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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

40th meeting
Strasbourg, 30 November-4 December 2020

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EXPLANATORY NOTES TO THE PROPOSALS OF SETTING UP A SUSTAINABLE FUNDING MECHANISM FOR THE BERN CONVENTION

Memorandum of the Secretariat
established by the Directorate of Democratic Participation

This document provides some insights into both proposals for creating a sustainable funding mechanism for the Bern Convention presented in the document TPVS/INF(2020)03. The note is expected to evolve in light of questions and comments received from the Intersessional Working Group on Finances and at a later stage from Contracting Parties.

Option I: amending the Bern Convention by including financial provisions

The Bern Convention can be amended using the procedure of amendments pursuant to Art. 16 of the Convention. The proposal of amendment needs to be supported by at least one Contracting Party and be formally introduced to the Secretariat of the Bern Convention before the Standing Committee examines it. In the Standing Committee the proposed amendment requires three-quarters majority to be adopted.

Following its adoption by the Standing Committee, the proposal of amendment must also be adopted by the Committee of Ministers and finally be ratified by each of the 51 Contracting Parties before entering into force.

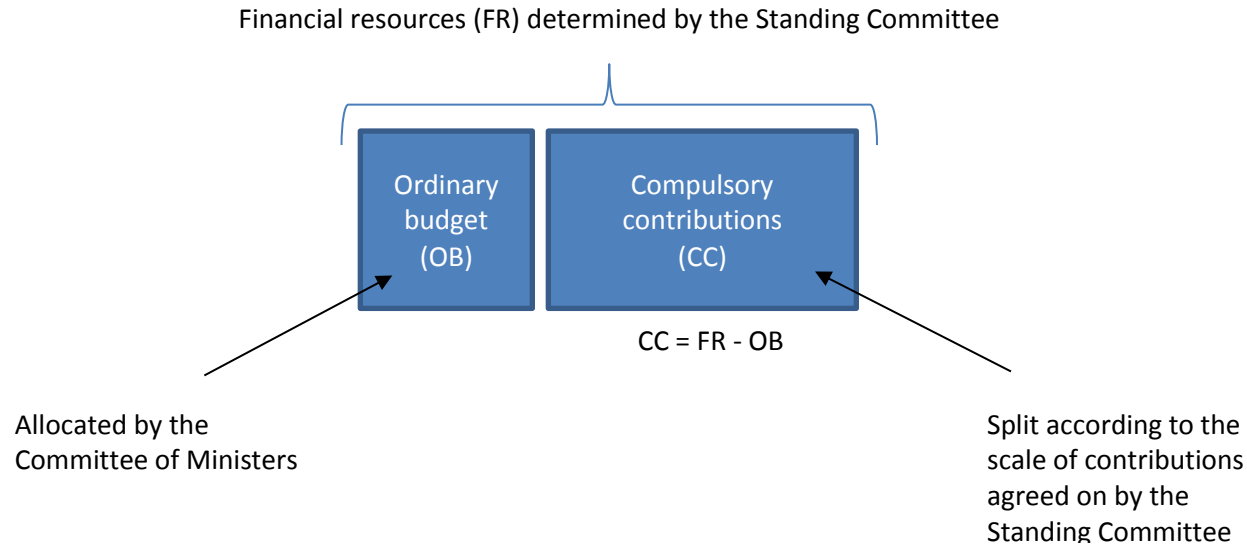
The inclusion of an annual compulsory financial contribution will complement the allocation from the ordinary Council of Europe budget for the implementation of the programme of work and the Secretariat of the Bern Convention.

The adoption of the ordinary budget is the prerogative of the Committee of Ministers (i.e. representatives of Ministries of Foreign Affairs) while the scale of obligatory contributions, in accordance with the proposed amendment, will be determined and agreed on by the Standing Committee.

