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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE  
AND NATURAL HABITATS

**Standing Committee**

41<sup>st</sup> meeting  
Strasbourg, 30 November – 3 December 2021

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**New complaint: 2020/06**

**Presumed threat to Tagus Estuary Special  
Protected Area from a new airport (Portugal)**

**- REPORT BY THE GOVERNMENT -**

*Document prepared by  
Institute of Nature Conservation and Forests of Portugal*

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<b>vossa referência</b> <i>your reference</i>	<b>nossa referência</b> <i>our reference</i>	<b>nosso processo</b> <i>our process</i>	<b>Data</b> <i>Date</i>
E-mail 2021-02-02	S-008257/2021	P-009749/2021	2021-02-24
<b>Assunto</b> <i>subject</i>	New complaint to Bern Convention: 2020/6: Portugal: Presumed threat to Tagus Estuary Special Protected Area from a new airport		

Dear Ms. Ursula Sticker,

Thank you for you letter.

Regarding the complaint it needs to be stressed, beforehand, that the Environmental Impact Assessment procedure of the project in question respects the dispositions of the Bern Conventions, namely its Article 1 paragraph 2, Article 3 paragraph 2 and Article 4. Due process was followed which does include the evaluation of its compliance with national, European and international obligations, namely the Bern Convention dispositions, as well as Bird and Habitats EU Directives.

Montijo Airport is projected to be built on the premises of a military airport that has been operating since 1952, aimed at maritime patrol operations, anti-submarine fighting, search and rescue. The new civil airport will use one of the existing runways. The entire airport implementation area and access roads are outside the protected areas (Estuário do Tejo nature reserve or Natura 2000 SPA and site). The expected impacts will occur in the area between the approach and take off from the runway, near the mudflats, used by waterfowl as a shelter and feeding areas, and the flyover of the Tagus Estuary.

In the formal process of Environmental Impact Assessment, with public discussion at national level, the situations that may potentially have negative impacts on the ecological character of the site have been identified and they will be monitored and minimized, both during the construction phase or when the airport is in operation.

The national authority for the conservation of nature and biodiversity (the Institute for Nature Conservation and Forests) also issued a favourable opinion to the project, conditional on the implementation of some 160 measures of compensation and mitigation, in order to reduce to the impacts identified to acceptable levels, namely:

- setting up a fund for the protection and conservation of wild birds worth €7.2 M, plus a payment of €4.5 per aeronautical movement;
- acquisition of salt pans in a total area (minimum) equal to the area subject to increased disturbance by noise of aeronautical movement, i.e. 1467 ha;
- acquisition of land and/or management contracts and/or application of compensatory measures for lost productivity in agricultural fields in Tejo Lezíria;
- intervention in the requalification and/or recovery of habitats in acquired and/or contractualised areas;

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- recognition of Mouchão da Póvoa island as shelter and feeding area for waterbirds species;
  - requalification of the facilities of the Portuguese Center for Migration Studies and Bird Protection (CEMPA), as well as the facilities of the salt pans of Vale de Frades and Zaragoza (currently disabled).
  - plan to monitor the effectiveness of compensation measures for waterbirds species (which includes monitoring programmes through censuses and studies of specific groups; data compilation in order to assess the evolution of bird populations in the estuary; evaluation of the effectiveness of shelter management measures in bird attraction and the availability of feeding areas; anticipation of differentiated habitat change/management needs).

The environmental impact assessment process has therefore established an extensive set of mitigation and compensation measures which aim to reduce bird disturbance to non-significant and acceptable levels, ensuring that the site (is not affected in its ecological character and in the values that support its designation.

