



**Supporting implementation of the Emerald Network in the United Kingdom  
Phase 1 Report**

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## 1. Background

The UK is a Contracting Party to the Bern Convention. The Convention is fully implemented in the UK through implementation of the European Union's Habitats and Birds Directives. The Emerald Network is a pan-European network of areas of special conservation interest. For EU Member States, Natura 2000 sites are recognised as Emerald Network Sites.

The UK has completed the data transfer for all UK sites in the Natura 2000 network to the Emerald Network database. These were included in the updated list of Emerald Network sites adopted at the Bern Convention's 41st Standing Committee Meeting in 2021. In response to the increasing number of complex complaints being submitted to the Bureau, the Bern Secretariat commissioned a legal study to set out the obligations of non-EU Bern Parties for Emerald Network sites and compare them with EU Member State requirements for the Natura 2000 network. At the 41st Bern Standing Committee Meeting, Contracting Parties were asked to discuss and decide which of four options for future work relating to the legal framework for Emerald Network should be taken forward. Following discussions amongst Contracting Parties, the Standing Committee decided to undertake further work, at the beginning of 2022, to clarify the problem prior to solutions being developed for consideration at Standing Committee in December 2022.

This report focuses on identifying what is required to implement the Emerald Network based on existing Bern Convention Resolutions, Recommendations, Guidance and Processes, without considering the Habitats Regulations or the Habitats and Birds Directives. It reviews those Resolutions, Recommendations, Guidance and Processes to provide advice on how the Emerald Network should be implemented and helps to identify issues or gaps in the current documentation. The report will inform UK input to discussions in the Group of Experts on Protected Areas and Ecological Networks and Standing Committee. Contracting Parties are expecting to be asked to identify the problems and challenges they have faced with implementing the Bern Convention and measures required for Emerald Network sites. A separate parallel piece of work will be undertaken by JNCC to consider the Bern Convention Case File System and issues that may arise from that.

## 2. Obligations related to Emerald Network Sites

### 2.1 Introduction

The overarching obligation, as set out in Article 4 of the Bern Convention is to take *‘appropriate and necessary legislative and administrative measures to ensure the conservation of the habitats of the wild flora and fauna species... and the conservation of endangered natural habitats’*. This is an obligation of result – in other words, Contracting Parties are obliged to ensure the conservation of habitats with the Convention itself being silent on how this should be done.

The detail is set out in various resolutions, recommendations and guidance adopted under the Convention. The relevant resolutions and recommendations are listed in Annex 1 and a matrix setting out the relevant provisions is set out in Annex 2. The vast majority of these are morally and politically binding rather than legally binding, with the exception of Resolution 1, which could be argued to constitute an agreement on interpretation within the context of article 31.3 of the Vienna Convention on the Law of Treaties and therefore be legally binding in international law and the possible exception of Resolution 5 (see section 2.2.2 below). The terms defined in Resolution 1 are set out in Annex 3 to this document for ease of reference and links are provided throughout this document to the relevant definitions.

The ability of the Standing Committee to make Recommendations is set out in Article 14.1 of the Convention, which provides that the Standing Committee *“may in particular make recommendations to the Contracting Parties concerning measures to be taken for the purposes of the Convention”*. Although there is no explicit provision in the Convention that provides a basis for Resolutions, it is clear from the preamble of [Resolution 1](#) that the Contracting Parties envisage Resolutions also falling within the terms of Article 14 of the Convention. Whilst practice over the years may give rise to the assumption that Resolutions are of a higher order of obligation than Recommendations, there is no basis in the Convention itself for such an interpretation.

In addition to Resolutions and Recommendations, a practice has emerged to issue supporting guidance or guidelines. Some are aimed at Contracting Parties with others being aimed primarily at the institutions of the Convention and bodies set up under it to aid them in their work. A list of relevant guidelines considered in this report is included in Annex 2.

The rules surrounding the Emerald Network can broadly be split into seven broad categories:

1. **Site designation:** the process governing the addition to and removal of sites from the Emerald Network;
2. **Site management:** the activities that are permitted or prohibited within designated sites; the conservation measures that should be applied;
3. **Site monitoring:** systems to measure the status of Emerald Network sites and their features;
4. **Consultation, communication and cooperation:** who should be involved in processes regarding Emerald Network sites; awareness raising; working with other policy areas;
5. **Reporting:** format, content and frequency of reporting to the Convention Secretariat or the Standing Committee;
6. **Review:** review by Contracting Parties of their progress;
7. **Funding:** any matters for which Contracting Parties are specifically encouraged to allocate funds. Each of these areas will be considered in more detail below

Each of these areas will be considered in more detail in the following sections.

## 2.2 Site Designation

### 2.2.1 Step 1: Identify relevant sites

Contracting Parties are encouraged to designate areas of special conservation interest (ASCIs) under [Resolution 3](#) and to nominate as Emerald Network candidate sites all proposed sites that have been evaluated at biogeographical level and have been confirmed as meeting the criteria set out in the [Appendix to Recommendation 157](#). Paragraph b of the Appendix to recommendation 157 provides that sites must contain at least one habitat and / or species listed in [Resolution 4](#) or [Resolution 6](#) and / or specified by [Recommendation 16](#).

[Recommendation 14](#) recommends that Contracting Parties identify within their jurisdictions sites relevant to:

- Species requiring specific habitat conservation measures;
- Endangered natural habitats requiring specific conservation measures;
- Migratory species requiring specific habitat conservation measures; and
- Species of which the breeding and / or resting sites require protection and their breeding and / or resting site types requiring protection.

Article 4.3 of the Convention requires Contracting Parties to give special attention to the protection of areas that are of importance for the migratory species listed in the Appendices to the Convention and that are wintering, staging, feeding, breeding or moulting areas along migration routes.

In terms of determining what is meant by ‘endangered natural habitats’, Resolution 4 lists the habitat types requiring specific conservation measures. This list applies to Contracting Parties that are not EU Member States, as the Resolution acknowledges that EU Member states will make use of the list set out in Annex I to the Habitats Directive<sup>1</sup>. The full list is available within [Annex 1 of Resolution 4](#). A detailed interpretation manual describing the characteristics of the habitats listed in Resolution 4 was considered by the Standing Committee in 2019 and is referred to in the report of the meeting as being open to amendment ‘*on a continuous flow basis along the evolvement of scientific knowledge*’. It has been confirmed by the Convention Secretariat that this is a “living document” and that there is no intention to produce a definitive version (see [Document T-PVS/PA \(2019\) 18](#)).

The list of species requiring specific habitat conservation measures is similarly elaborated by way of Resolution 6. The full list is available within Annex 1 of [Resolution 6](#).

[Recommendation 16](#) recommends that Contracting Parties take steps to designate ASCIs meeting one or several of these conditions:

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

On the whole, the recommendations and guidance are silent on the process that Contracting Parties must employ at national level to identify the sites, leaving this to national approaches and circumstances. Resolution 1 provides definitions of ‘necessary measures’ and

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<sup>1</sup> Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats of wild fauna and flora.

‘appropriate measures’, although these are very vague and, in the case of ‘necessary measures’ refer more directly to the circumstances in which measures should be applied than to the nature of the measures themselves.

[Resolution 8](#) provides some additional guidance, suggesting that the approach must be strong enough to provide an element of protection for designated sites as it requires Contracting Parties to designate sites ‘by national legislation or otherwise’. Although this resolution relates specifically to the actions to be undertaken within the context of the [roadmap annexed to Resolution 8](#), the choice of wording is nonetheless indicative of the level of policy intervention expected in respect of site designation – in other words, designation of sites must be a formal designation of some sort.

