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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

37th meeting
Strasbourg, 5-8 December 2017

File open

**Threats to marine turtles
in Thines Kiparissias
(Greece)**

- REPORT BY THE COMPLAINANT -

*Document prepared by
MEDASSET - Mediterranean Association to Save the Sea Turtles*

**DEVELOPMENT PLANS IN KYPARISSIA BAY, SOUTHERN KYPARISSIA
(WESTERN PELOPONNESE, GREECE)**

- 28 August 2017 -

UPDATE REPORT BY

***MEDASSET - the Mediterranean Association to Save the Sea Turtles
for the 2nd Meeting of the Bureau & the 37th Standing Committee Meeting of the
Contracting Parties to the Convention on the Conservation of European Wildlife and
Natural Habitats (Bern Convention)***

Following the complaint submitted on 22 August 2010 for the 30th Standing Committee Meeting [T-PVS (2010) 16] regarding developments threatening Kyparissia Bay, and the following:

- 1 the response of the Greek authorities to the European Commission (sent on the 22nd December 2010) forwarded to the Bureau Meeting on 8 March 2011 (T-PVS/Files (2011) 5E),
- 2 The European Commission's letter of formal notice to the Greek Authorities in October 2011,
- 3 MEDASSET's update reports sent to the Bureau on 2 September 2011 and on 29 March 2012,
- 4 ARCHELON's short Report sent to the European Commission and the Bern Convention (October 2012),
- 5 The European Commission Reasoned Opinion (EL2011/2156 ENVI) sent to the Greek Authorities in October 2012,
- 6 The Greek Authorities response to the EU Commission's Reasoned Opinion on 22 November 2012,
- 7 MEDASSET's update reports sent to the Bureau on 11 March 2013 and 1 August 2013 (T-PVS/Files (2013) 15),
- 8 ARCHELON's short Report sent to the European Commission and the Bern Convention (October 2013),
- 9 the response of the Greek Authorities to the letter of the SG Bern Convention (11 October 2013) on 17 October 2013
- 10 the decision of the 2nd Bureau meeting on 17 September 2013 (T-PVS (2013) 10) to finally discuss the complaint as a File open at the 33rd Standing Committee meeting (December 2013), inviting the Greek authorities to attend,
- 11 The European Commission's decision on 28 March 2014 to take Greece to Court for a failure to provide adequate protection for the endangered sea turtles,
- 12 the on-the- spot appraisal in South Kyparissiakos Bay, carried out by Bern Convention experts, 14-15 July 2014,
- 13 MEDASSET'S update report sent to the Bureau on 30 August 2014 (T-PVS/Files (2014)48),
- 14 the Report to the Standing Committee, dated 1 September 2014 by Dr. Paolo Casale, University of Rome "La Sapienza", coordinator of the Sea Turtle Project of WWF Italy and member of the IUCN SSC Marine Turtle Specialist Group (T-PVS/Files (2014)49),
- 15 ARCHELON's short report sent to the European Commission and the Bern Convention (October2014),
- 16 The Recommendation No.174 (2014) of the Standing Committee, adopted on 5 December 2014, on the conservatiuon of the loggerhead sea turtle (*Caretta caretta*) and of sand dunes and other coastal habitats in Southern Kyparissia bay (NATURA 2000-GR2550005) "Thines Kyparissias", Peloponnesos, Greece),

- 17 MEDASSET'S update report sent to the Bureau on 14 August 2015 (T-PVS/Files (2015) 29),
- 18 ARCHELON's short report sent to the European Commission and the Bern Convention (October 2016),
- 19 The judgement of the Court of Justice of the European Union, in Case C-504/14 Commission v Greece issued on 10 November 2016.

We wish to present a summary of the current situation in Kyparissia Bay, a NATURA 2000 site, (THINES KYPARISSIAS – GR2550005).

Kyparissia Bay which is located on the Western Peloponnisos coastline has an increased ecological value due to the presence of an extensive dune ecosystem and the fact that it constitutes one of the most significant nesting areas of the *Caretta caretta* turtle in the Mediterranean Sea, an endangered species according to the 92/43/EOK directive, in need of strict protection (annexes II and IV of the same directive). Indeed, for the part of beach lying between the estuaries of the rivers Neda and Arkadikos (about 10km in length), has been reported that 82% of the sea turtles nest in this area (1.452 nests in 2014, 1.286 in 2015, 1.472 in 2015, 2.702 in 2016 and 1.300 so far in 2017 according to ARCHELON). It is important to highlight that in all years the number of nests exceeded those recorded on Zakynthos.

The ecological value of the area and the necessity for protection measures has been repeatedly remarked to Greek authorities by MEDASSET and ARCHELON in cooperation with other Environmental NGOs. Five years after the European Commission's Reasoned Opinion was sent to the Greek Authorities, four years and a half after Greece's official response - by which the country made a commitment to take all necessary measures in order to protect sea turtles and the dune habitats - and 9 months since the Court of Justice of the European Union condemned Greece on November 2016 for failing to take the measures required by Directive 92/43 to establish and implement an effective system of strict protection for the sea turtle *Caretta caretta* not only has no measure been taken but also the area continues to be degraded.

