



Strasbourg, 15 May 2023

T-PVS(2023)11

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE  
AND NATURAL HABITATS

## ***Ad hoc* Drafting Group of an Amending Protocol**

**3<sup>rd</sup> meeting**  
2 May 2023 (9.30 – 13.00 CET)  
*(online meeting)*

## **MEETING REPORT**

*Document prepared by  
the Secretariat of the Bern Convention*

## 1. Opening of the meeting by the Chair

The Chair, Mr Charles-Henri de Barsac, welcomed the members attending the 3<sup>rd</sup> meeting of the *Ad hoc* Drafting Group of an Amending Protocol (Annex 1) and introduced the meeting agenda to the Group which was adopted without amendments.

## 2. Report of the second meeting of the *Ad hoc* Drafting Group of an Amending Protocol

The Chair recalled the main outcomes of the second meeting of the *Ad hoc* Drafting Group presented in the document T-PVS(2023)06. The Secretariat pointed out that the comments, which were provided by the UK in the morning on the day of the meeting, were integrated in the report. The meeting report was adopted.

## 3. Amending protocol

### 3.a Subgroup under the *Ad hoc* Drafting Group

The Secretariat informed the Drafting Group of the outcomes of the meeting of the Subgroup held on 18 April (composed by the Chair, the representatives of the EU and Switzerland), which was entrusted by the Drafting Group with the task to assess the possibility of rewording the provisions of the draft protocol for defining more explicitly the allocation of the financial resources resulting from the protocol.

The Secretariat reported on the outcomes of the meeting of the Subgroup and presented the proposed amendments to Article 2 (paragraphs 2 and 3) and the Annex of the protocol which read as following:

#### Article 2

A new Article 19 shall be added after Article 18 of the Convention as follows:

#### “Article 19

1. The Standing Committee shall determine and keep under review the appropriate financial mechanism to achieve the objectives of the Convention.
2. The Standing Committee shall determine unanimously for each financial period the appropriate financial resources for the implementation of the **core** programme of work **under the Convention in the light of the ordinary budget allocation from the Council of Europe and possible other sources of funding.**
3. The Standing Committee shall agree unanimously on a scale of financial contributions in order to complement the ordinary budget allocation of the Council of Europe **aimed to guarantee the [minimum] functioning of the Convention.**
4. The scale of financial contributions agreed on by the Standing Committee shall be adopted by the Committee of Ministers of the Council of Europe.
5. The adopted scale of financial contributions shall respect the modalities set out in the Annex to the Protocol amending the Convention
6. Each Contracting Party shall contribute to the financial resources of the Convention according to the scale of annual contributions adopted.”

#### Annex

Modalities for establishing the scale of financial contributions

The financial scale of contributions:

- is based on the method of calculating the scales of member States' contributions to Council of Europe Budgets in force at the Council of Europe;
- should not result, **for the specific purpose of this Convention**, in a European Union contribution higher than 2.5% of the total contributions;
- ~~provides resources for the core activities of the Convention, as defined by its Standing Committee.~~

The protocol now specifies that the resources resulting from the financial mechanism will be allocated to **core activities** and that the **basic functioning** of the Convention will be ensured by the ordinary budget of the Council of Europe.

In the subsequent discussion, members of the Drafting Group suggested a few alterations to the proposal of the Subgroup.

The Drafting Group took note of the revised version of the Article 2 of the protocol and asked the Secretariat to draft footnotes defining “core” activities and “basic” functioning of the Convention for its consideration at its forthcoming meeting.

### **3.b Revised amending protocol**

The Secretariat presented the second version of the protocol amending the Bern Convention (document T-PVS(2023)10) reflecting not only the alterations proposed by the Subgroup (see item 3.a above) but also introducing in Article 5 the double criteria for the entry into force of the protocol, namely the number of countries ratifying the protocol and the proportion of budget they will cover.

The Secretariat also informed the Drafting Group of further changes proposed by the Directorate of Legal Advice and Public International Law and recalled that the wording of the protocol was still expected to evolve along the discussions of the Drafting Group.

The Drafting Group agreed on the introduction of the double criteria and on the other alterations proposed as reflected in the document T-PVS(2023)10.

