

Strasbourg, 1 July 2014
[files31e_2014.doc]

T-PVS/Files (2014) 31

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

34th meeting
Strasbourg, 2-5 December 2014

**FOLLOW-UP
OF CASE FILES**

REPORT BY THE EUROPEAN UNION

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



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
ENVIRONMENT
Directorate B - Nature, Biodiversity & Land Use
ENV B2 - Biodiversity

Brussels,
ENV B2/ATS/fc ares(2014)

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Subject: Follow-up of case files

Dear Mrs D'Alessandro,

Following your request of 29 April 2014, and in view of the Standing Committee's meeting of 10 September 2014, please find attached the European Commission's updates on the queried case files.

Yours sincerely,

François Wakenhut
Head of Unit

Enclosure: update on case files

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FOLLOW-UP OF CASE FILES (JUNE 2014)

1. Complaint No 1995/6: Cyprus: Akamas Peninsula

Last year, the Commission reported to have received new scientific data both from the Cypriot authorities and NGOs which, however, showed controversies. The Commission has requested and received information further information from the Cypriot authorities. This information concerned various aspects under the Birds Directive and Habitats Directive:

- The Commission is currently analysing the classification of special protection areas (SPAs) of the Akamas area on the basis of the recent update of the list of Important Bird Areas in Cyprus published by Birdlife.
- As regards the alleged failure to designate the Akamas area under the Habitats Directive as a Site of Community Importance (SCI): the Commission has requested and received further technical clarifications from the Cypriot authorities as regards the mapping of habitat types in question. This information is currently being analysed. The Commission has also requested information on the preparation of the management plan for the broader Akamas area.
- As regards the tourist development in Limni (Polis-Gyalia Natura 2000 site): the Commission has investigated through an EU Pilot the measures taken to ensure compliance of the planned development with Art. 6 and 12 of the Habitats directive. Replies and technical documents received are currently being analysed.

After completion of the above mentioned analysis the Commission will decide on the appropriate follow-up.

2. Complaint No. 2004/2: Bulgaria: Wind farms in Balchik and Kaliakra – *Via Pontika*

On 17 October 2013, the Commission decided to refer Bulgaria to the Court of Justice of the European Union (CJEU). The court application was submitted to the Court on 24 March 2014.

3. Complaint No 2010/5: Greece: Threats to marine turtles in Thines Kiparissias

Following the assessment of the Reasoned Opinion received from the Greek authorities last year, the Commission decided in March 2014 to refer the case to the Court for breach of EU legislation (Directive 92/43). The application is currently being prepared. The information in your letter of 29 April 2014 is still accurate.

4. Complaint No. 2012/7: Presumed illegal killing of birds in Malta

It must be recalled that the Commission had previously brought infringement proceedings against Malta for non-compliance with the EU Birds Directive in relation to Malta's spring hunting practices followed after Malta's accession to the European Union in 2004. In 2009 the Court of Justice of the European Union ruled, in case C-76/08 Commission v Malta, that Malta's spring hunting derogations applied in the period 2004-2007 did not satisfy the strict requirements of the EU Birds Directive.

However, the same judgment found that, exceptionally, strictly limited spring hunting would be possible for turtle doves and quails, under controlled conditions, due to very specific circumstances prevalent in Malta.

These conditions are set out in the relevant national regulations which establish the parameters on how such a limited spring hunting may be authorised in Malta in line with the requirements of the EU Birds Directive (Article 9) and within the parameters of the Court's judgment.

In particular, the relevant national regulations require that each time the Maltese government considers whether or not to grant a spring hunting derogation, it must consider hunting possibilities during the previous autumn season and maximum bag limits. Conservation status of the species concerned must be taken into account, as well as the need to maintain their populations at a satisfactory level. The national regulations also require that measures are taken to ensure that controls are enforced during any spring hunting period, including controls on bag limits and quotas, restrictions pertaining to times and places, and reporting requirements.

The Commission has been closely monitoring how spring hunting derogations have been applied by Malta over the past few years and is aware of some problems related to the application and enforcement of the applicable regulations. It must be recalled however that the responsibility for applying and enforcing the law in Malta is for the Maltese authorities.

