



BIOREGIO PROJECT

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

NATIONAL REPORT ROMANIA

PILOT AREAS

Iron Gates Nature Park/Djerdap Nature Park (Romania - Serbia)
Maramures Nature Park/Carpathian Biosphere Reserve (Romania – Ukraine)

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Delivered: August 2013

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EUROPEAN ACADEMY (EURAC) TEAM

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Section I - GENERAL PART

1 Introductory framework

Following an introductory description on the environmental governance model in force in Romania, this report analyses the institutional and legislative framework for the protection of biodiversity and ecological connectivity in Romania. The different subsections provide a holistic approach to the system of nature protection in Romania by presenting the most relevant sectoral provisions affecting biodiversity and ecological connectivity. The report also identifies the most significant shortcomings of biodiversity and ecological connectivity protection, and provides some recommendations.

1.1 The constitutionalized division of power (See Questionnaire 1.1)

Assessing the constitutional French doctrine of the 1970s, after the anti-communist revolution Romania became a ‘unitary’ and a ‘National’ state, according to Article 1 of the Constitution. The Constitution is at the top of the legislative Kelsenian pyramid while ‘its supremacy and the laws shall be mandatory’¹. The form of government of the Romanian State is a Republic². Whether this Republic is of a more parliamentary or presidential nature remains a long and undecided debate between constitutionalists.

The bicameral Parliament of Romania (Senate and the Chamber of Deputies) adopts constitutional, organic and ordinary laws. The legislative initiative belongs to the Government, the Members of Parliament (MPs) or to a number of at least 100,000 citizens. The President promulgates each law.

The Government represents the central administrative authority. It is noteworthy that the institution of President also acts as a part of the two-headed executive. The President of Romania may participate in the meetings of the Government debating upon matters of national interest with regard to foreign policy, the defence of the country, assurance of public order, and, at the Prime Minister's request, in other instances as well³. The President leads Government meetings that he participates in. And, finally, the President is the only institution enabled to call for a national referendum⁴.

Despite an apparent centralisation of administrative decision-making, the Constitution sets up and applies the principle of decentralisation. The public administration authorities, by which local autonomy in communes and towns is implemented, are the Local Councils and Mayors, decided via direct election. The acts of Mayors and Local Councils consist in decisions and orders (merely for mayors). The real regional elected executive body is the County Council (*Consiliul Judetean*). This is the public administration authority coordinating the activity of commune and

1 Article 1, letter b, Constitution of Romania.

2 Article 1, letter c, Constitution of Romania.

3 Article 87, Constitution of Romania.

4 Article 90, Constitution of Romania.

town councils, with a view to carrying out the public services of county interest. At its turn the County Council issues decisions⁵.

In counterbalance to a real regionalization and local autonomy, the Romanian Constitution, again on a French 5th Republic model, instilled the institution of the '*prefect*'. The Government is thus appointing a Prefect in each county and in the Bucharest Municipality. The Prefect is the representative of the Government at a local level and directs the decentralised public services of ministries and other bodies of the central public administration in the territorial-administrative units⁶. The institution also has executive powers in matters regarding environmental policies.

Romania is thus divided in 40 counties, known as *județe*, and the Municipality of Bucharest with a special statute. The subsidiarity ends in towns and communes, *orașe* and *comune*, representing urban and rural municipalities. Counties were clustered in 8 developmental regions (*regiuni*) that, however, do not have any administrative value and are not mentioned in the Constitution.

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)

Regulations for and relating to the protection of the environment, including the requirements for legal entities, their liabilities and related rights and obligations, as well as sanctions and legal consequences are to be found in the Romanian Constitution, various acts of the Parliament (Law - *Lege*) and Government and local authorities' decisions. Based on the constitutional principles, the laws issued by the Parliament set out the general rules, which are then further detailed by the decisions of the Government or local authorities.

The Romanian Constitution links the principle of environmental protection to the protection of private property. Article 41 par. (6) states 'the right of property requires the observance of duties relating to environmental protection'. Also, according to article 134 par. (2) letter (e), the State is bound by the Constitution to secure 'environmental protection and recovery, as well as preservation of the ecological balance'.

The Government, in accordance with its programme as accepted by the Parliament, ensures the implementation of the domestic and foreign policy of the country and exercises the general management of public administration. The Government consists of the Prime Minister, Ministers and other members as established by an organic law (Secretaries and Sub-secretaries). The Chamber of Deputies and the Senate must debate upon the programme and list of the Government in joint sitting. The Parliament must grant confidence to the Government by a majority vote of the Deputies and Senators.

The laws issued by the Parliament are, as described above, implemented through Government acts (Ordinances – *Ordonanțe* and Decisions - *Hotărâre*). Consequently, the Romanian Government, pursuant to the power given to it by the Parliament in such laws, issues its own acts in order to set down detailed procedural rules, or to define standards, limits or other indicators. Also, the Government through its Ministry of Environment is the authority that is entitled to

⁵ Article 121 and Article 122, Constitution of Romania.

⁶ Article 123, Constitution of Romania.

implement the national projects for environmental protection and the State credits coordinator and monitor for development and implementation of such projects.

The Government adopts decisions and ordinances.

Ministries must be organised only in subordination to the Government. The Government and Ministries may, on the authorization of the Court of Audit, set up specialized agencies in their subordination, but only if the law acknowledges their competence in doing so. Romania is a party to a significant number of major international environmental treaties. Under Romanian law, international treaties have to be approved by the Parliament before taking effect.

The primary provisions of environmental law are in the organic and ordinary Laws. The most relevant are:

- 1) Law no. 17/1990 regarding the legal treatment of internal sea going waters, territorial sea and contiguous areas;
- 2) Urgency Ordinance No. 195/2005⁷ on environmental protection;
- 3) Waters Law no. 107/1996;
- 4) Law no. 103/1996 regarding the protection of hunting grounds;
- 5) Law no. 107/1999 for the approval of the Government's Ordinance no. 81/1998 regarding the improvement by afforestation of weathered lands;
- 6) Law no. 82/1993 regarding the establishment of the 'Danube Delta' Biosphere Reserve etc.

The most significant and extensive piece of legislation, serving as a general framework for environmental protection, is the Urgency Ordinance No. 195/2005 on environmental protection. The object of this law is to regulate environmental protection, which is considered as an objective of major public interest, on the basis of the principles and strategic elements listed below:

- The principle of precaution in decision-making;
- The principle of prevention of ecological risks and damage occurrence;
- The principle of conservation of biodiversity and ecosystem specific to the natural biogeographical structure;
- The 'Polluter-pays' principle;
- The removal on a priority basis of the pollutants that directly and severely jeopardize public health;
- Setting up of the integrated national environmental monitoring system;
- Sustainable use of natural resources;
- Maintenance and improvement of environmental quality and reconstruction of damaged areas;
- Setting up of a framework for the participation of non-governmental organisations and of the population in the decision-making and implementation;
- Developing international collaboration to ensure the quality of the environment.

The ways of implementing the principles and strategic elements are through:

- the adoption of environmental policies harmonised with development programmes;
- compulsory procedures for environmental impact assessments in the initial stage of the projects, programmes, or other development activities;
- correlation of environmental planning with the territorial and urban planning;
- introduction of economic incentive-based or coercive instruments;

⁷ Approved by Law No. 265/2006.

- resolution of environmental problems at the appropriate level of competence, depending on the extensiveness of the problem at issue;
- elaboration of rules and standards, their harmonisation with international regulations and introduction of compliance programmes;
- promotion of basic and applicative research in the environmental protection field;
- training and education of the population as well as participation of non-governmental organisations in the decision-making and implementation.

For the purpose of general environmental and biodiversity protection, the Urgency Ordinance No. 195/2005 on environmental protection provides that the State must recognize the right of all persons to a healthy environment. To this end, it guarantees: freedom of access to information regarding environmental quality; the right of association in organisations defending environmental quality; the right of public consultation in the decision-making process regarding the development of environmental policies, legislation and regulations; the issuing of environmental agreements and permits, including those for territorial and urban planning; the right to appeal directly through some associations to the administrative or judicial authorities in view of prevention or in case of direct or indirect damage occurrence; and, lastly, the right to be indemnified for damage suffered.

The Urgency Ordinance No. 195/2005 provides also for regulation of economic and social activities having an environmental impact. It sets down a permitting procedure for the protection of natural resources and conservation of biodiversity. It also provides for the prerogatives and duties of the environmental protection authorities such as the Ministry of Environment and Sustainable Development and the Agency for Environmental Protection, as well as other central and local authorities. The law also provides for the obligations of natural and legal persons in relation to the environment.

Although the authorities are enforcing civil liabilities, there have been relatively few successful claims. Administrative measures are taken more seriously, although the creation of large-scale local unemployment has in some cases acted as a deterrent to effective enforcement measures such as the closing down of polluting sites.

In Romania, a range of laws and directives ensure that the public has access to information, particularly environmental information. Law No. 544/2001 guarantees free access to public interest information. Communities and NGOs should be deeper involved into local sustainable development, therefore they need hands-on tools for accessing information related to conservation and ecological connectivity.

Government Decision No. 1115/2002, on freedom of public access to information was promulgated to transpose EU Directive 99/313 and to provide specific modalities for operationalising Law No. 544/2001. Government Decision 1112/2002 requires every public authority that holds environmental information to disseminate or to make available this information by request. A database containing the environmental information that is held by the public authorities is under development. Other laws mandating free access to environmental information by the public include Law No. 137/1995 on Environmental Protection, Law No. 86/2000 ratifying the Aarhus Convention, and the Order of the Minister of Waters and Environmental Protection no. 1325/2000 regarding public participation, through its representatives, in the drafting of plans, programmes, policies, and legislation in the

environmental field. In addition, Law no. 29/1990 provides for a contentious administrative procedure that provides access to justice. This administrative process is also a means by which the public can enforce its right to information.

1.3 Authorities in charge of nature protection, monitoring and controlling activities, finance mechanisms (See Questionnaire 1.2)

Among the central administrative authorities, the Ministry of Environment carries out policies in the field of environment and water management at national level, elaborates the strategy and specific environmental development regulations, harmonizes these regulations within the general policy of the Government, fulfils the role of environmental state authority that synthesises, coordinates and controls all environmental issues nationwide.

The National Environmental Protection Agency is the specialised body of the central public administration, with legal status, under the subordination of the Ministry of Environment.

At decentralised level, and operating under the authority of the National Environmental Protection Agency, there are 8 Regional Environmental Protection Agencies and Local Environmental Protection Agencies, the key executive bodies with respect to environmental law implementation and enforcement in Romania.

The National Environmental Protection Agency exercises, according to the law, attributions on the strategic planning, permitting of activities with potential environmental impact, implementation of environmental policies and legislation at national, regional and local level, established by the Ministry of Environment via regulations on organisation and functioning. The Local Environmental Protection Agencies, in number of 42, were established in 1990, but their responsibilities grew substantially over the years. They oversee most aspects of environmental enforcement at the local executive level, interfacing with many other county and municipal bodies that run environmental utilities. They are subordinated directly to the National Environmental Protection Agency⁸. Main responsibilities of local EPAs are: issuing Environmental Permits for the first stages on environmental integrated permitting procedure.

The National Environmental Guard is a specialised body for inspection and control, with a specific statute and responsibilities on the implementation of the Government environmental policy, ensuring the compliance with legal provisions, prevention and enforcement of the environmental protection legislation (waters, soil, air, biodiversity, industrial pollution control and risk management, forestry, fisheries, Environmental Fund).

*The National Agency for Protected Areas and Biodiversity Conservation*⁹ was legally assigned in 2005 as a public institution, subordinated to the central public authority in charge with the protection of the environment.

The Law No. 137/1995, as changed by Urgency Ordinance No. 195/2005, has incorporated into Romanian law the ‘polluter pays’ principle, which means that the polluter has to pay for the harm caused to peoples’ health, to their property and to the environment. If the environment is

⁸ Governmental Decision No. 459/2005.

⁹ Emergency Ordinance No. 195/22.12.2005, Article 51, align. (5) reads that, for proper administration of the national and natural parks, sites of Community interest and of the special fauna protection areas whose surface exceeds 4,000 ha, it is set out the National Agency for Protected Areas and Biodiversity Conservation.

damaged by more than one person, they will be jointly held responsible towards third parties. If the land forms the object of a lease agreement, a concession agreement, a leasing operation or of another type of agreement executed with the view of administrating the land, the person liable for its contamination will no longer be the owner, but the person in charge of its administration (tenant, concessionaire, etc.). If the polluter is an employee of a company and the polluting activity is in connection with its activities, the company whose employee is the polluter will be liable for the payment of compensation to the victim. This provision of the law entitles the victim to demand compensation from the company, avoiding the risk of the employee's insolvency.

If the pollutant itself is in good faith (i.e. accidental overflow of offal) causing harm to the environment or damage to a natural or legal person, the person held responsible will be the person in charge with the responsibility over the good (i.e. owner, tenant, guardian - in the legal sense of the word.)

The parties of an agreement having as its object the transfer of contaminated property are free to establish any warranty, indemnity or acknowledgements as to their liability. Under Romanian law, the owner of the land (the buyer) will remain liable in front of third parties (as the agreement executed between him and the seller is not open to third parties to enforce), being entitled to recover the damages from the seller. The Law stipulates a special obligation for the owner of a land used for an activity with environmental impact, in case it desires to sell the relevant land. The seller has to draw up the environmental survey, with the view of establishing the obligations regarding the amelioration of the environment within the impact area of the relevant activity.

The competent authority revises the environmental survey, establishes the compliance programme and the seller negotiates with the buyer what obligations will be opposable to the seller and what compensation will receive for the application of the measures for protection and ecological reconstruction.

The competent authority in establishing the environmental damage, imminent threat of such damage, and identification of the liable operator shall be the National Environmental Guard, through its County Inspectorates. According to Ordinance No. 68/2007 on environmental liability with regard to the prevention and remedying of environmental damage the operator may take preventive actions or remedial measures.

