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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

41st meeting
Strasbourg, 29 November – 3 December 2021

Open file: 2010/5

Threats to marine turtles in Thines Kiparissias (Greece)

- REPORT BY THE GOVERNMENT -

*Document prepared by
the Ministry of Environment and Energy*

-August 2021-

**Ministry of Environment & Energy
General Directorate of Environmental Policy
Directorate of Natural Environment Management &
Biodiversity
Department of Biodiversity**

Athens, 29 July 2021

To the Secretary of the Bern Convention

Dear Ms Sticker,

Subject: File Complaint No. 2010/5: Case-file open on “Greece: threats to marine turtles in Thines Kiparissias”

Greece would like to provide the following information concerning the open Case File No. 2010/5 to the attention of the Bureau of the Bern Convention with regard to the September 2021 meeting.

A. Information regarding the new law and its consequences on the protection of endangered species and habitats

The new law No. 4782/2021 (Government Gazette No. 36/A/9.3.2021), which came recently into force (March 2021), is entitled ‘Modernization, simplification and restructuring of the regulating framework of public procurements & specific procurement regulations in defense and security sectors & other provisions on development, infrastructure and health’.

Article 128 of the above-mentioned law, which was referred to in the letter of the Secretariat on 30 April 2021, modifies article 328 of the existing provision law No. 4412/2016 (Government Gazette No. 147/A/08.08.2016). The particular article regulates and updates the direct procurement method, although without making any reference to protected areas, species or habitats at all. Probably, this article was mistakenly mentioned instead of article 218 of the same law entitled ‘Designation of protected sub-areas in case of minor developmental projects’.

In article 218, par. 1, it is mentioned that in case of minor developmental projects a ‘sub-area’ within a protected area may also be designated by a Presidential Decree (PD) proposed by both the Minister of Development & Investment and the Minister of Environment & Energy as long as the integrity of the wider area is not ecologically affected with concurrent compliance with the local conservation targets.

The PD to be issued for a specific ‘sub-area’ will also stipulate specific rules for activities or implementation of technical projects. This provision covers the time period until the finalization and approval of the Special Environmental Studies (SEs) and applies to already designated zones under protection by specialized legislation on land use. It also applies to protected areas pursuant to articles 18, 19 & 21 of law 1650/1986 except for zones and areas of absolute nature protection. However, the issuance of the PD requires the formulation of a SES by the project implementation body as well as that of a Strategic Environmental Assessment (SEA) and, finally, the advisory of the Central Council on Planning Issues & Challenge. No projects have been submitted so far under article 218.

Greece remains at the disposal of the Bureau for any other clarifications that may be needed concerning law No. 4782/2021.

B. Update on the preparation of the management plan for Kyparissia Bay and the National Action Plan for the protection of marine turtles, supported by the EU LIFE Euroturtles project

The management plan on Kyparissia Bay will be ready as soon as the project of the SESs for all Greek Natura 2000 areas is completed in 2022. It is also noteworthy that the PD of 2018 (Government Gazette No. 391/Δ/3.10.2018 as corrected by No. 414/Δ/12.10.2018) is still in force after an appeal against it to the Supreme Court of Cassation (the ‘Council of State’) in 2020 and the final judgement in favor of the PD at the beginning of 2021.

As referred to in the April 2021 report, a comprehensive Action Plan over *Caretta caretta* was formulated and submitted for public consultation by the NGO ARCHELON in 2020 as part of the LIFE

Euroturtles Project in cooperation with LIFE IP-4 Natura Project (A.1 action), which is coordinated by the Hellenic Ministry of Environment & Energy (hereafter ‘Ministry’). The 6-year Action Plan has been finally adopted by the Ministry and its issuance is expected shortly.

