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**T-PVS/Notes(2019)1**

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE  
AND NATURAL HABITATS

**Standing Committee**

39<sup>th</sup> meeting  
Strasbourg, 3-6 December 2019

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**APPLICATION OF THE CONVENTION**

**- Summary of case files and complaints -**

**- OPEN AND POSSIBLE FILES -**

**DECEMBER 2019**

*Secretariat memorandum  
prepared by  
the Directorate of Democratic Participation*

## TABLE OF CONTENTS

<b>OPEN FILES .....</b>	<b>3</b>
<b>1995/6: CYPRUS: AKAMAS PENINSULA .....</b>	<b>3</b>
<b>2004/2: BULGARIA: WIND FARMS IN BALCHIK AND KALIAKRA – VIA PONTICA .....</b>	<b>21</b>
<b>2010/5: GREECE: THREATS TO MARINE TURTLES IN THINES KIPARISSIAS .....</b>	<b>36</b>
<b>2012/9: TURKEY: PRESUMED DEGRADATION OF NESTING BEACHES IN FETHIYE AND PATARA SPAS .....</b>	<b>49</b>
<b>2013/1: NORTH MACEDONIA: HYDRO POWER DEVELOPMENT WITHIN THE TERRITORY OF MAVROVO NATIONAL PARK .....</b>	<b>65</b>
<b>2016/05: ALBANIA: PRESUMED NEGATIVE IMPACT OF HYDRO-POWER PLANT DEVELOPMENT ON THE VJOSA RIVER IN ALBANIA.....</b>	<b>77</b>
<b>POSSIBLE FILES .....</b>	<b>91</b>
<b>2001/4: BULGARIA: MOTORWAY THROUGH THE KRESNA GORGE .....</b>	<b>91</b>
<b>2016/4: MONTENEGRO: DEVELOPMENT OF A COMMERCIAL PROJECT IN SKADAR LAKE NATIONAL PARK AND CANDIDATE EMERALD SITE.....</b>	<b>110</b>
<b>2017/01: NORWAY: LACK OF LEGAL PROTECTION FOR NORTHERN GOSHAWK AND BIRDS OF PREY IN NORWAY.....</b>	<b>129</b>

## OPEN FILES

<b>1995/6: CYPRUS: AKAMAS PENINSULA</b>	
<b>Date submitted</b>	06/1995
<b>Submitted by (Complainant)</b>	Terra Cypria
<b>Respondent State (Respondent)</b>	Cyprus
<b>Specie/s or habitat/s affected</b>	<i>Caretta caretta</i> (Appendix II) and <i>Chelonia mydas</i> (Appendix II)
<b>Background to complaint</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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>.</li> <li>➤ 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.</li> <li>➤ At the 29<sup>th</sup> meeting of the Standing Committee, the delegate of Cyprus informed that there had been no great changes since the previous year.</li> <li>➤ 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).</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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</li> </ul>

	<p>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 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"> <li>➤ 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).</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<b>32<sup>nd</sup> Meeting Standing Committee November 2012</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<b>European Commission report March 2013</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>

<p><b>Respondent's report July 2013</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<p><b>Complainant's report July 2013</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<p><b>Bureau meeting September 2013</b></p>	<ul style="list-style-type: none"> <li>➤ First assessment of the case.</li> <li>➤ 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.</li> </ul>
<p><b>33<sup>rd</sup> Meeting Standing Committee 3-6 December 2013</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<p><b>Respondent's report March 2014</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>

<b>Bureau meeting April 2014</b>	<ul style="list-style-type: none"> <li>➤ Case file to be kept open and reassessed at September meeting in order to be able to take into account the position of the complainant.</li> </ul>
<b>Complainant's report April 2014</b>	<ul style="list-style-type: none"> <li>➤ 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 <i>Caretta caretta</i>.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<b>European Union report</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>

<p><b>Respondent's report July 2014</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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</li> </ul>
<p><b>European Union report 30 April 2015</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<p><b>Respondent's report June 2015</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ The public consultations for the Akamas management plan took place as foreseen in January 2015 but the written opinions received were still being processed.</li> <li>➤ 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.</li> </ul>
<p><b>Complainant's report June 2015</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<p><b>35<sup>th</sup> Meeting Standing Committee November 2015</b></p>	<ul style="list-style-type: none"> <li>➤ Cypriot authorities not present.</li> <li>➤ 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.</li> </ul>

<b>Secretariat action January 2016</b>	<ul style="list-style-type: none"> <li>➤ 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"> <li>a) The exclusion of private properties from the recently declared “Akamas National Forest Park”, opening the possibility for further development;</li> <li>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.</li> </ul> </li> <li>➤ 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.</li> </ul>
<b>Respondent’s report 4 April 2016</b>	<ul style="list-style-type: none"> <li>➤ 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”.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<b>On the spot visit 10-11 October 2016</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<b>Respondent’s report November 2016</b>	<ul style="list-style-type: none"> <li>➤ The Cyprus authorities propose modifications to the new draft Recommendation prepared further to the on-the-spot visit.</li> <li>➤ 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.</li> </ul>

- 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.

<b>36<sup>th</sup> Meeting Standing Committee November 2016</b>	<ul style="list-style-type: none"> <li>➤ Re-examined the report in light of the on the spot appraisal conducted in October 2016.</li> <li>➤ 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).</li> <li>➤ 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.</li> </ul>
<b>Complainant's update 20<sup>th</sup> July 2017</b>	<ul style="list-style-type: none"> <li>➤ Regarding Akamas; <ul style="list-style-type: none"> <li>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)</li> <li>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.</li> <li>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.</li> </ul> </li> <li>➤ Regarding Limni Golf, hotel and villa complex; <ul style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>c) It is expected that this will lead to the instigation of legal measures against Cyprus by the Commission. This has not yet happened.</li> </ul> </li> </ul>
<b>Respondent's report 21<sup>st</sup> July 2017</b>	<ul style="list-style-type: none"> <li>➤ Action taken towards implementation of Recommendation No.191 (2016) is as follows; <ul style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>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.</li> </ul> </li> </ul>

	<p>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).</p> <p>e) Point 5 - Authorization of roads, buildings and facilities has been closely monitored and has been restricted in the area Lara and Toxeftra.</p> <p>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.</p> <p>g) Point 7 - Monitoring of the area is consistent and continuous.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>
<p><b>European Commission report 20<sup>th</sup> July 2017</b></p>	<ul style="list-style-type: none"> <li>➤ No final decision on the next steps to be taken regarding infringement file 2014/4019 has been reached.</li> <li>➤ Extensive new information has been received from the authorities over the last months.</li> </ul>

<b>Bureau meeting 18 September 2017</b>	<ul style="list-style-type: none"> <li>➤ Noted that no action has been taken to fulfil the terms of Recommendation No. 191 (2016).</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ The file remains open.</li> </ul>
<b>Complainant's report 27 October 2017</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ To prohibit any future infrastructure for overnight and dining accommodation, outside the boundaries of the designated Development Areas of Akamas villages.</li> <li>➤ An important point by point assessment of implementation of the Bern Convention's Recommendation is provided from page 6 of the report.</li> </ul>
<b>Respondent's report 3 November 2017</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ Regarding Limni golf project, authorities are reviewing newly submitted data regarding the light pollution and visitation of the nesting beach.</li> <li>➤ 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.</li> </ul>

<p><b>Standing Committee November 2017</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<p><b>Complainant's report 20 August 2018</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ There are no controls on swimmers placing their umbrellas and sunbeds within the sea turtle nesting beaches at Lara and Toxeftra.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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).</li> <li>➤ 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.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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).</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ In conclusion, the illegal activities are continuously increasing and there is no sign that the Government has any intention to protect these areas.</li> </ul>
<p><b>Bureau meeting 10-11 September 2018</b></p>	<ul style="list-style-type: none"> <li>➤ 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).</li> <li>➤ 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</li> </ul>

<p><b>Complainant updated report 15 October 2018</b></p>	<ul style="list-style-type: none"> <li>➤ 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:</li> <li>➤ For Limni: <ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul> </li> <li>➤ For Akamas: <ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ To prohibit any future infrastructure for overnight and dining accommodation, outside the boundaries of the designated Development Areas of Akamas villages.</li> </ul> </li> </ul>
<p><b>Respondent’s report 17 October 2018</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ As far as the Natura 2000 site “Periochi Polis-Gialia”, the Republic considers that the current protection regime is adequate.</li> <li>➤ 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.</li> <li>➤ 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”</i>’, so as to maintain positive trends’ is fully implemented.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ The authorities consider that point 7 of the Recommendation ‘<i>Continue to manage access of people and vehicles to the beaches of Lara and Toxeftra, avoiding in particular the disturbance caused by tourism</i>’ 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.</li> <li>➤ 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.</li> <li>➤ The authorities consider that point 10 of the Recommendation ‘<i>Continue to offer protection to the seagrass communities in the Akamas and Limni areas on which Chelonia mydas feeds</i>’ is fully implemented.</li> <li>➤ The authorities consider that Point 11 of the Recommendation ‘<i>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</i>’ is fully implemented. The new masterplan permits have been issued with more strict measures and concrete restrictions regarding lighting and access to the beach</li> <li>➤ The authorities consider that Point 12 of the Recommendation «<i>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</i> is fully implemented.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ Regarding Point 13 of the recommendation «<i>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</i>, 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.</li> </ul>
<b>Standing Committee December 2018</b>	<ul style="list-style-type: none"> <li>➤ The Standing Committee noted with appreciation the progress in the past year demonstrated by the national authorities of Cyprus and in particular the designation of the area as a National Forest Park.</li> <li>➤ The Standing Committee further noted that the NGOs consider that nevertheless, there is a strong need for a legally binding management plan for the area to be developed, which is the only way to ensure full compliance with Recommendation No. 191 (2016) and an efficient and effective protection for the benefit of the species.</li> <li>➤ The Standing Committee decided to keep the file open and to request the national authorities to report on further progress with the implementation of all operational points of the Recommendation, for the second Bureau meeting in 2019.</li> </ul>
<b>Complainant updated report 30 July 2019</b>	<ul style="list-style-type: none"> <li>➤ For Akamas:</li> </ul>

- The Government is still unwilling to expand the current Natura 2000 boundaries nor declare the Peninsula as an IUCN national park, UNESCO biosphere reserve, or other internationally recognised protected area. Thus, large areas with important habitats and species remain unprotected.
- The Government has not yet put into force any appropriate management measures through legally binding mechanisms, although such measures are foreseen by the official Management Plans which have no legal force. Moreover, there is no management body or monitoring mechanism in place to react to any illegal activities that take place within the peninsula.
- There is also a lack of adequate patrolling within the area; one result being the frequent illegal setting of fires all over the Peninsula. No prosecutions were made since no patrols were present in the area to spot the people who conducted this illegal activity.
- There is no mechanism to prevent vehicles from driving uncontrolled all over the peninsula. As a result, important habitats and species are severely damaged, such as damage to the sea turtle nesting beaches at Lara and Toxeftra.
- There are no adequate measures in place to prevent swimmers setting up their umbrellas and sunbeds within the sea turtle nesting beaches at Lara and Toxeftra.
- The Government has not closed down the illegal restaurants and beach bars within and adjacent to the Lara and Toxeftra sea turtle nesting beaches, where they have been operating illegally for years. Instead, more facilities are being foreseen and established.
- In the last years, in spite of public outcry, authorisations have been issued for dozens of villas, a hotel, and other recreational activities by the Akamas nesting and resting sea caves of the endangered Mediterranean monk seal (*Monachus monachus*).
- Several proposals for the expansion of existing or creation of new quarries within and adjacent to the Peninsula have been pending for a long time. These 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, fragmenting it into two different local plans, despite strong opposition from nature protection authorities, ENGOs, and other stakeholders. The development contradicts the conclusions of the *Report of the on-the-spot appraisal [T-PVS/Files (2016) 44]*. There is also no information about when and how these Local Plans will be subject to assessments (SEA & AA).
- For Limni:
  - The Government gave the green light to the construction of two golf courses and associated development, including housing, a hotel, tourist and commercial facilities, ignoring the 500-meter zero building/lighting zone from the sea, which would have minimised lighting and human disturbance problems to the sea turtle nesting beach.
  - There is a continuous uncontrolled access of vehicles within the site.
  - In the last years there have been several incidents of damage to the sea turtle nests and their protective cages, but no prosecutions.
  - There seems to be a serious lack of communication between the various governmental departments having different responsibilities within the site, such as the removal of Acacia trees which bordered the protected beaches where turtles go to lay their eggs. This action was conducted by the forestry department with no prior consultation with either the Fisheries Department or Environment Department.

	<ul style="list-style-type: none"> <li>➤ Several beach bars have expanded their operations illegally, such as placing tables in protected areas, light damage, and degradation of sand dune habitats. The Government shows no sign of protecting these areas.</li> </ul>
<p><b>Respondent's report 5 September 2019</b></p>	<ul style="list-style-type: none"> <li>➤ On Point 1 of Recommendation No. 191 (2016) : A sustainable development plan for the National Forest Park has been prepared and its implementation has commenced via the preparation of various studies;</li> <li>➤ Point 2: The Local Development Plan is under preparation and the SC will be informed on the progress;</li> <li>➤ Point 3: When the National Forest Park is fully established and operational the SC will be informed and given relevant data on the management and protection regime;</li> <li>➤ Points 4 &amp; 8: The Marine Turtle Conservation Project, which has been ongoing since 1978, will continue to be implemented and has achieved international recognition. Several laws and provisions continue to protect turtles, thus this part of the Recommendation is considered fully implemented;</li> <li>➤ Point 5: relevant EU legislation, as well as national legislation ensures that all projects and/or plans proposed in these areas are duly assessed and accordingly permitted (or not), thus this part of the Recommendation is considered implemented;</li> <li>➤ Point 6: The Cyprus Council of Ministers approved in 2016 a set of measures for the protection and promotion of the Akamas peninsula; the EU Operational Programme Competitiveness and Sustainable Development 2014-2020 for Cyprus includes as priority areas the protection and promotion of Natura 2000 areas; an action plan for the Akamas Peninsula has been developed as a Project by the Department of Environment as the beneficiary, to be implemented along with other competent authorities. Specific measures have also been put into place for Lara and Toxeftra and nesting beaches, thus this part of the Recommendation is considered implemented;</li> <li>➤ Point 7: Monitoring of the area is consistent and continuous and measures regarding the access of vehicles in the area of the park are in place, thus this part of the Recommendation is considered implemented;</li> <li>➤ Point 9: the issue is expected to be resolved within the new management regime as well as through the new local plan which is under formulation. The offenders have been prosecuted and the issue is now in the courts. The SC will be informed on the outcome when available.</li> <li>➤ Point 10: The marine areas of Akamas and “Polis-Gialia” are included in the Natura 2000 network up to the 50 m isobaths and measures for their protection apply under the European Habitats Directive (92/43/EEC). This part of the Recommendation is considered fully implemented;</li> <li>➤ Point 11: The golf project was re-assessed under the scope of the appropriate assessment (AA) provisions of the Habitats Directive (92/43/EEC) which 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. The EO is an integral part of the authorization of the project issued by the Development Authority and as such will be legally binding for the project's beneficiary. This part of the Recommendation is considered fully implemented;</li> <li>➤ 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. This condition has been included in the EO. This part of the Recommendation is considered fully implemented;</li> </ul>

	<ul style="list-style-type: none"> <li>➤ Point 13: The last local development plan for Chrysochou Bay has been in place since 2015. Any future amendments will be assessed according to national and EU legislation. No final decision has been reached for this issue yet. The competent authorities are reviewing the options and the SC will be kept informed.</li> </ul>
<p><b>Bureau meeting 9-10 September 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau thanked the complainant for the updated report on progress and regretted that the report from the authorities was received very late before the Bureau meeting.</li> <li>➤ The Bureau called for a better cooperation between different authorities and stakeholders at national level, as there are continuous opposing views on whether the Recommendation is implemented or not. It expressed serious concern that after so many years the Bern Convention recommendations are still not fully followed-up by the authorities and that according to interested actors the main threats remain. It urged the national authorities to attend the 39th meeting of the Standing Committee meeting and reminded that in long-lasting cases such as this one, the Standing Committee might consider adopting a decision which will effectively close the file while formulating a conclusion whether the country has implemented or not its obligations towards the Convention, or namely, implemented fully the recommended measures in Recommendation No. 191 (2016).</li> <li>➤ The Bureau further instructed the Secretariat to request that the European Commission sends an updated report on their own processes in relation to this file, for the 39th meeting of the Standing Committee.</li> <li>➤ Eventually, the Bureau also instructed the Secretariat to consider launching an information/awareness-raising campaign on marine turtles' conservation which could target travel agencies and tourists. The latest data on the drivers of biodiversity loss from the IPBES assessment report from May 2019 could be used.</li> </ul>
<p><b>Complainant updated report 8 November 2019</b></p>	<ul style="list-style-type: none"> <li>➤ In response to the authorities report on Point 1: The designation of the State forest land of the Akamas Peninsula as a National Forest Park (based on national legislation) cannot be compared to/or confused with the status requested by point 1 of the recommendation (based on international standards), because: a) it is a much smaller geographical area than the area recommended by the Bern Convention; b) it is based on local, rather than international standards and c) the whole peninsula is not managed in an integrated way.</li> <li>➤ Point 2: The Local Development Plan (LDP) is fragmented into 2 separate parts and no progress has been seen since last year. The environmental parameters being applied in the LDP are also inconsistent. It is not believed that the LDP will be perceived as a solution to the current disputes regarding the coexistence of nature and communities;</li> <li>➤ Point 3: The government states that no such entity will be established “at this point”. However, it is believed that the Akamas Peninsula is in need of this because of the fragmentation of responsibilities between departments and services. A group of experts including Bern Convention representatives were attacked during a training exercise during the Summer;</li> <li>➤ Points 4 &amp; 8: any provisions from relevant Management Plans need to be integrated into Ministerial Decrees. The effects of what is currently taking place including lack of effective patrolling and enforcement of the law, the threat posed by the potential building of the Limni golf course and other development impacts on the sea nesting beaches, will only be seen and understood a further 25-30 years down the line;</li> </ul>

- Point 5: The current planning regime is under revision by two separate LDPs thus dividing the Akamas Peninsula into two separate planning areas; the tolerance shown by the authorities to the continued existence and recent expansion of long-established illegal developments in the beaches of Lara-Toxeftra, does not substantiate the authorities' claim that protection of the nesting beaches is a priority and under control;
- Point 6: Although the Council of Ministers approved a set of measures, provisions from relevant Management Plans are not yet integrated into Ministerial Decrees so as to gain legal status;
- Point 7: The access of people and vehicles to Lara and Toxeftra beaches still remains uncontrolled. It is believed that the Government can solve the problem today and by postponing for the future is not satisfying at all and directly threatens the integrity of the area;
- Point 9: Today, all illegal establishments are still in place and some are expanding their operations, even though the closing down of illegal restaurants and bars within and adjacent to the Lara-Toxeftra Marine Protected Area was initially proposed twenty-two years ago. The legislation that calls for their removal is still in place. However, we have seen a complete lack of will to enforce it for two whole decades;
- Point 10: no monitoring or protective actions, either in the form of an updated Management Plan or an issued Conservation Decree, have been initiated. Regarding the sea turtle foraging areas in Chrysochou Bay, no anchorage facilities exist, and sea traffic is not regulated;
- Point 11: The refusal of the Republic to enforce the 500m buffer zone free of buildings is in complete contradiction to what the government itself agreed. Assertions that the protection of the Polis-Gialia Natura 2000 site (SCI/SAC CY4000001) is ensured are unfounded. The lighting study submitted by the private company LUXPOPULI, appointed by the developer, has been criticised for its shortcomings, gaps and inaccuracies;
- Point 12: We are not convinced of the effectiveness of the tree barrier proposed by the Department of Environment to avoid light pollution on the beach from the planned road as it will run vertically to the beach, and it is unclear what plant species will be used to create this barrier: only a distance of a minimum of 500 metres will ensure no direct or indirect light pollution on the beach. Furthermore, the Bern Convention Recommendation refers to the entire coastal length of the Natura 2000 site;
- Point 13: even if an SEA Study is conducted in the framework of the next revision of the Chrysochou Bay Local Development Plan, the proposed project will already be under construction and/or operation, with significant, devastating and irreversible impact on the nesting habitats of sea turtles within and adjacent to the Polis-Gialia Natura 2000 site, due to the dramatic increase of building facilities, human pressure and light pollution.

<b>2004/2: BULGARIA: WIND FARMS IN BALCHIK AND KALIAKRA – VIA PONTICA</b>	
<b>Date submitted</b>	09/2003
<b>Submitted by (Complainant)</b>	Bulgarian Society for the Protection of Birds / BirdLife Bulgaria
<b>Respondent State (Respondent)</b>	Bulgaria
<b>Specie/s or habitat/s affected</b>	Red breasted goose ( <i>Branta ruficollis</i> ) (Appendix II) and numerous migratory species
<b>Background to complaint</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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)”.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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</li> </ul>

	<p>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). 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"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<p><b>European Commission report August 2012</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<p><b>32<sup>nd</sup> Meeting Standing Committee November 2012</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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).</li> </ul>

<p><b>AEWA report December 2012</b></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><b>Bureau meeting April 2013</b></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><b>Group of Experts</b></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><b>Bureau Meeting September 2013</b></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><b>33<sup>rd</sup> Meeting Standing Committee 3-6 December 2013</b></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><b>UNEP/AEWA and EU report February 2014</b></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><b>Complainant's updated report August 2014</b></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>

<b>34<sup>th</sup> Meeting Standing Committee December 2014</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<b>Bureau meeting March 2015</b>	<ul style="list-style-type: none"> <li>➤ The authorities report did not reach the Secretariat on time to be assessed at the meeting. The decision on this item was postponed.</li> </ul>
<b>Respondent's report May 2015</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<b>Complainant's report September 2015</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<p><b>Opinion of the Advocate General 3 September 2015</b></p>	<ul style="list-style-type: none"> <li>➤ The European Commission claims:</li> <li>➤ 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);</li> <li>➤ 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;</li> <li>➤ Violation of article 6.2 of the Habitats Directive, for authorising wind and sport projects within Kompleks Kaliakra SCI and Belite Skali SPA;</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<p><b>Bureau meeting September 2015</b></p>	<ul style="list-style-type: none"> <li>➤ Regretted the little progress achieved since the file was first opened 11 years ago.</li> </ul>
<p><b>Group of Experts meeting October 2015</b></p>	<ul style="list-style-type: none"> <li>➤ Debated the case and expressed its worries regarding the situation of migratory birds in the Northern-East coast of Bulgaria.</li> </ul>
<p><b>35<sup>th</sup> Meeting Standing Committee November 2015</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<p><b>ECJ Decision 14 January 2016</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<p><b>Respondent's report February 2016</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>

<b>Respondent's report August 2016</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<b>Complainant's report September 2016</b>	<ul style="list-style-type: none"> <li>➤ 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).</li> </ul>
<b>Bureau Meeting September 2016</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<b>Respondent's report October 2016</b>	<ul style="list-style-type: none"> <li>➤ Authorities are still in negotiation with the European Commission on ways to implement the Court's judgement.</li> </ul>
<b>Complainant's report October 2016</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<b>36<sup>th</sup> Meeting Standing Committee November 2016</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>

<p><b>Respondent's report July 2017</b></p>	<ul style="list-style-type: none"><li>➤ 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.</li><li>➤ 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.</li><li>➤ 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.</li><li>➤ 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.</li><li>➤ 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.</li><li>➤ An Interdepartmental Working Group has been established to coordinate the implementation of the measures and all other activities necessary to address the ECJ Decision.</li><li>➤ 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.</li><li>➤ 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.</li><li>➤ 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.</li></ul>
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<p><b>Complainant's report September 2017</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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).</li> <li>➤ 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".</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<p><b>Bureau meeting September 2017</b></p>	<ul style="list-style-type: none"> <li>➤ Bureau invited the authorities to attend the 37<sup>th</sup> 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;</li> <li>➤ File kept open.</li> </ul>
<p><b>37<sup>th</sup> meeting Standing Committee December 2017</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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).</li> <li>➤ 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.</li> </ul>

**OSA May 2018**

- 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:
  - 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.

