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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

42nd meeting
Strasbourg, 29 November - 2 December 2022

Complaint on stand-by: 2017/6

**Possible negative impact on Breiðafjörður
Nature Reserve and its surroundings from new
road infrastructure
(Iceland)**

**- TERMS OF REFERENCE FOR A BERN CONVENTION
ADVISORY MISSION -**

*Document prepared by
the Secretariat of the Bern Convention*

1. BACKGROUND OF THE CASE-FILE

The complaint concerns an alleged breach of the Convention related to the construction of a new road which would pass through the Teigsskógur birch woods which are adjacent to the Breiðafjörður Nature Reserve and cross nearby fjords. The Breiðafjörður Nature Reserve is of extremely important value for biodiversity and could qualify as an Emerald Network site under the Bern Convention, as well as Ramsar site and UNESCO World Heritage Site.

Related to this specific case is the more general issue of Iceland and its concerning lack of progress in implementing the Emerald Network on its national territory. However, as of December 2021 Iceland has submitted data for several areas as candidate Emerald Network sites.

Initial plans for the road go back to 2004 when the route was objected to due to its high environmental impact, but real developments came in 2015-2017 when a new Environmental Impact Assessment (EIA) was issued for two alternatives, one of which was deemed by the complainant and other organisations as virtually the same as the option of 2004 with similar detrimental risks to the environment. It was at this stage in 2017 that the complainant reached out to the national authorities for a response, as well as to the Bern Convention.

The authorities first response to a Bern Convention request for information in 2018 confirmed the process that the complainant had informed of, and went into detail on the EIA which had been carried out by the National Planning Agency (NPA) and cumulative impact assessment (CIA) referred to both in the latter EIA, as well as by the Icelandic Road Administration (IRA). The EIA conclusion of 28th March 2017 stated that the tunnel route D2 would have a minimal environmental impact, whereas route P-H (subject of the complaint) would have significant adverse impacts on the environment.

The IRA's Environmental Impact Report (EIR) based upon data from other road projects of the Vestfjarðavegur road along the north coast of Breiðafjörður where three fjords have already been crossed, considered that any negative effects of the proposed project on mudflats and salt marshes in Breiðafjörður would be minimal. However the EIA conclusion argued that the IRA had not convincingly assessed impacts of the existing roads on the marine flora and fauna in the fjords that had been crossed.

The second report of the authorities in January 2019 informed that the EIA had been finalised and the local authority had accepted, under protest, the municipal plan proposal concerning route P-H. There was protest of the fact that the IRA would not accept any other route than route P-H and the local authorities were considering challenging the IRA's decision. While all routes presented in the EIA were found to threaten significant negative impacts on the landscape, routes A1, I and P-H were judged to pose the worst threats, which could not adequately be prevented or mitigated.

The authorities also informed that Breiðafjörður would most likely be suggested as a tentative site(s) in the Emerald Network both as coastal habitat types and important bird areas.

The Complainant report in 2019 stated that the area where IRA plans to build route P-H along the virgin birch wood and on causeways over the fjords is either protected by Icelandic law in various ways or needs to be protected. Those woods contain some extremely rare plant species, and the coastline is very important for many migrating bird species. The alternative route proposed (route D2) would be a far more suitable option. An independent road engineering appraisal initiated by the Local Council confirmed that route P-H was the worst of all proposed routes from an environmental point of view, while proposing a new alternative, Route R.

The Bureau at its meeting in March 2019 expressed its strong concerns that this important site was compromised, also in view of its potential Emerald Network designation in the future and in view of the World Heritage application. The choice of the new road infrastructure routing appeared to be compromising the area and was recognised as a non-optimal routing solution in the presence of alternatives less harmful for the environment. It requested a further report from the authorities inquiring about the choice of the road, status of construction, and progress in Emerald Network implementation.

It stressed that the lack of any progress in the setting-up of the Emerald Network in Iceland in the past 20 years was compromising many high value biodiversity areas such as the one of concern in this file. It thus decided to place the file in the category on stand-by and to make a decision on moving it further for consideration by the Standing Committee in its next meeting.

In 2020, the complainant informed that the municipality, Reykhólahreppur, had published a proposal for a new master plan “aðalskipulag”, in which the road shown there is practically unchanged from previous proposals- crossing the two fjords, Guðufjörður and Djúpifjörður, and running along the Teigsskógur birch wood. The complainant called for quick action to stop construction, and an environmentally and climatically better and cheaper alternative to be chosen.

The authorities informed that the municipality and the NPA had accepted the master plan for the route Þ-H on 22 November 2019 and published it on 26 November 2019, and that a construction permit could be issued in the near future. As the case stands now in Reykhólahreppur, there was no longer any alternative routes being considered in the selection progress.

The Bureau in April 2020 strongly regretted that the road construction plan appeared to be going ahead with no alternatives being envisaged, despite the numerous calls for concern of the Bern Convention to halt development. It was particularly regrettable given the importance and fragility of this Nature Reserve. It strongly called on the Icelandic authorities to guarantee compensatory and mitigation measures during construction, should the development go ahead.

The Bureau also noted with great concern the continuing slow progress in the general development of the Emerald Network in Iceland, and on the lack of mechanisms to prevent damage to possible Emerald Network sites. It mandated the Secretariat to write a letter to the Ministry for the Environment and Natural Resources expressing its grave concerns on the development of the road through Breiðafjörður Nature Reserve and requesting a roadmap for the development of the Emerald Network.

