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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE  
AND NATURAL HABITATS

**Standing Committee**

31<sup>st</sup> meeting  
Strasbourg, 29 November – 2 December 2011

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**APPLICATION OF THE CONVENTION**  
**- Summary of case files and complaints -**

**SEPTEMBER 2011**

*Secretariat memorandum  
prepared by  
the Directorate Democratic Governance, Culture and Diversity*

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

### **1.1 Specific sites - Files open**

#### **a. Ukraine: Project for a 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 of Ukraine’s wetlands – and the whole Danube delta dynamics.

The first phase of the project was conducted in 2004.

In the same year, the Standing Committee adopted Recommendation No. 111 (2004) on the proposed navigable waterway through the Bystroe estuary (Danube Delta), inviting Ukraine to suspend works, except for the completion of phase I, and not to proceed with phase II of the project until certain conditions were met.

Ukraine did not send a delegate to the Standing Committee meeting in 2008, but they sent information to the Secretariat afterwards, concerning the repeal of the Final Decision regarding Phase II of the Project and confirming that the amended and updated EIA documentation would be sent to the Secretariat, and that measures would be undertaken to ensure public consultation and participation on this Project. Furthermore, the Secretariat was informed that a document entitled “Draft Time-Schedule” had been signed with the Romanian authorities for further mutual implementation of the steps to be taken by both countries.

In March 2009, the Ukrainian authorities reported to the Secretariat confirming the repeal of the Final Decision regarding Phase II of the Project, in line with Recommendation 111 (2004) of Bern Convention. The report also confirmed that “the works on the Phase II never started and are not going to start until the appropriate procedures are being implemented”.

At the 2009 meeting of the Standing Committee, the delegate of Ukraine outlined the measures taken by his government, including the initiative to collaborate with the International Commission on the Protection of the Danube River regarding research and monitoring of the transboundary part of the Danube Delta. The Standing Committee welcomed the positive co-operation underway between Ukraine and Romania, but it agreed to keep the case file open and asked Ukraine to continue to report to in 2010.

In March 2010, the European Union informed the Council of Europe that Ukraine adopted a final decision on the project at the end of January 2010. Ukraine decided to start works related to the full-scale implementation of the Danube-Black Sea Navigation Route, thus initiating the implementation of Phase II of the Bystroe Channel project.

The Secretariat asked Ukrainian authorities to inform on the issue; however, the national report was only sent on 1<sup>st</sup> December 2010.

At the 2010 meeting of the Standing Committee, the delegate of Ukraine presented the government report, highlighting that consultation with all stakeholders, including public hearings, had been carried out in 2004-2009 to evaluate the project as well as its EIA before adopting the decree launching Phase II of the project was adopted. He stressed that the authorities had examined ten alternative variants routes for the navigation before choosing the Bystroe estuary. He further stressed that the management plan for the Danube Biosphere Reserve was adopted by decree in October 2010. Pursuant to item 10 of the Recommendation 111 of the Standing Committee, adopted on 3 December 2004, regarding the Trilateral Agreement for the Creation and Management of a Cross-boarder Protected Area between Moldova, Romania and Ukraine in the Danube Delta and the Lower River Prut, the delegate of Ukraine has reminded to the Committee on the necessity to hold under the umbrella of the Council of Europe a meeting of States Signatories of the Agreement in order to discuss relevant matters concerning this and other issues dealt within the Agreement. He concluded his presentation by affirming that Ukraine considers having implemented all the requirements of the Recommendation No. 111 (2004) and thus

requested the file to be closed. He proposed to organise a trilateral meeting of the concerned parties, under the auspices of the Council of Europe, for establishing an ad hoc working group on the elaboration of joint measures for the conservation of the species and habitats protected by the Bern Convention in the Danube delta area.

The delegate of Romania noted that the late presentation of the report of the Ukrainian authorities left insufficient time for a meaningful analysis as well as for a comprehensive reply from the Romanian side. He highlighted that Ukraine has failed to comply with its obligations under the Espoo Convention, and has shown disregard for the decisions of the meetings of the State Parties to that Convention. The delegate further pointed out that the authorities of Ukraine have failed to inform Romania about the developments and implementation of the project. In addition, he noted that the EIA prepared by Ukraine is focused on the impacts on the Ukrainian side of the Delta, while disregarding the transboundary dimension of the project; he stressed that Romania has repeatedly informed the authorities of Ukraine about the persistence of important gaps in the EIA. The delegate highlighted the risk of a supplementary flux of sediment which will occur in extremely sensitive areas like *Musura* and *Stambulul Vechi* branches, as a result of massive dredging as well as of the construction of the flowing guide dam. He also mentioned that the Romanian authorities had tried again to convene in Romania, in mid-December 2010, the first meeting of the Trilateral Commission established under the Agreement mentioned above, but the Ukrainian authorities had asked for a postponement of such meeting for the first semester of 2011. In conclusion, the delegate of Romania recalled the will to host such a meeting in the first semester of 2011, and asked the Standing Committee to keep the file open and continue its follow-up, in co-operation with other international instruments.

The delegate of the European Union expressed its full support to the proposal made by Romania requesting the file to be kept open.