	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<b>Bureau meeting September 2018</b>	<ul style="list-style-type: none"> <li>➤ Noted the progress achieved at national level, as noted in the OSA mission report.</li> <li>➤ 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).</li> </ul>
<b>Respondent's report October 2018</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<b>Complainant report October 2018</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ Strongly supports the adoption of the Draft recommendation, as it stands, by the 38th Bern Convention Standing Committee meeting</li> </ul>

<p><b>Standing Committee December 2018</b></p>	<ul style="list-style-type: none"> <li>➤ Adoption of <a href="#">Recommendation No 200 (2018)</a> on planned wind farms near Balchik and Kaliakra and other wind farms on the Via Pontica (Bulgaria) route”, based on the results and the recommendations formulated by the on-site mission held in May 2018.</li> <li>➤ Recommendation No 200 (2018) complements Recommendation 130 (2007) by providing of guidance on concrete steps which have to be taken in order to improve its implementation</li> <li>➤ It requests national authorities to provide, by February 2018, an interim report on implementation of the comprehensive independent assessment of the impact of operational wind farms – point 1 of Rec. No 200 (2018)</li> </ul>
<p><b>Respondents’ report February 2019</b></p>	<ul style="list-style-type: none"> <li>➤ With respect of operational <a href="#">point 1 Rec. No 200 (2018)</a>, the main objective set by the MoEW is to choose an independent Contractor with professional qualifications and practical experience in analysing available data on bird species and expertise in field studies of bird species, processing, summarizing and validating of their results, and making evaluations as a result of the analyses. At present the Ministry is about to finish the tender procedure and expect to sign the contract with the chosen contractor by middle of March 2019.</li> <li>➤ The specific purpose of the Tender is to ensure the fulfilment of <a href="#">points 1 and 2 of Recommendation 200 (2018)</a> of the Bern Convention.</li> <li>➤ Activities and expected results of the comprehensive independent assessment of the impact of operational windfarms in the Kaliakra area are the following:             <ul style="list-style-type: none"> <li>➤ Activity 1: Collecting, processing, summarising and analysing of the accessible information - available information and provided by the windfarm operators, regional authorities, NGOs, academic researchers and others;</li> <li>➤ Activity 2: Proposal for appropriate scientific methods for assessing the impact of the operation of the existing wind farms in Kaliakra region.                 <ul style="list-style-type: none"> <li>• Elaboration of a proposal for appropriate scientific methods for assessment of impacts such as: displacement, barrier effects, disturbance and habitat change/habitat loss;</li> <li>• Elaboration of a proposal for a “regime” for on-going monitoring and assessment of potential impacts, both at the sites of the operating wind farms in Kaliakra region and in comparable areas without development of wind power;</li> <li>• Presentation of the proposals in front of stakeholders.</li> </ul> </li> <li>➤ Activity 3: Elaboration of a final report with the results of the analysis, assessment, conclusions and proposals.</li> </ul> </li> <li>➤ The area for the abovementioned activities covers SPA BG0002051 ‘Kaliakra’ which partially overlaps with SAC BG0000573 ‘Kaliakra Konmplex’</li> <li>➤ Indicative schedule for the implementation of the activities indicates that the final report of the assessment should be available before 28 February 2020.</li> <li>➤ Report provides information on measures taken to implement <a href="#">point 3 of Rec. 200 (2018)</a>, namely to create conservation gains for migratory birds and habitats in or around Kaliakra area.</li> <li>➤ Aside of the various SPA’s territory enlargements since 2014, authorities report on an enlargement of Kaliakra Reserve, in 2018, with 157 ha of priority habitat 62Co ‘Ponto-Sarmatian steppes’ for the purpose of self-restoration.</li> </ul>

- In January and February 2019, issuing of orders to declare 2 SACs - SACs “Kraymorska Dobrudzha” (BG0000130) and “Devnenski halmove” (BG0000635)
- A "Recovery Plan for Priority Natural Habitats 62C0 \*" Ponto-Sarmatian steppes" was approved by an order of the Minister of Environment and assigned to the mayor of Kavarna Municipality. It foresees the implementation of actions to maintain and manage the habitat and restore it. It is to be implemented over 3 years and financed by the national and municipal budgets. The plan's implementation is expected to start in March 2019.
- Authorities report on communication activities (awareness raising and capacity building for responsible administrations) on N2000 management, planned to take place without clear indication of the timeframe.
- On [point 4 of Recommendation No. 200 \(2018\)](#), authorities report that Bulgaria has taken a number of measures in implementation of the CJEU Decision, part of which are described in the information concerning the above recommendations, as these measures have been communicated to the EC. We expect a response from the EC as a result of the assessment of the proposed measures.
- On Point 5 of the Recommendation, authorities report that NAPRES is a strategic document which defines the achievement of certain aims for a certain period of time (by 2020) and the same has been a subject to the Environmental Impact Assessment (EIA) and Appropriate assessment (AA). From this perspective it cannot be expected that certain constraints, identified in connection with the implementation of the NREAP for a period of 10 years will be automatically relevant to the next planning period, which could include the achievement of other objectives, to be "transferred" mechanically.
- In our opinion, such an approach wouldn't be neither legally qualified, nor worldly justifiable. Adequate management could be achieved through reporting changes at each level in public relations, in strategic objectives and policies, and also in the certain condition of the environment and measures to be undertaken in that direction. Also the new RES Plan will be a subject of Strategic Environmental Assessment (SEA) and AA in frame of which the actual conservation measures need will be determined.
- Moreover, the designation orders for SPA „Kaliakra“, SPA “Belite skali” and SAC “Complex Kaliakra”, incl. many more Natura 2000 sites in the country where the prohibitions for construction of new WG are in place and they are not limited in time, which is a definite guarantee, that prohibitions are imposed as a preventive measure where it is necessary, without waiting for the assessment of a strategic document.
- On point 6 of the Recommendation, authorities provide the requested short report on the the specific ways in which the legal provisions, policy requirements, standards, established practices or other aspects of environmental assessments (SEA/EIA/AA) in Bulgaria and how these meet the individual points in paragraphs 1, 4, 8 and 9 of Recommendation No. 130 (2007), giving particular attention to the points in the Recommendation concerning cumulative assessment and peer review.
- Consider that through the national Environment Protection Act (EIA, EA, EIAR, etc) sufficient safeguards have been put in place at national level to address the cumulative effect, including a dedicated ordinance for AA which contains a separate definition of cumulative impact.
- They also inform on the development in 2009 of Guidelines for assessing the likely impact of investment proposals for the construction of wind generators on particular habitats and / or species subject to conservation measures in protected areas ", which, although targeting specific IPs, are also applicable to other species. The guidelines specify the main negative impacts on the species subject to preservation in the protected areas, including possible cumulative impacts - with a detailed description of the project elements against which the cumulative effects are to be assessed. The guidelines explicitly state that the cumulative impacts of an investment intention are considered at a strategic level.

	<ul style="list-style-type: none"> <li>➤ Authorities also report in details on the implementation of points 1.4.5 and 9 of Recommendation 130 (2007).</li> <li>➤ Referring to the guidelines for assessing the likely impact mentioned in respect to item 6 of Recommendation No 200 (2018) here should be pointed out that the impact on the natural habitats and habitats of species, including birds, must be considered as a percentage of the lost (damaged or destroyed) habitat comparing to its total area in the NATURA 2000 zone as well as throughout the NATURA 2000 network as a whole, for the time of construction and for the entire operation period. Both direct and passive habitat losses are recorded taking into account also the cumulative effect. The best available techniques and methods are used to assess the impact of the plan or project on the biological integrity of the site(s) likely to be affected (damaged or destroyed). The cumulative effect assessment is also performed when the site is outside the boundaries of a protected site.</li> <li>➤ On point 7 of Rec 200 (2018) the authorities report on the publication on the Ministry webpage of the relevant CMS, Ramsar and CMD guidance and the commissioning of a translation of these documents in Bulgarian.</li> <li>➤ On point 8 of Rec. 200 (2018), they hope to be able to use the Peer2Peer tool of the EU for facilitating the exchange of experiences and practices and are preparing a project proposal.</li> <li>➤ On Point 9 of the Recommendation 200 (2018), the Action Plan for the Protection of the Red-breasted Goose (<i>Branta ruficollis</i>) in Bulgaria for the period 2018 – 2027, was approved by Order № ПД-355/04.06.2018 of the Minister of Environment and Water.</li> <li>➤ In April 2019, a competitive procedure for the selection of project proposals under Operational Program "Environment 2014-2020" will be launched to finance measures of the Action Plan of the species.</li> </ul>
<p><b>Bureau meeting March 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau thanked the national authorities of Bulgaria for the timely and detailed report on the implementation of the recently adopted Recommendation No. 200 (2018) on the windfarms planned near Balchik and Kaliakra, and other wind farm developments on the Via Pontica route (Bulgaria). It regretted the lack of report by the complainant organisation.</li> <li>➤ The Bureau took note of the progress in the implementation of the various operational paragraphs of Recommendation No. 200 (2018) and noted the authorities are pro-active and committed to their implementation.</li> <li>➤ It advised the authorities to involve closely all relevant stakeholders during all phases of preparation of the comprehensive independent assessment of the impact of operational windfarms, as prescribed in operational paragraph 1 of the Recommendation. Such careful planning and consultation would ensure the large acceptance of the assessment and any eventual compensation measures. The Bureau looks forward to receiving updated information on further progress and how stakeholders are consulted and involved, also through data-sharing and other ways as prescribed in the Recommendation.</li> <li>➤ The Bureau instructed the Secretariat to approach the European Commission and request information on their own processes in relation to the case, for its second annual meeting in September 2019.</li> </ul>
<p><b>Complainant's report March 2019</b></p>	<ul style="list-style-type: none"> <li>➤ On Points 1 &amp; 2 of Recommendation 200 (2018): The activities reported by the government in general look appropriate, but it depends on the detail of what actually was contracted and implemented, as well as the real involvement of stakeholders. So far the MoEW already breached the requirement of point 1 that the methodologies for the assessment be agreed in advance, before the assessment procedure starts. The agreed methodology should be part of the tender documents for selection of the independent expert, but is not the case. The Government decided first to sign a contract and then elaborate a methodology. This prevents the possibility to objectively select an expert with the capacity</li> </ul>

	<p>and knowledge to apply the agreed methodology, which contradicts the Bern Convention requirement. Communication from the government has also been very poor, or non-existent.</p> <ul style="list-style-type: none"> <li>➤ On Point 3: In general the Government listed all actions taken so far to compensate damages to birds and their habitats due to construction of wind farms, but without information about relevance and efficiency of these measures. All but the last two of ‘expanding the Natura 2000 network’ actions were taken before the Bern mission in May 2018, and therefore it’s likely they are not applicable to the need highlighted in the mission as they would have been taken into account already by the mission in its assessment of the situation. The risks highlighted by the Rec will not be quantified until the consultants work in fulfilling Recs 1&amp;2 have been fulfilled – therefore until then there is no way of knowing whether these measures address the risks or whether further actions are necessary. The actions of Management of Priority Habitats are focused on restoration and improvement of the steppe habitats and, according to the officially presented information so far they do not target the concrete steppe habitats destroyed due to wind farm development. Communication activities – the presented communication activities do not correspond to Rec point 3, but just present some general measures targeted Natura 2000 in Bulgaria.</li> <li>➤ On Point 4: There isn’t much time left to evaluate the efficacy of the measures within a year. These options should still be on the table until Recs 1&amp;2 have been completed and the extent of impacts fully understood, and how they have or not been addressed. Also, the Government don’t provide any plans for removal of wind farms.</li> <li>➤ On Point 5: Prohibition of wind energy developments in sensitive locations is a government political policy decision. Therefore, even if a new plan and SEA has not yet been formulated, it is still perfectly possible for the Government to state that the new plan will continue the existing policy position into the new period, and in light of the CJEU judgement against them, it would seem more than sensible for them to do so.</li> <li>➤ On Point 6: Despite the detailed explanation of the Government, some important aspects set in Rec 130(2007) are not fulfilled yet, as the ex-ante evaluation and preventive protection procedure (EIA, AA and SEA) does not work properly in Bulgaria. Additionally, there is a real threat to weaken the legislation by making amendments in the Biodiversity Act, which will result in much less legal protection.</li> <li>➤ On Point 7: Regrettably, this Point is still not implemented and information provided by the Government is misleading. The link given in the report does not work, and parts of the webpage are only in English. All these documents should be translated into Bulgarian. Additional documents on the internet is not enough to state that it is sufficiently promoted. The Government should report them.</li> <li>➤ On Point 8: The two projects presented in the Government report were completed long before the recent Rec of the Bern convention was adopted. The situation has changed a lot compared to 8-9 years ago, so it’s necessary for the government to make new efforts in this direction.</li> <li>➤ On Point 10: The government doesn’t say whether this has actually been done or not.</li> <li>➤ In conclusion we could state that the implementation of Recommendation 200(2018) could be considered as it is started, but far from being fully and effectively implemented.</li> </ul>
<p><b>Bureau meeting 9-10 September 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau noted the lack of reports by authorities and the late submission of an updated report by the complainant.</li> <li>➤ The Bureau noted the continuous mistrust and lack of communication between the civil society community and authorities, which clearly hinders the successful and smooth implementation of Recommendation No. 2000 (2018), negotiated after an on-the-spot appraisal visit. The Bureau reminded that the Bern Convention case-file system is also about cooperation, allowing NGOs and private persons to be involved in the process and more importantly, to use the expertise and knowledge provided by NGOs.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ The Bureau expressed its concern that it did not receive an updated report from the authorities and instructed the Secretariat to request them to submit one for the upcoming Standing Committee meeting and to clearly indicate how they are involving the NGOs in the Recommendation implementation process. The Bureau urged the national authorities and NGO to attend the 39th meeting of the Standing Committee.</li> <li>➤ Eventually, the Bureau instructed the Secretariat to request that the European Commission sends an updated report on their own processes in relation to this file, for the 39th meeting of the Standing Committee.</li> </ul>
<p><b>Respondents' report November 2019</b></p>	<ul style="list-style-type: none"> <li>➤ In order to comply with the Recommendation points 1 &amp; 2, the MoEW signed a contract No Д-30-45 from 10.06.2019 with independent expert with professional qualifications and practical experience in analysing available data on bird species and expertise in field studies of bird species, processing, summarizing and validating of their results, and making evaluations as a result of the analyses.</li> <li>➤ Of this contract, Activity 1 includes collecting, processing, collating and analyzing accessible information provided by the Contracting entity; determining the potential impact of wind turbines on the populations of bird species; establishing available up-to-date information and determining the consequences from the impacts observed on bird species for the landscape, climate and the environmental conditions in the region of Kaliakra; and on-site visits, studies and information exchange;</li> <li>➤ Activity 2 involves drawing up a proposal for appropriate scientific methods for assessments of impacts such as: displacement, barrier effects, disturbances change/loss of habitats; drawing up a proposal for a “regime” of ongoing monitoring on potential impact assessment of places of exploitation of wind energy farms in the region of Kaliakra and of comparable zones, free of wind turbines; and presenting the proposals to stakeholders;</li> <li>➤ Activity 3 involves drawing up a final report with the results from the analysis, containing an assessment, conclusion and proposals;</li> <li>➤ The first draft of the report was received in MoEW on 31 July; the final report is not yet available along with the proposal for appropriate scientific methods for impact assessment of the exploitation of existing wind farms;</li> <li>➤ On 3 September 2019 a meeting was held on request of the independent expert with representatives of MoEW, NGOs and Windfarm operators. The participants informed the independent expert about their view on the present situation in the area;</li> <li>➤ The authorities reconfirm that they will continue to make efforts through legislation and its implementation to meet the objectives of both the Bern Convention and the EU nature protection directives and are willing to exchange experience with other interested parties and stakeholders.</li> </ul>

<b>2010/5: GREECE: THREATS TO MARINE TURTLES IN THINES KIPARISSIAS</b>	
<b>Date submitted</b>	08/2010
<b>Submitted by (Complainant)</b>	MEDASSET (The Mediterranean Association to Save the Sea Turtles)
<b>Respondent State (Respondent)</b>	Greece
<b>Specie/s or habitat/s affected</b>	NATURA 2000 site (THINES KYPARISSIAS - GR2550005) and <i>Caretta caretta</i> (Appendix II)
<b>Background to complaint</b>	<ul style="list-style-type: none"> <li>➤ 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>.</li> <li>➤ <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.</li> </ul>
<b>Respondent's report March 2011</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ A law concerning Conservation &amp; 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.</li> <li>➤ 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.</li> </ul>
<b>Complainants report September 2011</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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</li> </ul>

	<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>
<p><b>Bureau Meeting September 2011</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<p><b>Respondent's report March 2012</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<p><b>Complainant's report March 2012</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<p><b>Bureau Meeting April 2012</b></p>	<ul style="list-style-type: none"> <li>➤ Complaint deemed to be a possible file and forwarded to the Standing Committee to decide whether or not to open a case-file.</li> <li>➤ Secretariat to organise an on-the-spot appraisal for putting mediation in place and gathering additional information for the attention of the Standing Committee.</li> </ul>
<p><b>Secretariat's action June 2012</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<p><b>32<sup>nd</sup> Meeting Standing Committee November 2012</b></p>	<ul style="list-style-type: none"> <li>➤ No new information had been received.</li> <li>➤ 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.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<b>Respondent's email 15 March 2013</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<b>Complainant's report March 2013</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ On 20<sup>th</sup> 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.</li> </ul>
<b>Bureau Meeting April 2013</b>	<ul style="list-style-type: none"> <li>➤ Reiterated its request to Greek authorities for timely communication and sound information, and noted that enforcement was still a major issue.</li> <li>➤ Decision taken to again screen the complaint at its next meeting.</li> <li>➤ 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.</li> </ul>
<b>Secretariats action</b>	<ul style="list-style-type: none"> <li>➤ The letter to the authorities of May 2013 and the reminders sent until end of July remained unanswered.</li> </ul>
<b>Complainant's report August 2013</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<p><b>Bureau Meeting September 2013</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<p><b>Respondent’s report October 2013</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<p><b>33<sup>rd</sup> Meeting Standing Committee 3-6 December 2013</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<p><b>On the spot appraisal 14-16 July 2014</b></p>	<ul style="list-style-type: none"> <li>➤ 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 Thynes Kyparissias.</li> <li>➤ 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</li> </ul>

	<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"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<b>34<sup>th</sup> Meeting Standing Committee December 2014</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<b>Respondent's report August 2015</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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).</li> <li>➤ 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.</li> </ul>
<b>Complainant's report August 2015</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<p><b>35<sup>th</sup> Meeting Standing Committee November 2015</b></p>	<ul style="list-style-type: none"> <li>➤ Complainant expressed concern over the lack of progress during the 2015 nesting season, despite the adoption of a specific Recommendation in December 2014.</li> <li>➤ 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).</li> <li>➤ Regretted the absence of delegates of Greece and invited the country to ensure that next year the Bureau receives full reports on specific measures.</li> </ul>
<p><b>Secretariats action</b></p>	<ul style="list-style-type: none"> <li>➤ Issued a reporting request to the Greek authorities, but the request remained unanswered by the second Bureau meeting.</li> </ul>
<p><b>European Union's updated report July 2016</b></p>	<ul style="list-style-type: none"> <li>➤ On 18<sup>th</sup> 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"> <li>a) According to the advocate general conclusions':</li> <li>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);</li> <li>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;</li> <li>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.</li> </ul> </li> </ul>
<p><b>Complainant's report August 2016</b></p>	<ul style="list-style-type: none"> <li>➤ Detailed the current situation on the spot regarding the different recommendations from Recommendation No. 174 (2014) with accompanying photos.</li> <li>➤ On 24<sup>th</sup> 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.</li> </ul>

<b>Respondent's report</b> <b>August 2016</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<b>Bureau meeting</b> <b>September 2016</b>	<ul style="list-style-type: none"> <li>➤ Welcomed the adoption of a new Ministerial Decision that halts any type of construction activity in the area.</li> <li>➤ 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.</li> </ul>
<b>Complainant's report</b> <b>October 2016</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<b>36<sup>th</sup> Meeting Standing Committee</b> <b>November 2016</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<b>Complainant's report</b> <b>28 August 2017</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ The cultivation of water melons continues in the dune area.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ Sand and gravel extraction has not been an issue this year. No recorded feral dog attacks this year.</li> </ul>
<p><b>Standing Committee November 2017</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<p><b>Bureau meeting September 2018</b></p>	<ul style="list-style-type: none"> <li>➤ 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).</li> </ul>
<p><b>Respondent's report September and update October 2018</b></p>	<ul style="list-style-type: none"> <li>➤ The Presidential Decree for the protection of Kyparissiakos Gulf has been published in the Government Gazette, and is in effect, beginning on the 3<sup>rd</sup> of October 2018.</li> </ul>
<p><b>Complainants' Report October 2018 (Archelon)</b></p>	<ul style="list-style-type: none"> <li>➤ 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).</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>

