

The EMERALD Network

a network of Areas of Special Conservation Interest for Europe



CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE AND NATURAL HABITATS

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This short document explains how the EMERALD network was born, its reach and development, its relation with NATURA 2000 and other projects.

1. Introduction

In June 1989 the Standing Committee of the Bern Convention held an extraordinary meeting exclusively devoted to habitat conservation within the Convention. At the meeting the Committee adopted an interpretative resolution (Resolution No. 1 (1989) on the provisions relating to the conservation of habitats) and three operative recommendations (Recommendations Nos. 14, 15 and 16 (1989)) aimed at the development of a network of areas under the Convention. A further recommendation (Recommendation No. 25 (1991) on the conservation of natural areas outside protected areas proper) was adopted at a later meeting of the Committee. In Recommendation No. 16 (1989) "on Areas of Special Conservation Interest" (ASCIs), the Standing Committee recommended Parties to "take steps to designate Areas of Special Conservation Interest to ensure that the necessary and appropriate conservation measures are taken for each area situated within their territory or under their responsibility where that area fits one or several of the following conditions..." (a list of conditions followed).

The Committee had wished that all these recommendations on habitat conservation be rapidly implemented by Contracting Parties but two major events delayed their implementation. The first was the fundamental change in the political map of Europe that followed the fall of the Berlin wall in October 1989. The Bern Convention had to change its priorities from the building of a network or areas to the extension of the Convention to the new democracies of Central and Eastern Europe. The second was the preparation, at the European Community, of a legal instrument aimed at implementing the Bern Convention within the Community. (As any other Contracting Party to the Convention, the European Community had the obligation to take "the appropriate and necessary legislative and administrative measures" to implement the Convention.) The legal instrument was finalised in May 1992 and was called the "Directive on the conservation of natural habitats and of wild fauna and flora". Happily, that text did not simply take the text of the Bern Convention, but went much further in developing the obligations on habitat protection (so much that it is now best known as the "Habitats Directive"). The Habitats Directive created "a coherent European ecological network of special areas of conservation ... to be set up under the title of NATURA 2000".

In order to assure coherence between the network of Areas of Special Conservation Interest (ASCIs) to be designated under the Bern Convention and the network of Special Areas of Conservation (SACs) designated under the Habitats Directive, the Standing Committee to the Convention thought preferable to wait for the establishment of the proper mechanism by the Directive. In January 1996, a sufficient number of States of Central and Eastern Europe had become Parties to the Convention and were requesting the development of the network of ASCIs. The Standing Committee, realising this wish and noting that the Habitats Directive was already sufficiently advanced in its work to build NATURA 2000, decided to adopt its Resolution No. 3 (1996), in which it resolved to "set up a network (EMERALD Network) which would include the Areas of Special Conservation Interest designated following its Recommendation No. 16"; it furthermore "encouraged Contracting Parties and observer states to designate Areas of Special Conservation Interest and to notify them to the Secretariat". Resolution No. 3 (1996) was, in a sense, a second act of birth of the network, after its first creation in 1989. More precisely it was an act of baptism as the network had not been given a name in 1989 and it had proved rather awkward to promote a network under the name of "network to develop Recommendation No. 16 (1989) of the Standing Committee of the Convention on areas of special conservation interest". Short names have advantages.

2. Legal support of the EMERALD Network

The Bern Convention does not deal exclusively with the protection of species. Articles 1, 2, 3, 4, 6 and 9 of the Convention deal with the protection of natural habitats, in particular

- habitats of the wild flora and fauna species (specially those in Appendices I and II)
- endangered natural habitats.

Relevant texts of the Convention and the Standing Committee concerning protection of natural habitats are appended to this document.

The EMERALD Network was created by virtue of Recommendation No. 16 (1989) and Resolution No. 3 (1996) and thus benefits from the "soft law" approach characteristic of recommendations. Nevertheless, the obligations to protect natural habitats are not "soft law" but rather strict obligations clearly marked in the Convention, and forming part of international law. The Standing Committee recommended Contracting Parties to implement their obligations regarding natural habitats through the taking of a number of measures, among which the designation of the Areas of Special Conservation Interest (ASCIs) that form the EMERALD Network. Obviously obligations under the Bern Convention can only be requested of Contracting Parties. Other European states were "invited" to participate in the exercise.

