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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE  
AND NATURAL HABITATS

**Standing Committee**

44<sup>th</sup> meeting  
Strasbourg, 2 - 6 December 2024

**Group of Experts on Protected Areas and Ecological Networks**

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**Draft recommendation on the  
further clarification of the  
obligations of Contracting Parties  
regarding the conservation of  
Emerald Network sites**

*Document prepared by  
the Secretariat of the Bern Convention*

**[Draft] Recommendation No. ... (...) of the Standing Committee, adopted on ..., on the further clarification of the obligations of Contracting Parties regarding the conservation of Emerald Network sites**

The Standing Committee to the Convention on the Conservation of European wildlife and Natural Habitats, acting under the terms of Article 14 of the Convention,

Recalling Article 2 of the Convention, which requires each Contracting Party to “take requisite measures to maintain the population of wild flora and fauna at, or adapt it to, a level which corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements and the needs of sub-species, varieties or forms at risk locally”;

Recalling Article 4 of the Convention, which requires each Contracting Party to “take appropriate and necessary legislative and administrative measures to ensure the conservation of the habitats of the wild flora and fauna species, especially those specified in Appendices I and II, and the conservation of endangered natural habitats”;

Recalling Resolutions No. 1 (1989), No. 3 (1996), No. 4 (1996), No. 5 (1998), No. 6 (1998) and No. 8 (2012), on habitat conservation and the Network of Areas of Special Conservation Interest (Emerald Network);

Recalling in particular the common interpretation of Article 4 of the Convention adopted by the Standing Committee in Resolution No. 1 (1989), which confirms that Article 4 lays down an obligation of result, requiring Contracting Parties to take those measures “which are able” and “which are required” to “ensure the conservation” of “the habitats of those species which have been identified by the Standing Committee” as “requiring specific habitat conservation measures” and of “those natural habitats which have been identified by the Standing Committee” as “requiring specific conservation measures”;

Recalling that the Standing Committee has subsequently, in Resolutions No. 4 (1996) and No. 6 (1998), identified these species and natural habitats requiring specific conservation measures, and that Article 4 therefore primarily applies to the Areas of Special Conservation Interest that Contracting Parties have identified, and continue to identify, for these species and natural habitats as part of the Emerald Network;

Recalling also Recommendations No. 14 (1989), No. 15 (1989), No. 16 (1989), No. 25 (1991), No. 157 (2011, revised 2019), No. 172 (2014), No. 207 (2019) and No. 208 (2019), on habitat conservation and the Emerald Network, as well as other Recommendations and guidance documents relating to these issues;

Stressing the importance of clarity concerning the nature and scope of the Article 4 obligations that Contracting Parties have with regard to the conservation of the Emerald Network sites on their territories;

Noting the analysis conducted by a legal expert in 2020 of the obligations of Contracting Parties regarding the conservation of candidate and adopted Emerald Network sites (T-PVS/PA(2020)7);

Noting also the subsequent exploration of possible next steps regarding the legal framework of the Emerald Network (T-PVS/PA(2021)01), and the outcomes of several rounds of consultations of Contracting Parties and the Group of Experts on Protected Areas and Ecological Networks on how to follow up on the conclusions of the legal analysis (T-PVS/PA(2021)02 and T-PVS/PA(2021)09), and on challenges faced when implementing the Emerald Network (T-PVS/PA(2024)03);

Recalling that the Group of Experts on Protected Areas and Ecological Networks, at its 14<sup>th</sup> Meeting held 17-18 April 2024 in Vaduz, Liechtenstein, called for a Standing Committee recommendation reiterating concisely, in accessible language, the binding and non-binding obligations of Contracting parties concerning the conservation of Emerald Network sites, as well as identifying requirements that may require development of further guidance;

- Recommends that Contracting Parties, the Bureau and the Secretariat take note of the following overview of legally binding and non-binding commitments of Contracting Parties regarding the conservation of the candidate and adopted Emerald Network sites on their territories:

### ***Commitments that are legally binding***

The following commitments are legally binding. They involve requirements which must be met by Contracting Parties in order to comply with Article 4 of the Convention.

