

## **Updated DRAFT Protocol**

### **[Draft] Protocol on Conservation and Sustainable Use of Biological and Landscape Diversity to the Framework Convention on the Protection and Sustainable Development of the Carpathians**

The Contracting Parties to this Protocol

IN ACCORDANCE with their tasks, arising from the Framework Convention on the Protection and Sustainable Development of the Carpathians of 22 May 2003 (Kyiv, Ukraine), of pursuing a comprehensive policy and cooperating for the protection and sustainable development of the Carpathians;

AWARE of the fact that during the last decades, the initiation and escalation of certain human activities have led to significant changes of the biological and landscape diversity of the Carpathians, which are the natural habitat for many different flora and fauna species as well as their communities;

AIMING to reduce threats to the biological and landscape diversity of the Carpathians and to promote sustainable use of their natural resources;

IN COMPLIANCE with their obligations under Article 4 of the Framework Convention on the Protection and Sustainable Development of the Carpathians;

NOTING that all Contracting Parties have signed and ratified the Convention on Biological Diversity (5 July 1992, Rio de Janeiro, Brazil); the Convention on International Trade in Endangered Species of Wild Fauna and Flora (3 March 1973, Washington, USA), the Convention on Wetlands of International Importance Especially as Waterfowl Habitat (2 February 1971, Ramsar, Iran) and the World Heritage Convention (23 November 1972, Paris, France);

NOTING further that the majority of the Contracting Parties have signed and ratified other relevant conventions and agreements, in particular the Convention on the Conservation of European Wildlife and Natural Habitats (19 September, 1979, Bern, Switzerland), the Convention on Conservation of Migratory Species of Wild Animals (23 June 1979, Bonn, Germany), the European Landscape Convention (20 October 2000, Florence, Italy) and the Convention on Access to Information, Public Participation in Decision-making and Access to justice in Environmental Matters (25 June 1998, Århus, Denmark);

NOTING further that the majority of the Contracting Parties as Member States of the European Union actively implement Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (“Birds Directive”) and Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (“Habitats Directive”);

UNDERLINING that the Governments of the countries of the Carpathian region actively implement the Pan-European Biological and Landscape Diversity Strategy (PEBLDS, 1995, Sofia, Bulgaria);

AIMING at ensuring a more effective implementation of such existing instruments, and BUILDING upon other international programmes;

CONVINCED that efforts to protect, maintain and sustainably manage the natural resources of the Carpathians cannot be achieved by one country alone and require regional cooperation; and AWARE of the added value of transboundary cooperation in achieving ecological coherence;

DESIRING to cooperate on the conservation, sustainable use and restoration of biological and landscape diversity of the Carpathians;

Have agreed as follows:

## **CHAPTER I GENERAL OBLIGATIONS**

### ***Article 1***

#### ***General objectives and principles***

1. The objectives of the Protocol on Conservation and Sustainable Use of Biological and Landscape Diversity (hereinafter referred to as “the Protocol”) is to enhance and facilitate cooperation of the Contracting Parties for the conservation, sustainable use and restoration of biological and landscape diversity of the Carpathians for the benefit of present and future generations.
2. To achieve the above objectives, the Contracting Parties shall harmonise and coordinate their efforts and cooperate on conservation, maintenance and sustainable use of natural and semi-natural habitats, and securing their continuity and connectivity; restoration of degraded habitats; conservation and sustainable use of species of flora and fauna characteristic to the Carpathians, in particular on conservation of endangered or endemic species, in particular large carnivores.
3. The Contracting Parties shall therefore cooperate on the
  - a. development, harmonisation and implementation of relevant management plans;
  - b. prevention of introduction of alien invasive species and release of genetically modified organisms threatening ecosystems, habitats or species, their control or eradication,
  - c. development and/or promotion of compatible biodiversity indicators and monitoring systems
  - d. development and/or promotion of coordinated regional inventories of species and habitats,
  - e. development and/or promotion of coordinated scientific research programs and projects,
  - f. establishment of ecological networks in the Carpathians and enhancing conservation and sustainable management of biological and landscape diversity in the areas outside of protected areas,
  - g. integration of the objectives for the conservation and sustainable use of biological and landscape diversity into other sectoral policies.