- 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"> <li>➤ 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.</li> </ul>
<p><b>Complainants’ Report October 2018 (MEDASSET)</b></p>	<ul style="list-style-type: none"> <li>➤ declare support to the content of the report submitted by ARCHELON (above)</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ Such regulations are fundamental in order to ensure full implementation of Recommendation No. 174 (2014) on the conservation of the loggerhead sea turtle (Caretta caretta) and of sand dunes and other coastal habitats in Southern Kyparissia bay (NATURA 2000 – GR 2550005 “Thines Kyparissias”, Peloponnesos, Greece).</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ Imperative that the implementation of Recommendation No. 174 continues to be monitored by the Standing Committee.</li> </ul>
<p><b>Standing Committee December 2018</b></p>	<ul style="list-style-type: none"> <li>➤ The Standing Committee took note of the information presented by the Greek authorities and acknowledged the important progress achieved through the adoption of the Presidential Decree.</li> <li>➤ The Standing Committee further noted that the Decree and its scope and provisions do not seem to entirely cover Bern Convention’s Recommendation No. 174 (2014), in particular regarding the setting and implementation of management measures for the area.</li> <li>➤ The Standing Committee decided to keep the case-file open and encouraged Greece to continue to work in the same positive direction towards ensuring a full implementation of Bern Convention’s Recommendation for the sake of the effective conservation of marine turtles.</li> </ul>
<p><b>Complainants’ Report August 2019 (MEDASSET)</b></p>	<ul style="list-style-type: none"> <li>➤ On Point 1 of Recommendation 174 (2014): The Presidential Decree (PD) designates the whole area as a Nature Protected Area. All areas not designated as Nature Protected Areas are designated as Agricultural Landscape Zones where construction is permitted. Part of the coastal area, specifically at Kalo Nero area behind the core nesting beaches, is designated as Agricultural Landscape Zones, putting in extreme danger the reproduction of sea turtles and the adequate protection of the habitat.</li> <li>➤ On Point 2: The PD failing to be enforced has not led to a suspension or demolishing of the existent constructions behind the core nesting area. Hence, the PD fails to adequately protect and preserve the habitat. No buffer zone has been implemented between the two areas despite requests by ARCHELON, MEDASSET and the ‘Nature 2000’ National Committee. Furthermore, the PD addresses the existing illegal road network, but it is yet to take any action in its demolishment and the lack of its enforcement leads to the continuous degradation of the site.</li> </ul>

- On Point 3: No action has been taken for the demolition of the illegal road system perpendicular to the shoreline or the restoration of the area. No measures have been implemented with regards to the prevention of access of cars and caravans close to the nesting beaches, and no blockades were placed at the legal roads leading to the beach. Additionally, camping occurs extensively throughout the protected forest habitat that borders the dunes and nesting beach. In regards with the existing illegal infrastructure, the barbed wire fencing surrounding the house at Vounaki was removed in 2017, but the cement base remains.
- On Point 4: The existing houses need to make vital changes to reduce light pollution and restore the degraded sand dune eco-system. Due to lack of enforcement, only some modifications have been implemented. Introduced alien plants have not been removed and there has been no effort to reinstate the previous dune ecosystem where houses have been built within the vicinity of nesting areas. Cultivation of the flora continues to maintain these alien species and prevent restoration of the sand dune ecosystem. The invasive species *Carpobrotus* can be found at various locations.
- On Point 5: The cultivation of watermelons still continues extensively across the sand dune area, despite being prohibited by the PD, due to lack of enforcement.
- On Point 6: There are still extremely high levels of light pollution at the beach at Kalo Nero by the taverns operating along the beach front, as well as by hotels and street lights. It was noted in 2017 that Trifilia Municipality implemented some mitigation measures for reducing light pollution, by directing artificial lighting downward at a lower height; however, this approach is not extensively implemented. Overnight camping with bonfires also occurs close to and on the beach in Kalo Nero and elsewhere along the nesting area.
- On Point 7: The beach furniture used on Kalo Nero beach cover a zone of approximately 1.2 km and tourism business owners remove them only occasionally during night, despite the relevant provisions of the PD. The illegal wooden platforms on the beach remain despite the demolition protocols that have been issued from the Public Land Authority of Kalamata and despite the provisions of the PD for urgent demolition of all illegal constructions. Fixed structures are also present on the beach at Elea near an illegally operating beach bar.
- On Point 8: Sand and gravel extraction has not been an issue this year.
- On Point 9: The Measure is only partially addressed. The PD fails to adequately protect the nesting habitat, especially at Kalo Nero area, directly behind the core nesting beaches, where building is permitted. Ongoing constructions were observed at Vounaki and Agiannakis Beach.
- On Point 10: Fishing activities are regarded as the highest threat to sea turtles and the only maritime restrictions stated in the PD relate to vessel speed limit within one mile of the shoreline and recreational fishing, which is permitted only during the day. Fishers are still permitted to set their nets in the nearshore waters in close proximity to the nesting beach, which presents an extremely high risk of incidental capture of breeding adult turtles and hatchlings. NGOs and experts called on the authorities to include protective measures to address fishing threats in the PD, but as stated by the Ministry of Environment these issues should be addressed within the Management Plan, which is yet to be developed. Furthermore, there is no enforcement of the PD six- knot speed limit and prohibited night time recreational fishing activities. Recreational fishing poses a significant threat to sea turtles, with risks of hook ingestion and entanglement with abandoned fishing line.
- On Point 11: No restrictions were included in the PD to reduce human presence on the beach at night, but as stated by the Ministry of Environment, these issues should be addressed within the Management Plan. Currently there is a complete absence of measures preventing people and cars from accessing the beach at night. There are no notices informing visitors that this is a sea turtle nesting beach and that visitors should not access

	<p>the beach at night. The lack of blockades allows easy beach access by vehicles at night. As a result, the nesting areas are subject to high levels of disturbance. No attacks by feral dogs have been recorded this year.</p> <ul style="list-style-type: none"> <li>➤ On Point 12: No comment.</li> <li>➤ Hence, MEDASSET calls upon the Bern Convention Standing Committee to 1) Follow-up, discuss and keep the case file open at the 39th Meeting of the Standing Committee; 2) Urge Greek authorities to fully implement Recommendation No. 174 with no further delay.</li> </ul>
<p><b>Bureau meeting 9-10 September 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau thanked the complainant for the updated report and regretted the lack of reporting from the authorities, which might be interpreted as a lack of commitment.</li> <li>➤ The Bureau strongly regretted the incomplete implementation of the recommended actions through the Convention’s Recommendation No.174 (2014) and urged the authorities to improve the management and law enforcement in the area.</li> <li>➤ The Bureau urged the national authorities of Greece to be present at the 39th meeting of the Standing Committee. It further instructed the Secretariat to request that the European Commission sends an updated report on their own processes in relation to this file, for the 39th meeting of the Standing Committee.</li> </ul>
<p><b>Complainants’ Report November 2019 (Archelon)</b></p>	<ul style="list-style-type: none"> <li>➤ In April 2019 a local environmental NGO reported behind sector B of the core nesting area, the construction of one new villa in Vounaki and the continuance of the construction of a 2nd villa in Agiannakis, despite no building being allowed here by Presidential Decree;</li> <li>➤ During the 2019 nesting season the management measures were not enforced in Kyparissia Bay or sector O (Kalo Nero); The operation of beach bars is not included in the exception. As a result, the Municipality of Trifylia leased portion of Elaia beach (sector C) for a beach bar leading to deterioration of sand dunes and its night operation causing increased human and vehicle presence on the nesting beach during night hours and light pollution; It is noteworthy that the bar was not allowed to open in the period 2013-2016, as it was one of the commitments of the Greek authorities to the European Commission on response to the Reasoned Opinion (Ref. No. 5074/22-11-2012)</li> <li>➤ Although Archelon complained in 2018 to all competent authorities about the garden works that took place during that year in the sand dune zone in front of the completed house near Vounaki hill (sector B), which resulted in the total destruction of dune vegetation, not only was no action taken, but some authorities claimed that there is no evidence that the works took place after the establishment of the protection framework for the area;</li> <li>➤ On 8 May 2019 a special meeting was organised with local authorities to discuss the proper implementation of the management measures at the core nesting area. Unfortunately, no improvement was recorded during the 2019 nesting season;</li> <li>➤ The distinction of Kalo Nero (sector O) from the rest of the core area is very important. This part is already severely affected by tourism development. As in previous years, during 2019 a large part of the nesting beach was occupied by sunbeds, umbrellas, wooden paths, showers and other structures; There is also intensive light pollution;</li> <li>➤ If sea turtles are to be effectively protected in Kyparissia Bay, sectors A, B and C of the core nesting area (Vounaki, Agiannakis and Elaia) hosting about 75% of all nests in the 9.5km core nesting area, must be maintained at its current almost pristine condition;</li> </ul>

	<ul style="list-style-type: none"> <li>➤ In the coastal forest behind sector C remained the problem of free camping. During the high summer season, it was estimated that more than 2,000 people were camping simultaneously. In many cases tents and caravans were placed on the sand dune zone or even on the nesting beach; Cars also cause destruction and are uncontrolled;</li> <li>➤ In the rest of the bay, there were a similar range of anthropogenic disturbances, including vehicles on the beach, light pollution, illegal beach bars and fishing activities;</li> <li>➤ There were recorded instances of mixed animal grazing near the Neda river (sector D), where beach entry points were utilized to drive livestock such as sheep and goats along the dunes. During these cases, dune vegetation was extensively trampled;</li> <li>➤ During the 2019 nesting season 11 dead turtles and 1 live injured were found within the core nesting area of 9.5km, while 13 more dead turtles were found in the rest of Kyparissiakos Bay. Examination of the dead animals showed interaction with fisheries (i.e. turtles entangled in nets and fishing lines) as well as signs of injuries caused by dynamite fishing (blood from nose, mouth and eyes), though this fishing method is against the law in Greece;</li> <li>➤ There is still a lot to be done in order to fully comply with the implementation of the 12 points of the Bern Convention Recommendation and the European Court of Justice Judgment of 10 November 2016, as the very low enforcement and implementation of the Decree regulations prevents achieving favourable conservation status of marine turtles and the habitat in southern Kyparissia Bay.</li> </ul>
<p><b>Respondent's report November 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The Management Plan of the Kyparissia Bay is currently under drafting and will be delivered to the Ministry of Environment and Energy during 2021. The drafting of the Management Plan is financed by the on-going project “Assembly of Special Environmental Studies and Management Plans for Natura 2000 sites in Greece” funded by ERDF;</li> <li>➤ An Action Plan for protection and conservation of marine turtles in Greece is currently under drafting and will be legally approved by the Ministry by the end of 2020, while it will be fully implemented and financed by the LIFE Integrated Project LIFE-IP 4 NATURA;</li> <li>➤ The management of Kyparissia Bay is under the responsibility of the Management Body of Kotychi, Strofilia Lagoon &amp; Kyparissia Bay, and is currently financed with 1 million Euros by the Operational Programme “Transport Infrastructure, Environment and Sustainable Development”, ERDF for implementing concrete conservation actions in the protected area of the Kyparissia Bay;</li> <li>➤ According to the ARCHELON report submitted to our Department on the 31st of October 2019, sea turtle nesting was completed successfully during 2019, as all nests were recorded and protected against predation, inundation and light pollution;</li> <li>➤ It is expected that the Presidential Decree along with the successful implementation of the planned actions will fully address the points mentioned in the Bern Convention Recommendation and will achieve favourable conservation status of marine turtles and the habitats in Kyparissia Bay.</li> </ul>

<b>2012/9: TURKEY: PRESUMED DEGRADATION OF NESTING BEACHES IN FETHIYE AND PATARA SPAS</b>	
<b>Date submitted</b>	09/2012
<b>Submitted by (Complainant)</b>	MEDASSET
<b>Respondent State (Respondent)</b>	Turkey
<b>Specie/s or habitat/s affected</b>	<i>Caretta caretta</i> (Appendix II) - nesting areas at the Fethiye SPA
<b>Background to complaint</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<b>Standing Committee 32<sup>nd</sup> meeting</b>	<ul style="list-style-type: none"> <li>➤ Delegate of Turkey informed on the measures undertaken to protect the nests in the area, including caging, tagging of animals, awareness raising and monitoring.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ File to be dealt with as a possible file.</li> </ul>
<b>Complainant’s report 2013</b>	<ul style="list-style-type: none"> <li>➤ 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 focused 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.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<b>Bureau Meeting April 2013</b>	<ul style="list-style-type: none"> <li>➤ Agreed to monitor the implementation of Recommendation No. 95 (2002) at next Standing Committee meeting.</li> <li>➤ Considered the conservation and management issues related to Fethiye and Patara SPA as interlinked and decided to address in conjunction.</li> </ul>
<b>Respondent's report April 2013</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.)</li> <li>➤ 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.</li> </ul>
<b>Secretariats action April 2013</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<b>Complainant's report 9 September 2013</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>

<p><b>Bureau Meeting September 2013</b></p>	<ul style="list-style-type: none"> <li>➤ Authorities to provide the Standing Committee with an updated report, including more recent information related to, among others, the breeding season.</li> </ul>
<p><b>33<sup>rd</sup> Standing Committee Meeting</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ The Committee decided to open the file to encourage the relevant bodies at national level to work towards greater accountability, co-operation, and responsibility.</li> <li>➤ 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.</li> </ul>
<p><b>Secretariat action</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<p><b>Complainant’s report</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<b>Respondent's response</b>	<ul style="list-style-type: none"> <li>➤ Recognised the lack of a local management unit, as well as of physical points of entry/exits at Fethiye-Göcek SEPA.</li> <li>➤ 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.</li> <li>➤ 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 %.</li> <li>➤ 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.</li> </ul>
<b>Bureau Request</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<b>Secretariats action</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<b>Complainant's Summer 2014</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>

<p><b>Bureau Meeting September 2014</b></p>	<ul style="list-style-type: none"> <li>➤ Regretted the lack of updated information from Turkey and decided to keep the case-file open.</li> <li>➤ 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.</li> </ul>
<p><b>34<sup>th</sup> Standing Committee Meeting 2014</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<p><b>On the spot visit 28-31 July 2015</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<p><b>35<sup>th</sup> Meeting of Standing Committee December 2015</b></p>	<ul style="list-style-type: none"> <li>➤ 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).</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>

<b>Respondent's report July 2016</b>	<ul style="list-style-type: none"> <li>➤ Submitted two separate reports on the progress in the implementation of the two abovementioned recommendation.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<b>Complainant's report August 2016 and update October 2016</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<b>36<sup>th</sup> Meeting of Standing Committee November 2016</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<b>Complainant's email update 24 May 2017</b>	<ul style="list-style-type: none"> <li>➤ Request deadline extension of the date for submission of an updated report to 18 August. The deadline of 14<sup>th</sup> 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.</li> </ul>

**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"> <li>➤ Light pollution is severe on all beaches and there were no apparent new efforts to mitigate the problem.</li> <li>➤ Vehicles were observed on all beaches, due to the lack of barriers or guards. There is uncontrolled visitor access at night.</li> <li>➤ In Karatas, maritime traffic still very active; BARUT TUI Sensatory Resort provides several new motorized water sport boats. In Yanıklar and Çalış, less water sport activities were observed.</li> <li>➤ 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.</li> <li>➤ In Çalış Section A and Yanıklar litter has been effectively collected. No similar efforts were taken in the other nesting beach sections.</li> <li>➤ No local management unit, no apparent increase of management &amp; control resources allocated. No apparent enforcement of rules.</li> <li>➤ 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</li> <li>➤ Incidents of nest predation by foxes and dogs was observed in Yanıklar and Çalış. In Yanıklar all discovered nests were protected with predation cages.</li> </ul>
<b>Bureau meeting September 2017</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ The Bureau invited the national authorities to provide a report to the Standing Committee meeting on the 5<sup>th</sup> to 8<sup>th</sup> 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).</li> </ul>
<b>37<sup>th</sup> meeting Standing Committee December 2017</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<b>Respondent's report June 2018</b>	<ul style="list-style-type: none"> <li>➤ A timetable is prepared for the ongoing and planned conservation actions and presented as follows, <b>on Patara</b>;</li> </ul> <ol style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>3. Vehicle access was restricted and/or prohibited during the breeding season and illegal activities will be deterred during the nesting season 2018.</li> </ol>

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 m<sup>2</sup> to 28.000 m<sup>2</sup> 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.
  - The road extending to Çalış Hill from the minibus station was closed to vehicle traffic throughout the year.

	<ul style="list-style-type: none"> <li>➤ An info-desk is open every day from 21:00 to 23:00.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ Water connections of shower cabins that heavily wet the nesting beach were cut and those cabins have been used as dressing cabin.</li> <li>➤ 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.</li> </ul>
<p><b>Complainant's report August 2018</b></p>	<ul style="list-style-type: none"> <li>➤ 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:</li> <li>➤ No local management unit was present to enforce regulations and fines in the protected area.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ Vehicle access is a severe problem and vehicle tracks were observed along all beach sections</li> <li>➤ No information about fines for non-compliance with beach regulations</li> <li>➤ 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.</li> <li>➤ 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</li> </ul>

- 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 Çaliş 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.
  - Vehicles and vehicle tracks were observed on all beaches, due to the lack of barriers or guards.

	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ No local management unit, no apparent increase of management &amp; 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.</li> <li>➤ 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.</li> </ul>
<p><b>Bureau meeting September 2018</b></p>	<ul style="list-style-type: none"> <li>➤ Noted the progress demonstrated by the national authorities in their updated report submitted for the Bureau. It invited the authorities to attend the 38<sup>th</sup> 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.</li> </ul>
<p><b>Standing Committee December 2018</b></p>	<ul style="list-style-type: none"> <li>➤ The Standing Committee took note of the updated information provided by the Turkish authorities and acknowledged the efforts made for implementing the Recommendations during the last nesting season.</li> <li>➤ The Committee noted the pending issues and challenges still faced and presented by the NGO, before a full implementation of Recommendations No. 182 (2015) and No. 183 (2015) is achieved.</li> <li>➤ The Standing Committee decided to keep the file open and requested the Turkish authorities to provide an updated report on the planned activities for the upcoming nesting season by the first Bureau meeting of 2019, aimed at ensuring a thorough and timely implementation of all operational parts of the Recommendations.</li> </ul>
<p><b>Respondent's report March 2019</b></p>	<ul style="list-style-type: none"> <li>➤ Marine turtle conservation and monitoring studies which have been started to achieve the targets both Recommendations will continue in 2019 nesting period.</li> <li>➤ Nest density on nesting beaches, nest distribution in terms of space and time will be determined, the negative factors affecting the nests, eggs and hatchlings will be monitored in each part of the nesting beaches, the nesting beaches will be scanned in regular intervals to obtain necessary information. If possible, adult individuals will be marked.</li> <li>➤ Various components of the studies will be done within the frame of monitoring of <i>Caretta caretta</i> and <i>Chelonia mydas</i> (if found any), such as time and location of adult female turtle's coming out to lay eggs by GPS, nesting regions of the individuals on digital maps with appropriate scale, rate of emergence of adult turtles with or without nests, rate of and their distribution in months, rate of hatchlings, rate of dead/alive hatchlings on the way to the sea / reaching to sea , comparison of nest densities with previous years (nest/km), number of newly marked individuals, etc.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ Population dynamics of last five years (numbers of adults and hatchlings) will be given in tables and if there is increase or decrease, causes and precautionary actions will be discussed in the final report.</li> <li>➤ The factors deteriorating the presence of turtles, nests, eggs and hatchlings will be determined, to increase the chance of survival of hatchlings, nests will be protected by cages buried underneath the sand. The contribution of caging to the protection of the nests will be measured numerically.</li> <li>➤ To minimise the possible damages for the nests, those nests which are at high risk of human disturbance on highly populated beaches will be protected via high cages that will be visible from a distance. In case of finding any injured/damaged/sick turtles, those cases will be immediately informed to the rehabilitation center in Iztuzu beach by the local staff of each beach.</li> <li>➤ The technical team which will take part during this project will be trained by the project manager about all the field work necessary for the conservation and monitoring of turtles, prior to the starting of new nesting season.</li> <li>➤ In view of reaching out to public and raising awareness through local units, Public will be in personal contact in information offices that will be set on each beach and local people and national or international tourists will be informed about sea turtles in those offices. There will be a seminar on sea turtle conservation for tourism managers and for personal at the beginning of the season.</li> <li>➤ There will be presentations at the sea turtle offices, about the conservation of sea turtles. The presentations will be made to tourists in sea turtle information offices regularly.</li> <li>➤ These studies, which were provided in our 2018 action plan will be accomplished in 2019 nesting season.</li> </ul>
<p><b>Bureau meeting March 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau thanked the national authorities of Turkey for their short report and welcomed the actions planned for implementing the two relevant Recommendations and for ensuring a successful and undisturbed 2019 nesting season. The Bureau noted however that most of the activities planned concern research, monitoring and conservation studies and are limited to the upcoming nesting season.</li> <li>➤ The Bureau reminded the Turkish authorities that finding and implementing a long-lasting solution to all issues dealt with in both Recommendations would require strategic planning. It proposed that the authorities prepare a detailed action plan on the implementation of the Recommendations and submits a draft version for comments and advise by the Bureau, at its second annual meeting in September 2019, together with a detailed report on the implementation of the actions planned for this nesting season. The final version of the action plan would then have to be finalised for the upcoming 39th Standing Committee to the Convention</li> </ul>
<p><b>Complainant's report August 2019</b></p>	<p><b>Regarding Patara SPA</b></p> <ul style="list-style-type: none"> <li>➤ On Point 1 of Recommendation 182 (2015): No local management unit, such as guards or rangers, were present to enforce regulations and fines in the protected area. There was no improvement in Patara's legal protection or management.</li> <li>➤ On Point 2: At Letoon Beach, unused and derelict SPA facilities are still present. Visitors who bring their own beach umbrellas can insert them in the nesting area, as zoning or delimitation of the nesting zone does not exist along the 12 km beach, with the exception of the area surrounding the beach bar at Patara main beach area. Vehicle access has not been restricted and vehicles or tracks were observed along most beach sections. At Patara main beach, one street lamp in the parking area was visible from top of the nesting beach though no evidence of hatchling disorientation was witnessed. Between Patara main beach and the dunes entry point, it is likely that once the summer house village is completed, light pollution may increase. At Çayağzı and Letoon, seine fishing from the beach was observed. At Özden, though the campsite is contained, 3 campervans were seen</li> </ul>

on the other side of the river, set up with a volley ball court. Horse-riding was observed on the dunes and on Patara main beach. Vehicle tracks (cars, motorbikes, scooter, tractor) were recorded along the beaches.

