

Strasbourg, 6 November 2018  
[tpvs15e\_2018.docx]

T-PVS(2018)15

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE  
AND NATURAL HABITATS

**Standing Committee**

38<sup>th</sup> meeting  
Strasbourg, 27-30 November 2018

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**ADDITIONAL DISCUSSION PAPER  
ON AGENDA ITEM 3.1 OF THE 38<sup>TH</sup> MEETING OF  
THE STANDING COMMITTEE**

*Document prepared by the Bureau  
and the Secretariat to the Bern Convention*

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**ADDITIONAL DISCUSSION PAPER ON ITEM 3.1 “FUTURE FINANCING AND DEVELOPMENT OF  
THE BERN CONVENTION” OF THE AGENDA OF THE 38<sup>TH</sup> MEETING OF THE STANDING  
COMMITTEE TO THE BERN CONVENTION**

**prepared by the Chair and the Bureau to the Standing Committee,  
with the support of the Secretariat**

This paper is developed in response to the worrying trends in the financing of the Bern Convention in the past years, but also in respect of the alarming latest developments resulting from the Russian Federation non-payments to the Council of Europe budget – cuts to the organisation’s budget expected over a three years period (2020-2023).

This paper thus tries to clarify the margins of maneuver offered by the current savings of the Convention, while presenting financial scenarios designed to compensate an eventual partial or complete loss of financial contribution to the Convention by the Council of Europe. These financial scenarios complement the working methods scenarios presented in the concept paper in [document T-PVS\(2018\)6](#).

One should however take the following elements into account before reading the scenarios:

- The Council of Europe is the depositary organisation of the Bern Convention on the Conservation of European Wildlife and Natural Habitats (ETS No. 104). The multilateral treaty is thus entrusted with the Council of Europe, which is mentioned in the text of the Convention itself. The depositary organisation has various responsibilities and functions, according to the Vienna Convention on the Law of Treaties and according to the provisions of the Bern Convention themselves.
- In case the Council of Europe cannot ensure the financial stability of the Convention any longer, it can address, through its Committee of Ministers, a request to other organisations or institutions to accept to become the new depositary of the Convention and perform the corresponding functions. A request to change the depositary of the Convention could be initiated by the Standing Committee to the Bern Convention, as the Convention’s main decision-making body, but will have to be endorsed by the Council of Europe Committee of Ministers as the only body legally able to do such a request.
- A complete cut of the human resources budget of the Convention and/or the operational budget of the Convention is unlikely in the very short term (2019). Some changes could however be initiated already as from the second half of 2019 or beginning of 2020. These could for example involve a reorganisation of the staff of the Division/Directorate where the Bern Secretariat is placed, involving a responsibility for several Conventions of the Council of Europe entrusted to a minimum number of staff members, which will effectively result in a reduction of the current Secretariat and inevitably, in cuts in activities/Programme of work of the Convention.
- A complete cut of the human resources budget of the Convention and/or the operational budget of the Convention is more likely in the long term. A cut in the operational budget will most certainly mean a cut in the human resources allocation too and vice versa. The functioning of the Convention financed only through voluntary contributions -either fixed or suggested- and no financial contribution by the depositary organisation will be an unprecedented procedure. The authorisation of such a mechanism is far from being guaranteed.

As previously said, the following scenarios for a future financial mechanism of the Convention should be read and discussed in conjunction with the working methods scenarios presented in document T-PVS(2018)6:

- 1) **Financial Scenario 1: Continued but decreased support by the Council of Europe to the operational budget of the Convention + use of the existing savings from the Special Account of the Convention to compensate + continuation of the current Voluntary Contributions (VC) system supporting both human resources and operational budget:**

According to the calculations made by the Secretariat, the Convention's savings from the Special Account and continuous VC entries will under this scenario allow for the Convention to function, with a similar to 2017/2018 activity level and Secretariat composition, up to 2022.

After this date, a downscaling of the activities and staff of the Convention will become inevitable, even if VCs system continues to operate as currently.

As practice shows that VCs are provided exclusively by the same 10 to 15 Contracting Parties, decisions regarding the future functioning and working methods of the Convention will have to be made.

- 2) **Financial Scenario 2: Continued but decreased support by the Council of Europe to the operational budget of the Convention + use of the existing savings from the Special Account of the Convention to compensate + continuation of the system of Voluntary Contributions according to a suggested VCs scale (Annex 1), supporting both human resources and operational budget:**

Again, according to the calculations made by the Secretariat, the Convention's savings from the Special Account and continuous VC entries will allow for the Convention to function, with a similar to 2017/2018 activity level and Secretariat composition, up to 2022 under this scenario.