The Committee decided to keep the case file open and agreed to the creation of a Select Group of Experts to facilitate dialogue on the issue. The Group should meet after relevant Parties and the Chair of the Standing Committee agree 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 propose 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 informed 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 was 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 stressed that one of the main priorities of Ukraine was its active involvement into the process of preparation and further implementation of the activities under the EU Strategy for the Danube Region (EUSDR), which would 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 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.

In April 2011 the Bureau examined the complaint and decided to keep the case-file open. It instructed the Secretariat to follow-up the issue with both the EU and the ESPOO Convention and to contact the Ukrainian authorities for an updated and more precise report on each provision of Recommendation No. 111 (2004).

No new information was received from Ukraine before the Bureau meeting in September. However, the EU informed about the outcomes of the meeting on the implementation of the Espoo and Aarhus Conventions (Kyiv, 8 June 2011).

The meeting was to define the follow-up of the project financed by the EC to help Ukraine implement both Conventions, especially with regards to the Bystroe Channel project. In this respect, Ukraine is very much interested in capacity building and legal drafting to implement the Strategic Environmental Assessment Protocol (Espoo), and in capacity building to implement the Amendment on Genetically Modified Organisms and the Protocol on Pollutant Release and Transfer Registers (Aarhus). EU could allocate funds to such a follow-up project depending on the fulfilment of some conditions.

The Secretariat noted that Ukraine received warnings for non-compliance at both Espoo (Geneva, June 2011) and Aarhus (Chisinau, July 2011) Convention's MoPs.

The Bureau examined the complaint and decided to keep the case-file opened. The Secretariat contacted Ukrainian authorities urging a detailed report on the state of implementation of the Danube-Black Sea Navigation Route, as well as on the compliance with the Standing Committee Recommendation (2004) 111 and requesting that Ukraine participate at the 31<sup>st</sup> meeting of the Standing Committee, where they have been invited to present a government report on this open file.

## **b. 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.

This case was first discussed at the 16<sup>th</sup> meeting of the Standing Committee in 1996. Two on-the-spot appraisals were carried out in 1997 and 2002 and a recommendation adopted in 1997 (Recommendation No. 63 (1997) on the conservation of the Akamas peninsula in Cyprus and, in particular, of the nesting beaches of *Caretta caretta* and *Chelonia mydas*).

In 2008, the Standing Committee asked Cyprus to send the management plan as soon as it would be ready, and wished that the area of Limni would also get adequate protection. The Committee asked Cyprus to fully implement Recommendation No. 63 (1997); to create a National Park and ensure the maintenance of the ecological integrity of the area; as well as to apply the ecosystem approach to the Akamas peninsula, including Limni.

At the 29th meeting of the Standing Committee, the delegate of Cyprus informed that there had been no great changes since the previous year.

At the 2010 Standing Committee meeting, noting the absence of delegates from Cyprus, the Secretariat briefly summarised the government report, stressing that a part of the Akamas Peninsula was officially proposed to integrate the Natura 2000 Network and that the final boundaries of the area, as well as the management plan, have been forwarded to the Secretariat. However, regarding the latter it was impossible to assess its content as the plan is only available in Greek. In addition, the Secretariat informed that the authorities of Cyprus are implementing a Plan for the management of the entire area of Akamas Peninsula, which includes provisions for the improvement of the infrastructure, the restriction of certain human activities taking place in the area (i.e., safari, rally, etc.), the promotion of ecotourism. With regards to the Natura 2000 area of Limni ("Polis-Gialia"), the Secretariat informed that a draft Management Plan for the Natura 2000 site was presented to local communities in March 2010, but negotiations were still on-going. The Secretariat further informed that the European Commission recently received a complaint claiming insufficient designation and protection of the Akamas Peninsula. In that context the Commission will assess the sufficiency of the designated site as well as the measures implemented to safeguard its conservation values, with a view to ensuring compliance with relevant provisions under EU nature legislation.

The representative of Terra Cypria recalled that Recommendation No. 63 (1997) requested Akamas peninsula to be declared National Park. Instead, government proposals for the protection of Akamas have been continuously reduced to a level which is inadequate for both a Specially Protected Area designation under the Birds Directive as well as for Sites of Community Importance under the Habitats Directive. Regarding the area of Limni, an EU Natura 2000 site, although its management plan has yet to be implemented, it will still be ineffective as the area proposed for conservation is only a narrow strip of coast.

The Committee took note of the observations and reports from the NGOs and 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 as well as 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 was only available in Greek.

In March 2011 the European Union informed that the Commission was 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.

In April 2011 the Bureau examined this complaint; it took note of the lack of additional information from Cyprus authorities and decided to keep the case-file open. It asked the Secretariat to urge to National authorities a translation of the Management plan for the Limni area, while continuing liaising with the European Commission on the follow-up of the complaint lodged for insufficient designation and protection of the Akamas Peninsula.

In August 2011 Cyprus authorities sent the translation of the Executive Summary of the Draft Management Plan for the Limni Area, specifying that this only refers to the Natura 2000 “Polis Gialia” site (thus not including the proposed “Chersonisos Akama” site and informing that the Government of Cyprus has designated a wider area that will be managed via development regulations and restrictions, to ensure the highest possible protection of the peninsula.

