that it is advisable to retain a distinction between the EU Directives and the Bern Convention, especially with regards to the possibility of linking the interpretation of the Bern Convention to the European Court of Justice case law. The Secretariat noted that this could be an opinion shared by other Bern Convention Contracting Parties.

For what concerns the reporting tools, the Secretariat informed the members of the Bureau that the European Commission sent an official letter proposing to enlarge to the Bern Convention the use of the EU derogation reporting system called Habides. This reporting tool already fulfils the requirements of Resolution No. 2 (1993) and most of the additional information which was proposed in the draft revised model form for biennial reports by the Bern Convention Secretariat last December can be derived from it; while the information on the conservation status of the derogated species (if required) is reported by the EU Member States under Article 17 of the Habitats Directive. The letter includes detailed information on the functioning of the EU derogation reporting and Habides. In addition, the European Commission suggests that an additional step towards streamlining the reporting flows and optimizing resource allocation would be to consider EU-reporting *de facto* compliant with the Bern Convention.

Moreover, the Secretariat raised the attention of the Bureau on the following issues which could need to be carefully explored:

- The compatibility of the two reporting systems, particularly with regards to the possibility, opened under the Bern Convention, to address biodiversity issues through administrative measures instead of legislative ones;
- The compatibility of the lists of species and habitats (and their different degree of protection) under the two legal instruments;
- The interpretation of the conditions for derogations;

- The reporting languages (Council of Europe official languages are English and French, while the EU allows for reporting in the national language of Member States);
- The need for additional human and financial resources to handle the Habides tool;
- The possibility of accepting the EU reporting as covering the reporting of the Contracting parties which are also EU Member States.

Mr Biber welcomed the co-ordination efforts by the Bern Convention and the European Commission, as well as the proposals coming from the EC. He stressed that the issue of the harmonisation of reporting tools and tasks has been handled for a long time, without finding a satisfactory solution, because sometimes it is imperative to proceed on a case-by-case basis. He therefore suggested to consider as much as possible the reporting submitted by the EU as satisfactory, while keeping the flexibility to the Secretariat to ask to Contracting Parties to provide additional information if needed (for instance when the species to be dealt with is not included in the Directive, and more generally when the reporting is not completely adapted to the Bern Convention's requirements).

Mr Ottósson recalled that article 9 is the "core" article of the Bern Convention and that this should be kept in mind while adopting any decision concerning this particular provision.

**Decision:** The Bureau took note of the information provided by the Secretariat. It welcomed the co-ordination efforts to avoid putting an additional reporting burden on Contracting Parties. It asked the Secretariat to forward to the Bureau members the analysis of the European Commission as soon as it is available, as well as to be alerted in case of additional delays.

In addition, the Bureau asked the Secretariat to prepare a proposal including possible scenarios on the ways forward to be discussed at next Bureau meeting.

### 3.2 The Bern Convention and the Reform process at Council of Europe

The Head of the Biodiversity Unit, Mr Fernández Galiano, updated the Bureau on the state of progress of the Council of Europe political reform. In January 2011 the Secretary General of the Council of Europe presented to the Committee of Ministers the second phase of the reform proposing a series of measures concerning the programme and budget of the Organisation, including the outline of his priorities (based on the three operational pillars Human Rights, Rule of Law and Democracy), the review of the intergovernmental structures, the move to a biennial programme and budget and the review of conventions.

The objective of the second phase of the reform is to concentrate resources on priority programmes by sun-setting activities with decreasing impact and reducing the total number of operational programmes (resulting in internal redeployment of both financial and human resources).

For what concerns more particularly the Conventions, the Task Force on Convention review set-up internally by the Secretariat in 2010 provided a first analysis of the relevance of the more than 200 CoE conventions, considering that the Bern Convention should be regarded as one of the "Key" Council of Europe treaties. In 2011, the Secretary General proposes the elaboration of a Comprehensive Report for the attention of the Committee of Ministers offering a critical review of the relevance of the conventions; the report should be prepared by the end of September 2011.

However, it can already be presumed that the Bern Convention will have to face important cuts in the Ordinary Budget as from the next budgetary cycle (2012-2013). In fact, most, if not all of the international conventions related to biodiversity issues have along a financial mechanism ensuring their implementation. This does not apply to the Bern Convention, as at the Council of Europe the decisions on the budget are taken by the Ministries of Foreign Affairs in charge of identifying priority actions for the whole organisation.

It seems that is now necessary to broaden the active financial involvement of the Ministries of Environment of Contracting Parties in order to ensure that the Bern Convention receives appropriate, stable and predictable funding for its effective implementation. In view of the above, the Secretariat

suggested that the issue of the adequate financing of the Bern Convention is brought to the attention of the Standing Committee, who should decide on what role to give to the Convention, on which priorities and with which resources.

Mr Biber pointed out that the problem of the financing is present even at national level, where the budgetary allocations to the Ministry of Environment are often the first to be reduced in periods of financial crisis.

Ms Prokic considered that the Bern Convention should go through the same or similar financing system of other international biodiversity related Conventions, where the contributions from Member States are compulsory. She suggested that the Bureau invites Contracting Parties to participate in the financing process with a minimum amount expected by each Country, although still on a voluntary basis.

The Chair suggested holding a discussion on possible criteria to propose to Contracting Parties a voluntary indicative scale of contributions. The latter could be prepared using the scale of assessment adopted by UNEP as an indicative basis for Governments, making clear that the contribution would remain voluntary but should come from as many Contracting Parties as possible. He concluded by informing the Bureau that the Czech Republic has recently forwarded its voluntary contribution to the Secretariat.

Mr Biber stressed that contributions raised in this way should be allocated to the whole Programme of Activities of the Bern Convention, without making distinctions between core and non-core activities, core and non-core expenses, operational or secretariat expenses. The proposal was supported by Ms Prokic.

Mr Ottósson recalled that on 28 April 2010, being the Chair of the Bern Convention, he had a meeting with Mr. Gérard Stoudmann, Special Representative for Organisational Development and Reform. Mr Ottósson stressed that the meeting had positive outcomes as it confirmed that the Bern Convention would remain the keystone treaty for protection of biodiversity within the Council of Europe framework, while recognising the effectiveness of its monitoring mechanisms and its capacity to identify innovative actions to respond to changing circumstances in the field of nature protection.

**Decision:** The Bureau took note of the information provided by the Secretariat.

It instructed the Secretariat to prepare, for the next Bureau meeting, a list of the necessary voluntary contributions from all Bern Convention's Contracting Parties, taking as a reference the Council of Europe indicative scale for State contributions to the Ordinary Budget. The document should include information on the budgetary reform of the Council of Europe, as well as explain the reasons for a more active involvement of the Ministries of Environment in the financing of the Convention. A draft budget estimate, identifying the financial needs of the Convention for 2012-2013 should accompany the biennial Draft Programme of Activities.

The Bureau will re-discuss the issue at its next meeting, in view of approaching Contracting Parties and suggesting semi self-funding options to the Standing Committee.