There is a growing practice in Romania that regards green taxes as part of the Environmental Fund's budget. The new green car tax is an example in this sense. Nonetheless, market-based instruments, and in particular taxes, have been playing a larger role in addressing environmental pollution during the past decade. Environmental taxes were often seen as potential substitutes for regulatory measures, although their non-compulsory character often made them inferior in the eyes of the usually non-economist regulators. This view changed slowly as the implementation deficit of traditional regulation appeared difficult to close and also because of the growing need for cost-effective measures that were easy to apply. Taxes are now perceived as tools complementary to command and control policies, and it is widely accepted that a policy package of regulation and market-based instruments may be required to achieve environmental objectives. Examples of combining these different tools are becoming more widespread and can be found in the waste policy area, for example for achieving the objectives of the end-of-life vehicles directive.

Law no. 292/2007 for modification of Government's Ordinance no. 196/2005 regarding the Environmental Fund sets out that the incomes of the Environmental Fund are constituted from a list of legal contributions, as provided in Article 9: a contribution of 3% of the incomes made on ferrous and non-ferrous wastes' sold by natural or legal persons. The sums are retained at the source by economic operators authorised as collectors whose obligation is to transfer them to the Environmental Fund.

Moreover, all taxes charged for environmental authorisations and approvals flow into the Environmental Fund. Other incomes that the Environmental Fund Authority may manage must be previously approved by Governmental Decision. Most sums are supposed to go into projects related to the administration or management of protected areas; a common policy flow lies in reassessing these funds into grey programmes such as 'cash for clunkers' – renewal of the automobile park.

2. Legislative and administrative frameworks relevant for Biodiversity and Ecological Connectivity (See Questionnaire 1.2)

Protection of biodiversity, whether it entangles protected areas or conservation of natural habitats, of flora and fauna, is submitted to the provisions of the Law on the protection of the environment. The central environmental protection authority together with public authorities, local or central, elaborate technical regulations regarding measures for the protection of ecosystems, the conservation of biological diversity and the promotion of human health. For project works that impact or modify the natural framework of an area, an environmental impact assessment procedure is required. Following this procedure, these into play come: technical solutions of habitat protection, conservation of ecosystem functions in accordance with the environmental agreement, self monitoring as well as monitoring ensured by the administration structures. The following subchapters present various legal acts containing measures aimed at protecting biodiversity and ecological connectivity.

2.1 Protected Areas

2.1.1 Implementation of relevant European Directives (See Questionnaire 1.2)

Urgency Ordinance No. 57/2007 regarding management of protected areas, conservation of natural habitats of wild flora and fauna fully transposes the Habitats and Birds Directives into Romanian law and shapes the general legal framework and subsequent policies related to protected areas. The ordinance abrogated Urgency Ordinance No. 263/2000 regarding protected areas.

This law consecrates three principles. It guarantees that conservation and sustainable use of natural patrimony is an objective of major public interest. Conservation and sustainable use of natural areas is a fundamental component of the national strategy for sustainable development. Furthermore, it considers instituting a regime for protected natural area or protection zone for natural patrimony goods a priority in relation with any other objectives different than national security.

Guaranteeing these principles constitutes a sectorial reflection of the constitutional obligations of the Romanian state regarding ‘environmental protection and recovery, as well as preservation of the ecological balance’¹⁰ as well as the ‘exploitation of natural resources, in conformity with national interests’¹¹.

Protected areas are formed mainly for conserving biodiversity as well as natural and cultural values. However, management objectives can differ greatly from one area to another, even if the nature conservation priority for any protected area is the same.

In protected areas where the focus is primarily on maintaining strict protection of ecosystems and natural processes, management objectives differ from those pursued in protected areas that are seeking solutions for maintaining and promoting sustainable use of natural resources. Protected areas can comprise one or more management objectives:

- scientific research;
- wilderness protection areas (without human intervention) – exclusion of all forms of exploitation of natural resources, which contravene management objectives;
- protection of species diversity and genetic diversity;
- maintenance of environmental services;
- protection of natural and cultural characteristics;
- tourism and recreation;
- education;
- sustainable use of natural ecosystems;
- maintaining cultural and traditional activities.

Depending on its main management objectives a protected area belongs to a particular category or categories of protected areas management. Each category includes protected areas with similar management objectives and measures.

Normally any country, and Romania makes no exception, defines its own categories of protected areas. The names and concepts given to protected areas can be very diverse, ranging from national parks, nature reserves and scientific reserves, to forest parks, marine sanctuaries, nature monuments or regional parks. Even if the same name is used in several countries, management objectives may be very different.

2.1.2. Procedure for establishing protected areas, Natura 2000 sites and the different protection regimes (See Questionnaire 1.2)

According to Romanian law on protected natural areas, Urgency Ordinance No. 57/2007 on protected natural areas, natural habitats, wild flora and fauna, the definition of a protected area is: ‘Protected area - area of land and/or sea where there are wildlife species, biogeographic elements and formations, landscape, geology, palaeontology and other ecologically, scientifically or culturally valued elements that have a special state of protection and conservation, established by law.’¹²

10 Art. 135, paragraph 2, let. e, Constitution of Romania.

11 Art. 135, paragraph 2, let. d, Constitution of Romania.

12 Official Gazette, Part I no. 442 from 29.06.2007.

Depending on the ‘level’ at which the protected area is declared and/or recognized that different categories of protected areas can be distinguished:

- a) of national interest, which includes the following categories: scientific reserves, national parks, natural monuments, nature reserves, natural parks. The minimum condition for an area to be declared as protected area of national interest is to present significant natural and cultural values that are nationally representative.
- b) of community interest or Natura 2000 sites, which are sites of European importance, special areas of conservation or bird protection areas.
- c) of international interest, receiving a status of:
 - biosphere reserves granted by UNESCO MaB;
 - wetlands of international importance and RAMSAR sites designated in accordance with the Convention on the Conservation of Wetlands of International Importance;
 - natural World Heritage sites recognized by UNESCO MaB;
 - geo-parks status, assigned according to regulations set by UNESCO and the European Geo-park Network Charter.
- d) of county (*judet*) or local interest: set on the public/private domain of administrative units, as applicable, in accordance with Article 5(1) a) - c) of Urgency Ordinance No. 57/2007. They include areas with significant values at local or county level.

Purpose and management of the above mentioned categories of protected areas are described in Appendix. 1 of Urgency Ordinance No. 57/2007.

a) Protected areas of national interest

Romanian protected areas of national interest are: scientific reserves, national parks, natural monuments, nature reserves and, natural parks.

The correspondence between IUCN categories and those defined in the Romanian legislation (primarily Urgency Ordinance No. 57/2007) is presented below.

According to the List of nature reserves provided in Section III of Law No. 5/2000 regarding approval of the National Territory Plan¹³ and further modification via Government Decision No. 1143/2007 on the establishment of new protected areas (that brings new additions to the list of national nature reserves), Romania has 13 *national parks*, 14 *nature parks* and over 900 other categories of protected areas, covering about 8% of the country.

A few protected areas of national interest also have *biosphere reserve* status. They belong to IUCN’s category Ia. Biosphere Reserves or Strict Nature Reserves are areas that are strictly set aside to protect biodiversity and also possibly geological/geomorphological features, where human visitation, use and impacts are strictly controlled and limited to ensure protection of the conservation values. Such protected areas can serve as indispensable reference areas for scientific research and monitoring. The essential objective of this category is to conserve regionally, nationally or globally outstanding ecosystems, species (occurrences or aggregations) and/or geo-diversity features: these attributes will have been formed mostly or entirely by non-human forces and will be degraded or destroyed when subjected to all but very light human impact. These reserves are aimed at maintaining ecosystems in as natural a state as possible, with minimal human intervention. Some of them are real research labs for certain species and ecosystems; they

13 Official Gazette no. 152 from 12.04.2000

secure examples for natural environment monitoring and education. The planning and management of such area seek to minimise the changes that may arise from research or other related activities. Where appropriate, the management of such protected area seeks to preserve the cultural and spiritual values associated with nature.

This protected area category defined in Romania that corresponds with the aforementioned IUCN category is the *scientific reserve (rezervația științifică)*. In Romania such areas can vary from a few hectares to several hundred hectares, such as Scientific Reserve Gemenele from the Retezat National Park (about 1,600 ha) in the Transylvanian Alps or even tens of thousands hectares as the Danube Delta Biosphere Reserve and the Sahalin – Zatoane. Access to these areas is allowed to a limited number of visitors, mainly researchers and only with special permission or approval.

National Parks are large natural or near natural areas set aside to protect large-scale ecological processes, along with the complement of species and ecosystems characteristic of the area, which also provide a foundation for environmentally and culturally compatible spiritual, scientific, educational, recreational and visitor opportunities. They belong to IUCN's category II. These are relatively large areas, with surfaces in Romania ranging from a few hectares to 40,000 hectares, with special and rare outstanding scenery and reduced impact of human activities on most of the surface. In general, human activities are not allowed on most surfaces of these parks, except some traditional trades that have been engaging locals for centuries. It is noteworthy that in Romanian national parks there are surfaces (sometimes quite large) where exploitation of natural resources for profit is allowed whilst not necessarily for the benefit of local communities. Most national parks, however, do not have settlements on their surface. Inside National Parks different (sub-)areas are delimited with a clear specification of restrictions for each

Natural monuments are protected areas set aside to protect a specific natural monument, which can be a landform, seamount, submarine cavern, geological feature such as a cave or even a living feature such as an ancient grove. They are generally quite small protected areas and often have high visitor or tourism value. Their main objective is to protect specific outstanding natural features and their associated biodiversity and habitats. In Romania this category is also named *natural monuments (monumente ale naturii)*. Some examples in the Carpathians: Piatra Despicata in the area of Rosia Montana, Rapa Rosie, The Bat Cave (Pestera Liliecilor) in Rucar-Bran.

Nature reserves (rezervatii naturale) spread over a few hectares and are often set up for the preservation of habitats that occurred through natural change following human action. Examples of nature reserves in Romania are the Lacul Tatarilor, the Cheile Rametului, and the Daffodils reserve in Nucsoara. Areas with active management of habitats or species are protected areas aiming to protect particular species or habitats and management reflects this priority. Many category IV protected areas will need regular, active interventions to address the requirements of particular species or to maintain habitats, but this is not a requirement of the category. The objective is to maintain, conserve and restore certain species and their habitats.

Natural park (parc natural) is the equivalent of IUCN's category V, Protected Landscape/Seascape. It is a protected area where the interaction between people and nature over time has produced an area of distinct character with significant ecological, biological, cultural and scenic value; and where safeguarding the integrity of this interaction is vital to protecting and sustaining the area and its associated nature conservation and other values. The main objective is to protect and sustain important landscapes/seascapes and the associated nature conservation and

other values created by interactions with humans through traditional management practices. These are protected areas typically extended over large areas reaching tens of thousands of hectares. The biggest ones exceed 150,000 hectares. On their surface human settlements and, often, even cities can be found. As with national parks managers provide zonings, which indicate what sort of internal activities are allowed. Restrictions, when necessary, are required depending on the values of biodiversity and culture. Surfaces that are important for biodiversity conservation restrictions are significantly lower than for Category II – national parks. In these protected areas all activities shall be conducted with particular attention to the values protected.¹⁴ Correspondence between IUCN categories and those defined in the Romanian legislation (primarily Urgency Ordinance No. 57/2007) is presented in the table below.

No.	Romanian category of protected area as provided in Urgency Ordinance No. 57/2007	IUCN correspondent	Purpose and management
1.	Scientific reserves	I	Mainly scientific purposes
2.	National parks	II	Protection of ecosystems and leisure
3.	Natural monuments	III	Conservation of specific natural elements
4.	Nature reserves	IV	Conservation through management interventions
5.	Natural parks	V	Landscape conservation and leisure

b) Protected areas of community interest - Natura 2000 sites

Even before joining the European Union, Romania has committed to implement legislation on biodiversity conservation by creating the Natura 2000 network of protected areas covering a representative sample of wildlife and natural habitats of community interest. The purpose is to ensure a long-term maintenance of support systems for social and economic development.

Species and habitats of community interest are rare or endangered on European level. Some of these species or habitats in Romania are well represented, with viable populations for species occupying large areas of habitat. However, sites of community importance must be expressly designated. If Romania does not need to protect a species or habitat because it is not rare or endangered, it shall apply for an exemption from the European Directive provisions. The exemption shall be approved only if there is sufficient scientific justification for the request. An

14 E. Stanciu, F.– Ariile protejate din România - Noțiuni introductive, Editura 'Green Steps' Braşov, 2009, page 23.

example in this sense is the bear (*ursus arctos*), a priority species of EU interest involving greater responsibility for conservation due to its reduced habitat in the EU, but well covered in Romania. According to Article 3 of the Habitats Directive, Natura 2000 is a European ecological network that consists of Special Areas of Conservation and Strict Protection of Animal Species. According to Romanian law areas included in the Natura 2000 network of protected areas fall within the following categories:

- a) Sites of Community Interest – SCI;
- b) Special Areas of Conservation – SAC;
- c) Special Protection Areas – SPA.

SCIs are declared by Member States for the preservation of species and habitats of Community interest until their acceptance as SACs by the European Union. These latter ones are delimited to preserve and maintain the favourable conservation status of species and habitats listed in Annex II of the Habitats Directive or to restore them to a favourable conservation status.

Special Protection Areas are demarcated in order to preserve and maintain the favourable conservation status of bird or animal species or to restore to a favourable conservation status where appropriate. Conservation status of a habitat is defined in Ordinance No. 57/2007, Chapter I - General Provisions, Article 4, paragraph 5¹⁵ as follows: ‘Conservation status of a natural habitat - all factors acting on a natural habitat and its typical species that may affect the long-term distribution, structure and functions, and survival of species characteristic for the respective area. The conservation status of a natural habitat is considered favourable when the following conditions are met:

- a) its natural range and areas covered within that range are stable or increasing;
- b) has a specific structure and functions necessary to its maintaining in the long term [...];
- c) characteristic species are in a favourable conservation status ‘.

The conservation status of species is defined in the same law, paragraph 9¹⁶: ‘Conservation status of a species - all factors that influence a species, which may influence long-term distribution and abundance of the species population.