The Standing Committee of the Bern Convention on the Conservation of European Wildlife and Natural Habitats, being aware of the severe pressures on the habitat due to construction interests since 2010, unanimously adopted a Recommendation at its annual meeting on December 5, 2014, (Recommendation No. 174 urging Greece to prevent habitat deterioration and ensure improved protection of Southern Kyparissia Bay. The 2014 Recommendation was issued pursuant to a report and appraisal by an international expert¹ pursuant to concerns raised by NGOs (ARCHELON and MEDASSET) relating to the construction of roads, houses and marine structures near the nesting sites, as well as the risks posed by fishing practices, photo - pollution and human disturbance to the beach during the nesting and hatching season.

The 12 points in the 2014 Recommendation are addressed below.

First recommendation: Protection status

The Presidential Decree (PD) on the characterisation of the sea and land area in the "Kyparissia Gulf Regional Park", which was drafted in 2014 and submitted to the Council of State for approval, fell far short of EU and conservationists' demands, as it designated the sand dunes of Kyparissia Bay as a "regional" rather than "national" park, allowing much looser restrictions. The country's highest administrative court in 2015 returned the document to the Environment Ministry with numerous observations and objections that still need to be addressed. The court emphasised that the issue of an improved new draft decree was urgent in light of the European Commission's complaint and the 2014 Kyparissia Recommendation. Environmental groups have also vehemently opposed the planned decree, arguing that it does not adopt a strong enough stance against activity that is detrimental to the natural habitat.

1 Report to the Standing Committee dated 1 September 2014 by Paolo Casale, University of Rome "La Sapienza", co-ordinator of the Sea Turtles Project of WWF Italy and member of the IUCN SSC Marine Turtle Specialist Group.

On 18th February 2016, the general prosecutor of the ECJ suggested that Greece should be convicted of failure to introduce measures to protect the Gulf of Kyparissia. Specifically, the prosecutor, whose proposals are not binding for the European Court, stated that despite the positive overall picture and the efforts made by the Greek government and non-governmental organizations to protect sea turtles for the last twenty years, Greece has allowed a series of activities that negatively affect both the reproduction of the turtle and the protected dune habitat in the region.

In order to avoid this, the Greek Ministry of Environment and Energy finally put the 2nd draft PD out for public consultation on 26th February 2016. The public consultation lasted 2 weeks and MEDASSET reviewed the draft PD and together with all the other Greek Environmental NGOs

including ARCHELON submitted their comments and proposed amendments to the Ministry of Environment with the hope that the content of the PD will not remain unchanged.

In a meeting in Athens, on 16 May 2016, the Natura 2000 Commission gave its endorsement to the draft Presidential Decree which remained unchanged and urged the Ministry to incorporate the Commission's comments to the Presidential Decree and send it for review to State Council before the expiration of the Ministerial Decision which was suspending building permits and any type of construction activity in area.

Fortunately, on 24 May 2016, (date that the suspension of building permits expired) the Ministry of Environment issued a new Ministerial Decision² that halted any type of construction activity in the area for the next two years. This is a positive development but because of its temporally nature (valid only for two years) the need for a new Presidential Decree remains high.

On 10 November 2016, the Court of Justice of the European Union (CJEU), in its judgement concerning Case C-504/14 Commission v Greece declares that a comprehensive and coherent preventive legislative and regulatory framework for the protection of the *Caretta caretta* sea turtle was lacking in the Kyparissia area.

Specifically the CJEU declares that the Hellenic Republic,

- by failing to adopt a comprehensive, coherent and strict legislative and regulatory framework for the protection of the *Caretta caretta* sea turtle in the Kyparissia area;
- by failing to take, within the prescribed period, all the specific measures necessary to prevent the deliberate disturbance of the *Caretta caretta* sea turtle during its breeding period; and
- by failing to take the measures necessary to enforce the prohibition on deterioration or destruction of the breeding sites of that species, has failed to fulfil its obligations under Article 12(1)(b) and (d) of Directive 92/43;

On April 2017 (i.e. 2 years after the 1st Decision of the Council of State), the Greek Ministry of Environment (MoE) submitted a revised draft 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, in order the effective protection of the area to be ensured.. The Council of State requested the administration (MoE) to re-examine the issue more strategically and from the point of view of environmental protection, as the area has been included in the Natura 2000 network.

Second recommendation: permanent prohibition of construction

A Ministerial Decision was re-issued in May 2014, suspending the issuing of new permits for building or other works (e.g. pumping installations, drilling, fencing of fields, cultivation of land between the coastal forest and the beach) pending the issue of the Presidential Decree. The ministerial decision was renewed 3 times since May 2014 and expired in May 2016. As the Presidential Decree was not issued yet, on 24 May 2016 a new Ministerial Decision was issued according to the article 6,

² The ministerial Decision (ΦΕΚ 141 Δ' / 24-5-16) was issued according to the article 6, paragraph 9 of the law 3937/11.

paragraph 9 of the law 3937/11. This definitely was a positive development but it is worth mentioning that the decision 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 and due to the lack of a presidential decree there is a strong possibility that constructions are not prohibited any more.

