TRANSGREEN. Integrated Transport and Green Infrastructure Planning in the Danube-Carpathian Region for the Benefit of People and Nature
January 2017 – June 2019

Legislative aspects

Project co-funded by the European Regional Development Fund (ERDF).
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Protected through several directives and strategies at the EU level, which have to be taken into account when transport infrastructure is being planned, designed, constructed and then gets in operation.


EU Member States: obliged to implement these directives into their legislation. Ukraine and Serbia: not yet members of the EU and belong to the Carpathian region, have also begun to incorporate this legislation into their national laws.
Habitats Directive (92/43/EEC) relevant to implementation of transport infrastructure:

- Article 3: designation of coherent network of protected sites for selected natural habitats and species mentioned in Annex I. and II. (Natura 2000 sites)
- Article 6: any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives.
- Article 10: Member States shall endeavour, where they consider it necessary, in their land-use planning and development policies and, in particular, with a view to improving the ecological coherence of the Natura 2000 network, to encourage the management of features of the landscape which are of major importance for wild fauna and flora.
- Article 12: Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (strict species protection applied not only in protected sites).

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The Birds Directive (2009/147/EC) - all EU Member states: protect threatened bird species mentioned in Annex I. of this directive. Articles of the highest importance:

Article 3: Member States shall take the requisite measures to preserve, maintain or re-establish a sufficient diversity and area of habitats for all the species of birds referred to in Article 1.

Article 5: Member States shall take the requisite measures to establish a general system of protection for all species of birds referred to in Article 1.
Bern Convention and the Emerald Network of Areas of Special Conservation Interest

The Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) = first international treaty that brought European and some African countries together: protect wild flora and fauna and their natural habitats.

Natura 2000 sites: fully compatible with this requirement Regarding the two Carpathian countries that are so far not Member States of the EU: 271 sites have been declared in Ukraine according to the updated list of officially adopted Emerald sites and 61 sites were proposed according to the updated list of officially nominated candidate Emerald sites in Serbia.
EU level: two important strategies in order to enhance protection of biodiversity:

- the Communication from the Commission: Our life insurance, our natural capital: an EU Biodiversity Strategy to 2020 (COM (2011) 0244), which aims at halting the loss of biodiversity and ecosystem services by 2020

- Strategy on Green Infrastructure promotes the deployment of green infrastructure across Europe as well as the development of a Trans-European Network, so-called TEN-G, equivalent to the existing or planned parts of the European Transport Network (TEN-T).
Conventions related to the topic:

- **European Landscape Convention of the Council of Europe**: promotes the protection, management and planning of landscapes and organises international cooperation on landscape issues.

- **UNECE Convention on Environmental Impact Assessment in a Transboundary Context (ESPOO Convention)**: sets out the obligations of Parties to assess the environmental impact of certain activities at an early stage of planning.

The Protocol on **Strategic Environmental Assessment (SEA)** augments the Espoo Convention: ensuring that the Parties integrate environmental assessment into their plans and programmes at the earliest stages, help in laying down the groundwork for sustainable development.

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The Environmental Impact Assessment (EIA) Directive (2014/52/EU) applies to a wide range of defined public and private projects, which are defined in Annexes I and II. Mandatory EIA refers to all projects listed in Annex I, having been considered to have significant effects on the environment and require an EIA.

For projects listed in Annex II, the national authorities have to decide whether an EIA is needed. This is done by the "screening procedure", which determines the effects of projects on the basis of thresholds/criteria or a case by case examination. However, the national authorities must take into account the criteria laid down in Annex III. The developer may request the competent authority to say what should be covered by the EIA information to be provided by the developer (scoping stage); the developer must provide information on the environmental impact (EIA report – Annex IV); the environmental authorities and the public (and affected Member States) must be informed and consulted; the competent authority decides, taken into consideration the results of consultations.