The conservation status of a species will be considered favourable if the following conditions are met:

- a) population dynamics data on the species concerned indicate that it is maintained and is likely to maintain itself on the long-term as a viable component of its natural habitat;
- b) natural range of the species is not reduced and there is no risk to be reduced in the foreseeable future;
- c) there is a sufficiently large habitat for species populations to maintain themselves in the long-term.

Protected areas of community interest are designated strictly on scientific criteria, that is only where the species and habitats of the two European directives are present and the populations are representative for the bio-geographic regions.

Future designation of Natura 2000 sites is to be made on bio-geographical regions, differing functions of plant groups, genera, families, and other. Europe is divided into 11 bio-geographic

15 *idem* infra.

16 *idem* infra.

regions; the EU comprises 9 of these regions, whilst Romania enjoys 5 bio-geographic regions (the only Member State with such high diversity). In Romania, proposed Sites of Community Interest (pSCI) were made by Ministerial Order No. 1964/2007 followed by Ministerial Order No. 2387/2011 regarding the creation of the protected area of Sites of Community Importance as part of the European ecological network Natura 2000 in Romania. They delineated a total of 273 SCI representing 13.21% of the country's surface. These proposals became Special Areas of Conservation.

Special Protection Areas were established by Government Decision No. 1284/2007 on Special Protection Areas, as part of the European ecological network Natura 2000 in Romania. 108 SPAs were established – corresponding to 11.89% of the country's surface, covering 118 species of birds.

In Romania Natura 2000 sites partially overlap with protected areas of national interest. Natura 2000 network sites should take into account the realities of economic, social and cultural needs of the areas where they are declared. Conservation of species and habitats must be achieved through active and sustainable management. In order to achieve this goal, the Habitats Directive requires Member States to meet certain obligations regarding the management of Natura 2000 sites. Urgency Ordinance No. 57/2007 has transposed these provisions. Under this law, the activities that can take place in Natura 2000 sites - other than biosphere reserves, national parks and natural parks - are regulated by management plans or regulations issued by their managers as approved by the National Agency for Protected Areas (NAPA) and by order (*ordin*) of the central environmental authority – National Agency for Environmental Protection.

Measures provided in management plans of Natura 2000 sites are linked to the objectives that led to the establishment of the protected area, that is maintenance or restoration of favourable conservation status for species and habitats of Community interest.

Operating plans/use of natural resources in the area are harmonised with the management plan. If these sites overlap with protected areas of national interest, their management must be included in the management plan of the protected area, in compliance with the most stringent protection functions.

Particularly important for the management of Natura 2000 sites is Article 6 of the Habitats Directive, transposed into Romanian legislation through Article 28 of Urgency Ordinance No. 57/2007.

Provisions of this important article can be summarised as follows:

- Management is based on a specially developed management plan or based on other measures included in the development plans;
- Deterioration of habitats and disturbance of species as a result of any plan or project not directly connected with the site management must be avoided; activities in this sense will be subject to impact assessment procedures and approved only if the impact is not significant and solely after public consultation;
- A plan or project with significant impact can be approved only if it lies in the public interest and there are no alternative solutions.

This latter public interest is related to the health or safety of the local population or it has beneficial consequences of primary importance for the environment or it ensures compensation

measures by designating something similar to a Natura 2000 area to ensure the maintenance of species or habitats.

The Habitats and Birds Directives have EU law character, therefore, failure to comply with them may result in the initiation of infringement proceedings against the Member State or significant penalties for non-compliance.

It is important to note that in order to achieve a functional network of Natura 2000 sites it is essential to identify ecological corridors and impose necessary conservation measures. This action requires political will and outstanding financial resources. Nevertheless, enforcement in Romania is rather weak; there are numerous examples of infrastructure projects, such as motorways or micro-hydropower stations, which utterly ignore such measures.

c) Protected areas of international interest

Conditions for recognising a protected area of international interest are defined by international organisations responsible for the respective type of protected area. Generally, international recognition of the protected area is made only after the state has recognised its importance by designation as a protected area of national interest. Furthermore, only the state can submit a proposal to the international body; the proposal must be accompanied by duly substantiated documentation.

In many cases, international status ‘overlays’ designation as a protected area of national interest, such as the Retezat Biosphere Reserve in the Transylvanian Alps (Southern Carpathians), which is also a national park.

Correspondence between IUCN categories and categories of protected areas designated under international conventions and international law is presented in the table below¹⁷.

¹⁷ E. Stanciu, F. Florescu, Ariile protejate din România. Noțiuni introductive, Editura „Green Steps” Brașov, 2009.

No.	Category of protected area as provided by Romanian legislation	IUCN correspondent	Purpose and management
1.	Biosphere Reserve - UNESCO MAB	No correspondence. It can include various other categories	World cultural and natural heritage protection under the auspices of UNESCO
2.	Wetland of International Importance- RAMSAR	I, II, IV, V	Protection and conservation of natural sites with biological diversity specific for wetlands
3.	Natural World Heritage Sites- UNESCO	I, II, IV, V	Protection and conservation of natural habitat areas in which there are natural elements contents whose value is recognized as being of international importance.
4.	Geo-Park - UNESCO	II or V	Regulations set by UNESCO and European Geo-park Network Charter

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

Responsibilities and methods for managing protected areas are established by law, specifically Urgency Ordinance No. 57/2007. The law assigns responsibility for administration to the following institutions:

- National Agency for Protected Areas (NAPA) for the protected areas of national interest;

- *Ad hoc* body for the Administration of the Danube Delta Biosphere Reserve;
- Local governments for protected areas established by their decisions.

NAPA was founded by Government Decision No. 1320/2008 on the organisation and functioning of the National Agency for Protected Natural Areas, but is not operational yet. The Agency has been reorganised as a mere department within the Ministry of Environment and Climate Change whilst its functionalities are valid and enforceable. Protected areas of national interest are currently managed by:

- especially constituted management structures, namely the administration of protected areas;
or
- natural or legal persons who act as custodians.

So far there have been management structures for national parks, natural parks, biosphere reserves. Custodians manage protected areas that are not included in national parks, natural parks or biosphere reserves, namely: scientific reserves, nature reserves, and monuments of nature.

For special areas of conservation and special bird protection areas, Natura 2000 legislation provides that management can be provided by especially set administrations or via custodians. If they overlap completely or partially with existing national parks or natural parks or biosphere reserves, their management can be assigned to existing management structures.

Administrations of protected areas and custodians are subordinated to:

- a) central public authorities for environment;
- b) trade companies (state owned or private);
- c) local authorities;
- d) scientific research institutions;
- e) public or private education institutions;
- f) museums;
- g) NGOs.

These institutions and organisations can manage protected areas under a contract with the Central Environmental Authority (currently the Ministry of Environment and Climate Change), which must allocate the necessary staff and financial resources for the protected areas' management.

Currently, most protected areas management is contracted by the Ministry of Environment and its regional subsequent institutions.

Especially constituted management structures currently exist for national and natural parks and the Danube Delta Biosphere Reserve. The number of people employed in each administration is determined by the management contract signed with the Ministry of Environment by the institution or organisation that takes over the management of the protected area. A director and its staff coordinate the administration of a protected area. They should be prepared to deal with major areas of activity: biodiversity conservation, community relations and relationship with key stakeholders, education and awareness, sustainable tourism, information management, monitoring activity on land, and security. The number of staff should be correlated with the size and complexity of the protected area, especially with the pressures and threats specific to that area.

The Administration of a protected area is subordinated to the institution or organisation contracted by the central authority for environmental protection. Thus, it must provide the

framing of protected area management activities within the operational and administrative structure of the institution or organisation to which it belongs.

It is important to note that, although the management contract of the central environmental authority requires minimum amounts to be allocated to protected area management, administrations are totally dependent on the budgets of the institution they belong to. In most situations the administration of the protected area does not have its own budget to address the priorities that are necessary for managing protected areas.

In most cases, the funds allocated to the management of protected areas come from the budget of the institution or organisation that took over administration. The state budget supports protected areas management in few isolated cases, providing co-financing for activities related to specific projects. Romania is the only country in the European Union in which the state does not allocate resources for managing protected areas of national interest. The Danube Delta Biosphere Reserve represents a big exception in terms of administration and finance. This Reserve functions according to Law 82/1993 on the establishment of the Danube Delta Biosphere Reserve; its administration is subordinate to the central environmental authority and is led by a governor. It also has an annual budget allocated from the state budget.

Structurally, the administration of protected areas must work with a management advisory board and scientific board.

The members of the Management Advisory Board are representatives of institutions and organisations that have economic or other interests in the protected area. They can also represent local authorities, owners and managers of land and natural resources, non-governmental organisations, economic and educational institutions or museums with a role in biodiversity conservation. As their name suggests, they have a mere advisory role. However, if the decision-making is properly implemented, suggestions and requirements of the Advisory Board can be adapted to the necessities of the protected area and incorporated into the decision-making system. The members of the Scientific Board are nominated by the Minister of Environment among persons with relevant scientific or practical experience in protected areas management. They contribute to the effective administration of protected areas, offering scientific advice to decision making and, if operating properly, can significantly help in deciding on issues of major importance for management, including preventing or stopping potentially adverse impacts on the protected area. Their decisions are mandatory and rank as approvals.

Both boards are appointed by the Minister of Environment, the major difference is that management advisory boards shall be designated by the institution they represent, while the Scientific Board nominates individuals. The Boards shall meet at least twice a year to discuss and determine solutions to problems related to protected area management, also responding to the requests of the administration.

This scheme involves the collaborative management of protected areas. Thus, administrators shall have the knowledge and techniques needed in participatory management mechanisms.

2.1.4 The implementation of the Carpathian Convention and its Biodiversity Protocol in Romania (See Questionnaire 1.2)

The Framework Convention on the Protection and Sustainable Development of the Carpathians (Carpathian Convention) was adopted and signed by the seven Parties (Czech Republic, Hungary, Poland, Romania, Serbia, Slovak Republic, Ukraine) in May 2003 in Kyiv, Ukraine, and entered into force in January 2006.

As for Romania, the Convention has significantly determined and influenced norms and policies related to protected areas, forests and forestry, tourism and mountain agriculture. The Protocol on Conservation and Sustainable Use of Biological and Landscape Diversity has primarily influenced the modifications of Romania's Mountain Law No. 347/2004 as amended in 2009.

The provisions on the development and protection of the mountain environment were influenced by the ratification of the Convention as well. Farmers operating in mountain areas receive financial support from the state, according to the laws in force.

Management plans for protected natural areas in mountain zones will be considered as relevant territorial planning documentation and will involve certified experts in the field of urban and regional planning .

Allocation of pastures in the mountains, subordinate to the administration of local councils, is under contract for at least 6 consecutive years and renewable for the same group of farmers or for the same individuals.

Moreover, individuals and authorised family associations (businesses), engaged in tourism accommodation structures such as hostels and agritourism farms, benefit from the allocation of available land surfaces by local councils, according to the law, in order to build, develop and exploit hostels and agritourism.

Mountain land improvement must be done in accordance with Law No. 350/2001 on spatial planning and urbanism (and its subsequent amendments) and will consider the priorities and needs of the mountain areas, *in primis* the need to preserve historic monuments and archaeological sites, biodiversity and sustainable use of natural resources in mountain areas. The design of buildings in rural mountain settlements shall respond to architectural specificities, in the perspective of tourism and agri-tourism development. These last provisions reflect the Protocol on Sustainable Tourism to the Framework Convention on the Protection and Sustainable Development of the Carpathians. However, this Protocol has increasingly drawn its attention on winter tourism and skiing. Ski resorts are investing to get more slopes and ski lifts, but there is less snow and less people mainly due to a greater competition in the field of winter resorts hospitality. Government Decision No. 120/2010, regarding approval of the List on programmes and projects for tourism investments and their criteria of eligibility, takes into account protected areas of any type and aims at limiting the expansion of ski resorts in the Carpathians. Often, the development of ski resorts has generated frowns and tensions between the Ministry of Regional Development and private developers on one side and the Ministry of Environment on the other.

Finally, the Forests Protocol has lead to a long campaign for the recognition of virgin forests in Romania and culminated with the Order of the Minister of Environment regarding identification criteria for virgin and quasi-virgin forests. The order provides that these forests, once identified, will benefit from immediate protection, banning of human intervention with the exception of

emergencies or disasters. Over 210,000 ha of virgin forests are located on Romanian territory, rising up to 65% within the Carpathian ecoregion. Only 20% of the Romanian virgin forests are currently protected.

Cooperation and the exchange of good practices with the Alpine Convention are essential for Romanian Carpathians. In the Alps a stronger environmental pressure, mass tourism, massive transport transit, loss of mountain agriculture can be ascertained. In the Carpathians, after the political changes in Europe and the accession of many Carpathian countries to the European Union, problems are rather different underlining pressure on wilderness and ecosystems in general. It is essential to strengthen this cooperation so that both Conventions can anticipate and solve these problems. Today the Carpathians can find themselves in the same situation in which the Alps were 20 years ago; thus, the former can predict and better deal with these challenges¹⁸.

2.2. Ecological connectivity and related sectors

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

Although ecological connectivity is not straightforwardly mentioned in the Constitution, early post-revolutionary legislation indirectly touched the concept. The Law on Environmental Protection defines in its first appendix ecosystem as ‘a dynamic complex of plant, animal, and micro-organism communities and their non-living environment, interacting in a functional unit’. Indirect reference to ecological connectivity and protection measures may be found in sectoral legislation as shown in the paragraphs below.

In addition, the National Sustainable Development Strategy 2013-2020-2030¹⁹ aims at connecting Romania to a ‘new philosophy of development’, as adopted by the European Union and widely shared globally through the United Nations Development Programme (UNDP). This is called the ‘cap strategy’ for policies surrounding ecological connectivity and biodiversity protection.

State policies for ecological connectivity are prepared and implemented by the National Programme for Sustainable Forest Management, in collaboration with the academic community, with a view to prohibit the reduction of the total forest areas. Another objective is to increase the total forested area by at least 200,000 hectares through reforestation, particularly on degraded or abandoned land. Additional interventions are needed to develop a national system of green belts²⁰.