The Standing Committee examined the possibility of amending the Convention (or establishing a protocol) to integrate the EMERALD Network into the text of the Convention - thus reinforcing its legal reach - but no decision in that sense had been taken by January 1997.

3. Areas of Special Conservation Interest (ASCIs)

What are Areas of Special Conservation Interest?

Recommendation No. 16 defines Areas of Special Conservation Interest as those designated by states where that area fits one or several of the following conditions:

1. *it contributes substantially to the survival of threatened species, endemic species, or any species listed in Appendices I and II of the convention;*
2. *it supports significant numbers of species in an area of high species diversity or supports important populations of one or more species;*
3. *it contains an important and/or representative sample of endangered habitat types;*
4. *it contains an outstanding example of a particular habitat type or a mosaic of different habitat types;*
5. *it represents an important area for one or more migratory species;*
6. *it otherwise contributes substantially to the achievement of the objectives of the convention.*

The conditions above point clearly towards areas of a great ecological value for both the threatened and endemic species listed in the Appendices of the Bern Convention and for the endangered habitat types which are to be identified by the Standing Committee as "requiring specific conservation measures".

The EMERALD Network would thus not be simply a box into which any type of protected area can be put, or a mere collection of areas designated under other schemes. Its coherence - much like that of NATURA 2000 - comes from the limited criteria for choice: they have to be important and contribute substantially (the adjective is important!) to the objectives of the Convention.

Which States may designate ASCIs?

Resolution No. 3 (1996) encourages "*Contracting Parties and observer states to designate ASCIs*" and to notify them to the Secretariat.

The following 31 European states are Contracting Parties to the Convention (in November 1996): Austria, Belgium, Bulgaria, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Spain, Sweden, Switzerland, Turkey, United Kingdom;

and the following 14 European states have the status of observer at the meetings of the Standing Committee: Albania, Azerbaijan, Andorra, Belarus, Bosnia-Herzegovina, Croatia, Czech Republic, Holy See, Latvia, Russia, San Marino, Slovenia, "the former Yugoslav Republic of Macedonia", Ukraine.

This raises to 45 the number of states which may participate in the EMERALD Network. The participation of states which are not yet Contracting Parties is not only possible, but highly desirable. Resolution No. 3 (1996) invites "*European states which are observer states in the Standing Committee of the Bern Convention to participate in the network and designate ASCIs*".

The participation of non-European (Parties or observers) in the EMERALD Network is unclear at present. While Recommendation No. 14 (1989) does not exclude such participation, Resolution No. 3 (1996) is clearly addressed to European states. In respect to European Union states, they are recommended (Recommendation No. 14 (1989), like other states, to designate ASCIs. The same might apply for the European Community as Contracting Party, as the Standing Committee recommended Parties to take steps to designate ASCIs "*to ensure that necessary and appropriate measures of conservation are taken for each area situated within their territory or under their responsibility ...*". In any circumstance, it is clear that Contracting Parties which are members of the European Union and the European Community itself may - if they so wish - coordinate their action in respect to the designation of ASCIs. The activities of designation of SPAs within the Habitats Directive would be more than enough to fulfil the implementation of Recommendation No. 16 and - if the States concerned so wish and decide - it may be their contribution to the EMERALD Network. Indeed no other action would be expected from them, the NATURA 2000 network having identical objectives (and a more solid legal basis) to those of the EMERALD Network. In this respect, the full and thorough implementation of the Habitats Directive is contemplated as a necessary and fundamental step into the achievement of the common goals it shares with the Bern Convention, both concerning the protection of natural habitats and the conservation of wild flora and fauna.

What are the duties of states concerning the status and management of ASCIs?

Once ASCIs have been designated by the states, that is not the end of the EMERALD Network, but rather the start, as states are recommended to take a number of steps (by legislation or otherwise, to ensure that ASCIs are properly managed. They are asked in Recommendation No. 16 (1989) to "ensure, wherever possible that":

1. *ASCIs "are the subject of an appropriate regime, designed to achieve the conservation of the factors" responsible for the designation of the area;*
2. *"the agencies responsible for the designation and/or management and/or conservation of ASCIs have available to it sufficient manpower, training, equipment and resources (including financial resources) to enable them properly to manage, conserve and survey the areas;*
3. *appropriate ecological and other research is conducted, in a properly coordinated fashion, with a view to furthering the understanding of the critical elements in the management of ASCIs and to monitoring the status of the factors giving rise to their designation and conservation;*
4. *activities taking place adjacent to such areas or within their vicinity do not adversely affect the factors giving rise to the designation and conservation of those sites."*