- On Point 3: No local management unit or guards were present to enforce regulations and fines in the protected area. The nest monitoring team does not have the responsibility or authority to charge fines or enforce measures.
- On Point 4: No new constructions behind the beach were observed. In the cooperatives' land inside the 3rd Degree Archaeological area, construction work for the summer house village continues.
- On Point 5: At Patara main beach, there are large bins in the car park, bins are also spread out throughout the sunbed area and small pots are available next to the sunbeds.
- On Point 6: At Patara main beach, some predation was recorded at the south end of the beach. Six nests were caged within the main tourist area.
- On Point 7: Nests in Patara main beach around the sunbeds were caged, whereas nests in other areas were mainly marked with sticks or simple nest markers. Some nests were protected from predation but it was not systematic.
- On Point 8: Only the south beach (Patara main beach till Esen river) seems to be monitored with the one of the morning patrol members having finished their section by ~7am. The North beach (Letoon and Özden section) does not seem to be monitored.
- On Point 9: As an improvement compared to previous years, a sign indicating restrictions that apply on the nesting beach has been placed at Çayağzı beach entrance. No information is provided at the Letoon beach entrance and at the Patara dunes access point.

#### **Regarding Fethiye SPA**

- On Point 1 of Recommendation 183 (2015): The Çalış section in Fethiye SPA is highly developed with dense distribution of businesses along the beach, with mobile and fixed structures along the beach. Jetties/docks and concrete platforms have not been removed.
- On Point 2: There is no evidence of any restoration, nor mitigation of the impacts of the development in the area. Permanently fixed structures are found on all nesting beaches with some areas nearly completely covered in beach furniture. No effort is made to clear the beach at night.
- On Point 3: There was no evidence of sand mining; however, there was evidence of digging and sand/gravel moving around the river mouth between Yanıklar and Akgöl.
- On Point 4: Bushes, trees and grass planted on the nesting beaches in previous years have not been removed and continue to expand onto the nesting beach and transform the natural profile of the beach.
- On Point 5: There was no evidence of any zoning. Beach furniture is not moved or stacked at night along 6.5 km of the 8 km of the nesting beaches. Çalış A and "Deniz Incisi Buffet" on Karatas are the only locations where furniture is stacked at night.
- On Point 6: Akgöl beach has the largest sandy zone suitable for nesting in the area. The sandy area has been severely damaged due to touristic development.

	<ul style="list-style-type: none"> <li>➤ On Point 7: Light pollution is severe on all beaches and there were no apparent new efforts to mitigate the problem. Beach businesses operate at night, many of them till midnight, with lights and loud music, and have made no adjustments to reduce light pollution.</li> <li>➤ On Point 8: Vehicles tracks were seen on all beaches except Çalış A due to unrestricted vehicle access: in Çalış B, access is possible via the northern end; at Karatas access is now available through the cleared wetland; at Yanıklar, access points are available in various points areas; at Akgöl, access is available onto all sections of the beach.</li> <li>➤ On Point 9: There are multiple outlets for motorized water sport activities though little activity was recorded nearshore, however this was a limited in time survey. All available evidence suggests nothing is in place to regulate boat traffic. Floating ropes are in place to delimit swimming areas.</li> <li>➤ On Point 10: Monitoring and conservation of the sea turtle nests were carried out by Pamukkale University. A team of three members was seen, the information desk was not staffed and the project seemed understaffed, with inadequate manpower.</li> <li>➤ On Point 11: There is uncontrolled visitor access to all beaches at night. Fires and barbecues were observed on all beaches. Camping was recorded on Karatas, Akgöl and Çalış B. There is no night time restriction for the operation of the beach businesses hence lights, music and people disturb nesting and hatching.</li> <li>➤ On Point 12: In Çalış A, bins are available along the promenade and emptied daily. In Çalış B, some bins are available at the back of the beach and along the road. At Karatas, no bins seemed to be available though hotel staff were seen litter picking. At Yanıklar, rubbish seems to be piled up in specific areas but not in closed bins. At Akgöl, large bins are available in the parking area though some litter was observed at the back of the beach.</li> <li>➤ On Point 14: There was no local management unit, guards or similar personnel present in the SPA and no apparent increase of management &amp; control resources.</li> <li>➤ On Point 15: Signage remains mainly unchanged compared to 2015, and is insufficient, unclear and poorly displayed, hence the public is largely unaware of regulations and the protected status of the beaches. More signs are required at each entry point and more information needs to be presented to visitors.</li> <li>➤ On Point 16: Nests are caged in areas with dense touristic activities, and have predation cages (protective grills) in more remote places. Screening against light pollution is ineffective, but more light management is required as the extent and intensity is considerable.</li> </ul>
<p><b>Bureau meeting 9-10 September 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau thanked the complainant for the updated and very detailed report after the recent nesting season but noted the lack of a report from the authorities on how they have implemented the planned activities for the 2019 summer period.</li> <li>➤ It regretted that besides its several requests for the submission of a detailed and time bound Action Plan on how the recommendations are going to be implemented, the authorities are yet to provide one. It warned that the national authorities of Turkey need to be more proactive and urged them to be present at the 39th meeting of the Standing Committee and to present the long awaited detailed, year by year Action Plan for the implementation of the Recommendations.</li> </ul>

<b>2013/1: NORTH MACEDONIA: HYDRO POWER DEVELOPMENT WITHIN THE TERRITORY OF MAVROVO NATIONAL PARK</b>	
<b>Date submitted</b>	March 2013
<b>Submitted by (Complainant)</b>	Eco-svest - Center for environmental research and information
<b>Respondent State (Respondent)</b>	North Macedonia
<b>Specie/s or habitat/s affected</b>	Mavrovo National Park, Emerald candidate site since 2011 <i>Lynx lynx balcanicus</i>
<b>Background to complaint</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<b>Secretariat reporting request</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<b>Respondent’s report September 2013</b>	<ul style="list-style-type: none"> <li>➤ Environmental Impact Assessment Study for the hydropower plant project Boshkov Most was prepared by GEING Skopje, North Macedonia based engineering company operating in the Balkan area.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<b>Bureau meeting September 2013</b>	<ul style="list-style-type: none"> <li>➤ Complaint on stand-by pending the authorities’ reply</li> <li>➤ Secretariat request information regarding impacts of the hydropower project implementation in Mavrovo National Park on species and habitats.</li> </ul>

<b>Complainant's report January 2014</b>	<ul style="list-style-type: none"> <li>➤ 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”.</li> </ul>
<b>Respondent's report March 2014</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ No mention of pending lawsuit.</li> </ul>
<b>Bureau meeting April 2014</b>	<ul style="list-style-type: none"> <li>➤ Regretted the lack of informative reports on behalf of the national authorities.</li> <li>➤ 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.</li> </ul>
<b>Respondent's email September 2014</b>	<ul style="list-style-type: none"> <li>➤ EIA report for HPP Lukovo Pole expected end of December 2014.</li> </ul>
<b>Complainant's report September 2014</b>	<ul style="list-style-type: none"> <li>➤ Boshkov Most HPP project, two pending lawsuits –</li> <li>➤ The Ministry approved the EIA report based on insufficient data (supported by a compliance report of an independent experts charged by EBRD)</li> <li>➤ On denied access to the expert's reports on Mavrovo HPP projects</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<b>Bureau meeting September 2014</b>	<ul style="list-style-type: none"> <li>➤ National authorities did not submit a report, claimed that they didn't receive the reporting request sent by the Secretariat.</li> <li>➤ 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.</li> </ul>
<b>Standing Committee December 2014</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ Open a case file</li> <li>➤ 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.</li> </ul>

<p><b>On the spot visit 24/25 June 2015</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ Delegation visited the main localities of the two big hydro power projects, as well as an additional small HPP plant already implemented.</li> <li>➤ 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.</li> </ul>
<p><b>Standing Committee December 2015</b></p>	<ul style="list-style-type: none"> <li>➤ Adopted Recommendation No. 184 (2015) on the planned hydropower plants on the territory of the Mavrovo National Park, inviting North 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.</li> </ul>
<p><b>Complainant's report February 2016</b></p>	<ul style="list-style-type: none"> <li>➤ World Bank dropped the Lukovo Pole project</li> <li>➤ 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.</li> <li>➤ Informs of the construction of four new small hydropower plants funded privately.</li> <li>➤ Requests the bodies of the Convention to address with the authorities specific points, in particular to:             <ul style="list-style-type: none"> <li>a) ask the government to suspend the construction of the small hydropower plants in the park;</li> <li>b) postpone the adoption of the Law on re-proclamation of the Mavrovo NP;</li> <li>c) provide guidelines on the implementation of the recommendation to all stakeholders;</li> <li>d) ask that the Strategic Environmental Assessment is transparent and involves all stakeholders;</li> <li>e) remind the stakeholders of the importance to conduct activities setting within the Balkan lynx (<i>Lynx lynx balcanicus</i>) recovery programme.</li> </ul> </li> </ul>
<p><b>Respondent's report 21<sup>st</sup> March 2016</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<p><b>Bureau meeting March 2016</b></p>	<ul style="list-style-type: none"> <li>➤ The building of small plants is in line with the recommendation adopted by the Standing Committee</li> <li>➤ Secretariat to ask by the end of June 2016 for reports from the authorities and the complainant</li> </ul>

<b>Complainant's report May 2016</b>	<ul style="list-style-type: none"> <li>➤ The number of conceded small hydropower projects had increased to 6. Construction work was expected to start in the spring.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ The complainant has not yet been involved in the preparation of the Strategic Environmental Assessment.</li> </ul>
<b>Complainant's report July 2016</b>	<ul style="list-style-type: none"> <li>➤ The number of approval or plans to grant concessions to private investors of small hydro power plants increased to 17.</li> <li>➤ At the date of the report, 2 were already built and 2 were under construction.</li> <li>➤ Almost all of the small hydro power plants are in remote, inaccessible areas of high natural value.</li> </ul>
<b>Respondent's report July 2016</b>	<ul style="list-style-type: none"> <li>➤ 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).</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ Refuted the allegations by the complainant regarding the impacts of the construction of several hydro-power plants and supporting infrastructures.</li> <li>➤ 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.</li> </ul>
<b>Standing Committee November 2016</b>	<ul style="list-style-type: none"> <li>➤ Case-file should remain open.</li> <li>➤ Respondent should speed up the process of development of the SEA.</li> <li>➤ 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.</li> </ul>

<p><b>Secretariat action January 2017</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<p><b>Respondent's report 10 March 2017</b></p>	<ul style="list-style-type: none"> <li>➤ No progress on the Recommendation to be reported since the previous report</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ The issues were discussed at the EC Subcommittee for Transport, Energy, Environment and Regional Development in February 2017.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ The SC must adhere to the prescribed case file follow-up process and refrain from suggesting or accepting modifications of Recommendations.</li> </ul>
<p><b>Chair of the Standing Committee letter to Respondent 21 April 2017</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ Responsibility on the accuracy of data provided by governments or observers lies in the authors of such reports.</li> <li>➤ Regarding the discussion on case-file 2013/1 at its 36<sup>th</sup> 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.</li> <li>➤ Secretariat of the Convention and the Bureau are ready to offer their support to the the implementation of Recommendation No. 184 (2015).</li> </ul>

<p><b>Complainant's report 18 May 2017</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ Access to individual expert reports prepared for the valorisation of the natural values of the “Mavrovo” National Park has still not been enabled.</li> <li>➤ 24<sup>th</sup> 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.</li> <li>➤ 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 27<sup>th</sup> February 2017.</li> <li>➤ 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 m<sup>3</sup>/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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
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<p><b>Bureau meeting September 2017</b></p>	<ul style="list-style-type: none"> <li>➤ 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 North Macedonia before the Bern Convention and communication with the authorities will be re-established.</li> <li>➤ Invited the authorities to attend the 37<sup>th</sup> 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.</li> </ul>
<p><b>37<sup>th</sup> meeting Standing Committee December 2017</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<p><b>Respondent's report 5 December 2017</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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).</li> <li>➤ Implementation and all planned project development activities of Government of North 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.</li> <li>➤ 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.</li> </ul>
<p><b>Bureau meeting March 2018</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ Reminded that the Balkan lynx has been officially listed in Appendix II of the Bern Convention since 8 March 2018.</li> <li>➤ 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...”.</li> <li>➤ 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.</li> </ul>

<b>Respondent's report August/September 2018</b>	<ul style="list-style-type: none"> <li>➤ The Government remains at its positions to fulfill the activities within the Recommendations.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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).</li> <li>➤ Provides update on the Small Hydro power plants (SHPP) within the Mavrovo National Park</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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 recognised within the Mavrovo National park, until the Recommendations 184/2015 are fulfilled.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<b>Bureau meeting September 2018</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ Invited the national authorities to attend the 38<sup>th</sup> meeting of the Standing Committee to the Convention and to provide further details on their plans for the implementation of the Recommendation.</li> </ul>
<p><b>Letter from respondent to Secretariat October 2018</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<p><b>Complainant's report October 2018</b></p>	<ul style="list-style-type: none"> <li>➤ Provides update regarding the low performing HPPs</li> <li>➤ 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.</li> <li>➤ At its 37<sup>th</sup> meeting, the Standing Committee “<i>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.</i>”</li> <li>➤ Government has still not suspended the 15 LPHPPs. 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).</li> <li>➤ 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 finalise the activities and put the LPHPPs into operation. As these LPHPPs were not constructed within the above-mentioned deadline, the concession agreement should have been terminated in May/June 2018.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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;</li> <li>➤ 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.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.”</li> <li>➤ 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.</li> </ul>
<p><b>Standing Committee December 2018</b></p>	<ul style="list-style-type: none"> <li>➤ The Standing Committee welcomed the positive statement made by the national authorities and noted that the development of both large HPPs subject of the complaint are stopped, while the Government ceased further promotion of concessions of small and micro HPPs in the area.</li> <li>➤ It further noted that the complainant presented evidence of the ineffective deferment of 4 low-performing hydro power plants in the area of the National Park, but confirmed the initiation of positive cooperation between them and the Government aimed at ensuring the full implementation of Recommendation No. 184 (2015). The complainant also asked the Committee to raise the issue at a higher political level in the country.</li> <li>➤ The Committee further welcomed the letter sent by the national authorities to the Secretariat, requesting advise and support in the implementation of the Recommendation and in particular the finalisation of the Law for the re-proclamation of the National Park, which is a prerequisite for the development of the SEA.</li> <li>➤ The Standing Committee decided to keep the file open and to mandate the Secretariat to seek the best possible avenues, including entrusting the task to an expert, to provide advice and guidance to the national authorities which will efficiently facilitate and accelerate the implementation of Recommendation No. 184 (2015).</li> </ul>
<p><b>Secretariat action December 2018</b></p>	<ul style="list-style-type: none"> <li>➤ Letter sent to propose the organization of an expert visit (2 days) in late spring/early summer 2019. The expert mission could be comprised of a representative of the Bern Convention (Secretariat or Bureau to the Convention) and an expert in protected areas’ management and zoning. The participation of an expert in the planning and implementation of SEAs could also be foreseen.</li> <li>➤ Response still expected by national authorities</li> </ul>

<p><b>Bureau meeting March 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau thanked again the national authorities of North Macedonia for their letter sent in November 2018 and requesting advise and support in the implementation of the Recommendation and in particular the finalisation of the Law for the re-proclamation of the National Park, which is a prerequisite for the development of the SEA.</li> <li>➤ The Bureau also noted that the Secretariat had, on instruction of the Committee, proposed the organisation of an expert visit (2 days) to the country and Mavrovo NP are in late spring/early summer 2019 and composed of a representative of the Bern Convention, an expert in protected areas' management and zoning and possibly of an expert in the planning and implementation of SEAs could also be foreseen.</li> <li>➤ The Bureau regretted that a response from the authorities on this offer is still pending, instructed the Secretariat to reiterate the offer and hoped that progress could be quickly achieved and progress presented at its upcoming second annual meeting for 2019 in September.</li> </ul>
<p><b>August 2019</b></p>	<ul style="list-style-type: none"> <li>➤ National authorities contacted the Secretariat to request clarification on the terms of reference for the potential expert advisory mission.</li> </ul>
<p><b>Bureau meeting 9-10 September 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau noted the lack of reports of both the authorities and the complainant. It further noted that the national authorities have contacted the Secretariat with a request for clarifications regarding the possible terms of reference of the expert advice mission which the Convention proposed. It instructed the Secretariat to respond to the authorities and to seek the organisation of the mission in 2020. It advised that the issue of the management and conservation of the Balkan Lynx is also included in the Terms of reference of the mission.</li> <li>➤ Eventually, it instructed the Secretariat to prepare the draft Terms of reference and submit these for discussion at the upcoming 39th meeting of the Standing Committee.</li> </ul>
<p><b>November 2019</b></p>	<ul style="list-style-type: none"> <li>➤ In line with the decision of the Bureau in September 2019, a draft terms of reference proposed for a Bern Convention advisory mission to 3 areas of North Macedonia which have ongoing case files (Open case-file - Complaint No. 2013/1 - Mavrovo National Park, Complaint on stand-by No. 2015/2 – Bogdanci, and Complaint on stand-by No. 2017/2 - Lake Ohrid and Galichica National Park) will be submitted for consideration by the Standing Committee in December 2019.</li> </ul>
<p><b>Complainant's report November 2019</b></p>	<p><b>1. Suspension of the hydropower projects in the Mavrovo National Park</b></p> <ul style="list-style-type: none"> <li>➤ The development of the large hydropower projects has not continued. The draft of the newly developed Energy Strategy is under public consultations. It states that the Strategy is not going to elaborate hydropower projects planned in protected areas such as the Boskov most and Lukovo Pole. At the same time, the draft document proposes 230 MW of installed capacity in low performing hydro power plants, which inevitably means the further development of these projects in protected areas (around 50 projects are being proposed).</li> </ul> <p><b>2. Progress with the SEA and Law on Mavrovo</b></p> <ul style="list-style-type: none"> <li>➤ There has been no progress on the preparation of the Law on the protection of Mavrovo National Park, its Management Plan, nor the development of the Strategic Environmental Assessment for the planned infrastructure activities on it's territory.</li> <li>➤ On 30.05.2019, partner CSO Front 21/42 submitted an Administrative complaint to the Ministry of environment and physical planning for the Law on re-proclamation of Mavrovo National park.</li> <li>➤ On 31.10.2019 the Decision from the Ministry stated "In the procedure of re- proclaiming Mavrovo as national park, the Public Enterprise National Park Mavrovo, failed to inform or notify the Department of Nature that an official letter was issued by the park authority on 24.04.2015 giving</li> </ul>

	<p>positive opinion for small low-performing hydropower projects on the territory of the Mavrovo National Park, which do not comply with the protection regime contained in the already submitted Valorization Study on the basis on which the re-proclamation procedure was initiated”.</p> <ul style="list-style-type: none"><li>➤ In the official positive opinion regarding the LPHPs Zirovnicka 5, Zirovnicka 6, Ribnicka and Jadovska issued by the NP Mavrovo authorities, it is noted that the projects are in conflict with the protection zone where no infrastructure activities are allowed.</li><li>➤ The local municipality of Mavrovo and Rostushe recently abolished two construction permits.</li><li>➤ In addition, local inhabitants in Mavrovo organized protests against the construction of Zhirovnica LPHPs since the plant will compromise access to their drinking water supply. The local community has never been consulted about the construction of this project. This plant was also subject to an inspection and lost its construction permit. The environmental study approval is also found to be deficient. The annex contract for this project prolongs the construction to January 2020.</li></ul> <p><b>3. Bern Convention mission to Macedonia</b></p> <ul style="list-style-type: none"><li>➤ For the purpose of this case and the request from the Bern Convention Secretariat for access to relevant legislation and documents before their upcoming mission to Macedonia, we have prepared and compiled all necessary files and documents (Draft law on Mavrovo NP, Study on the revalorization of the values of Mavrovo NP, SEA procedure according the law, individual expert reports for the Mavrovo NP) and made is available to the authorities. If the Secretariat wishes so, we shall send these documents in electronic format.</li></ul>
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<b>2016/05: ALBANIA: PRESUMED NEGATIVE IMPACT OF HYDRO-POWER PLANT DEVELOPMENT ON THE VJOSA RIVER IN ALBANIA</b>	
<b>Date submitted</b>	07/2016
<b>Submitted by (Complainant)</b>	EcoAlbania (Center for protection of Natural Ecosystems in Albania)
<b>Respondent State (Respondent)</b>	Albania
<b>Specie/s or habitat/s affected</b>	Vjosa river and its tributaries
<b>Background to complaint</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ The Poçem HPP project will –               <ul style="list-style-type: none"> <li>a) block the upstream and downstream of fish species</li> <li>b) prevent sediment transport downstream to the Adriatic Sea</li> <li>c) create expected decline in ground water</li> <li>d) create reduced water quality due to the reduction of self-purification rate</li> </ul> </li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ The Secretariat received letters of support to the complaint by a large number of civil society organisations, national and European.</li> </ul>

<p><b>Respondent's report January 2017</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ The EIA includes a biodiversity study, with a total of 5 pages out of 69 pages in total.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<p><b>Complainant's report February 2017</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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</li> </ul>
<p><b>Bureau Meeting 21 March 2017</b></p>	<ul style="list-style-type: none"> <li>➤ Instructed the Secretariat to request a new report from national authorities, in particular on:             <ul style="list-style-type: none"> <li>a) the current (and future) protection status of the area concerned, taking into account its possible qualification for an Emerald/Natura 2000 site,</li> <li>b) the foreseen impact of the project on the Bern Convention species and habitats and how these could be mitigated,</li> <li>c) the allegations by the complainant that the 140 pages presented as an SEA cannot be considered as such and</li> <li>d) any other useful information that could clarify how the cumulative impact of all hydro power projects in Albania has been assessed.</li> </ul> </li> <li>➤ 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.</li> <li>➤ The case will remain under the category other complaints.</li> </ul>
<p><b>Complainant's email update 6 May 2017</b></p>	<ul style="list-style-type: none"> <li>➤ On April 26<sup>th</sup> 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).</li> <li>➤ 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.</li> <li>➤ 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 2<sup>nd</sup> 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"> <li>a) the EIA report was not done properly and in accordance with Albanian law;</li> <li>b) the public consultation was in fact fictive;</li> <li>c) the Environmental declaration issued by the Ministry of Environment was not in accordance with the Albanian law;</li> <li>d) therefore the court found the concessionary contract absolutely invalid and the overall procedure followed as illegal.</li> </ul> </li> </ul>

<p><b>Complainant's email update 31 July 2017</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ May 26<sup>th</sup> 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.</li> <li>➤ At the date of correspondence there was officially and legally no hydropower planed in the Vjosa river main course. However, on May 26<sup>th</sup> 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 17<sup>th</sup> of July 2017.</li> </ul>
<p><b>Respondent's report 9 August 2017</b></p>	<ul style="list-style-type: none"> <li>➤ On 2<sup>nd</sup> 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.</li> <li>➤ 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).</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ These impacts are planned to be mitigated by implementation of certain measures as follows: <ul style="list-style-type: none"> <li>a) provision of by-passes for wild fauna in order to avoid habitat fragmentation;</li> <li>b) placement of mesh nets with sizes that allow for the fish and eel movement across the damn;</li> <li>c) placement of fish friendly turbines;</li> <li>d) reforestation of the area where the construction will take place;</li> <li>e) control of sediments arising from the construction phase;</li> </ul> </li> <li>➤ 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</li> <li>➤ 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.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ According to the authorities calculations HPP Poçem is nearly 22km away from the nearest boundary of the Protected landscape Vjose – Narte.</li> </ul>
<p><b>Complainant's report 19 August 2017</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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 5<sup>th</sup>, 2016. At the date of reporting, the company has not submitted the document to the National Agency for Natural Resources.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<p><b>Bureau meeting September 2017</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ The complaint is moved to the category Complaints on stand-by.</li> </ul>

<p><b>Letter addressed to national authorities</b> <b>14 February 2018</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<p><b>Complainant's report</b> <b>March 2018</b></p>	<ul style="list-style-type: none"> <li>➤ On May 26<sup>th</sup> 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.</li> <li>➤ 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 18<sup>th</sup> of July 2017.</li> <li>➤ 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 28<sup>th</sup> of August 2017.</li> <li>➤ 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.</li> <li>➤ 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</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>

<p><b>Bureau meeting March 2018</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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</li> </ul>
<p><b>OSA mission June 2018</b></p>	<ul style="list-style-type: none"> <li>➤ OSA mission takes place</li> <li>➤ Report available in document <a href="#">T-PVS/Files(2018)43</a></li> <li>➤ Draft Recommendation for possible adoption by the Standing Committee prepared on the basis of the OSA report</li> </ul>
<p><b>Bureau meeting September 2018</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<p><b>Complainant report October 2018</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ On June 8<sup>th</sup>, 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ On 5<sup>th</sup> 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.</li> </ul>

- 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.