It is also recommended that Contracting Parties look beyond protected habitats and designations to determine those areas which remain inadequately provided for and improve the conservation of such areas, using whatever mechanisms are appropriate to ensure the conservation of endangered habitats ([Recommendation 16](#), paragraph 5; and expand existing protected areas and ecological networks *‘to achieve win-win measures for adapting sites, habitats and species to climate change and for developing nature-based solutions to mitigate climate change and disaster risk reduction’* ([Recommendation 206](#), paragraph 6).

### **2.2.2 Step 2: Make a formal designation**

The formal designation process within the auspices of the Bern Convention commences with the submission to the Secretariat of a completed [‘standard data form’](#). This requirement is set out in Resolution 5, which provides that “any government designating an Area of Special Conservation Interest **shall** deposit a standard Data Form with the Secretariat”. The standard data form can be found in appendix 1 of [Resolution 5](#). Guidance on completing the standard data form can be found on the [Emerald Network Reference Portal](#) and in Guidelines issued in 2018 by the Group of Experts on Protected Areas and Ecological Networks (GoEPAEN) ([Document T-PVS/PA \(2018\) 8](#)).

It is worth noting that an argument could be made that Resolution 5 is binding in international law. This Resolution is worded differently to the other resolutions and makes use of what is normally referred to as ‘treaty language’, referring to the paragraphs of the resolution as ‘articles’ and using ‘shall’. This is in contrast to the type of wording used in the other Resolutions adopted under the Convention. A case could therefore be made that Resolution 5 constitutes a subsequent agreement between the Contracting Parties to the Bern Convention within the meaning of Article 31.3 of the Vienna Convention on the Law of



Treaties and that there was an intention through this resolution to create binding obligations to supplement the Convention itself.

According to [Recommendation 157](#), site proposals must comply with the following minimum criteria:

- Must be described according to the Emerald standard data form;
- Must provide information on site name, site code and site area, together with the site boundary in an agreed GIS format (in the case of an individual cave, the central coordinate of the cave entrance should be provided).

Once a proposal for designation has been submitted to the Secretariat, formal evaluation of the proposal will take place in two distinct stages:

- Stage 1: An evaluation of the sufficiency of proposed ASCIs, species by species and habitat by habitat;
- Stage 2: An evaluation of the proposed ASCIs site by site at the biogeographical level, followed by approval by GoEPAEN and subsequently adoption by the Convention's Standing Committee.

An explanation of the evaluation process is set out in Revised Criteria for assessing the National Lists of proposed ASCIs at biogeographical level and procedure for examining and approving Emerald candidate sites ([Document T-PVS/PA \(2013\) 13](#)). Parts 2.1–2.3 (pp. 4–7) cover the stage 1 evaluation; and parts 2.4 and 3 (pp. 7–8) cover the stage 2 evaluation.

If the designation is correctly made and all required information has been provided in the correct format, the Secretariat will inform the relevant government and will register the designation (Resolution 5, Article 3.2). If the designation has not been correctly made, the Secretariat will advise the government concerned to withdraw the designation. In accordance with Article 3.3 of Resolution 5, the Standing Committee may decide to accept a designation that is not correctly made, if the government concerned maintains the designation.

## **2.3 Site Management**

### **2.3.1 Step 1: Assign responsibility for each site**

Several recommendations, resolutions and guidance documents relate to the management of Emerald Network sites.

[Recommendation 14](#) (paragraph 4) recommends that Contracting Parties ensure that ‘appropriate and necessary measures of conservation’ are taken for the species, habitats and sites that have been identified. This is further elaborated in [Recommendation 16](#) (paragraph 3(a)), which recommends that Contracting Parties take steps, either by legislation or otherwise, to ensure wherever possible that designated sites are the subject of ‘an appropriate regime’, designed to ensure conservation of whichever ‘condition’ led to designation of the site.

[Recommendation 157](#) (paragraph 1) extends the recommendation to take necessary protection and conservation measures to candidate Emerald sites.

[Resolution 8](#) provides more detail on what constitutes ‘an appropriate regime’, indicating that this could involve management plans, administrative measures and contractual measures (paragraph 2.1). This resolution also specifies that the authorities responsible for both implementing and monitoring site management measures should be clearly identified (paragraph 2.2).

### **2.3.2 Step 2: Put site management measures in place**

Recommendation 16 (paragraph 4(a)-(c)) sets out the basic expectations in terms of site management, recommending that:

- management plans be put in place and implemented for designated sites, identifying both short and long-term objectives;
- regular review of management plans is undertaken in light of changing conditions or increased scientific knowledge; and
- the boundaries of designated sites are clearly marked, both on maps and as far as possible on the ground.

Resolution 8 (paragraph 2.3) provides that the short- and long-term site objectives that are drawn up for the management of Emerald Sites should be in compliance with the national or regional conservation objectives of the Contracting Party concerned.

Article 6(b) of the Convention requires that deliberate damage to or destruction of breeding or resting sites shall be prohibited for protected species.

Recommendation 157 (paragraph 2) provides further detail on the content of management plans, specifying that these should consist of administrative, management or development plans corresponding to the ecological requirements for the long-term survival of species and

habitats and that such measures should be in place at the latest by the time of adoption by the Standing Committee of the site as part of the Emerald Network.

[Recommendation 208](#) includes as an annex a proposal for guidance on detecting, assessing, reporting and responding to changes and likely changes in the ecological character of Emerald Network Sites ([Document T-PVS/PA \(2018\) 13](#)). Although the guidance is referred to as annexed to the Recommendation, the only available version is a proposal document that is still marked as a draft. As regards the development of site management plans, this document includes the following relevant guidelines:

- Guideline 1 on ecological character and the conservation objective for Emerald Network Sites (see pp. 5–7); and
- Guidelines 2 to 5 on describing ecological character (see pp. 7–12).

In addition to the more general recommendations regarding management of Emerald Network Sites, there are additional recommendations regarding specific issues or circumstances:

- Invasive species: [Recommendation 167](#) recommends that Contracting Parties, where necessary, draw up national strategies to control invasive alien species in protected areas, in particular where endangered native flora and / or fauna may be at risk from such alien species.
- Climate change: [Recommendation 206](#) recommends that Contracting Parties:
  - develop and implement management plans for Emerald sites and protected areas in general that take account of the impacts of climate change (paragraph 4);
  - use Emerald sites and protected areas in general to actively deliver a range of ecosystem services and ensure they will continue to do so in a changing climate (paragraph 5);
  - analyse national protected areas and ecological networks to assess how they contribute to climate change adaptation and mitigation and disaster risk reduction (paragraph 9);
  - develop strategic spatial planning for nature-based solutions / ecosystem-based approaches to climate change mitigation, adaptation, disaster risk reduction and green infrastructure implementation (paragraph 10).

To assist with the implementation of Recommendation 206, draft guidelines ([Document T-PVS/PA \(2015\) 10](#)) have been developed on managing Emerald sites, including climate

change adaptation and mitigation. This document is still in draft format and has not been formally adopted by the Standing Committee.

### **2.3.3 Step 3: Identify any exceptions**

Article 9 of the Convention provides the basis for exceptions from the requirement in Article 4 to take steps to ensure the conservation of endangered species and habitats. The scope for exceptions is subject to two basic considerations: firstly that there is 'no other satisfactory solution', and secondly that the exception 'will not be detrimental to the survival of the population concerned'. The circumstances in which an exception could be granted are also limited to specified circumstances:

- 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; and
- 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.

In accordance with Article 3.2 of the Convention, Contracting Parties must have regard to the conservation of wild flora and fauna in its planning and development policies and in measures against pollution. Article 4.2 of the Convention also makes clear that planning and development considerations do not override the requirements of the Convention, specifying that Contracting Parties, shall, in their planning and development policies, have regard to the conservation requirements of areas protected in accordance with the Convention, so as to avoid or minimise as far as possible any deterioration of such areas.

