



## BIOREGIO PROJECT

# ANALYSIS OF NATIONAL INSTITUTIONAL FRAMEWORKS AND LEGISLATIONS AFFECTING BIODIVERSITY AND ECOLOGICAL CONNECTIVITY IN THE CARPATHIAN COUNTRIES

## NATIONAL REPORT CZECH REPUBLIC

### PILOT AREA

The Euroregion Beskydy (Czech Republic, Poland, Slovakia)

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## **Section I – GENERAL PART**

### **1 Introductory framework**

#### **1.1 The constitutionalized division of power**

In the Czech Republic the legislative, executive and judicial powers are divided. The state is structured in the form of the unitary model.

#### **1.2 Legislative and administrative competences in the field of environment, landscape protection, land use and spatial, water, hunting, agriculture, transport, tourism, energy and mining**

The Parliament has the legislative competence. While the ministries or the other central administrative offices have executive competencies as established by the law. A number of other competences are divided among regional and municipal offices.

The Ministry of Environment is responsible for environmental, land use (it is called protection of agricultural land) and landscape protection.

The Ministry of Regional Development is responsible for spatial planning and tourism.

The Ministry of Agriculture is responsible for agriculture, water (except the protection of natural water accumulation, protection of water resources and protection of surface and groundwater); it is also responsible for hunting, fishery, and forestry except in the area of national parks.

The Ministry of Transport is responsible for transport.

The Ministry of Industry and Trade is responsible for energy and mining.

#### **1.3 Authorities in charge of nature protection, monitoring and controlling activities, finance mechanisms**

The Ministry of Environment is the highest body in charge of nature protection, as regulated by the Act n. 114 of 1992 for Nature Conservation and Landscape Protection. The Ministry of Environment is responsible for both implementation and enforcement. At the regional and local level all authorities have monitoring and controlling powers, including people responsible for monitoring and enforcement on the ground (f.e. guardian of nature, guardian of forest). There is one special state organization which is responsible for nature and forest protection nationwide: this is the Czech Inspection Organization for Environment. The monitoring and controlling authorities are financed through the state budget. Data collection and monitoring can also be done by public companies (NGO's) or volunteers.

## **2 Legislative and Administrative frameworks relevant for Biodiversity and Ecological Connectivity**

### **2.1 Protected areas**

#### **2.1.1 Implementation of relevant European Directives**

The Habitats directive and the Birds directive are implemented through the Act for Nature Conservation and Landscape Protection, with effect from the 28<sup>th</sup> April 2004. There was one significant innovation of this Act in the Natura articles with effect from the 1<sup>st</sup> December 2009. There is one case of expecting infringement procedure in Czech Republic: according to Art. 45c of this Act directives of the so called ‘national list’ should be issued by the government. The Water framework directive is implemented through the Water Act n. 254 of 2001. The Environmental liability directive is implemented through the Act n. 167 of 2008 on the prevention of environmental damage and its remedy. The EIA and SEA directives are implemented through the Impact Assessment Act n. 100 of 2001.

#### **2.1.2 Implementation and management of the Natura 2000 Network**

The legislation for the implementation and management of Natura 2000 is contained predominantly in the Act for Nature Conservation and Landscape Protection. At the base of this act lay the so called ‘national list’ directives issued by the government. A new government directive is currently being drafted.

#### **2.1.3 Procedure for establishing protected areas and the different protection regimes**

Six categories of protection areas are regulated by law, Art. 14 of the Act for Nature Conservation and Landscape Protection. The categories are national parks, areas of landscape protection, national nature reserves, national nature monuments, nature reserves, nature monuments.