The report from the NGO (Terra Cypria) informed that a formal notice letter and a reasoned opinion were sent by the EU to the Republic of Cyprus regarding the insufficient SPA proposal for the area. The issue should be led to the European Court of Justice.

Regarding the management plan for the Limni area the NGO asked the Bureau to note that this is not an Environmental Management Plan according to the provisions of the 92/43/EEC Habitats Directive and the corresponding national legislation. According to Terra Cypria the Management Plan deals with Town Planning issues rather than Environmental issues.

At its meeting in September the Bureau examined this complaint and decided to keep the case-file open. The Secretariat wrote to the Cypriot authorities again requesting updated information on concrete administrative or legislative measures taken or foreseen to ensure the maintenance of the ecological integrity of the area, in line with the Bern Convention’s provisions, including its Recommendation No. 63 (1997).

### **c. 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.

An on-the-spot visit was carried out in September 2005, on the basis of which the Committee adopted Recommendation No. 117 (2005), asking the Bulgarian government to reconsider its decision to approve the proposed wind farm in Balchik in view of its potential negative impact on wildlife and taking account of Bulgaria’s obligations under the Convention.

In 2006, the Bulgarian government informed the Secretariat that it did not intend to review the decision approving the wind farm project. The Secretariat received information from NGOs on a similar case involving plans to build 129 windmills 20 kms away from Balchik, between the town of Kavarna and the Kaliakra Cape.

A new on-the-spot appraisal was carried out on 20-22 June 2007. On the basis of the expert’s conclusions the 27<sup>th</sup> meeting of the Standing Committee adopted Recommendation No. 130 (2007) “on the windfarms planned near Balchik and Kaliakra, and other wind farm developments on the Via Pontica route (Bulgaria)”.

In June 2008, the European Commission opened an infringement procedure against Bulgaria because of insufficient designation of 6 sites as SPAs under the Bird Directive, one of which is the Kaliakra IBA.

In 2009, the delegate of Bulgaria informed the Committee that an “Strategic Environmental Assessment (SEA)” of Bulgaria’s Energy Strategy and National Plan for Renewable Energy Sources had been initiated in spring 2009, with meetings at expert level. Bulgaria’s Ministry of Environment and Water expressed their readiness and intention to co-operate with civil society and business representatives to achieve the necessary results and fulfil the country’s obligations for the protection of its nature and biodiversity.

At the Standing Committee meeting in 2010, the delegate of Bulgaria presented the government report, informing -among others- of measures taken concerning the preventive protection of NATURA 2000 sites. Furthermore, she confirmed that no new authorisations for development in SPA Kaliakra and IBA Kaliakra have been issued in 2010.

The delegate of the European Union informed that the Commission is currently monitoring windfarm developments in the region of Kaliakra and Balchik, particularly in the framework of three infringement procedures, namely on insufficient designation of Kaliakra IBA, on windfarm developments and other urbanization projects breaching the Birds Directive's provisions, and on systematic failure to provide adequate protection to birds. However, the delegate stressed that the EU noted progress and efforts from national authorities, although she requested the case-file to be kept open for ensuring international co-ordination and support on the issue.

The representative of BirdLife noted that cumulative impacts have to be taken into account as, for instance, collisions of birds nearby protected areas are still an issue. He recognised that the government undertook positive steps, although he pointed out that the problem is far to be solved.

The representative of AEWA stressed that this is a case of great concern for the Agreement since the number of turbines in the area has exponentially increased since the case-file was opened. He noted that the location of the windfarm is critical because it is on a migratory route and pointed out that the plan for the development of windfarms coincide with some critical feeding areas.

The 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 infringement procedures opened.

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

In April 2011 the Bureau decided to keep the case-file open in order to be vigilant on the development of other windfarms in the region.

A report sent by BirdLife Bulgaria in August 2011 considered that the situation is still at a very critical stage. In fact the windfarm project in Kaliakra is stopped but not cancelled and, in addition, Balchik and Kaliakra proposed Emerald Network/Natura 2000 sites are being damaged by a large number of other developments, including tourist complexes, golf courses and infrastructure, which are also being planned and authorised without proper regard to the nature value of the sites.

The report recalled the infringement procedures opened by the EU against Bulgaria related to Kaliakra and informed that a number of other sites of international ecological value along the Northern Black Sea coast are becoming threatened by other wind farm developments. According to the NGO this situation is in contravention of Articles 2, 3, 4 and 6(b) of the Convention, as well as of Recommendations No. 93 (2002) and No. 108 (2003) of the Standing Committee.

The NGO report concludes by requesting the Bureau to approach the Bulgarian Government for a progress report on the implementation of the Bern Convention provisions and recommendations, and the EU to step-up progress with regards to the general SPA designation infringement procedure against Bulgaria in relation to Kaliakra IBA, as well as on the particular infringement case on lack of adequate protection of Kaliakra.

At its meeting in September the Bureau decided to keep this case-file open and asked Bulgarian authorities to attend the Standing Committee meeting. The Secretariat contacted both Bulgarian authorities and the EU for updated information on the ecological situation of Balchik, Kaliakra and the Black Sea Coast.

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

In 1998 the Standing Committee discussed the threatened status of the species in France and adopted its Recommendation No. 68 (1998) on the protection of the Common hamster (*Cricetus cricetus*) in Alsace (France).

