

BIOREGIO PROJECT

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

NATIONAL REPORT HUNGARY

PILOT AREA

Duna-Ipoly National Park/Poiplye Ramsar Site (Hungary – Slovakia)

Author: Tamás Kostyánszki, LL.M.
(Budapest)

Delivered: August 2013

Legal analysis coordinated and supervised by Dr. Mariachiara Alberton
(E-mail: mariachiara.alberton@eurac.edu)

EUROPEAN ACADEMY (EURAC) TEAM

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SECTION I: GENERAL PART

1. Introductory framework

1.1 The constitutionalized division of power (See Questionnaire 1.1)

The Hungarian Constitution¹ establishes a unitary state model. Thus there are no ‘federal states’ and the legislator does not have to take into account their authority. However, there are municipalities, like in other European countries, which are instrumental for organizing local activities and defending the interests of the natives². In reality, municipalities do not have the power - foreseen by the law - to influence the basic³ ratification/approval/implementation process of international (environmental) agreements.

It is also worth mentioning that this unitary state model has been deeply rooted in Hungarian constitutional traditions. Therefore, the central legislator is traditionally strong and the dialogue between central and municipality levels – even under democratic circumstances – has a one direction characteristic (beside their own local rights, municipalities are made for executing central intentions), rather than being an interplay. This type of conversational culture has consequences, since international agreements can be properly implemented only when they are effective at local level. To reach this achievement, local communities should organize programmes to draw attention to the environment and to cooperate with each other. Hence, they should be active and do more than what was foreseen by the legislator during the implementation phase. Being a member of the European Union could help Hungary to develop a modern way of acting as a unitary state in the 21st century.

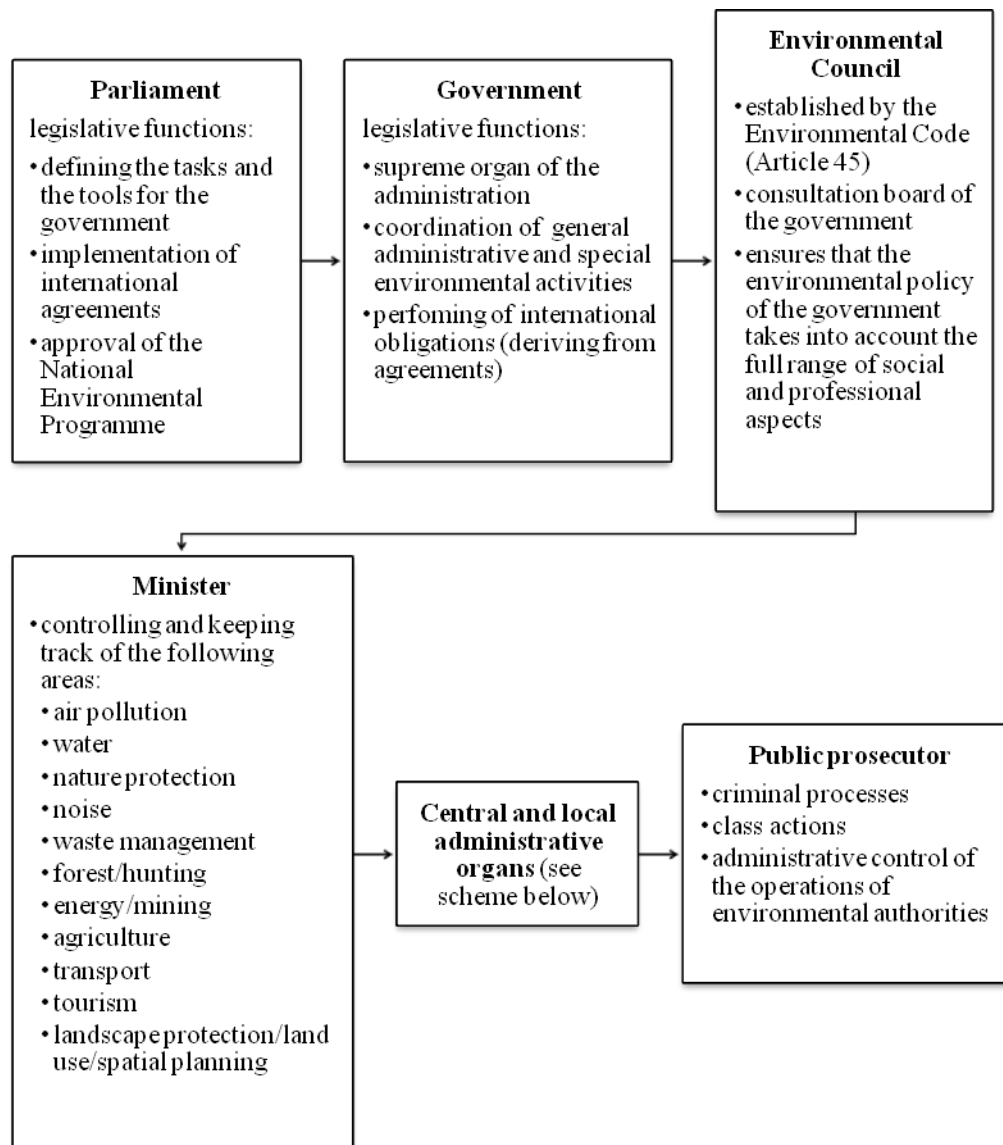
1.2 Legislative and administrative competences in the field of environment, landscape protection, land use and spatial planning, water, hunting, agriculture, transport, tourism, energy and mining (See Questionnaire 1.1)

At state level, several bodies deal with environmental matters: namely, Parliament – Government – Hungarian Environmental Council – ministers – central and local administrative organs – public prosecutor.

1 Basic act of Hungary (hereinafter: the Constitution), 25.04.2011 (Official Journal of the Hungarian Legislation (hereinafter: OJ) no. 43 of 2011). Please note that the no. of the OJ in which the given legislative act was released, can only be indicated in case of legislative acts issued after January 1998 (OJ releases before this date cannot be downloaded from the Internet yet).

2 Art. 31 of the Constitution.

3 Notwithstanding the above, municipalities have an essential role in the proper implementation of these agreements in practice (e.g. creating local links with each other on environmental matters to increase the practical effectiveness of the agreements, even at local level).

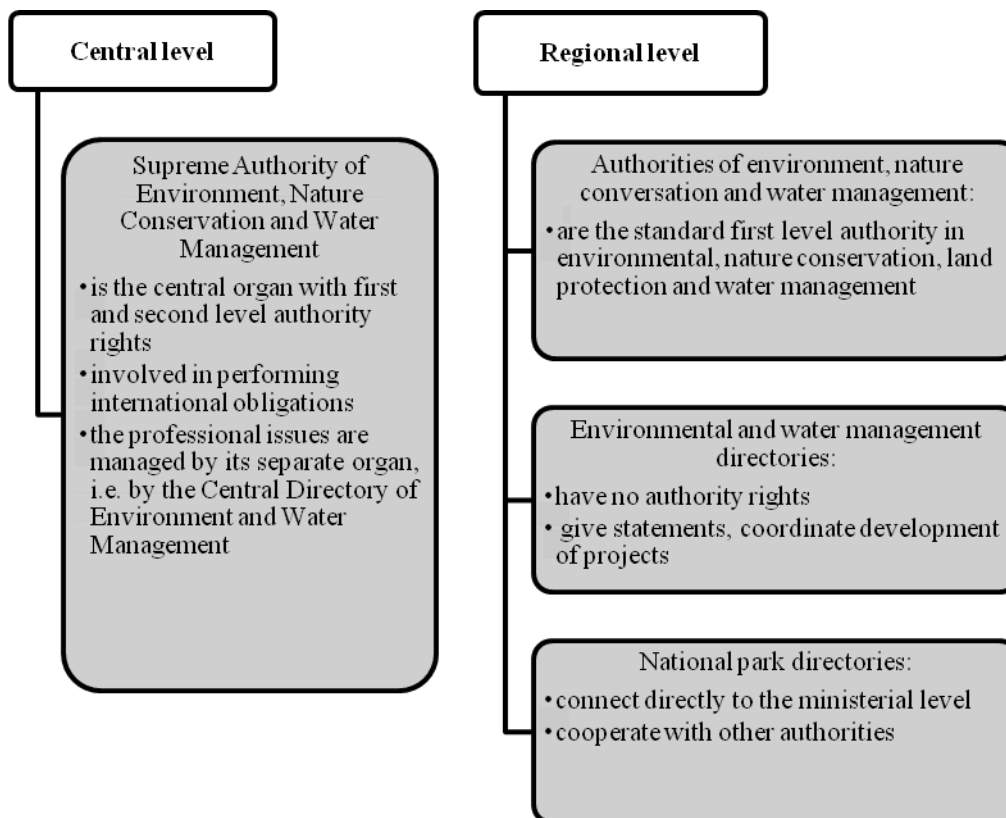


At ministerial level the operative structure changes relatively often according to the intentions of the different governments. As of June 2010 (i.e. since the new government began) there is no single ministry for environmental matters, but they are incorporated into the Ministry of Rural Development. However, this structure is not unified as there are special matters for which the aforementioned Ministry is not responsible. Therefore, some areas are split between several ministries (e.g. tourism is under the responsibility of the Ministry for Rural Development, while transport is administered by the National Development Ministry).

All the relevant areas (**environment, landscape protection, land use and spatial planning, water, hunting, agriculture, transport, tourism, energy and mining**) are controlled at the ministerial level.

The fact that, from the Hungarian legal point of view, not all the aforementioned areas belong to the classical environmental administration becomes more evident on the next administration level (i.e. under ministry level), because at this stage the difference is not just formal, but really significant. Thus, for those which are not ‘clear’ environmental matters (e.g. tourism) classical environmental authorities are not in charge, but they are managed by some other bodies. The environmental aspects of a specific matter (e.g. spa investments) will be separately examined by environmental authorities; however, the decision will be issued by another authority (which has to take into account the statement of the special environmental authority). This complex structure could cause misunderstandings and the undervaluation of the environmental interests.

The current structure of the central and local environmental administration is summarised as follows:



1.3 Authorities in charge of nature protection, monitoring and controlling activities, finance mechanisms (See Questionnaire 1.1)

As it is obvious from the table above, environmental and nature conservation authorities do not derive from each other, their rights and obligations are assigned within a given authority. However, the Act⁴ on Nature Protection lists the relevant bodies in details as follows.

The minister:

- leads activities with nature conservation relevance which are subject to it (stated by an act or a government decree);
- supervises central and regional nature conservation authorities (municipalities are not under the authority of the minister, they are separated from the government and the central administration);
- takes part in organizing researches, not directly developed by state organs;
- takes care of planning, coordinating nature conservation research required by the state, and takes also care of establishing and maintaining information and monitoring systems;
- leads and coordinates the achievement of requirements prescribed by international nature conservation obligations;
- prepares plans on nature protection issues or demands their preparation;
- has authority rights in certain cases;
- cooperates with nature conservation NGOs and civil society;
- is involved in leading educational (e.g. in primary and secondary schools) and informational activities regarding nature conservations matters;
- cooperates in preparing rural development financial aids/supports.

Administrative jobs are carried out by the minister, state administration organs (see tables above) and the notaries⁵ of the municipalities.

Furthermore, the official nature conservation sentinel-guard network (i.e. nature protection watchers) takes care of the (protected) nature conservation areas on the spot (in certain cases even with authority rights; details under para. 2.2.7). Exact rules and the internal operating system of the nature protection watcher network are stated in different governmental⁶ and ministerial⁷ decrees.

2. Legislative and administrative frameworks relevant for Biodiversity and Ecological Connectivity

2.1 Protected areas

2.1.1 Implementation of relevant European Directives (See Questionnaire 1.2)

⁴ Act No. LIII of 1996 on Nature Protection (hereinafter: NPA).

⁵ Under the Hungarian legal system a notary and a public notary is not the same. Notaries work in the municipalities, although they are not regular parts of the communities' self-governance (i.e. they belong to the state administration and have a decentralized position) and they are entitled with authority rights (e.g. they make legally binding resolutions /e.g. give permissions in construction and therefore decides also on environmental / nature conservation matters). On the other hand, public notaries are not part of the state authority power, they work on their own and e.g. prove documents or act in survival processes.

⁶ Government Decree no. 4 of 2000 (I.21) on the detailed rules on nature protection watchers and their network (OJ no. 6 of 2000 p. 198-202).

⁷ Decree of the Minister of Environmental Matters no. 9 of 2000 (V.19) on the Internal Operating Rules of nature protection watchers (OJ no. 49 of 2000, pp. 2880-2894).

All the relevant EU regulations (i.e. **Habitats Directive, Birds Directive, Water Framework Directive, Environmental Liability Directive, EIA and SEA directives**) are implemented in the Hungarian legal system. This was a pre-condition for joining the EU in May 2004. Technically each of the relevant acts contains a paragraph stating that the given act is in compliance with certain EU regulations. The table below shows in which Hungarian act the given EU directive has been implemented. However, implementation gaps or faults in performing the exact obligations under these EU rules might exist. Similarly to other EU countries, the effective implementation should be checked on a case by case basis by national courts and by the European Court of Justice (see examples see under para. 2.1.2.).