The statute of **national parks** is declared by law. The following activities are forbidden by the law in the whole area of national parks: intensive farming and breeding, disposing waste originated outside the area of the national park and any other waste except in special places, camping and making a fire except in places where it is allowed, driving and parking motor vehicles into this area except along roads and those places where it is allowed to go due to a permission of the state authority (this ban is not valid for people who work in the forestry and farming sectors and for those who provide defense, health and veterinary services etc.), organizing mass sport or tourist or other public events except in those areas where this is allowed, climbing or hang-gilding except in those areas where this is allowed, collecting plants except forest fruits and catching animals, causing the expansion of non-indigenous species, changing the water regime, building new highways, roads, railways, settlements, canals etc., using chemical road salt, extracting minerals except stone and sand for building, organizing sightseeing flights of any motor-powered aircrafts, any other changing of the original state of nature. The statute of **national parks** is declared by law. The following activities are forbidden by the law in the whole area of national parks: intensive farming and

breeding, disposing waste originated outside the area of the national park and any other waste except in special places, camping and making a fire except in places where it is allowed, driving and parking motor vehicles into this area except along roads and those places where it is allowed to go due to a permission of the state authority (this ban is not valid for people who work in the forestry and farming sectors and for those who provide defense, health and veterinary services etc.), organizing mass sport or tourist or other public events except in those areas where this is allowed, climbing or hang-gliding except in those areas where this is allowed, collecting plants except forest fruits and catching animals, causing the expansion of non-indigenous species, changing the water regime, building new highways, roads, railways, settlements, canals etc., using chemical road salt, extracting minerals except stone and sand for building, organizing sightseeing flights of any motor-powered aircrafts, any other changing of the original state of nature. The following extra activities are forbidden by the law in the first zone of areas of landscape protection: building constructions, changing the land use, extracting minerals. Moreover, the following extra activities are forbidden by the law in the first and second zone of areas of landscape protection: intensive farming and breeding, organizing cycling competition out of roads and special places with the permission of the state authority.

**National nature reserves** and **National nature monuments** are declared by a decree of the Ministry of Environment. At regional and local level, Nature reserves and Nature monuments are declared by a directive of the national park administration authority or the landscape protection administration authority or the regional authority.

National nature reserves are subject to the strictest level of protection. The following activities are forbidden by the law in these areas: intensive farming and breeding, constructing buildings, extracting minerals, entering and driving into these areas except for those places where it is allowed to go with the permission of the state authority (this ban is not valid for people who are farming and for those who provide defense, health and veterinary services etc.), causing the expansion of non-indigenous species, climbing or hang-gliding except in those areas where it is allowed, cycling except along roads, collecting plants and catching animals, camping and making a fire except in places where it is allowed. The following activities are forbidden by the law in **nature reserves**: intensive farming, using biocides, construction building, causing the expansion of non-indigenous species, collecting plants except forest fruits, catching animals except for hunting and fishery, causing any other change of the preserved state of nature. In **nature reserves**, The following activities are forbidden by the law: intensive farming, using biocides, construction building, causing the expansion of non-indigenous species, collecting plants except forest fruits, catching animals except for hunting and fishery, causing any other change of the preserved state of nature.

The following activities are forbidden by the law in **national nature monuments and nature monuments**: changing or damaging the protected objects, intensive farming.

All the above bans are not absolute; the exceptions can be issued by a decision of the state authority. The regional authority can declare also natural parks. The Natura 2000 distinguishes Special Areas of Conservation and Special Protection Areas. There is a possibility in the Act for Nature Conservation and Landscape Protection to sub-contract the protection and management of a small-scale protected area directly to the land owner. The process of declaring all types of areas is regulated by the law and it is based on the communication with regions, municipalities and property owners.

The national categorization of protected areas is based on two indicators: conservation objectives and the national importance of each site. Therefore it is impossible to easily compare such a system with the categorization of IUCN that is focused on the type of management. IUCN categorization has not been used as an official approach so far and there is no intention to do so.

According to the law, some type of protected areas (national parks, areas of landscape protection, national nature reservations and national nature monuments) can only be established by the state administration. On the other hand, nature reserves and nature monuments can be established either by the state or by the regional authority. In this case regional authorities are more active, they do not need any approval from the state and their competence is declared by the law.

In relation to protected areas in the process of being established, there is one procedure for increasing the extension of an area of landscape protection which already exists and another project is being established in areas previously owned by the military. Many processes are carried out at regional level.

