

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE AND NATURAL HABITATS (BERN CONVENTION)

Preamble

The member States of the Council of Europe and the other signatories hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Considering the wish of the Council of Europe to co-operate with other States in the field of nature conservation;

Recognising that wild flora and fauna constitute a natural heritage of aesthetic, scientific, cultural, recreational, economic and intrinsic value that needs to be preserved and handed on to future generations;

Recognising the essential role played by wild flora and fauna in maintaining biological balances;

Noting that numerous species of wild flora and fauna are being seriously depleted and that some of them are threatened with extinction;

Aware that the conservation of natural habitats is a vital component of the protection and conservation of wild flora and fauna;

Recognising that the conservation of wild flora and fauna should be taken into consideration by the governments in their national goals and programmes, and that international co-operation should be established to protect migratory species in particular;

Bearing in mind the widespread requests for common action made by governments or by international bodies, in particular the requests expressed by the United Nations Conference on the Human Environment 1972 and the Consultative Assembly of the Council of Europe;

Desiring particularly to follow, in the field of wildlife conservation, the recommendations of Resolution No. 2 of the Second European Ministerial Conference on the Environment,

Have agreed as follows:

Chapter I – General provisions

Article 1

1. The aims of this Convention are to conserve wild flora and fauna and their natural habitats, especially those species and habitats whose conservation requires the

co-operation of several States, and to promote such co-operation.

2. Particular emphasis is given to endangered and vulnerable species, including endangered and vulnerable migratory species.

Article 2

The Contracting Parties shall 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.

Article 3

1. Each Contracting Party shall take steps to promote national policies for the conservation of wild flora, wild fauna and natural habitats, with particular attention to endangered and vulnerable species, especially endemic ones, and endangered habitats, in accordance with the provisions of this Convention.

2. Each Contracting Party undertakes, in its planning and development policies and in its measures against pollution, to have regard to the conservation of wild flora and fauna.

3. Each Contracting Party shall promote education and disseminate general information on the need to conserve species of wild flora and fauna and their habitats.

Chapter II – Protection of habitats

Article 4

1. Each Contracting Party shall 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.

2. The Contracting Parties in their planning and development policies shall have regard to the conservation requirements of the areas protected under the preceding paragraph, so as to avoid or minimise as far as possible any deterioration of such areas.

3. The Contracting Parties undertake to give special attention to the protection of areas that are of importance for the migratory species specified in Appendices II and III and which are appropriately situated in relation to migration routes, as wintering, staging, feeding, breeding or moulting areas.

4. The Contracting Parties undertake to co-ordinate as appropriate their efforts for the protection of the natural habitats referred to in this article when these are situated in frontier areas.

Chapter III – Protection of species

Article 5

Each Contracting Party shall take appropriate and necessary legislative and administrative measures to ensure the special protection of the wild flora species specified in Appendix I. Deliberate picking, collecting, cutting or uprooting of such plants shall be prohibited. Each Contracting Party shall, as appropriate, prohibit the possession or sale of these species.

Article 6

Each Contracting Party shall take appropriate and necessary legislative and administrative measures to ensure the special protection of the wild fauna species specified in Appendix II. The following will in particular be prohibited for these species:

- a. all forms of deliberate capture and keeping and deliberate killing;
- b. the deliberate damage to or destruction of breeding or resting sites;
- c. the deliberate disturbance of wild fauna, particularly during the period of breeding, rearing and hibernation, insofar as disturbance would be significant in relation to the objectives of this Convention;
- d. the deliberate destruction or taking of eggs from the wild or keeping these eggs even if empty;
- e. the possession of and internal trade in these animals, alive or dead, including stuffed animals and any readily recognisable part or derivative thereof, where this would contribute to the effectiveness of the provisions of this article.

Article 7

1. Each Contracting Party shall take appropriate and necessary legislative and administrative measures to ensure the protection of the wild fauna species specified in Appendix III.
2. Any exploitation of wild fauna specified in Appendix III shall be regulated in order to keep the populations out of danger, taking into account the requirements of Article 2.
3. Measures to be taken shall include:
 - a. closed seasons and/or other procedures regulating the exploitation;
 - b. the temporary or local prohibition of exploitation, as appropriate, in order to restore satisfactory population levels;

- c. the regulation as appropriate of sale, keeping for sale, transport for sale or offering for sale of live and dead wild animals.

