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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

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IMPROVING THE CASE-FILE SYSTEM OF THE BERN CONVENTION

*Document
prepared by
the Directorate of Culture and Cultural and Natural Heritage*

The Standing Committee is invited to examine the present paper and, if appropriate, request the Secretariat to prepare, for its meeting in 2012, a proposal of modification of its rules of procedure to include rules applicable to both opening and closing of files, follow-up of recommendations and mediation.

1. INTRODUCTION

In its 30 years of existence (1982 to 2011), the *case-file system* has proven to be an excellent tool to achieve the aims of the Bern Convention through co-operation at international level. From the first cases, dating back to 1982, when the Standing Committee limited its action to very general Recommendations, to the current cases dealt with great detail and attention, the practice has created a set of steps that guide the procedure for the case-file system.

The success of these procedural steps derives from the fact that the Standing Committee remains free to decide the solution in each case, without being constraint by strict obligations that may be a burden for the smooth co-operation among Contracting Parties. This is a clear reflection of the commitment embodied in Article 18(1): “The Standing Committee shall use its best endeavors to facilitate a friendly settlement of any difficulty to which the execution of this Convention may give rise”. In fact, the purpose behind the rules currently applied has been to guide the procedure itself, not to influence the flexibility that Contracting Parties have when addressing a particular situation at the Standing Committee. This institution has always been a forum to express opinions and to propose solutions, and very strict rules could compromise such freedom.

The current set of rules, adopted in 1993, and included in appendix 1 has been since applied on a provisional basis. Practice has shown that the success or the failure of a case-file procedure does not depend on the procedural rules themselves, but on the will of the Parties to co-operate. Nevertheless, new tools could contribute to a quicker outcome and, above all, to improve the results achieved by the case-files system through addressing certain practical problems encountered.

At its 28th meeting in November 2008, the Standing Committee re-examined its procedure for case files and complaints and decided to take up two recommendations proposed, namely to register all case files according to a specific “complaint form” and to make available an on-line complaint form in the website of the Convention. A register of Bern Convention complaints is found in appendix 2 to this document.

2. SUMMARY OF THE CASE-FILE PROCEDURE

2.1 Complaint

The Secretariat examines all letters sent to the Standing Committee of the Convention itself, or to its Chairman or Secretariat, by a Contracting Party, individual, nongovernmental organisation or group of private persons containing a complaint about the failure of one or more Contracting Parties to comply with one or more provisions of the Convention.

The majority of complainants have been local or national NGOs, or local associations directly concerned with the matter, including civil society, political groups or even individuals. International NGOs do also actively participate in the procedure, sometimes supporting complaints from local NGOs and contributing to their efforts. As the rules envisage, sometimes Contracting Parties also draw the attention of the Secretariat to specific situations. It is important to stress that, even if the rules do not contemplate certain options, practice has evolved and the Secretariat itself or the different Groups of Experts under the Convention have alerted about possible cases that have later been reviewed by the Standing Committee.

The majority of complaints that reach the Secretariat are based on specific plans or projects that affect a natural protected area and whose potential effects may be negative to the habitats of species protected by the Convention. These type of projects are mostly related to economic development, such as road constructions or projects to build dams or wind farms, which makes it a subject of great importance for the concerned country. Tourism development has also been a serious concern, especially for the conservation of marine turtles in the Mediterranean Sea.

2.2 Screening by the Secretariat

After receiving the complaint, the case goes through a first screening by the Secretariat. On the basis of the information available to it, and if necessary requesting further information from the complainant, it

decides whether to take it forward or not. There are no written criteria but rather a number of points that are taken into consideration. To begin with, it is assessed whether the focus of the complaint is covered by the Bern Convention. The Secretariat ensures in particular that the complaint is not anonymous and examines, taking account of any procedures that may be pending at national and/or international level, whether the complaint is sufficiently serious to warrant examination at international level, bearing in mind the European importance of the habitat, species or population concerned.

2.3 Request for information to the Contracting Parties

The Contracting Party concerned has a period of about four months to reply to the request for information from the Secretariat. While waiting for the information to reach the Secretariat, these cases are in “stand by”, and the Bureau is informed about them.

Due to problems with delays in responses received by the Secretariat, in 1987, the Bureau agreed that, after a period of four months without reply, the Bureau would treat the unanswered complaints as “possible files”.

The Secretariat requests that all information to be submitted by the Contracting Parties be sent electronically and in Word format, if possible, and in one of the two official languages of the Council of Europe.

2.4 Role of the Bureau

The Bureau takes administrative and organisational decisions in between meetings of the Standing Committee. It remains as flexible as the Standing Committee to decide on complaints received, and their reasons may vary from case to case. The Bureau may propose that an on-the-spot appraisal be carried out if the circumstances of the case so requires. The reports of Bureau meetings are made available to Parties and observers.