It is highlighted that A.1 action of LIFE IP-4 Natura Project, entitled ‘Development and legal adoption of Action Plans (APs) for species and habitats of Community Concern’, entails the selection of specific habitats and species for which the APs will be formulated. This process will be based on the latest data from the Monitoring & Assessment Project of the Conservation Status of Protected Species and Habitats in Greece and experts’ opinion, through workshop organization, where the conservation status, conservation needs, threats/pressures and economic aspects of habitats and species will be assessed. It is also expected that, if further data and information are necessary to be collected, targeted field work will also be carried out. The action will result in formally developing a national and binding specification document for drafting species and habitat APs, the formulation of several APs for species and habitats of Community Concern (Annexes III, IV and V of 92/43/EEC and Annex I of 2009/147/EC) and, finally, their legal approval.

C. Implementation of mitigation measures ahead of the Summer 2021 tourism season

First of all, the existing 2018 PD (please see point B) entails permanent mitigation measures for Kyparissia Bay during tourism season. In particular, Annex II includes terms & conditions for permitting the minor use of seaside and beaches.

Furthermore, the Coordination Office for the Implementation of Environmental Liability (COIEL/SYGAPAZ) of the Ministry informed our Department on 10 June 2021 about the implementation of proactive measures against environmental damages due to the opening and construction of five roadways on the beach between Ai-Giannakis and Elea villages within the jurisdiction of the Municipality of Trifylia (Messinia).

The measures were implemented on 4 June 2021, after an on-the-spot appraisal by COIEL/SYGAPAZ officers in cooperation with the local Forestry Authority and the Head of the Elea village, and were financed by the Green Fund based on the No. ΥΠΕΝ/ΣΥΓΑΠΕΖ/63964/316/2.7.2020 Ministerial Decision of the Ministry. The measures aimed to block any access of vehicles to the beach by using cement blocks on the above-mentioned roadways. The Ministry is the only competent authority in this case forced to implement these measures due to in compliance of the responsible exploitation body with a related decision issued in 2012 by the Head of the Decentralized Administration of the Peloponnese, Western Greece & Ionian Sea. The responsible exploitation body will be fined the total cost of these measures, which reached € 12,896, pursuant to article 11 of the PD No. 148/2009. According to the officers’ report, the area was crammed with roads and packed with caravans. The officers also stressed in their report that an environmental study should be carried out on the restoration of sand dunes, the inversion of erosion as well as the restoration of the area after the destruction of the roadways in conjunction with the advisory of COIEL/SYGAPAZ and the issuing of a related Ministerial Decision.

In accordance to the letter of the Secretariat of the Bern Convention to Greece’s focal point on the 30th of April 2021 presenting the results of the spring meeting of the Bureau over Complaint No. 2010/5, the Ministry recently issued a document urging the Municipalities of Andritsena-Krestena, Zacharo, Trifylia, the Head of the Region of Western Greece, the Head of the Region of the Peloponnese, the Head of the Decentralized Administration of the Peloponnese, Western Greece & Ionian Sea and, finally, the Kotychi-Strophylia Wetlands Management Body to take all necessary mitigation measures against extreme touristic pressure during the summer season 2021.

The Kotychi-Strophylia Wetlands Management Body has informed the Ministry that a project over the formulation of a report about the regulation and delimitation of human activities on the beaches within the jurisdiction of the Management Body, namely Kalogria, Bouka, Kentro, Falari, Brinia, Kounoupelaki, Gianniskari, Bouka Eleas, Giannitsochori, Kaiafa and Kalo Nero, based on their carrying capacity, is currently at the stage of award of the contract. These areas are significant nesting & feeding sites for many species and host a variety of wild flora. At the same time, the wider area is considered the second most significant oviposition site for *C. caretta* in the Mediterranean Sea. These beaches are mainly affected by tourists and human disturbance especially during summertime. This project will be financed by the Partnership Agreement 2014-2020 through the Transport Infrastructure, Environment and Sustainable Development Sectoral Programme. The project to be awarded includes:

