

Strasbourg, 29 October 2008
[tpvs03rev_2008.doc]

T-PVS (2008) 3 rev.

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

APPLICATION OF THE CONVENTION
- Summary of Case files and complaints -

*Secretariat memorandum
prepared by
the Directorate of Culture and Cultural and Natural Heritage*

1. IMPLEMENTATION OF THE CONVENTION: FILES

1.1 Specific sites - Files open

a. Ukraine: Project for a waterway in the Bystroe estuary (Danube delta)

This case concerns the excavation of a shipping canal in Bystroe estuary of the Danube delta in Ukraine, which is likely to affect adversely both the Ukrainian Danube Biosphere Reserve – the most important of Ukraine's wetlands – and the whole Danube delta dynamics. A first phase of the project was conducted in 2004.

In 2004, the Standing Committee adopted Recommendation No.111 (2004) on the proposed navigable waterway through the Bystroe estuary (Danube Delta), inviting Ukraine to suspend works, except for the completion of phase I, and not to proceed with phase II of the project until certain conditions were met.

In April 2005, Ukrainian authorities organised a workshop on the ecological monitoring of phase I of the project, held in Odessa. At the Standing Committee meeting in 2005, the Ukrainian delegate reported that the dredging of the delta had been stopped and the environmental impact assessment was being reviewed to make it more comprehensive.

In 2006, the Ukrainian government informed the Secretariat that all work carried out was part of phase I and that the extent of the work under phase II would be adjusted on the basis of a new plan and environmental monitoring data. An international meeting concerning the sustainable development and management of the Danube delta was held in Odessa in February 2006, with the participation of ICPDR, UNESCO, the Ramsar Convention, the Bern Convention Secretariat, and the European Commission.

In 2006, the Ukrainian Court of Auditors concluded that the requisite environmental protection measures had not been taken regarding this project, even though they had been scheduled in the EIA conducted during phase I. A report by the Espoo Convention's commission of inquiry was also published noting the existence of transboundary impacts in connection with the Bystroe project

The Standing Committee meeting in 2006 decided to leave the file open and asked Ukraine to provide to the Committee the EIA, including the compensatory measures foreseen.

At the Standing Committee meeting in November 2007, the delegate from Ukraine presented information concerning the implementation of Recommendation No. 111 (2004) and including project works; EIA; compensation and mitigation measures; monitoring; public participation; and international co-operation. The Committee regretted that it had not received the documents and scientific reports mentioned in the presentation by the delegate from Ukraine, nor had it been invited to the meetings hosted by Ukraine on this issue. The Romanian delegation at the 27th meeting of the Standing Committee stated that Phase II of the project has already started and that the EIA does not include compensatory measures or measures to limit the environmental damage. They regretted that progress on the works harms the consultation process, and that no alternatives have been examined.

The Standing Committee agreed to request all the documentation mentioned by the delegate of Ukraine, including the EIA and compensatory measures. It further decided to keep the file open and carry out an on-the-spot visit in 2008. The Ukrainian delegation agreed to the on-the-spot visit.

In another forum, the Implementation Committee of the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) published a report with findings and recommendations expressing concerns about the Bystroe Canal Project. The Committee found that Ukraine was in non-compliance with its obligations under the Convention. This decision was confirmed by the 4th meeting of the Parties to the Espoo Convention (19-21 May 2008), which asked Ukraine to take the necessary measures to bring about compliance before the end of 2009 (otherwise, a caution will be imposed from the 31st October 2008). Ukraine committed itself to suspend the works on the Black Sea Deep-Water Navigation canal on the Bystroe and Kilyia Branches of the Danube.

In April 2008, the Espoo Convention organised an informal consultation to exchange information with other Conventions and instruments dealing with the “Bystroe Canal issue” in order to consider possible measures to support general compliance by Ukraine with its international obligations. A joint letter and background note with information from all relevant conventions, expressing the serious concerns raised by this project, was sent to Ukraine’s deputy prime minister. The Secretariat of the Bern Convention invited the other conventions to join the on-the-spot visit under the Bern Convention carried out in July 2008. UNESCO, RAMSAR, the Espoo Convention and the European Commission were represented during this visit to Ukraine, held on 28-30 July 2008. The report of the on-the-spot appraisal, prepared by the independent expert Mr Hervé Lethier, will be presented to the Standing Committee in November 2008 (see document T-PVS/Files (2008) 11).

In August 2008, the Ukrainian authorities informed about their decision to repeal the Final Decision on implementation of phase II of the Project on the Renovation of the Deep-water Navigation Route in the Ukrainian part of the Danube Delta, taken in December 2007, and to comply with the Espoo Convention before starting Phase II of this project.

The Bureau met on 5 September 2008 and agreed that a new recommendation on this case file is not necessary. It recognised the important pressure by the Espoo Convention in case of non-compliance.

b. Cyprus: Akamas Peninsula

This case concerns plans for tourist development in the Peninsula of Akamas, with detrimental effect on an ecologically valuable area with many rare plant and animal species protected under the Convention. This 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 Recommendation No. 63 was adopted in 1997 “on the conservation of the Akamas peninsula in Cyprus and, in particular, of the nesting beaches of *Caretta caretta* and *Chelonia mydas*”.

In 2005, the Cyprus delegate informed the Standing Committee that the Council of Ministers had taken a decision on a proposal regarding the management of the Akamas Peninsula, which needed to be debated at further official level. The Standing Committee decided to keep the file open so that the final approval of that government proposal and the implementation of protection measures for the area could be verified.

At its 26th meeting, in November 2006, the Standing Committee urged Cyprus to fully implement Recommendation No. 63 (1997) and decided to leave the file open.