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

*(Note: a detailed description of each case-file up to the decision of last Standing Committee meeting is included in document T-PVS (2011) 03 – Summary of Case files)*

The Secretariat introduced this agenda item by informing the Bureau that, following the decision taken by the Standing Committee at its 28th meeting on 24-27 November 2008, a "Register of case-files" to number the old files and the new incoming ones has been put in place to provide quicker access to the information related to them. The "Register of case-files" is meant to be a living document, which will be regularly updated by the Secretariat. It is accessible through the Bern Convention's main web-page ([www.coe.int/berconvention](http://www.coe.int/berconvention)).

#### **4.1 Specific Sites - Files open**

##### **- 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 – the most important wetland in Ukraine – and the whole Danube delta dynamics.

At its 30<sup>th</sup> meeting the Standing Committee decided to keep the case file open and agreed to establish a Select Group of Experts to facilitate dialogue on the issue. The Group should meet after the relevant Parties and the Chair of the Standing Committee agreed on the terms of reference.

On 26 January 2011 the Chair of the Bern Convention Standing Committee, Mr. Jan Plesnik, addressed a letter to both Ukrainian and Romanian authorities proposing the terms of reference (ToR) for the Select Group of Experts. According to these, the Group of Experts should “support the Standing Committee and the Bureau in the follow-up of the implementation of Recommendation No. 111 (2004), analysing the information received from Parties and observers and making proposals to improve both the implementation of the recommendation and the conservation of the Danube Delta and its unique biological diversity”. The membership would include representatives of all concerned parties, as well as officials of the main concerned International Conventions and Agreements, and the European Union. The reports of the meetings of the Group would be forwarded to the Bern Convention Bureau and Standing Committee as well as to all members of the select group. For technical matters the Secretariat would be supported by independent experts appointed by the Secretary General of the Council of Europe. The first meeting was scheduled in spring 2011.

On 17<sup>th</sup> February 2011 the Secretariat was informed by Ukrainian authorities that Ukraine is not in a position to accept the proposed ToR as they “do not correspond to the decision of the 30<sup>th</sup> Standing Committee meeting, aimed at the creation of a Select Group of Experts to facilitate dialogue”. Ukrainian authorities proposed to prepare amended ToR at the Secretariat request.

On 21<sup>st</sup> February 2011 Mr Plesnik addressed again both Parties inviting them to contact each other in view of discussing some new terms of reference acceptable to both Parties and communicate them before 1st of April 2011.

On 28<sup>th</sup> February 2011 Romanian authorities addressed the Secretariat proposing an amendment to the first paragraph of the ToR initially forwarded by the Chair to both Parties.

In March 2011 the Ukrainian authorities sent an updated report on the state of progress of the development projects concerning the Danube River.

The authorities inform that early 2011 Ukraine, Romania and Moldova started the implementation of the project “Joint environmental monitoring, assessment and exchange of information for integrated management of the Danube Delta region”, under the auspices of the International Commission for the Protection of the Danube River (ICPDR) and UNECE. This is considered to be the first step towards the Integrated Management Plan of the Danube as well as to improve cross-border cooperation to facilitate harmonization of monitoring systems in the area.

The report stresses that one of the main Ukrainian priorities is its active involvement into the process of preparation and further implementation of the activities under the EU Strategy for the Danube Region (EUSDR), which will provide new opportunities for sustainable development while addressing both environmental concerns and the need for economic developments in the region.

On 16<sup>th</sup> March 2011 the Secretariat received by fax an invitation from Minister László Borbély (Romania) to attend - on 22<sup>nd</sup> March 2011 - a meeting of the Joint Commission established under the Agreement between the Ministries responsible for environment of Moldova, Romania and Ukraine for the creation of a cross-border protected area of the Danube Delta and the lower River Prut. Due to an extremely short notice, the Secretariat regretted to inform its unavailability.

Finally, the European Commission informed that the next meeting of the EU-Ukraine Sub-Committee "Energy, Transport, Nuclear Safety and Environment" would take place on 24<sup>th</sup> and 25<sup>th</sup> March in Brussels and that the implementation of international multilateral environment agreements including the Aarhus Convention and the Espoo Convention, particularly in relation to the Bystroe

Channel, would be among the agenda items. The Commission additionally informed about the preparation of a meeting between the EU and the Ukrainian authorities, to be held in April to discuss further EU assistance to Ukraine on Espoo Convention.

Mr Megan deplored once more the lack of communication with the Ukrainian authorities, who sent a report to the Secretariat without notifying it to the Romanian authorities. He further noted that PHASE II of the project is unfortunately almost completed and that it has been carried-out disregarding the recommendations of the Standing Committee. He concluded by stating that Romanian authorities would appreciate if the Standing Committee could refuse to accept that the Channel was built in compliance with the provisions of the Bern Convention.

The Chair highlighted that the terms of reference that he proposed to the concerned Parties were very neutral and aimed at improving dialogue in view of identifying a satisfactory solution for all.

**Decision:** The Bureau decided to keep the case-file open. It instructed the Secretariat to: follow-up the issue with both the EU and the Espoo Convention; contact the Romanian authorities for receiving the outcomes of the meeting of the Joint Commission established under the Agreement between the Ministries responsible for environment of Moldova, Romania and Ukraine for the creation of a cross-border protected area of the Danube Delta and the lower Prut River; contact the Ukrainian authorities for an updated and more precise report on each provision of Recommendation No. 111 (2004).

#### - **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.

At its 30<sup>th</sup> meeting the Standing Committee decided to keep the file open, while asking Cyprus to present a report for its next meeting, as well as to send to the Secretariat as soon as possible the translation into English of the management plan for Limni and to fully implement its Recommendation No. 63 (1997). The Committee asked the Secretariat to follow-up the file in close co-operation with the European Union.

In February 2011 the Secretariat received a short letter sent by Cyprus authorities informing that the Management plan for the Limni area is only available in Greek.

In March 2011 the European Union informed that the Commission is analysing the reply recently submitted by Cyprus authorities in the framework of the complaint lodged for insufficient designation and protection of the Akamas Peninsula under the Natura 2000 network.

Ms Prokic noted that it is essential that Contracting Parties produce clear and complete reports which allow for a meaningful analysis of the situation at stake.

**Decision:** The Bureau took note of the lack of additional information from Cyprus authorities. It decided to keep the case-file open and asked the Secretariat to urge the Cyprus national authorities to translate the Management plan for the Limni area. The Bureau stressed the importance of getting the English version of this plan to be able to assess the situation. The Secretariat will continue liaising with the European Commission to get updated information on the follow-up of the complaint lodged for insufficient designation and protection of the Akamas Peninsula.

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

This case concerns the building of the first 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.

At its 30<sup>th</sup> meeting, the Standing 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 ongoing infringement procedures.

The Secretariat has not approached yet Bulgarian authorities in 2011.

In March 2011 the European Commission confirmed that no new authorisation for further developments has been issued for Kaliakra. In addition, the Commission received updated information by both Bulgarian Government and the NGO in January 2011 but this is still being assessed. DG ENV will meet Bulgarian authorities at the beginning of April, in Sofia, and will take the opportunity to further discuss the Kaliakra case.