- the description of the current status in the area and particularly the geomorphology, species & habitats, human activities, pressures & threats as well as the land users
 - the mapping of current activities and the identification of conflicts and management queries
 - the assessment of the carrying capacity at each site leading to:
 - specialization of terms & conditions of time access to the beach throughout the year and throughout the day
 - delimitation of parking areas to protect sand dunes as well as speed limit designation for faunal protection
 - spatial and time designation of allowed activities in the coastal zone of the protected area in total
 - specific limitations for each activity (e.g. type and direction of light intensity in order to protect *C. caretta*, prohibition of playing music, etc.)
 - designation of the minimum required infrastructure for environmental upgrade and beach protection (e.g. installation of garbage bins, information kiosks, signs, poles for preventing vehicle access to the beach, temporary constructions and delimitation of parking areas, etc.)
 - current infrastructure assessment and potential removal of unsuitable infrastructure
- The afore-mentioned project is expected to contribute to a better organizing of touristic activities in Kyparissia Bay as well as to protect the sensitive coastal zone through reducing disturbance and pressures.

Finally, a series of projects about informing and sensitizing the local community towards the direction of the protection and conservation of biodiversity within the areas under the jurisdiction of the local Management Body were recently integrated (February 2021) in the Operational Programme of Western Greece by decision of the Head of the Region of Western Greece. These projects will be financed by the Partnership Agreement 2014-2020 aiming to:

- procure and to install information signs for visitors about the local protected species and habitats
- publish information material, to organize seminars informing about the protected areas and to play a video spot promoting the local National Park and the protected areas of the Management Body
- produce environmental training material for pupils over all of the protected areas of the Management Body, especially Thines Kyparissias and the Foloji Plateau

I remain at your disposal for any clarification you may need.

Sincerely yours,

Evangelos Badieritakis
Jul 29 2021 1:15 PM

The national focal point to the Bern Convention

-March 2021-

File 2010/5: Greece: threats to marine turtles in Thines Kiparissias

Greece would like to provide the following information concerning File 2010/5 to the attention of the Bureau of the Bern Convention.

A. Presidential Decree for the protection of Kiparissiakos Bay

1. Leading up to the issuing of the Presidential Decree that is required by national legislation to safeguard the protected area of Kiparissiakos Bay, and while the aforementioned Presidential Decree was being drafted, the Ministry of Environment and Energy issued the interim Ministerial Decision 25794/20-5-2016 (Government Gazette 141 Δ' /24.5.2016). The Ministerial Decision was issued according to Article 21 paragraph 9 of Law 1650/1986 as it was amended by Article 6 of Law 3937/2011. Its term of effect covered a period of two years after legislation and while it was in effect it comprised the primary legislative tool for the protection of Kiparissiakos Bay.
2. The term of effect of the aforementioned Ministerial Decision was extended for one additional year with Ministerial Decision 30121/1277/23-5-2018 (Δ'204). As a result, the legislation safeguarding the protected area would remain in effect until 24-05-2019.
3. The Special Environmental Study that is required by national legislation before issuing the afore mentioned Presidential Decree was concluded in 2011 under the title "*Special Environmental Study for the areas: (a) GR2330005 – "Thines kai paraliako Dasos Zacharos, Limni Kaiafa, Strofylia, Kakovatos" and (b) GR2330008 – "Thalassia periochi Kolpou Kyparissias: Akr. Katakolo – Kyparissia"*". The Special Environmental Study was approved under Decision 56014/2390/29-10-2012 of the Secretary General of the Ministry of Environment, Energy and Climate Change, and a supplementary Special Environmental Study was concluded in 2014 and was likewise approved under Decision 48730/2236/15-10-2014. Based on the findings and recommendations of these Studies, the Presidential Decree designating Kiparissiakos Bay as an Area for Protecting Nature was issued under Government Gazzette 391/Δ'3-10-2018. The Presidential Decree outlined the allowed land uses and activities while imposing protection measures and terms of management for Kiparissiakos Bay and the wider area. Parts of the protected area were designated as Areas for Protecting Nature (APN), Protected Natural Formations (PNF) and a Peripheral Zone of Protection named Zone of Rural Landscape (ZRL).
4. Within the aforementioned areas, and depending on the importance of the protected elements, as they are being evaluated scientifically in the Special Environmental Studies, the legislated restrictions follow a gradient in terms of their severity. In particular, a stricter protection framework applies to APNs, whereas allowed activities in PNFs comprise, inter alia, environmental conservation and management works or infrastructure, agriculture and low-key tourism activities.
5. The Presidential Decree (which requires preliminary review by the Council of State, ie the supreme administrative Court in Greece), demarcates the afore-mentioned zones and safeguards the natural environment within the zones by restricting activities and projects that would degrade the environment or hinder its restoration. But at the same time, it safeguards the co-existence between the natural environment (and its protected elements) and human activities. This is shown, as an example, by the provision that only a maximum of 30% of the total area of tourism accommodation can be taken up by man-made structures while at least 70% of the total area must remain natural or agricultural.
6. Transitional Provisions – Pre-existing or under-construction buildings
 - 6.1. Construction was prohibited in the area between 24-5-2016 and 3-10-2018 (the term of effect of the previous Ministerial Decision up to the date of activation of the Presidential Decree). An exception was provided for cases where construction had already begun before 24-5-2016 and an appropriate permit could be shown. In all other cases of works or projects, it was required that either they were legally pre-existing on 24-5-2016 or that they held an appropriate permit on 24-5-2016.