[Recommendation 15](#) recommends that any such exceptions be made only in exceptional circumstances and provided that the exceptions will not be detrimental to the survival of the habitat type concerned.

### **2.3.4 Step 4: Consider ecological connectivity**

Contracting Parties are also encouraged to consider taking conservation measures outside of the boundaries of protected sites in order to reduce ecosystem fragmentation and improve

ecological connectivity. [Recommendations 25](#) and [180](#) include specific provisions to this effect and the Appendix to Recommendation 25 sets out the examples of type of measures that could be taken to improve conservation outwith protected areas. These examples are set out in Annex 4 to this report.

## 2.4 Site Monitoring

[Resolution 5](#) requires Contracting Parties to monitor the conservation status of species and natural habitats in designated sites. As noted above, there is at least an argument to be made that, unlike most of the other resolutions, Resolution 5 is binding in international law. This requirement is supported by [Recommendation 16](#), which recommends that Contracting Parties take steps, as appropriate, to provide for the monitoring of designated sites and especially of the factors for which their conservation is important.

### 2.4.1 Step 1: Establish a monitoring framework

[Resolution 8](#) sets out the basic requirements in terms of site monitoring, providing that:

- Contracting Parties should ensure that a monitoring framework forms an integral part of the management plan or other administrative measures taken for the designation of Emerald sites (paragraph 3.1).
- Monitoring will consist of regular surveillance of the implementation of the conservation regime and of the conservation status of the species populations and natural habitats and / or other factors that gave rise to the designation (paragraph 3.2);
- Regular surveillance of the conservation status of the species and habitats will consist of appropriate scientific and ecological research to determine whether the site contributes to the long-term survival of the species and habitats (paragraph 3.3).

Further guidance on the establishment and operation of a monitoring and surveillance system is set out in the document annexed to Recommendation 208 ([Document T-PVS/PA \(2018\) 13](#)):

- Guideline 8 on putting in place arrangements for monitoring and surveillance of Emerald sites (pp. 16–17);
- Guideline 9 setting out the key elements for a monitoring system (p. 18);
- Guideline 10 setting out the key elements for surveillance (pp. 18–20);

### **2.4.2 Step 2: Check for changes in ecological character**

The document annexed to Recommendation 208 ([Document T-PVS/PA \(2018\) 13](#)) includes the following guidelines on assessing changes in ecological character:

- Guideline 6 on what constitutes a change in ecological character (pp. 13–15)
- Guideline 7 on how to determine whether a change is likely to have a ‘substantial effect’ (pp. 15–16)
- Guideline 11 on the assessment of risks that might have negative effects on Emerald sites (pp. 20 –21);
- Guideline 12 on early warning indicators (pp. 21–23);
- Guideline 13 on environmental impact assessment and strategic environmental assessment (pp. 23–24);
- Guideline 14 setting out a mitigation hierarchy for response options (pp. 24–26); and
- Guideline 15 on the role of the case file system (pp. 26–29).

The monitoring process is also summarised in the flowchart set out in [Annex 2 to Recommendation 208](#).

Some guidance on the way in which GoEPAEN will consider submissions from Contracting Parties concerning changes in ecological character of protected sites is set out in a set of short guidelines ([Document T-PVS/PA \(2017\) 7](#)) adopted by GoEPAEN in 2017. These guidelines are not binding in any way on the Contracting Parties but may nonetheless be useful in understanding the approach that will be taken by GoEPAEN when considering such submissions.

In addition to the general provisions on monitoring, [Recommendation 167](#) recommends that monitoring of Emerald sites also take account of the need to deal with invasive species.

[Recommendation 16](#) (paragraph 3d) further recommends that Contracting Parties monitor activities taking place adjacent to designated sites to ensure that such activities do not adversely affect the factors that gave rise to the designation.

## **2.5 Consultation, Communication and Cooperation**

The operation of the Emerald Network includes provisions on consultation (i.e. with land owners and managers and with other stakeholders); communication, generally with the wider public; and cooperation with others policy areas.

### **2.5.1 Step 1: Involve stakeholders**

[Recommendation 16](#) (paragraph 4) recommends that Contracting Parties take steps to advise the competent authorities and landowners of the extent and characteristics of each designated site.

In terms of stakeholder involvement and engagement, [Resolution 8](#) (paragraph 2) provides for the involvement of national, regional and local stakeholders in the development of site management plans, the implementation of such plans and the monitoring of site management. In addition, [Recommendation 167](#) (paragraph 3) recommends that Contracting Parties consult the actors involved in the management and conservation of protected areas, as well as scientific bodies, on the identification of priority invasive species in protected areas and in the preparation and implementation of mandatory measures to tackle them.

### **2.5.2 Step 2: Tell everyone about the Emerald Network and protected areas**

Article 3.3 of the Convention requires each Contracting Party to promote education and disseminate general information on the need to conserve species of wild flora and fauna and their habitats.

This requirement is supplemented by [Recommendation 180](#) (paragraph 3), which recommends that Contracting Parties work towards improving the understanding and visibility of the economic and social benefits that natural solutions provide to human society.

In addition, there are specific recommendations in respect of communication and awareness raising related to invasive species and climate change:

- Invasive Species: [Recommendation 167](#) recommends that managers of protected areas and other appropriate conservation staff are instructed to collaborate in tasks involved in communication and awareness raising regarding invasive species in protected areas (paragraph 2);
- Climate Change: [Recommendation 206](#) recommends that Contracting Parties:
  - Seek to engage wider land management beyond protected areas to adapt to climate change in ways that support biodiversity and habitats both within sites and in the wider countryside (paragraph 7);
  - Step up awareness raising on the benefits of biodiversity and nature-based solutions in the context of climate change and disaster risk reduction (paragraph 11);

- Develop communication plans, including cooperation with media, social networks and other communication channels, to raise the awareness of the public and draw the attention of decision makers on the importance of nature-based solutions (paragraph 12); and
- Promote formal and vocational education programmes for practitioners and managers which include climate adaptation management, both in and beyond protected areas (paragraph 13).

### **2.5.3 Step 3: Cooperate with other policy areas**

The Convention sets out an expectation that certain policy areas will be implemented in a mutually supportive way. As indicated above, Article 4.2 of the Convention sets out the basic requirement regarding cooperation between planning and development policies and the designation of Emerald sites, requiring Contracting Parties to have regard, in their planning and development policies, to the conservation requirements of protected areas so as to avoid or minimise as far as possible any deterioration of such areas.

Article 3.2 makes similar provision with regard to protected species but is broader in that it applies in respect of ‘measures against pollution’ in addition to planning and development policies.

[Recommendation 157](#) further invites Contracting Parties to consider listing biodiversity under programme priorities for their neighbourhood policies.

## **2.6 Reporting**

The only binding obligation regarding reporting is set out in Article 9.2 of the Convention, which requires Contracting Parties to report every two years on any exceptions made in accordance with Article 9.1. The Convention provides that 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; and
- the controls involved.



In addition, the following provisions in recommendations and resolutions provide an indication of what should be included in voluntary reports to the Convention Secretariat or the Standing Committee as regards designated sites:

- Notify the Secretariat of the designation of ASCIs ([Resolution 3](#), paragraph 3);
- Communicate to the Secretariat any relevant measures they have taken or intend to take to improve conservation outside of protected areas, along with any available information on the effects of such measures ([Recommendation 25](#), paragraph 2);
- Inform the Secretariat of any important changes likely to negatively affect in a substantial way the ecological character of designated sites or of the conditions leading to designation ([Resolution 5](#));
- Report every 6 years to the Secretariat on the conservation status of listed species and habitats, using a reporting format prepared by GoEPAEN ([Resolution 8](#), paragraph 4);
- Inform the Secretariat when they consider that achieving satisfactory conservation status does not justify the designation of ASCIs within their national territory ([Recommendation 172](#));
- Continue to inform the Secretariat of any relevant measures they have taken or intend to take outside of protected areas and their effects on the ground ([Recommendation 180](#), paragraph 4);
- Communicate to the Standing Committee the results of their work to identify sites and to identify species requiring recovery plans ([Recommendation 14](#), paragraph 3);
- Keep the Standing Committee informed of measures taken to implement [Recommendation 167](#) on invasive alien species (paragraph 4); and
- Report to the Standing Committee in 2022 on progress made in implementing [Recommendation 206](#) on nature-based solutions and climate change (paragraph 14).