2.5 On-the-spot appraisal

On-the-spot appraisals are carried out with the agreement of the Party concerned. These visits were not included in the provisions of the Convention, but it was considered that Article 14 could be interpreted in such a way so as to allow for on-the-spot appraisals, and the rules of procedure of the Standing Committee meeting were amended accordingly. There have been 25 on-the-spot visits to date. Normally they are requested when information on the case is either lacking or unclear. They are of extreme importance, and therefore the report of the independent expert resulting from the visit is analysed by the Standing Committee with the utmost attention. These visits are crucial for the Standing Committee to decide on further steps on the case. The measures or draft recommendations proposed by the expert are discussed by the Standing Committee, providing the basis for Standing Committee Recommendations.

Rules for on-the-spot appraisals are presented at appendix 3 to this document.

2.6 Treatment by the Standing Committee

a. Decisions on case-files

This stage is the most important of the procedure. The Standing Committee assesses the case-files and takes decisions on the measures to be adopted and on the status of the file. In case of vote, decisions would need to be taken by a two-thirds majority of the votes cast. It is important to stress the freedom of the Committee when deciding on a case. The Bern Convention is an instrument of co-operation among equal Parties, and the Standing Committee plays the role of a forum to discuss and help resolve problems, rather than that of a watchdog. Therefore, the procedure governing the case-files system is flexible, allowing for rapid decision making, and for freedom of choice in terms of the solutions proposed concerning the case files.

The Standing Committee may decide to take different measures: It may requests for further information and reports to be presented; it may propose an on-the-spot appraisal; or adopt a specific Recommendation on the matter, whose implementation will be followed-up afterwards.

b. Status of case-files

The Standing Committee decides on the status of the case. In this respect, there are different status:

- “Possible new files” are those complaints being assessed by the Committee and which have not been formally opened. These cases are placed in the agenda of the Standing Committee after proposal from the Bureau, and await a decision on whether to open a case file or not.
- “Open files” are files which deserve a special attention from the Standing Committee. In general, the reasons to open a file are mainly the breach of the Convention provisions due to the great European importance of the site/species concerned, the scope of the threat, and the urgency with which measures are needed.
- There are also cases which, despite being discussed by the Standing Committee, are dropped when the Committee considers that there are not enough grounds. This happens, for instance, when the cause of the complaint is withdrawn, like potentially harmful projects that are later altered or abandoned. It may also occur because the measures taken by the Party concerned are considered satisfactory, or because a Recommendation has been issued and the Party concerned is responsible for implementing it.

This does not automatically entail that the file is closed. On the contrary, in accordance with the decisions of the Standing Committee, the case could be subject to a follow-up since cases are followed-up regularly. Monitoring can continue until the Committee decides to close it, or it could even be put in on hold, until the Standing Committee decides to re-activate it asking for further information, reports, etc.

c. Closing of files

Generally, the decision to close a file is taken when the difficulties to implement the Convention have been solved. This decision may also be temporary. The Standing Committee has the power to re-open “old files” and start the procedure all over again, if there are concerns. On the other hand, some cases are closed not because the threat has completely disappeared, but because the Party has shown good progress and the Standing Committee may decide to monitor such progress as an information point rather than as an opened case-file.

3. SHORTCOMINGS OF THE CASE-FILE SYSTEM

One of the obvious shortcomings of the case-file system is that it can only be started by a complaint that presumes that a Contracting Party is failing to comply with one or more provisions of the Convention. As failing to honour international obligations under a treaty is a very serious matter, most governments if not all – refuse to admit such breach of the Convention and dialogue between NGOs and governments becomes difficult, especially as both see the issue under a “litigation” perspective that may make more difficult the finding of solutions acceptable to all.

The role of the Standing Committee in the case-file system is not so much to act as a judiciary body (for which it is ill equipped) but – as stated in Article 18 – “*use its best endeavours to facilitate a friendly settlement of any difficulty to which the execution of the Convention may give rise*”. On the last 30 years, the practise in the case-file system shows that one very rarely the Standing Committee has concluded that a Party had not complied with obligations under the Convention and, in most of the cases, it has worked imaginatively to foster dialogue between governments and complainants and reach solutions that, in the respect of the spirit and letter of the Convention, may be agreeable to all.

There has also been in the last years a certain reluctance in the Standing Committee to “open” new file cases as the opening of a file case there is a certain presumption of the possibility of non-respect of the Convention, the Committee favouring other methods, like fact-finding “on-the-spot appraisals” which in fact permit to foster dialogue and reach “friendly settlements” – often in the form of recommendations – which make unnecessary the opening of a file case.

One of the possible limits of the case-file system concerns cases when the Committee of the Bureau finds there is no breach of the Convention by a Party yet the matter brought to its attention is of interest

for the aims of the Convention (“*to conserve wild flora and fauna and their natural habitats, especially those species and habitats whose conservation requires the co-operation of several states, and to promote such co-operation*”, article 1.1) and the file is close without having had the opportunity to improve the situation or establish a positive dialogue between the complainant and the government concerned.

