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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

38th meeting
Strasbourg, 27-30 November 2018

APPLICATION OF THE CONVENTION

- Summary of case files and complaints -

- OPEN AND POSSIBLE FILES -

NOVEMBER 2018

*Secretariat memorandum
prepared by
the Directorate of Democratic Participation*

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1995/6: CYPRUS: AKAMAS PENINSULA	
Date submitted	06/1995
Submitted by (Complainant)	Terra Cypria
Respondent State (Respondent)	Cyprus
Specie/s or habitat/s affected	<i>Caretta caretta</i> (Appendix II) and <i>Chelonia mydas</i> (Appendix II)
Background to complaint	<ul style="list-style-type: none"> ➤ Plans for a tourist development in the Peninsula of Akamas (Cyprus), with detrimental effect on an ecologically valuable area with many rare plant and animal species protected under the Bern Convention. ➤ Case was first discussed at the 16th meeting of the Standing Committee in 1996. Two on-the-spot appraisals were carried out in 1997 and 2002 and a recommendation adopted in 1997 [Recommendation No. 63 (1997)] on the conservation of the Akamas peninsula in Cyprus and, in particular, of the nesting beaches of <i>Caretta caretta</i> and <i>Chelonia mydas</i>. ➤ In 2008, the Standing Committee asked Cyprus to send the management plan for the area, and requested that the area of Limni would also get adequate protection. The Committee asked Cyprus to fully implement Recommendation No. 63 (1997); to create a National Park and ensure the maintenance of the ecological integrity of the area; as well as to apply the ecosystem approach to the Akamas peninsula, including Limni. ➤ At the 29th meeting of the Standing Committee, the delegate of Cyprus informed that there had been no great changes since the previous year. ➤ In 2010 the Committee took note of the report presented by the Secretariat in the absence of delegate of Cyprus. It further took note of the observations and reports from the NGOs and decided to keep the file open while asking Cyprus to present a report for its next meeting; to provide the management plan for Limni area; to fully implement its Recommendation No. 63 (1997). ➤ In August 2011 Cyprus authorities sent the Executive Summary of the Draft Management Plan for the Limni Area and informing that the government of Cyprus designated a wider area that would be managed via development regulations and restrictions. ➤ The report from the NGO (Terra Cypria) informed that a formal notice letter and a reasoned opinion were sent by the EU to the Republic of Cyprus regarding the insufficient SPA proposal for the area. It is expected that the issue will be led to the European Court of Justice. ➤ In the absence of a delegate from Cyprus at the 31st Standing Committee meeting, the Secretariat presented the case-file and called the attention of the Committee on the report on the management plan for the Natura 2000 “Polis Gialia” Natura 2000 site. The representative of Terra Cypria argued that the size and extent of the Natura site was still being considered at EU level. The proposal by Cyprus to regulate part of the area not as a Natura site, but through Town Planning regulations relating to land use (rather than conservation), was an indirect admission that the area is inadequate. She further considered that in the case of Limni, while a management plan exists, this was not implemented yet and, in any case, the area designated comprises such a narrow strip of land that it cannot protect turtles from human interventions taking place just beyond. According to Terra Cypria, the plan proposed did not seem to include policy for foraging turtles. The local authorities are allegedly allowing unsuitable

	<p>activities and the threats to wildlife are continuing. These views were supported by the representative of MEDASSET, who pointed the attention of the Committee to deaths on the sea in different areas of Cyprus. The representative of BirdLife noted the importance of the Akamas Peninsula for some threatened birds, for which not enough Natura 2000 sites were designated. The delegate of the European Union informed the Committee that the European Commission was analysing the information sent by Cyprus authorities in reply to a letter of formal notice for insufficient designation of the area. A decision on the follow-up to infringement procedure was expected by January 2012. The Committee decided to keep the case file open requesting from Cyprus the full implementation of its Recommendation No. 63 (1997) as well as more information on the protection of sites in the whole of the Akamas Peninsula and Limni. The Committee asked the Secretariat to follow-up the file in close co-operation with the European Commission.</p> <ul style="list-style-type: none"> ➤ March 2012 the Government of Cyprus reported disagreement with the NGO's claim of inadequate designation of both the Akamas and the "Polis Gialia" areas. Regarding the latter, the authorities assured that the developments surrounding the area were being controlled by the competent authorities and the procedures for granting building permits were observed. Furthermore, the Government stressed that maximum efforts were put in place to ensure the protection of birds, particularly by designating large SPAs. a full scientific package of information was under preparation in the framework of the complaint opened under the Commission and that this information would be forwarded at the same time to the Secretariat of the Bern Convention (around end of June). ➤ European Union also informed that, in the framework of a complaint on the issue of insufficient designation and protection of the Akamas area under the Natura 2000 network, a reply was received from Cypriot authorities following which the Commission issued a Letter of Formal Notice under Article 258 of the Treaty for insufficient designation of the area. The Commission analysed the reply and requested a number of further clarifications, after which they would decide on next steps. ➤ No substantial new information was submitted by the European Union, which in August 2012 was still expecting the reply of the authorities to its request of clarifications. No information was submitted by Cyprus authorities either. ➤ Bureau instructed the Secretariat to approach again Cyprus authorities and ensure that the scientific package of information related to the Akamas peninsula is forwarded to the Standing Committee. The complainant and the European Union are also invited to submit any relevant information available.
32nd Meeting Standing Committee November 2012	<ul style="list-style-type: none"> ➤ Delegate of Cyprus informed that the Department of Environment proceeded to revise the mapping of Akamas Peninsula using high resolution satellite and aerial images. Site visits and sampling were also carried out. Once properly analysed the appropriate protection measures would be taken. Concerning the "Polis-Gialia" area, the authorities disagreed with the claim that the designated area was inadequate. The process of reviewing the monitoring and inspection protocols in place was being reformed to ensure adequate surveillance of the area. ➤ Delegate of Norway stressed that the fact that the file had been open for sixteen years was a sign that the actions undertaken by the authorities were not enough effective to solve the conservation problems encountered. Case file to be kept open.
European Commission report March 2013	<ul style="list-style-type: none"> ➤ Received new scientific data from both the Cypriot authorities and NGOs. The information showed controversies in its conclusions. The Commission services were in the process of assessing the results in an attempt to find the best solution to resolve the case.

<p>Respondent's report July 2013</p>	<ul style="list-style-type: none"> ➤ The Department of Environment was finalising the mapping of the Akamas Peninsula and results would be forwarded once published. Affirmed being in the process of conducting a Management Plan for the Akamas Peninsula, which was expected to be completed by the end of 2013.
<p>Complainant's report July 2013</p>	<ul style="list-style-type: none"> ➤ Akamas issue was being examined by the European Commission as a matter of "insufficient designation", meaning that the production of a management plan for the area designated would presumably be insufficient for solving the problem alone. ➤ A local developer proposed the construction of two golf courses surrounded by villas and hotels in the adjoining Limni area, which could presumably directly affect the turtles nesting there. The Government's failure to take a firm stance about the distance of installations from the foreshore had been the subject of a second and different formal complaint to the Commission.
<p>Bureau meeting September 2013</p>	<ul style="list-style-type: none"> ➤ First assessment of the case. ➤ Welcomed progress towards the mapping and management plan of the Akamas Peninsula, but considered it necessary to follow the developments related to the complaint regarding the presumed insufficient designation of the SCI. The matter was forwarded to the Standing Committee.
<p>33rd Meeting Standing Committee 3-6 December 2013</p>	<ul style="list-style-type: none"> ➤ Cyprus did not attend. The complainant stated that investigation by the European Commission concerning the presumed insufficient designation of the Natura 2000 areas was strong evidence of the possible inadequate protection of both Akamas Peninsula and Limni. Requested the Committee to make a number of recommendations to the attention of Cyprus authorities, including to promptly revise and extend the current boundaries of the areas, regulating development in the adjacent area, adopting a management plan of Akamas with all necessary measures for monitoring and control of habitats, reacting with adequate measures against illegal constructions and unsuitable activities on the surrounding beaches, and adopting an early warning system in order to closely monitor these areas, the rest of the Natura 2000 sites and prevent human destruction from taking place. ➤ Case file to kept open. Cyprus to fully implement its Recommendation No. 63 (1997) and to report namely on the concrete measures implemented to avoid further deterioration of the concerned habitats and undertake any necessary step aimed at providing an early warning system against illegal damage and to inform the Committee on their implementation.
<p>Respondent's report March 2014</p>	<ul style="list-style-type: none"> ➤ The areas proposed as SCI for Akamas and Limni are considered adequate and that further development of the area was subject to the necessary impact assessment as foreseen by both international and national legislation. ➤ The Management Plan for the "Polis-Yialia" Natura 2000 site was being implemented but the management plan for the Akamas Natura 2000 site (expected to be completed by the end of 2013) was still under preparation. ➤ The wider residential and rural area around the Akamas Natura site would be subject to special regulations and restrictions so to ensure the highest possible protection of the peninsula. ➤ Provided short but specific information on the implementation of operational paragraphs 7, 9 and 10 of the Standing Committee Recommendation No. 63 (1997), which are specific to Lara-Toxeftra Reserve area and to seagrass communities in Akamas. ➤ Regarding an early warning system, the regular monitoring mechanism already in place is both appropriate and effective. However, the authorities declared willingness to evaluate any specific recommendations regarding the issue.

Bureau meeting April 2014	➤ Case file to kept open and reassessed at September meeting in order to be able to take into account the position of the complainant.
Complainant's report April 2014	<ul style="list-style-type: none"> ➤ A huge part of the Akamas Peninsula has been excluded from the Natura 2000 network leaving very important habitats and species unprotected. The largely insufficient designation of the Limni area which enabled for the delivery of licences authorising the development of a golf course and a multi-villa project, adjacent to the Natura 2000 area, with a probable impact on the nesting beaches of the Caretta caretta. ➤ The Proposed Plan for Polis-Gialia does not contain serious implementation actions and therefore does not meet the requirements set by national law for the adequacy of management plans. ➤ The development regulations and restrictions announced by the Government around the Akamas Natura 2000 site were considered by the to be part of the regular Town Planning framework and therefore not inspired by biodiversity conservation's considerations. ➤ Regarding the information submitted by the authorities on the implementation of the Standing Committee's recommendations specific to Lara-Toxeftra Reserve, the regularity and quality of the monitoring carried out by the Fisheries Department, as well as the data sent to minimise the presumed disturbance of the Thanos hotel complex, was questioned. ➤ Taking into consideration the recent experience of situations where the interventions of the authorities against biodiversity disturbance and damage failed to be carried out before damage was done, the Republic of Cyprus should seriously consider to set up an early warning system and to put in place a team of wardens with full legal powers.
European Union report	<ul style="list-style-type: none"> ➤ Engaged in the process of analysing the classification of special protection areas (SPAs) of the Akamas area on the basis of the recent update of the list of Important Bird Areas in Cyprus published by Birdlife. ➤ Assessing the alleged failure to designate the Akamas area under the Habitats Directive as a Site of Community Importance (SCI), having requested and received further technical clarifications as regards the mapping of habitat types in question as well as information on the preparation of the management plan for the broader Akamas area. ➤ Regarding tourist development in Limni (Polis-Gyalia Natura 2000 site) the Commission investigated through an EU Pilot the measures taken to ensure compliance of the planned development with Articles 6 and 12 of the Habitats Directive. The issue was under assessment in September 2014.

<p>Respondent's report July 2014</p>	<ul style="list-style-type: none"> ➤ Not received any evidence from the NGO showing the insufficient designation of the Akamas Peninsula and therefore not being in a position to either remedy or counteract any possible inaccuracies. ➤ Confident that the designated area would be considered as adequate, and provided all relevant scientific information to the European Commission in this respect. They also informed that the Akamas Management Plan was at its final stages of completion, pending the public consultation procedure which was expected to take place in January 2015. ➤ An EU Pilot was on-going on Polis-Gialia situation and that the procedure was thus confidential. In addition, the authorities defended the quality and effectiveness of the Management Plan which is intended to ensure the highest possible protection of the peninsula. They further informed that the procedure for the site's declaration to SAC would be completed by the end of 2014 as foreseen and that the relevant Ministerial decree on the restrictions and permitted actions within the site would be ready within the first three months of 2015. ➤ Contradicted the allegations concerning the lack of patrolling in Lara-Toxeftra Reserve for which a specific Turtle Monitoring Programme had been assigned every year to experts through a tendering procedure. The obligations and responsibilities of the experts are considered to be in compliance with the regulations. ➤ Regarding the adoption of an early warning system, the authorities considered that the regular monitoring of the sites was still the most efficient measure, together with the prosecution of illegal acts. Also in the process of studying possible amendments to the Nature Law so to allow for extrajudicial measures following damages to sites, habitats and species
<p>European Union report 30 April 2015</p>	<ul style="list-style-type: none"> ➤ On 30 April 2015 it had issued a Reasoned Opinion against Cyprus as it considered that the breaches of the Habitats Directive concerning the tourist development in Limni area persisted. As regards the other aspects of the case, the Commission received only limited information and is now waiting for the requested clarifications.
<p>Respondent's report June 2015</p>	<ul style="list-style-type: none"> ➤ The procedure for the declaration of Polis-Gialia as SAC had been again delayed. The Ministerial decree fixing the rules for the actions to be permitted on the site was now expected to be ready by the end of 2015. ➤ The public consultations for the Akamas management plan took place as foreseen in January 2015 but the written opinions received were still being processed. ➤ The management of the rural area established outside the Akamas Natura site as a way to ensure higher protection to the peninsula were proceeding well, with the establishment of cycling routes, camping, and environmental awareness centres.
<p>Complainant's report June 2015</p>	<ul style="list-style-type: none"> ➤ Highlighted delays, continuous pressures for building in the protected area, and on the need to keep the file open also in light of the on-going EU infringement procedure.
<p>35th Meeting Standing Committee November 2015</p>	<ul style="list-style-type: none"> ➤ Cypriot authorities not present. ➤ After taking note of the concerns expressed by Terra Cypria supported by MEDASSET, and of the information presented by the delegate of the European Union, the Committee decided to keep the case-file open and invited both the authorities and the complainant to improve communication with the Secretariat in the coming months.

Secretariat action January 2016	<ul style="list-style-type: none"> ➤ Letter sent to national authorities to express concerns about the recent news reported by the press regarding the decisions taken by the Council of Ministers of the Republic of Cyprus on 11th January 2016, presumably implying: <ul style="list-style-type: none"> a) The exclusion of private properties from the recently declared “Akamas National Forest Park”, opening the possibility for further development; b) The preparation of a new Local Plan, to be drafted by the Department of Town Planning and Housing, that would allow the licensing of holiday homes, hotels and other tourist developments within the Akamas Natura 2000 site, in clear contradiction with the Akamas management plan whose main objective is to ensure the sustainable development of the area. ➤ The recent decisions, particularly the new local plan, might lead to the further expansion of the urban development zones for construction of additional houses and tourism facilities. After recalling the background of the case – and with the authorisation of the Bureau, the Secretariat requested the agreement of the authorities for an on-the-spot appraisal in order to gather additional information as well as to examine ways on how to improve the situation.
Respondent’s report 4 April 2016	<ul style="list-style-type: none"> ➤ Stated that some of the content of Recommendation No. 63 (1997) needs to be re-evaluated as “some issues may be deemed as obsolete or no longer relevant in light of the EU member state status of Cyprus”. ➤ The report answered point by point to Recommendation No. 63 (1997). Designation of the SCI Akamas and the SCI Polis-Gialia was expected in the following three months (by July 2016). A draft Management Plan for the Akamas SPA is also ready and that its public consultation was scheduled to start in May 2016. The adoption of the Plan is expected by the end of 2016. ➤ Requested the Standing Committee and Bureau of the Convention to wait until the establishment of the management system of the area is decided upon. They expressed they are ready to consider the On-the-spot appraisal option if this is considered needed. ➤ A new Ministerial Decree for the Akamas area was issued and that this decree foresees 1) an immediate implementation of two aspects of the MP relating to the habitats and species conservation and promotion (a total of 31 measures); 2) that the forest and part of the state land are to be declared as national Park and 3) that a mandate was given to the Department of Town Planning to prepare a new zoning Plan for the peninsula within 18 months. The authorities consider these measures as a positive step towards resolving the long-standing issues of Akamas and a political will to reach a solution also through the re-visiting of the ownership issue.
On the spot visit 10-11 October 2016	<ul style="list-style-type: none"> ➤ This took place in the presence of an independent expert and a member of the Secretariat. The outcomes of the visit will be presented in a written report and orally before the Committee at its 36th meeting. A new draft Recommendation, aimed at replacing Recommendation No. 63 (1997) is expected to be presented for discussion and if appropriate, adoption by the Committee.
Respondent’s report November 2016	<ul style="list-style-type: none"> ➤ The Cyprus authorities propose modifications to the new draft Recommendation prepared further to the on-the-spot visit. ➤ In 2014 the study for the formulation of a management plan (MP) for the Natura 2000 area “Chersonisos Akama” started and the whole project was finalized in mid-2016. The result of the study was an MP that included a thorough analysis of the needs of the area and valuable suggestions for actions including the protection of habitats and species both terrestrial and marine, the increase of public awareness for the value of the area, as well as actions for integrated management of the forest and the non-forest part. The latest Ministerial Council Decision on the Natura 2000 area “Chersonisos Akama” resulted in the immediate commencement of the implementation of the protection and promoting actions proposed in the MP, as well as the formulation of a local development plan for the whole area, to establish distinct development zones.

- The Ministerial Council opted for the declaration of the forest and state land (consisting of almost 80% of the Natura 2000 area) within the Natura 2000 site as a National Forest Park. The National Forest Park has been declared and the actions for its protection and promotion have already been designed and their implementation is expected to begin immediately (within this month).
- The nesting habitats of Lara and Toxeftra are pristine, well-preserved and adequately monitored and the anthropogenic threats in these areas are insignificant, mainly due to the strong legislative framework enforced on the spot. The nesting habitat in Limni is in good condition and actions are taken by the competent authorities to improve its status, especially in the last two years, via habitat restoration and elimination of threats, such as predation, use of the beach, vehicle use and other illegal activities, with really high success.
- Regarding the impacts of the golf project on SCI «Periochi Polis-Gialia-CY4000001», and particularly on Limni beach. During the Environmental Impact Assessment (EIA) and AA procedures, all elements, factors and parameters have been examined thoroughly, including all cumulative effects of the various elements of the project, taking into consideration simultaneously all developments in the area east and west of the project, as well as the zoning provisions of the area. The cumulative effects examined included direct lighting, sky-glow, noise, the existing conditions on and around the nesting beach (Limni), visitation factors, etc. is a complete misconception that the use of data contained in the EIA and AA studies, carried out by the project's beneficiary, implies that the assessment and final decision of the EA is not independent.
- The aforementioned assessment produced the Environmental Opinion (EO), which contains strict conditions and prerequisites as to the proper implementation of the project and the enforceability of these conditions to ensure protection of the Natura 2000 site. Some of the conditions for the safeguarding of the nesting beach included are:
 - a) A lighting plan for each residential unit and of each common building of the project will be submitted to the EA for approval, prior to the issuance of a building permit.
 - b) Qualified personnel, employed by the EA specifically for this project, will oversee the proper and full implementation of all the conditions imposed by the EO, until the whole project is completed.
 - c) Although the nearest housing units are at a distance of approx. 200 meters from the nesting beach, a green zone of 20 meters width is required to be created at the edge of each plot, to ensure that there will be no effects from direct lighting.
 - d) The hotel will be low-height, built at a distance of approx. 280 meters from the nesting beach and the three rows of bungalows that were proposed in front of the main building of the hotel were omitted.
 - e) Re-routing of the existing primary road that runs parallel to the coastal line more than 450 inland and in the form of a tunnel to diminish light pollution from this source. Also, re-routing of the existing perpendicular road which ends up in the middle of the nesting beach, to the most eastern boundary of the project, away from the heart of the nesting beach. This new secondary road will be submerged to diminish light pollution from this source as well.
 - f) No organized public beach will be allowed on Limni beach. The EA will ensure that appropriate pathways leading to the beach will be constructed to avoid uncontrolled access to people and vehicles. Additionally, a warden will be employed to strictly supervise and manage the access, especially in the months of May to October, when turtle nesting occurs.

36th Meeting Standing Committee November 2016	<ul style="list-style-type: none"> ➤ Re-examined the report in light of the on the spot appraisal conducted in October 2016. ➤ A contact group redrafted the text of the proposed Recommendation prepared after the on-the-spot appraisal. The Committee thus adopted Recommendation No. 191 (2016) on the conservation of the Akamas peninsula and the sea turtle nesting beaches of Chrysochou Bay (Cyprus). ➤ The Committee decided to keep the case-file open and encouraged the Republic of Cyprus to fully implement the above mentioned Recommendation and to report on its implementation to the 37th meeting of the Committee in December 2017.
Complainant's update 20th July 2017	<ul style="list-style-type: none"> ➤ Regarding Akamas; <ul style="list-style-type: none"> a) The Government has appointed a consultancy bureau, to provide guidelines on how to plan and implement the section of the Akamas peninsula which has been declared a 'national forest park' (almost the same area as the Natura 2000 site) b) The Government has directed the Town Planning Department to develop a 'Local Plan' for the Peninsula outlining amongst other things where and what kind of development can take place. c) The European Commission continues to have an open infringement procedure since 2011 against the Republic of Cyprus for insufficient designation of the specific Natura 2000 area. ➤ Regarding Limni Golf, hotel and villa complex; <ul style="list-style-type: none"> a) On the basis of the Casale Report, Recommendation No 191 (2016) and further NGO submissions, the European Commission presented the Cyprus Government with a number of matters which had to be implemented, including the distance of any building developments from the beach. b) The Government has recently responded to the Commission explaining why no changes are necessary to be made to the original plan. Instead the Government is imposing 'conditions' which will apply after the development is in place. Most of these conditions depend solely on the good will of the developer, his visitors, and future occupants of his villas and are such that they could not solve the lighting and human disturbance problem. c) It is expected that this will lead to the instigation of legal measures against Cyprus by the Commission. This has not yet happened.
Respondent's report 21st July 2017	<ul style="list-style-type: none"> ➤ Action taken towards implementation of Recommendation No.191 (2016) is as follows; <ul style="list-style-type: none"> a) Point 1 - The state forest area of the Akamas peninsula (consisting of almost 80% of the Natura 2000 area), along with most of the state land, has been declared as a National Forest Park. Additionally, an action plan with measures for the protection of the whole Natura 2000 site is currently being implemented. b) Point 2 - A Local Development Plan covering the whole of the peninsula is under formulation, to establish distinct development zones and ensure the harmonious coexistence of nature and communities. c) Point 3 - The management and protection of Akamas is under the consistent and coordinated efforts of the Department of Environment, Department of Forests, Department of Fisheries and Marine Research (DFMR) and the Game and Fauna Service. A separate entity, with scientific staff and wardens, will not be created.

- d) Point 4 and 8 - The Marine Turtle Conservation Project aims at: (i) protecting and managing turtle nesting beaches, (ii) protecting eggs and hatchlings from predation - and human activities, (iii) protecting adult turtles, (iv) monitoring the turtle population and nesting activity in Cyprus and (v) raising public awareness in turtle conservation. Additional funding is being used through the European structural and investment funds for the 2017 – 2018 nesting period. During this period, additional parameters will be monitored (i.e. beach temperature profiles, sex ratio, predation, hatching success etc) in order to increase our knowledge and better understand the nesting trends. as part of its research and conservation activities the DFMR has been engaged as a beneficiary in the LIFE project “Collective actions for improving the conservation status of the EU sea turtle population” (LIFE15 NAT/HR/000997 – LIFE EUROTURTLES). The project focuses on the Polis-Gialia Natura 2000 site (CY4000001). Some actions of the project will also be carried out at Lara - Toxeftra, within the Chersonisos Akama Natura 2000 site (CY4000010).
- e) Point 5 - Authorization of roads, buildings and facilities has been closely monitored and has been restricted in the area Lara and Toxeftra.
- f) Point 6 - The Cyprus Council of Ministers approved on 11.1.2016 (decision no: 80.041) a set of measures for the protection and promotion of the Akamas peninsula, which were derived from the newly formulated management plan. An action plan for the Akamas Peninsula has been developed as a Project with the Department of Environment as the beneficiary. The estimated budget of the Akamas Project is 2 million euros and actions are already being implemented. The Project includes actions for monitoring the good conservation status of the habitats and species of the site, management, maintaining protection of the area and for the promotion of the Natura 2000 site.
- g) Point 7 - Monitoring of the area is consistent and continuous.
- h) Point 9 - There are still some illegal establishments within the designated Natura 2000 area of Akamas, the issue is expected to be resolved within the new management regime as well as through the new local plan which is under formulation.
- i) Point 10 - Seagrasses and more specifically the Posidonia meadows are protected around the island from trawling (it is prohibited to trawl in depths less than 50 m). Protective measures are undertaken through Environmental Impact Assessment studies for any activity that might have an impact on Posidonia. Mapping of Posidonia is expected to continue to cover the remaining coastal areas of Cyprus.
- j) Point 11 - Regarding the golf project on SCI «Periochi Polis-Gialia-CY4000001», and particularly on Limni beach, the Republic re-assessed the project, under the scope of the appropriate assessment (AA) provisions of the Habitats Directive (92/43/EEC). The above mentioned independent assessment produced the Environmental Opinion (EO), which contains strict conditions and prerequisites as to the proper implementation of the project.
- k) Point 12 - A thick barrier, in the form of a planted fence will ensure that no direct lighting will reach the nesting beach from the road connecting the golf development with the existing coastal road. With regards to the protection of the nesting beaches of the entire coastal length of the Natura 2000 site «Periochi Polis-Gialia-CY4000001» from light pollution, this will be regulated via the Ministerial Decree for the Protection and Management of the area.
- l) Point 13 - The last local development plan for Chrysochou Bay (including the area of Polis-Gialia) has been in place since 2015. Any future amendments will be assessed according to national and EU legislation.

European Commission report 20th July 2017	<ul style="list-style-type: none"> ➤ No final decision on the next steps to be taken regarding infringement file 2014/4019 has been reached. ➤ Extensive new information has been received from the authorities over the last months.
Bureau meeting 18 September 2017	<ul style="list-style-type: none"> ➤ Noted that no action has been taken to fulfil the terms of Recommendation No. 191 (2016). ➤ Invited the national authorities and the complainant to provide a status update on the Recommendation's implementation to the Standing Committee at its 37th meeting on the 5th to 8th December 2017 in Strasbourg. ➤ Instructed the Secretariat to liaise with the European Union and to request information on the European Commission's action in relation to the area's conservation. ➤ The file remains open.
Complainant's report 27 October 2017	<ul style="list-style-type: none"> ➤ Request for Limni – reinstating of the original decision of the Environment Department providing an area of at least 475m from the shore free of all development; at the same time, to reduce the overall residential capacity of the project, since it is far beyond the long-term carrying capacity of the area's ecosystem. ➤ To establish and enforce a Management Plan and Conservation Decree for the area, in accordance with the procedure advocated in the National Law; also, to allocate funding towards its implementation and the careful monitoring and patrolling of the area. ➤ Request for Akamas - to expand the boundaries of the Natura 2000 site in line with those proposed by LIFE project 'Special Areas of Conservation in Cyprus' (1998-2002). As the boundaries stand today important habitat types and species remain unprotected. ➤ To establish and enforce a Management Plan and Conservation Decree for the area and directly allocate funding towards its implementation and close monitoring and patrol of the area. ➤ To prohibit any future infrastructure for overnight and dining accommodation, outside the boundaries of the designated Development Areas of Akamas villages. ➤ An important point by point assessment of implementation of the Bern Convention's Recommendation is provided from page 6 of the report.
Respondent's report 3 November 2017	<ul style="list-style-type: none"> ➤ Not feasible to declare whole peninsula as a National Park. The National Forest Park (enclosing 80% of the Natura 2000 site), is considered as a first step in reaching specific goals, aiming at both the protection of the area but mostly for raising awareness and highlighting the benefits of nature to the local communities. The management plan for the National Forest Park is expected to tackle protection issues, as well as management regimes (i.e. if a separate management entity is required) and it is at its final stages of completion. Also, the Local Development Plan for the wider area is underway. ➤ There has been no progress to close down illegal restaurants. It is expected to be tackled best via the provisions of the Local Development Plan. ➤ Regarding Limni golf project, authorities are reviewing newly submitted data regarding the light pollution and visitation of the nesting beach. ➤ The local development plan for Chrysochou Bay, please note that no final decision has been reached for this issue yet. The competent authorities are reviewing the options and the SC will be kept informed.

