



Mountains and the law – emerging trends

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for the

Development Law Service
FAO Legal Office

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FOREWORD

Although mountains represent irreplaceable centres of biological and cultural diversity, in many regions of the world the people living in mountain regions are particularly affected by poverty and hunger, and mountain ecosystems are highly exposed to environmental risks and degradation.

Until recently, however, law-makers have not taken meaningful interest in the protection and development of mountains. The first transnational agreement relating to a mountain range, the Alpine Convention, was adopted only in 1991, and the first domestic laws in this area were passed only a few years before that. Mountain law is, thus, still in its infancy.

This publication examines the latest developments in mountain legislation. The first part broadly describes mountain-specific legal texts, first in the international sphere, then at the national level. The second part contains six short case studies from Bulgaria, France, Georgia, Italy, North Ossetia-Alania (Russian Federation) and Switzerland, where legislation on mountains has been passed or proposed.

Most countries have not yet adopted mountain-specific laws. Instead, they have preferred to focus on the protection and development of mountains through sectoral laws on particular subjects (such as forestry, land or water) that, while applicable to mountains, have a broader geographic scope, and hence are not usually tailored to the special conditions and needs of mountain areas. A few countries, however, have enacted legal instruments dealing specifically with mountains, and other countries are in the process of developing similar legislation. These converging efforts seem to signal an emerging trend towards a progressive increase in mountain law-making in the years to come.

Existing national and sub-national laws address similar mountain-specific problems and therefore have some common characteristics, mainly the following:

- they characteristically aim at promoting the socio-economic development of mountain communities, while at the same time protecting the mountain environment;

- their coverage is determined by how they define mountain areas, typically using altitude as the main criterion;
- they generally make provision to assign administrative responsibilities for mountain development;
- they promote economic activities in mountain zones through special funds, loans, subsidies, labelling and other incentives;
- they pursue social objectives, in particular by improving infrastructure, education, health and other services; and
- finally, they seek to protect the mountain environment, mostly through provision for the conservation of forest, soil and water resources in mountain regions.

A contribution to the International Year of Mountains, this study is a joint effort by the Legal Office and the Forestry Department of FAO. It was jointly researched and written by two legal interns, Annie Villeneuve and Astrid Castelein, and a Senior Legal Officer from the Development Law Service, Mohamed Ali Mekouar.

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INTRODUCTION

Covering one quarter of the Earth's surface and home to at least one in ten people, mountain ecosystems are unique centres of cultural diversity and essential reservoirs of biological diversity, as well as the source of the world's great rivers and the providers of fresh water. However, mountain peoples are among the poorest and the hungriest in the world, and mountain regions are among the most vulnerable to environmental degradation, urban development and climate change.

Despite their importance throughout human history and their wealth of resources, mountains have only recently begun to attract the attention of political decision-makers and economic planners. National and international law-makers have similarly failed, until recently, to take an interest in mountain areas. It was not until 1991 that the Alpine Convention, the first transnational agreement relating to a mountain range, came into being, and the first national laws in this area were passed only a few years before that. Mountain law is, thus, still in its infancy: only a few mountain-specific legal instruments, national and international, are currently in place.

The first part of this publication looks at the development of this type of legislation. It broadly describes mountain-specific legal texts, first in the international sphere, then at the domestic level. Although there are many other laws which also affect the legal status of mountains, such as agricultural, forestry, soil, watershed, environmental, tax and land use planning laws, the study focuses only on those legal frameworks that are specific to mountains.

The second part of the publication contains six short case studies from Bulgaria, France, Georgia, Italy, North Ossetia-Alania (Russian Federation) and Switzerland, where legislation specifically dealing with mountains has been passed or developed. The country studies are intended to illustrate in some detail the main features of mountain law outlined in the first part.

PART I
GENERAL OVERVIEW

I. INTERNATIONAL FRAMEWORK: MAJOR INSTRUMENTS

Since many mountain ranges cross or constitute national borders, they raise issues that are inherently transboundary and that require cooperation at global or regional level. However, with the exception of the Alpine Convention, this has not prompted the adoption of legally binding, mountain-specific international instruments, either globally or regionally.

1.1. Treaty Law

1.1.1. Absence of a Worldwide Mountain-focused Convention

As yet, there is no legally binding global agreement which deals specifically with mountains. This is partly due to the existence of numerous conventions which, though not focusing on mountains as such, do have some bearing on mountain peoples and resources. For example, the Convention to Combat Desertification acknowledges in its preamble the impact of desertification on arid regions with mountain ecosystems in Africa, Central Asia and the Transcaucasus. The Convention on Biological Diversity, which aims at the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, is similarly relevant because mountain ecosystems are often biodiversity-rich areas. Another example is the Framework Convention on Climate Change, which notes in its preamble the special vulnerability of "fragile mountain ecosystems" to climate change. Some earlier conventions are also relevant for mountains, including the 1972 World Heritage Convention (as many natural sites included in the World Heritage List are mountain areas) and the 1968 African Convention on the Conservation of Nature and Natural Resources (which addresses mountain-related issues such as soil erosion in connection with agricultural and land use planning). However, the contribution of these conventions to sustainable mountain management is limited to the specific aspects they cover.

In addition to the mountain-related provisions of these conventions, there are some general principles of international environmental law which are applicable to mountain ecosystems. One is the obligation of states to manage their natural resources so as not to "cause damage to

the environment of other States or of areas beyond the limits of national jurisdiction" (Principle 2 of the Rio Declaration on Environment and Development). Another is the duty of states to cooperate in a spirit of partnership (Principle 7 of the Rio Declaration), which may apply to the management of mountain ranges shared by two or more states. More broadly, the principle of sustainability, although not specifically defined in this context, is key to the management of mountain ecosystems. It implies a wise and equitable use of mountain resources in environmental, economic, social and cultural terms, taking due account of the interests of both present and future generations (Fodella and Pineschi, 2000).

1.1.2. A Regional Mountain-specific Agreement: The Alpine Convention

The only legally binding instrument in existence that specifically deals with a mountain range has been adopted at regional level: the Convention on the Protection of the Alps. Adopted in Salzburg, Austria, in 1991, the Convention entered into force in 1995. Its initial signatories – Austria, France, the European Community, Germany, Italy, Liechtenstein and Switzerland – were later joined by Slovenia (1993) and Monaco (1994). All nine parties had ratified the Convention by 1999.