### ***Article 2***

***Policies aiming at conservation, sustainable use and restoration of biological and landscape diversity of the Carpathians***

1. Each Contracting Party shall develop and/or implement policies and strategies in its national territory aiming at the conservation, sustainable use and restoration of biological and landscape diversity of the Carpathians.
2. Each Contracting Party shall take into consideration policies and strategies aiming at the conservation, sustainable use and restoration of biological and landscape diversity of the Carpathians, developed and implemented by other Contracting Parties.

***Article 3***

***Integration of the objectives of conservation and sustainable use of biological and landscape diversity of the Carpathians into sectoral policies***

1. The Contracting Parties shall take into consideration the objectives of this Protocol in their other policies, in particular on spatial planning and land resources management, water and river basin management, agriculture and forestry, transport and infrastructure, tourism, industry and energy.
2. The Contracting Parties shall cooperate on integration of the objectives of conservation and sustainable use of biological and landscape diversity into other sectoral policies and strategies adopted at the regional and/or the global level which could have influence on the conservation and sustainable use of biological and landscape diversity in the Carpathians.

***Article 4***

***Participation of regional and local authorities***

1. Each Contracting Party shall define, within its existing institutional framework, the best level of coordination and cooperation between institutions and regional and local authorities directly concerned so as to encourage shared responsibility, in particular to exploit and develop synergies when implementing policies for conservation, sustainable use and restoration of biological and landscape diversity of the Carpathians and the resulting measures.
2. Each Contracting Party shall involve the regional and local authorities directly concerned in the various stages of preparing and implementing these policies and measures, within their sphere of competence and within the existing institutional frameworks.

***Article 5***

***International cooperation***

1. The Contracting Parties shall encourage active cooperation among the competent institutions at the international level with regard to the conservation, sustainable use and restoration of biological and landscape diversity of the Carpathians.
2. The Contracting Parties shall remove obstacles to cooperation between local authorities in the Carpathians at the international level, and seek solutions to shared problems at the most suitable level.

**CHAPTER II  
GEOGRAPHICAL SCOPE AND DEFINITIONS**

## **Article 6**

### **Geographical scope**

1. This Protocol applies to the Carpathian region (hereinafter referred to as “the Carpathians”), as defined by the Conference of the Parties to the Framework Convention.
2. Each Contracting Party may extend the application of this Protocol to additional parts of its national territory by making a declaration to the Depository.

## **Article 7**

### **Definitions**

For the purposes of this Protocol:

- a) “Biological diversity” means the variability among living organisms from all sources including, inter alia, terrestrial and aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems;
- b) “Border area” means an area remaining under the sole jurisdiction of the respective Contracting Party in the proximity of the state border with another Contracting Party, where activities undertaken on one side of the state border are, depending on the nature of the particular activity, likely to have direct or indirect and adverse or positive environmental impact on the other side of the state border.
- c) “Contracting Parties” means Contracting Parties to this Protocol;
- d) “Conservation” means a series of measures required to maintain or restore the natural habitats and the populations of species of wild fauna and flora at a favourable conservation status;
- e) “Endangered species” means species in danger of extinction throughout all or a significant proportion of their range;
- f) “Framework Convention” means the Framework Convention on the Protection and Sustainable Development of the Carpathians (22 May 2003, Kyiv, Ukraine);
- g) “Genetically modified organism” means the organism, with the exception of human beings, in which the genetic material has been altered in a way that does not occur naturally by mating and/or natural recombination;
- h) “Invasive alien species” means non-native species introduced deliberately or unintentionally outside their natural habitats, where they become established, proliferate and spread in ways that cause damage to their receiving environment;
- i) “Landscape” means an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors;
- j) “Landscape diversity” means the variability among landscapes;
- k) “Natural habitat” means the terrestrial or aquatic area distinguished by geographic, abiotic and biotic features where an organism or population naturally occurs;
- l) “Restoration” means the return of an ecosystem or habitat to its original community structure, natural complement of species, and natural functions;
- m) “Sustainable use” means the use of components of biological diversity in a way and at a rate that does not lead to the long-term decline of biological diversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations.

