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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

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OUTCOMES OF THE WRITTEN CONSULTATION OF THE PARTICIPANTS IN THE GROUP OF EXPERTS ON PROTECTED AREAS AND ECOLOGICAL NETWORKS

PROPOSALS FOR FURTHER ELABORATING THE LEGAL FRAMEWORK OF THE EMERALD NETWORK AND ASPECTS TO FOCUS ON

Background

Following the meeting of Group of Experts on Protected Areas and Ecological Networks held virtually from 5 to 6 October 2021, members of and observers to the Group wished to have more time to reflect on the aspects of the existing legal framework of the Emerald Network to be considered in future work.

To this end, a written consultation among participants in the Group of Experts was initiated with a twofold objective:

1. obtain the views of participants on whether to consolidate, clarify, adjust or complement the legal framework of the Emerald Network
2. obtain the insight of participants on which aspects of the legal framework to focus on in the next steps.

Out of 14 Contracting Parties represented at the Group of Experts, 9 provided feedback. No observer participated in the consultation.

Part 1 of the consultation: proposals for filling in the gaps of the Emerald Network legal framework

Participants had the opportunity to have a closer look at the four proposals to further elaborate the legal framework of the Emerald Network which build on the recommendations of the comparative legal study assessing the obligations of Contracting Parties towards their Emerald Network sites and on the findings of the consultation of Contracting Parties on the possible ways forward.

Participants were asked to reply to the following question:

According to you which of the 4 following options would be the most appropriate for filling in the gaps of the Emerald Network legal framework? (you can choose several options)

Options for the future work on the legal framework of the Emerald Network	**Please tick the box**
Option 1 – clarify and consolidate current requirements Providing clarity on existing obligations, consolidating the status quo Promotes clarity The legal framework remains unchanged	
Option 2 – clarify currently unclear aspects of requirements Providing further clarity and consistency regarding aspects that remain unclear Promotes clarity The legal framework becomes more defined and consistent	
Option 3 – Adjust requirements themselves Adjusting certain aspects of the legal requirements The legal framework is actually adjusted	
Option 4 – provide non-binding guidance on requirements Adopting further non-binding guidance, supplementing existing binding requirements. Promotes clarity (but less so than options 1 and 2) The legal framework remains unchanged	

By far the respondents supported **option 2 - clarify currently unclear aspects of requirements** followed by, with the same marks, **Option 1 – clarify and consolidate current requirements** and **Option 4 – provide non-binding guidance on requirements.**

During the presentation of the four proposals to the Group of Experts, it was stressed that the proposals were not excluding each other and could, to a certain extent, even be combined.

Part II of the consultation: aspects of the Emerald Network legal framework to be considered in the next steps

To understand which aspects of the legal framework should be further elaborated, participants were asked to reply to the following question:

In your views which aspects of the legal framework should be further elaborated on and be the focus of the above chosen option(s)? (you can choose several aspects)

Aspects to consolidate / clarify / adjust / complement	**Please tick the box**
Results to be achieved under Article 4 • precise required conservation results, e.g.: "satisfactory / favourable" conservation status, "ecological integrity / ecological character"	
Monitoring and reporting Including notions of: • surveillance of the conservation status • criteria for assessing the conservation status	
Site protection status Including notions of: • "appropriate" protection regime • national designation	
Site management measures Including notions of: • conservation measures required to achieve the results • protection from existing or new threats within or beyond the boundaries of sites • maintenance of the ecological character • site management plans	
Assessment and authorisation of projects Including notions of: • prior uthorization • impact assessment where necessary • refusal of incompatible projects (including the required degree of certainty of absence of harmful impacts) • except when applying Article 9	

Scope for exceptions under Article 9 Including notions of: • overriding public interest (potentially limiting grounds for exceptions to this) • no other satisfactory solution • exceptional circumstances • compensation and mitigation	
Other aspects (please specify):	

While most of the respondents proposed different combinations, 3 out of the 9 ticked all the boxes and a fourth one stated, in the e-mail accompanying his replies, that ideally all aspects should be addressed.

In the end, the consolidated scores attributed to the different aspects proposed were very similar.

One respondent suggested to first provide clarity on all the aspects proposed and, in a second phase, further clarify aspects remaining unclear.

Conclusion

The findings of the consultation suggest that the Group of Experts on Protected Areas and Ecological Networks supports the view that the Emerald Network legal framework not only be consolidated but also that unclear aspects of the requirements are to be further clarified.

The findings of the consultation further suggest that, among the requirements to be consolidated and, if necessary, to be clarified, the Group of Experts feels important to reflect on the results to be achieved under Article 4 of the Bern Convention, on the monitoring and reporting requirements, on the site protection status and management measures, on the requirements for assessing and authorising projects, and on the scope for exceptions under Article 9 of the Bern Convention.