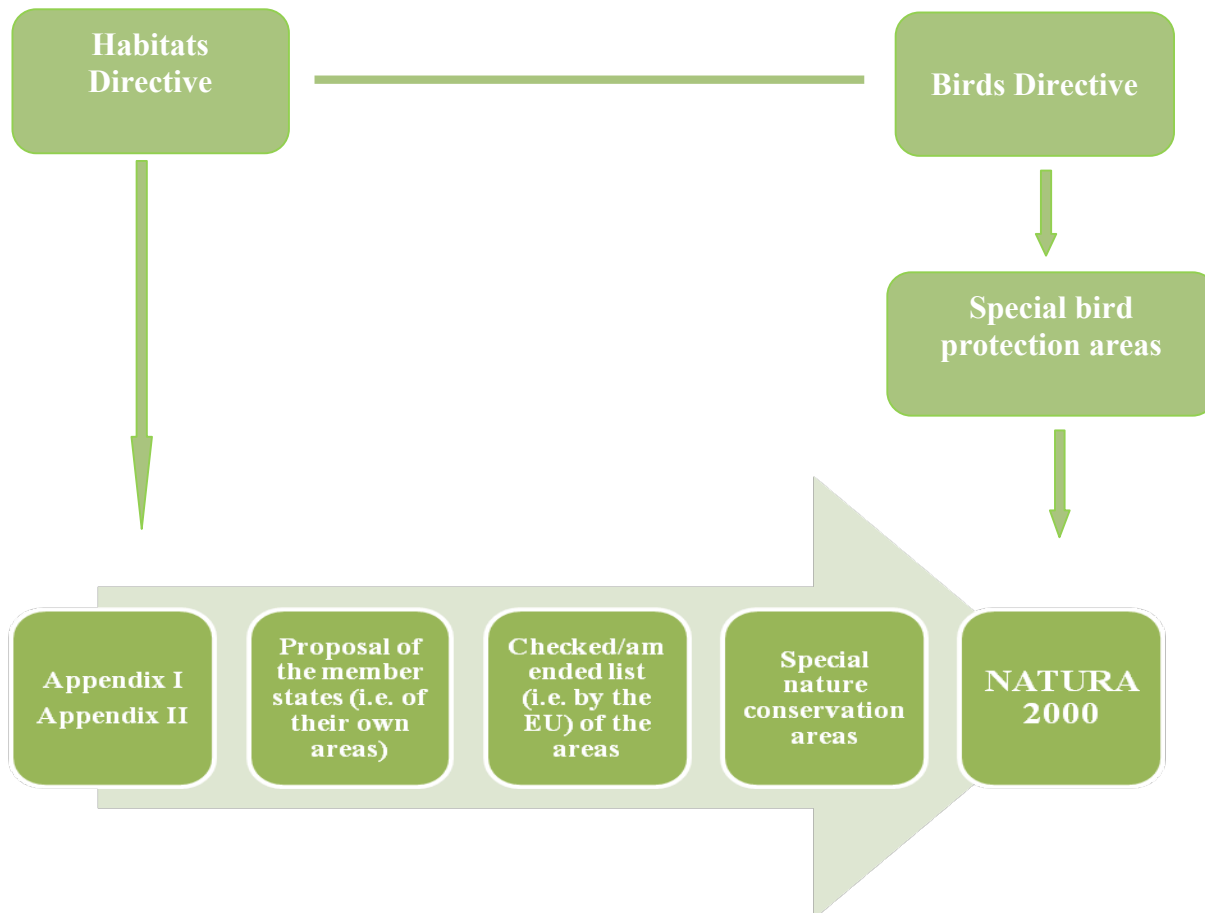
	EPA⁸	NPA
Habitats Directive		x
Birds Directive		x
Water Framework Directive	x	
Environmental Liability Directive		x
EIA Directive	x	
SEA Directive	x	

2.1.2 Implementation and management of the Natura 2000 Network (See Questionnaire 1.2)

The Habitats Directive lays down the obligation for EU countries to establish a coherent network of European ecological areas. Natura 2000 is the name of the main habitat types and species listed in Appendix I and II of this directive. The special bird protection areas, created according to the obligation of the Birds Directive, belong to the Natura 2000 network, as well. This is the systematic legal connection between these two directives (see next table below).⁹

8 Act No. LIII of 1995 on Environmental Protection (hereinafter: EPA).

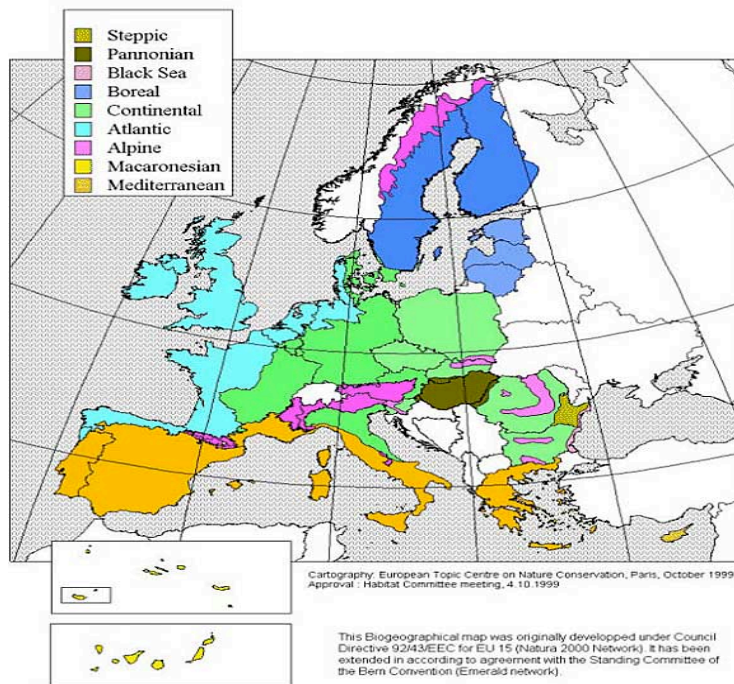
9 'Hungary and Natura 2000. Natura 2000 –European network for saving nature values'. Öko Rt. Budapest, 2002, p. 24.



As Hungary joined the EU in 2004, a significant change took place in the list of the main habitats types¹⁰. A new one, the so called ‘pannonian’ biogeographic region was added to the list. The whole territory of Hungary belongs to this region as well as (among the current¹¹ EU countries) Slovakia and certain areas of Austria (e.g. Burgenland).

10 To be downloaded under: <www.bfn.de>.
11 December 2012.

Indicative Map of Biogeographical Regions
EUR15 + 12



In general, there should be no direct connection between Natura 2000 areas and other country-specific types of protected areas. In practical terms, it means that Natura 2000 areas might cover zones that are already protected under another regime (e.g. as a national park). Compared to other national protection regimes, the main difference is the task of the Habitats and Birds Directives, according to which *the listed* species and habitats should be protected and maintained for future generations.

Hungary had the obligation to propose potential Natura 2000 areas until 2004 (i.e. before joining the EU). In this subject, the basic national framework is given by the so called 'Natura 2000 Decree'¹², which prescribes how to establish and take continuous care of Natura 2000 areas. The legal pillars of the system, foreseen in the decree, are the Habitats and Birds Directives.

Hungary did not apply for postponing the deadline for the full and proper implementation of the two directives. Thus, experts had to make detailed research to fulfil all the requirements before Hungary's joining the EU.

Based on these measurements the national park directories¹³ drafted proposals for each specific area. After that these proposals were forwarded to the Ministry of Environment and Water Management which was responsible for carrying out the final administrative discussion, especially with the help of the Nature Conservation Office.

12 Government Decree No. 275 of 2004 (X. 8) on the nature conservation areas with significance at European Community level (hereinafter: Natura 2000 Decree) (OJ no. 143 of 2004, pp. 11756-11816).

13 During this phase, national park directories still had authority rights (now, they do not have this power any more).

At the same time, among legal experts there were some critical remarks¹⁴ to the Natura 2000 Decree. In particular, it was underlined that the regulation did not contain relevant process rules; there were gaps in the information flow between affected people and the authorities in charge for defining Natura 2000 areas. The main legal gap was the method used for the ministerial publication (containing the exact land register numbers of defined areas) foreseen by the Decree, which was not a legal act nor an administrative resolution. However, according to the Land Register Act, facts could be put in the register only if stated by an administrative or judicial resolution, a contract or legal act. Thus, the legally binding nature of the registration was not clear.

Although the Natura 2000 Decree ensured the possibility of making comments to the publication within 90 days, this was not a real tool due to the lack of justification beyond the land registration, in fact it was not explained why exactly that area had been chosen. Therefore, the background for real comments was missing and real amendments could not be achieved. Affected people did not receive information (data, results, facts) in possession of the responsible authorities or received a part of them and with delay.

Furthermore, despite the constant practice of the European Court of Justice declaring that for the definition and maintenance of the Natura 2000 areas only environmental and nature conservation aspects should be taken into account (except for some special reasons based on e.g. public safety or public health issues), the Decree ensures the consideration of social-economical and military interests as well.

Another legal fault of the Decree was the disregard towards other protected areas. Therefore, if a given protected area would belong to the Natura 2000 network as well, the Decree could not be applied except if the Natura 2000 principles should be followed in this case too.

A) Performing the obligations under the Birds Directive

Hungary used the so called IBA¹⁵-criteria, provided by BirdLife International, to define special bird protection areas.

Altogether there were 54 areas (currently 55)¹⁶ that responded to the criteria and were forwarded as proposals to the European Council. The most important aspect considered by the experts was the definition of those areas that are large enough to ensure an efficient protection of the listed species (average extension is 25.000 ha for each area). For those species whose habitats is not an exact area, but rather sporadic zones, some other (creative) techniques should be applicable (e.g. man-made broods were created to save white storks from an electric shock).

B) Performing the obligations under the Habitats Directive

The whole Hungarian territory was apportioned into small areas of 10x10 km, in order to measure how many of the species (i.e. listed in Appendix II of the Habitats Directive) are present inside.

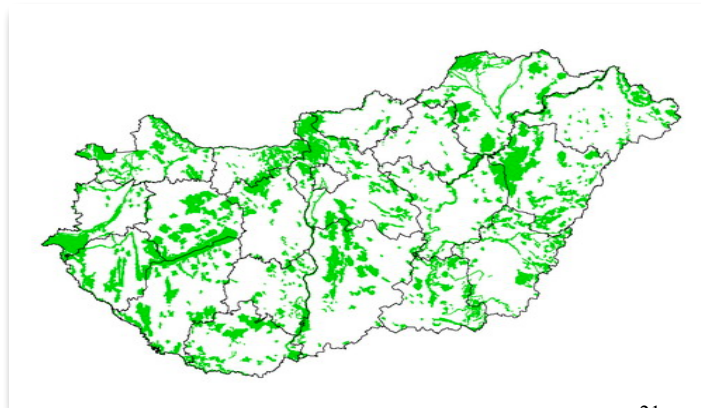
14 'Comments to the Governance Decree No. 275 of 2004 (X. 8) on the nature conservation areas with significance at European Community level', Z. Szilvácsku (ed.), Budapest, 2004.

15 Important Bird Areas.

16 Data source: 3rd National Environmental Programme (see under pt. 2.2.1).

Those habitats mentioned in appendix I, were also defined in the Decree, despite the challenge of translating the categories properly¹⁷. Thus, consultations on this topic took place in the frame of the joining meetings and discussions. The proposal forwarded to the European Council contained 467 special nature conservation areas (currently there are exactly 467 of such areas)¹⁸.

The European Council prescribed further areas (7 habitats¹⁹, 11 species of flora and 8 species of fauna) to be defined as Natura 2000 sites under the regime of the Habitats Directive. At the same time, the Council initiated an infringement procedure against Hungary because of the incomplete list of special bird protection areas. The effective performance of these obligations will bring more Natura 2000 sites²⁰ and the definition process could be closed.



Special nature conservation areas in Hungary²¹

The European Commission is still urging Hungary to bring its national legislation on assessing the effects of projects on the environment in line with EU rules. For this purpose,

17 At that time (i.e. before Hungary's joining the EU in 2004) there were no official Hungarian translations of the regulations.

18 Data source: *supra* note 16. *Background*: The Pannonian biogeographical region referred to in Article 1(c)(iii) of Directive 92/43/EEC comprises parts of the Union territories of the Czech Republic, Romania and Slovakia and the Union territory of **Hungary**, as specified in the biogeographical map approved on 20 April 2005 by the Committee set up by Article 20 of that Directive, hereinafter 'the Habitats Committee'. The initial list and the first three updated lists of sites of Community importance for the Pannonian biogeographical region, within the meaning of Directive 92/43/EEC, were adopted by Commission Decisions 2008/26/EC, 2009/90/EC, 2011/86/EU and 2012/10/EU (to be downloaded in English under: <http://circabc.europa.eu/faces/jsp/extension/wai/navigation/container.jsp?FormPrincipal:_idcl=FormPrincipal:_id3&FormPrincipal_SUBMIT=1&id=bdd348df-b1e8-43bd-8f7f-ce809a5f9464&javax.faces.ViewState=rO0ABXVyABNbTGphdmEubGFuZy5PYmplY3Q7kM5YnxBzKWwCAAB4cAAAAAN0AAExcHQAky9qc3AvZXh0ZW5zaW9uL3dhaS9uYXZpZ2F0aW9uL2NvbRhaW5lci5qc3A=>>, 20 November 2012 17:23).

19 Proposal for 7 new habitats under the Natura 2000 regime, according to the latest amendment (effective as of 3 January 2013) of the Natura 2000 Decree.

20 Several new sites have already been added to the list, according to the press release of the European Commission as of 26.11.2012: <europa.eu/rapid/press-release_MEMO-12-889_en.htm>. From the content of the press release: 'In some Member States (Austria, Cyprus, the Czech Republic, Germany, Spain, **Hungary**, Ireland, the Netherlands and Poland) the update mostly concerns modifications, such as adaptations to site areas or deletions/additions of smaller sites. This has resulted in rather small overall changes to the total area covered by the network in these Member States.'

21 To be downloaded under the homepage of the Hungarian Birds and Nature Conservation Association: <www.mme.hu>.

the Commission is sending a reasoned opinion and, in the absence of a satisfactory response within two months, the Commission may²² refer the case to the EU Court of Justice. The EIA Directive was incorrectly transposed into national law, in particular in relation to the project screening process which determines whether certain projects listed in Annex II of the Directive require an EIA. Hungarian law established exclusion thresholds and criteria which did not take into account all the relevant selection criteria set out in Annex III of the Directive. This resulted in a restrictive application of the Directive.

