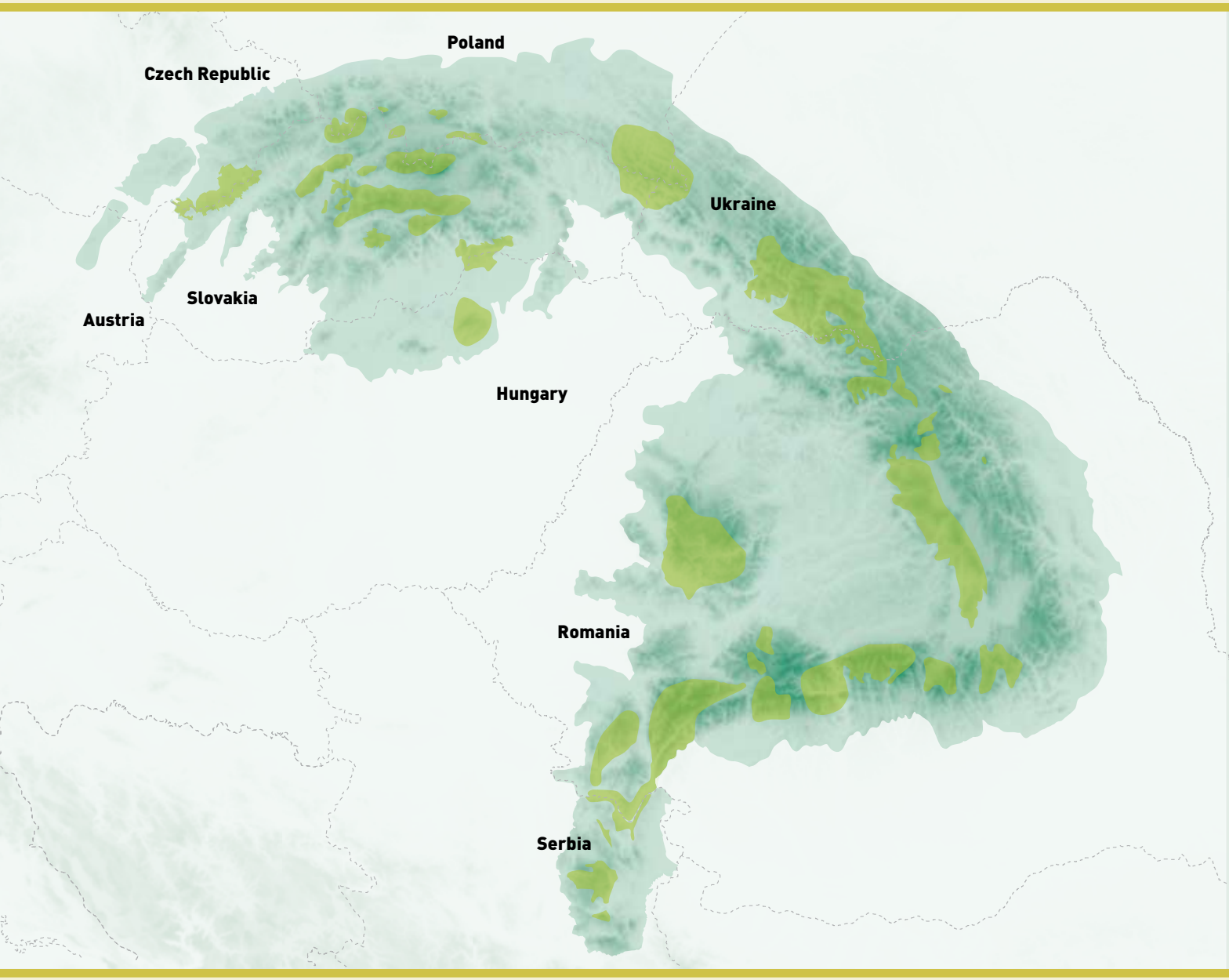
Addressing threats to nature in the Carpathian Mountains

Handbook of legal and administrative instruments for addressing conflicts between infrastructure and nature conservation



The Carpathian Mountains are Europe's greatest remaining wilderness area. They are a bastion for large carnivores such as wolves and brown bears and are home to the greatest remaining areas of natural forest on the continent.

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WWF Danube-Carpathian Programme

Protected Areas for a Living Planet – delivering on CBD commitments

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Available in digital form:

Legislative and administrative tools
in individual Carpathian countries
Available on the Internet at:
http://www.panda.org/about_wwf/where_we_work/europe/what_we_do/danube_carpathian/our_work/forests_and_protected_areas/carpathian_ecoregion/addressing_threats/index.cfm

WWF Danube-Carpathian Programme
Mariahilfer Strasse 88a/3/9
1070 Vienna, Austria
Email: office@wwfdcp.org

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Protected Areas for a Living Planet –
delivering on CBD commitments

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Foreword

The Carpathians are Europe's largest mountain range and they are characterized by a unique natural treasure of great beauty and ecological value, and home of the headwaters of major rivers.

Moreover they constitute a major ecological, economic, cultural, recreational and living environment in the heart of Europe, shared by numerous peoples and countries.

The Carpathians are an important reservoir for biodiversity, and Europe's last refuge for large mammals – brown bear, wolf, and lynx, home to populations of European bison, moose, wildcat, chamois, golden eagle, eagle owl, black grouse, plus many unique insect species.

With the signing of the Framework Convention on the Protection and Sustainable Development of the Carpathians in Kiev in May 2003, the Czech Republic, Hungary, Poland, Romania, Serbia, Slovak Republic and Ukraine decided to cooperate for the protection and the sustainable development of this region.

Now that all the seven Carpathian Countries have ratified the Convention, the challenging phase of its implementation begins and UNEP as the Interim Secretariat together with all the partners of the Convention are supporting the countries in this effort by providing tools and examples.

This publication prepared by WWF-DCP in the framework of the Carpathian Project financed in the INTERREG IIIB CADSES Programme is addressed inter alia to protected areas managers, NGOs, local communities, interested stakeholders and represents a useful guide for the implementation of the Carpathian Convention at local level.

The local authorities play a fundamental role in the implementation of international environmental agreements as in their daily decisions they have to combine and balance environmental protection with development of inter alia infrastructures, economy and tourism.

This publication, by providing a selection of legal and administrative approaches, that are available for decision makers, will be of great help to local communities representatives and stakeholders in their day to day work.

Harald Egerer
Head UNEP Vienna
Interim Secretariat of Carpathian Convention

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Country reports and information were prepared by:

- **Milan Janák**, Daphne Institute of Applied Ecology
- **Vilém Řiháček**, ČSOP Veronica
- **Marta Babicz**, WWF-Poland
- **Viktoria Kavran**, WWF-Hungary

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We look forward to adding your name to this list! This handbook has been specifically designed to be a living document, to be added to and changed in response to changing legislation and input from users. We encourage you to help us make this as comprehensive and useful as possible. Please send your comments titled **Carpathian Handbook** to: office@wwfdcp.org

Further use and translation of these materials:

Our aim with this publication is to spread practical information regarding legal and administrative tools for nature conservation. 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.

1. Introduction: What this handbook is – and is not

The purpose of this handbook 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.

The handbook is intended for all stewards of high nature value areas, including Protected Area managers, NGOs and local communities and interested stakeholders. While it is intended expressly for audiences in the Carpathian Mountains, many of the tools described are relevant in other areas as well.

Section 2 of the handbook briefly describes the different conflicts between nature and infrastructure development across the Carpathians. Section 3 provides an overview of a selection of legal and administrative approaches. Section 4 then describes each of the instruments in greater detail. For ease of use, Table 1 provides an overview of individual instruments, that are available at international and EU levels, including the countries to which the legislation applies and its basic application. Descriptions of the legal instruments are presented as a fact sheet, including the legal reference, the countries the instrument applies to, its general and specific application, general comments, how it works, how you can use it, tips as well as references for further information.

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 in the handbook.

Additional information is available on-line on the website of the WWF Danube-Carpathian Programme at www.panda.org/dcpo[1] as well as in the digital version of the handbook. This includes an overview of legislation and administrative instruments that are specific to each of the Carpathian countries, i.e. those that transpose the international and EU legislation as well as other national instruments that may be of use. Also available are individual case studies illustrating the use of the different instruments.

This handbook has been specifically designed as a living document, 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 For direct link see: http://www.panda.org/about_wwf/where_we_work/europe/what_we_do/danube_carpathian/our_work/forests_and_protected_areas/carpathian_ecoregion/addressing_threats/index.cfm

2. Threats to nature from infrastructure development in the Carpathian Mountains

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.

New threats to Carpathian treasures

These treasures have been remarkably preserved. For centuries, the Carpathian Mountains have been on the margins of kingdoms, countries and empires. One result was that the prodigious natural treasures of the area remained relatively untouched.

Even under the Communist regimes that held sway over the mountain range through much of the 20th century, the mountains benefited from a kind of benign neglect. Aside from some notable exceptions, development efforts of Communist central planners focused on other, usually more accessible areas, leaving the mountains and their communities remarkably preserved. Today, many communities throughout the Carpathians continue living much as their ancestors did for centuries before them.

This is however quickly changing as the Carpathians become increasingly integrated into the global economy. Free market economic systems are proving more efficient than the previous Communist central planning in spreading infrastructure from motorways to tourism facilities and industrial installations across the Carpathian region.

An informal survey of ongoing conflicts between infrastructure and nature conservation[2] in the Carpathians included:

- Tourism facilities, especially for alpine skiing, that are being developed throughout the Carpathians, from Slovakia and Ukraine to Romania.
- Transportation networks, including motorways;
- Transmission networks, including oil pipelines and power lines;
- Mines, e.g. for gold;
- Industrial installations, e.g. automobile factories;
- Water infrastructure, from small hydropower plants to large reservoirs and polders to catch floodwaters;

Many of these developments are being promoted and supported by EU policies and funds. The EU Trans-European Network for Transportation (TEN-T) – the EU's policy for promoting transportation connections across the Community – includes the development of motorways, railways and inland waterways throughout the Carpathian region and which will inevitably have some impact on the region's natural heritage.

EU Structural and Cohesion Funds totaling ca. €120 billion will be made available in the period 2007–13 for investments in the Carpathian regions of the Czech Republic, Poland, Slovakia, Hungary and Romania. While some of this investment will be available for projects that are primarily focused on sustainable development that can be expected to have a net beneficial effect for natural heritage, much could go to projects with a much less positive balance for nature.

2 Undertaken at the workshop **Addressing Threats to Nature in the Carpathians**, October 4, 2007 in Hostětín, Czech Republic, see: www.panda.org/about_wwf/where_we_work/europe/what_we_do/danube_carpathian/news/index.cfm?uNewsID=116860.

New scope and scale

The nature of these threats is not so much different than previously; indeed, most of the infrastructure projects are now implemented with generally greater sensitivity to the environment than under the previous regimes, thanks in no small part to relatively strict environmental requirements of the EU. But the sheer scale of development that is now ongoing is having its toll, threatening many of the region's greatest natural treasures.