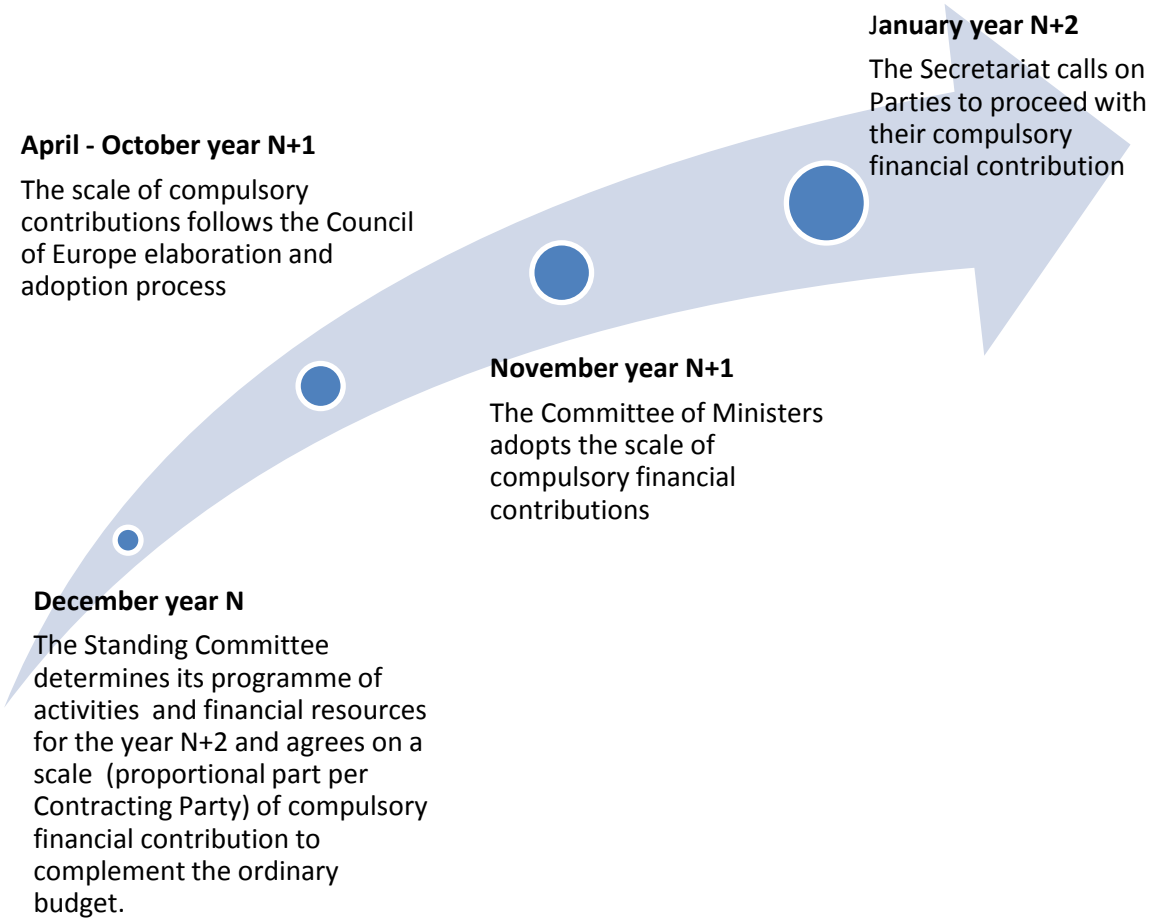
It is the first time that a CoE treaty is amended in order to include financial obligations for Parties. It is not possible to anticipate the position of the delegations at the Committee of Ministers, taking into account the fact that member States contribute already compulsory financial contributions to the ordinary budget to permit among other the functioning of conventions. Also, there could be a backlash on account of the precedent that this funding mechanism may create for other CoE conventions.

To ensure that the Committee of Ministers endorses the proposal of amendment of the Convention, it must be made clear that the obligatory contributions are expected to be paid by specialised ministries (in principle Ministries or Agencies responsible for environmental matters).