The Convention provides for the protection and sustainable development of the Alps in their entirety as a uniform regional ecosystem. Parties agree to establish a comprehensive policy towards this end. They also endeavour, through the application of the prevention, precautionary and polluter-pays principles, to cooperate in several areas of common interest, including agriculture, forestry, land use planning, protection of landscapes, culture and population, leisure activities and air pollution control.

The Convention is designed as a framework agreement: its substantive provisions are set out in general terms, which need to be specified through additional protocols for their effective implementation. Nine such protocols have been concluded so far: (i) in 1994, three protocols were signed in Chambéry (France), covering mountain agriculture, nature protection and landscape conservation, and land use planning and sustainable development; (ii) in 1996, two protocols were signed in Brdo (Czech Republic), on mountain forests and tourism; (iii) in 1998, two protocols were signed in Bled (Slovenia), on soil conservation and

energy; and (iv) in 2000, two more protocols were signed in Lucerne (Switzerland), governing transport and dispute settlement.

Some of the protocols, especially the one on transport, have been hard to negotiate and to agree upon. In addition, four other protocols are envisaged by the Convention but have not yet been adopted; they are to address population and culture, water, air quality and waste management.

Despite being signed by most parties, at the time of writing only Liechtenstein has ratified the existing protocols. However, Austria and Germany were expected to ratify them soon, and other parties were taking steps toward ratification. The protocols are therefore likely to become effective before the end of 2002, as under the Convention they come into force three months after their ratification by three parties.

1.1.3. Other Draft Regional Agreements

The Alpine Convention is viewed as a model for the development of mountain accords in other regions of the world. Similar range-wide agreements are currently in the making, at varying stages of preparation or design, including instruments for:

- the *Altai range*, shared by China, Kazakhstan, Mongolia and the Russian Federation. In this context, a Protocol of Intentions was adopted in 1998, whereby the four countries, aware of their common responsibility for the protection and development of the Altai region, recognize the need to improve economic development, to generate income and to develop the infrastructure (Pradhan, 1999);
- the *Caucasus range*, shared by Armenia, Azerbaijan, Georgia and the Russian Federation. After a meeting held in June 2001 between the countries concerned, a Resolution was adopted, which recognizes the Caucasus as one of the most important mountainous ecosystems of the Earth, due in particular to its rich biological and landscape diversity. The Resolution is based on the principle of integrity of the Caucasian region from geographical, ecological and social perspectives;
- the *Carpathian range*, shared by the Czech Republic, Hungary, Moldova, Poland, Romania, Slovakia, Ukraine and Yugoslavia. International cooperation efforts for the protection and sustainable

management of the Carpathians started in November 2001, during a meeting held in Ukraine. Since then, the range countries have considered the development of a convention to promote, in an integrated fashion, the sustainable development of the region, taking into account sectoral needs such as tourism, agriculture and transport (Egerer, 2002).

In the framework of the Council of Europe (CE), a draft *European Convention of Mountain Regions*, covering most aspects of mountain development and protection, was developed in 2000, building on an earlier draft European Charter of Mountain Regions. The proposed Convention seeks to enhance socio-economic development in mountain areas to meet local people's needs, as well as environmental protection, in a balanced manner. The draft Convention was recently considered by the CE Committee of Ministers but has not yet been adopted.

1.2. Soft Law

Soft-law instruments - declarations, resolutions, plans of action and codes of conduct -, usually shaped and adopted through international fora and conferences, have often been used in the recent past to promote norm-creating processes that, in turn, led to the development of hard law agreements. A number of such soft-law instruments concern mountain peoples and ecosystems, such as Chapter 13 of Agenda 21 and various other post-Rio documents, some of which are briefly outlined below.

1.2.1. A Global Mountain Platform: Chapter 13 of Agenda 21

"Managing Fragile Ecosystems: Sustainable Mountain Development" is the title of the chapter that was devoted to mountains under Agenda 21, adopted in 1992 by the Rio Conference on Environment and Development. By endorsing this instrument at the highest political level and in such a global forum, which assembled 180 UN member countries, the international community, for the first time, clearly and formally signalled its common concern for the world's mountains as essential reservoirs of natural and human resources, which need to be protected, restored and developed.

Chapter 13 is a policy tool geared towards action at the national and international levels. It identifies rural development, food security, fresh water, biological diversity, forests, climate change, culture, traditional knowledge and tourism, among others, as the main mountain issues. It seeks to achieve sustainable mountain development notably through: (i) raising the awareness and supporting the efforts of mountain peoples to reverse the trend of degradation; and (ii) creating effective mountain constituencies and building networks of national, regional and global mountain institutions.

In assessing the progress made in implementing Chapter 13 since Rio, the Commission on Sustainable Development concluded in 2001 that the level of economic development in most mountain regions of the world "remains unacceptably low." However, it also found that significant results had been achieved, particularly with regard to the creation of innovative mechanisms fostering cooperation among actors involved in mountain issues, as well as the adoption of approaches balancing development needs and environmental concerns.

1.2.2. The Draft World Charter for Mountain Populations

In the final declaration of the World Mountain Forum, held in Paris and Chambéry (France) in June 2000, more than 800 persons coming from 70 mountain countries endorsed a draft World Charter designed to represent the needs and aspirations of mountain peoples (World Mountain Forum, 2000a and 2000b). According to the draft charter, three conditions are crucial to meeting mountain populations' requirements: (i) mountain peoples must find a place in society while retaining their identity; (ii) mountain peoples must face economic competition while working to change the conditions of trade to their advantage; and (iii) mountain peoples need to retain control of their environment and the development of their natural resources, managing them for their own needs as well as on behalf of the national and world community.

The draft charter envisions the establishment of a worldwide organization to be called "Mountains of the World," which would speak for mountain areas, and whose membership would be open to local authorities, associations and groups representing mountain dwellers. Alongside this organization, there should be a financial mechanism, possibly in the form of a foundation, which would mobilize the

resources needed to strengthen cooperation and build partnerships among mountain regions and countries.