In fact, a recently published study on brown bears in Slovakia – the most comprehensive such study to date[3] – notes that while hunting nearly drove Slovak bears to extinction in the 1930s and remains the major focus of conservation debate, in fact the greatest medium- to long-term threat to bear populations in the country is the loss and fragmentation of their habitat. There are similar implications for populations elsewhere in the Carpathians – and beyond, if Carpathian wildlife populations are cut off from neighbouring ones e.g. in the Alps.

People in the Carpathians have a unique opportunity to follow the most modern path of development, to learn from the mistakes of their western neighbours and leap-frog the trends in older EU member states. They have the opportunity to base their development on preserving and even enhancing the rich natural wealth of the region.

Current practice in this respect is unfortunately not heartening.

In many cases, in the rush to spend EU funds, old-fashioned projects – many of them conceived under the previous regime – are being implemented that are inappropriate and unnecessarily destructive.

All too many of the infrastructure projects that are threatening nature are in fact illegal. This applies especially to construction of private homes and tourism facilities, e.g. in the core zones of existing National Parks and protected areas. In Romania, for example, a tourism facility is being completed in the core zone of Ceahlau Nature Park, in clear contravention of national protected area legislation and the EU Habitats Directive and despite an ongoing court case.[4]

In a number of cases, as well, government policies actually contravene protected area and nature conservation legislation. One of the most egregious cases is again in Romania, where the government-adopted Ski 2000 programme calls for construction of ski facilities in eight of the country's national parks[5]. More run of the mill examples include water infrastructure projects that clearly contravene the spirit if not letter of the EU Water Framework Directive.

3 Rigg R. and Adamec M.(2007), **Status, ecology and management of the brown bear (Ursos arctos) in Slovakia.** Slovak Wildlife Society, Liptovský Hrádok. 128 pp. www.panda.org/about_wwf/where_we_work/europe/what_we_do/danube_carpathian/news/index.cfm?uNewsID=117020

4 www.panda.org/about_wwf/where_we_work/europe/what_we_do/danube_carpathian/news/index.cfm?uNewsID=86960

5 www.panda.org/about_wwf/where_we_work/europe/what_we_do/danube_carpathian/news/index.cfm?uNewsID=87120

What kind of development?

Project promoters often accuse environmentalists of being against development, against jobs and improved livelihoods – and conveniently miss the point.

It is not a question of development or no development, but rather of what kind of development – development that is short-term and benefits a limited number of individuals, or development that is long-term and for the benefit of society at large? Development that is well-planned and considered, balancing the needs and interests of different stakeholders, or development that is rushed and haphazard?[6]

The greatest advantage of the Carpathian region compared to many others is the rich natural treasures and resources of the area, which are unparalleled in Europe. The best long-term prospects for development of the region therefore must be based on preserving while using this natural capital rather than squandering it for short-term gain.

At least on paper and in principle, the EU and Carpathian countries already have relatively good frameworks and some powerful tools in place for ensuring smart development – for ensuring that infrastructure development takes into account different interests, including that of conservation, and thus contributes to something approaching long-term sustainable development. In many cases, unfortunately, these safeguards are followed on paper and not in practice.

You can contribute to the better implementation and exercise of these safeguards by actively employing some of the legal and administrative tools that are described in the following pages.

3. Addressing threats to nature – Overview of selected tools

The Carpathian countries (Czech Republic, Poland, Slovakia, Hungary, Ukraine, Romania and Serbia) and the European Community of which many are members[7] are deeply committed – in principle if not always in practice – to environmental protection and sustainable use of resources.

All of the countries are signatories of the Carpathian Convention, which calls for nature protection and long-term sustainable development of the region. Environmental protection is anchored in national Constitutions. Article 6 of the Treaty establishing the European Community provides that environmental protection requirements are to be integrated into the definition of Community policies and activities, in particular with a view to promoting sustainable development.

Following on this, there are a number of legal and administrative tools available in each country to ensure that environmental concerns are fully taken into account. Some main provisions and approaches are described below. Most of them are anchored in international conventions and EU directives.

Ideally, environmental expertise and community involvement should be included in project planning and development from the very beginning, making it unnecessary to resort to many of these tools.

Article 11 of the general regulation for the EU's Cohesion Policy recommends project promoters to ensure quality projects by actively involving and partnering with environmental stakeholders.

6 The World Bank has underlined the importance of a careful stewardship of natural resources for securing long-term development. See: The World Bank, **Where is the Wealth of Nations? Measuring Capital for the 21st Century**, (Washington, D.C., 2006), available for downloading at: http://siteresources.worldbank.org/INTEEI/214578-1110886258964/20748034/All.pdf

7 Among the Carpathian countries, EU members currently include the Czech Republic, Hungary, Poland, Romania and Slovakia. Serbia has been given the prospect of EU membership once it fulfills a number of conditions.

The Austrian motorway company ASFINAG has learned through experience that investment of time and effort to get a project right pays off later on (see case study on page 12). The company now takes a proactive approach to project development and invests considerable time and resources for training, environmental assessments and public consultations, going well beyond strict legal requirements and the norm. It does so in the realization that getting things right from the beginning saves time and money by yielding better quality projects and avoiding costly problems and delays from possible complaints and court cases.

It is much cheaper to address possible conflicts before construction work has started than to solve them once construction is already underway – cheaper for project promoters, but also for environmental advocates, community stakeholders and of course for the environment.

Assessments

Environmental assessment is an important tool for integrating environmental considerations into the preparation and adoption of certain projects, plans and programmes which are likely to have significant effects on the environment, because it ensures that such effects of implementing project plans and programmes are taken into account during their preparation and before their adoption. Environmental Impact Assessments focus on assessing the environmental impacts of projects of a certain kind and scope. Strategic Environmental Assessments take a step back to assess environmental impacts of certain plans and programmes. Additional assessments focus on the impacts of projects on specific objects of conservation, e.g. species and habitats protected under the EU's Natura 2000 network.

In the case of both EU and international legislation governing Environmental Impact Assessments and Strategic Environmental Assessments there is considerable scope, at least officially, for public participation. Failure to follow requirements for public information and participation can be challenged in court and, on procedural grounds, may delay if not actually stop a project.

Assessments of projects

Most of the projects that are likely to have a significant negative impact on nature are required to undergo Environmental Impact Assessments, as required by national, EU and international legislation (EU EIA Directive and so-called Espoo Convention). In EU countries, additional assessments related to Article 6 of the EU Habitats Directive may be required to assess potential negative impacts of projects on habitats and species protected by the EU's Natura 2000 network of specially protected sites.

Also worth noting are special provisions focused on species protection contained in the EU Habitats and Birds Directives. Article 12 of the EU Habitats Directive as well as Article 12 and Article 5 of the related EU Birds Directive provide for the protection of species of flora and fauna, both within as well as outside of Natura 2000 sites. Measures must be taken to safeguard species, including their breeding sites and resting places. These measures should be documented and evaluated in a separate assessment (e.g. as part of the Environmental Impact Assessment or as part of a national conservation system). To date there is still limited experience with the use of these provisions. In early 2007, the European Commission issued a Guidance Document regarding their application.

Assessments of plans and programmes

More recent legislation takes the assessment process back a step, before the project stage, to the level of developing plans and programmes – e.g. regional development or transportation plans, that provide the framework for and anticipate specific projects. The EU Strategic Environment Assessment Directive requires authorities to evaluate the possible environmental impacts of plans and programmes – though not policies. For non-EU countries (Ukraine and Serbia), the Protocol on Strategic Environmental Assessment to the Espoo Convention will require Strategic Environmental Assessments to be undertaken in a transboundary context once the Protocol is ratified and comes into force.

In EU countries as well, additional assessments related to Article 6 of the EU Habitats Directive may be required to assess potential negative impacts of plans and programmes on habitats and species protected by the Natura 2000 network of specially protected sites.

Access to information

The key provision for ensuring public access to information on the environment is provided by the Aarhus Convention – which has been ratified by all Carpathian countries except Serbia – and relevant legislation transposing the international legislation into national law. The Convention specifically requires relevant authorities to be as open and transparent as possible, both in terms of their active and passive provision of information – e.g. being proactive in providing user-friendly information on the environment through electronic databases, environmental reports and other means as well as in responding to requests for environmental information.

Where such information is not forthcoming, citizens and organizations have the option of challenging this before national courts according to national law as well as – where this does not prove possible – appealing to the Aarhus Convention Compliance Committee as described further below.

Legal cases

Where legislation is contravened, individuals and organizations may have the option of initiating court cases, depending on relevant national legislation. Here also the provisions of the Aarhus Convention that are applicable to all Carpathian countries can be of assistance as they specifically require relevant authorities to provide access to justice in environmental matters. Where this is not forthcoming, individuals and organizations have the option of appealing to the Aarhus Convention Compliance Committee, as described under "Complaints" below.

Appealing to the European Court of Justice in most cases is not a practical option for NGOs and individuals. Individuals and organizations cannot take Member States to the court; they can only prosecute cases involving EU institutions, e.g. the European Commission or even the European Investment Bank. Even here, they not only need specialised legal expertise but also must prove that they are directly and individually affected by the action taken – something that in most cases will be difficult to prove except regarding access to information (information withheld directly and individually affects that party demanding it). For gaining access to information, however, there are probably more efficient means available than the European Court of Justice, e.g. via the complaint mechanism of the EU Ombudsman (see below).

While individuals and NGOs do not have the possibility of bringing EU Member State governments before the European Court of Justice, the European Commission – as guardian of the EU Treaty and legislation – can. Individuals and NGOs have the option of encouraging the European Commission to take action against EU Member States where these have contravened EU legislation (see below).

Complaints

In addition to using relevant EU and international legislation in court, there are a number of mechanisms available to members of the public and non-governmental organizations for lodging complaints before EU and international bodies.

EU citizens or NGOs cannot prosecute their governments directly before EU bodies, but they can lodge a complaint with the European Commission and European Parliament, which may then decide to take steps.

As guardian of the EU Treaties, the European Commission's explicit role is to ensure that EU laws are recognized and implemented by all EU Member States. Where this is not the case, the Commission can initiate proceedings, including eventually referring the case to the European Court of Justice, possibly resulting in fines and penalties for the guilty party.

Complaints to the petitions committee of the European Parliament can be useful in raising attention to an issue as well as possibly initiating actions within the Parliament's power, including applying pressure to the Member State government or the European Commission. The EU Ombudsman has developed a good reputation in addressing complaints regarding maladministration by EU institutions such as the European Commission and others.

A number of international agreements, including e.g. the Bern and Aarhus Conventions, have special mechanisms available for individuals and organizations to lodge complaints regarding non-compliance of Parties with the international legislation. While the international agreements do not have the power to punish non-compliance, e.g. by leveling fines and penalties as can the European Court of Justice for EU member states, they can focus attention and diplomatic pressure on cases and offending parties.

