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T-PVS(2021)22

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

INTER-SESSIONAL WORKING GROUP ON FINANCES

4th meeting (*virtual*)

12 October 2021 (9.30 am – 13.00 pm)

MEETING REPORT

*Document prepared by
the Directorate of Democratic Participation*

The Standing Committee is invited to:

- take note of the report of the 4th meeting of the Intersessional Working Group on Finances held on 12 October 2021;
- examine and, if appropriate, express support for the “draft Resolution establishing an Enlarged Partial Agreement for the conservation of European wildlife and natural habitats” as amended by the Committee of Ministers’ Rapporteur Group on Education, Culture, Sport, Youth and Environment (GR-C), in order to progress with the reform process of the Bern Convention;
- take note of the state of play of the preparation of the amendment to the Bern Convention;
- instruct the Intersessional Working Group on Finances, in collaboration with the Secretariat, to follow up on the adoption by the GR-C of the Draft Resolution establishing the Partial Agreement and to pursue the elaboration of the draft amendment for its consideration by the 42nd Standing Committee.

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). A special welcome was addressed to the new Norwegian member, Mr Andreas Benjamin Schei.

A) Establishing an Enlarged Partial Agreement

2. *Presentation by the Secretariat of the outcomes of the informal and formal GR-C meetings, as well as the amended draft Resolution establishing the Enlarged Partial Agreement for the conservation of European wildlife and natural habitats*

The Secretariat informed the participants of the outcomes of the informal GR-C meetings held on 5 July, 10 September and 1 October, organised at the initiative of the Chair of the GR-C and the Hungarian Presidency of the Committee of Ministers, and of the formal GR-C meeting held on 5 October:

- Delegations expressed a clear preference for keeping the scope of the EPA narrow, not going beyond the financing of the Bern Convention, and for the following title of the draft Resolution: *Resolution establishing the Enlarged Partial Agreement for the Conservation of European Wildlife and Natural Habitats*. Some member States reiterated the importance to conserve biodiversity and supported the EPA.
- One delegation suggested to set the EPA budget to 600.000 euro per year, instead of 400.000 euro as proposed by the Intersessional Working Group on Finances, because most probably voluntary contributions are going to decrease in favor of the EPA compulsory contributions.
- Proposed amendments to the draft Resolution establishing the EPA were presented by France, Germany, Monaco, Norway, Switzerland and the UK. They expressed support for each other's proposed amendments.
- The Director of Democratic Participation, Matjaž Gruden, emphasised the following points at the GR-C meetings:
 - o The objectives of the Standing Committee for establishing a new funding mechanism are: 1) to secure additional funding, 2) to increase predictability and 3) to enhance fairness between payers and beneficiaries.
 - o The options were: 1) to increase the Ordinary Budget, 2) to amend the Bern Convention, 3) to set up the EPA. Increasing the Ordinary Budget is politically difficult and amending the Convention may take a long time.
 - o Creating an EPA for providing the Bern Convention with more and sustainable resources is unprecedented from an institutional point of view.
 - o The difficulties faced are: 1) the lack of member States interested to join and 2) the governance of the mechanism.
 - o The revised draft Resolution could work at the condition that there is a minimum difference in the membership of the EPA and the Contracting Parties to the Bern Convention.
 - o It is unrealistic to consider a budget of 400 000 euros and voluntary contributions. There is a need to increase the budget in order to not rely on voluntary contributions.
 - o In order to be able to prepare a default scale of financial contributions to the EPA, we would need to agree on a budget and have clarity on which member States wish to join.

- A questionnaire will be circulated again in October/November to the Permanent Representations to the Council of Europe and the Standing Committee's delegates to assess if the number of member States interested in joining the EPA has increased.
- The discussion process has been ongoing for years and all possible solutions have been explored. Nevertheless, work would be pursued on the other options identified by the Standing Committee because the *status quo* is not a solution for the Bern Convention.

The Working Group took note of the information on the outcomes of the recent GR-C meetings.

The Secretariat presented the draft Resolution establishing the Enlarged Partial Agreement for the conservation of European wildlife and natural habitats, as amended by the GR-C.

Besides several editorial changes, two main amendments should be noted:

- ✓ Article 2.1: a State interested in joining the EPA should be party to the Bern Convention.
- ✓ Article 3.3: the Governing Board shall
 - [...] adopt a draft annual programme of activities of the EPA in accordance with the work programme adopted by the Standing Committee of the Bern Convention and the political priority of the Council of Europe [...];
 - [...] report on the activities implemented by the Enlarged Partial Agreement to each Standing Committee of the Bern Convention [...].

The GR-C amendments have emphasized the role of the Standing Committee vs the Governing Board of the Partial Agreement. Therefore, the Secretariat invited the Group to support this amended version of the draft Resolution in order to progress with the reform process of the Bern Convention.

Another formal GR-C will be held on 18 November 2021 to examine again the amended draft Resolution and take stock of the results of ongoing survey. The Secretariat will inform the Working Group and the Standing Committee of its decisions.

The Group examined the GR-C amendments to the draft Resolution and raised the following points:

- UK asked for the rationale of the French amendment on Article 2.1, which limits the possibility for a member State, not party to the Bern Convention, to participate financially to the EPA. France pointed out that the amendment aims to improve the governance of the EPA by avoiding that non-parties to the Bern Convention have a say on the programme of work of the Convention.
- Norway requested the Secretariat to correct a footnote to the amendments made by Norway that mistakenly appear as Swiss amendments. The Secretariat will correct the footnote.