Article 8

In respect of the capture or killing of wild fauna species specified in Appendix III and in cases where, in accordance with Article 9, exceptions are applied to species specified in Appendix II, Contracting Parties shall prohibit the use of all indiscriminate means of capture and killing and the use of all means capable of causing local disappearance of, or serious disturbance to, populations of a species, and in particular, the means specified in Appendix IV.

Article 9

1. Each Contracting Party may make exceptions from the provisions of Articles 4, 5, 6, 7 and from the prohibition of the use of the means mentioned in Article 8 provided that there is no other satisfactory solution and that the exception will not be detrimental to the survival of the population concerned:

- for the protection of flora and fauna;
- to prevent serious damage to crops, livestock, forests, fisheries, water and other forms of property;
- in the interests of public health and safety, air safety or other overriding public interests;
- for the purposes of research and education, of repopulation, of reintroduction and for the necessary breeding;
- to permit, under strictly supervised conditions, on a selective basis and to a limited extent, the taking, keeping or other judicious exploitation of certain wild animals and plants in small numbers.

2. The Contracting Parties shall report every two years to the Standing Committee on the exceptions made under the preceding paragraph. These reports must specify:

- the populations which are or have been subject to the exceptions and, when practical, the number of specimens involved;
- the means authorised for the killing or capture;
- the conditions of risk and the circumstances of time and place under which such exceptions were granted;
- the authority empowered to declare that these conditions have been fulfilled, and to take decisions in respect of the means that may be used, their limits and the persons instructed to carry them out;
- the controls involved.

Chapter IV – Special provisions for migratory species

Article 10

1. The Contracting Parties undertake, in addition to the measures specified in Articles 4, 6, 7 and 8, to co-ordinate their efforts for the protection of the migratory species specified in Appendices II and III whose range extends into their territories.
2. The Contracting Parties shall take measures to seek to ensure that the closed seasons and/or other procedures regulating the exploitation established under paragraph 3.a of Article 7 are adequate and appropriately disposed to meet the requirements of the migratory species specified in Appendix III.

Chapter V – Supplementary provisions

Article 11

1. In carrying out the provisions of this Convention, the Contracting Parties undertake:
 - a. to co-operate whenever appropriate and in particular where this would enhance the effectiveness of measures taken under other articles of this Convention;
 - b. to encourage and co-ordinate research related to the purposes of this Convention.
2. Each Contracting Party undertakes:
 - a. to encourage the reintroduction of native species of wild flora and fauna when this would contribute to the conservation of an endangered species, provided that a study is first made in the light of the experiences of other Contracting Parties to establish that such reintroduction would be effective and acceptable;
 - b. to strictly control the introduction of non-native species.
3. Each Contracting Party shall inform the Standing Committee of the species receiving complete protection on its territory and not included in Appendices I and II.

Article 12

The Contracting Parties may adopt stricter measures for the conservation of wild flora and fauna and their natural habitats than those provided under this Convention.

Chapter VI – Standing Committee

Article 13

1. For the purposes of this Convention, a Standing Committee shall be set up.

2. Any Contracting Party may be represented on the Standing Committee by one or more delegates. Each delegation shall have one vote. Within the areas of its competence, the European Economic Community shall exercise its right to vote with a number of votes equal to the number of its member States which are Contracting Parties to this Convention; the European Economic Community shall not exercise its right to vote in cases where the member States concerned exercise theirs, and conversely.

3. Any member State of the Council of Europe which is not a Contracting Party to the Convention may be represented on the committee as an observer.

The Standing Committee may, by unanimous decision, invite any non-member State of the Council of Europe which is not a Contracting Party to the Convention to be represented by an observer at one of its meetings.

Any body or agency technically qualified in the protection, conservation or management of wild fauna and flora and their habitats, and belonging to one of the following categories:

- a. international agencies or bodies, either governmental or non-governmental, and national governmental agencies or bodies;
- b. national non-governmental agencies or bodies which have been approved for this purpose by the State in which they are located, may inform the Secretary General of the Council of Europe, at least three months before the meeting of the Committee, of its wish to be represented at that meeting by observers. They shall be admitted unless, at least one month before the meeting, one-third of the Contracting Parties have informed the Secretary General of their objection.