The same strategy fosters agricultural and rural development with a biodiversity protection focus. National policies must also be focused on transposing legislation and standards as negotiated in the *aquis communautaire*. The transposition of sectoral legislation was given a transition period of 3 to 15 years thus Romania could cope with costs related to air quality, waste management, water quality, and industrial pollution.

18 Opinion expressed by the former Secretary of the Alpine Convention, at <2celsius.net/alpine-fragility-sacredness-and-communities>.

19 National Sustainable Development Strategy 2013-2020-2030, Bucharest 2008, <strategia.ncsd.ro/docs/sndd-final-en.pdf>.

20 *Ibid.*, page 114.

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

In relation to private property, Article 44 of the Constitution reads, ‘the right of property compels to the observance of duties relating to environmental protection and maintenance of neighbourliness, as well as of other duties incumbent upon the owner, in accordance with the law or custom.’

At this point, it is worth developing a short diachronic analysis of the post-communist land use change. Most land property was in the hands of the communist state until 1989.

The issue of returning the ownership right over agricultural, non-agricultural and forestry lands was initially regulated by Law No. 18/1991 on Land Fund. Adopted at the beginning of the 90’s, this law comprised several restrictions, which finally led to the partial restitution of properties. After almost 10 years, Law No. 1/2000 allowed restitution of agricultural lands (within the limit of 50 ha) and of forestry lands to their former owners. However, the enforcement of the legal framework regarding restitution of agricultural, non-agricultural and forestry lands encountered a lot of difficulties and in many cases it ended in front of the courts. Generally, the most frequent shortcomings in the enforcement of the restitution legal provisions consisted in the difficulty of producing evidence of the ownership right, the non-observance by the specialised commissions of the previous location of the land and the failure to file restitution applications within the deadlines stipulated by law.

The procedure for obtaining the ownership right over the relevant land and the compliance with the terms and conditions set forth by the law (pre-emption right, sale interdiction, in some cases up to 10 years, etc.) should have been carried on whenever agricultural land is purchased.

Constructions serving economic purposes and related land were the biggest issue in the post 1990 period. Until 1995, former owners initiated trials in front of common courts of law to obtain restitution of dwellings and constructions serving economic purposes and related land. As a result of the inconsistent solutions given by the courts, in 1995 the Supreme Court of Justice decided that law may only regulate restitution of the real estate nationalised during the communist regime and not dealt with by the courts. As a result, the former owners challenged many decisions of the Supreme Court of Justice regarding the subject matter before the European Court for Human Rights in Strasbourg.

By the end of 1995, Law No. 112/1995 was adopted with a view to ensure in kind restitution to the former individual owners of dwellings, provided that such owners lived in the respective dwellings at the date of restitution. On the other hand, based on the same law, the State sold many houses to tenants who inhabited them, irrespective if they were ‘former owners’ or not.

Under these circumstances, former owners that were not able to recover the real estate were provided with compensations. Most of them refused such compensations due to their symbolic nature and ecological value.

Law No. 112/1995 referred only to real estate for dwelling purposes, transferred to the State after 6 March 1945 and still owned by the State on 22 December 1989. This law triggered numerous litigation files between the State and former owners or tenants. Later, Law No. 10/2001

introduced a unitary restitution procedure for all nationalised real estate, lands or constructions, except for those whose situation was already regulated by Law No. 18/1991.

Under this law, nationalised real estate was supposed to be returned and only if this was no longer possible, the option for compensation became applicable. Recently, the Romanian Parliament approved an amendment to Law No. 10/2001 whereby the real estate which were subject to sale agreements under Law No. 112/1995 should have no longer been given in kind to their former owners, such persons being entitled only to receive adequate indemnification.

Apparently the aforementioned discussion might not appear to be related to ecological connectivity, but merely to civil law issues linked to real estate. However, given the transformations that occurred in the half century of communist rule, the post-communist transition brought about an increased pressure on ecosystems, unprecedented urban sprawl, and large failure of the agricultural system.

Land of any kind, indifferent of destination or deeds of possession, no matter the form of property – public or private, constitutes altogether the Land Fund of Romania whose protection is ensured through measures of management, conservation, organisation, and improvement, mandatory for all owners irrespective of property title²¹.

To this purpose, the central authority for environmental protection (National Agency for Environmental Protection), together with other competent public authorities, establishes the monitoring system of the geological environment in order to evaluate current state and tendencies of evolution in the near future²².

Juridical protection of land and of land networks (with a special focus on agricultural land) is being carried out via a series of regulations that ensure conservation and improvement, that impede land use change, to encourage agricultural production and forest conservation. Law No. 18/1991 establishes the general obligation of landowners to exploit and use land in accordance to its destination and to combat chemical soil pollution.

Of high importance for ecological connectivity is the concept of qualitative protection of land, as proposed by the Law on Land Fund. Research and planning institutions carry out studies and projects of land planning (naturally, corroborated with institutions of urban planning). The works, generally, must be conducted by landowners backed by specialized institutions/state organs.

The Law on Land Fund provides that, in order to coordinate works of common interest, in accordance with the needs of agriculture, forestry, water management, transports, urbanism or other economic and social objectives, technical and environmental documentation has to be compiled by interested parties, establishing each one's contribution.

Land that, by degradation and pollution, lost its capacity of agricultural or forest production will become an improvement perimeter. Agricultural and environmental authorities, following the proposal of the municipalities, are establishing groups of land plots that enter into this perimeter.

The resulting documents must be approved by the regional organs of environmental protection, forestry and agriculture and are forwarded to the central agricultural authorities that consequently will draft programmes of financing, planning and execution.

21 Article 1 of Law on Land Fund No. 18/1991, published in the Official Gazette no. 37 of 20 February 1991, modified and republished.

22 Article 66, p. 2, Urgency Ordinance No. 195/2005.

Landowners are obliged to ensure that improvement works are duly carried out on their land; their property rights are not affected in any way. However, the inclusion of a land in such a perimeter can be exerted only by the municipality in complete accord with the landowner. If the landowner disagrees, the municipality will request the intervention of the *prefect* (representative of the central government in the territory). In case that the prefect decides that the respective plot will be included in the improvement perimeter, the Local Council of the municipality is obliged to provide the landowner with a correspondent plot of land in usufruct for the whole duration of the improvement works. In case the municipality cannot provide a land with a similar destination and the landowner cannot be satisfied with a correspondent land in a different locality, then expropriation for public utility will be enforced²³.

Works of protection and improvement are financially supported by the Romanian state via the Fund for Land Improvement and other budget allocations. These funds can be expanded to financial participation of municipalities and even contributions in money or in kind from any interested party.

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

The legal framework of forest²⁴ management plans is regulated primarily within the Forest Code²⁵. The goals of forest management are established by appropriate plans, in accordance with the environmental and socio-economic goals and respecting for forest ownership, exercised according to the Forest Code. Forest management plans are developed in the *forest districts* of production or protection units in compliance with technical development standards.

The technical standards are developed by the central public authority responsible for forestry, based on the following principles:

- sustainable timber harvesting;
- functional effectiveness;
- ensuring the conservation and improvement of biodiversity;
- economic principle.

Forest arrangements have a minimum validity of 10 years, except management plans for forests of poplar, willow and other rapidly growing species whose period of validity is 5 to 10 years.

The development of forest management has to be consistent with the landscaping plans approved by law. Forest planning is under the direction and control of central government authority responsible for forestry. Forest management plans are developed by specialised units certified by the central public authority responsible for forestry, and their costs are supported by:

- forest administrator for public property;
- the owner for areas larger than 100 ha.

Forest owners are obliged to guard the forest against illegal logging, theft, destruction, degradation via grazing and other actions damaging to the forest, under the law.

23 Law of Expropriation for Public Utility No. 33/1994.

24 Forests cover approximately 6.38 million ha, representing 26.7 % of the country's territory. The forest distribution is not uniform geographically, 58.5 % of it is concentrated in the mountainous regions, and 34.8% is located in the hilly areas and 6.7% in the plain.

25 Article 19, Forest Code.

With the purpose of increasing sustainable forest management, Government Decision No. 1476/2002²⁶ has introduced the possibility for forest managers or owners to *certify* forest plots in accordance with international standards and in accordance with the market of forestall/wooden products. For state owned forests, the solicitation is made by the *National Agency for Forests – Romsilva (Regia Nationala a Padurilor – Romsilva)*, whereas for those in the public property of administrative-territorial units by Local Councils.

Romsilva is also the central state agency that manages the integrated policy of forest protection at national level. The concept of forest protection entangles, according to the Forest Code, measures against meteorological events, irrational exploitation, pollution, and fires, as well as measures of ecological reconstruction. Romsilva also elaborates technical norms regarding hunting and fishing within forest territories, irrespective of their form of property.

Noteworthy for ecological connectivity is the fact that the Forest Code also protects vegetation outside the Forest Fund, such as parks, riverside trees, urban green spaces, forestall species on agricultural land, transport route linings etc. Any sort of exploitation of such vegetation needs approval from the local Forest District, while land use change has to be approved by Romsilva.

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

Order No. 225/2006 regarding lists of plans and programmes requiring environmental assessment procedures provides the areas of application of Government's Decision 1076/2004 on the establishment of a procedure to evaluate the environmental effects of plans and programmes carried out by institutions and companies. Both regulations implement Directive 2001/42/EC on Strategic Environmental Assessment (SEA).

The list of plans and programmes encloses 12 main areas: agriculture, forests and forestry, fishing and aquaculture, energy, industry (including activities of mineral resources' extraction), transport, waste management, telecommunications, tourism, regional development, and territorial arrangements, land use or urbanism.

Most of the programmes are lead by the Romanian state, however, companies and local administrations must implement some activities sourcing from these plans and programmes.

In the agricultural field, the Order identifies national strategies for viticulture and winery as well as programmes for land improvement. It also addresses the re-conversion of tobacco producers and croppers, rural development, ecological agriculture, and tobacco control.

Regarding forestry and forests, the Order identifies the national strategy for afforestation, programmes of soil erosion, forest protection and management, and forest planning.

Fishing and aquaculture include the national strategy regarding conservation and management of live aquatic resources existing in marine and continental waters, as well as fisheries programmes.

The national strategy on long and medium term regarding nuclear fuel management and radioactive waste opens the Energy chapter. The national programme of energy efficiency and re-generable energy for 2006, and the EU program entitled 'Intelligent Energy – Europa' are also mentioned in it.

²⁶ Government Decision No. 1476/2002 regarding the approval of measures for forest sustainable management, published in the Official Gazette No. 943/2002.

Industrial programmes comprise strategies for restructuring the steel industry, wood and wooden products, paper industry, textile, leather and shoe industry, construction materials, as well as other sectors.

Transports programmes pursue modernization of the railway system, privatisation of all state owned companies depending on the Ministry of Transports, prioritise motorways and four lane roads construction as well as the development of airports' infrastructure.

Waste and water management programmes are implemented at all levels: national, regional and local, respectively.

The telecommunications sector comprises strategies such as digitalisation of public administration, e-government, development of the National Electronic System, security of information, policies, standards and procedures, information technology strategy, information society, electronic communications and postal services.

Tourism infrastructure, marketing and promotion, as well as the development of tourism products belong to the tenth chapter. Trans-border programmes, land planning and urbanism close the list of programmes and plans that require environmental evaluation.

The environmental impact assessment (EIA) procedure is led by the competent authorities for environmental protection (at local, regional and central level). Within these authorities there are special departments, whose personnel is highly specialised, holding university degrees in different disciplines: there are engineers, chemists, physicians, biologists and legal counsellors.

According to Government's Decision No. 918/2002 and Order No. 1388/2002, public authorities with tasks and responsibilities in the environmental field participate in the environmental impact assessment procedure within a Technical Review Committee. Order No. 1388/2002 establishes that the Technical Review Committee is composed, at a central level, of at least 7 members, (staff is paid from the state budget, through the budgets of the Ministries represented in Committee). All authorities involved in the process of environmental impact assessment are consulted within the Committee. Representatives of the following authorities are part of the Committee: Ministry of Agriculture, Forests and Rural Development, Ministry of Health, Ministry of Administration and Interior, Civil Protection and Fire Brigade, Ministry of Economy and Trade and Ministry of Transport, Constructions and Tourism. The representative of the competent environmental authority is also in the Committee.

Depending on the specific project subject to the EIA procedure, the structure of the Technical Review Committee may be enlarged with representatives of other central public authorities (the Ministry of Culture and Religions, the Ministry of Education and Research, the Authority for Privatisation and Administration of State Interests, the Romanian Academy, etc.). Any of the members of the Technical Review Committee may subject to the approval of the president the proposal of participation - with a consultative role - of some specialists, researchers and/or academics with an activity acknowledged in the respective domain, in the light of ensuring needed additional technical, scientific or legal advice.

At the local level, this Committee is set up by the common decision of the Prefect and the President of the County Council. The competent authorities for issuing the environmental agreements are: the Ministry of Environment and Water Management, Regional Environmental Protection Authorities and Local Environmental Protection Authorities.

The outcomes of the EIA report – that must be issued at the end of the procedure and contains the point of view expressed by the Technical Committee, the opinion of the competent environmental authority and the comments and opinions expressed by the national public and the public and authorities of the affected states, as appropriate - are included in the environmental agreement (*Acordul de Mediu*). The provisions of the environmental agreement are mandatory for the developer.

The outcomes of the EIA report do not bind environmental authorities, but they have to take into account specific requirements when issuing the environmental agreement. The competent authority for environmental protection, together with the authorities participating in the Technical Review Committee, reviews the quality of the EIA report and makes the decision regarding the acceptance or the remaking of the report and the issuing or motivated rejection of the environmental agreement.

Order No. 860/2002 stipulates a subsequent examination of the final report on the environmental impact assessment, of the conclusions of the authorities involved in permitting the works, and the substantial analysis of public comments, through which the competent authority makes a record of the Technical Review Committee opinions regarding the execution of the proposed project for the respective site and establishes, in consultation with the abovementioned Committee, whether to issue or reject, on a well documented basis, the application for an (integrated) environmental agreement.