## 2.7 Review

[Recommendation 16](#) (paragraph 2) recommends that Contracting Parties review their performance in designating ASCIs and ensuring that necessary and appropriate conservation measures are taken for each designated site, with reviews to be carried out either regularly or ‘continually in a systematic fashion’. It is not clear from the wording of the recommendation whether such reviews are to be undertaken individually or collectively, but it is nonetheless clear that Parties are expected to review the processes, procedures and mechanisms that they have in place and determine whether any changes are required in order to ensure that designations are having the desired effect.

## 2.8 Funding

Three recommendations make specific reference to the provision of funding or resources.

Recommendation 16 (paragraph 3) recommends that Contracting Parties take such steps, either by legislation or otherwise, to ensure wherever possible that the agencies responsible for the designation and / or management and / or conservation of any designated area have available to them sufficient manpower, training, equipment and resources (including financial resources) to enable them to properly manage, conserve and survey the sites.

Recommendation 206 (paragraph 2) further recommends that Contracting Parties invest and focus sectoral funding streams towards nature-based solutions, including within the management of designated sites and protected areas.

Finally, [Recommendation 180](#) (paragraph 3) notes that improving understanding of the economic and social benefits of natural solutions can help to mobilise resources for the establishment and management of green infrastructures and ecologically connected networks of protected areas.

### **3. Next Steps**

A second phase of the project may be commissioned to:

- a) identify any issues in implementing the Emerald Network, what the issues were, how these were resolved and how this relates to lack of clarity within the relevant resolutions, recommendations and guidance, including through consideration of the outputs of the parallel piece of work being undertaken by JNCC on the Bern Convention Case File System; and
- b) consider and make recommendations on options for implementing the Emerald Network as if starting from a blank sheet of paper.

## **Annex 1: List of Resolutions, Recommendations and Guidelines considered in this report**

### **Resolutions**

- [Resolution No. 1 \(1989\) on the provisions relating to the conservation of habitats](#)
- [Resolution No. 3 \(1996\) concerning the setting up of a pan-European Ecological Network](#)
- [Resolution No. 4 \(1996\) listing endangered natural habitats requiring specific conservation measures](#)
- [Resolution No. 5 \(1998\) concerning the rules for the Network of Areas of Special Conservation Interest \(Emerald Network\)](#)
- [Resolution No. 6 \(1998\) listing the species requiring specific habitat conservation measures](#)
- [Resolution No. 8 \(2012\) on the national designation of adopted Emerald sites and the implementation of management, monitoring and reporting measures](#)

### **Recommendations**

- [Recommendation No. 14 \(1989\) on species habitat conservation and the conservation of endangered natural habitats](#)
- [Recommendation No. 15 \(1989\) on the conservation of endangered natural habitats types](#)
- [Recommendation No. 16 \(1989\) on areas of special conservation interest](#)
- [Recommendation No. 25 \(1991\) on the conservation of natural areas outside protected areas proper](#)
- [Recommendation No. 157 \(2011\) on the status of candidate Emerald sites and guidelines on the criteria for their nomination, rev 2019](#)
- [Recommendation No. 167 \(2013\) on the European Guidelines on Protected Areas and Invasive Alien Species](#)
- [Recommendation No. 172 \(2014\) interpreting certain provisions of Resolution No. 6](#)
- [Recommendation No. 180 \(2015\) on improving the conservation of nature outside protected areas proper](#)
- [Recommendation No. 206 \(2019\) on nature-based solutions and management of protected areas in the face of climate change](#)

- [Recommendation No. 207 \(2019\) on the progress in the implementation of the Emerald Network of Areas of Special Conservation Interest](#)
- [Recommendation No. 208 \(2019\) on detecting, reporting, assessing and responding to changes in the ecological character of Emerald Network Sites](#)

## **Guidelines**

- [Revised Criteria for assessing the National Lists of proposed Areas of Special Conservation Interest \(ASCIs\) at biogeographical level and procedure for examining and approving Emerald candidate sites](#) (2013)
- [Draft Guidelines on Managing the Emerald Sites, Including Climate Change Adaptation and Mitigation](#) (Version.3/September 2015)
- [Revised calendar for the implementation of the Emerald Network of Areas of Special Conservation Interest 2011-2020](#) (2015)
- [Guidelines for Explaining Negative Changes in Emerald Network Proposed, Candidate and Adopted Sites](#) (2017)
- [Proposal for guidance on detecting, assessing, reporting and responding to changes and likely changes in ecological character of Emerald Network Sites](#) (2018)
- [Guidelines for filling the standard data form](#) (2018)
- [Steps to be taken to assess, report and respond to changes and likely changes in the ecological character of Emerald Network sites: Flowchart to be used for the purposes of the Bern Convention Case File System](#) (2019)
- [Interpretation manual of the habitats listed in Resolution No. 4 \(1996\) listing endangered natural habitats requiring specific conservation measures](#) (Fourth draft version 2019)

## Annex 2: Matrix of Obligations

The information set out in the third column of each table is a direct copy-paste from the relevant Article, Resolution, or Recommendation. Where the word 'country' is used, this is understood to mean a Contracting Party to the Bern Convention.

**Table 1.** Basic Requirements.

Where found	Binding / non-binding	What does it say?
Article 2 Bern	Binding (treaty text) – obligation of result (maintain populations)	The Contracting Parties shall take requisite measures to <b>maintain the population of wild flora and fauna</b> 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 Bern	Binding (treaty text)	<p>1 Each Contracting Party shall take steps to <b>promote national policies for the conservation of wild flora, wild fauna and natural habitats</b>, with particular attention to endangered and vulnerable species, especially endemic ones, and endangered habitats, in accordance with the provisions of this Convention.</p> <p>2 Each Contracting Party undertakes, <b>in its planning and development policies and in its measures against pollution, to have regard to the conservation of wild flora and fauna.</b></p> <p>3 Each Contracting Party shall <b>promote education and disseminate general information on the need to conserve species of wild flora and fauna and their habitats.</b></p>
Article 4 Bern	Binding (treaty text) – obligation of result (ensure conservation of habitats)	<p>1 Each Contracting Party shall take appropriate and necessary legislative and administrative measures to <b>ensure the conservation of the habitats of the wild flora and fauna species</b>, especially those specified in the Appendices I and II, and the conservation of endangered natural habitats.</p> <p>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 <b>avoid or minimise as far as possible any deterioration of such areas.</b></p> <p>3 The Contracting Parties undertake to <b>give special attention to the protection of areas that are of importance for the migratory species</b> specified in Appendices II and III and which are appropriately situated in relation to migration routes, as wintering, staging, feeding, breeding or moulting areas.</p> <p>4. ...</p>