<p><b>Standing Committee December 2018</b></p>	<ul style="list-style-type: none"> <li>➤ The Standing Committee thanked the Albanian authorities for hosting the OSA mission, for fully supporting its recommendations and for committing to ensure compliance and report on their implementation. The Committee further thanked the national NGO for its report and efforts to protect the unique river system of the Vjosa River.</li> <li>➤ The Committee adopted Recommendation No. 202(2018) on the planned hydro-power plant developments on the Vjosa river (Albania), prepared following the on-the-spot appraisal to the area in June 2018.</li> <li>➤ The Committee welcomed the positive news that the Workshop mentioned in operational point 9 of the Recommendation is already planned and will take place during the first week of December.</li> <li>➤ The Committee decided to open a case-file and to closely follow-up the implementation of the Recommendation.</li> <li>➤ The Committee agreed that the issue of hydro power energy and Emerald Network sites should be examined by the Group of Experts on Protected Areas and Ecological Networks in view of presenting principles in this respect, because of the high importance of the issue.</li> </ul>
<p><b>Respondent's report February 2019</b></p>	<ul style="list-style-type: none"> <li>➤ Minister of Infrastructure and Energy has set the freezing of all non-operational contracts until the release of the scanning report for each of them in the end of January 2019. The Ministry of Infrastructure and Energy will also coordinate with the Ministry of Tourism and the Environment for an integrated legal and administrative approach with regard to HPP that have not started the construction phase yet.</li> <li>➤ The Minister of Infrastructure and Energy Ms Belinda Balluku, very recently on 24<sup>th</sup> January 2019, has issued a decision to start a licensing documentation scanning process for each licensed entity, as well as physical scanning of each HPP and implementing entity. This process will be followed by a working group led by Deputy Minister Mr Bonati, who has done a voluminous and valuable work in the water sector.</li> <li>➤ The process in question will be based on two criteria, the criterion of legal compliance and the fulfilment of contractual terms by licensed entities, including technical conditions and time limits, as well as the compliance criteria with environmental requirements. This institution has, in the last five years, made a great deal of discipline on the inherited situation, which was problematic before, while the sector's problems in this regard are not over, instead they are real and worrying.</li> <li>➤ Therefore, the Ministry of Infrastructure and Energy will also scan and evaluate whether existing contracts are in compliance with the environmental conditions and standards required in the respective areas - concessionaires are obliged to be in full compliance with the legislation in force regarding the environment and the environmental conditions set out in the contract.</li> <li>➤ Until the end of this scanning process, the Minister of Infrastructure and Energy, Belinda Balluku said she has decided to freeze all non-operational contracts.</li> <li>➤ A scientific symposium for the study of biodiversity and ecology in the basin of Vjosa River took place in Tirana in the first week of December 2018 – as requested by Recommendation No 202 (2018).</li> <li>➤ It was organised in cooperation with the Faculty of Natural Sciences of the University of Tirana and Euro Nature. The representative of the Ministry of Tourism and Environment and Bern Focal Point Ms Elvana Ramaj, participated on behalf of the Ministry of Tourism and Environment. MTE appreciates the scientific work carried out by the faculty of Natural Sciences of</li> </ul>

	<p>Tirana in cooperation with the Vienna University. Its results and publication will be used during the evaluation phase for Vjosa river basin management and the appraisal of any potential request for HPP-s development in this basin.</p> <ul style="list-style-type: none"> <li>➤ In the same time as informed previously work in the planned HPP Pocem is suspended following the decision of the Administrative Court of 2017. For Kalivac HPP, there is no application for the Environmental Impact Assessment procedure so far. For Pocem HPP, the developer of the subject "Cinar - San Tiran Branch", is provided with the Environmental Declaration no. 663 Prot., Dated 24.4.2015, Decision 15 of the Environmental Permit Commission 2015. This project has been subject to an in-depth EIA procedure.</li> <li>➤ According to Law no. 10440, date 7.7.2011 "On the environmental impact assessment", amended, Article 20, para 5, if the activity does not start the application (construction) on the ground within two years from the date of adoption of the EIA decision, then these documents are considered invalid and the EIA process starts from beginning again.</li> <li>➤ For the aforementioned, this project did not start implementing, after being suspended by the Administrative Court decision of 2017, and is currently awaiting the decision of the Appeal of this Court. Thus, the validity of the Environmental Declaration ended on 24.04.2017 and the subject has to start procedures from beginning for any environmental permit.</li> <li>➤ So, we emphasize that none of the Kalivac or Pocem HPPs has started with the construction phase. Also from the latest information from the National Agency of Environment there is no request for public consultation so far. This can be also checked through NEA website at the following link: <a href="http://www.akm.gov.al/publiku.html#konsulta">http://www.akm.gov.al/publiku.html#konsulta</a>, where all requests for public consultation are announced directly into the website with the determined date, time and place for the consultation.</li> <li>➤ Last but not least, a dedicated government agency: National Agency of Water Resources is established in late 2018, with the purpose to coordinate the work and policies related to the water resources management and administration. This agency is following up closely the issue of water basin integrated management plans and Vjosa basin is amongst the first to be elaborated. This work will be supported by the project Sectoral Document Planning that is being implemented since mid 2018 in Albania, supporting the Albanian government to comply with the requirements of the Water Framework Directive.</li> <li>➤ The Ministry of Tourism and Environment is in the last phases of preparation of an integrated action plan with its agencies: National Environment Agency, National Agency of Protected Areas, State Inspectorate of Environment, Forests and Waters, the Ministry of Infrastructure and Energy, the National Agency of Natural Resources and the National Agency of Natural Resources as well as local government structures in order to address all request of the recommendation No. 202 (2018).</li> </ul>
<p><b>Complainant report February 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The Poçem hydropower project: The Ministry of Energy and Industry as well as the Ministry of Environment announced on May 4th, 2017, 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.</li> <li>➤ The Kalivaç hydropower project: 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.</li> <li>➤ After a series of efforts made by EcoAlbania to receive any information regarding this concession or regarding the EIA procedures, yet there is no information provided by the public authorities. Please refer to the last update on 23.10.2018.</li> </ul>

- So far, the last developments show that the concessionary company has already appointed the consultant company to prepare the EIA. The consultant company appointed, is the Albanian ABCONS company. In the very beginning of their work for EIA procedures for Kalivaç, they have faced difficulties on setting up the expert team, as almost all renowned national experts refused to be part of the team. Most of these experts mentioned that there is no place for hydropower construction on the particular part of the Vjosa River, due to high risk for environmental impacts. Many of them are part of the “Memorandum for Vjosa”, Please refer to the last update on 23.10.2018.
- On January 17<sup>th</sup>, 2019 the team of experts hired by the consultant company went at the dam construction site as the first field visit on the study area. They have been reserved towards the media interest. The only information we have unofficially is that the EIA will be concluded in not less than 3 months - time and it will be consulted with the local and national stakeholders. So far, no studies have been conducted on the ground and no draft of EIA is presented to the National Agency for Environment by the concessionary company regarding the Kalivaç hydropower project. However, we assume that no proper EIA can be done in that short period of time (3 months) as stated by the consultant company and we call on Bern Convention to increase the pressure towards Albanian Government, precisely towards the Ministry of Environment to follow carefully the process of EIA study preparation as regard the Kalivaç project.
- 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 (Please refer to the last update on 23.10.2018). 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 *Isoptera Vjosae*.
- In spring 2018 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 will be drafted and published by the group of independent scientists from Albania, Germany, Austria etc. All findings are gathered and published in a special edition book of Acta ZooBot Austria 155/1 under the title [“The Vjosa River in Albania – a riverine ecosystem of European significance”](#).
- Considering on-the-spot appraisal for the affected area from Kalivaç and Poçem hydropower and the decision to open a case file for the Vjosa case by the Standing Committee as an important commitment shown by the Convention to highlight the urgency of acting immediately, we are looking forward to more pressure to Albanian Government and especially to a more close follow of the procedures regarding the hydropower projects of Kalivaç and Poçem. Thus the Convention is taking action on the protection of the last free flowing river of Europe.
- During this spring – summer 2018 there have been conducted “in situ” measurements of the sediment transport of the Vjosa River near the Kalivaç-Poçem area by a group of researchers of During the spring-summer period 2018, a sediment transport study has been conducted by the Leibniz Institute of Freshwater Ecology and Inland Fisheries (Germany). So far, the preliminary data shows that, the construction of the Kalivaç and Poçem hydropower projects would cause a “lose-lose-lose” situation in terms of biodiversity loss-social conflicts generation-economic loss in mid and long term. However, the full publication of the data will be published in mid-March 2019.

	<ul style="list-style-type: none"> <li>➤ The National Agency of Water Management is a recently founded authority that will be in charge of preparation of the River Basin Management Plans for all 7 Albanian River Basins. The Agency is closely cooperating with an EU founded project that has recently started implementation. The plans are to start first with the preparation of the Vjosa River Basin and the foreseen time to have the first final draft of this plan is after 2023. This indicates that both Kalivaç and Poçem hydropower are taking place without proper planning.</li> <li>➤ The battle for the protection of the Vjosa River is reaching a very decisive stage and considering this EcoAlbania and its partners will use of all legal means to protect this unique natural heritage from dam construction. In this regard, the lawsuit against Kalivaç project will be sent soon to the Administrative Court in Tirana. In the court will be challenged procedures the followed by the company for the EIA preparation and the public consultation.</li> <li>➤ Filing a complaint to the Energy Community is another tool, which is used in parallel with the domestically legal battle in the Albanian Court.</li> <li>➤ Another important step that will take place in the second half of 2019 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 that dams will be constructed.</li> <li>➤ In addition to that the conference will be an opportunity for riverine scientific community to come together and to exchange the know-how and the experience on the free-flowing river importance and river management. The Conference will serve also as an opportunity to invite the decision-makers to be aware of the scientific importance of this special ecosystem.</li> <li>➤ As agreed in Strasbourg and as foreseen in the Recommendation 202 (2018), the Ministry of Tourism and Environment would co-organize a Vjosa Science workshop, which took place in December 2018, but in the end the Minister didn't show up and this reflects once again how willing the is the decision-making authority is to monitor this issue.</li> </ul>
<p><b>Bureau meeting March 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau thanked the Albanian authorities for their report on planned activities in view of implementing Recommendation No. 202 (2018) on the planned hydro-power plant developments on the Vjosa river (Albania).</li> <li>➤ The Bureau agreed that the pressure on rivers and their ecosystems in the Balkans from hydro energy is particularly high and that strategic planning and assessment of impact is particularly relevant. It reminded the national authorities of Albania of operational paragraph 11 of Recommendation No. 202 (2018) requesting “a schedule and programme of work to implement the above recommendations, including details of the person/actors responsible, along with the timetable with clear milestones and deadline for each recommended action”.</li> <li>➤ The Bureau instructed the Secretariat to request that the authorities provide the schedule and programme of work foreseen in the Recommendation for its second annual meeting in September 2019, along with a report on further progress in the Recommendation's implementation, a short progress report on the setting-up of the Emerald Network and a feedback on the complainant report submitted (document T-PVS/Files (2019)20).</li> </ul>

<p><b>Bureau meeting 9-10 September 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau noted the lack of updated reports by both the authorities and the complainant. It expressed particular regret at the lack of a reply by the authorities to the requests of the Bureau for the submission of a programme of work on the implementation of the Recommendation.</li> <li>➤ The Bureau urged the national authorities of Albania to be present at the 39th meeting of the Standing Committee and to provide an update on their concrete actions on each of the operational paragraphs of the Recommendation, as well as a concrete programme of work for their achievement.</li> </ul>
<p><b>Complainant report November 2019</b></p>	<ul style="list-style-type: none"> <li>➤ On February 25th, 2019, EcoAlbania together with its partner organizations Euronatur and Riverwatch filed a complaint to Energy Community Treaty against Albania regarding the construction of the 2 hydropower projects in the Vjosa River, followed by a meeting between the Complainant parties and the Energy Community held on March 12<sup>th</sup>;</li> <li>➤ On February 28th, EcoAlbania requested information from the National Agency of Environment whether the Turkish Company AYEN-ALB has requested the initiation of the EIA procedure. The response from National Agency of Environment was negative;</li> <li>➤ On March 27th, the company was in the affected areas to communicate the project to the local communities. There was not much discussion in the meetings as the local community were completely against the hydropower project;</li> <li>➤ On April 5th, the consultant called a meeting with almost all the active NGOs that are operating in the field of environment protection in Albania. In the meeting there was not presented any information regarding the project but only the planning phase towards the procedure of the EIA preparation. Once again, the NGOs opposed the hydropower project;</li> <li>➤ On April 8th, EcoAlbania requested the Feasibility Study to the AYEN-ALB Company and received no answer;</li> <li>➤ On April 14th, a study on measuring the sediment load on the Vjosa River was presented with the main outcomes:             <ul style="list-style-type: none"> <li>➤ The filling up of Vjosa reservoirs with sediments is calculated within 30 – 40 years for Poçem and 45 – 60 years for Kalivaç;</li> <li>➤ High economic cost are expected for sediment management and treatment;</li> <li>➤ River bed incision will be the consequence;</li> <li>➤ Coastal (Lagoon) erosion will increase due to lack of sediment transport;</li> <li>➤ Degradation of ecology, loss of European sea-side tourism as well as of eco-tourism in the Vjosa catchment must be expected;</li> </ul> </li> <li>➤ On June 6th, EcoAlbania, Euronatur and Riverwatch announced the vision for the proclamation of the Vjosa River National Park. Although the vision was welcomed by the scientific community, Local Government Units, and Touristic agencies, it was not considered by the representatives of the Ministry of Tourism and Environment that were present;</li> <li>➤ On July 30<sup>th</sup> the consultant Abkons presented the first draft of the ESIA-Scoping report. Without considering the local community concerns, the concessionary company applied on September 19th for the initiation of the EIA procedure to the Ministry of Tourism and Environment;</li> <li>➤ On 1st October, The Ministry of Tourism and Environment forwarded the Concessionary company request for the initiation of the EIA procedure to the National Agency of Environment;</li> </ul>

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|  | <ul style="list-style-type: none"><li>➤ On October 3rd, Abkons presented the final Scoping Report in regarding the Environmental and Social Impact Assessment Report for the Kalivaç hydropower project, in which they stated that Kalivaç dam would be demolished after 50 years;</li><li>➤ On October 18<sup>th</sup> an International Symposium on Wild Rivers ISWR 2019 took place. About 120 international scientists discussed the critical condition of rivers worldwide and the need to protect the last intact river systems. A special focus was given to rivers in the Balkans and the Vjosa river in Albania. In a declaration, the participating scientists call upon European Institutions, political leaders in South-East Europe and the Albanian Government specifically to protect the remaining intact rivers in Europe; Furthermore a petition regarding the Vjosa was also started by the international scientists, towards the Albanian government;</li><li>➤ Another crucial development which may impact the Vjosa River delta is the urbanization of a considerable part of the already existing Protected Area including construction of an international airport within the boundaries of Vjosë-Nartë, even though this site has been officially nominated by the Albanian Government as a candidate Emerald Network site. According to current information, neither a Strategic Environmental Assessment nor an Environmental Impact Assessment was elaborated;</li><li>➤ 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.</li></ul> |
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**POSSIBLE FILES**

<b>2001/4: BULGARIA: MOTORWAY THROUGH THE KRESNA GORGE</b>	
<b>Date submitted</b>	April 2013
<b>Submitted by (Complainant)</b>	Save the Kresna gorge NGO coalition
<b>Respondent State (Respondent)</b>	Bulgaria
<b>Specie/s or habitat/s affected</b>	Numerous species listed in Appendices I-II
<b>Background to complaint</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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).</li> <li>➤ 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.</li> <li>➤ By a decree of 14<sup>th</sup> 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<b>Complainant's signal September 2015</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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 19<sup>th</sup> December 2014 and 24<sup>th</sup> March 2015.</li> <li>➤ 13<sup>th</sup> 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.</li> </ul>
<b>Bureau meeting September 2015</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<b>Respondent's report November 2015</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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].</li> </ul>
<b>Standing Committee December 2015</b>	<ul style="list-style-type: none"> <li>➤ Consider this closed file as a possible file at its next meeting.</li> <li>➤ Took note of statements by Switzerland, the Czech Republic and Iceland in support of the complainant's request to open a case-file.</li> <li>➤ 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.</li> </ul>
<b>Respondent's report February 2016</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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 14<sup>th</sup> 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</li> </ul>

	<p>(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.</p> <ul style="list-style-type: none"> <li>➤ 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 3<sup>rd</sup> February 2016.</li> <li>➤ 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: <a href="http://ncsip.bg/en/index.php?id=48">http://ncsip.bg/en/index.php?id=48</a></li> </ul>
<p><b>Complainant’s report February 2016</b></p>	<ul style="list-style-type: none"> <li>➤ The revised scope of the new 2015 EIA had been submitted for final approval to the Ministry of the Environment and Water on 24<sup>th</sup> 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.</li> <li>➤ 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).</li> <li>➤ The outcome of liaison with the EC. On 14<sup>th</sup> 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.</li> <li>➤ 26<sup>th</sup> 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.</li> </ul>
<p><b>Bureau Meeting March 2016</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<p><b>Respondent’s report July 2016</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ All necessary mitigation and, if necessary, compensation measures will be adopted to maintain the ecological value of the area.</li> <li>➤ 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.</li> </ul>
<p><b>Complainant's report July 2016</b></p>	<ul style="list-style-type: none"> <li>➤ 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 15<sup>th</sup> meeting of the Struma motorway Monitoring Committee on 4th July 2016.</li> <li>➤ The abandonment of the long tunnel option, considered as the preferable one by the 2008 EIA decision, is based on false arguments. Firstly, the 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.</li> <li>➤ 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.</li> <li>➤ The new EIA procedure for Lot 3.2 has been delayed because from 7<sup>th</sup> April 2016 the responsibility of managing the project was transferred to the Road Executive Agency from the National Company "Strategic Infrastructure Projects".</li> <li>➤ 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.</li> </ul>
<p><b>Respondent's report October 2016</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>

<p><b>Complainant's report October 2016</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<p><b>Complainant's report November 2016</b></p>	<ul style="list-style-type: none"> <li>➤ Provided by the coalition of nine organisations/institutions which submitted the signal to the Convention in 2015.</li> <li>➤ 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.</li> <li>➤ Provides information of Government public campaigns, aiming to justify the environmental alternative with timeframe and financial arguments.</li> </ul>
<p><b>Stakeholder submission November 2016</b></p>	<ul style="list-style-type: none"> <li>➤ 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".</li> <li>➤ 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.</li> </ul>
<p><b>Standing Committee Meeting November 2016</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>

<p><b>Respondent's report</b> <b>March 2017</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<p><b>Complainant's report to EC</b> <b>April 2017</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>

<p><b>Bureau meeting September 2017</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau invited the national authority to provide an exhaustive, detailed and clear update to the Standing Committee meeting on the 5<sup>th</sup> to 8<sup>th</sup> 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.</li> <li>➤ 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.</li> <li>➤ The file remains as a possible file.</li> </ul>
<p><b>37<sup>th</sup> meeting Standing Committee December 2017</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<p><b>Respondent's report March 2018</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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'.</li> </ul>