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The Framework Convention on the Protection and Sustainable Development of the Carpathians (Carpathian Convention) was adopted and signed by 7 Parties (Czechia, Hungary, Poland, Romania, Serbia, the Slovak Republic & Ukraine) in May 2003 in Kyiv, Ukraine, and entered into force in January 2006. It is the only multi-level governance mechanism covering the entire Carpathian area. Common vision of the Parties to the Carpathian Convention is to pursue comprehensive policy and cooperation in order to guarantee protection and sustainable development of the Carpathians. Several Protocols to the Convention were adopted; most relevant are two of them: 1) Protocol on Conservation and Sustainable Use of Biological and Landscape Diversity; 2) Protocol on Sustainable Transport.
Protocol on Sustainable Transport sets principles for cooperation of the Parties for the development of sustainable freight and passenger transport and related infrastructure in the Carpathians for the benefit of present and future generations with the objective to contribute to the sustainable development of the region while avoiding, minimizing and, where necessary, mitigating and compensating negative environmental and socio-economic impacts of transport and related infrastructure development (Article 1).
Convention on Biological Diversity (CBD):
Protecting biodiversity at all levels, sustainable use of its components, access to genetic resources and fair and equitable sharing of benefits from their use. Programs of the Convention's activities include e.g. forest and agricultural biodiversity and the biodiversity of mountain ecosystems. The Aichi Biodiversity Target 5 of the Strategic goal B is to slow down the process of habitat loss at least by one half, and also the degradation and fragmentation should be significantly reduced.
Other international conventions supporting conservation and management of migratory species, their habitats and migration routes and designated sites of international importance need to be taken into consideration in planning and assessing transport infrastructure.
The Trans-European Transport Network (TEN-T) is a European Commission policy directed towards the implementation and development of a Europe-wide network of roads, railway lines, inland waterways, maritime shipping routes, ports, airports and rail-road terminals.

Road Transport Strategy for Europe is aiming at promoting mobility that is efficient, safe, secure and environmentally friendly.
White paper 2011 is an EU roadmap to a Single European Transport Area - Towards a competitive and resource efficient transport system. The European Commission adopted a roadmap of 40 specific initiatives for the next decade to build a competitive transport system that will increase mobility, remove major barriers in key areas and fuel growth and employment.
National level legislation in respective Carpathian countries

- National law on nature conservation that applies to habitat fragmentation (ecological networks, wildlife corridors)

Ecological network or landscape connectivity are not explicitly stated in the Constitution of respective countries. The Czech and Slovak Republics have the institute of Territorial System of Ecological Stability in their laws on Nature and Landscape Protection. The nature protection law in Poland contains general obligation to maintain ecological processes and their stability. The same law in Hungary contains general provisions for creating/implementing ecological corridors and networks. Romanian Government Ordinance 57/2007 regulates the regime of protected areas, conservation of natural habitats and of wild flora and fauna. Ukraine and Serbia have special law or decree, respectively, related to ecological network.
National law on transport infrastructure (road safety, prevention of collisions of animals with vehicles, mitigation measures for habitat fragmentation, animal migration)

All Carpathian countries have already adopted the most significant Acts on Environmental Impact Assessment (SEA/EIA), which regulate the procedures and processes of selected projects including linear infrastructure. Technical rules for building fauna passages to allow safe animal movement across linear infrastructure have been approved in the Czech Republic and Slovakia. Ukraine has State Construction Norms and Ecological Requirements for motorways that should be updated. The majority of the countries have its own strategy for road/railway development and National road safety strategy which should be applied in the most appropriate way to ensure free animal movement as well as human safety.
o National law on landscape development and construction

All Carpathian countries have their own Building and land-use planning Laws, which do not contain proper definition of landscape permeability and ecological network preservation. The most crucial thing is thus the introduction of the nature and landscape protection topic into spatial planning procedures. In the present time the protection is based either on strict species or territorial protection. It is necessary to enhance both public and governmental awareness to protect ecological corridor functions and be aware that these functions represent ecosystem services for the future.
Thank you!