Furthermore, states are recommended to take steps, as appropriate, in respect of ASCIs to:

1. *draw up and implement management plans which will identify both short- and long-term objectives (such management plans can relate to individual areas or to a collection of areas such as heathlands);*
2. *regularly review the terms of the management plans in the light of changing conditions or of increased scientific knowledge;*
3. *clearly mark the boundaries of ASCIs on maps and, as far as possible, on the ground;*
4. *advise the competent authorities and landowners of the extent of ASCIs and their characteristics;*
5. *provide for the monitoring of ASCIs and especially of the factors for which their conservation is important."*

It is obvious from the paragraphs above that states are invited to pay much conservation attention to ASCIs. There is, however, no precise recommendation to give legal protection to ASCIs, the Standing Committee having preferred to keep a supple wording and having recommended that the areas "be subject to the appropriate regime". As usual the Standing Committee was more interested by the achievement of conservation results than by a particular "area protection" procedure. Some systems may work very well without strong legal obligations attached. In any case the Standing Committee asked states to look into the matter of the protection of ASCIs and the last point of Recommendation No. 16 reads as follows:

The Standing Committee recommends that Contracting Parties:

5. *"determine those areas which remain inadequately provided for under existing mechanisms and improve the conservation status of such areas, using whatever mechanisms are appropriate in order to meet the requirements of the convention."*

Building the EMERALD Network is designed to be a dynamic process which will need regular updates of the information contained and the way the states comply with the recommendation. Point 2 of Recommendation No. 16 invites states to "review regularly or continually in a systematic fashion their performance in the implementation of [the designation of ASCIs]."

How are ASCIs designated?

Resolution No. 3 (1996) and Recommendation No. 16 (1989) are not very precise on that point. They encourage Contracting Parties and observer states "to designate ASCIs and to notify them to the Secretariat". Thus the responsibility for designating ASCIs lies with the government of the states concerned. As for the technical details, it is worth noting that Resolution No. 3 created "a group of experts to carry out the necessary activities related to the building up of the network". This group met for the first time in November 1996 and did not discuss this issue in detail but it was stressed that the designation process would be done in such a way that it would be compatible with that of the NATURA 2000 network. A data sheet that needs to be filled in by the states is to be prepared early in 1997. The possibility of being able to fill in the forms electronically is being explored so that, for instance, data gathered for the CORINE-biotopes programme may be used.

Designation of ASCIs will start in 1997, after the preparation of data sheets. The states are expected to notify the Secretariat the ASCIs they designate which will be validated by the Secretariat and incorporated in the EMERALD Network. though some decisions in this respect need yet to be taken, it is likely that for Contracting Parties of the Convention which are also member states of the European Community the procedure will be different. In order to assure harmonisation and compatibility with the NATURA 2000 network, they need only to notify which areas have been effectively included in the NATURA 2000 network, after all the necessary verification process agreed in the Habitats Directive, and whether they wish these areas to become part of the EMERALD Network. This procedure is designed to assure full compatibility and coherence of both networks.

The work ahead

The Standing Committee thought that, for the designation of ASCIs and for the protection of natural habitat, it was necessary to reinforce the work that Contracting Parties were carrying out in habitat protection. Thus, it decided to ask Parties (in Recommendation No. 14 (1989)) to:

1. *identify in the areas within their jurisdiction:*
 1. *species requiring specific habitat conservation measures;*
 2. *endangered natural habitats requiring specific conservation measures;*
 3. *migratory species requiring specific habitat conservation measures;*
 4. *species of which the breeding and/or resting sites require protection and their breeding and/or resting site types requiring protection;*

and for each of these categories to indicate, as far as possible, their sites".

Although the above tasks were addressed to Contracting Parties, the Standing Committee decided, after 1989, to prepare, for the whole of Europe lists for points a, b, c and d above.

In December 1996 the Standing Committee adopted Resolution No. 4 identifying endangered natural habitats requiring specific conservation measures.

As for the other points, work was well advanced to identify species requiring specific habitat conservation measures (including the migratory species mentioned in c. above).

As for d. above (species of which the breeding and/or resting sites require protection), while all of them can be considered as included in a. above (*ie* they require specific habitat conservation measures), the identification of breeding and/or resting sites requiring protection will be clearly associated with the designation of ASCIs but has not started.

