Following the proposed list of 38 new special protection areas (SPA)\(^1\) sent to the Commission in January 2007 by the Polish Government, the project of the new Ministry Regulation on Designation of SPAs in Poland announced in March 2007, and the list of 63 new proposed sites of Community importance (pSCI) submitted to the Commission at the end of March 2007, the undersigned non-governmental organizations express concern at the lack of visible progress in the proper designation of the Natura 2000 ecological network in Poland and present the following notes, updating official Complaint No. 2005/4119.

A. Designation of pSCIs in Poland

In the opinion of the signatories of this letter, existing scientific knowledge allows the design of appropriate sites in Poland for the majority of natural habitats and species from the annexes of the Habitats Directive. This has been done in the form of the so-called “Shadow List”.

The Shadow List was elaborated in year 2004 based on the efforts of nearly 120 scientists’ and using output collected over several years of Natura 2000 designation in Poland (years 2002–2004). This list was the object of scientific review executed in 2005 by order of the Ministry of the Environment by the Institute of Nature Protection – Polish Academy of Sciences in Krakow (IOP), as well as subject to the opinion of the State Council for Nature Conservation (PROP). These opinions have completely confirmed the legitimacy of the creation of the suggested sites. Border verification of some sites, change of site descriptions or further field research was suggested in the opinion. Most of this was done during the

\(^1\) In fact 35 new SPAs and extension of 3 existing ones.
preparation of the updated version of the Shadow List, which was published in March 2006. The signatories of this letter are working continuously on the recognition of species and habitat resources and on improving Shadow List proposals, gathering all available new information and opinions.

The current Polish Minister of Environment doubts the reliability of research data concerning Shadow List sites, claiming that there is a reasonable suspicion that they are out of date. However, the Minister has not taken up any substantial discussion concerning particular sites, or presented any concrete research or scientific data confirming his opinion.

Replying to the Minister's general request of making data concerning occurrence of habitats and species accessible, non-governmental organizations involved in the Shadow List preparation pointed out that sources of data are given in Standard Data Forms (SDF) and that the majority of them were published and publicly accessible. All NGOs declared that they are ready to take up scientific discussion concerning any particular sites and their boundaries. However, no such discussion has been taken up by the Ministry of Environment.

The Polish Minister of Environment declares the need for carrying out in Poland from the very beginning a „general survey of species and habitats from the Habitat Directive annexes”, which has to be the basis of designating Natura 2000 sites.

We don't doubt the need for better recognition of natural habitat resources and species in Poland. It is necessary to better manage these resources, both in the determined Natura 2000 sites and outside of them. We can't, however, agree with treating the whole hitherto existing scientific knowledge as useless and out of date.

The Ministry's declarations of willingness to carry out such a survey does not find full reflection in the facts. In 2006 the Minister, having from the budgetary reserve 10 mln PLN for the creation of the Natura 2000 network, assigned merely 0.6 mln PLN for field surveys. This amount allowed the execution of the following field surveys:

- chosen natural habitats and a few invertebrate species in Alpine biogeographic region;
- natural habitats on 44 sites proposed on the Shadow List in Lower-Silesia (Dolnośląskie) voivodship (region in SW Poland).

Moreover, the survey in the Alpine region was commissioned in September 2006, and reconnaissance in Lower-Silesia voivodship was formally commissioned just in November 2006 with a deadline in December 2006, which certainly lowered the quality of data obtained.

Contrary to the Polish Ministry of Environment's statements, it is not true that 200 people participated in the reconnaissance in Lower-Silesia voivodship. The scientific task was performed by a team of about 25 environmentalists, and several people might have been involved in the technical processing of results.

We point out that these surveys have not resulted in negative verification of any of the sites examined from those proposed on the Shadow List. Only slight changes of site delimitations have been proposed as well as a more detailed assessment of habitats coverage.

Also, declarations that the results of planned and performed surveys will become the real basis for determining Natura 2000 sites don't find agreement with the facts. The results of the surveys mentioned above, indicating the necessity of assigning new or enlarging Natura 2000 sites proposed earlier, mostly haven't been used. For example:

- Resources of *Molinia* meadows in alpine region (6410 habitat – SCI RES on Biogeographical Seminar) were found as a result of reconnaissance performed by the Institute of Nature Protection – the Polish Academy of Sciences – as a consequence a site for their
protection (the only one in the region!) was proposed under the name “Lubogoszcz”. Material concerning this site was published on the Internet and stakeholders consulted, but the site was not submitted in March 2007 to the European Commission.