- n) “Transboundary protected area” means an area composed of two or more protected areas located within the territories of two or more Contracting Parties, adjacent to the state border, each remaining under sole jurisdiction of respective Contracting Party.

### **CHAPTER III SPECIFIC MEASURES**

#### ***Article 8***

##### ***Conservation, maintenance, restoration and sustainable use of natural and semi-natural habitats***

1. Each Contracting Party shall take measures in its national territory with the objective to ensure the long-term conservation and sustainable use of natural habitats in the Carpathians.
2. Each Contracting Party shall take measures in its national territory with the objective to maintain or restore, and sustainably use, semi-natural habitats in the Carpathians.

#### ***Article 9***

##### ***Continuity and connectivity of natural and semi-natural habitats***

1. Each Contracting Party shall take measures in its national territory with the objective to improve and ensure continuity and connectivity of natural and semi-natural habitats in the Carpathians, thus allowing dispersal and migration of wild species populations, and genetic exchange between such populations.

#### ***Article 10***

##### ***Restoration of degraded habitats***

1. Each Contracting Party shall take measures in its national territory with the objective to restore degraded habitats in the Carpathians.

#### ***Article 11***

##### ***Conservation and sustainable use of species of flora and fauna of the Carpathians***

1. Each Contracting Party shall take measures in its national territory with the objective to ensure the long-term conservation and sustainable use of species of flora and fauna native to the Carpathians.

#### ***Article 12***

##### ***Conservation of endangered species, endemic species and large carnivores of the Carpathians***

1. The Contracting Parties shall develop and adopt a list of endangered or endemic flora and fauna species native to the Carpathians (Carpathian Red List of Species), to be revised every ten years.
2. Each Contracting Party shall take measures in its national territory with the objective to ensure the long-term conservation and recovery of endangered or endemic species of flora and fauna native to the Carpathians, in particular of large carnivores.
3. In a case where the natural habitat of the endangered species is located on both sides of the state border between the Contracting Parties, such concerned Contracting Parties shall cooperate on ensuring the conservation and, as may be necessary, recovery of those species and their natural habitats.

### **Article 13**

#### ***Prevention of the introduction of alien invasive species and/or genetically modified organisms threatening ecosystems, habitats or species, their control or eradication***

1. Each Contracting Party shall pursue policies aiming at the prevention of introduction or release of invasive species non native to the Carpathians and/or genetically modified organisms which are likely to have adverse environmental impacts that could affect the biological diversity, ecosystems, habitats or species of the Carpathians.
2. Each Contracting Party shall take measures in its national territory with the objective to prevent introduction or release of species mentioned under point 1 and, if need be, control or eradication of such species.

### **Article 14**

#### ***Ecological network in the Carpathians***

1. Each Contracting Party shall maintain, manage and, if need be, expand existing protected areas in its national territory in the Carpathians and encourage the designation and management of new protected areas in the Carpathians.
2. The Contracting Parties shall cooperate in the management of existing transboundary protected areas in the Carpathians and harmonise the management objectives and measures applied and, if need be, encourage the expansion of existing transboundary protected areas or creation of new transboundary protected areas in the Carpathians.
3. The Contracting Parties shall cooperate on establishing a transfrontier Carpathian Ecological Network composed of protected areas and other areas significant for biological and landscape diversity of the Carpathians.
4. The Contracting Parties shall support and facilitate cooperation under the Carpathian Network of Protected Areas established by the 1st Conference of Parties to the Framework Convention, terms of reference for the Carpathian Network of Protected Areas constitute Annex 1 to this Protocol.
5. The Contracting Parties officially recognise areas listed in Annex 2 to this Protocol as members of the Carpathian Network of Protected Areas and encourage the protected area administrations to take part in the cooperation within this network.

### **Article 15**

#### ***Enhancing conservation and sustainable management in the areas outside of protected areas***

1. Each Contracting Party shall define, within its existing institutional framework, the effective scheme for coordination and cooperation between the institutions and regional and local authorities directly concerned, with involvement of other local stakeholders, so as to enhance conservation and sustainable management in the areas outside of protected areas in the Carpathians, in particular with the objective of improving and ensuring connectivity between existing protected areas and other areas and habitats significant for biological and landscape diversity of the Carpathians, thus allowing dispersal and migration of wild species populations, and genetic exchange between such populations.