Additional international agreements such as the Ramsar Convention on Wetlands and the Carpathian Convention can also be of use. While they do not have formal mechanisms for addressing problems of compliance as e.g. the Bern or Aarhus Conventions do, they are relatively accessible for NGOs and can serve to highlight issues and bring international attention and pressure to bear. The Secretariat of the Ramsar Convention, for example, is relatively open to receiving information from NGOs regarding changes or potential changes in the ecological character of Ramsar wetland sites and can decide on the basis of this to initiate inquiries, including recommendation of a Ramsar Advisory Mission to the site.

It is useful to note that the complaint mechanisms described above not only serve the public and NGOs, giving them access to justice, but also provide the institutions and international agreements with vital information regarding practical implementation of the legislation and behavior of the institutions for which they are responsible.

The European Commission is charged with ensuring proper implementation of EU legislation, yet its capacity and resources are too limited to be able to control this. To a considerable extent therefore it relies on organizations and individuals to serve as its "eyes and ears", providing it with the information it needs from the field. Without the support of individuals and organizations – without your support – the European Commission would not be able to do its job effectively.

The same in no small measure applies e.g. to international agreements like the Bern Convention, which receive the lion's share of their complaints from private individuals and organizations.

Turning paper into practice

The chances of successfully averting conflicts are greater the earlier in project development they come – the earlier an intervention takes place, the more flexibility and options there will be. The more a project develops, the more political and financial support it probably will enjoy, and the more difficult it will be to push it onto a different path let alone stop it in its tracks.

In the end, in most cases a – if not the – decisive factor deciding the future of a project will be political and not legal. To ensure success, you need to develop political support, and the legal steps you take can provide a focus for doing this, e.g. by developing awareness of the public and key decision makers. Be savvy – back up your legal and administrative efforts with communications and lobbying, drawing attention and canvassing support for your cause.

There clearly is a long way to go before even existing legislation is applied in a most basic sense, let alone proactively to the extent probably necessary to ensure the long-term maintenance of the prodigious natural wealth contained in the Carpathians. By exercising the legal and administrative tools outlined in this handbook and others, stewards of these natural treasures – either official or self-appointed – can play a crucial role not only in protecting these treasures but also in strengthening the instruments available for protecting nature and the rule of law more generally.

Legal and administrative tools or protecting nature conservation that are on paper are only as strong as their application in practice. Use them!

Case Study: A positive example for planning and impact assessments

The Austrian company responsible for planning, constructing and maintaining the country's motorways, ASFINAG (Autobahnen und Schnellstraßen Finanzierungs-AG), has learned through experience that doing things right from the beginning pays off in the long-run.

Today, the company's approach to project planning and development can be held up as a positive example for others to follow, and the company has become a leading force for the implementation of EU nature conservation legislation in the country.

In a number of projects in Austria the previous approach to environment and participation proved to be a costly mistake. Legal complaints by environmental organizations and local communities, including complaints submitted by NGOs to the European Commission regarding infringement of EU conservation legislation, managed to stop or delay certain projects. Even where the projects eventually went forward, the delays usually were costly.

The process for planning motorways is long and costly, taking up to 10 years. Planning problems and legal disputes at the end of the process can throw a project off by years, with expensive implications.

ASFINAG has learned from negative experience and re-invented its approach to project planning and development.

The company now focuses on gathering quality information regarding possible impacts on the environment and on involving communities and other stakeholders in a genuine process of consultation that aims to address all concerns and identify best options. Doing so costs added time and money in the short-term, but avoids greater costs over the long-term as projects can move forward as planned.

One of ASFINAG's objectives is to make planning transparent and easily understandable. It employs a range of instruments for public participation that are regularly adapted and modified to suit individual projects. Ultimately, public participation cannot be achieved using a standard approach. Each project requires careful analysis to strike the right balance between involving the public and simply overwhelming them with information.

In its project planning, ASFINAG follows some key principles

- Cooperation from the beginning makes positive solutions much easier
- Transparent, traceable and reproducible processes are the cornerstone for good participation
- Well documented arguments are a basis for comprehensible proceedings

The company underlines the importance of relying on highly qualified and respected experts for overseeing projects. Three additional measures support the key principles:

- To ensure a common approach to and interpretation of the EU's Habitat and Birds Directives, a manual is being prepared which discusses the most important terms of Natura 2000 and species protection (e.g. mitigation measures, compensation measures, favorable conservation status, etc.). The manual also includes interpretations of all judgments of the European Court of Justice which are relevant for infrastructure projects and explains the consequences and lessons of these cases.
- Special workshops involving ASFINAG experts and consultants working on each project provide the opportunity to discuss in detail relevant issues related to the EU's Habitats and Birds Directives and appropriate assessments.
- A half-day conference for all experts and relevant departments of ASFINAG is being organized to sensitize the company to present requirements of EU and Austrian conservation legislation and anticipate their future application.

All of these tasks are elaborated and supervised by a freelanced international Natura 2000 expert.

It is worth noting that ASFINAG is now actually ahead of many environmental organizations in pushing forward debate on interpretation of some of the fine points of the EU Habitats Directive, which is still being developed. The company has come to realize that it is better to be ahead of the curve and anticipate as early as possible some of the practical implications of EU legislation than to be hit with an unexpected bill five years down the road.

According to ASFINAG, the view that such an approach simply makes projects more expensive is wrong. The advantage of what is referred to as the "open planning process" is undoubtedly the practicability of projects drawn up in this way and above all the greater acceptance of road construction in Austria as a whole.

ASFINAG's new approach to planning and project development, driven by enlightened self-interest, should serve as an example for developers of motorways and other projects throughout the Carpathians, and far beyond ASFINAG (www.asfinag.at).

Overview of international and EU legal and administrative tools available; Status: end 2007
(Please see individual country reports for relevant national legislation)

Category	Area	Legal/administrative tool (ratified)	CZ	HU	PL	RO	SB	SK	UA
Information	Access to information	Aarhus Convention	■	■	■	■		■	■
		EU Aarhus Regulation	■	■	■	■		■	
Assessments	Assessments of plans and programmes	Protocol on Strategic Environmental Assessment (SEA) (Espoo Convention)[8]							
		EU Strategic Environmental Assessment (SEA)	■	■	■	■		■	
	Assessments of projects of a certain kind and scope	Environmental Impact Assessment (EIA) – (Espoo Convention)	■	■	■	■	*	■	■
		EU Directive on Environmental Impact Assessment	■	■	■	■		■	
	Assessments of projects affecting Natura 2000 habitats and species	EU Habitats Directive (Article 6 Assessment)	■	■	■	■		■	
	Assessments of selected species populations	EU Habitats Directive (Article 12) and EU Birds Directive (Article 5)	■	■	■	■		■	
Justice	Access to justice	Aarhus Convention (see also Aarhus Compliance Committee complaints mechanism)	■	■	■	■		■	■
Complaints	Implementation of EU law, including Natura 2000 sites	Complaint to European Commission (Infringement procedure)	■	■	■	■		■	
	Anything of relevance to the activities of the European Union	Petition to European Parliament	■	■	■	■		■	
	Maladministration by EU institutions	Complaint to EU Ombudsman	■	■	■	■		■	
	Access to Information, Decision making and justice	Aarhus Convention Compliance Committee	■	■	■	■		■	■
	Wildlife and habitats conservation	Bern Convention (Case File)	■	■	■	■	■	■	■
	Wetland areas – Ramsar sites	Ramsar Convention on Wetlands (“Montreux Record”)	■	■	■	■	■	■	■
	World Heritage Sites	World Heritage Convention (World Heritage in Danger)	■	■	■	■	■	■	■

* Convention signed but not ratified

8 Signed by all and ratified by the Czech Republic, but not in effect (November 2007)

4. Selected legal and administrative tools for addressing threats to nature

Assessments:

Name	Strategic Environmental Assessment (SEA) Protocol to the Espoo Convention (Kiev, 2003)
Citation	Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context (so-called "Espoo Convention"), signed at Kiev, 2003
Countries	Signed in 2003 by all Carpathian countries, including Czech Republic, Hungary, Poland, Romania, Slovakia and Ukraine as well as the European Community, but by date of writing (November 2007) ratified only by the Czech Republic and not in force. For current status of ratifications see: www.unece.org/env/eia/protocol_status.html.
Application	The Protocol on Strategic Environmental Assessment, which will not come into force until ratified by at least 16 Parties, requires Parties to evaluate the environmental consequences of their official draft plans and programmes with transboundary effects. The Protocol also provides for extensive public participation in government decision-making in numerous development sectors.
Comments	Similar to the EU SEA Directive, which applies to EU Member States; unfortunately, the SEA Protocol has not yet been ratified by most Carpathian countries, including Serbia and Ukraine and is not currently in force. This is a potentially powerful piece of legislation, requiring environmental concerns to be addressed early on in the decision making process, before project planning.
Advantages	■ Strategic environmental assessment (SEA) is undertaken much earlier in the decision-making process than project environmental impact assessment (EIA), and is therefore seen as a key tool for sustainable development. ■ Environment and health authorities must be consulted at each step of the process, from initial screening to final decision making on a project. ■ The public, including explicitly nongovernmental organizations, must be given early, timely and effective opportunities for consultation, including timely access to the draft plan or programme and Environmental Report. ■ The Protocol makes explicit reference to associations, organizations or groups of environmental actors, including for health and protection. ■ Relevant provisions are open to all members of the public, regardless of citizenship, nationality or domicile, and regardless of where an organization has its registered seat or the centre of its activities. ■ The SEA Protocol applies not only to environment but also and explicitly to health. ■ There is a clear process for transboundary consultation.
Disadvantages	■ Although all of the Carpathian countries are signatories to the Protocol on Strategic Environmental Assessment, the Protocol has only been ratified by a handful of Parties and has not yet come into force. In the interim, the related EU Directive on Strategic Environmental Assessments (http://ec.europa.eu/environment/eia/sea-legalcontext.htm) applies to EU member states, including the Czech Republic, Hungary, Poland, Romania and Slovakia but not to Serbia or Ukraine. ■ The Protocol will only apply to plans or programmes developed after the protocol came into force. ■ Unlike EU legislation, there is no higher instance that can be appealed to beyond national courts of law. ■ The Protocol does not apply to plans and programmes whose sole purpose is to serve national defense or civil emergencies nor does it apply to financial or budget plans and programmes.