This may cause frustration to complainant NGOs, weakening their faith in the ability of the Convention to improve the conservation status of some species or protect threatened habitats. Such situations may be also “lost opportunities” to promote the aims of the Convention and reach permanent satisfactory agreed solutions on many topics.

The Secretariat has also noticed that some of those issues that are closed without any negotiation or improvement have a tendency to come back as new complaints by NGOs. For instance, the setting of appropriate “population levels” for some species – particularly large carnivores, but also other – in some countries or in some transboundary populations is a recurrent object on complaints, the NGOs claiming that allowed culling is too high, government data are inaccurate or that numbers are fixed quite arbitrarily or politically motivated. In those cases the Standing Committee tends to find no grounds for opening a case-file for presumed non-compliance, in part because the populations may be actually increasing and, especially because the Convention sets no other obligation other than to ensure “*the survival of the population concerned*” (article 9) or “*maintain the population of wild flora and fauna, or to adapt it to, a level which corresponds in particular to ecological, scientific and cultural requirements*” (article 2) formula that is not very precise.

In other cases, when discussing for instance the implementation of recommendations of the Standing Committee, NGOs complaint that some important parts of the recommendations are not being implemented. As recommendations are not legally binding, the Standing Committee is hesitant to open case-files as there is absence of an element of non-compliance of obligations, but again a chance is lost to encourage Contracting Parties to improve the conservation of some species or habitats through a more careful analysis of the implementation of recommendations.

Thus, although the case-file system has proved its efficiency over the thirty years of its application, it has some shortcomings and the Standing Committee may wish to broaden its scope to include a softer procedure in cases where there is no breach of the Convention

4. MEDIATION: A POSSIBILITY FOR FOSTERING DIALOGUE WITHIN THE CONVENTION WITHOUT OPENING CASE-FILES

The purpose of mediation in the framework of the Convention would be to foster dialogue and reaching of win/win solutions between NGOs and governments in cases where, after a complaint is examined by the Standing Committee, the Committee finds that there is no ground to pursue a complaint as a presumed breach yet it believes that the aims of the Convention will be pursued by facilitating contacts and discussions between the different partners.

A mediation would provide an informal setting in which to openly discuss the issues involved, help restore dialogue on the conservation matter being discussed, and allow both NGOs and governments to present possible solutions taking into account their concerns and those of the Convention outside a context of litigation.

To be practical and effective a mediation would have to be accepted by the government concerned on a completely voluntary basis, assume that such process is in no way a formal or informal negotiation and state clearly that an impartial mediator, on a role of “honest broker” has no authority but limits himself or herself to assist NGOs and governments to roundrop their differences and reach solutions agreeable to all. A mediator would act as a catalyst between diverging views on a conservation issue attempting to bring them together by facilitating positive discussion and exploring possible options.

The form that such process could take in the procedural framework of the Convention might be the amendment of the procedures concerning the opening and closing of files by the introduction of a new paragraph such as the one proposed in appendix 4 to this document.

5. FINAL COMMENTS BY THE SECRETARIAT

Even if the mediation procedure may seem completely new, the operation of the Convention in the last 30 years proves that such practice is already well established and has provided positive experiences. Actually many of on-the-spot appraisals have been carried out in cases where the Standing Committee saw little ground to open a case-file yet thought a visit by an independent expert might help solve problems and find solutions acceptable to all.

Appendix 1

OPENING AND CLOSING OF FILES AND FOLLOW-UP TO RECOMMENDATIONS

1. OPENING AND CLOSING OF FILES

The purpose of the "files" is to find a satisfactory solution to problems encountered in implementing the Convention and to monitor as effectively as possible the means chosen to resolve them.

a. Opening of files

1. The Secretariat examines all letters sent to the Standing Committee of the Bern Convention ("the Convention") itself or to its Chairman or Secretariat by a Contracting Party, individual, non-governmental organisation or group of private persons containing a complaint about one or more Contracting Parties' failure to comply with one or more provisions of the Convention.

2. The Secretariat, on the basis of the information available to it, and if necessary requesting further information from the complainant, decides whether to act on the complaint. It ensures in particular that the complaint is not anonymous and examines, taking account of any procedures that may be pending at national and/or international level, whether the complaint is sufficiently serious to warrant examination at international level.

3. Where it decides on such action, the Secretariat forwards the complaint to the Contracting Party or Parties concerned, seeking their opinion and, if necessary, further information. It informs the Bureau of the action taken.

4. The Contracting Parties must respond to the Secretariat's request within a period of about four months.

5. In the light of the reply received, the Secretariat decides, in agreement with the Bureau, whether there are grounds for placing the complaint as a "file" on the agenda for the next meeting of the Standing Committee. The Contracting Party or Parties concerned are informed of this at least two months before the date of the meeting.