As in previous years, the Commission asked the Maltese authorities for a report on the implementation of the 2014 spring hunting derogation within one month of the closure of the season. This report has recently been published and is available for download on the following web link: <http://msdec.gov.mt/en/Pages/WBRU/Reports-and-Statistics.aspx>.

It appears from this report that there has been a significant enforcement presence in the field during the 2014 spring hunting derogation period, including doubling of field inspections in comparison with the same period in 2013, over five thousand individual spot checks conducted on hunters and field inspections, improved coordination amongst enforcement agencies, and deployment of new technologies (drones) in surveillance operations. The report also indicates that there has been a documented decline in the number of serious hunting-related violations, particularly a reduction in the incidence of illegal shooting or trapping of protected species.

With regard to the specific issue of illegal killing of protected birds, the Maltese authorities have also reported that new legislation has been adopted recently which introduces considerably harsher penalties for serious hunting-related offences, including the shooting of protected species. The Commission has also been informed that work has started to prepare a national strategy that should ultimately put an end to the illegal killing, trapping and trade in wild birds in Malta. Moreover, a proposal to create a specialised wildlife crime investigation unit within the police force appears to be in preparation.

The Commission will carefully assess the 2014 spring hunting derogation report and the measures to be put in place by the Maltese authorities, and will continue its on-going dialogue with the government to ensure that the Maltese authorities achieve the objectives of EU legislation and further improve the protection of wild birds in Malta.

5. Complaint No. 2012/11: Western rustwort (*marsupella profunda*) threatened by a waste burn incinerator at Rostowrack Farm St Dennis, UK

The Commission is currently finalising its assessment of the case and will send you further information very soon.

6. Complaint No 2013/5: Presumed impact of a construction of Overhead Power Line (OHL) in an environmentally sensitive area in the Lithuanian-Polish borderland

The electricity interconnection between Lithuania/Alytus and Poland/Elk, LitPol Link, has been supported at the political level both in Poland and Lithuania. It is intended to end the isolation of Lithuania and the other Baltic States and will connect their electricity grids with the European Continental Network. It will create preconditions for electricity trade and increase of competition on energy prices, enhancing at the same time the security of electricity supply in Lithuania and in the northern part of Poland.

The Lithuanian side of the project received EU funding under the TEN-E programme, aimed mainly at financing the feasibility studies to support faster implementation and prepare future works.¹ This is still ongoing and scheduled to be finished by the end of 2014. The activities under the Action proposed for financial aid are the approval of designs and the obtaining of construction permits for the 400 kV overhead line between Alytus substation to the border, and the Alytus substation expansion including construction of the back-to-back converters. The preparation of an Environmental Impact Assessment (EIA) is not covered by the TEN-E Action.

Given its importance from an energy policy point of view, the Lithuanian section of LitPol Link acquired the status of a Project of Common Interest (PCI). Regulation (EU) No 347/2013 ("TEN-E guidelines") established a new, dynamic way to identify Projects of Common Interest under the framework of Regional Groups, bringing together the European Commission, the Member States, the

¹ Project E263-09, "Design for the construction of line Alytus-State border and converter station".

European Networks of Transmission System Operators for Electricity and for Gas (ENTSO-E and ENTSO-G), the Agency for Cooperation of Energy Regulators (ACER), the national regulators, transmission system operators and other project promoters. The projects were identified based on objective criteria and a cost-benefit analysis, showing their impact related to helping the Member States to physically integrate their energy markets, enable them to diversify their energy sources and/or help bring an end to energy isolation. PCIs will benefit from the following measures: measures to accelerate permit granting, improved regulatory treatment for cross-border projects, the possibility to obtain financial support under the Connecting Europe Facility (CEF) programme. Nevertheless, the PCI status does not automatically result in financial assistance from CEF. Grants for works will be awarded only to the PCIs that meet all eligibility, selection and award criteria, provide high European added value and are commercially not viable.

The promoters of the Lithuanian side of the project announced at the beginning of May that construction was planned to start in 2014, but the requisite financial resources still need to be secured. The project promoters are planning to apply for EU co-financing under the CEF programme. The first CEF call was launched on May 5th and will be open until August 19th 2014.

In line with EU legislation all necessary environmental permits have to be granted by the responsible national authorities before the construction can begin. Before awarding EU funding to the project, the European Commission will verify whether the Action implementing the PCI is in compliance with EU environmental legislation.