- Under Article 4, each Contracting Party has an **obligation of result** with regard to the candidate and adopted Emerald Network sites on its territory.
- This obligation entails that for each of these sites, the authorities concerned shall take those **measures** which are **necessary and able to effectively ensure the conservation of the habitats** of species and the natural habitats for which the site has been selected.<sup>1</sup>
- Authorities are required to do what it takes, and whatever works, to achieve the result of **maintaining** and, where applicable, **restoring the abiotic and biotic features which form the habitats** concerned.<sup>2</sup>
- Article 9 of the Convention sets out the conditions under which **exceptions** may be made from this obligation.

### ***Commitments that may be legally binding depending on the circumstances***

What it takes to meet the obligation of result will depend on the circumstances of each case. However, generally, this will require the following for each site:

- **site protection regime**: applying a suitable site protection regime under national law;<sup>3</sup>

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<sup>1</sup> Resolution No. 1 (1989), par. 2(a)-(b).

<sup>2</sup> Resolution No. 1 (1989), par. 2(c).

<sup>3</sup> Recommendation No. 16 (1989), par. 3(1) and 5; Resolution No. 8 (2012), par. 2(1).

- **site management measures:** taking the management measures necessary to preserve or restore the habitats involved;<sup>4</sup>
- **monitoring:** providing for an adequate degree of monitoring of these habitats and of threats posed to them;<sup>5</sup>
- **anticipating and responding to specific threats:**<sup>6</sup>
  - **screening:** actively identifying potentially harmful projects or activities;
  - **timely and comprehensive impact assessment:** obtaining sufficient clarity regarding the potential consequences of any such project or activity for the habitat(s) involved, *before* taking a decision regarding its approval;
  - **authorizing only activities compatible with conservation:** refusing authorization of projects and activities that are incompatible with the conservation of the habitats involved;

### ***Commitments that are not legally binding***

While the following commitments are not legally binding, Contracting Parties are encouraged to comply with them. They involve actions which have been recommended to Contracting Parties by the Standing Committee. Taking these actions is considered conducive to achieving the aims of the Convention, and the effectiveness of the Emerald Network, but does not appear strictly necessary in order to comply with Article 4 of the Convention.

- Reporting every six years on the conservation status of species and habitats in Emerald Network sites;<sup>7</sup>
  - Informing the Secretariat of important changes likely to affect negatively in a substantial way the ecological character of such sites.<sup>8</sup>
- Recommends the development of additional guidance in order to further clarify and/or concretize the following aspects of the legal framework concerning Emerald Network sites, and instructs the Secretariat to work with Contracting Parties and the Group of Experts on Protected Areas and Ecological Networks towards this end:
- The nature of the result to be achieved under Article 4 of the Convention;
  - The nature of required site management measures;
  - The screening, prior assessment and authorization of potentially harmful projects;
  - The requirements regarding monitoring and reporting;
  - The scope for exceptions under Article 9 of the Convention.

<sup>4</sup> Resolution No. 1 (1989), par. 2(c); Recommendation No. 16 (1989), par. 3(d); Recommendation No. 157 (2011/2019), par. 1; Resolution No. 8 (2012), par. 2(3).

<sup>5</sup> Recommendation No. 16 (1989), par. 2, 4(e) and 3(c); Resolution No. 5 (1998), par. 4(1); Resolution No. 8 (2012), par. 3; Recommendation No. 208 (2019).

<sup>6</sup> Resolution No. 1 (1989), par. 2; Recommendation No. 16 (1989), par. 3(d); Recommendation No. 25 (1991), Appendix, par. II (1)(b)-(e); Resolution No. 8 (2012), par. 2(1); Recommendation No. 157 (2011/2019), par. 1; Recommendation No. 208 (2019).

<sup>7</sup> Resolution No. 8 (2012), par. 4(1)-(2).

<sup>8</sup> Resolution No. 5 (1998), Art. 4(2).