In 1999 the Standing Committee adopted its Recommendation No. 79 (1999) on the protection of the Common Hamster (*Cricetus cricetus*) in Europe.

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 Standing Committee in November 2007, the French delegation presented the range of measures taken, including a restoration scheme approved by the *Conseil national de la protection de la nature* (National Nature Conservation Board).

The Standing Committee decided to open a case-file, not calling into question the efforts already made by the authorities, but wanting to highlight the urgent need for action in the field.

In June 2008, the European Commission sent to France a final written warning for failing to implement proper measures to safeguard the great hamster of Alsace.

Considering that the population is still under threat, the European Commission brought the case before the European Court of Justice in June 2009.

In 2008, the Standing Committee examined an Action Plan for the Common hamster in Europe and adopted its Recommendation No. 136 (2008) on improving the conservation of the Common hamster (*Cricetus cricetus*) in Europe.

At the 29<sup>th</sup> Standing Committee meeting, the delegate of France reported on the recent results of the measures taken within the framework of the restoration plan, including the positive attitude of farmers towards the proposals of contracts; the control of infringements, with the launching of a specific plan; and actions undertaken to give statutory value to the whole mechanism.

The delegate of the European Commission reported on the conclusions of the meeting held in June with the French authorities, including that agri-environmental schemes remain insufficient despite the progress made. The representative of the *Association Sauvegarde Faune Sauvage* felt that the situation is still very worrying as 387 burrows were not covered by biotope protection agreements in 2009.

The Committee decided to keep the case file open and continue to follow it up in close co-operation with the European Commission.

At the 2010 Standing Committee meeting the French delegate announced that the situation of the species was stabilising and was even improving as a result of the application of the 2007-2011 Action Plan. The increase in numbers since 2007 showed how co-ordinated and effective the measures had been.

The findings of the prospection campaign had confirmed the presence of the common hamster in 25 different municipalities (24 in *Bas-Rhin*, 1 in *Haut-Rhin*). The target of 22% of suitable crops in protected agricultural areas (ZAPs) had been reached and there had been a significant increase in the surface area of land covered by agreements. The increase in wild populations was continuing. The species' needs were taken into account when drawing up urban planning documents. As to public road-building projects, particularly significant compensatory measures were planned (Strasbourg Western bypass and Southern ring road, *Piémont des Vosges* expressway).

The representative of ASFS said that the policy that had been implemented had failed. Many relict populations had disappeared, not enough account was taken of species in urban planning documents and



the impact of agreements with farmers was limited. He asked for the common hamster to be added to Appendix II to the Habitats Directive and for the case file to remain open.

The European Commission delegate informed that a hearing on this subject had been held at the European Court of Justice. The conclusions would be published in January 2011.

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 surfaces 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 concluded that France had failed to fulfil its obligation to strictly protect the Common Hamster under the Habitats Directive and requested that the country is fined by the Court.

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 continued to be performed. The report informed 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 informed 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 the actions of mobilisation of the farmers, the report stressed that the objective of 22% of favourable cultures was largely achieved in the Northern ZAP and almost reached in Southern ZAP (772 hectares of favourable crops for 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 had been foreseen as compensatory measures.

Finally, the report mentioned that the exchanges with German and Dutch partners would be intensified.

In April 2011 the Bureau decided to keep the case-file open and asked the Secretariat to liaise with the European Union.

The judgment of the ECJ was issued on 9<sup>th</sup> of June 2011 and it condemned France for failing to take sufficient measures to protect the Common hamster.

In a report sent late August French authorities informed that, since the release of the judgment by the ECJ, the National Action Plan for 2007 - 2011 has been actively implemented. Moreover, an evaluation of the measures so far implemented is ongoing to serve as a basis for the preparation of the Action Plan for 2012-2016.

However, the *Association Sauvegarde Faune Sauvage* continues to consider that the situation is very critical, stressing that the population decreased from 11,000 hamsters in 2001 to only 460 in 2011. In a report sent in July 2011 the NGO denounced the failure of public policies, particularly with regards to the corn culture (80% of the agricultural land is still devoted to that) and the urbanisation and road infrastructures' projects. The NGO requested to the Bureau to keep the case-file open until there is a significant and reasonable increase in the population levels (estimated at 1,500 individuals per ZAP).

At its meeting in September the Bureau decided to keep the case-file open in order to better assess the measures that France will take as a follow-up to the judgment of the European Court of Justice.

The Secretariat contacted both French authorities and the EU for updated information for next Standing Committee meeting.

**e. Italy: Eradication and trade of the American Grey squirrel (*Sciurus carolinensis*)**

In 1999, the Standing Committee adopted its Recommendation No. 78 (1999) on the conservation of the Red squirrel (*Sciurus vulgaris*) in Italy. In 2005, the Standing Committee adopted its Recommendation No. 114 (2005) on the control of the Grey squirrel (*Sciurus carolinensis*) and other alien squirrels in Europe, asking Italy to start without delay an eradication programme.

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. An on-the-spot appraisal was carried out in May 2008.

The main conclusions of the expert's visit were that the presence of the American grey squirrel in Italy was a serious threat for the survival of the protected native Red squirrel, and that this expansive trend had the full potential to turn the invasion into a continental problem, where France and Switzerland would become the next countries to be invaded.