This issue was addressed in a letter of formal notice sent to Hungary in May 2009, followed by an additional letter in January 2010. In the meantime Hungary has adopted a number of legislative amendments to ensure compliance with the Directive's requirements (i.e. Natura 2000 Decree, in details see para. 2.1.2.; Forestry Act, in details see para. 2.2.7.; Decree No. 11 of 2010 (II. 4.) of the Ministry for Agriculture and Rural Development on the rules of preparing the decree on forestry planning, see fn. 89). The Commission welcomes these amendments, but it appears that shortcomings still remain in relation to the screening of a number of projects²³.

In an Eastern Hungarian Natura 2000 site (Forest of Sajólád) illegal afforestation activities took place continuously and in spite of the authorities' measures more environmental harms have been caused. This case²⁴ might be considered as a representative portrait of those practical problems that derive from the inappropriate implementation of the EIA Directive. The relating Hungarian laws do not contain exact provisions on the 'necessary protection level' prescribed in the Directive. The situation is extremely problematic in those Natura 2000 sites which are not protected according to the Hungarian categories of protected areas (see para. 2.1.3). Due to the lack of 'necessary protection level' rules, the efficient protection of these areas is not properly ensured.

2.1.3 Procedure for establishing protected areas and the different protection regimes (See Questionnaire 1.2)

Under the Hungarian nature conservation legal regime there are 4 types of protected areas: national parks, cultural landscape, protected natural areas and historic sites²⁵. The NPA defines each of them, however only national parks and protected natural areas will be detailed in this paragraph, while the two other categories are discussed under pt. 2.2.4.

National parks are special territories of large extension which have been scarcely affected by human activities and natural changes. They are created for protecting the flora and fauna living there, for preserving other characteristics of the territory such as geological, hydrological and landscape specialities and for maintaining biological diversity and the unaffected operation of natural ecosystems. Furthermore, they pursue educational and recreational objectives²⁶. All national parks should be divided into natural, managed and

22 Not decided yet (status: December, 2012).

23 European Commission - IP/12/656, 21/06/2012. To be downloaded (in English) under <europa.eu/rapid/press-release_IP-12-656_en.htm?locale=en>.

24 Available in Hungarian under: <www.jogiforum.hu/hirek/23024>, 7.5.2010. There is a similar case on the Natura 2000 site Csaoholc-Garbolc (Sár-Éger forest), see:<think.transindex.ro/?p=14464>.

25 Sec. 28, Subsec. 1 of the NPA.

26 Sec. 28, Subsec. 2 of the NPA.

presenting zones – according to the relevant international prescriptions and principles, defined by the minister as well²⁷.

According to this ministerial decree²⁸ natural zones²⁹ have not or slightly been affected by human use as almost only natural proceedings (i.e. not human) take place there. Their large extension allows them to be self-supporting (i.e. they persist without human intervention), they are varied with a stable internal structure, but also develop dynamically. Human settlements (neither permanent, nor temporary) cannot be located in natural zones, but there might be a few human structures. In this area the main goal of nature protection activities is to maintain these natural circumstances.

Managed zones³⁰ are affected by modest human activity. Human buildings are sporadic and the area is dominated by natural elements; the restricted use of natural resources do not harm natural processes. In this area the main goal of nature protection activities is to protect, maintain and – if necessary – restore these natural circumstances.

Presenting zones³¹ are affected by human activities at a moderate level, human settlements and buildings are rare (i.e. the main part of the land is dominated by natural elements), and traditional and extensive agriculture methods are used. All human activities carried out on such areas shall ensure the sustainability and long-term maintenance of natural resources. Education and show rooms can be placed according to the management plan, which should detail also the other conditions of nature friendly presenting activities. Managed and presenting zones could be created together as well, if their division is not possible or not practical from a nature protection point of view.

Protected natural areas are smaller connected territories with special natural values and are established for protecting one or more natural elements and their living ecosystems³².

National parks and cultural landscape areas should only be created by the authorized minister (i.e. currently by the Minister for Rural Development)³³.

The first three categories - mentioned under Sec. 28, Subsec. 1 of the NPA - might be appointed for scientific research (i.e. academic reserves)³⁴. If a given area (the whole or its part) belonging to one of the first three categories has a significant natural value at international level, then it might be declared as a biosphere reserve by the relevant minister³⁵.

Currently, there are 6 biosphere reserves in Hungary. The Danube-Drava-Mura biosphere reserve is the latest one and was established as of 8 November 2012³⁶. This is the first cross-border biosphere reserve since its territory belongs to Hungary and Croatia.

A declaration process should take place for the establishment of a protected natural area. The NPA states³⁷ that areas of nationwide significance are declared as protected by the authorized

27 Sec. 28, Subsec. 7 of the NPA.

28 Decree of the Minister of Environment and Land Development no. 14 of 1997 (V. 28.) on the different zones of national parks (hereinafter: National Park Decree).

29 Sec. 3 of Natural Park Decree.

30 Sec. 4 of Natural Park Decree.

31 Sec. 5 of Natural Park Decree.

32 Sec. 28, Subsec. 4 of the NPA.

33 Sec. 28, Subsec. 7 of the NPA.

34 Sec. 26. Subsec. 8 of the NPA.

35 Sec. 29, Subsec. 1 of the NPA.

36 For further information see the homepage of the Hungarian Government (only in Hungarian): <www.kormany.hu/hu/vidékfejlesztési-miniszterium/kornyezetugyert-felelos-allamtitkarsag/hirek/hataron-atnyulo-bioszfera-rezervatumot-avattak-szentborbason>.

37 Sec. 24, Subsec. 1 of the NPA.

minister (currently, the Minister for Rural Development), while the relevant municipality authorizes the protection of areas of local significance (this is an autonomous right)³⁸. Furthermore, the minister is in charge of defining those species that should be protected on a higher level (i.e. with special treatment) and which are listed in EU and international legal acts, it also defines national special treatment areas as well³⁹. Special treatment areas fall under one of the four possible categories of protected areas, ‘only’ the significance of such territories shall be concerned on a higher level (obviously affecting the treatment of the native flora and fauna). It should also be mentioned that there are some places and geological forms - expressly foreseen by the NPA - that are protected on their own. These are springs, moors, sodic lakes, caves, sinkholes, kunpacks (i.e. a special geomorphologic form from sand) and ‘soil castles’⁴⁰.

The different categories of protected areas foreseen under Hungarian nature conservation laws have already been analysed under the present title. Comparing these to the IUCN Protected Area Management Categories⁴¹ (see table below) it can be stated that the four Hungarian categories cover National Park (the same under Hungarian legal regime), Natural Monument or Feature (historic sites), Habitat/Species Management Area (protected natural area) and Protected Landscape (cultural landscape) from the IUCN list. The category of Strict Nature Reserve, in terms of the real content of the protection methods, is similar to the abovementioned Hungarian natural areas with special treatment, and also the last IUCN category exist in Hungary: Natura 2000 sites belong to this. However, it is worth mentioning that, similarly to the IUCN categories, in almost all the protected areas (except for e.g. the core inside areas of a national park) some kind of human activity is permitted under the continuous control of the relevant authorities.

IUCN categories		Hungarian categories	
Ia: Strict Nature Reserve	Ib: Wilderness Area	<i>Natural zones of national parks</i>	<i>Managed zones of national parks</i>
II: National Park		<i>Presenting zones of national parks</i>	
III: Natural Monument or Feature		Historic sites	
IV: Habitat/Species Management Area		Protected natural areas	
V: Protected Landscape/Seascape		Cultural landscape	
VI: Protected area with sustainable use of natural resources		like Natura 2000 sites	

2.1.4 Buffer areas and their legal regime (See Questionnaire 1.2)⁴²

The protected natural area – if necessary⁴³ – should be surrounded by a buffer zone. The minister or the municipality (depending on the nationwide or local significance of the given

38 According to Sec. 25 of NPA every person is entitled to make proposals for declaring an area as protected. The proposals shall be revised and forwarded to the minister / municipality by the authorized environmental, nature conservation and water management directory.

39 Sec. 24, Subsec 2 of the NPA.

40 Sec. 23, Subsec 2 of the NPA.

41 For further details see: <www.unep-wcmc.org/iucn-protected-area-management-categories_591.html>.

42 Sec. 30 of the NPA.

area) should detail in its resolution (i.e. in the legal act that establishes the protection of the given area) the extension of this zone as well as the activities that are permitted only if the nature conservation authority supports / approves them. Furthermore, the EPA states also that the objective of establishing such areas is to minimize the effect of those activities which negatively affect the conditions and sustainable maintenance of the protected area.

2.1.5 Management plans for protected areas, administering bodies and funds (See Questionnaire 1.2)

The NPA foresees⁴⁴ that a National Nature Protection Basic Plan (hereinafter: Plan) should be drafted as a part of the National Environmental Programme (hereinafter: Programme). The Programme should be renewed every six years and approved by the Parliament (i.e. at state level). When submitting its proposal for the renewal of the Programme, the Government should report to the Parliament on the implementation of the Programme and the experience gained during the last implementation period. Furthermore, the Plan should contain⁴⁵ the following main aspects:

- description of the general condition of Hungary's protected areas and all important activities and processes regarding biological diversity;
- general protection guidance and requirements;
- long- and mid-term directions for establishing new protected areas;
- long- and mid-term directions for establishing ecological (green) corridors (for definition see para. 2.2.1.);
- tools and basic conditions for being able to fulfil the above mentioned requirements;
- long- and mid-term programme to carry out the research and development, educational and marketing issues in nature conservation;
- principles on establishing and maintaining the system that supports data collection, registration, evaluation and observation activities regarding natural values.

After that, in order to perform the obligations and forecasts mentioned in the Plan, the minister – if necessary – is entitled to (initiate to) outline plans on a regional level or in relation to an exact landscape / protected natural area or for a given natural value⁴⁶.

All land recreational and restoration plans, water management plans and every other nature-related plan should be constructed in a way that takes the Plan into consideration⁴⁷.

Municipalities should make a plan on the maintenance of protected natural areas of local significance, located on their territory. This plan has to be in compliance with the regional (if any) and the nation-wide plans. Moreover, it should be issued by the municipality council in the form of a municipality decree. When drafting the plan the relevant environmental, nature conservation and water issues directory should always be involved⁴⁸.

To conclude, nature conservation plans have to be drafted and approved both at state and local level.

43 Necessity and the exact content (e.g. management plan and list of restricted activities, how and under what kind of restrictions they could be performed, etc.) of the specific provisions are decided case by case in ministerial decrees (according to Sec. 5, Subsec. 2, para. 4 of the NPA), e.g. Decree of the Ministry for Rural Development no. 71 of 2011 (VII.27).

44 Sec. 53, Subsec. 1, Subsec. 2, para. d) and Subsec. 3, para. a-b) of the NPA.

45 Sec. 53, Subsec. 2 of the NPA.

46 Sec. 53, Subsec. 4 of the NPA.

47 Sec. 54, Subsec. 1 of the NPA.

48 Sec. 55 of the NPA.

From the text of the NPA it indirectly derives that the state (i.e. practically the relevant ministry) and its directly subordinated institutions (the 10 environmental, nature conservation and water issues authorities and directories, national park directories) are in charge of the maintenance (i.e. administering and managing) of protected areas of nation-wide significance. On the other hand, municipalities are responsible for maintaining the protected areas of local significance with the support of the state controlled institutional network.

Therefore, in Hungary public enterprises or private organizations do not have a role in administering and managing protected areas.

The NPA prescribes the establishment of a separated fund for environmental costs within the central budget of the state, which integrates nature conservation costs as well. From this fund should be financed: the execution of the Plan and the fulfilment of international obligations as well as all the nature conservation related activities of the state (especially the operation of the nature conservation information system, ensuring also the administrative control, educational and social information issues and research)⁴⁹.

In addition, the NPA ensures the possibility to ease the financial situation of protected areas with some kind of state support, reduced tax rates or tax reimbursements, or special credit constructions provided by financial institutions supported by the state⁵⁰. The details of these supports should be ruled by government decrees within the framework of the NPA on a case by case basis.

2.2 Ecological connectivity and related sectors

2.2.1 Ecological networks and connectivity in the Constitution and national legislation (See Questionnaire 1.2)

The Hungarian Constitution says⁵¹ that every municipality is entitled to cooperate in various ways with other municipalities in the country and abroad as well⁵². Hence, the Constitution indirectly ensures that for every project (i.e. also for constructing ecological networks) local governments are free to cooperate. The Constitution guarantees⁵³ everyone's right to live in a healthy environment. Although ecological networks/connectivity is not directly mentioned, it can be derived as a concept from the points mentioned above and from the 'soul'⁵⁴ of the

49 Sec. 69 of the NPA.

50 Sec. 71, Subsec. 1 of the NPA.

51 Art. 32, Subsec. 1, para. k) of the Constitution: 'In administering public affairs at local level, local governments should, to the extent permitted by law: be free to associate with other local governments, establish alliances for the representation of interests, cooperate with local governments of other countries within their competences, and be free to affiliate with organisations of international local governments'.

52 This constitutional principle generated a more detailed rule in the EPA, according to which municipalities – beside or instead of their own programme – are entitled to make a *common* local environmental programme (Sec. 3, Subsec. 5 of the EPA).

53 Art. XX, Art. XXI of the Constitution: '*Article XX:* (1) Every person has the right to physical and mental health. (2) Hungary should promote the exercise of the right set out in Paragraph (1) by ensuring that its agriculture remains free from any genetically modified organism, by providing access to healthy food and drinking water, by managing industrial safety and healthcare, by supporting sports and regular physical exercise, and by ensuring environmental protection. *Article XXI:* (1) Hungary should recognise and enforce the right of every person to a healthy environment. (2) A person who causes any damage to the environment should be obliged to restore it or to bear all costs of restoration as defined by law. (3) No pollutant waste should be brought into Hungary for the purpose of dumping.'

54 This concept is quite common in the Hungarian literature on constitutional law. This kind of interpretation was used for the first time right after the political changes at the beginning of the Nineties by the president of the Hungarian Constitutional Court.