The implementation of a suggested scale of Voluntary Contributions can bring more stability for the Convention budget and, if respected by all Parties, can allow for a more easy transition through the period 2020-2030 when cuts are expected to be important throughout the whole organisation. The adoption of a Resolution by the Standing Committee indicating the expected suggested contributions by Parties could support the implementation of this scenario.

However, practice shows that VCs are provided exclusively by the same 10 to 15 Contracting Parties and have never increased significantly in the past 10 years. It is therefore unlikely that the establishment of a system of suggested VCs will work in practice.

- 3) **Financial Scenario 3: Continued but decreased support by the Council of Europe to the operational budget of the Convention + use of the existing savings from the Special Account of the Convention to compensate + establishment of compulsory financial contributions according to an agreed scale supporting both human resources and operational budget:**

Fixing each Party a “**compulsory annual contribution**” which varies between 1,000 as a minimal and 10,000 or 20,000 Euros as a maximal contribution could be a way to ensure the financial stability of the Convention. Such a system could lift the burden of insecurity linked to the usual VCs system where the total amount which will be received for each year is unknown.

There will be a necessity to amend the text of the Convention so to include an article which would state that, except where assumed by the Council of Europe, expenses incurred in the implementation of the Convention shall be borne by the Parties in the manner to be determined by them.

However the Parties, with the assistance of the Secretariat, should then study how such a mechanism could be put into place within the existing financial and legal framework. The adoption of a Resolution by the Standing Committee indicating the expected suggested contributions by Parties could support the implementation of this scenario.

- 4) **Financial Scenario 4: End of the support by the Council of Europe to both operational and human resources budget + establishment of obligatory financial contributions according to the Council of Europe contribution scale:**

A complete cut in the operational and/or human resources contribution by the Council of Europe would mean either a change in the depositary organisation of the Treaty, or the establishment of an obligatory financial contributions system to allow its functioning.

The establishment of a new separate financial mechanism for the Bern Convention in which Parties would contribute to an agreed budget according to the Council of Europe “contribution scale” (similar to the UN contribution scale) will require that each Contracting Party is asked to

join that mechanism (called “open partial agreement” in Council of Europe terminology). The Bern Convention could thus be financed as any other Multilateral Environment Agreement, through a system of compulsory financial contributions.

[Document T-PVS\(2012\)8](#) prepared for past discussions by the Standing Committee on financial issues, indicates in its Appendix II the level of contributions which could be expected by Parties under such an arrangement.

However, the Council of Europe Legal Advice services informed that the adoption of a partial agreement (or other similar mechanism) subsequent to the opening for signature of a convention which already provides for its follow-up (as this is the case of the Bern Convention) is difficult.

In fact, participation in a partial agreement could not be made obligatory for the existing Parties to the Convention, which would remain free to determine whether or not to join it. Unless all the current Parties to the Convention decide to join the partial agreement since the beginning, there would be two different but co-existing systems for the follow-up of the same Convention.

In addition, in order for any subsequent ratification or accession to the Bern Convention to entail automatic membership of the partial agreement, the statutes of the partial agreement would have to contain a clause to this effect, and this raises the question of whether the partial agreement could have binding effects on any future party to Convention without amending the Convention.



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|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|---------------|----------------|----------------|----------------|----------------|
| Ukraine        | 5 000          |                |                |                |                |                |                |                |                |                |                |                |                |               |                |                |                |                |
| United Kingdom | 60 000         |                |                |                |                |                | 7,182          |                | 16,908         | 21,500         |                |                | 14,000         | 14,635        |                |                |                |                |
| Burkina Faso   | 1 200          |                |                |                |                |                |                |                |                |                |                |                |                |               |                |                |                |                |
| Morocco        | 3 000          |                |                |                |                |                |                |                |                |                |                |                |                |               |                |                |                |                |
| Senegal        | 1 200          |                |                |                |                |                |                |                |                |                |                |                |                |               |                |                |                |                |
| Tunisia        | 3 000          |                |                |                |                |                |                |                |                |                |                |                |                |               |                |                |                |                |
| European Union | 60 000         | 19,000         | 19,000         | 19,000         | 19,000         | 19,000         | 19,000         | 19,000         | 10,000         | 10,000         | 10,000         | 10,000         | 10,000         | 10,000        | 10,000         | 10,000         | 10,000         | 10,000         |
|                | <b>675 400</b> | <b>167,838</b> | <b>169,736</b> | <b>175,436</b> | <b>148,717</b> | <b>201,053</b> | <b>235,776</b> | <b>221,683</b> | <b>222,355</b> | <b>159,008</b> | <b>214,808</b> | <b>233,389</b> | <b>106,508</b> | <b>92,944</b> | <b>110,954</b> | <b>118,952</b> | <b>151,624</b> | <b>174,986</b> |