6.2. Following that, construction was declared illegal in the area under consideration, from 3-10- 2018 and until today, under the effect of the Presidential Decree. An exception was provided for cases where construction had already begun before 3-10-2018 and an appropriate permit could be shown.

6.3. In all other cases of works or projects, it is required that either they were legally pre-existing on 3-10-2018 **or** that they held an appropriate permit on 3-10-2018. In the case of projects that are required to undergo an Environmental Impact Assessment (EIA), and the relevant approval has been issued, they can continue to operate under the obligation that an Appropriate Assessment (as per Directive 92/43/EEC) is initiated within one year. If they are not required to undergo an EIA then they are must adhere to the protected area's management plan.

6.4. As a result, the crucial evidence for determining whether an under-construction project is legal, is whether their construction was initiated before 24-5-2016 (initially) or 3-10-2018 (eventually). This is ascertained through submitting the necessary legal documents, technical reports and time-stamped certificates etc, in order to prove beyond any doubt, the date when construction was initiated.

6.5. Regarding future development, the Presidential Decree allows, for reference, the construction of tourism facilities and residential homes inside the Zone of Rural Landscape as long as there is a distance of at least 50 meters from the coastline and the sand dunes zone, in order to minimize the effects of man-induced degradation of those particularly delicate ecosystems.

6.6. Additionally, future construction and technical works are prohibited to be carried out without following the particular procedure that is outlined in legislation and regards the environmental impact assessment. Owing to the particularly sensitive ecosystems in the area, the evaluation of the possible impacts of a proposed development in the area undergoes particular scrutiny, including the submitted scientific studies that are required by law in order for the impact assessment to proceed.

7. The Presidential Decree imposes strict conditions for granting the right of simple use of the seashore and the beach (Annex II). Indicatively, the concession of use for the installation of awnings and sunbeds may not exceed five hundred (500) square meters per concessionaire and the concessions granted by use may not occupy more than thirty percent (30 %) of the total area of the seashore and the beach. The concession is only allowed in places where there is a legally existing access road to them, with the exception of sand dune habitat types, where it is prohibited to allow for any road opening. The access in this case can only be allowed via elevated wooden walkways, in order to reduce the contact area and minimize overall intervention. In that respect there can be unimpeded public access to public goods (in this case, the seashore), while at the same time protecting the sensitive ecosystem.

8. In the areas with the highest egg laying rate of the *Caretta caretta* turtle, the placement of beach equipment is prohibited, while at the same time there are provisions for ensuring that the beach is kept clean and that the lighting installation is the appropriate as to not interfere with the turtles. Appropriate restrictions are imposed on all leisure and tourism businesses that operate on these areas.

B. Autopsies of the Inspection Body of Southern Greece

By order of the head of the Ministry of Environment and Energy, the competent Environmental Inspectors of the Inspection Body of Southern Greece conducted autopsies in the Southern Kyparissia bay (coastal zones of Kalo Nero, Vounaki, Ai Giannakis and Elea) on 03-07-2019 and 27-04-2020. It is noted especially for the second autopsy that it was carried out in the middle of a period of imposed measures for the containment of the spread of COVID-19, which makes the inspections difficult to accomplish and carry increased risk for the health of the inspectors. From these two autopsies, the following emerged:

1. The inspection of the coastal zone of the area "Kalo Nero" which comprises sand-dune habitat types found that previously recorded violations have not been resolved. These concerned the placement of wooden and metal superstructures and stone walls on the borders of the coastal zone, that the Estate Department of Messinia had ordered to be removed.

