

Strasbourg, 20 October 2015
[Inf22e_2015.docx]

T-PVS/Inf (2015) 22

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

35th meeting
Strasbourg, 1-4 December 2015

**ASSESSMENT REPORT ON THE LEGAL AND
ADMINISTRATIVE IMPLEMENTATION OF THE BERN
CONVENTION IN GREECE**

- FINAL -

*Document prepared by
Ms Virginia MURRAY, Watson Farley & Williams, Greece
on behalf of the Bern Convention*

TABLE OF CONTENTS

Author’s Notes	3
EXECUTIVE SUMMARY	4
INTRODUCTION	5
A. LEGISLATION AND IMPLEMENTATION	6
1. Legislative framework.....	6
2. The Council of State.....	7
3. State organisations for the protection of wildlife and habitats.....	8
4. Environmental inspection and liability.....	8
5. The Natura 2000 Commission.....	9
6. Civil Society – non-governmental organisations.....	10
7. The Green Fund.....	11
B. PROTECTED HABITATS AND SPECIES	11
1. Types of protected area under Greek legislation.....	11
2. Management plans.....	12
3. Natura 2000 Sites.....	12
4. Natura 2000 site management authorities.....	13
5. Licensing of activities in Natura 2000 Sites.....	15
6. Participation and co-ordination in protected areas: education and dissemination of information.....	16
7. Species protection.....	16
8. Biodiversity data collection.....	17
9. The 2014 Biodiversity Plan.....	18
10. Prioritised Action Framework (PAF).....	19
C. PARTICULAR ISSUES	20
1. Forest.....	20
2. Coastal areas and seashore.....	21
3. Hunting.....	22
4. Unlawful use of poisoned baits.....	23
5. Zakynthos: <i>Caretta caretta</i> protection.....	23
6. The 2014 Kyparissia Recommendation.....	24
7. Exploitation and marketing of protected molluscs.....	26
CONCLUSIONS AND RECOMMENDATIONS	27
SCHEDULE 1 – LIST OF DEFINED TERMS	29
SCHEDULE 2 – LIST OF PROTECTED AREAS IN GREECE	30

Author's Notes

*I would like to thank George Politis, Professor Kyriakos Georghiou of the Athens University Biology Department, Ioli Christopoulou and George Chasiotis of WWF, Konstantina Ntemiri and Malamo Korbeti of the Hellenic Ornithological Society, Vivi Roumeliotou of the Society for the Protection of Prespa, Panagiota Theodorou of Archelon and Vassilis Stamogiannis of MEDASSET for their vital contribution to this report, and also students Emmanuel Economides and Dimitris Dodis for their kind assistance in the research. I am also indebted to the excellent "Evaluation Study to support the Fitness Check of the Birds and Habitats Directive" (the "**Fitness Report**") compiled by WWF with the contribution of numerous NGOs in March 2015. I would also like to thank the Ministry of Environment, in particular Dr. Chrysomallis and Dr. Ververis of the Directorate for Biodiversity and Land Protection and Waste Management for their assistance in responding to my questions. Any errors are of course my own.*

Due to the huge amount of material and the long history of environmental legislation and its implementation in Greece, I have elected to concentrate on recent circumstances and developments and to refer only briefly to previous legislative regimes and events.

I am a British national, qualified as a barrister and as a Greek lawyer, and have lived and worked in Greece for over 18 years. I am the head of the Greek-law team at the international law firm "Watson Farley & Williams"; the firm has supported the considerable work undertaken in drafting this project as part of its community and social responsibility programme.

EXECUTIVE SUMMARY

Greece is a country rich with varied habitats, flora and fauna. It has been a member of the European Union since 1981 and a signatory to the Bern Convention since 1983. Its implementation of the Bern Convention has taken place through the implementation of the Habitats and Birds Directives.

Greece has harmonised its legislation with the EU Habitats and Birds Directives, and has implemented all the other environmental protection directives. Natura 2000 sites currently cover over 27% of its territory, and further marine Natura 2000 sites and marine protection areas are expected to be added in the next few years.

The supervisory powers of the European Environmental Agency and the European Commission have been used against Greece on numerous occasions, through infringement procedures and enforcement actions before the Court of Justice of the European Union (“CJEU”), to ensure that environmental regulations are enforced in practice.

The Council of Europe has also conducted infringement procedures, resulting in the Recommendation concerning the Kyparissia area made by the Council in December 2014. Our enquiries show that little or no action has been taken by the Greek authorities since that time, with the exception of the rejection by the Council of State of a draft Presidential Decree which would have declared the area a regional park; the Council of State’s reasoning is full and detailed and includes a recommendation that the area should be designated a national park, which would give the area additional protection against planned commercial development. A new draft Presidential Decree is expected in 2016.

The practical implementation of environmental protection in Greece has been obstructed by lack of administrative co-ordination and planning (notably in relation to management plans setting the operational parameters for Natura 2000 sites) and lack of funds allocated to environmental protection, both indicators of a lack of political prioritisation. The financial crisis in Greece of the last five years has added further pressure to curtail environmental protection in order to encourage commercial and tourist developments, as well as leading to even greater cuts in the environmental inspectorate mechanism. Lack of funds has also led to a failure to resolve infrastructure issues (for example, those related to waste management) which have effects on protected areas.

Whilst flora and fauna protection regulations exist independently of protected habitats, in practice (with the exception of a limited number of well-publicised animals, such as the turtle, wolf, monk seal and bear) most protection of flora and fauna species takes place through protection of their habitats.

The principal risks facing habitats and species in Greece relate to touristic pressure on sea and shore areas, as well as building and illegal logging in forest areas. Illegal hunting and the largely indirect effect of poison baits continue to pose a serious risk to bird populations.

In spite of these problems and in the face of a huge drop in available funding, some Natura 2000 sites continue to flourish due to the work of determined staff in management bodies and NGOs. In 2014 Greece made significant steps in creating a Biodiversity Strategy, a Prioritised Action Framework and commissioning data collection studies, as well as introducing legislation to protect wetland areas on small islands.

INTRODUCTION

Greece hosts 91 habitat types (82 terrestrial and 9 marine) of Annex I of the Habitats Directive (out of a total of 233 Habitat Types of the Directive) and 112 flora and fauna species of Annexes II, IV and V of the same Directive. Out of the abovementioned 91 habitat types, 19 are priority habitats (17 terrestrial and 2 marine), while out of the 112 species 40 are priority species. Among the priority habitats occur: Coastal lagoons (1150), Mediterranean salt steppes (*Limnietalia*) (1510), coastal dunes with *Juniperus spp.* (2250), Mediterranean temporary ponds (3170), Tilio-Acerion forests of slopes, screes and ravines (9180) and others. In the remaining habitat types of Annex I coastal and halophytic habitats, freshwater habitats, dunes, sclerophyllous scrub (matorral), screes and forests are included. Moreover 30 purely Greek habitat types are recorded in Greece which are not included in Annex I of the Habitats Directive.

In Greece 61 flora species (plant taxa) of community interest are found. Out of a total of 61 plant taxa, 26 have been included as priority species in Annex II of the Habitats Directive and represent 16.7% of the total 156 European priority plant species. The large majority are steno-endemic species (with one sole population or a few sub-populations). 23 species are found in only one floristic area-region. Examples: *Centaurea niederi* grows in two neighboring floristic areas (Peloponnese and Central Greece), *Silene holzmannii* – an endemic species of the small islets in the Aegean Sea is found in 5 floristic regions, while finally the species *Carex panormitana* (*Carex acuta*) has a broader European distribution. The remaining 34 angiosperm and 1 bryophyta species which grow in Greece (15 endemics and 10 sub-endemics) are included in Annexes II, IV and V of the Habitats Directive which in total add up to 61 plant taxa (1 bryophyta, 3 pteridophyta and 57 angiosperms).

As regards the fauna species which are included in Annex II of the Habitats Directive, the most recent official data are available in the 2nd Six-Year Report on the Implementation of the Habitats Directive. The following are included: 3 species of molluscs (none is a priority species), 24 species of arthropods (4 out of which are priority species), 19 species of fish (5 out of which are priority species), 5 species of amphibians (none is a priority species), 12 species of reptiles (3 of which are priority species) and last 23 species of mammals (3 out of which are priority species). It is worth mentioning that in Annex II of the Habitats Directive there are no embedded species groups such as Cnidaria, Annelids and Echinoderms. In Greece species of such groups belong to Annexes IV and V of the Habitats Directive.

Additionally, the large habitat diversity of the country in combination with the prevailing special biotic and abiotic factors, result in the occurrence of a large variety of bird species. In total, 442 bird species have been recorded in Greece, of which 147 are included in Annex I of the Birds Directive. Depending on their status and their occurrence they are distributed in the following basic categories: regular breeding, winter visitors, passage migrants, random/ misguided visitors (many species are included in more than one category). The majority is found within Special Protection Areas (SPA) for avifauna of the European Ecological Network Natura 2000, while 201 constitute species for the designation of SPAs, (i.e. species which fulfil the conditions so that their presence leads to the establishment of such areas and which fall under a special protection status).

Among these species figure large birds of prey (*Aquila chrysaetos*), falcons (*Falco eleonora*), nocturnal species (*Tyto alba*), seabirds (*Phalacrocorax aristotelis*), gulls (*Larus audouinii*), shorebirds (*Himantopus himantopus*), herons and pelecaniformes (*Ardea purpurea*, *Pelecanus crispus*), aquatic species (*Branta ruficollis*), forest species (*Phylloscopus bonelli*) as well as species of grassland ecosystems (*Sylvia sp.*, *Emberiza sp.*)¹.

¹ This summary is taken from the introduction to the Priority Action Framework (<http://www.ypeka.gr/LinkClick.aspx?fileticket=sgwYR3v9BWU%3D&tabid=539&language=el-GR>).

A. LEGISLATION AND IMPLEMENTATION

1. Legislative framework

Paragraphs 1 and 2 of Article 24 of the Constitution of the Hellenic Republic is the basis for environmental protection within the country and the responsibility of the State in that regard. As is evident, the principal concern of the draftsman was the protection of forested areas. It provides as follows:

“1. The protection of the natural and cultural environment constitutes a duty of the State and a right of every person. The State is bound to adopt special preventive or repressive measures for the preservation of the environment in the context of sustainable development. Matters pertaining to the protection of forests and forest expanses in general shall be regulated by law. The compilation of a forest registry constitutes an obligation of the State. Alteration of the use of forests and state forest expanses is prohibited, except where agricultural development or other uses imposed for the public interest prevail for the benefit of the national economy².”

“2. The master plan of the country, and the arrangement, development, urbanisation and expansion of towns and residential areas in general, shall be under the regulatory authority and the control of the State, in the aim of serving the functionality and the development of settlements and of securing the best possible living conditions.”

An interpretative declaration was also added to this Article in 2001, which provides that:

“By forest or forest ecosystem is meant the organic whole of wild plants with woody trunk on the necessary area of ground which, together with the flora and fauna co-existing there, constitute, by means of their mutual interdependence and interaction, a particular biocoenosis (forest biocoenosis) and a particular natural environment (forest-derived). A forest expanse exists when the wild woody vegetation, either high or shrubbery, is sparse.³”

Article 117 paragraph 3 of the Constitution also gives additional protection to forest land which has been destroyed by fire in order to prevent the use of arson to allow an area to lose its forest characterisation and be used for other purposes, providing:

“Public or private forests or forest expanses which have been destroyed or are being destroyed by fire or have otherwise been deforested or are being deforested, shall not thereby relinquish their previous designation and shall compulsorily be proclaimed reforestable, the possibility of their disposal for other uses being excluded.”