2. Each Contracting Party shall take measures in its national territory with the objective to enhance conservation and sustainable management in the areas outside of protected areas in the Carpathians.

#### **Article 16**

##### ***Consultation, harmonisation and coordination of measures undertaken in border areas***

1. Each Contracting Party shall consult, harmonise and coordinate measures, undertaken in its border area in the Carpathians aimed at achieving objectives listed under Article 1. points 2 and 3, with the neighbouring Contracting Party, in particular in a transboundary protected area..

#### **Article 17**

##### ***Development and implementation of management plans***

1. Each Contracting Party shall develop, in accordance with its legislation, and implement, in its national territory in the Carpathians, management plans with the objective to ensure the long-term conservation, maintenance or restoration, continuity and connectivity, and sustainable use of natural and semi-natural habitats, restoration of degraded habitats as well as long-term conservation and sustainable use of species of flora and fauna native to the Carpathians.
2. Each Contracting Party shall define, within its existing institutional framework, the best level of coordination and cooperation between the institutions and regional and local authorities directly involved within their sphere of competence in implementation of management plans mentioned under point 1. so as to encourage shared responsibility and involvement of all local stakeholders.

#### **Article 18**

##### ***Compatible monitoring systems***

1. The Contracting Parties shall cooperate on harmonisation of their environmental monitoring programmes in the Carpathians which are conducive to achieving the objectives of this Protocol.
2. The Contracting Parties shall cooperate to develop and implement compatible monitoring systems, to ensure data comparability.
3. The Contracting Parties shall cooperate to develop a joint information system on the state of biological and landscape diversity in the Carpathians.
4. Each Contracting Party shall cooperate in order to ensure that the national results of the research are integrated in a joint information system.

#### **Article 19**

##### ***Coordinated scientific research and exchange of information***

1. Each Contracting Party shall coordinate scientific research undertaken in its territory or by scientific institutions of this Party with regard to conservation, restoration and sustainable use of biological and landscape diversity of the Carpathians.
2. The Contracting Parties shall cooperate on promotion and harmonisation of research programs and projects which are conducive to achieving the objectives of this Protocol.
3. The Contracting Parties shall encourage international cooperation among the scientific institutions with regard to conservation, restoration and sustainable

use of biological and landscape diversity of the Carpathians, in particular on the harmonisation of monitoring systems, the provision and harmonisation of databases, and undertaking common research programs and projects in the Carpathians.

4. The Contracting Parties shall cooperate on dissemination of scientific research results which are related to the objectives of this Protocol.
5. The Contracting Parties shall cooperate on development of the coordinated regional inventories of species and habitats of the Carpathians.
6. Each Contracting Party shall exchange information and experience on methods related to activities listed under Article 1. points 2 and 3. with other Contracting Parties.

#### ***Article 20***

##### ***Common programs and projects***

1. Each Contracting Party shall participate, accordingly to its needs and possibilities, in common programs and projects on activities listed under Article 1. points 2 and 3. jointly undertaken in the Carpathians by the Contracting Parties.

## **CHAPTER IV IMPLEMENTATION, MONITORING AND EVALUATION**

#### ***Article 21***

##### ***Implementation***

1. Each Contracting Party shall undertake the requisite legal and administrative measures for ensuring implementation of the provisions of this Protocol.
2. Each Contracting Party shall commit to explore the possibilities of supporting, through fiscal and/or financial measures, implementation of the provisions of this Protocol.
3. The respective national authorities shall be responsible for monitoring the effect of these measures.
4. During the first year after the entry into force of this Protocol, the Contracting Parties shall develop and adopt the Strategic Action Plan targeted on implementation of this Protocol, to be revised every five years.

#### ***Article 22***

##### ***Prevention and responsibility for environmental damages***

1. The Contracting Parties shall prevent environmental damages, in particular during the land management and development planning process by assessing and taking into consideration possible direct or indirect, short- or long-term influence, including cumulative effect of the projects and activities which are likely to have adverse environmental impacts that could affect the biological and landscape diversity, ecosystems, habitats or species of the Carpathians.
2. The Contracting Parties shall establish conditions under which the potentially harmful impacts of policies and projects are to be examined. Inevitable negative impacts should be compensated by measures for the conservation of nature and landscape, while impacts that cannot be compensated may only be authorised under certain conditions.