## **4. Procedures and functioning of the amending protocol**

The Secretariat recalled the document presenting basic criteria for differentiating core and programmatic activities ([T-PVS/Inf\(2023\)05](#)) describing how this is dealt with within the UN Organisations and suggesting an alternative approach based on the type of activities considered at the Council of Europe.

The Drafting Group agreed to reflect on the typology of activities used within the Council of Europe (i.e. monitoring, standard setting and cooperation activities) to ensure consistency in wording with the programme and budget of the Organisation. Following a suggestion of the representative of the European Commission, the Drafting Group also acknowledged that the criteria for defining core activities should take into consideration the responsibilities of the Standing Committee described in Article 14 of the Bern Convention.

## **5. Scale of financial contributions**

### **➤ New financial scenarios**

Two new scenarios were added to the simulation tool presented at the 2<sup>nd</sup> meeting of the Drafting Group: 1) a simulation with a minimum contribution of 2 500 euros and 2) a simulation with a minimum contribution of 2 500 euros and a maximum contribution of 60 000 euros. The Secretariat informed the Drafting Group that unlike the scenario inspired from the contribution rates of the ordinary budget, the EU was considered as a major contributor in the two new added scenarios. Discussions between the European Commission and the Council of Europe were still ongoing regarding the contribution rate of the EU.

#### Financial scenario with a minimum contribution set at 2 500 euros for a budget of 800 000 euros

The Secretariat stressed that 27 Parties were at the minimum contribution rate representing more than half of the Contracting Parties and that the contributions of the 4 major contributors were still exceeding the amounts suggested in the Resolution No. 9 (2019) of the Standing Committee.

#### Financial scenario with a minimum contribution set at 2 500 euros and a maximum contribution set at 60 000 euros for a budget of 800 000 euros

The Secretariat informed that in this scenario as well 27 Parties were at the minimum contribution rate and that the contributions of the 4 major contributors were limited to 60 000 euros. The Secretariat flagged that in this scenario Spain was contributing as much as the major contributors and that the contributions of the intermediary contributors increased by 57%.

Members of the Drafting Group noted that surprisingly the instalment of a minimum contribution higher than the minimum contribution required for the ordinary budget does not benefit to the major contributors and impact the intermediary contributors in different ways. Members of the Drafting Group also noted that in the scenario with minimum and maximum contributions, the contribution rates of the intermediary contributors significantly increased.

Some members of the Drafting Group anticipated resistance from the intermediary contributors to compensate for the contribution ceiling of major contributors. While remaining open to the principle of a maximum contribution, the Drafting Group acknowledged that the protocol must remain attractive for intermediary contributors and there should be a reasonable difference between the contributions of major and intermediary contributors.,

The Chair stated that it might be enviable to apply minimum and maximum thresholds to amounts and not to contribution rates, which would result in a budget that would not be 100 % covered. In that case however, the allocation from the ordinary budget of the Council of Europe would compensate the shortfall. The representative of the Directorate of Programme and Budget of the Council of Europe expressed reservations about this option.

The Drafting Group asked the Secretariat to look into the possibility to make the difference between the contribution rates of intermediary and major contributors more obvious, to run scenarios with a ceiling of 80 000 euros and to set the contribution rate of the EU at 2,5% to enable comparison with the scale of contribution inspired by the ordinary budget of the Council of Europe presented at the second meeting of the Drafting Group.

#### ➤ **Double criteria**

The Secretariat referred to the discussion under agenda item 3.b above and the introduction of a double criteria for the entry into force of the protocol, namely the number of Parties ratifying the protocol and the proportion of the budget these countries represent.