The draft charter is undergoing a review and revision process with a view to its adoption at the second World Meeting of Mountain Populations, to be held in Quito, Ecuador, in September 2002. A new version of the text was issued in May 2002, with additional inputs from a recently established non-governmental organization, the Association of Mountain Populations of the World. The draft should be further discussed and amended at six regional preparatory meetings prior to its finalization for the Quito event.

1.2.3. Other Non-binding Instruments: Some Examples

In the aftermath of the Rio Conference, a flurry of soft-law instruments on mountain ecosystems, often inspired by Chapter 13 of Agenda 21, have been developed by governmental and non-governmental fora in many regions of the world. Some are:

- the *Cusco Declaration on Sustainable Development of Mountain Ecosystems*: drawn up by representatives of 18 countries from various continents gathered in Cusco, Peru, in 2001, the Declaration identifies the environmental, social and economic measures most widely recognized as essential to the sustainable management of mountain areas (International Workshop on Sustainable Mountain Development, 2001);
- the *Draft Central Asian Charter for the Sustainable Development of Mountain Regions*, covering the mountain areas of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan: inter-ministerial consultations among the concerned countries are being carried out with a view to adopting the Charter at the Global Mountain Summit to take place in November 2002 in Bishkek, Kyrgyzstan (Fourth International Conference on Sustainable Mountain Development, 2001; and UNEP, 2001);
- *Euromontana declarations*: an association of 36 mountain organizations from 15 countries of Central, Eastern and Western Europe, Euromontana has adopted various declaratory documents at its periodic conferences. The Second Euromontana Convention (held in Trento, Italy, 2000) produced a Final Declaration stating that the comparative advantage of mountain regions, as reservoirs of

environmental and cultural diversity, is quality. In the face of globalization, the sustainability of economic activities in mountain zones can only be ensured by high-quality, value-added products (Euromontana, 2000). At Euromontana's Third Convention (held in Inverness, Scotland, 2002), the deliberations focused on mountain agriculture in the context of the reforms of the European Union agriculture and regional development policies. The Convention stressed again the importance of high-quality products and recognized the positive externalities of mountain agriculture (effects on landscape, rural communities, tourism, etc.) within the European Union and for the European states (Euromontana, 2002);

- the *African Mountains and Highlands Declaration*: adopted at the International Workshop of the African Mountains Association held in Antananarivo, Madagascar, in 1997, the Declaration highlights the major problems affecting Africa's mountain ecosystems and provides policy recommendations to address them (African Mountains Association, 1997);
- the *UIAA Kathmandu Declaration*: adopted by the International Union of Alpinist Associations (UIAA) meeting in Kathmandu, Nepal, in 1997, this document calls for effective protection of the mountain environment, for respect for the culture and dignity of mountain peoples, and for the promotion of contacts between mountaineers in a spirit of friendship, respect and peace (International Union of Alpinist Associations, 1997);
- the *Charter for the Protection of the Pyrénées*: developed in 1995 by the International Associated Council for the Protection of the Pyrenees, the Charter has three objectives: preservation of the range's ecological values; access for visitors without altering access points; and economic development respecting the environment (*Conseil International Associatif pour la Protection des Pyrénées*, 1995).

II. NATIONAL LEGISLATION: MAIN FEATURES

The international instruments reviewed above reflect states' common concern for the protection and development of major mountain ecosystems, at regional and subregional levels. As noted, because many mountain areas cross national borders, international agreements and actions are often required to articulate and formalize international

mountain policy goals. However, practical mountain conservation and development measures take place mainly within state borders through national legislation.

Mountain-related legislation is still embryonic. So far, only a dozen or so states have passed exhaustive or sectoral mountain-specific laws, including Cuba, France, Georgia, Greece, Italy, Switzerland and Ukraine. Other states, such as the Russian Federation (including Siberia), Kyrgyzstan, Morocco and Romania, are about to draw up or enact similar laws. In Bulgaria, a bill on mountain areas was drafted in 1993 and is in the process of being adopted.

Furthermore, in some countries mountain legislation has been developed at the sub-national level. An example is the Republic of North Ossetia-Alania in the Russian Federation, with its Act of 30 December 1998 relating to mountain territories. In Italy, most mountainous regions enacted mountain laws between 1996 and 2000. The main examples of national and sub-national legislation are listed in the Annex.

An analysis of domestic legal texts dealing with mountains reveals a number of similarities - in their objectives and scope; in their institutional frameworks; and in the economic, social and environmental policies they reflect. This section discusses these matters, briefly outlining the main features of mountain-specific legislation. The case studies in the second part of this study provide a more detailed review of several mountain laws.

2.1. Objectives and Scope

2.1.1. Objectives of the Laws

Mountain areas are characterized by particular natural, economic and social features, including geographic isolation, difficult climatic and environmental conditions, fragile ecosystems, political marginality and, in many cases, poverty. Mountain legislation attempts to address these issues.

Promoting the protection and sustainable development of mountain areas is the first aim of most laws relating to mountains. Within this general objective, the emphasis is adjusted to fit national contexts. For example, the French Law 85-30 of 1985 determines the policy for the

development, management and protection of mountain regions, with the aim "to enable local populations and their elected officials to acquire the means for and the control of their development, with a view to creating equality of income and living conditions between mountain and other regions, while fully respecting the cultural identity of mountain peoples" (art. 1).

Respecting the cultural identity of mountain communities is also an aim pursued by a number of laws. Insofar as locally enacted laws meet the special needs of the mountain peoples and the mountain areas they cover, they are best suited to fulfil their regulatory role efficiently. For example, in the 1999 Georgian law, a stated objective is to meet the needs of today's mountain peoples as well as those of future generations.

The 1998 law of the Russian Republic of North Ossetia-Alania balances, among its purposes, the need to establish social, economic and legal bases for the development of mountain areas with the concern for preservation and rational use of their natural resources. Similarly, in Ukraine, the purposes of the 1995 law on mountain settlements are to improve the living conditions of citizens living in mountain settlements, and to promote the social and economic development of these settlements. Finally, one of the aims of the 1997 Swiss law on aid to investment is the promotion of sustainable development of mountain regions through the allocation of funding for infrastructure development.