4. The Standing Committee shall be convened by the Secretary General of the Council of Europe. Its first meeting shall be held within one year of the date of the entry into force of the Convention. It shall subsequently meet at least every two years and whenever a majority of the Contracting Parties so request.

5. A majority of the Contracting Parties shall constitute a quorum for holding a meeting of the Standing Committee.

6. Subject to the provisions of this Convention, the Standing Committee shall draw up its own Rules of Procedure.

Article 14

1. The Standing Committee shall be responsible for following the application of this Convention. It may in particular:

- keep under review the provisions of this Convention, including its appendices, and examine any modifications necessary;

- make recommendations to the Contracting Parties concerning measures to be taken for the purposes of this Convention;
 - recommend the appropriate measures to keep the public informed about the activities undertaken within the framework of this Convention;
 - make recommendations to the Committee of Ministers concerning non-member States of the Council of Europe to be invited to accede to this Convention;
 - make any proposal for improving the effectiveness of this Convention, including proposals for the conclusion, with the States which are not Contracting Parties to the Convention, of agreements that would enhance the effective conservation of species or groups of species.
2. In order to discharge its functions, the Standing Committee may, on its own initiative, arrange for meetings of groups of experts.

Article 15

After each meeting, the Standing Committee shall forward to the Committee of Ministers of the Council of Europe a report on its work and on the functioning of the Convention.

Chapter VII – Amendments

Article 16

1. Any amendment to the articles of this Convention proposed by a Contracting Party or the Committee of Ministers shall be communicated to the Secretary General of the Council of Europe and forwarded by him at least two months before the meeting of the Standing Committee to the member States of the Council of Europe, to any signatory, to any Contracting Party, to any State invited to sign this Convention in accordance with the provisions of Article 19 and to any State invited to accede to it in accordance with the provisions of Article 20.
2. Any amendment proposed in accordance with the provisions of the preceding paragraph shall be examined by the Standing Committee which:
 - a. for amendments to Articles 1 to 12, shall submit the text adopted by a three-quarters majority of the votes cast to the Contracting Parties for acceptance;
 - b. for amendments to Articles 13 to 24, shall submit the text adopted by a three-quarters majority of the votes cast to the Committee of Ministers for approval. After its approval, this text shall be forwarded to the Contracting Parties for acceptance.
3. Any amendment shall enter into force on the thirtieth day after all the Contracting Parties have informed the Secretary General that they have accepted it.

4. The provisions of paragraphs 1, 2.a and 3 of this article shall apply to the adoption of new appendices to this Convention.

Article 17

1. Any amendment to the appendices of this Convention proposed by a Contracting Party or the Committee of Ministers shall be communicated to the Secretary General of the Council of Europe and forwarded by him at least two months before the meeting of the Standing Committee to the member States of the Council of Europe, to any signatory, to any Contracting Party, to any State invited to sign this Convention in accordance with the provisions of Article 19 and to any State invited to accede to it in accordance with the provisions of Article 20.

2. Any amendment proposed in accordance with the provisions of the preceding paragraph shall be examined by the Standing Committee, which may adopt it by a two-thirds majority of the Contracting Parties. The text adopted shall be forwarded to the Contracting Parties.

3. Three months after its adoption by the Standing Committee and unless one-third of the Contracting Parties have notified objections, any amendment shall enter into force for those Contracting Parties which have not notified objections.

Chapter VIII – Settlement of disputes

Article 18

1. The Standing Committee shall use its best endeavours to facilitate a friendly settlement of any difficulty to which the execution of this Convention may give rise.

2. Any dispute between Contracting Parties concerning the interpretation or application of this Convention which has not been settled on the basis of the provisions of the preceding paragraph or by negotiation between the parties concerned shall, unless the said parties agree otherwise, be submitted, at the request of one of them, to arbitration. Each party shall designate an arbitrator and the two arbitrators shall designate a third arbitrator. Subject to the provisions of paragraph 3 of this article, if one of the parties has not designated its arbitrator within the three months following the request for arbitration, he shall be designated at the request of the other party by the President of the European Court of Human Rights within a further three months' period. The same procedure shall be observed if the arbitrators cannot agree on the choice of the third arbitrator within the three months following the designation of the two first arbitrators.