- Site “Biała” for the Alpine rivers habitat in the alpine biogeographic region (3220-3230-3240 habitats, IN MOD on Biogeographical Seminar) was proposed as a result of reconnaissance performed by the Institute of Nature Protection – Polish Academy of Sciences (IN MOD/IN MAJ on Biogeographical Seminar). Materials concerning this site were published on the Internet and stakeholders consulted, but the site was not submitted in March 2007 to the European Commission.

- In continental region (Lower-Silesian) results of a field survey fully confirmed the reasonableness of proposing such sites as Góry Kaczawskie (Kaczawskie Mountains), Pasmo Krowiarki (Krowiarki Range), Masyw Śnieżnika i Góry Bialskie (Śnieżnik Massiff and Bialskie Mountains), Góry Kamienne (Kamienne Mountains), Łęgi nad Bystrzycą (Bystrzyca alluvial forests). It also confirmed the fact that these sites are crucial for regional and national resources of unique natural habitats from the Annex I of Habitat Directive. Despite this, these sites were not submitted in March 2007 to the European Commission and as a result the most important localities of 4060, 6110, 6150, 6210, 6230, 6520, 8110, 8310, 9150, 9170, 9180 as well as Gladiolus palustris, Trichomanes speciosum, Cypripedium calceolus were excluded (see annex for more details).

- Despite the fact that in Lower-Silesia voivodship some resources of natural habitats were identified in a few places just beyond the border of sites proposed earlier (which should be followed by verification of borders and enlargement of the site), no such proposals have been put in site borders submitted to the European Commission in March 2007.

- The majority of newly submitted SDFs from the Lower Silesia region do not contain the results of the latest field survey. The quality of SDFs submitted by the Polish government is generally poor. Sometimes they do not even contain the main species, for which the sites have been proposed (Wzgórze Kielczyńskie – missing Aspelnium adulterinum; Pątnów Legnicki – missing Eriogaster catax; Masyw Ślęży – missing Gladiolus palustris).

- No other areas in this voivodship were included in the survey, only those proposed previously by non-governmental organizations.

Instead, in sending proposals of the new Natura 2000 sites to the European Commission in March 2007, the Polish Minister of Environment in several cases (especially concerning SW Poland) changed the borders of previously proposed sites, reducing their areas. Some of these changes are reasonable and are the result of better recognition, but at least a few of them are against data obtained in the aforementioned survey – they exclude areas, in which evidence was found for important resources of natural habitats in 2006, or in which can be found newly evidenced species resources. For example:

- The Dolina Widawy (Widawa Valley) site was reduced – important and evident natural resources of Galio-Carpinetum oak-hornbeam forests and one third of local Eriogaster catax population (about 5% of the actually known Polish population) were excluded (see annex for more details). The reason is probably a desire to exclude field meant for railway modernization.

- The Stawy Sobieszowskie (Sobieszowskie Ponds) site was diminished by a half – more than a half of evident 91E0 habitat resources and about 90% of Osmoderma eremita population (a priority species, for which this site was designed) were excluded. See annex for more details.
• The Torfowiska Gór Izerskich (Izerskie Mountains Peatbog) site was reduced to an area of valley peatbog in Izera valley. This means that slope and mountain ridge peatbogs with 91D0 and fragments of 7110 habitats were excluded. They are small and scattered, but very important for the maintenance of the full differentiation of these habitats. Also small and unique patches of 9410 and 4070 (the only ones outside the Karkonosze Mountains) were excluded (see annex for more details). The main reason is probably a construction plan for a large, new ski resort.

• Pałtnów Legnicki site, designed for Eriogaster catax, was reduced according to habitat distribution, but as a result, 2 of 3 localities of Eriogaster have been excluded from the site.

• In the proposed Grądy w Dolinie Odry site, the change of borders excluded about one third of Molinia meadow resources.