2.1.2. Coverage of the Laws: Mountain Delimitation

National laws generally define "mountains" in order to delineate the scope of the law. Given the great diversity of mountain zones, it is not possible, nor desirable, to draw up a detailed definition for mountains, which would be universally acceptable and applicable worldwide. In practice, law-makers take into account various elements to define mountains and to determine their boundaries, including natural characteristics (altitude, topography, climate, vegetation) as well as human factors (food security, land-use opportunities and constraints, highland-lowland interactions).

Of the currently used definition criteria, altitude (or the hypsometric criterion) is the most meaningful, for at certain altitudes living conditions become much more difficult and precarious than in the lowlands. Thus it

is often the altitude factor that makes it necessary to adopt specific laws. Other particular conditions are generally combined with the hypsometric criterion to better delineate mountain zones. For example, the law of Georgia defines mountains on the basis of altitude (at least 1 500 meters above sea level), but extends the notion of "mountain" to regions where, although the altitude is above 1 000 meters (sometimes 800 meters), specific conditions occur in terms of slope gradients, geographic location, environmental, economic and ethnic features, quality of the soil and of agricultural land, demographic parameters and migration trends. Similarly, the Ukrainian law defines "mountain settlements" based on the hypsometric criterion (settlements located at 400 meters above sea level), on the scarcity of arable lands (less than 0.15 ha of arable land, or 0.60 ha of agricultural land, per inhabitant), and on climatic conditions (cold and long winter, cool and short summer, high precipitation, floods, etc.). Bulgaria and Switzerland use similar criteria for the delimitation of their mountain regions.

Other laws present some peculiarities. For instance, the French law defines mountain areas according to the standard criteria of altitude, slopes and handicaps, but altitudinal parameters differ depending on whether the areas are located in the mainland or in the overseas territories. Moreover, the law specifically identifies the country's mountain ranges. The law of the Russian Republic of North Ossetia-Alania, in addition to defining "mountain areas" as spaces where daily human activities are affected by environmental conditions such as altitude and climate, explicitly determines the boundaries of those areas. In Poland, the Mountain Areas Economic Development Bill, drafted in 2001 but not yet formally approved, identifies three regions as mountainous: Karpaty, Sudety and Oewiêtokrzyskie. In addition, a decision of the competent Ministry may subject boroughs and farms to the law where 50 percent of the area is located at 350 meters above sea level or where the slope gradient exceeds nine degrees, as well as those located at an altitude between 250 and 300 meters and where the slope gradient is between six and nine degrees (Fatiga, 2002).

2.1.3. Complementarity with Related Laws

Mountain-specific laws must be developed and implemented taking into account the strong linkages they have with legislation governing related sectors. Thus, their application must be well coordinated with that of

sectoral laws regarding notably agriculture, the environment, land use planning, water, mining, forestry and protected areas.

Some laws include explicit provisions to that effect. For example, the mountain law of the Russian Republic of North Ossetia-Alania states in various sections that it must be implemented consistently with other relevant laws of the Russian Federation and of the Republic. The 1997 Swiss law provides that financial aid granted under it does not rule out financial allowances under other laws.

2.2. Institutional Arrangements

The institutional mechanisms for the implementation of mountain laws vary according to the characteristics of each country, particularly in terms of administrative systems, financial means, economic, social and other conditions. Two main approaches are generally followed: one is the establishment of *ad hoc* bodies to meet particular needs of mountain regions; the other is the optimal use of the institutions already in place, with possible adjustments to their mandate or structure.

2.2.1. Specialized Mountain Institutions

Institutions dealing specifically with mountains include both government institutions, vested with political and/or administrative powers, and non-governmental organizations (NGOs), which support government efforts and promote the protection and development of mountain areas.

(a) Government Institutions

Because of the particular features and needs of mountain areas, several countries have established specialized institutions as the sole or principal government structure responsible for mountain issues, which may have support, advisory, coordination and/or management powers in relation to mountains.

France provides a good example of this approach. The 1985 law establishes specialized advisory bodies for the development and protection of mountain regions: the National Mountain Board at the central level and Range Committees for each of the seven existing mountain ranges. The Prime Minister presides over the National Mountain Board which, through its permanent commission, coordinates

government action in mountain areas. The Range Committees, which are set up by decrees (Nos. 85-995 to 85-1001) and chaired by the prefects, set objectives and define action for range development. The committees may also propose modifications to the boundaries of the ranges, and must be consulted on similar proposals put forward by other authorities. Moreover, there is provision for the involvement of local communities in decision-making processes through consultations carried out by the National Mountain Board or its commission (Decree 85-994).

Specialized institutions at both central and local level are also envisaged by the Bulgarian bill, which states in its preamble the need for decentralization of powers and responsibilities. The bill makes provision for the establishment of a National Board for Mountain Regions to supervise its implementation and to coordinate government actions taken by the state, by mountain district authorities and by mountain commune associations. In the Russian Republic of North Ossetia-Alania, the mountain law provides for the establishment of a mountain-specific institution, referring to implementing regulations for the determination of its mandate and structure.

The Italian institutional arrangements are also characterized by decentralization. In order to encourage local participation in the decision-making process, Laws 1102 (1971) and 142 (1990) establish and regulate the Mountain Communities, which are autonomous local entities with a specific mandate to promote the development of mountain areas. Mountain Communities are set up and delineated by regional legislation.

(b) Non-governmental Organizations

Governments have increasingly involved NGOs and other civil society organizations in the law-making process. These organizations generally bring together diverse actors and are highly specialized. Therefore, they are often able to better understand and meet local needs, and can significantly contribute to the formulation and implementation of national strategies and plans.

For example, the Georgian Union of Mountain Activists, established in 1999, contributed to the drafting of the Georgian mountain law. Moreover, the Union contributes to the socio-economic development of

the country's mountain regions, and now supports the enforcement and improvement of mountain legislation.

Switzerland also offers an interesting example of the roles played by NGOs in mountain development. The Swiss Group for Mountain Regions (*Groupement suisse pour les régions de montagne*), established in 1943, is active in such areas as the sustainable development of mountain resources, the protection of mountain ecosystems and the promotion of equal treatment for mountain and lowland areas. Moreover, the Swiss Aid to Mountain Peoples' association (*Aide suisse aux montagnards*) has been providing support to the country's mountain regions since its creation in 1952. Focusing its efforts on improving the economic potential and living conditions in mountain regions, it seeks to halt the out-migration of mountain peoples through support to mountain agriculture and promotion of mutual aid among mountain farmers. Its activities include efforts to improve housing and working conditions, provision of training and credit for young farmers, social aid for people in need and improvement of infrastructure.