2. The platform near the Messina Mare Hotel had been removed.

3. On the sandy coastal zone at "Vounaki", the presence of three buildings (one owned by A. Kotzamani and two owned by A. Taki) was ascertained, which had been recorded also in an earlier inspection. It was found that for the third building (owned by A. Kotzamanis) there was progress of works (now in the stage of completion of external coatings). It is clarified that this is not an illegal construction, as this building has a building permit for the year 2010, revised in the year 2019. It is also clarified that the property of A. Takis constitutes three holiday homes that are allowed under the relevant building permit issued in 2012 and entitled "Construction of a complex of three new houses". This license, as presumed by the evidence, has not yet been implemented in full. Within the apparent boundaries of the three properties, it was found in the case of one of the houses that a makeshift low hedge had been installed, and for the two adjacent buildings that a continuous hedge had been constructed using concrete slabs and non-native plant species, contrary to the provisions of the Presidential Decree. Following the on-site assessment by the Inspectors of the second autopsy, an Autopsy Report was compiled, including photographic evidence. The contact details of the owners were procured and the autopsy report was sent to them. Recently, it has been noted that for the A. Kotzamanis building there was immediate full compliance, ie removal of the hedge, a fact that will possibly act as a deterrent in the future for similar situations.

4. On the sand dune coastal zone, at the location "Ai Giannaki - Eleas" up to the borders with the river Neda, it was found that five roads had been illegally opened perpendicular to the sand dune configuration, by the company "Neos Kotinos SA", at an earlier time. Photographs were taken and an Autopsy Report was compiled which was sent to the company responsible. In addition, a letter of non-compliance has been sent for violating the provisions for the Protection/Restoration of the environment. The company has responded with a memorandum which was submitted to the competent Department and the legal procedure is under way. The Inspection Body of Southern Greece has confirmed the violation and the Coordinating Office for Cases of Environmental Damage is currently progressing in sealing the illegal roads.

5. A construction plan for fifty holiday homes in the protected area, that had been put forward will not be materializing.

6. Regarding past complaints applying to camping spots in the areas Kalo Nero and Ai Giannaki - Eleas, it has been found that there has been achieved compliance with the corresponding decision issued. Additionally, compliance with the terms and restrictions of the Presidential Decree are monitored through policing and the imposing of administrative sanctions where required.

C. Actions by the Coordinating Office for Cases of Environmental Damage

With document 63964/316 / 02-07-2020, the Coordinating Office for Cases of Environmental Damage (SYGAPEZ) proceeded to take measures to prevent environmental damage due to the construction of five roads leading to the coast, between the settlements of Ai Giannakos and Elaias, in Messinia. These measures concern the exclusion of motor vehicles access to the coastal zone through the aforementioned 5 roads, by placing blocks or cement at the entryway of each road. For the implementation of this project, an amount of 12,896 Euros was procured from the Green Fund, including VAT, with the Ministry of Environment and Energy being the competent authority for its implementation.

D. Decisions by the Council of State

On 03/02/2021 was published on the website of the Council of State the issuance of the seven (7) Decisions (A164/ 2021 - A170/2021) of the fifth Department for seven (7) respective pending applications calling for the revocation of the Presidential Decree. These decisions reject in their entirety the respective revocation requests, safeguarding the legality of the Presidential Decree as a regulatory tool to ensure the protection of the Gulf of Kyparissia.