Name	Strategic Environmental Assessment (SEA) Protocol to the Espoo Convention (Kiev, 2003)
Application (specific)	A Strategic Environmental Assessment must be carried out for plans and programmes which are prepared for agriculture, forestry, fisheries, energy, industry (including mining), transport, regional development, waste management, water management, telecommunications, tourism, town and country planning or land use, and which set the framework for future development consent for a wide range of projects listed in Annex I and any other project listed in Annex II that requires an environmental impact assessment under national legislation.
How it works	Each Party to the Protocol must follow a series of steps to ensure that environment and health concerns are taken into account, including: ■ Screening plans and programmes to determine whether they are likely to have a significant environmental and health effect; ■ Scoping, to determine relevant information to be included in the Environmental Report for plans and programmes that are likely to have a significant environmental and health impact; ■ Preparation of an Environmental Report that identifies, describes and evaluates the likely significant effects of implementing the plan or programme and its reasonable alternatives on the environment; ■ Decision makers must inform the public, environmental and health authorities and consulted Party/ies about the final decision taking into account the conclusions of the Environmental Report; the measures to prevent, reduce or mitigate the adverse effects identified in the environmental report; the comments received from consultations; and a statement summarizing how the environmental, including health, considerations have been integrated into it, how the comments received have been taken into account and the reasons for adopting it in the light of the reasonable alternatives considered. ■ Member States must monitor the significant environmental effects of the implementation of the plan or programme in order to identify unforeseen adverse effects and undertake remedial action. Results of monitoring must be made available to environmental and health authorities as well as members of the public that had been previously consulted. (Article 10)
How to use it	You can ensure that: ■ Environment and health authorities have been consulted at each stage of the decision making, including initial screening of plans and programmes, scoping for and consultation on the Environmental Report as well as final decision taken. ■ Members of the public, including NGOs, have been given early, timely and effective opportunities for consultation, including timely access to draft plans and programmes and Environmental Reports before the adoption of the plan or programme. ■ Transboundary consultations with other Parties have taken place if implementation of the plan or programme is likely to have significant environmental or health impacts in their country. As part of the consultation process provided by the Protocol, the Party of origin must inform the other country/ies, about the draft plan or programme and Environmental Report as well as the decision making procedure and then enter into consultation regarding the possible transboundary effects and possible alternatives and ways to mitigate them if required by the affected Party.
Links and further information	■ SEA Protocol to the Espoo Convention: www.unece.org/env/eia/sea_protocol.htm ■ Resource Manual for the Support of the SEA Protocol: www.unece.org/env/eia/sea_manual/welcome.html ■ Countries Subject to the SEA Protocol: www.unece.org/env/eia/protocol_status.html ■ Benefits of Strategic Environmental Assessments: www.unece.org/env/eia/documents/Benefits_SEA_English.pdf

Name	EU Strategic Environmental Assessment (SEA) Directive
Citation	EU SEA Directive – EU Directive 2001/42/EC **on the assessment of the effects of certain plans and programmes on the environment**
Countries	EU member states, including Czech Republic, Hungary, Poland, Romania and Slovakia
Application	Assessment of plans and programmes to ensure that their possible negative consequences on environment and nature are identified and evaluated before being formally adopted, while at the same time seriously taking into account alternative proposals and public opinion. The Directive does not apply to policies (i.e. the highest decision making level).
Comments	This is potentially a powerful piece of legislation and a key tool for achieving sustainable development as it requires environmental concerns to be addressed early on in the decision making process. In practice, SEAs in the Carpathians have not lived up to their potential as they are often undertaken largely as a formality, without genuine consideration of alternatives.
Advantages	■ Unlike the Environmental Impact Assessment Directive (EIA Directive 85/337/EEC & 97/11/EC) which applies only to projects, the SEA Directive applies to plans and programmes and thus places environmental assessment at a higher decision making level and ensures its inclusion early on in the planning process. ■ SEAs are mandatory in particular for plans and programmes in agriculture, forestry, fisheries, energy, industry, transport, waste management, telecommunications, tourism, town and country planning or land use, and which set the framework for future Environmental Impact Assessment projects or with likely significant effects on Natura 2000 sites (Article 3, paragraph 2). Member States can determine if they should apply the SEA to plans and programmes if they are not covered by the EIA Directive or in the case of minor modifications. (Article 3, paragraphs 3 and 4)
Disadvantages	■ Does not apply to policies – only to plans and programmes ■ Does not apply to non-EU member states, including Ukraine and Serbia ■ The Directive does not apply to plans and programmes whose sole purpose is national defense or civil emergency, or to financial or budget plans and programmes.
How it works	**Environmental report:** Whenever a strategic environmental assessment is to be carried out, Member States must prepare an Environmental Report which identifies, describes and evaluates the likely significant effects of implementing the plan or programme and its reasonable alternatives on the environment (Article 5, paragraph 1). Annex I of the Directive dictates content of the report. **Consultations:** The Directive demands a high level of transparency and the full participation of environmental authorities and the public, including NGOs (Article 6). They are to be given early notification and an opportunity within an appropriate time frame to express their opinion on the draft plan or programme and the accompanying environmental report before the adoption of the plan or programme. Transboundary consultations with other EU countries must take place if implementation of the plan or programme is likely to have significant effects on the environment of other Member States (Article 7; see also Espoo Convention). **Decision making:** Decision makers must take the Environmental Report into account as well as the opinions expressed during the consultations (Article 8). **Information:** Decision makers must inform the public, environmental authorities and the consulted Member States about the final decision and provide them with the adopted plan or programme. Information provided should include: A statement summarizing how environmental conditions have been integrated into plans and programmes and how the environmental report was prepared, the opinions expressed and how the transboundary consultations have been taken into account, plus the reasons for choosing the plan or programme in the light of other reasonable alternatives; and the measures decided concerning monitoring. (Article 9): **Monitoring:** Member States must monitor the significant environmental effects of the implementation of the plan or programme with a view to the early identification of unforeseen adverse effects; and the appropriate remedial action. (Article 10)

Name	EU Strategic Environmental Assessment (SEA) Directive
How to use it	You can ensure that responsible authorities have: ■ Properly identified NGOs and other actors and involved them in the consultations procedure; ■ Given them the early and effective opportunity within appropriate time frames to express their opinion on a particular plan or programme; ■ Integrated NGOs and other's opinions into the final decision.
Links and further information	■ SEA Directive, EU Legislation: http://eur-lex.europa.eu/LexUriServ/site/en/oj/2001/l_197/l_19720010721en00300037.pdf ■ SEA Legal Context: http://ec.europa.eu/environment/eia/sea-legalcontext.htm ■ Handbook on Regional Development Plans and EU Structural Funds: http://ec.europa.eu/environment/eia/sea-guidelines/handbook.htm ■ Manual on Strategic Environmental Assessment of Transport Infrastructure Plans: http://ec.europa.eu/environment/eia/sea-studies-and-reports/beacon_manuel_en.pdf ■ Commission's Guidance on the implementation of Directive: http://ec.europa.eu/environment/eia/pdf/030923_sea_guidance.pdf

Name	Espoo Convention – Convention on Environmental Impact Assessment in a Trans-boundary Context
Citation	Convention on the Environmental Impact Assessment in a Trans-boundary Context (Espoo, 1991)
Countries	Czech Republic, Poland, Slovakia, Hungary, Ukraine, Romania; Serbia has not yet ratified the Convention. For current list of ratifications, see: www.unece.org/env/eia/convratif.html
Application	The Convention sets out the obligations of parties to assess the environmental impact of certain activities at an early stage of planning. It also provides a process for governments to notify and consult each other on all major projects under consideration which might have an adverse environmental impact across borders. The Protocol on Strategic Environmental Assessment, signed at Kiev in 2003, augmented the Espoo Convention to apply not only to projects, but also plans and programmes in a transboundary context.
Comments	Environmental Impact Assessments must be undertaken for all projects that are likely to cause a significant adverse transboundary impact, including certain kinds of projects listed in Appendix I to the Convention (e.g. oil refineries, waste treatment plants, dams and reservoirs, pulp and paper mills, nuclear power plants and deforestation of large areas) as well as according to criteria as set out in Appendix III, including size, location (e.g. near environmentally sensitive areas such as Ramsar wetland sites) and effects.
Advantages	■ Applies to all Carpathian countries except Serbia, which has yet to ratify the Convention ■ Considerable opportunities for citizen and NGO access and involvement
Disadvantages	■ No punitive measures – “soft” international legislation
How it works	■ Notification: For certain projects likely to cause a significant adverse transboundary impact, the Party undertaking the project must notify any other Parties to the Convention that it considers may be affected (Art. 3.1). Following confirmation by the affected Party of participation in the assessment, the Party of origin must transmit all relevant information. ■ EIA Documentation: The Party undertaking the project must then prepare EIA documentation, including description of the project, expected environmental impacts and possible mitigation measures, and distribute this for the purpose of participation of the authorities and public of the affected country ■ Consultation: Consultation then takes place between the Parties on the basis of the documentation, including possible alternatives to the proposed activity, along with the no-action alternative and the possible measures to mitigate significant adverse transboundary impacts. (Art. 5) ■ Final decision: A final decision is then made and documented by the Party undertaking the project, with due account taken of the outcome of the assessment, comments received and the outcome of consultations. ■ Disputes can be referred by the Parties either to the International Court of Justice or to arbitration in accordance with Appendix VII.
How to use it	“The concerned Parties shall ensure that the public of the affected Party in the areas likely to be affected be informed of, and be provided with possibilities for making comments or objections on, the proposed activity, and for the transmittal of these comments or objections to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin.”
Links	■ Espoo Convention Home Page: www.unece.org/env/eia/eia.htm ■ Current Policies, Strategies and Aspects of Environmental Impact Assessment: www.unece.org/env/documents/1996/cep/ece.cep.9.pdf ■ Guidance for Public Participation: www.unece.org/env/eia/publicpart_guidance.htm ■ Guidance on the Practical Application of the Espoo Convention: www.unece.org/env/eia/guidance/espoo_convention.pdf ■ Convention on the Environmental Impact Assessment in a Trans-boundary Context: www.unece.org/env/eia/documents/conventiontextenglish.pdf

Name	EU Environmental Impact Assessment (EIA) Directive
Citation	EU EIA Directive – 85/337/EEC amended by 97/11/EC and 2003/35/EC
Countries	EU Member States, including Czech Republic, Hungary, Poland, Romania and Slovakia
Application	The assessment of the environmental effects of public and private projects which are likely to have significant effects on the environment.
Comments	The EU EIA Directive was introduced in 1985 and amended in 1997, with an additional amendment in 2003 to bring it into line with requirements for public information of the Aarhus Convention. The EIA procedure should ensure that environmental consequences of projects are identified and assessed before authorisation is given. In practice, these provisions depend very much on their actual application; in the Carpathian countries, EIAs are usually paid for by project developers, and thus have a tendency to say what the developer wants to hear, with poor mechanisms available for expert review and quality control. Cumulative effects, i.e. the combined effects of different projects, are usually not properly taken into account. A problem is also “salami tactics”, in which a project developer cuts a larger project into different smaller ones in order to avoid problems with assessments and consultations.
Advantages	■ Covers most projects that are likely to have a significant environmental impact, from the construction of chemical plants to motorways. ■ Considerable scope for public participation and access to information ■ Applies to all EU member states, including Czech Republic, Slovakia, Poland, Hungary and Romania, which are required to have national legislation transposing this EU Directive.
Disadvantages	■ Does not apply to non-EU member states, including Ukraine and Serbia
How to use it	EU Member States must ensure that the public is informed and provided with: ■ Information through public notices about any proposals or review of plans or programmes ■ Relevant information regarding the right to participate in decision-making and a competent authority to which comments or questions may be submitted. ■ The decisions made, as well as the reasons and considerations upon which those decisions were based.
Links	■ Council Directive of 1985: http://ec.europa.eu/environment/eia/full-legal-text/85337.htm ■ Council Directive of 2003: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0035:EN:HTML ■ Legal Context of EIA: http://ec.europa.eu/environment/eia/eia-legalcontext.htm#legalcontext ■ EIA Guidance on Screening: http://ec.europa.eu/environment/eia/eia-guidelines/g-screening-full-text.pdf ■ EIA Guidance on Scoping: http://ec.europa.eu/environment/eia/eia-guidelines/g-scoping-full-text.pdf ■ EC Guidance on EIS Review: http://ec.europa.eu/environment/eia/eia-guidelines/g-review-full-text.pdf ■ Guidelines for the Assessment of Indirect and Cumulative Impacts as well as Impact Interactions: http://ec.europa.eu/environment/eia/eia-studies-and-reports/guidel.pdf