Where found	Binding / non-binding	What does it say?
Article 6 Bern	Binding (treaty text)	<p>Each Contracting Party shall take appropriate and necessary legislative and administrative measures to <b>ensure the special protection of the wild fauna</b> species specified in Appendix II. The following will in particular be <b>prohibited</b> for these species:</p> <p>b the <b>deliberate damage to or destruction of breeding or resting sites;</b></p>
Article 9 Bern	Binding (treaty text)	<p>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:</p> <ul style="list-style-type: none"> <li>– for the protection of flora and fauna;</li> <li>– to prevent serious damage to crops, livestock, forests, fisheries, water and other forms of property;</li> <li>– in the interests of public health and safety, air safety or other overriding public interests;</li> <li>– for the purposes of research and education, of repopulation, of reintroduction and for the necessary breeding;</li> <li>– 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.</li> </ul> <p>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:</p> <ul style="list-style-type: none"> <li>– the populations which are or have been subject to the exceptions and, when practical, the number of specimens involved;</li> <li>– the means authorised for the killing or capture;</li> <li>– the conditions of risk and the circumstances of time and place under which such exceptions were granted;</li> <li>– 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;</li> <li>– the controls involved.</li> </ul>

**Table 2.** Interpretation.

<b>Where found</b>	<b>Binding / non-binding</b>	<b>What does it say</b>
Resolution 1 (1989)	Binding (VCLT, art 31.3)	<p>1. For the purpose of the convention:</p> <p>a. "habitat" of a species (or population of a species) means the abiotic and biotic factors of the environment, whether natural or modified, which are essential to the life and reproduction of members of that species (or population of that species) and which occur within the natural geographical range of the species (or population of that species);</p> <p>b. "natural habitat" means a biotope, that is a distinctive type of terrestrial or aquatic area distinguished by geographic, abiotic or biotic features, whether entirely natural or modified as a result of human activities;</p>
	Binding (VCLT, art 31.3)	<p>2. For the purpose of Article 4:</p> <p>"necessary measures" means in particular those measures which are required:</p> <p>to ensure the conservation of the habitats of those species which have been identified by the Standing Committee, on the basis of scientific evidence, as requiring specific habitat conservation measures and, most particularly, of those part of their geographical range which are essential for the conservation of those species (hereinafter referred to as "critical sites");</p> <p>to ensure the conservation of those natural habitats which have been identified by the Standing Committee, on the basis of scientific evidence, as being endangered natural habitats and requiring specific conservation measures;</p>
	Binding (VCLT, art 31.3)	<p>"appropriate measures" means in particular those measures, pursuant to paragraph a above, which are able to ensure the conservation of the habitat of particular species or of particular natural habitats;</p>
	Binding (VCLT, art 31.3)	<p>c. "conservation" means the maintenance and, where appropriate, the restoration or improvement of the abiotic and biotic features which form the habitat of a species or a natural habitat, as defined in paragraph I above, and includes, where appropriate, the control of activities which may indirectly result in the deterioration of such habitats, including areas of importance for the migratory species specified in Appendices II and III, even where such areas are outside the jurisdiction of the Party in question;</p>
	Binding (VCLT, art 31.3)	<p>d. "areas of importance for the migratory species specified in Appendices II and III" means the critical sites, wherever situated, of those migratory species which have been identified by the Standing Committee, on the basis of scientific evidence, as requiring specific habitat conservation measures;</p>



<b>Where found</b>	<b>Binding / non-binding</b>	<b>What does it say</b>
	Binding (VCLT, art 31.3)	e. the conditions attached by Article 9 to the making of exceptions from the provisions of Article 4, as well as the obligation laid down in that article to report such exceptions to the Standing Committee, shall apply to: <ol style="list-style-type: none"> <li>1. the critical sites of those species which have been identified by the Standing Committee, pursuant to paragraph a.i above;</li> <li>2. natural habitats which have been identified by the Standing Committee, pursuant to paragraph a.ii above;</li> <li>3. areas of importance for migratory species which have been identified by the Standing Committee, pursuant to paragraph d above;</li> </ol>
	Binding (VCLT, art 31.3)	3. For the purpose of Article 6.b: <ol style="list-style-type: none"> <li>a. "breeding and resting sites" means, in respect of each species for which the Standing Committee has identified that breeding and/or resting sites require protection, those breeding and/or resting site types in respect of which the Standing Committee has considered that such measures are required;</li> </ol>
	Binding (VCLT, art 31.3)	b. "deliberate damage to or destruction of breeding or resting sites" means, subject to relevant provisions of the law of each Contracting Party, any act committed with the intention of destroying or causing harm to breeding or resting sites as defined in paragraph a above, and any act committed without the intention to cause damage or destruction but in the knowledge that such would probably be the consequences of the act;
	Binding (VCLT, art 31.3)	c. the conditions attached by Article 9 to the making of exceptions from the provisions of Article 6.b, as well as the obligation, laid down in that article, to report these exceptions to the Standing Committee, only apply to those breeding and resting site types in respect of which the Standing Committee has considered that they require protection pursuant to paragraph a above.

**Table 3.** Site Designation

<b>Where found</b>	<b>Binding / non-binding</b>	<b>What does it say</b>
Resolution 3 (1996), para 3	Non-binding	encourage contracting parties and observer states to designate areas of special conservation interest and to notify them to the Secretariat;
Recommendation 157 (2011), rev 2019, para 4	Non-binding	Nominate as Emerald Network candidate sites all proposed sites which have been evaluated at biogeographical level and confirmed as meeting the criteria defined in Appendix I.

<b>Where found</b>	<b>Binding / non-binding</b>	<b>What does it say</b>
Recommendation 157 (2011), Appendix, para b	Non-binding	<p>National sites' proposals can be submitted to the Standing Committee to the Bern Convention for official nomination as Emerald candidate sites once they fulfil the following minimum criteria:</p> <p>Contain at least one habitat and/or species listed in the Revised Annex I of Resolution No. 4 (1996) of the Standing Committee to the Bern Convention and/or in Resolution No. 6 (1998) of the Standing Committee to the Bern Convention and/or specified by Recommendation No. 16 (1989);</p>
Resolution 8 (2012) para 1	Non-binding	<p>1.1 Parties will designate, by national legislation or otherwise, the sites on their territory adopted as Emerald sites by the Standing Committee to the Bern Convention, as foreseen in the Calendar for the implementation of the Emerald Network of Areas of Special Conservation Interest (2011-2020).</p>
Recommendation 14 (1989), para 1	Non-binding	<p>1. identify in the areas within their jurisdiction:</p> <ul style="list-style-type: none"> <li>a) species requiring specific habitat conservation measures;</li> <li>b) endangered natural habitats requiring specific conservation measures;</li> <li>c) migratory species requiring specific habitat conservation measures;</li> <li>d) species of which the breeding and/or resting sites require protection and their breeding and/or resting site types requiring protection;</li> </ul> <p>and for each of these categories to indicate, as far as possible, their sites;</p>
Recommendation 16 (1989), para 1	Non-binding	<p>1. take steps to designate areas of special conservation interest to ensure that 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:</p> <ul style="list-style-type: none"> <li>a. it contributes substantially to the survival of threatened species, endemic species, or any species listed in Appendices I and II of the convention;</li> <li>b. it supports significant numbers of species in an area of high species diversity or supports important populations of one or more species;</li> <li>c. it contains an important and/or representative sample of endangered habitat types;</li> <li>d. it contains an outstanding example of a particular habitat type or a mosaic of different habitat types;</li> <li>e. it represents an important area for one or more migratory species;</li> <li>f. it otherwise contributes substantially to the achievement of the objectives of the convention;</li> </ul>

<b>Where found</b>	<b>Binding / non-binding</b>	<b>What does it say</b>
Resolution 4 (rev 2019)	Non-binding	Specifies habitat types (See Appendix A)
Resolution 6 (rev 2011), para 1	Non-binding	Resolves to identify the species in Appendix 1 to this resolution as requiring specific habitat conservation measures; (see list of species, Appendix B)
Recommendation 16 (1989), para 5	Non-binding	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.
Recommendation 206 (2019), para 6	Non-binding	Expand existing protected areas and ecological networks to achieve win-win measures for adapting sites, habitats and species to climate change and for developing nature-based solutions to mitigate climate change and disaster risk reduction;
Resolution 5 (1998), rev 2013, Article 3	Debatable	3.1. Any government designating an ASCI shall deposit a standard Data Form with the Secretariat. A model for this Standard Data Form, derived from and compatible with the Natura 2000 Standard Data Form, is found as appendix to this resolution. Governments are encouraged to provide the information for the Standard Data Form on electronic support.  3.2. Where the designations conform with the provisions of Article 1 of this resolution, the Secretariat shall notify the government of the fact and shall register them.  3.3. If not, the Standing Committee shall advise the government concerned to withdraw the designation. If the government nevertheless maintains the designation, the Standing Committee may decide not to accept it.  3.4... (See Standard Data Form, Appendix C)
Recommendation 157 (2011), rev 2019, para 3	Non-binding	Ensure that the site proposals submitted to the Standing Committee to the Bern Convention for official nomination as candidate Emerald sites comply with the minimum criteria proposed in the guidance set out in Appendix 1 to the present Recommendation.