As the DIA (Environmental Impact Declaration), which is the conclusion of the environmental impact assessment process, states:

“The Montijo Airport intervention area is located about 6 km south (in a straight line) of the Tagus Estuary Nature Reserve (RNET, created by Decree-Law no. 565/76, of 19 July and with a Planning Plan published by the Resolution of the Council of Ministers no. 177/2008, of November 24). The intervention area overlaps, to a small extent, with the Site of Community Importance (SCI) of the Tagus Estuary (PTCON0009, Decree-Law no. 140/99, of 24 April, republished by Decree-Law no. 49/2005, of 24 February, subsequently amended by Decree-Law no. 156-A / 2013, of 8 November). It still marginally overlaps, at its northern and western limits, with the Special Protection Area (SPA) of the Tagus Estuary (PTZPE0010, Decree-Law no. 140/99, of 24 April, in its most current wording). The Tagus Estuary is also classified as a Wetland with international interest for water birds (area 3PT007, according to the Ramsar Convention, Decree n° 101/80, of 9 October) and as IBA (Important Bird Area) designated by BirdLife International: IBA Estuary of the Tagus (PT021). It should be noted that the future flights to and from the north, corresponding to the take-off of the aircraft from Runway 01 and the approach to Runway 19, will cross the previously mentioned SPA and SIC.”

“In fact, the Tagus Estuary is considered one of the largest estuaries in Western Europe, being the most important Portuguese wetland for water birds and one of the most important in Europe for a large number of water birds. It is a key location for migratory birds on the East Atlantic route, particularly during periods of migration and winter. The importance of this Estuary led to its classification as a wetland of international importance by the Ramsar Convention and the designation of the Tagus Estuary SPA. During the winter season, according to ICNF / CEMPA counts, the Estuary of the Tagus is home to tens of thousands of waterfowl, whose numbers, although subject to interannual fluctuations, are currently estimated to reach 200,000 birds regularly (counts carried out in supratidal refuges held in 2017). With regard to migratory aquatic avifauna during migration seasons, it is estimated that in some years it may exceed 300,000 herds. In some years, the maximum number of waterfowl counts carried out in the Estuary was recorded during these periods for the group of waders, in the order of 90,000.

The environmental impact procedure of the project in question was developed in the preliminary study phase, and should be complemented with the procedure for checking the environmental conformity of the execution project, to be developed under the terms of articles 20 and following of the environmental impact assessment regimen.

This procedure for verifying the environmental conformity of the execution project presupposes the deepening of the impacts resulting from the execution project that will be developed in compliance with the conditions included in the DIA issued in the previous phase of the previous study. Depending on the results of this study, the need to define new conditions to avoid or minimize the impacts of the project or to revise and adapt to the previously proposed conditions can be identified.

The issued DIA incorporates, in this set of elements to be presented, elements that refer

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specifically to nature conservation issues, namely its Elements no. 9 and 10 (pages 26 and 27 of the DIA) which are transcribed below:

9. Wildlife Management Plan, in accordance with international guidelines (ICAO 2012, ACI 2013), integrating a Habitat Management Program and a Bird Collision Risk Management and Control Plan. This Plan must be developed, in accordance with the guidelines listed in the EIA. However, with regard to measures to chase away avifauna, only sound methods and the use of falconry should be used in the airport area, with other measures being prohibited, namely visual methods, physical barriers, traps and the use of chemicals and poisons. Regarding the implementation of measures to reduce attractiveness, and considering that the ecological function of the Tagus estuary cannot be eliminated, risk situations can only be solved based on the management of aircraft circulation. The elimination of dams and other bodies of water. The Plan to be presented in RECAPE must be subjected to ICNF evaluation (Page 26).