Name	Natura 2000 Assessment (Assessment according to Article 6 of the EU Habitats Directive)
Citation	EU Habitats Directive –EU Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (Article 6)
Countries	EU Member States, including Czech Republic, Hungary, Poland, Romania and Slovakia
Application	Applies to habitats and species protected by the Habitats and Birds Directives, but can include projects outside of Natura 2000 areas if these have an impact on Natura 2000 protected nature values.
Comments	In practice, Natura 2000 assessments are probably more effective than EIAs in ensuring that the interests of nature conservation are balanced with development and other interests as they focus specifically on the biological circumstances and requirements of protected habitats and species. However, Natura 2000 assessments do not require public participation. Worth noting is the fact that Natura 2000 assessments are not permitted for sites that qualify for but have not been officially included in the Natura 2000 network (e.g. Important Bird Areas which have not been designated by the Member State, or prospective sites designated according to the Habitats Directive which have not yet been included in the Community list of Natura 2000 sites). However, in these cases Member States must avoid any negative impacts to the habitats and species of the site in question. Therefore, protection for these areas is actually stricter than for designated Natura 2000 sites.
Advantages	■ Applies to habitats and species protected by the EU's Natura 2000 network of specially protected sites – including impacts from projects that are located outside as well as inside Natura 2000 sites. Natura 2000 areas currently cover ca. 18% of EU terrestrial territory, including a significant part of the Carpathians. ■ Applies not only to projects, but also plans and programmes (as defined in the EU SEA Directive). ■ In contrast to EIAs, which focus on projects of a certain kind and scope, Natura 2000 assessments focus specifically on the biological processes and requirements, including the life cycles of protected habitats and species. ■ Also in contrast to EIAs, which require investigation of an undefined number of alternative options, Natura 2000 assessments require the examination of all possible alternatives which fulfill the project objectives.
Disadvantages	■ Only applies to plans and projects that are likely to have a significant impact on habitats and species protected by Natura 2000, though it can include projects outside Natura 2000 areas. ■ Article 6 assessments apply to designated Natura 2000 areas, while in fact many of the Carpathians areas, e.g. in Romania, have not yet been designated. In these cases, the precautionary principle should apply. ■ There is no mandatory process for public participation in Natura 2000 assessments.

Name	Natura 2000 Assessment (Assessment according to Article 6 of the EU Habitats Directive)
How it Works	The European Commission's official Guidance on Article 6 Assessments recommends that Member States follow a similar procedure as with impact assessments, including an initial screening on whether a significant negative effect on a protected habitat or species is likely; followed by scoping to determine the parameters of the assessment, including possible alternatives; and the final assessment and report. Some projects, plans and programmes may go ahead despite a negative Natura 2000 assessment if they are of overriding public interest. In these cases, it is necessary to inform the European Commission about planned compensatory measures. In cases where a project or programme will affect habitats and species that are listed as priorities under the Habitats and Birds Directives, exceptions are possible for imperative reasons of overriding public interest related to human health or public safety. For other imperative reasons of overriding public interest the European Commission must give its opinion. While the process for undertaking Natura 2000 assessments is usually similar to that for the EIA or SEA – and indeed, these assessments are usually undertaken in conjunction with one another – there are important distinctions. While the EIA focuses on projects of a certain kind and scope, the Natura 2000 assessment focuses specifically on the effects of projects on the habitats and species protected by the network. Two extreme examples can serve to better illustrate the distinction. While construction of a large hotel may require an EIA, it is theoretically possible that such a project – even if it was built inside a designated Natura 2000 area – would not actually significantly affect a protected habitat or species and thus would not require a Natura 2000 Assessment. In contrast, a small project to build a field road would not require an EIA (neither due to the kind or scope of the project); but it may in fact require a Natura 2000 assessment if e.g. the road crosses – and risks destroying – the last remaining meadow habitat of a Natura 2000 site.
How to use it	Natura 2000 assessments must involve the authorities that are responsible for implementation and management of the Natura 2000 network. While there is no process for public participation in Natura 2000 assessments, by bringing technical expertise, NGOs and individuals may be able to provide input to formal assessment procedures. Further, where there is a disagreement with the results of an official Natura 2000 assessment, it can be argued before national courts and the European Commission, especially where priority habitats and species are concerned (see European Commission Infringement Procedure).
Case Studies	The Czech Republic seems to have one of the better systems for ensuring quality Natura 2000 assessments. Assessments must be done by independent experts licensed by the Ministry of Environment, which requires the assessors to have an academic background in biological sciences and to pass rigorous written and oral examinations (in contrast to assessors for EIAs, which mostly come from an engineering background and often lack an appreciation of biological processes). The work of the assessors is also regularly reviewed by the Ministry and licenses are removed in cases of poor assessments.
Links	■ Natura 2000 Homepage: http://ec.europa.eu/environment/nature/natura2000/index_en.htm ■ EU Nature Legislation: http://ec.europa.eu/environment/nature/legislation/index_en.htm ■ Management of Natura 2000 Sites: http://ec.europa.eu/environment/nature/natura2000/management/index_en.htm

Name	Assessment according to Articles 12 and 16 of the Habitats Directive and Articels 5 and 9 of the Birds Directive ("Species Protection")
Citation	■ EU Habitats Directive – EU Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (Articles 12 and 16). ■ EU Birds Directive – EU Directive 79/409/EEC on the Conservation of Wild Birds (Articles 5 and 9).
Countries	EU Member States, including Czech Republic, Hungary, Poland, Romania and Slovakia.
Application	Applies to habitats and species protected by the Habitats Directive, Annex IV, and birds protected by the Birds Directive. The protection is focused on the species population and is not limited to Natura 2000 sites.
Comments	While Article 6 of the Habitats Directive applies to areas included in the EU's Natura 2000 network of specially protected sites, Article 12 of the same directive and Article 5 of the related Birds Directive focus on the protection of populations of species of flora and fauna not only within *but also outside of* Natura 2000 areas. In cases where species populations are disturbed by a project, measures must be taken to ensure the continuous ecological functioning of the site. These measures should be documented and evaluated in separate assessment (e.g. as part of the Environmental Impact Assessment or as part of a national conservation system). To date there is still limited experience with the use of these provisions; in early 2007, European Commission issued a Guidance Document for their application.
Advantages	■ Applies to a large number of habitats and species, which are listed in Annex IV of the Habitats Directive and to all "wild birds" according to Article 1 of the Birds Directive. ■ Applies to all forms of deliberate capture or killing of specimens and to all activities and measures which deteriorate or destroy breeding sites or resting places. ■ In contrast to EIAs, which focus on projects of a certain kind and scope, these assessments focus on populations of protected species. ■ Also in contrast to EIAs, which require investigation of a number of alternative options, Natura 2000 assessments require the examination of all possible alternatives.
Disadvantages	■ To date there is limited experience with assessing "protected species" of the Birds and Habitats Directives ■ The scientific data of the size and the conservation status of the populations across the EU is generally very poor. ■ There is no mandatory process for public participation in assessments for "Species Protection".
How it Works	The assessment must show that there is no deliberate capture or killing of specimens and no activities and measures which degrade or destroy breeding sites or resting places. The relevant scale of assessment is the population of the species in their natural range. This usually means at the biogeographic level of the Member State, but sometimes also at a lower level (species by species approach). Some projects and plans that negatively affect breeding sites or resting places of protected species can be undertaken if they are of overriding public interest and if there is no alternative solution for the project (Article 16 of the Habitats Directive). In this case, the species must be maintained at a favourable conservation status. These exceptions must be reported to the European Commission every second year. While the process for undertaking appropriate assessments of a specific derogation is usually similar to that for the Environmental Impact Assessment – and indeed, these assessments are usually undertaken in conjunction with one another – there are important distinctions. While the EIA focuses on projects of a certain kind and scope, the appropriate assessment according to "species protection" focuses specifically on the effects of projects on the habitats and species protected by the Directives.

Name	Assessment according to Articles 12 and 16 of the Habitats Directive and Articels 5 and 9 of the Birds Directive ("Species Protection")
How to use it	"Species Protection" assessments must involve authorities that are responsible for implementation and management of the Habitats and Birds Directives. While there is no mandatory process for public participation in these assessments, by bringing technical expertise NGOs and individuals may be able to provide input to formal assessment procedures. Further, where you disagree with the results of an official "Species Protection" assessment, you should be able to challenge this before national courts and before the European Commission.
Links	■ EU Habitats Directive – EU Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (Articles 12 and 16). Link: http://eur-lex.europa.eu/LexUriServ/site/en/consleg/1992/L/01992L0043-20070101-en.pdf ■ EU Bird Directive –EU Directive 79/409/EEC on the Conservation of wild Birds (Articles 5 and 9). Link: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31979L0409:EN:HTML ■ European Commission Guidance document on the strict protection of animal species of Community interest under the Habitats Directive 92/43/EEC: http://circa.europa.eu/Public/irc/env/species_protection/library?l=/commission_guidance/final--completepdf/_EN_1.0_&a=d

Complaints mechanisms – EU institutions

Name	European Commission Infringement Procedure
Citation	COM (2002) 141 final
Countries	EU Member States, including Czech Republic, Hungary, Poland, Romania and Slovakia
Application	Complaints can be submitted to the European Commission, which can then decide whether to launch an infringement procedure against a Member State for failure to properly implement Community law.
Comments	The EC 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 EC itself decides which complaints to pursue. In practice, the EC 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. The first resort should be the national courts and authorities who are primarily responsible for ensuring that Member States comply with Community law. But where this fails, submitting a complaint to the European Commission can be an accessible, cheap and relatively user-friendly way to achieve justice.
Advantages	■ Complaints to the European Commission can cover a broad range of issues considering the breadth of EU legislation, particularly regarding the environment. ■ Individuals who submit a complaint do not have to prove that they are principally and directly concerned or affected by the infringement. ■ An important mechanism especially for nature conservation, regarding implementation of the EU Habitats and Birds Directives (Natura 2000 network of specially protected sites). ■ No legal expertise required (beyond a basic understanding of EU legislation), though it can be useful.
Disadvantages	■ Not applicable to non EU Member States, including Serbia and Ukraine. ■ Relatively few complaints are actually taken up by the European Commission, in part due to the number of complaints and limited capacity of Commission services. Approximately 80% of complaints are closed at the very initial stage. ■ Lack of transparency – the process of negotiation between the European Commission and the Member State, which can lead to agreement, is not transparent. ■ Usually a lengthy process, taking generally at least 1–2 years for the infringement procedure and an additional 2 years or more for a decision (and possible fines and penalties) by the European Court of Justice.
How it works	It is up to the European Commission to decide whether to take action in response to a formal complaint. Where the Commission does take action against a Member State, the following steps can be taken: ■ Letter of formal notice: The European Commission addresses a “letter of formal notice” to the Member State concerned, requesting it to submit its observations on points of fact and of law regarding the case by a specified date (this is at the discretion of the Commission – it is normally 2 months, but can be less). ■ Reasoned opinion: In light of the reply from the Member State, the European Commission may decide to address a “reasoned opinion” to the Member State, clearly setting out the reasons why it considers there to have been an infringement of Community law and calling on the Member State to comply with Community law within a specified period (normally 2 months, but may be less). ■ European Court of Justice: If the Member State fails to comply with the reasoned opinion, the European Commission may bring the case before the European Court of Justice. Unfortunately, the infringement procedure and subsequent decision from the European Court of Justice is usually a lengthy process, taking generally at least 1–2 years for the infringement procedure and an additional 2 years or more for a decision (and possible fines and penalties) by the European Court of Justice.