The Council of State (“StE”, see section 2, below) has also held that the protection of the environment is “each citizen’s responsibility and right”⁴. However, although these provisions were introduced into the constitution in 1975, the legislation which implemented the environmental protection foreseen by the Constitution was not introduced until 1986⁵. And some measures, such as the agreement of a national forest map, have still not been brought into force.

Greece implemented the Bern Convention (the “**Convention**”) into Greek law by Law 1335/1983. The Constitution provides that “international conventions as of the time they are ratified by statute and become operative according to their respective conditions shall be an integral part of domestic Greek law and shall prevail over any contrary provision of the law.”⁶ This means that the Bern Convention, as an

² This paragraph was initially introduced in 1975, and was amended in April 2001.

³ Taken from the official translation on the Hellenic Parliament website.

⁴ StE Decision No. 3050/2004

⁵ Law 1650/1986

⁶ Constitution, Article 28 paragraph 1

international treaty, prevails over the usual provisions of Greek legislation. No specific legislation was however passed to implement the habitats and species protection required by the Convention until the Habitats and Birds Directives were implemented. Since then, the Convention is rarely referred to directly by the Greek courts, with the exception of certain decisions relating to hunting rights⁷.

Measures for the protection of wildlife and wildlife refuges were introduced through legislation prior to the Convention, principally in relation to forest areas as part of the Forest Code⁸ and subsequent legislation⁹. The law setting out types of nature reserves and measures for their protection was initially set out in legislation in 1986¹⁰, which legislation has been repeatedly amended, most notably by the Biodiversity Law (*see below*).

The Birds Directive was implemented into Greek legislation by Joint Ministerial Decision (“JMD”) in 1985,¹¹ but the Habitats Directive was not implemented into Greek legislation by JMD until 1998¹², after the conviction of the Hellenic Republic at the CJEU¹³ for the delay in its implementation.

Directive 2004/35/EC on environmental liability was implemented in Greece by Presidential Decree 148/2009, after enforcement proceedings were brought to the CJEU by the European Commission¹⁴.

The principal legislation which currently governs the protection of the environment and biodiversity is Law 3937/2011 (the “**Biodiversity Law**”) which entered into force in March 2011. This provides that biodiversity constitutes “*a valuable, irreplaceable and vital national asset*” and places the obligations of the State in relation to scientific research concerning the protection of biodiversity and its uses¹⁵. Until the Biodiversity Law was passed, Natura 2000 sites needed to be designated as national protected areas by JMD or Presidential Decree in order to obtain any special restrictions as to their use; this was a slow and expensive process which effectively prevented even basic protective provisions being applied to Natura 2000 sites. The Biodiversity Law now gives specific protection provisions for all Natura 2000 sites (*see section B3*).

Greece was the EU Member State with the highest number of open DG Environmental infringement proceedings in 2014 (36 out of a total of 334 for all Member States) and the highest number of Article 260 referrals to the European Court of Justice relating to failures to fulfil its obligations under CJEU judgments (8 out of a total of 43)¹⁶. The CJEU has ruled a number of times against Greece for breaches of the Birds and Habitats Directives, some in relation to waste management (which falls outside the scope of this report) and others in relation to failures to protect turtles¹⁷ in Zakynthos, or failure to preserve natural habitats¹⁸.

2. The Council of State

The Hellenic Republic Council of State (known by its Greek acronym as “StE”) is the supreme administrative court in Greece. As well as hearing applications to cancel general and individual administrative acts based on constitutional and administrative law provisions, it is also authorised to review all proposed Presidential Decrees for lawfulness.

⁷ For example, StE Decisions Nos. 336/1993, 1174/1994 and 2726/2011, all relating to the cancellation of hunting season regulations (declaring the regulations invalid for not being based on reliable and updated information).

⁸ Law Decree 86/1969

⁹ Law 998/1979 and Presidential Decree 67/1981 on the protection of indigenous species of flora and fauna and procedures for the co-ordination of relevant research

¹⁰ Law 1650/1986

¹¹ JMD 414985/1985

¹² JMD 33318/3028/1998

¹³ C-329/96

¹⁴ C-368/08

¹⁵ Art.17, para. 1

¹⁶ Source: ec.europa.eu/environment/legal/law/statistics.htm

¹⁷ C-103/00

¹⁸ C-517/11 on Lake Koroneia

Prior to the full hearing on applications to cancel administrative acts or permits, the StE can order interim suspension of the effect of such acts or permits on the basis of the irremediable risk of damage to the environment presented by the proposed activity.

The StE has issued a number of trenchant decisions upholding the Birds and Habitats Directives, as well as the Water Directive, the most recent of which is decision 24/2014 in which it held that the plan to divert the Acheloos river in northern Greece violates the Water, Habitats, Birds and EIA Directives. As the environment is a matter of national interest, no particular legal interest is required to entitle a person to bring a claim before the StE applying for cancellation of an administrative act on environmental grounds.

3. State organisations for the protection of wildlife and habitats

The Biodiversity Law confirmed that the Ministry of Environment, Energy and Climate Change (known by its Greek acronym, “**YPEKA**” or the “**Ministry**”) is responsible for biodiversity and for maintaining all data in relation to protected areas, and the “*development of personal responsibility and the spirit of voluntary contribution.*” The responsibility for the environment had been moved to this Ministry on its creation in 2009; prior to this environmental protection had been housed in the same Ministry as the responsibility for public works. The remit of YPEKA was included in January 2015 into the newly-created “Super Ministry” of “Productive Reconstruction, Environment and Energy”. Agricultural Development was also included in this Ministry’s remit, but this was hived off after the general elections in September 2015 and so the Ministry is now known simply as the Ministry of Environment and Energy. Agricultural biodiversity is in the responsibility of the Ministry of Agriculture. All Ministries are obliged to incorporate the protection of biodiversity in all sectoral policies which will have an effect on species and habitats, and priority should be given to the implementation of strict biodiversity measures in sectoral policies concerning housing, agricultural and fishing policy, as well as transport, industry, tourism and energy¹⁹. Co-ordination of all Ministries is the responsibility of the government.

Within the general directorate of the Ministry, there are three departments: of these, one is the general directorate of environmental policy and another is the general directorate for the development and protection of forests and the agricultural environment. The environmental policy directorate contains three departments: (i) protection of biodiversity and soil and waste management; (ii) climate change and atmospheric quality; and (iii) environmental licensing. The general directorate for the development and protection of forests and agricultural environment contains four departments: (i) forest planning and policy; (ii) protection of forest and agricultural environment; (iii) forest works and infrastructure; and (iv) management of forests and forest environment.

4. Environmental inspection and liability

The Independent Coordination Office for the Implementation of Environmental Liability (ICOIEL), supported by the Committee for the Implementation of Environmental Liability (CIEL), was centrally appointed pursuant to Presidential Decree 148/2009 as the competent agency for the implementation of the Environmental Liability Directive. The ICOIEL has issued a circular with instructions on the operation of the environmental liability procedure²⁰ for the guidance of the regional commissions. In its report to the European Commission in October 2013,²¹ YPEKA reported that a total of 52 cases had been opened under the Presidential Decree, of which 43 cases were still open (11 were open on the basis that remedial work had been ordered but not completed), and 9 cases had been closed after fines/remedial work had been ordered. Only 8% of the cases involved threatened species or habitats, which “*mainly involve the*

¹⁹ Art. 15 para.4

²⁰ Circular 65/2011, at <http://static.diavgeia.gov.gr/doc/45700-%CE%94%CE%A16>

²¹ http://ec.europa.eu/environment/legal/liability/pdf/eld_ms_reports/EL.pdf (in English)

*destruction of dunes and natural vegetation, due to interventions such as excavations and the dumping of surplus excavation material, the opening up of roads and the building of illegal structures.”*²² All investigations are carried out by the Environmental Inspectorate.

The Environmental Inspectorate was established in 2001²³ and its administrative organization in 2003²⁴. Its principal responsibility is to carry out investigations to determine compliance with applicable environmental terms and legislative requirements in projects and activities of public, semi public and private sectors across the country. It also has the responsibility for the protection of the natural environment, particularly in protected environmental areas, streams and beaches. It also makes compliance inspections of licensed projects whilst they are in operation.

The General Secretary imposed fines upon the recommendation of the Environmental Inspectorate in 30 cases in 2013, in a total amount of €1,735,490. The fines referred to environmental infringements found during checks by the Environmental Inspectors, with major violations in management of hazardous industrial, urban and other waste²⁵. Fines were imposed on municipalities for waste violations, as well as industrial installations.

There were however only 27 environmental inspectors in the whole of Greece in 2013 (divided into two sections, one for the North and one for the South of the country), and 25 at the beginning of 2014²⁶, rendering their ability to exercise real control over proposed projects, operating projects and environmental breaches limited at best. 303 inspections took place in 2013, of which 50.6% related to public sector activities, but given the reduction in manpower, only 200 inspections were planned for 2014²⁷.

The Forestry Department has absorbed the agricultural policing service, and officers of the Forestry Department have inspection, policing and investigation powers.

The Biodiversity Law amended the provisions on making criminal complaints about crimes against biodiversity, providing that the state, local government bodies, National Technical Chamber of Greece, the Geotechnical Chamber of Greece, universities, bar associations, MAs, NGOs and individuals can bring criminal actions for the reinstatement of the environmental damage, without being required to prove any individual loss or damage²⁸. This has therefore greatly broadened the number of persons and bodies which can pursue court actions to ensure that legislation is being appropriately enforced.

5. The Natura 2000 Commission

The Natura 2000 Commission was established by the JMD which implemented the Habitats Directive in 1998²⁹; its task is to oversee protected areas and to coordinate, supervise and assess planning, organisation and operational issues relating to the national system for the management and administration of protected areas. It is also authorised to comment on draft legislation and to advise the Ministry on sustainable management of protected areas³⁰, including the characterisation of protected areas and the determination of permitted activities within such sites³¹. Law 3937/2011 provides that the Natura 2000 Commission “*constitutes the central scientific advisory body for the co-ordination, supervision and*

²² *Op. cit*, page 37

²³ Article 9 of Law 2947/2001 "Olympic Hospitality, Infrastructure Works Olympic and other provisions".

²⁴ Presidential Decree 165/2003 "Administrative organization, structure and staffing of the Special Environmental Inspectorate".

²⁵ <http://www.ypeka.gr/LinkClick.aspx?fileticket=B1UUD90vS6M=&tabid=396&language=el-GR>

²⁶ 2013 Annual Report issued by the Environmental Inspectorate, pp.2, 14

²⁷ 2013 Annual Report issued by the Environmental Inspectorate, p.14

²⁸ Law 1650/1986, Art.28 para. 7, as amended by Law 3937/2011 and Law 4042/2012

²⁹ JMD 33318/3028 of 28 December 1998, as amended

³⁰ Law 3937/2011, Art.3.2

³¹ Art.21 of 1650/1986, as replaced by Art. 6 of Law 3937/2011

assessment of policies and measures for the protection of biodiversity in Greece.”³² The Commission is also authorised to advise the Ministry concerning issues relating to the operation of the protected area management bodies, as well as advising on the allocation of funds for these purposes.

In the context of these obligations, the Natura 2000 Commission produced a report in November 2011 setting out its proposals for the reorganisation of the bodies charged with the management of protected areas, in which it stated that, “...it would be catastrophic for Greek nature if, in the context of reorganisation, the same old inconsistencies arose which allow for widespread breaches of the application legislation, unlawful construction and illegal activities which will be even worse now, given the extremely adverse conditions in which the country now finds itself.”

The fact that the Commission had not given its approval to the draft Presidential Decree turning the Kyparissia area into a regional park was the basis upon which the StE struck down the proposed draft; the court held that it was both a formal and a substantive reason, as the legislation requires that the experts gathered in the Commission do give their reasoned opinion in relation to matters within their remit.