• In the Uroczyska Borów Dolnośląskich site, most of the northern Atlantic wet heaths (4010 habitat) with Erica tetralix habitat were left outside the new site borders, not even using information from the Regional Management of National Forests databases. Meanwhile this site has been proposed to protect an isolated part of 4010 habitat island in Poland. Also, other important resources of natural habitats and species have been excluded as a result of site reduction. See annex for more details.

• In the Alpine region, boundaries of the Góry Ślonne (Słonne Mountains) site were reduced. The site was limited to the upper parts of mountain ranges occupied by large complexes of natural habitats from the I Habitat Directive Annex. Although the change is justified by the distribution of natural habitats, it has caused the exclusion of the great majority of Strwiąż river system and its tributaries and it is a main Eudontomyzon sp. site and important Cobbits taenia habitat in the Polish part of the Alpine region.

Of course new Natura 2000 sites submitted to the European Commission in March 2007 are necessary for the proper shape of Natura 2000 network in Poland. Although we do not fully understand why four sites have been submitted again with the same or worse2 maps and SDFs (Wzdórza Kiełczyńskie, Grodczyn i Homole koło Dusznik, Ostrzyca Probuszczowicka and Żwirownie w Starej Olesznej have been submitted in September 2006, on the “48 sites list”), we generally appreciate the new sites’ establishment.

However, only in the Alpine region is significant progress being made in the representation of species and natural habitats covered by the network.

In the continental region, which is 96% of Poland’s area, the next lot of Natura 2000 pSCIs submitted by the Polish government provide only minimal progress in improving the representation of particular natural habitats and species in the network. Sites sent in September 2006 provided sufficient representation for just a few species. We estimate that currently, despite the addition of some new sites, representation by inclusion in pSCIs network has been improved for just one species of flora and two types of natural habitats. This means that sites sent by Poland have been chosen according to criteria other than scientific.

Crucial sites, even those which protect the only habitats of endemic Polish species (introduced to the Annex II of Habitat Directive on Poland’s request), still haven’t been submitted. Even in Lower Silesia voivodship, where the detailed field survey was made in 2006, the most important sites have still not been submitted. So a satisfactory representation of most species and habitats is not achieved not only on a national, but also on a regional level.

2 In Wzgórza Kiełczyńskie SDF, Asplenium adulterinum is missing. This is the biggest Polish population of Asplenium adulterinum and is the main conservation target, for which the site was proposed.
Detailed examples and analysis are presented in attached annexes (for ALP and for CONT biogeographic regions) prepared by Klub Przyrodników and PTOP “Salamandra”.

Facts mentioned above allow us to claim that a “need of survey” declared by the Ministry of Environment is only an excuse to delay the creation of the Natura 2000 network in Poland.

The fact that a survey of habitats of animal species from the Annex II of Habitat Directive is planned in 2007 in Lower Silesia, and Natura 2000 habitats and species survey in State Forests has been started, can only improve the protection of these species and habitats, but probably will not bring anything important to Natura 2000 sites designation.

A general survey of natural habitats and species in State Forests in Poland will cover only the land managed by the National Forest Administration so it will be only about 25% of Poland's area. Besides, no data on habitats outside this area will be assembled, even about enclaves within forested grounds. The accepted methodology of the survey means that the data received will be of very uneven quality (see experiences from 6 bird species data described below). This survey is promising from the point of view of completion of species and habitats resources data, and perhaps, improvement of their protection, but it will not change vitally the essential bases of Natura 2000 net designation in Poland. We are concerned that this survey is only a pretext for delaying the correct designation of Natura 2000 sites in Poland. We fear also that data received from this survey may be interpreted dishonestly and misused, just as happened with the data from the 6 bird species survey.

B. Designation of SPAs in Poland

In the opinion of the signatories of this letter, existing scientific knowledge on occurrence of bird species in Poland is completely sufficient for designating SPAs, according to the generally accepted methodology of SPAs designation.

The actual state of recognition of Polish ornithofauna, as well as the quality and availability of relevant scientific data is similar to the other EU countries. The uncertainty of quantitative estimations, as well as the normal progress of science (new observations and methods, data verification etc.) do not provide a barrier to the identification of areas with particular importance for birds.