6. In cases of urgency and in order to expedite the possible settlement of a difficulty between two meetings of the Standing Committee, the Bureau may decide, with the agreement of the Contracting Party concerned, to organise an on-site assessment.

7. At the meeting of the Standing Committee, the Secretariat or - with the consent of the Chairman or a Contracting Party - an observer concerned in the matter explains the complaint and, depending on the circumstances, proposes that further information be awaited or requested, that a specific recommendation be adopted (see II below) or that an on-the-spot enquiry be conducted for the purpose of a more thorough examination in accordance with Rule 11 of the Rules of Procedure.

In accordance with Rule 9 c. of the Rules of Procedure, proposals made by observers may be put to the vote if sponsored by a delegation.

8. The Standing Committee then studies the complaint submitted and proposals formulated and decides by consensus, or in the absence of consensus by a majority of two thirds of votes cast, whether it is appropriate to open a file.

If such is the case, the Standing Committee, also by consensus, or in the absence of consensus by a majority of two thirds of votes cast, decides whether it is preferable to adopt a specific recommendation or to conduct an on-the-spot enquiry first.

9. The recommendations adopted are communicated to the Contracting Parties for implementation and are public.

b. Closing of files

10. If, after it has examined the report made by an expert following an on-the-spot enquiry or the report forwarded by the Contracting Party concerned as part of the follow-up to a specific recommendation (see paragraph 15 below), the Standing Committee finds that the difficulties relating to implementation of the Convention have been resolved, it decides by consensus, or in the absence of consensus by a simple majority, to close the file.

2. FOLLOW-UP TO RECOMMENDATIONS

Article 14, paragraph 1, of the Convention states that:

"1. The Standing Committee shall be responsible for following the application of this Convention. It may in particular:

(...)

- make recommendations to the Contracting Parties concerning measures to be taken for the purposes of this Convention;

(...)."

In accordance with the practice that has developed in recent years, the Standing Committee adopts two types of recommendation:

- general recommendations pursuant to its general programme of action (recommendations arising in particular from meetings of groups of experts, the work of consultants or seminars);

- specific recommendations following its examination of a file which it has decided to consider. Specifically addressed to one or more Contracting Parties, these recommendations concern situations in which the implementation of the Convention raises, in a particular case, problems over the conservation of flora, fauna, or a natural habitat (for example, unsatisfactory protection of a species of fauna in a specified location).

The recommendations constitute essential means of giving substance to the provisions of the Convention and may even constitute, in time, international customary law. The monitoring of their follow-up is therefore fundamental.

The Standing Committee also adopts guidelines. Though more detailed than general recommendations, they nevertheless have comparable standing. They offer guidance to the Contracting Parties on the action to be taken.

a. General recommendations and guidelines

At its 12th meeting, the Standing Committee decided that a general report on the application of the Convention would henceforth be submitted by Contracting Parties every four years, the first report to be added to the biennial report for 1993-1994. The Netherlands delegate offered to prepare draft guidelines for the contents of such a report, (see T-PVS (92) 84 of 17 December 1992, item 6.1). The draft guidelines, (see T-PVS(93) 25 of 27 September 1993), should contain a section on follow-up to general recommendations and guidelines addressed to all or certain Contracting Parties.

11. The follow-up to general recommendations or guidelines takes place mainly through general four-yearly reports in which the Contracting Parties concerned are invited to describe the legal and/or other measures taken to comply with the policies they propose.

12. With the agreement of the Bureau, the Secretariat prepares a "Summary of General Recommendations/Guidelines" containing, for each of them:

- the text of the general recommendation/guideline;
- the information provided by the Contracting Party or Parties concerned and any expert's report that may have been prepared; and

- a proposal that also takes account of any other available information.

13. It is the responsibility of the Standing Committee, in the light of this information and after discussion, to decide - by consensus or in the absence of the consensus, by a simple majority - on any measures which ought to be taken in respect of each general recommendation/guideline (plan or programme of action, strategy, training courses, technical or financial assistance, expert report, etc.).

Where the follow-up to a general recommendation/guideline proves to be no longer necessary, the Standing Committee may decide - by consensus, or in the absence of consensus by a simple majority - to consider that implementation is satisfactory.

b. Specific recommendations

At its 12th meeting, the Standing Committee agreed to the Secretariat's proposal that certain recommendations should be followed up on an experimental basis, (see

T-PVS (92) 84 of 17 December 1992, item 6.2). It could proceed in this way for all specific recommendations.

14. For the purpose of following up specific recommendations, the Secretariat writes to the Contracting Parties concerned asking them to submit a report summarising the legal and/or other measure or measures adopted to comply with the policies laid down in those recommendations.

15. After receiving the reports, within a period of about three months, the Secretariat prepares, with the agreement of the Bureau, a "Summary of Specific Recommendations" containing, for each of them:

- the text of the recommendation;
- the report submitted by the Contracting Party or Parties concerned, any excessively bulky appendices or documentation included with the report being kept available for consultation at the Secretariat; and
- a proposal that also takes account of any other available information.