6. Civil Society – Non-governmental organisations

A number of NGOs are active in Greece, not only local branches of international organisations, but also local, national and specialist organisations, such as those which protect certain fauna³³. The Hellenic Ornithological Society (“EOE”) plays a key role in bird protection. These organisations have on occasions issued joint memos and proposals³⁴ to the Ministry setting out the problems faced in protected areas in Greece and making legislative and other proposals. They have also brought applications before the StE, such as the application relating to the new tourism zoning regulations on the basis that they are in breach of the Habitats and SEA Directives as they permit large integrated tourist resorts within Natura 2000 sites without adequate environmental assessment (*court proceedings pending*). WWF’s legal team has been supporting citizen’s complaints about environmental breaches since 2002 and undertook 500 cases between 2002 and 2009³⁵.

WWF’s annual national legislative report³⁶ constitutes a significant summary of the legislative developments over the previous year and the activities taken by NGOs to contest legislative and administrative actions. NGOs also undertake regular information dissemination and awareness-raising campaigns.

NGOs have also worked with private enterprises to ensure habitat and species protection, for example collaboration between a mining company and the EOE on the restoration of mining pits in the Giona mountain Natura 2000 site, the Sani wetland project to protect and promote a wetland supported by a large hotel resort in Chalkidiki³⁷ and the restoration of the Vravra wetland, in which EOE has worked with the archaeological department and the Athens International Airport³⁸.

³² Art. 19.2

³³ For example “Arktouros” for the protection of the bear and wolf, “MOM” for the monk seal and “Archelon” and “Medasset” for the protection of the *caretta caretta* turtle.

³⁴ For example, (i) the “*Proposal for a comprehensive biodiversity protection framework*” (in Greek) published in October 2009 by WWF, Greenpeace, Arktouros, the EOE, the Greek Society for Environment and Culture, MOM, the Greek Society for the Protection of Nature, Callisto for wildlife and nature, Mediterranean SOS and Archelon.

³⁵ WWF Greece legal team report, 2009

³⁶ The most recent of which is “Environmental Legislation in Greece”, 10th annual review – summary, September 2014.

³⁷ http://www.saniwetlands.gr/en_GB/; http://www.sani-resort.com/en_GB/sustainability/Partnerships.

³⁸ www.ornithologiki.gr/en/vravrona

7. The Green Fund

The “*Special Fund for the application of regulatory and zoning plans*” is a public body established in 1972 and renamed the “Green Fund” in 2010³⁹ in order to fund programmes for environmental protection, improvement and reinstatement, including energy efficiency, forest management and works to improve the urban environment. Its income was intended to come from fines imposed for breaches of building regulations and environmental legislation, as well as deductions from all payments made to producers of electricity generated by renewable energy sources. However, 97.5% of the Green Fund has now been allocated to general State expenses, and only 2.5% is now allocated to environmental projects; many of these are urban projects, as the funds collected from fines for breaches of urban building regulations is expressly directed for urban regeneration projects. In general, NGOs comment that it is difficult for third parties to assess whether the Green Fund is collecting all the funds to which it is entitled under the legislation.

B. PROTECTED HABITATS AND SPECIES

1. Types of protected area under Greek legislation

The first national park in Greece (covering the Mount Olympus area) was created in 1938, and other acts of national nature and species protection have continued since then, including wild animal refuges and protection of specific species as part of forestry codes. The Ramsar Convention also introduced wetland protection in the 1970s (all Ramsar protected zones were also included in the Natura 2000 regime). The Biodiversity Law amended the previous legislation on the characterisation of national protected areas originally introduced by Law 1650/1986, which are now defined as follows:

Strict nature reserves: these are areas with extremely fragile ecosystems or protected flora or fauna. All activities are forbidden in these areas. Scientific research may be permitted as an exception, but only in accordance with the management plan.

Nature reserves are areas of significant ecological or biological importance. No development is permitted here other than works required for the preservation of the area, scientific research and low-impact occupations and activities, provided that these do not conflict with protection requirements. These areas may also contain strict nature reserves.

Natural parks: these can be land and/or water-based areas with particular natural value as a result of the quality and quantity of their natural and cultural characteristics, in particular biological, ecological, geological, geomorphological and aesthetic and which in parallel also offer significant development potential which can be implemented in a manner consistent with the protection of the region. A park will be described as a national park if it is either cross-border or it has exceptional ecological or other natural importance to be a matter of national significance. One of the reasons why the draft Presidential Decree on the operation of the Kyparissia protected area was that it declared the park to be a regional park rather than a national park, thereby allowing additional activities to take place in the park (*see section C6 below*).

Habitat/species management areas: these are divided into special areas of conservation, special protection areas and wildlife refuges.

Protected landscapes/seascapes and protected natural formations.

No comprehensive tourist development areas may be situated in nature reserves or national parks. Renewable energy projects may be installed in national parks, habitat/species management areas and protected landscapes, as well as designated protection areas around nature reserves as a measure for climate protection, provided that the terms of the environmental terms approval ensure that the object intended to be protected has been appropriately safeguarded.

³⁹ Law 3889/2010

Natura 2000 sites cover 42,928.21km² of which 16,518km² overlap with some type of national protected areas (see above). This means that while 38.48% of the Natura 2000 network has also been designated as a national protected area, 61.56% of the National Protected Areas have also been designated as Natura 2000 sites.

A full list of protected sites is set out at Schedule 2 to this report.

2. Management Plans

The final characterisation and management plan for any Natura 2000 area which include building restrictions must be incorporated in a Presidential Decree on the proposal of the Ministry following the recommendation of the Natura 2000 Commission; all Presidential Decrees are also subject to the prior approval of the StE⁴⁰. The draft Presidential Decree must be communicated whilst still in draft form to the local administrative authorities and be opened to public consultation for a minimum of one month on the Ministry's website. The consent of the relevant Ministry is required if the area has agricultural significance, passenger airports or defence installations. The conditions and limitations on developments in an area under characterisation as a protected area may be set by JMD, but only for a period of up to two years (which may be extended for up to one year in exception circumstances). Law 1650/1986, as amended in 2011, provides that a JMD governing protected areas can be issued as temporary measures (two years with a one-year extension) until the Presidential Decree can be issued designating the area with a specific characterisation and management plan⁴¹. Many areas also have "action plans" issued as Ministerial Decisions, governing the coordination of activities, allocation of responsibilities and powers of the managing bodies⁴².

However, many of the characterisation and interim management plans issued as JMDs (which are not subject to prior approval by the StE), have not been replaced in time with Presidential Decrees, rendering the Decisions vulnerable to cancellation by the StE on the application of any interested party⁴³. Once the JMD has been struck down, the relevant area is again without any management plan at all (even a temporary one) until the full Presidential Decree is passed. Currently, management plans have been issued by Presidential Decree for 4 SAC sites and 2 SPA sites, representing 2% and 1% of the total area respectively. Many of these plans were issued only after infringement proceedings by the European Commission (notably in relation to Zakynthos⁴⁴, Lake Koronia⁴⁵ and for the Schinias area in Attica)⁴⁶.

A notable recent achievement is the Presidential Decree⁴⁷ approving a list of 380 small wetland habitats on islands across Greece, which provides clear mapping of the areas and a list of presentation and preservation activities to be encouraged, as well as forbidden actions in relation to those sites. The Ministry also sent out a circular to all public administration bodies explaining the scope of the Presidential Decree and calling on those bodies to co-operate in its implementation.

3. Natura 2000 Sites

The Natura 2000 network in Greece includes 419 areas, of which 239 have been designated as SACs and 2 as SCIs. 202 are SPAs, while 24 areas are both SCIs and SPAs. The area of SCIs is 2,807,512 ha, which covers 16.3% of the terrestrial area of the country and 5.7% of the territorial waters. The area of the

⁴⁰ Art. 21 para. 7 of Law 1650/1985 (as amended by Law 3937/2011, Art. 6).

⁴¹ Art. 21 para. 9 of Law 1650/1875

⁴² Recent examples are the action plans for (i) the Evros Delta, (ii) the Nestos Delta- Lake Vistonida and Ismarida areas, and (iii) Lake Kerkini and the broader area, published as MDs on 20 May 2015

⁴³ For example, StE Decision No. 808/2014 (concerning the Chelmos mountain range and Vouraikos gorge).

⁴⁴ C-103/00

⁴⁵ C-517/2011

⁴⁶ Fitness Report, p.10

⁴⁷ Presidential Decree on the "Approval of the catalogue of small island wetlands and clarification of terms and limitations for the protection and presentation of coastal wetlands included therein" (published FEK "Volume for Expropriation and Urban Planning" (A.A.P.) 229/19.6.2012).

SPAs is 2,952,476 ha and covers 21.1% of the terrestrial area and 1.4% of the territorial waters. In total the surface of the Natura 2000 Network in Greece is 4,294,205 ha and covers 27.2% of the terrestrial area and 6.1% of the territorial waters of the country. Based on the surface of the Greek network Natura 2000 which corresponds to 4.5% of the surface of the European ecological network, Greece is ranked in the tenth place in relation to the 28 member-states of the European Union. The average coverage of the national terrestrial area of Europe is 17.5%, hence Greece is ranked in the sixth place among the 28 EU Member States (after Slovenia, Bulgaria, Slovakia, Cyprus and Spain).

Within the Natura 2000 network, forest and semi-natural surfaces constitute the main land cover category (percentage 75.2%), followed by agricultural areas (15.2%). The remaining categories follow with considerably smaller percentages: bodies of water (1.5%) artificial surfaces (0.4%) and wetland (0.4%), while there are no data regarding the land cover for 7.3% of the network area. Forest and semi-natural areas are better represented within the Natura 2000 network, whilst agricultural areas are less well represented. Built surfaces such as houses and streets are also observed in these areas, but with very small land cover percentages. With respect to human activities, Natura 2000 sites are mainly used for farming and animal husbandry purposes, followed by activities like logging, hunting and fishing.⁴⁸ There is an expectation that further marine Natura 2000 sites need to be created in Greece; the necessary studies are not yet completed, although a LIFE Seabirds project has created the marine IBA inventory of Greece, covering 1,000,000 ha (of which only 11% is designated as marine SPA)⁴⁹ and a new LIFE project is working towards the creation of a new marine protected area in the Cyclades⁵⁰.

Art. 9 of the Biodiversity Law provides special protection for all Natura 2000 sites, namely:

- No intrusive or dangerous industrial installations;
- No fishing using trawl nets, dredges, shore seines or similar nets and with static nets over coralligenous habitat and mael beds⁵¹;
- No fish farming on *poseidonia* beds;
- No advertising signs, other than those of an informative nature or promoting low-impact outdoor activities.

Building is still permitted in Natura areas, but only on plots with a minimum size of 10,000 sq.m; this minimum plot size is reduced to 4,000 sq.m if at the time of introduction of the Biodiversity Law the plot was deemed to be suitable for construction. The introduction of horizontal Natura 2000 provisions (however limited) in the Biodiversity Law was considered an important step in the protection of such areas, as these will apply even though management plans are not in place.

Sand and gravel extraction has also been specifically forbidden in the priority protection areas of Natura 2000 sites⁵².

4. Natura 2000 site management authorities

The management and administration of nature reserves, national and regional parks and habitat/species management areas is to be performed by management authorities (“MA”)⁵³. Wildlife refuges and protected landscapes/seascapes and protected natural formations are managed by local

⁴⁸ Information taken from the PAF, *op cit.* p.9: the PAF also contains land use in tabular format at p. 10.