In 2007, the Bureau took note of the informations received from Cyprus concerning the adoption of a Management Plan for the Akamas peninsula, and asked the Cyprus government to submit updated and more detailed information on the declaration of part of Akamas as a national park and the protection of sensitive fauna and flora species and habitat types in the Akamas area. At the Standing Committee, the Cyprus delegation confirmed that the Council of Ministers had approved a Management Plan for the Akamas Peninsula to protect nesting beaches of the two turtle species. They reported that no developments were permitted on coastal areas and that there was a programme to exchange private property in this area for public land. He added that permits for safaris had been frozen and that the species to be protected are those to be in designated areas under the Birds and Habitats Directives. He added that the Limni site was included in an area approved by their Council of Ministers to be proposed as a Natura 2000 site and therefore did not need to be discussed with this case.

The Standing Committee decided to keep the file open and urged the Cyprus government to fully implement the Recommendation from the Standing Committee.

The Secretariat wrote to the Cyprus authorities in January and April 2008, but no reply has been received so far.

The NGO Terra Cypria wrote to the Secretariat urging that the file remains open and stressing that the Government plans further reductions to the originally proposed Natura 2000 area. In addition, they

reported that the members of the national Scientific Committee have been unable to reach agreement on the extent of the Natura site to be designated for Akamas.

c. Bulgaria: Project to build a motorway through the Kresna Gorge

This case concerns a motorway crossing an area of high biological diversity. It was examined by the Standing Committee in 2002, when it adopted Recommendation 98 (2002) “on the project to build a motorway through the Kresna Gorge (Bulgaria)”, inviting the Bulgarian government to abandon the plans to enlarge the current road and look for more suitable alternatives, compatible with Bern Convention obligations.

In 2004, the Standing Committee decided to open a file in order to stimulate the Bulgarian government to further implement Recommendation No. 98 (2002).

In 2005, a decision was taken by the Ministry of Regional Development and Public Works (MRDPW) to prepare a new detailed EIA report. A decree of the Ministry of the Environment and Water (MoEW) was approved on 14 November 2005, prohibiting certain activities which could have adverse consequences for the site, such as the building of hydro-electric power stations. In 2005, the Standing Committee welcomed the adoption of this decree and decided to keep the file open.

In 2006, the Bulgarian delegation informed the Standing Committee that a new EIA had been initiated, in consultation with all the partners concerned. All variants would be studied, including the proposal from NGOs, and specific requirements had been formulated. The European Commission delegation informed the Standing Committee that a complaint had been lodged with the Commission concerning this project. The Standing Committee decided to keep this file open.

In 2007, the Bulgarian authorities informed that the EIA report was being prepared and would be publicly discussed, including consideration by Bulgaria’s High Ecological Expert Council. The Standing Committee welcomed the forthcoming finalisation of the EIA and agreed to keep the file open until the final decision on this project is taken, with positive encouragements for the Bulgarian government.

The Bulgarian authorities provided the following information in March 2008:

- In January 2008, the Higher Expert Ecological Council of the MoEW considered the EIA Report and recommended to the Minister of Environment and Water to approve the realization of the investment proposal. As a result, the Minister has issued EIA Decision No 1-1/2008 for construction of the Struma Motorway.
- The EIA Decision has been taken after intensive preliminary consultations to find the most-appropriate decision for the route of the Struma Motorway in the region of the Kresna Gorge and for the sections passing in close proximity or through NATURA 2000 sites.

In their report, the Bulgarian government considers that the parts of Recommendation 98 (2002) concerning the stages of preparation and the quality of the EIA Report have been fulfilled, as well as the determination of the motorway route in the Kresna gorge, where decision-making has been carried out with the collaboration of relevant institutions, NGOs and scientists.

Following the Bureau’s request, the Secretariat recontacted the Bulgarian authorities in April 2008 asking them for confirmation of the final decision on this project in order to check that it has been taken in line with the EIA report, as well as for a map showing the final routing of the road. No information has been received so far.

d. Bulgaria: Wind farms in Balchik and Kaliakra – Via Pontica

This case concerns the building of the first windfarms in Bulgaria, at Balchik and Kaliakra, on the Black Sea coast. The NGO is challenging the chosen sites located on the Via Pontica which is one of the main migratory routes in Europe especially for soaring birds.

An on-the-spot visit was carried out in September 2005, on the basis of which the Committee adopted Recommendation No. 117 (2005), asking the Bulgarian government to reconsider its decision to approve the proposed wind farm in Balchik in view of its potential negative impact on wildlife and taking account of Bulgaria's obligations under the Convention.

In 2006, the Bulgarian government informed the Secretariat that it did not intend to review the decision approving the wind farm project. The Secretariat received information from NGOs on a similar case involving plans to build 129 windmills 20 kms away from Balchik, between the town of Kavarna and the Kaliakra Cape.

At its 26th meeting, the Standing Committee decided to open a new case file and organised an on-the-spot appraisal, with the approval of the Bulgarian government.

An on-the-spot visit was carried out on 20-22 June 2007 by the expert (Mr Eckhart Kuijken), accompanied by a member of the Secretariat and by the Executive Secretary of the UN Agreement on the Conservation of African-Eurasian Migratory Waterbirds (AEWA). The expert stressed the importance of Via Pontica as the most important flyway in Europe and the need to apply the precautionary principle and address the cumulative impacts of the increasing number of windfarm projects in this area.

On the basis of the expert's conclusions, 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)".

Birdlife International reported in March 2008 that "the situation has not improved" and that "construction at Kaliakra is continuing". The NGO and its Bulgarian partner, BPSP, stressed that "there is no evidence that the Bulgarian authorities are undertaking any actions to implement stronger planning procedures for wind farm developments – either at strategic or individual project level". This organisation submitted a formal complaint to the European Commission in February 2008 "on the lack of proper protection of Kaliakra and damage being caused to the site by developments, particularly wind farms".

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.