Constitution itself. Furthermore, there is a clear statement in the Constitution about the protection of the environment⁵⁵: ‘All natural resources, especially agricultural land, forests and water supplies, biodiversity – in particular native plant and animal species – and cultural assets should form part of the nation’s common heritage, and the State and every person should be obliged to protect, sustain and preserve them for future generations. Conditions and restrictions of receiving and performing the ownership and/or using rights of agricultural land and forests (...) will be prescribed in a separated act [not yet drafted/released, status: December 2012], in accordance with the goals mentioned above’.

As mentioned under para. 2.1.5, the NPA foresees that a National Nature Protection Basic Plan should be drafted as a part of the National Environmental Programme. This Basic Plan should address the middle- and long-term conditions for creating and maintaining ecological networks and ecological (green) corridors. Moreover, the text gives also the definition⁵⁶ of ecological network / ecological (green) corridors which influences, a general description of the country’s natural areas, the definition of processes and activities which are important in terms of conservation of biodiversity, the general requirements as well as the sectoral and inter-sectoral tasks for the conservation of natural areas and values. Ecological (green) corridors are defined by the ministers in charge of environment/nature conservation, agriculture and transport in joint ministerial decrees. These acts prescribe also the basic management rules of a given area. The fact that a given area has been defined as an ecological (green) corridor should be transposed in the land register⁵⁷ (cancelling such registration if the given area loses this status). The registration process (i.e. filling in and remitting the official form to the land register authority) should be initiated *ex officio* by the nature conservation authority.

Also, the Act⁵⁸ on the National Land Use and Spatial Planning contains rules⁵⁹ which are relevant for the issue at stake. In case transports, infocommunications, electricity or other energy channels go through an ecological corridor, the nature conservation authority has to define conditions and/or prescribe extra neutralization activities for land users (Sec. 9, Subsec. 6 of the aforementioned Act). Such conditions (e.g. environmentally friendly solutions should be applied as gateways for the free movement of animals; industrial activities should be enlightened during the moving/nesting periods of bird species, etc.) and extra neutralization activities are obviously not expressly prescribed by the law, but they are always defined for the specific case by the responsible authority in its single resolution. When defining these conditions, the authorities are substantially free and they should only take into account that the requirements are suitable and sufficient for reaching the nature protection goals and do not breach any law.

Beside the above mentioned acts, there are other relevant rules in the following legal acts:

Now, it is still strongly followed by this Court and it refers not only to the text but to the Constitution as a whole (under social, economical and international circumstances).

55 Art. ‘P’ of the Constitution.

56 **Ecological (green) corridor** are areas (united or sporadic) and their native habitats that ensure the biological connection between certain protected natural areas, their buffer zones, the Natura 2000 areas, tender natural areas and simple (i.e. not officially protected) natural areas. While **Ecological network** identifies all types of biological connections mentioned above and established/ensured by ecological (green) corridors.

57 This is an official register of all the lands in Hungary and has a public trustworthy (i.e. everyone could be sure that all the facts and rights already listed in the register are true, therefore everyone could lean on them - e.g. in the case of selling/buying a property).

58 Act No. XXVI of 2003 on the National Land Use and Spatial Planning (OJ no. 50 of 2003, p. 4560-4588).

59 Sec. 4, 9, 12, 13, 19 and 22.

1) Decree of the Hungarian Parliament on the 3rd National Environmental Programme⁶⁰: this is not a legal act (according to the Act no. CXXX of 2010 on Legislation), thus it is legally binding only for the legislator and not *erga omnes*⁶¹. Its time frame is 2009 – 2014 and its relevant points are listed below:

- the fact that the Hungarian ecological network contains areas under different protection levels should be regarded as a strength of the Hungarian environmental legislative system;
- the phenomenon of sustainable land use and protection of the national ecological network and cultural landscapes should be integrated in the Restoring Plan of Budapest and in the restoring plans of the 19 Hungarian counties;
- the main goal of the restoring plans is to prioritise the efficient maintenance of ecological functions over the other aspects of such plans;
- the creation of a National Ecological Action Plan is essential for reinforcing ecological connectivity in Hungary.

2) Government Decree on the Use of Water Environmental Areas⁶² which foresees that ecological connectivity should be taken into account in relation to all the matters ruled by this decree.

2.2.2 Specific tools for the implementation of ecological connectivity (See Questionnaire 1.2)

The process for establishing the National Ecological Network began in 1993 under continuous cooperation with IUCN⁶³. The functional parts of the ecological network are core areas, ecological corridors, buffer zones and rehabilitation areas.

Based on the NPA⁶⁴, a ministerial decree containing general provisions for creating/implementing ecological corridors and networks was issued in 2002. Environmentally Sensitive Areas are regulated by a Joint Decree of the Ministers of Environment and Agriculture⁶⁵ (hereinafter: “Joint Decree”). Its provisions were later used as a fundamental basis for the creation of the ecological network. The original goal of the Joint Decree is to establish and continuously manage environmentally sensitive areas and support the implementation of environmentally friendly land use/agriculture methods, also with the help of certain financial aids (invested in the given area)⁶⁶. Thus, this was a preliminary step towards creating the ecological network. Based on this legal act rural lands of Hungary were evaluated and measured from an environmental point of view. Ecological connectivity (as a goal or an existing circumstance) is also a reason⁶⁷ upon which the given area might be proposed as an environmentally sensitive area. Anyone (i.e. even private persons) has the right to make a proposal and initiate the establishment process at the relevant national park

60 Decree of the Hungarian Parliament No. 96 of 2009 (XII. 9.) (OJ no. 177 of 2009, p. 44004-44193).

61 Decrees of the Hungarian Parliament are released as guiding acts in which basic principles are prescribed on a given topic and it is asked to the relevant government organs (e.g. the Government itself or the relevant minister) to make the proper steps to fulfil the requirements foreseen by the given decree. For example in the case of the 3rd National Environmental Programme, the Parliament asked to the Government to act. Although a parliament decree is binding for the Government, it may not prescribe obligations for citizens or legal entities. (Operational and organizational rules can also be prescribed by such a decree.)

62 Government Decree No. 21 of 2006 (I.31) (OJ no. 6 of 2006, pp. 699-703).

63 International Union for Conservation of Nature.

64 Sec. 53, Subsec. 5.

65 Joint Decree no. 2 of 2002 (I.23) (OJ no. 9 of 2002, pp. 541-589).

66 Sec. 1 of the Joint Decree.

67 Sec. 3, Subsec. 1, para. b) of the Joint Decree.

directory⁶⁸. Public participation is a regular⁶⁹ part of the process. After public hearings (if any) and detailed investigation - searching for the facts based on which it is reasonable to define the given area as environmentally sensitive, the national park directory forwards the proposal to the ministry in charge of environmental matters. The minister will release the approval/refusal of the request in a single resolution (as environmental/nature conservation authority)⁷⁰.

Another planned ministerial decree, based on the aforementioned section of the NPA, that would have regulated this area in more detail and would have synthesised the existing partial legislative acts, has not been issued yet.

2.2.3 Integration of ecological connectivity in key processes and sectors (See Questionnaire 1.2)

The improvement of national nature conservation legislation, the draft of legal instruments for the conservation of ecological network, the redefinition of maps and the realization of recent steps in sectoral integration concerning ecological networks are presented in this section. In several legal instruments on agro-environmental issues, physical planning, water management and environmental impact assessment there are clear provisions concerning ecological networks. In addition, the planned ministerial decree (para. 2.2.2) on the protection of the ecological network would introduce specific measures for ecological networks and would emphasise not only the exact protection of habitats and ecosystems within the networks, but also the establishment, rehabilitation, and improvement of biological connectivity between them. Beside specific legislation concerning nature conservation, there are other important laws regulating other sectors that directly or indirectly refer to the conservation of ecological networks. Though the initial part of the development of the national ecological network has been successfully completed, there are more tasks to fulfil. Nevertheless, the approval of the draft ministerial decree on the ecological network represents a significant step towards the practical protection of the elements of the network expected to be in place in Hungary⁷¹.

The Government Decree on the Use of Water Environmental Areas, deriving from the NPA, includes a paragraph prescribing that the floodplain shall be considered as an integrated part of the ecological network, regardless of whether the given area is already protected or not. Thus, for this type of wetlands, special rules regarding ecological networks shall be automatically applied. However, according to the EPA⁷² all the provisions foreseen by the Water Framework Directive shall be fulfilled by the 22 December 2015.

2.2.4 Conservation of cultural landscapes and historic sites in national legislation (See Questionnaire 1.2)

As mentioned under para. 2.1.3, the Hungarian nature conservation legal regime regulates 4 types of protected areas: national parks, cultural landscapes, protected natural areas and

68 Sec 4, Subsec. 1 of the Joint Decree.

69 Sec. 4, Subsec. 3 of the Joint Decree.

70 Sec. 6 of the Joint Decree.

71 Progress report on the establishment of the National Ecological Network in Hungary. Edited by the Authority for Nature Conservation, Ministry of Environment, 2002.

72 Sec. 110, Subsec. 2, 3 of the EPA.

historic sites⁷³. The NPA defines⁷⁴ both cultural landscapes and historic sites. Cultural landscapes are large, mainly connected areas with special natural and cultural characteristics in which the interaction between humans and nature has created a particular context from an aesthetical, cultural and natural point of view. Their first mission is to save and protect those cultural and natural values for the future. Historic sites host specially significant and peculiar natural elements, formations and related areas, and they are created for protecting these sites. The same authorities in charge of the environment, nature conservation and water management are responsible for these protected areas and perform specific activities in relation to these sites. On the other hand, the Department for Landscape Protection and Ecotourism – belonging to the Ministry of Rural Development and its Environmental and Nature Conservation Vice Secretary - is in charge of the professional support and concept development⁷⁵.

The relevant authorities are entitled to avoid activities which might endanger cultural landscapes and historic sites or make them compliant with environmental interests (e.g. investments that burden the environment like coal/nuclear power plants, etc.). The Landscape Protection Handbook is regularly (usually every two years) released⁷⁶ to support the activities of relevant authorities as well as the interventions of investors, clients and municipalities.

2.2.5 Land use compatible with biodiversity conservation in national legislation (See Questionnaire 1.2)

The EPA states that the use of the environment⁷⁷ might occur only in a way that does not endanger natural processes, connections and functions of the symbioses and does not harm the biological diversity⁷⁸.

Furthermore, the NPA expressly defines what shall be recognised as ‘sustainable land use’: the use of natural elements in a way and intensity that does not exceed their revitalization abilities, will not lead to decrease biological diversity and maintains the living conditions of current and next generations⁷⁹. According to the basic principles⁸⁰, stated in the NPA, land use might only occur in a way that ensures the maintenance of basic natural systems, their continuous operability and the biological diversity.

Looking at the whole text of the NPA, it appears that the idea of maintaining biological diversity covers each kind of nature protection methods (e.g. process for defining protected areas) mentioned in this act. For example, it prescribes that forestry, fishing and hunting activities might only be performed in a way that avoids harming biological diversity⁸¹.

73 Sec. 28, Subsec. 1 of the NPA.

74 Sec. 28, Subsec. 3, 5 of the NPA.

75 Status: November 2012.

76 The latest issue was released in 2010. Available in Hungarian:
<www.termeszetvedelem.hu/_user/browser/File/Taj/Tajvedelmi_kezikonyv_3_kiadas.pdf>.

77 This phrase refers to the utilization of environmental (i.e. natural) resources (just like land use).

78 Sec. 23, Subsec. 2 of the EPA.

79 Sec. 4, para. m) of the NPA.

80 Sec. 5, Subsec. 2 of the NPA.

81 Sec. 16, Subsec. 1 of the NPA; and also Sec. 34, Subsec. 1 of the Hunting Act.

2.2.6 Ecological forestry management and afforestation in national legislation (See Questionnaire 1.2)

Beside the Constitution⁸², which ensures the protection of forestry areas on the highest legal level, a separate Forestry Act⁸³ regulates all forestry activities. It contains⁸⁴ the *erga omnes* obligation of sustainable forestry management, which includes also the requirement of maintaining the biodiversity of the forests.

There is a single definition for afforestation, which means that this kind of activity shall be concerned also as a legal category. When it comes to a legal proceeding, this enables the courts to protect this activity more efficiently and follow a coherent interpretation. Judicial protection is ensured also by criminal law. The Forestry Act contains exact provisions belonging to the so called ‘frame disposition’ of the Hungarian Criminal Code and based on which a criminal offence could be defined and punished (for details, see table and explanation text under para. 2.2.8).

In the Act it is also stated⁸⁵ that forest use shall not harm the biodiversity of the area and that forests are one of the most important factors ensuring biodiversity on their own. Thus, the Forestry Act’s mission⁸⁶ is to protect forests and ensure a continuous and sustainable development of forestry areas.

2.2.7 Forest management plans (See Questionnaire 1.2)

The Forestry Act prescribes⁸⁷ to issue a ministerial decree on forest management plans⁸⁸, which was released in October 2011. This contains the basic principles guiding the outline and implementation of forest management activities (drafting forestry plans; establishing and amending forestry management procedures; formulating plans on permitted afforestation; drafting forestry (management) plans from a nature conservation point of view; pursuing public interests in forestry management; determining forest restoring deadlines). The aforementioned decree is the first of a long series as all the forest districts of Hungary shall be covered by *ad hoc* acts⁸⁹.

In case of forest areas smaller than a district, the proper forest management planning is ensured through the obligation of reporting to and getting permissions from the relevant⁹⁰.

82 *Supra* note 55.

83 Act No. XXXVII of 2009 on forests, protecting forests and forestry management (hereinafter: Forestry Act) (OJ no. 71 of 2009, pp. 16723-16301).

84 Sec. 2, Subsec. 1 of the Forestry Act.

85 Sec. 69, Subsec. 1 of the Forestry Act.

86 Sec. 1, pt. b) of the Forestry Act.

87 Sec. 30, Subsec. 1, para. a) of the Forestry Act.

88 Decree No. 96 of 2011 (X.17) of the Minister for Rural Development (hereinafter: Forestry Planning Decree) (OJ no. 120 of 2011, pp. 30397-30468).