⁴⁹ <http://www.ornithologiki.gr/seabirds>; Hellenic Ornithological Society. 2013. Final Report LIFE07 NAT/GR/000285 - “Concrete Conservation Actions for the Mediterranean Shag and Audouin’s Gull in Greece including the Inventory of Relevant Marine IBAs”, Athens; Fric, J., Portolou, D., Manolopoulos, A. and T. Kastritis. 2012. Important Areas for Seabirds in Greece. LIFE07 NAT/GR/000285 -Hellenic Ornithological Society (HOS / BirdLife Greece), Athens.

⁵⁰ See www.cycladeslife.gr

⁵¹ In implementation of Council Regulation (EC) 1967/2006, Art. 4.

⁵² JMD 42279 of 24/30.11.1938, as amended on 14 February 2014 by JMD EΠΠ/ΓΕΝ/ΟΙΚ. 12285.

⁵³ Art.15 of Law 2742/1999

authorities. As well as establishing management bodies, Art.15.1 of this Law also allows for the Ministry to allocate the management of a site to a third party (such as a NGO), or indeed multi-level participation to include representatives of the local community. This has never been done, and all MAs are currently established as state-owned companies governed by private law.

29 MAs for Natura 2000 sites currently operate, covering a total of about 35% of the surface area of SACs and SCIs (covering 55 SACs and 55 SCIs); only two areas with a MA have an approved management plan, whilst a further 16 have some sort of regulatory framework (JMD or Presidential Decree). The MAs were merged by a law on the streamlining of public entities in 2013⁵⁴ to result in 14 MAs; this measure has however been suspended until the end of 2015.

Law 2742/1999 (as amended by Law 3937/2011) provides that the Ministry should establish a central unit for the support of MAs for protected areas. This has not been done.

Inadequate resources (personnel, administrative and financial) is noted as an important factor leading to difficulties in the effective management of MAs. Similarly, the large number of agencies which are involved pursuant to different and often overlapping legislation (particularly forestry and conservation legislation: interviewees in the Apostolopoulou study reported on average 22 stakeholders per site), whilst many of those stakeholders concerned with environmental licensing at a regional and national level often had little or no specific knowledge of the site itself.⁵⁵ In spite of this, through strong leadership and the personal commitment of their staff, many MAs have been able to make considerable contributions to the management of the protected areas for which they are responsible. MAs also complain that they have little or no enforcement powers, and need to rely on other organs (the police, forestry authorities or hunting wardens) to enforce protective measures.

A number of leading NGOs have complained in a strongly-worded memo to the Ministry dated July 2013⁵⁶ that the Ministry had failed to appoint MAs or establish management plans and in general had failed to provide overall guidance, ordering of priorities and proper allocation of the limited resources available for environmental protection. Their complaints about the Ministry in relation to the operation of the MAs can be broadly summarised as follows:

- Failing to provide central support relating to financial management (including the application of public accounting regulations), the application of legislation and guidelines on the management and protection of the ecological characteristics of their areas. They state that each MA had been forced to hire its own lawyer to assist on employment and operational issues which are in fact common to all such bodies, due to the lack of central guidance;
- Delays and unexplained refusals relating to the authorisation of public tenders for publicly-funded projects and costs, and delays in payment so that the staff of the MAs have not been paid for months and they have been unable to pay for wardens to patrol the protected areas;
- Ministry staff who are members of the boards of MAs rarely attend meetings;
- Failing to issue management plans for all national parks (including proposals for low-impact development which would bring benefits to residents of the area);
- failing to work with other countries in the region to develop best practice; and

⁵⁴ Law 4109/2013

⁵⁵ Apostolopoulou, E., Drakou, E. G. and Padiaditi, K., 2012, 'Participation in the Management of Greek Natura 2000 Sites: Evidence from a Cross-Level Analysis,' *Journal of Environmental Management*, 113 (December): 308–318, Apostolopoulou, E. and Pantis J. D., 2009, 'Conceptual Gaps in the National Strategy for the Implementation of the European Natura 2000 Conservation Policy in Greece', *Biological Conservation*, 142 (1) 221–237.

⁵⁶ Memo entitled "*The Ministry of Environment drives the protection of nature to a dead end*" (in Greek), published jointly in July 2013 by WWF, the Society for the Protection of Prespa, Arktoouros, the Greek Society for Environment and Culture, MOm, the Greek Society for the Protection of Nature, Callisto, Mediterranean SOS and Archelon.

- disregarding the advice of the Natura 2000 Commission.

5. Licensing of activities in Natura 2000 Sites

Law 4014/2011 Article 10 *et seq.* governs the licensing of activities in Natura 2000 sites. It states that environmental licensing takes place in accordance with the relevant individualised Presidential Decrees and JMDs, and if there are no such provisions, Category B projects require a special ecological assessment which is submitted to the environmental department of the relevant region, and for Category A projects, the special ecological assessment must be submitted to the relevant body as part of the environmental impact study. The law and subsequent ministerial decisions set out the precise content of these reports, as well as providing that regional environmental authorities are obliged to share information for the purposes of compiling these reports. Greece has also implemented SEA Directive on strategic environmental assessments in 2006.⁵⁷ This implementation has recently been upheld by the StE following a reference to the CJEU.⁵⁸ The StE found that the requirements in the JMD for assessment of whether there is a likelihood that the proposed measure might substantially affect an area within the Natura 2000 network prior to commissioning an environmental report were consistent with the Appropriate Assessment requirements of Art.3(2)(b) of the SEA Directive and the precautionary principles of the Habitats Directive.

Commentators have noted⁵⁹ that the Greek legislator has failed to distinguish between the Appropriate Assessment rules set out in the Habitat Directive and the provisions of the SEA Directive: the Appropriate Assessment condition is examined by the StE in the context of the completeness and quality of the environmental impact assessment, rather than separately, and the distinction between the nature of the environmental impact studies for Category A projects and Category B projects are not consistent with the Habitats Directive. It should however be noted that the appropriate assessment criteria are considered separately within the environmental impact study.

Wind farms are permitted within Special Protection Areas for birds provided that the special ecological assessment has been completed⁶⁰; the StE has also insisted (in application of the Birds Directive) that wind farms in IBAs not also designated as SPAs must also have special ornithological studies⁶¹ and this was implemented by Law 4296/2014.

Environmental authorities (through authorised environmental inspectors) are obliged to conduct prior inspections, and thereafter regular and occasional inspections to ensure that the provisions of environmental licences are being observed⁶².

Law 4014/2011 however also permitted the extension of the validity of environmental permits whose time limits have expired, thereby allowing projects in sensitive areas to continue to operate without the regular environmental assessment and evaluation envisaged by the legislation⁶³.

Farmers are compensated against loss of livestock from wild animal attacks through the Greek Agricultural Insurance Organisation⁶⁴ although compensation for damage to crops is granted only for damage caused directly by bears, wild boar and, on the Island of Limnos only, wild rabbits⁶⁵. Complaints

⁵⁷ JMD No.107017/28.8.2006

⁵⁸ StE (full court) Judgment No. 786/2014 (report in *Environment and Law* 2014, p.29).

⁵⁹ In particular, Professor Georgios Balias's article, "Appropriate evaluation of the impact of works and plans in Natura 2000 sites", published in *Environment and Law* 2014, pp.577 *et seq.*

⁶⁰ "Special Zoning Framework for the Planning and Sustainable Development of Renewable Energy Source Projects", Ministerial Decision No. 49828/2008, Art.6 para.3 as amended by Art. 13 of Law 4296/2014

⁶¹ StE Decisions 1422/2013, 807/2014

⁶² Art. 6 of Law 1650/1986, as amended by Art.20 of Law 4014/2011.

⁶³ Art. 5 of Law 4014/2011

⁶⁴ Livestock Asset Insurance Regulations (ELGA Decision No. 270568/11.12.2003).

⁶⁵ Crop Insurance Regulation (ELGA Decision No. 157502/27.7.2011).

have been made that compensation for crop damage is only offered for losses stemming from such a limited group of wild animals⁶⁶, and that the insufficient (and frequently delayed) compensation leads to farmers and herdsman resorting to unlawful use of poison baits.

6. Participation and co-ordination in protected areas: education and dissemination of information

A recent article published in the Journal of Environmental Management⁶⁷ reported the results of a series of wide-ranging interviews with 96 interviews and 734 questionnaires of national, regional and local level stakeholders in three Natura 2000 sites in Crete. The findings revealed divergent explanations given for failures in management of protected sites, but also a real lack of local public participation in management decisions and indeed a failure at every level to appreciate the significance of local involvement and co-ordination in order to ensure the success of management plans and local support. This also translated into lack of awareness amongst the local population concerning which activities caused loss of priority habitat and which were illegal.

The authors of the article are of the opinion that formal governance structures which require for multi-level participation in decision making do not exist; in areas where there is public participation, this appears to rely on the goodwill and voluntary actions of local site-specific stakeholders. The authors of the article concluded that site-specific stakeholders did not view this aspect as important and indeed when asked were unclear as to what such public participation could involve. Some of this is related to budgetary constraints, as travel to the site and local meetings have been reduced due to lack of funds for travel. Interviewees were of the opinion that funds allocated for information centres and public awareness had not been used to disseminate information to local residents. The authors note: *“The chronic barriers in establishing participatory processes in Greek biodiversity governance, as well as current approaches and practices, have created mistrust between authorities and local residents and have reinforced the feeling of injustice between local communities”*.⁶⁸

However, it is clear that there has been an improvement in the understanding on all sides as to the importance of communication and co-operation between environmental protection stakeholders and local communities, and several recent NGO projects have been directed at this aspect, such as EOE’s LIFE project concerning changing attitudes to illegal hunting of birds, particularly in the Ionian region⁶⁹. The “Thalassa: Learn, Act, Protect” project was also conducted to inform the general public and pupils in schools of the 14 marine mammals, 9 resident and 5 occasional, that are found in the Greek sea, providing knowledge and showing ways to coexist with them in harmony.

A number of other funded projects are intended to improve agricultural practices in order to encourage wildlife, such as the project in the Thessalian plain to ensure that uncultivated areas are planted and maintained in a manner which encourages lesser kestrels⁷⁰.

7. Species protection

Greece has very few species action plans, with the exception of the bear, which gained an action plan in 1996; however, in effect many EU-funded LIFE projects have led to unofficial species management plans which have produced considerable positive results, such as those relating to the Lammergeier in Crete, the *Phalacrocorax aristolelis* populations on uninhabited islets and the protection of the Eleonora falcon through a national wardening plan⁷¹. National Action Plans in Greece for the threatened

⁶⁶ For example, question by MP Manos Konsolas in Parliament, October 2014, referring to damage to crops in Rhodes from deer and wild rabbits.

⁶⁷ Apostolopoulou et al (2012), op cit.

⁶⁸ Apostolopoulou et al (2012) op. cit. p.315

⁶⁹ LIFE+11 INF/IT/000253 “A Safe Haven for Wild Birds: Changing attitudes towards illegal killing” <http://www.leavingisliving.org/life/index.php/en/>.

⁷⁰ Fitness Report, p.41

⁷¹ Fitness Report pp. 11-12 and footnotes.

Fennoscandian population of the Lesser White-fronted Goose (*Anser erythropus*) and the Egyptian Vulture (*Neophron percnopterus*) have been completed and are expected to be adopted by the relevant authorities⁷². A new bear management protocol was introduced in February 2014 to reduce human-bear interaction⁷³.

A LIFE project has recently applied the innovative concept of Plant Micro-Reserves in Greece, as a complementary network to Natura 2000 network, for the conservation and management of plant populations of threatened and rare species of Greek flora⁷⁴. Two recent publications have also contributed to the establishment of information knowledge base for Greek plant species necessary for the implementation of various conservation and protection practices, measures and actions, thus contributing to achieving the EU Biodiversity Strategy Objectives and Targets⁷⁵.