<p><b>Complainant's report March 2018</b></p>	<ul style="list-style-type: none"> <li>➤ 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 2<sup>nd</sup> April 2018.</li> <li>➤ 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.</li> <li>➤ 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).</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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 an application form to the EU, and the EU co-financing was officially approved in November 2017.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
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<p><b>Bureau meeting March 2018</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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”.</li> <li>➤ 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.</li> </ul>
<p><b>Respondent’s Report August 2018</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>
<p><b>Bureau meeting September 2018</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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).</li> <li>➤ 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.</li> <li>➤ Invited the national authorities to attend the upcoming meeting of the Standing Committee and to present the latest developments in relation to the file.</li> <li>➤ Further invited all Parties, including the European Union to present their views on the file.</li> </ul>
<p><b>Respondent’s report October 2018</b></p>	<ul style="list-style-type: none"> <li>➤ Reconfirms that the EIA Decision 2017 was appealed at the court by 2 (two) individuals and 1 (one) non-governmental organization (NGO).</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>

- 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"> <li>➤ 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 development<sup>1</sup>.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ Therefore, we request the Bureau of the Bern Convention to reconsider the issue of assigning an external review of the EIA.</li> <li>➤ In view of the above, we ask the honorable Standing Committee to remove this file from the list of possible files.</li> </ul>
<p><b>Complainant's report October 2018</b></p>	<ul style="list-style-type: none"> <li>➤ 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)</li> <li>➤ 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"> <li>a) The 2008 EIA decision - EIA decision 1-1/2008 for adopting the construction of the whole Struma motorway - is in force, stable and unammended and that the new EIA decision 3-3 / 2017 contradicts it</li> <li>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.</li> <li>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).</li> <li>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.</li> </ol> </li> </ul>

<sup>1</sup> 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>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 motorway.</p> <p>➤ On July 12<sup>th</sup> 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>
<p><b>Respondent's update November 2018</b></p>	<p>➤ 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.</p> <p>➤ 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“)).</p> <p>➤ The existence of all pre-conditions under the said provision of the EPA was confirmed by the Supreme Court, namely:</p> <ol style="list-style-type: none"> <li>1) The EIA Decision 2017 has been issued by the Minister of Environment and Water;</li> <li>2) The investment proposal is declared a site of national importance by an act of the Council of Ministers; and</li> <li>3) The investment proposal is a site of strategic importance.</li> </ol> <p>➤ On this ground, the Supreme Court ruled that the Judgement is final and cannot be appealed.</p> <p>➤ 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.</p> <p>➤ 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.</p> <p>➤ 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.</p> <p>➤ In view of the above, ask again the honourable Standing Committee to remove the present file from the list of possible files.</p>

<p><b>Standing Committee December 2018</b></p>	<ul style="list-style-type: none"> <li>➤ The Standing Committee thanked the Bulgarian authorities for the updated information on recent developments on the case and the final decision of the Bulgarian Supreme Administrative Court, rejecting a complaint against the EIA/AA decision on procedure and substance. The Committee recognised the authorities' efforts in relation to the case, including the fulfilment of Recommendation No. 98 (2002) and readiness to continue their reporting to the Bern Convention. It further noted their strong opposition to an external review of the EIA/AA study, in view of the Court's final decision confirming equal treatment of the assessed alternatives and compliance with relevant national and EU legislation.</li> <li>➤ The Committee also noted the complainant NGO's concern that the construction can be imminent and their proposal for an on-the-spot appraisal visit and their support for an independent external review of the EIA/AA study and in particular its quality and conformity with Bern Convention's requirements and obligations.</li> <li>➤ After a long debate, the Committee decided to keep the file as possible and to await that the application package to the European Commission is submitted and the evaluation by the European Commission services is made available, as this will certainly be done taking into account the EU acquis on nature conservation.</li> <li>➤ Eventually, it decided to request the authorities to report to the Bureau and Standing Committee on progress in submitting the application package and any other relevant and new information, including on the mitigation and compensation measures planned in relation to the alternative chosen for LOT 3.2.</li> </ul>
<p><b>Respondent's report February 2019</b></p>	<ul style="list-style-type: none"> <li>➤ On 22 October 2018 an initial version of the application form (AF) for Struma MW Lot 3.2 with all additional documents were presented to JASPERS initiative.</li> <li>➤ On 8 November 2018 comments were received from JASPERS and the documentation was revised accordingly.</li> <li>➤ On 24 January 2019 the revised AF was sent to JASPERS again. We look forward to JASPERS's remarks or completion note.</li> </ul>
<p><b>Complainant's report February 2019</b></p>	<ul style="list-style-type: none"> <li>➤ We would like to urge the Bern Convention secretariat to closely monitor the action of the Bulgarian government and EC to ensure implementation of the Bern Convention Recommendations. Despite international attention to the case we are still witnessing illicit actions and circumvention of the law requirements by the Bulgarian government. We hope that the EC will take timely action to ensure Kresna gorge protection and implementation of the EU and Bern Convention Requirements, however we extremely concerned that due to the time pressure with the completion of the Motorway by 2023 compromises with the protection requirements will be made (see Annex 1).</li> <li>➤ The construction of a motorway Struma in the Kresna Gorge NATURA 2000 site (lot 3.2) has started illegally.</li> <li>➤ In our update from November 20, 2018, we provided information that in the area of Kresna Gorge, the construction of Lot 3.2 of the Struma Motorway was unlawfully started. These concerns were objected by the Governmental delegation in plenary. Between 11 and 13 February 2019, the Bulgarian television bTV presented an independent investigation about the illegal construction of 7km of access roads and 13 exploratory drillings involved several months of work with heavy machinery in a NATURA 2000 site "Kresna – Ilindenci". The documented preparatory works alongside the potential route of lot. 3.2 were implemented without permissions, assessment of impacts and before the procurement procedure for the same works has been even launched in August 2018. In other words, a private company carried out construction work anticipating the outcomes of the public procurement, which provide the company with information that is not accessible to other candidates in the tender. The interviews with the head of the construction company also shows this case was not isolated practice and similar "preparatory works" were carried out by the same company also in</li> </ul>

October 2016 in relation to another tender, namely the tender for the preliminary design of Lot 3.2 that was won afterwards by the same company in April 2017. The same private company is also participating in the construction of lot 1, lots 2 and 3.3 of Struma Motorway.

- So far only the Ministry of Agriculture and Forestry (South-West Bulgaria Agency) issued an administrative act about the illegal construction works and drillings. A fine of EUR 7500 was imposed to the private company “Putproject 2000” and the director of Forestry Agency Kresna was dismissed.
- Oddly the Regional Inspectorate of the Ministry of Environment and Water so far refused to take any measures against this violation. In begging of February 2019, the NGO BALKANI Wildlife Society sent a signal for illegal construction of access road to the Regional Inspectorate (Blagoevgrad). The signal also pointed out that this access roads were built outside the approved right of way on the road and were not assessed in the latest EIA decision of November 2017, and thus violate it. The signal also pointed out that during the construction are destroyed protected by NATURA 2000 site natural habitats and habitats of species (habitats with NATURA 2000 codes 9560, 91AA, 6220 and habitats of species *Testudo graeca*, *Eurotestudo hermanni*, *Elaphe quatorlineata*, *Elaphe situla*). With their letter from 18th February the Regional Inspectorate refused to take any measure to investigate and sanction the violation signaled by the complaint as required by Bulgarian Biodiversity Law and to take measures to restore damaged protected habitats as required by the Bulgarian Law on Environmental Liability.
- Cumulative impact of the Eastern 10.5 alternative was not assessed in the 2017 EIA/ AA report as the upgrade of the existing E79 road to high-speed road was not consider. Applying salami approach the Bulgarian Road Agency requested between August and November various permissions for different works and Land-use Plans that are new respects to the routes and works assessed in the scope of the EIA.
- In violation of the EIA the Road Executive Agency (REA) is planning enlargement of the current road passing through the Kresna Gorge – adopted by government as western motorway lane of G10,5 alternative and thus breaching also paragraph 3 of the Recommendation 98/2002
- On 28th August 2018 and 4th September 2018, the REA requested start of substantial rehabilitation work on the existing road E-79. The request are formulate as rehabilitation work that does not require EIA/AA assessment according to the Bulgarian law. The construction works described in the request involve upgrade of the existing road to high-speed road that involve additional junctions, new rest areas, rebuilding of number of tunnels and bridges in NATURA 2000 site that were not subjects of AA assessment.
- On 2 November 2018 REA submitted in the Ministry of Environment and Waters the documentation for screening the need of EIA and AA of Detailed Land use Plan for rehabilitation of the right (western) lane of Struma Motorway.
- According to this documentation REA is planning intensive construction works along the current road in the Kresna Gorge which also includes right of way on the additional territories in NATURA 2000 site. Such construction works and rights on way of NATURA 2000 territories have not been assessed and described in the latest EIA decision of November 2017 and are a significant violation of it, but also violate the EIA decision from 2008 and Recommendation 98/2002 requiring abandoning the option of enlarging the current road since this would significantly increase damage to a unique site, without possible measures of compensation.
- The submitted Land use Plan for Right Lane was withdrawn from REA in about a month without explanation, and the Ministry of Environment and Water has not taken a decision on it. However, the same LP is currently available on the REA page.
- 2.2 The Road Executive Agency (REA) is planning the left (eastern) Struma Motorway lane in violation of the EIA decision 3-3/2017
- On 13 November 2018 REA submitted in the Ministry of Environment and Waters the documentation for screening the need of EIA and AA of Detailed Land use Plan of construction of the left (eastern) lane of Struma Motorway. According to this documentation REA is planning the rout and

its rights of way on left (eastern) Struma Motorway lane of lot 3.2. in different locations that the route and its rights of way adopted by the EIA decision 3-3/2017. Thus the impacts of this Land use Plan on Natura 2000 sites Kresna – Ilindentci BG0000366 are not assessed and such construction would violate the latest EIA decision of November 2017.

- The Land use Plan for Left lane was also withdrawn from REA in several weeks without explanation, and the Ministry of Environment and Water has not taken a decision on it. And the same MP is currently available on the REA page.
- The actions from the EC on the Infringement Complaint CHAP(2017)02186 of 10 July 2017 against Bulgaria – still unclear
- The first response from the EC about the status of the complaint CHAP(2017)02186 from 10 July 2017 was received only on 30 November 2018. The EC inform us that the complaint was on hold due to ongoing litigation in national court and pending application for EU funds.
- In our response from February 6<sup>th</sup> 2019 we reiterate that the complaint CHAP(2017)02186 and the update submitted in November 2017 covers two breaches of Habitat Directive – namely 1) breach of art.6.2 with the construction of the entire Struma Motorway and 2) breach of art.6.3 with the approval of the construction of lot.3.2 through Kresna gorge NATURA 2000 site. While we understand that the DG Env will have a role in the review and approval the EU funds Application for the Lot.3.2 of Struma Motorway we are deeply concerned that blending the appraisal of the complaint with the approval of the Application for EU funds would not allow to bring the infringement to the end as required by the Treaty. The breaches of the EU law described in the complaint and subsequent updates are such that irreversible damage on protected habitats and species might be caused everyday.
- Therefore, we urge DG Environment to prioritise our complaint and take immediate actions in order to guarantee the implementation of the Habitats Directive' provisions for the protection of Kresna gorge.
- Action requested of the Bern Convention: The Kresna gorge NATURA 2000 site (Kresna-Ilindentzi BG0000366 SCI) is an example of systematic deficiencies of the Bulgarian government regarding the protected area designation, management plans and appropriate conservation objectives and measures in view of achieving or maintaining favorable conservation status of the protected species and natural habitats types.
- The started construction of the Struma Motorway in section lot 3.2, in violation of the procurement rules and without having finally adopted Land use Plans, makes the threat about the irreversible damage on Kresna Gorge Area very imminent.
- The application for EU funds to the European Commission will be submitted by the Bulgarian Authorities at stage when most of adverse impacts will be already made and it will be not possible even to mitigate or compensate them. The main principle of the European environmental policy – the principle for prevention of potential impacts – would be disregarded. The passive approach of the Environmental authorities, from our perspective, creates additional risks for the protected areas in Kresna Gorge.
- Therefore, we continue to ask the Bern Convention Secretariat for constant monitoring of the case and consider the case as open case file. There is an immediate threat that Recommendation 98 (2002) will be permanently violated without the possibility to restore in the future the conservation status of the adversely affected NATURA 2000 site in Kresna Gorge or to mitigate and compensate the adverse impacts.

<p><b>Bureau meeting March 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau thanked both the authorities and the complainant organisation for their timely reports and took note of the information.</li> <li>➤ After a long discussion, the Bureau agreed that in the expectation of a decision by the European Commission (JASPERS) on the application package for EU funds for Lot 3.2, the next progress report by the authorities should inform on: <ul style="list-style-type: none"> <li>- the 7km access road construction and exploratory drillings in the NATURA 2000 site “Kresna-Ilindenci”, their state of execution, relevant permissions and whether these roads are included in the land use planning for the area;</li> <li>- on the mitigation and compensation measures planned in relation to the alternative chosen for LOT 3.2., as requested by the Standing Committee at its 38th meeting.</li> </ul> </li> <li>➤ The Bureau further requests a more detailed report by the complainants to back their allegations on the negative impact of the new ‘preparatory’ road and other infrastructure they reported on.</li> </ul>
<p><b>Respondent’s report August 2019</b></p>	<ul style="list-style-type: none"> <li>➤ Regarding the 7km access road construction and exploratory drillings in the NATURA 2000 site “Kresna-Ilindenci”:</li> <li>➤ The MoEW reacted to the investigation of journalists from the Bulgarian media BTV about starting of construction in the area. The RIEW-Blagoevgrad carried out documental, on-site inspection to clarify the exact location of the sites using GPS. The experts described different habitat parameters and road characteristics. The check revealed that no projects for carrying out geological exploration activities in the area of Kresna Gorge were submitted to RIEW for coordination. The on-site inspection did not detect availability of vehicles, drilling equipment or temporary roads. However, drilling sites were registered together with some traces of clearing activities leading to construction of forest roads. There are 9 detected objects in total- all show characteristics of roads for access to drilling sites with a 3m width of roadway. The affected area is approximately 2.9 ha. Part of the sites are within the scope of the Lot 3.2 route of Struma Motorway, considered and evaluated by the EIA and the AA procedure. The sites do not fall within the boundaries of protected areas, according to national legislation, but fall within the following NATURA 2000 sites: BG0002003 “Kresna” and BG0000366 "Kresna - Ilindentsi". In frame of the investigation conducted by RIEW Blagoevgrad the offender was identified and an administrative penalty action was undertaken according to the Environment protection legislation. MoEW requested information from Road Infrastructure Agency (RIA). It informed that no outsourcing of activities along the Lot 3.2 of Struma Motorway between Krupnik and Kresna, related to drilling, building of temporary roads or anything related was permitted, required or performed by them. Now, there are no contractors selected and contracts concluded on the basis of construction activities will be carried out on the Struma highway through the Kresna Gorge.</li> <li>➤ Regarding the mitigation and compensation measures planned in relation to the alternative chosen for LOT 3.2: <ul style="list-style-type: none"> <li>➤ Currently, RIA is under tender procedure with exact formulation “Realization of monitoring on the populations of two species of land tortoises and two species of colubrid snakes in the section of the first class international road E-79 (I-1), passing through the Kresna gorge”. This is indicated in the Application form (AF) of the project. Currently, the AF was approved by the Managing Authority of OPTTI 2014-2020 and the JASPERS Action Completion Note was issued on 09 August 2019. On the same date, via the SFC, the AF was submitted for approval by the EC. In the AF were included several main parameters concerning the realization of the ecological monitoring. For assessment of efficiency, improvement and optimization of the function of the defragmentation/fencing systems of the road within the Kresna gorge, monitoring on the populations of Greek tortoises, Hermann's tortoises, Four-lined snakes and Leopard snakes will be performed. The monitoring will start immediately after the tendering procedures are finished and will last for at least 5 years after the road section becomes operational. It is designed to provide information concerning the population dynamics of the target species, degree of fragmentation and isolation of potentially formed sub-populations, data concerning mortality and some other road related ecological parameters. Data will be collected and analysed using integrative and interdisciplinary approaches</li> </ul> </li> </ul>

	<p>and assessed annually. In case of proven inefficiency of the implemented mitigation measures, the roads agency will undertake corrective actions. In that respect the environment and species protections in the region of Kresna Gorge are subject to continuous control and planning.</p>
<p><b>Complainant's report September 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The EIA /AA 2017 report is not adequate in selecting the best alternative for the construction of lot 3.2 of Struma Motorway in the section of the Kresna gorge and there is mismatch between the motorway route assessed in the EIA report 2017 and the route presented in the Detailed Land Use plan for the Motorway Construction;</li> <li>➤ The proposed plan for completion of lot 3.2, as presented in the application form, confirms the intention of the Bulgarian government to further funnel in the next eight years the increasing transit and trans-national traffic through the adversely affected NATURA 2000 site of Kresna gorge;</li> <li>➤ The Government's action on introducing mitigation and compensation measures in relation to the selected alternative for lot 3.2 is not convincing, neither timely, to address the emergency in the NATURA 2000 site in the Kresna gorge section;</li> <li>➤ It is also to be reiterated that the most important mitigation measure for the Kresna gorge is the construction of an alternative route for lot 3.2 outside of the gorge;</li> <li>➤ On the application form for EU funding submitted on August 9th, 2019, there is concern that it contains the same deviations and that the EC is not informed that those are not in line with the EIA 2017 decision, nor that there is no appropriate assessment on the new route. The suggested 3 phases for construction of Lot 3.2 represent significant risks for the NATURA 2000 site;</li> <li>➤ On 1st of August, NGOs submitted addition to the Infringement complaint reporting the failure of Bulgaria to comply with its obligation to take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats of species as well as disturbance of the species in breach of Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora;</li> <li>➤ The addition referred to the very limited initiatives with limited impact, such as building small barriers between the road and the nature sites; air pollution, noise, dust, and water runoff; rapid increase of road killings connected to the huge increase in road traffic; and deterioration or abandonment of key habitats along the bottom of the valley where the road is situated;</li> <li>➤ There is an analysis of the opportunities for building of functional and efficient under-passes for smaller species of animals in the Kresna gorge, results of which are limited as for 78% of the road it is impossible to build efficient under-passes due to the steep relief and the impossibility to make enough sloping and permeable for the animals' entrances and exits, among other factors;</li> <li>➤ On August 7th, the Council of Ministers of Bulgaria decided to assign €379 million from the national budget to construct Struma motorway in the Kresna gorge section. The remaining €277 million needed for the construction will be secured through the application form to the EC;</li> <li>➤ The Bureau is asked to consider issuing recommendations to the Bulgarian government about the need for urgent mitigation and compensation measures to address the ongoing violation of the Article 4 (1) of the Bern Convention and Article 6(2) of the Habitats Directive;</li> <li>➤ And to request that the EC provides information to the SC on the evaluation of the EIA/AA 2017 quality and comprehensiveness in terms of planned road constructions of lot. 3.2, together with evaluation of the multi-criteria assessment of all alternatives assessed in the EIA/AA 2017 procedure.</li> </ul>

<b>Bureau meeting 9-10 September 2019</b>	<ul style="list-style-type: none"> <li>➤ The Bureau thanked the national authorities for the updated report and noted the late arrival of the report from the complainant.</li> <li>➤ It acknowledged the information received from the authorities but noted that it did not answer the question why roads are already being built through the Natura 2000 sites, what mitigation and compensation measures are planned and currently implemented due to these various building works, including the illegal ones. The Bureau warned that any construction works on sites of specific conservation value should be handled very carefully and should not deviate from the original planning for which impact assessments are being made.</li> <li>➤ Eventually, the Bureau instructed the Secretariat to request to the European Commission an updated report on their own processes in relation to file, the evaluation of the EIA/AA 2017 quality and comprehensiveness and the expected date for the decision on the application package for EU funding. The report should be made available for the 39th meeting of the Standing Committee.</li> </ul>
<b>Respondent's report November 2019</b>	<ul style="list-style-type: none"> <li>➤ All illegal activities have been stopped since September 2018. All roads are closed to ensure self-restoration of the affected habitats;</li> <li>➤ On 9 August 2019, Bulgaria has submitted to the European Commission the application for grant funding of Lot 3.2. and the Commission services are currently assessing the project. By so doing, Bulgaria has implemented the last condition of the 38th Standing Committee;</li> <li>➤ With the signing of the contract under the currently ongoing tender procedure, intense monitoring of the populations and road related threats to 2 species of land tortoises and 2 species of colubrid snakes will be ensured before, during and after (for at least 5 years) the project implementation;</li> <li>➤ All considerations of Recommendation 98 (2002) of the Standing Committee to the Bern Convention have been taken into account during the project development;</li> <li>➤ Taking into account the above, the Standing Committee is asked to remove this file from the list of possible files.</li> </ul>
<b>Complainant's report November 2019</b>	<ul style="list-style-type: none"> <li>➤ In September and October 2019, the EC issued two documents that point to the serious failures in the implementation of the EU acquis on nature conservation in case of Struma Motorway construction through Kresna Gorge. Commissioner Vella expressed concern that the E79 intense traffic causes significant mortality of EU protected species and deteriorates the Natura 2000 sites in response to the NGOs update of the EU law Infringement complaint.</li> <li>➤ On October 15th, 2019, the EC issued observations on the application form submitted by the Bulgarian government for EU funding for Lot 3.2, and assessed that the Bulgarian Government has failed to properly implement Article 6.3 of Directive 92/43 when approving the construction of the Struma highway through the Kresna Gorge. The EC requested that the Bulgarian Government make serious corrections to the decision taken and the Appropriate Assessment (AA) of the project in terms of NATURA 2000 requirements.</li> <li>➤ These documents, especially the letter of Oct. 15th, indicate quite clearly that the Bulgarian government cannot be considered to “strictly comply with and implement the international, EU and national legislation on species and habitats protection, respecting completely the Bern Convention”.</li> <li>➤ It is also alarming that there is lack of information about the steps the Bulgarian government plans to take to address the gaps in implementation and make the Struma Motorway construction in line with EU law.</li> <li>➤ Statements of the Bulgarian Prime-Minister threaten that Kresna Gorge part section of the Struma motorway may not be built, leaving the current situation as it is – all motorway traffic will continue to pass through the Kresna Gorge using the current E-79 road, thus disregarding all EC findings, European legislation and Bern Convention Recommendations.</li> </ul>