The IBA Network that is a potential SPAs network of Natura 2000, was submitted for scientific review by the Polish Ministry of Environment in 2005. The results of this review confirmed legitimacy of the outline of proposed sites.

The current Polish Minister of Environment in his statements often questioned the accordance of scientific knowledge (which was a basis for mapping the SPAs) with the actual natural state. So far he has not joined in with the substantive discussion about specific sites and data, and has not presented any scientific results of research which could prove that this knowledge is at variance with the truth/facts. Despite the proposition of substantive discussion made by non-governmental organizations, no initiative was taken by the Ministry of Environment.

Just one effort was taken by the Polish Minister of Environment to show a real substantive argument to support his thesis against the legitimacy of the mapping of sites on the Shadow List. It was a letter directed to Mr Stavros Dimas, the Commissioner for Environment of the European Commission, which was sent by Polish Ministry of Environment in October 2006. This letter comprises a map of the proposed SPA Mosty-Zahajki and a map of this site with a distribution of six bird species made by State Forests (read below). In the opinion of the
Ministry those maps prove that the plan of Natura 2000 sites is wrongly designed. The Minister sent a copy of this letter to a Polish environmental non-governmental organizations.

The Minister did not consider that the Mosty-Zahajki site was proposed as a Natura 2000 site for species of terns nesting on the inner-forest ponds. On the map presented, omitted the water marking. It is obvious that the distribution of the white-tailed eagle, the black stork, the crane, the eagle owl, the lesser spotted eagle and the black grouse is not a good method of verification of this kind of site/habitat. In addition, a few months after – in January 2007 – the Minister sent to the European Commission information about his own intention to designate Mosty-Zachajki as a Natura 2000 site. He attached the same map and the same boundary line which he questioned in October 2006. In light of these facts, the Minister’s charges against data about this site can not be confirmed.

Contrary to assurances, the Polish Minister of Environment didn’t take any comprehensive activities to create an inventory of bird species and their habitats. The only action that has been taken to this day is the campaign of gathering data about the distribution of bird species: the white-tailed eagle, the black stork, the crane, the eagle owl, the lesser spotted eagle and the black grouse. The campaign was carried out by Polish State Forests in 2006. This action included only six species and was only carried out in the area of the Polish State Forests (25 % of the area of Poland). In fact, it wasn’t a field inventory but only a questionnaire carried out twice (in June and in September 2006) among forestry officers, about their knowledge of the distribution of the bird species mentioned above. The number of watchers: “16 000” or “7 000", interchangeably announced by the Polish Minister of Environment, probably is the number of forest rangers and their assistants who received this obligatory questionnaire form to fill in. This campaign, made with a large involvement of forestry officers, brought very interesting results that show the level of environmental consciousness among the forestry officers as well as their ornithological knowledge. This action can not be used under any circumstances as a comprehensive, scientific source of data. Additionally, the way the action was managed does not provide an honest picture of the real situation. For example, the explanation of methodology was available to the forestry officers just a few days before the deadline for sending back the completed questionnaires.

The results of the questionnaire show a large diversity in quality. In some forest districts, collected data on the distribution of the black stork, the white-tailed eagle, the lesser spotted eagle and the black grouse are similar to the real picture of the distribution in nature, but in the adjacent forest districts these data do not concur with the real situation. Sometimes, forest district officers didn’t even mention nests about which they were informed in writing. The Eagle Conservation Committee estimates that on the scale of the whole of Poland the presence of the white-tailed eagle was omitted in questionnaires in at least 15 % of forest districts where the nests of this species are known to exist by ornithologists. For the lesser spotted eagle 30% of nests were not shown in questionnaires and for the eagle owl about 15 % are missing. Additionally, the latter species was frequently indicated in areas where it does not occur. It has been found that foresters commonly confuse it with the brown owl. According to sample controlling analyses made by the ornithologists, the quality of collected data is dramatically low: for the crane the number of the nests missed was usually 60-100 % (it proved that this species is not well noticed among foresters). The scientific review of this "inventory" of six bird species was negative in all the forest districts where it was examined (e.g. Regional Head Office of Forestry in Wroclaw). Even if some of Regional Head Offices of Forestry and forest districts collected honest, solid and complete data it does not change the total view of this action.