Name	European Commission Infringement Procedure
How to use it	Any individual or organization may lodge a complaint with the European Commission against an EU Member State for measures or practices, attributed to a Member State, which they consider incompatible with a provision or a principle of Community law. You can submit a complaint in any of the EU's official languages by filling out the official form available from the EC website: http://ec.europa.eu/community_law/your_rights/your_rights_forms_en.htm However, you do not need to use the form and can send the complaint in the form of an Email to: SG-PLAINTES@ec.europa.eu Or as a letter to: **Commission des Communautés européennes** (Secretary-General) B-1049 Bruxelles BELGIUM
Tips	■ Remember that for your complaint to be registered, it must concern a specific breach of EU law by a Member State – make sure that this is clearly stated in your complaint. ■ The better you can justify the complaint – clearly showing how Community law is being infringed – the more likely the European Commission will take up the complaint and act on it quickly. Base your arguments on precise sources, including scientific reports, maps, letters of officials, press releases, etc. While the complaint can be submitted in any of the EU's official languages, submitting it in English will help to speed up action taken. ■ Patience and persistence are important – follow up your complaint: find out who the EC desk officers are who are following the case (there are usually two, one technical and one legal expert) and provide them with further information and updates as needed, e.g. regarding further development of the case.
Links	■ Infringements of EU law: http://ec.europa.eu/community_law/infringements/infringements_en.htm ■ Exercise your rights – submitting a complaint: http://ec.europa.eu/community_law/your_rights/your_rights_en.htm ■ European Commission: http://europa.eu/institutions/inst/comm/index_en.htm ■ Applying Community Law: http://ec.europa.eu/community_law/eulaw/pdf/com_2007_502_en.pdf ■ Infringement Complaint Form: http://ec.europa.eu/community_law/your_rights/your_rights_forms_en.htm ■ Commission Communication Better Monitoring of the Application of Community Law: COM (2002) 725 final. http://ec.europa.eu/governance/docs/comm_infraction_en.pdf

Name	Petition to European Parliament
Citation	
Countries	EU Member States, including Czech Republic, Hungary, Poland, Romania and Slovakia
Application	Broad scope – petitions submitted to the Petitions Committee of the European Parliament must be relevant to the activities of the European Union, but may be about a matter of general concern, an individual complaint or request for the Parliament to take a position on a matter of public interest.
Comments	The European Parliament's petition is simple, cheap and easy to use, and probably the EU complaint mechanism with the broadest application. While the European Parliament has limited powers and cannot impose an outcome in the way e.g. the European Court of Justice can, it can be influential and help raise awareness and attention to a case.
Advantages	■ Covers a broad range of issues ■ Free of cost and transparent, no specialist knowledge needed ■ Can serve to bring attention to or push the European Parliament to take action on a particular issue. Petitioners may be asked to present their case in person before the Committee.
Disadvantages	■ Only available to those people or registered bodies living or based in the EU ■ Not appropriate for getting national laws overturned ■ The Parliament cannot impose an outcome, but it can nevertheless be influential ■ The process can be lengthy
How it works	If you send your petition by email, you will receive electronic confirmation that it has been received. Petitions that fulfill the criteria are entered in a register in the order in which they are received and then forwarded to the Committee, which first decides whether it falls within the remit of the European Union. If so, the petition is declared admissible and investigated by the Committee (you will be notified if the petition has not been admitted). When the Petitions Committee has reached an assessment based upon preliminary investigation, it will place it on the agenda for discussion or decide to deal with the matter by written procedure. It is only possible to see when a case will be discussed by the Committee about 2 weeks in advance by looking at the website at: www.europarl.europa.eu/activities/committees/homeCom.do?language=EN&body=PETI. Main decisions taken on petitions are announced at plenary sittings of the European Parliament. These announcements appear in the minutes of the sitting, including the name of the petitioner and the number of the petition as entered in the general register. Outcomes can vary. The Committee on Petitions may refer the petition to other European Parliament committees for action; submit a report to Parliament to be voted on in plenary; ask the European Commission to provide information regarding compliance with the relevant Community legislation; develop an opinion and ask the President of the European Parliament to forward it to the European Commission and/or European Council for action; forward the petition via the European Parliament President to the relevant national authorities; or organize a fact finding mission. The amount of time it takes to deal with a case can vary, depending on its complexity as well as the need for translation into the different official languages of the European Union.

Name	Petition to European Parliament
How to use it	Petitions can be submitted by EU citizens; non-EU citizens that are resident in an EU country; as well as members of companies, organizations or associations with their head-quarters in an EU Member State. It is possible to submit a petition written in one of the official languages of the European Union in either electronic or paper form. The electronic petition format is on the European Parliament/Petition site at: www.europarl.eu.int/parliament/public/petition/submit.do?language=EN. A paper petition does not have to be in a standard form, but must include: your name, occupation, nationality, place of residence of each petitioner and signature. Clearly mark your petition as being a petition for the European Parliament and send it to: **European Parliament** The President of the European Parliament, Rue Wiertz B-1047 Bruxelles, Belgium
Tips	■ Include as many signatures of affected people as possible ■ Ensure that the petition is clearly written and includes substantiating arguments ■ Inform a Member of European Parliament from the Committee on Petitions about the petition at the time of submission and ensure that they take an interest in the case. Stay in touch with friendly MEPs and encourage them to champion the cause; follow up with any information they need, including regular reports on developments in the case.
Links	■ Procedure for Submitting a Petition: www.europarl.europa.eu/parliament/public/staticDisplay.do?id=49 ■ Petition form: https://www.secure.europarl.europa.eu/parliament/public/petition/secured/submit.do?language=EN ■ European Parliament Petition Committee: www.europarl.europa.eu/activities/committees/homeCom.do?language=EN&body=PETI

Name	Petition to EU Ombudsman
Citation	**Treaty establishing the European Community (Nice consolidated version),** Articles 21 and 195 regarding EU Ombudsman.
Countries	EU Member States, including Czech Republic, Hungary, Poland, Romania and Slovakia
Application	Cases of "maladministration" by the EU institutions, from the European Commission to the European Investment Bank, including cases of unnecessary delay, refusal of information, discrimination and abuse of power.
Comments	The EU Ombudsman has a good record of defending people's rights and, at the same time, being highly respected within the EU institutions. He can only handle cases related to the work of EU institutions and his opinion is not binding, though it can be influential.
Advantages	■ Simple, accessible and easy to use; requires no special legal expertise
Disadvantages	■ The Ombudsman can only deal with cases which are directly related to the work of the EU institutions, so it is not appropriate to complain to the Ombudsman about the actions of national governments, even if they concern EU law. ■ The Ombudsman's opinion is not binding. ■ Due to the lengthy procedure of some inquiries, the process can be rather slow. ■ Only applies to EU member states, i.e. not to Serbia and Ukraine
How it works	The Ombudsman may simply need to inform the institution concerned about a complaint in order for it to resolve the problem. If the case is not resolved satisfactorily during the course of the inquiries, the Ombudsman will try, if possible, to find a friendly solution which puts right the case of maladministration and satisfies the complainant. If the attempt at conciliation fails, the Ombudsman can make recommendations to solve the case. If the institution does not accept his recommendations, he can make a special report to the European Parliament.
How to use it	Complaints can be submitted by EU citizens, non-EU citizens that are residing in an EU country as well as companies, organizations or associations with registered offices in an EU Member State. Write to the Ombudsman in any of the EU Treaty languages setting out clearly who you are, which EU institution or body you are complaining about and the grounds for your complaint. ■ A complaint must be made within two years of the date when you became aware of the facts on which your complaint is based. ■ You need not be individually affected by the maladministration. ■ You must already have contacted the institution or body concerned about the matter, for example by a letter. ■ The Ombudsman does not deal with matters that are currently before a court or that have already been settled by a court. The Ombudsman will examine your complaint, and you will be informed of the outcome of his investigation. Complaints can be sent electronically or in paper form. Electronic complaints should include all compulsory information and can be found at: http://ombudsman.europa.eu/form/en/form2.htm Paper applications should be sent to: **The European Ombudsman** 1 Avenue du Président Robert Schuman, B.P. 403 FR-67001 Strasbourg Cedex, France
Links	■ **Treaty establishing the European Community (Nice consolidated version),** Articles 21 and 195 regarding EU Ombudsman: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12002E195:EN:HTML ■ European Union Ombudsman: http://ombudsman.europa.eu/home/en/general.htm ■ Regulations and Guidelines Governing the EU Ombudsman: www.ombudsman.europa.eu/lbasis/en/statute.htm ■ Implementation Provisions for Handling Complaints: www.ombudsman.europa.eu/lbasis/en/provis.htm ■ Electronic Complaint Form: http://ombudsman.europa.eu/form/en/default.htm

Complaints mechanisms – international agreements

Name	Aarhus Convention Compliance Committee
Citation	Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters
Countries	All Carpathian countries except Serbia, i.e. Czech Republic, Hungary, Poland, Romania, Slovakia and Ukraine as well as the European Community (i.e. applies to EU institutions)
Application	The Aarhus Convention is a profound instrument, setting out to guarantee access to information, public participation in decision making and access to justice in environmental matters. The Convention includes a compliance mechanism that permits individuals and non-governmental organisations to submit complaints to the Convention's Compliance Committee regarding failure by a Contracting Party to properly implement the Convention, either generally or in specific cases.
Comments	The compliance procedure is designed to improve national compliance with the Convention, so individual cases can be used for wider non-compliance and remedy. One of the criteria that the Committee takes into account in deciding whether to take up a complaint is whether appeal mechanisms have been tried.
Advantages	■ Any individual or non-governmental organization may submit a complaint ■ They do not need to be from or based in the relevant country
Disadvantages	■ Only applies to countries that are parties to the Convention (i.e. not Serbia) ■ The process can be lengthy, generally taking 9–12 months for a decision by the Compliance Committee, plus as many as 2–3 additional years for a final decision by the Meeting of the Parties. ■ Does not apply to cases which have arisen before the Convention entered into force in certain state.