The overall budget can be represented as follows:



In terms of budget elaboration:



Year N	Year N+1	Year N+2
The Standing Committee determines and agrees on the programme of activities and compulsory financial contributions for the year N+2 at its annual meeting (usually in December).	The determination of the amount of compulsory contributions to the Bern Convention follows the ordinary budget elaboration and adoption of the Council of Europe. The Committee of Ministers usually adopts the budget of the Organisation in November.	Following the determination of the amount of the compulsory contributions to the Bern Convention by the Committee of Ministers, the Secretariat calls on Contracting Parties to proceed with the payment of the compulsory contributions, applying the proportional division of the amount among Contracting Parties.

SWOT analysis of the amendment of the Convention:

Strengths	**Opportunities**
Contracting Parties gain autonomy in steering the Convention by allocating appropriate resources to the programme of work; The compulsory contributions to the Bern Convention are evaluated in light of the ordinary budget allocated by the Committee of Ministers. Possible future decreases of the ordinary budget are compensated.	The overall budget of the Convention (i.e. ordinary budget + obligatory contributions) could be adjusted to the ambitions and/or financial capacity of Contracting Parties.
Weaknesses	**Threats**
The Committee of Ministers might consider that obligatory contributions are overlapping with the ordinary budget; The process of amendment will be very long, and the amendment might never enter into force as it must be ratified by all Contracting Parties.	The obligatory contributions will compensate the inadequate resources allocated from the ordinary budget but might not necessarily create the conditions for scaling up the activities and/or provide for the Secretariat of the Bern Convention; In the transitional period the functioning of the Bern Convention might increasingly rely on voluntary contributions.

Option II: setting up an Enlarged Partial Agreement

The Enlarged Partial Agreement (EPA) creates a new platform for countries wishing to strengthen intergovernmental cooperation for the implementation of the Bern Convention.

The proposal of a Partial Agreement will need to be adopted by the Committee of Ministers as a Resolution for an initial compulsory period of 3 years. Countries interested in becoming members of the agreement will need to sign it. Once a threshold of signatories is achieved, the Partial Agreement will enter into force. Unless otherwise decided by the Committee of Ministers, the minimum membership criterion is fixed at one third of the member States of the Council of Europe (this constitutes at present 16 countries).

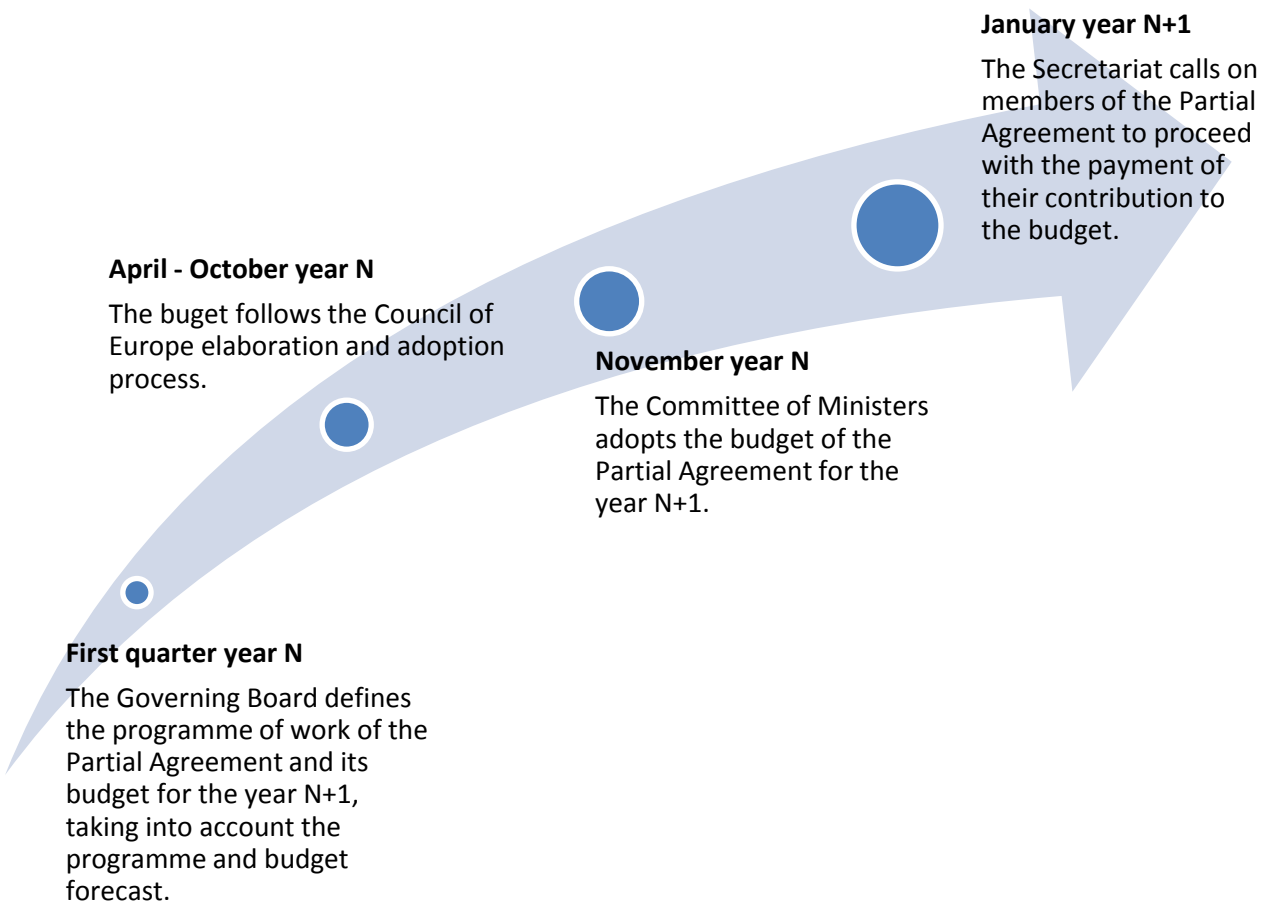
The Partial Agreement will be steered by a "Governing Board" composed of one representative appointed by each Party to the Partial Agreement and a representative of the Secretary General.

