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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

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**Proposed navigable waterway in the Bystroe Estuary
(Danube delta)
(Ukraine)**

REPORT BY THE GOVERNMENT OF ROMANIA

*Document prepared by
The Ministry of Foreign Affairs of Romania*



GOVERNMENT OF
ROMANIA

INFORMATION

concerning

Ukraine: Building of a navigable waterway in the Bystroe Estuary (Danube Delta)

- 11 November 2014 -

I. INTRODUCTION

Recommendation No. 111(2004) of the Standing Committee on the proposed navigable waterway through the Bystroe estuary (Danube Delta, Ukraine), adopted by the Standing Committee on 3 December 2004, noted that the Danube Delta constituted one of the most important hotspots of biological diversity of Europe, supporting globally threatened and other rare species and habitats of European and world importance, and that Ukraine had undertaken to protect the Ukrainian part of the Delta under its national and international legislation. The Committee also noted that the establishing of the navigable waterway and its exploitation might deteriorate natural habitats protected under Article 4 of the Convention and that the development could affect populations of species protected under Article 6 of the Convention. As shown below, these findings are confirmed by initial research into the impact of the Ukrainian project.

Almost two years later, on 10 July 2006, the Inquiry Commission created under the provisions of the Espoo Convention on transboundary environmental impact listed, unanimously, in respect of the Ukrainian project to build a Deep Water Navigation Canal in the Danube Delta, the following significant adverse transboundary impacts:

- impact of dredging or deepening of the rifts on the distribution of the flow discharge between the Bystroe and the Starostambulski branches and on the water level; dynamics along the Bystroe branch, resulting in loss of floodplain habitats, important for fish (spawning and nursery) and birds (nesting, feeding);
- impact of habitat loss by coverage of riparian dump sites and dredging through the offshore sandbar and measures for bank protection on birdlife and fish;
- impact on the increase of suspended sediment concentration, downstream of the dredging site on fish;
- impact on the turbidity of marine waters as a result of dumping of soil at the dump-site at sea, under conditions of southbound alongshore currents;
- impact of repeated maintenance dredging hampering the recovery processes of affected areas for fish in the long term;
- cumulative impact of loss and/or disturbance of habitats and by shipping traffic on fish and bird life on a large scale and long time.

These scientific findings did not determine Ukraine to fully implement the requirements of Recommendation No. 111(2004). As shown below, the consequences of Ukraine's decision are currently being felt in the Danube Delta and beyond.

II. IMPACT ON FISH

The assessment of the impact on fish has focused on the impact on sturgeon populations. Sturgeons use the Danube Delta and its branches (Chilia and Sfântul Gheorghe) as a migratory route (for adult upstream migration and juvenile and adult downstream migration), as nursery habitat and for spawning. The populations of sturgeon have severely decreased over the last decades due to over-fishing and other human impacts.

In the year 2000, the Romanian authorities initiated a monitoring programme in order to research into the total stocks of Danube sturgeon (sub)populations. Because of the substantial resources required, between 2000 and 2009 only one sequence of the research programme was implemented, the monitoring of natural spawning of sturgeons in the Lower Danube (the creation of a capture and release site at Isaccea – km 100). According to the data gathered all species were critically endangered. Therefore, in 2006, Romania enacted a 10 year sturgeon fishing ban. 5 years later, in 2011, Bulgaria enacted a similar ban.

In an effort to stop the decline of sturgeon stocks, the Romanian authorities and Romanian companies released between 2006 and 2014 juvenile sturgeons in the Danube.

In 2009 additional funding was allocated and another sequence was added to the research programme. It allowed for the establishment of additional monitoring and adult sturgeon tagging sites on the Lower Danube and on the branches of the Danube Delta.

The initial research seemed to indicate that 2/3 of sturgeons use the Chilia branch to migrate to and from the Black Sea, while 1/3 use the Sfântul Gheorghe branch. Because of extensive river works carried out in the XIX century (including massive dredging and meander-cutting), sturgeons no longer use the Sulina branch for migration.

In this context, the process of accurately determining the adverse impact on sturgeons of dredging activities undertaken by Ukraine during phase I of the project is very difficult. Moreover, Ukraine continues to undertake maintenance dredging in critical points for navigation along the Chilia and the Bystroe canal. This maintenance dredging prevents the recovery of the affected areas and its cumulative effects will significantly impact the sturgeon in the long term. Therefore, despite the need for long-term data gathering, it is obvious that all dragging activities conducted in the Bystroe project are likely to determine similar detrimental effects on sturgeon populations as those produced by the building of Sulina channel.

III. IMPACT ON BIRDS

The main site for assessing the impact on birds is the Musura Islet, formed by alluvia at the mouths of Chilia. The initial conclusions of this research show that men-made disturbances and the reduction of land surface from hydro-morphological causes connected with the Ukrainian project are the major causes of the decline of the number of birds pairs from the Musura Islet colonies.

Of the nine species of birds that have nested in recent years on Musura islet, except the oystercatcher (*Haematopus ostralegus*) and Kentish Plover (*Charadrius alexandrinus*), a number of 7 species had a variable reduction (from mild to severe or even complete local extinction) in the number of breeding pairs; It should be noted that of these 7 species, a total of 5 (*Recurvirostra avosetta*, *Himantopus himantopus*, *Charadrius dubius*, *Sterna sandvicensis*, *S. hirundo*) are included in Appendix II (strictly protected fauna species) of the Bern Convention.