Name	Aarhus Convention Compliance Committee
How it works	Each communication received by the secretariat addressed to the Compliance Committee is registered and a receipt is sent to the recipient. If all information is available, the secretariat forwards the communication to the members of the Compliance Committee, attaching a data sheet with short summary which is also posted on the Convention website. Communications must generally be submitted at least 2 weeks before a meeting of the Compliance Committee in order to be considered. The dates of the Compliance Committee's meetings are listed on the Committee's website at: www.unece.org/env/pp/compliance.htm. The communicant will be informed if the submission is rejected, e.g. because it is anonymous, is judged manifestly unreasonable or concerns a state which is not a Party to the Convention. Communications that are accepted for consideration are brought to the attention of the accused state, via the Aarhus Convention's national focal points with copies to the state's Permanent Mission to the United Nations in Geneva and to the communicant. The accused state then has five months to respond to the accusation with written explanations and comments on the admissibility of the communication. Based on the communication and initial response from the state, the Compliance Committee then decides whether to confirm its provisional acceptance of the communication. The Committee can request further information from the communicant, the state or experts and – with the permission of the state – can undertake a fact-finding mission. Once sufficient information has been assembled, the Committee can hold a hearing on the case. The communicant and the Party concerned are notified of the hearing, which they can attend. In some cases, financial support to cover travel costs may be provided. Following the open hearing, the Compliance Committee meets again and draws up draft conclusions, draft measures and possibly draft recommendations, which are sent to the communicant and the Party concerned. Both are allowed to respond; the responses are considered by the Committee when finalizing its decision. The Compliance Committee can suggest the following measures to address non-compliance: ■ Providing advice and facilitating assistance to the Party concerned regarding its implementation of the Convention; ■ Making recommendations to the Party concerned; ■ Requesting the Party to submit a strategy, including a time schedule, to the Committee for compliance with the Convention and to report on the implementation; ■ Issuing declarations of non-compliance; ■ Issuing cautions. All measures proposed by the Committee must be approved by the Meeting of the Parties, which happen every 2–3 years. In urgent cases, the Committee can take the measures without waiting for adoption by the Meeting of the Parties, but only with the agreement of the Party concerned. The Compliance Committee is required to submit a report for every ordinary Meeting of the Parties with information regarding communications and recommendations (you can find the reports on the Convention's website). Final decisions by the Meeting of the Parties are communicated directly to the parties concerned and made public.

Name	Aarhus Convention Compliance Committee
How to use it	Any member of the public or organization may file a communication to the Aarhus Convention Compliance Committee, regardless of whether they are from or based in the country concerned. A communication should be in writing, preferably by email, but there is no standard format. It can be written in English, French or Russian, but in practice English will be processed more quickly as it is the internal working language of the Committee. The communication should include: ■ Information on the correspondent, including: full name, permanent address, address for correspondence, telephone, fax and Email. For an organization, give the name and position of the contact person authorized to represent the organization regarding the communication. ■ State concerned ■ Chronological description of events and explanation of how the facts and circumstances described represent non-compliance with the Aarhus Convention. ■ Nature of alleged non-compliance, e.g. whether the communication concerns a specific person's rights of access to information, public participation or access to justice being violated as a result of non-compliance, or whether the non-compliance relates to a general failure to implement the Convention. ■ Provisions of the Convention relevant for the communication – articles, paragraphs and sub-paragraphs of the Convention that the state has allegedly not complied with. ■ Use of domestic remedies or other international procedures – which procedures were used, which claims were made and what were the results? If no domestic procedures have been pursued, why not? ■ Confidentiality request – Unless specifically requested, none of the information contained in a communication will be kept confidential. If you are concerned that you may be penalized, harassed or persecuted, you may request that information in the communication is kept confidential, and should indicate clearly which information is concerned. Even where you request confidentiality, be sure to include your name and contact as anonymous submissions will not be considered by the Committee. ■ Supporting documentation (copies, not originals); relevant national legislation, highlighting the most relevant provisions; decisions/results of other procedures; and any other documentation substantiating the information provided. If it is absolutely necessary to include bulky documentation, highlight the parts which are essential to the case. ■ Summary – a 2–3 page summary of the communication. ■ Signature of authorized person, representative or individual communicant and date. ■ Address of communicant. It is recommended to send the communication by e-mail, preferably with the enclosures attached. In addition, a signed copy of the communication, together with any supporting material, should be sent by post to the secretariat. It is also a good idea to send the communication to the government of the Party concerned at the same time as submitting it to the Aarhus Convention Compliance Committee. You can send your submission to: **Communication to the Aarhus Convention's Compliance Committee** Mr Jeremy Wates Secretary to the Aarhus Convention United Nations Economic Commission for Europe Environment and Human Settlement Division Room 332, Palais des Nations CH-1211 Geneva 10, Switzerland Tel: +41 22 917 2384; Fax: +41 22 907 0107; Email: Jeremy.wates@unece.org
Links	■ Aarhus Convention: www.unece.org/env/pp/ ■ Full Text of the Aarhus Convention: www.unece.org/env/pp/treatytext.htm ■ Amendment Implementation Guide: www.unece.org/env/pp/acig.pdf ■ Guidance Document on Compliance Mechanisms: www.unece.org/env/pp/compliance/manualv6.doc ■ UNEP Guidelines on Compliance and Enforcement of Multilateral Environmental Agreements: www.unep.org/DEC/docs/UNEP.Guidelines.on.Compliance.MEA.pdf

Name	Bern Convention Case File
Citation	The Convention on the Conservation of European Wildlife and Natural Habitats ("Bern Convention") – Case File system: written procedure adopted at the 13th meeting in 1993, set out in the Secretariat memorandum "opening and closing of files – and follow up to recommendations", document T-PVS (99)16
Countries	Parties to the Convention, including all Carpathian countries, i.e. Czech Republic, Hungary, Poland, Romania, Serbia, Slovakia and Ukraine. See updated list of contracting parties at: http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=104&CM=8&DF=&CL=ENG
Application	A complaint to the Bern Convention can be made for any case that has led or might lead to damage to the species protected according to the Convention including projects that might affect protected species and habitats or governmental failure to take administrative and legislative action to safeguard the protected biodiversity.
Comments	Like many other international agreements, the Bern Convention lacks binding legal remedies or "teeth" that can ensure enforcement. However, it can be useful in focusing attention on a case and put pressure on relevant authorities to take action. The Bern Convention's Case File system is relatively simple and accessible to NGOs and others, but like many other international processes can be lengthy. The Bern Convention case-file procedure has a mixed record, successfully resolving some cases through successful mediation or diplomatic pressure, but failing in others.
Advantages	■ Ratified by many countries outside the EU and stipulates legal obligations for them to ensure conservation of biodiversity of European value ■ Can provide conflict resolution ■ On-the-spot appraisals can be made by the Convention on the invitation of the respective country ■ Meetings of the Convention parties are open to NGOs
Disadvantages	■ The Convention has less legal power than the EU Directives. ■ Lengthy process that generally takes at least 1 year; roughly half of past cases have been closed within 2 years, while others have dragged on for 4 or more years.
How it works	The Bern Convention Secretariat examines all complaints regarding one or more Contracting Parties' failure to comply with one or more provisions of the Convention. The Secretariat conducts a basic screening as to the merits of the case. If it decides that the complaint is sufficiently serious to warrant examination at international level, the Secretariat forwards the complaint to the Contracting Party concerned, seeking their opinion and, if necessary, further information. The Party then has about four months to respond. Depending on the reply received, the Secretariat then decides whether to place the complaint on the agenda for the next meeting of the Standing Committee of the Convention. In urgent cases or to facilitate resolution of a conflict between two meetings of the Standing Committee, the Convention Bureau (comprised of the Chairman, Vice-Chairman and last Chairman) may decide with the agreement of the Party concerned to organize an **on-site assessment**. The Bern Convention Standing Committee, which meets once per year, can adopt specific recommendations regarding a case; recommend that the Secretariat undertake an on-the-spot visit; open a case file on the case and make specific recommendations; or make specific recommendations following on-the-spot appraisals. In exceptional cases, the Standing Committee can also make a "declaration", which is an official communication to the Committee of Ministers of the Council of Europe – essentially, a resort to a higher order if the Standing Committee has exhausted all avenues for action open to it. An **open file** means that the Convention Bureau will undertake ongoing monitoring of the case. The Party concerned must submit a report on development of the case at least once per year, but possibly twice per year for the spring and autumn meetings of the Convention Bureau.

Name	Bern Convention Case File
How to use it	Individuals, groups of people and non-governmental organizations can make a complaint about one or more Contracting Parties' failure to comply with the Bern Convention. There is no formal requirement regarding the content or format for a complaint, though it is recommended to include an overview of relevant habitats and species involved in the case with reference to the list of habitats and species in the Convention Annexes. You can submit your complaint in writing to: **Secretariat of the Bern Convention** Council of Europe Avenue de l'Europe 67075 Strasbourg Cedex
Tips	Actively follow the case after it is submitted, e.g.: ■ Write your own regular reports on the development of the case, ideally for both the spring and autumn meetings of the Bureau (submission by March and August in order to be discussed at the April and September meetings). ■ Request to participate at the Standing Committee meeting (late November-early December in Strasbourg) as part of the delegation of NGOs that are accepted as observers (WWF, BirdLife, European Habitats Forum). ■ Make proposals for the recommendation and the opening of a file on a certain case and advocate to other Contracting parties to support the proposal before and during the Standing Committee meetings.
Links	■ Bern Convention Home Page: www.coe.int/t/dg4/cultureheritage/Conventions/Bern/default_en.asp#TopOfPage ■ Review of the Case File System (Bern and other Conventions), Paper by D. E. Pritchard, Birdlife International/RSPB (September 2000): www.ramsar.org/sc/25/key_sc25_docs03a1.htm