In 2008, the Standing Committee agreed to open a case file and decided that a new Recommendation was not necessary. Instead it asked the Secretariat to communicate a list of actions to the Italian government.

In September 2009, the Italian government reported on progress to finalise the signature of a Memorandum of Understanding between the regions concerned, and the preparation of a LIFE+ project on: "Eradication and control of grey squirrel: actions for preservation of biodiversity in forest ecosystems", with the involvement of the three regions (Lombardia, Piemonte and Liguria), and the Ministry of Environment. Regarding the decree to ban the trade and keeping of American grey squirrel which will cover the whole national territory, the final text was agreed in late July 2009, and it will shortly be examined by the legal offices of the three Ministries involved (Agriculture & Forestry; International Trade; and Public Health).

At the 29<sup>th</sup> meeting of the Standing Committee, the delegate of Italy announced that the Ministry of Environment was fully committed to implementing Recommendation No. 123 and therefore had concluded a MoU in August 2009 with the three regions involved and two research institutions. A number of activities had been planned, including control of the species, monitoring of Grey and Red squirrels and awareness campaigns. The Ministry was preparing a decree to prohibit the trading and keeping of the Grey squirrel.

The Committee took note of the information presented and welcomed progress in the conclusion of a MoU among all the actors involved in the control of the species, as well as plans to pass legislation banning trade on the species. However, it considered that there had been no action on the ground nor legislation approved, so it decided to keep the case file open, asking Italy to fully implement Recommendation No. 123 (2007).

At the 2010 Standing Committee meeting, the delegate of Italy presented the report from the government, informing that in August 2009 a Memorandum of cooperation was signed by the three concerned Regions, although this is still awaiting the signatures of the competent Provinces for entering

into force. He continued by informing that the draft decree for banning the trading and keeping of the Grey squirrel is currently under discussion of the competent legal offices. He further highlighted some measures recently undertaken in the field of the control and eradication of the species, focusing on a Life+ Project, launched in September this year which is likely to contribute to solving the situation. The delegate also mentioned that, at last CITES Committee of the EU member states management authorities, Italy successfully proposed the inclusion of the Grey Squirrel in Annex B of Regulation No. 338/97, which concerns the introduction in the EU of species which are particularly dangerous to native species of flora or fauna. He concluded by asking the Standing Committee to recognize the progresses made to the case-file.

The delegate of Switzerland considered that much still remains to be done in future, and so far the measures undertaken have been only a few. He recalled that the listing of species under CITES Convention concerns the control of international trade, while in the current case-file it is the national control on domestic trade which is questioned.

Noting that the decree concerning the banning of the trade and keeping of the American grey squirrel was not approved yet, the 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 was available; however, they promised to provide a proper update for next Bureau meeting.

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

On 8<sup>th</sup> September, Italian authorities sent a short note informing that there was no substantial progress with regards to the adoption of the decree. The authorities also forwarded a short summary of the reporting to the EC on the implementation of the LIFE+ project, informing on the establishment of a Task Force, on the publication of a website, as well as on public meetings organised to present the project. Unfortunately, due to the very late sending, this information could not be properly assessed before the Bureau meeting.

The Secretariat contacted Italian authorities to ensure their participation at next Standing Committee meeting, as well as to request a detailed report, informing not only on the preliminary outcomes of the LIFE+ project, but also on other administrative or legislative measures foreseen or under investigation, to remedy to the delays in the adoption of the decree on the banning of the trade and to ensure the full implementation of Recommendation No. 123 (2007).

## **1.2 Possible file**

### **- France: Conservation 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.

In 2008, the French government reported that a restoration plan for the Common Spadefoot (*Pelobates fuscus*) and the Green toad (*Bufo viridis*) was under development, at the initiative of the regional authorities (DIREN Lorraine). The plan would be completed at the end of 2009, with specific actions starting in 2010.

In 2009, the delegate of France informed the Committee about the National Action Plan, which will pay special attention to awareness-raising.

The representative of the *Association Sauvegarde Faune Sauvage* stressed that the situation is highly critical for the Green toad, as out of seven sites of reproduction in the *Haut-Rhin* only one remains, showing that the viable population has been decimated. He asked for the opening of a file.

The Committee took note of the information presented by the French delegate and by the NGO, and considering the very limited progress achieved, decided to treat this pending complaint as a “possible case file” at its next meeting in 2010.

At 2010 Standing Committee meeting, the French delegate announced that the National Action Plan was to be validated in the spring by the Ministry of Ecology. Activities had already started. Attempts to find out more about the species and consult a very wide range of stakeholders had held up the finalisation of the plan.

The representative of the regional environment, planning and housing directorate (DREAL) said that the regional implementation of the plan would be a priority in 2011 and that all planning files were carefully monitored.

The representative of ASFS said that the population was at threat of extinction.

According to the representative of *Societas Europaea Herpetologica* (SEH), the plan was still at the drafting stage, nothing had actually been done and development projects were continuing.

The Committee decided to keep the file as a possible case file as the procedure for drawing up the National Action Plan was not 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 awarded the call for tenders for the elaboration of the Plan) resulted in an additional delay for the finalisation of the document. Indeed, it appeared that BIOTOPE didn't undertake consultations with many important stakeholders, and that the comments of some of those who were consulted were not reflected in the document.