<p>Standing Committee November 2017</p>	<p>➤ The Standing Committee took note of the reports by the national authorities, the NGOs and the European Commission and welcomed the news about new plans for the conservation of the area. The Standing Committee decided to keep the case-file open and expressed its wish that the whole area of Akamas and Limni was managed in a coordinated and environmentally friendly way, that a positive agreement was reached with the European Union for the designation of all areas of significant biodiversity interest as Natura 2000 areas and that the projected development in Limni respected the limits reflected in Recommendation No. 191 (2016), thus minimizing negative effects on the nesting beaches.</p>
<p>Complainant's report 20 August 2018</p>	<p>➤ The Government is unwilling to expand the current Natura 2000 boundaries and, furthermore, is unwilling to declare the whole of the Akamas Peninsula as an IUCN national park, an UNESCO biosphere reserve, or a protected area with comparable international protected status. For that reason, the whole area cannot be appropriately and holistically managed in a sustainable, integrated way. Therefore large areas with important habitats and species remain unprotected.</p> <p>➤ The Government has not yet put into force any appropriate management measures through legally binding mechanisms (e.g. Decrees for the Protection and Management of the Natura 2000 areas Site of Community Interest – SCI CY4000010 and Special Protection Area – SPA CY4000023 Akamas Peninsula). It is important to highlight that such measures are foreseen by the official Management Plans which have no legal force. Moreover, there is no management body in place and no monitoring mechanism to react to and stop any illegal activities that take place within the peninsula.</p> <p>➤ There is no mechanism in place to prevent any type of vehicles from being driven uncontrolled all over the peninsula. As a result, important habitats and species are severely damaged. This includes damage to the sea turtle nesting beaches at Lara and Toxeftra.</p> <p>➤ There are no controls on swimmers placing their umbrellas and sunbeds within the sea turtle nesting beaches at Lara and Toxeftra.</p> <p>➤ There are serious problems regarding the uncontrolled anchoring of tourist and private boats all over the peninsula. In May this year a tourist boat landed several times on the Lara shore, right next to the sea turtle nests, and left tourists at the beach without any supervision.</p> <p>➤ The Government has not closed down the illegal restaurants and beach bars within and adjacent to the Lara and Toxeftra sea turtle nesting beaches. On the contrary, new illegal facilities have been constructed in the past couple of years (e.g. the illegal restaurant and beach bar adjacent to South Lara Bay), with the government not taking any action to demolish them.</p> <p>➤ In addition, recent official proposals foresee the creation of several new refreshment kiosks, snack bars and souvenir shops within and adjacent to the Lara – Toxeftra Marine Protected Area (MPA).</p> <p>➤ Between 2017 and 2018 several Environmental Authorisations and planning and construction licences were issued for dozens of villas, an 8 storey 5-star hotel, as well as other recreational activities adjacent to the Akamas nesting and resting sea caves of the endangered Mediterranean monk seal (<i>Monachus monachus</i>). Despite a public outcry, the Government proceeded with the issuing of the planning and construction licences. This was done without ensuring that the proposed projects had been subjected to the appropriate assessments for developments on the Natura 2000 area. This is despite the site's conservation objective which, while they are not directly connected with or necessary to the management of the Natura 2000 area, are on the contrary likely to have a significant effect on it, either individually or in combination with other plans or projects. In addition, the competent authorities skipped even the official expert consultation procedure required by the Environmental Impact Assessment (EIA) Directive and National Law.</p>

	<ul style="list-style-type: none"> ➤ Several proposals for the expansion of existing or the creation of new quarries within and adjacent to the Akamas Peninsula Natura 2000 area have been pending for a long period of time, which would directly threaten the integrity of the area and various important habitats and species. ➤ The Government has directed the Town Planning and Housing Department to proceed with the development of a new Local Plan for the Akamas Peninsula, which will outline, amongst other things, where and what type of development can take place. The Town Planning and Housing Department has decided to fragment the Akamas Peninsula into two different Local Plans, despite the strong opposition of competent authorities dealing with nature protection, as well as Environmental Non-Governmental Organisations (ENGOS) and other stakeholders. For example, the spatial planning of the Lara – Toxeftra Marine Protected Area (MPA) is fragmented into two parts, of which one includes Lara and the other Toxeftra. This development comes in direct contradiction of the conclusions of the Report of the on-the-spot appraisal [T-PVS/Files (2016) 44], according to which a nesting site should be considered as a unit and managed as such. Since anthropogenic impacts are cumulative, any impact assessment should be done at the nesting beach level (i.e. a development plan of the entire area and with estimates of potential light pollution and human visitors at the beach) and not for individual sub-units (i.e. fragmented plans and single projects), because each individual plan and project might be independently considered as sustainable and therefore approved, but this would result in a non-sustainable overall effect by multiple projects. ➤ The first “Local Plan for Akamas Communities” was supposed to be ready by July 2017, but as yet no official plan has been presented for public consultation. There is still no official information about the development of the second “Local Plan for Pegeia Municipality”. Overall, there is also no information about when and how these Local Plans will be subject to Strategic Environmental Assessment (SEA) and Appropriate Assessment (AA). ➤ Regarding the proposal for the construction and operation of two golf courses and associated development, including housing, tourist, and commercial facilities in Limni, the Government insists on not demanding a 500-meter zero lighting zone from the sea, which would minimize the lighting and human disturbance problems to the sea turtle nesting beach. ➤ There is a continuous uncontrolled access of vehicles within the whole Natura 2000 area Site of Community Interest – SCI CY4000001 Polis – Gialia and especially in the Limni area. ➤ Over the past couple of years several incidents of environmental damage have taken place on the sea turtle nests and their protective cages, but there have been no prosecutions. ➤ Several illegal beach bars operate without being subject to appropriate assessment and without any planning and building licences being granted, within and adjacent to the Natura 2000 area, particularly in the coastal zone between Argaka and Gialia villages. The illegal beach bars also operate at night with their lights pointing directly towards the sea turtle nesting beach. At the same time, they have damaged and degraded various sand dune habitats, including sea turtle nesting habitats. ➤ In conclusion, the illegal activities are continuously increasing and there is no sign that the Government has any intention to protect these areas.
Bureau meeting 10-11 September 2018	<ul style="list-style-type: none"> ➤ Bureau expressed its concern that no report from the authorities had reached the Bureau and urged them to send their report ahead of the 38th Standing Committee meeting of the Convention and to attend the meeting itself to report on progress in the implementation of Recommendation No. 191 (2016). ➤ It instructed the Secretariat to request an update from the European Commission on their respective action on the issues at stake in the case-file

<p>Complainant updated report 15 October 2018</p>	<ul style="list-style-type: none"> ➤ In addition to their report from August 2018, the complainant organisation recalls the comments they provided on the 2017 report by the authorities and formulated the following requests: ➤ For Limni: <ul style="list-style-type: none"> ➤ To reinstate the Environment Department’s original decision to provide an area of at least 475m from the shore free of all development; at the same time, to reduce the overall residential capacity of the project, since it is far beyond the long-term carrying capacity of the area’s ecosystem. This precaution is essential for the protection of the sea turtle nesting ground and to meet future erosion of the sandy beach. ➤ To establish and enforce a Management Plan and Conservation Decree for the area, in accordance with the procedure advocated in the National Law; also, to allocate funding towards its implementation and the careful monitoring and patrolling of the area. ➤ For Akamas: <ul style="list-style-type: none"> ➤ To expand the boundaries of the Natura 2000 site in line with those proposed by LIFE project ‘Special Areas of Conservation in Cyprus’ (1998-2002). As the boundaries stand today important habitat types and species remain unprotected. ➤ To establish and enforce an integrated Management Plan and a legally binding Conservation Decree for the area and directly allocate funding towards its implementation and close monitoring and patrol of the area. ➤ To prohibit any future infrastructure for overnight and dining accommodation, outside the boundaries of the designated Development Areas of Akamas villages.
<p>Respondent’s report 17 October 2018</p>	<ul style="list-style-type: none"> ➤ The declaration of the state forest land as a National Forest Park, is considered as an adequate mean to facilitate the protection of the whole peninsula. Currently a proposal regarding its construction and operation guidelines and procedures is being prepared to be submitted to the Council of Ministers for approval. ➤ As far as the Natura 2000 site “Periochi Polis-Gialia”, the Republic considers that the current protection regime is adequate. ➤ Regarding the coexistence with neighboring communities of the designated Natura 2000 area “Chersonisos Akamas”, a Local Development Plan covering the whole of the peninsula is still underway. ➤ The authorities consider that point 8 of the Recommendation ‘<i>Continue and strengthen the integrated and coordinated management of the nesting sites, though the Turtle Conservation Project which is implemented in the areas of the Republic of Cyprus under the effective control of the Government of the Republic of Cyprus, and especially in the areas of Akamas Peninsula and “Periochi Polis-Gialia”, so as to maintain positive trends</i>’ is fully implemented. ➤ The authorities consider that point 5 of the Recommendation ‘<i>Maintain and, where appropriate, improve the nature protection-oriented provisions of the existing and future development plans, especially in the areas adjacent to Lara and Toxeftra beaches where building is to be avoided, so as to prevent negative impacts on nesting sites from tourist and/or housing developments</i>’ is fully implemented. ➤ The authorities consider that point 6 of the Recommendation ‘<i>Promptly commence the implementation of the protection measures of the newly formulated management plan through appropriate and adequate funding, as to preserve the good conservation status of the habitats and species of the Natura 2000 area, as well as to maintain the strict protection provided, so far, in the areas of Lara and Toxeftra</i>’ is fully implemented.

- The authorities consider that point 7 of the Recommendation *‘Continue to manage access of people and vehicles to the beaches of Lara and Toxeftra, avoiding in particular the disturbance caused by tourism’* is fully implemented. Additionally, within the design and operation of the National Forest Park, further measures regarding the access of vehicles in the area of the park, including the areas adjacent or leading to Lara and Toxeftra beaches will be implemented.
- Regarding the issue of illegal restaurants in the neighborhood of the beaches of Lara and Toxeftra (including Aspros river restaurant), the authorities inform that the issue is being monitored. The offenders have been prosecuted and the issue is now in the courts.
- The authorities consider that point 10 of the Recommendation *‘Continue to offer protection to the seagrass communities in the Akamas and Limni areas on which Chelonia mydas feeds’* is fully implemented.
- The authorities consider that Point 11 of the Recommendation *‘Ensure, by an appropriate assessment that the golf project will not affect the Natura 2000 site “Periochi Polis-Gialia” and especially the exceptional nesting beach of Limni; in this context, avoid housing and establish a zero-lighting zone in an area of at least 200 meters south of the boundaries of the Natura 2000 site’* is fully implemented. The new masterplan permits have been issued with more strict measures and concrete restrictions regarding lighting and access to the beach
- The authorities consider that Point 12 of the Recommendation *«Take appropriate measures to avoid light pollution impacts on the beach from the planned road that will be connecting the golf development with the existing coastal road and protect the beaches from light pollution in the entire coastal length of the Natura 2000 site* is fully implemented.
- Additionally, as part of the EU infringement case, the authorities reviewed newly submitted studies and data regarding the light pollution and visitation of the nesting beach, as per the recommendations of the Commission. The issued masterplan permits contain strict lighting restrictions and rules regarding the visitation and access to the nesting beach.
- With regards to the Ministerial Decree, there have been delays from extrinsic factors but efforts will be made for it to enter into force within the first semester of 2019.
- Regarding Point 13 of the recommendation *«Revisit the local development plan of the Polis Gialia so as to ensure, through Strategic Environmental Assessment, that it will not affect the integrity of the nesting habitats of marine turtles,* the authorities inform that no final decision has been reached for this issue yet. The competent authorities are reviewing the options and the SC will be kept informed.

2010/5: GREECE: THREATS TO MARINE TURTLES IN THINES KIPARISSIAS	
Date submitted	08/2010
Submitted by (Complainant)	MEDASSET (The Mediterranean Association to Save the Sea Turtles)
Respondent State (Respondent)	Greece
Specie/s or habitat/s affected	NATURA 2000 site (THINES KYPARISSIAS - GR2550005) and <i>Caretta caretta</i> (Appendix II)
Background to complaint	<ul style="list-style-type: none"> ➤ Uncontrolled development on the site (summer houses building, construction of coastal roads, occupation of the beach by, among others, bars, umbrellas and deck chairs) and expressed concerns over the intensive pressure on the nesting activity of turtles, which can lead to reducing the unique population of <i>Caretta caretta</i>. ➤ <i>Caretta caretta</i> is also protected by other international agreements, among which CMS, CITES and the Barcelona Convention for the protection of the Mediterranean Sea against pollution, and the EU Habitats Directive.
Respondent's report March 2011	<ul style="list-style-type: none"> ➤ Consisted of a forwarded copy of the response sent on 22nd December 2010 to a letter of the European Commission in relation to the protection of priority species in the Natura GR 2550005 site. ➤ A law concerning Conservation & Biodiversity had been approved by the Greek Parliament to ensure a more effective protection regime for the priority species in all Natura 2000 sites. The law should have entered into force by the end of March 2011. The Ministry of Environment was in the process of drafting a Joint Ministerial Decision, based on a specific environmental study of 2002, which should regulate all activities within the GR 2550005 Natura 2000 site by providing a specific legal protection regime. The Joint Ministerial Decision should allow combatting of conservation problems in an integrated way for the whole Thines Kyparissias Natura 2000 site. ➤ National authorities forwarded to Local Authorities the specific environmental study mentioned above, along with a Presidential Draft Decree which included a Management Plan for the Area, with the request of taking these into account to enforce the necessary Environmental Protection measures. a recently adopted Ministerial Decision required the official approval of the Ministry of the Environment for any license of exploitation of the sandy seashore sites issued by the Local Authorities. However, the responsibility concerning the compliance with obligations related to the exploitation itself lies down to the Local Authorities and the State Property Service.
Complainants report September 2011	<ul style="list-style-type: none"> ➤ Although the law on Conservation and Biodiversity entered into force in March 2011, enforcement of specific protective measures was still poor, and a number of illegal activities continued to exert a considerable amount of pressure on the nesting activity of marine turtles. In addition, the Joint Ministerial Decision announced by Greek authorities was not yet drafted and none of the demolition protocols issued by the State Property Service of the Prefecture of Messinia for the illegal constructions in the area were executed. ➤ Denounced the degradation and erosion of the sand dunes and coastal forests, due to roads and buildings illegally developed; the lack of restoration measures to compensate the destruction part of the sand dunes; the absence of specific protection measures and lack of provision of appropriate information to local residents. It would be appropriate to draft an updated Special Environmental Study (the current one was prepared

	<p>in 2002), which would take into account the new developments and assist competent Local Authorities to identify specific conservation measures for the area in question.</p>
Bureau Meeting September 2011	<ul style="list-style-type: none"> ➤ Took note of information which questioned the effectiveness of the measures undertaken by authorities. Because of the lack of reply by Greek authorities, as well as of new information from the European Commission, the Bureau was not in a position to properly assess the situation. Complaint placed on stand-by.
Respondent's report March 2012	<ul style="list-style-type: none"> ➤ The procedure for the special protection of the above area and the issuance of a Joint Ministerial Decision (J.M.D.) applicable for a period of 2 years would be jointly prepared by the competent Legislative authority of the Ministry. The updating of the Special Environmental Impact Assessment (S.E.I.A.) prepared specifically for this referenced area had been included in the overall planning for the time period 2012-2015. ➤ The Administration of Messinia Prefecture had been instructed on the need to protect the site in order to ensure that the requirements set under the EC Directive 92/43 were met.
Complainant's report March 2012	<ul style="list-style-type: none"> ➤ Informed that enforcement of the specific protective measures for Thines Kyparissias, included in the law concerning the Conservation and Biodiversity (entered into force at the end of March 2011) was lacking. At the same time, the provision of information to local residents by the Prefecture of Messinia regarding appropriate use of the nesting beach was also missing, while a number of activities and illegal constructions on the site continued to exert a considerable amount of pressure on the nesting activity of marine turtles. ➤ The situation remained unchanged since last reporting, as the JMD had not yet been drafted by the National authorities and in the meantime local authorities had not prepared any specific protection measure for the area. ➤ None of the demolition protocols issued by the State Property Service of the Prefecture of Messinia for the constructions illegally built in the area had been executed; extensions of already existing beach bars were recorded by the Land Property Service in 2011 for which new demolition protocols were issued but not executed. The same concern remained for the three beach bars that operated illegally in 2011 within the core zone of the protected area (Kalo Nero) which the NGO feared that they could restart their illegal activity soon.
Bureau Meeting April 2012	<ul style="list-style-type: none"> ➤ Complaint deemed to be a possible file and forwarded to the Standing Committee to decide whether or not to open a case-file. ➤ Secretariat to organise an on-the-spot appraisal for putting mediation in place and gathering additional information for the attention of the Standing Committee.
Secretariat's action June 2012	<ul style="list-style-type: none"> ➤ Addressed an official letter to the authorities requesting agreement to an on-the-spot visit which would serve to gather additional information for the Standing Committee's attention. In September 2012 Greek authorities informed the Secretariat that its request was being duly considered and that a reply would be communicated soon.
32nd Meeting Standing Committee November 2012	<ul style="list-style-type: none"> ➤ No new information had been received. ➤ In the absence of delegates from Greece, the Chair gave the floor to the representative of MEDASSET, whom summarised the content of the reports submitted in 2012. Examples of degradation collected in 2011-2012 were shown. MEDASSET reported that the Municipality of Trifylia continued the construction of a road network within the Natura 2000 area without either an Environmental Impact Assessment or authorisation from the Ministry of Environment. The Ministry was alerted to these works, which nevertheless continued unabated in 2012.

	<ul style="list-style-type: none"> ➤ Delegate of the European Union referred to the report sent to the Secretariat, informing that a field visit was carried out by the Commission services in July 2012. In the light of the findings, as well as the reply of the Greek authorities to the Letter of Formal Notice, the Commission issued in September 2012 a Reasoned Opinion under Article 258 of the Lisbon Treaty for insufficient protection of the area. In case of referral to the Court of Justice of the EU, the Commission would not exclude to ask the Court for interim measures. ➤ Committee further stressed the lack of relevant and substantial communications from the authorities. Complaint to be maintained as possible file. Secretariat to request from the authorities, the NGOs and the EU, updated and complete reports.
<p>Respondent's email 15 March 2013</p>	<ul style="list-style-type: none"> ➤ Summarised the content of a letter sent by Greek authorities to the European Commission about the official schedule foreseen by the Greek Government to prevent further degradation of the natural habitats and the improvement of the situation.
<p>Complainant's report March 2013</p>	<ul style="list-style-type: none"> ➤ A detailed Action Plan for the protection of the area in question was being elaborated with the aim to halt any development works in the area until the issuance of a Ministerial Decision, which would constitute the basis for the protection of the area until a Presidential Decree would be in place. ➤ The Ministerial Decision should be drafted based on the Special Environmental Study (SES) carried out by ARCHELON in 2002. A Steering Committee consisting of members representing Local and National Authorities, NGOs and experts was established in order to supervise the implementation of the afore mentioned Action Plan. ➤ Despite assurances of the Ministry, the building – in November 2012 of three houses in the sand dunes of the core nesting area near Vounaki hill, for which a permit was issued outside the city planning area, took place. ➤ On 20th February 2013, a part of the back of the beach in the core nesting area was ploughed, resulting one more time in the destruction of dune vegetation.
<p>Bureau Meeting April 2013</p>	<ul style="list-style-type: none"> ➤ Reiterated its request to Greek authorities for timely communication and sound information, and noted that enforcement was still a major issue. ➤ Decision taken to again screen the complaint at its next meeting. ➤ Secretariat to urge Greek authorities to send an official progress report informing: on the state of conservation and management of the area; on enforcement of relevant legislation and administrative decisions (including more particularly the execution of the demolition protocols); on the adoption of the measures whose implementation is envisaged as of June 2013; and on the progress made over the Action Plan, particularly regarding the cessation of disturbing activities and infrastructures.
<p>Secretariats action</p>	<ul style="list-style-type: none"> ➤ The letter to the authorities of May 2013 and the reminders sent until end of July remained unanswered.
<p>Complainant's report August 2013</p>	<ul style="list-style-type: none"> ➤ On Kalo Nero Beach (O Sector): the Illegal wooden platforms remained despite the demolition protocols that were issued from the Land Management Agency of Kalamata. Sunbeds and umbrellas placed late May without the necessary permissions still occupied almost the whole beach and were not removed at night-time. Other disturbances were intense light pollution and excessive vehicular traffic on the coast road of Kalo Nero. The Municipality of Trifylia did not equip the area with informative signs and prevented Archelon to erect the seasonal information station. The complainant denounced a worsening situation and an increase in the number of tourists on the beach at night.

	<ul style="list-style-type: none"> ➤ Beach Sector between Neda River and Kalo Nero beach (A, B, C Sectors): The Plowing of the dunes recorded in February 2013 was repeated in April 2013 (with the blessings of the Mayor of Trifylia). The construction of the houses was progressing, while planning permission was issued for the construction of another 2 buildings in the area. However, the issuance of building permits had been suspended for a part of the NATURA 2000 site since late May 2013 (Bill (FEK): 180/24-5-2013). Intense light pollution at night and lack of informative sign-posting were a threat also to this area. ➤ ARCHELON's investigations found that adult turtles that attempted to nest returned to the sea without successfully doing so. In addition, a high number of nests were purposefully vandalised almost on a daily basis since the start of the nesting season. Moreover, ARCHELON's personnel had been victim of physical and verbal offences and the scientific equipment was stolen. ➤ No Action Plan had been elaborated for the area in question at that time, while the Steering Committee responsible for supervising the implementation of the Action Plan and for drafting a Ministerial Decision (MD) met only twice.
Bureau Meeting September 2013	<ul style="list-style-type: none"> ➤ Regretting lack of concrete information on the conservation and management of the area, as well as the enforcement of relevant legislation case file should be discussed as a file open at the 33rd Standing Committee meeting.
Respondent's report October 2013	<ul style="list-style-type: none"> ➤ The Ministerial Decision of Suspension/Prohibition of all construction and agricultural activities in the broader coastal area was issued in May; a Ministerial Decision issued in July had put in place a basic set of management measures concerning the reproduction of the sea turtle; in June the authorities commissioned to a Professor of the University of Athens a detailed study of the area in order to provide all the necessary environmental data that should form the basis of a Joint Ministerial Decision. ➤ In January 2014 there was to be a Decision offering a specific legal protection regime for the site (GR 2550005) during the next 2 (+1) years. This should have included an integrated management plan and measures for the cessation of all disturbing activities and infrastructures with an emphasis to sand dune restoration, where possible.
33rd Meeting Standing Committee 3-6 December 2013	<ul style="list-style-type: none"> ➤ Examined the presentation of the complainant, which provided examples of habitat degradation due to the recent development of roads, large and small-scale housing development plans, installation of green-housing, and the presence of heavy machinery and vehicles on the nesting beaches the Committee expressed worries for the continued developments in the Natura 2000 site and the possible threats that these may cause to the habitats and species of the area. ➤ The case file was kept open. Secretariat to seek the agreement for an on-the-spot appraisal to be carried out in the first semester of next year.
On the spot appraisal 14-16 July 2014	<ul style="list-style-type: none"> ➤ Dr Paolo Casale, Research fellow at the University of Rome "La Sapienza", scientific coordinator of the sea turtle project of WWF Italy and Member of the IUCN SSC Marine Turtle Specialist Group led the visit. The expert, accompanied by a member of the Secretariat as well as representatives of the authorities and of the NGOs, visited the authorities in Athens and conducted both night-time and daylight visits to the core nesting area in Thyne Kyparissias. ➤ According to the expert, the most urgent problem was the building of 50 houses along in the dune area. This development would directly and indirectly induce a high increase of disturbance to nesting females and hatchlings at the nesting beach. Moreover, the expert identified a series of problems which confirmed some of the fears expressed by the complainants and namely: light pollution from tourism infrastructures, private

	<p>houses and public lights; the presence of six roads perpendicular to the seashore and over the dunes; camping on the beach; attacks from feral dogs.</p> <ul style="list-style-type: none"> ➤ The expert also acknowledged an improvement of the situation in comparison to what reported by the NGO in the past years, particularly thanks to actions undertaken by the municipality of Trifylia and the Ministry of Environment in respect to the delivery of construction licenses (halted by decree), the removal of canteens on the beach, the closing of the roads perpendicular to the seashore, and the management of beach furniture. ➤ The expert prepared a set of recommended actions. The main recommendation was to give the most important areas for marine nesting a protection status equivalent to the one of National Park, and to permanently prohibit the construction of any villas, buildings, roads or infrastructure in order to keep those areas in a natural state. Other measures concerned the restoration of the original dune and forest habitat, the proper management of the area, the management of the problem of photo-pollution and the control of feral dogs. The report and recommended actions were made available in document T-PVS/Files (2014) 49, and forwarded to Greek authorities for comments.
<p>34th Meeting Standing Committee December 2014</p>	<ul style="list-style-type: none"> ➤ The European Union informed that, following the assessment of the Reasoned Opinion received from the Greek authorities in 2013, the Commission decided in March 2014 to refer the case to the Court for breach of EU legislation (Directive 92/43). The application was being prepared. ➤ The delegate of Greece and the representative of MEDASSET presented their respective comments to the expert's report, as well as to the draft Recommendation. The latter was slightly amended and further adopted. The Committee kept the complaint as an open file and decided to review the monitoring of the implementation of the relevant Recommendation at its next meeting.
<p>Respondent's report August 2015</p>	<ul style="list-style-type: none"> ➤ The efficient implementation of a whole set of measures to ensure the proper conservation of the protected site, in close cooperation with the NGO ARCHELON had been carried out. Among these measures, the newest ones relate to, provisions to suspend the issuing of new building permissions and the prohibition of other works, restrictions for licensing of installations for bathers on the beaches for this summer and new procedures for the appropriate assessment of development plans and projects. ➤ Working on a body of regulations that should allow for a unified legal protection framework for all concerned SAC. However, some procedural/formal obstacles prevented to achieve faster progress with the adoption of the relevant Presidential Decree. (It should be noted that the expert in charge of the legal report on the implementation of the Convention in Greece says that one of the reasons why the draft Presidential Decree on the operation of the Kyparissia protected area was rejected by the Council of State 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. A new draft Presidential Decree is expected in the autumn of 2015). ➤ List the rules included in the Ministerial Decision issued for fixing the restrictions on the beach area for summer 2015. Further inform that the issuing of building permits and execution of works is suspended in the egg-laying zone and the surrounding terrestrial area since 2013, by mean of consecutive Decisions that are renewed every year since.
<p>Complainant's report August 2015</p>	<ul style="list-style-type: none"> ➤ Analysed each of the recommendations made by the Standing Committee, and concluding that there was no improvement in the protection and management of the sea turtle beaches in Kyparissia over the past year.

	<ul style="list-style-type: none"> ➤ On the draft Presidential Decree, MEDASSET confirm that it was rejected because of procedural/formal problems, but clarifies that the Council of State took the opportunity for further commenting on the substance, finding that the designation of the Natura 2000 site as a regional park would not grant to the area a sufficient degree of protection. The Court also recommended that sand gravel extraction throughout the park be forbidden. ➤ The recommended restoration work has not taken place, and the temporary blocking of the roads leading to the beach have been removed. 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, with unlicensed taverns still operating on or close to the beach at night. Furthermore, cultivation of water melons and market vegetables continues on the dune area, beach equipment is not removed at night, fishing with nets near the beach is not forbidden and is a widespread practice. It further seems that there are no controls or measures to avoid the access of people and cars to the beach at night, and that the issue of feral dogs, which is under the responsibility of the local council, didn't receive an adequate response.
35th Meeting Standing Committee November 2015	<ul style="list-style-type: none"> ➤ Complainant expressed concern over the lack of progress during the 2015 nesting season, despite the adoption of a specific Recommendation in December 2014. ➤ The Standing Committee decided that the issuing of a new Presidential Decree enabling for granting the appropriate protective status to the area is probably the most urgent measure that should be taken by the authorities. It therefore decided to keep the case-file open, and to call on the Greek Government for the urgent and full implementation of the Recommendation No. 174 (2014). ➤ Regretted the absence of delegates of Greece and invited the country to ensure that next year the Bureau receives full reports on specific measures.
Secretariats action	<ul style="list-style-type: none"> ➤ Issued a reporting request to the Greek authorities, but the request remained unanswered by the second Bureau meeting.
European Union's updated report July 2016	<ul style="list-style-type: none"> ➤ On 18th February the Advocate General of the Court of Justice of the European Union issued her conclusions on case number C-504/14 and that the Court ruling is currently awaited. <ul style="list-style-type: none"> a) According to the advocate general conclusions': b) the Hellenic Republic failed to ensure the necessary conservation measures for the <i>Caretta caretta</i> sea turtle in the Kyparissia Sand Dunes' site (Natura 2000 code GR2550005); c) failed to ensure the granting of consent for three holiday homes in Vounaki and construction measures in Agiannakis, are subjected to an appropriate assessment of the compatibility of its implications with the conservation objectives for the Kyparissia Sand Dunes' site and; d) failed to adopt a comprehensive legislative framework to protect the <i>Caretta caretta</i> sea turtle in the "Kyparissia Sand Dunes" special area of conservation.
Complainant's report August 2016	<ul style="list-style-type: none"> ➤ Detailed the current situation on the spot regarding the different recommendations from Recommendation No. 174 (2014) with accompanying photos. ➤ On 24th May 2016, the Ministry of Environment issued a new Ministerial Decision that halts any type of construction activity in the area for the next two years. Because of the temporary nature of the Decision, the need for a Presidential Decree remains high.

