



Addressing threats to nature in the Carpathian Mountains

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

Daphne Institute of Applied Ecology
WWF Danube-Carpathian Programme



Protected Areas for a Living Planet — delivering on CBD commitments

Carpathian Treasures

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

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Available in digital form and on the Internet:

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

All available at:

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

I. Introduction: What and whom this is for

What it is for

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

Who it is for

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

How it is structured

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

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

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

¹ Addressing Threats to Nature in the Carpathian Mountains: Handbook of legal and administrative instruments for addressing conflicts between infrastructure and nature conservation (WWF-DCP, 2007). Available at: <http://www.panda.org/dcpo>. For direct link see: http://www.panda.org/about_wwf/where_we_work/europe/what_we_do/danube_carpathian/our_work/forest_and_protected_areas/carpathian_ecoregion/addressing_threats/index.cfm.

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

Issue	Legal or administrative tool	Description	Comments
Access to information	Act Nr. 211/2000 Coll., about free access to information ²	Transposes the Aarhus Convention Sets basic rules for providing information by official authorities. Specifies both active and passive informing.	Active informing: Electronic information on-line: www.enviroportal.sk includes much different information from different issues, e.g. nature protection, water, pollution, etc. Enviroinfo (http://enviroinfo.enviroportal.sk) information system about environment – e.g. database of results of the agreement or disagreement in concrete cases from responsible authorities for nature protection. EIA/SEA information system: http://eia.enviroportal.sk/zoznam.php Contains all EIA and SEA cases in Slovakia, including full texts and documents. Each document contains a very short summary (2-3 sentences). Databases are publicly accessible; access is free of charge, optimized for all browsers. Passive informing (applicant needs to ask relevant authority): The applicant is provided with any relevant information requested within a period of 8 working days (in special cases the relevant authority can prolong the deadline but is obliged to inform the applicant why this is necessary); the service is free of charge. If the authority does not have the information, they are obliged within a period of 5 working days to forward the request to the relevant authority which has the information). The applicant is permitted to take photocopies, snapshots, transcriptions etc. In some cases applicants are asked to pay for paper or digital copies. <i>Note: Generally the act is very good, but the current Slovak government is preparing amendments to the legislation that could significantly worsen existing measures.</i>
Assessments	Act Nr. 24/2006 Coll., on environmental impact assessment and amending some related Acts (the Act on environmental	Strategic Environmental Assessment (SEA)	Applies to policies, plans and programs and for important changes in documents (in industry, agriculture, forestry, water management, Transportation, environment, energy, mining, regional development, spatial planning). The most serious weakness of the SEA and EIA process in Slovakia in general is the lack of methodology for the assessment. The law prescribes only the general structure of the report

² Original title in Slovakian language: zákon č. 211/2000 Zb., o slobodnom prístupe k informáciám

	impact assessments)	and no clear assessment criteria. Therefore, there is considerable scope to suit the results of the assessment according to needs of the investor. Another serious weakness of the SEA process in Slovakia is insufficient public participation in the process which is only formal. Reasons for this include: ▪ The public is generally not allowed to participate in the early stages of the project when it is possible to discuss alternatives more easily; on the contrary, participation is only possible when the project concept is already complete. From time to time, it is possible to be part of a working group which can partly influence the result of the document. According to the Aarhus Convention, the public hearing should be held at a stage when the public can in fact influence the final document. ▪ A comprehensive and non-technical summary of the document is missing (it is only a formal part of the documentation, not serving this purpose), so original and sometimes very extensive documentation must be examined, limiting accessibility to a wider audience. ▪ Public awareness of the SEA procedure is still very limited. Practical obstacles to implementation of the SEA legislation in Slovakia include: ▪ Some strategies are too general and do not provide sufficient specific information to conduct a SEA. ▪ Information regarding new plans or programmes is mostly only published on the internet. There is a relatively short period (21 days) for the public to submit written comments.
Assessments	Act Nr. 24/2006 Coll., on Environmental Impact Assessment and Amending some related Acts (the Act on environmental impact assessments)	Applies to individual projects, including those relevant to mining, smelting, energy, chemicals, forestry, agriculture, water management and transportation. According to the list in the Act there are two categories: Category A – the EIA is required; and Category B – the responsible authority for environment takes the decision whether an EIA is necessary or not. Project developers usually pay for the EIA, so EIAs have a tendency to say what the developers want them to hear. The Slovak Ministry of Environment orders an independent expert's report, which should eliminate that tendency. The list of experts is available online. The main problem still is that there is no official and clear methodology for the EIA, only basic guidelines. Furthermore, there is a problem in the EIA processes in Slovakia with so-called salami-tactics. It is common for large infrastructure projects to be planned and therefore also evaluated in smaller parts which do not permit a complex and comprehensive assessment of all possible impacts of the entire project as a whole. The methodology makes it possible to consider only non-realistic alternatives as references.