Birdlife International reported again in August 2008 about the lack of implementation of Recommendation No. 130 (2007) by Bulgaria. The NGO claimed that the case is at a critical stage as none of the relevant decisions nor approved windfarms projects in or near the Balchik and Kaliakra IBAs have been reviewed, and there has been no progress on any of the specific points included in the 2007 Recommendation. BirdLife International urged international intervention to protect the Balchik and Kaliakra, Emerald Network/Natura 2000 sites of exceptional value for species and habitats listed in the Appendices of the Bern Convention, as otherwise they could be irreparably damaged.

A report by the Bulgarian government was received in September, giving detailed information about a very high number of wind turbines approved and the lack of EIA requirements for single installations, even if they require an assessment of the type of Article 6 of the Habitats Directive. The Bureau expressed its concern by this information and asked the Secretariat to invite the Bulgarian government to report on this issue at the Standing Committee meeting in November, focusing on the monitoring of the impacts of the wind farms on biodiversity.

e. France: Habitats for the survival of the Common Hamster (*Cricetus cricetus*) in Alsace

In 2006, the Secretariat of the Bern Convention received a complaint from the Association "Sauvegarde Faune Sauvage" expressing its concern over the insufficient measures aimed at ensuring the maintenance of the habitats needed for the survival of the Common Hamster.

In 2007, the French authorities provided the Secretariat with information on:

- the Action Plan for the Common hamster in Alsace (2007-2011);

- the preparation of the second rescue plan for the Common hamster for 2007-2013;
- the planned agri-environment measures for the protection of the Common hamster, to be included in the French rural development plans for 2007-2013, co-funded by the European Union (and including 360 ha of farmland favourable to the Common hamster); and
- the modalities of compensation measures for farmers.

The NGO “*Sauvegarde Faune Sauvage*” informed the Secretariat that 60 to 70 % of hamsters are on lands not covered by contracts for the protection of the biotope (favouring cereal and alfalfa crops) and that three priority action zones had been identified, which remained largely insufficient as important sites for hamsters were not included. The lack of connection between the priority zones was also a concern for the NGO as populations get isolated and risk disappearance.

At the Standing Committee in November 2007, the French delegation presented the range of measures taken, including a restoration scheme approved by the *Conseil national de la protection de la nature* (National Nature Conservation Board), under which 3,000 hectares of priority action areas had been designated for the farming of crops beneficial for the hamster. The delegation indicated that the concept of hamster's "special area" was being defined with the involvement of relevant institutional partners. The NGO representatives deemed these measures insufficient and stressed that the restoration scheme covered only 2% of the area where the hamster had historically been present in Alsace.

The Standing Committee decided to open a case-file, not calling into question the efforts already made by the authorities, but wanting to highlight the urgent need for action in the field.

The French authorities reported in March, August and October 2008, covering the following issues:

- **Identification of priority action zones:** Four actions zones covering over 3000 ha are envisaged, of which three action zones (Geispolsheim, Piémont des Vosges, and South zone) have already been approved. The fourth zone in the agricultural area of Kochersberg is planned for 2009. These are zones where construction is prohibited according to the Urban Planning Scheme.
- **Contracts with farmers** (165,000 Euros in 2008, including national and local contributions): Promotion of agri-environment measures for farmers.
- **Definition of the “specific environment” for the Common hamster:** Sites of current or potential presence of the hamster, which would cover 110 000 ha.
- **Breeding in captivity and strengthening of populations** (140,000 Euros in 2008, from national authorities): Several actions have been taken, including genetic studies on wild and released hamsters and the improvement of the quality of breeding in captivity. Three breeding facilities are financed. In 2008, around 75 hamsters have been released in the South zone, which raises the total number of released animals around 470, since 2003. A new but very fragile population has been found in the southern part of its current area of distribution (Obersaasheim), moving Southwards the known populations by eight municipalities.
- **Consideration of the Common hamster in land use planning documents:** For instance, the rejection of Hesseheim’s urban planning scheme due to constructions projects that could damage the hamster’s habitat.
- **Hamster populations in 2008:** An exhaustive count is not possible but there are two sources of available data: the ONCFS (reflecting trends rather than absolute numbers), and developers. On this basis, 648 burrows have been accounted for in April 2008, apart from small populations found in Brumath and Geudertheim, which would increase the total number of hamsters in Alsace.
- **Status of implementation of the action plans:** Progress has been made in the following measures:

- establishment of three priority action zones to take the hamster into account in agricultural and land planning processes. One of them (the ZAP North) has already met the target of favourable crops included in the action plan 2007-2011;
- important efforts to propose attractive contracts to farmers;
- strengthening of populations (three operational breeding centres, releases, genetic study);
- information and communication actions, including campaigns to raise the awareness of farmers as well as of the general public;
- setting up of a network of correspondents (including training) to get knowledge of the presence of the species outside the usual areas where the counting takes place.

➤ **Agricultural measures:**

- Specific agri-environment measures targetting the hamster have been applied since 2007, implementing France's Rural Development Plan (2007-2013), and including 5-year farming cycles of alfalfa and winter cereals. These measures are applicable in lands favourable to the hamster bigger than the 'priority action zones'.
- Collective management of priority action zones regarding farming practices (through 5-year contracts). In 2008, 47 farmers have signed these contracts in two priority action zones (ZAP North and ZAP Piemont)

➤ **Future perspectives:**

- Continue to implement the two types of measures (agri-environment measures and the collective management of PAZs);
- New developments to reinforce the efficiency of agri-environment measures, to be applied in 2009 (expand the eligible areas; focus on strategic zones; improve contract conditions);
- Negotiations at the regional level to define three zones where the hamster and its specific environment will be taken into account for land planning purposes;
- A fourth priority action zone will be defined in the Kochersberg area in 2009. In these areas all urban development plans will be excluded.

In June 2008, the European Commission sent to France a final written warning for failing to implement proper measures to safeguard the great hamster of Alsace.