The competent authorities for environmental protection issue the integrated environmental permit for activities/installations subject to the Directive 96/61/EC on environmental permits when they are put into operation. The integrated environmental permit sets out the functioning conditions and/or parameters of installation/activity in order to comply with the requirements of the Directive. The integrated environmental permit can be issued for one or more installations or parts of an installation located on the same site and which are managed by the same operator. Besides the permit, the developer needs also a sanitary approval before the project execution starts. In order to obtain the sanitary permit for an installation/activity which presents a high risk for humans, the operator must submit to the competent health authority an impact study on human health drawn up by certified persons.

Ordinance No. 34/2002 regarding integrated control of pollution implements Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment covers construction work and other installations or schemes, as well as other measures affecting the natural environment or landscape.

2.2.5 Hunting laws and strict protection for specific species (See Questionnaire 1.2)

Together with forests and other forms of vegetation, terrestrial and aquatic fauna are subjects of due protection. Law No. 407/2006 regarding hunting and protection of fauna²⁷ provides in its preamble that maintaining ecological balance as well as satisfying the needs of modern economy require protection of fauna and regulation of hunting. This activity can be ensured via protecting

27 Official Gazette No. 944 of 22 November 2006 as modified by Law No. 215 of 24 October 2008 published in Official Gazette No. 757 of 10 November 2008.

the species themselves or via protecting their habitats. Hunting is thus generally subject of national regulation.

For the protection of autochthonous fauna, the law forbids naturalisation or captivity of any type of wild animals without prior authorization, wild animal trading, insertion of any species in the wilderness, and combating the commonly known pests or raptors via methods that do not impede the local fauna.

In recent history, Romania experienced quite a few cases of animal reinsertion, such as the very successful reintroduction of the marmot (*Marmota marmota*) in alpine areas in particular in the Retezat National Park. Other lower mountainous areas enjoyed the reinsertion of the fallow deer (*Dama dama*) and the mouflon (*Ovis ammon musimon*), the latter unfortunately is again close to extinction due to massive poaching.

Nonetheless, the law consecrates the principles related to national hunting stock. Fauna of hunting interest is a renewable natural resource, a public good of national and international interest. Hunting management must be sustainable. Hunting can be exerted only with the purpose of ensuring ecological equilibrium, of improving the quality of fauna populations, for scientific research for sports and/or recreation. Only persons that fulfil cumulatively legal requirements that qualify them as hunters, again, can exert hunting. Finally, no person is allowed to hunt on another physical or legal person's property without the prior consent of the owner.

The hunting law provides in its Annex No. 2 all species of mammals and birds whose hunting is (strictly) forbidden, as well as the compensation in Euro per hunted capita. Nevertheless, derogations from this law are possible if they are in accordance with Government Ordinance No. 57/2007 regarding protected areas.

Below we present a selected list of strictly protected mammals and birds and their compensation value.

Name	Compensation value (EUR)
MAMMALS	
Elk (<i>Alces alces</i>)	20,000
Wolf (<i>Canis lupus</i>)	1,000
Lynx (<i>Lynx lynx</i>)	2,000
Bear (<i>Ursus arctos</i>)	40,000
Otter (<i>Lutra lutra</i>)	2,000
Bison (<i>Bison bonasus</i>)	30,000
Wild Cat (<i>Felis silvestris</i>)	200
BIRDS	
Golden Eagle (<i>Aquila chrysaetos</i>)	2,700
Owl (<i>Bubo bubo</i>)	1,350
White-tailed Eagle (<i>Haliaeetus albicilla</i>)	2,700
Pelican (<i>Pelecanus onocrotalus</i>)	1,350
Cormorant (<i>Phalacrocorax carbo</i>)	200
Black Vulture (<i>Aegypius monachus</i>)	2,700
Great Bustard (<i>Otis tarda</i>)	2,700
Black Grouse (<i>Lyrurus tetrix</i>)	2,700

The Romanian government has also issued a ban on commercial fishing of all wild sturgeon species for a ten-year period via a joint Order No. 330/2006 of the Ministries of Agriculture and Environment. This measure is highly important for ecological connectivity given the fact that sturgeon families would migrate to spawn from the Black Sea to Vienna: the issue of constructing passing corridors in the Djerdap/Portile de Fier area within the Iron Gates Dam is essential for sturgeon spawning. The order (regarding conservation of sturgeon populations and incentivizing sturgeon aquaculture in Romania) also bans the trading of products or sub-products obtained from sturgeon captured in Romania, and requires any sturgeon captured accidentally to be released, regardless of its condition. The ban was issued in response to concerns over the continuing decline of sturgeon populations and the extinction of other sturgeon species in Europe.

2.2.6 Water legislation (See Questionnaire 1.2)

The use, conservation and protection of water is nationally established and regulated by The Water Law n^o. 107/1996 (*Legea Apelor*) and its further modifications. Asserting the essential particularities of water, as a natural, recyclable, vulnerable and limited resource, Water Law

consecrates the principle that ‘water is a national natural patrimony that must be protected, treated and defended as such’²⁸.

The purpose of the Water Law, as governing act in the field of water policy is:

- conservation, development and protection of water resource, as well as ensuring the free flow of waters;
- protection against any form of pollution and modification of the characteristics of water resources;
- re-make of surface and subterranean waters’ quality;
- conservation and protection of aquatic ecosystems;
- providing drinking water and ensuring sanitation;
- sustainable water management and a rational and equal repartition of water resources;
- defence against floods or other dangerous hydrological phenomena;
- progressive reduction of underground waters’ pollution and prevention against future pollution;
- protection of ecosystems on the shores, coasts, gulfs and inside the Black Sea.

Waters ‘with energetic potential, beaches and territorial sea’ belong to the public property of the state, according to Article 136 (3) of Romania’s Constitution. However, minor riverbeds, shorter than 5 km, and water basins under 10 square km on which waters do not flow permanently are privately owned by natural or legal persons.

Public owned waters from are managed by the National Administration ‘Romanian Waters’ (*Administratia Nationala ‘Apele Romane’*) and by the Ministry of Environment and Sustainable Development. The administration of national water basins is made at the level of basin districts by Directions (*Directii*) of the National Administration ‘Romanian Waters’. Waters, shores and riverbeds, indifferently of the natural or legal person that manages them, are submitted to the provisions of the Water Law and of international conventions to which Romania is a party.

2.2.7 Agriculture and Agro-environment (See Questionnaire 1.2)

Romanian law includes the term ‘**ecological agriculture**’. The term is of generic significance and similar to the English ‘organic agriculture’ or ‘biological agriculture’.

‘Ecologic’ is thus a legally protected term via EU law, i.e. Article 2 of the Council Regulation (EEC) No 2092/91 of 24 June 1991 on organic production of agricultural products and indications referring to agricultural products and foodstuffs, and its further amendments. As of 1 January 2009, the Regulation No. 2092/91 was abrogated, and organic (ecological) farming activities will conform to the Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products.

Ecological agriculture consists of procedures for plant cultivation, livestock farming, and food and feed production, which are not considered conventional. Specifically, the Government Urgency Ordinance No. 34/2000 concerning ecological foodstuffs, as approved by Law No. 38/2001, is implementing the aforementioned Regulation and applies to the following products, where such products bear, or are intended to bear, indications referring to organic production

28 Art. 1, Water Law No. 107/1996.

methods:

- a) unprocessed agricultural crops; livestock and unprocessed livestock products;
- b) processed agricultural crops and livestock products intended for
 - human consumption prepared essentially from one or more ingredients of plant and/or animal origin;
 - feeding stuffs, compound feeding stuffs and feed materials not covered under the first subparagraph.

The organic production, within the legal meaning of national law, requires not to use fertilizers, pesticides, hormones, anabolic steroids, antibiotics for a taste and storage stimulus purpose, as well as other harmful conventional products according to the organic production rules laid down in the EU law and Urgency Ordinance No. 34/2000 concerning ecological foodstuffs, as approved by Law No. 38/2001. These legal provisions and subsequent control bodies (at the national level in Romania operate the National Environmental Guard and National Veterinary, and Food Safety Authority) observe the national, EU and international standards, guidebooks and tender books, which are confirmed by a certification body established for this purpose.

The genetically modified organisms and their by-products are banned in organic production.

‘Local’ is a quick term for an idea that does not have a clear-cut legal definition. Unlike organic standards (which entail specific legal definitions, inspection processes, labels etc.), local means different things to different people, depending on where they live, how long their growing season is and what products they are looking for.

Practically speaking, local food production can be thought of in layers of the same activity that start with growing food at home. The next layer is food grown in the surrounding community - then county, region, and country.

Local is thus a flexible term. The concept is rather simple: local foods are produced as close to home as possible. Buying local products supports a more sustainable food system because true sustainability lies beyond the methods used in food production to include every step that brings food from the producer to our plate.

Sustainable agriculture refers to food production methods that are healthy, do not harm the environment, respect workers, are humane to animals, provide fair wages to farmers, and support farming communities. Sustainability includes buying food as locally as possible.

However, buying local food is not a guarantee that it is sustainably produced. Pesticides, chemical fertilizers, factory farming, and non-therapeutic use of antibiotics can be involved in local food production, so it is important to make sure that the local food is from farmers or gardeners using sustainable methods. High Nature Values sites and farmers fulfil both conditions of sustainability and local. At its roots sustainable farming benefits the local community and local economy while supporting the environment by enriching the soil and semi-natural farmland, protecting air and water quality, and minimising energy consumption. Industrial food production is totally dependent on fossil fuels and chemicals used in fertilisers and pesticides. Small local farms are run by farmers who live on their land and work hard to preserve it. They protect natural spaces by keeping land in agricultural use and preserve natural habitats by maintaining forest, pastures and wetlands. By being good stewards of the land, seeking local markets, minimising packaging, and harvesting food only when it is ready to consume, farmers significantly reduce their environmental impact. Finally, local products preserve, on a secondary basis, local culture

and traditional means of production. They also open the way for side businesses for farmers, such as eco-tourism, and, with no race of relativism, local food is tastier.

Given the lack of a legal basis for the term ‘local product’, the last ‘agricultural reform’ in the EU sets the ground for good practices to be followed by governments. A principle set out in the Agenda 2000 Common Agricultural Policy (CAP) reform is that of ‘good farming practice’ (GFP). EU Member States have to define codes of GFP at regional or national level. GFP should correspond to the type of farming that a reasonable farmer would follow in the region concerned, which entails compliance with existing statutory environmental requirements. GFP constitutes the baseline requirement for farmers wishing to join agro-environmental schemes. Only farming practices going beyond GFP may qualify for agro-environment payments.

2.2.8 Conservation of Cultural Landscapes and Historical Sites in national legislation (See Questionnaire 1.2)

The conservation of cultural landscapes and historical sites is provided in the Constitution, national law and policy documents as well in a series of international and regional agreements ratified by Romania. A historical site is legally defined²⁹ as a topographically delimited land with natural human creations that stand for cultural historical testimonies of architectural, town planning, archaeological, historical, artistic, ethnographic, religious, social, scientific, technical or cultural landscape interest. In terms of public policy, the law institutes the National Commission of Historical Monuments, a specialised scientific organism, without legal status, with consulting role in the historical monuments protection field, subordinated to the Ministry of Culture.

Archaeological sites are often intertwined with areas of special protection from both cultural and nature conservation perspectives. Archaeological sites of national interest are priority archaeological interest area: an area comprising archaeological sites whose scientific research, protection and enhancement are of exceptional value for the national history and culture³⁰. UNESCO and IUCN criteria further apply in order to establish the international protection of a specific historical or cultural site or area.

Protection of landscape also influences urbanism and construction regulations. The general principle of projecting and executing construction works is established by Law No. 18/1991 on Land Fund, Law No. 50/1991 regarding authorisation of construction works, and the General Regulation on Urbanism³¹. These regulations set forth environmental and landscape protection requirements for any type of construction and development plans. Requirements with a conservation character are also provided in relation to monuments protection.

29 Law No. 422/2001 on the protection of historical monuments, Article 3.

30 Ordinance No. 43/2000 on the protection of the archaeological heritage and declaring certain archaeological sites as national interest areas.

31 Approved by Government Decision No. 525/1996, published in the Official Gazette No. 149/1996 and republished in the Official Gazette No. 856/2002.

2.2.9 Eco-tourism in national legislation (See Questionnaire 1.2)

The idea of tourism abiding to sustainable development criteria has always been a merely discursive preoccupation of the public authorities. Poor standards and conceptual confusion were the unfortunate characteristics of any integrated approach towards sustainable tourism. Nevertheless, policy has changed in the last couple of years.

The Ministry of Regional Development and Tourism, along with private and non-profit partners, has elaborated an identification system for ecotourism destinations. These destinations will later be integrated in a national network of eco-tourism sites. As the first criterion for obtaining such a status, the destination needs to include natural resources under a protection regime (national or nature park, Natura 2000 site, nature reserves or any other category of protected area), comprising also cultural resources. Other criteria refer to accessibility, cultural heritage protection and respect for cultural traditions, preservation of biodiversity or waste management plans.

The criteria are based on the European Ecotourism Labelling Standard. Furthermore, a recommendation to create a certification system for ecotourism has been drawn up in the National Development Strategy of Ecotourism in Romania.

Ecotourism is a form of tourism in which the main objective is to observe and raise awareness of the value of nature and local traditions, which must meet requirements such as contributing to the conservation and protection of nature, promoting the local use of human resources, strengthening educational characteristics, respecting nature, having insignificant negative impact on the natural and cultural environment. These criteria, however, depend the management plans set up for protected areas; which in turn depend on the actual establishment of the National Authority for Protected Areas³² that in practice it exists merely *de lege lata*.

An amusing initiative was the Picnic Law or the ‘barbecue law’³³ that sets out rather severe rules on how to carry out ‘picnic activities’. Although the law has passed and got published, implementation norms are still *de lege ferenda*.

2.2.10 Mountain areas (See Questionnaire 1.2)

Romanian mountain areas hold a special rank in the legal framework related to ecological connectivity. Alpine mountains cover almost 28% of the country’s surface, therefore they constitute a territory of special environmental and social national interest. Mountain areas are defined, *inter alia*, as zones with very difficult climatic conditions, due to altitudes above 600 m, whose effect is the substantial shortening of seasons³⁴.

