

Convention on the Conservation of European Wildlife and Natural Habitats

Standing Committee

Recommendation No. 25 (1991) on the conservation of natural areas outside protected areas proper (*Adopted by the Standing Committee on 6 December 1991*)

The Standing Committee of the Convention on the Conservation of European Wildlife and Natural Habitats, acting under the terms of Article 14 of the convention,

Having regard to Articles 1, 2, 3 and 4 of the convention and to its Resolution N° 1 (1989);

Conscious that most of the obligations under Articles 1, 2, 3 and 4 of the convention are binding upon the Contracting Parties as to the results to be attained while allowing them a choice of the means to be used for that purpose;

Conscious that the establishment of protected areas of the A and B categories defined in Resolution 73 (30) of the Committee of Ministers of the Council of Europe of 26 October 1973 may prove to be insufficient to comply with the obligations of the convention;

Recognising, however, that certain forms of action have proved particularly effective in the countries where they have been adopted and that the experience thus acquired should be brought to the attention of all Contracting Parties;

Recognising that flora and fauna conservation is possible only in the context of a regional planning policy conserving their environments and habitats,

Recommends that Contracting Parties:

1. Examine the possibility, for the purpose of the convention, of taking conservation measures such as those mentioned as examples in the appendix to this recommendation to improve conservation outside the protected areas of categories A and B of the above-mentioned Resolution (73) 30 of the Committee of Ministers;
2. Communicate to the Secretariat, for the information of the other Contracting Parties, any other relevant measures they have already taken or intend to take as well as any available information on the effects of measures they have taken.

Appendix

Examples of conservation measures¹

I. General measures for promoting ecological management of the environment as a whole

1. Submit all projects, plans, programmes and measures with an impact on the natural and semi-natural environment to an examination of environmental compatibility with a view to protecting nature and landscapes and conserving them intact in cases where there is an overriding general interest in doing so.
2. Take care to use agricultural land and forests in a sustainable way by making maximum possible use of natural production capacities and by reducing inputs.

3. Encourage the use of environment-friendly technologies when carrying out technical operations in the natural or semi-natural environment, and replace large-scale single operations by regular maintenance measures which are more evenly distributed in time and space. If it is impossible to avoid affecting natural or semi-natural environments which are worth protecting, ensure that mitigation measures are taken to minimise as much as possible the negative effects of the operations, to restore, or failing this, to replace them by adequate compensation.

II. Areas of special conservation interest

1. Draw up a detailed inventory of areas of special conservation interest as defined in paragraph 1 of the Standing Committee's Recommendation N° 16 (1989) and ensuring the conservation and management of those areas, when it is not possible or appropriate to include them in protected areas of categories A and B, by taking, in particular, the following measures:

a. including those areas in land-use planning zones which enjoy a high level of protection;

b. requiring that any development or activity liable to have an adverse ecological impact on those areas be subject to the authorisation, consultation, or agreement of the nature conservation authorities;

c. requiring that any request for permission submitted in accordance with paragraph *b* above be accompanied by an environmental impact assessment or equivalent assessment making it possible to determine the precise effects of the proposed development or activity on the ecological characteristics which warranted the inclusion of those areas in the inventory;

d. advising government agencies against carrying out, authorising or subsidising developments or activities which are shown by the environmental impact assessment or equivalent assessment adversely to affect significantly those ecological characteristics;

e. granting exceptions to these provisions only under the conditions specified in Article 9 of the convention and in Recommendation N° 15 (1989) of the Standing Committee;

f. taking the necessary measures to ensure that laws and regulations laying down obligations with regard to drainage, use of phytosanitary products, dredging of watercourses, consolidation of land-holdings or other activities liable to harm the natural environment are not compulsorily applicable to areas appearing in the inventory.

2. Facilitate the acquisition and management of areas of special conservation interest by the state or other public bodies in particular by taking the following measures:

a. Acquisition:

i. establishing a right of pre-emption for the state or other public bodies in respect of land included in the said areas;

ii. authorising land forming part of those areas to be transferred to the state in lieu of inheritance tax;

iii. introducing incentives to encourage gifts and bequests of land included in those areas to the state or to other public bodies, such as tax concessions, the payment of an annuity to donors until their deaths or authorising donors to stay on until their death, as usufructuaries;

b. Management:

i. when a government agency is not in a position to manage land it owns or is responsible for within an area of special interest, arranging for the land to be managed by another government agency or a private person;

ii. authorising the conclusion of long-term management contracts between the government agency that owns or is responsible for the land and a public body or private person;

iii. authorising the nature conservation agency to conclude co-operative agreements with the public body owning or responsible for the land, for the purpose of managing the land concerned.