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|  | <ul style="list-style-type: none"><li>➤ On November 16th, 2019 the consortium to construct the 13.2 km left lane of Lot 3.2.1 of Struma Motorway was selected. This was one of three open price bids for this section for the construction of the route, which is not assessed in line with EU law.</li><li>➤ Taking all that into account, it is believed that provisions of the Bern Convention have been violated such as, to ensure the conservation of Kresna Gorge; to apply Art. 9, para 1 of the Convention regarding derogations; to develop a conservation plan, including defining specific short and long-term site objectives for the Kresna Gorge as part of EMERALD network; and ensure that the decision on the routing of the motorway is taken on the basis of an in-depth environmental impact assessment.</li><li>➤ Thus, the NGOs call for opening of a case file on the case during the 39th meeting of the Standing Committee.</li><li>➤ They also call on the Standing Committee to mandate the involvement of independent experts to ensure the best support to the Bulgarian Government implementing the goals of Bern Convention for protection of the European wildlife and natural habitats in Kresna Gorge.</li></ul> |
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**2016/4: MONTENEGRO: DEVELOPMENT OF A COMMERCIAL PROJECT IN SKADAR LAKE NATIONAL PARK AND CANDIDATE EMERALD SITE**

<b>Date submitted</b>	06/2016
<b>Submitted by (Complainant)</b>	Group of Virpazar citizens (composed of civil society representatives, fisherman associations and small business entrepreneurs)
<b>Respondent State (Respondent)</b>	Montenegro
<b>Specie/s or habitat/s affected</b>	Skadar Lake National Park (NP) and candidate Emerald site (ME 000000C Sasko jezero, Rijeka Bojana, Knete, Ada Bojana)
<b>Background to complaint</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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).</li> <li>➤ 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).</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>

<p><b>Respondent's report October 2016</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ The development of the State Location Study was done on the basis of the Spatial Plan of the Skadar lake NP 2001-2015.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ A building permit was issued by the Ministry of Sustainable Development and Tourism on 6 June 2015.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ According to the national Law, both the draft Spatial Plan and the SEA for the Plan will be submitted for public consultation once ready.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<p><b>Complainant's report February 2017</b></p>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.)</li> <li>➤ 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.</li> </ul>
<p><b>Bureau Meeting 21st March 2017</b></p>	<ul style="list-style-type: none"> <li>➤ Recognised that Skadar Lake is a biodiversity hotspot in Europe and particularly important for local communities' social and economic development.</li> <li>➤ Secretariat to request a new updated report from authorities on the following points: <ul style="list-style-type: none"> <li>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,</li> <li>b) the state of development of the commercial project and any mitigation measures planned,</li> <li>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</li> <li>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.</li> </ul> </li> <li>➤ Request made for a copy of the EIA study developed for the project.</li> <li>➤ Case will remain under the category other complaints</li> </ul>

**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"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ Building permit was issued on 27 March 2015. The Ministry has never stated that Building permit was issued on 6 June 2015.</li> <li>➤ 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".</li> </ul>
<b>Respondent's report 2 August 2017</b>	<ul style="list-style-type: none"> <li>➤ Special Purpose Spatial Plan for the National Park Skadar Lake is currently being drafted.</li> <li>➤ 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.</li> <li>➤ 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 23<sup>rd</sup> 2014). Investors are obliged to initiate construction within 2 years from the date the building permit was issued (March 27<sup>th</sup> 2015) or they forfeit the right to construct.</li> <li>➤ 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.</li> <li>➤ Administration for Inspection Affairs – Ecological Inspection has conducted inspection control on these works and reached a decision on November 15<sup>th</sup> 2016 which ordered the investor to implement measures relating to implementation or conducting research for the</li> </ul>

	<p>“Study on baseline condition of biodiversity”, which needs to be finalised by the end of preparatory works, as specified by the EIA Study.</p> <ul style="list-style-type: none"> <li>➤ “Study on baseline condition of biodiversity” was completed and submitted to the Administration for Inspection Affairs on May 24<sup>th</sup> 2017. The Study will serve as a base for further monitoring of biodiversity during performance of works in this area.</li> <li>➤ 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 30<sup>th</sup> 2017.</li> <li>➤ Montenegro Resort Company, addressed the Ministry of Sustainable Development and Tourism on February 14<sup>th</sup> 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ The EIA Study will be sent in due time, its translation is on-going.</li> </ul>
<p><b>Bureau meeting September 2017</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau thanked the national authorities for their detailed report, as well as the complainants for the updated information provided to its attention.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<p><b>Complainant’s report February 2018</b></p>	<ul style="list-style-type: none"> <li>➤ Document submitted to the European Commission in view of the institution’s preparation of a report on Montenegro.</li> </ul>

<b>Bureau meeting March 2018</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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</li> </ul>
<b>OSA mission June 2018</b>	<ul style="list-style-type: none"> <li>➤ OSA mission takes place</li> <li>➤ Report available in document <a href="#">T-PVS/Files(2018)47</a></li> <li>➤ Draft Recommendation for possible adoption by the Standing Committee prepared on the basis of the OSA report</li> </ul>
<b>Bureau meeting September 2018</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<b>Standing Committee December 2018</b>	<ul style="list-style-type: none"> <li>➤ The Standing Committee thanked the Montenegrin authorities for hosting the OSA mission, for fully supporting its recommendations and committing to ensure compliance and report on their implementation.</li> <li>➤ The Standing Committee adopted Recommendation No. 201 (2018) on the development of a commercial project in Skadar Lake (Montenegro).</li> <li>➤ The Committee agreed to maintain this case as a possible file in order to monitor progress in the Recommendation implementation, at this stage.</li> <li>➤ The Committee appreciated the cooperation between two MEAs, the Bern and Ramsar Conventions and noted that the same expert report will become public as a report on the Ramsar Advisory Mission, following the adoption of the Recommendation. Representatives from several NGOs stressed the importance of active monitoring of the Recommendation's implementation.</li> </ul>
<b>Complainant report March 2019</b>	<ul style="list-style-type: none"> <li>➤ We fully support the findings of this report and Standing Committees Recommendations No. 201. The fact that MORiT has withdrawn poorly prepared Spatial Plan for the National Park from Parliamentary procedure is encouraging.</li> <li>➤ However, close monitoring of the process is essential so that Montenegrin government is fulfilling its obligations on the ground and not only declaratively, as it was constant practice previously.</li> <li>➤ It is therefore important that new Spatial plan for Skadar Lake takes these recommendations seriously.</li> <li>➤ Members of our Informal Group from Virpazar will be closely monitoring situation locally and are at the disposal to the Standing Committee.</li> </ul>
<b>Respondent's report March 2019</b>	<p><b>D) The Government of Montenegro should immediately implement a number of conservation and management measures in the 12 months following the adoption of the Recommendation No. 201 (2018):</b></p>

- The mapping of Skadar Lake and preparation of a habitat map with a scale of 1: 10,000 for the above locations will be done with the assistance of GIZ, within the framework of the cross-border project "Conservation and sustainable use of biodiversity at Lakes Prespa, Ohrid and Shkodra/Skadar (CSBL)", whose beneficiaries are Montenegro, Northern Macedonia and Albania. It is expected that the first field visit will be in April/May 2019, while the results of mapping of the lake can be expected in the second half of 2019.
- The reference list of habitats will be compiled through the IPA project "Establishment of the Natura 2000 Network", whose implementation officially started on 26th April 2016. The reference list of Natura 2000 habitats will be used and revised during the above-mentioned habitat mapping planned by GIZ for 2019, through the project "Conservation and sustainable use of biodiversity at Lakes Prespa, Ohrid and Shkodra/Skadar (CSBL)". It is expected that the final reference list will be completed in the second half of 2019. The status and conservation measures will also be defined on the basis of the results of the mapping of habitats, whereupon it will be discussed that the guidelines and conservation measures are incorporated into the new Special Purpose Spatial Plan for Skadar Lake.
- Regular monitoring of the state of biodiversity is carried out in the area of the Skadar Lake National Park. Monitoring activities of the species on the territory of the National Park are defined by the 2016-2020 Management Plan for Skadar Lake National Park and Annual Management Programmes. In Montenegro, special attention is paid to protected species, as well as to the species we are bound by the conventions signed by Montenegro, so the focus is on both plant and animal species from Annexes I and II of the Bern Convention. Regular monitoring of these species is carried out in accordance with the capacities of the professional services of the Public Enterprise National Parks of Montenegro, or by the engagement of experts professionally educated for certain groups of organisms.
- The monitoring of the otter (*Lutra lutra*), a species from Annex II of the Bern Convention, started in 2011 in the Skadar Lake National Park and it has been implemented since then through the programming activities of the National Park. In 2013 and 2017, GIZ funded the otter monitoring on Skadar Lake through the project "Conservation and sustainable use of biodiversity at Lakes Prespa, Ohrid and Shkodra/Skadar (CSBL)", and the implementer of this project in 2017 was the NGO Centre for Protection and Research of Birds. The Agency for Nature and Environment Protection was also involved in both the first and second phase of the project and has the data on the findings of otter monitoring. Furthermore, the Protocol for Otter Monitoring on Skadar Lake was developed, under which the monitoring was carried out. In 2017, through the abovementioned project, this Protocol was harmonized with the Protocol used by the colleagues from Albania and North Macedonia and it will soon be forwarded to the National Environmental Protection Agency. A graphic representation of the findings of otter monitoring will be provided in Annex I.
- The Ministry of Sustainable Development and Tourism currently has only a working version of the digitalised border of the Skadar Lake National Park, which was made for the needs of development of the Special Purpose Spatial Plan for the Skadar Lake National Park.
- The preparation of the Special Purpose Spatial Plan for the Skadar Lake National Park was suspended on 31 December 2018, pursuant to Article 217 of the Law on Spatial Planning and Construction of Structures ("Official Gazette of Montenegro" No. 64/17; 44/18 and 63/18).
- Preparatory activities are underway for the commencement of the development of a new planning document – the General Regulation Plan of Montenegro, under which, the area of the Skadar Lake National Park will be elaborated, as one of the segments of the Plan, in accordance with Article 17 of the Law on Spatial Planning and Construction of Structures. When drafting the planning document for the area of Skadar Lake, the solutions of the Spatial Plan of the Special Purpose Area of the Skadar Lake National Park from 2001 will

be used as the baseline. Areas that should be proclaimed as Zone I of Strict Protection will be considered when drafting the planning document and incorporated into it after the competent environmental protection institutions have submitted guidelines and requirements.

- The areas of Zone I as well as the protection belt, will be considered through the process of development of the new General Regulation Plan of Montenegro, under which the area of the Skadar Lake National Park will be elaborated, after the competent institutions have developed the Revision Study of the Protected Area.
- The development of the Special Purpose Spatial Plan for the Skadar Lake National Park was suspended on 31 December 2018, pursuant to Article 217 of the Law on Spatial Planning and Construction of Structures ("Official Gazette of Montenegro" No. 64/17; 44/18 and 63/18). Preparatory activities are underway to commence the preparation of a new planning document – the General Regulation Plan of Montenegro, under which, the area of the Skadar Lake National Park will be elaborated, as one of the segments of the plan, in accordance with Article 17 of the Law on Spatial Planning and Construction of Structures.
- The areas that should be proclaimed Zone I of strict protection will be considered during drafting of the planning document and incorporated into it after the guidelines and requirements have been submitted by the competent environmental protection institutions.
- On the use of speedboats and personal water crafts (scooters) and other activities which can harm the floating vegetation:
- Article 16, paragraph 1, item 42 of the Law on National Parks (Official Gazette of Montenegro 28/14 and 39/16) prescribes the prohibition of the use of vessels with an engine of more than 10 hp (boats, speedboats, scooters, etc.) without approval, except for the needs of state administration bodies. In addition, the Ministry of Transport and Maritime Affairs will increase the number of maritime navigation safety inspectors in the coming period, which will certainly contribute to the more intensive implementation of the control of navigation and vessels on Skadar Lake.
- In order to increase the safety of navigation on the lake, it is planned to set up the AIS base station on the shore of Skadar Lake, and to enable the installation of AIS transmitter in the navigation vessels for transportation of passengers. Thus, the coast station "BARRADIO" will have a realistic picture of movement of passenger vessels on Skadar Lake at any moment.
- Moreover, the construction of the Port of Virpazar is planned, which will be the base for all AIS vessels navigating on Skadar Lake. For the purpose of more efficient fight against all types of unlawful actions in the area of the Skadar Lake National Park, at the beginning of 2018, a Working Group was formed with the representatives of the Ministry of Sustainable Development and Tourism, the Administration for Inspection Affairs, the Police Administration, the Maritime Safety Department and the Harbourmasters' Office, who, at periodic meetings, analyse the measures undertaken and agree on the activities to efficiently protect this protected area and, inter alia, particularly observe the provisions related to the restrictions regarding the navigation on Skadar Lake.
- At the next meeting of the Working Group, discussion about these prohibitions regarding the negative impact on floating vegetation, is envisaged. Furthermore, the activities on establishment of communication with the local population are going to be undertaken in the coming period, as well as on raising awareness of the significance and values of the National Parks with the aim of complying with legal restrictions and protecting the aquatic vegetation of the lake.
- The implementation of the Water Framework Directive sets a number of common technical challenges for EU Member States and candidate countries. A common understanding and approach is crucial for the successful and efficient implementation of the Directive in Montenegro. Therefore, in accordance with the Water Directive, the issue of zoning of the Skadar Lake National Park will be

considered in cooperation with the Water Administration. Through planning cooperation, the Public Enterprise for National Parks and the Water Administration will also define the guidelines for the implementation of control and prohibition of works defined by the said Directive in the zones of Category I (high) and Category II (good).

- In addition, the bans on installations or constructions in the lake zones can be an integral part of the planning document guidelines, which will be discussed during the process of finalization of a new Spatial Plan - the General Regulation Plan of Montenegro.

**II) Includes the Porto Skadar Lake development on the urban planning plot UP1 and, in addition the development known as White Village on urban planning plots UP2 and UP3 of Mihailovići location as well as any other development on this location.**

- For all further steps undertaken with regard to the development of the Porto Skadar Lake and White Village project, the opinions and recommendations of the Bern and Ramsar Conventions, as well as EU delegation to Montenegro.

**III) Examines whether any building permit related to the location issued after October 2017 were valid as according to article 4 of the Decision on the adoption of SSL Mihailovići, the latter is valid until 2020, but respective building permits shall be issued within a three-year period only. In addition, the validity of SSL Mihailovići should not be renewed and the provisions of article 4 of the above mentioned Decision should be applied in a way that through amendments the remaining facilities such as the landing place in front of UP1 shall be deleted.**

- SLS "Mihailovići" is valid until 2020 and its validity will cease at the moment when the new Spatial Plan has been adopted. The Directorate for Construction in the Ministry of Sustainable Development and Tourism, after October 2017, has not issued any building permits in the area within the scope of the State Location Study "Mihailovići". In this area, the following building permits were issued before October 2017:
  - to the investor "Montenegro resort company MRC", for the construction of a tourist resort on UP1, number: UPI 0503-836/12-2014 of 27 March 2015, and
  - to the investor "MJ Property", for the construction of a tourist resort: a 5-star category hotel with annexes, on UP2 and UP3, number: UPI 1054-87/12 of 6 June 2016.
- Moreover, in the said building permits, pursuant to Article 97 of the Law on Spatial Planning and Construction of Structures, a condition is laid down that works must commence within 2 years from the date of issuance of a building permit and that otherwise the construction right will cease to apply. According to the data obtained from the Directorate for Inspection Affairs and Licensing in the Ministry of Sustainable Development and Tourism, the investor "MJ Property" doo Podgorica, submitted a notice of commencement of construction works, and started preparatory works on 1 June 2018, under the number 107/4-1522/1 within the legal deadline.
- With regard to the issued building permit, the investor "Montenegro Resort Company" submitted a notice of commencement of works on 10 February 2017, also within the legal deadline.
- The above-mentioned building permits were issued for the preliminary design. The Urban-Planning and Technical Conditions for berths are issued separately, independently of Urban-Planning and Technical Conditions for the construction of other parts of tourist resorts.

Accordingly, the berth permit is issued in a special procedure and it requires development of an Environmental Impact Assessment Study. However, at the UP1 location, a permit for the construction of a berth was not issued because it was not the subject of a building permit.

**IV) Carefully examines the procedure which led to the issuing of a landing place in the case of the White Village development and if necessary, revise or revoke the respective building permit. Pursuant to the provisions of SSL Mihailovići such a landing place must be subject to a separate environmental impact assessment.**

- According to the Urban-Planning and Technical Conditions, permits for berths are issued separately, independently of Urban-Planning and Technical Conditions for the construction of other parts of tourist resorts. It is stipulated that the berth permit is issued in a special procedure and it requires development of an Environmental Impact Assessment Study.
- Building permits for UP1, UP2 and UP3 are issued for the preliminary design, which means without the approvals obtained from the competent authorities for urban-planning and technical conditions in accordance with special regulations.
- A license for a berth in the White Village case has not been issued.

**V) Provides and determines clear basic technical specifications and requirements in the appropriate planning documents which are related to the construction of any landing place or waste water treatment inside the protected area. Those specifications and requirements must fully consider the integrity and dynamics of the sensitive ecosystem of Skadar Lake National Park, Ramsar Site and Candidate Emerald Site.**

- The Law on Strategic Environmental Impact Assessment ("Official Gazette of Montenegro" No. 59/11 and 52/16) stipulates the conditions, manner and procedure for carrying out an assessment of the impact of certain plans and programmes on the environment through the integration of environmental protection principles in the process of preparation, adoption and implementation of plans and programmes that have a significant impact on the environment. This Law is 100% harmonized with the SEA Directive.
- With regard to the technical specifications and conditions for the construction of berths, permits are issued in a special procedure and independently of urban-planning and technical conditions for the construction of other parts of tourist resorts. It is necessary to prepare an Environmental Impact Assessment Study (EIA Study) in order to obtain a permit. EIA procedure is conducted in accordance to the Law on Environmental Impact Assessment which is 100% harmonized with the EIA Directive.

**VI) The floating vegetation with large carpets of white water-lily and water chestnut is a special habitat on Skadar Lake. It is the very sheer size of these habitat complexes that makes them representative on European level. Any reduction of those habitats shall be prohibited;**

- The protection of floating vegetation will also be elaborated during the development of the new Spatial Plan of Special Purpose for National Park Skadar Lake, and accompanying Strategic Environmental Assessment Study.

**VII) Establishes an effective dialogue mechanism with and participatory approach to all stakeholders in order to ensure information exchange as well as to consider any biodiversity data gathered by NGOs and the scientific community.**

- Ministry of Sustainable Development and Tourism is strongly devoted to the collaboration with professional ecological NGOs since this kind of cooperation should be of great use in terms of providing guidelines and recommendations which would assist in

implementation of proper environmental policies. In addition to that, open dialogue and cooperation with all relevant stakeholders are necessary since Montenegro builds its future on the principles of sustainable development along with promotion of responsible attitude towards environment.

- Also, all Laws in the area of environment in Montenegro emphasize involvement of NGOs and civil society in decision making procedure. Based on the previous correspondance made on the matter of development of the commercial projects on Skadar Lake, it was reported that during the procedure of development od planning documents as well as environmental impact assessment studies, no comments and suggestions were received from NGOs.

**VIII) Considers hosting the upcoming biogeographical seminar on Emerald sites in SEE.**

- Ministry of Sustainable Development and Tourism is with great enthusiasm ready to be the host of the biogeographical seminar. The holding of the biogeographical seminar would be possible in the second half of 2019, due to the necessity to finalize List of habitats (during May 2019).

**IX) Identifies and defines appropriate mitigation measures;**

- Appropriate guidelines and measures for the prevention, reduction or elimination of harmful impacts on environment have been identified through the process of Strategic Environmental Impact Assessment and Environmental Impact Assessment.
- The definition of mitigation measures will be possible at a time when the concept of lake zoning becomes clear, since the optimum zoning is a prerequisite for the future development and preservation of Skadar Lake on the principles of ecological sustainability. Attention will also be paid to reducing the process of eutrophication through the reduction of pollution, not only of the aquatic environment, but also of the surrounding area in the entire basin of Skadar Lake. The monitoring system should be strengthened and improved through the selection and regular monitoring of indicator parameters. As far as birds are concerned, this system is already operative through regular monitoring of nesting and wintering populations within several European schemes.
- Through drafting of the planning documents, rules for the construction of structures in national parks will be obeyed. Also, a plan of management, administration, hunting and protection of the fishing stock (through the development of the Fishery Base) will be developed.
- Regular and strict enforcement of criminal law provisions will demotivate and eliminate the illegal collection of protected and/or rare species (plant and animal) for commercial and collecting purposes.