<b>Where found</b>	<b>Binding / non-binding</b>	<b>What does it say</b>
Recommendation 157 (2011), Appendix	Non-binding	National sites' proposals can be submitted to the Standing Committee to the Bern Convention for official nomination as Emerald candidate sites once they fulfil the following minimum criteria: <ul style="list-style-type: none"> <li>a. Are described according to the Emerald standard data form (Appendix I to resolution No. 5 (1998) of the Standing Committee to the Bern Convention);</li> <li>b. Provide information on site name, site code and site area, together with the site boundary in an agreed GIS format (in the case of an individual cave, the central coordinate of the cave entrance should be provided).</li> </ul>
Recommendation 208 (2019), unnumbered para	Non-binding	Recommends to Contracting Parties and invites Observer States to make use of the Guidance and flowchart referred to above to describe, monitor and preserve the ecological character of their Emerald Network sites. (flowchart: Appendix D) (guidance: <a href="https://rm.coe.int/proposal-for-guidance-on-detecting-assessing-reporting-and-responding-/16808db4e0">https://rm.coe.int/proposal-for-guidance-on-detecting-assessing-reporting-and-responding-/16808db4e0</a> )
<a href="#">T-PVS/PA (2013) 13</a>	Non-binding	- - <i>Revised Criteria for assessing the National Lists of proposed Areas of Special Conservation Interest (ASCIs) at biogeographical level and procedure for examining and approving Emerald candidate sites.</i> Adopted by the SC in 2013

**Table 4.** Site Management

<b>Where found</b>	<b>Binding / non-binding</b>	<b>What does it say</b>
Recommendation 14 (1989), para 4	Non-binding	4. ensure that appropriate and necessary measures of conservation are taken for the species, habitats and sites identified according to paragraphs 1 and 2 above.
Recommendation 16 (1989), para 3	Non-binding	3. take such steps, either by legislation or otherwise, to ensure wherever possible that: <ul style="list-style-type: none"> <li>a. areas referred to in paragraph 1 above are the subject of an appropriate regime, designed to achieve the conservation of the factors set out in that paragraph;</li> </ul>

Where found	Binding / non-binding	What does it say
Resolution 8 (2012) para 2	Non-binding	<p>2.1 The national designation of the adopted Emerald sites will ensure that they are protected from external threats and subject to an appropriate regime for achieving a satisfactory conservation status of the species and natural habitats listed in Resolutions no. 4 (1996) and no. 6 (1998) present on the site, involving, if and where appropriate, management plans, administrative measures and contractual measures;</p> <p>2.2 The authorities responsible for the implementation of the management measures and their monitoring will be clearly identified;</p> <p>2.3 Specific short and long-term site objectives will be drawn up for the management of Emerald sites, in compliance with the national/regional conservation objectives of the country, in order to facilitate the monitoring of their implementation and the regular assessment of their achievement;</p>
Recommendation 157 (2011), rev 2019 para 1	Non-binding	Take the necessary protection and conservation measures in order to maintain the ecological characteristics of the candidate Emerald sites;
Recommendation 16 (1989), para 4	Non-binding	<p>4. take steps, as appropriate, in respect of areas referred to in paragraph 1 above, to:</p> <p>a. 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);</p> <p>b. regularly review the terms of the management plans in the light of changing conditions or of increased scientific knowledge;</p> <p>c. clearly mark the boundaries of such areas on maps and, as far as possible, on the ground;</p>
Recommendation 157 (2011), rev 2019, para 2	Non-binding	Ensure that, if and when appropriate, these measures include administrative, management or development plans corresponding to the ecological requirements for the long term survival of species and habitats present in the proposed Emerald Network sites, in particular those of the Bern Convention Resolutions No. 4 (1996) and No. 6 (1998) or specified by Recommendation 16 (1989) and that these are set in place at the latest once ASCIs have officially been adopted by the Standing Committee to the Bern Convention;
Recommendation 208 (2019), unnumbered para	Non-binding	(guidance: <a href="https://rm.coe.int/proposal-for-guidance-on-detecting-assessing-reporting-and-responding-/16808db4e0">https://rm.coe.int/proposal-for-guidance-on-detecting-assessing-reporting-and-responding-/16808db4e0</a> )
Recommendation 167 (2013), para 1	Non-binding	Where necessary, draw up national strategies to control invasive alien species in protected areas, in particular where endangered native flora and/or fauna may be at risk from such alien species; take into account in that context of the European Guidelines on Protected Areas and Invasive Alien Species mentioned above;

<b>Where found</b>	<b>Binding / non-binding</b>	<b>What does it say</b>
Recommendation 206 (2019), para 4	Non-binding	Develop and implement management plans for Emerald and Natura 2000 sites and protected areas in general, to adapt to the local and regional conditions of a significantly warmer world, taking the climate scenarios and their projected impacts, as developed by the IPCC, as critical reference, including to accommodate the biogeographical implications of climate change across the site network;
Recommendation 206 (2019), para 5	Non-binding	Use the Emerald and Natura 2000 Networks and protected areas in general to actively deliver a comprehensive range of ecosystem services, through their primary biodiversity objectives and the features for which they are designated and managed, and ensure they will continue to do so along the trajectory of climate change;
Recommendation 206 (2019), para 9	Non-binding	Analyse national protected areas and ecological networks to assess how they contribute to adaptation and mitigation challenges of climate change, including the reduction of disaster risks;
Recommendation 206 (2019), para 10	Non-binding	10. Develop strategic spatial planning for nature-based solutions/ecosystem-based approaches to climate change mitigation, adaptation and disaster risk reduction and green infrastructure implementation, thereby supporting and encouraging land managers to implement them;
<a href="#">T-PVS/PA (2015) 10</a>	Non-binding	- - <i>Draft guidelines on managing the Emerald Sites, including climate change adaptation and mitigation.</i> The title suggests it is still a draft and the report of Standing Committee 35 doesn't refer to adoption of guidelines.
Recommendation 15 (1989)	Non-binding	Recommends that Contracting Parties make exceptions to Article 4, by virtue of Article 9, paragraph 1, with respect to endangered natural habitat types as identified by the Standing Committee in Resolution No. 1 (1989) only in exceptional circumstances and provided that the exceptions will not be detrimental to the survival of the habitat type concerned.
Recommendation 25 (1991), para 1	Non-binding	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; (see appendix E)
Recommendation 180 (2015), para 1	Non-binding	Continue their efforts in ensuring that all policy sectors contribute to reduce the fragmentation of ecosystems and to improve the connectivity between major natural areas, including Emerald and Natura 2000 sites, on their territories;