16. The Standing Committee is then invited, in the light of this document and after discussion, to rule as to whether, in the case of each recommendation, the measure or measures adopted by the Contracting Party or Parties concerned are sufficient or not and decides by consensus, or in the absence of consensus by a simple majority:

- a. if they are sufficient, to consider that the implementation of the specific recommendation is satisfactory and to close the file (see paragraph 10 above);
- b. if they are insufficient, to maintain the specific recommendation - as it stands or amended - and to re-examine its follow-up under the same procedure at its next meeting.

17. The list of specific recommendations which have not led to the adoption of adequate measures for their implementation is forwarded to the Ministers of Foreign Affairs of the Contracting Parties concerned.

18. The problem then arises as to the attitude to be taken by the Standing Committee in cases where, despite the maintenance of a specific recommendation (see paragraph 16.b above), the State to which it is addressed continues not to implement it. In this connection it is appropriate to refer to Article 18, paragraph 2 of the Convention, which provides for the possibility of recourse to arbitration for any dispute over the interpretation or application of the Convention. The Standing Committee might look into this possibility and, in certain cases of particular gravity, invite one or more Contracting Parties to set in motion, on behalf of the Standing Committee, the procedure laid down in Article 18 of the Convention.

Appendix 2

REGISTER OF BERN CONVENTION COMPLAINTS

At its 28th meeting, on 24-27 November 2008, the Standing Committee of the Bern Convention examined document T-PVS (2008) 7 “*The case-file system: Reminder on the processing of complaints and new on-line form*” and agreed to create a “registration system” to number the old files and the new incoming ones. This would provide quicker access to the information related to them. The Committee agreed to take up the model of “Register of case-files” following the register.

	NAME	No.	STATUS
1	Gran Sasso, Italy	1982/1	<i>Closed</i>
2	Hunting in Valle Furlana, Italy	1982/2	<i>Closed</i>
3	Wadensea, The Netherlands	1983/1	<i>Closed</i>
4	Hainburg Alluvial Forest, Austria	1983/2	<i>Closed</i>
5	Management of wetlands in Ravenna, Italy	1984/1	<i>Closed</i>
6	Inch Level Wetland Area, Ireland	1984/2	<i>Closed</i>
7	Halvergate Marshes And Benone Region, Northern Ireland	1984/3	<i>Closed</i>
8	Spring shooting, Greece	1984/4	<i>Closed</i>
9	Markemeer, The Netherlands	1984/5	<i>Closed</i>
10	Hunting migratory Birds, Cyprus	1984/6	<i>Closed</i>
11	St Petersberg Limestone Galleries The Netherlands	1984/7	<i>Closed</i>
12	Duich Peat Mos, UK	1985/1	<i>Closed</i>
13	Sorgenti del Fiume Pescara, Italy	1986/1	<i>Closed</i>
14	Lake Akrotiri, Cyprus	1986/2	<i>Closed</i>
15	Hares Doen and Knowst on Moores, UK	1986/3	<i>Closed</i>
16	Alluvial Forest of Rastatt, Germany	1986/4	<i>Closed</i>
17	Grencher Witi, Switzerland	1986/5	<i>Closed</i>
18	Vikos-Aaos Natural Park, Greece	1986/6	<i>Closed</i>
19	<i>Caretta Caretta</i> in Dalyan Beach, Turkey	1986/7	<i>Closed</i>
20	<i>Caretta Caretta</i> in Laganas Bay, Greece	1986/8	<i>Closed</i>
21	Jersey and Channel Islands, UK	1987/1	<i>Closed</i>
22	Chafarinas Islands, Spain	1987/2	<i>Closed</i>
23	Santoña Marshes, Spain	1987/3	<i>Closed</i>
24	Cabrespine Cave, France	1987/4	<i>Closed</i>
25	Vipera Kaznakovi in Hopa, Turkey	1988/1	<i>Closed</i>
26	Gulf of Orosei, Italy	1989/1	<i>Closed</i>
27	Dorset Heathlands, UK	1989/2	<i>Closed</i>
28	Podarcis Muralis, The Netherlands	1989/3	<i>Closed</i>
29	Bufo calamita in Castlegregory, Ireland	1989/4	<i>Closed</i>
30	<i>Vipera Lebetina schweizerei</i> in Milos, Greece	1989/5	<i>Closed</i>
31	Bottlenosed dolphins in Moray Firth, UK	1989/6	<i>Closed</i>
32	Poisoned Baits, Greece	1989/7	<i>Closed</i>
33	Dam of Vidrieros/ Ursus arctos in Cantabria, Spain	1989/8	<i>Closed</i>
34	<i>Vipera Ursini Rakosiensis</i> , Hungary	1990/1	<i>Closed</i>
35	Hyla Arborea, Sweden	1990/2	<i>Closed</i>
36	Bufo Calamita, Austria	1990/3	<i>Closed</i>