The identification of species requiring specific habitat conservation measures can be a useful step towards the designation of ASCIs because it may guide choices of sites of particular relevance for threatened species. Yet the temporary absence of a list of species requiring special habitat conservation measures should not hinder the designation of ASCIs as these may be chosen when they "*contribute substantially to the survival of threatened species, endemic species or any species in Appendices I and II of the Convention*".

The tasks ahead for the building of the network will be those aimed at facilitating the designation of ASCIs by states, mainly the following:

- the identification of endangered natural habitats requiring habitat conservation measures,
- the elaboration of a model data sheet form that may be completed by states,
- the elaboration of other technical instruments necessary to ensure coherence with the NATURA 2000 network (Map of Biogeographical Regions, adaptation of software for filling in data sheets, etc),
- the elaboration of lists of species requiring specific habitat conservation measures,
- the identification of sites of importance for migratory species.

5. Relations of the EMERALD Network with NATURA 2000

The Bern Convention (1979) and the Habitats Directive (1992) have a complete coincidence of objectives. Both are international legal instruments aimed at the conservation of wild flora, fauna and natural habitats. Their main differences come from the territory they apply to (European Union member states for the Directive and the whole of Europe and part of Africa for the Convention) and to the fact that the Directive is more explicit on the obligations concerning conservation of natural habitats. In any case the Directive is a piece of legislation designed to implement the Bern Convention in the European Community and, as such, it is fundamentally coherent with the Convention. As Resolution No. 1 and Recommendations Nos. 14, 15 and 16 were adopted in 1989 and Recommendation No. 25 in 1991, at the time the Directive was being prepared, it is clear that they also influenced the content of the Directive. For instance, the "*species requiring specific habitat conservation measures*" mentioned in Recommendation No. 14 has its equivalent in Annex II of the Directive ("*Animal and plant species of Community interest whose conservation requires the designation of Special Areas of Conservation*").

Also the "*endangered natural habitats requiring specific habitat conservation measures*" of Recommendation No. 14 became Annex I of the Directive ("*Natural habitat types of Community interest whose conservation requires the designation of Special Areas of Conservation*"). Even the term "*Areas of Special Conservation Interest*" (by the way, inspired by the United Kingdom's Sites of Special Scientific Interest) was taken in the Directive to become finally *Special Areas of Conservation*. The resemblance is even more striking in French (*Zones d'intérêt spécial pour la conservation/Zones spéciales de conservation*).

The great interest and merit of the Directive has been to convert into precise law the ideas and recommendations on habitat conservation contained in the Bern Convention, improving its reach and reinforcing its application in the 15 states of the Union. It is obvious to any independent observer that most of the implementation of the Bern Convention will be carried out within the Union by the full implementation of the Directive.

Regarding the networks NATURA 2000 and EMERALD the only logical and feasible interpretation is that the member states of the European Union will satisfy the habitat requirements of the Bern Convention mostly through the designation of sites to the NATURA 2000 network. If the EU member states so decide, the Special Areas of Conservation of NATURA 2000 will also become Areas of Special Conservation Interest of the EMERALD Network. This will ensure the coherence of the Network for the whole of Europe. No other designation will be requested for EU member states.

There is an obvious advantage in this approach, which is that most of the work to be done in the building of the EMERALD Network will be concentrated in states which are not members of the European Union. In this way it will be possible to extend to the whole of Europe a homogeneous network of areas, helping to break down in this sector the barriers that history, politics and economic reality have imposed on the European continent. This is in line with the missions, the challenges and the ambitions of the Council of Europe. Additionally, it may also help some states, candidates to join the European Union, to do part of the preparatory work necessary to comply in advance with the Habitats Directive. It seems evident that if a state designates a coherent network of ASCIs within the EMERALD Network, it will be in a more favourable position to designate its own ASC when it joins the Union. Such a possibility calls for a coordination of the Council of Europe, serving the Bern Convention, and the European Commission, responsible for the Directive, to discuss technical matters derived from the building of both networks.

In a sense the EMERALD Network will take farther than the borders of the European Union the philosophy of the NATURA 2000 network and will materialise in the whole continent the fundamentally coincident objectives of both the Bern Convention and the Habitats Directive regarding conservation of natural habitats. Its success will be that of nature conservation in Europe.