3. Facilitate the acquisition, conservation and management of areas of special conservation interest by private persons, in particular by taking the following measures:

a. Acquisition:

granting subsidies, loans and tax concessions to private nature conservation organisations for the acquisition of land included in such areas;

b. Conservation:

i. setting up voluntary reserves approved by a government agency and enjoying as such the same level of protection as reserves set up by government agencies themselves;

ii. authorising the imposition by contract of land use restrictions which may be binding upon successors in title;

iii. granting tax concessions to owners or occupiers who comply with these restrictions. It should be possible to apply the concessions to property tax and inheritance tax. In the latter case, it should be possible to grant concessions to heirs who undertake to conserve and manage the areas concerned according to a management plan drawn up by the conservation authorities. In the event of failure to observe the conditions in this plan, inheritance tax would immediately become due;

iv. providing the state with the necessary legal powers to introduce immediate controls prohibiting all potentially harmful activities in the event of a threat to the integrity of an area of special interest and, where necessary, to expropriate the land in question;

c. Management:

i. setting up a system of management agreements, where such a system does not already exist, between the state or another public body on the one hand, and the

owners of land included in areas of special interest on the other, whereby the latter undertake to perform or refrain from certain actions in return for fair remuneration and other possible benefits such as tax concessions;

ii. eliminating legal obstacles liable to hamper the conservation of land within areas of special interest, particularly rules prohibiting the owner from including in a farm lease clauses that limit the tenant farmer's freedom, for example with regard to the removal of banks and hedges or the ploughing up of meadowland.

III. *Ecological corridors*

Encourage the conservation and, where necessary, the restoration of ecological corridors in particular by taking the following measures:

1. Rights of way of roads, railways and high-voltage lines

Authorising agreements between nature conservation authorities and government or other public bodies owning or responsible for such areas with a view to maintaining natural plant cover and preserving the sites of rare or endangered plant species, prohibiting or limiting the use of phytosanitary products and of fire in those areas, as well as restricting the use of machinery to the strict minimum necessary for safety reasons.

Taking measures to restore or to compensate for the loss of ecological corridors caused by the building of new roads and other constructions that prevent animals from migrating or interchanging. In these cases, the responsible authority has to safeguard such crossing routes, for example, by building special tunnels for otters and badgers, by building so-called cerviducts for deer, by closing roads during the spring migrational period for amphibians, or by any other appropriate measures.

2. Watercourses

Maintaining certain watercourses or parts thereof in their natural state, and where necessary restoring them, by prohibiting the building of dams, any straightening or canalisation work and the extraction of materials from their beds, and by maintaining or restoring vegetation along their banks. Ensuring that dredging operations, when they prove essential, do not harm the integrity of the aquatic ecosystem or of the banks.

On other watercourses, limiting canalisation and straightening work to whatever is absolutely essential, providing fish passes across dams, maintaining a minimum flow in low-water periods as far as possible, limiting extraction of materials from the bed and maintaining vegetation along the banks.

IV. *Habitat types*

1. Ensure the conservation of endangered habitat types such as wetlands, heathlands and dry grasslands by requiring that all projects liable to cause their deterioration or destruction be subject to the permission (or agreement) of the authority responsible for nature conservation.

2. Subject permission, once it has been granted, to an obligation, where appropriate, to take suitable compensation measures.

3. Set up a system of management agreements, together with financial incentives, to provide for the management of certain habitat types, whether or not they are protected.

V. Landscape features

Encourage the conservation of landscape features such as streams, ponds, small woods, individual trees, hedges and natural grassland, in particular by taking the following measures:

1. drawing up in each municipality an inventory of landscape features which should be preserved;
2. taking these features into account in the preparation or revision of land-use plans by including them in zones enjoying a high level of protection;
3. setting up a system of management agreements for the preservation and, where appropriate, the management of the landscape feature thus protected;
4. for each agricultural production unit, establishing, in agreement with the farmer, a conservation plan comprising:
 - a. an ecological analysis of the unit;
 - b. a map of landscape features and natural areas to be conserved and, where necessary, restored or reconstituted;
 - c. practicable and advisable « extensification » methods;
 - d. setting aside certain plots of land, where appropriate, selected on the basis of an ecological study;
 - e. a management agreement specifying the results to be achieved, the means needed to achieve them and the amounts to be paid to the farmer by way of compensation or remuneration for services rendered.