The data collected by this method is unequal, uneven and its quality is spatially diverse. As far as the results are concerned, these data do not meet the requirements and standards of
scientific information and can not be used as the basis for analyses on a scale bigger than one forest district (it is particularly useless for any spatial analyses). Data collected by this method is not suitable for the designation and verification of Natura 2000 sites.

Furthermore, the assumption of the Ministry of Environment, that Natura 2000 SPAs can be designated and classified based on data for six bird species, is totally false. The chosen species don’t have any indicator values towards the importance of the site for other bird species from the Birds Directive.

In January 2007 the Polish Minister of Environment sent to the European Commission information about the intention to appoint 35 new sites and to enlarge 3 SPAs formed in 2004 (so-called “List of 38 SPAs”). From all the identified IBA sites in Poland, the Minister chose only sites where data from the “inventory” made by Polish State Foresters confirmed the even distribution of the six bird species, mentioned above. In doing so Poland consciously withdrew from a methodology of designation of SPAs which is obligatory in all countries of the European Union, and in which all birds species from Annex I of the Bird Directive as well as migratory birds have to be take into consideration.

The Polish Minister of Environment’s actions were not consistent with the official method of designation of sites. On the list of proposed sites he omitted “Beskid Niski” (the priority site for Poland and Europe for the lesser spotted eagle!) and Site “Ostoja Goleniowska” (the highest concentration of the white-tailed eagle in Poland).

During the process of the designation of the 38 SPAs in Poland, the Polish Minister of Environment also cut off the investment areas from several SPAs, even though these areas were significant habitats of birds. In doing so, the Polish government acted against rules that sites for Natura 2000 shouldn’t be designed according to criteria other than scientific.

In March 2007 the Minister of Environment announced a project, the new Ministry Regulation on Designation of SPAs in Poland. This project includes proposals for designation of 35 new SPAs mentioned above, however the boundaries of these sites have already been cut further compared with the materials from January 2007 that were sent to the European Commission. At the same time the project contains proposals which exclude some areas from existing SPAs boundaries. No scientific data was presented which could substantiate those cuts – no studies were carried out on those areas. At least some of the proposed cuts to the sites are not supported by any scientific information.

The detailed comments and analyses about a designation of SPAs in Poland will be presented in the report prepared by Ogólnopolskie Towarzystwo Ochrony Ptaków, the partner of BirdLife International.

C. Lack of improvements in Birds and Habitats directives transposition into Polish nature protection law

Contrary to public declarations of the Polish Minister of Environment, that the Polish Nature Protection Act will be corrected to remove gaps in the transposition of the Bird and Habitat directives, such a project of changes in law was neither brought to Polish Parliament nor even made accessible for public consultations. Even problems concerning species protection, which don’t require a change of the whole law and therefore don't need parliamentary agreement so can be easily corrected by a quick and simple change of the Minister of Environment’s decrees on protected species, weren't solved until April 2007.
D. Lack of appropriate protection system for sites submitted to the Commission

Although Polish nature conservation legislation contains protective rules for pSCIs submitted by the Polish Government to the Commission, no information about the submitted sites lists, sites maps and SDFs is officially available.

Information about sites submitted in January 2006 and September 2006 was published on the official Natura 2000 website of the Ministry, but recently all this information has been removed from the website. Information about sites submitted in March 2007 has not been published even now.

The official catalog of Natura 2000 sites published on the Ministry website contains only 184 sites submitted in year 2004, with many mistakes in the data.

In such a situation, no-one can recognize the obligation to meet protection rules applicable to these sites. As a result, a lot of cases of disturbing species and habitats on submitted sites appear in Poland. More information for such cases will be sent in the near future as a separate letter.

In our opinion, the Government of the Republic of Poland’s decisions related to Natura 2000 are in contradiction with the declaration that Poland “wants to do all the best in establishing the Natura 2000 network”. They also reveal that the Polish Government does not aspire to complete designation of the network and shows neither exactness nor care in practical implementation of the Bird and Habitat directives.

With best regards,

S. Lack of appropriate protection system for sites submitted to the Commission

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