In August 2008, the NGO *Sauvegarde Faune Sauvage* wrote to the Secretariat to warn that the number of priority action zones (three) is clearly insufficient and that at least seven should be set up, as 70% of hamsters are found outside these areas. The NGO further stressed that 200 hamsters are found in the routes of planned road projects in Alsace and the negative effects of road infrastructures, which would prevent all connectivity between priority action zones.

The "*Centre d'études de recherche et de protection de l'environnement en Alsace*" informed the Secretariat that they have proposed to the regional authorities to implement a policy linked to a road project in the 'Piemont Vosgien', aimed at reinforcing hamster populations. These measures would be carried out for five years and the releases included in this "compensatory population reinforcement" policy would apply to all important future development projects.

1.2 Possible files

a. Norway: Windfarms in the Smøla Archipelago

This case concerns the establishment of two wind farm complexes in the Archipelago of Smøla, in an area of importance for the nesting of White-tailed Eagles and other species. The government recognised the international importance of the area but found that the impact of the development on the White-tailed Eagle would be relatively moderate.

At its 21st meeting, the Standing Committee decided not to open a file on this case but asked Norway not to authorise the second phase of the wind farm project before assessing the results of the first one. The case was raised again during discussions on wind energy and nature conservation at the 26th Standing Committee meeting in 2006.

In 2007, the Secretariat received update reports from Birdlife International showing concerns regarding the threat to the important White-tailed Eagle (*Haliaeetus albicilla*) population in the immediate vicinity of the proposed windfarm. The Norwegian government licensed Stage 1 (20 turbines) of the wind farm in December 2000. According to Birdlife International, Stage 2 (reduced from 52 to 48 turbines) was constructed in 2005 following a “very limited study of Stage 1 (20 turbines)” completed in 2002, while assessment of collision mortality appears to have been undertaken “only since February 2006”.

In 2007, the Norwegian government reported on actions undertaken after the licence to build the windmills in the Smøla Archipelago was issued on 20th December 2000, including a review by the Norwegian Institute for Nature Research (NINA) addressing the following long-term effects of the windmills on the White-tailed eagle: reduced breeding population; increased adult mortality; reduced breeding success; and increased juvenile mortality.

The Norwegian delegation informed the Standing Committee that a new research project would be conducted until 2010-2011 in order to improve information on wind turbines and their impacts on birds and coastal birds population dynamics concerning both pre- and post-construction phases. The Committee decided to keep this issue as a possible case file and asked Norway to submit annual reports to the Standing Committee, with the possibility of undertaking an on-the-spot appraisal in 2009, which had the agreement of the Norwegian delegation.

In April 2008, the Norwegian authorities reported on developments related to the research project carried out by NINA, and including the start of a series of sub-projects, such as radar and photo surveys, experiments on mill-blade painting for stronger visualisation, satellite tracking, and detailed White-tailed Eagle movements in the area. The Norwegian authorities await significant results from this research programme before taking any other action to protect bird populations in Smøla.

In August 2008, BirdLife International reported that in 2008 the Smøla wind farm has had its worst impact to date on the white-tailed eagles, with zero productivity and seven collision fatalities. The NGO added that the Smøla wind farm has had several adverse effects on White-tailed Eagles, such as reduced territorial/breeding activity in some sites (including cessation of occupancy of at least five territories); and at least 19 fatalities due to collision with wind turbines. They further stressed that the loss of breeding adults, compounded by the loss of juveniles, is potentially significant for a species that is long-lived, slow to mature and has a relatively low reproductive output. The NGO warned that impacts recorded so far have been more marked and serious than expected by the government, and that they may lead to population-level effects beyond the local scale. BirdLife emphasised the importance of undertaking an on-the-spot appraisal in spring 2009.

b. Italy: Implementation of Recommendation 123 (2007) on limiting the dispersal of the Grey squirrel (*Sciurus carolinensis*) in Italy and other Contracting Parties

In 2007, the Standing Committee asked the bureau to examine the possibility of opening a file for a possible breach of the Convention by Italy on this case. The Committee proposed that an on-the-spot appraisal be carried out in collaboration with central and regional conservation authorities. The Italian

authorities agreed to this visit, carried out in May 2008 by Mr Bernardo Zilletti, independent expert, accompanied by the Secretary of the Convention. The visit covered the Ticino and Montevecchia Regional Parks, where they met with regional and park authorities, academics and other experts, as well as a meeting with regional authorities in Milan.

The expert report of the visit is accessible in document T-PVS/Files (2008) 5, whose main conclusions are that the presence of the American grey squirrel in Italy is a serious threat for the survival of the protected native Red squirrel, and that this expansive trend has the full potential to turn the invasion into a continental problem, where France and Switzerland would become the next countries to be invaded. However, the expert stresses that this could still be avoided if certain measures are taken, such as monitoring, eradication, a trade ban, and public awareness.

In June 2008, Italy's Ministry of Environment wrote to the Secretariat stressing that the Standing Committee recommendation of 2005 urged the Ticino Valley regional authorities to eradicate their populations of Grey squirrels. They further informed the Secretariat of plans to draft a decree to prohibit the import and trade of grey squirrels. However, the Ministry of Environment considers that the implementation of the eradication plans in the Ticino Valley cannot wait for the publication of such a decree and that regional authorities must take urgent action.

At its meeting on 5 September 2008, the Bureau decided to recommend the opening of a case file by the Standing Committee.

In September 2008, the Director General for the Protection of Nature in Italy sent comments to the report prepared by the independent expert regarding the on-the-spot appraisal visit, stressing that the legal framework for the attribution of competencies is very clear in giving regional administrations all the necessary legislative tools to proceed with immediate mitigation operations.

1.3 Complaints in stand-by

a. France: Conservation of the European Green Toad (*Bufo viridis*) in Alsace

A complaint was lodged in 2006 by the Association BUFO (*Association pour l'étude et la protection des amphibiens et reptiles d'Alsace*) focusing on threats to the Green toad's few remaining habitats in Alsace. It specifically targeted shortcomings in the impact studies carried out for a major bypass and urban development projects, and a project for the construction of a leisure complex.