**Table 5.** Site Monitoring.

<b>Where found</b>	<b>Binding / non-binding</b>	<b>What does it say</b>
Resolution 5 (1998), rev 2013, Article 4	Debatable	4.1. The governments shall undertake surveillance of the conservation status of species and natural habitats in designated ASCIs.
Recommendation 16 (1989), para 4	Non-binding	4. take steps, as appropriate, in respect of areas referred to in paragraph 1 above, to: e. provide for the monitoring of such areas and especially of the factors for which their conservation is important;
Resolution 8 (2012) para 3	Non-binding	3.1 Parties will ensure that a monitoring framework forms an integral part of the management plans and/or other administrative measures taken for the designation of Emerald sites; 3.2 The monitoring of the site's management will comprise regular surveillance of the implementation of the conservation regime and of the conservation status of the species populations and natural habitats -in particular those listed in the Standing Committee's resolutions no. 4 (1996) and no. 6 (1998)- and/or of other factors giving rise to the designation of the area as specified in paragraph 1 of Recommendation 16 (1989); 3.3 The regular surveillance of the conservation status of species and natural habitats for which the sites has been designated will comprise appropriate scientific and ecological research, aiming at identifying whether it contributes to the long term survival of the species and habitats.
Recommendation 16 (1989), para 3	Non-binding	3. take such steps, either by legislation or otherwise, to ensure wherever possible that: c. appropriate ecological and other research is conducted, in a properly co-ordinated fashion, with a view to furthering the understanding of the critical elements in the management of such areas and to monitoring the status of the factors giving rise to their designation and conservation;
Recommendation 208 (2019), unnumbered para	Non-binding	(guidance: <a href="https://rm.coe.int/proposal-for-guidance-on-detecting-assessing-reporting-and-responding-/16808db4e0">https://rm.coe.int/proposal-for-guidance-on-detecting-assessing-reporting-and-responding-/16808db4e0</a> )
<a href="#">T-PVS/PA (2017) 7</a>	Non-binding	<i>Guidelines for explaining negative changes in Emerald Network proposed, candidate and adopted sites.</i> The 2017 GoEPAEN agreed to use the guidelines.
Recommendation 167 (2013), para 2	Non-binding	instruct managers of protected areas and other appropriate conservation staff to collaborate in the tasks involved in communication and awareness raising, monitoring, prevention and management of invasive alien species, making sure that management plans take due account of the need to deal with invasive alien species in protected areas;

<b>Where found</b>	<b>Binding / non-binding</b>	<b>What does it say</b>
Recommendation 16 (1989), para 3	Non-binding	d. 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;

**Table 6.** Consultation/Communication

<b>Where found</b>	<b>Binding / non-binding</b>	<b>What does it say</b>
Recommendation 16 (1989), para 4	Non-binding	4. take steps, as appropriate, in respect of areas referred to in paragraph 1 above, to: d. advise the competent authorities and landowners of the extent of the areas and their characteristics
Resolution 8 (2012) para 2	Non-binding	2.4 National, regional and local stakeholders will be involved, if and where appropriate, in the planning of the management of the sites, as well as in the implementation of the conservation and protection measures foreseen, and in the monitoring of the sites' management.
Recommendation 167 (2013), para 3	Non-binding	consult, when possible and as appropriate, the actors involved in management and conservation of protected areas, as well as scientific bodies, on the identification of priority IAS in protected areas and in the preparation and the implementation of mandatory measures to tackle these priority IAS in protected areas;
Recommendation 167 (2013), para 2	Non-binding	instruct managers of protected areas and other appropriate conservation staff to collaborate in the tasks involved in communication and awareness raising, monitoring, prevention and management of invasive alien species, making sure that management plans take due account of the need to deal with invasive alien species in protected areas;
Recommendation 206 (2019), para 7	Non-binding	Seek to engage wider land management, beyond Emerald and Natura 2000 sites and other protected areas' boundaries, to adapt to climate change in ways that support biodiversity and habitats condition both in sites and in the wider countryside;
Recommendation 206 (2019), para 13	Non-binding	Promote formal and vocational education programmes for practitioners and managers which include climate adaptation management, both in and beyond Emerald and Natura 2000 Network sites and protected areas in general;
Recommendation 206 (2019), para 11	Non-binding	11. Step up awareness-raising on the benefits of biodiversity and nature-based solutions in the context of climate change and disaster-risk reduction, aiming at closing the communication gap between scientists and conservation practitioners, policymakers, relevant sectors and businesses as well as contributing to multiple SDGs simultaneously;



<b>Where found</b>	<b>Binding / non-binding</b>	<b>What does it say</b>
Recommendation 206 (2019), para 12	Non-binding	12. Develop communication plans, including cooperation with media, social networks and other communication channels, to raise the awareness of the public and to draw the attention of decision makers on the importance of nature-based solutions, of considering local knowledge in disaster risk reduction strategies and in improving the prevention of natural hazards;
	Non-binding	Work towards improving the understanding and visibility of the economic and social benefits which natural solutions provide to human society and thus help mobilise resources for the establishment and management of green infrastructures and ecologically connected networks of protected areas
Recommendation 157 (2011), rev 2019, unnumbered para	Non-binding	Invites Contracting Parties, the European Commission and the European Environment Agency to consider listing biodiversity among the programme priorities for the neighbourhood policy.

**Table 7.** Reporting

<b>Where found</b>	<b>Binding / non-binding</b>	<b>What does it say</b>
Art 9.2 Bern	Binding	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: <ul style="list-style-type: none"> <li>– the populations which are or have been subject to the exceptions and, when practical, the number of specimens involved;</li> <li>– the means authorised for the killing or capture;</li> <li>– the conditions of risk and the circumstances of time and place under which such exceptions were granted;</li> <li>– 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;</li> <li>– the controls involved.</li> </ul>
Resolution 3 (1996), para 3	Non-binding	encourage contracting parties and observer states to designate areas of special conservation interest and to notify them to the Secretariat;
Recommendation 25 (1991), para 2	Non-binding	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.
Resolution 5 (1998), rev 2013, Article 4	Debatable	4.2. The governments shall inform the Secretariat of any important changes likely to affect negatively in a substantial way the ecological character of the designated ASCIs or the conditions having justified their designation.

Where found	Binding / non-binding	What does it say
Resolution 8 (2012) para 4	Non-binding	<p>4.1 Parties will report to the Secretariat of the Bern Convention on the conservation status of species and habitats listed in Resolutions No. 6 (1998) and No. 4 (1996) of the Standing Committee to the Bern Convention;</p> <p>4.2 The report will be submitted in English, every six years from the date of the adoption of this Resolution and shall reflect the previous period of six years;</p> <p>4.3 The Group of Experts on Protected Areas and Ecological Networks will prepare a reporting format to be used for the purposes of this reporting.</p>
Recommendation 172 (2014)	Non-binding	<ol style="list-style-type: none"> <li>1. Inform in written the Secretariat of the Bern Convention when they consider that achieving a satisfactory conservation status of certain species marked with the sign (#) in Resolution No. 6 (1998) does not require the designation of ASCIs on their national territory;</li> <li>2. Justify their considerations, using the information form provided in Annex 1 to this Recommendation, duly filled in with all required information (one form is to be submitted for each species concerned);</li> <li>3. Agree that the question of the designation of ASCIs on their territory for the species concerned is evaluated during the biogeographical process organised for their country;</li> <li>4. Submit, at each reporting exercise for the Emerald Network as foreseen by Resolution No. 8 (2012) of the Standing Committee, an updated information form for the species for which the biogeographical process officially concluded that a designation of ASCIs is not required.</li> </ol>
Recommendation 180 (2015), para 4	Non-binding	Continue to inform the Secretariat of the Bern Convention on any relevant measures they have already taken or intend to take and their effects on the ground, charging the Secretariat to make this information available to all Parties and to facilitate the exchange of best practices between countries.
Recommendation 14 (1989), para 3	Non-binding	3. communicate to the Standing Committee the results of their work in the implementation of the recommendations above; [to identify sites and to identify species requiring recovery plans]
Recommendation 167 (2013), para 4	Non-binding	keep the Standing Committee informed of measures taken to implement this recommendation.
Recommendation 206 (2019), para 14	Non-binding	Report to the Standing Committee, in 2022, on the progress made in the implementation of this Recommendation.