As a result, the DREAL Lorraine held a meeting with BIOTOPE Direction and urged the agency to finalise the Action Plan by beginning of summer 2011. The plan should be submitted to the National Council of the Protection of Nature by the autumn.

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

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

In a short report sent to the Secretariat in July 2011, French authorities informed that a draft action plan is available, although this is not yet finalised due to several failures from BIOTOPE. The Government is looking for an alternative solution which would allow finalising the work still pending and launching the implementation of the Action Plan without further delays.

The Secretariat contacted French authorities for more information on the state of progress with regards to the Action plan, but also on other measures taken or foreseen to ensure the conservation of the species meanwhile.

### **1.3 Complaints in stand-by**

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

A complaint was lodged in 2009 by the *Espace de Solidarité et de Coopération de l'Oriental* (ESCO), based in Oujda, Morocco. It related to the 4 500-hectare Moulouya estuary site, which ranks as a “zone of biological and ecological interest” (SIBE, in the French acronym), and has been a Ramsar site since 2005. The organisation denounced the huge project for a new tourist resort in Saïdia, which formed part of the country’s ‘Blue plan’ for the strategic development of the tourist industry. The project was, they claimed, devised without prior environmental impact studies and the planned infrastructure (roads, canals, water treatment plants) would damage the Ramsar site of Moulouya, which was very important for migratory bird species and hosted two thirds of Morocco’s total known bird species. The organisation had submitted a complaint to the public prosecutor at the Berkane Court of First Instance in 2006, to which it had had no response to date. They had also organised a petition to safeguard the Moulouya site, which had been signed by 680 people.

The Moroccan authorities have informed the Secretariat that this 700-hectare project along a 6 km-long beachfront lies outside the limits of the SIBE and the Ramsar site. It is part of the strategic priorities for the region’s development and was agreed to, launched and encouraged by the Government. The authorities have stressed that the studies carried out under the MedWestCoast project are completely reliable.

At the 2010 Standing Committee meeting the Secretariat announced that a Ramsar Advisory Mission had been conducted on the site from 12 to 16 October 2010. As a result, many recommendations had been made, covering all aspects of plant and wildlife conservation.

The Moroccan delegate, who had taken part in this visit, informed the Committee that the tourist project next to the Ramsar site had indeed raised concerns but these had been dispelled as a result of the on-the-spot visit. The report was being validated by the Moroccan authorities but certain measures had already been taken.

The 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.

In April 2011 the Secretariat informed that the report of the Ramsar consultative visit, expected to be made public in February 2011 was still waiting for the validation by the National competent authorities.

In July 2011 the authorities of Morocco informed that the situation in the Moulouya wetland site is under control and that consultation with Ramsar Secretariat are ongoing to ensure that the touristic development plans are implemented in conformity with both the Ramsar and the Bern Convention. However, Ramsar Secretariat informed that the report is still being bilaterally reviewed and that it will be possibly made public only in the autumn.

#### **- 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. In particular, the NGO expresses concerns over the significant threats to the natural habitats of severely threatened species (although it only mentions several bird species in the complaint), as well as over the quality of the Environmental Impact Assessment (EIA), and the lack of adequate planning and development policies.

The NGO highlights that the area is also a Ramsar site; that seven different development projects are being implemented in the area; and that some of these new infrastructures are being built within 100 meter

of a so called “coastal protection stripe” of the Dniester River, foreseen by the Water Code of Ukraine (article 89), within the protected area called “The Dniester water meadows”.

In May 2010 the Secretariat contacted Ukrainian authorities on this topic and informed the Ramsar Convention on the presumed massive commercial prawn fishing taking place in the Black Sea Biosphere Reserve, which includes Ramsar sites “Tendrivska Bay” and “Yagorlytska Bay”. The Secretariat of the Ramsar Convention expressed concerns on the compatibility of these activities with the maintenance of the ecological character of the sites and asked to the State Agency for Protected Areas of Ukraine to report on these activities as well as on potential threats and possible sustainable solutions.

Noting the lack of response from Ukrainian authorities the Bureau, meeting in September 2010, 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 Ramsar sites of “*Tendrivska Bay*”, “*Yagorlytska Bay*” and “Norther part of the *Dniester Liman*”. 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 stressed 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 Ramsar site of *Yagorlytska* bay. The State Ecological Inspection of the North-West Black Sea Region was informed and asked to take appropriate actions. However, the report didn't 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 Inspection in Odessa Oblast 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 project environmental measures are not implemented; from the report it is not clear if the damage amounts to 3264.02 UAH or if the company has been fined for 3264.02 UAH (which correspond to approximately 300 Euros). The Secretariat has requested a clarification which was not provided.

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 had not received any clarification since. The Standing Committee Meeting of the Ramsar Convention was held in May 2011 and written National reports should be submitted by September 2011.

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 would take a decision on the

follow-up to this complaint at its next meeting in September. However, the Secretariat informed that no response to the request of complementary information was provided by Ukrainian authorities.

The Secretariat contacted Ukrainian authorities to request an updated report for next Standing Committee meeting.