89 The roadmap is detailed in the Decree No. 11 of 2010 (II.4) of the Ministry for Agriculture and Rural Development on the rules of preparing the decree on forestry planning (OJ no. 13 of 2010, pp. 7207-7286). According to that, the deadline for preparing the rules for all forest districts is the 31 December 2021 (Sec. 2, Subsec 2).

90 Sec. 30, Subsec. 1, para. d) of the Forestry Act.

2.2.8 Illegal harvesting and logging (See Questionnaire 1.2)

There is a two-level system for punishing illegal harvesting and logging. The first level is incorporated in the Act on Minor Offences⁹¹; while the second belongs to the Hungarian Criminal Code⁹².

The current structure is shown in the tables below:

ACT OF MINOR OFFENCES		
Case	Punishment	Relevant authority
<p><i>Offence against someone else's property (i.e. illegal logging/harvesting) - Sec. 177, para. 132</i></p> <p>The offense: Theft, embezzlement, unlawful appropriation, receiving stolen goods.</p> <p>Value limit of the subject the offence is committed on: under HUF 50.000,- (approx. EUR 175,-).</p>	<p><i>1. Confinement</i> (like imprisonment), 1-60 days (in case of recurrent offender max. 90 days)</p> <p><i>2. Fine</i> (could be imposed on the scene as well), HUF 5.000,- – 300.000,- (approx. EUR 17,5 - 1.060,-)</p> <p><i>3. Community service work</i>, 6.180 hours</p> <p><i>4. Confiscation</i> (in certain cases)</p>	<p><i>1.</i> Court (only)</p> <p><i>2.</i> Court, governmental authority, police, authorized officer of the forestry authority, fishery watcher, field watcher, nature protection watcher</p> <p><i>3.</i> Court, governmental authority, police</p> <p><i>4.</i> Court, governmental authority, police</p>
<p><i>Unlawful use of forestry goods (e.g. illegal logging) - Sec. 243, para. 197</i></p>	<p><i>1. Fine</i> (could be imposed on the scene as well), HUF 5.000,- – 300.000,- (approx. EUR 17,5 – 1.060,-)</p> <p><i>2. Community service work</i>, 6-180 hours</p> <p><i>3. Confiscation</i> (in certain cases)</p>	<p><i>1.</i> Court, governmental authority, police, authorized officer of the forestry authority, fishery watcher, field watcher, nature protection watcher</p> <p><i>2.</i> Court, governmental authority, police</p> <p><i>3.</i> Court, governmental authority, police</p>

91 Act No. II of 2012 on Minor Offences (hereinafter MOA) (OJ no. 2 of 2012, pp. 317-379).

92 Act No. IV of 1978 on the Criminal Code (hereinafter: Criminal Code).

CRIMINAL CODE		
Case	Punishment	Relevant authority
<p><i>Damaging the Natural Environment</i>⁹³ - <i>Sec. 281, Subsec. 2-4</i></p> <p>The criminal offence: Any person who unlawfully and significantly alters:</p> <p><i>a)</i> any (proposed) special bird protection area or special nature preservation area designated as such by the European Community scale, or any (proposed) conservation areas of special importance, or</p> <p><i>b)</i> any protected</p> <ol style="list-style-type: none"> 1. natural habitat 2. cave 3. habitat of living organisms shall be punishable. <p><i>The punishment shall be higher, if:</i></p> <p><i>a)</i> the natural damage results in the destruction of the species of living organisms under special protection, or the natural damage reaches an extent where the aggregate value of such destroyed species reaches the highest amount determined by other legislation specific for that species, or if the environmental damage results in the destruction of the specimen of living organisms which are not placed under any degree of protection in Hungary;</p> <p><i>b)</i> the damage done to natural areas results in the irreversible damaging or destruction of any (proposed) special bird protection area or special nature preservation area.</p>	<p><i>1. Max. 3 years imprisonment and/or just community service work</i> (it shall not be imposed together with imprisonment);</p> <p><i>financial penalties</i> (30-540 points/day; 1 point shall be min. HUF 2.500,- max. HUF 200.000,- /approx. EUR 8,75 – 705,-);</p> <p><i>restraint of profession; expulsion</i> (shall not be imposed against Hungarian citizens).</p> <p>Ancillary punishments are: <i>deprivation of civil rights; banishment</i> (might be imposed together with certain other punishments).</p> <p><i>2. Max. 5 years imprisonment and financial penalties; restraint of profession; expulsion</i> (shall not be imposed against Hungarian citizens).</p> <p>Ancillary punishments are: <i>deprivation of civil rights; banishment</i> (might be imposed together with certain other punishments).</p> <p>The latter crime might be committed with negligence as well (<i>Max. 2 years imprisonment</i>).</p>	<p>Only by the <i>Court</i></p>

93 This is a so called ‘frame disposition’ since it states the exact content that should be protected under criminal law, it is foreseen by the Forestry Act (not by the Criminal Code).

In this context, it is worth presenting a case law⁹⁴ example: under a criminal process a person was sentenced to 1 year and 10 months imprisonment (the execution of this judgment was suspended for a 5 years probation time) for theft and causing environmental damages (Sec. 281 of the Criminal Code). The offender committed the crime with cutting down approx. 130m³ of alder trees without permission (damaging natural environment) and taking half of the amount away (theft). This judgement was approved also by the court of third instance. In the justification it is stated that after the criminal offence (i.e. afforestation) invasive species invaded the area, which is dangerous because they might expand to other healthy territories. Therefore, specific human activities were necessary for restoring the damaged area (however, it will take 40 years to reach the original conditions)⁹⁵.

In the case of protected and Natura 2000 areas, the expropriation of a specific zone (in favour of the state or the one who acts on its behalf) might be ordered by the competent authority based on the supporting statement of the competent nature conservation authority. This should not be considered as a punishment under criminal law, but shall be considered as a sanction. It could be applied when – in the lack of expropriation – such activities would occur in the affected area and completely destroy the environment and the nature (Act no. CXXIII of 2007 on expropriation).

2.2.9 Restoring damaged sites and ecosystems (See Questionnaire 1.2)

The EPA⁹⁶ aims at ensuring the restoration of damaged sites and ecosystems. This act contains⁹⁷ the definition of damage restoring activities and, in accordance with the principles of prevention and equitable bearing of burdens, it creates an adequate framework for the assertion of the constitutional right for a healthy environment. It also promotes the reduction of the use, loading and pollution of the environment, the prevention of its impairment, and the reparation and *restoration of the damaged environment*. Based on the justification paper⁹⁸ of the EPA, the obligation of restoring damaged sites shall cover and influence all the provisions of this act even if not expressly incorporated in each paragraph.

The ‘users of the environment’⁹⁹ are under this obligation and they shall provide for the elimination of environmental damages caused by their activities and the restoration of the

94 Among all the case law examples mentioned in the present report, note that regarding the keyword ‘ecological connectivity’ there are altogether 94 anonymised cases under the official central website of the Hungarian courts (<www.birosag.hu>). Plenty of them have just a moderate connection to this topic, since they are mostly civil cases on mortgage and contractual rights and obligations (i.e. ecological connectivity is not the main point of these cases, but is mentioned as background information). However, more than about 50% of these cases arose in the field of environmental administrative and criminal law. Although there is not a wide range of such case law in relation to each aspect discussed in this topic, about 8-10 cases can be found from the last 10-15 years.

95 First instance: case no.1.B.143/2009/22 as of 17.05.2010, City Court of Barcs, <www.birosag.hu>. Second instance: case no. 2.Bf.403/2010/4 as 26.10.2010, County Court of Somogy, <www.birosag.hu>. Third instance: case no. Bhar.II.304/2010/4 as of 01.04.2011, Court of Appeal of Pécs, <www.birosag.hu>. Similar case: no. BH.2009/5.

96 Sec. 1, Subsec. 2, pt. a) of EPA.

97 Sec. 4, pt. 16 of EPA.

98 Justification to the EPA, Sec. 6-12.

99 Sec. 2, Subsec. 1-2 of the EPA, definition:

(1) The scope of the Act shall include: a) living organisms (biotic communities), the abiotic components of the environment and the natural and man-made environment thereof; b) pursuant to the provisions of this Act, the activities that utilize, load, endanger or pollute the environment.

damaged environment¹⁰⁰. Based on the abovementioned justification paper¹⁰¹, these provisions guarantee that damages shall be restored even by successors, if any. Regarding special activities, as mining, the EPA also contains provisions¹⁰² stating that environmental users shall provide for the elimination of environmental damages caused by their activities and the restoration of the damaged environment. The user of an area shall provide for scheduling restoration or development of the area, or for enabling conditions to recycle the area once the activities involving the utilization of land have been completed - and even while the environment is being utilized if thus stipulated by a legal regulation or official decision.

The EPA addresses the enforcement aspect as well. In fact, where environmental damage has occurred, polluters shall: take measures to restore the baseline condition or a similar level as specified in other specific legislation, or take measures to restore, rehabilitate or replace the damaged natural resources and/or impaired services; accept responsibility for the environmental damage they have caused, and cover the costs of prevention and rehabilitation¹⁰³.

With regards to this matter there is an interesting case law example¹⁰⁴ (administrative court procedure): a request was filed in at the relevant authority for permitting to organize a rally competition. The planned route of the rally drove through a moor (which is protected on its own, according to the NPA) and neared a Natura 2000 site as well. Therefore, the authority obligated the organizer to make a damage restoration plan, as the competent natural park directory had stated that the rally cannot be organized without causing any harm to the environment. Despite these circumstances the administrative authority of first instance approved the request (establishing some conditions to fulfil before, during and after the competition). As a consequence, five environmental NGOs (according to the civil participation rights guaranteed by the Aarhus Convention, EC/2003/35, and the EPA Sec. 98, Subsec. 1) appealed against this resolution and then all instances (from the authority to court level) got involved in the case, since the administrative authority of second instance had prohibited the competition. The last instance (Curia, i.e. the Supreme Court) confirmed the latter judgement (i.e. which refused conceding the permission) based on the Habitats Directive and the Natura 2000 Decree.

*State duties*¹⁰⁵, in environmental protection, are: to guide the utilization, preservation, restoration and gradual improvement of the status of the environment as well as to prevent damages and eliminate hazards to the environment.

On the other hand, the following obligations shall belong to the *scope of the administration of environmental protection*: implementing and monitoring the execution of measures and programmes for the protection, improvement and restoration of the environment¹⁰⁶. In details, the administrative body for environmental protection shall order polluters to undertake the preventive and remedial measures laid down in this Act and in other legislation in connection

(2) The scope of the Act shall cover those natural persons, legal entities and unincorporated organizations a) that have rights or responsibilities in relation to the environment as defined under Paragraph a) of Subsection (1); b) that perform activities under Paragraph b) of Subsection (1) (hereinafter referred to as 'user of the environment').

100 Sec. 8, Subsec. 2 of the EPA.

101 Justification to the EPA, Sec. 82-83.

102 Sec. 17, Subsec. 2-3 of the EPA.

103 Sec. 101, Subsec. 2, para. d)-e) of the EPA.

104 Case no. Kfv.IV.37.938/2009/3 as of 22.09.2010, Supreme Court (last instance), <www.birosag.hu/>.

105 Sec. 38, para. b) of the EPA.

106 Sec. 64, Subsec. 1, para. f) of the EPA.

with environmental damages; otherwise, it may undertake the preventive remedial measures itself in connection with environmental damages, or may hire others to do so¹⁰⁷.

Regarding *cross-border relationships*¹⁰⁸: for any threat to the environment and environmental damage that concern any other Member State of the European Union, cooperation must be ensured with the affected Member State in relation to the necessary preventive and remedial measures, and also with a view to supply adequate information. In case environmental damage could affect another country, the Minister shall provide sufficient information to this country on the specific circumstances of the potential environmental damage. The Minister shall report to the European Commission, and to the Member States concerned, the discovery of any environmental damage - by environmental authorities on their areas of competence - that did not originate within the territory of the country, presenting also a proposal for preventive and remedial measures - covering the costs of prevention and rehabilitation.

The environmental fine is one of the most important tools to ensure compliance of environmental users with the above mentioned rules. The fine does not exempt the recipient from criminal liability, misdemeanour liability or liability for damages; nor does it exempt the recipient from the obligation to restrict, suspend or ban the activities and develop adequate protection and restore the natural or previous environment¹⁰⁹.

The NPA reiterates (as stated in the EPA) the authority rights on restoration matters and states that restoration activities with special needs (e.g. in certain bird habitats) shall be ruled by separated government decrees¹¹⁰. According to the Restoration Decree¹¹¹, in the *investigation* and *intervention processes* as well as in the *monitoring phase*, the relevant environmental, nature conservation and water management authority shall ask for the statement of affected environmental and water management directory and national park directory, and also of the National Environmental Institute. The basic principles of this Decree¹¹² foresee that damages shall not spread to other areas and/or environmental sites (including underground); restoration activities shall be carried out with the minimum burden possible on the environment; clearly these activities shall not cause further dangers and damages to the environment.

During the investigation process¹¹³ the level of damages shall be defined and summarised in a closing statement. Depending on the complexity of the case – this phase shall include also an investigation plan (investigation activities shall be carried out accordingly).

The next step is represented by the intervention process¹¹⁴. According to the intervention plan and based on the results of the investigation phase, it shall be defined whether the intervention is needed or not. If this is needed, then, the exact restoration activities, their methods, schedules and deadlines, all the professionally affected parties to be involved in the process (civil participation rights are not relevant), and the possible monitoring activities that shall be carried out during this phase have to be decided.

107 Sec. 102/A, Subsec. 5 of the EPA.

108 Sec. 103/C of the EPA.

109 Sec. 107 of the EPA.

110 Sec. 85, Subsec. 1, para. 10 of the NPA (decrees released only on a case by case basis, directly focusing on the given area).

111 Government Decree no. 91 of 2007 (IV.26) on stating the level [i.e. significance] of environmental damages and on the rules of restoration activities (hereinafter: Restoration Decree) (MK).