**X) Takes measures to preserve and improve the ecological value of protected areas and potential Natura 2000 and Emerald Network sites such as Ulcinj Salina, Lake Skadar and river courses, as stated in the recommendations of the latest EC Montenegro 2018 Report of April 2018. Better coordination is needed with the 'appropriate assessment' procedure under the Habitats Directive. Implementation of EIA and public consultations need to improve, especially at the local level. Potential investments in hydropower and touristic developments need to comply with nature protection requirements.**

- Montenegro is committed to protecting the environment, and an increased attention is paid to the prevention, reduction to the extent possible, eliminating pollution completely and ensuring reasonable management of natural resources, especially in relation to the growing level of pollution of the ecosystem due to uncontrolled discharge of ballast waters, invasive species propagation, emission of pollution from land-based sources, and disturbance of the natural balance due to the urbanization, etc.
- In accordance with Article 8 of the Law on Environmental Impact Assessment (“Official Gazette of Montenegro”, No. 075/18 of 23 November 2018), the obligation to obtain an approval for an impact assessment has been established. The holder of the project for which it is required Elaborate or project for which a decision has been taken on the need to develop Elaborate, can not approach the execution of the project, or obtain approval for performing the activity without the consent of the study or decisions that the elaboration of the study is not necessary.
- Also, it is stipulated that, when the impact assessment process involves the implementation of the appropriate assesment procedure, the admissibility appropriate assessment procedure is carried out within the framework of the impact assessment procedure in accordance with the Law on Nature Protection.
- When the impact assessment procedure is conducted under other procedures in accordance with special regulations, these procedures shall be implemented in a coherent manner.
- In accordance with the National Strategy with Action Plan for Transposition Implementation and Enforcement of the EU acquis on environment and climate change 2016-2020, additional training is planned at both the state and local levels. The first in a series of trainings, is being realized at the end of march this year, especially with accent on the local level. Experts from member states will present experiences in the context of the implementation of strategic and environmental impact assessment, as well as the dissemination of information and public consultations. In the context of better public consultation, besides the relevant authorities, the Aarhus Centers play a special role.
- The appropriate assessment process is incorporated into Montenegrin legislation, and according to the Law on Nature Protection, one of the most important mechanisms for the protection and preservation of the ecological network. The procedure for the appropriate assessment pursuant to Article 46 of the Law on Nature Protection consists of the previous and the main assessment.
- Appropriate Assessment is carried out when there is a possibility to plan, program, project, especially in combination with other plans, programs and projects can have a negative impact on the targeted species and habitats and to the conservation objectives and ecological integrity of the ecological network. It does not matter whether the procedure located in the area or outside of it, it is important to examine its potential impact. Thus, for example, regulation of the river upstream can have an impact on the area of the ecological network (target species and habitats) kilometers downstream.
- The Ministry of Sustainable Development and Tourism has adopted the Rulebook on the Accurate Content of the Study on the Appropriate Assessment for the Ecological Network Area (“Official Gazette of Montenegro”, No. 45/17).
- After the EU accession, all projects (eg infrastructure), all plans (eg forest management plans, water management plans, waste management plans, land use plans) and any strategies that take place inside or near certain Natura 2000 sites will be subject to the Appropriate Assessment (AA) process and will have to meet all the requirements set out in Article 6 of the Habitats Directive.
- At its session held on 4 October 2018, the Government of Montenegro adopted the Information on the Project "Finalization of the Study on Protection of the Ulcinj Salina Area" with the proposed further steps in the continuation of the process of proclaiming Ulcinj Salina

	<p>the protected area. On 17 October 2018, the Ministry of Sustainable Development and Tourism submitted a Study on Protection of Ulcinj Salina to the Municipality of Ulcinj, so that the Municipality could continue to implement the procedure for the establishment of protection of Ulcinj Salina by organizing a public debate for the Study on Protection, the Proposal of a Decision on Proclamation of a Protected Nature Reserve and Proposal of a Decision on Appointment of the Manager, in accordance with the Law on Nature Protection.</p> <ul style="list-style-type: none"> <li>➤ Ulcinj Municipality started a public hearing at the end of December 2018 and it was completed on January 31 2019. Consideration of received suggestions and integration of comments from the Public Hearing in the Protection Study is under way. After that and followed by an opinion from the Ministry of Agriculture and Rural Development and approval from the Ministry of Sustainable Development and Tourism, Ulcinj Municipality will send the documents for the adoption and proclamation of Ulcinj Salina as nature park by the Assembly of Ulcinj Municipality.</li> </ul> <p>The authorities provide a workplan on the implementation of the Recommendation No. 201 (2018) in the report.</p>
<p><b>Bureau meeting March 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau thanked both the authorities and the complainant association for their reports and welcomed progress by the authorities on the implementation of Recommendation No. 201 (2018). It welcomed the information that the draft Spatial Plan for the National Park was withdrawn from Parliamentary procedure due to important quality issues.</li> <li>➤ The Bureau will continue to closely monitor progress in the implementation of the recommended actions and advised the national authorities to seek additional financial resources, including external ones, for improving its administration capacities and ensuring the follow-up of the current project on Natura 2000. This project provides valuable information also for the setting-up of the Emerald Network to be developed.</li> </ul>
<p><b>Secretariat letter to authorities July 2019</b></p>	<ul style="list-style-type: none"> <li>➤ After a signal from the complainant organization, the “Informal citizens Group from Virpazar”, that constructions have commenced at the White Village (UP2/UP3) site in the Skadar Lake.</li> <li>➤ On 5 July the Secretariat addressed a letter to the Ministry of Sustainable Development and Tourism, recalling their commitment to implement Recommendation No. 201 (2018)</li> </ul>
<p><b>Complainant report August 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The Montenegrin authorities, primarily the Ministry for Sustainable Development and Tourism, are in direct breach of their commitments to the Bureau’s Standing committees 201(2018) recommendations point 1 (i) and (xi).</li> <li>➤ Preparatory ground construction on a new road, ground leveling and drainage work on a new development began in March 2019 and lasted for approximately 20 days.</li> <li>➤ The Directorate for Inspection Affairs and Licensing in the Ministry of Sustainable Development and Tourism visited the site on 25th March 2019 as part of monitoring adherence to EIA, and concluded that activities are in accordance with the current building permit 1054/87/12; with the EIA approval 02UPI-1595/42; and the permit for road construction UPI-101-1556/1-2-136/16.</li> <li>➤ From the available evidence, it seems that this latest activity on the ground is in fact the actual true commencement of field works. This is contrary to MORiTs claims in the last report that they started field works on the 1st June 2018. If it is true that they only started work</li> </ul>

	<p>in March 2019, this would be well after the legal time limit of 2 years from the date of initial granting of their permit. Therefore, this would mean the latest activity is of questionable legal status, as it is not covered by a valid building permit.</p> <ul style="list-style-type: none"> <li>➤ This means that the Investor has been allowed to continue with the degradation of the location, despite the fact that the recommended mapping of the habitat of the area has not even started. In May 2019, on behalf of the authorities and NEPA, the German Society for International Cooperation (GIZ) GmbH commenced habitat mapping of the area with a scale 1:10,000. Their work is not due to be finished until early September 2019 with results following soon after.</li> <li>➤ This is a clear example of the Montenegrin authorities' ongoing non-compliance with nature protection requirements and practices, and surface-level approach to their commitments and obligations, especially those involving expert and scientific recommendations.</li> <li>➤ Decades of destructive and unsustainable policies under this administration have led to detrimental effects in previously protected areas that had been free of development. It is extremely unlikely that these government policies are going to change any time soon.</li> <li>➤ Therefore, if the area of Poseljanski zaliv Bay and Biški Rep is to be designated a Zone I in the new Special Purpose Spatial Plan for Skadar Lake National Park, that same Plan needs to ensure that NP Skadar Lake become an Emerald Site and, further, be fully recognised as a Natura 2000 site to escape any further degradation. As such, it is essential that the authorities actually live up to and deliver to their commitments on the ground in practice, not just on paper.</li> <li>➤ To ensure that the Montenegrin authorities take recommendations 201(2018) seriously and comply in this matter we strongly urge The Bureau of the Standing Committee of the Convention to consider upgrading the complaint 2016/4 from possible file into open file at its next meeting.</li> </ul>
<p><b>Bureau meeting 9-10 September 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau thanked the complainant for the updated report but noted the lack of an update from the authorities.</li> <li>➤ It appreciated the authorities' monitoring work, presented in their report for the first annual meeting of the Bureau, but noted that there is a lack of information on the core of the Recommendation and on the situation and developments on the spot.</li> <li>➤ The Bureau urged the national authorities of Montenegro to be present at the 39th meeting of the Standing Committee and requested that both the authorities and the complainant send persuasive arguments on whether or not the Standing Committee should upgrade the case to an open file. The Bureau's suggestion will be for the opening of the file.</li> </ul>
<p><b>Complainant report November 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The evidence submitted in the last report regarding building works on the location of the White Village will be sufficient for the Bureau to OPEN this file. Concerns are stressed regarding this particular project or any other mega or small projects in the National Park Skadar Lake in the current unregulated environment are still standing. Recent developments have only reinforced these concerns.</li> <li>➤ Therefore, to ensure that the Montenegrin authorities take recommendations 201(2018) seriously the complainant strongly urges the Bureau of the Standing Committee to upgrade the complaint 2016/4 from possible file to OPEN file at its next meeting.</li> </ul>
<p><b>Respondent's report November 2019</b></p>	<p><b>Point 1. The Government of Montenegro should immediately implement a number of conservation and management measures in the 12 months following the adoption of the Recommendation No. 201 (2018):</b></p> <p><b>I.</b> The environmental inspection performs regular inspection supervision of the location; during the inspection this year at UP1, it was found that there are no constructed structures of any purpose. Only road cutting works that had been previously carried out have been registered on the location.</p>

- At UP2 and UP3, the road is being extended as a temporary structure for the needs of the future construction site. In addition, it has been found that there are no constructed structures of any purpose on the location. Inspections have been carried out until 17 October.
  - Mapping of Skadar Lake and preparation of a habitat map with the scale 1:10,000 for the above mentioned locations were carried out with the assistance of GIZ. Final results are expected by December 2019.
- II.** As part of the IPA project “Establishment of the Natura 2000 Network”, in the period April 2016 - April 2019, a list of species and habitats covering nine Key Biodiversity Areas (KBAs) was prepared. All habitat types of interest to the community from Natura 2000 Habitats, as well as all other habitat types as “non-Natura 2000 habitat” have been mapped. The process began in May and will finish by December 2019.
- In addition within the CSBL Project, a “Monitoring Manual for Lake-bound Species and Habitats” was prepared in cooperation with EURONATUR, local experts, NGOs and state authorities. It includes 2 types of lake habitats and 21 species, 14 of which are listed in the EU Birds Directive and the Habitats Directive. The status and conservation measures will also be defined based on habitat mapping results, and afterwards incorporated into the new Spatial Plan of Montenegro.
- III.** Regular biodiversity condition monitoring is carried out, involving experts trained for specific groups of organisms.. The Skadar Lake National Park Management Plan for 2016-2020, as well as the Annual Management Program, defines activities for monitoring species on the territory of the National Park. Planned activities were carried out at the end of the second and in the third quarter of 2019 for most species included in the Skadar Lake NP Management Program.
- Monitoring of *Marsilea quadrifolia* revealed that part of the population discovered in 2016 is also to be found in the upper course of the river- by summarizing data from 2016 and 2019, it can be concluded that the population of *Marsilea quadrifolia* species in this location is stable for the time being. However, as the habitat is prone to being overgrown, further monitoring is necessary.
  - Previously collected field data is also available for *Trapa natans*, *Caldesia parnassifolia*, *Quercus robur* subsp. *Scutariensis*, *Gladiolus felicis*, *Orchis provincialis*, and *Ramonda serbica*.
  - For the otter (*Lutra Lutra*), monitoring began in 2011. In 2019, monitoring was carried out in the period June – October: its presence was confirmed at Vranjina Island, valley and river of Orahovštica, Kunježa Bay, Prevlaka, entrance to the Virpazar Canal, valley and the shore around Kunježa Bay, Debeli Rt, Jovovice Bay, Šišarine Bay, tributaries of the Sutormanska River and Krnjice. The EPA also conducted monitoring and found presence at Orahovštica River, the location of Obid and Donji Murići, Biševina River, as well as the lower course of Rijeka Crnojevića.
- IV.** The Ministry of Sustainable Development and Tourism currently only has a working version of the digitized boundary of the Skadar Lake National Park. A GIS habitat map that covers the entire area of the National Park will be completed and submitted to the Ministry of Sustainable Development and Tourism by December 2019.
- V.** Preparatory activities are underway to begin drafting of a new planning document - the General Regulation Plan of Montenegro, which will include the area of the Skadar Lake National Park. It will define in detail the goals and measures of the spatial and urban development of Montenegro, taking into account specific needs that arise from regional specificities, elaborating goals of spatial planning and regulating rational usage of space and sea areas, in accordance with economic, social, environmental and cultural-historical development.

	<p><b>VI.</b> The areas of Zone I as well as the protection belt, will be considered through the process of development of the new General Regulation Plan of Montenegro, under which the area of the Skadar Lake National Park will be elaborated, after the competent institutions have developed the Revision Study of the Protected Area.</p> <p><b>VII.</b> Development of the Special Plan for Special Purpose for Skadar Lake National Park was discontinued on 31st December 2018-preparations are underway to begin drafting a new planning document - the General Regulation Plan of Montenegro (as above).</p> <p><b>VIII.</b> The Law on National Parks prohibits the use of vessels with a motor of more than 10 hp (boats, speedboats, scooters, etc.) without authorisation, except for the needs of state authorities. In addition, the Ministry of Transport and Maritime Affairs will increase the number of maritime navigation safety inspectors in the coming period. Setting up an AIS Base Station on the shore of Lake Skadar is also planned.</p> <p><b>IX.</b> At a meeting of the Working Group in October 2019, it was decided to continue the “stop poaching“ campaign, increase supervision at critical points, revise the action plan, and agree on priority actions. More efforts will be made to establish communication with the local population, as well as to raise awareness of the importance and values of National Parks aimed at respecting legal restrictions, as well as protecting the aquatic vegetation in the lake.</p> <p><b>X.</b> (see point 1.8 on the Law). Further, the Law provides speed limitation to four knots at the following locations on Skadar Lake: Mihailovići area, Poseljanski Bay, Biški Rep, estuary of Rijeka Crnojevića, estuary of Bazagurska Matica and the area around Liponjak Island.</p> <p><b>XI.</b> The National Parks of Montenegro and the Water Administration, will cooperate to define guidelines for implementation of control and prohibition of works that have been defined by the said Directive in zone categories I (high) and II (good).</p> <p>➤ A document “Shorezone Functionality Index - Skadar Lake” was published in 2017, highlighting the key aspect of the WFD - hydromorphological status assessment. It consists of a combination of hydrological and morphological assessments. The results show that 46% of the total perimeter of the lake falls into the high category, followed by the good category with 23.4%, then the moderate category with 24.8%, the weak category with 0.92% and the bad category with 4.9%.</p> <p><b>Point 2</b></p> <p>➤ For all further steps made in relation to the projects Porto Skadar Lake and White Village, as well as during preparation of any planning document, the opinions and recommendations of the Berne and Ramsar Convention, as well as of the Delegation of the European Union to Montenegro will be taken into account.</p> <p><b>Point 3</b></p> <p>➤ SLS "Mihailovići" is valid until 2020, and its extension is not planned. The Directorate for Construction in the Ministry of Sustainable Development and Tourism, after October 2017, has not issued any building permits in the area within the scope of the State Location Study "Mihailovići". Permits issued prior to then had 2 years to begin works: 2 such projects have begun.</p> <p><b>Point 4</b></p>
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➤ According to the Urban and Technical Requirements, building permits for moorings are issued separately, independently of the UTRs for construction of other parts of the tourist resorts. The issuance of a building permit for a mooring is envisaged in a separate procedure and an environmental impact assessment procedure needs to be carried out for it.

➤ Building permits for UP1, UP2 and UP3 have been issued on the basis of a Conceptual Design. Also, a building permit for the construction of a mooring has not been issued for location UP1.

**Point 5**

➤ The Law on Strategic Environmental Impact Assessment stipulates the conditions, manner and procedure for carrying out an assessment of the impact of certain plans and programmes on the environment through the integration of environmental protection principles in the process of preparation, adoption and implementation of plans and programmes that have a significant impact on the environment. This Law is 100% harmonized with the SEA Directive.

➤ Regarding technical specifications and requirements during the construction of a mooring, building permits are issued in a separate procedure and independently from the Urban and Technical Requirements.

**Point 6**

➤ The Law on Nature Protection enables the manager to conduct control of activities on the lake related to preventing endangerment of floating vegetation by controlling waterways and fishing organised with nets. Further as above, prohibitions on speedboats and poaching will come into force. Protection of floating vegetation will further be considered in future Plans.

**Point 7**

➤ There is continuous dialogue between the Government and civil society in accordance with the Laws which set out mechanisms for public participation in the decision-making process, including through the work of four Aarhus Centres. Until 26th March 2019, four calls for NGOs to participate in the drafting of laws and by-laws were announced, whereas for three no candidates applied and for one of the calls two NGOs applied. During 2019, three public discussions were held.

➤ Trainings supported by the OSCE Mission to Montenegro, have been conducted to strengthen the dialogue of both sectors. Since June 2018, approximately 250 representatives of the interested public have attended public discussions for EIA studies.

**Point 8**

➤ The Ministry of Sustainable Development and Tourism is with great enthusiasm ready to be the host of the biogeographical seminar.

**Point 9**

➤ Appropriate guidelines and measures for the prevention, reduction or elimination of harmful impacts on environment have been identified through the process of Environmental Impact Assessments. The definition of mitigation measures will be possible at a time when the concept of lake zoning becomes clear, since the optimum zoning is a prerequisite for the future development and preservation of Skadar Lake on the principles of ecological sustainability. Regular and strict application of legal penalty provisions will demotivate the potential occurrence of illegal collection of protected and/or rare species for commercial and collector purposes.

**Point 10**

- Montenegro is working dedicatedly on issues such as uncontrolled discharge of ballast water, invasive species expansion, emissions from land-based sources of pollution, and disruption to natural balance due to increasing urbanisation.
- Pursuant to Article 8 of the Law on Environmental Impact Assessment, the obligation to obtain EIA approval has been established.
- In accordance with the National Strategy with Action Plan for implementation, transposition and enforcement of the EU Acquis on Environment and Climate Change 2016-2020, trainings are planned : the first was carried out in March 2019, with a focus on the local level, where experts presented experiences in the context of conducting strategic EIAs, as well as disseminating information and public consultation.
- According to the results of a Conservation Study, which was carried out during the process of declaring Ulcinj Salina a Nature Park, it fulfilled 6 out of 9 criteria for application for inclusion in the Ramsar List- it was thus added to the list on September 9th, 2019.
- With regard to Lake Skadar, the implementation of the Berne Convention recommendations is underway.
- With regard to the Tara River Canyon, in the context of the highway construction, a control mechanism has been set up through the work of competent inspection bodies; regular monitoring of the bottom fauna is carried out by the expert team of the Faculty of Science.
- Strategies, spatial plans, plans for the installation of temporary structures, plans and programs for the management and use of natural resources all must include guidelines and conditions for nature protection.

**Point 11**

- The draft of Working plan is prepared in form of table wick is provided in Annex III.

**Point 12**

- Montenegro will regularly report to the Bureau of the Bern Convention on the progress of implementation of the recommendations in accordance with the request of the Standing Committee.

<b>2017/01: NORWAY: LACK OF LEGAL PROTECTION FOR NORTHERN GOSHAWK AND BIRDS OF PREY IN NORWAY</b>	
<b>Date submitted</b>	13.01.2017
<b>Submitted by (Complainant)</b>	BirdLife Norway
<b>Respondent State (Respondent)</b>	Norway
<b>Specie/s or habitat/s affected</b>	Protected raptors (including Northern goshawk ( <i>Accipiter gentilis</i> ))
<b>Background to complaint</b>	<ul style="list-style-type: none"> <li>➤ During the process of replacing the former Act No. 38 of 29<sup>th</sup> 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ The opportunity to rectify the loophole presented itself in autumn 2016; the Norwegian authorities opted to not make any changes.</li> </ul>
<b>Section 17 subsection 2 of the Nature Diversity Act</b>	<ul style="list-style-type: none"> <li>➤ "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".</li> </ul>
<b>Respondent's report 19 June 2017</b>	<ul style="list-style-type: none"> <li>➤ Section 17 subsection 2 is a strict provision.</li> <li>➤ 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".</li> <li>➤ 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.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ The Ministry is fully aware of the risk that unfortunate practices may evolve, and they are following the situation.</li> </ul>
<b>Bureau meeting September 2017</b>	<ul style="list-style-type: none"> <li>➤ The Bureau thanked the national authorities for the letter replying to the Secretariat's request for information.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ The complaint is moved to the category Possible files.</li> </ul>
<b>37<sup>th</sup> meeting Standing Committee December 2017</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ 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.</li> </ul>
<b>Respondent's report August 2018</b>	<ul style="list-style-type: none"> <li>➤ Authorities started the process of amending the legislation</li> <li>➤ Adopting new legislation is a lengthy and comprehensive process</li> <li>➤ New information might be available for the 38th Standing Committee meeting</li> </ul>
<b>Bureau meeting September 2018</b>	<ul style="list-style-type: none"> <li>➤ Thanked the national authorities for their timely report and acknowledged the initiation of the amendment procedure for the legislation loophole.</li> <li>➤ Invited the authorities to attend the upcoming Standing Committee meeting and to present a progress report.</li> </ul>
<b>Respondent's report</b>	<ul style="list-style-type: none"> <li>➤</li> </ul>
<b>Standing Committee December 2018</b>	<ul style="list-style-type: none"> <li>➤ The Standing Committee took note of the report presented by the national authorities of Norway and acknowledged the initiation of the process for amending the Nature Diversity Act in order to close the loophole and bring it in line with Article 9 of the Bern Convention. The Committee further noted that as part of the revision process, a public consultation will be initiated early 2019.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ The Standing Committee decided to keep the file as possible file and asked the authorities of Norway to report on progress at the 2019 meeting of the Standing Committee.</li> </ul>
<p><b>Respondent's report August 2019</b></p>	<ul style="list-style-type: none"> <li>➤ A process has been started on amending the legislation. A proposal for amendment of Article 17 of the Nature Diversity Act was opened for public consultation on 6th June 2019. The proposed amendment re-introduces the term “deemed necessary” to Article 17 section 2 subsection 2. According to the proposal, the owner, or a person acting on behalf of the owner, may kill a wild animal making a direct or imminent attack on livestock, including pigs and poultry, domesticated reindeer or dogs when this is deemed necessary. The term "deemed necessary" is considered to be parallel to the term "provided that there is no other satisfactory solution" used in Article 9 of the Bern Convention. If passed, the amendment will bring Article 17 section 2 subsection 2 in line with the Convention.</li> <li>➤ The public consultation is being closed on 1st of October 2019.</li> <li>➤ The Norwegian Parliament must adopt legislative amendments. This is a comprehensive process, and a possible amendment of the Nature Diversity Act can be implemented in 2020 at the earliest.</li> </ul>
<p><b>Bureau meeting 9-10 September 2019</b></p>	<ul style="list-style-type: none"> <li>➤ The Bureau thanked the authorities for the report but noted the lack of a report from the complainant.</li> <li>➤ The Bureau acknowledged the process is moving in the right direction at national level and agreed that the case will be left on the agenda for the Standing Committee for information, but it will only be discussed in 2020 as most probably, due to the lengthy processes at national level, nothing could be said or done before.</li> <li>➤ Eventually, the Bureau instructed the Secretariat to request to both the authorities and the complainant to submit short written updates for the Standing Committee, if relevant.</li> </ul>