**Decision:** The Bureau decided to keep the case-file open in order to be vigilant on the development of other windfarms in the region. It instructed the Secretariat to continue to follow the file in cooperation with the EU and AEWA, as well as to keep the Bureau informed about the outputs of the meeting between the EU and Bulgarian authorities.

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

In 2006, the Secretariat of the Bern Convention received a complaint from the Association “*Sauvegarde Faune Sauvage*” expressing its concern over the insufficient measures aimed at ensuring the maintenance of the habitats needed for the survival of the Common Hamster.

At the 2010 Standing Committee meeting, in light of the small size of the hamster population, as well as of the current management, the Committee decided to keep the case file open and continue to follow it up in close co-operation with the European Commission.

On 20 January 2011 the conclusions of the EU Advocate General on the case pending before the European Court of Justice concerning France and the protection of the Common Hamster were made public (the hearing took place in October 2010). The opinion recognises that agro-environmental measures were put in place in 2008, to protect the species, while pointing out that these measures are insufficient. The Advocate General considers that agricultural practices and inappropriate development of road infrastructures threaten the habitat of the species. According to the opinion, this leads France to the violation of article 12, paragraph 1d of the Habitat Directive concerning the conservation of the natural habitats as well as of wild fauna mainly because:

- The agro-environmental measures taken in favour of the Common Hamster only target 60% of the area populated by this species and were not applied to zones other than those of priority action;
- The measures undertaken are insufficient for granting the long-term survival of the species, and
- The coherent and coordinated measures undertaken for the preventive protection of the Common Hamster against the deterioration of its habitat are still incomplete.

The Advocate concludes that France has failed to fulfil its obligation to strictly protect the Common Hamster under the Habitats Directive and requests that the country is fined by the Court. The judgment has not been issued yet.

In March 2011 the French authorities reported on the implementation of the Action Plan for the Common Hamster (2007-2011), mostly confirming that measures mentioned in previous reports are continuing being performed. The report informs on the monitoring of the populations as well as on the reinforcement of wild populations through the application of the new protocol tested in 2010 to a larger number of individuals. The authorities additionally inform that the installation of electric fences around the parcels of land where hamsters are released was so far successful.

With regards to the effects of involving the farmers, the report stresses that the objective of 22% of favourable cultures is now largely achieved in the Northern ZAP and almost reached in Southern ZAP (772 hectares of favourable crops out of a total of 3,451 ha).

Regarding the road infrastructures, the last section of the expressway of *Piémont des Vosges* is now operational, while for the project of the Strasbourg Western ring road 200 hectares of favourable crops are foreseen as compensatory measures.

Finally, the report mentions that the exchanges with German and Dutch partners will be intensified.

**Decision:** The Bureau took note of the information provided and decided to keep the case-file open. It asked the Secretariat to liaise with the European Union and to inform the Bureau members once the decision on the case pending before the ECJ is made public.

- **Italy: Eradication and trade of the American Grey Squirrel (*Sciurus carolinensis*)**

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.

At its 30<sup>th</sup> meeting, noting that the decree concerning the banning of the trade and keeping of the American Grey Squirrel had not been approved yet, the Standing 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.

In March 2011 Italian authorities communicated to the Secretariat that no new information is available to date; however, they promised to provide a proper update for next Bureau meeting in September.

**Decision:** The Bureau decided to keep the case-file open and asked the Secretariat to approach the Italian authorities to make sure that a progress report is provided on time for a meaningful discussion at the next Bureau meeting, and that it includes information on both the progress made for the adoption of the decree and the implementation of the Life+ Project.

## 4.2 Possible files

- **France: Protection 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.

At its 30<sup>th</sup> meeting the Standing Committee decided to keep the file as a possible case-file as the procedure for drawing up the National Action Plan had not been completed. It asked the French authorities to report at the next Bureau meeting.

In March 2011 the French authorities informed that the continuous replacement of persons in charge of the drafting of the National Action Plan within BIOTOPE (the Agency which won the call for tenders for the elaboration of the Plan) has resulted in an additional delay for the finalisation of the document. Indeed, it very recently came to light that BIOTOPE failed to consult many important stakeholders, and that the comments from some of those who were consulted had not been reflected in the document.

As a result, the DREAL Lorraine held a meeting with the BIOTOPE Directorate and urged the agency to finalise the Action Plan by early summer 2011. A meeting for the scientific assessment of the Draft Plan was scheduled in March 2011. The plan should be submitted to the National Council of the Protection of Nature by the autumn 2011.

In the meantime the European Commission has received a petition against the motorway bypass around Strasbourg, which would impact the Green Toad population a species which is strictly protected under the Habitats Directive. The Commission is assessing the case.

**Decision:** The Bureau took note of the report provided by the French authorities and decided to keep the case-file open. It instructed the Secretariat to continue to follow-up this case and to request the French national authorities to send the Action Plan (including information and data on its future implementation) on time to be assessed by the Bureau members at the next meeting in September 2011.

In addition, the Bureau asked the Secretariat to continue liaising with the European Union on the issue.

#### - **Sweden: Natterjack (*Bufo calamita*) population on the coastal island of Smögen**

In December 2007 the Secretariat received information from the Chair of the Bern Convention's Group of Experts on Amphibians and Reptiles concerning the threat presented by a residential housing project in Hasselösund Väster, Smögen, to the northernmost population of the Natterjack Toad (*Bufo calamita*), a species listed in Appendix II to the Bern Convention.

The decision regarding the plan for the residential housing project had been appealed in 2008 to the County Administrative Board of Västra Götaland, and in 2009 to the Swedish Government. Since then, the Swedish Environmental Protection Agency awaits the decision of the Swedish Government on this issue.

At the 2010 Standing Committee meeting the delegate of Sweden confirmed that there would not be a decision in 2010, although he stressed that the plan had not been implemented and no other developments had taken place so far.

The Committee decided to keep the complaint as a possible file, and asked the delegation of Sweden to inform the Secretariat as soon as the decision on the appeal will be available. It agreed to review the possible case-file at the next Standing Committee meeting.

The Secretariat has no new information to date.

**Decision:** The Bureau took note of the lack of new information and decided to keep the complaint as a possible file until its next meeting. It instructed the Secretariat to contact Swedish authorities to find out the current situation concerning the outstanding legal case, and namely: to request a report informing on the reasons behind such a long delay in delivering the decision on the appeal; to inform on the approximate timeframe for its delivery; to inform on the measures undertaken to face the situation in the meantime. The Bureau will take a decision on the follow-up to this complaint at its next meeting.

### **4.3 Complaints in stand-by**

#### - **Morocco: Tourism development project in Saïdia affecting the Moulouya wetland site**

A complaint was received in 2009 from the "Espace de Solidarité et de Coopération de l'Oriental" (ESCO), based in Oujda, Morocco concerning the Moulouya site, a "zone of biological and ecological interest" (SIBE, in the French acronym), as well as a Ramsar site (since 2005). The organisation reported on the mega-project "New tourist site in Saïdia", part of the country's 'Blue plan' for the strategic development of the tourism industry.