112 Sec. 6, Subsec. 4 of the Restoration Decree.

113 Sec. 7, 8 of the Restoration Decree.

114 Sec. 9, 10, 11 of the Restoration Decree.

Finally, the monitoring plan¹¹⁵ – if there is any regarding the given habitat or species – shall contain the relevant provisions of the National Biodiversity Monitoring System, the methods and schedules of monitoring activities, as well as the exact places and dates of control measures and the documentation requirements. Before closing the case, the final monitoring report shall be approved by the authority in charge. Depending on its decision the monitoring phase can be closed or – if necessary – shall go on with modified methods and/or any other intervention.

2.2.10 Illegal construction in national legislation (See Questionnaire 1.2)

Illegal construction is regulated by the Act on Construction Issues¹¹⁶ (hereinafter: COI). Generally, the interests of nature and environment shall be taken into consideration for each construction activity¹¹⁷. Construction activities shall be approved by the authority in charge of these matters. Therefore, in certain cases, the relevant authority shall ask for the statement of the environmental authority as well to release the construction (or destruction) permission. A double level system is in place, since there is a supervisory construction authority that checks whether construction activities have been performed in compliance with legal provisions¹¹⁸. Local construction plans¹¹⁹ should grant legal protection to each settlement and prevent illegal construction. They constitute the framework for releasing construction permissions. However, there could be further burdens on construction activities (separately established by different authorities, like the prohibition of construction or changes) for areas regarded as special environmental/nature conservation places. Prohibitions (except for those on changes) shall be listed in the official land register¹²⁰.

In terms of sanctions, construction authorities might prescribe environmental restoration for any damage caused by construction activities. Illegal construction might also be punished by prescribing the destruction or the realization of certain changes¹²¹. Furthermore, it is possible to impose a ‘construction fine’¹²² against the constructor. However, the fine does not exempt from criminal and damages liability, nor from the environmental obligation to restore the damaged site¹²³. In addition, illegal construction might lead to criminal liability as well (the same as described in para. 2.2.8)¹²⁴.

In a relevant example of case law¹²⁵ (administrative court procedure), illegal construction was sanctioned by the relevant authority and the owner was obliged to demolish the buildings realised without permission. This is an important case in spite of the fact that the neither the administrative resolution nor the court judgement were based on environmental/nature

115 Sec. 12 of the Restoration Decree.

116 Act No. LXXVIII of 1997 on Construction Issues.

117 Sec. 3, Subsec. 1, para. b) and Sec. 31, Subsec. 1, para. c) of the COI.

118 Sec. 46 of the COI.

119 Sec. 13, Sec. 18, Subsec. 1 of the COI.

120 Sec. 20, Subsec. 1, para. b) and Subsec. 4 of the COI.

121 Sec. 47, Subsec 1 (especially para. f) of the COI.

122 There is also another legislative act that contains detailed technical instructions on imposing construction fines. This is the Government Decree No. 245 of 2006 (XII.5) on imposing construction fines (OJ no. 148 of 2006, pp. 11593-11601). The amount of the fine depends on several factors, like the value of the land and the nature of the breach. According to the specific circumstances the building shall be completely destroyed or some changes are necessary to be in compliance with the rules.

123 Sec. 49, Subsec. 3 of the COI.

124 There are no other specific cases on this issue.

125 Case no. Kfv.II.37.709/2010/9 as of 27.04.2011, Supreme Court (last instance), <www.birosag.hu/>.

conservation laws, but referred only to construction laws. This example shows that illegal construction is sanctioned effectively, irrespective of the legal basis quoted in the sentence.

2.2.11 Effective implementation of EIA and SEA procedures (See Questionnaire 1.2)

The EPA contains provisions which are in compliance with the EIA¹²⁶ and SEA¹²⁷ Directives¹²⁸, thus their implementation has been achieved in Hungary (see para. 2.1.1). Moreover, the EPA details environmental impact assessment procedures¹²⁹ under a separate title¹³⁰, which requires the development of such assessment it before starting activities that have or may have a significant impact on the environment. A specific governmental decree lists the exact activities that need to be preceded by an assessment (either based on the legislative act or the decision of the competent authority). The applicant shall present the findings of this assessment in an environmental impact study. The general content and the procedures to develop the aforementioned study are also ensured by a single governmental decree.

This decree¹³¹ contains annexes¹³² listing all the projects that obligatory fall under the scope of an environmental impact assessment procedure (e.g. oil fermentation plant, nuclear waste management plant, complex chemical industries, coal/nuclear power plant - over a certain size, mentioned in the decree, intensive stockbreeding ranches utilizing a forestry area). Furthermore, it also defines the legal frameworks of decision-making, giving to the authority the right to decide - during a preliminary investigation procedure - whether the assessment is necessary or not in certain projects (e.g. coal mines) which do not fall under annex 1.

This case law¹³³ example (administrative court procedure) shows that authorities might make mistakes during the decision making process. The relevant authority refused to give permission for a highway construction, because, according to its justification, it affects Natura 2000 sites and would appear as a so called 'negative ecological (green) corridor'. However, the authority did not consider whether high level public interests could justify such a permission. The authority omitted to ask to the European Council about the acceptability of these high level public interests (according to the Natura 2000 Decree), thus its resolution was not compliant with the current legal rules. For this reason the Supreme Court (Curia) approved the resolution of the administrative authority of second instance and the judgement of the court of first instance that obliged the administrative authority of first instance to repeat its process and – in line with present legal rules – release its decision again.

126 Council Directive 85/337/EC of June 1985 – amended by Council Directive 97/11/EC and Directive 2003/35/EC of the European Parliament and of the Council – on the assessment of certain public and private projects on the environment.

127 Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programs on the environment.

128 Sec. 111, para. a) and f) of the EPA.

129 In force as of 1 January 2006.

130 Sec. 68, 69 of the EPA.

131 Government Decree no. 314 of 2005 (XII.25) on environmental impact procedures (hereinafter: EIA Decree) (OJ no. 168 of 2006, pp. 11089-11121).

132 Annexes no. 1, 3, 5 of the EIA Decree.

133 Case no. Kfv.II.37.997/2010/8 as of 15.06.2011, Supreme Court (currently, Curia), <www.birosag.hu/>.

2.2.12 Public participation in EIA and SEA procedures (See Questionnaire 1.2)

Since the EPA¹³⁴ and indirectly the EIA Decree contain provisions that are in compliance with the directives 2003/35/EC and 2003/4/EC, public participation shall be ensured. This obligation derives from the Hungarian membership to the Aarhus Convention as well¹³⁵. The affected public is entitled to receive information and access the documentation within 8 days after their availability¹³⁶. Furthermore, a public hearing shall be held in the affected local community in order to discuss the remarks and opinions of the people presented as public comments before the beginning of the hearing at the latest. The minutes of the hearing shall be public as well. The competent authority shall effectively examine the remarks and take them into account when issuing its resolution. This obligation is ensured by the EIA Decree in foreseeing that the authority shall detail the results of the evaluation of public remarks, explain the reasons of their acceptance or refusal and the possible legal consequences¹³⁷. The EIA Decree regulates also the united environmental land use approval procedure¹³⁸. This is a complex procedure in which all aspects - not just environmental - of an investment or another activity shall be taken into account and its final resolution will contain a permission or a refusal to perform the whole activity. This is not only an investigation (as the assessment process), but also an approval/refusal procedure. In this context, public participation has more detailed rules, although the public is only entitled to participate when discussing new projects and when the quality or quantity of pollution changes significantly (based on either the decision of the environmental user or on the exact pollution data)¹³⁹. In a relevant case law example¹⁴⁰, the latest Supreme Court (Curia) decision, on public participation and access to justice in environmental matters, clarified that NGOs do not have legal standing, except for cases in which environmental or nature conservation authorities are competent. This regardless of the environmental or nature conservation relevance that the given case might have. Even if Hungary is not a case law country, the Supreme Court is constitutionally entitled to release guidelines that standardise the contradictory practice of lower courts.

2.2.13 Ecotourism in national legislation (See Questionnaire 1.2)

The Hungarian legislation on tourism is split into several different regulations¹⁴¹ which makes harder to find and follow them. However, according to the plans of the Ministry for Rural Development, a new tourism act¹⁴² shall come into force in 2013. This act will cover all the main aspects of tourism and settle the legal basis for this topic.

134 Sec. 111, para. a) and h) of the EPA.

135 For the evaluation, how efficient and properly implemented these provisions are, see under para. 3.

136 Sec. 8, Subsec. 5, 6 of the EIA Decree.

137 Sec. 9, 10 of the EIA Decree.

138 Sec. 17-25 of the EIA Decree.

139 Sec. 21 of the EIA Decree.

140 Case no. KJE 4/2010 of 20.09.2010, Supreme Court (i.e. Curia), HOJ No. 162 p. 23420, <www.lb.hu/hu/joghat/42010-szamu-kje-hatarozat>.

141 Such as the Government Decree No. 110 of 1997 (VI.25) on accommodations services.

142 The draft can be downloaded in Hungarian under: <www.szallasminisites.eu/wp-content/uploads/2011/12/torvenytervezet-a-turizmusrol.pdf>. Currently it is under social discussion. Many NGOs have already made their comments, but unfortunately there are no final results so far (status: November 2012).

Although ecotourism is ensured by the current legislation, it mainly deals with technical instructions. Thus, the different types of accommodation (i.e. private or commercial) and service levels (1-4 sunflower-signs) are not described from an environmental/nature conversation point of view¹⁴³.

The draft of the new tourism act defines ecotourism¹⁴⁴ as such kind of travel and visit aimed at discovering environmental values and areas. All these activities are carried out considering the environmental liability and decreasing the possible harms caused by visitors together with the goal of pursuing social and economical benefits for local communities. However, the aforementioned draft does not contain other provisions regarding ecotourism and does not change the current situation: although ecotourism is not restricted by the law, but there is a lack of exact environmental rules on this matter.

2.3 Hunting

2.3.1 Hunting laws, their exemptions and bans on hunting for specific species (See Questionnaire 1.2)

According to the unitary model of the state (*supra* para. 1.1), hunting laws are approved at the state level (i.e. by the Hungarian Parliament, the Government or by the authorized ministry). Therefore, when municipalities (more precisely their relevant organs) shall decide on hunting matters, the framework of their decision-making process is obligatory foreseen by national laws and they are able to act and make possible exemptions only within it. Thus, they do not issue a real legislative act, rather an act of execution of national laws.

Notwithstanding basic environmental/nature conservation laws (i.e. EPA and NPA) contain principles applicable to hunting matters as well, there are two specific national legislative acts: the 'Hunting Act'¹⁴⁵ and the 'Hunting Execution Decree'¹⁴⁶.

143 More *technical* information in English under <www.ecoroute.eu/reports/reviews/WP2_Hungary.pdf> (partly not actual anymore).

144 Sec. 3, para. 11 of the Draft Tourism Act.

145 Act No. LV of 1996 on the game conservation, game management, and hunting (hereinafter: Hunting Act).

146 Decree of the Minister for Rural Development No. 79 of 2004 (V.4) on rules executing the Hunting Act (OJ no. 62 of 2004, pp. 6453-6513).

EPA	NPA
<p>Sec. 3, Subsec. 1, para. k)</p> <p>In harmony with the provisions of this act, other specific legislation shall contain rules, in particular, on game/wildlife management.</p>	<p>Sec. 7, Subsec. 2, para. g)</p> <p>Transport routes shall be constructed considering wildlife corridors and not disturbing them.</p>
	<p>Sec. 8-14</p> <p>General rules on the conservation of wildlife:</p> <ul style="list-style-type: none"> - wild flora and fauna shall be always conserved and protected together with their habitats; - conserving biological diversity shall be constantly pursued; - hunting rights -i.e. for hunters- shall be exercised in a sustainable way; - it is prohibited to introduce non native species.

The Hunting Act prescribes how hunting rights shall be granted and used by the entitled ones, how to create hunting areas, and exact rules on the conservation of wildlife and their habitats. According to these, hunting rights have an economic value (their use could bring benefits to the owners) and are connected to land property, as they are inseparable from land owner rights¹⁴⁷. Hunting areas shall be created upon the request of the owner of the land and, during the relevant administrative process, ecological interests shall be considered¹⁴⁸. Hunting areas must have an extension of minimum 3000 ha. The aforementioned Act lists and details the protection methods, like prohibited hunting practices (e.g. with poison, mass killing, etc.), prohibited tools, closed seasons and hunting areas. These provisions are in full accordance with the Birds Directive and the FFH Directive. Furthermore, the person possessing hunting right is obliged to maintain the level of wildlife biological diversity on the owned area¹⁴⁹. Each hunting area should have a yearly and a long-term (10 years) wildlife management plan as well as a long-term (10 years) plan on the economical use of hunting rights. These plans shall be drafted by professionals of this sector (mentioned in the act) and approved by the hunting authority¹⁵⁰. In addition, the Act includes liability rules¹⁵¹ for damages caused by wild animals and all related matters. It also contains two different kinds of fine: the wildlife management and the wildlife protection fine¹⁵². The former could be imposed on management units not compliant with the law (e.g. which not provide statistical data on game populations

147 Sec. 3, Subsec. 1 of the Hunting Act.
 148 Sec. 19, Subsec. 2, para. c) of the Hunting Act.
 149 Sec. 30, 34, 37 of the Hunting Act.
 150 Sec. 40-47 of the Hunting Act.
 151 Art. V. of the Hunting Act.
 152 Sec. 83-84 of the Hunting Act.

and harvested animals in the given hunting area to the authority), and the latter is given to individual hunters for breaching hunting laws (e.g. hunting with prohibited tools and methods, or in prohibited times). The minimum amount of a wildlife management fine is HUF 10.000,- (approx. EUR 35,-) and the maximum amount is up to HUF 2.000.000,- (approx. EUR 7.000,-). The minimum amount of a wildlife protection fine is HUF 10.000,- (approx. EUR 35,-) and the maximum amount is up to HUF 1.000.000,- (approx. EUR 3.500,-). Both types of fine could be imposed multiple times in the same case.