<p>Respondent's report August 2016</p>	<ul style="list-style-type: none"> ➤ The Presidential Decree for the protection of, both the marine and terrestrial areas of Kyparissia Bay has been sent for legal review to the relevant department of the Ministry of Environment and Energy. After the legal-technical treatment, the Presidential Decree will be sent initially for approval to the Alternate Minister and Minister of Environment and Energy and then to the Council of State in order to process it. Further stressed that until the adoption of a management plan for the area, a Ministerial decision restricts the activities on the nesting areas of the species <i>Caretta caretta</i> for a period of 3 years.
<p>Bureau meeting September 2016</p>	<ul style="list-style-type: none"> ➤ Welcomed the adoption of a new Ministerial Decision that halts any type of construction activity in the area. ➤ Case-file to be kept open. No information was submitted by the authorities on the measures taken for the implementation of Recommendation No. 174 (2014). Authorities to report more concretely on their efforts in ensuring they comply with the Recommendation and their plans and timetable for the adoption of the Presidential Decree.
<p>Complainant's report October 2016</p>	<ul style="list-style-type: none"> ➤ Informs point by point the follow-up given to the operational parts of the Recommendation No. 174 (2014) and similarly to the information submitted by the NGO ARCHELON, they inform on little pro-active measures taken by the national authorities.
<p>36th Meeting Standing Committee November 2016</p>	<ul style="list-style-type: none"> ➤ Delegate of Greece informed the Committee that the Greek Government was examining carefully the European Court of Justice Decision on the country's failure to protect sea turtles in the bay of Kyparissia. The Committee dully noted the considerable legal complexity of the case and the readiness of the Government to issue a new Presidential decree. ➤ Representative of MEDASSET expressed concern by the negative impacts of the existing houses and denounced that over 150 nests had been vandalised in 2016. The complainant further warned that the Government was failing to protect marine turtle as some of the beaches had illegal roads, beach furniture and bars, particularly in Kalonero beach. It appears, according to the complainant, that fishing activities also continue. ➤ Case file to be kept open. Authorities to provide a report on the implementation of the relevant Recommendation and the plans on how the ECJ's decision will be implemented for the meeting of the Bureau scheduled for September 2017.
<p>Complainant's report 28 August 2017</p>	<ul style="list-style-type: none"> ➤ In April 2017 the Greek Ministry of Environment (MoE) submitted a revised draft Presidential Declaration (PD) for Kyparissia Bay to the Council of State. In July 2017 the Council of State issued the new decision, with which postpones the elaboration of the Presidential Decree (i.e. the issue of final approval or rejection of the new draft PD), until the MoE justifies that an appropriate environmental study and assessment of the Kyparissia Bay and the surrounding areas was conducted. ➤ On 24 May 2016 a new Ministerial Decision was issued according to the article 6, paragraph 9 of the law 3937/11. This prohibits temporarily (for the next 2 years only) the construction of any villas or other buildings, new roads or other infrastructure in the area. The ministerial decision expires on May 2018. ➤ No restoration actions have been taken in relation to the ploughed dunes or demolition work of the roads perpendicular to the shoreline. Temporary blocking of the roads leading to the beach does no longer exist and vehicles can freely access the nesting beaches. ➤ No action has been taken to reinstate the previous dune ecosystem in the housing area built within the vicinity of nesting zones, nor have any actions been taken to reduce photo-pollution. ➤ The cultivation of water melons continues in the dune area.

	<ul style="list-style-type: none"> ➤ In Kalo Nero Beach illegal taverns continue to operate on or close to the beach and produce light pollution. Illegal camping close to or on the beach is very common in this area. Beach furniture used in this area cover a zone of 1.2 km and that are rarely removed at night. Illegal wooden platforms remain despite demolition protocols. ➤ Fishing in the waters off the breeding beaches in the Kyparissia area still is not adequately curtailed. Fishing nets are permitted and very often adult turtles and hatchlings get caught accidentally. ➤ No measures have been taken to keep people and cars off the beach at night and there are no signs warning people to stay away. ➤ Sand and gravel extraction has not been an issue this year. No recorded feral dog attacks this year.
Standing Committee November 2017	<ul style="list-style-type: none"> ➤ Took note of the information presented by the Government of Greece, the NGOs and the European Commission. It welcomed the news of a planned new Presidential Decree forbidding building in the Natura 2000 sites and regulating the whole area and hoped the Greek Parliament would agree to the creation of a National Park. The Standing Committee decided to keep the case-file open and encouraged Greece to fully implement its Recommendation No. 174 (2014), avoiding any further deterioration of the nesting beaches and their surrounding area and especially controlling activities on the beach that may interfere with successful marine turtle nesting.
Bureau meeting September 2018	<ul style="list-style-type: none"> ➤ Expressed its concern that no report from the authorities had reached the Bureau and urged them to send their report ahead of the 38th Standing Committee meeting of the Convention and to attend the meeting itself to present a comprehensive and complete timetable of the actions planned to implement Recommendation No. 174 (2014).
Respondent's report September and update October 2018	<ul style="list-style-type: none"> ➤ The Presidential Decree for the protection of Kyparissiakos Gulf has been published in the Government Gazette, and is in effect, beginning on the 3rd of October 2018.
Complainants' Report October 2018 (Archelon)	<ul style="list-style-type: none"> ➤ Almost two years after the Judgment of the European Court of Justice (November 2016) and three years after the Bern Convention Recommendation (December 2014), the Presidential Decree for southern Kyparissia Bay was issued in October 2018 (Government Gazette D 391/03-10-2018 as corrected by Government Gazette D 414/12-10-2018 due to error on the included map of the area, i.e. the map of the 1st draft Presidential Decree from the year 2014 was included). ➤ the Presidential Decree does not address some major conservation issues for southern Kyparissia Bay in general and for marine turtles in particular. Specifically, the lack of Annex with the legally existing road network, the lack of adequate fisheries regulations in the marine area (PPF3), the lack of beach management measures for the visitors and the beach bars especially in the core nesting area, the lack of ban for new light pollution can now be resolved only through a Management Plan for the area. ➤ Although the Presidential Decree seems to protect Kyparissia Bay from intensive building interests behind the nesting beach, the designation of the whole area as Nature Protection Area (not as National Park), the fact that building is the basic characteristic in the Agricultural Landscape Zone (ZAT) and that the provisions in the whole ZAT are the same (although the neighbouring Nature Protection Areas are different) are expected to risk achieving favorable conservation status for the area in a long-term basis.

- According to the Presidential Decree and the law 4519/2018, the management of Kyparissia Bay is under the responsibility of the Management Agency of Kotychi, Strofilia Lagoon & Kyparissia Bay, based close to Patras. The establishment of a branch in Kyparissia Bay and provision of the required additional funding, which are considered necessary preconditions for the active engagement of the Management Agency, will take at the minimum 2 years before being settled.
- Little progress was made during 2018 concerning the implementation of the 12 points of the Bern Convention Recommendation:
 - 1) Protection status: The Presidential Decree, issued in October 2018, designates the whole area as Nature Protection Area (not as National Park).
 - 2) Permanent prohibition of constructions: The Presidential Decree seems to protect Kyparissia Bay from building interests behind the nesting beach.
 - 3) Restoration of original dune and forest habitat: Not only no restoration work took place, but also new illegal actions resulted in further deterioration of the sand dunes (see below in 5.2.). Moreover, during 2018 no barriers existed on any perpendicular road to the beach, so vehicles accessed the sand dunes and the nesting beach on a daily basis.
 - 4) Adjustments to existing buildings: 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 from the existing buildings.
 - 5) No agriculture on public land and the dune area: The cultivation of watermelons and vegetables continues on the dune area.
 - 6) Photo-pollution reduction: Since 2017 some public lights at the beachfront of Kalo Nero (Sector O) were modified (directed downward and lower to the ground) by the Municipality of Trifylia. However, no efforts have been made to reduce photo pollution from neither public lights in the other three sectors (A, B and C) of the core nesting habitat nor private lights in Kalo Nero. As a result, light pollution remains a serious threat for sea turtle nesting in the core area.
 - 7) Beach equipment management: The beach furniture in Kalo Nero (Sector O) was not managed at all during the whole 2018 nesting season. This was a serious setback, as since 2014 beach furniture was fragmentary stacked during July and August.
 - 8) Sand and gravel extraction: Sand and gravel extraction has not been a significant issue during the 2018 season.
 - 9) Further building outside the urban-planning areas: The Presidential Decree does not allow the expansion of settlements towards the Nature Protection Areas (PPFs).
 - 10) Regulating the navigation of vessels: Fishing with nets near the nesting beach is currently not forbidden by the Presidential Decree, and is a widespread practice leading to adult turtles and hatchlings being caught during nesting and hatching season.
 - 11) Human presence on the nesting beach at night: No measures have been taken to keep people and cars off the beach at night nor were there any signs warning people to stay away.
 - 12) Control of feral or stray dogs: During the 2018 nesting season the field project of ARCHELON did not record any attacks to nesting turtles, as witnessed in years 2014 and 2015.

	<ul style="list-style-type: none"> ➤ Continued illegal actions during the nesting season 2018 – motor cross race took place in the sand dune zone and on the nesting beach, beach furniture, light pollution, heavy vehicles access, etc.
Complainants’ Report October 2018 (MEDASSET)	<ul style="list-style-type: none"> ➤ declare support to the content of the report submitted by ARCHELON (above) ➤ Welcomes the new legislation and reiterate the urgent need for the preparation and implementation of a Management Plan, as the Presidential Decree does not stipulate necessary management measures. ➤ Without the adoption of a management plan, the newly declared protected area will lack regulations and measures that will ensure the adequate protection of the sea turtle nesting beaches. ➤ Such regulations are fundamental in order to ensure full implementation of Recommendation No. 174 (2014) on the conservation of the loggerhead sea turtle (<i>Caretta caretta</i>) and of sand dunes and other coastal habitats in Southern Kyparissia bay (NATURA 2000 – GR 2550005 “Thines Kyparissias”, Peloponnesos, Greece). ➤ Expresses extreme concern over the contract to explore and extract hydrocarbons in the marine area adjacent to the newly declared protected area, which was signed by the Greek Government simultaneously with the issuance of the Presidential Decree for the protection of Kyparissia Bay. ➤ The adoption of the Presidential Decree does not automatically imply its immediate implementation, hence existing illegal activities and conservation problems will continue in the meantime. ➤ Imperative that the implementation of Recommendation No. 174 continues to be monitored by the Standing Committee.

2004/2: BULGARIA: WIND FARMS IN BALCHIK AND KALIAKRA – VIA PONTICA	
Date submitted	09/2003
Submitted by (Complainant)	Bulgarian Society for the Protection of Birds / BirdLife Bulgaria
Respondent State (Respondent)	Bulgaria
Specie/s or habitat/s affected	Red breasted goose (<i>Branta ruficollis</i>) (Appendix II) and numerous migratory species
Background to complaint	<ul style="list-style-type: none"> ➤ The building of windfarms in Bulgaria, at Balchik and Kaliakra, on the Black Sea coast. The NGO challenged the chosen sites located on the Via Pontica which is one of the main migratory routes in Europe especially for soaring birds. ➤ On-the-spot visit was carried out in September 2005, on the basis of which the Committee adopted Recommendation No. 117 (2005), asking the Bulgarian government to reconsider its decision to approve the proposed wind farm in Balchik in view of its potential negative impact on wildlife and taking account of Bulgaria’s obligations under the Convention. ➤ In 2006, the Bulgarian government informed the Secretariat that it did not intend to review the decision approving the wind farm project. The Secretariat received information from NGOs on a similar case involving plans to build 129 windmills 20 kms away from Balchik, between the town of Kavarna and the Kaliakra Cape. ➤ A new on-the-spot appraisal was carried out on 20-22 June 2007. On the basis of the expert’s conclusions the 27th meeting of the Standing Committee adopted Recommendation No. 130 (2007) “on the windfarms planned near Balchik and Kaliakra, and other wind farm developments on the Via Pontica route (Bulgaria)”. ➤ In June 2008, the European Commission opened an infringement procedure against Bulgaria because of insufficient designation of 6 sites as SPAs under the Bird Directive, one of which is the Kaliakra IBA. ➤ In 2009, the delegate of Bulgaria informed the Committee that a “Strategic Environmental Assessment (SEA)” of Bulgaria’s Energy Strategy and National Plan for Renewable Energy Sources had been initiated in spring, with meetings at expert level. Bulgaria’s Ministry of Environment and Water expressed its readiness and intention to fulfil obligations for the protection of its nature and biodiversity. ➤ Standing Committee meeting in 2010 the delegate of Bulgaria presented the government report informing, among others, of measures taken concerning the preventive protection of NATURA 2000 sites. Furthermore, she confirmed that no new authorisations for development in SPA Kaliakra and IBA Kaliakra have been issued in 2010. Following information provided by the delegate of the European Union as well as by the representatives of BirdLife and the AEWA, the Committee decided to keep the case file open and continue to follow it up in close co-operation with the European Commission. ➤ At the 2011 Standing Committee meeting the Secretariat presented the report forwarded by the Bulgarian government, focussing on the new energy strategy up to 2020, as well as on progress on the drafting of a national action plan for renewable energies, which was still pending after that the public consultation highlighted serious omissions. The Ministry issued formal instructions for the General Inspectorate of the Environment and Water, asking to reduce the number of authorisations issued pending the launching of the national plan; there was also a

	<p>slowing down of projects already authorised owing to financial and technical problems (1 project involving 32 turbines had been stopped). the Ministry issued formal instructions for the General Inspectorate of the Environment and Water, asking to reduce the number of authorisations issued pending the launching of the national plan; there was also a slowing down of projects already authorised owing to financial and technical problems (1 project involving 32 turbines had been stopped). Case file kept open.</p> <ul style="list-style-type: none"> ➤ In 2012 the Secretariat received an invitation from the AEWA Secretariat to join a possible Implementation Review Process (IRP) mission to the country, to assess the possible impact of a new windfarm project near Durankulak lake which “has the potential to endanger the coherence of the area as a wintering ground for the red-breasted goose as the windfarm is foreseen to be built in the main feeding area of the geese”. This project was approved by the Regional Inspectorate of Environment and Water in Varna in spite of the objections raised and argumentations provided by nature conservation NGOs, the local hunting organisation and local residents. This was not an isolated development as a number of windfarms had already been established in the vicinity of Lakes Durankulak and Shabla in areas previously providing feeding habitat to wintering geese, now avoided by the birds. ➤ Complainant also submitted updated reports in March and September 2012, providing the NGO’s analysis of the implementation of Recommendation No. 130 (2007) by the Government of Bulgaria and concluding that the authorities were still failing to fully implement it. The NGO further recalled the procedures opened under the European Commission and noted the need for urgent international intervention to stop a situation which already caused irreparable damage.
<p>European Commission report August 2012</p>	<ul style="list-style-type: none"> ➤ A reasoned opinion was sent to Bulgaria on the infringement procedure concerning wind farms and other developments in "Kaliakra complex" SCI, "Kaliakra" SPA, "Belite Skali" SPA. Through the reasoned opinion the Commission asked Bulgaria to comply with applicable EU laws in a period of two months, after which the Commission could decide to refer the case to the EU Court of Justice.
<p>32nd Meeting Standing Committee November 2012</p>	<ul style="list-style-type: none"> ➤ Delegate of Bulgaria presented the government report highlighting that, of the 2,526 wind energy projects received since 2007, only 117 had been constructed further to obtaining the necessary authorisations. None of these was located in a Natura 2000 area. Reported on the measures undertaken to implement the relevant Standing Committee Recommendations stressing that, since 2007, no new development had been authorised without fulfilling the EIA/AA procedure. Moreover, the legal framework had been reviewed through the adoption of new Environmental Protection Law and Biological Diversity Law which introduce a 5-year limit of validity for EIA and AA decisions. at the request of the Ministry of Environment and Water, the National Plan of the Renewable Energy Sources was also reviewed and a ban introduced to overcome, reduce and, if possible, completely eliminate all potential adverse effects that the construction of windfarms may have on the Natura 2000 sites. ➤ Representative of BirdLife Bulgaria summarised the content of the reports submitted by her NGO in 2012, stressing that the EIAs realised for Balchik and Kaliakra areas do not examine alternative solutions or locations or the possible negative and cumulative impacts. ➤ Representative of the AEWA reiterated that the windfarm developments along the Via Pontica continued to be a real concern and regretted to note that the AEWA Standing Committee didn’t receive a reply to the offer to send an advisory mission on the ground. ➤ Committee acknowledged the steps undertaken by the Government of Bulgaria with regards to development and adoption of a National Action Plan on Renewable Energy Sources 2011-2020 and other reported measures but noted, at the same time, that concrete progress were delayed and windfarming was still insufficiently regulated. Case file kept open, government of Bulgaria to submit, before the 33rd Standing Committee meeting, a structured, detailed and comprehensive report on the implementation of all provisions of Recommendation No. 130 (2007).

<p>AEWA report December 2012</p>	<p>➤ In December 2012, the Ministry of Environment and Water replied to the AEWA that it didn't consider appropriate to accept an IRP mission due to a pending court case regarding the appeal of the investor against the decision of the Minister to annul the EIA decision of the Director of the RIEW-Varna. However, on 17th January 2013, the Supreme Administrative Court (SAC) of Bulgaria annulled the decision of the Minister of Environment and Water thus allowing for the project to be implemented and the windfarm constructed. As a consequence, the AEWA reiterated its offer of advice on this complicated issues which was again rejected until the court case was pending</p>
<p>Bureau meeting April 2013</p>	<p>➤ Case to be kept open. Group of Experts on the conservation of birds to put the assessment of this complaint on its agenda, in order to prepare an opinion for next Bureau meeting.</p>
<p>Group of Experts</p>	<p>➤ Both the Party and the complainant sent updated reports. The seriousness of the situation was generally recognised and the Group expressed concern about the high number of developments in the same flyway and, more particularly, about those that impact upon globally threatened species. The Group also recognised the wider geographical dimension taken by the file, stressing on the cumulative effect of wind farms.</p>
<p>Bureau Meeting September 2013</p>	<p>➤ Noted the tangible efforts of the authorities. Discussed coordination with the AEWA and other partners, including the EU, to provide assistance to Bulgarian authorities. Made several proposals, ending in a draft opinion for attention of the Standing Committee.</p>
<p>33rd Meeting Standing Committee 3-6 December 2013</p>	<p>➤ Actions undertaken by the authorities to address the matter were presented by the Secretariat on the basis of a written report submitted by the delegate of Bulgaria. The representative of the NGO had the opportunity to acknowledge some of the progress made by the authorities for implementing Recommendation No. 130 (2007), while stressing that some important issues were still to be addressed.</p> <p>➤ The representative of the UNEP/AEWA reported that the Ministry of Environment of Bulgaria had informed that a new EIA procedure would start for the Smin windfarm and that the authorities might appreciate advice from the UNEP/AEWA, including through and IRP mission to the country.</p> <p>➤ Case file to be kept open. gave mandate to the Bureau for its future collaboration with the UNEP/AEWA Secretariat. Bulgarian authorities didn't reply to the reporting requests sent by the Secretariat for the two Bureau meetings in 2014.</p>
<p>UNEP/AEWA and EU report February 2014</p>	<p>➤ Informed about a meeting held in February 2014 with representatives of the Bulgarian Ministry of Environment and Water, during which the authorities undertook a series of commitments regarding mainly the windfarm project in Durankulak Lake. Updated information was submitted also by the European Commission, whom informed having referred Bulgaria to the European Court of Justice over its presumed failure to protect unique habitats and important species in the Kaliakra region due to windfarm developments.</p>
<p>Complainant's updated report August 2014</p>	<p>➤ Highlighted lack of any progress in the implementation of most of the actions recommended by the Standing Committee through Recommendation 130 (2007). Concerning the windfarm project in Duraknolak Lake, suspended by the Ministry, the NGO provided information regarding the last decision of the National Court, delivered in July 2014, ruling against the Ministry of Environment and Water. As a result, the windfarm project was again a reality which could dramatically impact the Red-breasted Goose. None of the turbines considered dangerous by the Standing Committee had been removed. Compliance with each of the operational paragraphs of the Recommendation adopted by the Standing Committee was analysed.</p>

34th Meeting Standing Committee December 2014	<ul style="list-style-type: none"> ➤ Examined the arguments put forward by the authorities of Bulgaria, the complainant, and the representative of the AEWA, and asked the national authorities to be much more reactive to the reporting requests. ➤ Case file to kept open. Bulgarian authorities to provide a comprehensive report, including a detailed description of the actions taken in order to comply with the Recommendation of the Standing Committee, also in light of the most recent administrative and legal provisions in force at both national and international level. Committee encouraged Bulgaria to prepare and communicate to the Standing Committee an Action Plan detailing the measures envisaged for ensuring the expedite and effective implementation of Recommendation No. 130 (2007), including a timetable to be delivered for the Bureau meeting in April 2015. Invited Bulgaria to reconsider its position regarding the IRP mission.
Bureau meeting March 2015	<ul style="list-style-type: none"> ➤ The authorities report did not reach the Secretariat on time to be assessed at the meeting. The decision on this item was postponed.
Respondent's report May 2015	<ul style="list-style-type: none"> ➤ Provides information regarding actions undertaken to implement Recommendation No. 130 (2007). Appropriate assessment, including of cumulative impacts, is now systematic for projects affecting the environment, and the structures in charge of the management of protected areas have been reinforced. ➤ Regarding Kaliakra's windfarms, the authorities recalled that in 2012 they started reconsidering the authorisations issued for projects not already implemented, thus eliminating 90 % of the approved projects. Furthermore, all windfarm projects in Natura 2000 sites are now subject to EIA which have to be conducted following strict requirements and conditions. Moreover, although the general impact of wind turbines on birds had not been assessed by the authorities, some monitoring is going on at the initiative of wind parks operators. However, the results of these studies are controversial and need more time for a proper evaluation. ➤ The improvements due to the adoption of the Energy Strategy 2020, which produced bans on new wind farms, regulated the authorisation process, made EIA requirements stricter, and devised measures for eliminating or reducing the negative impact of these energy infrastructures. ➤ A manual has been prepared for enabling the effective implementation of environmental legislation for wind farms. The Manual has been prepared in cooperation with NGOs and takes account of both EU and Bern Convention guidelines on windfarms and protected areas. Authorities mention some projects carried out with EU funds for reducing the mortality risk of specific species. ➤ Kaliakra SPA has been expanded in 2014, and informs that the procedure for the declaration of a new SPA in Dobrudzha region has now been completed. Moreover, new areas of steppe habitats have been included in Dobrudzha SCI in view of increasing its diversity. Also, the authorities have finalised a draft management plan for the whole territory in Kaliakra region, covering several Natura 2000 sites. The management plan includes an analysis of activities impacting some targeted species and habitats, and measures to manage the risk of collision of migratory birds and monitoring their mortality.
Complainant's report September 2015	<ul style="list-style-type: none"> ➤ Contained overall analysis of the implementation by Bulgaria of relevant Standing Committee's recommendations. The conclusions are mitigated, with efforts and steps undertaken in the most recent years but lack of tangible results compared to the goals and aims of the recommended actions. This is due to the long delays in which some of the recommended actions have been partially implemented. Generally, the changes in the legislation, the strategic plans, and the adoption of new regulations are welcomed. ➤ Notes a persistent low quality of EIAs and, most important, inaction regarding dismantling or relocating the problematic windfarms. This is the case for the three windfarms in Kaliakra, which are still operational despite evident impact on the biodiversity of the protected site.

	<ul style="list-style-type: none"> ➤ Questions were raised regarding the quality of the national reports which do not allow for a proper analysis of progress. The complainant presented an analysis of the efficiency of the measures undertaken to meet the requests of the Standing Committee and invites the Standing Committee to adopt an official opinion, together with further guidance for future efforts.
<p>Opinion of the Advocate General 3 September 2015</p>	<ul style="list-style-type: none"> ➤ The European Commission claims: ➤ The insufficient designation of Kaliakra SPA, which makes the site inadequate to ensure the conservation of the species listed in Annex I of the Birds Directive and the migratory species not listed in the Directive but regularly coming to the area (violation of article 4.1 and 2 of the Birds Directive); ➤ Violation of Article 4.4 of the Directive, for approving 6 important wind farm projects outside Kaliakra SPA but in an area which should have been designated as SPA; ➤ Violation of article 6.2 of the Habitats Directive, for authorising wind and sport projects within Kompleks Kaliakra SCI and Belite Skali SPA; ➤ Violation of Article 2.1 in conjunction with Article 4.2 and 3 of the EIA Directive, for failing to properly assess the cumulative impacts of the projects authorised outside the SPA but in an area which should have been designated as such. ➤ The Advocate General recognised the insufficient designation of Kaliakra SPA and the failure to adequately protect the relevant species and habitats. He further recognised a violation of the Birds Directive for failure to take adequate measures to prevent that the projects authorised outside the designated area degrade the habitats and species that should have been protected. The same conclusions apply to the violation of the Habitats Directive for failure to avoid that the projects authorised within the SCI and SPA damage the habitats and species for which the sites had been designated. Finally, the Advocate General partially agreed on the claim about the violation of the EIA Directive and considered that Bulgaria failed to properly evaluate the cumulative impacts of some of the private and public projects in a sensitive area.
<p>Bureau meeting September 2015</p>	<ul style="list-style-type: none"> ➤ Regretted the little progress achieved since the file was first opened 11 years ago.
<p>Group of Experts meeting October 2015</p>	<ul style="list-style-type: none"> ➤ Debated the case and expressed its worries regarding the situation of migratory birds in the Northern-East coast of Bulgaria.
<p>35th Meeting Standing Committee November 2015</p>	<ul style="list-style-type: none"> ➤ Case file to kept open. Emphasised that Bulgarian authorities need to strengthen surveillance after any infrastructure developments to ensure the implementation of the appropriate mitigation measures. Invited the authorities of Bulgaria to step-up efforts towards the full implementation of Recommendation No. 130 (2007), and to carry out a comprehensive, independent, and quality assessment of the impact of windfarms' developments in the concerned area.
<p>ECJ Decision 14 January 2016</p>	<ul style="list-style-type: none"> ➤ Case number C-141/14 brought by the European Commission. ECJ ruled against Bulgaria over its failure to protect unique habitats and important species in the Kaliakra special protection area at the Black Sea coast.
<p>Respondent's report February 2016</p>	<ul style="list-style-type: none"> ➤ The first violation found by the European Court of Justice was duly removed as the necessary areas were added to the "Kaliakra" special protected zone", and informed that in respect to the remaining three violations, the country would reply to the European Commission within a period of 2 months from reception of the letter notifying the Court's decision.

Respondent's report August 2016	<ul style="list-style-type: none"> ➤ An Integrated Management Plan (IMP) for three Natura 2000 zones (Complex Kaliakra, Kaliakra and White Cliffs) was commissioned to the Institute of Biodiversity and Ecosystem Research (IBER and the Bulgaria Academy of science. This IMP was developed as a result of the ECJ rule from 14 January against Bulgaria. This IMP will include 1) the development of combined early warning system, including radars and observers, 2) the implementation of measures to sustain the key habitats for bird species, including active management of affected habitats, and 3) the implementation of conservation and management measures from the Action Plan for the Red-breasted Goose. ➤ No targeted research on the impact on wind energy in the Northeastern Black Sea coast on bat species was performed and that this should also be one of the aims of the IMP presented above. ➤ The competent Ministry is also planning training and information campaigns targeting regulatory authorities, wind farm operators, users, etc. The stopping of several wind turbines were made by the operators themselves during 2015 and 2016.
Complainant's report September 2016	<ul style="list-style-type: none"> ➤ As foreseen by the ECJ ruling, the negative impacts on the site can only be removed if the wind turbines are removed from the relevant sites and this will be also a way to comply with Recommendation No. 130 (2007).
Bureau Meeting September 2016	<ul style="list-style-type: none"> ➤ Took note of the activities planned as a result of the ECJ ruling, in particular the plans for the development of an early warning system. ➤ Case file to be kept open. Secretariat to invite the Bulgarian authorities to report to the Standing Committee at its upcoming meeting on the issues on which the authorities haven't reported yet in relation to the operational part of Recommendation No. 130 (2007), paying particular attention to the opinion of the complainant.
Respondent's report October 2016	<ul style="list-style-type: none"> ➤ Authorities are still in negotiation with the European Commission on ways to implement the Court's judgement.
Complainant's report October 2016	<ul style="list-style-type: none"> ➤ The investor for some of the wind power parks targeted by the ECJ's judgement, namely of "Kaliakra Wind Power" Corp, sought an extension of his license long before the deadline (11 years) as insurance against future acts of government to implement the judgment. ➤ There is an issue regarding the state aid measures which benefitted some wind farms subject to judgment in Case C-141/14, in particular after the issuing of the ECJ's decision. The complainant has requested the Bulgarian government to inform which measures (legal or other) have been put in place in order to prevent these wind farms and their investors to benefit from such state aid.
36th Meeting Standing Committee November 2016	<ul style="list-style-type: none"> ➤ Taking into account the pending implementation of the ECJ's ruling against Bulgaria over its failure to protect unique habitats and important species in the Kaliakra special protection area, the Committee expressed its hopes to see quick and tangible progress in terms of action and mitigation measures implemented by the authorities in the area concerned. ➤ Case file to be kept open. Invited the Bulgarian authorities to ensure all procedures taking place at national level in relation to the ECJ's ruling implementation are transparent and inclusive to all stakeholders. Authorities are further invited to implement strict control over the additional developments in the region. A report on report on progress in the implementation of the ECJ's ruling and the way it relates to the operational part of Recommendation No. 130 (2007) of the Standing Committee was requested.