At its 30<sup>th</sup> meeting the Standing Committee instructed the Bureau to analyse the report of the consultative visit organised from 12 to 16 October 2010 in the framework of the Ramsar Convention and take appropriate decision on this issue.

The report of the Ramsar consultative visit was to be made public in February 2011; however, due to the political crisis in the region the Ramsar Secretariat is not yet in a position to disseminate it as the report is still waiting for the validation by the national competent authorities.

**Decision:** The Bureau took note of the information provided by the Secretariat. It instructed the Secretariat to liaise with the Ramsar Convention and asked for an updated report on the situation within next month.

#### - **Ukraine: threat to natural habitats and species in Dniester River Delta**

In April 2010, the international non-governmental organization “Environment – People – Law” sent a complaint to the Secretariat for the possible breach of Articles 4 and 6 of the Bern Convention by Ukraine concerning development plans (commercial ports and touristic infrastructures) in Dniester River Delta, which would affect several protected species and habitats under the Bern Convention.

The complaint was discussed at the last Bureau meeting held in September 2010. On that occasion, noting the lack of response from Ukrainian authorities the Bureau decided to re-consider the case as a complaint in stand-by at the first Bureau meeting in 2011. It asked the Secretariat to contact Ukrainian authorities for further information.

In February 2011 the Ministry of Environmental Protection of Ukraine sent a report on the ecological situation of the “*Tendrivska Bay*”, “*Yagorlytska Bay*” and “Northern part of the *Dniester Liman*” Ramsar sites. The report informs on the activities carried out by the administration of the Black Sea Biosphere Reserve to protect *Tendrivska* and *Yagorlytska* bays, namely through regular inspection raids by the gamekeepers as well as specific actions to protect water birds while breeding in the wetlands. The report also informs about the work of the scientific staff of the Biosphere Reserve, in charge of several targeted studies as well as of the inventory of flora and fauna, and of rare species of the regions.

The authorities stresses that the natural resources of the Reserve are not commercially exploited. However, the guards of the Park discovered that illegal catching of shrimps occurs in the territory of the Yagorlytska bay Ramsar site. The State Ecological Inspectorate of the North-West Black Sea Region has been informed and asked to take appropriate actions. However, the report does not provide information on measures foreseen or already undertaken in this respect.

Regarding the Lower Dniester National Nature Park, the report informs that the area maintains high levels of biodiversity; the exploitation of its natural resources is regulated by law; hunting is prohibited in the national park. Permits for the harvesting of reeds, eco-tourism and other activities are issued according to scientifically based limits which are fixed annually by the authorities.

Finally the report informs that two development projects are currently ongoing within the wetland on the banks of the Dniester River, following the approval of the competent authorities given on the basis of appropriate documentation. One of these projects is run by a private enterprise called “First Dniester Fish Plant” devoted to fishery activities. According to the report, the State Ecological Inspectorate in the Odessa Oblast/region recently found violation of environmental laws by the private enterprise while verifying compliance with environmental legislation. It appeared that the area of construction is polluted by waste, and that environmental measures required by the project are not being implemented; from the report it is not clear if the damage amounts to 3,264.02 UAH or if the company has been fined 3,264.02 UAH (which correspond to approximately 300 Euros). The Secretariat has requested a clarification which has not arrived to date.

In March 2011 the Ramsar Secretariat informed that a request for update concerning the situation in the three Ramsar sites was sent on 21<sup>st</sup> October 2010 but that this has not received any clarification since. The Ramsar Convention Standing Committee meeting is scheduled for May 2011 and written National reports should be submitted by September 2011.

**Decision:** Noting that some of the issues related to this complaint still need to be clarified, the Bureau decided to keep the complaint as a complaint in stand-by. The Bureau instructed the Secretariat to write to Ukrainian authorities for an updated progress report including: additional information on the violation of the environmental law by the private company in charge of the development projects in the area, as well as a clarification on the nature of the damages, the measures taken by the competent authorities to mitigate their impacts and the sanctions envisaged; any useful information on preventive measures in place to protect the area and its habitats from other possible threats.

The Bureau will take a decision on the follow-up to this complaint at its next meeting in September 2011.

#### 4.4 Complaints received by the Secretariat (since the last Bureau meeting)

##### - France: culling of badgers in Côte d'Or

In October 2010, the Secretariat received a complaint from a French citizen regarding a possible breach of the Bern Convention related to the culling of Badgers (*Meles meles*) in Côte d'Or (Eastern France, in the Burgundy region), a species which falls under Annex III of the Convention. The complainant is concerned about the entry into force, in April 2010, of two prefectural ordinances (the complaint refers in fact to two decrees) allowing the capture and, with some limits, the cull of badgers, as measures to tackle bovine TB. The ordinances foresee a reward of 10 Euros per captured animal.

The complainant states that 2,000 badgers had been killed in June 2010. Only 25% of these had been analysed, with only 0.6% found to be affected by TB.

According to the documents submitted by the complainant, in July 2010 the State Secretary for Ecology questioned the application of the decree and addressed a letter to the Prefecture stating that the measures undertaken to deal with the situation appeared to be extreme.

On 10 January 2011, the Secretariat received a copy of a letter sent by the NGO AVES (*Association de Protection des Espèces Menacées*) to the Prefect of Côte d'Or denouncing the renewal of the ordinances for 2011, as in 2010 almost 3,000 badgers had been culled or trapped in the whole *Département*.

In March 2011, the French authorities sent a report detailing the measures undertaken to halt the increase of bovine TB which had potentially serious consequences on both public health and the agricultural economic sector.

The authorities note that the Côte d'Or is an area particularly vulnerable to bovine TB; in 2007-2008, disease prevention campaigns revealed an increase of the infection in bovine breeding, with 11 cases registered in 2007 and 18 cases in 2008.

Following the findings of an expert mission carried out in July 2009, the Ministry of Agriculture began systematically monitoring all bovines of over twelve months of age in Côte d'Or. As a result, around 250 farms had to suspend their activities and 784 bovines were slaughtered with an incidence of the disease representing 3% in the cattle population. The contamination of wildlife was also proven, particularly with regard to Badger, Red Deer (*Cervus elaphus*) and Wild Boar (*Sus scrofa*).

In this context, the veterinary department of the Ministry of Agriculture, Food, Fishing, Rural and Spatial Planning (MAAPRAT) elaborated specific risk management measures, including the monitoring of Bovine TB in wild fauna. These measures were implemented in the framework of the general action plan against bovine TB in Côte d'Or and included the trapping of badgers for monitoring purposes, as well as their culling in the areas where the cattle population was most severely affected by the disease.

The authorities highlight that the trapping of badgers took place over a short period, between the end of March 2010 and the beginning of July 2010, in both disease-affected and non-affected areas in order to assess the geographical distribution of bovine TB within the whole *Département*. The monitoring should have initially concerned a minimum of 400 badgers (200 in the contaminated area and 200 in the non-contaminated one). However, as the trapping proved to be geographically biased,

the authorities in charge were obliged to increase the number of operations to include 1,471 badgers trapped in the contaminated area and 1,679 in the safe one.

