



for a living planet[®]

Addressing threats to nature in the Carpathian Mountains

Legal and administrative instruments for addressing conflicts between infrastructure and nature conservation in **Hungary**

WWF-Hungary
WWF Danube-Carpathian Programme



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Carpathianproject



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Protected Areas for a Living Planet — delivering on CBD commitments

Carpathian Treasures

The Carpathian Mountains are Europe's greatest remaining wilderness area. They are a bastion of large carnivores, with over half the European populations of brown bear, wolves and lynx as well as the greatest remaining stands of natural forest. At the same time, the Carpathians have some of Europe's richest cultural landscapes, shaped and enriched by centuries of human cultivation.

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Available in digital form and on the Internet:

- **Handbook** of selected legal and administrative instruments for addressing conflicts between infrastructure and nature conservation in the Carpathian Mountains. The handbook provides a general description and overview as well as links to further information on instruments available across the Carpathian Mountains, including in both EU and non-EU member states.
- **Powerpoint presentation** on legal and administrative instruments for addressing conflicts between infrastructure and nature conservation across the Carpathian Mountains – essentially a powerpoint version of the handbook and free for use and adaptation.
- **Country reports:** Legal and administrative instruments for addressing conflicts between infrastructure and nature conservation in individual Carpathian countries (Czech Republic, Hungary, Poland, Slovakia).

All available at:

- <http://www.panda.org/dcpo>
- Direct link:
http://www.panda.org/about_wwf/where_we_work/europe/what_we_do/danube_carpathian/our_work/forest_and_protected_areas/carpathian_ecoregion/addressing_threats/index.cfm.

I. Introduction: What and whom this is for

What it is for

The purpose of this country report and the accompanying handbook¹ is to provide an introduction and overview of some of the legal tools available for addressing conflicts between infrastructure and nature conservation and protected areas in the Carpathian Mountains. These tools should help to prevent such conflicts from happening in the first place and, where they do occur, to help address them in the interest of long-term sustainable development in the Carpathians.

Who it is for

This country report and accompanying handbook are ultimately intended for all stewards of high nature value areas, including Protected Area managers, NGOs, local communities and interested stakeholders. While these materials are intended expressly for audiences in the Carpathian Mountains, many of the sources described are relevant in other areas as well.

How it is structured

This country report provides more country-specific information regarding some of the legal and administrative tools that are described in the accompanying handbook.

Both the country report and the handbook cannot provide more than an introduction to and by no means a definitive interpretation of individual legal and administrative instruments. For more specific information, readers will need to refer to references to further information – including the actual pieces of legislation – that are included.

This country report and accompanying handbook have been specifically designed as living documents, to be added to and changed in response to changes in legislation as well as input from users. In this light, we encourage you to provide us with your input and comments for incorporation in future versions.

¹ Addressing Threats to Nature in the Carpathian Mountains: Handbook of legal and administrative instruments for addressing conflicts between infrastructure and nature conservation (WWF-DCP, 2007). Available at:

<http://www.panda.org/dcpo>. For direct link see:

http://www.panda.org/about_wwf/where_we_work/europe/what_we_do/danube_carpathian/our_work/forest_and_protected_areas/carpathian_ecoregion/addressing_threats/index.cfm.

III. Legal and administrative instruments for addressing threats to nature in the Carpathian Mountains in Hungary

Issue	Legal or administrative tool	Description	Comments
<p>Access to information</p>	<p>Law on the ratification of the Aarhus Convention 2001/LXXXI. Government Decree Nr. 311/2005. (XII. 25.) on public access to environmental information. Act No. LIII of 1995 on general rules of environmental protection. Government Decision Nr. 1126/2003. (XII. 12.) on Hungarian Information Society Strategy.</p>	<p>Transpose the Aarhus Convention. Sets basic rules for providing environmental information by official authorities.</p>	<p>The most important driving force behind the right to environmental information and public participation is the implementation of the Aarhus Convention. Hungary signed the Convention on December 18, 1998 and ratified the document on July 3, 2001. The ratification was published through the LXXXI Law in 2001.</p> <p>Any information (data) concerning the following is (are) considered to be environmental information irrespective of its (their) form of appearance:</p> <ul style="list-style-type: none"> • The environment or the status of environmental elements – including biodiversity and its components and organisms modified by gene technology – and the interaction between these elements. • Environmental burdens, including direct or indirect emission of noise, radiation, waste, radioactive waste into the environment if it has (or is likely to have) any effect on specific elements of the environment. • Measures concerning the environment, especially the related sectoral policy, legislation, plans, programs, agreements, or activities that affect (or may affect) the factors specified in the previous items, as well as measures and activities for the protection of the environment and environmental elements. • Reports regarding the implementation of environmental legislation. • Analyses and assumptions regarding cost-effectiveness and other business issues used within the activities and measures referred to in the third point. • The status of human health and safety – including pollution of the food chain, human living conditions, cultural sites and buildings – if they are (or may be) affected by the status of environmental elements or, through these elements, any factor or measure referred to in the second or third points. <p>Some institutions have established offices for work with the public; some also publish information on their own websites. It is hard to evaluate at the moment which are the institutions which have proper mechanisms in place and which are the ones that lack them.</p> <p>The Hungarian Ministry of Environment and Water makes a wide range of information available in electronic format. Some 99 of these websites are listed on the www.kvwm.hu/linkkeftoldal.php. The links available on this page vary from meteorological information to data on IPPC.</p>