#### **2.1.4 Participatory rights of local communities**

There are no special rights of local communities to designate protected areas, but there are many informal discussions at local level, as well as in the media. Local communities can also give suggestions to designate protected area. The process of declaring all protected area is regulated by law and it is based on the communication with regions, municipalities and property owners.

#### **2.1.5 Buffer areas and their legal regime**

The surroundings of protected areas are called protection zone and can be created in two ways. The authority which establishes the protected area can declare the protection zone at the same time when the protected area is created. The content of the conditions for the protection zone depends on the protected objects (landscape, species etc.). If the authority does not declare it, the protection zone is usually 50 meters from the border of each protected area. In this case a permission is needed to perform the following activities (Art. n. 37 of the Act for Nature Conservation and Landscape Protection): construction, landscaping, water treatments, using chemical treatments and changing the land use.

#### **2.1.6 Management plans for protected areas, administering bodies and funds**

Management plans for national parks, areas of landscape protection, national nature reserves and national nature monuments have been established at state level, by the Ministry of Environment. The Agency for Nature Conservation and Landscape Protection of the Czech Republic (AOPK CR), which is a state organisation as well, prepares the management plans for areas of landscape and national nature reserves and national nature monuments. The AOPK CR designs also management plans for nature reserves and nature monuments located in areas already subject to landscape protection. Otherwise, regional authorities make management plans for nature reserves and nature monuments which are not situated into areas of landscape protection.

All types of protected areas are administered and managed by public enterprises, i.e. the state through the Ministry of Environment, specifically national park administration authorities or administration authorities for areas of landscape protection or regional authorities. All types of protected areas are financed through the state budget.

## **2.2 Ecological connectivity and related sectors**

### **2.2.1 Ecological networks and connectivity in the Constitution and national legislation**

The concepts of ecological networks and connectivity are not included in the Constitution. However, they are mentioned in the national Act for Nature Conservation and Landscape Protection. In particular, Art. 4 deals with the network called Local System for Ecological Stability. This network exists at local, regional and national level. The Local System for Ecological Stability is reflected in the spatial planning and the process of comprehensive landscaping. The exact wording of this article is the following: The definition of ecological stability ensures the preservation and reproduction of natural resources as well as a favourable effect on the surrounding less stable parts of the landscape; it also lays the foundations for multiple uses of the land. Its evaluation must be carried out by planning authorities and its conservation must be performed in cooperation with the state water administration, state administration for the protection of agricultural land and the state forest administration. Moreover, all land owners and users have the duty to protect ecological stability. At the base of this system is the public interest, shared by land owners, municipalities and the state. Details on the definition and evaluation system of ecological stability and specific aspects of plans, projects and actions in the process of its creation is regulated by a decree of the Ministry of Environment.

### **2.2.2 Specific tools for the implementation of ecological connectivity**

The local planning is a specific tool for implementing the above mentioned network (System for Ecological Stability). Under this plan there is a more specific project which regulates in details the implementation of natural and landscape features. The Czech Republic has a very high level of ecological networks in Europe.

### **2.2.3 Integration of ecological connectivity in key processes and sectors**

The Systems for Ecological Stability are reflected and implemented in the spatial planning and in the process for land consolidation.

### **2.2.4 Conservation of cultural landscapes and historic sites in national legislation**

The Act for preserving national heritage deals with the conservation of cultural landscapes and historic sites in the Czech Republic. This act was made in 1987 and regulates the protection of special national monuments, either moveable and immovable assets. The most important assets



can be declared as national cultural monuments by a government regulation. Furthermore, some location/places can be declared as areas for the conservation of monuments or as conservation zones (i.e. a historical centre of a town). Details on the protection are decided on a case-by-case basis and they are implemented in special regulations.

### **2.2.5 Land use compatible with biodiversity conservation in national legislation**

The act for land consolidation considers issues related to land use compatible with biodiversity conservation, especially in the case of extensive fields. However, these provisions are not automatically compulsory.