3. In the event of a dispute between two Contracting Parties one of which is a member State of the European Economic Community, the latter itself being a Contracting Party, the other Contracting Party shall address the request for arbitration both to the member State and to the Community, which jointly shall notify it, within two months of receipt of the request, whether the member State or the Community, or the member and the Community jointly, shall be party to the dispute. In the absence of such notification within the said time limit, the member State and the Community shall

be considered as being one and the same party to the dispute for the purposes of the application of the provisions governing the constitution and procedure of the arbitration tribunal. The same shall apply when the member State and the Community jointly present themselves as party to the dispute.

4. The arbitration tribunal shall draw up its own Rules of Procedure. Its decisions shall be taken by majority vote. Its award shall be final and binding.

5. Each party to the dispute shall bear the expenses of the arbitrator designated by it and the parties shall share equally the expenses of the third arbitrator, as well as other costs entailed by the arbitration.

Chapter IX – Final provisions

Article 19

1. This Convention shall be open for signature by the member States of the Council of Europe and non-member States which have participated in its elaboration and by the European Economic Community.

Up until the date when the Convention enters into force, it shall also be open for signature by any other State so invited by the Committee of Ministers.

The Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

2. The Convention shall enter into force on the first day of the month following the expiry of a period of three months after the date on which five States, including at least four member States of the Council of Europe, have expressed their consent to be bound by the Convention in accordance with the provisions of the preceding paragraph.

3. In respect of any signatory State or the European Economic Community which subsequently express their consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiry of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

Article 20

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe, after consulting the Contracting Parties, may invite to accede to the Convention any non-member State of the Council which, invited to sign in accordance with the provisions of Article 19, has not yet done so, and any other non-member State.

2. In respect of any acceding State, the Convention shall enter into force on the first day of the month following the expiry of a period of three months after the date of the deposit of the instrument of accession with the Secretary General of the Council of Europe.

Article 21

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.
2. Any Contracting Party may, when depositing its instrument of ratification, acceptance, approval or accession or at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.
3. Any declaration made under the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn by notification addressed to the Secretary General. Such withdrawal shall become effective on the first day of the month following the expiry of a period of six months after the date of receipt of the notification by the Secretary General.

Article 22

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, make one or more reservations regarding certain species specified in Appendices I to III and/or, for certain species mentioned in the reservation or reservations, regarding certain means or methods of killing, capture and other exploitation listed in Appendix IV. No reservations of a general nature may be made.
2. Any Contracting Party which extends the application of this Convention to a territory mentioned in the declaration referred to in paragraph 2 of Article 21 may, in respect of the territory concerned, make one or more reservations in accordance with the provisions of the preceding paragraph.
3. No other reservation may be made.
4. Any Contracting Party which has made a reservation under paragraphs 1 and 2 of this article may wholly or partly withdraw it by means of a notification addressed to the Secretary General of the Council of Europe. Such withdrawal shall take effect as from the date of receipt of the notification by the Secretary General.

Article 23

1. Any Contracting Party may, at any time, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.
2. Such denunciation shall become effective on the first day of the month following the expiry of a period of six months after the date of receipt of the notification by the Secretary General.

Article 24

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, any signatory State, the European Economic Community if a signatory of this Convention and any Contracting Party of:

- a. any signature;
- b. the deposit of any instrument of ratification, acceptance, approval or accession;
- c. any date of entry into force of this Convention in accordance with Articles 19 and 20;
- d. any information forwarded under the provisions of paragraph 3 of Article 13;
- e. any report established in pursuance of the provisions of Article 15;
- f. any amendment or any new appendix adopted in accordance with Articles 16 and 17 and the date on which the amendment or new appendix comes into force;
- g. any declaration made under the provisions of paragraphs 2 and 3 of Article 21;
- h. any reservation made under the provisions of paragraphs 1 and 2 of Article 22;
- i. the withdrawal of any reservation carried out under the provisions of paragraph 4 of Article 22;
- j. any notification made under the provisions of Article 23 and the date on which the denunciation takes effect.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at Bern, this 19th day of September 1979, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to any signatory State, to the European Economic Community if a signatory and to any State invited to sign this Convention or to accede thereto.