## **2 FOLLOW-UP OF RECOMMENDATIONS AND EVOLUTION OF THE SITUATION IN:**

### **➤ Recommendation No. 110 (2004) of the Standing Committee on minimising adverse effects of above-ground electricity transmission facilities (power lines) on birds**

In 2009, the Standing Committee recognised that this is an important issue which requires further follow-up and agreed to include this topic in its 2010 meeting agenda, with a view to discussing a draft recommendation on the basis of the information and assessments received.

A compilation of national reports was prepared in 2010 (document TPVS/Files (2010) 11) following the reports received by 15 Contracting Parties. The NGO report from 2009 was reviewed in 2010 (T-PVS/Files (2010) 13, including recommendations to expedite the work in Western and Central Europe, avoid new legacy of dangerous power poles in Eastern Europe and raise awareness for avoiding electrocution in Northern Europe. The NGO report also suggests to temporarily introducing a bi-annual reporting system to collect regular update on progress made in the implementation of the recommendation. A decision on the issue could be eventually taken by the Standing Committee at its 30th meeting.

At the 2010 Standing Committee meeting the representative of the NGO presented the updated report, focussing on its recommendations.

The representative of BirdLife highlighted that the issue is not controversial but a technical one. He informed that BirdLife is preparing a European conference on this topic, to be held in April in 2011 and hosted by the Hungarian national electricity company under the Hungarian Presidency of the European Union. The conference will be a high level event focussing on banning the use of dangerous power lines.

The delegate of Germany informed on the successful experience of German authorities to tackle this issue and explained that there are several solutions which are not necessarily expensive. He offered his country's assistance to other contracting parties to share the examples of good practices contained in the national guidance on the "Protection of Birds on Powerlines" as well as to present them at next Standing Committee meeting.

The delegate of Norway expressed concerns regarding the NGO's recommendation of introducing a temporarily two-years reporting system.

The delegate of Slovakia suggested that it would be good to have a catalogue of good examples to be inspired on, as well as to introduce a ban on dangerous power-poles through national legislation. She stressed that solving the problem of electrocution is a long process demanding time and capacity to tackle two different issues: the one of the new poles and the one of securing the old powerpoles.

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.

It 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).

At its meeting in April 2011 the Bureau noted that the issue of electrocution of birds also concerns the AEW, 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 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 should be discussed at next Bureau meeting.

The Secretariat addressed official letters to the following organisations: International Association for Falconry and Conservation of Birds of Prey; CMS; EU; AEWA; IUCN; Migratory Birds of the Western Palaearctic (OMPO); European Centre for Nature Conservation (ECNC); Barcelona Convention but received no reply.

However, BirdLife informed about the findings of the International Conference on Power lines and bird mortality in Europe, held in Hungary on 13<sup>th</sup> April 2011. The conference was co-organised by MME/BirdLife Hungary, the Ministry of Rural Development of Hungary and BirdLife Europe and was kindly hosted by MAVIR (the Hungarian Transmission System Operator Company Ltd.), as part of the official programme of the Hungarian EU Presidency in 2011. The conference examined the very serious problem caused by, mostly medium current powerlines, for some species of birds, some even globally threatened, especially raptors (vultures, eagles, buzzards, falcons), storks, Great bustards, and owls and the possible solutions.

It concluded with the adoption of a ‘Budapest Declaration on bird protection and powerlines’, which aims to encourage countries, the EU and non EU countries, NGOs and businesses to work towards eliminating the risk to birds from powerlines. The Declaration recalls Recommendation No. 110 (2004) of the Standing Committee and calls on all interested parties to jointly undertake a programme of follow up actions such as– among others – “To report every two years (starting from 2012) on the actual progress in the implementation of Resolution 110 of the Bern Convention and of this Declaration”.

At its meeting in September, the Bureau decided to hold a discussion on the “Budapest Declaration” at the next Standing Committee meeting, in view of its possible endorsement by the Committee.

➤ **Recommendation No. 144 (2009) of the Standing Committee on the wind park in Smøla (Norway) and other wind farm developments in Norway**

At its 29<sup>th</sup> meeting, the Standing Committee decided not to open a case file following a complaint lodged in 2001, concerning the establishment of two wind farm complexes in the Archipelago of Smøla, in an area of importance for the nesting of White-tailed Eagles and other species. The Committee adopted Recommendation No. 144 (2009) on the wind park in Smøla (Norway) and asked the government of Norway to report on its implementation at the next meeting of the Standing Committee.

At the 2010 Standing Committee meeting, the delegate of Norway presented the national report on the implementation of the Recommendation, including information on the EIA regulation with regards to wind-farms projects; on a coordinated licensing process for addressing cumulative effects, as well as on conservation policies. She emphasized that the population trends as regards white-tailed eagle are positive on Smøla as well as in Norway, and that the species could by now comprise more than 3000 pairs (in Norway). She noted that all the successful breeding on Smøla in 2010 took place outside the wind farm area. She further informed that the research project on windfarm power generation and birds launched in 2007 is expected to be completed next year. As part of this project a large international conference will take place on 2-5 May 2011 in Trondheim (Norway), on wind energy and wildlife impacts, including debates on challenges and solutions. She proposed to invite one of the scientists involved in the research programme to present its findings at the next Standing Committee meeting. She concluded by informing on administrative procedures.