Analysis was carried out on 300 badgers from the contaminated area (revealing a relatively significant percentage - 6% - of infected animals) and on 253 badgers from the safe zone, confirming the absence of infection there. These results are particularly relevant for the future development of an appropriate action plan to fight against bovine TB in a sustainable way.

The campaign to be implemented in 2011 will serve to complete the information collected to date on developments in the sanitary situation in the *Côte d'Or Département* and will be limited to the monitoring of 300 badgers from the contaminated area and 300 badgers from a buffer zone in the non-contaminated area, to ensure that the disease does not spread. The trapping of badgers will start in March 2011.

Furthermore, the authorities advise that they have requested the opinion of the National Agency for Sanitary Security of Food, Work and Environment (ANSES) on possible management measures to face the risks of contamination of the cattle population by wild fauna. The opinion is expected by April 2011. Finally, the National Office for Hunting and Wild Fauna is carrying out a project aimed at analysing the interactions between wild and domestic fauna. The authorities advise that they will take the findings of this project into consideration in the implementation of mid-term strategies.

The Bureau noticed that the situation presented similarities with the previous cases related to the culling of badgers in the U.K. and Ireland. The Bureau stressed that the badger is a species protected under Appendix III of the Bern Convention, and that Contracting Parties are allowed to make derogations to the provisions of the Convention under certain circumstances. Exceptions can be made, for instance, to prevent serious damage to crops, livestock, forests, fisheries, water and other forms of property, provided that the measures undertaken will not be detrimental to the survival of the population concerned. Still, the Bureau would generally advise to Contracting Parties the choice of vaccination, wherever possible, to prevent the culling of badgers; in this particular case, the Bureau notes that the incidence of the bovine TBC in the badger population is very low and it deplors that only a low percent of the badgers captured or culled have been analysed.

**Decision:** The Bureau took note of the information provided by the Secretariat and thanked the French authorities for their report.

Taking into account the problems encountered by the authorities during the trapping process carried out in spring 2010, as well as their commitment to limit next monitoring to a short period of time and to 300 badgers from the contaminated area and 300 badgers from a buffer zone in the non-contaminated area, the Bureau asked the Secretariat to write to French authorities to recall the Bern Convention aims, provisions and obligations and to make sure that these are taken into account during the campaign to be implemented this year. French authorities will be invited to submit an updated report for next Bureau meeting.

#### - **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 reports 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 expresses concerns over the intensive pressure on the nesting activity of turtles, which can lead to reducing the unique population of *Caretta caretta*.

The complainant refers to the obligations for the Contracting Parties mentioned in articles 4 and 6 of the Bern Convention, and highlights that *Caretta caretta* is also protected by other international multilateral environmental 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 2010. 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 by letter to the European Commission in relation to the protection of priority species in the Natura GR 2550005 site.

The response states that a law concerning biodiversity conservation has recently been approved by the Greek Parliament to ensure a more effective protection regime for the priority species in all Natura 2000 sites. The law will enter into force as soon as it is published in the Government's official Gazette (probably at the end of March 2011). In addition to that, the Ministry of Environment is drafting a Joint Ministerial Decision, based on a specific environmental study of 2002, which will regulate all activities within the GR 2550005 Natura 2000 site by providing a specific legal protection regime. The Joint Ministerial Decision will allow the handling of conservation problems in an integrated way for the whole *Thines Kyparissias* Natura 2000 site.

Among the measures taken, national authorities have 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 informs that a recently adopted Ministerial Decision requires 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. As complementary information, the national authorities confirmed to the Secretariat that the State Property Service of the Prefecture of *Messinia* has recently issued "demolition protocols" for all the constructions illegally built in the area. These protocols are being executed by the responsible authorities of the Peloponnesus Region.

**Decision:** The Bureau thanked Greek authorities for the information provided. It decided to review this complaint at its next meeting, after the breeding season. The Bureau instructed the Secretariat to contact both the national authorities and the NGO for updated reports.

#### - **United Kingdom: increase in turtle mortality in Episkopi and Akrotiri areas**

On 16th August 2010 the Secretariat of the Bern Convention received a complaint from MEDASSET (The Mediterranean Association to Save the Sea Turtles) and Terra Cypria reporting an important increase in sea turtle mortality rates (particularly significant for *Chelonia mydas* and *Caretta caretta*) in Episkopi area, which is an area under the control of the British Sovereign Base Area Administration (SBAA) and nearby Akrotiri. The Green Turtle (*Chelonia mydas*) and the Loggerhead Turtle (*Caretta caretta*) are both threatened species protected under the Bern Convention.

MEDASSET submitted the complaint to react to a warning they received from Episkopi Turtlewatch (ETW), an NGO working closely with (ATW) Akrotiri Turtlewatch. The complaint reports that an increase in sea turtle mortality has been observed since the change in the net fishing regulation operated by SBAA at the end of 2007. Available evidence indicates that nearly 100% of the deaths recorded by Episkopi Turtlewatch were a result of interaction with fishing activities and specifically net fishing. MEDASSET fears a localised extinction of the nesting population and in a longer term an impact on marine turtle nesting levels elsewhere.

The complainant refers to the obligations for the Contracting Parties mentioned in articles 4 and 6 of the Bern Convention, and highlights that *Chelonia mydas* and *Caretta caretta* are also protected by other international multilateral environmental agreements, including CMS, CITES and the Barcelona Convention for the protection of the Mediterranean Sea against pollution.

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

In February 2011 the U.K. authorities sent a comprehensive report informing on the death of turtles as well as on the enforcement of legislation, and on measures taken to address the issue. The report questioned some of the data submitted by the NGO, which it considered to be inaccurate. For instance, the Government states that the current SBAA Fisheries Ordinance and Regulations were not amended after 2007 and that the 5 metre limit for casting nets has been in place since 2005, a period during which Turtlewatch reported very few deaths. In addition, these regulations mirror the equivalent of the Republic of Cyprus Fisheries Regulations. U.K. authorities also challenge the supposed danger of localised extinction of the Loggerhead population which, according to them, is not based on scientific grounds.

The Government informs that the main cause of death appears to be incidental entanglement in fishing nets but it argues that the conflict between fishing and marine turtles is general and not isolated within Episkopi Bay and that occurs across the whole of the Mediterranean. The report provides an overview of the measures taken to address the issue, among which regular coastal land and marine patrols for the enforcement of the Fisheries Ordinance and the Protection and Management of Nature and Wildlife Ordinance by the Customs, the SBA Police and Marine Units; the pursue of Foreshore offences through written or verbal cautions and warnings; individual liaison meetings between the Custom Officers and professional fishermen; turtle boat and/or diving/snorkelling surveys to gather more specific information on turtles and their habitat association; the distribution to fishermen of education leaflets on turtles, co-operation with the Republic of Cyprus Department of Fisheries and Marine Research.

In conclusion, the report considers that the trends in turtle mortality cannot be established with the accuracy needed as previous searching effort cannot be confirmed. In addition, general information seems to suggest that there have been many more sightings of marine turtles in Cyprus during the last few years in comparison with the past and that the selection of both Akrotiri and Episkopi as nesting sites can be seen to be increasing. The report concludes that the proposed change of fishing depth from 5 to 10 metres does not, preliminarily, seem to be an effective measure to address the issue, although this needs further investigation, and it suggests that appropriate actions should be eventually agreed with the appropriate authorities of the Republic of Cyprus.

