

53rd Meeting of the Standing Committee

Bonn, Germany, 19 – 20 October 2022

UNEP/CMS/StC53/Doc.16

CMS REVIEW MECHANISM

(As at 25 August 2022 / Prepared by the Secretariat)

Summary:

The document reports on the progress to implement the Review Mechanism, established through Resolution 12.9, and its associated Decisions.

It also proposes the development of operational guidance to assist the implementation of Resolution 12.9 and its associated Decisions.

CMS REVIEW MECHANISM

Background

1. The Conference of the Parties to the Convention on Migratory Species at its 12th meeting (CMS COP12, Manila, 2017) adopted Resolution 12.9, establishing a Review Mechanism and a National Legislation Programme. The Review Mechanism is aimed at facilitating compliance with the obligations set out in Articles III.4, III.5, III.7, and VI.2 of the Convention (referred to as “implementation matters”).
2. The Resolution mandates that the Standing Committee “*shall perform the functions of the review body with the support of the Scientific Council, if needed*”¹ and “*shall report to the Conference of the Parties on any actions taken pursuant to this Resolution, including the status of current reviews.*”²
3. Resolution 12.9 also instructs the Standing Committee “*to make recommendations for modifications on this Resolutions, as necessary and appropriate*”,³ while Decision 13.21 mandates the Standing Committee to recommend modifications of the procedure:
“*The Standing Committee is requested to consider the implementation of the Review Mechanism and report to COP14, including any recommendations for modifications of the procedure or criteria.*”
4. This document reports to the Standing Committee on the implementation of the Review Mechanism and recommends next steps in preparation for COP14.

Activities to implement the Review Mechanism

5. A [template for communication of a possible implementation matter](#) was adopted by StC48 and made available by the Secretariat in the fourth quarter of 2019. Since then, the Secretariat has received three communications on potential implementation matters. The Secretariat admitted one case, per the procedure in Resolution 12.9.
6. A report on the status of the currently open case is included in the Annex. Information and communications between the Secretariat and individual Parties on specific implementation matters are treated as confidential per Section C.3 of Resolution 12.9.

Discussion and analysis

7. The Review Mechanism provides an important tool to further compliance with key provisions of the Convention. The Secretariat will continue its efforts to promote the availability and use of the Review Mechanism.
8. In line with Decision 13.21, the Secretariat has identified some ways in which the Review Mechanism could be further improved. While Resolution 12.9 outlines the phases of the review process and the roles of the Secretariat, the Scientific Council, the Standing Committee and the Conference of the Parties, the Secretariat found that the procedure set forth in Resolution 12.9 could benefit from additional guidance. Areas for such guidance could include the gathering of additional information, interpretation of the admissibility criteria, confidentiality, involvement of the petitioner, hiring of experts, assessment missions and meetings of the review body.

¹ Resolution 12.9 Section D Paragraph 1

² Resolution 12.9 Section F Paragraph 7

³ Resolution 12.9 Section F Paragraph 8

9. The Secretariat examined the compliance mechanisms of other MEAs⁴, and proposes the development of operational guidelines to provide further clarity throughout the process and guide the Secretariat and the Standing Committee in the handling of the cases.
10. The Secretariat believes that such operational guidelines should be prepared to ensure transparency and consistency in handling communications and other aspects of the Review Mechanism. The operational guidelines would guide and facilitate the handling of cases step by step and are not intended to modify Resolution 12.9 but to complement it.
11. Such operational guidelines could be submitted for the consideration of COP14.

Recommended actions

12. The Standing Committee is recommended to:
 - a) take note of the Report in the Annex of this document
 - b) instruct the Secretariat to prepare draft operational guidelines for the CMS Review Mechanism in consultation with its members for Standing Committee review before submission for the consideration of COP14.

⁴ Preamble of Resolution 12.9 refers to "learning from the successes and challenges experienced by multilateral environmental agreements that have established processes for facilitating implementation and providing support to those Parties experiencing difficulties with implementation".

REPORT ON OPEN FILES UNDER THE REVIEW MECHANISM (2020-2022)

CMS Review Mechanism File No. 1: Republic of Albania

Issue: Project development at Vjosa-Narta Protected Landscape, Albania		
Status: Open		
Year petitioned:2021	Year opened: 2022	Year closed: n/a

Case Initiation

In April 2021, the CMS Secretariat received a communication on a possible implementation matter concerning the implementation of Article III.4 of the Convention on Migratory Species. The communication detailed the Albanian government’s advancing plans to construct a new airport along with a new port and tourism facilities, including hotels and resorts, vineyards, and residential and sports areas, in the Vjosa-Narta Protected Landscape in Albania.

The Vjosa-Narta Protected Landscape is an Important Bird Area (IBA), a Key Biodiversity Area (KBA) and a Nationally Protected Area, as declared by the National Agency of Protected Areas (NAPA) under the Ministry of Tourism and Environment in Albania.

The communication stated that the construction of these installations would negatively affect several Appendix I species and their habitat.

Proceedings and communication

April 2021: The Secretariat communicated the concern Party they received a communication on a potential implementation matter from an Albanian NGO.

May – November 2021: The Secretariat requested further information from the petitioner and determined whether the information submitted was according to the established admissibility criteria

December 2021 – February 2022: The Secretariat consulted with Appointed Councillors on Birds on the technical aspects of the case and with the Bern Convention and AEWA Secretariats.

March 2022: The secretariat informed the Government of Albania that a file on the implementation matter had been opened and provided the opportunity to provide comments and/or to address the matter within reasonable time limits,

April 2022: Response from the Government of Albania with information on the project.

May 2022: The Secretariat requested approval from the Government of Albania to participate in a joint information-gathering mission with the Bern Convention Secretariat and the AEWA Secretariat. The TORS are prepared jointly and approved by the Albanian Government.

July 2022: First preparatory call is held with representatives of the Albanian Government, the AEWA, Bern Convention and CMS Secretariats, and the NGO. The mission is scheduled for late August 2022.

Consultations with Scientific Council

The Scientific Council has been consulted to prepare a preliminary assessment of the potential impacts of the development plans on the conservation of species and their habitats. Of the seven CMS Appendix I-listed species that may be affected by the development plans, the consultation focused on *Pelecanus crispus* (Dalmatian pelican), *Oxyura leucocephala* (White-headed duck), *Aythya nyroca* (Ferruginous duck), *Falco naumanni* (Lesser kestrel), *Aquila clanga* (Greater spotted eagle).

After revising the submitted information, the Counsellors concluded that the project might negatively affect several Appendix I species.

Consultation with MEAs

Bern Convention and AEWAs Secretariats have also opened files on the Vjosa-Narta Protected Landscape under their respective compliance procedures. The Albanian Government has agreed to a joint mission in keeping with provision C.2 of Resolution 12.9, encouraging cooperation with multilateral agreements on shared species and their habitats. Additionally, a joint in situ appraisal with the Bern Convention Secretariat and the AEWAs Secretariat is consistent with the time-efficiency and cost-effectiveness principles guiding the review process.

Next steps after the mission

The will review the information gathered in the joint mission and make an informed assessment of the matter, whether it can be addressed within a reasonable time, if necessary, with the assistance of the Secretariat, or whether it should be brought to the attention of the Standing Committee, pursuant to Paragraph C.5 of Resolution 12.9