



EUROPEAN COMMISSION

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Proposal for a

**COUNCIL DECISION**

**on the position to be taken, on behalf of the European Union, at the 32nd meeting of the Standing Committee of the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention)**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

The Council of Europe Convention on the Conservation of European Wildlife and Natural Habitats (hereinafter: the Bern Convention) was adopted on 19 September 1979 in Bern (Switzerland) and came into force on 1 June 1982. It has 50 Contracting Parties: 45 member States of the Council of Europe, 4 non-member States of the Council of Europe and the European Union.

The aims of the 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. Particular emphasis is given to endangered and vulnerable species, including migratory species."

All Contracting Parties of the Bern Convention must take action to:

- promote national policies for the conservation of wild flora and fauna, and their natural habitats;
- have regard to the conservation of wild flora and fauna in their planning and development policies, and in their measures against pollution;
- promote education and disseminate general information on the need to conserve species of wild flora and fauna and their habitats;
- co-operate to enhance the effectiveness of these measures through co-ordination of efforts to protect migratory species and the exchange of information and the sharing of experience and expertise.

The Bern Convention has been implemented at the EU level by both Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds<sup>1</sup> (Birds Directive), and Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora<sup>2</sup> (Habitats Directive), which provide a common framework for the conservation of wildlife and habitats within the EU and are the key EU legal instruments for maintaining the biodiversity of the Members States. The directives represent a legal framework for the EU Natura 2000 network, which is the largest network of protected areas in the world.

The Standing Committee is the governing body of the Bern Convention. The Committee's principal task is to monitor the provisions of this Convention in the light of development of the wild flora and the assessment of its needs. For this purpose, the Standing Committee is especially competent to make recommendations to the Parties and to examine and adopt amendments to the appendices where these protected species are specified.

Article 22, paragraph 1 of the Bern Convention states that:

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.

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<sup>1</sup> OJ L 20 of 26.1.2010, p. 7.

<sup>2</sup> OJ L 206 of 22.7.1992, p. 7.

With a view to the 32nd meeting of the Standing Committee to be held in Strasbourg on 27-30 November 2012 Switzerland has submitted a proposal for amending Article 22 of the Bern Convention to enable any Contracting Party to enter certain reservations concerning the undertaking initially made in the context of the Bern Convention, even after having signed the Convention or deposited its instrument of ratification, acceptance, approval or accession.

The Swiss proposal consists in introducing a new paragraph 1bis in Article 22 that would read as follows:

*1<sup>bis</sup> In addition to paragraph 1, any State may, if the circumstances have radically changed in its territory since the entry into force of this Convention, make one or more reservations regarding certain species specified in Appendices I to III."*

Switzerland has not provided and the proposal appears not to be justified by any type of analysis or scientific data.

Moreover, by enabling all Bern Convention signatories to make one or more reservations regarding certain species specified in Appendices I to III, the Swiss proposal might have wide negative consequences as regards impact on populations of fauna and flora of European interest. This would drastically weaken the Convention and impact EU efforts on protection of the European species.

In view of the above, and in order to ensure consistency between the Bern Convention and the EU legislation, and keep its implementation successful, the Union should not support the Swiss proposal at the next meeting of the Standing Committee.

Proposal for a

## COUNCIL DECISION

**on the position to be taken, on behalf of the European Union, at the 32nd meeting of the Standing Committee of the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192 (1), in conjunction with Article 218 (9), thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The European Union is a Party to the Convention on the Conservation of European Wildlife and Natural Habitats (the Bern Convention).
- (2) The Bern Convention has been implemented at the EU level by both Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds<sup>3</sup>, and Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora<sup>4</sup>.
- (3) Any amendment to the articles to the Bern Convention shall be examined by the Standing Committee. With a view to the 32nd meeting of the Standing Committee that will be held in Strasbourg on 27-30 November 2012, Switzerland has submitted a proposal to amend Article 22 of the Bern Convention to allow Parties to enter certain reservations concerning the undertaking initially made in the context of the Bern Convention, even after having signed the Convention or deposited its instrument of ratification, acceptance, approval or accession. This would enable all Bern Convention signatories to make one or more reservations regarding certain species specified in Appendices I to III.
- (4) This proposal has not been justified by analysis or scientific data and may have wide negative consequences on populations of fauna and flora of European interest. Moreover, it is not consistent with Union legislation.
- (5) In view of the above, the Union should not support the Swiss proposal at the next meeting of the Standing Committee.

HAS ADOPTED THIS DECISION:

### *Article 1*

The position to be taken by the European Union at the 32nd meeting of Standing Committee of the Convention on the Conservation of European Wildlife and Natural Habitats (Bern

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<sup>3</sup> OJ L 20 of 26.1.2010, p. 7.

<sup>4</sup> OJ L 206 of 22.7.1992, p. 7.

Convention) shall be not to support the Swiss proposal for amending Article 22 of the said Convention.

*Article 2*

This Decision shall enter into force on the day of its adoption.

Done at Brussels,

*For the Council  
The President*