



Strasbourg, 22 June 2021
[tpvs06e_2021.docx]

T-PVS(2021)06

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

INTER-SESSIONAL WORKING GROUP ON FINANCES

3rd meeting (*virtual*)

15 June 2021 (9.30 am – 12.30 pm)

REPORT

*Memorandum of the Secretariat
established by the Directorate of Democratic Participation*

1. *Opening and welcome to the participants by the Chair Mr Jan BROJÁČ, Czech Republic.*

The Chair, Mr Jan Brojáč, opened the meeting and welcomed the participants (Appendix 1). The Chair welcomed the representatives of France and EU as new members of the Group.

A) Establishing an Enlarged Partial Agreement

2. *Presentation by the Secretariat of the outcome of the GR-C meeting held on 27 May on the draft Resolution establishing an Enlarged Partial Agreement on the Fund for the implementation of the Bern Convention.*

- *Suggestions for marketing the EPA proposal.*
- *Next steps ahead of the Standing Committee.*

The Secretariat informed the participants that, at the GR-C (Rapporteur Group on Education, Culture, Sport, Youth and Environment) meeting on 27 May, the Director of Democratic Participation, Matjaž Gruden, reported on the outcome of the 2nd meeting of the Intersessional Working Group on Finances held on 31 March as follows:

- the proposed change of title for the Enlarged Partial Agreement (EPA), namely “*Enlarged Partial Agreement for the conservation of European wildlife and natural habitats*”, to take account of the views expressed that the scope of the EPA should go beyond the financing of the Bern Convention;
- the calendar for establishing the EPA, targeting the beginning of 2022;
- the estimates for the EPA budget (400 000 euros, while the monitoring activities of the Bern Convention would remain funded under the ordinary budget with about 300 000 euros, and Contracting Parties would still provide voluntary contributions totaling up to 200 000 euros in the future);
- the different indicative scenarios and ranges of contributions prepared;
- the number of manifestations of interest to join the EPA: to date, 10 member States, out of 51 Contracting Parties, have expressed an interest in joining the EPA, the required threshold being 16 States; 4 States are considering joining the EPA and 8 States have clearly expressed their intention of not joining the EPA.

Furthermore, the Director recalled that the general agreement seemed to be that the financial situation of the Bern Convention was unsustainable and therefore required action, and that the proposed EPA could be a suitable response. He also underlined that, with regard to the project of a possible future EPA, the Secretariat’s role was not to influence any decision, but was one of logistical, legal and technical support and, if need be, of providing an assessment of the viability of the project.

The Director further underlined that it would be advisable, for the sake of political, financial, and institutional sustainability of the project, that, from the beginning, the number of member States should be higher than 16. Therefore, it would be important to see a significant increase of

manifestations of interest between now and the next discussion in the GR-C, if member States intend to prepare a draft decision in time for submission to the Committee of Ministers.

During the discussion, the delegations raised several issues, such as a lack of communication between the Standing Committee and the permanent representations; the budget sources and scales of contributions; potential “double” contributions of EPA members if voluntary contributions were to be maintained; a possible extension of the EPA mandate; the participation to the governance of Parties of the Bern Convention non-members of the EPA; and alternative solutions for the future of the Bern Convention, should the EPA project not succeed.

In reply to these comments, the Director of Democratic Participation mentioned that he was aware of the expectations of delegations for a clearer, more logical and viable financing system of the activities of the Bern Convention, and also of the complexity of the proposed new financing system. Difficulties were also inherent to an arrangement whereby an activity that is appreciated by a large group of countries is financed by a smaller group of countries. Therefore, it would be important that an EPA involved the largest possible group of States to decrease the gap between the number of Parties in the Standing Committee and the members of the EPA.

Regarding the provisional budget, the Director underlined that it had been proposed by the Intersessional Working Group on Finances, i.e. by member States. The proposed budget of the possible EPA is relatively low, in order to attract potential members. The continuation of the system of voluntary contributions is proposed in the same spirit. Nevertheless, it appeared that hesitations persisted even with the relatively low budget.

As for the extension of the EPA’s mandate to increase its attractiveness, the Director indicated that this was an option, but should come in addition and not at the expense of the main aim defined by the Standing Committee, namely financing the activities of the Bern Convention. Therefore, extending the mandate would also require an increase of the EPA budget.