### **2.2.6 Ecological forestry management and afforestation in national legislation**

There is no special law for ecological forestry management, but only a general forestry management law. The management of forest in all protected areas is regulated by the Act for Nature conservation and landscape protection and the Act for forestry.

### **2.2.7 Forest management plans**

All forests which are owned by the state have a management plan. For forest owners who have more than 50 ha of forest, management plans are obligatory as well (in this case the plan is called LHP). These plans are usually valid for 10 years. Those who own less than 50 ha must prepare a forest management scheme (called LHO). Their procedure is regulated by the state. The forest management scheme is obligatory only for those owners who officially implement it and only certain parts of this scheme are legally binding.

### **2.2.8 Illegal harvesting and logging**

The State Organization for Forest Administration and the Czech Inspecting Organization for Environment can issue economic sanctions for illegal harvesting and logging. Moreover, in case of very severe damages to the forest, penal sanctions can be issued as well. The state bodies active against criminal activities (policy, prosecution, court) are in charge of applying these sanctions.

### **2.2.9 Restoring damaged sites and ecosystems**

Provisions on restoring damaged sites and ecosystems exist for different types of damages (for example construction or mining activities) and their enforcement is ensured by the above mentioned organizations (§ 2.2.8) or it depends on the type of damages.

### **2.2.10 Illegal construction**

Illegal construction can be punished with penal sanctions or administrative sanctions depending on how serious the environmental damages are. Many different authorities are issuing sanctions

depending on the construction site and the level of damage (i.e. Construction Authority, Police, Water management authority).

### **2.2.11 Effective implementation of EIA and SEA procedures**

The EIA and SEA procedures are regulated in the Impact Assessment Act.

### **2.2.12 Public Participation in EIA and SEA procedures**

Public participation is obligatory in EIA and SEA procedures and everybody has the possibility to enter in the process within a defined period of time.

### **2.2.13 Ecotourism in national legislation**

Ecotourism is indirectly regulated in national legislation because in the target of the Act for Nature Conservation and Landscape Protection it is stated that the protection of nature and landscape must support tourism and recreation.

## **2.3 Hunting:**

### **2.3.1 Hunting laws and their exemptions**

Hunting is regulated by the Hunting Act n. 449 of 2001, emitted by the state. However, the hunting management plan is issued and approved by the regional authority.

Sub-national laws cannot contain any hunting exemptions from national laws. The base of the exemptions can only be found in national law (in the Act).

National hunting laws had to be harmonized with the Bird Directive before the entrance of Czech Republic in the EU.

### **2.3.2 Bans on hunting for specific species**

It is not allowed to hunt any of the following species: European Lynx (*Lynx lynx* L.), Brown Bear (*Ursus actos*, L.), European Wolf (*Canis lupus*, L.), European Otter (*Lutra lutra*, L.), Chamois (*Rupicapra rupicapra*, L.), Western Capercaillie (*Tetrao urogallus*, L.). However, it is allowed to hunt the European Hare. At regional level the Hunting Authority controls if these bans are respected.

## **2.4 Cross-border cooperation**

### **2.4.1 Cross-border cooperation in bordering protected areas**

Provisions on cross-border cooperation exist, especially in the case of cooperation with Slovakia in the area of the White Carpathians. In particular, there is a cross-border cooperation project for the protection of butterflies. This project is funded by the EU under the LIFE+ program.

The Ministry of Environment is in charge of international cooperation for nature-conservation. Each state regulates the designation and management of natural areas within its borders through national laws.

There are many initiatives for cross-country cooperation according to the Convention on Transfrontier Co-operation between Territorial Communities or Authorities and related Protocols. On the other hand, there is not enough information regarding the implementation of national legislation and cooperative initiatives based on the European Regulation 1082/2006 on Grouping of Territorial Cooperation (EGTC).

## Section II – PILOT AREA

### The Euroregion Beskydy (Czech Republic, Poland, Slovakia)<sup>1</sup>

#### Strengths

- Attractive natural and cultural heritage,
- Predispositions for tourism development,
- Funding opportunities from the EU Structural financial funds,
- No or weak language barrier,
- Common problems (tourism, unemployment, traffic, ecology),
- Existing skills and sufficient expert capacities for preparation and project realization,
- Opportunities for transboundary cooperation between regions in the Beskydy (west Carpathians).