At the 26th meeting of the Standing Committee, in November 2006, the representative of the NGO *Sauvegarde Faune Sauvage* asked for the greatest possible consideration to be given to the situation of the remaining habitats of the Green toad in Alsace, drawing attention to urban development projects in the vicinity of Molsheim. The French delegate informed the Standing Committee that they were prepared to send further information.

In 2007, the report from the French government confirmed that the environmental impact study carried out in connection with certain projects at Molsheim, Eckbolsheim, Wittenheim, Mulhouse and Strasbourg had neither confirmed nor disproved the presence of Green toads. The authorities took the view that it was up to the applicant to show that there were Green toads in the disputed zones. The NGO *Sauvegarde Faune Sauvage* sent information to the Secretariat on the shortcomings or lack of compensatory measures and informed that they had filed a complaint at the European Commission for the lack of compliance of France with the EU Habitats Directive regarding the protection of the habitat of the Green toad in Alsace.

In 2007, the French delegation confirmed to the Standing Committee that the national authorities had taken the necessary action to protect existing populations. An action plan was being prepared for the Green toad and for the Common spadefoot (*Pelobates fuscus*). The French ministry had issued orders to protect the species and its habitat, but the *Conseil d'Etat* had rescinded them, regarding them as over-protective. The Standing Committee acknowledged the efforts made by the French Government to preserve the species, but asked for more information in 2008 and decided to take no further action on this matter.

Updated information was received from the French government in March and October 2008, reporting that a restoration plan for the Common Spadefoot (*Pelobates fuscus*) and the Green toad is under development, at the initiative of the regional authorities (DIREN Lorraine), and will be operational in 2009. This plan will associate the regions of Centre, Corsica and Alsace, and will be co-ordinated by the regional authorities of DIREN Lorraine. The provisional timetable indicates that the plan will be completed at the end of 2009, with specific actions starting in 2010. The DIREN Alsace will carry out consultations in 2009, when the project will be sufficiently advanced. Further information has been received concerning preservation measures to be taken regarding projects that may damage the Green toad and its habitat in Wittenheim and Staffelfelden (Alsace).

b. Sweden: Natterjack (*Bufo calamita*) population on the coastal island of Smögen

In December 2007, the Secretariat received information from the Chair of the Bern Convention's Group of Experts on Amphibians and Reptiles concerning the threat presented by a residential housing project in Hasselösund Väster, Smögen, to the northernmost population of the worldwide distribution of the Natterjack toad (*Bufo calamita*), a species listed in Appendix II of the Bern Convention.

The Secretariat contacted the Swedish authorities asking for information on this issue, including the measures that would be taken to protect this population of *Bufo calamita*, as we had been alerted that the local authority of Sotenäs village would be adopting a formal plan to enable the house building project by the end of December 2007.

The Swedish government informed that they had consulted the local authorities of Sotenäs and received relevant information, including the fact that the formal plan for the area had been adopted on 13th December 2007. The Secretariat received the following documents: Environmental Impact Assessment; formal plan for the exploitation area; Inventory Report on Natural values; Hydrogeological investigation; and map.

The Swedish authorities informed that an inventory report on natural values had been conducted, clearly showing that the area has very high values in its western part, where the breeding pools of the Natterjack are situated. Strong advice is given in the report to refrain from building houses on this part with regard to the loss of the Natterjack population. The report concludes that if houses are to be built in other parts of the area, then compensatory and restoration measures should be implemented.

The Swedish government reported that the advice from the inventory report was acknowledged in the EIA and the development of the adopted formal plan so that houses will not be built in the western part of the area and that the suggested compensatory and restoration measures have been implemented in the plan for the area, including improvement of the quality of the breeding pools, (cleaning from litter and debris, excavation and restoration of breeding pools); enlargement of possible terrestrial habitat; and also improvements of hibernation and diurnal resting sites. In conclusion, and after reviewing the available documents, the Swedish Environmental Protection Agency considered that appropriate measures have been taken to secure the survival of the Natterjack population and that the residential housing project, as presented in the final plan, will not have a negative effect on the population.

In September 2008, the Chair of the Group of Experts on Amphibians and Reptiles informed the Secretariat about the unsatisfactory situation concerning this project, which could destroy high value land as well as small ponds important for the species. He stressed that the species is in bad conservation status and therefore a partial habitat destruction would not be acceptable. The Bureau discussed this information and agreed to request the views of the Swedish government on these latest informations and leave this issue as a "complaint in stand-by".

In October 2008, the Swedish authorities informed about an appeal to the County Administrative Board of Västra Götaland regarding this project, which has come to a halt pending the decision by the County Board. The Swedish Environmental Protection Agency awaits this decision before taking any possible measures on this issue.

2 FOLLOW-UP OF RECOMMENDATIONS AND EVOLUTION OF THE SITUATION IN:

a. Recommendation No. 95 (2002) on the conservation of marine turtles in Kazanlı beach (Turkey)

This file was provisionally closed at the 24th meeting of the Standing Committee meeting, although the Committee asked the Turkish government to continue to report on the situation concerning this issue.

In November 2006, the Standing Committee took note of the information presented by the NGOs as to the existence of several outstanding problems that remained undealt with and instructed the Bureau to consider the possibility of reopening the file and engage the Barcelona convention.

In 2007, the NGO MEDASSET informed the Secretariat that they had also alerted the Barcelona Convention about the situation in Kazanlı and the presence of a very high concentration of toxic waste stored on the seashore. According to MEDASSET, the waste has a high concentration of highly toxic chromium compounds, a by-product of a factory's activities in the 1990s. MEDASSET submitted an updated report for the Standing Committee, highlighting that priorities to maintain Kazanlı as the second most important Mediterranean nesting beach for the critically endangered green turtle are: to stop beach erosion and to rehabilitate the destroyed nesting beaches. They called for the hazardous waste landfill on the beach to be immediately addressed.