The activities under the Partial Agreement will reflect the priorities of the Bern Convention. Its work and functioning will be streamlined with the existing processes within the Bern Convention.

The Standing Committee will remain funded by the Ordinary Budget allocated by the Committee of Ministers.

The mechanism of Partial Agreements has not been conceived for setting up a funding mechanism. It is hard to anticipate how this proposal will be perceived at the Committee of Minister's level.

In terms of budget elaboration:



Year N	Year N+1
In the first quarter, the Governing Board determines and agrees on the resources needed for the implementation of the programme of work of the Partial Agreement. The budget of the Partial Agreement follows the budget adoption process of the Council of Europe. The Committee of Ministers usually adopts the budget of the Organisation in November.	Following the adoption of the budget of the Partial Agreement by the Committee of Ministers, the Secretariat calls on members of the Partial Agreement to proceed with the payment of their contribution to the budget.

SWOT analysis of the Partial Agreement:

Strengths	**Opportunities**
Funding is secured for prioritised actions of the programme of work and supplementing human resources; Members of the Partial Agreement determine its budget according to their priorities; The adoption process of the budget is easier as resources originate from specialised ministries; The process for setting up the Enlarged Partial Agreement is expected to be quicker than amending the Convention.	The mechanism of the Partial Agreement, through its governing board, will regularly adjust the financial resources of the Partial Agreement; Issues beyond the scope of the Bern Convention could be tackled.
Weaknesses	**Threats**
Members of the Partial Agreement determine its budget according to their priorities. This will leave the decision-making on matters affecting the Bern Convention in the hands of the Governing Board of the Partial Agreement; Running the Partial Agreement will require supplementary financial and human resources to carry out the additional statutory meetings of the Governing Board and its Bureau.	The budget of the Partial Agreement will be shared among its members. The less Parties adhere to, the higher their financial contribution will be; In the transitional period the functioning of the Bern Convention might increasingly rely on voluntary contributions.

Conclusion

The Intersessional Working Group on Finances and the Bureau recommend the Partial Agreement as the most efficient way forward. However, the two options are not excluding each other, and Contracting Parties could therefore also agree on initiating both processes in parallel.