Third recommendation: restoration of original dune and forest habitat

No restoration actions have been taken related to the plowed dunes nor demolition work of the roads perpendicular to the shoreline was carried out. In addition, the temporary blocking of the roads leading to the beach does no longer exist and vehicles can freely access the nesting beaches provoking damage to the dunes and disturbing to nesting and hatching turtles. (pictures 1, 2, 3)

Fourth recommendation: adjustments to existing houses

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. In the summer house in the area of Vounaki, (its construction was finalised in 2014 as the suspension was valid only for the new building permits) new plants (pikrodafni) were planted around the property. Unfortunately, the new vegetation does not belong to the Dunes Ecosystem and although the barbed wire fencing has been removed the cement base still remains. (Picture 4)

Fifth recommendation: no agriculture

The cultivation of water melons continues in the dune area. (Picture 5)

Sixth recommendation: general photo pollution

Photo pollution remains an important issue especially in Kalo Nero Beach, where illegal taverns continue to operate on or close to the beach and produce light pollution at night. Illegal camping close to or on the beach is very common in the area as well. It is worth mentioning that Trifilia Municipality made some progress in the way that artificial lighting becomes more sea-turtle friendly because it is directed downward and lower to the ground. (picture 6)

Seventh recommendation: beach equipment

The beach furniture used in the beach of Kalo Nero cover a zone of 1.2 km and tourism business enterprises owners remove them only occasionally during night (picture 6). This year a new sunbed owner was added to the beach which is already crowded with sunbeds and umbrellas. The illegal wooden platforms on the beach of Kalo Nero remain despite the demolition protocols that have been issued from the Public Land Authority of Kalamata.

Eighth recommendation: sand and gravel extraction

Sand and gravel extraction has not been an issue this year.

Ninth recommendation: further building

As mentioned above, on 24th May the Ministry of Environment issued a new ministerial decision that prohibited any type of construction activity in the area for the next two years. This is a positive development but because of its temporally nature (valid only for two years) the need of a new Presidential Decree remains high. All forms of building development should be *prohibited* by the new Presidential Decree.

Tenth recommendation: circulation of vessels

Fishing activities constitute an important threat for sea turtles. Fishing nets near the nesting beach are permitted and very often adult turtles and hatchlings get caught accidentally. Fishing in the waters off the breeding beaches of the *Caretta caretta* sea turtle in the Kyparissia area still is not adequately curtailed.

Eleventh recommendation: use of the beach at night

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.

Twelfth recommendation: feral dogs

No attacks have been recorded this year.

General remarks

All of the above and especially the situation in Kalo Nero, which has not improved, calls for the immediate implementation of management measures. The submission of all necessary information by the Greek Ministry of Environment to the Council of State in order to decide on the case of the revised draft Presidential Decree aiming to ensure the long time conservation of the high natural values of Kyparissia Bay remains the most critical issue.

We hereby wish to request that case to be placed on the Agenda of the 37th Meeting of the Standing Committee. MEDASSET urges the Secretariat to follow up through the Greek Government regarding progress made over the afore mentioned Presidential Decree.



Picture 1. Flattened dunes with bulldozers



Picture 2. Access routes to the beach in the Dunes of Kyparissia area



Picture 3. Access routes to the beach in the Dunes of Kyparissia area



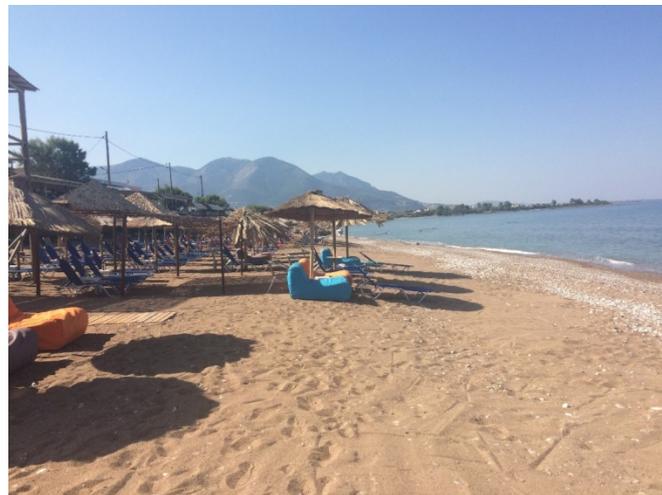
Picture 4. New vegetation grows in the Vounaki area.



Picture 5: Cultivation of water melons near to Kalo Nero Beach



Picture 6. Photo-pollution: lights in direct proximity to the nesting beach. The management of beach furniture in Kalo Nero village took place only occasionally during 2017 nesting season.



Picture 7. New sunbeds and umbrellas right on the Kalo Nero nesting beach.



Picture 8: Wooden platform



Picture 9: Canteen, wooden platforms and beach volley net next to the beach in front of Elaia village.