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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

38th meeting
Strasbourg, 27-30 November 2018

**FOLLOW-UP
OF CASE FILES**

- REPORT BY THE EUROPEAN COMMISSION -

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FOLLOW-UP OF CERTAIN CASE FILES (NOVEMBER 2018)

1. Complaint No. 2004/2: Bulgaria: Wind farms in Balchik and Kaliakra – Via Pontica

The EU Court of Justice provided its judgement on this issue on 14 January 2016, identifying two breaches:

- Insufficient designation: Bulgaria had not designated the Special Protection Areas (SPAs) in Kaliakra in accordance with the scientific criteria laid down by the Birds Directive (2009/147/EC).
- Authorisation and implementation of activities: Bulgaria has authorised economic activities in the Kaliakra area without adequate assessments of their environmental effects, thus significantly impacting species and habitats of European importance. Furthermore, no account was taken of the cumulative effects of the projects.

On the first issue, already during the Court proceedings Bulgaria extended the Kaliakra SPA and all relevant territories for birds are now designated. Therefore, the first grievance has been addressed.

On the second issue, several meetings have taken place with the BG authorities to discuss the appropriate measures to comply with the Court's judgement. Several measures to address the breach (e.g. issuing of three Orders introducing measures for the birds and one Order introducing measures for the habitats) have been taken.

In summer of 2018 Bulgaria provided further clarifications as requested by the Commission services. These clarifications are under assessment. The Commission will continue working in close cooperation with the Bulgarian authorities to ensure that the Court ruling is fully implemented.

2. Complaint No. 2001/4: Bulgaria: Motorway through the Kresna Gorge

The Struma Motorway, an EU TEN-T project linking Sofia with Thessaloniki, is being constructed in several lots (Lots 1, 2 and 4 were financed under the 2007-2013 EU financial framework and are already operational). Lots 3.1 and 3.3 are being financed under the current EU financial framework. This is without prejudice to the various options for Lot 3.2 and have no impact on whether it would be developed inside or outside the Kresna Gorge. The EC is aware of the impact assessment for Lot 3.2 conducted by Bulgaria and of its current choice of an option partly inside the Kresna Gorge.

The Commission will not take a position on this issue until an application for the EU co-financing of the lot in question (lot 3.2) is filed by Bulgaria together with all the relevant documentation. When the application is filed, the Commission will carefully evaluate it under the Regulation governing the European structural and investment funds (ESIF) and the relevant EU environmental legislation. The project will be funded only if it fully complies with the provisions of the EU acquis.

3. Complaint No 2010/5: Greece: Threats to marine turtles in Thines Kiparissias

The Commission is monitoring efforts undertaken by Greece to comply with the Court ruling of 2016. The recent adoption of a Presidential Decree for Kyparissia Bay (encompassing 3 Natura 2000 sites) is a significant positive step towards that direction. The Commission will continue monitoring next steps towards full compliance, including the preparation and implementation of a management plan for the area that should address grievances identified by the Court and ensure the long-term protection of the area from incompatible developments and conservation of the loggerhead sea turtle nesting beaches and other key habitats.

4. Complaint No. 1995/6: Cyprus: Akamas peninsula

Management plan

The Commission is monitoring developments towards the establishment of a management plan for the Akamas Peninsula Natura 2000 site. In particular, in the context of an EU-Pilot file concerning the designation of Special Areas of Conservation (SAC) in Cyprus, the Commission is also inquiring about the setting of conservation objectives and measures for the Akamas SAC. The Commission

expects that the management plan that will be adopted for the area will ensure its effective protection and that any activities that could be allowed within it will be fully compatible with the conservation objectives of the area.

Project “Limni resort”

In the context of the infringement file opened in 2014 and following the Reasoned Opinion issued to CY in 2015 the Commission engaged in in-depth discussions with the Cypriot authorities in order to help them modify the project so that it can be designed and implemented in a manner that would respect EU environmental standards and requirements. The input provided by various NGOs during that period was also extremely useful to that effect. Following a new Appropriate Assessment this led to a revised opinion of the Environmental Authority in May 2018 which identifies pertinent mitigation measures to address the various impacts of the project (especially the most critical issues of human pressure on the nesting beach and the impact of direct and indirect lighting). The environmental terms of the project and the planning permits of the two golf courses have now been revised accordingly and will also be reflected in any subsequent construction permits. In the light of these developments the Commission will decide on next steps. In all cases the Commission will monitor closely the implementation of the various environmental terms and mitigation measures during the construction and operation of the project in order to verify their effectiveness.

Insufficient designation of the area

The Commission has opened an infringement file and addressed a letter of formal notice to Cyprus on the overall issue of insufficient designation of SCIs and SPAs. The habitat types concerned by the 2011 NGO complaint on Akamas are also covered by that infringement procedure; the Commission has therefore closed the complaint file in the understanding that its subject matter is covered by the horizontal infringement procedure.