According to initial research 78% of all bird species that had nested in the larger area of the Musura bay have suffered an impact, as shown in the table below:

Colony of Musura (species/no. of pairs/year)	2001	2002	2007	2009	2010	2011	2012	2013
Haematopus ostralegus	0	3	3	3	2	2	2	2
Recurvirostra avosetta	5	10	25	40	70	80	0	0
Himantopus himantopus	0	0	0	20	10	0	0	0
Charadrius dubius	0	3	4	3	3	5	4	0
Charadrius alexandrinus	0	3	3	5	2	2	3	5
Larus ichthyæus	0	0	0	70	35	70	0	0
Larus cachinnans	500	500	1000	1000	300	300	0	0
Sterna sandvicensis	1000	1000	300	500	250	700	0	0
Sterna hirundo	1000	1000	500	300	400	200	160	500

The rise in the number of *Sterna hirundo* and *Charadrius alexandrinus* pairs in 2013 - as noted in the table above could have been determined by the substantial decrease of vessel traffic in 2013 compared to previous years.

Hydrotechnical works and disturbances caused by the river and sea traffic have impacted the populations of endangered species, such as some species of *larolimicole*. These factors have also affected the avifauna in Ukraine, namely the bird species that use the banks of Danube's channels and the Black Sea coast for feeding, nesting, breeding, resting, moulting, circadian or seasonal travels. These species were mainly affected in the phase of construction, but continue to be affected as maintenance works of the Bystroe canal do not stop.

Therefore, given the scale of the initial river works especially in the Bystroe canal area, the maintenance activities and the vessel traffic, the conclusions of the Inquiry Commission are confirmed and there is a significant trans-boundary impact on endangered bird species.

IV. CONCLUSION

The file has been on the agenda of the Standing Committee of the Bern Convention for a long period of time. However, having in mind that it is a difficult and complex situation, as shown by the long term and large scale impacts, progress naturally develops at a slower pace than in other cases. The monitoring of the Standing Committee has been and still is a highly important factor in achieving the progress and cooperation of all parties involved. Therefore, keeping the file open is the most appropriate solution.

The bodies of the Convention have influenced to a great extent the progress achieved in this case. The mechanisms set in place, such as the Trilateral Commission have been extremely useful in making all parties engage in meaningful discussions on the subject.

The current context requires an updated Recommendation, targeting not only the current stage of river works and their effects on the Danube Delta, but also encouraging parties to continue to cooperate under the Trilateral Commission.

Statement delivered by Romania during the 33rd meeting of the Standing Committee of the Bern Convention in respect of the file *Ukraine: Building of a navigable waterway in the Bystroe Estuary (Danube delta)*

(Strasbourg, 4 December 2013)

In accordance to the request addressed to the concerned parties (Romania, the Republic of Moldova and Ukraine) by the Bureau, following its the meeting of 17 September 2013, to convene as soon as possible a meeting of the Joint Commission established under the Agreement concluded between the competent authorities for environmental protection of Romania, the Republic of Moldova and Ukraine on the cooperation in the area of the Danube Delta and the Lower Prut, the meeting of the Joint Commission has taken place on November 28, 2013, in Tulcea, Romania.

The issue of the navigation canal was addressed during the meeting. The Romanian delegation requested the Ukrainian delegation to provide information in respect of the works currently undertaken by Ukraine in the framework of the project, including maintenance dredging, as well as in relation to the intention of the Ukrainian side to proceed to the full scale (Phase II) implementation of the project.

The Ukrainian delegation answered that in 2012 and 2013 only small scale dredging was undertaken. The Ukrainian delegation was not aware of any decision of the competent Ukrainian authorities to implement or renounce to the implementation of Phase II of the project.

The Romanian delegation reiterated that it strongly opposed the implementation of Phase II of the project, and underlined the need for the impact of the works on the Romanian territory to be properly and comprehensively assessed by the Ukrainian side.

The Romanian delegation presented the results of the studies and monitoring activity regarding the impact of works completed until now in the framework of the Bystroe Project on the ecosystem of the Danube Delta. Based on these results, the Romanian delegation concluded that the Bystroe Project had a significant impact on the Romanian territory. In particular, the Romanian delegation expressed its concerns regarding the negative impact of the Bystroe Project on some protected species, especially on sturgeon population, as well as on hydromorphological conditions in the Danube River. The Ukrainian delegation stressed that it did not agree with the findings of the Romanian experts.

Given the difference of views in respect of the impact of the project, the Romanian and the Ukrainian delegations agreed to exchange the environmental studies and data on the project and to hold an expert meeting in order to jointly analyse the conclusions of the studies after the exchange. It was equally agreed by the three delegations of Romania, Republic of Moldova and Ukraine to conduct joint environmental monitoring in the Danube Delta.

It is Romania's view that some progress was made during the Tulcea meeting in jointly finding a way forward in respect of the issue of the canal. However, we remain concerned by the impact of the project on Romanian territory and, in particular, by the possibility for Ukraine to start the implementation of Phase II. We are also aware that in other fora, in particular in the framework of the Danube Commission, which deals the regulation of the navigation on the Danube, Ukraine has vowed to proceed with the implementation of Phase II.

Given these developments and the uncertainty in respect of the implementation of Phase II, Romania considers that the file should remain open. We very much welcome the implication of the Standing Committee in respect of this issue and we believe it was instrumental in the organization of the meeting of the Joint Commission of 28 November. We are ready to engage in meaningful and substantial dialogue with the other concerned parties in order to find a joint solution to the issue of the waterway project.