8. Biodiversity data collection

One of the principal difficulties facing the conservation effort in Greece today is the lack of comprehensive data concerning habitats and species, but in particular species information: the data of the second Six-year report on the implementation of the Habitats Directive in Greece found that 62% of species were in an unknown status and that there was no data and information at all in relation to 1%. Habitat mapping took place in 1999-2001 in Natura areas⁷⁶ and the Ministry and the EOE (as consultant to the Ministry) published the latest Red Book on endangered species in 2009.

Greece did not submit any reports on bird species between 2008 and 2012 pursuant to the Birds Directive; whilst it did deliver reports on habitats and species pursuant to Article 17 of the Habitats Directive, it only did so in January 2015, 13 months after the agreed cut-off dates for the EU assessments⁷⁷. For bird data, the EEA used information from EOE in preparing its reports⁷⁸.

The Hellenic Republic was given two months by the Commission to provide a reasoned report on its failure to provide reports and data⁷⁹. However, in 2014 the Ministry commissioned a total of nine reports on the supervision and evaluation of habitats, flora, invertebrates, amphibians/reptiles, fish, mammals, sea fauna and birds in Greece at a total cost of €9,523,376. We understand that all these reports have all been submitted in first draft in the course of 2015. The commission closed its investigations formally on 24 September 2015.

The European Environmental Agency's 2015 technical report notes, in relation to the Habitats Directive reporting obligations, that:

⁷² Fitness Report, p.29

⁷³ JMD 104180/433/2014

⁷⁴ "CRETAPLANT: A Pilot Network of Plant Micro-Reserves in Western Crete": For more information, see: <http://cretaplant.biol.uoa.gr/> and http://cretaplant.biol.uoa.gr/docs/cretaplant_leaflet_en.pdf.

⁷⁵ Dimopolous, P., Raus, TH., Bergmeier, E., Constantinidis, TH., Iatrou, G., Kokkini, S., Strid, A. & Tzanoudakis, D. 2013. Vascular plants of Greece: an annotated checklist. –Berlin: Botanischer Garten und Botanisches Museum Berlin-Dahlem, Freie Universität Berlin; Athens: Hellenic Botanical Society. Englera 31: 1-370; Georghiou K., Delipetrou P. 2010 Patterns and traits of the endemic plants of Greece. Botanical Journal of the Linnean Society, 162:130-422.

⁷⁶ Pursuant to the project "*Identification and description of habitat types in areas of interest for nature conservation*."

⁷⁷ "State of nature in the EU: Results from reporting under the nature directives 2007–2012", European Environmental Agency technical report, 20 May 2015.

⁷⁸ *op cit*, para.2.2 (p.22)

⁷⁹ "Environment: Commission asks Greece to report on nature conservation measures": press report.

“There was no report from Greece for the period from 2007 to 2012; for species and habitats present in Greece, the 2001–2006 report was used for the EU regional assessments, despite these data covering a different period. It is also known that the 2001–2006 Greek report was based on data from Natura 2000 sites rather than from the whole of Greece.”⁸⁰

The establishment of a national monitoring system is included in the 2014 Biodiversity Plan (*see section B9*), but this is not yet in place; the Ministry has advised me verbally that this system will be established in 2016, once the final data on which it will be based has been approved.

9. The 2014 Biodiversity Plan

The Ministry of Environment, Energy and Climate Change issued the country’s first national strategy and action plan in April 2014 for the period 2014 – 2018 pursuant to legislation obligations set out in the Biodiversity Law⁸¹ (the “**2014 Biodiversity Plan**”). This plan had been under discussion since 1999, and universities, environmental organisations and ministerial departments have all contributed to its final form. Its action plan has thirteen main points:

Action 1: Improve available knowledge on current biodiversity condition, including creation of a Greek ‘Biodiversity Portal’ (comparable to that of other European countries). Includes details on flora, fauna and types of ecosystems as well as maps and organisation of a system of supervision for implemented strategies with relevant monitoring indicators.

Action 2: Conservation of present natural capital and restoration of ecosystems, including the drafting of action plans for endangered species/ habitats and monitoring of their conservation status and improving infrastructure and mechanisms, ability to effectively respond to risks e.g. fire, flood.

Action 3: Organisation and operation of national systems of protected areas, including creation of a database with all available information on the limits and boundaries of zones in terms with the protection of ecological status and management of protected areas. Delimitation of important or endangered wetlands and regulation of marine traffic and fishing management.

Action 4: Conservation of the genetic resources of Greece: recording, evaluation and characterization of genetic resources (plant, fishery) with direct or long-term economic interest and legal protection of genetic resources of Greece and the products resulting from them as national capital.

Action 5: Strengthening co-operation among main sectoral policies with the conservation of biodiversity: reforming existing standards of forest management plans in order to maintain biodiversity in modern socio-economic conditions, and creating fishing protected areas or adoption of acts for the application of the provisions of the respective Fisheries Regulations.

Action 6: Conservation of Landscape diversity: Action plans to restore aspects of the rural landscape (e.g. hedgerows).

Action 7: Prevention and reduction of the impacts of climate change: research related to the impact of climate change on species, habitats and ecosystem functions. Introduction of conservation priorities (habitats at risk).

Action 8: Protection of Biodiversity from invasive alien species: Institutional arrangements for the detection, prevention input and elimination of invasive species. Training of staff.

Action 9: Enhancing the international and transnational cooperation for the protection of Biodiversity.

Action 10: Upgrading the quality and effectiveness of public administration: updating and codification of legislation related to biodiversity as well as the legal framework for the protection of biodiversity, and ensuring national resources for biodiversity conservation through the "Green Fund".

⁸⁰ *Op. cit.*, para.3.4 (p.62)

⁸¹ Art.17 para. 3(b)

Action 11: Integration of biodiversity conservation as a community value: promoting and strengthening the teaching of biodiversity issues and the protection of ecosystems at all levels of education, as well as training targeted groups in the productive sectors (e.g. farmers, fishermen etc.).

Action 12: Social participation in preserving biodiversity: strengthening business to develop products and services aimed at saving natural resources, recycling of raw materials and reduction of hazardous substances.

Action 13: Valuation of ecosystems services in Greece and encouragement of Greek value of biodiversity: improving information on the value of biodiversity and socio-economic benefits of conservation. Creation of a national system of incentives for maintenance of "natural green infrastructure".

It should however be noted that no timetables are imposed on the achievement of these goals.

10. Prioritised Action Framework (PAF)

The Prioritised Action Framework was published in December 2014. The Ministry was the Authority responsible for contracting out the PAF, whose scope includes setting out the management priorities and funding requirements for nature conservation within the Natura 2000 network "in an attempt to facilitate their integration into the current operational programs for the various EU financial instruments."⁸² The PAF represents an interesting summary of the Ministry's own conclusions concerning the effectiveness of the administration of environmental actions and projects and the efficient use of funds during the previous funding period. Notably, in "*Key lessons learnt*", the Ministry noted that:

- There was an attempt to devolve management responsibilities for certain measures to regional and local bodies, which was considered a positive act intended to release central agencies from increased workload;
- Failure to achieve EAFRD⁸³ contribution is related to the absence of explicit objectives and synergy among different program levels;
- The main obstacle is the lack of Management Plans for the Natura 2000 sites, which could have been overcome especially in areas under the jurisdiction of an organizing body;
- EAFRD contribution was not achieved due to problems relating with the implementation of the EPPERAA, such as the existence of inadequately-staffed technical bodies and failing to clarify their roles;
- The functioning of pilot applications with individual management bodies needs to be promoted during the next programming period by configuring key data in the EAFRD framework; and
- The absence of support from those farming in Natura 2000 sites, who are traditionally cautionary, is considered vital for the implementation of special measures.

The PAF also states that for the utilization of the financial instrument during the next programming period special emphasis must be given to the following issues:

- Preparation of Management Plans (for protected areas) in a way which will utilize EAFRD funding opportunities, as a mechanism for achieving conservation;
- Participation of MAs in the planning and implementation of the financial instrument;
- Constant communication between agricultural and environmental programming at both central and regional level;

⁸² PAF, p.4

⁸³ European Agricultural Fund for Rural Development

- Promotion of information and support for the farmers with beneficiaries (acting as management bodies); and
- Potential support to other structures at the local level (action groups and development companies), which have successfully implemented relevant actions, with regards to sustainable development and biodiversity conservation.

The report notes:

“A basic characteristic of the financing schemes was their focus on the operation of Management Bodies [MAs], which functioned as the delivery mechanisms of EPPERAA’s⁸⁴ projects in Natura 2000 sites. However, the limited ‘capacity’ of the management bodies resulted in their limited involvement with the substance of management and much more with the bureaucracy of program administration. The lack of explicit directions, conservation goals, evaluation criteria, as well as support for specific scientific, technical and administrative matters resulted in fragmented actions. Finally, the lack of Management Plans and the very long delays resulted in the implementation of a program of a high bureaucratic cost and with minimal management of the Natura 2000 sites.”⁸⁵

C. PARTICULAR ISSUES

1. Forest

As noted above, forested areas in Greece hold a special place in the country’s environmental protection framework and are expressly protected by the Constitution. Forest management procedures were introduced in 1953, although these are principally related to sustainable logging rather than protection of habitats of endangered flora and fauna. The Forestry Code was initially introduced in 1969 and has been regularly updated since then⁸⁶; this governs issues mainly concerning hunting, logging and control of building in forested areas. However, management plans for forested areas, as well as a number of LIFE projects, have contributed to the introduction of forest management practices which do contribute to the maintenance of habitats for plants and animals (notably bears and bird populations)⁸⁷.

Forestry authorities play a key role in protection of forested wildlife areas; this includes issuing characterisation decisions on whether an area is defined as forest or forest expanse⁸⁸, to the enforcement of legislation on illegal logging and building in forested areas. One of the principal problems facing the Forestry Authorities, other than chronic understaffing, is the lack of a national map showing all areas characterised as forest; this uncertainty leads to delays and inefficiencies in protection measures. To date, only 21.4% of the country has been mapped, but only 0.84% of the maps have been ratified and are legally in force.

An amendment to the legislation on the protection of forests, Law 4280/2014, was passed by the Greek parliament in August 2014. It was heavily criticised by environmental organisations, citizens groups, individual citizens and part of the media, as it amended Law 998/1979 by introducing a series of critical changes to forest legislation, as it:

- legalises many categories of illegal constructions in forest lands;
- expands the use of protected forested lands for industrial, energy, mining and tourism installations, roads, networks, agriculture;

⁸⁴ EPPERAA: Greek acronym for the funded Operational Programme “Environmental and Sustainable Development”.

⁸⁵ PAF, page 28, “Summary of Conclusions”.

⁸⁶ Principally by Law 998/1979, as amended from time to time.

⁸⁷ Fitness report p.16 and related references

⁸⁸ Law 998/1979, Art.14

- allows the building of residential houses within forested lands owned by housing cooperatives, a use which was never allowed and has been ruled unconstitutional by Greek courts;
- abolishes the absolute protection hitherto enjoyed by forested lands that have been destroyed by fire or clearing (*see above, section A3*), and allows their use for various activities and installations; and
- legalises agricultural land derived from unlawfully-cleared forest.

The current government has undertaken to withdraw this legislation, although no legislative proposal has yet been submitted.

The sharp increase in fuel prices combined with the financial downturn in Greece has led to a huge surge in illegal logging; the WWF 2014 annual report notes that in 2012, the Forestry Authorities commenced 3,105 lawsuits in relation to unlawful logging (up from only 166 in 2009) and confiscated 13,088 metric tonnes of illegally-logged timber.

2. Coastal areas and seashore

Due to the pressure created by tourist developments, it is no surprise that coastal habitats are amongst the worst for conservation in Greece: the PAF notes that “the majority of coastal habitat types is in bad conservation status, whilst none of the marine habitat types is in good conservation status.”