- *Next steps ahead of the Standing Committee.*

The Group did not express any opposition to the amended draft Resolution by the GR-C. Considering that the GR-C has proposed substantial changes to the text of the draft Resolution, the Group instructed the Secretariat to draft a recommendation to the Standing Committee inviting Parties to support the draft Resolution as amended by the GR-C. Considering the limited time ahead of the Standing Committee, the Bureau will not be consulted on the draft recommendation to be presented directly to the Standing Committee.

With reference to the ongoing survey on member States possibly interested in joining the EPA and the political momentum generated by the GR-C discussions, the Chair encouraged the members of

the Group to outreach to the countries of their respective regions and invite them to consider joining the EPA, or to at least precise their intention.

Moreover, the Group was of the opinion that if ever possible the political momentum geared by the COP 15 of the Convention on Biological Diversity and its main agenda item, which is to adopt a post 2020-Global Biodiversity Framework, should be used.

B) Amendment of the Bern Convention

3. *Follow up to the requests of the 3rd meeting of the Intersessional Working Group on Finances:*
 - *Amendment of the Bern Convention - To what extent can the financial provisions of CMS inspire the Bern Convention?*

As a follow-up to the third meeting of the Intersessional Working Group on Finances mandating the Secretariat to amend Article 14bis of the Convention using the financial regulations of the Convention on the Conservation of Migratory Species of Wild Animals (CMS) and the Convention on Biological Diversity as a source of inspiration, the Secretariat has analysed the financial provisions of the CMS. Explanatory comments pointing to possible red lines, such as responsibilities which cannot be attributed to the Standing Committee because they would overlap with those of the Committee of Ministers, were added to the Article to inform the Intersessional Working Group.

The Secretariat presented the document T-PVS/Inf(2021)36 and two suggested amendments received in writing from the French and Slovenian members of the Group.

The Group agreed on the proposed changes made in Article 14bis to paragraph 1, 2, 3 and 5.

Regarding the 4th paragraph, the Group instructed the Secretariat to consult the CoE legal department to inquire if the Committee of Ministers could change the scale of financial contribution agreed by the Standing Committee, in line with the CoE rules.

This matter is of particular importance for the European Commission which pointed out that its 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 limited to 2.5%. The Secretariat will consult the CoE legal department on this matter.

The Group welcomed the alignment of the draft Article 14bis amending the Bern Convention with the financial provisions of CMS. It instructed the Secretariat to clarify paragraph 4 of the draft article in light of the opinion of the CoE legal department and to proceed with a written consultation on paragraph 4. The Group further mandated the Secretariat to table for discussion at the Standing Committee Article 14bis for the amendment of the Convention. In accordance with the provisions of the Bern Convention, it will not be possible to adopt Article 14bis as any amendment to the text of the Convention should be submitted to delegations at least two months ahead of the Standing Committee. Unfortunately, the deadline has already passed.

- *Core versus Programmatic budget – The example of the 2021 budget of the Bern Convention*

Following up on the request of the Intersessional Working Group on Finances at their third meeting on 15 June 2021, the Secretariat has started exploring the distinction between “core” and “programmatic” costs.

In the absence of a clear and agreed definition of these concepts, and considering that this differentiation does not exist within the budgets of the Council of Europe, the distinction was grounded on the outcomes of the discussion of the Working Group, namely that “core” costs should benefit to all Contracting Parties and be required by the Bern Convention.

The Secretariat presented the document T-PVS/Inf(2021)37 and pointed out that it was just an exercise, a proposal to interpret the difference between “core and programmatic budget”.

France stressed the need to have a simple and understandable approach to the distinction between core and programmatic, and which does not only come from the respective resources of each budget.

The Group took note of the document as a possible indicative outline which is not binding.

- *Next steps ahead of the Standing Committee.*

The Secretariat will proceed with a written consultation on paragraph 4 of Article 14bis and submit the Article 14bis for the amendment of the Convention to the Standing Committee for discussion.

4. *Other business*

None

APPENDIX 1
LIST OF PARTICIPANTS

Contracting Party	Name
Czech Republic	<p>Ms Eliška ROLFOVÁ Unit of International Conventions Department of Species Protection and Implementation of International Commitments Ministry of the Environment</p> <p>Mr Jan BROJÁČ Ministry of the Environment Chair of the Intersessional Working Group on Finances</p>
European Commission Directorate General for Environment	Ms Iva OBRETEŇOVÁ Policy Officer
France	Mr 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 Andreas Benjamin SCHEI Senior 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	Mr Martin KREBS Département fédéral des affaires étrangères DFAE Secrétariat d'Etat DFAE Division prospérité et durabilité DPD Environnement, énergie et santé
Turkey	Mr Burak TATAR Senior Specialist - Conservation Biologist Department of Wildlife Management General Directorate of Nature Conservation and National Parks Ministry of Agriculture and Forest
United Kingdom	Mr Simon MACKOWN Department for Environment, Food & Rural Affairs
Council of Europe Secretariat	<p>Mr Gianluca SILVESTRINI Head of the Biodiversity Division</p> <p>Ms Ursula STICKER Secretary of the Bern Convention</p> <p>Mr Marc HORY Bern Convention Project Manager</p>