<p>Respondent's report July 2017</p>	<ul style="list-style-type: none">➤ In December 2016, Bulgaria submitted a written opinion in response to EC questions and the Joint Conclusions. At the end of March 2017 a draft of the Integrated Management Plan (IMP) of SPA 'Kaliakra', SCI 'Kompleks Kaliakra' and SPA 'Belite Skali' and Project Impact Analysis was prepared by the Ministry of Environment and Water. No emergency measures have been notified to the European Commission.➤ The projects in the Kaliakra area, which are covered by the ECJ Decision have been analysed to determine the potential impacts on bird species and their habitats in SPA BG0002051 'Kaliakra' and SPA BG0002097 'Belite Skali' that overlap with SCI BG0000573 'Kompleks Kaliakra'. Impact on birds was identified and analysed by a group of experts from the Institute of Biodiversity and Ecosystem Studies of Bulgarian Academy of Sciences. The development of the IMP is one of the measures that Bulgaria will be implementing pursuant of the ECJ Decision. On the basis of the studies conducted and the available information on abiotic factors and biological components, the IMP assesses the current status of the three protected areas. The changes that have occurred since their designation to date are subject to further update, incl. on the basis of the information that will be provided during the public consultation.➤ By development and adoption of the IMP Bulgaria aims to define all necessary measures for protection of species and natural habitats for the next 10 years period as well as to maintain their conservation status and the state of security for birds. In order to coordinate the implementation of the IMP the Ministry of Environment and Water foresees the establishment of a management authority for those protected sites. This will ensure public engagement and active involvement of the stakeholders and will facilitate the coordination of the activities.➤ If projects are in conflict with the IMP provisions, they will be deemed ineligible and the EIA/AA procedures will be terminated. New obligations and restrictions on the operation of already approved projects might be imposed through the measures in the IMP, including on the projects covered by the ECJ Decision.➤ The draft of IMP is expected to be presented for public consultation in early July 2017 and to be approved by the Minister of Environment and Water by the end of the year.➤ An Interdepartmental Working Group has been established to coordinate the implementation of the measures and all other activities necessary to address the ECJ Decision.➤ The Minister of Environment and Water issued instructions to the Director of RIEW-Varna to pay special attention to the proper conduct of the procedures under the Environmental Protection Act and the Biological Diversity Act, develop effective coordination mechanism with the territorial state and municipal authorities that issue permits for construction control and other activities with have direct or indirect impact on the conservation of respective objects in the protected sites, notify the Ministry about any identified irregularities that could be a threat to habitats and species.➤ Conducting consultations on elaboration of the methodology for an effective early warning system that will prevent the negative impact on the target species of birds. The concept has also been presented for discussion in the Interdepartmental Working Group.➤ The new Master Plan of Kavarna Municipality is under on-going Environmental Assessment (EA) and AA according to the Environmental Protection Act and the Biological Diversity Act.
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Complainant's report September 2017	<ul style="list-style-type: none"> ➤ In order to remove impacts on the site the windfarms that were subject of the ruling should be removed. Full independent scientific assessment of the damage that has been done to bird habitat on the site since accession should be carried out. On the spot appraisal should be carried out. If deterioration continues, interim measures and an Article 260 case should apply. ➤ The government management plan consists of one measure related to wind turbines. This is not enough to avoid or minimise the impacts of on birds and to implement the ruling of the ECJ. It does not include any measures to implement Recommendation 130 (2007). This integrated management plan is still under discussion as public hearings on 4th August were frustrated by manipulated protests. The only measure which could contribute to implementation of the ECJ ruling on Kaliakra is establishment of an Early Warning System (EWS). ➤ The Government did not take any concrete adequate measures from January 2016 until July 2017 in order to implement the ruling of the ECJ. In August 2017 EU DG Environment in response to the Complainant's question, and contrary to information published on the government's website, stated that "The Commission has not yet taken any decision on this matter (ECJ ruling). It is for the Bulgarian authorities to identify the appropriate measures to achieve compliance". ➤ Points 2,3,4,5 and 8 of Recommendation 130 (2007) are relevant to the ECJ ruling and should be fully implemented. The Bern Convention Group of Experts on the Conservation of Birds could make a full analysis of the evidence provided by the Government on lack of impacts on birds and the other evidence, provided by NGOs and experts on the presence of significant impacts. The Group could then come up with concrete conclusions and advice for further steps. ➤ There are discrepancies between the actual location of the steppe habitats and the areas listed in the government order to ban any activities for a period of 2 years in the Pontho-sarmatian steppe habitats in Complex Kaliakra SCI. For example there are several patches of steppe habitats on the territory of the Thracian cliffs golf course which are not subject to the order.
Bureau meeting September 2017	<ul style="list-style-type: none"> ➤ Bureau invited the authorities to attend the 37th meeting of the Standing Committee to the Convention and to provide a status update on the development of the Integrated Management Plan (IMP), on how it will address the operational points of Recommendation No. 130 (2007), on the conclusions of the public consultations which were expected to be held in early July 2017 and on the expected final adoption of the IMP; ➤ File kept open.
37th meeting Standing Committee December 2017	<ul style="list-style-type: none"> ➤ Thanked the national authorities for the information provided on the measures foreseen for complying with the ECJ decision and noted the difficulties encountered at national level in implementing some of them. ➤ Took note of the considerations by the complainant NGO that the measures currently planned will not address the operational paragraphs of Recommendation No. 130 (2007). ➤ The Standing Committee decided to keep the file open and, on the proposal by the complainant NGO and with the agreement of the authorities, instructed the Secretariat to organise an on-the-spot appraisal (OSA) to the area during the wintering time of the geese, pending the availability of the necessary financial resources. The mandate of the OSA will be to provide support to the authorities in implementing Recommendation No. 130 (2007), to be further fine-tuned and agreed upon with the authorities and the NGO.

<p>OSA May 2018</p>	<ul style="list-style-type: none">➤ Report of the mission available in document T-PVS/Files(2018)25➤ Provides 10 recommendations focussing on a few main priorities for attention in the coming 12 months, including a monitoring plan for their realization with a clear timetable and deadlines:➤ The comprehensive independent assessment of the impact of operational windfarms in the Kaliakra area which was recommended by the Bern Standing Committee in 2015 (amplifying paragraph 5 of Recommendation No. 130 of 2007) should be undertaken without delay, according to scientifically appropriate methods to be agreed in advance. It should include information from the current collision mortality monitoring but should also address other impacts such as displacement, barrier effects, disturbance and habitat change; and it should arrange to draw on collaborative sharing of information between windfarm operators, regional authorities, NGOs, academic researchers and others. An interim report of the results should be transmitted to the Bern Convention Bureau before February 2019, and a final report before August 2019.➤ A broader regime for on-going monitoring and assessment of potential impacts of the Kaliakra area windfarms during their operation should be developed, ensuring that it inter alia:<ul style="list-style-type: none">➤ follows scientifically appropriate methods agreed in advance;➤ addresses all types of potential impacts, including collisions, disturbance, displacement, barrier effects and habitat changes;➤ includes observations at both windfarm sites and comparable areas with no windfarm developments, so as to provide “control” comparisons;➤ is coordinated across all the Kaliakra installations;➤ is undertaken in conjunction with research by NGOs, supported by data-sharing agreements;➤ takes the opportunity to undertake related research where it would be appropriate and cost- effective to associate this with the field efforts already being made on monitoring and assessment;➤ makes information about the methods and systems used available in a form which would allow these to be replicated at other windfarm sites elsewhere;➤ feeds results and insights (through the authorities) into national processes for planning and assessment of future developments.➤ Windfarm operators and other land owners, managers and authorities should explore options for creating conservation gains for migratory birds and habitats in or around the Kaliakra area (e.g. through habitat creation/restoration and management investments, designation of additional protected areas, etc), as a way of aiming partially to offset the risks and/or damage introduced by the completed windfarm developments, and/or in any event to contribute to agreed conservation priorities.➤ The conservation impact achieved by measures undertaken in response to recommendation (iii) above should be thoroughly evaluated, and if judged in any way to be less successful than hoped, or if the exploration of options itself has not advanced significantly within one year of the date of the present report, then alternative options for removal of existing operational wind turbines from Kaliakra should be investigated and implemented as appropriate.
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	<ul style="list-style-type: none"> ➤ The successor plan to the Bulgarian National Renewable Energy Action Plan 2011-2020 should re-confirm (and enhance where necessary) the latter's prohibition on wind energy developments in sensitive locations. ➤ The Bulgarian authorities should provide the Bern Convention Bureau with a short report by September 2018 on the specific ways in which the legal provisions, policy requirements, standards, established practices or other aspects of environmental assessments (SEA/EIA/AA) in Bulgaria meet each of the individual points in paragraphs 1, 4, 8 and 9 of Recommendation No. 130 (2007) or will do so in future (with an indication of the expected timeframe), giving particular attention to the points in the Recommendation concerning cumulative assessment and peer review. ➤ The Bulgarian authorities should promote the dissemination (including translation where necessary) and use within the country of the guidance on windfarms and birds developed under the auspices of the Bern Convention (Gove et al. 2013), and the international standards and best practice guidance on EIA/SEA adopted under the Conventions on Biodiversity, Migratory Species and Wetlands, together with related materials produced by the International Association for Impact Assessment. ➤ Options should be explored for developing a proposal (which could be submitted to potential funders) for a project to build enhanced capacity in Bulgaria on knowledge exchange and best practices in the assessment and management of wind energy impacts on wildlife. ➤ The Conservation Action Plan for the Red Breasted Goose population in Bulgaria should be funded and implemented without delay, and periodic summary reports on its implementation should be transmitted to the Bern Convention Standing Committee, beginning with a first report in November 2018. Those responsible for the Plan should ensure that thorough and coordinated monitoring of the species' population status and trends receives sustained high priority attention. ➤ The findings of this on-the-spot appraisal should be shared with the Secretariats of the AEWA and Eurobats Agreements, the Convention on Migratory Species and the European Commission, given that all of these bodies have shared interests in the issues it covers.
Bureau meeting September 2018	<ul style="list-style-type: none"> ➤ Noted the progress achieved at national level, as noted in the OSA mission report. ➤ Reminded the national authorities that an updated report on progress in the implementation of the OSA recommended actions is expected by 20 October 2018 (as provided for in the monitoring plan of the OSA report accepted by the authorities).
Respondent's report October 2018	<ul style="list-style-type: none"> ➤ Provides, as requested by the OSA, a report on the implementation of 10 main priority actions recommended to be pursued over a period of 12 months. ➤ Some of the priority actions concern defining actions/for taking action (shorter) or providing information on actions, and the other is about a timeframe for being able to assess the ultimate outcomes of action (longer), not necessarily bringing all the actions to completion in 12 months. ➤ Provides detailed responses to each of the operational paragraphs of the draft Recommendation, based on the 10 priority actions identified by the OSA mission and opposes the adoption of some of them at the 38th meeting of the Standing Committee, finds some irrelevant or provides information on planned activities for their implementation.
Complainant report October 2018	<ul style="list-style-type: none"> ➤ Provides a short summary analysis and justification of the proposed draft recommendation, also in response to the arguments provided by the national authorities in their report from October 2018. ➤ Strongly supports the adoption of the Draft recommendation, as it stands, by the 38th Bern Convention Standing Committee meeting

2012/9: PRESUMED DEGRADATION OF NESTING BEACHES IN FETHIYE AND PATARA SPAS (TURKEY)	
Date submitted	09/2012
Submitted by (Complainant)	MEDASSET
Respondent State (Respondent)	Turkey
Specie/s or habitat/s affected	<i>Caretta caretta</i> (Appendix II) - nesting areas at the Fethiye SPA
Background to complaint	<ul style="list-style-type: none"> ➤ At the Bureau meeting in September 2012 the Secretariat informed that MEDASSET submitted an updated report regarding the implementation by Turkey of Recommendation No. 66 (1998). In 2011 some valuable steps were made to protect the nesting areas; however the complainant was concerned by the fact that several of these measures were not sustained in 2012.
Standing Committee 32nd meeting	<ul style="list-style-type: none"> ➤ Delegate of Turkey informed on the measures undertaken to protect the nests in the area, including caging, tagging of animals, awareness raising and monitoring. ➤ Representative of MEDASSET stated that despite some efforts from the authorities, lack of guarding and of information signs, litter and light pollution, plantation of introduced species, unregulated motorised water sports and presence of people and vehicles on nesting beaches at night. In 2012, one new wooden hut with a concrete patio was installed on the nesting beach, and a hotel was built on the beachfront, destroying the last section of the remaining wetland while Recommendation No. 66 (1998) specifically states that remaining unbuilt beach plots should be secured against development. ➤ MEDASSET proposed that a file should be open regarding Fethiye SPA, and concluded by calling upon Turkish government to inform on the neutralisation and removal of the toxic waste as well as sea turtle conservation efforts in Kazanlı. ➤ The delegate of Turkey acknowledged that the images presenting the situation in Fethiye were “uncomfortable” and stated that he expected matters to improve, as certain organisational issues related to the management of the beaches were to be resolved soon. ➤ File to be dealt with as a possible file.
Complainant’s report 2013	<ul style="list-style-type: none"> ➤ Urged the Secretariat to consider the complaints lodged for Fethiye SPA and Patara SPA as distinct. the complaint and the subsequent update reports submitted to the Secretariat referring to Fethiye SPA highlighted the lack of implementation of conservation and management measures, as well as the construction of new hotels and other buildings on the nesting beaches; on the other hand, the problems put forward in the complaint referring to Patara SPA focussed on large scale construction projects taking place within the protected area and failure of the land use and management plan to secure adequate protection status to the SPA at both the ecological and archaeological heritage management level. MEDASSET offered to invite an expert on land use and heritage site management to further inform the Standing Committee, if requested by the Bureau. ➤ Regarding Fethiye SPA, and noting the continued decline of nest numbers in the area possibly due to poor management and protection of the habitat, MEDASSET requested a detailed report by the Turkish authorities with an account of conservation and management measures to be applied in Fethiye SPA before and during the 2013 nesting season.

	<ul style="list-style-type: none"> ➤ Concerning Kazanlı, MEDASSET requested that the issue be dealt with as a follow up to Case File No. 2000/1, which the Bureau dismissed in 2009 in order to consider the complaint under the general monitoring of the implementation of Recommendation No. 66 (1998). However, MEDASSET asked that Recommendation No. 95 (2002) on the conservation of marine turtles in Kazanlı be put on the agenda of the 33rd Standing Committee meeting since there had been no news or report on progress for the safe disposal of the 1.5 million tons of highly toxic solid waste located right next to Kazanlı's most important green turtle nesting site, posing a threat to the environment and human health.
Bureau Meeting April 2013	<ul style="list-style-type: none"> ➤ Agreed to monitor the implementation of Recommendation No. 95 (2002) at next Standing Committee meeting. ➤ Considered the conservation and management issues related to Fethiye and Patara SPA as interlinked and decided to address in conjunction.
Respondent's report April 2013	<ul style="list-style-type: none"> ➤ Following the restructuring of the Ministry of Environment, the General Directorate for the Protection of Natural Assets had been appointed as the body for the Special Environmental Protection Areas (SEPAs). The latter can be subject to urban developments, provided that these are foreseen in the so-called Master Plans, which fixes the conditions for land use and density of developments in the respective areas. ➤ More specifically regarding Patara, the report informed about the legal status of the area, stressing that the zone where the villas are constructed is a 3rd Degree Archaeological Site (DAS). Moreover, the construction plans related to Patara 1st DAS had been approved by decree. In addition, the report summarised the measures taken for ensuring sea turtle conservation in the period between May and September 2012, and provided some data collected as a result of monitoring studies carried out in the same timeframe (i.e. number of nests, tracks, predation, accidents, etc.) ➤ Concerning Fethiye SEPA, the report provided the same kind of data, and further informed on more specific conservation actions, like for example the caging of nests against human activities and predators, a measure which concerned 11.23 % of the nests. Public awareness actions were also implemented at night at the "Caretta Info Desk" on Çalış beach, targeting for instance local and foreign tourists.
Secretariats action April 2013	<ul style="list-style-type: none"> ➤ Invited authorities to complete the report submitted with more detailed information on some of the issues raised in the Secretariat's correspondence, for instance the measures and actions whose implementation was foreseen that year, as well as the steps towards the removal of illegal or unauthorised constructions in both Fethiye and Patara SPAs.
Complainant's report 9 September 2013	<ul style="list-style-type: none"> ➤ Regarding Fethiye, the report listed the impact of the main threats to the nesting population, in 2013 there was no improvement to the protection and effective management of the nesting beaches, with the exception of beach furniture management in a small area and some new signage which remained insufficient. The main threats continued to be the lack of effective signage, the presence of beach furniture, beach access at night, light pollution, plantation, and illegal tourism infrastructure. A list of recommendations, namely regarding the need of reinforcing guarding on the beaches, continuing programmes of scientific monitoring and nest protection, the need of appropriately managing beach furniture, preventing the access to the beaches at night, removing the plantations and securing the remaining undeveloped beach area against developments. ➤ Regarding Patara, the building of 27 villas to be inhabited by summer 2014 had been completed. The whole construction project concerns the building of around 400-750 villas in total and stressed the need of urgently reconsidering the scale of the project. Signage was insufficient and apparently no guarding was foreseen to enforce conservation rules on the nesting beaches, unlike previous years. The complainant reiterated its proposal to bring an expert on land use and heritage site management to further inform the Standing Committee, if requested by the Bureau.

<p>Bureau Meeting September 2013</p>	<ul style="list-style-type: none"> ➤ Authorities to provide the Standing Committee with an updated report, including more recent information related to, among others, the breeding season.
<p>33rd Standing Committee Meeting</p>	<ul style="list-style-type: none"> ➤ For Patara the complainant requested the re-evaluation of the scale of the tourism development project in the 3rd Degree Archaeological Area, the implementation of an Environmental Impact Assessment, and the elaboration of an updated SPA management plan to manage visitor flows prior to the 2014 tourist season. ➤ Regarding Fethiye, the complainant showed pictures taken during the summer season in 2013 clearly showing the lack of effective signage and guarding, lack of management of the beach furniture, beach access at night and consequent light pollution, creation of parking spaces, wooden pavilions, temporary discos, and even a new road. ➤ The delegate of Turkey explained that the authorities are aware of the situation and committed to revert it. In fact, the process of re-organisation of the competencies within the bodies responsible for nature conservation had an impact on the efficiency of the response of the government, but some measures were already envisaged to ensure that the effective management of both areas is done in compliance with the recommendations of the Standing Committee. ➤ The Committee decided to open the file to encourage the relevant bodies at national level to work towards greater accountability, co-operation, and responsibility. ➤ Committee instructed the Secretariat to promptly approach Turkish authorities with a detailed reporting request, and mandated the Chair of the Standing Committee to convey the Committee's concern to the responsible national authorities, together with the relevant proposals of assistance.
<p>Secretariat action</p>	<ul style="list-style-type: none"> ➤ Addressed a letter to Turkish authorities already in January 2014, conveying the worries of the Committee as well as the proposal of assistance, and requesting an updated report on the progress towards the management of the area. Due to a communication problem, the delegate requested an extension of the deadlines fixed by the Secretariat until the 28th March.
<p>Complainant's report</p>	<ul style="list-style-type: none"> ➤ Regarding Fethiye SPA, MEDASSET denounced the lack of preparatory actions by the authorities to improve the management and conservation of sea turtle nesting beaches. In addition, the complainant alerted on the promotion by the authorities of a "public interest decision" allowing for the relocation and construction of a shipyard/drydock on Akgöl nesting beach. The latter is an "old" project regularly denounced by MEDASSET since its construction could undermine conservation efforts in the area and have a severe impact on a pristine habitat. ➤ Addressed a series of requests to Turkish authorities, including the preparation of a SPA management plan for both the land and marine areas, the urgent implementation of a comprehensive action plan ensuring proper management and adequate protection of the SPA, and the allocation of the necessary financial and human resources for the enforcement of regulations. Furthermore, the complainant requested to the government to reject the plans for the construction of the drydock in Akgöl. ➤ Requested the Bureau to consider the possibility of an on-the-spot assessment as a way forward in case no relevant information is communicated by the national authorities on the complaint, as well as to request an official update on the status of the shipyard construction project. ➤ Regarding Patara, MEDASSET informed that the construction of another 300 villas inside the protected area had been documented in several press articles since January 2014. According to the complainant the summer house construction project is incompatible with the Bern Convention's related recommendations.

	<ul style="list-style-type: none"> ➤ Complainant requested the national authorities to take a clear position on the matter, to re-evaluate the scale of the construction project, to revise the SPA management plan and ensure its implementation through the necessary human and financial resources before May 2014. As for Fethiye, the complainant concluded by requesting that the Bureau consider the possibility of an on-the-spot assessment in case of lack of reporting by the Turkish authorities.
Respondent's response	<ul style="list-style-type: none"> ➤ Recognised the lack of a local management unit, as well as of physical points of entry/exits at Fethiye-Göcek SEPA. ➤ Although the control of the area was not adequately maintained, the report informed about the results of the studies carried out during the 2013 nesting season, with data on the number of emergencies, of nests caged against predation and human activities, and hatching. Regarding the latter, only 1.92 % of the nests did not produce any hatchlings and, after considering the unfertilized eggs and the death in shell, the hatching success was calculated at 91.99 %. The report further contained pictures documenting some public awareness activities, namely with hotel owners, personnel and guests, as well as the installation of three info signs at the main entrance to the beach at Çalış, Yanıklar and Akgöl sections. ➤ Concerning Patara, the area where the villas were to be constructed is about 2 km away from the beach. The Implementation Plans for the construction project received all necessary authorisations and were prepared by the Ministry of Culture and Tourism and endorsed by the Antalya Culture and Natural Heritage Protection Regional Council. Moreover, the scale of the initial plans had been already reduced of approximately 75 %. ➤ Regarding sea turtle protection activities, the results of the studies conducted between May and September 2013, showing a high percentage of eggs suffering from predation, mainly by foxes. However, around 90 % of hatched turtles managed to reach the sea. Some awareness activities, similar to those carried out in Fethiye, were also organised in Patara.
Bureau Request	<ul style="list-style-type: none"> ➤ Requested to receive more detailed information from the authorities on the plans for the forthcoming tourism season, as well as on the measures to be implemented for ensuring the proper conservation of the areas in the future. It also requested the official position of the authorities with regards to the possible relocation and construction of the shipyard on Akgöl.
Secretariats action	<ul style="list-style-type: none"> ➤ Secretariat addressed a specific reporting request to the authorities at the beginning of May, followed by several reminders. However, no new information was submitted by the authorities on time for the second Bureau meeting.
Complainant's Summer 2014	<ul style="list-style-type: none"> ➤ Contrary to the authorities report, the summer house developments were considered to be nearer the core nesting area than what affirmed by the authorities. In addition, the NGO reported about some press articles informing that 122 houses would be built on the land belonging to the HITIT Housing Cooperative, within the protected area. ➤ Detailed some other persisting conservation problems, such as the lack of signage, inadequate beach furniture management, discard of pesticide bottles onto the beach and into the sea, use of fishing nets close to the shore during the nesting and hatching season, the construction of a new road and the establishment of a new beach bar in Çayağzı beach.

<p>Bureau Meeting September 2014</p>	<ul style="list-style-type: none"> ➤ Regretted the lack of updated information from Turkey and decided to keep the case-file open. ➤ Standing Committee to ensure its follow-up, including by considering the possibility of an on-the-spot appraisal depending on the information submitted and provided there is agreement of the Party.
<p>34th Standing Committee Meeting 2014</p>	<ul style="list-style-type: none"> ➤ The delegate of Turkey made an oral statement reiterating that, in Patara, the construction of the villas is taking place outside the nesting beaches, in compliance with national legislation. As for Fethiye, he recognised some problems related to the management and control of the area, due to high tourism pressure. ➤ He further provided information on the measures taken to improve awareness, as well as the results of the last nest conservation activities. He concluded by reaffirming the commitment of his authorities for solving the existing problems by making nature conservation compatible with human exploitation of the areas. ➤ Standing Committee emphasised the need for a positive response to the reporting requests. Considered the report presented by the complainant, confirming that the management of the beaches is still inadequate, and informing about new construction and about further construction projects already planned. ➤ At the proposal of the Chair, and following the agreement of the concerned Party, the Standing Committee, with the agreement of the Party, decided to keep the case-file open and to conduct an on-the-spot appraisal to the relevant sites in view of identifying a set of recommended actions to be submitted for consideration of the Committee at its next meeting.
<p>On the spot visit 28-31 July 2015</p>	<ul style="list-style-type: none"> ➤ Dr Paolo Casale, research fellow at the University of Rome “La Sapienza”, scientific coordinator of the sea turtle project carried out by WWF Italy and Member of the IUCN SSC Marine Turtle Specialist Group carried out the visit. The aim of the visit was to identify a set of recommended actions that – if implemented – would avoid Turkey being in breach of the Convention. The visit included day and night assessments of both Specially Protected Areas, as well as four separate meetings with the authorities and with the stakeholders of both Antalya and Mugla provinces. The mission was observed by scientists of the IUCN and the WWF Turkey. ➤ According to the expert’s report, common major problems for both areas seem to be: the lack of adequate management of the beaches; the lack of education and public awareness on the needs of marine turtles and the intrinsic value of nature; and the degradation of the system of protection for all the areas classified as Specially Protected Areas (SPAs) that passed in 2012 from the responsibility of the Ministry of Water Affairs and Forestry to the one of the Ministry of Environment. The legislative environmental framework of the latter seems inadequate to ensure the necessary protection of outstanding areas like those which make the object of the present complaint.
<p>35th Meeting of Standing Committee December 2015</p>	<ul style="list-style-type: none"> ➤ After considering the expert report from the OSA and the opinion of both the Government and the NGOs, the Standing Committee adopted two Recommendations (No. 182 (2015) on the conservation of <i>Caretta caretta</i> and its habitat at Patara Nesting Beach and No. 183 (2015) on the conservation, management and restoration of Fethiye Nesting Beaches). ➤ Noted that while Patara nesting beach is still relatively pristine, the impact of further tourism development and the lack of proper enforcement of the measures - already recommended - may compromise its high natural value. ➤ Concerning Fethiye, the Committee expressed concerns for the conclusions of the expert’s report regarding the severe habitat degradation already occurred, but took further note of the commitment of Turkey to properly addressing the ecological and management problems identified.

Respondent's report July 2016	<ul style="list-style-type: none"> ➤ Submitted two separate reports on the progress in the implementation of the two abovementioned recommendation. ➤ Regarding Patara, the authorities informed on a special budget put aside by the DG for the protection of Natural Assets under the Ministry of Environment and Urbanization which was used for various conservation and monitoring activities between May and August 2016: scientific activities, educational activities, posting warning signs at the beginning of the season, cages to be used for nest protection, lodge on the beach to serve as information desk, dissemination of leaflets in Turkish and English, Instagram account created to share photos and raise awareness on the issue, involvement of volunteer tourists in conservation activities, etc. ➤ Regarding Fethiye, the national authorities report on the conservation and monitoring activities which took place in the same period (May-August 2016): conservation studies on spotting new nests, caging and relocating nests, education activities for managers and employees of hotels and cafeterias, the installation of an information booth in Fethiye Calis beach, use of turtle friendly lights, changes made to the landscape design of the access to Calis beach, in order to prevent access by vehicles, and on the commitments made by several companies working in the area in order to receive a Turtle Friendly Enterprise Certificate at the end of the season.
Complainant's report August 2016 and update October 2016	<ul style="list-style-type: none"> ➤ Reports in detail for both areas on the remaining conservation issues: lack of staff for monitoring and management, lack of clear zoning of the area, no control over vehicle access, near shore fishing, horse riding, poor management of beach furniture, etc. ➤ Specifically on Patara, there is no progress in improving the conservation status of the nesting beaches as proscribed in point 1 of Recommendation No. 182 (2015) and a small project, only limited to season 2016, was entrusted to Adnan Menderes University with a small team with only two experienced volunteers, monitoring only the southern part of the beach and conducting irregular nightshifts and starting their morning shifts only at 8am. They recognised some efforts on litter management, also by local communities as well as the installation of a few information signs placed near the beaches, but these only inform about basic regulations and not on the ecological value of the area. ➤ Specifically on Fethiye, there is continuing coastal development with a new Coffee place at the Calis beach, additional pavilions and sunbeds, new sport facilities, etc. They explain a monitoring and conservation of the turtle nests was carried out by Pamukkale University and started in June 2016 while the nesting began in May. The contract is again short-term for only one season.
36th Meeting of Standing Committee November 2016	<ul style="list-style-type: none"> ➤ Welcomed commitment shown by authorities through the different actions implemented in 2016 in response to the Recommendations of the Convention. However, also noted the complainant arguments that most of the operational recommendations have remained unanswered so far. ➤ The case-file should remain open and urged the Turkish authorities to step up their current efforts and ensure that both Bern Convention Recommendations [No. 182 (2015) and No. 183 (2015)] are fully implemented in 2017. Authorities to report back on the actions planned and implemented in 2017 to the Bureau and the upcoming 37th Standing Committee meeting.
Complainant's email update 24 May 2017	<ul style="list-style-type: none"> ➤ Request deadline extension of the date for submission of an updated report to 18 August. The deadline of 14th of July 2017 excludes some important periods related to sea turtle conservation, i.e. the peak of their nesting period. The human activities that threaten the success of nesting also intensify during the tourist season and reach their peak during July and August. Therefore the report will not depict the actual conditions that threaten the viability of the nesting efforts of sea turtles in Fethiye, Patara and Kiparissia.

**Complainant's
report
31 August 2017**

Patara

- No improvement in Patara's legal protection or management. Regarding Letoon beach former SPA facilities have been left to decay and old pipes are still supplied with water.
- No zoning or delimitation of the nesting zone exist, with the exception of the Patara main beach area. At Patara main beach, the number of furniture provided for rent has significantly increased. Furniture and obstacles are placed partly inside the nesting zones because zoning is inaccurate.
- Vehicle tracks from been observed all along the beach. At Patara main beach no guard or barrier is present at night.
- Near shore fishing activity has been observed around Esen river.
- There is no local management team present. The only personnel present are the nest monitoring team from the Adnan Menderes University. The monitoring team consists of three experienced volunteers and are only contracted for one season. To the complainant's knowledge the local community is not actively involved in the conservation or management of the protected area; best efforts to involve them have received very little response.
- No new construction work for the summer house village area was observed.
- Predation of eggs and emerging hatchlings still takes place. Predation cages buried in the sand may be ineffective as they do not prevent animals from digging into nests.
- Some nests in Patara main beach are still only marked with sticks. The few information signs on the beach only inform about basic regulations and there is lack of information on the ecological value of the area. There are no new information signs.

Fethiye

- At the beach of Çalış Section B, new beach bars are under construction and a concrete platform still remains. No new information regarding the government plan to construct a shipyard on the nesting beaches.
- The Complainant states that a large number of structures have not been removed from sand zones. A detailed list of structures and location has been provided.
- In Akgöl there is no evidence of sand extraction. In Karatas beach, there is regular sand movement next to the Barut TUI Sensatori Resort and daily flattening of the sand. Regular sand movement was also evident in Yanıklar and in Çalış Section B. No further planted vegetation was witnessed with the exception of Çalış beach Section B, where new plantations were observed at the My Beach Restaurant.
- No information on the recommended mapping and zoning action has been received. Furthermore, there is no zoning or demarcation of nesting zones. It seems there is no restriction, supervision or management regarding the location and density of the furniture, which occupies the nesting zone and is not removed correctly at night.
- Regarding Akgöl beach sandy nesting areas are occupied by 14 pavilion, showers are used at the back end of the beach, camping and bonfires have also been observed. However, a decrease in beach furniture and some limited beach furniture management was witnessed, and the sports facilities have been also removed.