In reply to the question on alternative solutions, the Director reminded the Group of the ongoing reflection on possible amendments to the Bern Convention, a very lengthy process in comparison with the establishment of an EPA. The other alternative would be an increase of the ordinary budget appropriations for the Bern Convention. He underlined that if the member States wished to maintain the activities of the Bern Convention, the *status quo* was not an option in view of the precariousness of the financial resources.

The Secretariat informed the Group that the environment is a priority in the framework of the Hungarian Chairmanship of the Committee of Ministers (May-November 2021). Hungary is supporting the establishment of the EPA, from solely financing the Bern Convention work to cross-cutting activities, connecting environment-related initiatives to the CoE core priorities, such as human rights and democratic participation. This connection should add an additional value to the new instrument to attract more member States to join. The main aim of the new instrument is to ensure the financial stability of the Bern Convention.

An informal GR-C meeting will be organised by Hungary on 5 July 2021 to discuss the EPA with other interested member States, in order to progress with the Bern Convention reform process.

Following the Secretariat presentation, the members of the Group made the following comments.

The representative of the European Commission pointed out that the EU Council adopted a decision to support establishment of the EPA as proposed to, and then adopted by, the 40th Standing Committee to the Bern Convention, in order to ensure the financial stability of the Convention and its activities. The EU does not have any agreed position that would allow it to support the EPA if its mandate were to be expanded to deal with other environmental issues.

The Chair pointed out that the Working Group on Finances does not have the mandate to make substantial changes to the scope of the EPA Draft Resolution. If this were to be proposed by the GR-C, the Working Group would have to make recommendations to the Bureau for the consideration of the Standing Committee.

The Secretariat will keep the Group informed of the outcome of the informal GR-C meeting on 5 July, and proceed with a written consultation of the Group during the summer period.

Concerning the three possible different sources of EPA funding (ordinary budget; compulsory contributions to the EPA budget; voluntary contributions), the Group agreed that the EPA should not limit the possibility to receive voluntary contributions. In fact, some Parties may pay lower compulsory contributions (according to the EPA assessment scale), compared to what they used to provide as voluntary contributions. Other Parties, which will not join the EPA, might want to continue paying voluntary contributions and they should be able to donate, if they so wish.

B) Amendment of the Bern Convention

3. *Questions from the European Union and its member States regarding the Amendment of the Bern Convention:*
 - a. *how is the overall budget shared among the Parties and what would be the compulsory contribution for each Party;*
 - b. *how to ensure that, when the Standing Committee establishes the budget on the basis of this new article, it can distinguish between core and programmatic budgets, making only the former (core) subject to obligatory contributions, in accordance with other MEAs.*

The Secretariat recalled the discussion held at the 2nd Working Group meeting and the information provided on the questions of the European Union and its member States for the amendment of the Bern Convention, which are recorded in the meeting report T-PVS(2021)03rev.

The Secretariat recalled that amendment of the Bern Convention will require all Contracting Parties to formally accept the amendments before it enters into force. The aim of the amendment is to have a predictable and stable budget.

In reply to question a), the Secretariat recalled that, as for all budgets of the Council of Europe, the scale of contributions uses the methodology set in Resolution 94(31) of the Committee of Ministers, and will take into consideration the Gross Domestic Product and the population of the Contracting Parties.

Referring to question b), the Secretariat recalled that the CoE Programme and Budget, adopted by the Committee of Ministers, does not distinguish between “core and programmatic budgets”. Therefore, the Bern Convention cannot make this division in its programme and budget.

The only internal differentiation is that between budgetary (i.e. ordinary budget) and extra-budgetary (i.e. voluntary contributions) resources. This is already reflected in the programme of work of the Bern Convention (adopted by the Standing Committee each year) where activities have different sources of funding.

The amendment of the Convention should create compulsory financial contributions which will complement the ordinary budget in order to create a “core” that provides a stable, predictable and sustainable budget for the Convention. The amendment would obviously not exclude voluntary contributions that fund ad hoc activities.

The representative of the European Commission:

- supported the compulsory contributions to the Bern Convention but without changing the existing obligations of the treaty;
- pointed out that the EU financial contribution shall not exceed 2.5% of the core budget, as is the case for other UN conventions. In fact, EU member States, as Contracting Parties, are already providing their financial contributions to the Bern Convention and, in order to avoid double payment, the EU contribution is already limited to 2.5%;
- proposed that the Standing Committee distinguishes between the “core” and “programmatic” budget, as is the case in the Convention on Migratory Species (CMS) and the Convention on Biological Diversity (CBD). This budgetary distinction might be reflected in the Bern Convention’s amendment, however the EU can accept any wording for the amendment which does not include a legal commitment to contribute to programmatic/cooperation activities.