#### Weaknesses

- Unfavourable demographic status,
- Lack of tourism infrastructure,
- Lack of funds for the completion of transport infrastructure,
- Low level of education and professional qualifications on the Czech and Polish side,
- Negative impact of the transport development on the environment,
- Relatively well preserved nature with many protected areas.

#### Opportunities

- Recovery and changing structure of national and regional economy,
- Low promotion in the Europe / world,
- Euroregion Beskydy does not have legal status,
- Position of the region creates favourable conditions for cross-border cooperation between national regions,
- Availability of funds for the development of human resources, tourism and protection of the environment,
- Growing demands for recreation,
- Removing barriers associated with the existence of national borders, thanks to European integration objectives.

#### Threats

- Deepening imbalances in the labour market growth and long-term unemployment:
  - Low job offer in some areas,
  - People with higher education are leaving the region moving to economically stronger countries,

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<sup>1</sup> This case study is the results of the bachelor thesis: Transboundary cooperation in the Euroregion Beskydy (Křenková 2010 – Bomáš Baťa University in Zlín).

- Pollution of the environment,
- High risk of floods,
- Lack of funds for tourism infrastructure and for creating new job positions,
- Unfavourable impression of the region (industrial regions),
- Negative impact of the transport development on the environment.

## ANNEX: QUESTIONNAIRE

(Prepared by Dr. Mariachiara Alberton)

### 1. GENERAL PART

#### 1.1 Introductory questions:

- Provide brief information on the form of constitutionalized division of power of your country (i.e. federal/unitary model)
- Describe briefly how are the legislative and administrative competences in the field of environmental/landscape protection/ land use and spatial planning/water/hunting/agriculture/transport/tourism/energy?/mining? divided among different government levels
- Describe briefly what are the bodies in charge of nature protection (for legislation, implementation and enforcement). At what level (state/regional/local) are monitoring and controlling authorities been established for nature and forest protection? How are they financed? (Public, e.g. state, funds?)

#### 1.2 Questions on legislative/administrative frameworks relevant for biodiversity and ecological connectivity

##### **Protected areas:**

- How have European directives (i.e. Habitats directive, Birds directive, Water framework directive, Environmental liability directive, EIA and SEA directives) been implemented in your country? (For non EU countries: have legislation similar to the mentioned directives been approved in your country?) Draft laws?
- What are the provisions for the implementation and management of Natura 2000? (See in particular artt. 3 and 10 of the Habitats directive and national reports on implementation)
- Who is in charge of establishing protected areas (i.e. strict nature reserves, wilderness areas, national parks, national natural monuments, habitat/species management areas, protected landscapes, managed resource protected areas. See IUCN categories of protected areas)? What is the procedure for designating such areas? What is the legal basis? What is the different protection regime of those categories in your country? List existing categories of protected areas in your country and compare them with IUCN categories.
- Are protected areas mostly established by State/Regions/local governments/administration?
- Have local communities the right to designate protected areas? Is this an autonomous right or dependent on province/regional/state authorisation? If not, how can local communities participate in the setting up of protected areas? In which phase (initiative, project definition,

project approval, ex post information) and with what powers (ex. voluntary consultation, mandatory opinion, mandatory and binding opinion etc.)?

- Are protected areas in the process of being established in your country? What is their regime? (See IUCN categories of protected areas)
- Do national laws contain specific provisions concerning the surroundings of protected areas? (Thus ensuring that critical areas are buffered from the effects of potentially damaging external activities). What is the legal regime therein provided?
- Have management plans for protected areas been established at state/regional/local level?
- Who is in charge of administering and managing protected areas (see IUCN categories of protected areas)? Public enterprises, state controlled institutions, private organisations?
- On what basis are protected areas financed? (state/regional/local funds?)