2.2.2. Institutions Not Specific to Mountains

Most countries, however, do not have public institutions that deal specifically with mountains. Therefore, institutional responsibilities for mountain development are frequently divided among different ministerial departments, particularly those dealing with agriculture, rural development, the environment, land use planning, water resources and tourism. In Burundi, for example, according to the Forest Code of 1985, the main responsible agency is the forestry department at the central and local levels. Similarly, Uganda has no mountain-specific agency: mountain-related provisions are included in the 1995 National Environment Statute, and the National Environment Management Authority, the District Environment Committees and the Local Environment Committees are primarily responsible for the protection and conservation of mountain regions.

On the other hand, some countries have mechanisms to ensure that central and local bodies which exercise some authority with respect to mountains can consult and share responsibilities. This is the situation for example in Switzerland, a federal state where powers are shared between the Confederation and the cantons. The 1997 law on aid to investment in mountain regions sets out the respective powers of governments at

different levels, providing that the cantons are responsible for implementing the law, whereas the Confederation monitors the actions they take. Similarly, while funding is provided by the Confederation, the cantons determine the specific allocations of such funding.

2.3. Economic Development

Because of the characteristically harsh conditions of mountain areas, legislators have often seen the necessity of designing economic measures to meet some of the law's objectives. Most national laws set out such measures to promote mountain development, including through the establishment of special funds and the provision of incentives to foster activities in mountain areas, particularly agriculture, tourism and manufacture of local products.

2.3.1. Mountain Funds

Some countries have set up special mountain funds to support investment and development in mountain regions, with the accrued resources being used in the form of subsidies, investment loans, research funding and other support. For instance, the 1997 law of Switzerland creates a special fund at the federal level to finance aid to investment in mountain regions, including loans for infrastructure development. The fund is financed by contributions from the Confederation and from the cantons, as well as by loan repayments and interests.

In Italy, a national mountain fund was established by Law 97 of 1994 and is financed by contributions from the European Union, the state and the regions. Funds are allocated to regions and autonomous provinces, which in turn may establish their own mountain funds. In Georgia, the law provides for the establishment of a special fund for mountain areas, to be filled by donations, revenues from the exploitation of local resources, rental fees from pasture land, etc. The Bulgarian bill also provides for the creation of a special fund for the development of mountain regions, to be used in the form of subsidies, investments loans, funding for research, etc.

2.3.2. Mountain Agriculture

Many mountain people depend on agriculture, not only to meet their food requirements directly, but also in terms of creating jobs and

contributing to economic development – hence the pride of place that agriculture occupies in many mountain laws. In France, agriculture is acknowledged as being of public interest inasmuch as it is essential for mountain peoples (article 18 of the 1985 Act, incorporated in article L113-1 of the Rural Code). Under Georgia's law, agri-food industries, including animal husbandry, fruit growing, aquaculture and horticulture, are considered to be one of the cornerstones for the socio-economic development of mountain regions.

In Switzerland, general legislation dealing with agricultural development (the 1998 Federal Law on Agriculture and the 1998 Ordinance on Direct Payments to Agriculture) contains provisions for the promotion of mountain agriculture. An example is financial aid for crops grown on sloping land (Law on Agriculture, art. 75). Under Bulgaria's bill, the central government and local entities would grant financial assistance for programmes that promote mountain farming and livestock activities at the national, regional and local levels.

Also under the Common Agricultural Policy of the European Union, there is provision for incentives to mountain agriculture. Directive 268 of 1975, now repealed, introduced financial support in favour of mountain agriculture, including compensatory allowances for the permanent natural handicaps. Regulation 1257 of 1999, which currently governs the European Agricultural Guidance and Guarantee Fund, contains provisions on "less-favoured areas", which explicitly include mountain areas. Under the Regulation, mountain farmers meeting specified requirements are entitled to compensatory allowances.

2.3.3. Mountain Tourism

The growing attraction of mountain areas as tourist destinations has led to an expansion of leisure activities, with an increase in accommodation facilities, amenities and infrastructure. However, such works can undermine the natural and cultural environment of mountain ecosystems. In an effort to remedy this situation, legislators have placed certain restrictions on mountain tourism. In France, the 1985 Act devotes an entire chapter to the running of tourism facilities and the management of ski lifts and ski runs, which must be operated under the supervision of the local authorities. For all new operations, contracts must be drawn up between the promoters and the local authorities, thereby allowing for some control over tourism development.

In Georgia, where tourism is one of the high priority areas for the country's socio-economic development, the mountain law provides for aid to investment and subsidized loans for the promotion of mountain tourism that respects historical monuments and nature sites. The Ukrainian law similarly makes provision for subsidies and loans for tourism development in mountain regions. In Switzerland, the 1995 law of Vaud Canton provides for state preferential loans for the construction of tourist accommodation facilities. Another example is Viet Nam's policy for socio-economic development in highland areas (Decision 184 of 1998), which provides for the promotion of tourism by both improving existing tourism facilities and creating new tourist centres with a view to developing international tourism.

2.3.4. Local Products

Mountain communities face many challenges when competing on the market place, including high production costs, limited credit facilities, and unequal or unfavourable access to markets. On the other hand, mountain environments and cultures often permit the production of high-quality goods, particularly foodstuffs and handicrafts, which provide significant revenues for mountain communities. Labelling these goods is an important tool for promoting their marketing.

Thus, some laws deal with local products, usually crafts, from mountain areas. For example, France awards a special label to such products as a guarantee of their quality and to promote local production (1985 Act). Awarding of the "mountain label" is subject to conditions set out in Decree 1231 of 2000. In Italy, a similar label is awarded to products made in mountain areas (1994 Act). In Switzerland, under the cantonal law of Vaud, the state guarantees the quality and authenticity of products originating from Vaud through appellations of origin and geographical indications.

In addition to labelling, local products of mountain regions may be promoted by means of economic incentives. For example, the Georgian law promotes local crafts by providing loans on preferential terms. Similarly, the Ukrainian law mandates the state to pay higher prices for agricultural products produced in mountain areas.