Funding sources for supporting nature conservation and related development in **Hungary**

Assess-ments	<p>Act No. LIII of 1995 on general rules of environmental protection</p> <p>Government Decree Nr. 2/2005 on Strategic Environmental Impact Assessment.</p>	<p>Transpose EU Directive on Strategic Environmental Assessment (SEA).</p>	<p>The governmental decree requires governmental strategic plans and programmes to be subjected to a Strategic Environmental Assessment in order to ascertain their environmental impacts. The decree also sets the rules and responsibilities of different stakeholders involved in the process.</p> <p>The decree applies to policies, plans and programmes, but only for those developed after February 1, 2005.</p> <p>The concept of the affected public has been included in the regulation: a natural person, legal person or an organization without legal personality.</p> <p>In Hungary, SEAs are quite new and not all of the government institutions are aware of their obligations under this legislation.</p>
	<p>Act No. LIII of 1995 on general rules of environmental protection.</p> <p>Act No. LIII. Of 1996 on Nature Conservation in Hungary.</p> <p>Government Decree Nr. 314/2005. (XII. 25.) on EIA studies and IPPC procedures.</p>	<p>Transpose EU Directive on Environmental Impact Assessment (EIA) as well as Espoo Convention.</p>	<p>Government Decree 314/2005 (XII. 25.) has been adopted for the purpose of simplifying and accelerating licensing procedures and shall be applied from January 1, 2006.</p> <p>The concept of the affected public has been included in the regulation: a natural person, legal person or an organization without legal personality whom (which) the decision made in the procedure pursuant to this decree affects or may affect or who (which) is otherwise interested in the decision brought in a procedure pursuant to the present decree.</p> <p>A brief description of the main alternatives studied by the applicant has been included with the content requirements of the permit application.</p> <p>Applies to individual projects. EIAs are usually paid for by project developers, so EIAs have a tendency to say what the developer wants to hear.</p> <p>Regarding public participation, the situation is even less clear. Technically, in Hungary it is possible to participate in the permit giving process after recognition of status as an "interested party".</p> <p>The National Forestry Authority several times has rejected involvement of WWF-Hungary in assessing forestry projects, saying that it does not recognise WWF as an interested party.</p> <p>Recently, legislation on EIA has been modified, reducing possibilities for public participation in EIA processes.</p>
	<p>Act No. LIII of 1995 on general rules of environmental protection.</p> <p>Act No. LIII. of 1996 on Nature Conservation in Hungary.</p>	<p>Transpose Article 6 of the EU Habitats Directive, so-called Natura 2000 Assessment.</p>	<p>Only applies to habitats and species protected by the Natura 2000 network of specially protected sites, but can include projects outside of Natura 2000 areas if these have an impact on Natura 2000 protected nature values.</p> <p>Specified details of restrictions regarding Natura 2000 sites are listed in Government Decree Nr. 275/2004 on Natura 2000 sites and Decree of Ministry Agricultural and Rural development No 128/2007 (X. 31.).</p>

	<p>Government Decree Nr. 314/2005 (XII. 25.) on EIA studies and IPPC procedures.</p> <p>Government Decree Nr. 2/2005 on Strategic Environmental Impact Assessment.</p> <p>Government Decree Nr. 275/2004 on Natura 2000 sites.</p> <p>Decree of the Ministry of Agriculture and Rural Development Nr. 128/2007 (X. 31.) regarding financing opportunities and restrictions on Natura 2000 sites – grasslands.</p>		
	<p>Government Decree Nr. 148/1999 (X. 13.) promulgating a treaty on investigating impacts on the environment across national borders that was signed at Espoo.</p> <p>Government Decree Nr. 314/2005 (XII. 25.) regarding EIA studies and IPPC procedures.</p>	<p>Transposes the Espoo Convention on Environmental Impact Assessment in a Trans-boundary Context.</p> <p>Applies to trans-boundary projects</p>	<p>Paragraphs 12-16 of Government Decree Nr. 314/2005 (XII. 25.) on environmental impact assessments contain detailed procedural rules regarding application of Environmental Impact Assessments in a trans-boundary context. Information exchange across boundaries is also governed by a series of bi- and multilateral treaties.</p> <p>Trans-boundary EIAs are basically governed by the same rules as national ones, with some special features (e.g. documents have to be translated into the partner's language or at least to English). Every project concept which has completed an EIA and which could have effects in another state has to be announced to the state (not only EU countries or neighbors but to all countries that could possibly be affected). The potentially affected states can ask for a trans-boundary assessment to be undertaken. Information about project concepts must be published in both states. Details of trans-boundary EIAs and SEAs are the object of bilateral agreements.</p> <p>There is little experience with trans-border EIAs and SEAs in Hungary to date.</p>