The representative of BirdLife informed the Committee on some gaps in the government report, highlighted by the Norwegian Society of Ornithology. The gaps concern information on the mortality caused directly by the windfarm. He noted that losses have been increasing if compared with previous years. He appreciated the research presented in the national report, noting however that only few information are provided on the cumulative impact.

The delegate of Norway explained that the mortality figures are public and correspond to 9 fatal collisions accidents for white-tailed eagles in 2008, seven in 2009 and ten in 2010. She confirmed that these figures are source of concern for the authorities and that they constitute a worrying trend but argued



that the population of white-tailed eagles in Smola is increasing and that this increase is likely to be reflected in the mortality numbers.

The Committee decided to review Recommendation No. 144 (2009) at next Standing Committee meeting.

In a report sent to the Secretariat in July 2011 Norwegian authorities provide detailed information on each of the points of Recommendation No. 144 (2009), as well as on the outcomes of the Conference on Wind energy and Wildlife impacts, held on 2<sup>nd</sup> – 5<sup>th</sup> May 2011, organised by NINA (Norwegian Institute for Nature Research) and CEDREN (Environmental Design of Renewable Energy). The aim of the latter was to share experiences on how wind-power plants may affect wildlife, and discuss how to meet the challenges created by the world-wide increased activity in large scale wind-power plant construction. The conference ended with a panel debate focusing on future challenges. Detailed information on CWW 2011 in English is accessed at <http://cww2011.nina.no>.

The authorities additionally informed on the findings of the BirdWind Project on Smøla, which was formally finalised on 31<sup>st</sup> December 2010 and of which the white-tailed eagle (WTE) has been a focal species. The project confirms that, since 2005, 39 WTEs have been recorded as victims of collisions with turbines. However, it seems that there has been no significant trend in population size, neither positive nor negative, since the DNA monitoring started 5 years ago.

As regards mitigating measures, the findings of the project make clear that progress on developing mitigating measures to reduce the collision hazards require increased species-specific knowledge on how the birds' behavior is determined by their vision as well as on how birds are using their biomechanics and aerodynamic skills to cope with the turbulence and vortices in the vicinity of the wind turbines.

NINA/CEDREN is preparing an application to grant a BirdWind 2 project, with focus i.a. on mitigation measures.

➤ **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**

At its 30<sup>th</sup> meeting, the Standing Committee decided not to open a case file following two complaints lodged in 2008 concerning (1) the construction of a waste management plant in the Var region which would affect the population of Hermann tortoise in the commune of Cabasse, some 20 kms away from the Massif des Maures, where lie few core places for the species; (2) a housing project (of 120 units) over 10 ha in the town of Ramatuelle (Var department) in a forested area known as “Combes Jauffret”, situated less than 2 kms away from a Natura 2000 site (the “3 Caps”), and where around 30 individuals of Hermann tortoises were recorded and which is also a site of reproduction.

The Standing Committee had decided to organise an on the spot-appraisal in 2010 and this had been carried out on 14 and 15 June 2010. The expert, Mr Guy Berthoud, presented the findings of his appraisal visit.

Since the adoption of Recommendation No. 118 (2005), major protection measures had been introduced, particularly the creation of a national nature reserve and the publication of the National Action Plan to protect the Hermann Tortoise, knowledge about the status of the species in the Var region had evolved and a fourth facility for the storage of non-dangerous waste had been authorised at Balançon, causing further harm to the Hermann tortoise.

As to the first complaint, the Billettes site (in Cabasse) was a well-preserved priority habitat, of benefit to many protected species including the Hermann tortoise. The felling of 26 hectares of forest and the construction of a 1.7 km-long fenced-in road would increase the isolation of a population that was already partly cut off, and the compensatory measures that had been proposed did not guarantee the preservation of the species in this area. As it stood, the project should be rejected.

As to the second complaint, the Combes Jauffret housing project consisted of a plan to construct 110 homes, 70 of which would provide social housing.

After the discovery of a population of Herman tortoises on the site, the initial surface area of 18.8 hectares had been reduced to 3.3 hectares to avoid disturbance in the most sensitive areas. The project would have to be monitored very closely as it was carried out.

The expert highlighted two major problems – the intolerable predation of the species by boars and the future high-speed rail link that was to cross the Plaine des Maures.

The report contained proposals which had been partly incorporated into the draft recommendation.

The French delegate considered that Recommendation No. 118 had had a major impact. The establishment of the 5 276-hectare reserve had been a major turning point. He stressed how complex and difficult it had been at local level to find a satisfactory alternative to Balançon. The Cabasse waste landfill site project had been devised to provide a solution and if it was not implemented, it would be difficult to find an alternative.

The representative of the *Societas Europaea Herpetologica* welcomed the efforts made by the French authorities.

The Committee welcomed the efforts made by the French authorities and decided not to open a file. It adopted Recommendation No. 151 (2010) on protection of the Hermann tortoise (*Testudo hermanni*) in the Massif des Maures and Plaine des Maures localities (Var) in France.

The French delegate is invited to present an updated report to the Standing Committee at its 31<sup>st</sup> meeting.

- **Recommendation No. 119 (2006), on the conservation of certain endangered species of amphibians and reptiles in Europe**
- **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**