The NGO report sent in February 2011 informs that, during a meeting held on 31<sup>st</sup> January, the British Bases reassured Terra Cypria that the turtle survey will continue and be completed by the end of March 2011. Once the survey finalised, a meeting will be organized between the British Bases, MEDASSET, Terra Cypria, Episkopi Turtle Watch and the Republic of Cyprus to discuss its findings as well as possible solutions. Terra Cypria informs that since the complaint was submitted, seven more turtles were found dead in the area: three adult loggerheads, one sub-adult and three juvenile green turtles. The NGO asks the Bureau to keep the situation on the 2011 agenda.

**Decision:** The Bureau thanked both the U.K. authorities and the NGO for the information provided, as well as for the constructive attitude aimed at improving dialogue to find shared solutions. The Bureau instructed the Secretariat to continue monitoring this complaint, namely by requesting updated progress reports for next Bureau meeting. More concretely, the Bureau asked to be informed on the outputs of the further meetings between the concerned stakeholders.

#### - **Norway: management of carnivores**

On 3<sup>rd</sup> March 2011 the Bern Convention Secretariat received a complaint from WWF Norway concerning the Norwegian management of the Grey Wolf (*Canis lupus*) and Brown Bear (*Ursus arctos*) as the population targets are extremely low, and illegal hunting and culling of individuals are quite frequent.

In fact, the wolf population is regulated by culling of a quota if the population is above the politically set target or if individuals are outside the politically designated management zone. Culling is also permitted to limit loss of sheep livestock or domestic reindeer.

The current wolf population target (both a maximum and a minimum) for Norway has been set at 3 litters of cubs to be born each year within a defined management area for breeding wolves. This was reached for the first time in 2010, 6 years after the adoption of the target.

The current bear population target has been set at 15 litters to be born each year, distributed across five unconnected administrative areas. During recent years, between 3 and 6 litters have been registered or estimated to have been born in Norway, far behind the politically agreed population target.

The complainant stresses that the management policies are very much based on political agreements within the parliamentary majority and that the on-going process to review the population targets for both wolf and bear will probably end with even lower targets than the current ones.

WWF additionally regret that there is no official agreement on a joint management approach with Sweden, neither for grey wolves nor for brown bears, while many individuals have their home range in both countries and several international panels of experts already underlined the need for a large and interconnected population to maintain genetic viability of the species.

The complainant requests the mediation of the Bern Convention (statement or opinion) to remind to national authorities the obligations related to the Convention before a decision on new population targets is taken (summer 2011).

The Bureau was worried to learn that the Grey Wolf has a “critically threatened” status in the 2010 Norwegian Red List of Threatened Species, which may be a sign that this population is at a certain risk and that more ambitious targets are probably needed. Similar concern was expressed for the Brown Bear.

**Decision:** The Bureau took note of the information provided by the complainant and of the deadline for adopting new targets for the management of the populations of both large carnivores in Norway.

The Bureau instructed the Secretariat to write to Norwegian authorities recalling the provisions of article 2 of the Bern Convention and encouraging the Norwegian government to take into account the objectives of the Conventions while setting population targets for large carnivores.

#### - **France: threat to *Riella helicophylla* in the Department of the Bouches-du-Rhône**

On 17<sup>th</sup> March 2011 the Secretariat of the Bern Convention received a complaint from the NGOs NACICCA, *Les Amis des Marais du Vigueirat* (AMDV) and the *Collectif Santé Environnement de Port Saint Louis* (CCSE) concerning the building of an inland waterway as well as logistic and industrial infrastructures in the *Port Saint Louis du Rhône* municipality, which would pose a threat to some species protected under the Bern Convention (namely the Greater Flamingo *Phoenicopterus roseus*, Tawny Pipit *Anthus campestris*, Spectacled Warbler *Sylvia conspicillata*, Eurasian Stone-curlew *Burhinus oedipnemus*, *Bufo calamita*, Western Spadefoot Toad *Pelobates cultripes*, Schreiber's Bat *Miniopterus schreiberii*). Among these, the NGOs are particularly concerned for the long-term survival of the Freshwater Liverwort (*Riella helicophylla*), an endemic plant species listed in Appendix I to the Bern Convention which does not benefit of any specific protection status in French legislation. The species is also protected under Annex II to the Habitats Directive, it is listed in the European Red Book of Bryophytes and it occurs at present in only four European Union Member States where it is a rare species. Part of the area where the project should be implemented (*anciens salins du Caban*) is a SPA under the Birds Directive and is located in the transition zone of the Camargue Biosphere Reserve.

The complainants fear the extinction of the *Riella helicophylla* in France and denounce:

- A possible breach of article 5 of the Bern Convention regarding the *Riella helicophylla* as France would have failed to the obligation of taking the appropriate legislative measures to ensure its strict protection. In fact, the species does not appear in the French ministerial decree of 20 January 1982 which lists the plant species to be protected on the national territory. Its presence has however been confirmed in France since 1968; in addition, the area chosen for the development of the inland waterway is also known for hosting one of the largest populations of *Bufo calamita* in France which, according to the complainants, would also be severely threatened;
- A possible breach of article 4 of the Bern Convention with regards to the obligation of taking appropriate legislative measures to ensure the conservation of the habitats of the wild flora species, especially those specified in Appendices I and II to the Convention. The development project could in fact initiate the destruction of 650 hectares of coastal lagoons and Mediterranean salted steppes.

The complainants stress that the public authority in charge of the development projects in object (the *Grand Port Maritime de Marseille*) has not looked for an alternative solution which would have allowed for derogation under article 9 of the Convention.

The complaint includes the following support documents:

- ✓ A letter sent on October 2010 to the Ministry of Ecology requesting that the old saline of *Caban* is proposed as a Site of Community Importance (pSCI) to be declared as a Special Area of Conservation (SAC) under the Habitats Directive, and that the *Riella helicophylla* is integrated in the national list of protected species, in compliance with art. 5 of the Bern Convention;
- ✓ An opinion by the National Museum of Natural History Paris confirming the need to ensure the protection of both the site as a SAC and the concerned species;
- ✓ Some extracts of the development project planned by the *Grand Port Maritime de Marseille*.

It should be noted that the development project is in principle meant to diminish road traffic in order reduce gas emissions.

**Decision:** The Bureau took note of the information provided by the complainant, as well as of the particular biological interest of the species concerned. However, noting that the Secretariat was not in a position to notify the complaint to French authorities before the Bureau meeting, the Bureau decided to re-consider the situation at its next meeting in September 2011.

Therefore the Bureau asked the Secretariat to contact French authorities to request their reply.