2.4. Social Policies

The climatic and geographic characteristics of mountain regions may result in isolation, poverty and precarious living conditions. National and sub-national laws seek therefore to improve the living standards of mountain communities. The law of North Ossetia-Alania, for example, states that mountain peoples can expect the same socio-economic benefits as lowland inhabitants. In this context, legislation typically provides for the improvement and development of infrastructure and the enhancement of public services in mountain areas.

2.4.1. Developing Infrastructure and Communications

Owing to their configuration, mountains often constitute barriers to communication. The isolation of mountain populations is also frequently due to the lack or weakness of means of communication – hence the measures put in place by legislators in this respect. Switzerland's 1997 Act on aid to investment makes provision for loans for mountain infrastructure development. To be eligible for these loans, projects must aim at enhancing living standards, economic potential and industrial competitiveness in the region.

Under Ukraine's law, subsidies and loans may be granted for the development of public transport, roads and telecommunication and broadcasting facilities, while the Georgian law provides for a change in mountain road construction standards. The Bulgarian bill, too, aims to promote the construction and use of technical and social infrastructure in mountain regions. In France, the 1985 Act provides for improving the efficiency of radio and television broadcasting techniques in mountain zones. In Italy, local public services in mountain communities must open information offices to remedy communication shortcomings and must give their inhabitants free access to non-confidential information (1994 Act).

The relevant Vietnamese policies also address the issue of infrastructural development. Government Decision 184 of 1998 emphasizes the responsibility of the state for infrastructure development in mountain areas. The Politburo Decision of 27 November 1989 also stresses the need to develop infrastructure, particularly the network of roads in high mountain areas and in isolated and remote areas.

2.4.2. Promoting Culture and Education

In the area of culture and education, mountain dwellers' needs include reduction of illiteracy, vocational training and integration of research, conservation and development policies. Mountain peoples have an unrivalled knowledge of their environment. However, they must be in a position to capitalize on and transmit that knowledge using the adequate tools, including appropriate training and financial aid (Mountain Agenda, 1997).

To this end, the law of North Ossetia-Alania states that mountain peoples have priority rights to use the natural resources in the mountain area, and the law also makes provision for public financing of scientific research and teaching activities in mountainous regions. The Ukrainian law provides for state loans and subsidies for health and education in mountain areas. In France, school and university education and teaching programmes must take into consideration the specific environmental, economic and social conditions of mountain ranges (1985 Act).

The Georgian law does not contain explicit provisions on education or training. However, after its entry into force in 1999, the law on education was amended to specifically address the particular needs of mountain regions, stipulating that primary and secondary education is free of charge in these areas, and that the state is responsible for school management and funding in those regions.

2.4.3. Raising Living Standards

Mountain laws also seek to improve the living conditions in mountain areas. For instance, some laws address the relations between highland and lowland populations. In general, lowland populations enjoy higher standards of living than mountain communities. Moreover, highland and lowland people are often economically interdependent (e.g. mountain-to-lowland contribution in terms of natural resource-based production and lowland-to-mountain contribution in terms of tourism); therefore, when the socio-ecological balance is disturbed, this usually has unfavourable consequences for mountain populations (Mountain Agenda, 1997).

National laws seek to reduce the gap between the standards of living in highland and lowland areas. For example, Viet Nam's Decision 184 of 1998 acknowledges existing inequities between highland and lowland

populations and provides for the improvement of living conditions in highland, deep-lying, remote and border areas, mainly through the reduction of unemployment and through settlement programmes. Likewise, the French mountain law explicitly aims at creating equality of living conditions in mountain and other areas.

In addition, mountain laws usually grant mountain dwellers priority rights and privileges based on their resident status. Ukraine's law, for example, envisages special privileges for citizens living in mountain settlements, such as better labour conditions and wages or pensions 20 percent higher than the country average. The law of North Ossetia-Alania, too, as noted above, grants privileges to mountain communities, including priority rights in natural resource use and wood harvesting rights.

In the same vein, some laws contain specific measures to limit out-migration from mountain areas. An example is the Italian legislation, which authorizes regions to provide financial incentives for persons remaining or settling in mountain regions (Law 97 of 1994).

On the other hand, some important social issues are not addressed by national laws. For instance, none of the laws reviewed contains provisions dealing specifically with gender. This is a significant gap, since although women are responsible for most of the agricultural and food-related activities in mountain areas, they face greater obstacles than men in access to land and other assets, education, social services, credit and technology (Mountain Agenda, 1997).

2.5. Environmental Protection

Mountain areas are home to biodiversity-rich ecosystems which often host unique fauna and flora. At the same time, mountain regions are among the bio-geographical areas most vulnerable to environmental degradation. Therefore, their protection should be a significant dimension of mountain laws. In practice, however, provisions to protect mountain ecosystems are more commonly found in related texts, such as laws governing the environment, forests, water, soils and land use planning. Nonetheless, mountain legislation may include general provisions on the mountain environment which deal, in particular, with the protection of forests, soils and water.

2.5.1. Protecting Forests

Multi-functionality is the term often used with regard to mountain forests, because of the role they play in capturing and storing water, in protecting against natural hazards, and in contributing to the livelihoods of local communities through wood and non-timber resources. In addition to their wealth of biodiversity, mountain forests are also an important component of the landscape.

Countries with no mountain-specific legislation usually have provisions on mountain forests in their forest legislation. This is the case, for example, of Burundi, China, Nepal and Uganda. On the other hand, the Italian mountain law of 1994 contains specific provisions on the management of mountain forests, whereby Mountain Communities must promote forest management through conventions between forest owners and, to this end, may encourage the formation of forest associations. The Bulgarian bill mandates local forest authorities to set logging quotas and makes provision for financial support to these authorities to undertake forestation and reforestation activities.

2.5.2. Combating Soil Erosion

Mountain laws may contain provisions addressing soil erosion. For instance, the Bulgarian bill requires that programmes promoting mountain agriculture include specific measures on soil fertility and soil erosion. The Italian Law 1102 of 1971 allows expropriation of land by regions, mountain communities and communes when it is needed to combat soil erosion and to protect the environment in mountain areas.