The representative of Norway noted a concern with a potential shift from today’s process of budgeting to a system of differentiation of funding with a split between “core” versus “programmatic issues”. He suggested that the Secretariat also needed to elaborate on the pros and cons of any shift proposed by the EU.

The Secretariat stated that a simple and pragmatic solution should be found to take both the EU request and the CoE regulations into account. The Conference of the Parties to the UN conventions decide on their own budget which they adopt unanimously.

Within the CoE, the Standing Committee will be invited to prepare a programme and budget which should be adopted by the Committee of Ministers, by a two third majority. Nevertheless, the Standing Committee could agree on its programme and budget unanimously.

The CoE work is organised according to the strategic triangle: standard setting, monitoring and cooperation. The main objective of the Bern Convention is monitoring the implementation of its

provisions by the Parties, even if standard setting and cooperation are also part of its programme. In the absence of clear criteria on what should be considered “core activities”, the Secretariat will prepare a proposal to be discussed by the Group, the Bureau and the Standing Committee. In the proposal, the Secretariat will distinguish activities required by the Convention and thus benefiting to all Parties from bilateral or regional activities. In this way, the Working Group could already discuss which type of activities should be considered “core” to be funded by the ordinary budget and obligatory contributions, and “programmatic” initiatives to be funded by voluntary contributions, pending the availability of financial resources.

As a follow up to the 3rd meeting, the Working Group instructed the Secretariat to take the following actions in July:

- to draft a paragraph to amend Article 14 bis of the Convention, referring to the financial regulations of the CMS and CBD, as a source of inspiration;
- to propose a budget and activities distinguishing between “core” (ordinary budget plus compulsory contributions) and “programmatic” (voluntary contributions) activities.

4. *Financial scenarios for the amendment of the Bern Convention*

(Appendix 3: Financial Scenarios – Ranges of contributions - T-PVS/Inf(2021)10 rev)

The Secretariat presented the financial scenarios revised in the light of the comments made by the Working Group at its second meeting [T-PVS/Inf(2021)10rev].

The Secretariat recalled that these scenarios are based on the Resolution (94)31 of the Committee of Ministers of the Council of Europe, for the method of calculating the scales of member States’ contributions to Council of Europe budgets. It will be up to the Standing Committee to decide on the scale to be considered for the calculation of the compulsory contributions.

The contribution rate of the EU was set at 2.5%, to comply with the mandate of the EU Council.

The Group thanked the Secretariat for the revised financial scenarios to amend the Convention.

5. *Other business*

None

APPENDIX 1
LIST OF PARTICIPANTS

Contracting Party	Name
Albania	Ms Elvana RAMAJ Head of Sector General Directorate of Environmental Policies and Development Ministry of Tourism and Environment
Czech Republic	Ms Eliška ROLFOVÁ Unit of International Conventions Department of Species Protection and Implementation of International Commitments Ministry of the Environment Mr Jan BROJÁČ Ministry of the Environment
European Commission DG Environment Directorate ENV. D Natural Capital	Ms Anne BURRILL Advisor Ms Iva OBRETEŇOVÁ Policy Officer
France	M. Charles-Henri DE BARSAC Chargé de mission « accords internationaux et européens faune sauvage » sous-direction de la protection et de la restauration des écosystèmes terrestres Ministère de la Transition Ecologique et Solidaire
Norway	Mr Øystein STØRKERSEN Principal Advisor Norwegian Environment Agency
Poland	Ms Ewa PISARCZYK Senior Expert General Directorate for Environmental Protection Department of Nature Conservation
Slovenia	Ms Maja HUMAR Nature Conservation Division Ministry of the Environment and Spatial Planning
Switzerland	M. Martin KREBS Département fédéral des affaires étrangères DFAE Secrétariat d'Etat DFAE Division prospérité et durabilité DPD Environnement, énergie et santé
Council of Europe Secretariat	Mr Gianluca SILVESTRINI Co-ordinator of the Department of Culture, Nature and Heritage Mr Marc HORY Bern Convention Project Manager