## 5. FOLLOW-UP OF PREVIOUS RECOMMENDATIONS

### - **Recommendation No. 110 (2004) on minimising adverse effects of above-ground electricity transmission facilities (power lines) on birds: Analysis of the NGO report**

The Secretariat recalled the debate of last Standing Committee meeting, where the Committee reiterated the need to develop and implement, or reinforce, as appropriate the work aimed at improving technical standards, and to adopt mitigation measures and encouraged the dissemination of technical and ornithological research related to bird safety. The Committee asked the Bureau to analyse the recommendations included in the updated NGO report, particularly with regards to the proposal of introducing a temporarily reporting requirement on a 2-years follow-up basis on progress made towards the effective implementation of Recommendation 110 (2004).

The Secretariat summarised the main issues identified by the NGO report, namely the need to expedite work in Western and Central Europe; the need to avoid new legacy of dangerous power poles in Eastern Europe, as well as to raise awareness on electrocution of birds in Western and Northern Europe. According to the NGO, the implementation of safe power poles is generally too slow;

although there has been sufficient research and experience on the issue, these still need to be consolidated and spread around. The Secretariat concluded by recalling that some Contracting Parties expressed concern on the proposal of introducing an additional reporting requirement.

Mr Biber noted that the issue is going to be dealt with also by other international multilateral environmental conventions in 2011 and that it would be advisable to have their opinions and contributions to avoid duplicating efforts.

**Decision:** The Bureau noted that the issue of electrocution of birds also concerns the AEWA, the Bonn Convention, and the EU. Yet, the Bureau instructed the Secretariat to transmit the reports submitted under the Bern Convention to other concerned multilateral agreements and organisations including intergovernmental ones in order to get their opinions and avoid duplication. The replies should be then forwarded to the NGO and eventually integrated in the report. The findings will be discussed at next Bureau meeting.

- **Recommendation No. 144 (2009) of the Standing Committee, on the wind park in Smøla (Norway) and other wind farm developments in Norway**
- **Recommendation No. 151 (2010) of the Standing Committee, adopted on 9 December 2010, on protection of the Hermann tortoise (*Testudo hermanni*) in the Massif des Maures and Plaine des Maures localities (Var) in France**

The Secretariat recalled that the Standing Committee decided to review Recommendation No. 144 (2009) and Recommendation No. 151 (2010) at next Standing Committee meeting. The Secretariat will approach the concerned authorities for an updated progress report in due time.

The Chair reminded the Bureau members about the international conference, to be organised by the Norwegian authorities on 2-5 May 2011 in Trondheim (Norway), and which will discuss wind energy and wildlife impacts. He recalled that the findings of this Conference will certainly be taken into account when dealing with the follow-up of Recommendation No. 144 (2009).

- **Recommendation No. 120 (2006) on the European Strategy for the Conservation of Invertebrates**
- **Recommendation No. 132 (2007) on the conservation of fungi in Europe**
- **Recommendation No. 136 (2008) on improving the conservation of the Common hamster (*Cricetus cricetus*) in Europe**

The Secretariat reminded that a number of recommendations are proposed to the Bureau for follow-up every year. These are chosen among the recommendations whose implementation is not regularly monitored by a Group of Experts and whose topic is particularly relevant with regards to the PoA of the Bern Convention.

Mr. Ottósson welcomed the suggestion to monitor the implementation of the Recommendations on the European Strategy for the Conservation of Invertebrates and noted that the Group should be invited to hold a meeting soon. He recalled that the Bern Convention is the only biodiversity related treaty which has a Group of Experts on Invertebrates. Mr Biber supported this proposal.

Ms Prokic noted that some disparities in the way of presenting the information in the country reports on various topics covered by the Bern Convention make it difficult for the Bureau members, and more generally for Contracting Parties, to assess the information provided.

The Chair suggested recalling to Parties the importance of the reporting exercise which is meant to provide a constructive feedback on the application of the Convention. He asked the Secretariat to prepare, for each reporting exercise, a table of the Contracting Parties who contributed to it. He furthermore asked the Bureau members to re-discuss the opportunity of a meeting of the Group of Experts on Invertebrates at next Bureau meeting, in light of the Draft biennial PoA and budget.

## 6. STRATEGIC DEVELOPMENT OF THE CONVENTION

### 6.1 CoE Parliamentary Assembly report: “Need to assess progress in implementation of the Bern Convention”

The Secretariat informed that last January the Environment Committee of the Council of Europe Parliamentary Assembly (PACE) should have presented to the Plenary a report, as well as a Draft Recommendation and a Draft Resolution on “The need to assess progress in the implementation of the Bern Convention”. However, the item has been postponed to the PACE Spring session (11-15 April 2011; discussion scheduled to take place on 13 April at 4:00 p.m.). The Secretariat will inform the Bureau members on the possible adoption of the mentioned documents.

### 6.2 Implementation of the CoP-10 decisions: setting targets for the Bern Convention

The Secretariat recalled that, at its 30<sup>th</sup> meeting, the Standing Committee instructed the Bureau to examine carefully the CBD Strategic Plan for the post-2010 period in view of possibly setting European Targets for 2020 regarding some issues of special concern for the Convention. The Bureau is invited to propose activities that may help implement the CBD in the territory of the Convention, thus contributing to play a regional role in its implementation of CBD.

The Bureau discussed the issue and agreed that, in order not to put additional burden on Contracting Parties, the regional targets for the Bern Convention have to be drawn taking into account the work and contribution by other instruments. Co-ordination with the EU for updated information on the EU 2020 Biodiversity Strategy, to be adopted on 4<sup>th</sup> May 2011, is needed. The Secretariat will follow-up the work for updating SEBI indicators, which could be used also in the framework of the Bern Convention. The Chair will send his own views to the Secretariat within a month.

**Decision:** The Bureau instructed the Secretariat to analyse each of the Aichi targets and sub-targets and to identify those to which the Bern Convention can contribute. The Group of Experts will be associated to this exercise. The Bureau will discuss again this issue and submit proposals to the Standing Committee.

### 6.3 Structure of the Standing Committee meeting

The Secretariat reminded that the Standing Committee asked the Bureau to hold a discussion on the structure of the Standing Committee meeting in order to set out a draft agenda which ensures that enough time is devoted to the targeted items. The Secretariat further stressed that this year the Standing Committee will be called to examine a biennial PoA and budget, following the procedure put in place by the reform process at the Council of Europe.

The Bureau discussed four different options:

- Considering the possibility to put in place a 5-days Standing Committee meeting;
- Keeping the current structure but setting-up a clear frame for oral presentations (especially those devoted to the case-files and country reports) limiting these to 5 minutes each, using focussed power-point slides; the Secretariat would have a free afternoon for preparing the list of decisions to be adopted; the meeting would end early in the afternoon of the 4<sup>th</sup> day;
- Meeting for 4 days without a free afternoon for the Secretariat, who would prepare the list of decisions overnight; the translation of the document into French would remain an issue; the meeting would end early in the afternoon of the 4<sup>th</sup> day;
- Meeting for 4 entire days, ending at 6 p.m. the fourth day, but restructuring the agenda so that last day would be devoted to items which do not require a decision from the Standing Committee; the Secretariat would still have a free afternoon for preparing the list of decisions and ask for their translation; the NGOs would have time for their presentations.