Following little further information during the year, the Bureau in September, concerned with the situation and delay of response from the Icelandic Ministry as well as the lack of commitment towards the Emerald Network, decided to exceptionally bring the complaint to the agenda of the Standing Committee, in order to give all Contracting Parties an opportunity to hear presentations of the situation from the Icelandic authorities and the complainant.

The 40th Standing Committee took note of the information of the national authorities that there was little they could do now as the project had already passed through all legal procedures. The Committee also expressed concern at the presentation of the complainant which portrayed a deteriorating situation of this high nature value area, and of their proposal to open a case file.

The Standing Committee decided to mandate an on-the-spot-appraisal (OSA) to ideally take place in 2021 subject to restrictions posed by the Covid-19 pandemic. The OSA should assess the specific case-file in question as well as evaluate progress of the entire Emerald Network in Iceland. The national authorities supported the OSA but did not see the added value in elevating the status of the complaint, therefore it was decided to await the results of the OSA before considering the case's status.

Meanwhile, the Committee urged the Icelandic authorities to cease any works in the Nature Reserve until the OSA has been conducted, so as not to endanger the nature of this biodiversity-rich area. As regards the Emerald Network, the Standing Committee took note that the submission of a list of a hundred possible proposed Emerald Network sites was pending the agreement of the Ministry of the Environment and Natural Resources since 2018 and urged the authorities to release the list. According to the Ministry it is likely that sites will gradually be selected as possible Emerald candidate sites depending on the Icelandic Parliament's decision and the success of conservation measures domestically.

During 2021, delays due to the Covid-19 pandemic and a transition in the Focal Point of Iceland to the Bern Convention meant the mission did not go ahead. The 41st Standing Committee regretted that construction of the road had begun. It did appreciate however, that Iceland had submitted several large areas as candidate Emerald Network sites. Following a proposal of the national authorities of Iceland to refocus the mission on mitigation and compensatory measures, the Standing Committee agreed and urged that the mission take place online as soon as possible in 2022.

2. OBJECTIVES OF THE MISSION

On the basis of the instructions by the Bureau and Standing Committee, the information provided by the authorities and the complainant, the objective of the mission is to:

Identify mitigation and compensatory measures to ensure the conservation of affected habitats and species, and **concrete monitoring plans** for the use of the road and its effects. If a proposal of measures and monitoring has already been elaborated, the independent expert should assess this proposal. Meetings should be held online with relevant stakeholders including competent authorities at national and local levels, NGOs, citizens' groups, and relevant international organisations.

3. MISSION DELIVERABLES

Based on its findings and discussions with national and other relevant authorities and stakeholders, the mission shall submit a written report of max. 10 pages. It shall include proposed recommendations for the national authorities on ensuring the elaboration and immediate implementation of mitigation and compensatory measures to ensure the conservation of affected habitats and species, as well as suggest actions that can strengthen the conservation of other parts of the Breiðafjörður Nature Reserve which may not be affected directly by the road project. A concrete monitoring plan for the use of the road and post-construction phase shall also be developed.

The recommendations shall be accompanied with a review of the existing monitoring plan, proposals for amendments, and timeline for their implementation and include proposals for further support by the Bern Convention in their realisation.

The recommendations shall take into account the fact that Breiðafjörður Nature Reserve is a prospective Emerald Network site and shall thus build on [Recommendation No. 208 \(2019\)](#) of the Standing Committee on detecting, reporting, assessing and responding to changes in the ecological character of Emerald Network sites.

4. MISSION TEAM PARTICIPANTS, NATIONAL AUTHORITIES AND OTHER STAKEHOLDERS TO BE INVOLVED

4.1. Mission team

- International independent expert
- Bern Convention Secretariat

4.2. National authorities

- Ministry for the Environment, Energy and Climate
- Icelandic Institute of Natural History
- Other relevant ministries/agencies/institutions, e.g. Icelandic Planning Agency, Icelandic Road Administration, the Icelandic Environment Agency, the Natural Science Institute of the Westfjords, Marine & Freshwater Research Institute, the Icelandic Forest Service, etc.

4.3. Other stakeholders

- Iceland Nature Conservation Association (complainant)
- Regional and local authorities, e.g., Reykholar Municipality
- Other relevant NGOs, e.g. Fuglavernd BirdLife Iceland, Landvernd - Icelandic Environment Association
- Local community representatives, landowners, etc.

- Relevant international organisations

5. FUNDING AND ORGANISATION OF THE MISSION

The organisation and hosting of the online advisory mission as well as the costs of hiring the independent expert will be ensured by the Bern Convention.

The Ministry for the Environment and Natural Resources of Iceland will be kindly asked to provide Icelandic/English interpretation during the meetings (if required), as well as to ensure that relevant documents are translated into English.

6. TENTATIVE DATES

The online meetings could take place in the first half of 2022, to be agreed between the mission team and core parties in the beginning of 2022. The Parties also agreed that, following the online meetings, if it is deemed necessary in order to complete the objectives of the mission (and subject to Covid-19 restrictions), a subsequent on-site mission could take place, which should be completed by the end of June.