Greece produced a national management plan for the use of bottom-set trawl nets in January 2014⁸⁹ which requires annual assessment of available stocks of principal target fish species; reduction in fish stocks will lead to suspension or withdrawal of annual bottom-set trawl net fishing licences.

A complete no-fishing zone was introduced in the three-mile radius around Gyaros Island in the Aegean, a Natura 2000 zone and one of the most important monk seal habitats in the Mediterranean. A LIFE+ programme is also supporting the implementation of this no-take zone, including the active involvement of the local community⁹⁰.

The Greek Civil Code provides that all of the coastline (up to the high tideline) belongs to the State. The beach, defined as an up to 50-metre wide zone from the edge of the shore to facilitate communication between the sea and the shore, also belongs to the State but this area can be conceded to private enterprises for “simple use”, providing that this does not alter its public use, or change its form or biological characteristics. Law 2971/2001 provides further details of this prohibition, including imposing an obligation on the State to demolish all unlawful structures; a dispute about whether compensation should be paid should not delay the demolition⁹¹. The lack of a national shoreline map has however led to legal uncertainty and has contributed to delay, corruption and widespread breach of the rules⁹².

The Commission has sent an infringement notice to Greece in relation to its failure to implement a national fisheries management plan⁹³.

A bill was proposed in 2014 that would have legalized illegal coastal development and would have allowed further development, especially tourism development, along the Greek coastline, altering the provisions set out above which protects the coasts both as a commons and a valuable, fragile ecosystem. The bill created an immediate public reaction, and in less than a week more than 110,000 signatures were collected on an online petition. The bill was not introduced to Parliament.

⁸⁹ Ministerial Decision 271/2576 (FEK B No.58/16.1.2014)

⁹⁰ “Complete protection of the Mediterranean seal in the Northern Cyclades” (LIFE12 NAT/GR/000688) is co-ordinated by WWF and Mom, the Ministry of Environment, the Aegean regional Administration, the Development Company of the Cyclades, Harokopio University and the Tethys Research Institute. It is supported and co-funded by the LIFE Nature programme and the Foundation of Prince Albert II of Monaco.

⁹¹ StE Decision No. 2274/2011

⁹² Article by A. Papakonstantinou, *Environment and Law*, 1/2015, pp. 9-13.

⁹³ http://europa.eu/rapid/press-release_MEMO-15-5162_en.htm.

3. Hunting

Greece has identified areas in which hunting has been forbidden at least since 1969, when the Forest Code established wild animal refuges. Hunting is forbidden (*inter alia*) in permanent wild animal refuges, areas with temporary hunting bans, the core areas of national parks, 300m from the coastline and areas subject to special hunting bans as a result of recent forest fires. Every year YPEKA issues a Ministerial Decision setting out the hunting season and the types of prey which may be hunted⁹⁴. The EOE notes that this Decision is not based on sufficient data. The Decision sets differing start and end times for the hunting seasons by species, which commentators note makes enforcement more difficult as species which have begun to breed will be disturbed, and there is an increased risk of mistaken identification, and indeed that the CJEU has already ruled against other countries in relation to staged hunting seasons⁹⁵. A total of 31 species are licensed for hunting, of which one is listed in Annex I of the Birds Directive.

Hunting licences are regulated through the Forest Code, which requires new licence applicants to undergo a test on hunting restrictions. These tests are administered by the local hunting associations, and test the applicant's ability to recognise different types of birds by sight, as well as their knowledge of the applicable legislation and regulations relating to hunting. The EOE notes that the test is insufficient, particularly on the recognition of protected species, and that licences are granted without limits based on how many hunters each area can support. Fees from hunting licences are used by the hunting associations to fund hunting wardens, which operate in most areas where hunting is common and are intended to inspect hunters and record and enforce breaches in hunting regulations. 350 local hunting wardens operate across the country, funded exclusively by hunting licence fees collected by hunting associations; the EOE points out that the wardens are employed by private organisations, although they exercise all the enforcement powers of the Forestry Authority⁹⁶; it has also however been noted that the hunting wardens work at the weekends and outside working hours, when a forestry authority employee might not; they are also adequately funded for the costs of performing their duties (such as car fuel), where State employees may not have such funds. Other State enforcement of hunting regulations is effectively non-existent. Hunting associations have been active in policing unlawful hunting since the 1920s, and maintain that they work closely with the underfunded forestry authorities to ensure that hunting takes place in a lawful and sustainable manner. NGOs endeavour to work with hunting associations to respond to issues of illegal hunting (particularly in the Ionian Islands) and use of poison baits.

Whilst the Hunting Associations announced that over 1.4 million inspections have taken place in the last ten years to enforce hunting regulations, from which 21,000 breaches were discovered⁹⁷, the statistics issued by the Hunting Associations show that only 1.6% of these breaches relate to the hunting of protected species.

The Hunting Associations report a 30% drop in unlawful killing of birds in Greece over the last ten years, and the Birdlife Partnership Report in 2011 places Greece in the lowest category for levels of unlawful hunting outside of permitted hunting seasons. The Hunting Associations also claim a 45% reduction in hunting in protected areas (placing it in the 'medium' offending category in the Birdlife Report), and a 66% reduction in the unlawful killing of protected species⁹⁸, although Birdlife's recent report "The Killing" states that Greece is responsible for 3% of the birds killed illegally in the Mediterranean each year, and that "*the mean estimated number of illegally killed birds each year in*

⁹⁴ For the 2014-2015 period, MD 112022/2168/5-8-2014, for 2015 – 2016, MD 127568/2533/07-08-2015

⁹⁵ EOE position paper on hunting, May 2010.

⁹⁶ Art. 267 §3 of Law 86/69, as supported by the opinion of the Supreme Court prosecutor, Prot. No. 5128/10 of 3-03-2011.

⁹⁷ Presentation of Nikolaos Papadodimas, President of the National Union of Hunting Associations to the International Conference on best practice in the unlawful hunting of migratory birds, June 2014.

⁹⁸ N. Papadodimas, *op. cit.*

*Greece exceeds 704,000. On average, more than five birds are reported to be illegally killed each year for every square kilometre. Presently, of the 345 species of birds assessed in Greece, 32% of species are being killed illegally in significant numbers.*⁹⁹

4. Unlawful use of poisoned baits

The killing of birds and mammals through the illegal use of poison baits constitutes a crucial and unsolved issue in Greece. Poison baits are a non-selective method commonly used to kill wild predators (foxes, wolves, bears) and feral dogs in order to protect livestock and game against attacks. In Greece however, this practice is also used to solve disagreements among different groups of land users, such as shepherds, hunters and farmers. Critically endangered species such as Egyptian and Black vultures, as well as other scavengers and raptors, are accidental victims of these socio-economic human conflicts.

Poison baits are mainly prepared with phytosanitary products (pesticides, rodenticides etc.) which have been until now widely available to the general public. Electronic prescription of pesticides will come into force on January 2016 limiting the access to certified professionals. Given the severity of the issue NGOs have created the Task Force Against the Illegal Use of Poison Baits¹⁰⁰. The Task Force notes that the issue of the illegal use of poison baits has been given a low priority in the wildlife crime agenda and political will is urgently needed to push the issue further up. The absence of a targeted and comprehensive legal framework, together with under-resourced competent authorities (forestry and veterinary agencies), severely hinder the effective handling of poisoning events and prevention efforts. The European Commission has commenced infringement proceedings in Greece in relation to its failure to combat the use of poison baits.¹⁰¹ The Ministry of Environment is planning a new national action plan to combat the illegal use of poisoned baits, which will include safe feeding areas for predators, broader investigation powers for the Forestry Department, information campaigns, promotion of appropriate sheepdogs to guard flocks against predators and local seminars¹⁰² to bring all local stakeholders together to discuss the causes of poisoning, but also to arrange crisis management plans to counter incidents.

5. Zakynthos: *Caretta caretta* protection

As noted above, the loggerhead turtle-breeding beaches of the Laganas area in Zakynthos were included within a marine park by Presidential Decree in 1999 and was one of the first protected areas in Greece to be incorporated in the Natura 2000 programme, and the first to receive an authorised management plan. In spite of these initial milestones, the pressure of tourism on the island has meant that the breeding beaches remain under continuous threat from human activity.

The Hellenic Republic has been the subject of two judgments of the CJEU concerning failures to introduce suitable protective measures for the beaches on the island of Zakynthos, which constitute one of the most important *caretta caretta* breeding areas in the Mediterranean. Case No. C-103/00¹⁰³ concerned the Hellenic Republic's failure to adopt and enforce legislation which would prevent disturbances to the turtles during the breeding season. The Court noted, *inter alia*, not only that until the management plan was passed by Presidential Decree in 1999 the legislative framework had not been in place to prevent the

⁹⁹ See: http://www.birdlife.org/sites/default/files/attachments/01-28_low.pdf

¹⁰⁰ The purpose of the Task Force is to develop proposals that may drive institutional change, to address the killing of wild animals from poisoned baits, to lobby and collaborate with the authorities and, finally, to increase local and national awareness of the issue. Members of the Task Force are ANIMA, Arcturos, Callisto, Hellenic Ornithological Society, Hellenic Society for the Protection of Nature, Natural History Museum of Crete and WWF Greece.

¹⁰¹ See European Commission working document: "MONITORING THE APPLICATION OF EU LAW IN EU POLICY AREAS", December 2014, at http://ec.europa.eu/atwork/applying-eu-law/docs/swd_2014_359_en.pdf.

¹⁰² Such as that which took place in Kalabaka in October 2015.

¹⁰³ Judgment of the Court (Sixth Chamber) of 30 January 2002 in Case C-103/00 – Commission of the European Communities v Hellenic Republic.

use of small speedboats for watersports near to the beaches, but also that after that time the supervision of noise, light and nocturnal use of mopeds and cars on the beach and other disturbances was inadequate to constitute an effective system of strict protection.

The issue of the appropriate protection of the Natura 2000 site on Zakynthos returned to the CJEU in 2012, when the Court found¹⁰⁴ that the continued operation of a landfill site on the island within the Natura 2000 zone was causing environmental problems which would affect the sea turtles. The environmental licences for the landfill were renewed from their expiry in 2006 to the end of 2015 (without a study of the environmental impact of this decision) in spite of the fact (inter alia) that the landfill was full, waste was being deposited above the level of the waterproof membrane and was being permitted to escape the landfill, allowing waste water to seep into the breeding beach at Laganas Bay.

In spite of the CJEU Decision, press reports show that the landfill is still in use. Local residents have demonstrated by closing the entrance to the landfill site for a number of days, demanding the construction of a new site, and in the interim the replacement of a supporting landfill wall which is showing signs of structural damage and the implementation of a closed drainage system to prevent liquids from the landfill flowing into the sea¹⁰⁵. The mayor of Zakynthos promised residents that he would do his best to secure funding for the construction of a new facility.

6. The 2014 Kyparissia Recommendation

Recommendation No. 174 (2014) (the “**2014 Kyparissia Recommendation**”) was issued to Greece in December 2014 by the Standing Committee on the conservation of the *Caretta caretta* and of sand dunes and other coastal habitats in Kyparissia in the Peloponnese. Kyparissia is now the most important known nesting beach for *caretta caretta* sea turtles in the whole Mediterranean basin, with up to 1450 nests. The 2014 Recommendation was issued pursuant to a report and appraisal by an international expert¹⁰⁶ pursuant to concerns raised by NGOs¹⁰⁷ relating to the construction of roads, houses and marine structures near to the nesting sites, as well as the risks posed by fishing practices, photo-pollution and human disturbance to the beach during the hatching season. Mr Manalis, Director General of Environmental Policy at YPAPEN, responded to the Recommendation by letter dated 10 August 2015 to the Bern Convention Secretariat Biodiversity Unit setting out the applicable legislation at a national level passed in order to protect the turtle nesting beaches in the Kyparissia area.