According to a governmental law³⁵, mountain policies pursue the sustainable valuation of mountain resources and contribute via high nature values agriculture to conservation of rural

32 Urgency Ordinance No. 57/2007 regarding protected areas.

33 Law No. 54/2012, Official Gazette No. 201/2012.

34 Government Decision No. 949/2002 on determination of mountain area, published in the Official Gazette No. 671/2002.

35 Mountain Law No. 347/2004 published in the Official Gazette No. 670/2004 and republished in the Official Gazette No. 448/2009.

space, safeguarding and promotion of sustainable methods through measures of landscape and biodiversity conservation.

In accordance with EU strategic orientations for rural development and in conformity with the principles established in the Council Regulation No. 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)³⁶, specific objectives addressing the natural impediments existing in mountain areas and in other difficult areas, should contribute, through continued use of agricultural land, to maintaining and promoting the countryside as well as sustainable farming systems.

Thus, the strategy for sustainable development in mountain areas³⁷ envisions, in addition to development of competitive mountain agriculture and of other small scale industry and services, the development of programmes for ecological reconstruction, wildlife conservation, as well as compensations for landowners whose plots are being managed under a protected area regime. This strategy is applied by the Ministry of Agriculture through the National Agency of Mountain Areas (*Agentia Nationala a Zonei Montane*).

However, the most important supra-national step in terms of mountain area development and consideration of the unique Carpathian territory has been signing the Framework Convention on the Protection and Sustainable Development of the Carpathians (Carpathian Convention). The Convention was adopted and signed by the seven Parties (Czech Republic, Hungary, Poland, Romania, Serbia, Slovak Republic, Ukraine) in May 2003 in Kyiv - Ukraine, and entered into force in January 2006. Inspired by the Alpine Convention, it is the only multi-level governance mechanism covering the whole Carpathian area and the second sub-regional treaty-based regime for the protection and sustainable development of a mountain region.

Regulations on pastures and meadows. In Romania, the pastoral patrimony has a high importance for ecological connectivity; it ensures landscape protection, preservation of rural culture and quality food and feed. Romania enjoys almost 5 million ha of pastures and meadows accounting for 34% of the agricultural surface of the country. Order No. 226/235 of the Ministry of Agriculture regarding the approval of the National Strategy in the Field of Exploitation of Pastures³⁸ aims at increasing the total surface of 'green mass' and grass quality in accordance with an increase in economic efficiency of animal exploitation and pastoral patterns of migration and grazing.

According to the Law on Animal Farming No. 72/2002 and further norms of interpretation, pastures of special interest can be established even outside protected areas or any other perimeter of ecological protection such as national parks, nature parks or nature reserves. Alpine pastures that are not privately owned (by natural or legal persons) fall under the public domain and shall be used only in the appropriate grazing season.

36 <eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32005R1698:EN:NOT>.

37 Government Decision No. 1779/2004 regarding approval of Strategy for Sustainable Development in Mountain Areas published in Official Gazette No. 1024/2004.

38 Published in the Official Gazette No. 423/2003 and updated in 2005.

2.2.11 Further Legal Acts Affecting Biodiversity and Ecological Connectivity (See Questionnaire 1.2)

The Law on Mining No. 85/2003 provides the obligation of the mining operator to restore the environment where it operated and to make a previous deposit to this end. EIA and environmental agreements are also mandatory for obtaining the mining license. Moreover, some mining projects require an approval from the Ministry of Culture for archaeological duty discharge and urbanism certificate. Currently, due to pressures by the initiators of a completely non-transparent and horrendously dangerous cyanide mining project at Rosia Montana - in the Western Carpathians, a proposal for modifying the law in the sense of expediting the issuing of mining license is being pushed forward by the Government and a couple of MPs.

According to Ordinance No. 68/2007 on environmental liability with regard to the prevention and remedying of environmental damage the operator may take preventive actions or remedial measures especially if it operates in proximity of protected areas.

Governmental Ordinance No. 23/2008 regarding fishery and aquaculture assesses the protection, conservation and exploitation of living aquatic resources both in the Black Sea and inland waters. Law No. 50/1991 on construction works authorization, as further amended, supplemented and republished, and Law No. 10/1995 on quality in constructions provide regulations related to land use management and landscape protection.

Romanian GMO legislation brings about an inconsistent and disparate regulation; there are 24 laws in this field, which regulate GMOs in an intricate manner leaving extensive room for interpretation. GMOs are utterly banned from any protected area, however another governmental initiative plans to allow GM cultivation in Natura 2000 sites.

Other pieces of legislation in different economic sectors such as energy (passage corridors for sturgeons in hydropower plants or regulations on wind turbines positioning with respect to migratory birds' routes) or transport (noise or traffic audits) consider environmental protection as a criterion for legal assessments in the activities of local or central public administrations.

2.3 Cross-border cooperation instruments affecting biodiversity protection and ecological connectivity (See Questionnaire 1.2)

Romania is actively participating in the area of cross-border cooperation affecting biodiversity protection and ecological connectivity. Government Urgency Ordinance No. 195/2005 on environmental protection sets the principle of 'developing international collaboration for environmental protection' (Article 3, letter i). By means of bi- and multi-lateral agreements Romanian areas of high natural values collaborate with neighbouring trans-border sites. Such areas are not separate forms of nature conservation, but are under regular protection of national protected areas such as national parks, nature parks or nature reserves.

Cross-border environments are usually tackled by agreements in fields such as water management of border-state water, general environmental protection, forests, wetlands or mountain areas protection, use of natural resources, protection of the Black Sea, air quality and emissions, wildlife environmentally safe disposal and use of waste, or biosphere reserves (in the

case of the Danube Delta – Romania and Ukraine). These agreements comprise cross-border cooperation with Hungary, Serbia, Bulgaria, Ukraine, Moldova and Slovakia. Cooperation takes different forms, including working group meetings and negotiations, implementation of joint programmes, mutual exchanges of information and consultation, creating protected natural areas, restoration activities, and establishing joint commissions for cooperation areas or working groups.

The Strategy for the Danube Region³⁹ is the major trans-border cooperation plan that Romania is part of. The Danube Region presents itself as a major international hydrological basin and ecological corridor of extreme importance for biodiversity protection. The strategy requires a regional approach to nature conservation, spatial planning and water management as well as untreated sewage, fertilisers and soil run-off. The environmental impact of transport links, tourist developments, or new energy-producing facilities are also considered within the common strategy of Danubian countries.

2.4 The role played by the EU in enhancing biodiversity protection and ecological connectivity in Romanian legislation

Before the 2007 accession, Romania had to conform to the *aquis communautaire* and the Environmental Chapter was one of the most difficult to negotiate. The commitments made during the negotiation process were and are strictly followed; their monitoring as to be duly carried out, from both a qualitative and quantitative perspectives, and constitutes a priority even after the enlargement. The environmental *aquis* has been transposed almost entirely in the Romanian legislation.

Most EU legislation on environmental protection has the form of Directives, which were transposed into national laws, giving Romania the freedom to enact in the form most appropriate to its national conditions and to sort out communist and post-communist transition's legislative void.

The main environmental legislation transposed were⁴⁰:

- Framework Directive 96/62/EC setting up a system of ambient air quality assessment and management;
- Framework Directive 2006/12/EC on waste;
- Framework Directive 2000/60/EC establishing a framework for Community action in the field of water policy establishing a sustainable framework for the protection of inland surface water, transitional waters, coastal waters and groundwater;
- Directive 67/548/EEC and Directive 1999/45/EC providing for classification, packaging and labelling of dangerous substances and preparations;
- Directive 76/769/EEC restricting the marketing and use of certain dangerous substances and preparations;
- Directive 96/61/EC on Integrated Pollution Prevention and Control setting up an integrated permitting system for large industrial plants.

39 Full text of the Danube Strategy at <eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52010DC0715:EN:NOT>.

40 See transpositions and short discussions on the Ministry of Environment website: www.mmediu.ro/beta/legislatie/legislatie-europeana/decizii-ue-3/.

A particular aspect of sectoral legislation transposition was the transition period of 3 to 15 years for Romania to cope with costs related to air quality, waste management, water quality, and industrial pollution and risk management.

As in most Eastern European Member States, after EU accession Romania enjoyed a paradigm shift in the realm of nature conservation. It is important to split diachronically the period before the EU accession in order to understand what was going to become the integrated protection principle. Right after the industrial impetus in the 1970s environmental protection was scarce in the legislation whilst the general development paradigm lied in the ability of the industrial corpus of the society to control and change nature. In this period gave way to the most horrid abuses against the environment in Eastern Europe ever in history; cases such as Copsa Mica air pollution or Ceausescu's urban systematization (in fact demolition) programmes were of worldwide notoriety. The transition period of the 1990s brought about sectoral protection, however in a new context of constitutional uncertainties related to property and exploitation of natural resources that lead to unprecedented deforestations and waste discharges. EU accession came together with the assimilation of SEA and EIA, risk assessment in agriculture, and foremost Natura 2000 site approvals for any enterprise.

These are giant steps forward despite government's incapacity and incompetence to oppose pressure on ecosystems. It is noteworthy that Romania was the spearhead of GMO business in Europe, especially in GM soy cultivation and after the enlargement these crops were cut from the root and forbidden as anywhere else in the EU. Nonetheless, currently, the state is striving for allowing GM crops within Natura 2000 sites.

The implementation of the Birds and the Habitats Directives completed the national catalogue of the forms of protected areas and brought elements of novelty in the protection of species. The annexes to the Directive are reflecting the realities from 20 years ago. Now, new studies and statistics for many species are required in order to figure out how the protection regime could look like. However, there are new legal opportunities to protect extremely important species that were disregarded so far such as the beluga (*huso huso*) and its spawning migration from the Black Sea, upstream Danube through the Iron Gates.

A certain empowerment and extended access to environmental information of the 'concerned public' or the 'public' came through together with the Aarhus Convention and European directives in matters of information, participation and even litigation. An excellent though not pleasant means of counter arguing the Romanian state in environmental matters is by initiating the infringement procedure. Outstanding cases on waste management, formaldehyde, air quality, and tourism development in protected areas put a massive (financial) pressure on the state. In brief, the Commission has the power to take legal action against a Member State that is not respecting its obligations under Community law, according to Article 258 of the Treaty on Functioning of the European Union. The infringement procedure begins with a first written warning ('Letter of Formal Notice') to the Member State concerned, which must answer within two months. If the Commission is not satisfied with the reply, this first letter may be followed by a final written warning ('Reasoned Opinion') clearly explaining the infringement and calling on the Member State to comply within a specified period, usually two months. A failure to act on the final written warning can result in a summons to the Court of Justice. If the Court rules against the Member State, it must then take the necessary measures to comply with the judgment.

Following notifications of civil society, the European Commission took legal action against Romania in September 2008 for infringing biodiversity legislation. The European Commission found that despite some progress, Romania is still failing to designate sufficient protected areas for migratory and wild birds and is therefore violating the EU's Birds Directive.

3 Case Law

'Natura 2000' is a European ecological network based on two European Commission Directives: Directive 79/409/EEC on the conservation of wild birds (2 April 1979) and Directive 92/43/EEC on the conservation of natural habitats, wild flora and fauna (21 May 1992). The annexes to the two directives contain lists of species and habitat types covered by the network Natura 2000.

The second directive, entitled 'Habitats Directive' was transposed into national legislation by Law No. 462/2001 approving Government Urgency Ordinance No. 236/2000 on protected natural areas, natural habitats, wild flora and fauna, the Government Urgency Ordinance No. 57/2007 on protected natural areas, conservation of natural habitats and of wild fauna and flora by Order No. 1964/2007 of the Minister of Environment and Sustainable Development on the creation of the protected area of sites of Community importance as part of the European ecological network Natura 2000 in Romania.

These regulations were developed according to the commitments assumed by Romania in the complementary position paper Chapter 22 'Environment' for the 'protection of nature.'

The illegality of Order No. 1964/2007 - for the points No. 1.38 and Annex 195.1 - was wrongly identified by the court that upheld the action as subsequently specified to the Local Public Director of Forests SRA⁴¹.

The reasons of illegality raised by the directed respondent challenged the order without considering all defences of the issuer of the document before the Court and all legislation which is the legal framework for the national implementation of the network 'Natura 2000'.

The court incorrectly found that by organising a meeting for public information purposes on 24 November 2006 at the City Hall S, the requirements of Law No. 52/2003 on transparency in public administration were observed, because there has been consultation with all stakeholders in the field⁴².

According to Article 6 paragraph 7 of Law No. 52/2003, the relevant public authority is required to organise a meeting to discuss the draft bill publicly if this has been requested in writing by an association or a legally constituted public authority.

The respondent has not shown its interest by submitting such a request to organise public debate on the draft administrative act on areas for establishing protected area regime as sites of Community importance.

In developing this administrative act on the Piatra Mare and Ciucaş sites - located on the municipality S., the Ministry acted appellant, as a public authority complying with the applicable procedural rules for ensuring transparency of decision-making by gathering information/consultation of the public on 24 November 2006, representatives of city S. and the

41 Decision No. 4128 from 7 October 2009 - I.C.C.J. – Romanian Supreme Court, Secția de contencios administrativ și fiscal (Section of Public Solicitor's Office).

42 Curtea de Apel (Court of Appeal) Braşov - Secția de contencios administrativ și fiscal pronounced Sentence No.143/F/14.10.2008.

owner of land managed by the respondent attended as well, without raising any objection by signing the minutes at the time.

The trial court also found that the appellant wrongly issued an unlawful order for the purposes of non-compliance with Law No. 57/2007, referring to the necessary documentation establishing special protection and conservation under the law.

Order No. 1964/2007 was developed by the recurrent ministry based on Government Urgency Ordinance No. 57/2007 and contains provisions consistent with a superior enactment, without exceeding the limits of regulatory power conferred and without contrasting the principles and provisions of the law for which execution was issued.

Thus, when verifying the proper documentation for the three sites for which the partial annulment of the order of the appellant, trial court should consider the general provisions of the Government Urgency Ordinance No. 57/2007, which set binding legal acts of the same material significance notions of natural protected area and site of Community importance.