37	Bufo Viridis and Eptesicus Serotinus in Leimen, Germany	1990/4	Closed
38	<i>Vipera Wagner I.</i> , Switzerland, Germany, Netherlands, Sweden	1990/5	Closed
39	La Loire, France	1991/1	Closed
40	Testude Hermannii in Maures, France	1992/1	Closed
41	<i>Ursus Arctos</i> in the Pyrenees, France	1992/2	Closed
42	Totes Moores, Germany	1992/3	Closed
43	Missolonghi Wetlands, Greece	1992/4	Closed
44	Dam Project in Salamanca, Spain	1992/5	Closed
45	Caretta Caretta In Patara, Turkey	1993/1	Closed
46	<i>Phoca Vitulina</i> in the Bay of Somme, France	1993/2	Closed
47	Wind Farm in Tarifa, Spain	1993/3	Closed
48	Trade of <i>Caretta Caretta</i> , Senegal	1993/4	Closed
49	Itoiz Dam Project, Spain	1993/5	Closed
50	<i>Testudo Marginata</i> , Greece	1994/1	Closed
51	<i>Tryonix Triunguis</i> , Turkey	1994/2	Closed
52	<i>Rana Holzi</i> , Turkey	1994/3	Closed
53	Gallocanta Marshes, Spain	1994/4	Closed
54	Grünwald Forest, Luxembourg	1995/1	Closed
55	Porto (Island Of Tinos), Greece	1995/2	Closed
56	Burdur Lake, Turkey	1995/3	Closed
57	Biltzheim Forest, France	1995/4	Closed
58	Introduction of exotic bees, Portugal	1995/5	Closed
59	Akamas Peninsula, Cyprus	1995/6	Open
60	<i>Caretta Caretta</i> In Kaminia, Greece	1995/7	Closed
61	<i>Lacerta Agilis</i> , The Netherlands	1996/1	Closed
62	<i>Triturus Cristatus</i> Orton Brick Pits, UK	1996/2	Closed
63	Oxyura Leucocephala (White Headed duck), UK & others	1997/1	Closed
64	Rhine-Rhone Grand Canal Project, France	1997/2	Closed
65	Lake Vistonis and Lafralafrouda Lagoon, Greece	1997/3	Closed
66	Bialowiesza Project, Poland	1998/1	Closed
67	<i>Caretta Caretta</i> in Belek, Turkey	1998/2	Closed
68	Habitats for the survival of the common hamster (<i>Cricetus Cricetus</i>) in Alsace, France	1998/3	Open
69	Meles Meles, UK	1998/4	Closed
70	Doñana National Park, Spain	1998/5	Closed
71	<i>Sciurus Vulgaris</i> , Italy	1998/6	Closed
72	El Regajal Nature Reserve, Spain	1999/1	Closed
73	<i>Ursus Arctos</i> , Greece	1999/2	Closed
74	<i>Canis Lupus</i> , Norway	1999/3	Closed
75	<i>Meles Meles</i> , Ireland	1999/4	Closed
76	Cricetus Cricetus, The Netherlands	1999/5	Closed
77	Exploitation and trade of <i>Lithophaga lithophaga</i> , Spain	1999/6	Closed
78	Green turtle in Kazanli, Turkey	2000/1	Closed
79	Olympic Rowing Centre In Marathon, Greece	2001/1	Closed
80	Wind farms in Smola Archipelago, Norway	2001/2	Closed
81	Dam construction in Vistula River, Poland	2001/3	Closed
82	Motorway construction Kresna Gorge, Bulgaria	2001/4	Closed
83	Exotic Forest plantations, Iceland	2001/5	Closed
84	Military antenna in the Sovereign Base Area of Cyprus	2001/6	Closed
85	Tourist Development in Souss Massa Nat. Park, Morocco	2001/7	Closed
86	Odelouca Dam, Portugal	2002/1	Closed