I interviewed Vassilis Stamogiannis of MEDASSET and Panagiota Theodorou of Archelon concerning the implementation of the 12 points in the 2014 Kyparissia Recommendation, which are addressed below in turn. In general, Ms. Theodorou notes that there has been very limited co-operation from the local council in Kyparissia, including a refusal to allow Archelon to set up an information kiosk to inform locals and tourists about the nesting sites and appropriate use of the beach¹⁰⁸. A Ministerial Decision is issued each year providing for permitted activities on the relevant beaches (the “2015 Decision”)¹⁰⁹.

¹⁰⁴ C-600/12 Judgment of the Court (Fifth Chamber) of 17 July 2014 – Commission of the European Communities v Hellenic Republic: case report from InfoCuria (judgment available in Greek and French).

¹⁰⁵ <http://www.econews.gr/2015/04/17/zakynthos-xyta-121806>.

¹⁰⁶ Report to the Standing Committee dated 1 September 2014 by Dr. Paolo Casale, University of Rome “La Sapienza”, co-ordinator of the Sea Turtle Project of WWF Italy and member of the IUCN SSC Marine Turtle Specialist Group.

¹⁰⁷ Archelon and Medasset are referred to in the Expert’s report.

¹⁰⁸ The author was provided with the correspondence by Archelon; the Mayor of Trifylia replied to Archelon’s request (supported by a letter from YPEKA) to put up an information kiosk on Kalo Nero beach where it had been set up in 2014 that the area was to be used for “other activities”; he also counterproposed that Archelon should set up a kiosk in a town square in Kyparissia.

¹⁰⁹ Decision 20925 / 946 / 27-5-2015

First recommendation: Protection Status. The government issued a draft Presidential Decree on the characterisation of the sea and land area in Kyparissia as the “Kyparissia Gulf Regional Park” in 2014 for public consultation and review by the StE. It was struck down during the review stage by the StE¹¹⁰, which is authorised to review all Presidential Decrees of a regulatory nature¹¹¹ before they are signed into law to assess their constitutional lawfulness. Whilst the StE found that the draft Presidential Decree should be struck down on the formal basis that the Natura 2000 Commission had not given its endorsement lawfully, the court took the opportunity to give guidance on the substance of the proposed decree in light of the urgency of passing legislation concerning the Kyparissia area. The court found that the draft Presidential Decree which designated the Natura 2000 site and surrounding areas as a regional park was not legally justified; the area was of national, European and indeed international significance. The protection given to national parks is higher than that granted to regional parks¹¹²: residential development is permitted in regional parks in the areas surrounding the fully protected areas; tourist development is permitted; and State-owned land completely within a national park may not be developed. The draft was also criticised for failing to provide for the reinstatement of the ecosystem, as it allowed two unauthorised summer home communities to remain in place.

The StE also found that the proposed “simple” uses of the beach area were not legally justified: these uses included very broad and vague uses such as for “public relaxation”, as well as horse riding, removal of sand and gravel “in the public interest” and the vehicular use of access roads. The court found that the reference to vehicular access implied the continuing use of unlawfully-constructed roads which was not justified. The court emphasised that the issue of an improved decree was urgent in light of the European Commission’s complaint¹¹³ and the 2014 Kyparissia Recommendation. The Ministry has informed me that it plans to issue a new draft Presidential Decree for review and consultation during the course of 2015.

Second recommendation: permanent prohibition of construction. A Ministerial Decision was issued in May 2014 forbidding all construction in the area of the turtle nesting sites¹¹⁴, pending the issue of the Presidential Decree. This was renewed in December 2014 and again on 25 June 2015 until 24 May 2016, or the publication of the Presidential Decree, whichever is the earlier¹¹⁵.

Third recommendation: restoration of original dune and forest habitat. I am informed that not only has restoration work not taken place, but that the temporary blocking of the roads leading to the beach have been removed, so that wheeled vehicles can and do access the sand dunes.

Fourth recommendation: adjustments to existing houses. Archelon and Medasset representatives assert that no actions have been taken to reinstate the previous dune ecosystem in houses built within the vicinity of nesting areas, nor have any actions been taken to reduce photo-pollution.

Fifth recommendation: no agriculture. Archelon and Medasset representatives assert that the cultivation of water melons and market vegetables continues on the dune area.

Sixth recommendation: general photo-pollution. No efforts have been made to avoid photo pollution; the main problem is in Kalo Nero, where unlicensed taverns continue to operate on or close to the beach at night, even though the 2015 Decision specifically provides for limitation of light pollution. There is also regular access to uninhabited beach areas, related to unlawful free camping close to or on the beach.

Seventh recommendation: beach equipment. Archelon and Medasset representatives assert that the beach equipment in Kalo Nero was not being collected at night until late July, towards the end of the breeding season, in breach of specific requirements set out in the 2015 Decision that “*Sun beds shall be*

¹¹⁰ StE Minutes of Review process (*Praktika Epexergasias*) No. 32/2015.

¹¹¹ Article 95.1 of the Greek Constitution

¹¹² StE Minutes of the Review process No. 32/2015, Paragraph 13

¹¹³ C-504/14

¹¹⁴ As amended by YPEKA Ministerial Decision 24407/2014.

¹¹⁵ JMD 19422/29.6.2015

gathered by the sunset and placed off the sand or at the back of the beach and be replaced in the morning. Dragging along the sand is prohibited. Specifically for umbrellas and because of their solid base, these should not be moved daily but closed to restrict shading of nearby nests". The Ministry also notes that the 2015 Decision does not permit bathing equipment to be used at all on two of the key nesting beaches.

Eighth recommendation: sand and gravel extraction. Medasset and Archelon representatives assert that due to the reduction in public works, sand and gravel extraction has not been a significant issue this year; the StE recommended that the new Presidential Decree should forbid all sand and gravel extraction throughout the park (it is already forbidden within the Natura 2000 zone).

Ninth recommendation: further building. This is expected to be addressed in the new Presidential Decree.

Tenth recommendation: circulation of vessels. Medasset and Archelon representatives assert that fishing with nets near the nesting beach is currently not forbidden, and is a widespread practice leading to adult turtles and hatchlings being caught during the reproductive season. This should be addressed in the Presidential Decree, so that the local port authorities can enforce a minimum distance from the shore for the use of nets (as is currently applied for organised tourist beaches).

Eleventh recommendation: use of the beach at night. I am informed that no measures have been taken to keep people and cars off the beach at night, nor are there any signs warning people to stay away.

Twelfth recommendation: feral dogs. It is the responsibility of the local council to collect stray dogs and control attacks on turtles; whilst it appears that there may be fewer attacks than the twelve recorded in 2014, Archelon's letter to the local council on the topic this year (after five recorded attacks up to the end of June 2015) has not received a response. Representatives of the Ministry accept that they are aware of the issue, and by letter dated 10 August 2015 stated that they have not been able to enforce the local government's performance of their legal obligations in this regard.

7. Exploitation and marketing of protected molluscs

The Council of Europe's Standing Committee has received a complaint concerning the exploitation and marketing of protected marine shelled molluscs from Dr Stelios Katsanevakis; this arises from his research on the widespread serving of protected molluscs in Greek seafood restaurants, particularly the date mussel (*lithophaga lithophaga*) but also the common piddock (*pholas dactylus*) and the giant tuna (*tonna galea*).¹¹⁶ His findings stem from research carried out between 2009 and 2011 and interviews with 219 seafood restaurants in 92 localities; as Dr Katsanevakis observes, given that these figures are based on the statements of the restaurateurs themselves, these figures are probably an underestimation of the true scale of the problem.

The date mussel was served in 22.8% of the restaurants concerned (11.4% regularly), whilst in the coast of the Evvoikos Gulf, this percentage rose to over 65%, with over half regularly serving the protected mussel. Collection of these mussels is not only damaging to the populations themselves, but also involves destruction of the shallow rocky subtidal habitats where they grow. The collection of protected species constitutes unlawful fishing, as well as an offence for the restaurants concerned. Although Dr Katsanevakis is aware of some fines being imposed, enforcement varies widely between localities.

Much of this complaint relates to a failure to institute adequate monitoring and prevention systems, stemming at least in part from the very low number of environmental inspectors. Dr Katsanevakis's findings (and indeed the author's own experience) is that many of the restaurants serving protected mollusc species are fully aware that the species is protected, but the absence of enforcement measures has created a situation in which there is no incentive to obey the law. Dr Katsanevakis told me that he has not

¹¹⁶ "Convention on the conservation of European wildlife and natural habitats - 35th meeting of the Standing Committee - Strasbourg, 1 December - 4 December 2015 - Presumed large-scale exploitation and marketing of protected marine shelled molluscs in Greece - Report by the Complainant".

received any response from YPEKA to his report, although the author was informed by representatives of YPEKA that no complaints had been received from citizens or NGOs in relation to this issue. The Ministry responded to Bern Convention Secretariat Biodiversity Unit by letter dated 21 July 2015, by which it stated that all the appropriate legislation is in force in Greece to prevent the sale of the date mussel but that the Ministry “firmly disagrees” that the practice is widespread. The letter noted “*The phenomenon unfortunately, despite our efforts, is existent but only in localised sites of the country during a certain time period. We intend to closely cooperate with all the stakeholders (fishermen, traders, horeca units and research community), and take all the necessary measures and actions to eliminate this unacceptable situation.*”

CONCLUSIONS AND RECOMMENDATIONS

Greek national conservation strategy has been characterised as “*compromised by an absence of conservation policy history, lack of state capacity, unknown or uncommunicated biological knowledge and lack of public participation.*”¹¹⁷

The Fitness Report summarises the administrative failures in relation to environmental protection as follows: “*Limited available national funding, trained and experienced personnel, deficiencies in inter-sectorial administrative cooperation, lack of reliable and open-access to ecological research, absence of sociological research were also widely criticized and affirmed as major drawbacks in implementing the Directives. Weak political leadership and commitment to clear conservation goals, combined with a tendency to satisfy powerful politico-economic power structures and development actors, while underestimating or avoiding public dialogue, resulted in a bureaucratic and alienating approach to nature conservation*”¹¹⁸.

Greece has been undergoing an unprecedented economic crisis since 2009, which has led to a significant decrease in public spending, particularly on infrastructure projects. The loss of funding for environmental issues and the quest for new funds through development have evidently played a key role in the environmental problems which the country faces today. However, the lack of central co-ordination has also resulted in the country’s failure to take advantage of available EU funds, as well as a failure to extract the maximum benefit from the funds which have been available.

However, within this bleak outlook, the period 2014 – 2015 represented a considerable step forward in Greece’s compliance with its obligations under the Bern Convention through the application of the Habitats and Birds Directives: a fieldwork-based database has been compiled for habitats and species, a priority action framework and biodiversity action plan have been published. It is also clear that new environmental protection projects are putting far more emphasis on community involvement as a means of ensuring the long-term sustainability of protection measures for the benefit of the local community.

The 2014 Biodiversity Plan contains a realistic priority list by which the Greek government acknowledges the areas where improvement is required, particularly in relation to management plans and the proper operation of MAs.

¹¹⁷ Apostolopoulou, E. and J. D. Pantis. (2009). “Conceptual Gaps in the National Strategy for the Implementation of the European Natura 2000 Conservation Policy in Greece.” *Biological Conservation* 142: 221-237; Papageorgiou, K. and Vogiatzakis, I.N. (2006) “Nature Protection in Greece: An appraisal of the factors shaping integrative conservation and policy effectiveness.” *Environmental Science and Policy* 9: 476-486; Kati V., et al. (2014) “The Challenge of Implementing the European Network of Protected Areas Natura 2000,” *Conservation Biology*: Volume 29, Issue 1, pp. 260–270; Dimitrakopoulos, P. G. et al. 2010. “Local attitudes on protected areas: Evidence from three Natura 2000 wetland sites in Greece.” *Journal of Environmental Management* 91: 1847-1854.