Name	Ramsar Convention on Wetlands – "Montreux Record"
Citation	The Convention on Wetlands (Ramsar, Iran, 1971) – "Montreux Record" (1990)
Countries	All Carpathian countries, including Czech Republic, Hungary, Poland, Romania, Serbia, Slovakia and Ukraine. See list of contracting parties at: www.ramsar.org/key_cp_e.htm
Application	The Convention on Wetlands is an intergovernmental treaty whose mission is "the conservation and wise use of all wetlands through local, regional and national actions and international cooperation, as a contribution towards achieving sustainable development throughout the world". In 1990 the Convention established the "Montreux Record,"a list of wetland sites where an adverse change in ecological character has occurred, is occurring or is likely to occur.
Comments	Like many other international agreements, the Ramsar Convention lacks binding legal remedies or "teeth" that can ensure enforcement. However, it can be useful in focusing attention on a case and put pressure on relevant authorities to take action. The Ramsar Convention is relatively simple and accessible to NGOs and others, but like many other international processes can be lengthy. Like the Bern Convention case files procedure, the Montreux Record has a mixed record, working well in some cases and less well in others.
Advantages	■ Relatively accessible to complaints from NGOs and private individuals ■ Focus on wetland areas in member states ■ Can facilitate diplomatic resolution of issues ■ Can trigger an expert mission (Ramsar Advisory Mission) that can provide technical expertise and diplomatic facilitation
Disadvantages	■ Often lengthy process ■ Diplomatic nature with no binding legal remedies ■ A site can only be listed on the Montreux Record with the approval of the Contracting Party concerned, who can therefore effectively veto any such move. This is different from e.g. the Bern Convention case-file procedure, where decisions are usually by consensus but can in exceptional circumstances be made by majority vote, e.g. against the opposition of a Contracting Party.
How it works	In addition to Ramsar Sites, i.e. wetland sites recognized and designated by the Convention for their exceptional value, the Ramsar Convention has established a list of wetland sites where an adverse change in ecological character has occurred, is occurring or is likely to occur – the so-called Montreux Record. It does not purport to be a comprehensive list of such sites, but merely those chosen at the discretion of Parties for international attention. Unlike the Bern case-file procedure, the Montreux Record is not predicated on an alleged breach of Convention requirements. Complaints are screened by the Secretariat and, if judged to be of merit, are forwarded to the Contracting Party together with a voluntary questionnaire normally to be returned within three months. The completed questionnaire is forwarded to the Convention's permanent Scientific & Technical Review Panel (STRP) for advice. A copy is also sent, with the agreement of the Contracting Party, to the initiator of the complaint. Cases can be referred by the Secretariat to the Ramsar Convention's Standing Committee, which meets once per year. Cases can also be referred to the full Conference of the Contracting Parties (COP), which meets every three years. Advice of the STRP is forwarded to the Contracting Party and the initiator of the complaint. The Secretariat discusses the advice with the Contracting Party concerned and can then decide to list the site in the Montreux Record. One of the consequences of listing can be the convening of an expert mission ("Ramsar Advisory Mission") to the site to suggest or broker solutions. The mission must be requested by the country in question. Periodic reports on the condition of sites on the Montreux Record are required. Removal of a site from the Record takes place either when requested by the Party concerned or if "there is no longer a risk of change in the ecological character" of the site.

Name	Ramsar Convention on Wetlands – "Montreux Record"
How to use it	Any person or organisation can submit a complaint bringing to attention the destruction or risk of destruction of a valuable wetland site. There is no formal requirement regarding the content or format for a complaint, though it is recommended that you not only name the wetland site and its location but also the relevant features that have been damaged or are threatened with damage. You can submit your complaint in writing to: **The Ramsar Convention Secretariat** Rue Mauverney 28 CH-1196 Gland, Switzerland Tel: +41 22 999 0170; Fax: 41 22 999 0169; Email: ramsar@ramsar.org
Tips	Actively follow the case after it is submitted, e.g.: ■ Write regular reports on the development of the case and submit them to the Secretariat. ■ Request to participate at the Standing Committee meeting as part of the delegation of NGOs that are accepted as observers (including WWF, BirdLife, Wetlands International, IUCN, International Water Management Institute).
Case studies	In 2005, the WWF Danube-Carpathian Programme transmitted to the Ramsar Convention Secretariat its concerns regarding construction by the Ukrainian government of the Bystroye Channel through the core zone of the Ukrainian Danube Delta Biosphere Reserve. Similar documents were also submitted to the Bern Convention, the International Commission for the Protection of the Danube River (ICPDR), UNESCO as well as relevant desk officers at the European Commission (DG-Environment, DG-External Affairs). The international pressure and especially the Orange Revolution put at least a momentary halt to the project; unfortunately in the meantime, construction has once again moved ahead.
Links	■ Ramsar Convention Home Page: www.ramsar.org ■ Guidelines for operation of the Montreux Record: www.ramsar.org/key_mr_guide_e.htm ■ Convention Manual: www.ramsar.org/lib/lib_manual2006e.pdf ■ Guidelines of the Contracting Parties: www.ramsar.org/key_guidelines_index.htm

Name	World Heritage Convention
Citation	World Heritage Convention – World Heritage in Danger
Countries	Parties to the Convention, including all Carpathian countries, i.e. Czech Republic, Hungary, Poland, Romania, Serbia, Slovakia and Ukraine.
Application	The **Convention concerning the Protection of the World Cultural and Natural Heritage,** adopted by UNESCO in 1972, seeks to encourage the identification, protection and preservation of cultural and natural heritage around the world considered to be of outstanding value to humanity. Sites can be entered on a List of World Heritage in Danger either where assistance is requested or where the World Heritage Committee decides there is urgent need.
Comments	This instrument is of very limited application for the Carpathians, as they presently include only 2–3 official natural heritage sites: the primeval beech forests of eastern Slovakia and western Ukraine as well as Aggtelek Karst and Slovak Karst in Slovakia and Hungary. Like many other international agreements, the World Heritage Convention lacks binding legal remedies or "teeth" that can ensure enforcement. However, it can be useful in focusing attention on a case and put pressure on relevant authorities to take action.
Advantages	■ Ratified by many countries outside of the EU ■ Can help in securing financial assistance from the World Heritage Fund (though note that this usually applies to cultural monuments that are at risk of falling apart and will unlikely be provided to address habitat destruction) ■ Can focus attention on a problem. ■ Does not require special legal expertise.
Disadvantages	■ The Convention has less legal power than the EU Directives. ■ Applies only to designated World Heritage Sites
How it works	Under the 1972 World Heritage Convention, the World Heritage Committee can inscribe on the List of World Heritage in Danger properties whose protection requires' major operations (…) and for which assistance has been requested'. Inscription of a site on the List of World Heritage in Danger requires the World Heritage Committee to develop and adopt, in consultation with the State Party concerned, a programme for corrective measures, and subsequently to monitor the situation of the site. All efforts must be made to restore the site's values in order to enable its removal from the List of World Heritage in Danger as soon as possible. Inscription on the List of World Heritage in Danger is not perceived in the same way by all parties concerned. Some countries apply for the inscription of a site to focus international attention on its problems and to obtain expert assistance in solving them. Others however, wish to avoid an inscription, which they perceive as a dishonour. The listing of a site as World Heritage in Danger should in any case not be considered as a sanction, but as a system established to respond to specific conservation needs in an efficient manner. If a site loses the characteristics which determined its inscription on the World Heritage List, the World Heritage Committee may decide to delete the property from both the List of World Heritage in Danger and the World Heritage List.
How to use it	Private individuals, non-governmental organizations, or other groups may draw the World Heritage Committee's attention to existing threats. If the alert is justified and the problem serious enough, the Committee may consider including the site on the List of World Heritage in Danger. To inform the World Heritage Committee about threats to sites, you can contact the Committee's Secretariat at: **World Heritage Centre** UNESCO 7, place de Fontenoy 75352 Paris 07 SP France Tel.: +33 (01) 45 68 18 71, Fax: +33 (01) 45 68 55 70, E-mail: wh-info@unesco.org
Links	■ UNESCO World Heritage: http://whc.unesco.org/en/about/ ■ World Heritage in Danger: http://whc.unesco.org/en/158 ■ World Heritage Convention (text): http://whc.unesco.org/archive/convention-en.pdf

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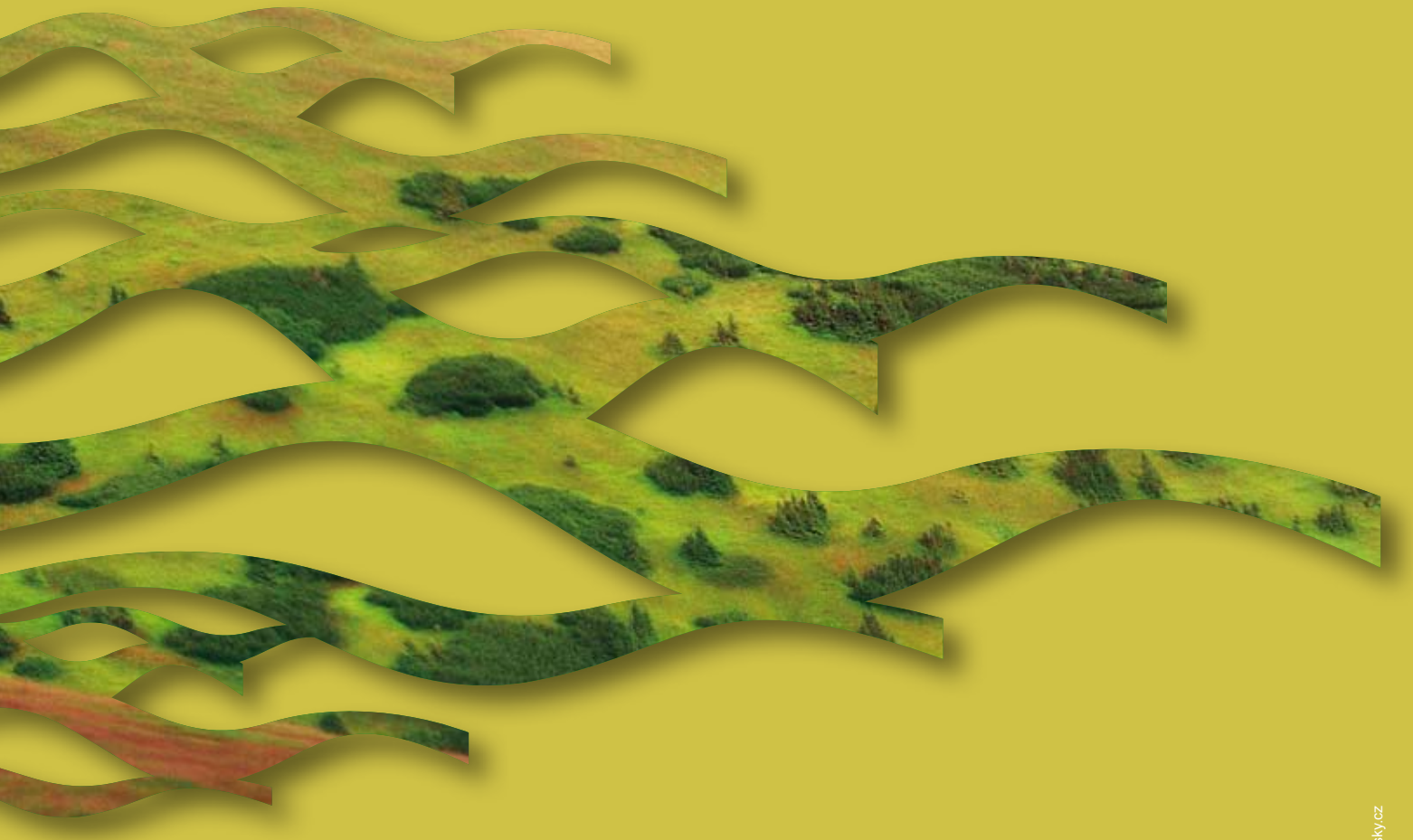
Notes:



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- ensuring that the use of renewable natural resources is sustainable
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