87	Caves in the Thrace Region, Turkey	2002/2	Closed
88	Wolf control, Switzerland	2002/3	Closed
89	Motorway project Via Baltica, Poland	2002/4	Closed
90	Hydroelectric Damsat Kárahnjúkar And Nordlingaalda, Iceland	2003/1	Closed
91	Bystroe Estuary Canal, Ukraine	2004/1	Open
92	Wind Farms in Balchik and Kaliakra, Bulgaria	2004/2	Open
93	Lesser White fronted goose, Sweden	2005/1	Closed
94	Protection of the Green toad (<i>Bufo Viridis</i>) in Alsace, France	2006/1	Possible
95	Wind Farm Project, Slovenia	2006/2	Closed
96	Motorway across Drava Marshlands/hydropower river Dobra, Croatia	2006/3	Closed
97	Planned capture of bottlenose dolphins, Turkey	2006/4	Closed
98	Eradication and trade of the American Grey squirrel (<i>Sciurus carolinensis</i>), Italy	2007/1	Open
99	Natterjack (<i>Bufo calamita</i>) population on the coastal island of Smögen, Sweden	2007/2	Possible
100	Aberdeen Western Peripheral Route, UK	2008/1	Closed
101	Tourism project in El Bosc de la Rabassa, Andorra	2008/2	Closed
102	Impacts on the Hermann tortoise (<i>Testudo hermanni</i>), France	2008/3	Closed
103	Lošinj Dolphin Reserve (<i>Tursiops truncatus</i>), Croatia	2008/4	Closed
104	Emerald Network, Switzerland	2008/5	Closed
105	Wind turbines in Alta Maremma (Italy)	2008/6	Closed
106	Black Grouse (<i>Tetrao tetrix</i>) in Drôme and Isère, France	2009/1	Closed
107	Ecological impacts of a tourism centre in Saïdia, Morocco	2009/2	S-B
108	Planned culling of badgers (<i>Meles meles</i>) in Wales, UK	2009/3	Closed
109	Conservation of wolves, brown bears, wolverines and lynxes, Norway	2009/4	Closed
110	Threats to Vjetrenica cave, Bosnia and Herzegovina	2010/1	Closed
111	Afforestation of steppic habitats, Ukraine	2010/2	Closed
112	Threat to natural habitats and species in Dniester River Delta, Ukraine	2010/3	S-B
113	Increase in turtle mortality in Episkopi and Akrotiri areas, United Kingdom	2010/4	Other
114	Threats to marine turtles in Thines Kiparissias, Greece	2010/5	Other
115	Culling of badgers in Côte d'Or, France	2010/6	Closed
116	Culling of Badgers, United Kingdom	2010/7	N-F
117	Sediments immersion in the sea in the harbour of Lorient, France	2011/1	N-F
118	Management of carnivores, Norway	2011/2	Closed
119	Threat to <i>Riella helicophylla</i> in the Department of the Bouches-du-Rhône, France	2011/3	Closed
120	Threats to the Mediterranean monk seal (<i>Monachus monachus</i>), Turkey	2011/4	Other
121	Apron du Rhône (<i>Zingel asper</i>) menacé dans les départements du Doubs (France) et les cantons du Jura et de Neuchâtel (Suisse)	2011/5	Other
121	Threat to the Brown Bear in Croatia	2011/6	Other
122	Management of the wolf (<i>Canis lupus</i>) in Ukraine	2011/7	Other
123	Threat to the Bottlenose Dolphin (<i>Tursiops truncatus</i>) in Ukraine	2011/8	Other

LEGEND**Open** : Open file**Possible**: Possible file**S-B** : Complaint in Stand-by**N-F** : Screened by the Secretariat and Not Forwarded to the Bureau**Other**: Other complaints**Bold**: Case-files which have been formally opened by the Standing Committee

COMPLAINT FORM, WITH INSTRUCTION FOR USE

Any Contracting Party, individual, non governmental organisation or group of private persons may send a complaint about a possible breach of the Bern Convention.

Complainants may write or send an e-mail to the Secretariat in one of the two official languages, English or French, setting out clearly their name and contact details, and the following information:

- The reason of the complaint must be clearly stated;
- The specific specie/s or/and habitat/s covered by the Bern Convention and threatened with potential damage (Appendix, population affected, geographical location, proximity of danger, potential negative effects and identified risks, etc)

Other helpful information would be to indicate if the species affected are also protected by other international instruments, and whether there are already any pending procedures at the national or international level.

The Secretariat will examine all complaints fulfilling these criteria.

Please, send a letter or an e-mail to the Secretariat of the Bern Convention, or use the form enclosed. An electronic version of this on-line form is available on the Convention's web site: http://www.coe.int/t/dg4/cultureheritage/Conventions/Bern/Monitoring_en.asp#TopOfPage

Address:

Ivana d'ALESSANDRO

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Council of Europe

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F-67075 Strasbourg Cedex

E-mail: ivana.dalessandro@coe.int



**Convention on the Conservation of European Wildlife
and Natural Habitats**

COMPLAINT FORM

Please continue on a separate sheet if necessary and attach all the documents necessary to support your complaint.

First name:

.....
.....

Surname:

.....
.....

On behalf of (if applicable):

.....
.....

Address:

.....
.....
.....

Town/City:

.....

County/State/Province:

.....

Postcode:

.....

Country:

.....

Tel.:

.....

Fax:

.....

E-mail:

Web site:

1. Please state the reason of your complaint in detail (refer also the Contracting Party/es involved).

2. Which are the specific specie/s or habitat/s included in one of the Appendices of the Bern Convention potentially affected? (Please include here information about the geographical area and the population of the species concerned, if applicable)

3. What might be the negative effects for the specie/s or habitat/s involved?

4. Do you know if potentially affected species or habitats also fall under the scope of other international Conventions, (for instance: RAMSAR, CMS, ACCOBAMS, Barcelona Convention, etc) or if the area has been identified as a NATURA 2000/Emerald network site?