The Hunting Execution Decree contains the most detailed rules on hunting matters. Its structure reflects that of the Hunting Act. This decree establishes bans on hunting certain animals. Among those listed in the Questionnaire¹⁵³, only the European Hare¹⁵⁴ (*Lepus europaeus*, Pallas) and the Chamois (*Rupicapra rupicapra*, L.) can be hunted. However, there are specific restrictions: in the case of the hare it is prescribed how and when they can be hunted (shooting is only permitted on running animals; the hunting period goes from 1 October to 31 December). Furthermore, the number of the animals shall be checked *ex officio* by the hunting authority according to the yearly wildlife management plan. In the case of the chamois, there is no time restriction, but two sub-species (i.e. *R. r. tartica* and *R. r. balcanica*) cannot be hunted¹⁵⁵.

Hunting laws shall be always in compliance with the Birds Directive, in accordance with the obligation contained in the Hunting Act¹⁵⁶.

2.4 Cross-border cooperation

2.4.1 Cross-border cooperation in bordering Protected Areas (See Questionnaire 1.2)

Hungary joined¹⁵⁷ the Madrid Convention¹⁵⁸ in 1992 and, as EU-member, has already implemented¹⁵⁹ the so called EGTC¹⁶⁰ as well. After ratifying the Madrid Convention, Hungary started cooperating in EU programmes for non-EU countries and finally – parallelly with joining the EU in 2004 – it carried out the legal harmonisation process, through which the EGTC Regulation was also implemented in the national legal system.

Both of the Madrid Convention Protocols (1995 and 1998) were approved, however, the effective implementations presented some difficulties. The main problem was represented by the different authorities existing in the given countries; this forced territorial communities to conclude extra agreements (i.e. others than the Convention) and step into a long negotiation process. Based on these circumstances, many territorial communities did not use the benefits of a cross-border cooperation.

153 European Lynx (*Lynx lynx* L.), Brown Bear (*Ursus arctos*, 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).

154 Sec. 1, Subsec. 1, para. b) 1 of the Hunting Execution Decree.

155 Sec. 1, Subsec. 1, para. a) 8 of the Hunting Execution Decree.

156 Sec. 101, para. a) of the Hunting Act.

157 The Frame Convention was ratified by Hungary on 6 April 1992 and implemented in the legal system with the Act No. XXIV of 1997.

158 Frame Convention of 21 May 1980 on Cross-border cooperation of Municipalities and Administrative Authorities, Madrid.

159 Act No. XCIX of 2007 on the EGTC (hereinafter: EGTC Act).

160 Regulation of the European Council and the European Parliament No. 1082/2006 on European Grouping of Territorial Cooperation.

According to the EGTC Act¹⁶¹, cooperation agreements need the approval of the competent authority appointed by a ministerial decree. In Hungary this is the National Development Agency. The cooperation shall be also registered by the exclusively authorized County Court of Budapest; from the legal point of view, this registration is essential for establishing the cooperation¹⁶². The registration cannot be refused if the request comply with the requirements of the EGTC Regulation and the EGTC Act and all the members have the proper approval (as foreseen in Sec. 4, Subsec. 3 of the EGTC Regulation)¹⁶³.

It is worth mentioning two cross-border programmes under this point:



A.) Within the framework of the **Hungary-Romania Cross-border Cooperation Programme 2007-2013**¹⁶⁴, the European Union ensures further assistance in territorial co-operation on the border area between Hungary and Romania, continuing the previous INTERREG III.A. and Phare CBC 2004-2006 Community initiatives.

The innovations of this programming period are:

- An improved legal basis (specific provisions for cooperation, leading partner principle, EGTC, no mirror or individual projects);
- A different geographical area (Hungary-Romania internal border area - Romania joined the European Union at the beginning of the programme period);
- A clear focus on the Lisbon and Göteborg strategies: more emphasis on competitiveness and environment;
- A Joint European (ERDF) and national funding;
- A new financing logic: in some cases up to 85% EU co-financing for all regions plus 10-13% national co-financing – only 2-5% own contribution.

161 Sec. 4, Subsec. 1 of the EGTC Act.

162 Sec. 5, Subsec. 1 of the EGTC Act.

163 Sec. 5, Subsec. 7 of the EGTC Act.

164 Homepage of the cooperation: <huro-cbc.eu/en/>.

The **general objective** of the programme is to bring the different actors – people, economic actors and communities – closer to each other. The programme offers a wide range of opportunities for cooperation through two priority axis and a large number of key areas of interventions.

Priority 1 pursues the improvement of key conditions for the joint and **sustainable development** of the cooperation area (improvement of cross-border transport, communication and **environmental protection**). The funds allocated to this Priority axis will be used to improve the key conditions of joint development in the cooperation area. Besides others, it includes interventions aimed at **preventing and protecting the relative pure natural environment**, this is the essential condition of any kind of human operation.

Focusing on the **key area of intervention 1.3 ‘Protection of the environment’**¹⁶⁵, its specific goals are:

1.3.1 Protection of nature and natural values: harmonisation of regulations, environmental friendly land exploitation, etc. - Project examples: (1) Cross-border action for nature protection, reg. no. HURO/0801/097; main goal: providing information to local communities on the benefits and existence of ecological networks; status: finalised in November 2010¹⁶⁶. (2) Creation of the Nature and Environment Protection Information Centre, reg. no. HURO/0802/054_AF, status: finalised in June 2012; main goals: sustainable development based on environmental protection aspects and conservation of natural values. The concerned areas (the Upper Tisza River, the area along the Tur River, Szatmár-Bereg, Szamosát and Érmellék) represent unique values; these are mainly protected and/or landscape protection areas, decisive in the lives of Szabolcs-Szatmár-Bereg and Satu Mare counties¹⁶⁷.)

1.3.2 Water management: rehabilitation of river basins, wetland fields, etc. (project example: Lakes and parklands along the border, revitalization of Szamos dead channels, reg. no. HURO/0802/001_AF, status: finalised in December 2012)

1.3.3 Reducing pollution and waste management: rehabilitation of sites, selective waste collection, exchange of good practices, etc. (project example: EcoNet. Developing the environment cross-border infrastructure in order to respect the EU’s environment laws, reg. no. HURO/0802/081_AF, status: finalised in December 2012)

1.3.4 Preparation of studies and plans (project example: Partnership for Implementing Sustainable Solutions - Joint Handling and Protecting of the Cross-Border Environment, reg. no. HURO/1001/206/1.3.4, status: in progress, end date: April 2013).

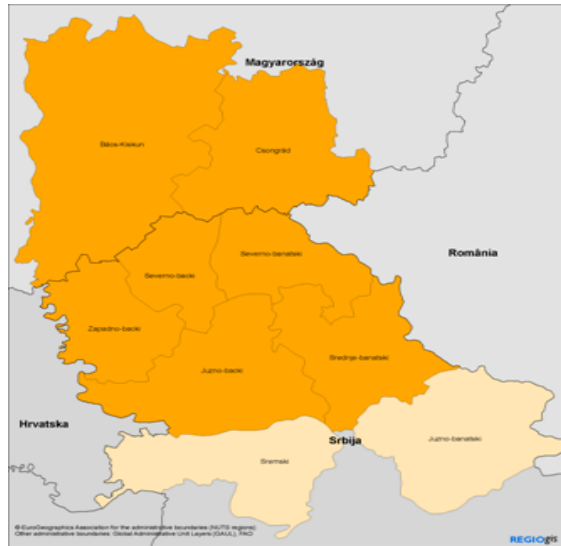
Priority 2 focuses on strengthening social and economic cohesion of the border area through cooperating in the fields of business, RTD, education, labour market, health care and risk management.

The eligible programme/border area covers the South-Eastern and Eastern part of Hungary and the North-Western and Western part of Romania. It consists of four neighbouring counties in Hungary and in Romania.

165 There are several (both finalized and still ongoing) projects under this title, For their current status: <www.huro-cbc.eu/en/financed_projects>.

166 <www.huro-green.eu>.

167 <www.huro-cbc.eu/en/project_info/879>.



B.) The 'Hungary-Serbia' IPA Cross-border Cooperation Programme 2007-2013¹⁶⁸

is receiving Community assistance through the cross-border cooperation component of the Instrument for Pre-Accession Assistance (IPA)¹⁶⁹.

Its overall aim is to create a harmonious region based on cooperation and a sustainable and secure environment. This global objective has been divided into five specific objectives by the participating countries. These are:

- Reducing isolation in border areas by improving cross-border accessibility;
- Supporting environmental sustainability and safety in the border zone;
- Creating economic synergies and cooperation;
- Managing the common cultural heritage with a view to promoting cultural values, traditions and tourism development;
- Strengthening cultural, educational and research interactions.

In order to achieve its objectives, the programme works on two main thematic priorities, with a third priority dedicated to 'technical assistance'. The Hungary-Serbia IPA Cross-border Cooperation Programme 2007-2013 is subdivided into the following priorities:

Priority 1 focuses on infrastructure and environment¹⁷⁰ [approximately 52% of total funding].

168 Homepage of the programme: ec.europa.eu/regional_policy/country/prordn/details_new.cfm?gv_PAY=HU&gv_reg=ALL&gv_PGM=1351&LAN=7&gv_per=2&gv_defl=7#prior.

169 Several programmes have been developed within this cooperation framework, their current status can be downloaded under: ec.europa.eu/regional_policy/projects/stories/search.cfm?LAN=en&PAY=HU&the=ALL&type=ALL®ion=1670.

170 Currently there are two environmental projects:

1. 'Working with the neighbours to prevent flooding' Csongrád, Hungary – Južnobački, Serbia. Water authorities in Hungary and Serbia started a new assessment of the River Tisza in order to improve river management and flood protection. In English

under: ec.europa.eu/regional_policy/projects/stories/details_new.cfm?LAN=7&pay=HU&the=72&sto=2582®ion=1670&obj=ALL&per=ALL&defl=en&lang=7.

2. 'Green energy for the hospital of Szeged. Reconstruction of the energy system in the building.' Think globally, act locally: The City of Szeged is dealing with global warming by taking a fresh look at the energy system for its public hospital. In English)

The aim of this priority is to reinforce physical links between the two sides of the border to reduce the level of isolation within the area. It also aims at apportioning equal responsibility for improving the management of environmental heritage and waterways located within the border region. This priority also supports infrastructure, environmental and water management development in the border region.

Priority 2 deals with economic, educational and cultural objectives [approximately 38% of total funding].

It is directed at supporting interactions between actors from both sides of the border as a means to enhance competitiveness, facilitate economic growth and create jobs. It also supports Research, Development and Innovation (RD&I) efforts on the part of research institutions and business partners acting within a cooperative framework, and at interactions between educational, research and cultural institutions in order to create a common educational and cultural space. Assistance is granted to municipalities and non-governmental organisations that are willing to cooperate on forging a common regional identity.

Priority 3 is dedicated to technical assistance [approximately 10% of total funding].

This priority intends to contribute to effective implementation in order to increase the overall project quality. It supports activities in connection with the preparation, selection and evaluation of projects.

2.5 The implementation of the Carpathian Convention and its Protocols in Hungary (See Questionnaire 1.2)

Hungary has signed the Carpathian Convention as well as the three Protocols, i.e. Biodiversity¹⁷¹, Forest¹⁷², Tourism¹⁷³ Protocols¹⁷⁴. The Convention itself was adopted by a Governmental Decree¹⁷⁵ in 2005, so it became part of the national legal system. The Ministry for Rural Development in charge for the Carpathian Convention implementation at governmental level. From a territorial point of view, the Carpathian Convention affects directly three national parks in Hungary: the Danube-Ipoly, the Bükk and the Aggtelek.

Some specific impacts of the Carpathian Convention on the Hungarian system may be identified with regard to the following sectors/themes:

- **Biodiversity:** Within the framework of the Convention, the Carpathian Network of Protected Areas and the Carpathian Wetland Initiative represent two important tools for the conservation and sustainable use of biodiversity in Hungary. These are supplemented by the National Biodiversity-monitoring System¹⁷⁶.

- **Tourism:** in 2012 the Hungarian Government issued a Governmental Decree on the Tourism Protocol. With this legislation act Hungary was the fourth Member State fulfilling the requirements of adoption. In September 2013 a conference¹⁷⁷ was held for preparing documents for the practical implementation of the Tourism Protocol that entered into force on

<ec.europa.eu/regional_policy/projects/stories/details_new.cfm?LAN=7&pay=HU&the=72&sto=1520®ion=1670&obj=ALL&per=ALL&defL=en&lang=7>.

171 Governmental Decree No. 281 of 2009 (XII. 11.).

172 Governmental Decree No. 195 of 2013 (VI. 12.).

173 Governmental Decree No. 171 of 2012 (VII. 26.).

174 <www.carpathianconvention.org/status-of-signature-and-ratification.html>.

175 Governmental Decree No. 306 of 2005 (XII. 25.).

176 <www.termeszetvedelem.hu/nbmr>.

177 06.09.2013, Gömörszőlős, Hungary.

29 April 2013. The nature protection governance and the national park directories have been cooperating to develop the ecotourism activities of the national parks. This cooperation is based on the main objectives (e.g. cross-border cooperation, supporting conservation of biodiversity and ensuring the sustainable land use, etc.) pursued by the Protocol on Sustainable Tourism to the Carpathian Convention.

- **Water and River Basins:** to this regard, the most important initiative under the Carpathian Convention auspices is the ‘Integrated Tisza River Basin Management Plan’¹⁷⁸. Its importance is based on the fact that 50 per cent of the whole Hungarian territory belongs to the watershed of the Tisza River. The Tisza River Basin is also an important European resource and the total extension of protected areas in the Tisza River Basin is 38,223 km², corresponding to about a quarter of the total protected area in the Danube River Basin District. As the Tisza River concerns different countries (both EU and not EU Member States) international cooperation is essential. Since all these countries are Parties to the Carpathian Convention, the latter is playing an important role to promote cooperation projects in the area.