**Table 8.** Review.

<b>Where found</b>	<b>Binding / non-binding</b>	<b>What does it say</b>
Recommendation 16 (1989), para 2	Non-binding	2. review regularly or continually in a systematic fashion their performance in the implementation of paragraph 1 above; [to designate sites and ensure measures are taken for each one]

**Table 9.** Funding.

<b>Where found</b>	<b>Binding / non-binding</b>	<b>What does it say</b>
Recommendation 16 (1989), para 3	Non-binding	3. take such steps, either by legislation or otherwise, to ensure wherever possible that: b. the agencies responsible for the designation and/or management and/or conservation of such areas or any one of them have available to it sufficient manpower, training, equipment and resources (including financial resources) to enable them properly to manage, conserve and survey the areas;
Recommendation 180 (2015), para 3	Non-binding	Work towards improving the understanding and visibility of the economic and social benefits which natural solutions provide to human society and thus help mobilise resources for the establishment and management of green infrastructures and ecologically connected networks of protected areas;
Recommendation 206 (2019), para 2	Non-binding	Invest and focus sectoral funding streams towards nature-based solutions, including within the management of the Emerald and Natura 2000 Network sites as well as protected areas in general, in view of unlocking nature's potential for climate change mitigation and adaptation and for providing multiple societal benefits;

**Table 10.** Instructions to Secretariat.

<b>Where found</b>	<b>Binding / non-binding</b>	<b>What does it say</b>
Recommendation 206 (2019), para 17	Binding on Secretariat	Develop, subject to the availability of financial resources, a knowledge exchange platform, making use of and building on existing ones, for guiding successful conservation of habitats and species protected through the Convention in the face of climate change and other pressures, in particular in Emerald Network sites through appropriate adaptive management;
Recommendation 206 (2019), para 18	Binding on Secretariat	Continue the Bern Convention's role in capacity building and collating and sharing of good practices and lessons learned in nature-based solutions and protected areas management with a climate change adaptation and mitigation component;

<b>Where found</b>	<b>Binding / non-binding</b>	<b>What does it say</b>
Recommendation 206 (2019), para 20	Binding on Secretariat	Support the involvement of Emerald Network and EDPA sites in testing ways of scaling up and transferring nature-based solutions, as a response to climate change and for the prevention of natural disasters;

**Table 11.** Instructions to Group of Experts on Protected Areas and Ecological Networks.

<b>Where found</b>	<b>Binding / non-binding</b>	<b>What does it say</b>
Recommendation 207 (2019), para i	Binding on Group of Experts on Protected Areas and Ecological Networks	to prepare a detailed evaluation of the Calendar for the implementation of the Emerald Network of Areas of Special Conservation Interest (2011-2020), including on its contribution to the achievement of the Convention's objectives and to present it to the Standing Committee at its 40 <sup>th</sup> meeting;
Recommendation 207 (2019), para ii	Binding on Group of Experts on Protected Areas and Ecological Networks	to draft a post-2020 Strategic Plan for the completion of the Emerald Network of Areas of Special Conservation Interest grounded on the outcomes of the evaluation referred to in point i. above and which should cover the period 2021-2030 and take into account the new global biodiversity framework and its eventual targets for protected areas, to be finalised at the CBD COP 15 in Kunming (China) in 2020;
Recommendation 207 (2019), para iii	Binding on Group of Experts on Protected Areas and Ecological Networks	to design a monitoring framework of the setting-up of the Emerald Network of Areas of Special Conservation Interest and to report on progress on a yearly basis to the Standing Committee.

### Annex 3: Terms related to habitats defined in Resolution No. 1 (1989)

Paragraph	Term	Definition
1a	"habitat" of a species (or population of a species)	means the abiotic and biotic factors of the environment, whether natural or modified, which are essential to the life and reproduction of members of that species (or population of that species) and which occur within the natural geographical range of the species (or population of that species);
1b	"natural habitat"	means a biotope, that is a distinctive type of terrestrial or aquatic area distinguished by geographic, abiotic or biotic features, whether entirely natural or modified as a result of human activities;
2a	"necessary measures"	means in particular those measures which are required: <ul style="list-style-type: none"> <li>• to ensure the conservation of the habitats of those species which have been identified by the Standing Committee, on the basis of scientific evidence, as requiring specific habitat conservation measures and, most particularly, of those part of their geographical range which are essential for the conservation of those species (hereinafter referred to as "critical sites");</li> <li>• to ensure the conservation of those natural habitats which have been identified by the Standing Committee, on the basis of scientific evidence, as being endangered natural habitats and requiring specific conservation measures;</li> </ul>
2b	"appropriate measures"	means in particular those measures, pursuant to paragraph a above, which are able to ensure the conservation of the habitat of particular species or of particular natural habitats;
2c	"conservation"	means the maintenance and, where appropriate, the restoration or improvement of the abiotic and biotic features which form the habitat of a species or a natural habitat, as defined in paragraph I above, and includes, where appropriate, the control of activities which may indirectly result in the deterioration of such habitats, including areas of importance for the migratory species specified in Appendices II and III, even where such areas are outside the jurisdiction of the Party in question;
2d	"areas of importance for the migratory species specified in Appendices II and III"	means the critical sites, wherever situated, of those migratory species which have been identified by the Standing Committee, on the basis of scientific evidence, as requiring specific habitat conservation measures;

Paragraph	Term	Definition
2e	the conditions attached by Article 9 to the making of exceptions from the provisions of	<ul style="list-style-type: none"> <li>• the critical sites of those species which have been identified by the Standing Committee, pursuant to paragraph a.i above;</li> </ul>
2e	Article 4, as well as the obligation laid down in that article to report such exceptions to the Standing Committee, shall apply to:	<ul style="list-style-type: none"> <li>• natural habitats which have been identified by the Standing Committee, pursuant to paragraph a.ii above;</li> <li>• areas of importance for migratory species which have been identified by the Standing Committee, pursuant to paragraph d above;</li> </ul>
3a	"breeding and resting sites"	means, in respect of each species for which the Standing Committee has identified that breeding and/or resting sites require protection, those breeding and/or resting site types in respect of which the Standing Committee has considered that such measures are required;
3b	"deliberate damage to or destruction of breeding or resting sites"	means, subject to relevant provisions of the law of each Contracting Party, any act committed with the intention of destroying or causing harm to breeding or resting sites as defined in paragraph a above, and any act committed without the intention to cause damage or destruction but in the knowledge that such would probably be the consequences of the act;
3c	the conditions attached by Article 9 to the making of exceptions from the provisions of Article 6.b, as well as the obligation, laid down in that article, to report these exceptions to the Standing Committee, only apply to	those breeding and resting site types in respect of which the Standing Committee has considered that they require protection pursuant to paragraph a above.

## **Annex 4: Examples of Conservation Measures set out in the Appendix to Recommendation No. 25**

### 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 protection capacities and by reducing inputs.

3. Encourage the use of environment friendly technologies when carrying out technical operations in 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 No. 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 No. 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:

1. 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;

2. 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, 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 features 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 legal 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 a 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 stock-breeding in mountain areas to the carrying capacity of the pasture land;

- 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 and 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.

### 4. 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. 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.