VI. Ecologically sensitive areas

Set up special regimes applicable to certain areas requiring specific measures on account of their ecological vulnerability and the various kinds of pressure to which they are exposed, including, in particular, the following measures:

1. Coastlines and adjacent marine areas

- a. setting up legal regime for natural areas in the public maritime domain which takes account of the need to preserve the natural habitats comprising them and which regulates activities liable to affect them adversely;
- b. instituting binding land-use plans for marine areas which are of special ecological interest or require special protective measures on account of their vulnerability;
- c. adopting special planning regulations prohibiting or limiting new development, especially the building of roads, on the coastline;

d. protecting landscape features and habitats characteristic of coastal ecosystems, such as dunes, beaches, cliffs, wetlands, salt marshes and woodlands, by including them in land-use planning zones enjoying the highest level of protection;

e. as far as possible, eliminating the difficulties due to the division of powers between different government agencies on either side of the upper limit of the public maritime domain by setting up a co-ordinating mechanism allowing for the management of the coastline and the adjacent marine areas, particularly protected ones, as a single unit.

2. Mountains

a. providing for financial means of encouragement along with management agreements to maintain the rural mountain population, while promoting farming methods respectful of natural habitats and the balance of nature ; adjusting aid arrangements for stockbreeding in mountain areas to the carrying capacity of the pastureland;

b. designating areas where the building of roads, except access tracks to pastures and forests, and the construction of buildings and other structures are prohibited;

c. including in land-use planning zones enjoying the highest level of protection the landscape features and habitats typical of mountain ecosystems, such as glaciers, névés, moraines, rock faces, scree, high-altitude lakes, torrents, peat bogs and dry grasslands;

d. regulating off-piste skiing, the spreading of artificial snow, the use of cross-country vehicles and any other activities liable to harm mountain ecosystems.

3. Flood plains

a. maintaining and, where possible, restoring the natural cycle of flooding in flood plains;

b. designating flood-risk areas and subjecting them to special restrictions, particularly with regard to building;

c. protecting landscape features and habitats that are typical of flood plains, such as alluvial forests, water meadows, oxbow lakes and islands, by including them in land-use planning zones enjoying the highest level of protection;

d. encouraging the continuation of traditional agricultural and stock breeding methods by means of subsidies management agreements;

e. requiring prior authorisation for any drainage or conversion of wetlands in a flood plain;

f. creating river nature parks, in accordance with paragraph VII.3 below.

3. Forests

a. Maintaining at least 2 % of the surface area of publicly-owned indigenous and natural forests in its natural state by letting biological cycles, including the recycling of dead wood, occur freely;

b. setting up a system of management agreements with the owners of private forests to encourage the conservation of certain forest ecosystems or the continuation of certain forestry practices;

c. adopting regulations to ensure the protection of forest clearings and edges;

d. requiring that, after an environmental impact assessment has been carried out, any afforestation of semi-natural or natural non-wooded land and any conversion of natural forest into artificial forest be subject to the permission (or agreement) of the authority responsible for nature conservation and/or forest management.

VII. Protected landscapes

1. Set up a network of nature parks of the C and D categories defined in Resolution (73) 30 of the Committee of Ministers with a view to conserving European landscapes by managing all their component elements in an integrated way.

2. Provide each nature park thus defined with the following means of action:

a. a specific land-use planning instrument with which the land-use plans of municipalities situated in the park must comply, and which includes the zoning and regulation of human activities according to the conservation needs of each zone;

b. incentives to encourage the maintenance of traditional activities compatible with the conservation needs of each zone, or necessary to achieve them;

c. an administration specific to each park and empowered to grant the permits required to carry out those activities which are regulated in each zone;

d. adequate funds and staff for providing information, encouragement and financial or technical assistance to all public bodies and private individuals that own land or carry out activities in the park.

3. Pay particular attention to establishing river nature parks covering the whole width of the flood plain, on either side of certain watercourses or parts thereof, where hydraulic schemes, drainage and any activities liable to harm river and alluvial ecosystems are regulated.

¹ These examples have been taken from Document T-PVS (90) 52 on “The conservation of natural habitats outside protected areas proper – A juridical analysis”, Cyrille de Klemm, 1990.