¹⁷⁸ Source:

http://www.carpathianconvention.org/tl_files/carpathiancon/Downloads/02%20Activities/2.1.9%20Tisza%20River%20Management%20Plan-%20Jan%202011.pdf.

SECTION II: PILOT AREA

The Duna Ipoly National Park/Poiplic Ramsar Site (Hungary - Slovakia) (See Questionnaire 3.2)

The mission¹⁷⁹ of the Hungary – Slovakia Cross-border Cooperation Programme improve the integration of the Hungarian-Slovakian border area from an economical, human, environmental and transport point of view. The Hungarian Duna (Danube) – Ipoly National Park lays in this area, thus, all projects might affect the national park on the Hungarian side as well as the Poiplic Ramsar Site located in Slovakia.

For example in the *“Bird protection and research activities without borders” projects*¹⁸⁰, a GPS tool has been put on 11 white storks in order to keep track of their moving ways, such information are publicly accessible on the Internet.

There are several co-operation programmes between the two bordering countries. One of them took place in the autumn of 2011 and was organised by two NGOs (the Slovakian ‘Umbra Association’ and the Hungarian ‘Tavirózsa Association’). Thanks to their initiative and partly to the funds of the Hungarian National Civil Basic Programme¹⁸¹, multiple seminars were held on endangered fish species in the area¹⁸².

The Danube-Ipoly National Park is the ninth national park of Hungary. It was established in 1997 and has an extension of 60314 hectares, including the Pilis, Visegrád and Börzsöny Hills, the undisturbed sections of the Ipoly Valley as well as parts of the Szentendre Island. The rock-bed of the Pilis Hills stretching from Esztergom to Budapest is made up of limestone and dolomite. Because of the basic characteristics of the limestone karst formation, the hills are exceptionally rich in caves. Therefore, it is not surprising that most of the caves of the National Park can be found in the Pilis Hills.

Based on the basic principle contained in the international agreement¹⁸³, concluded between Slovakia and Hungary, and thanks to the proactive Hungarian legislation¹⁸⁴, the projects of the Programme can be performed properly. The Parties¹⁸⁵ have to cooperate especially in ‘taking care of protected areas, like Duna-Ipoly National Park – Burda (Ipoly Landscape)’ and ‘joining the Pan-European ecological network and creating the national network pieces’, ‘ensuring special protection for endangered species (flora, fauna), mines/caves and karst formations’, ‘ensuring the sustainable use of natural resources’, etc. Further legislation mainly focuses on financial issues (for environmental/nature conservation issues general - . not special - rules shall be applied), since the acts on tax, VAT, accountancy and public procurement have been modified. Special decrees have also been issued, like the ÖTM

179 <www.husk-cbc.eu/>.

180 In Hungarian: <www.mme.hu/component/content/article/15-legfrissebb-hirek/2019-jelados-feher-golyaink-szi-vonulasa.html>.

181 This is definitely not an environmental or nature conservation programme, rather it is entitled to support any kind of civil initiatives meeting the requirements.

182 For more details in Hungarian visit <www.tavirozsa-egyesulet.hu/index.php/component/content/article/34-cikkek/113-szlovak-magyar-termeszetvedelmi-egyuttmukodes-veresegyhazon>.

183 International agreement no. 17 of 1999 on the Cooperation between the governments of the Slovakian and the Hungarian Republic in the field of environmental and nature conservation matters, initiated by the Minister for Environment (hereinafter: IA). Undersigned in Bratislava as of 12.02.1999.

184 <www.husk-cbc.eu/hu/letoltes>.

185 Art. 2, para. 7 of the IA.

Decree no. 34 of 2007 (XI.17) on appointing the Hungarian organ in charge of ensuring the implementation of relevant projects; the Government Decree no. 49 of 2007 (III.26) on the Hungarian institutions using financial supports during the time-frame 2007-2013; the Government Decree no. 37 of 2011 (III.22) on competition issues. Furthermore, there are several basic documents like manuals (Project Implementation Handbook, Visibility guide for projects) or operational programme documents.

For example, a project financed within the Programme in the area of the Duna-Ipoly National Park/Poiplyie Ramsar Site¹⁸⁶ is dedicated to the reconstruction of the show-room and the surrounding park of the Cave of Szemlő-hegy in Budapest. Its main goal was to provide information on the cave to the public in a proper surrounding (i.e. developing tourism facilities).

In connection with tourism issues, there is a sub-programme¹⁸⁷ (not under the *Pilot Project 1 'Dunakanyar (SK-HU) - Cross-border Partnership via Tourism after Schengen'* acting on *DATOURWAY Co-operation Project No. SEE/A653/4.2/X Transnational Strategy for the Sustainable Territorial Development of the Danube Area with special regard to Tourism*) called 'Promoting sustainable tourism along the Lower Ipoly/Ipel', which – among others – takes into account environmental aspects. Ecological tourism, which is based on the values and treasures of the rural and natural environment, can easily be developed as a distinct branch of tourism in its own right. Implementation actions include: creating an ecotourism region in the Börzsöny and Ipoly/Ipel Valley Area, creating and developing the conditions of environmentally sustainable forms of active tourism, strengthening the environmental awareness of young people, launching environmental education programmes, promoting the dissemination of extensive and ecological farming.

Within this programme the most important relevant initiations and priorities are (focusing on developing tourism facilities though):

Priority No 3: Strengthening the *environmental* and infrastructural background of tourism

- *Specific Objective No 3.1*: Developing a **natural and architectural environment** that attracts tourists;

- *Specific Objective No 3.2*: Developing **transport** links;

- *Specific Objective No 3.3*: Strengthening **environmental protection** and asset protection;

Action 3.1.2: Promoting the dissemination of extensive and ecological farming

Increasing the number of farms involved in and meeting the criteria of ecological farming and extending the surface area they cultivate [...].

Action 3.1.3: Creating a landscape environment that is appealing to tourists

Creating a mosaic-type landscape; decreasing the average plot size; increasing the ratio of natural and almost-natural areas; improving the diversity of the plantation regime and of the product structure.

Action 3.1.4: Protecting natural values

Preserving the natural values that currently exist at the level of habitats and that represent the fundamental attraction of the area; increasing the ratio of areas representing a natural value at the level of habitats; preserving the species that represent a natural value by preserving their habitats; [...] preserving the landscape of the areas along the River Ipoly/Ipel'.

186 Source in Hungarian under: <www.dinpi.hu/?pg=menu_1271>.

187 Source in English under: <www.datourway.eu/documents/88-701-9561-dat_promoting_tourism_ipel_pip1_final.pdf>. Here forestry, mining, agriculture aspects can also be found in details.

Action 3.2.1: Creating new transportation links

Expanding physical connections between the settlements that aim at cooperation within the field of tourism; reconstructing the former Ipoly/Ipeľ Valley railway line.

Action 3.2.2: Comprehensive, harmonised community transportation development across the area

Creating a network of bus services that is denser than the current system and that offers transportation to more destinations, helps tourists reaching the Lower Ipoly/Ipeľ Area but also improves the living conditions of the Hungarian settlements locked in between the Börzsöny Mountains and the River Ipoly/Ipeľ while also creating opportunities for employment and education.

Action 3.3.4: Joint action against any behaviour or incident that damages the environment receiving tourists

Protecting the settlement and the natural environment against any material and immaterial damage that threatens the natural services of the general environment receiving tourism or the infrastructure created for this purpose, or that create a negative impression or unpleasant feelings in locals and tourists alike.

Acting against damage or incidents including any damage to the infrastructure of tourism and to the flora and fauna, preventing illegal waste dumping within the settlements and within the natural environment across the project area and acting against motorised and unauthorised forms of extreme tourism within the protected natural environment.

A) Forestry matters:

- Forest management

Most of the forests are found in the Börzsöny and Burda Mountains. In the Hungarian settlements, the areas under forest management amount to 21,875 ha in forestry; in the Slovakian part of the region, this land use category covers 2,976 ha. In the Hungarian part of the area, most (77%) of the forests are categorised as forests located within areas under nature protection; these form part of the Danube–Ipoly/Ipeľ National Park. The percentage of forests used for timber production is as low as 9%; these are found mostly in the outskirts of the Börzsöny Mountains and in the Ipoly/Ipeľ Valley. The Börzsöny Mountains are covered with a contiguous, homogenous forest. In the Slovakian part of the area, managed forests dominate the wooded landscape: 75% of the total forest area is in this category. The ratio of protected forests is only 10%, with another 15% serving special purposes.

- Forest management companies

Ipoly Erdő Zrt. is the main forest management company of the area. Its role is ambiguous in the context of tourism. On the one hand, the company is an active participant in shaping the area's infrastructure development and investment programmes (mostly as far as forest schools are concerned). On the other hand, its economic activities and methods have a negative effect on visitors' hiking experience in certain areas (increased environmental load during periods of timber transportation).

B) Agriculture matters

Agriculture still plays a significant role along the Lower Ipoly/Ipeľ. In the settlements along the left bank of the river, fruit production goes back to a long history, especially as far as the production and processing of berries (raspberries, red currants) is concerned.

C) Other co-operation projects¹⁸⁸

Nature conservation information guide on wetlands of the Danube and the Ipoly river; creating a transboundary Natura 2000 monitoring system

Registration no.: HUSKUA0501/252/I/2.2/HU

This project intends to map the wetlands of the Duna Ipoly National Park. To achieve this goal experts use several kind of special tools (e.g. fishing machines). As a result of these activities, a unified database on the flora and fauna inhabiting this area has been established. Cooperating partners have already also drafted an information guide on the two new education pathways not in the Hungarian and Slovakian languages.

Developing ecotourist information points along the Danube

Registration no.: HUSKUA 0502/391/I/2.2/HU

This project pursue multiple goals, like reconstructing the Tourist Information Centre in the Sas-Hill, making an interactive nature conservation exhibition centre, cleaning the education pathways in the area, releasing information guides in Hungarian and in Slovakian and also drafting an environmental education model programme. As results of the project a teacher was hired to fulfill the abovementioned goals of the above mentioned and the information centre can be visited continuously. Moreover, conference on the nature conservation monitoring of the area was held and its results were uploaded on the homepage of the National Park.

D) Case law – practice of the nature protection watchers as of 2011¹⁸⁹

Number of fines imposed by the watchers right on the spot		21
Number of criminal requests at the authorities (e.g. police)	because of damaging the nature	1
	because of theft	5

188 In: 'Without borders. Developments done within the Co-operation Programme of the Bordering Countries of Hungary, Slovakia and Ukraine, 2004-2006.' Source in Hungarian under: <www.vati.hu/files/articleUploads/12754/huskua_hun.pdf>.

189 In: Report on the activities of the Duna-Ipoly National Park Directory in 2011. Source in Hungarian under: <dinp.nemzetipark.gov.hu/_user/browser/File/DINPI_eves_jel_2011.pdf>.

CONCLUSIONS

The main legislative strengths and weaknesses with regard to biodiversity and ecological connectivity in Hungary might be summarised as follows.

The fact that there is not a separated ministry for environmental and nature conservation matters may significantly affect how these matters are managed at the state level. Environmental and nature conservation interests require a special knowledge and management and should not be dealt with as minor components of other sectoral interests. If, for example, energy and environment matters (with possible lobby interests and power, which environmental NGOs or civil stakeholders hardly have) are managed in the same ministry, that might cause problems with representing environmental interests properly.

Furthermore, there is the absence of an adequate legal ruling in connection with the seemingly neglected rights of foreign NGOs. It is especially true in Hungary that there is a need for environmental legal professionals and higher incomes for NGOs, because here environmental jurisdiction and environmental NGOs do not have a long tradition in the community and as much experience as those in Western Europe.

In addition, as explained, Hungarian laws do not contain exact provisions on the ‘necessary protection level’ prescribed for Natura 2000 sites in the EIA Directive. Due to this, the efficient protection of these areas is not ensured from each point of view.

According to an official country report¹⁹⁰ on the implementation of the Natura 2000 obligations, the governance and cost-efficiency requirements are just at a moderate level in Hungary, since the growing number of Natura 2000 tasks and the completion of an increasing number of legal obligations were accompanied neither by capacity enhancement in the Ministry of Environment and Water nor by the institutions supervised by the Ministry.

The main conflicts were due to capacity shortages in state nature conservation, as well as to deficiencies in the authorities’ licensing activities. Another possible source for the conflict that affects the Natura 2000 network could be the large-scale industrial projects to be implemented beyond the Hungarian national borders. The emergent conflicts of interests highlighted the desirability of reinforcing the relationship between environmental protection and physical planning and licensing, both nationally and internationally, as it is one of the best tools for preventing conflict.

The recent cases show that gaps in the implementation of Natura 2000 obligations still exist. Although general rules have been incorporated properly into the Hungarian nature conservation legal system, there are still problems with putting them into practice. This has unfortunately been proven, and not just by the mentioned EU cases but also by the preliminary process of designating the Natura 2000 sites, by the fact that in the basic legislative acts (e.g. EPA, NPA, Natura 2000 Decree) the rules are not detailed properly, and by the approach of the administration (‘After communication with the Hungarian authorities, the European Commission concluded that the Hungarian authorities had neither carried out an

¹⁹⁰ ‘Draft final report on implementation of the Natura 2000 network in Europe’, Paris-Luxembourg, September, 2007.
Source to be downloaded (in English) under:
<www.eurosaiwgea.org/Activitiesandmeetings/AnnualEUROSaiwgeaMeetings/older/5th%20EWGEA%20Meeting%202007/Documents/France%20PARALLEL_AUDIT_Natura2000.pdf>.

appropriate impact assessment before the logging operation, nor taken sufficient compensatory measures to offset the incurred damage¹⁹¹.

A saying can be quoted to this regard: ‘even frogs do not drink the water they live in’. There is a need in Hungary to effectively implement environmental measures and provisions included in specific and sectoral legislation. Most of the provisions protecting biodiversity and ecological connectivity already exist at the legislative level; however, in many cases those norms are not fully or effectively enacted.

¹⁹¹ Refer to ‘Csaholc-Garbolc case’.

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.