¹¹⁸ Fitness report, p.15

The completion of habitat and species data collection and the establishment of a national monitoring system will greatly assist the appropriate authorities and interested stakeholders to create new Natura 2000 sites and to properly enforce the existing legislation, as well as to assess subsequent changes to protected habitats and species and to allow a more effective evaluation of proposed infrastructure and development plans.

However, without significant funding and administrative investment of time and political will (including a willingness to ensure that local authorities and other stakeholders observe their obligations), Greece will continue to fall behind in its obligations under the Bern Convention and will continue to observe its obligations only when threatened with infringement proceedings by international bodies, such as the European Commission, the CJEU and the Council of Europe.

Virginia Murray
Athens, 16 October 2015

SCHEDULE 1: LIST OF DEFINED TERMS

“**Birds Directive**” means Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds, as amended and codified in Directive 2009/147/EC of 30 November 2009.

“**CIEL**” means the Committee for the Implementation of Environmental Liability.

“**Constitution**” means the constitution of the Hellenic Republic.

“**Convention**” means the Bern Convention on the conservation of European wildlife and natural habitats.

“**EIA Directive**” means Directive No. 85/337/EEC, as amended by Directive 97/11/EC, Directive 2003/35/EC and Directive 2009/31/EC, as codified in Directive 2011/92/EU.

“**EOE**” means the Hellenic Ornithological Society.

“**EPPERAA**” means the funded Operational Programme “Environmental and Sustainable Development” (Greek acronym).

“**FEK**” means the Greek Government Gazette (Greek acronym).

“**Fitness Report**” means the “Evaluation Study to support the Fitness Check of the Birds and Habitats Directive” dated March 2015 (as supplemented in April 2015) submitted by WWF on behalf of ANIMA, Arcturos, Archelon, Callisto, Elliniki Etairia – Society for the Environment and Culture, EOE, Hellenic Society for the Protection of Nature, Mediterranean Association to Save the Sea Turtles-MEDASSET, Mediterranean SOS Network, MOm, Society for the Protection of Prespa, WWF.

“**Habitats Directive**” means Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, as amended and updated from time to time.

“**ICOIEL**” means the Independent Coordination Office for the Implementation of Environmental Liability.

“**JMD**” means a Joint Ministerial Decision.

“**MA**” means a management authority (in Greek, *foreas diacheirisis*) (*see section 0*).

“**PAF**” means the Priority Action Framework for Natura 2000 for the EU Multiannual Financing Period 2014-2020 for Greece.

“**SAC**” means a Special Area of Conservation in accordance with the Habitats Directive.

“**SCT**” is a Site of Community Importance pursuant to the Habitats Directive.

“**SEA Directive**” means the Directive No. 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment.

“**SPA**” means a special protection area under the Birds Directive.

“**StE**” means the Greek supreme administrative court, the Council of State (*Symvoulío tis Epikrateias*).

“**WWF**” means the World Wildlife Fund Greece.

“**YPEKA**” means the Ministry of Environment, Energy and Climate Change.

SCHEDULE 2: LIST OF PROTECTED AREAS IN GREECE**(A) PROTECTED AREAS OF LAW 3937/2011**

	PROTECTED AREA	JMD - PD PROTECTION
1	Schinia – Marathon National Park	PD (FEK 395/D/3.7.00) Management Plan JMD 32473/7718/2001 (FEK 1830/B/31.12.2001)
2	Koroneia – Volvi Lakes National Park	JMD 6919/2004 (FEK 248/D/5.3.04) Amendment with JMD 39542/9.10.08 (FEK 441/ΤΑΑΠΘ/9.10.08)
3	National Park of Northern Pindos (National Reserves of Vikos – Aoös & Pindos)	JMD 23069/ 2005 (FEK 639/D/14.6.05)
4	Messolongi Lagoon National Park	JMD 22306/2006 (FEK 477/D/31.5.06)
5	Kerkini Wetland Habitat National Park	JMD 42699/2006 (FEK 98/ΤΑΑΠΘ ¹ /8.9.06)
6	National Park of Dadia – Lefkimi – Soufli Forest	JMD 35633/2006 (FEK 911/D/13.10.06)
7	Evros Delta National Park	JMD 4110/29.1.07 (FEK 102/D/16.3.07)
8	Wetland Habitats of Amvrakikos National Park	JMD 11989/08 (FEK 123/D/21.3.08)
9	Eastern Macedonia and Thrace National Park (Nestos Delta & Lakes Vistonida – Ismarida)	JMD 44549/ 17.10.08 (FEK 497/D/17.10.08)
10	Rodopi Mountain Range National Park	JMD 40379/1.10.09 (FEK 445/D/2-10-09)
11	Axios Delta – Loudia Aliakmona National Park	JMD 12966/2009 (ΦΕΚ 220/ΤΑΠΠΘ/ 14.5.09)
12	Prespa Reserve National Park	JMD 28651/09 (FEK 302/D/23.7.09)
13	Wetland Habitas of Kotychi – Strofilia National Park	JMD 12365/2009 (FEK 159/D/ 29.4.09)
14	Tzoumerka – Peristeri and Arachthos Gorge National Park	PD (FEK K 49/D/ 12.2.09)
15	Chelmos – Vouraikos National Park	JMD 40390/1.10.09 (FEK 446/D/2-10-09)
16	Zakynthos National Marine Park	PD (FEK 906/A/ 22.12.99) FEK 1272/D/27.11.03 (amendment)
17	Alonnisos – Northern Sporades National Marine Park	JMD 23537/2003 (FEK 621/D/19.6.03)
18	Wetland Habitats of Psalidi Coast of Ko Municipality	PD (FEK 571/D/6-7-06)
19	Area of Protections of Nature of Straits and Estuaries of the Acheron and Kalama Rivers	JMD 36427/09 (FEK 396/D/ 17.9.09)
20	Area of Protections of Nature of Lake of Kastoria	PD (FEK 226/ΤΑΑΠΘ/ 19.6.12)

(B) AREAS WITH PROTECTION REGULATIONS (LAW 3937/11 K.A.)

	AREAS WITH PROTECTION REGULATIONS	JMD - PD PROTECTION
1	Parnitha Mountains	PD (FEK 336/D/24-7-2007)
2	Mount Ymittos	PD (FEK 187/D/16-9-2011)
3	Habitat of the Milos Viper	JMD 49567/2006 (FEK 1071/D/22-12-2006), of two-year duration Replaced by N. 4030/25-11-11, art. 42, para. 24 (FEK 249/A/11).
4	Mount Parnonas and Moustos wetland Habitat	JMD 33999/2010 (FEK 353/TAAΠΘ/6.9.2010) Extension JMD 24817/2013 (FEK 156/TAAΠΘ/10-5-2013)

(C) NATIONAL RESERVES (L.D. 996/71)

1	OLYMPUS
2	PARNASSOS
3	PARNITHA
4	AINOS
5	SAMARIA
6	OITI
7	PINDOS
8	BIKOS - AOÖS
9	PRESPA
10	SOUNIO

(D) FORESTS OF OUTSTANDING NATURAL BEAUTY (L.D. 996/71)

1	PALM FOREST OF VAI, LASITHI
2	FOREST OF KAISARIANI, ATTIKIS
3	VALLEY OF TEMPI, LARISSA
4	FOREST KARAIKAKI, KARDITSA
5	PEFKIA OF XYLOKASTRO, KORINTIA
6	FOREST OF SELEMNOU & CHARANDEROU STREAMS, ACHAIA
7	SUBURBAN FOREST OF IOANNINA
8	FOREST OF FARSALA, LARISSA
9	FOREST OF STENI, EVIA

10	FOREST COMPLEX OF OSSA, LARISSA
11	OAK FOREST OF MONGOSTOS, KORINTHIA
12	COASTAL FOREST OF NIKOPOLIS – MYTIKA, PREVEZA
13	FOREST OF SKIATHOS ISLAND, MAGNISIA
14	STRAITS OF NESTOS KAVALA - XANTHI
15	FOREST OF NATIONAL INDEPENDENCE OF KALAVRYTA, ACHAIA
16	SUBURBAN FORES OF TITHOREA, FTHIOTIDA
17	FORESTS OF AMYGDALAEONA, KAVALA
18	FOREST OF KASTROU AILIA MOUNTS, TRIKALA
19	OAK FOREST OF KOURI, MAGNISIA

(E) PRESERVED NATURAL MONUMENTS (L.D. 996/71)

(Preserved Natural Monuments which consist of individual elements are not included (i.e. plane trees, fountain, etc.). The Monuments are, in total, 51.)

1	The Syrian juniper forest of Kynouría, Arcadia
2	Clump of oak and flowering ash (Mouries)
3	The virgin forest in Central Rodopi
4	The beech forest in Tsihla Haidoú, Xanthi
5	The beech forest in Pefkotó, Pella
6	The island of Piperi in the Northern Sporades
7	The petrified forest of Lesvos
8	The Cretan Cephallantherum in Kamares, Heraklion
9	The forest of Lessini, Aetoloakarnania
10	The Sphagnum in the forest of Lailiá, Serres
11	The residual aquatic plant forest in Istiea, Evia
12	The forest of evergreen broad-leaved trees on the island of Sapientza, Messinia
13	The mixed forest of Promahon-Lykostomou Aridaias (Pella)
14	The natural cypress forest in Ebona, Rhodes
15	The mixed forest of Grammos (Kastoria)

PROTECTED AREAS AT AN INTERNATIONAL AND REGIONAL LEVEL

1 Wetland Habitats of International Importance (Ramsar)

1	Evros Delta
2	Lake Ismaris – Lake Vistonis – Porto Lagos
3	Nestos Delta
4	Kerkini Lake
5	Lakes Kononeia - Volvi
6	Axios Delta & Aliakmonas Delta
7	Lake Mikri Prespa
8	Messolonghi – Aitoliko Lagoon
9	Amvrakikos Gulf
10	Kotychi Lagoon – Forest of Strofyliia

2 Protected Areas of Barcelona Convention

1	Coastal forest of outstanding natural beauty of Nikopolis - Mytika
2	Forest of outstanding natural beauty of Pefkia - Xylokastro
3	Northern Sporades National Marine Park
4	Samaria National Park
5	The petrified forest of Sigri in Lesvos
6	Forest of outstanding natural beauty of Skiathos Island
7	National Reserve of Sounio
8	Palm forest of outstanding natural beauty of Vai, Crete
9	Amvrakikos Wetland Habitats

3 Biogenetic Reserve

1	Central Rodopi Virgin Forest
2	Olympus National Park (Core)
3	Aenos National Park (Core)
4	Samaria National Park (Core)
5	Oiti National Park (Core)

6	Pindos National Park (Core)
7	Prespes National Park (Cedar Forest)
8	Kouri – Almyrou Forest of outstanding natural beauty
9	Chaidou Koula beech forest (National Monument)
10	Lesini Forest (National Monument)
11	Sapientza forest of evergreen broadleaves (National Monument)
12	Almopia Arideas natural mixed forest (Natural Monument)
13	Embonas cypress forest in Rhodes (National Monument)
14	Lagana Gulf, Zakynthos
15	Grammos Mixed Forest (National Monument)
16	Paranesti virgin forest

4 Biosphere Reserve

1	Olympus National Park
2	Samaria Gorge

5 World Heritage Monuments

1	Mount Athos
---	-------------

6 European Diploma Area

1	Samaria Gorge, Crete
---	----------------------