In other cases, measures on soil erosion are found in more general environmental or natural resource legislation applicable to mountains. For example, Burundi's Forest Code of 1985 regulates soil conservation and restoration in mountain areas. Under the 1995 National Environment Statute of Uganda, each District Environment Committee must identify the hilly and mountainous areas threatened by environmental degradation; those areas prone to soil erosion must be considered as threatened by environmental degradation.

2.5.3. Safeguarding Water

Mountains store large quantities of fresh water, both as ice and snow and in lakes and reservoirs, and therefore play a crucial role in water supply. However, specific legal provisions for the protection and sustainable management of mountain water resources are still rare. For instance, in Viet Nam, the Prime Minister's Instructions on Policies and Methods for Sustained Economic and Social Development in Mountain Areas of 1993 provide for efforts to consolidate or construct small irrigation systems and for state grants for domestic water supply in highland areas.

In the law of North Ossetia-Alania, fresh and mineral water may be used for commercial purposes in accordance with relevant legislation and subject to the payment of a fee. On the other hand, use for domestic purposes is free of charge for mountain communities. The Bulgarian bill also provides for a reduced tax on water supply for mountain populations.

CONCLUSION

After nearly a decade of implementation of Chapter 13 of Agenda 21, only a limited number of mountain-specific legal instruments are in place, both at the international and the national level. With the exception of a regional accord, the Alpine Convention, which represents a significant collaborative effort among countries sharing a mountain range, there is no other global or regional, legally-binding agreement that specifically deals with mountain areas.

Similarly, most countries have not adopted mountain-specific laws, preferring to focus on the protection and development of mountain regions through their existing sectoral, mountain-related laws. However, a few countries such as France, Georgia, Italy, Switzerland and Ukraine have enacted legal instruments focusing specifically on mountain areas, and other countries are in the process of developing similar legislation. These converging efforts seem to signal an emerging trend towards a progressive increase in mountain law-making in the years to come.

Existing national and sub-national laws address similar mountain-specific problems and, therefore, have some common characteristics:

- they typically aim at promoting the socio-economic development of mountain communities, while at the same time protecting the mountain environment;
- they all determine their coverage by defining mountain areas, using altitude as the main criterion;
- they generally make provision to assign administrative responsibilities for mountain development;
- they promote economic activities in mountain zones through special funds, loans, subsidies, labelling and other incentives;
- they pursue social objectives, in particular by improving infrastructure, education, health and other services; and
- finally, they seek to protect the mountain environment, mostly through provision for the conservation of forest, soil and water resources in mountain regions.

Promising as they may be in view of sustainable mountain development, such laws still have some gaps and need to more fully address the particular interests of mountain ecosystems and inhabitants. For example, mountain laws should provide for greater participation of mountain communities in decision-making processes affecting them, for better coordination with related laws and for the creation of more suitable institutional mechanisms.

In broader terms, mountain-specific legal frameworks should:

- address in a coordinated, integrated, balanced and coherent manner the various aspects of sustainable mountain development such as forestry, agriculture, transportation, culture, education, health, economy, environment, biodiversity, tourism and mining;
- respect the cultures, protect the rights, promote the well-being and ensure the participation of local communities in mountain areas;
- establish institutional settings that promote and facilitate dialogue and consensus among various stakeholders and interests in a multisectoral context;
- provide suitable mechanisms for conflict resolution and dispute settlement in mountain regions; and
- promote and facilitate bilateral and multilateral cooperation, particularly in transboundary mountain regions, taking account of relevant international instruments.

Such legal frameworks should be based on and supported by comprehensive national policies and strategies for the sustainable management of mountain ecosystems. They should also be supplemented, where appropriate, by regional agreements such as the Alpine Convention, which provide for transfrontier collaboration among countries sharing mountain ranges.

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Annex
Main Examples of Domestic Legislation Specific to Mountains

Country	Mountain-specific Legal Texts
Bulgaria	<ul style="list-style-type: none"> • Bill on the development of mountain regions, 1993
Cuba	<ul style="list-style-type: none"> • Decree No. 197 of 17 January 1995 on the Commissions of the Turquino-Manati Plan
France	<ul style="list-style-type: none"> • Act No. 85-30, 9 January 1985, on mountain development and protection • Framework Law No. 95-115, 4 February 1995, on land use planning and development • Framework Law No. 99-533, 25 June 1999, on sustainable land use planning and development, amending Law No. 95-115 • Decree No. 85-994, 20 September 1985, on the membership and the operation of the National Mountain Board • Decrees Nos. 85-995 to 85-1001, 20 September 1985, on the membership and the operation of the committees covering the seven mountain ranges in France (Central Range, Northern Alps, Southern Alps, Corsica, Pyrénées, Jura, Vosges) • Decree No. 2000-1231, 15 December 2000, on the use of the term "mountain"
Georgia	<ul style="list-style-type: none"> • Act of 8 June 1999 on the socio-economic and cultural development of mountain regions
Greece	<ul style="list-style-type: none"> • Act No. 1892/90 encouraging the economy and development of mountain regions, amended by Act 2234/94
Italy	<ul style="list-style-type: none"> • Act 991, 25 July 1952, on woods, forests and mountain areas • Act 1102, 3 December 1971, on woods, forests and mountain areas (amended by Act 142, 6 June 1990, on Local Autonomous Authorities) • Act 97, 31 January 1994, on woods, forests and mountain areas • Regional Laws of Abruzzo, Basilicata, Calabria, Friuli-Venezia-Giulia, Lazio, Liguria, Lombardy, Marches, Molise, Piedmont, Tuscany and Umbria • Law of the Autonomous Province of Bolzano
Russian Federation	<ul style="list-style-type: none"> • Act, 30 December 1998, on mountain territories of the Republic of North Ossetia-Alania
Switzerland	<ul style="list-style-type: none"> • Federal Act, 21 March 1997, on aid to investment in mountain regions • Ordinance, 7 December 1998, on the cadastral survey of agricultural production and area demarcation
Ukraine	<ul style="list-style-type: none"> • 1995 Act on the status of human mountain settlements

PART II
CASE STUDIES

I. BULGARIA

1.1. Introduction

Under Article 20 of the Bulgarian Constitution, the State must endeavour to guarantee the conditions required to foster the balanced development of the whole of the country, without distinguishing between the regions. The National Assembly has nevertheless deemed it necessary to develop specific legislation for mountain regions in view of their particular features. Indeed, mountains are home to 30 percent of the Bulgarian population, and to over 50 percent of all the human settlements, in an environment where difficult living conditions justify special measures. Mountains, moreover, possess great economic potential, particularly mining deposits, water resources, thermal sources and areas for recreation and leisure.¹

At the time of writing, a proposed mountain law was in final draft form but was still awaiting enactment. This text dates back to 1993 and is entitled "Bill on the development of mountain regions in the Republic of Bulgaria."² In addition to this bill, which will be referred to as "the Act" for ease of reference, three other acts will also be mentioned from time to time: the Agricultural Producers' Protection Act, the Farmer Support Act, and the Act on Protected Areas.