			There is no holistic approach applied in setting the alternatives. For example, when construction of a highway is to be evaluated, the discussion is focused on the location of the highway corridor rather than on realistic alternatives, e.g. expansion of a railway line to meet the needs for transportation of goods and people. Such an approach does not permit a comprehensive assessment. The act does not require the relevant authority or the investor to ensure that such realistic alternatives are investigated. The Slovak EIA (like the Czech EIA) has one substantial specialty when compared to most other EU countries: the EIA is not a part of the licensing procedure for the project. The opinion proclaimed (i.e. the result of the EIA) is an expert basis for another authority's decision. It is not itself a decision, and therefore it cannot be judicially reviewed. The obstacles mentioned above result in the fact that there are very few projects that are rejected, or where the conclusion of an EIA suggests that the project should not be undertaken. Note: The recent amendment of Act Nr. 543/2002 Coll., which entered into force on December 1, 2007, also modified the Act on Environmental Assessment (Nr. 24/2006 Coll.), limiting public participation in the EIA.
	Act Nr. 24/2006 Coll., on environmental impact assessment and amending some related Acts (the Act on environmental impact assessments)	Natura 2000 Assessment – Assessment according to Article 6 of the EU Habitats Directive	Only applies to habitats and species protected under the Natura 2000 network, but can include projects outside of Natura 2000 areas if these have an impact on species and habitats that are the focus of protection. There is little experience with assessments according to Article 6 of the Habitats Directive in Slovakia to date. Similar to the problem with EIAs and SEAs in Slovakia, there is no clear methodology and criteria to be used for the assessment.
	Act Nr. 543/2002 Coll., on the Protection of Nature and the Landscape	Applies to trans-border projects	Trans-border EIAs fulfill basically the same rules as the national EIA. Every project subject to an EIA which could have negative impacts in another country that is party to the Espoo Convention must be announced to that country. The affected country can apply for a trans-boundary assessment. Public participation in the affected country should be of the same manner as in the country of origin. There is only limited experience with trans-border EIAs and SEAs in Slovakia to date. <i>For further information, please refer to Espoo Convention - EIA in the accompanying Carpathians Handbook.</i>
Procedures	Treaty establishing the	Access to European	A respite of feasibility of the controversial decision can be given in special cases. In practice

	European Community	courts	this option is not used by courts (various reasons).
	Aarhus Convention		An option of an action in public interest is practically excluded in environmental cases (as mentioned above). At the moment, rules specifying access to courts on European courts level do not exist. Article No. 230 of the Treaty defines the right of European institutions to request reviews of EC acts. Relevant institution for that is the European Court of Justice. The Directives of the European Commission are, however, not addressed to individuals. Therefore, the European Court of Justice has so far rejected requests to review the acts as well as rejected intentions of environmental institutions to attack co-financing (by the European Commission) of infrastructure projects which are in contradiction to environmental protection.
Complaints, infringements	Aarhus Convention Compliance Committee		<i>For further information, please refer to Aarhus Convention Compliance Committee in the accompanying Carpathians Handbook.</i>
	Bern Convention Case File		The Bern Convention is implemented by Slovak legislative tools including: • Act Nr. 543/2002 Coll., on the Protection of Nature and the Landscape, • Act Nr. 17/1992 on the Environment, • Act Nr. 15/2005 on trade in Endangered Species of Wild Fauna and Flora (CITES), and others. Slovakia has two exceptions to the Bern convention (according to Article 6 of the Bern Convention) – for the wolf (<i>Canis lupus</i>) and the bear (<i>Ursus arctos</i>). Any citizen or organization within the contracting country can refer a case to the Secretariat of the Bern Convention if any principle stated in the Bern Convention is violated. <i>For further information, please refer to Bern Convention in the accompanying Carpathians Handbook.</i>
	Ramsar Convention, Montreux Record		In Slovakia, wetlands are protected according to national legislation: Act Nr. 543/2002 Coll. on the Protection of Nature and the Landscape. According to this law, Slovakia is divided into 5 levels of protection. However, a recent amendment of this law, which entered into force on December 1, 2007, stipulates that there will be no protection of wetlands at levels 1-4. Protection of wetlands can

		still be enforced through EU legislation (the EU Birds and Habitats Directive) focusing on the protection of habitats and species of community importance; nevertheless, the protection of wetlands will become much more difficult, requiring identification of specific habitats and species within the wetland area that are of European importance. Cases where the ecological character of a listed wetland site is changed or destroyed can be raised to the attention of the Ramsar Secretariat for possible addition to the Montreux Record. <i>For further information, please refer to Ramsar Convention in the accompanying Carpathians Handbook.</i>
Complaint to European Commission		The European Commission can take – and has taken – Member States to the European Court of Justice on the basis of complaints, and can apply pressure on governments to take action in the interim. However, the Commission decides itself which complaints to pursue. In practice, the Commission is flooded by complaints and has limited resources available for addressing them, and it takes years to prosecute cases before the European Court of Justice. <i>For further information, please refer to Complaint to European Commission in the accompanying Carpathians Handbook</i>
Petition to European Parliament		Possibly useful for attracting attention to an issue, particularly if it involves issues of EU relevance and political interest. <i>For further information, please refer to Petition to EU Parliament in accompanying Carpathians Handbook</i>
EU Ombudsman		Every European citizen or corporate body can file an appeal to the EU Ombudsman regarding maladministration by EU institutions, including e.g. the European Commission or the European Investment Bank. <i>For further information, please refer to EU Ombudsman in accompanying Carpathians Handbook</i>

Relevant links:

- www.enviro.gov.sk
- www.enviroportal.sk
- www.eia.sk
- www.portal.gov.sk

IV. Further use and acknowledgements

Further use and translation of these materials:

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

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