At the 27th meeting of the Standing Committee, the Turkish delegation informed the Committee that the situation had improved significantly in many of the 14 points included in Recommendation No. 95(2002) and that more research and monitoring on marine turtles is being carried out. He added that the underwater part of the jetty had been removed to reduce beach erosion; that greenhouses had been moved five metres inland from the beach; that plastic rubbish had been removed; and that a solution had been found to deal with the toxic waste. He reported that an important amount of financial resources would be spent to treat the waste and put it in a safe place away from the sea, a process to take approximately eight years and which includes the establishment of a non-hazardous waste land filling facility.

The Standing Committee decided not to open a file and requested Turkey to submit a report on progress in the implementation of the 2002 Recommendation to its next meeting in 2008.

The Turkish government sent a report in October 2008, informing that the project to set up a waste landfill site to store the hazardous waste transformed into non-hazardous waste has been delayed. The revised timetable indicates that the start up date of the waste treatment plant will be July 2009, while the landfill site is planned to be put into operation in November 2009.

b. Recommendation No. 96 (2002) on conservation of natural habitats and wildlife, especially birds, in afforestation of lowland (Iceland)

In 2007, the NGO BirdLife International reported on the implementation of Recommendation 96 (2002), asking the Bureau to include it in the agenda of the Standing Committee as a possible case file, and claiming that the Government of Iceland had failed to ensure the satisfactory implementation of any of the seven points of Recommendation 96 (2002) in the past five years. According to the NGO, afforestation plans in Iceland present a grave threat to birds as the vast majority of the planting is and will be in lowland Iceland, below an altitude of 100 m. The country's important breeding wader populations are likely to be threatened if the afforestation develops without taking care to avoid the most sensitive areas for birds, such as marshland, river plains and dwarf-birch bogs. The NGO recommended that new plantings should preferentially take place on habitats avoided by breeding waders, such as on slopes and hillsides. They added that afforestation is likely to destroy the habitat for internationally important populations of birds on passage.

In 2007, the Government of Iceland reported that no strategic environmental impact assessment (SEA) of afforestation policy in Iceland had been conducted and that no single afforestation programme in Iceland has ever been subject to EIA. In addition, the ongoing work on identifying and mapping habitat

types in Iceland has focused on highland areas with no habitat type mapping undertaken in lowland areas. The Icelandic government stressed that Iceland's Nature Conservation Registry includes areas of high nature value, used as candidates for protection, and that preparatory work for the Nature Conservation Strategy 2004-2009 includes the identification of areas of high biological value, most of which are also listed in the Registry.

At the 27th meeting of the Standing Committee, the delegation of Iceland reported that the new government, in post since summer 2007, had decided to move forestry issues and related agencies to the Environment Ministry, as of 1 January 2008, which could change the situation on this issue. They reminded the Committee that the implementation of this Recommendation is a long-term task and that the country has the will to implement it as best as possible.

At the 2007 Standing Committee meeting, BirdLife International highlighted that Iceland is the most important country in Europe for breeding waders and that afforestation has rapidly accelerated since the Recommendation was adopted in 2002. The NGO warned that unless better regulated, the policy of subsidising the planting of non-native trees in the lowlands will have severe impacts on the wader population. They encouraged Iceland to implement a list of 13 measures.

The Standing Committee agreed to ask Iceland for a report in 2008.

In October 2008, the Icelandic authorities sent a report with new information, including plans for future work for the identification and habitat mapping of lowland areas with high biological value; the setting up of an Advisory Board in Afforestation and Revegetation; and the approval of a National Strategy for Biological Diversity in Iceland, which includes specific objectives for the reclamation of natural ecosystems such as wetlands and birch woodlands.

c. Recommendation No. 108 (2003) on the proposed construction of the “Via Baltica” (Poland)

The 'Via Baltica' - part of the EU-funded TINA ('Transport Infrastructure Needs Assessment') transport network in Central and Eastern Europe - will be an expressway running from Warsaw to Helsinki. It will pass through Poland, Lithuania, Latvia, Estonia and Finland.

The “Via Baltica” project raised several problems regarding the protection of natural areas, according to the report of the independent expert prepared after an on-the-spot visit in 2003, which included consideration of the Knyszynska Forest and the Raspuda Valley.

In November 2006, the Polish delegation informed the Standing Committee that the strategic environmental assessment (SEA) was due to be finalised by the end of 2006, and reported that NGOs had been involved in the competitive tendering process and the report itself and that the results would make it possible to take a decision on the final route. The Committee took note of this information and asked the Polish Government to provide the decision on the choice of route, the relevant SEA and all other relevant information regarding this case.

In December 2006, the European Commission officially opened legal infringements procedures against the Polish Government based on the Augustow and Wasilkow bypasses. In March 2007, the Commission took Poland to the European Court of Justice (ECJ) over the planned construction of the Augustow bypass and the Wasilkow bypass, due to the damage they would cause to natural areas of European importance

In 2007, the Secretariat received an NGO report informing about the construction of two sections of road no. 8 - the Polish Government's preferred route for the Via Baltica international road corridor – which had started at the beginning of 2007, and warning about damage to key wildlife sites, including the pristine Rospuda Valley in the Augustow Primeval Forest, habitats of a large number of species such as Lesser-spotted Eagle, White-tailed Eagle, White-backed Woodpecker and Capercaillie.

The Polish government reported that more than 40 variants of the route had been determined in the 1st phase of this work and then submitted to detailed analysis and tests during the 2nd phase. Work of the 2nd phase was being finalised with the consideration of three recommended variants plus the S8 road planned. These variants would be assessed by mid-November 2007, including the "zero-investment" option in order to select the most favourable one in terms of the environment, human life and health. The assessments of the variants would also include mitigation activities, compensation opportunities and monitoring, including evaluation of the implementation costs. The studies would be subject to formal public consultation under EIA procedure and be carried out in late 2007 and early 2008.