#### ***Article 23***

### ***Traditional practices***

1. When implementing this Protocol, the Contracting Parties shall take into consideration the cultural heritage of the Carpathians, in particular the traditional land-use and land resource management practices.

### ***Article 24***

#### ***Education and information of the public***

1. The Contracting Parties shall promote the education and information of the public regarding the objectives, measures and implementation of this Protocol.
2. Each Contracting Party shall ensure that the national results of the research are made accessible to the public under the existing institutional framework.

### ***Article 25***

#### ***Monitoring of compliance with obligations***

1. The Contracting Parties shall regularly report to the Meeting of the Protocol (or, should the Protocol be ratified by all CFC Parties – the Conference of the Parties) on measures taken under this Protocol and the effectiveness of the measures taken. The Conference of the Parties to the Framework Convention shall determine the intervals at which the reports must be submitted.
2. The Meeting of the Protocol (or, should the Protocol be ratified by all CFC Parties – the Conference of the Parties) shall examine these reports in order to ensure that the Contracting Parties have fulfilled their obligations under this Protocol. It may also ask for additional information from the Contracting Parties concerned or have recourse to other information sources.
3. The Implementation Committee shall regularly draw up a report on the compliance of the Contracting Parties with the obligations arising from this Protocol, for the attention of the Conference of the Parties to the Framework Convention.
4. The Conference of the Parties to the Framework Convention shall take note of this report. If it finds that obligations have not been met, it may issue recommendations.

### ***Article 26***

#### ***Evaluation of the effectiveness of the provisions***

1. The Contracting Parties shall regularly examine and evaluate the effectiveness of the provisions of this Protocol. They may consider the adoption of appropriate amendments to this Protocol where necessary in order to achieve objectives.
2. The regional and local authorities of each Contracting Party shall be associated with this evaluation within the existing institutional framework. Non-governmental organisations active in relevant fields may be consulted (I would check with the language in the Aarhus convention about this especially as several countries are EU).

## **CHAPTER V FINAL PROVISIONS**

### ***Article 27***

#### ***Links between the Framework Convention and the Protocol***

1. This Protocol constitutes a Protocol to the Framework Convention within the meaning of Article 2 point 3 thereof and any other relevant articles of this Convention.
2. Entry into force, amendment of and withdrawal from this Protocol shall be done mutatis mutandis in accordance with Articles 19, 21 paragraphs 2 to 4 and Article 22 of the Framework Convention.3. Only a Party to the Framework Convention may become Party to this Protocol.

### ***Article 28***

#### ***Signature***

1. This Protocol shall be open for signature at the Depositary from .. May 2008 to .. May 2009.
2. For Parties which express their agreement to be bound by this Protocol at a later date, this Protocol shall enter into force on the ninetieth day after the date of deposit of the instrument of ratification. After the entry into force of an amendment to this Protocol, any new Contracting Party to the said Protocol shall become a Contracting Party to the Protocol, as amended.

### ***Article 29***

#### ***Notifications***

1. The depositary shall, in respect of this Protocol, notify each Contracting Party of(a) any signature,(b) the deposit of any instrument of ratification, acceptance or approval,(c) any date of entry into force,(d) any declaration made by a Contracting Party or signatory,(e) any denunciation notified by a Contracting Party, including the date on which it becomes effective.

### ***Article 30***

#### ***Reservations***

No reservations may be made to this Protocol.

### ***Article 31***

#### ***Depositary***

The depositary of this Protocol is the Government of Ukraine.

Done at ..... on ..... in one original in the English language.

The original of the Protocol shall be deposited with the Depositary, which shall distribute certified copies to all Parties.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol

For the Government of the Czech Republic

For the Government of the Republic of Hungary

For the Government of the Republic of Poland

For the Government of Romania

For the Government the Serbia

For the Government of the Slovak Republic

For the Government of Ukraine

**Annexes**

**Annex 1.**

Terms of Reference of the Carpathian Network of Protected Areas

**Annex 2.**

List of the members of the Carpathian Network of Protected Areas.