The Secretariat reported that several simulations were produced based on a working assumption of a threshold of 2/3 Parties (i.e. 34 Parties) and the scale of contributions with a minimum and a maximum contribution. It wrapped up the outcomes as following:

<b>Set up of contributors</b>	No major contributor, all small contributors and a few of intermediary contributors	One major contributor and a mix of intermediary and small contributors	Two major contributors and a mix of intermediary and small contributors	Three major contributors and a mix of intermediary and small contributors	Four major contributors and a mix of intermediary and small contributors	Four major contributors, all intermediary contributors and a few small contributors
<b>Proportion of budget covered (%)</b>	33	58	66	72	79	89

The Drafting Group took note of the outcomes of the simulations. Members of the Drafting Group acknowledged that a proportion of between 66 and 72 % of the budget with the commitment of between 2 and 3 major contributors would represent a positive start of the protocol and considered that a proportion of 70 % of the budget constituted a good basis of discussion.

The Drafting Group asked the Secretariat to run these simulations again once a consensus on a scale of contributions is found and to update the above figures.

➤ **Variability of the contribution rates**

The Secretariat recalled that the Drafting Group also required an assessment of whether it was possible to contain the variation of the contribution rates in the case the countries which ratify the protocol cover 100% of the budget. In this scenario, the contribution rate of the countries depends on which and how many countries join the protocol.

The Secretariat reported that several simulations were produced, considering combinations of 34, 39, 42 and 46 countries and including 1, 2, 3, and 4 major contributors. The results of the simulations showed that the contribution rates of intermediary contributors such as Finland, Spain or Switzerland vary significantly depending on the number of major contributors considered.

The Secretariat concluded that it was not possible to contain the variation of the contribution rates of the intermediary contributors.

Members of the Drafting Group took note of the outcomes of the simulations and agreed to put on hold the reflection and work towards this option because it eliminates the incentive to join the protocol and penalise the countries which join first, requiring them to compensate for those which have not yet ratified the protocol.

**6. Date of the next meeting of the *Ad hoc* Drafting Group of an Amending Protocol**

The Group decided to hold its fourth meeting online on 8 June 2023 (9.30 – 13.00 CEST).

**7. Conclusion of the meeting**

The Chair proposed to discuss the UK comments, received early in the morning of the meeting, at the 4<sup>th</sup> meeting of the Drafting Group. The UK members of the Group will be invited to present their proposals to the amending protocol and to discuss them with the other members.

The Chair thanked the members of the Drafting Group and closed the meeting.

**ANNEX I**  
MEMBERS WHO PARTICIPATED IN THE 3<sup>rd</sup> MEETING OF THE  
*AD HOC* DRAFTING GROUP OF AN AMENDING PROTOCOL

<b>Contracting Party</b>	<b>Name</b>
<b>Czech Republic</b>	<p><b>Mr Jan BROJÁČ</b> Unit of International Conventions Department of Species Protection and Implementation of International Commitments Ministry of the Environment</p> <p><b>Ms Eliška ROLFOVÁ</b> Unit of International Conventions Department of Species Protection and Implementation of International Commitments Ministry of the Environment</p>
<b>Estonia</b>	<p><b>Ms Merike LINNAMÄGI</b> Adviser Nature Conservation Department Ministry of the Environment</p>
<b>European Commission</b>	<p><b>Ms Iva OBRETENOVA</b> Policy Officer European Commission, DG Environment ENV.D3 - Nature Conservation Unit</p>
<b>Finland</b>	<p><b>Mr Esko HYVARINAR</b> Senior Specialist Ministry of the Environment</p> <p><b>Ms Charlotta VON TROIL</b> Senior Ministerial Adviser, Legislative Affairs International and EU Affairs Unit Department of the Natural Environment Ministry of the Environment</p>
<b>France</b>	<p><b>Mr Charles-Henri DE BARSAC</b> 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</p>
<b>Germany</b>	<p><b>Mr Babak MILLER</b> Policy Advisor Division International Species Conservation, Wildlife Trade Federal Ministry for the Environment, Nature Conservation and Nuclear Safety and Consumer Protection</p>
<b>Switzerland</b>	<p><b>Mr Norbert BÄRLOCHER</b> Office fédéral de l'environnement OFEV Division Biodiversité et paysage Section Faune sauvage et conservation des espèces</p>
<b>Ukraine</b>	<p><b>Mr Vladyslav DANILCHENKO</b> Chief specialist of the National Eco-Network and Landscape Planning Department of the Nature Reserve Fund and Biodiversity Ministry of Environmental Protection and Natural Resources</p>