At the 27th meeting of the Standing Committee, the Polish delegation informed the Committee that the SEA had been completed in mid-November 2007 and that they were preparing public consultation through various hearings. They stressed that the results of the SEA would decide the final route of this trans-European transport corridor and that no choice had been made yet, as this depended on the results of the public consultation. The Committee was informed that there was no timetable for construction works and that any change on the original route would have to be accepted by the European Conference of Transport Ministers, which was at the origin of this trans-European transport corridor. The Polish government informed that the SEA would deal with three sections of Via Baltica and that only one of them presented problems with protected areas and Natura 2000 sites. In this area between Bialystok and Suwalki, no works were taking place, just rehabilitation of the existing national road for safety reasons.

BirdLife International stressed the limited implementation of Recommendation 108 (2003) and expressed concern for the fact that road 8 was treated as one of the country's most important priorities, in advance of the results from the SEA.

The Standing Committee agreed to follow-up the situation with a report from Poland in 2008.

In March 2008, the Department of Forestry, Nature and Landscape Conservation forwarded the following explanations from the General Directorate of National Roads and Motorways:

- the work to determine the course of Transport Corridor I is underway and has not been concluded;
- the draft final document "The strategy for the development of the 1st Pan-European Transport Corridor (Budzisko-Warsaw). Part I: The Road Corridor" needs verification of its functional and traffic sections, and additional analyses designed to estimate the impact of the implementation of the selected alternative routes on the other elements of the road network, as well as that of the chosen methodologies;
- public consultations and the procedure relating to the transboundary impact can be carried out after complete materials have been prepared;
- the website www.viabaltica.scottwilson.com.pl has made available to the public opinion the materials which have been collected to date as well as a communiqué on the state of progress of the work.

BirdLife International sent information in August 2008, including the following conclusions:

- Implementation of Recommendation No 108 (2003) on the Via Baltica by the Polish Government has been limited;
- Despite good opportunities to include a new route for Via Baltica based on the SEA process, there is no political will to implement the results of the SEA for the 'Via Baltica' and take into account nature protection requirements during transport development;
- The case is still at a critical stage and BirdLife International asks the Standing Committee to closely scrutinise implementation of the Recommendation and to take further action regarding Poland as appropriate to avoid irreversible damage.

In particular, the NGO asks the Standing Committee to consider calling for a meeting with high level representatives of the Polish government to discuss progress on the implementation of Recommendation No 108 (2003), and especially the plans to change the route of 'Via Baltica'

expressway and the need to consider the requirements for protection of Emerald Network/Natura 2000 sites in the Podlasie region during the planning of transport infrastructure development.

d. Recommendation No. 113 (2004) on military antenna in the Sovereign Base Area of Akrotiri (Cyprus)

The UK authorities reported in March 2007, covering the following issues: Pluto Health Study ; Pluto Bird Flight Diverters; Pluto Bird Studies; Hydrology Study; Environmental Management Systems; Akrotiri Peninsula Environmental Management Plan; On-island Environmental Support.

Also during 2007, the NGO BirdLife Cyprus reported that there had been some progress towards meeting the recommendations of the Standing Committee. Preliminary monitoring of bird strike at the Antenna site had been carried out but the Sovereign Base Area Administration (SBAA) had yet to designate the Akrotiri peninsula – Episkopi cliffs IBA as the equivalent of an SPA, although a highly encouraging policy on management of the area had been adopted and seemed to be implemented well (especially as regards appropriate assessment of proposed developments).

The Standing Committee regretted the absence of a delegation from a United Kingdom at its 27th meeting, in November 2007, and further regretted that the UK report on this issue had been received shortly before the meeting, making its distribution to Parties materially impossible.

BirdLife International regretted the limited progress made on the SPA designation, which they reported as having been unjustifiably delayed, as well as the continued poaching of birds, and problems for monitoring the mortality of the antenna due to the lack of access to the area by military authorities.

The Standing Committee wished a more complete report from the UK in 2008. Update reports have been received informing about progress on each of the paragraphs of Recommendation 113 (2004). The latest report is included in document T-PVS/Files (2008) 2 rev.

The NGO BirdLife Cyprus sent an update report to the Secretariat in August 2008, concluding that there has been definite progress towards meeting the Standing Committee's Recommendations in the last year, although much remains to be done. In particular, they reported that there has been some preliminary monitoring of bird strike at the Antenna site, but a formula for long-term mortality monitoring remains elusive. Significant and sound steps have been taken by the SBAA towards designation of the Akrotiri peninsula – Episkopi cliffs Important Bird Area (IBA) as the equivalent of a Special Protection Area (SPA)/Emerald Network site, although the NGO is concerned that two areas of the site may be omitted from the protected area. BirdLife Cyprus reported having enjoyed constructive dialogue with the SBAA, and with the SBA conservation team in particular.

e. Recommendation No. 118 (2005) on the protection of the Hermann tortoise (*Testudo hermanni*) in the Massif des Maures and Plaine des Maures localities (Var), France

The Standing Committee dealt with this species and site in the past, concerning a project to build a test road for a tyre factory, which was later abandoned. The French government made a strong commitment in order to ensure the protection of the species, and the Standing Committee decided to close the file in 1997.

Considering that the implementation of the Public Interest Plan (PIG) as well as the additional measures of protection had not sufficiently contributed to the conservation of the species, the *Société nationale de Protection de la Nature (SNPN)* approached the Secretariat again in 2003. The Committee decided to accept the French authorities' offer to organise an on-the-spot appraisal, which was carried out in March 2005.