5. Do you know if there are any pending procedures at the national or international level regarding the object of your complaint?

6. Any other information (existence of an Environmental Impact Assessment (EIA), size of projects, maps of the area, etc)

Date and signature:

Please, fill in this form, include all supporting documents that you may consider important, and send it to the attention of:

Ivana d'ALESSANDRO
Biological Diversity Unit
Directorate of Culture and Cultural and Natural Heritage
Council of Europe

F-67075 Strasbourg Cedex

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Appendix 3**RULES CONCERNING THE ON-THE-SPOT APPRAISALS
(amended rules of procedure of the Standing Committee, 2009)**

- a.* If during discussions on one or more proposals, any doubts and/or difficulties arise regarding the measures to be taken for the implementation of the Convention with regard to a natural habitat essential to the conservation of species of wild flora and fauna, and if it is necessary to obtain appropriate information, the Committee may, if the gravity of the situation so demands, decide that the natural habitat in question should be inspected by an expert with powers to make on-the-spot enquiries and report back to the Committee.
- b.* Such inspections will be conducted in accordance with the relevant rules appended to the Rules of Procedure.

Rules applicable to on-the-spot enquiries

1. The decision to organise a visit to a natural habitat shall lie with the Standing Committee which shall reach the relevant decision in accordance with Rule 8.b of its Rules of Procedure, subject to the agreement of the delegation of the Party within whose territory the habitat under consideration is situated.
2. In urgent cases, the Chair may authorise the Secretariat to consult the Standing Committee by post in order that a decision may be reached in accordance with the foregoing paragraph.
3. The expert detailed to carry out the visit of inspection shall be appointed by the Secretary General of the Council of Europe. The expert cannot be a person who represents or has represented a State on the Standing Committee, or a national of the Party in whose territory the natural habitat to be visited is situated. The appointment of the expert must be agreed by the Party concerned.
4. At the request of the Standing Committee or its Chair, the expert shall be accompanied during the visit by a member of the Secretariat and by a representative of the Party concerned.
5. The Standing Committee shall draw up precise terms of reference to be conveyed to the expert.
6. After completing the visit of inspection, the expert shall submit a written report to the Standing Committee in one of the official languages of the Council of Europe. The expert may be called upon to present the report in person to the Standing Committee at one of its meetings.
7. In order to ensure that the said expert may carry out the assignment in full independence, the travel and subsistence expenses pertaining to the visit and those arising out of the presentation of the report to the Standing Committee shall be borne by the Council of Europe.

Appendix 4

POSSIBLE AMENDMENT TO THE PROCEDURES ON OPENING AND CLOSING OF FILES

The following sentence might be added to the existing procedure:

c. Mediation

In cases where the Standing Committee finds no breach of the Convention but believes that further dialogue between the complainant and the Contracting Party may contribute to the objectives of the Convention and to democratic governance, the Standing Committee or the Bureau may propose a mediation.

Mediations will be conducted in accordance with the relevant rules appended.

Rules applicable to mediation

1. The purpose of the mediation is to facilitate dialogue between conservation authorities and a complainant or interest groups concerning matters under the scope of the Convention on which the Standing Committee finds that there is no breach of the Convention and thus the opening of a case-file is deemed unnecessary.
2. The decision to organise a visit of mediation will lie with the Standing Committee, which shall reach the relevant decision in accordance with Rule 8.*b* of its Rules of Procedure, subject to the agreement of the delegation of the Party to whom the complaint is addressed.
3. In urgent cases the Chair or the Bureau may authorise the Secretariat of the Standing Committee by e-mail in order that a decision may be reached in accordance with the foregoing paragraph.
4. The expert detailed to carry out the visit of mediation will endeavour to foster dialogue, facilitate discussions, identify and clarify the conservation issues, propose possible solutions that would satisfy the different parties, reach consensus and record agreements, all in the respect of the spirit and letter of the Convention. The expert will act as an independent, impartial and honest broker in all circumstances.
5. The expert detailed to carry out the visit of mediation shall be appointed by the Secretary General of the Council of Europe. The expert cannot be a national of the Party concerned by the mediation. The appointment of the expert must be agreed by the Party concerned.
6. At the request of the Standing Committee or its Chair, the expert shall be accompanied during the visit by a member of the Secretariat and by a representative of the Party concerned.
7. The Standing Committee shall draw up precise terms of reference to be conveyed to the expert.
8. After completing the visit of mediation, the expert shall submit a written report to the Standing Committee in one of the official languages of the Council of Europe. The expert may be called upon to present the report in person to the Standing Committee at one of its meetings.
9. In order to ensure that the said expert may carry out the assignment in full independence, the travel and subsistence expenses pertaining to the visit and those arising out of the presentation of the report to the Standing Committee shall be borne by the Council of Europe.