	<ul style="list-style-type: none"> ➤ Light pollution is severe on all beaches and there were no apparent new efforts to mitigate the problem. ➤ Vehicles were observed on all beaches, due to the lack of barriers or guards. There is uncontrolled visitor access at night. ➤ In Karatas, maritime traffic still very active; BARUT TUI Sensatory Resort provides several new motorized water sport boats. In Yaniklar and Çalış, less water sport activities were observed. ➤ Monitoring and conservation was carried out by Pamukkale University, starting in early June, though nesting began in May. The contract is for one season only. No information about recommended assessments. ➤ In Çalış Section A and Yaniklar litter has been effectively collected. No similar efforts were taken in the other nesting beach sections. ➤ No local management unit, no apparent increase of management & control resources allocated. No apparent enforcement of rules. ➤ Signage remains mainly unchanged compared to 2016. There is lack of information in most nesting beaches and the public is largely unaware of regulations and the protected status of the beaches ➤ Incidents of nest predation by foxes and dogs was observed in Yaniklar and Çalış. In Yaniklar all discovered nests were protected with predation cages.
Bureau meeting September 2017	<ul style="list-style-type: none"> ➤ The Bureau expressed its concern that national authorities have not made progress in the development of a management plan or legal protection of the areas, in particular Patara. ➤ The Bureau invited the national authorities to provide a report to the Standing Committee meeting on the 5th to 8th December 2017 detailing a plan to remedy these concerns. This report should provide a Timeline which clearly shows when the planned measures will be implemented, ultimately aiming to fully meet the terms of Recommendations No. 182 (2015) and No.183 (2015).
37th meeting Standing Committee December 2017	<ul style="list-style-type: none"> ➤ The Standing Committee thanked the national authorities for the efforts made in past year for improving the protection of both areas, while noting with concern the many challenges still facing them. ➤ The Committee decided to keep the file open and requested the Turkish authorities to provide, if possible by the Bureau meeting on 19 March 2018, a detailed Action Plan and a Timetable for the thorough implementation of all operational parts of the Recommendations, including describing the challenges they face and measures planned for responding to these.
Respondent's report June 2018	<ul style="list-style-type: none"> ➤ A timetable is prepared for the ongoing and planned conservation actions and presented as follows, on Patara; <ol style="list-style-type: none"> 1. Establishment of a local office of the Ministry of Environment and Urbanization, General Directorate for of Natural Assets was established in 2017 in Kaş City (Patara) and 4 experienced staff was entrusted in the local office. 2. Patara Beach is being monitored by the university's research team during the nesting season. Sea turtle monitoring and conservation project was funded by the Ministry. The monitoring and conservation studies were commenced by the 1st of May 2018. The team will be on site until the end of September 2018. This monitoring studies has been executed incessantly in the last 20 years. In addition, monitoring team and experts from the Kaş City directorate are keeping the beach under close monitoring between May and September.

3. Vehicle access was restricted and/or prohibited during the breeding season and illegal activities will be deterred during the nesting season 2018.
4. Development of permanent structures is not allowed on the nesting zone of the beach. Seasonal prefabricated structures are built behind the nesting zone. Beach furniture is only allowed on particular areas during the day. Beach furniture is collected by the tourism facilities during the night. The visitors are informed by the staff of Ministry and research team during the months May, June, July and August.
5. The Kaş and Seydikemer municipalities are the main responsible bodies for cleaning beach. Cleaning of the beaches is controlled by the staff of Ministry and Municipality.
6. The Ministry approved the 1/5000 and 1/1000 Implementation Plans that were prepared by the Ministry of Culture and Tourism and endorsed by the Antalya Culture and Natural Heritage Protection Regional Council and with the condition that protection and use balance to be considered and in line with the 1/25000 scale Patara Environmental Master plan that was approved in 1991.
- The large-scale holiday house construction project area is within Gelemiş settlement border and in consistent with 1/1000 scale Implementation Plan. Of all plans approved previously were reduced approximately 75% - from 106.000 m2 to 28.000 m2 and holiday houses construction was confined according to this. There is no new settlement buildings other than given in this plan.
 - Sea turtle research and monitoring project has been incessantly carried out on Patara nesting beach by different university members since 1990.
 - The beach is monitored by permanent personnel and volunteers during the breeding season, to ensure all legal measures are taken to protecte the natural structure of Patara. Sea turtle nests have been located and protected by grid cages against predation (crab and fox) and by prism cages for informing visitors to be cautious on the beach. The nests under high predation pressure are transported in the appropriate zones.
 - As far as possible, nests are carried to appropriate places where human densities are low or does not exist. The rest are protected by surface cages and warning plates. In addition, permanent and voluntary staff is engaged in information activities on the beach. They are conducting informative activities twice a week and at certain hours during the breeding season.
 - Informative signboards are placed at the entrance and appropriate locations on the beach. They are renewed every year.
 - Information about the beach is communicated to the permanent Turkish Sea Turtle Committee Members every year. In addition, this information is shared in the Sea Turtle Symposium, is held every two years. During the season, daily information is also shared with relevant members via the WhatsApp communication network and email.
 - A timetable is prepared for the ongoing and planned conservation actions and presented as follows, regarding **Fethiye**:
 1. A local office of the Ministry of Environment and Urbanization, General Directorate for the Protection of Natural Assets has been established in 2017 in Fethiye. 16 permanent personnel were entrusted in the office. All the conservation measures will be controlled by the Ministry staff. The financial support for monitoring and conservation studies is provided by the Ministry as well.
 2. Development of permanent structures is not allowed on the nesting zone of the beach. Seasonal prefabricated structures are built behind the nesting zone. The visitors of the beach and seasonal enterprises will be informed by the conservation team during the months May, June and July.
 3. Sand extraction is forbidden and subject to fines.

4. Beach furniture is only allowed on particular areas during the day time. Beach furniture are collected by the tourism facility areas during the night.
 5. Permanent barriers were built, and vehicle access is restricted and/or prohibited during the breeding season.
 6. Camping and bonfire is prohibited on the nesting beaches. Educational programs will be carried out during June, July, and August. Screening and/or changing lights to low pressure sodium lamps will be offered to the cafes and restaurants during 2018 season. Implementation of this conservation measure will be achieved during spring 2019.
 7. Plantation areas will be determined by the end of July 2018. Actions decided will be declared during the meeting in September 2018.
 8. The detailed map of the nesting zone including 2018 nest data will be prepared by the second week of August 2018.
 9. Maritime traffic will be monitored during June and July. A maritime traffic map and a plan will be prepared by the end of August 2018.
 10. Sea turtle monitoring and conservation projects are funded by the Ministry and the project have been conducting by sea turtle researchers from universities. The monitoring and conservation studies started by the 1st of May 2018. The team will be on site until the end of September 2018. Conservation and monitoring studies have been conducted continuously for the last 20 years.
 11. The municipality is the main responsible body for cleaning beach and cleaning bins on the beach. Beaches are cleaned regularly. The main problem is daily visitors. Hotels and touristic businesses are also responsible for cleaning the beach. The litter found on the beach is exceptional and removed in a day by responsible parties.
 12. Fethiye Beaches are being monitored by a team from Sea Turtle Research, Rescue and Rehabilitation Center (DEKAMER) during the nesting season. The Coast Guard is also helping protect the bays around Fethiye. In addition, local branches of the Ministry Forestry and Water Affairs, The Ministry of Environment and Urbanization, and DEKAMER extend the monitoring area towards Göcek. Any illegal operation (eg. sand extraction) or stranded sea turtle is reported by local networks to the related authority.
 13. Public awareness activities have been continuing in the area by the research team with our ministry's support during the monitoring and conservation project. Research team started "Turtle Friendly Enterprise" certification program in Fethiye in 2016. These studies will be developed, and education programs will be carried out between June and September for the next four years by Research team in Fethiye. The program includes training programs at hotels, cafes and bars, beach business and in the schools.
- Sea turtle nests have been located and protected by grid cages against predation. and by prism cages for informing beach users to be cautious on the beach.
 - Nests under inundation risk were relocated to the safer location on the beach.
 - The researchers and volunteers implemented the sea turtle awareness activities. Tourism staff facilities, e.g. hotels, restaurants, cafes, locals and tourists was started to be informed about sea turtle biology and conservation.
 - Informative signboards were placed on the beach. In addition, a total of 20 small sized informative signboards were placed in the entrances of the beach.

	<ul style="list-style-type: none"> ➤ The road extending to Çalış Hill from the minibus station was closed to vehicle traffic throughout the year. ➤ An info-desk is open every day from 21:00 to 23:00. ➤ The studies, started in 2016 for reducing light pollution on and around the nesting beaches, still continue. The research team and volunteers will make one to one interview with tourism facilities from June to September around Çalış Beach for extensification of red-light use. A new lighting post was proposed to the municipality and tourism facilities. Negotiations are still ongoing. ➤ In order to prevent the entrance of vehicles to the beach in the Çalış Beach, beach entrances were closed with landscaping work in cooperation with the related NGO's. Predation rate at Yanıklar subsection is high in comparison with other sections. Using grid cages against predation is not enough to protect the nests. Therefore, side cages were placed around the top grid cage for increased protection of nests. ➤ A representative from a local NGO (Çalış-Der) is informing people to avoid entering to the beach after 20:00. Personal belongings, vehicles and equipment (tent, umbrella, boat) are not allowed to be used on the nesting beaches. ➤ Water connections of shower cabins that heavily wet the nesting beach were cut and those cabins have been used as dressing cabin. ➤ Marine vehicles of watersports on the beach is another problem for Fethiye Beach. The situation was discussed with watersport managers to reevaluate the use of these vehicles. Watersports were forced to relocate the vehicles to the upper part of the beach at night.
<p>Complainant's report August 2018</p>	<ul style="list-style-type: none"> ➤ MEDASSET visited Patara beaches in summer 2018 to assess and document the conservation situation on the nesting beaches and reports point-by-point on progress in the implementation of the Recommendation on Patara: ➤ No local management unit was present to enforce regulations and fines in the protected area. ➤ No improvement in Patara's legal protection or management. In contrast, in the framework of an ongoing process to re-determine the SPA's zoning, a very small part of Patara's sand dunes are included in the new "Strictly Protected Zone", according to the maps available for the SPA section belonging to the Antalya region (section south of Esen river). Maps of the new zoning of the SPA section under Mugla region's jurisdiction are not available. ➤ Report problem with the zoning of the 12km long beach and therefore issues with beach furniture placement by individuals, although some progress can be reported on beach bar sun bed management at night. ➤ Vehicle access is a severe problem and vehicle tracks were observed along all beach sections ➤ No information about fines for non-compliance with beach regulations ➤ There is no local management team present to control the protected area and enforce regulations. The only personnel present is the nest monitoring team which does not have the responsibility or authority to charge fines or enforce measures. The day-time guard controlling the road barrier and entry fee for the Patara archaeological site does not seem to have any responsibility for the nesting beach. In a recent press article, the leader of the monitoring team highlights the need for a guard who will control vehicle and visitor access and who could be locally employed in order to benefit the local community. ➤ Between Patara main beach and the dune entry point, which is regularly patrolled by the scientific team, half the nests were not fenced and were simply marked with wooden stick

- The monitoring team from Adnan Menderes University consisted of only three volunteers. Such a small team cannot monitor the entire 12 km beach and hence only part of the southern beach is systematically monitored for nesting. The team was not observed on the beach before 7.30 meaning the manpower is insufficient for both night and day patrols.
- In 2018, there was no considerable improvement in the conservation status of the nesting beaches and conservation problems remain: lack of management staff and insufficient nest monitoring personnel, lack of zoning and information signs, severe vehicle access problems, camping, litter, nest predation, derelict facilities on beaches, etc. There were no signs of new efforts or conservation activities, with the exception of sunbed stacking at night and removal of derelict toilets and shower water supply. The SPA remains unmanaged and inadequately protected. To date none of the actions prescribed by Recommendation No. 182 (2015) have been implemented.
- At the same time, construction of the 300-312 summer house development in the 3rd Degree Archaeological site of the SPA continues and once completed the summer population will increase by at least 120% (current population during the summer being ca. 1000). It is evident that the pressures and disturbances presently occurring will increase likewise.
- MEDASSET visited **Fethiye SPA** in summer 2018 to assess and document the conservation situation on the nesting beaches and reports point-by-point on progress in the implementation of the Recommendation on Fethiye:
- Occupation and transformation of the sandy area continues, with existing businesses have further expanded
- No new information or official news has been received on the final decision regarding the government plan to construct a shipyard on the nesting beaches.
- There is no apparent restoration effort; instead, permanently fixed and structures have increased on the nesting beaches. MEDASSET provides clear information on structures and businesses on each important nesting beach.
- Sand extraction was evident next to Barut TUI Sensatori Resort. There was regular sand movement with heavy machines around bars and canals at the west end of Calis beach.
- No information on the recommended mapping and zoning action has been received. There is no zoning or demarcation of nesting zones. It should be noted that in several beach sections, nests are laid on the entire width of the sandy beach zones.
- There was an increase in beach furniture and sunbeds are not collected at night on 6.5 km of the 8 km nesting beaches. In the 1,5 km nesting beach in Çalış beach Section A, sunbed collection at sunset was irregular.
- Akgöl beach has the largest sandy area suitable for nesting in the area. In the last years the sandy area has been severely damaged due to touristic development. The west end of the beach is still occupied by pavilions and a shower remains on the beach (Fig.51). At the rear of the west end of the beach, the area next to river bed is flattened due to its usage as parking area in the last years (Fig. 52). At the east end of the beach, Karaot Buffet maintains sunbeds that are placed in the sandy nesting zone of the beach and are not removed at night. It offers toilets, showers and camping tents, hence there is night-time beach use and human presence. Nesting in Akgöl is under severe pressure due to human activity. There are beach sections which consist of cobbles and stones, not suitable for nesting that could instead be used by beach business following SPA guidelines.
- Light pollution is severe on all beaches and there were no apparent new efforts to mitigate the problem. Beach businesses operate at night with lights and loud music, and have made no adjustments to reduce light pollution; many of them close at midnight and turn off lights.

	<ul style="list-style-type: none"> ➤ Vehicles and vehicle tracks were observed on all beaches, due to the lack of barriers or guards. ➤ Monitoring and conservation of the sea turtle nests were carried out by Pamukkale University (as per 2016-2017), starting in early June, though nesting began in May. The contract was short-term, for one season only. It seemed that monitoring and protection of nests was conducted irregularly due to inadequate manpower. ➤ No local management unit, no apparent increase of management & control resources. No apparent rules enforcement or fining for noncompliance. No guards or rangers were present. In Çalış Section A, Çalış Tourism and Promotion Association personnel are present to manage beach furniture, but they do not have the capacity or competence to raise awareness and/or control beach access. The nest monitoring team does not have the capacity or the authority to enforce regulations. ➤ In 2018, there was no improvement and the conservation status of the nesting beaches has deteriorated: lack of beach furniture management on the largest part of the nesting beaches, no zoning and lack of information, no vehicle access control, more fixed structures, severe light pollution, camping and human presence at night, litter, etc. Habitat destruction continues, businesses expand on the sandy sections of the nesting beaches, further reducing available habitat and increasing disturbances, in complete disregard of the Bern Convention's Recommendations. There were no signs of new conservation or management activities. The only exception was litter collection and irregular beach furniture management in 1.5 of 8 km of the nesting beaches. The SPA remains unmanaged and inadequately protected. To date the majority of measures under Recommendation No. 183 (2015) have not been implemented.
<p>Bureau meeting September 2018</p>	<ul style="list-style-type: none"> ➤ Noted the progress demonstrated by the national authorities in their updated report submitted for the Bureau. It invited the authorities to attend the 38th meeting of the Standing Committee to the Convention and to provide further details on their plans for the implementation of the Recommendations and most importantly, to give a feedback on the information contained in the NGO's report on the same case.

2013/1: HYDRO POWER DEVELOPMENT WITHIN THE TERRITORY OF MAVROVO NATIONAL PARK (“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”)	
Date submitted	March 2013
Submitted by (Complainant)	Eco-svest - Center for environmental research and information
Respondent State (Respondent)	“The former Yugoslav Republic of Macedonia”
Specie/s or habitat/s affected	Mavrovo National Park, Emerald candidate site since 2011 <i>Lynx lynx balcanicus</i>
Background to complaint	<ul style="list-style-type: none"> ➤ The construction of several hydro-power plants and supporting infrastructures (roads, bridges and transmission lines) will result in the direct destruction of forests, severe disturbance of water sources and fragmentation of wildlife habitats – the home of numerous strictly protected species of plants, mammals, birds, amphibians and reptiles listed in Appendices I and II of the Bern Convention. The complainant emphasised that some of these species, namely the <i>Lynx lynx balcanicus</i>, might be critically endangered if the projects are implemented.
Secretariat reporting request	<ul style="list-style-type: none"> ➤ Recommendation No. 162 (2012) of the Standing Committee, on the conservation of large carnivore populations in Europe – Respondent to assess the environmental impact on the lynx population of dams in the Mavrovo National Park - a site identified as a candidate for the Emerald Network - and consider abandoning the project if the dam poses a risk of endangering the lynx population. ➤ Recommendation No. 157 (2011) of the Standing Committee, on the status of candidate Emerald sites and guidelines on the criteria for their nomination, national authorities should “take the necessary protection and conservation measures in order to maintain the ecological characteristics of the candidate Emerald sites”, until their full inclusion in the Emerald Network.
Respondent’s report September 2013	<ul style="list-style-type: none"> ➤ Environmental Impact Assessment Study for the hydropower plant project Boshkov Most was prepared by GEING Skopje, “The former Yugoslav Republic of Macedonia” based engineering company operating in the Balkan area. ➤ 4-seasons biodiversity monitoring had been carried out by a team of experts on invertebrate and vertebrate species. This concluded that according to EIAS and monitoring study, the hydropower plant project Boshkov Most satisfied entirely the requirements of national legislation and that a decision authorising the development of the project had been already issued. The report did not provide conclusions from the EIAS or monitoring study allowing a judgment to be made about possible impacts of the project on the species and their habitat, referred to by the complainant. The report further informed that the Ministry of Environment and Physical Planning (MEPP) instructed the ELEM to implement an Environmental Impact Assessment Study for the hydropower plant project Lukovo. ➤ The company BRL from France selected to develop the EIA Study by engaging international and national experts. When accomplished, the ELEM would send the Study to the independent expert committee established by MEPP, for review.
Bureau meeting September 2013	<ul style="list-style-type: none"> ➤ Complaint on stand-by pending the authorities’ reply ➤ Secretariat request information regarding impacts of the hydropower project implementation in Mavrovo National Park on species and habitats.

<p>Complainant's report January 2014</p>	<ul style="list-style-type: none"> ➤ Lawsuit was pending before the Administrative Court against the decision of the MEPP to approve an incomplete EIA study for the hydropower plant project Boshkov Most. The complainant underlined that the irregularities on the EIA study were confirmed by an EBRD compliance review report (January 2014) which concluded that the EIA was “not sufficiently comprehensive and conclusive”.
<p>Respondent's report March 2014</p>	<ul style="list-style-type: none"> ➤ EIA for the Hydropower plant Boshkov Most was concluded, and that the results of the biodiversity monitoring implemented were taken into account in the final EIA report. EIA for the Hydropower Plant Lukovo Pole was under preparation. ➤ No mention of pending lawsuit.
<p>Bureau meeting April 2014</p>	<ul style="list-style-type: none"> ➤ Regretted the lack of informative reports on behalf of the national authorities. ➤ Secretariat to contact Respondent for more detailed and comprehensive information on what was added to the EIAs study further to the biodiversity monitoring, what was already implemented on the site and under which conditions, as well as on the pending lawsuit.
<p>Respondent's email September 2014</p>	<ul style="list-style-type: none"> ➤ EIA report for HPP Lukovo Pole expected end of December 2014.
<p>Complainant's report September 2014</p>	<ul style="list-style-type: none"> ➤ Boshkov Most HPP project, two pending lawsuits – ➤ The Ministry approved the EIA report based on insufficient data (supported by a compliance report of an independent experts charged by EBRD) ➤ On denied access to the expert's reports on Mavrovo HPP projects ➤ Civil society organisations were supposed to participate to the bio-monitoring mentioned by the national authorities, but their comments and proposals were not included in the final EIA report. ➤ Comments on the insufficient data used for the bio-monitoring report were also made by the Vice-Chair of the IUCN World Commission on Protected Areas and other IUCN committees, as well as by Birdlife and national/international experts.
<p>Bureau meeting September 2014</p>	<ul style="list-style-type: none"> ➤ National authorities did not submit a report, claimed that they didn't receive the reporting request sent by the Secretariat. ➤ Forward the complaint as a possible file to the Standing Committee, inviting the national authorities to attend and to report in detail on the state of implementation of the projects, as well as on the pending lawsuits.
<p>Standing Committee December 2014</p>	<ul style="list-style-type: none"> ➤ Noted the importance of the area as key biodiversity hotspot, its status of National Park, and the concerns expressed by a number of international organisations and delegates over the negative impact of hydropower developments on the biodiversity of the area. ➤ Noted the pending adoption of a Management Plan for the Park, the pending lawsuit on the Environmental Impact Assessment for one of the hydro power plant's projects as well as the expected finalisation of the assessment for the second one. ➤ Open a case file ➤ Secretariat to seek the agreement of the Party for the organisation of an on-the-spot appraisal to the area in 2015, with the objective of collecting more information and data for the preparation of a draft recommendation to be submitted to the next Standing Committee meeting.

On the spot visit 24/25 June 2015	<ul style="list-style-type: none"> ➤ The European Union, the IUCN and WCPA requested to participate in the appraisal as Observers. The European Bank for Reconstruction and Development (EBRD), financing the project, has also been invited to join. An independent expert was charged with the mission. ➤ Meetings held with the Minister of the Environment and Physical Planning, Mr Nurhan Izairy, as well as with the representatives of the company ELEM which is the project developer, the Director of the Mavrovo National Park managing authority, representatives of civil society organisations, including the complainant, representatives of the European Bank for Reconstruction and Development and various local stakeholders. ➤ Delegation visited the main localities of the two big hydro power projects, as well as an additional small HPP plant already implemented. ➤ The Bureau noted that the development of the energy project might raise problems of compliance with the Convention and a possible incompatibility with the status of the area. It therefore instructed the Secretariat to forward the report of the independent expert to the investors and financing bodies, with a request to take it into consideration for a more holistic approach to the matter, in view of finding a balance between energy developments needs and nature protection.
Standing Committee December 2015	<ul style="list-style-type: none"> ➤ Adopted Recommendation No. 184 (2015) on the planned hydropower plants on the territory of the Mavrovo National Park, inviting “The former Yugoslav Republic of Macedonia” to suspend the implementation of the hydropower plants foreseen and related infrastructure until a Strategic Environmental Assessment will be completed and to keep the Standing Committee regularly informed about the progress in the implementation of this Recommendation.
Complainant’s report February 2016	<ul style="list-style-type: none"> ➤ World Bank dropped the Lukovo Pole project ➤ Boskov Most HPP, the report informed that the European Bank for Reconstruction and Development pledged to comply with the recommendation and put the project on stay until the Strategic Environmental Assessment is completed. ➤ Informs of the construction of four new small hydropower plants funded privately. ➤ Requests the bodies of the Convention to address with the authorities specific points, in particular to: <ul style="list-style-type: none"> a) ask the government to suspend the construction of the small hydropower plants in the park; b) postpone the adoption of the Law on re-proclamation of the Mavrovo NP; c) provide guidelines on the implementation of the recommendation to all stakeholders; d) ask that the Strategic Environmental Assessment is transparent and involves all stakeholders; e) remind the stakeholders of the importance to conduct activities setting within the Balkan lynx (<i>Lynx lynx balcanicus</i>) recovery programme.
Respondent’s report 21st March 2016	<ul style="list-style-type: none"> ➤ Working on the implementation of Recommendation No. 184 (2015), in particular by launching a national programme for monitoring and recovery of the Balkan lynx and promised to keep the Secretariat updated on the progress.
Bureau meeting March 2016	<ul style="list-style-type: none"> ➤ The building of small plants is in line with the recommendation adopted by the Standing Committee ➤ Secretariat to ask by the end of June 2016 for reports from the authorities and the complainant

<p>Complainant's report May 2016</p>	<ul style="list-style-type: none"> ➤ The number of conceded small hydropower projects had increased to 6. Construction work was expected to start in the spring. ➤ Complainant sent an official letter to the Ministry of Environment requesting the suspension of the concession for the 6 hydropower plants that were in project. The Water Department replied that the small hydropower projects were either conceded to a private investor or to the Municipality of Mavrovo Rostuse with public private partnership, and as such the Recommendation No. 184 (2015) did not apply. ➤ The complainant had been granted access to the Elaborate for Environmental Protection (EEP) study and permits for the 4 conceded hydropower projects. The complainant identified problems with the quality of the elaborate and the conflict of the projects with the proposed zoning of the park. A complaint has therefore been submitted against the EEP permit to the Ministry of Environment. ➤ Concerning the adoption of the EIA permit for Boskov Most, the Administrative Court ruled in favour of the complainant, considering that there was no proof that the Law on environment had been respected and the EIA study was complete. The Court cancelled the decision of the State Commission which refused the complaint of the NGO against the Ministry of Environment decision granting EIA permit for Boskov Most. ➤ The complainant has not yet been involved in the preparation of the Strategic Environmental Assessment.
<p>Complainant's report July 2016</p>	<ul style="list-style-type: none"> ➤ The number of approval or plans to grant concessions to private investors of small hydro power plants increased to 17. ➤ At the date of the report, 2 were already built and 2 were under construction. ➤ Almost all of the small hydro power plants are in remote, inaccessible areas of high natural value.
<p>Respondent's report July 2016</p>	<ul style="list-style-type: none"> ➤ The implementation of all the foreseen government projects (big and small) in the NP have been suspended until a SEA is completed, as recommended in Recommendation No. 184 (2015). ➤ The implementation of privately funded small/micro hydro plants in development before December 2015 are not subject to the Recommendation, however, concessioning for the remaining planned small/micro plants within the territory of the NP are suspended. ➤ Expected that the management plan of Mavrovo NP will be completed once the Law for the Re-Proclamation of the NP is adopted in Parliament. The outcomes of the SEA should be reflected in the Management Plan. Regarding the timeframe, the authorities could not provide a firm date, but explained that they are making efforts to complete this before the Standing Committee meeting in November 2016. ➤ Refuted the allegations by the complainant regarding the impacts of the construction of several hydro-power plants and supporting infrastructures. ➤ Initiated the establishment of a national program for the recovery of the Balkan lynx for the implementation of which the Government was looking for financial support. The concept paper of the project was also sent.
<p>Standing Committee November 2016</p>	<ul style="list-style-type: none"> ➤ Case-file should remain open. ➤ Respondent should speed up the process of development of the SEA. ➤ The process of SEA should be realised according to national legislation and international standards/European SEA Directive with which the Respondent indicated that its legislation already complies, comprising inclusion of all stakeholders.

Secretariat action January 2017	<ul style="list-style-type: none"> ➤ A new reporting request sent to the Respondent, calling for any new information considered useful, in particular on progress in the finalisation of the SEA and the process leading to its development.
Respondent's report 10 March 2017	<ul style="list-style-type: none"> ➤ No progress on the Recommendation to be reported since the previous report ➤ Emphasised that the relevant Macedonian institutions including MoEPP and PIMNP have not received verified and convincing scientific evidence that implementation of the projects will have unmitigatable impacts to the natural values of the park, including the Balkan Lynx. ➤ Additional consultation was conducted by the Government with several competent national and international NGOs, including Euronatur, Macedonian Ecological Society, IUCN, Pronatur. Euronatur did not respond. Further consultations are being carried out with the Macedonian Ecological Society. IUCN's response was a general comment on the case file and did not provide any commentary on the specific issues in question. Pronatur was unable to provide a response. ➤ The issues were discussed at the EC Subcommittee for Transport, Energy, Environment and Regional Development in February 2017. ➤ Complainant has continued to exploit the lynx issue in the Macedonian and international media. This attitude is not helpful and does not contribute to resolving the issues in this complaint. ➤ The Government requested the Secretariat in October 2016 to seek further information from the complainant on the impact of the hydro projects, particularly Boshkov Most and Lukovo Pole, on the direct destruction of forests, fragmentation of wildlife habitats, and severe disturbance of water sources. Specific explanation of how the <i>Lynx lynx balcanicus</i> and other large mammals will be endangered was also requested as part of the additional information to be provided by the complainant. The Secretariat had decided not to act on this request and ignored follow up requests by the Government, while avoiding to inform the Government of such decision. ➤ The SC must adhere to the prescribed case file follow-up process and refrain from suggesting or accepting modifications of Recommendations.
Chair of the Standing Committee letter to Respondent 21 April 2017	<ul style="list-style-type: none"> ➤ The Secretariat's duty is to follow exclusively the instructions and requests from the Council of Europe Committees and hierarchy, not from individual Member States. Request of documents and relevant information by the Secretariat to Parties and Observers has been done only on instructions of the Standing Committee and the Bureau. ➤ Responsibility on the accuracy of data provided by governments or observers lies in the authors of such reports. ➤ Regarding the discussion on case-file 2013/1 at its 36th meeting in November 2016, the Standing Committee did not adopt any changes to the original Recommendation No. 184 (2015) on the planned hydropower plants on the territory of the Mavrovo National Park. ➤ Secretariat of the Convention and the Bureau are ready to offer their support to the the implementation of Recommendation No. 184 (2015).