### **Ecological connectivity and related sectors:**

- Are ecological networks/connectivity mentioned as concepts in the Constitution?
- Are ecological networks/connectivity included in other national legislative acts? (please consider the following sectors: environmental protection, i.e. nature and biodiversity, water management and protection; hunting and fishing; forest; landscape; land use and spatial planning; agriculture; transport; tourism).
- Which are the specific (national) tools mentioned therein for implementing ecological networks? (For example: develop sustainably managed agricultural landscape; promote sustainable forest management and prevent deforestation/degradation; develop spatial plans that reduce habitat fragmentation and destruction; address ecosystem issues in the river basin management plans for river districts; achieve good ecological status of waters; sign cooperation agreements with other management authorities)
- Are ecological networks integrated in key processes and sectors? (E.g. In the agriculture sector, priority given to agricultural management, connectivity, land abandonment; in the transport sector a balance is assured to green and grey networks; in climate change policies, priority is given to adaptation measures and connectivity; in water management, the principles and objectives of the Water Framework Directive 2000/60/EC are implemented, etc.).
- Does national legislation include provisions on conservation of cultural landscape and historic sites? Provide reference and examples
- Does national legislation include provisions on compatible forms of land use (with the conservation of biodiversity)? Provide reference and examples
- Is legislation on ecological forestry management, afforestation enacted? Describe briefly contents
- Are forest management plans obligatory?
- Are illegal harvesting and logging punished in your country? Who may issue fines/sanctions in these cases? Are there penal or administrative sanctions?
- Do provisions on restoring damaged sites and ecosystems exist? Are they enforced? Who is under such an obligation?

- Is illegal construction sanctioned in your country? Are there penal or administrative sanctions? Who may issue these sanctions?
- Are plans or projects having a significant effect on the environment subject to EIA/SEA (or equivalent) procedures?
- Is public participation prescribed as part of the procedure?
- Is ecotourism promoted in the legislation?

### **Hunting:**

- At what level are hunting laws approved (state/regional)?
- Can hunting sub-national laws contain exemptions from national laws?
- Are hunting laws in compliance with the bird directive?
- Are bans on hunting imposed for the following species: European Lynx (*Lynx lynx* L.), Brown Bear (*Ursus actos*, L.), European Wolf (*Canis lupus*, L.), European Otter (*Lutra lutra*, L.), Chamois (*Rupicapra rupicapra*, L.), Western Capercaillie (*Tetrao urogallus*, L.), European Hare (*Lepus europaeus*, Pallas)?

### **Cross-border cooperation:**

- Do provisions on cross-border cooperation for the management of bordering protected areas exist in your country? If yes, have any cross-border cooperation agreements been concluded? Please describe their scope and purpose
- Who is in charge and what are the legal tools/procedures to designate a transboundary protected area?
- Have cooperation been developed in your country on the basis of the “European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities” and related Protocols?
- Has legislation similar to the European Regulation 1082/2006 on Grouping of Territorial Cooperation (EGTC) been implemented in your country (for non EU countries)? Have initiatives related to nature protection and ecological connectivity been promoted through this tool (For EU; and through similar tool for non EU countries)?

### 1.3 Case law

Is there any case law in the above-mentioned sectors concerning ecological connectivity/networks? Please quote and summarise existing cases

## 2. PILOT AREAS



Analysis of regional and local institutional framework and legislation (beside the national institutional framework and legislation) affecting the biodiversity protection and ecological connectivity of selected pilot areas (for specific guiding questions see above: 1. General Part of the Questionnaire):

- a) Analysis of regional/local institutional frameworks and legislation affecting biodiversity protection and ecological connectivity in pilot areas;
- b) Analysis of cross-border cooperation instruments affecting biodiversity protection and ecological connectivity in pilot areas;
- c) Analysis of relevant case law related to biodiversity protection and ecological connectivity in the pilot areas (if any)

Sectors of analysis:

- Protected areas and biodiversity;
- Landscape;
- Land use planning and control (spatial planning, land use and management within the transport sector);
- Environmental impact assessments and strategic environmental assessments;
- Agriculture and agro-environment;
- Forestry;
- Water;
- Hunting;
- Tourism.