This correlation was necessary for the Government Urgency Ordinance No. 57/2007 establishing a differentiated regime for protection, conservation and use, according to the following categories of protected areas listed in Article 5.1 letters .a-d : national interest (scientific reserves, national parks, natural monuments, nature reserves, parks), national interest (national World Heritage sites, Geopark, wetlands of international importance , biosphere reserves), community interest or 'Natura 2000' sites (sites of Community Importance, special Areas of Conservation, special Protection areas) and county or local interest, set on the public/private administrative units.

A site of Community Importance is defined in Art. 4 section 11 of Government Urgency Ordinance No. 57/2007 as the site/area which contributes significantly to the maintenance of biological diversity or restoration at a favourable conservation status of natural habitats listed in Annex No. 2 or species of Community interest listed in Annex No. 3 of the same law located in the biogeographic region or regions concerned.

The text of section 18 of the same law provides that the term has the meaning of protected natural area land, water and/or groundwater where species of plants and wildlife biogeographic elements and formations, landscape, geological, paleontological, speleological or otherwise of environmental, scientific or cultural value enjoy a special protection and conservation status, as established under the law.

Consequently, the concept of protected area is generic and refers to all categories listed in Article 5, paragraph 1, letter d of Government Urgency Ordinance No. 57/2007, but the procedure for each class is governed by a separate law.

Thus, the category of sites of Community importance has been issued in Order No. 1964/2007, which in Annex No. 6 contains standard forms for Natura 2000 sites listed in Annex No. 1 of the same order. A standard form Natura 2000 is a synthetic form of scientific study that is drawn for sites listed in Annex No. 1 of the same order.

SECTION II: PILOT AREA

1. The **Iron Gates Nature Park/Djerdap Nature Park (Romania - Serbia)** (See Questionnaire 3.2)

The Iron Gates Nature Park is a protected area established by Law No. 5/2000 approving the National Spatial Plan - Section III. A Protected Area is as a territory in which the remarkable beauty of the landscapes and biological diversity can be harnessed within the conditions of unspoiled traditions and quality of life of local communities; it is the result of economic activities that people carried out in harmony with nature. The Iron Gates Nature Park corresponds to IUCN Category V: 'protected landscape - protected area managed mainly for landscape conservation and recreation'.

According to the Urgency Ordinance No. 57/2007 on protected areas, natural habitats, flora and fauna, 'nature parks are protected areas pursuing the protection and preservation of landscape complexes where the interaction of human activities with nature over time has created a distinctive area of significant landscape and/or cultural value, often with high biological diversity.'

In the natural park it is permitted to conduct traditional activities practiced by communities within the park area and in its close proximity. These activities aim at:

- the protection and conservation of biological diversity , ethnic and folk traditions, culture and landscape elements;
- the development of harmonious relations between nature and society by promoting traditional land and resource utilisations without territorial environmental impact;
- the promotion of tourism and recreation;
- the encouragement of education and awareness activities;
- the promotion of scientific research and environmental monitoring status;
- international cooperation and collaboration with the Djerdap National Park in the Republic of Serbia and other similar parks in European Union countries.

The park encompasses 18 areas of strict protection as defined by the national legislation and settled by the Ministry of Environment. Moreover, under Government Decision No. 1284/2007⁴³, the Iron Gates Nature Park gained two Special Protection Areas, as part of the European ecological network Natura 2000 in Romania, namely:

- ROSPA0026 course Baziaş-Danube-Iron Gates, covering 10,124.4 ha;
- ROSPA0080 Almaj-Locevi with an area of 118,141.6 ha.

Moreover, according to the Order of the Ministry of Environment and Sustainable Development No. 1964/2007, ROSCI0206 Iron Gate was declared as a site of Community importance, part of the European ecological network Natura 2000 covering an area of 124,293.0 ha.

The presence of these Natura 2000 sites require the application of the provisions in force on the environmental assessment for plans and programmes, as well as setting environmental impact assessment procedure for all plans, programmes and projects to be held in sites of Community importance.

⁴³ Regarding the declaration of SPAs as integrated parts of Natura 2000 network in Romania.

The management of the Park is provided by the National Agency for Forests - Romsilva, under a contract with the Ministry of Environment and Sustainable Development, No. 740/22.05.2004. The Iron Gates Nature Park Administration is a new structure, established in 2003 and currently works as a sub-unit of Romsilva that provides the necessary staff and equipment in order to duly manage the protected area. The Administration has its headquarters at the Romsilva branch in the town of Orsova.

According to the law on protected areas (Urgency Ordinance No. 57/2007, Article 19, paragraph 4), the Iron Gates Nature Park Administration is guided by a Scientific Council, fulfilling the role of scientific authority within the protected area. Membership and rules of organisation and functioning of the Scientific Council were proposed by the Administration of the Iron Gates Natural Park, to be approved by the National Agency for Protected Areas, with a notice from the Romanian Academy⁴⁴; the approval is still pending since the National Agency for Protected Areas is not functional yet. In addition, within the Iron Gates Nature Park Administration it was established the Advisory Board of Directors of the Iron Gates Nature Park, composed of representatives of institutions, economic organisations, NGOs, local authorities and communities that have property or interests in the area or in the vicinity of the protected area and that are involved and interested in the application of protective measures in conservation and sustainable development of the area⁴⁵. The composition and rules of the organisation and operation of Management Advisory Board were proposed by the Park Administration and will be approved by the National Agency for Protected Areas. The Advisory Board comprises 52 members, among others, all municipalities in the area, two county councils (Caras Severin and Mehedinti), associations for hunting and mountain tourism, three museums, three universities, and SC Hidroelectrica SA sucursala Hidrocentrale 'Portile de Fier'⁴⁶.

The Portile de Fier Nature Park was declared in 2011 a Ramsar site, being included in the List of Wetlands of International Importance. The new status gave the Administration the opportunity to access international funds for the protection and reconstruction of flora and fauna in the Danube's gorge zone. 4,000 flora species and 5,339 fauna species have been identified and about 8% of them are being included on the Red List, namely threatened with extinction.

The Iron Gates Nature Park is characterised by a lush biodiversity, which made that this protected area is recognised both at national and international level. The climate, soil science, petrography, geomorphology, Danube's influence on them, and the social context have created unique places that preserved characteristics of specific habitats over the centuries.

As a coat worn for ages, but always refreshed, the forest dresses the mountain ranges of Almăj and Locva to 80%, leaving slopes, which created the Danube's flow. The almost vertical sides, mostly carved in the limestone are populated with numerous endemic, rare types of grass, shrubs and mysterious flowers. The flora characteristic for the Iron Gates Nature Park presents a mixture of boreal flora, mountainous and Mediterranean. Another interesting trait is the descent of mountainous flora and the ascent of Mediterranean plants on the mountain slopes. There is a certain thermal inversion that makes beech - *Fagus sylvatica* – to live at the lowest elevation in the country in Mraconia Valley, yew - *Taxus baccata* – a relict on the slopes that surround the

44 According to Urgency Ordinance No. 57/2007, art. 19, paragraph 3.

45 Urgency Ordinance No. 57/2007, Article 19, paragraph 2.

46 The hydropower plant branch of the state owned company Hidroelectrica.

Cazanele Mari, bilberry - *Vaccinium myrtillus* – grows on the rocky cliffs of Trescovăț. On the whole, the Iron Gates Nature Park flora is represented by all five phyla of the plant kingdom, as follows: Phycophyta, with 71 families, 171 genera and 549 species; Lychenophyta with 34 families, 67 genera and 375 species; Fungi, 48 families, 252 genera and 1077 species; Bryophyta, 31 families, 98 genera and 296 species; Cormophyta with 67 orders, 114 families, 540 genera, 1395 species, 272 subspecies and 5 varieties.

In terms of geographical area of plant species in the Iron Gates Naturae Park there is a net dominance of northern and western elements (with a percentage of 62.23%) and of the circumpolar, European and continental European, mid-European and mid-European Mediterranean, Eurasian, including continental arctic-alpine, alpine – Balkan and alpine - Carpathian. These are followed by southern and endemic elements with a percentage of 19.23%. Eastern or continental steppe, respectively Ponto - Pannonian elements rise to a total percentage of 11.07%, while foreign vegetation to 6.75%.

Many endemic plant species or listed on the National Red List, determined the designation of several *nature reserves* requiring integral protection in the Iron Gates Nature Park. These reserves exist in both counties, Mehedinti and Caras Severin. Among them it is worth mentioning: the *Marsilea quadrifolia*, *Tulipa hungarica*, *Cachrys ferulacaea* or *Stipa danubialis*. Endemic animals protected in the Park are restrained to specific insects. The *Vipera ammodytes* (horned viper) is declared a strictly protected species due to the dramatic decrease in the number of exemplars and habitat destruction in the last century. Hermann's turtle - *Testudo hermanni boettgeri* – is another strictly protected species. Moreover, 34 species of mammals, all typical for the Carpathian environment, reside in the Park. A species of fish that requires further care, attention and research are the sturgeons and their strict protection in the wilderness – it is also envisioned a corridor through the Portile de Fier Dam that will facilitate their upstream migration to spawn.

The Iron Gate reservoir I is the largest hydro-structure along the Danube in Romania, it is made behind the dam at Gura Valley, which has a height of 60.6 m. The lake has a length of 130 km, an average area of 700 square kilometres and an average volume of 12 cubic km. The construction of the Iron Gates Hydropower and Navigation System caused the displacement of settlements (Orsova, Svinita, Eselnita) and the disappearance of others (Tisovita, Ogradena, Plavisevita, Ada-Kaleh). Currently, the Iron Gate reservoir is used for power generation, regulation of Danube's flow, fisheries, navigation and recreation. It is also a favourite habitat for many species of aquatic birds.

Currently, tourism in the Iron Gates Natural Park is very weak and limited to small groups, generally unorganised, who search for the beauty of the area. Organised groups are less numerous, limited to a range of recreational activities along the Danube. Many activities of eco-tourism, cycle lanes, traditional cuisine, bird watching, sustainable fishing, speleology, and scientific tourism are being and need to be however pushed ahead.

Currently, in terms of land use the Scientific Board is drawing the maps of integral protection areas as well as modifying the Urbanism Plan Area. The Park management deals with issues as the exterior appearance of the buildings and the compliance with traditional facades, as well as the use of traditional materials such as plaster, simple wood or stone.

The prohibition of hunting activities in hunting areas that overlap with integral protection zones according to the internal zoning Management Plan of the Iron Gates Natural Park has been settled as of 2012. It is recommended that full protection zones have to be established by the hunting fund manager as quiet areas for animals. In any other hunting activities field agents of the administration of the park will participate in a mandatory manner. The Park Administration must be notified, at least 48 hours before performing the hunting activities, with the following: date of hunting, the fund where hunting takes place, place and time where the team is meeting, hunting authorization number and date of issuance, the name of hunters participating in the activities, and species for which hunting is organised.

Future recommendations, as also underlined in the 2012 Scientific Board's report for the Park Administration⁴⁷, aim at a series of actions to ensure ecological connectivity. Park Administration will undertake legal steps to hire legal counselors to support in Court any litigation dealing with human activities with negative impacts on biodiversity and landscape in the Iron Gates Nature Park. The Administration will also work with local authorities in order to diminish quantities of domestic waste in riverbeds and transport ways. The Park Administration will verify compliance with the rehabilitation/modernization of DN 57 (the road along the Danube), works approved by the Scientific Council. The adoption of a strategy by the Scientific Council on the negative impact of aggressive constructions especially along the Danube valley and its submission to the central public authority responsible for environmental protection is also of primary concern and highly recommended.

2. Maramures Nature Park/Carpathian Biosphere Reserve (Romania – Ukraine) (See Questionnaire 3.2)

The Maramures Nature Park was established by the local government and a consortium of government, NGOs and civil society. This project has emerged from this partnership. The proposed project will build on the work already undertaken during the past eight years by the Ecological Society of Maramures together with the Environmental Protection Agency - Baia Mare, the Maramures County Council and various NGOs and governmental institutions in Romania, as well as their counterparts in Hungary, Ukraine and the Slovak Republic⁴⁸. In 2000, civil society leaders mentioned the abovementioned consortium for biodiversity conservation and landscape management in Maramures. The proposed project would reinforce the capacity of local Government and non-Government stakeholders to collaboratively plan and lead conservation management of the rich biodiversity of the Maramures Mountains through the newly established Maramures Biodiversity Consortium.

In terms of internal zoning, according to Urgency Ordinance No. 57/2007, the Maramures Mountains Nature Park comprises three areas:

- full protection;
- sustainable management; and

⁴⁷ <www.pnportiledefier.ro/hotararea%20nr.57%20din%2012042013.pdf>.

⁴⁸ Strengthening Romania's Protected Area System by Demonstrating Public-Private Partnership in Romania's Maramures Nature Park. UNDP Project Document UNDP-GEF Medium-Size Project (MSP). Government of Romania - United Nations Development Programme, 2004, page 20.

- sustainable development of human activities.

Inside the park there are also four protected areas declared by Law No. 5/2000, as follows:

- Stancariile Salhoi - Zambroslavile - 5 ha - Category IV IUCN;
- Cornu Nedeii - Ciungii Balasani - 800 ha - Category IV IUCN;
- Peak Farcau - Lake Vinderel - Peak Mihailecu - 100 ha - Category IV IUCN;
- Daffodil Glade Tomnatec - Sehleanu - 100 ha - Category IV IUCN.

These protected areas are subject to full protection. Surfaces are established by legal provision in an approximated way, however, they will be mapped accurately when making the park's cartography. The internal zoning of the Maramures Mountains Natural Park is made by keeping in mind the need to preserve biodiversity and landscape, but also the economic development of the area through activities with low environmental impact. Full protection area reaches 18 769 ha. In delimitating the full protection area was taken into account the necessity to preserve representative samples of ecosystems in this biogeographical region. The representation value criterion was based mainly on biological diversity of ecosystems. A buffer zone covers an area of 35,000 ha where the sustainable development of human activities is allowed. This area includes built-up settlements in the park, the area occupied by permanent communication paths (roads, county roads and local roads, forest railways, railroad embankments, forestry related communication routes) mountain pastures outside the full protection area and surfaces outside the municipalities that have been modified by conducting traditional human or non-renewable natural resources, whether or not included in agricultural use or forestry.