**Complainant's
report 18 May 2017**

- No new development regarding the Strategic Environmental Impact study on the cumulative effects of the planned development activities in the park as provisioned in point 1 of the Recommendation No. 184 (2015). No public disclosure of documents (if prepared) demonstrating/proving application of environmental legislation in case of developing hydropower plans, in particular with regard to EIA, SEA, WFD and EU nature directives.
- In February 2017 we received Administrative Court Decision regarding the SEA procedure for the National Action Plan for Renewable Energy. This Plan provisions the hydropower development in Macedonia including the hydropower projects in Mavrovo National Park. According to the Decision this plan will not be a subject to SEA procedure although according to the Law on environment the National Action Plan for Renewable Energy must be a subject to SEA procedure. Having this in mind the SEA study as provisioned by point 1 of the Recommendation is crucial for addressing the cumulative impact of the hydropower projects in Mavrovo.
- Law on re-proclamation of Mavrovo National Park and the Management Plan for the park is still pending. There is no feedback on the comments submitted in 2015 with regard to the draft Law.
- Access to individual expert reports prepared for the valorisation of the natural values of the “Mavrovo” National Park has still not been enabled.
- 24th January 2017 we received the Decision for annulling the Environmental Impact Assessment (EIA) permit for HPP Boskov Most after Decision by the Administrative Court in 2016. Additionally, in January 2017, EBRD cancelled the loan for the project.
- EIA procedure for HPP Lukovo Pole accumulation project continued. The decision on the scope of the EIA study was subject to an Administrative Complaint to the State Commission. In February 2017 we received a Decision from the State Commission rejecting our Complaint. This decision is a subject to lawsuit in the Administrative Court, which was filed on 27th February 2017.
- Under the auspices of the European Commission, Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR), a Regional Strategy for Sustainable Hydropower in the Western Balkans is under preparation. The “Draft Background Report No. 4 Transboundary Issues” was published in March 2017. It states “Finally, it can be concluded that project Lukovo Pole would transfer an additional quantity of less than 2 m³/s to the existing quantity which has been transferred all these years without significant adverse effect” – page 55 from the draft report. This is not in line with the Recommendation adopted by the Standing Committee in 2015 especially having in mind that preparation of the SEA study for the cumulative effects of all proposed projects is still lacking.
- Plans for additional 17 low performing (non-governmental) HPP projects need to be suspended prior to SEA study and official opinion of the Bern Convention Secretariat requested.
- Permit for surveying and monitoring of the Balkan lynx inside Mavrovo National Park was granted on 17 May 2016 with a validity from 15 April 2016 to 1 April 2019. The permit however, excludes Mavrovo NP, where the MES is not allowed to work, under the justification that a Memorandum of cooperation between the Park authorities and the MES is not signed; and that the park will implement Monitoring plan on its own. According to the Law on nature such memorandum is not provisioned as a condition for granting permit. Additionally, research work done by the park’s authority does not stipulate contradiction with the MES monitoring activities. Therefore, in our opinion, there is no legal justification on the excluding Mavrovo NP from the permit.

Bureau meeting September 2017	<ul style="list-style-type: none"> ➤ The Bureau reminded that both the Bureau to the Convention and the Secretariat are ready to support the authorities in the implementation of Recommendation No. 184 (2015). It expressed a hope that it will soon be clarified who is the new Focal Point for “the former Yugoslav Republic of Macedonia” before the Bern Convention and communication with the authorities will be re-established. ➤ Invited the authorities to attend the 37th Standing Committee meeting and to provide a status update on the file and respond specifically on measures taken to meet Recommendation No. 184 (2015) on the planned hydropower plants on the territory of the Mavrovo National Park.
37th meeting Standing Committee December 2017	<ul style="list-style-type: none"> ➤ Expressed its concern with the continued development of low-performing hydro power plants in the area of the National Park and reminded that the development of an SEA on the cumulative impact of all planned activities on the territory of the Park, as recommended, should be developed prior to the construction of new facilities, which will inevitably have an effect on biodiversity. ➤ Noted that a written report has been provided by the authorities on the day before the opening of the Standing Committee meeting and thanked the authorities for their efforts to submit it. Taking into account that the report arrived too late for allowing its publication among the working documents for the meeting, it instructed the Bureau to assess it at its upcoming meeting on 19 March 2018.
Respondent’s report 5 December 2017	<ul style="list-style-type: none"> ➤ The first condition for the development of an SEA is the adoption of the Law for re-proclamation of the National park Mavrovo for protected area. Due to the long period of elections in Macedonia the Ministry of Environment and Physical Planning was unable to initiate a procedure with a proposal for a new Law on Re-proclamation of the National Park for Protected Area. ➤ After the adoption of the new Law, it will be necessary to adopt a new Management Plan for the Mavrovo National Park as a prerequisite for the implementation of the Strategic Environmental Assessment Study. ➤ Until this date, no progress has been made in relation to the Strategic Environmental Assessment Study on the cumulative effects of the planned development activities in the park, as provided for in point 1 of Recommendation No. 184 (2015). ➤ Implementation and all planned project development activities of Government of “the former Yugoslav Republic of Macedonia” within the territory of the Mavrovo National Park, particularly foreseen hydropower plants and related infrastructure are suspended until a Strategic Environmental Assessment is prepared. ➤ Concessions for water usage for production of electricity for small and micro power plants. The Ministry has taken into consideration the decisions of the Government to stop activities in the area of Mavrovo National Park which led to exclusion of further promotion of possible concessions of small and micro HPP which are recognized within the Mavrovo National park, until the Recommendations No. 184 (2015) are fulfilled.
Bureau meeting March 2018	<ul style="list-style-type: none"> ➤ Thanked the national authorities for their report and acknowledged the restored communication between the Secretariat of the Convention and the new national focal point to the Convention. ➤ Reminded that the Balkan lynx has been officially listed in Appendix II of the Bern Convention since 8 March 2018. ➤ Recognised that although both publicly funded large HPPs on the territory of the Park were suspended, the cumulative impact of the smaller HPPs currently under construction or planned for construction does not appear to be taken into consideration. It reminded that, according to Recommendation No. 184 (2015) the development of a Strategic Environmental Assessment for the area should put “specific emphasis on cumulative effects of all planned development activities on the territory of the Park....”.

	<ul style="list-style-type: none"> ➤ Instructed the Secretariat to request the national authorities to provide clear information and a strict timetable on when the development of the SEA for the Park is foreseen and on the overall progress of compliance with the Recommendation.
<p>Respondent's report August/September 2018</p>	<ul style="list-style-type: none"> ➤ The Government remains at its positions to fulfill the activities within the Recommendations. ➤ The first condition for the development of the SEA is adoption of the Law for re-proclamation of the National park Mavrovo for protected area. The Ministry of Environment and Physical Planning is in phase of inter-institutional coordination with relevant institutions with a goal to start the procedure of drafting the new Law for re-proclamation of the National park as protected area. ➤ After the adoption of the new Law, it will be necessary to adopt a new Management Plan for the Mavrovo National Park as a prerequisite for the implementation of the Strategic Environmental Assessment Study. ➤ No significant progress has been made in relation to the Strategic Environmental Assessment Study on the cumulative effects of the planned development activities in the park, as provided for in point 1 of Recommendation no. 184 (2015). ➤ Provides update on the Small Hydro power plants (SHPP) within the Mavrovo National Park ➤ The Concession contracts for the SMPP are monitored by the Commission for Supervision of the Ministry of Environment and Physical Planning, which informs the Government of the Republic of Macedonia on all issues regarding the fulfillment of the obligations by the concessionaires. ➤ The Commission for Supervision did not find a violation of the provisions of the Concession Agreements, which would be grounds for termination of the concession contracts. ➤ Extension of the deadlines was requested, and since the request was supported by adequate evidence that the concessionaires have no fault for the delay, the same has been accepted. ➤ For SHPP Tresonechka and Galichka, Concession Agreements have been concluded through the Ministry of Economy, Water permits have been issued in 2011, they have been built and put into operation. ➤ The Ministry of environment and physical planning is in charge for promotion of granting concessions for water usage for production of electricity for small and micro power plants. The Ministry has taken into consideration the decisions of the Government to stop activities in the area of Mavrovo National Park which led to exclusion of further promotion of possible concessions of small and micro HPP which are recognized within the Mavrovo National park, until the Recommendations 184/2015 are fulfilled. ➤ Expects the Secretariat of the Bern Convention and the Standing Committee to recognize and understand the Government's approach at the next meeting of the Standing Committee (November 2018), as well as to indicate to the non-governmental organizations the need to terminate providing and disseminating incomplete and untrue information related to the open case - Development of hydropower facilities on the territory of the National Park Mavrovo. ➤ Expects the Standing Committee of the Bern Convention to abide by the prescribed procedures for monitoring the case and refrain from proposing or accepting changes to the Recommendations related to the case. ➤ Connections and lobbying that are inherent to the Bern Convention and beyond in the field of environment and through which support is provided to the Complainant and from other entities should be within the material truth of the matter and should not be harm to any party.

Bureau meeting September 2018	<ul style="list-style-type: none"> ➤ Thanked the national authorities for their commitment and efforts to accelerate the process of drafting the new Law for re-proclamation of the National park as protected area, ahead of the realisation of the SEA, as recommended in the Bern recommendation. ➤ Invited the national authorities to attend the 38th meeting of the Standing Committee to the Convention and to provide further details on their plans for the implementation of the Recommendation.
Letter from respondent to Secretariat October 2018	<ul style="list-style-type: none"> ➤ Approaching the Secretariat and requesting expert support from the Convention for finalising the draft Law on the re-proclamation of the National Park, including the zoning of the Park. ➤ The adoption of the law for the re-proclamation of the park is a pre-requisite for the development of the SEA, as recommended by the Bern Convention Recommendation.
Complainant's report October 2018	<ul style="list-style-type: none"> ➤ Provides update regarding the low performing HPPs ➤ As previously informed, there are 19 low performing hydro power plant (LPHPP) projects planned in Mavrovo National Park out of which 4 LPHPPs are already built and operational and the others are in different stages of preparation and planning. ➤ At its 37th meeting, the Standing Committee “expressed its concern with the continued development of low-performing hydro power plants in the area of the National Park and reminded that the development of an SEA on the cumulative impact of all planned activities on the territory of the Park, as recommended, should be developed prior to the construction of new facilities, which will inevitably have an effect on biodiversity.” ➤ Government has still not suspended the 15 LHPPs. We are very concerned with the ongoing activities for the upcoming construction of the following 4 LPHPPs: Zirovnicka 1 (ref. No. 5); Zirovnicka 2 (re. No. 6); Ribnicka (ref. No. 7); Jadovska (re. No. 9). ➤ The concession agreements for these LPHPPs were signed in the period of May/June 2015. According to the concession agreement the investor has a maximum of 3 years to finalize the activities and put the LPHPPs into operation. As these LHPPs were not constructed within the above-mentioned deadline, the concession agreement should have been terminated in May/June 2018. ➤ In contrast to the Bern Convention Recommendation No. 184 (2015), in January 2018 the Government signed an Annex to the concession agreements and extended the deadline until the 07.05.2019 for LPHPP Ribnicka and until 03.01.2020 for LPHPPs Zirovnicka 1 and 2. According to their written response, for LPHPP Jadovska the Government plans to publish a new public call for concession. ➤ The justification for this step is bound to changes of the locations of the intakes and the power house. Extension of the deadline and changing the locations raise the following additional issues/questions, i.e. on the impact of the new location, the need to have an environmental study, how realistic deadlines are, etc. ➤ According national legislation, all LPHPPs are subject to an approved Elaborate for Environmental Protection (EEP). Changing the location and including more supporting infrastructure means that the impact on nature as well as prescribed measures differs from the originally approved plan. To our knowledge, there is no newly approved EEP for the revised location of the LPHPPs which is a breach of the national Law on environment. ➤ Is the deadline realistic? The short period available for construction leaves a possibility that mitigation measures are not implemented/respected fully during the construction phase. This is especially the case with respecting winter/spring season for the breeding of specific species. We have witnessed that the lack of implementing mitigation measures was a practice in the construction of the already built and operational LPHPP within the Park;

	<ul style="list-style-type: none">➤ Mid-October 2018, were approached by the local community of village of Zirovnica. Zirovnica village is the second largest village within the park with 1.608 inhabitants. The village water supply comes for the Zirovnica river.➤ The local community strongly opposes the construction of the LPHPPs on Zirovnicka river as it will directly impact the water supply of the village as well as the village landscape. At the moment, the community is facing serious pressure from the investor to allow the start of preparatory activities for the construction of LPHPP Zirovnica 1 and Zirovnica 2.➤ Held meetings with the National park Authority and the Deputy Minister for environment and physical planning, Mr. Jani Makraduli and discussed the possible next steps with the Law on Mavrovo national Park proclamation. The conclusion was that the new Law is the first step for a permanent and sustainable solution for the national park protection. Therefore, we jointly agreed with the Deputy Minister that the Draft Law needs to be revised in line with the Recommendation No. 182 (2015) as well as IUCN guidelines for category II protected area – National park. We strongly support the Ministry in seeking expert help for this revision process and we remain at the disposal of the Ministry in the following steps of the process, such as consultations and public hearing.➤ Have been building a constructive relationship with both the Ministry of environment as well as the National park authority over the past year, we were surprised to read the Government’s report submitted to the Bern Convention Secretariat (September 18 2018) where the Government stated that “The Government’s position has continuously been that the claims in the Complaint were exaggerated, contain inaccurate and often misleading information put forward by the complainant.”➤ Eko-svest, through their member in the Council for cooperation between the Government and CSOs raised this particular issue and demanded that the Government corrects its report, excluding this type of non-constructive criticism addressing the work of civil society organizations. We strongly believe that by joint efforts and constructive cooperation, both parties can contribute to the successful resolution of the issue and closing of the case file.
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2001/4 – BULGARIA: MOTORWAY THROUGH THE KRESNA GORGE	
Date submitted	April 2013
Submitted by (Complainant)	Save the Kresna gorge NGO coalition
Respondent State (Respondent)	Bulgaria
Specie/s or habitat/s affected	Numerous species listed in Appendices I-II
Background to complaint	<ul style="list-style-type: none"> ➤ Alleged threat to the unique biodiversity of the Kresna Gorge in South-west Bulgaria due to a construction of a 17 km-long motorway (“Struma motorway”) in the Gorge. The construction project forms part of Trans-European transport corridor No. 4. ➤ May-June 2002, a Bern Convention on-the-spot appraisal by expert Mr Guy Berthoud took place. Bulgarian authorities had not considered any other alternatives to motorway construction and the construction inside the gorge was considered harmful to biodiversity. The Standing Committee adopted Recommendation No. 98 (2002), deciding the routing of the motorway should be subject to an in-depth environmental assessment (paragraph 2) and that the option of enlarging the current road is abandoned and alternative routes outside the gorge to be studied (paragraph 3). ➤ In the absence of information on the progress of the construction project from the authorities in 2004 a file was opened. Complainant informed that construction had actually started in the northern sections without a full EIA of the motorway. ➤ By a decree of 14th November 2005, the Ministry of the Environment and Water prohibited certain activities which could have adverse consequences for the site, such as the building of hydro-electric power stations. In 2006, Bulgarian delegation informed the Standing Committee that a new EIA had been initiated, in consultation with all the partners concerned. The European Union delegation informed the Standing Committee that a complaint had been lodged with the Commission. ➤ In 2007, Bulgaria joined the EU. 2008, the Bulgarian delegation informed the Standing Committee that the decision to construct the Struma Motorway had been issued after intensive consultations. The Bulgarian government had taken into account Recommendation No. 98 (2002) particularly with regard to the stages of preparation and quality of the EIA report and the determination of the motorway route in the Kresna Gorge, which was carried out with the collaboration of relevant institutions, NGOs and scientists. It was decided to avoid the Gorge. ➤ In 2009, the Standing Committee closed the case-file, in the light of the information from the Bulgarian authorities that the decision to avoid the Kresna Gorge had been taken (“tunnel” alternative), although the final technical project for the actual road bed has not been prepared yet. ➤ In 2010, the Bulgarian authorities informed the Standing Committee that there were no changes in the situation and no decision to construct an alternative route in the Kresna Gorge section. The representative of BirdLife asked the Bureau to continue to monitor the implementation of the recommendation. ➤ In 2011 and 2015, no information was submitted on the issue by the Bulgarian authorities. The issue was not raised at the Bureau or the Standing Committee either.

<p>Complainant's signal September 2015</p>	<ul style="list-style-type: none"> ➤ Eight Bulgarian NGOs informed Secretariat that the Bulgarian government planned to construct the last section of the Struma motorway through the Kresna Gorge and to reject the “tunnel” alternative. ➤ Claimed that the “tunnel” alternative was a condition for the EU to fund the project. Procedures to design a new, so-called “green,” alternative and to initiate a new EIA/AA (appropriate assessment) started on 19th December 2014 and 24th March 2015. ➤ 13th May 2015, a new EIA/AA proposal was submitted to the Ministry of Environment and Waters. In 2015, the Minister of Regional Development and Public Works announced in the media on several occasions that the “tunnel” option had been rejected.
<p>Bureau meeting September 2015</p>	<ul style="list-style-type: none"> ➤ Requested the Bulgarian authorities to report on the measures taken to comply with Recommendation No. 98 (2002) and to inform on any changes to the agreed plans.
<p>Respondent's report November 2015</p>	<ul style="list-style-type: none"> ➤ No decision had been taken as to an alternative solution, and that an EIA was being conducted in consultation with the public and that any decision would be taken in close cooperation with the EC. ➤ The “tunnel” alternative had been indeed approved by the 2008 EIA. However, studies carried afterwards revealed a number of potential problems which might occur if this alternative was implemented, such as insufficient public safety and environmental damage to the Kresna Gorge which could not be overcome by compensatory measures. Risks related to the construction of the tunnel had been established given the seismic nature of the region, as well as high exploitation and maintenance costs which rendered the tunnel alternative economically unfeasible. ➤ A “backup” alternative was being developed and should be evaluated through a new EIA initiated in December 2014. The “backup” alternative was designed as dual carriageway, with one carriageway closely following the existing road through the gorge and the other developing independently with tunnels and viaducts. Its construction would take 3-3.5 years. The “backup” design intended to minimise the footprint of the road and reduce impacts on habitats and species. The “backup” alternative differed from the “green” alternative, which had been evaluated under an EIA of 2007 [document T-PVS/Files (2015) 59].
<p>Standing Committee December 2015</p>	<ul style="list-style-type: none"> ➤ Consider this closed file as a possible file at its next meeting. ➤ Took note of statements by Switzerland, the Czech Republic and Iceland in support of the complainant's request to open a case-file. ➤ Took note of the EU delegate's views that a final decision as to the route had not been taken and information that the EC was following project developments and would intervene in case of possible non-compliance with EU legislation.
<p>Respondent's report February 2016</p>	<ul style="list-style-type: none"> ➤ The design of Lot 3.2 featuring a long tunnel through the Kresna Gorge was completed and approved in early 2015. A detailed EIA/AA, comparing the long dual tunnel and the dual carriageway alternatives, would be prepared in 2016. A design contract for the dual carriageway alternative was approved in late December 2015. ➤ Further specified details of Lot 3.2 EIA procedure, which had been initiated in December 2014 by the National Company Strategic Infrastructure Projects (“NCSIP”, the project developer). In November-December 2015, the NCSIP conducted public consultations on the scope and contents of the EIA report. The EIA scoping document was subsequently amended and forwarded to JASPERS for comments. On 14th January 2016, JASPERS provided comments which were integrated in a joint working document (see Appendix I). The document was forwarded to the EC DG Environment (DG ENV) and DG Regional and Urban Policy (DG REG) for information and feedback. It will be subsequently reviewed by the Ministry of Environment and Water.

	<ul style="list-style-type: none"> ➤ Provided a “Multi-Criteria Analysis of Struma Motorway Lot 3.2” (“MCA”, see Appendix II), covering the development of the Struma Motorway project since 2000 and comparing 16 project alternatives through a comprehensive environmental methodology (“Methodology for Environmental Comparison of Alternatives of Road Projects,” see Appendix III). The MCA was prepared in consultation with the EC, JASPERS and local NGOs and made available for review by DF REGIO, DG ENV and JASPERS on 3rd February 2016. ➤ The Struma Motorway project had been under continuous public scrutiny, through discussions, the Struma Motorway monitoring committee, consultations with the affected communities and the website: http://ncsip.bg/en/index.php?id=48
Complainant’s report February 2016	<ul style="list-style-type: none"> ➤ The revised scope of the new 2015 EIA had been submitted for final approval to the Ministry of the Environment and Water on 24th February 2016. The revised scope of the new EIA includes two dual carriageway alternatives. Both alternatives foresee building a new carriageway to ensure movement in two directions, which runs counter to Recommendation No. 98 (2002), the 2008 EIA and the 2007 AA. According to the complainant, the authorities wish to conceal this fact by claiming that the alternatives have not been assessed by an EIA. The 2015 EIA/AA should be finalised by the end of March 2016. ➤ The construction of the motorway sections Lot 3.1 from the north and Lot 3.3 from the south of the Kresna Gorge had already begun. Hence any alternatives bypassing the Gorge are excluded. The “tunnel” remains the only alternative in line with Recommendation No. 98 (2002). ➤ The outcome of liaison with the EC. On 14th January 2016, the complainant attended a meeting with the EC DG-ENV in Sofia. The DG-Environment commented in particular that the implementation of the motorway project relied on the competent national authorities rather than the Bern Convention and that the EU law prevailed over the Bern Convention. According to the complainant, the DG-ENV refused to cease funding for the project or to start an infringement procedure. ➤ 26th January 2016, the EC DG-REG responded to the complainant’s query that the EC had been informed that the authorities were exploring alternatives to the “tunnel” option and saw no reason to prevent them from doing so. An official application for funding was a prerequisite for EU co-funding, whereas the EC had not received such an application from the Bulgarian authorities concerning Lot 3 of the Struma motorway. The EC has been following the development of the entire motorway. According to the complainant, the EC refuses to take action to prevent negative environmental impacts in the Kresna Gorge.
Bureau Meeting March 2016	<ul style="list-style-type: none"> ➤ Decided to reconsider this complaint at its next meeting as a possible file. It requested the Government and the complainant to report, including on the functioning of the tunnel.
Respondent’s report July 2016	<ul style="list-style-type: none"> ➤ A completely new eastern alternative was formulated in April-June 2016. This new alternative will be evaluated together with the previous alternatives as part of the new formal EIA procedure which began in 2014. ➤ Any delays in the implementation of the project would result in the loss of additional human lives. The report emphasises that the current road is very dangerous and causes many accidents, as overtaking slower vehicles is possible at very few places. The report furthermore describes the existing road as a threat to biodiversity as it acts as a barrier: many species are unable to cross it, and many animals which try to cross are killed by passing vehicles. ➤ March 2016 the Ministry of Environment and Water issued specific requirements and recommendations related to the scope and content of the EIA report, in line with the general recommendations of DG-ENV received at meetings in March and May 2016.

	<ul style="list-style-type: none"> ➤ The EIA scoping document is being revised to take into account the instructions received by the Ministry, various recommendations from third parties and to provide for the evaluation of the newly developed eastern alternative. Once the revision is completed the scope and content of the EIA report will once again be subject to formal public consultations. ➤ All necessary mitigation and, if necessary, compensation measures will be adopted to maintain the ecological value of the area. ➤ Struma Motorway Lot 3.2 in Kresna Gorge is not in construction. Construction may commence only after an alternative has been selected as part of the EIA/AA process and an EIA decision has been issued. Furthermore, funding for the project must be approved before signature of construction contracts.
<p>Complainant's report July 2016</p>	<ul style="list-style-type: none"> ➤ Requested case file to be reopened. The new alternative proposed by the Bulgarian authorities is not in compliance with the Recommendations No. 98 (2002). This new project was presented during the 15th meeting of the Struma motorway Monitoring Committee on 4th July 2016. ➤ The abandonment of the long tunnel option, considered as the preferable one by the 2008 EIA decision, is based on false arguments. Firstly, the construction price and the costs for running the tunnel are overestimated. The uranium presence on the route of the tunnel is also considered as overestimated. Secondly, the construction of the tunnel would still be possible before the 2020 deadline. Thirdly, the alternative options defended by the Government are much more prejudicial to the environment than the tunnel option. ➤ Contrary to what is said by the Government, the tunnel option presents fewer risks related to seismic and draining of ground waters. They reject the geological study presented by the Government, questioning its scientific validity with arguments. The complainants ask for an independent thorough geological, geotechnical and engineering assessment of the long tunnel option. ➤ The new EIA procedure for Lot 3.2 has been delayed because from 7th April 2016 the responsibility of managing the project was transferred to the Road Executive Agency from the National Company "Strategic Infrastructure Projects". ➤ The construction of the motorway sections Lot. 3.1 and Lot 3.3 had already begun, and informs that land acquisition around Lot 3.2 (section which passes through the Kresna Gorge) have already been started by authorities.
<p>Respondent's report October 2016</p>	<ul style="list-style-type: none"> ➤ Provides clear and concise information on all measures implemented up to date to ensure compliance with the operational part of Recommendation No. 98 (2002). Reiterate that a substantial number of alternatives aiming to take the motorway out of the Gorge are currently considered (including a dual carriageway alternative and the newest Eastern Bypass Alternative presented at the beginning of 2016) by the EIA/AA report. ➤ They further inform on the process of preparation of the scope and content of the EIA/AA report and explain that in September 2016 the Road Infrastructure Agency (who took over the development of the project from the National Company Strategic Infrastructure Projects) launched a public consultation on the new scope of the EIA report. The final results of the EIA study are expected by the end of the year.

Complainant's report October 2016	<ul style="list-style-type: none"> ➤ The Bulgarian Society for the Protection of Birds (BSPB) presents its position to the public consultation launched by the authorities on the new scope of the EIA report. The scope of the current EIA/AA is not in accordance with a previous decision of the Ministry of Environment, nor with the commitments made by the authorities before international institutions, including the one funding the infrastructure project. Therefore, they argue that any alternative that is still studied should necessarily present a passage for LOT 3.2 outside the gorge as this was the reason why the Standing Committee to the Convention decided to close the file in 2008. ➤ Problems encountered in accessing the necessary reports and studies which present concerns of the designers of significant impacts and risks in the construction of some tunnel options. They also conclude by making proposals on the scope of the current EIA/AA assessment.
Complainant's report November 2016	<ul style="list-style-type: none"> ➤ Provided by the coalition of nine organisations/institutions which submitted the signal to the Convention in 2015. ➤ Standing Committee to the Convention should consider opening a new file against Bulgaria, considering that the new alternatives currently being studied do not comply with Recommendation No. 98 (2002). They present a statement signed by 99 scientists of the National Museum of natural History of the Bulgarian Academy of Science and many Bulgarian Universities and NGOs which is appended to their report. ➤ Provides information of Government public campaigns, aiming to justify the environmental alternative with timeframe and financial arguments.
Stakeholder submission November 2016	<ul style="list-style-type: none"> ➤ Stakeholders submitted a declaration presenting their observations on the possible case-file for the attention of the 36th meeting of the Standing Committee. The declaration is signed by a number of Professors and Engineers from different Bulgarian Universities and sent to the Secretariat by the Bulgarian Construction Chamber, at the commencement of a discussion forum on "Progress of the Struma project, Lot 3.2 in the section Krupnik to Kresna". ➤ The co-signatories of the declaration express their disapproval of the behaviours of some environmental NGOs and argue that their conclusions sent to the European institutions and the Bern Convention are manipulative, including because they comment on technical, geological, seismo-tectonic, hydrological and financial issues concerning the project alternatives while they are not competent on these.
Standing Committee Meeting November 2016	<ul style="list-style-type: none"> ➤ Case file to remain as possible file. Authorities invited to report in detail on current EIA results and ensure alternatives are considered on an equal footing in the present assessment. The same deadline was applied to the complainant's.

<p>Respondent's report March 2017</p>	<ul style="list-style-type: none"> ➤ The preferred alternative from the EIA/AA decisions from 2008 is the 'long tunnel alternative'. The design was carried out in the period 2013-2015 and features a tunnel with a length of 15.4 km. As the preliminary analyses demonstrated that the environmental and other impacts of the tunnel would be significant, a new EIA/AA procedure to evaluate these impacts commenced in late 2014. ➤ Due to environmental and feasibility problems with 'long tunnel alternative', a feasibility design for a dual carriageway road through Kresna Gorge was carried out in 2014 and a preliminary design was completed at the end of 2015. The two alignments are being evaluated as part of the new EIA/AA. ➤ To avoid Kresna Gorge, in May-June 2016 the Road Infrastructure Agency formulated a new eastern alternative. It featured the construction of a unidirectional two-lane road to bypass Kresna Gorge so that traffic in one direction uses the new road and the traffic in the other direction uses the existing road. A feasibility design was carried out in 2016 and a competition for the preliminary design was announced in late 2016. There have been two proposals received. The proposals are presently being evaluated and are expected to be completed in April 2017. The feasibility design from 2016 has been considered sufficiently mature for the purposes of EIA/AA and is being evaluated as part of the procedure. ➤ In February 2017, the EIA scoping document (Appendix 2) was forwarded to DG ENV and JASPERS for information. The progress of project preparation and EIA/AA were discussed on 15 February 2017 at a meeting between DG ENV, DG REGIO and JASPERS. The EIA/AA report is expected to be ready in early April 2017. After the EIA/AA report is available it will undergo a quality review by MoEW and will be made subject to public consultations – expected to take place in June 2017. Struma Motorway Lot 3.2 in Kresna Gorge is still not under construction. Construction may commence only after an alternative has been selected as part of the EIA/AA process and an EIA decision has been issued.
<p>Complainant's report to EC April 2017</p>	<ul style="list-style-type: none"> ➤ 20 April 2017, the Road Infrastructure Agency (RIA) announced officially that a proposed detailed conceptual design for the Struma motorway project for section 3.2 – Kresna Gorge has won the competition that was launched earlier this year by RIA with an award fund equal to 2,5 mln BGN (1,27 mln euros). The selected concept proposes a split in the traffic into two routes - one direction passes through the Kresna gorge and the other passes east of the gorge. The decision to award this route design comes prior to the currently ongoing official EIA and AA procedure. This route has been announced as the "semi-eastern alternative" or G10,5 half-eastern. ➤ The routing of "G10,5 half-eastern" is in clear violation of mandatory mitigation measures of EIA and AA decision 1-1 / 2008 permitting construction the Struma motorway. In particular, it violates mandatory mitigation measures prescribed in point I.3.2 of the decision for protection of NATURA 2000. ➤ On 10 April 2017 the Bulgarian Minister of Regional Development and Public Works announced that the application form for financing lots 3.1. and 3.2 of the Struma motorway is about to be submitted to the European Commission. Since 2013, the Bulgarian government has systematically misused EU funds for the development of route options in the gorge that contradict EIA 2008, NATURA 2000 obligations, Recommendations 98/2002 and EU environmental acquis. An in-depth audit of the expenditures of the project is requested.