10. Study to assess the disturbance effect of aircraft on birds in the Tagus Estuary SPA, prior to the construction phase, with a minimum duration of one year, in order to establish the real reference situation in the estuary and help to define the monitoring plan (s) to be carried out during the construction and exploration phase. Having established that in the event that this study was not completed at the date of presentation of RECAPE, a report should be presented with the status of the work developed and with the analysis of the results obtained up to that moment. (pages 26 and 27). This study includes:

a) Pre- and post-nuptial migration periods, which include not only birds that spend the winter, but all those that they use the Tagus estuary, a stopover area (ie a temporary stop for resting and constituting reserves for migration). These migratory episodes occur on a bi-annual basis.

b) Reinforce bird tagging and tracking programs in order to accurately determine: connectivity between feeding and refuge areas; movements in the airport surroundings with a view to assessing bird strike risks; to determine the barrier effect created by the measures to deter birdlife and noise in the area of the SPA. This study should start before the construction phase and have a minimum duration of one year in order to establish the real reference situation in the estuary and help to define the monitoring plan (s) to be carried out in the phase construction and exploration. The study's methodological proposal must be previously approved by the ICNF. If this study is not concluded at the date of presentation of RECAPE, a report must be presented with the status of the works developed and with the analysis of the results obtained so far.

It should be noted that Portugal has a Natura 2000 Sectorial Plan that lists for the SPA (PTZPE0010) and for the SAC (PTCON0009), both the threat factors and the detailed management guidelines for each habitat, species and type of land use, which allowed robustness in the assessment of project impacts.

It should also be noted that for the Tagus Estuary SPA, Portaria No. 670-A / 99, of 30 June, published the Management Plan for the Special Protection Zone of the Tagus Estuary, which defines management guidelines for the protection of avifauna. It is in this document that the Portuguese State adopts international commitments for the management of the Tagus Estuary SPA, which includes, namely, ensuring that the exercise of aeronautical activity is carried out without significant disturbances in the areas and in periods of greater concentration of species in the region. Annex I of Council Directive 79/409 / EEC of 2 April (e) of Article 1 of the Regulation of the Management Plan for the Special Protection Area of the Tagus Estuary - Portaria No. 670 -A / 99 of June 30).

The basis used for assessing the impact of the project consisted of verifying and surveying in situ the habitats and species existing in the project intervention area, as well as the bird count database in the Tagus Estuary carried out by the ICNF team. / CEMPA carried out over several years, and academic studies prepared by several avifauna researchers in the area of the Tagus Estuary.

Considering the information collected / known, the fieldwork and the management guidelines contained in the SAC and SPA forms of the Tagus Estuary contained in the sectorial plan of the Natura 2000 Network, it is considered that the result of the impact assessment referred to both in the CA evaluation and DIA, would not change since the evaluation already took into

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account conservation concerns.

The procedure for verifying the environmental compliance of the execution project culminates in the issuance of a Declaration of Environmental Conformity for the Execution Project (DCAPE) which, being compliant, integrates all the necessary conditions to avoid, minimize and / or compensate the impacts of the subsequent phases project development (Conditions, Minimization and Compensation Measures, Monitoring Programs and others, applicable to the construction, exploration and deactivation phases of the project).

This binding decision is prior to the project's licensing / authorization, revoking the DIA issued in the preliminary study phase.

For the purpose of instructing this procedure, the execution project and the Execution Project Environmental Compliance Report (RECAPE) are delivered by the proponent, which aims to demonstrate that the execution project complies with the measures recommended in the DIA.

**With regard to the effectiveness of the minimization measures, it is important to clarify that only within the scope of the post-evaluation procedure, provided for in articles 26 and 27 of the RJAIA (Regimen of environmental impact assessment), will it be possible to assess the effectiveness of the measures that will come to be included in the DCAPE in the future to be issued by the authorities in the scope of the referred verification of the environmental conformity with the execution project.**

From which it is concluded that, having the project “Aeroporto do Montijo and its Accessibilities” **been subject to an EIA procedure in the preliminary study phase, the evaluation carried out identified a set of elements to be presented in order to verify the environmental conformity of the execution project that will allow to embody the measures already recommended and may even imply the consideration of new minimization measures.**

We are, of course, available to clarify further questions that the Buerau may have in a spirit of cooperation with the Bern Convention aiming at the protection of species and habitats.

Yours Sincerely,

The President of the Directive Board,

Nuno Banza