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<p>Access to decision making, public participation</p>	<p>Law on the ratification of the Aarhus Convention (LXXXI/2001). Law on the personal data and the disclosure of information of public interest (LXIII/1992). National Environmental Law (LIII/1995).</p>	<p>Transpose relevant parts of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.</p>	<p>The most important driving force behind the right to environmental information and public participation is the implementation of the Aarhus Convention. Hungary signed the Convention on 18th December 1998 and ratified the document on 3rd of July 2001. The ratification was published through the LXXXI Law in 2001. Another important document is the Law on Personal Data and the disclosure of information of public interest (LXIII/1992). The national Environmental Law (LIII/1995) also ensures the right of access to environmental information, particularly on the state and uses of, and damage to the environment, environmental activities, plans and programmes as well as impacts on human health (Implementation report of the Aarhus Convention 2005). The National Environmental Programme for 2003-2008 adopted by Parliamentary Decision Nr. 132/2003 sets the main framework for the implementation of the Convention through the "Raising Environmental Awareness" Thematic Action Programme. The Convention only covers environmental issues.</p>
<p>Procedures</p>			<p>Technically, in Hungary it is possible to participate in the permit giving process following recognition as an "interested party".</p>
<p>Complaints, infringements</p>	<p>Aarhus Convention</p>		<p>Only concerns the environment. In the original statutory text of the Convention, both substantive and procedural law is concerned. In practice of law in Hungary, only procedural law is taken into account. According to the Convention, environmental NGOs have the right to file an action in the public interest. This principle is implemented in Hungarian legislation. <i>For further information, please refer to Carpathians Handbook</i></p>
	<p>Bern Convention</p>		<p>Hungary adopted the Convention in 1989. The Convention was promulgated in 1990. MERP published a list of exemptions filed by Hungary which was also contained in the reservation list deposited together with the accession document. It primary contains the denominations of species listed in the appendices to the Convention but not protected in Hungary at that time. The promulgation of the Convention by a law at appropriate level has not yet taken place. <i>For further information, please refer to Carpathians Handbook</i></p>
	<p>Ramsar Convention</p>		<p>The Ramsar Convention is implemented into the Hungarian legislation with Act Nr XLIII/1993. On the promulgation in unified structure of the Convention on Wetlands of International Importance Especially as Waterfowl habitat Adopted in Ramsar. The majority of wetlands national and international significance in Hungary are under statutory protection; economic or other activities in those areas are limited by nature conservation statutes. <i>For further information, please refer to Carpathians Handbook</i></p>

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Complaint to European Commission	<p>The European Commission can take – and has taken – Member States to the European Court of Justice on the basis of complaints, and can apply pressure on governments to take action in the interim. However, the Commission decides itself which complaints to pursue. In practice, the Commission is flooded by complaints and has limited resources available for addressing them, and it takes years to prosecute cases before the European Court of Justice.</p> <p><i>For further information, please refer to Carpathians Handbook</i></p>
Petition to European Parliament	<p>Possibly useful for attracting attention to an issue, particularly if it involves issues of EU relevance and political interest. In practice, the actual tools available to the European Parliament are limited.</p> <p><i>For further information, please refer to Carpathians Handbook</i></p>
EU Ombudsman	<p>Every European citizen or corporate body can file an appeal to the EU Ombudsman regarding maladministration by EU institutions, including e.g. the European Commission.</p> <p><i>For further information, please refer to Carpathians Handbook</i></p>

IV. Further use and acknowledgements

Further use and translation of these materials:

Our aim with this publication is to spread practical information regarding legal and administrative instruments available for addressing conflicts between infrastructure projects and nature conservation in the Carpathians. Therefore we welcome and support any efforts to do so, including photocopying and printing as well as translation into other languages. We would appreciate it if in doing so you note the source and would be interested to know how this handbook is being used and distributed. Get in touch with us – we can probably provide you with assistance, e.g. use of digital files, graphic templates, photos, etc. Please send your email titled “Carpathian handbook” to: office@wwfdcp.org.

Acknowledgements:

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