**Decision:** The Bureau decided to re-discuss the issue at next Standing Committee meeting, in light of the Draft PoA and budget.

#### 6.4 Case-files mediation

The Secretariat introduced this item by stressing that mediation is aimed to develop dialogue between citizens, civil society and public authorities, and contribute to democracy by the resolution of disputes outside a court. In the framework of the case-file system, the Bern Convention has gathered an important experience in mediation, particularly to convey the findings of the “on the spot appraisals”, in which the Secretariat visits the area accompanied by an expert that acts as “external mediator” and gives recommendation as to future action after exchanging views with NGOs, governmental experts and other stakeholders.

However, the case-file system has been conceived as an instrument to deal exclusively with possible breaches of the Convention. This system could serve as a basis for a new “Bern Convention Environmental mediation” broadening its scope to other situations which could affect biodiversity, even though it is clear that they don’t infringe the Convention. The mediation should be regarded to as a “service” offered by the Bern Convention to citizens and public authorities alike (when both parties agree). The mediation could be proposed to the Standing Committee meeting through a small amendment to the Appendix to the Rules of Procedure (Rules applicable to the on-the-spot enquiries).

Mr Biber expressed a favourable opinion to this proposal although he warned that the mediation should not be used as a tool for increasing the duration of complaints or for avoiding that a file is opened.

**Decision:** The Bureau took note of the proposal made by the Secretariat on the possibility to introduce a system of environmental mediation under the Bern Convention. It instructed the Secretariat to elaborate a short document detailing the mediation system, as well as the draft amendment to the Rules of Procedure and agreed to examine this at its next meeting.

### 7. ANY OTHER BUSINESS

The Secretariat informed of three issues which could not be integrated in the Draft Agenda:

- The Czech Republic asks the Bureau that one of its representatives is reimbursed for attending the European Conference on Illegal Killing of Birds instead of the meeting of the Group of Experts on Invasive Alien Species as initially agreed by the Standing Committee. In the same sense, Slovakia requests that one of its representatives is reimbursed for attending the same Conference instead of the Group of Experts on Protected Areas and Ecological Networks.
- BirdLife International is incurring into some additional costs for the preparation of an updated survey on the illegal killing of birds which would cover, as far as possible, the 50 Contracting Parties to the Bern Convention and which would be presented at the European Conference on Illegal Killing of Birds. BirdLife International is thus looking for financial contributions.
- On 4<sup>th</sup> April 2011 Medasset sent to the Secretariat an updated report on the implementation of Recommendation No. 66 (1998) on the conservation status of some nesting beaches for marine turtles in Turkey. The report informs that the relocation of the shipyard/drydock currently situated within Fethiye town has recently been changed to the very middle of the Akgöl nesting beach. The NGOs denounces that the development project is imminent and incompatible with Fethiye SPA status; it calls upon the Bern Convention to investigate the continued habitat destruction occurring in the area, especially in light of the new information provided on the issue.

**Decisions:**

- The Bureau agreed on the proposals for reimbursement submitted by the Czech Republic and Slovakia;
- The Bureau thanked BirdLife International for its contribution to the preparation of the European Conference on Illegal Killing of Birds; however, in light of the further cuts to the budget of the Bern Convention as well as of the additional costs represented by the working groups for the Conference, the Bureau regretted not to be able to authorise financial changes to the PoA;
- The Bureau instructed the Secretariat to contact Turkish authorities for a report on the implementation of Recommendation No. 66 (1998), which will be exceptionally discussed at next Standing Committee meeting.

\* \* \*

The next meeting will be held in Strasbourg on 9 September 2011.

The Chair thanked the participants and interpreters and declared the meeting closed.



## APPENDIX 1

### CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE AND NATURAL HABITATS

#### Standing Committee

#### **Bureau meeting**

Strasbourg, 11 April 2011  
(Room 17, opening: 9:30 am)

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#### DRAFT AGENDA

1. **ADOPTION OF THE AGENDA**
2. **IMPLEMENTATION OF THE 2011 PROGRAMME OF ACTIVITIES**
  - 2.1 **Monitoring of Species and Habitats: General overview**
  - 2.2 **Progress in the setting-up the Emerald Network**
  - 2.3 **European Diploma of Protected Areas: Report from the meeting of the Group of Specialists and draft renewals in 2011 (to be presented to the Committee of Ministers)**
  - 2.4 **Illegal killing of birds**
3. **INSTITUTIONAL MATTERS**
  - 3.1 **The application of article 9.1 of the Convention**
  - 3.2 **The Bern Convention and the Reform process at Council of Europe**
4. **IMPLEMENTATION OF THE CONVENTION : FILES**
  - 4.1 **Specific Sites - Files open**
    - Ukraine: Proposed navigable waterway in the Bystroe Estuary (Danube delta)
    - Cyprus: Akamas peninsula
    - Bulgaria: Wind farms in Balchik and Kaliakra –Via Pontica
    - France: Habitats for the survival of the common hamster (*Cricetus cricetus*) in Alsace
    - Italy: Eradication and trade of the American Grey squirrel (*Sciurus carolinensis*)
  - 4.2 **Possible files**
    - France: Protection of the European Green Toad (*Bufo viridis*) in Alsace
    - Sweden: Natterjack (*Bufo calamita*) population on the coastal island of Smögen
  - 4.3 **Complaints in stand-by**
    - Morocco: Ecological impacts of a tourism centre in Saïdia
    - Ukraine: threats to natural habitats and species in Dniester River Delta

#### **4.4 Other complaints**

- France: culling of badgers in Côte d'Or
- Greece: threats to marine turtles in Thines Kiparissias
- United Kingdom: increase in turtle mortality in Episkopi and Akrotiri areas
- Norway: management of carnivores
- France: threat to *Riella helicophylla* in the Department of the Bouches-du-Rhône

#### **5. FOLLOW-UP OF PREVIOUS RECOMMENDATIONS**

- Recommendation No. 110 (2004) on minimising adverse effects of above-ground electricity transmission facilities (power lines) on birds: Analysis of the NGO report
- Recommendation No. 120 (2006) on the European Strategy for the Conservation of Invertebrates
- Recommendation No. 132 (2007) on the conservation of fungi in Europe
- Recommendation No. 136 (2008) on improving the conservation of the Common hamster (*Cricetus cricetus*) in Europe
- Recommendation No. 144 (2009) of the Standing Committee, on the wind park in Smøla (Norway) and other wind farm developments in Norway
- Recommendation No. 151 (2010) of the Standing Committee, adopted on 9 December 2010, on protection of the Hermann tortoise (*Testudo hermanni*) in the Massif des Maures and Plaine des Maures localities (Var) in France

#### **6. STRATEGIC DEVELOPMENT OF THE CONVENTION**

##### **6.1 CoE Parliamentary Assembly report: “Need to assess progress in implementation of the Bern Convention”**

##### **6.2 Implementation of the CoP-10 decisions: setting targets for the Bern Convention**

##### **6.3 Structure of the Standing Committee meeting**

##### **6.4 Case-files mediation**

#### **7. ANY OTHER BUSINESS**

## APPENDIX 2

### LIST OF PARTICIPANTS

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