E. Ongoing projects of high environmental importance

Within the framework of protection and management of all protected Greek areas of the NATURA 2000 Network, projects of high national environmental importance have been launched by the Ministry of

Environment and Energy. These projects will catalyze the study, management and protection of national natural capital, including the Gulf of Kyparissia:

I. Special Environmental Studies (SES)

Within the program period of the NSRF (2014-2020) the crucial project of elaboration of Special Environmental Studies, draft Presidential Decrees and Management Plans for all areas of the NATURA 2000 network has been launched. In total the project is structured around 12 separate studies, of which 11 concern the elaboration of the SESs for all NATURA 2000 areas of the country, and one (1) study concerns the coordination of the remaining 11 studies and the final drafting of the Presidential Decree for the designation of the areas and the Ministerial Decisions for the respective Management Plans for each area. The elaboration of these Studies started in February 2019. Following the recent necessary modification of the contracts with the contractors (30/12/2020), the completion of the elaboration, the consultation and the submission of the final SESs will be completed in December 2021, while the rest of the project, which includes the public consultation and the submission of the drafts for the Presidential Decrees and Ministerial Decisions, will be completed in March 2022.

It is pointed out that one of the deliverables of this project will be the Management Plan of the protected area of the Gulf of Kyparissia, which will seal the legislative protection of the area and will specify the local terms and restrictions for projects and activities.

II. Supervision and evaluation of the conservation regime of protected species and habitats in Greece

The competitive process of a co-financed project is in progress, the object of which is the “on the field” monitoring of the protected habitat types and species, of national and EU importance, with the aim of assessing their conservation status.

The objectives of the project include: the supplementing/updating of the databases related to the protected entities, the re-evaluation of the degree and the state of conservation as well as the identification of the reasons for any changes over time, the re-evaluation of the bird populations and their trends on national level, the revision / updating of the Favorable Reference Values and the Conservation Objectives of the habitat types and species in the NATURA 2000 areas.

By the project’s completion, there will be available targets, priorities and conservation measures for the species and habitats, and the necessary data will have been updated. The outcome will be a strengthening of environmental protection policies at national and local level, as the deliverables of the project will be utilized by the competent authorities of the Ministry of Environment and Energy in order to meet the country's European and international obligations in matters of biodiversity and protected areas.

III. Ministerial decision on conservation targets

Following the Bilateral Agreement between the European Commission and the Directorate for the Management of the Natural Environment of the Ministry of Environment and Energy (March 2019), and in compliance with the recent C-849/19 decision of the Court of Justice of the European Union, a ministerial decision is being drafted within the Ministry of Environment and Energy for the designation of conservation targets within the Special Conservation Areas of the country that are part of the NATURA 2000 network, as required by Article 6 par. 1 of Directive 92/43 / EEC

IV. Law 4685/2020 – new management structure

On May 7, 2020, Law 4685 (Government Gazette 92 A ') was issued under the title: "Modernization of environmental legislation, incorporation into Greek legislation of Directives 2018/844 and 2019/692 of the European Parliament and of the Council and other provisions", with Chapters C and D referring respectively to the management of protected areas and the zones within them. The aim of the new law is to reform the management system of the protected areas of the NATURA 2000 Network so that it becomes more targeted and effective. The management of the protected area of the Gulf of Kyparissia, as well as all the Greek protected areas of the NATURA 2000 Network, will be taken up by the newly established central structure named "Agency for Natural Environment and Climate Change" (OFYPEKA) and the new Management Units that will be replacing the previous Management Bodies for the Protected Areas.

V. Action plan for caretta caretta

The LIFE-IP 4 NATURA project, the first Life Integrated Project (LIFE IP) ever approved for Greece, is the most important nature conservation project of the last decades for the country. It constitutes the first centrally coordinated initiative to implement the Greek Priority Action Framework on a national regional and local scale. The project has a duration of 8 years (2018-2025) with a total budget of €17 million (co-financed by the European Commission's €10.2 million contribution, the Green Fund's €4 million national contribution and the project partners' contributions). An integral Action within the LIFE-IP 4 NATURA project entails the development and legal adoption of Action Plans for species and habitats of Community Interest, as well as their implementation on the field. One of the species that has been selected is *Caretta caretta*. A comprehensive Action Plan for the species has been formulated and submitted for public consultation and is expected to be legally adopted as a Ministerial Decision within 2021.