The territory of the Maramures Nature Park belongs to a typical East Carpathian type. The botanical research carried out so far proves the framing of this territory in the general complex of the Carpathian flora characteristic to the East Carpathians with high biodiversity. Up to now a total of 1265 types were identified, belonging to 217 families represented by:

- 169 macromicet (Mycobiota) of 34 families;
- 128 lichen of 47 families;
- 286 bnohyte of 48 families;
- 682 cormophyte of 88 families.

The continental - temperate climate in the concerned area, the hill and mountain relief on which specific soils developed - clay soils, cambium soils and spodium soils - supported the formation of certain types of forests such as beech, common oak and spruce, as well as different types of mixed forests. A quick analysis of the forest system leads to the following main results⁴⁹:

- Pure spruce forests - approximately 22% of the total surface;
- Spruce, fir and beech forests - approximately 20% of the total surface;
- Fir and beech woods - approximately 9% of the total surface;
- Mountain pure spruce - approximately 35% of the total surface.

Among the 1000-recorded plants, more than 90 species are endemic and 101 are included in the Red List of Romania (93 are rare, 7 vulnerable and one is endangered). Some of the rare species are legally protected in Romania as 'natural monuments', including *Cypripedium calceolus*, *Narcissus radiiflorus*, *Angelica archangelica*, *Gentiana lutea*, *Gentiana punctata*, *Rhododendron myrtifolium*, *Taxus baccata* and *Trollius europaeus*.

49 <www.muntimaramuresului.ro/index.php?cmd=flora>.

Fifteen types of fish are listed under the Bern Convention and several are listed as endangered in the IUCN Red data Book. The amphibian Carpathian newt (*Triturus montandoni*) is endemic to Eastern Carpathians.

‘The avifauna is very rich with 141 recorded species, 140 of which are listed under the Bern Convention (85 are strictly protected and listed on Annex II and 55 protected - Annex III), 49 species under the Bonn Convention with the rare white tailed eagle (*Haliaeetus albicilla*), 54 under the EC Bird Directive and 44 listed under the Agreement on the Conservation of Africa-Eurasian migratory Waterbirds (AEWA). A list of a few focal or indicator bird species recorded nesting in the project site includes golden eagle (*Aquila chrysaetos*), lesser spotted eagle (*Aquila pomarina*), corn crane (*Crex crex*), wryneck (*Jynx toquilla*), capercaillie (*Tetrao urogallus*), black grouse (*Tetrao tetrix*), pygmy owl (*Glaucidium passerinum*), Ural owl (*Strix uralensis*), Tengmalm’s owl (*Aegolius funereus*), white-backed woodpecker (*Dendrocopos leucotos*), and three-toed woodpecker (*Picoides tridactylus*). Records list also some rare transmigrant bird species, such as: *Pandion haliaetus*, *Gavia stellata*, *Anas clypeata*, *Netta rufina* and *Melanitta nigra*⁵⁰.

The mammal fauna is extremely rich with large populations of brown bear (most probably towards 100 exemplars), wolf and lynx (estimated 1500 in Romania, 18 recorded in project site in 2004). ‘Rare and declining mammal species include also e.g., the European mink (*Mustela lutreola*), otter (*Lutra lutra*), *Myotis brandti*, and *Pipistrellus pipistrellus*⁵¹.

For many decades, research activity has lacked a systemic approach, and it can be expected that many more rare, vulnerable and endangered species of flora and fauna will be found in future studies⁵².

In terms of forestry, the Park area encompasses approximately 150,000 ha, of which 66% is naturally regenerated forests, 30% meadows and alpine pastures and 4% agricultural lands. Lately, the Government has returned a few thousands hectares to the original private owners. Despite low exploitation even during communist times, nowadays, especially privately owned forests are being irrationally cut leading to actual cases of deforestation.

Producing certified timber often means improving the level of forest management or at least changing existing forest management practices. Forest managers need assistance in navigating the transition from existing chaotic practices to those that will lead to certification and incentives to keep forestry a good and sustainable business.

Habitat fragmentation and degradation have been identified as the most serious threats to biodiversity in the Maramures area. Poor private forestland management, illegal felling of state forests (including the destruction of some old growth forests) and some overgrazing have degraded and fragmented forest and grassland habitat, leading to the loss of biodiversity.

Aggravating factors, threats and barriers⁵³ that sprung up within the management of Maramures Nature Park, as well as future policies and legal settlements to tackle these issues, group:

- Insufficient system, institutional, and individual capacity and collaboration between the

50 *Supra* note 49, page 23.

51 *Ibid.*, page 23 (*infra*).

52 See ‘Muntii Maramuresului - The Database Concerning the Establishment of Biosphere Reserve’, Editura Echim 2000 as quoted in the document *Supra* note 49, 2004.

53 *Supra* note 49, page 29.

national and regional agencies responsible for the administration and natural resource management of the area;

- Weak coordination among local communities, local authorities and the public sector.

In addition to aforementioned threats, the following are significant barriers that prevent conservation and ecological connectivity from being effectively enhanced:

- ‘Capacity barriers at the Ministerial, Regional, County, and Individual levels. Stakeholders are inexperienced in developing and operating Government-NGO partnerships. There is a low level of awareness among the public regarding the value, importance and vulnerability of biological diversity and renewable natural resources. Key Government decision-makers, both national and local, do not recognize the economic value of protected areas, of non-consumptive uses of natural resources, ecosystem services and future development options;
- Ecotourism is a new concept and few people are aware of its practical implications and benefits;
- Regional land-use planning and environmental governance capacity is immature and underdeveloped;
- Financial institutions have little experience in assessing SME viability, especially in the relatively new ‘green’ markets’⁵⁴.

A joint Ukrainian-Romanian Reserve will be set around the territory of the existing reserves in the border territory of Maramures. It will provide for the preservation, study and renovation of natural and semi-natural ecosystems, traditional forms of economic activities, promotion of sustainable development, promotion of regional communities and their cultural and historic values.

The trans-border working group is responsible for the development of joint strategic documents (and a Memorandum), working programs and projects aiming at common environmental management. The parties depose all their best efforts to prepare for the recognition of the Maramures Mountain Reserve as a UNESCO biosphere reserve, thus giving international recognition to the common protected region. A Maramures Reserve is foreseen to achieve sustainable development in the region, ecotourism, and stronghold in ecosystems services.

In terms of international cooperation in the Carpathian region, a key to the improvement of ecological connectivity and sustainable management in protected areas further lies into the Hungary-Slovakia-Romania-Ukraine ENPI Cross-border Cooperation Programme, as approved by the European Commission for the period 2007-2013. The Programme aims at strengthening cooperation between participating states in order to reach a more sustainable local development and an effective management of natural resources.

⁵⁴ Strengthening Romania’s Protected Area System by Demonstrating Public-Private Partnership in Romania’s Maramures Nature Park. UNDP Project Document UNDP-GEF Medium-Size Project (MSP). Government of Romania - United Nations Development Programme, 2004, page 31.

Conclusions and Suggestions for Improving National Legislation

Romania enjoys an unmatched biological diversity: over 250,000 ha of ‘virgin’ forests (ranked second in Europe after Russia), thousands of bears roaming the Carpathians, the largest European wetland – Danube Delta – with the largest concentration of migratory birds, and a rural countryside (the largest in the E.U.) with rich semi-natural areas and well preserved local cultures. Organic relations between traditional communities and natural elements can no longer preserve this richness. The stability and equilibrium of natural processes require that the areas of high natural values are covered by strong legal protection and are combined in a system of operating ecological corridors. The diversity of nature conservation forms in Romania leads to the adaptation of the form of conservation to the existing needs of both communities and wildlife. On the other hand, various forms of conservation are complementary and have diverse degrees of protection. In Romanian law this is called ‘internal zoning’ and it delimits concentrically zones of strict protection, zones of integral protection, buffer zones, and zones of sustainable development of human activities⁵⁵. Ecological connectivity and biodiversity protection do not entangle only conservation, social and educative purposes; they have a high scientific role and carry knowledge of biological processes and environmental stability. Results of such research contribute essentially to the very fundament of sustainable development strategies and of subsequent legal framework. The whole ensemble of protection that regards natural habitats, wild flora and fauna, and cultural landscapes forms the *national network of protected areas*. Its coordination falls into the duties of the Romanian environmental central authority, of the Romanian Academy and of the National Committee ‘Man and the Biosphere’. In order to create a legal system of protected areas consistent from the spatial and methodical perspectives, it is highly important to ditch a simplistic procedural approach and come up with a complex project for a structure that could enhance guidance for state policy bearing in mind the higher purpose of nature conservation and landscape management.

The very concept of conservation has evolved greatly in the last century. Authors and ‘conservationists’ have gradually realised that protected areas and the conservation measures do not necessarily consist only in the strict protection of some species and habitats. Indeed there are species and habitats that imperatively require active management to be maintained and to survive. However, most of the time it is enough to landscape and preserve local culture. Theories regarding ecosystem services have sprung up lately with the academia and with the practitioners. It is recognised that most protected areas contain values that, via a duly carried out management, can lead directly or indirectly to great benefits for communities and humankind. These values can be material or non-material whilst a complete economic evaluation of ecological/ecosystem services such as good air quality, healthy community, wild fauna in the forest, historical and spiritual values is of high complexity and large margin of estimation. A Romanian system for policy guidance could therefore overpass the constant need to resolve tension between industrial development or urban sprawl and ecosystems under pressure.

⁵⁵ In this sense: D. Marinescu, *Tratat de dreptul mediului*, Editura Universul Juridic, Bucuresti, 2010, page 343.

The National Agency for Protected Areas and Biodiversity Conservation. This Agency was created in 2005 as a public institution, subordinated to the central public authority in charge with the protection of the environment. It was legally founded by Decision No. 1320 of 14 October 2008 on the organisation and functioning of the National Agency for Protected Areas (NAPA). Until now, NAPA is still not operational and responsibility for the administration of protected areas of national interest lays on the Central Environmental Authority, the Ministry of Environment. Within the Romanian legislative system this has to be done via the issue of Methodological Norms (*Norme Metodologice*) or Norms of implementation that refer directly to the actual functioning of a certain legal Act. Administration and custodians of protected areas are currently subordinated to a central public authority for environmental protection (The Ministry of Environment) – in the case of Danube Delta Biosphere Reserve; as well as to autonomous, trade companies, local authorities, scientific research institutions either public or private, museums, NGOs. These institutions and organisations can manage protected areas under a contract with the Central Environmental Authority (now the Ministry of Environment), which must allocate the necessary staff and financial resources protected area management. According to the law, NAPA may have subordinated administration of protected areas. Also, once it becomes operational, the agency will gain contracting and administering responsibility in relation to protected areas. Moreover, the national policy related to any sort of protected area will be duly harmonised within a single institution especially dedicated to organising conservation nationwide.

Financing protected areas. Recently, all over the world, numerous studies and plans adapted to different systems of protected areas were developed at national or regional level as well as for single protected areas in order to ensure a sustainable funding system. In the vast majority of situations the financial resources to management of protected areas come from the state budget. However, in recent years it has been sought to diversify resources, recognising the fact that in very few cases financing that comes merely from the state is sufficient. Numerous financial mechanisms can be taken into account for activities in a protected area, but the foundation of a lasting and viable mechanism incorporating complex studies is needed to establish and quantify if possible values of goods and services in a protected area. It is also very important to keep in mind that in many cases goods and services from a protected area serve as a source of sustainable income for local communities, which shows once again that a sustainable funding plan must be well grounded. Management of protected areas is based on the management plans developed in consultation with key stakeholders. Compliance provisions of the management plans are mandatory for all landowners and administrators of protected areas. Nonetheless undertaking the sustainable development and conservation of areas leads to paying compensations if this imposes restrictions on natural resource management belonging to private property. Effective management of protected areas requires financial resources, human and other resources, sufficient to enable the implementation of management plans and objectives for which the protected area was established. Currently, special emphasis is put on evaluating the effectiveness of protected area management. This assessment can be done using multiple methods developed by various international institutions. The results and findings of the evaluations should be integrated into the annual work plans and management plans in order to improve the management of protected areas and management measures to adapt to the change. Naturally, stakeholders and authorities must elaborate norms (if not only assess good practices) of financing and incentives that will bring in

the funds' circuit of communities and businesses. Such norms require utter care and attention since business tends to focus mainly on immediate gains and not on long term schemes.

Strengthening the role of Scientific Boards. The Scientific Board members are nominated by the Ministry of Environment among persons with scientific or practical experience relevant to the management of protected areas. They contribute to the effective management of protected areas, helping administration in decision-making. Scientific advice for decision making, if operating properly, can significantly help in the administration of protected areas as well as in taking decisions of major importance for management, including preventing or stopping potentially adverse impacts. Their decisions are mandatory and rank as approvals. Currently, in the procedure for issuing regulatory acts for plans, projects and/or activities that could significantly affect protected areas, the environmental protection authority requests and considers the opinion of directors, or the custodians of protected natural areas. Naturally, their decisions are based on the work of Scientific Boards.

Currently, environmental authorities do not want to be forced to heed scientific advice and thus surpass the principle of collaboration. Argumentation of the Ministry of Environment is that changes are made 'in order to reduce the procedure for review and approval of projects/plans for sustainable development of the communities in protected natural areas'.

The authorities intend to take control over income-generating interventions in protected areas through regulatory acts issued by local bodies of the Ministry of Environment, a total political control over interventions in protected areas. The Romanian legislation must hold tight to the scientific control of any intervention inside protected areas. Moreover, strengthening public participation and blocking initiatives that aim at imposing political control over protected areas must be always on the top of the civic agenda.

Even within the current system, protection of biodiversity and ecological connectivity is not only a legal factor binding on the public authorities, but most of all a legal and constitutional determinant of the rights and obligations for citizens who are independent from the state. Protection of biodiversity is thus incumbent to the very idea of citizenship.

The Romanian procedural and instrumental approach to nature conservation reveals embedded weaknesses of protection of biodiversity and ecological connectivity. The entire legal and economic mechanisms, however, work within a whole system of constitutional guarantees for the protection of nature that individuals are entitled to sustainably benefit from.

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 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)?

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.