Bureau meeting September 2017	<ul style="list-style-type: none"> ➤ The Bureau invited the national authority to provide an exhaustive, detailed and clear update to the Standing Committee meeting on the 5th to 8th December 2017 regarding progress of the motorway plan and specifically how these plans comply with the Recommendation No. 98 (2002). This report should also provide information regarding the progress and results of public the consultations. ➤ The Bureau also instructed the Secretariat to liaise with the European Union and to invite them to provide an update to the Standing Committee at its 37th meeting, regarding their position on the process and eventual results of the EIA/AA development for the Lot 3.2 of the highway. ➤ The file remains as a possible file.
37th meeting Standing Committee December 2017	<ul style="list-style-type: none"> ➤ The Standing Committee took note of the report presented by the national authorities on the alternative chosen for the development of Lot 3.2 of the Struma motorway passing through the Kresna Gorge, after careful examination of all alternatives studied in the frame of an EIA/AA. It further noted the concerns expressed by the complainant NGO coalition about the objectivity of the EIA. ➤ The Standing Committee decided to keep the file as a possible file in the light of the pending national court appeal of the EIA/AA and the pending submission of an application package to the European Commission for the funding of the Lot 3.2 construction. ➤ The Standing Committee invited the national authorities to send an updated report as soon as the results of the national Court appeal is available, possibly for the next Bureau meeting taking place on 19 March 2018. The Bureau to the Convention will continue the follow-up of the case ahead of the next Standing Committee meeting.
Respondent's report March 2018	<ul style="list-style-type: none"> ➤ Decision No 3-3 / 19.10.2017 of the Minister of Environment and Water was appealed in the Supreme Administrative Court and the Court has lounged administrative case No 13132/2017. The complainants are the Association for the Earth - Access to Justice, represented by Dimitar Vassilev and architect Dimitar Dimitrov. ➤ The hearing was held on 19.02.2018, and during the session the lawyer of the complainants was requested to provide evidences for the case. They were partially accepted by the court. In this regard the court ordered the MOEW to submit the '2007 Appropriate Assessment Report' and the 'Geotechnical Report', quoted in the EIA Report 2017 year. The case was postponed to 02.04.2018. ➤ In the last quarter of 2017 a selection procedure was carried out for the contractor for "Preparation of Application Form for Financing the Struma Motorway Project, Lot 3.2". In January 2018 the Chairman of the Management Board of the Road Infrastructure Agency issued a decision for the selection of a contractor for preparation of the draft Application Form. The contract with the selected consultant is expected to be signed by the end of February. ➤ The Application Form should be prepared by May 2018 for submission for review by Jaspers and the management authority of the Operational program 'Transport and transport infrastructure'.

**Complainant's
report March
2018**

- Still no decision of the Bulgarian Supreme Administrative Court on the NGOs and citizens appeal against decision 3-3/2017 EIA of the Ministry of Environment, which selects alternative G10,5 for the Kresna gorge section and crosses the gorge through an upgrade of the existing E 79 road into a southbound motorway. The first hearing of the Supreme Administrative Court in Bulgaria was held on the 19th February 2018, to be followed by a second hearing on the 2nd April 2018.
- The Supreme Administrative Court has taken a final decision about the so called "preliminary implementation" of the 3-3/2017 EIA decision, laid in the decision itself, thus approving that the clause of "preliminary implementation" can enter into force and the 3-3/2017 EIA decision can be implemented immediately, despite the ongoing court proceedings on it.
- The Bulgarian Government continues to actively plan activities related to the preparation of a detailed territorial plan for the Kresna Gorge section where the selected G10,5 alternative would pass, the preparation of construction permits and tender procedures for the construction of this alternative³, and the preparation of an application form for seeking further EU financing for the final construction of Struma motorway (via G10,5 alternative, which passes through the Kresna Gorge).
- According to official statements of the Ministry of Regional Development in Bulgaria, it is expected that final construction permit for G10,5 alternative will be issued in April 2018 and construction tenders will be launched in April 2018 when they expect the final court decision on the case.
- In reality, the Bulgarian government is not much dependant on funding from EU funds for the construction of the last remaining lot to be built - lot 3.2 – the Kresna gorge section, as most of the EU funds are confirmed to be exhausted for the other sections of the motorway and the majority of the funding for the gorge section are expected to be allocated from national budget.
- Real construction on the ground is likely to start prior to the adoption of the application form for EU financing and prior to any EU reaction on the case, as proven from previous practices. This was the case with lots 3.1. and 3.3. - the two sections on both sides of the Kresna gorge. Their construction started in 2016 with 100% national financing, only then followed by an application form to the EU, and the EU co-financing was officially approved in November 2017.
- Taking further into account Recommendation 98/2002 of the Standing Committee, Save the Kresna gorge NGO coalition calls on the Standing Committee to open a case file on the Kresna gorge case to allow the Committee to closely monitor the case in this crucial moment when the motorway is on both sides of the gorge.
- The decision of DG Regional policy of the EC to finance the construction of Lot 3.1 and 3.3 contravene to the basic principle of nature protection - namely the "precautionary principle" defined in Art. 191 of the Treaty on the Functioning of the European Union.
- Bulgarian Government failed to assess on equal basis and disregarded in the 2017 EIA and AA report all alternatives, thus failing to comply with Recommendation No. 98 (2002) specifically in the sections where the Standing Committee recommended completely avoiding the Kresna Gorge and downscaling the existing road to local and by-passing the motorway road.

Bureau meeting March 2018	<ul style="list-style-type: none"> ➤ Thanked the national authorities for the report provided and took note of the still pending national court appeal on the decision over the alternative chosen for the Lot 3.2 of the highway. ➤ Carefully examined the operational paragraphs of Recommendation No. 98 (2002) and in particular paragraph 3: “consider the possibility of abandoning the option of enlarging the current road since this would substantially increase damage to a unique site, without possible measures of compensation, and continue studying alternative routes located outside the gorge that would respect the natural constraints as far as possible and provide for the integration of engineering works and compensate for environmental impact”. ➤ Taking into account that the project implementation as currently planned, appears to not fully comply with the Recommendation, the Bureau instructed that the Secretariat discusses the pending issues with the European Commission.
Respondent’s Report August 2018	<ul style="list-style-type: none"> ➤ Provides the English translation of the decision of 23 May 2018 the Supreme Administrative Court Pursuant dismissing the appeals of the 2017 EIA Decision, after detailed examination of all supporting arguments.
Bureau meeting September 2018	<ul style="list-style-type: none"> ➤ Thanked the Bulgarian authorities and took note of information provided for their meeting, namely the Court decision on the appeal at national level regarding the alternative chosen for the LOT 3.2 of the Struma highway. The Bureau further took note of the opposing view expressed by the NGO in their report. ➤ Considered that the reason behind the divergent views of the complainant and the authorities relates to the quality of the EIA implemented for the choice of the alternative for the construction of LOT 3.2 and on whether this choice respects of commitments made by the authorities in Recommendation No. 98 (2002). ➤ Discussed whether it will be appropriate for the Convention to commission an external review of the EIA and its Recommendations. This opportunity should be considered by the Standing Committee at their upcoming 38th meeting. ➤ Invited the national authorities to attend the upcoming meeting of the Standing Committee and to present the latest developments in relation to the file. ➤ Further invited all Parties, including the European Union to present their views on the file.
Respondent’s report October 2018	<ul style="list-style-type: none"> ➤ Reconfirms that the EIA Decision 2017 was appealed at the court by 2 (two) individuals and 1 (one) non-governmental organization (NGO). ➤ The lawfulness of the EIA Decision 2017 was fully upheld and the complaints against it were rejected pursuant to a court decision of 23 May 2018 of the Supreme Court (“Judgment”). The Judgment was submitted to the Bureau of the Bern Convention on 31 August 2018. ➤ Under national law, the Judgment is final and cannot be appealed. The judgment was delivered in a one-instance court procedure and has entered in force as of the date of its issuance. Therefore, the EIA Decision 2017 has come into legal force and constitutes a stable administrative act which is legally binding act that can be immediately implemented. ➤ Some of the complainants have filed a complaint against the Judgement to an extended panel of the Supreme Court. Contrary to national law, they claim that the Judgment is subject to a cassation appeal and request its annulment.

- Provides the planning and construction activities calendar (public procurement procedures, deadlines for tenders) – 22 and 29 November are deadlines for the reception of tenders
- Submits detailed information on the Court case, in order to refute the assertions of the NGOs from their report from October 2018
- Submits their position on the Bureau's consideration of the opportunity for the Standing Committee to commission an external review of the EIA Decision:
- Considers that the assignment of such a review is not legally founded, inappropriate and pointless, and contradicts EU law.
- The Republic of Bulgaria, member state of the EU, is a rule of law state. Basic principles therein are the rule of law and the independence of the judiciary. The control of the legality of the acts and actions of the administrative bodies is exercised by the courts. The Supreme Court exercises supreme judicial supervision for the correct and uniform application of the laws in the administrative procedure and decides on disputes concerning the legality of acts issued by ministers (as is the case).
- The legality of the EIA Decision 2017 and the EIA procedure, on the basis of which the decision was issued, has been fully confirmed by the competent national court (the Supreme Court) with a final court decision. The judgment is legally binding and the parties are obliged to implement it.
- A new inspection of the EIA procedure and the EIA Decision 2017, regardless of the scrutiny by the Supreme Court of legality, would violate basic legal principles such as the rule of law, stability of administrative acts and legal certainty. In addition, it would breach the EU law.
- The national court, following the “juge de droit commun du droit communautaire” principle, has the universal competence to decide on the application of EU Law. In this case, the Supreme Court has already applied the EIA and Habitats Directives and undoubtedly ruled that the EIA and AA procedures have been carried out in full compliance with the Directives.
- To make a revision of the EIA and AA is manifestly against EU law. Under EU it is inconceivable to challenge EU processes ex post under procedures that EU law does not foresee. Moreover, the combination of the EIA and AA processes ensure a protection at least equivalent to the Bern Convention standards, and also takes into consideration the case law of the Court of Justice of EU.
- The assignment of an external review would lead to numerous questions without clear answers, e.g. on the body competent to perform an external review, the applicable criteria, the procedure to be followed in the reviewing process, etc. and, finally, what would be the legal effect of such a review.
- Given the background of the case, it cannot be excluded that NGOs will continue to appeal against/complain about the “external” EIA decision, if they are not content with its conclusions, and this may have no end. The NGOs have had the chance to participate in the public consultations of the combined EIA/AA process and to make their points (as a statutory step of the EIA procedure). This procedural requirement has been fulfilled and all reasonable comments of the NGOs have been reflected.
- Besides, the EIA Decision 2017 prescribes mandatory conditions and measures to be implemented at all stages of realization of the investment proposal, which are definitely targeting protection of the environment and the biological diversity. Their effectiveness has been scrutinized not only by prominent international experts but, above all, by the competent national authority and the Supreme Court.

	<ul style="list-style-type: none"> ➤ Bulgaria strictly complies with and implements international, European and national legislation on species and habitats protection, respecting completely the Bern Convention. Also, all considerations of Recommendation 98 (2002) of the Standing Committee of the Bern Convention have been taken into account during the project development¹. ➤ Therefore, the allegations of NGOs set out in their report of 4 September 2018, are not true, not founded and all the facts presented by the NGOs are either misinterpreted or inaccurate. ➤ The supremacy of law is a leading principle in Bulgaria and the state submits to the conclusions of the performed judicial control on administrative acts. Pronouncing the EIA Decision 2017 legitimate by the court makes the state authorities obligated to implement the decision. ➤ Democracy is realised if the legally adopted decisions, which are also controlled by justice, are implemented without further delays, thus undermining the sustainable functioning of any state. ➤ The issue of external review of EIA and its recommendations is rather excessive and counter-productive, as it would raise a conflict between an administrative act confirmed by the court as EU- and national law-compliant, and the outcome of the external EIA review. ➤ Therefore, we request the Bureau of the Bern Convention to reconsider the issue of assigning an external review of the EIA. ➤ In view of the above, we ask the honorable Standing Committee to remove this file from the list of possible files.
<p>Complainant's report October 2018</p>	<ul style="list-style-type: none"> ➤ The coalition of Bulgarian NGOs appeal to the Bureau of the Bern Convention to recommend to the Standing Committee the reopening of a case file on construction of Struma motorway through the Kresna Gorge (NATURA 2000 site – Site of Community Importance “Kresna-Ilindentzi BG000366) ➤ Provide detailed arguments on which the national Court case was based (for a full report please consult document T-PVS/Files(2018)17: <ol style="list-style-type: none"> a) The 2008 EIA decision - EIA decision 1-1/2008 for adopting the construction of the whole Struma motorway - is in force, stable and unamended and that the new EIA decision 3-3 / 2017 contradicts it b) In 2009 and 2010, the Standing Committee decided to close a case file on Rec 98 on the basis of the adopted EIA decision 1-1 / 2008 and based on the assurances of the Bulgarian Government that it will implement it in its entirety for the Struma motorway section (Lot 3.2) through the Kresna Gorge. c) The lack of equivalent and full assessment of all alternatives in the new EIA and thus adoption of an alternative which would damage the site conditions of the Kresna Gorge and Natura 2000 site “Kresna – Ilindentzi” (the alternative „G10,5 Eastern” – leaving 50% of the motorway traffic on the existing road). d) Failure to assess and even comment in the new EIA report and EIA decision 3-3/2017 the “Eastern tunnel” alternative proposed during public consultations of the EIA scope. e) The lack of assessment of the cumulative effects of the construction of the motorway based on all above pointed arguments that the assessment covered only the section of the motorway in the Kresna Gorge and disregarded the cumulative impacts arising from the construction of the whole

¹ Detailed information on the implementation of the individual considerations of Recommendation 98 (2002) is contained in paragraph 12 of the Government Report of 30 October 2017.

	<p>motorway.</p> <ul style="list-style-type: none"> ➤ On July 12th 2017, a complaint was submitted to the European Commission under ref. number CHAP number (2017) 02186 - BULGARIA for violation of Art. 6 (3) and (2) of Directive 92/43 / EEC
<p>Respondent's update November 2018</p>	<ul style="list-style-type: none"> ➤ As mentioned in the Government Report (October 2018), a complaint against the Judgement was filed by an NGO and 1 (one) individual to an extended panel of the Supreme Court. Contrary to national law, the complainants alleged that the Judgment is subject to a cassation appeal and requested its annulment. The complainants further claimed infringement of the Constitution of the Republic of Bulgaria and requested a referral to the Constitutional Court. ➤ By a ruling of 31 October 2018 of the Supreme Court (“the Court Ruling”) the complaint against the Judgement was dismissed and the litigation was terminated. The court established that the complaint is inadmissible and should not be considered. Pursuant to Bulgarian law, first-instance judgements on appeals against EIA decisions of the Minister of Environment and Water on investment proposals for sites of national importance declared as such by an act of the Council of Ministers and sites of strategic importance are final (Art. 99, para 7 of the Environment Protection Act („EPA“)). ➤ The existence of all pre-conditions under the said provision of the EPA was confirmed by the Supreme Court, namely: <ol style="list-style-type: none"> 1) The EIA Decision 2017 has been issued by the Minister of Environment and Water; 2) The investment proposal is declared a site of national importance by an act of the Council of Ministers; and 3) The investment proposal is a site of strategic importance. ➤ On this ground, the Supreme Court ruled that the Judgement is final and cannot be appealed. ➤ The Supreme Court also rejected the complainants’ request for referral to the Constitutional Court. According to the complainants, art. 99, para. 7 of the EPA contradict the constitutional principles that all administrative acts may be challenged, and the Supreme Court performs high judicial supervision in administrative justice. The court considered these allegations unfounded, since the EIA Decision 2017 has already been subject to judicial control by the competent national court – the Supreme Court – and the latter has exercised its high-supervision powers. In view of the above, the court upheld that the constitutional principles have been strictly observed as all stakeholders had a legal possibility to challenge the EIA Decision 2017 before the Supreme Court, and the high-supervision function of the Supreme Court was duly performed in the course of the proceedings. ➤ At present, there is no pending legal proceeding concerning the EIA Decision 2017. By the Court Ruling, the NGO’s allegations for illegality of the Judgement, respectively of the EIA Decision 2017, were once again considered by the court and fully rejected. ➤ As mentioned in the Government Report from October 2018, regardless of the complaint against the Judgement which was rejected by the Court Ruling, the EIA Decision 2017 has come into legal force and constitutes a final administrative act. As such, it is legally binding and can be immediately implemented. ➤ In view of the above, ask again the honorable Standing Committee to remove the present file from the list of possible files.

2017/01: LACK OF LEGAL PROTECTION FOR NORTHERN GOSHAWK AND BIRDS OF PREY IN NORWAY	
Date submitted	13.01.2017
Submitted by (Complainant)	BirdLife Norway
Respondent State (Respondent)	Norway
Specie/s or habitat/s affected	Protected raptors (including Northern goshawk (<i>Accipiter gentilis</i>))
Background to complaint	<ul style="list-style-type: none"> ➤ During the process of replacing the former Act No. 38 of 29th May 1981 Relating to Wildlife and Wildlife Habitats (Wildlife Act) with the current Nature Diversity Act the term – “deemed necessary” - was removed from the Section 17 of the current Act. This opens protected raptors for destruction as a precautionary measure, under the cover of a self-defence clause. ➤ The Supreme Court in a judgement from 12 March 2014 decided that the term "considered necessary" does not apply where wild animals are making a direct attack on livestock, domesticated reindeer, pigs, dogs and poultry. ➤ The Complainant alleges that what constitutes an attack to livestock is open to misinterpretations and presents an example of a grazing organisation which encourages farmers, through an article in a local newspaper, to shoot any golden eagles flying below 35 meters over ground level without applying for a necessary license. ➤ Legislative background of the current Nature Diversity Act points out that the removal of the term “deemed necessary” was an error. The Supreme Court decision itself comments that if the law has mistakenly become different from what was intended then this must be rectified by law. ➤ The opportunity to rectify the loophole presented itself in autumn 2016; the Norwegian authorities opted to not make any changes.
Section 17 subsection 2 of the Nature Diversity Act	<ul style="list-style-type: none"> ➤ "Wildlife may be killed in circumstances where this is considered necessary to eliminate an immediate and significant risk of injury to persons. The owner, or a person acting on behalf of the owner, may kill a wild animal making a direct attack on livestock, domesticated reindeer, pigs, dogs and poultry. Any kill or attempt to kill under this paragraph shall immediately be reported to the police".
Respondent's report 19 June 2017	<ul style="list-style-type: none"> ➤ Section 17 subsection 2 is a strict provision. ➤ It requires that "a direct attack" on livestock takes place. It is obvious that the provision does not allow farmers "to shoot any golden eagles flying below 35 meters over ground level without applying for a necessary license". ➤ It is correct that during the process of replacing parts of the Wildlife Act with the Nature Diversity Act, the wording of the legislation was unintentionally slightly changed.

	<ul style="list-style-type: none"> ➤ A proposal by the Ministry of Climate and Environment to change the wording was sent for public comment in 2014. For the time being, the ministry has not decided to amend section 2, subsection 2 of the Nature Diversity Act. ➤ The Ministry is fully aware of the risk that unfortunate practices may evolve, and they are following the situation.
<p>Bureau meeting September 2017</p>	<ul style="list-style-type: none"> ➤ The Bureau thanked the national authorities for the letter replying to the Secretariat’s request for information. ➤ The national authorities letter acknowledges that there was an unintentional change to the wording of the Wildlife Act and that the Supreme Court judgment of 12 March 2014 decided that the term ‘considered necessary’ does not apply where wild animals are making a direct attack on livestock, domesticated reindeer, pigs, dogs and poultry. ➤ In order to maintain adherence to, in particular, Article 1, 2, 3(1), 6(ii) (a), 7(2) and 8 of the Bern Convention, the Bureau considered it is necessary that the unintentional change of the Act wording is corrected. ➤ The Bureau invited the national authorities to attend the 37th meeting of the Standing Committee to the Bern Convention, meeting on 5-8 December 2017 to report on their plans to change the legislation. ➤ The complaint is moved to the category Possible files.
<p>37th meeting Standing Committee December 2017</p>	<ul style="list-style-type: none"> ➤ The Committee noted that the authorities recognize the unintentional omission of the term “deemed necessary” from section 17 of the new Nature Diversity Act. It further agreed that this omission has created a lack of compliance with Article 9 of the Bern Convention. ➤ The Standing Committee decided to keep the file as a possible file and encouraged Norway to close the loophole and bring the specific section of the Act into line with Article 9 of the Bern Convention. ➤ Finally, the Standing Committee requested Norway to report back to the 2018 meeting of the Standing Committee on progress made to reintegrate the omitted terms.
<p>Respondent’s report August 2018</p>	<ul style="list-style-type: none"> ➤ Authorities started the process of amending the legislation ➤ Adopting new legislation is a lengthy and comprehensive process ➤ New information might be available for the 38th Standing Committee meeting
<p>Bureau meeting September 2018</p>	<ul style="list-style-type: none"> ➤ Thanked the national authorities for their timely report and acknowledged the initiation of the amendment procedure for the legislation loophole. ➤ Invited the authorities to attend the upcoming Standing Committee meeting and to present a progress report.

2016/4: DEVELOPMENT OF A COMMERCIAL PROJECT IN SKADAR LAKE NATIONAL PARK AND CANDIDATE EMERALD SITE (MONTENEGRO)	
Date submitted	06/2016
Submitted by (Complainant)	Group of Virpazar citizens (composed of civil society representatives, fisherman associations and small business entrepreneurs)
Respondent State (Respondent)	Montenegro
Specie/s or habitat/s affected	Skadar Lake National Park (NP) and candidate Emerald site (ME 000000C Sasko jezero, Rijeka Bojana, Knete, Ada Bojana)
Background to complaint	<ul style="list-style-type: none"> ➤ By approving the development of Porto Skadar Lake project within the Zone III of the Skadar Lake NP, Montenegro authorities violate Articles 4 and 9 of the Bern Convention. ➤ The project includes the development of 60 villas, 50 apartments and hotel accommodation for 600 people, as well as swimming pools and a Port for 30 boats. It is foreseen that the road infrastructure is upgraded from local to regional for the purpose of the Port. ➤ Allegedly these developments will not only bring direct destruction of the unique habitats and species preserved through the Park, but will equally bring more illegal activities into the National Park (which are currently not efficiently monitored), mass tourism and pollution, as there is no current plan for the management of water supply and waste water treatment. ➤ The area is a Ramsar site, an IPA/IBA site and a nominated candidate Emerald site (ME 000000C Sasko jezero, Rijeka Bojana, Knete, Ada Bojana). ➤ The complainant points out a conflict of interest as the Porto Skadar lake project is being carried out by CAU (Centre for Architecture an Urban Planning), which is also the company charged with the development of the new Spatial Development Plan for Skadar lake (PPPNSJ). Furthermore, the development of the new special plan was not sufficiently and adequately advertised among the directly affected local actors (this was done through on-line survey, while a vast majority of the local inhabitants do not have access to internet). ➤ There is currently a precarious status and management of the NP, a very low capacity for controlling numerous illegal activities– illegal fishing, illegal exploitation of mineral resources, deforestation, uncontrolled urbanisation, illegal construction, issues of waste management – both solid and wastewater. ➤ The area is largely understudied from a biodiversity perspective, but it is alleged that many of the flora, fauna and habitats that are concerned are listed in the Bern Convention Appendices.

<p>Respondent's report October 2016</p>	<ul style="list-style-type: none"> ➤ The Porto Skadar Lake Project is planned in the area covered by “Mihailovci” State Location Study, developed in the Zone III of the Skadar Lake NP - a buffer zone. ➤ The development of the State Location Study was done on the basis of the Spatial Plan of the Skadar lake NP 2001-2015. ➤ Public consultations on the draft State Location Study and the draft report on its Strategic Environmental Impact Assessment (developed in parallel) were held for two weeks in February 2014. Only a few stakeholders, including the company which holds lots in the Municipality of Mihailovci, have participated in the consultation. ➤ In August 2014, the SEIA for the State Location Study received the consent of the Environment Protection Agency. On 23 October 2014 the Government adopted with a decision the creation of the “Mihailovci” State Location Study. ➤ A study on the EIA for the Porto Skadar lake project was submitted to the Environment Protection Agency and public consultations were held on it in November 2014. No interested persons attended the meeting, except for the company developing the project and the regional authorities from Cetinje. ➤ The Study on the EIA for the project was adopted in January 2015 by the EPA after the opinion of a multidisciplinary Commission. Names of the experts who have reviewed the Study on the project EIA are mentioned and it is confirmed that the study takes into account the results of major scientific papers and research project on the natural value of the area. ➤ A building permit was issued by the Ministry of Sustainable Development and Tourism on 6 June 2015. ➤ The new Spatial Plan for the NP is currently being drafted and it is in its initial stages of preparations which involve the development of scenarios for the development of the area. ➤ A Citizen' Forum was established and being involved in the development of the Plan. They provide information on the means of consultation on the Plan proposals developed by the Forum. An SEA for the Spatial Plan is also being developed in parallel. ➤ According to the national Law, both the draft Spatial Plan and the SEA for the Plan will be submitted for public consultation once ready. ➤ The current Management Plan for the Skadar lake NP covers the period 2016 – 2020 and actions undertaken to control the illegal activities in the NP throughout 2016. ➤ The work of a recently established Working team on the Emerald Network in the Ministry of Tourism and Sustainable Development is presented. They plan to review the boundaries and databases of the candidate Emerald sites submitted in 2008 and the currently implemented IPA project on the Establishment of the Emerald network in Montenegro, initiated in April 2016.
<p>Complainant's report February 2017</p>	<ul style="list-style-type: none"> ➤ The whole development of the State Location Study “Mihailovci” was developed in order to bypass the Spatial Plan for the Skadar lake NP 2001-2015 which did not foresee any major large-scale tourist development. The Spatial Plan 2001-2015 is still in force as the new one is not adopted. ➤ Contrary to the statements by the authorities, the SEIA was developed without a detailed biodiversity study and present examples of copy-pastes of the SEIA from the EIA for the Stake Location Study “Mihailovci”. It appears further that the EIA for the project was adopted without the hydrological study being ready; i.e the water supply for the project was not yet clarified.