In 2005, the Standing Committee adopted Recommendation No. 118 (2005) on the protection of the Hermann tortoise in the Massif and Plaine des Maures, including a request to the French government to use a more global management concept for the areas concerned for this species, and to reject the new application for an extension of the Balançon waste storage centre. The French Delegate informed the Standing

Committee of progress in the implementation of the Recommendation, and stressed the assistance provided by the Convention in processing this complex file.

In 2006, the Standing Committee took note of additional information provided by France on delimitation of the Natura 2000 reserve and the biotope protection decree, and reserved the right to re-examine this issue and open a file in the light of the information that would be presented, including the examination of detailed maps.

In 2007, the French authorities informed the Secretariat of a global strategy for the conservation of this species in the French PACA region (Provence, Côte d'Azur) and in Corsica. This global strategy – which is not an action plan – includes a restoration plan for the specie and its habitats. The French authorities stated that the government was willing to take intensive action to protect the species and its habitats and confirmed the implementation of a global strategy for their conservation, including a restoration scheme. They also provided information on other measures being taken, including the creation of a nature reserve, the publication of the implementing decree for the Natura 2000 area, the establishment of a steering committee, a management scheme for the Natura 2000 area, and other measures aimed at the conservation of the species.

The Standing Committee deemed positive the information supplied by the French authorities and agreed that the French delegation should provide further information in 2008, both to report on the implementation of Recommendation No. 118 (2005) and on the matters raised during this meeting (LGV; Balançan waste storage centre; ecological corridors linking the reserve with other populated areas outside it; and state of progress of the restoration scheme), and also to take stock of the progress achieved and of the results of the projects presented.

The French government reported in March, August and October 2008, including the following information:

- **Classification of the Maures plaines as a national nature reserve:** The public consultation and local procedure were completed in 2007 and the case has been examined by the Committee on protected areas of the National Council for Nature Protection (*Conseil National de Protection de la Nature*, CNPN). The Committee issued a favourable opinion, with a reservation concerning the adjustment of the perimeter, which was followed by an inter-ministerial consultation on the new draft perimeter, in August 2008, with a view to sending the draft decree to the *Conseil d'Etat* in September 2008.
- **The national restoration plan for the Hermann tortoise:** The “restoration plan for the tortoise in the PACA region and Corsica” was developed in 2006 and 2007 and goes beyond Recommendation 118 as it includes the distribution zone of the species also outside the Maures area. The document was submitted to the CNPN, for advice, in December 2007 for the element on “guidance and objectives”, and in March 2008 for the element on “actions and operational measures”, which received a positive opinion by the wildlife committee of the CNPN. The national restoration plan will be subject to extensive dissemination among relevant institutional partners during the last quarter of 2008, once it has received inter-ministerial validation.
- The CEEP association (*Conservatoire études et écosystèmes de Provence*) has submitted an application for EU funds over 2008-2009 aimed at carrying out **priority actions of the restoration plan in the Var region** and, in particular, for setting up networks and improving the knowledge. In addition, a LIFE+ programme is being developed on this issue (covering the PACA region and Corsica and possibly also Catalonia) and is expected to be submitted for funding in November 2008 and, if successful, for implementation from 2010.
- **Consideration of ecological corridors** linking various population outside the planned nature reserve: a number of studies are planned in 2009 to improve the knowledge of the species, as well as specific actions for its conservation, such as a strategy for the protection of population nodes and their connectivity.

f. Recommendation No. 129 (2007) on the construction of a dam and hydro-electric power station in Lesce on the Dobra River (Croatia)

In 2006, a complaint was filed by Friends of the Earth Croatia, highlighting the foreseeable negative effects of a dam project on local biodiversity and criticising the content of the relevant environmental impact studies. The decision to build the hydro-electric power station had been taken in 1988 and work was already well under way in 2006, although the last phase of the project, which posed the greatest threat to nature conservation, was still not in the construction phase and the permit had not been issued yet. An on-the-spot visit was carried out in 2007 and this recommendation was agreed on the basis of the report and recommendations proposed by the independent expert .

In August 2008, the Croatian authorities sent a detailed report on the implementation of this Recommendation, stating that the project of building a dam on the river Dobra is far advanced, and as it is a governmental priority in regards to electricity needs, and therefore there was no option to withdraw the decision to authorise the construction of the dam. All phases of the construction have valid documentation, including protection measures and approvals by the competent authorities. Croatian Electricity Company, the investor, has agreed to finance an expert study for species and habitats and a detailed monitoring program towards mitigating or compensating the negative effects of the hydroelectric power station in Lešće. The expert studies will cover the whole year cycle and, based on the preliminary reports submitted after the first six months, further construction works and the filling of the accumulation lake will be determined.

g. Recommendation No 131 (2007) on the Planned Motorway Vc across the Drava Marshlands in Slavonia (Croatia)

In 2006, a complaint was filed by the NGO Friends of the Earth Croatia, highlighting the foreseeable negative effects of a road project on local biodiversity and criticising the content of the relevant environmental impact studies. Works on the motorway which would form part of the corridor linking the Baltic to the Adriatic had started in the south and were supposed to continue in the North in 2008. An on-the-spot visit was carried out in 2007 and this recommendation was agreed on the basis of the report and recommendations proposed by the independent expert.

In August 2008, the Croatian authorities sent a detailed report on the implementation of this Recommendation, stating that Croatian Motorways agreed to finance additional research and monitoring of the Drava Marshlands. The project proposal for the expert study (site visit, monitoring program, mitigation measures) covers species and habitats in the area of the planned motorway, including Appendix II and III species (White-tailed eagle, Black stork, Ferruginous duck, Yellow-bellied toad and Fire-bellied toad). The additional mitigation and compensation measures during and after construction will be based on the results of this expert study, in accordance with the recommendations of the Bern Convention, as well as the monitoring programme, which is planned for before and during the construction period, in order to provide evidence of the effects of the construction process on species and habitats, and resulting in mitigation measures.