	<ul style="list-style-type: none"> ➤ A challenge is made to the date on which building permits were issued, being 27.03.2015 and not 6.06.2015 as presented by the authorities. ➤ No biologist took part in the development of the Project EIA preparation. Biodiversity data in the EIA is taken from the information available for the whole NP Skadar Lake and not the specific area of the project. The likely presence of the Eurasian Otter was not mentioned at all. The project's proposed water treatment is considered unrealistic by the complainant and the experts from Montenegrin University they have contacted. ➤ Further challenges to the authorities information on the current status of the new Spatial Plan for NP Skadar lake and the seemingly open procedure of consultation of civil society, which is done exclusively through the alleged unrepresentative Citizens' Forum. Details regarding the reasons why many other citizens and NGOs can't take part in the consultations are provided (unclear questionnaires, short delays for organising public meetings, meeting during working hours, etc.) ➤ Provides further detailed comments on the illegal activities taking place in the NP currently, on the credibility of the Skadar lake project developer, on the lack of updated biodiversity data and research in the area of the park.
<p>Bureau Meeting 21st March 2017</p>	<ul style="list-style-type: none"> ➤ Recognised that Skadar Lake is a biodiversity hotspot in Europe and particularly important for local communities' social and economic development. ➤ Secretariat to request a new updated report from authorities on the following points: <ul style="list-style-type: none"> a) the state of play of the new Spatial Plan of the National Park and how this draft Plan is articulated with the Mihailovci State Location Study, b) the state of development of the commercial project and any mitigation measures planned, c) the results of the on-going scientific research and investigations aimed at reconsidering the candidate Emerald sites boundaries in the country, including the Skadar Lake site and d) authorities' opinion on the feasibility of organising a fact finding mission to the area in 2017, in cooperation with other international organisations and Conventions. ➤ Request made for a copy of the EIA study developed for the project. ➤ Case will remain under the category other complaints

**Respondent's report
19 April 2017**

- Implementation of the project is planned within the 3rd zone within which according to the Law on Nature Protection, sustainable activities are allowed. The tourist complex area of 11.85 ha is based on the principle of Eco Lodge (eco-village) and is planned at the location of Biški represented in the western part of the State Study for Mihailovići (hereinafter: SSL) which is the planning document on which development of the project is based.
- Skadar Lake has been Ramsar site since 1995. Development of the SSL maintained sensitive treatment of the important freshwater wetland habitat. All issues of relevance for the preservation of Skadar Lake as a potential Natura 2000 habitat were elaborated in both the Report on the Strategic Environmental Impact Assessment (SEA Report) and the Environmental Impact Assessment Study (EIA Study) of the tourist village. The Environmental Protection Agency gave its approval. Laws regulating SEA and EIA procedures are 100% aligned with EU requirements.
- SEA Report and EIA Study predict close monitoring from the beginning of the project to the end, allowing the competent institutions to react immediately if any violation or threat to protected species is made.
- EIA Study is detailed and defines the conditions and measures to prevent, reduce or eliminate negative environmental impacts, taking into account the sensitivity of the area. It recommended that a "Zero State Study of Biodiversity" has to be partially implemented during the execution of the preparatory works.
- A study on Landscape Protection and on the hydrological-hydrogeological characteristics of the terrain was also drafted.
- In January 2017 the Ministry asked the Inspection Administration-Department of Environment to send information related to the monitoring of biodiversity. In reply it was notified that in mid-December 2016 the Ecological Inspectorat ordered research to determine the "zero state of biodiversity". A professional team from the Faculty of Sciences (University of Montenegro) was contracted and concluded that field investigations will be carried out during April 2017, in order to cover the spring period. It is expected that the Report with the assessment of biodiversity at the site Biški rep will be prepared and submitted in May 2017.
- The consulting company which drafted planning document concluded that the project is economically viable and will give additional positive impact to the tourism, with full implementation of environmental protection measures, and will create increased revenues of the municipality and the state.
- Development of EIA is regulated by the Law on Environmental Impact Assessment. Pursuant to the article 19 the EIA can be prepared by a legal person or entrepreneur, if they are registered in the appropriate manner for performing activities of planning, engineering and developing studies and analyses. This individual has to establish a Multidisciplinary Team for the preparation of the EIA Report, which is composed of qualified members who can analyse the impact of the project on some important segments of the environment, and every individual participant must satisfy scientific qualification criteria. The company "Eco Aqua Consulting" Podgorica had formed a Multidisciplinary Team in which the team leader is a graduate Construction Engineer with a MSc in ecology and environmental protection.
- Multidisciplinary Committee of the Environmental Protection Agency (3 members of the Committee being biologists gave its consent on EIA Report) reviewed the EIA Report and noted that it had been made in accordance with the applicable legislation and standard. National Park "Skadar Lake" is managed by Public Enterprise of National Parks of Montenegro-PENP who has employees in the field of biodiversity. During the entire process of drafting planning document PENP was kept informed.

	<ul style="list-style-type: none"> ➤ Species <i>Neophron percnopterus</i> (Egyptian vulture) is not mentioned in the EIA Report, and the species of <i>Lutra lutra</i> (Eurasian otter) is mentioned in Section Study referring to the description of the mammals on page 80, as a protected species on national level. ➤ The primary goal is to have fulfilled all the legally prescribed procedures in each and every planning document and projects intended to be developed in Montenegro no matter if they are planned in protected areas or elsewhere. ➤ The public debate on the Draft of the SSL and Draft SEA Report was held 7 to 22 February 2014. During the Public debate which took place at the Secretariat for Planning and Spatial Development and Environmental Protection, or at the Round Table held on 19th February 2014 in the Old Royal Capital of Cetinje, there were no interested parties. Observations were submitted by: Old Royal Capital of Cetinje, as well as interested parties: MJ Property Podgorica and Montenegro Resort Company. ➤ At the public debate for EIA Study of the tourist village "Porto Skadar Lake" held in November 2014 there were no other interested parties except for the representatives of Cetinje, investors and drafters of the EIA Study. ➤ There is no element of potential conflict. CAU/RZUP/MonteCep was selected in accordance with the relevant legal process to draft the Special Purpose Spatial Plan. Credibility of investors is not relevant in the process of issuing a building permit for the construction on the own land. ➤ The plan did not allow digging of any tunnel through the lakebed. SSL obliged investor to provide separate EIA during the design process of the mooring area. ➤ Building permit was issued on 27 March 2015. The Ministry has never stated that Building permit was issued on 6 June 2015. ➤ The Ministry received and replied to two inquiries from leading conservation and wildlife organizations. We received a letter from Bern Convention Directorate on 18 August 2016 to which we replied by explaining all the steps in a procedure that led to obtaining a permit. The Ministry of Sustainable Development and Tourism replied to a letter received from the Ramsar Convention, on 5th July 2016 in relation to the issue of the ecological character of Ramsar area of Skadar Lake in the context of the project "Porto Skadar Lake".
<p>Respondent's report 2 August 2017</p>	<ul style="list-style-type: none"> ➤ Special Purpose Spatial Plan for the National Park Skadar Lake is currently being drafted. ➤ From the beginning of development of this Plan, participation of the public was provided through founding of the Forum of citizens which had an important role in choosing future scenario regarding development of this area. The plan was submitted for opinion to competent institutions, which will examine the validity of the complete planned solution for Skadar Lake area as well as for the specific location. ➤ SSL "Mihailovići" contains a guideline according to which its planning solutions are valid for 3 years from the date of adoption (it was adopted on October 23rd 2014). Investors are obliged to initiate construction within 2 years from the date the building permit was issued (March 27th 2015) or they forfeit the right to construct. ➤ Regarding the status of development of the commercial project and planned mitigation measures, the investor of the project, Montenegro Resort Company, began with preparatory works (cleaning of terrain) in the beginning of December 2016.

	<ul style="list-style-type: none"> ➤ Administration for Inspection Affairs – Ecological Inspection has conducted inspection control on these works and reached a decision on November 15th 2016 which ordered the investor to implement measures relating to implementation or conducting research for the “Study on baseline condition of biodiversity”, which needs to be finalised by the end of preparatory works, as specified by the EIA Study. ➤ “Study on baseline condition of biodiversity” was completed and submitted to the Administration for Inspection Affairs on May 24th 2017. The Study will serve as a base for further monitoring of biodiversity during performance of works in this area. ➤ Acting upon decision of the Ecological Inspection, the investor executed measurement of air quality emissions (“zero state”) through an authorised laboratory (The Centre for Ecotoxicological Research). Furthermore, Montenegro Resort Company developed a Waste Management Plan which received approval from the Nature and Environment Protection Agency on March 30th 2017. ➤ Montenegro Resort Company, addressed the Ministry of Sustainable Development and Tourism on February 14th 2017 with a request for obtaining a building permit for a construction of access road which was forwarded by the Ministry to the Old Royal Capital Cetinje. ➤ The Project "Establishing Emerald network in Montenegro" has been implemented in two stages, carried out in 2006 and 2007 and it was completed in 2008 when 32 areas have been agreed on, identified mainly on the basis of available literature information. For this reason further revalidation and review of these sites is necessary. ➤ April 2016 project "Establishing NATURA 2000 Network in Montenegro" funded from IPA began. Intensive mapping of selected locations is underway, and the project that has engaged a large number of international and domestic experts. As this project covers only a part of the land territory of Montenegro, the Ministry of Sustainable Development and Tourism will, through the IPA instrument, initiate similar projects in order to map the entire territory of Montenegro. ➤ The visit of the experts of the Council of Europe as well as other international organisations and conventions would be of great use in terms of providing guidelines and recommendations which would assist in implementation of policies and measures for preservation of the protected area, National Park Lake Skadar. ➤ The EIA Study will be sent in due time, its translation is on-going.
<p>Bureau meeting September 2017</p>	<ul style="list-style-type: none"> ➤ The Bureau thanked the national authorities for their detailed report, as well as the complainants for the updated information provided to its attention. ➤ The Bureau welcomed the kind invitation of the authorities for the organisation of an on-the-spot assessment in the Skadar Lake National Park in relation to the planned tourist project. The Bureau agreed with national authorities that such a visit would be useful for shedding light on the current protection of the National park, on the exact status of development of the project, on providing guidelines and recommendations on how the national authorities should proceed further with the developments plans in full respect of their international obligations. ➤ Therefore, the Bureau accepted the invitation of the national authorities and instructed the Secretariat to work, in cooperation with the national authorities, on a possible organisation of the appraisal in 2018. The Secretariat was further instructed to seek collaboration with Ramsar, the European Union and IUCN for the organisation of the appraisal.

Complainant's report February 2018	➤ Document submitted to the European Commission in view of the institution's preparation of a report on Montenegro.
Bureau meeting March 2018	<ul style="list-style-type: none"> ➤ Thanked the national authorities for kindly agreeing to host the Bern/Ramsar on-the-spot appraisal and welcomed the very positive cooperation between the two Conventions. ➤ Took note that the on-the-spot appraisal is planned for mid-June 2018 and expressed its hopes that the mission findings and recommendations will be available for the upcoming September meeting of the Bureau when the issue will be revisited
OSA mission June 2018	<ul style="list-style-type: none"> ➤ OSA mission takes place ➤ Report available in document T-PVS/Files(2018)47 ➤ Draft Recommendation for possible adoption by the Standing Committee prepared on the basis of the OSA report
Bureau meeting September 2018	<ul style="list-style-type: none"> ➤ Noted with satisfaction the organisation of a joint Bern/Ramsar OSA mission to Skadar Lake. It thanked the national authorities of Montenegro for hosting the mission. It further thanked the Secretariat for the oral report on the mission which was being finalised. ➤ It took note that the preliminary recommendations of the mission indicate a high degree of concern and decided that there is a potential that this file could become an open case-file. ➤ Found the issue being dealt with under this file as urgent and noted that a draft Recommendation following the OSA is put forward to the Standing Committee for possible adoption. The file has been moved to the category possible files.

2016/05: PRESUMED NEGATIVE IMPACT OF HYDRO-POWER PLANT DEVELOPMENT ON THE VJOSA RIVER IN ALBANIA	
Date submitted	07/2016
Submitted by (Complainant)	EcoAlbania (Center for protection of Natural Ecosystems in Albania)
Respondent State (Respondent)	Albania
Specie/s or habitat/s affected	Vjosa river and its tributaries
Background to complaint	<ul style="list-style-type: none"> ➤ Alleged breach of the Bern Convention resulting from massive hydropower developments on the Vjosa river and its tributaries. in particular of the “Poçem” HPP project (a 25 meters high dam) planned on the Vjosa river, the construction of which appears as imminent, and of 28 other hydro power projects currently planned for the Vjosa river and its tributaries. An interactive map presenting all developments can be consulted here. ➤ The National Agency for Environment allegedly issued a building permit without proper EIA for the Poçem project notably. Furthermore, all HPP on the river are planned without a proper EIA or SEA. ➤ The transboundary aspect of the ecosystem of the Vjosa/Aoos catchments (Albania/Greece), the unique free-flowing of the whole river, the biodiversity hot-spot it represents and the variety of hydrological –morphological features it holds are stressed. ➤ The Poçem HPP project will – <ul style="list-style-type: none"> a) block the upstream and downstream of fish species b) prevent sediment transport downstream to the Adriatic Sea c) create expected decline in ground water d) create reduced water quality due to the reduction of self-purification rate ➤ Hydropeaking, as planned for the HPP functioning, could have disastrous impacts on biodiversity. Secondary impacts linked to infrastructure development, such as fragmentation of habitats and alluvial systems are also mentioned. ➤ The candidate Emerald site “Protected landscape of the wetland complex Vjose – Narte (IUCN Cat IV, RAMSAR site and IBA) would be potentially affected by the dam projects. Although the project Poçem is not planned on any national protected area, the whole river system qualifies for many international designations and in particular European ones (Emerald and Natura 2000). A first annex to the complaint presents a list of species and habitats in the whole Vjosa valley. ➤ The Secretariat received letters of support to the complaint by a large number of civil society organisations, national and European.

<p>Respondent's report January 2017</p>	<ul style="list-style-type: none"> ➤ All hydropower developments on the Vjosa River are considered in relation and in accordance with the conclusions of a 140 pages study developed in 2009 by a French company on the possible schemes for the hydro exploitation of the river Vjosa. The study has been financed by the World Bank. ➤ Out of 25 potential HPP concluded by the study, there are 4 large ones, including the Poçem HPP. In 2014, the Albanian Government decided settled with a plan for 8 HPP to be constructed out of the 25. ➤ On 9 May 2016, the Government granted the concession for the construction of the Poçem HPP to a Turkish Joint Venture. The contract itself was signed in November 2016 for a 35 years period. The construction should last 36 months after the acquisition of a construction permit. ➤ The project developer entrusted the development of the obligatory EIA study for the project to GR Albania. This EIA was completed in January 2015 and on 18 February 2015 a public consultation was scheduled at the webpage of the national Environment Agency (NEA). The consultation took place on 8 March 2015 in Fieru district. ➤ The NEA started the analysis of the EIA after the consultation. The Forestry Directorate noted that the project does not fall within the territory of any protected area. The NEA EIA Commission, advised the Minister to issue an Environmental Declaration for the HPP Poçem HPP construction, issued on 22/04/2015. This Environmental declaration contains a number of conditions to be respected during the construction phase, including matters of biodiversity and nature protection. These are detailed in the authorities' report. Regular reporting to the NEA on the environmental parameters of the construction is attached to the Declaration. The validity of the declaration is 2 years. ➤ The EIA includes a biodiversity study, with a total of 5 pages out of 69 pages in total. ➤ The last section of the national authorities report is dedicated to the impact the HPPs planned on the River will have on the candidate Emerald site Protected landscape Vjose – Narte. The nearest planned HPP is situated 10 km away from the site and that the impact will be small and reduced through the implementation of mitigation measures foreseen in the Environment Declaration. This candidate site is designated mainly due to its coastal wetland features. The management of the candidate site appears to have improved in the past years thanks to the establishment of a national agency for PAs and a dedicated Regional Agency for PA which manager the site. ➤ A number of measures have been implemented in the past few years which are expected to contribute to the conservation status of all species and habitats of European importance found in the Vjosa valley.
<p>Complainant's report February 2017</p>	<ul style="list-style-type: none"> ➤ Challenges the authorities' assertion that the Poçem HPP is not located on the Vjosa River main course and presents a map showing that both Poçem and Kalivac are located there. They further state that the Kalivac HPP has never been completed although started in 2002. ➤ Allege that the authorities wrongly refer to the 140 pages study developed in 2009 as strategic planning for hydro energy. They argue that this study is not a study on the biological values of the area, but rather on the hydropower potential of the river, therefore this cannot be considered as a strategic policy guiding document.

	<ul style="list-style-type: none"> ➤ Clarifies that the authorities have not shown good will for cooperation with civil society and explain the cases where a lack of transparency was preventing them to play their role as civil society. ➤ Public consultation of the study was not appropriate and the EIA study has various flaws, in particular the lack of in situ biodiversity study on the area of concern and the large number of copy-pasted information from different reports
<p>Bureau Meeting 21 March 2017</p>	<ul style="list-style-type: none"> ➤ Instructed the Secretariat to request a new report from national authorities, in particular on: <ul style="list-style-type: none"> a) the current (and future) protection status of the area concerned, taking into account its possible qualification for an Emerald/Natura 2000 site, b) the foreseen impact of the project on the Bern Convention species and habitats and how these could be mitigated, c) the allegations by the complainant that the 140 pages presented as an SEA cannot be considered as such and d) any other useful information that could clarify how the cumulative impact of all hydro power projects in Albania has been assessed. ➤ After an examination of the new reports by the authorities and the complainant, the Bureau will consider the necessity of organising a fact finding appraisal mission to the area. ➤ The case will remain under the category other complaints.
<p>Complainant's update 6 May 2017</p> <p style="margin-left: 20px;">email</p>	<ul style="list-style-type: none"> ➤ On April 26th 2017, 30 scientists from four countries gathered at Vjosa in South Albania to draw attention to the detrimental impacts that are to be expected from the projected “Poçem” dam. They called upon the Albanian government, foremost upon Prime Minister Edi Rama, to stop the hydropower project and carry out a sound assessment of the environmental impacts (EIA). ➤ The main outcome of this scientific initiative will be a report on findings and the environmental impacts of the dam. This report will be provided to the Secretariat when it is prepared. ➤ EcoAlbania together with 38 affected inhabitants of the local community filed a lawsuit in the Administrative court in Tirana on December 2016. The defendant Parties were Ministry of Energy; Ministry of Environment and National Agency of Environment. After a series of court hearings on May 2nd 2017, the court found serious infringements of the overall procedure of this particular concession and decided to cancel the concessionary contract with the argument that: <ul style="list-style-type: none"> a) the EIA report was not done properly and in accordance with Albanian law; b) the public consultation was in fact fictive; c) the Environmental declaration issued by the Ministry of Environment was not in accordance with the Albanian law; d) therefore the court found the concessionary contract absolutely invalid and the overall procedure followed as illegal.

Complainant's update 31 July 2017	email <ul style="list-style-type: none"> ➤ Following the ruling of the Administrative Court the Ministry of Environment and the Ministry of Energy and Industry appealed to the Appeal Administrative Court. The process is still in the evaluation phase. ➤ May 26th 2017 the Ministry of Energy and Industry officially announced the cancellation of the concessionary contract for the Kalivaç Hydropower Project (located few kilometres upstream of Poçem). The Kalivaç Project was the only concession given to the Vjosa basin since 1997 and it was prevented the proclamation of the Vjosa as a Protected Area due to possible legal implication of the Albanian Government with the private Italian company “BEG s.p.a” that owned the concession. ➤ At the date of correspondence there was officially and legally no hydropower planed in the Vjosa river main course. However, on May 26th 2017 the Ministry of Energy and Industry re-opened the call for companies to submit their interest on the construction of Kalivaç Hydropower. The deadline for the applicants to submit the proposals will be the 17th of July 2017.
Respondent's report 9 August 2017	<ul style="list-style-type: none"> ➤ On 2nd May 2017 the Administrative Court in Tirana decided to rule against the construction of HPP Poçem. This means that the construction phase cannot start until final ruling by the Administrative Court of Appeal, which is on-going. ➤ The argument used by the Administrative Court was that Public hearing and Consultation was not properly conducted by the developer (like evidence of presence sheets with signatures of participants and related photos). ➤ The area in which the HPP Poçem is planned to be built as also stated in our previous communication does not have any protection status. Regarding possible qualifications for an Emerald and/or Natura 2000 site with the data and information available there is no evidence that the area fulfills the criteria for potential designation. ➤ The foreseen impact on Bern Convention species and habitats as described in the EIA study for Poçem HPP consist of temporary noise and land use change during the construction phase and the impact of the damn during the operational phase of the hydro power plant. ➤ These impacts are planned to be mitigated by implementation of certain measures as follows: <ul style="list-style-type: none"> a) provision of by-passes for wild fauna in order to avoid habitat fragmentation; b) placement of mesh nets with sizes that allow for the fish and eel movement across the damn; c) placement of fish friendly turbines; d) reforestation of the area where the construction will take place; e) control of sediments arising from the construction phase; ➤ The SEA document has been assessed and evaluated by the experts of the National Environment Agency that deals with the environment permitting process and other relevant authorities. The IA study on HPP Poçem only has been prepared by an independent certified company - GR Albania ➤ A decision taken in 2014 allowed for the construction of only 8 HPP from the 25 that the hydropower capacity of Vjosa river can sustain as assessed by a World bank funded feasibility study.

	<ul style="list-style-type: none"> ➤ So far only Kalivaci HPP is constructed and Poçem is still under court procedures – thus there is no construction work yet. For the rest, no procedures have started and there is no intention to open the call for expression of interest. ➤ According to the authorities calculations HPP Poçem is nearly 22km away from the nearest boundary of the Protected landscape Vjose – Narte.
<p>Complainant's report 19 August 2017</p>	<ul style="list-style-type: none"> ➤ At the date of reporting no submission of EIA and no request for new Environmental Declaration to the responsible authority had been completed by any interested construction company. ➤ According to the concessionary contract the Turkish company had 6 months from the moment that the contract was signed to deliver the Detailed Implementation Project. The contract was signed on September 5th, 2016. At the date of reporting, the company has not submitted the document to the National Agency for Natural Resources. ➤ The appeal of the court decision is on-going, however this cannot prohibit the start of the construction by the company since the claim by EcoAlbania to freeze the construction was refused by the court. ➤ The Poçem hydropower project it is planned to be constructed not in a Protected Area. However in the Complaint no. 2016/05, sent by EcoAlbania the area is assessed to be of high importance in terms of biodiversity and conservation. A report on the species, habitats and the impact of hydropower will be drafted and published by the group of independent international scientists no later than October 2017. ➤ The foreseen impact on Bern Convention species and habitats cannot be mitigated by the measures listed in the EIA study of Poçem hydropower. A group of independent experts as well as the Administrative Court proved that the EIA turned out to be weak. The cumulative impact of the hydropower it has never been assessed in the Vjosa River basin. This assessment is also missing for the Entire Albanian riverine network. ➤ The Kalivaç hydropower has never been completed. Distance is not a factor/indicator for the assessment of the impact that a hydropower dam can cause to the habitat/species that live up and downstream.
<p>Bureau meeting September 2017</p>	<ul style="list-style-type: none"> ➤ The Bureau thanked the national authorities and the complainant for their detailed reports and noted the expression of concern shared by many scientists over the effective protection of the Vjosa River and the potential impact the planned hydropower plant could have on the ecosystem it forms. ➤ However, the Bureau further noted that the national appeal court process is still on-going. Therefore, it decided that no action will be taken until the appeal court issue a determination. ➤ The national authorities and the complainant are invited to report back to the Bureau on any new information on the case they deem useful for its March 2018 meeting and to send an alert to the Bureau as soon as the national appeal court process is over. ➤ The complaint is moved to the category Complaints on stand-by.

<p>Letter addressed to national authorities 14 February 2018</p>	<ul style="list-style-type: none"> ➤ After electronic consultation with the Bureau members, the Secretariat got in contact with authorities to seek their agreement for the organisation of an on-the-spot appraisal (OSA) to the area in spring/early summer 2018. ➤ The reasons behind this request are the recent developments at national level regarding the Kalivach HPP, as well as the continuous concern of the Bureau over the effective protection of the Vjosa River and the ecosystem it forms and the allegations of the complainants of a lack of effective cumulative impact assessment for all the planned HPPs, including the two big HPP projects, namely Kalivach and Poçem.
<p>Complainant's report March 2018</p>	<ul style="list-style-type: none"> ➤ On May 26th 2017 the Albanian Government took the decision to cancel unilaterally the concessionary contract with the Italian Company "B.E.G spa" for the construction of the Kalivaç hydropower plant. After almost 20 years a series of postponements, the cancellation was made officially public in the Agency for Public Procurement. ➤ In the same day the Ministry of Energy and Industry announced officially the open of the new call for other companies to apply for the project. (Please refer to the terms and conditions set by the Ministry of Energy and Industry). The deadline for the applicants to submit the proposals was the 18th of July 2017. ➤ On October 2017 at the Public Procurement Journal No. 43, date 30.10.2017 on pages (317-321), was made public the competition held in regard the Kalivaç hydropower project. In this document is also stated that the temporary joint venture of "Ayen Enerji" and "Fusha" sh.p.k was the winner of the competition with the best offer delivered by them in 28th of August 2017. ➤ Taking into consideration that the winner company is the same as in the Poçem hydropower, which is proved by the Administrative Court that has failed to meet the law requirements in regard the environmental and public consultation criteria, EcoAlbania started to request more information in regard the Kalivaç Project, i.e. the Environmental Impact Assessment and the Feasibility Study. ➤ After all these steps EcoAlbania has not yet secured the requested information by the public authorities (i.e. Environmental Impact Assessment and Feasibility Study for Kalivaç project) and this makes the situation even more complicated when it is about a project of public interests and it has to respect the transparency criteria, laws and regulations – which is obviously not the case ➤ The Kalivaç hydropower project is not planned to be constructed in a protected area. However, in the Complaint no. 2016/05, sent to the Bern Convention by EcoAlbania, the project area is shown to be of high importance in terms of biodiversity and conservation (see Annex I and Annex II the complaint). The fact that the area is not under protection is due to limited scientific knowledge so far. ➤ In this regard the scientist's initiative on conducting research in the area is ongoing. In the last two years, there have been three scientific collecting data field trips. So far the findings are impressive with more than 40 species reported for the first time in Albania and one new species of stonefly named <i>Isoperla Vjosae</i>. In 2018 there will be several more scientific field trips, which will be followed by a publication on the species, habitats and the impact of hydropower that will be drafted and published by the group of independent scientists from Albania, Germany, Austria etc.

<p>Bureau meeting March 2018</p>	<ul style="list-style-type: none"> ➤ Thanked the national authorities of Albania for kindly agreeing to host the on-the-spot appraisal to Vjosa River and instructed the Secretariat to move forward with the preparations of the visit, including contacting the IUCN South-East Europe Office in view of their possible participation in the mission as observers. ➤ Took note that the on-the-spot appraisal might take place in June 2018 and expressed its hopes that the mission findings and recommendations will be available for the upcoming September meeting of the Bureau when the issue will be revisited
<p>OSA mission June 2018</p>	<ul style="list-style-type: none"> ➤ OSA mission takes place ➤ Report available in document T-PVS/Files(2018)43 ➤ Draft Recommendation for possible adoption by the Standing Committee prepared on the basis of the OSA report
<p>Bureau meeting September 2018</p>	<ul style="list-style-type: none"> ➤ Noted with satisfaction the organisation of a Bern Convention OSA mission to Albania. It thanked the national authorities of Albania for hosting the mission. It further thanked the Secretariat for the oral report from on the mission which is being finalized. ➤ Took note of the preliminary conclusions of the mission that although a rather complete and clear legal framework is in place regarding the procedures for the implementation of EIA/SEA in the country, there are indications that this framework is not complied with for the moment. The degree of concern on this file is also very high, in comparison with the complaint on the Skadar Lake. There is also a potential that this file could become an open case-file. ➤ Found the issue being dealt with under this file as urgent and noted that a draft Recommendation following the OSA is put forward to the Standing Committee for possible adoption. The file has been moved to the category possible files.
<p>Complainant report October 2018</p>	<ul style="list-style-type: none"> ➤ The Poçem hydropower project: the Ministry of Energy and Industry as well as the Ministry of Environment announced on May 4th the appeal of the court decision. The process is ongoing, however this cannot prohibit the start of the construction by the company since the claim by EcoAlbania to freeze the construction was refused by the Administrative court. ➤ On June 8th, 2018 the Albanian Ministry of Infrastructure and Energy signed the concessionary contract with the joint venture “AYEN- ALB” (a consortium of Albanian company “Fusha sh.p.k” and the Turkish AYEN ENERJI” for the construction of Kalivaç hydropower in a B.O.T form (built-operate-transfer). The concession duration is foreseen to last 35 years. ➤ NGO has requested more information in regard the Kalivaç Project, i.e. the Environmental Impact Assessment and the Feasibility Study to relevant agencies and authorities. ➤ Response from the National Agency for Environment stating that there was no submission of any EIA Report regarding the Kalivaç Hydropower project and therefore no Environmental Permit was issued for the certain project. ➤ On 5th of July 2018 the National Agency for the Natural Resources answered to EcoAlbania’s request and stated that they have received no documents from Ministry of Infrastructure and Energy in regard the Kalivaç project. At the same time the Agency is stating that the responsible authority to be asked for that is the Contracting Authority which is the Ministry of Infrastructure and Energy.

- The Ministry of Infrastructure and Energy has never reply to EcoAlbania request for information. Considering the last experience with the involvement of the Commissioner for the Right of Information and Personal Data Protection, where was no success, there has been filed no complaint by EcoAlbania.
- After all these steps EcoAlbania has not yet secured the requested information by the public authorities (i.e. Environmental Impact Assessment and Feasibility Study for Kalivaç project) and this makes the situation even more complicated when it is about a project of public interests and it has to respect the transparency criteria, laws and regulations – which is obviously not the case.
- The Kalivaç hydropower project is not planned to be constructed in a protected area. However, in the Complaint no. 2016/05, sent to the Bern Convention by EcoAlbania, the project area is shown to be of high importance in terms of biodiversity and conservation (see Annex I and Annex II the complaint). The fact that the area is not under protection is due to limited scientific knowledge so far. In this regard the scientist's initiative on conducting research in the area is ongoing. In the last two years, there have been three scientific collecting data field trips.
- So far the findings are impressive with more than 40 species reported for the first time in Albania and one new species of stonefly named *Isoperla Vjosae*.
- In spring 2018 there several scientific field trips took place in the Vjosa watershed, which will be followed by a publication on the species, habitats and the impact of hydropower that that will shortly be published by a group of scientists from Albania, Austria and Germany etc.
- Considering on-the-spot appraisal for the affected area from Kalivaç and Poçem hydropower as the first step already taken by the Convention, we see the option of opening a case file as crucial and urgent, as the start of the construction would compromise any other decision towards the protection of the last free flowing river of Europe.
- The battle for the protection of the Vjosa River is reaching a very decisive stage and considering this EcoAlbania and its partners will use all legal means to protect this unique natural heritage from dam construction. In this regard filing lawsuit against Kalivaç project to Administrative Court is under finalization and the EIA and feasibility study as well as the public consultation procedures will be the main pillars where the next lawsuit will stand.
- Filing a complaint to the Energy Community is another tool, which will be used soon and in parallel with the domestical legal battle in the Albanian Court.
- Another important step that will take place in early December 2018 is the Scientific Conference for Vjosa River system. The conference will serve as a tool to share all the scientific data collected in the last 2-3 years of field work and scientific research in the Vjosa river basin and mainly in the 2 affected area of Poçem and Kalivaç where potentially dams will be constructed.
- The Conference will serve as well as an opportunity to invite the decision-makers to be aware of the scientific importance of this special ecosystem. Therefor the aim is that the conference will be organized in close cooperation with the Ministry of Environment in Albania.