1.2. Mountain Delimitation

The Act applies to mountain regions as defined in article 3. A mountain region is a territory comprising one or more neighbouring municipalities, in which more than 70 percent of the area is:

- either above 600 metres in altitude;
- or with a difference of more than 400 metres between its highest and its lowest points.

¹ These points are set out in the reasons given for the draft legislation on the development of mountain regions.

² According to a personal communication dated 22 October 2001 from Mr Svetoslav Apostolov (the Bulgarian Focal Point for the International Year of Mountains, National Service for the Protection of Nature, Ministry of Water and the Environment), a few amendments were made to the Bill after 1993, but they are not taken into account in this paper because they were not available at the time of writing.

A Schedule to the Act provides a list of the municipalities with the status of "mountain municipalities" (art. 4.1). It should be noted that this list can only be changed by an act of Parliament (art. 4.2).

1.3. Mountain Institutions

The Act lays down the functions of the authorities responsible for the development of mountain regions. Under article 29, the Council of Ministers is competent: (i) to coordinate the work of the ministries and institutions responsible for implementing the Act; (ii) to define and adopt the national medium-term policy and priorities for developing the mountain regions; and (iii) when the national budget is put to the vote in the National Assembly, to move the adoption of the necessary appropriations to guarantee the investments required (art. 10.2), any supplementary resources needed for local municipal budgets (art. 15), and financial aids for schools in mountain regions (art. 19).

The Act also creates a National Board for Mountain Regions (NBRM), which is responsible for setting the powers and responsibilities of the local councils of the mountain municipalities and of the associations of mountain municipalities.

1.3.1. National Board for Mountain Regions

The NBRM is a public agency instituted at the Council of Ministers (art. 30). One-half of the members are elected (to the local councils and parliament) and the other half are representatives of the central government. They are appointed by the mayors of the mountain municipalities, the National Assembly, or the Prime Minister, accordingly. The President of the NBRM is a deputy appointed by the National Assembly. The organization and operation of the NBRM is to be set out in its own Statute (art. 31).

The NBRM has the following functions (arts. 32, 12, 16.2 and 25):

- to decide on the measures to be adopted for the development of mountain regions;
- to propose priority funding for mountain regions each year and submit the proposal to the Council of Ministers;

- to suggest ways in which central government can participate in implementing the development programmes of the mountain municipalities;
- to lay down programmes and activities to develop the mountain economy;
- to provide financial incentives for economic activity in mountain regions;
- to select projects eligible for public subsidies;
- to manage the resources of the Special Fund for the Development of Mountain Regions; and
- to distribute requests for funding from municipalities between the various Government funding sources.

1.3.2. Councils of Mountain Municipalities

The functions performed by these councils under article 33 of the Act may be summarized as follows:

- drawing up local and regional development programmes independently or jointly with other municipalities;
- debating issues of public interest;
- instituting associations with other mountain municipalities; and
- drafting projects eligible for financing from the Special Fund for the Development of Mountain Regions.

1.3.3. Associations of Mountain Municipalities

The mountain municipalities can group together in order to solve their problems and carry out activities in their common interest. These associations can draw up development programmes and create collective facilities and social infrastructure.

The Act encourages the institution of these associations by enabling them: (i) to take part, with consultative status, in the deliberations of the NBRM, where they are entitled to be represented; and (ii) when they meet the same conditions as other parties, to have priority access to public funding to finance their projects (art. 34).

1.4. Mountain Development

The Act is intended to promote the development of the natural wealth of mountain regions. To achieve this, it makes provision for the central government and the local authorities to encourage initiatives, mainly by providing financial assistance, in agriculture, forestry, livestock and tourism (art. 5).

1.4.1. Economic Development

(a) Special Fund

The Act makes provision for the establishment of a Special Fund for the Development of Mountain Regions, to be resourced from the central government budget appropriations for particular programmes and projects submitted for funding, private donations and international financing (art. 36.2).

The resources of the Fund can be used to provide investment loans at low interest rates and to finance programmes for research and training, agricultural and tourism development, physical planning and forest resource management (art. 36.1)

The NBRM manages this Fund (art. 36.3) under conditions to be laid down in regulation issued by the Council of Ministers, defining in particular the procedures for allocating the resources (art. 36.4).

The Act also makes provision for local funds to be instituted to foster local and regional initiatives for the development of the mountain regions (art. 37).

In 1995, a Special Fund for Environmental Projects in Mountain Regions was established to mobilize funding to be used, among other things, to combat erosion and deforestation and to guarantee water supplies. In 1996 this Fund was merged with the National Environmental Protection Fund.³

³ United Nations Sustainable Development Web site: *Profil de la Bulgarie* (1997), (www.un.org/esa/agenda21/natlinfo/countr/bulgaria/natur.htm).

(b) Agriculture

Mountain agriculture and livestock rearing are two areas which the central government and the local authorities have a statutory duty to foster at the national, regional and local levels. They can provide, to this end, financial support for drafting and implementing agricultural and livestock development programmes in mountain regions (art. 6.1.1). Under article 7.1, these programmes must be designed to:

- protect agriculture and livestock against loss and damage caused by physical and climatic conditions in mountains;
- protect and conserve arable land and combat erosion, flooding and avalanches; and
- maintain the quality of rangelands and the activities linked to agriculture and livestock farming in mountains.

Since the State owns more than half the mountain regions (Lynch and Maggio, 2000), the Act makes it possible to use certain rangelands in public forests for agricultural purposes, where arable lands are scarce in mountain regions, in order to foster the development of mountain agriculture (art. 27).

These provisions were complemented in 1995 by the Agricultural Producers' Protection Act. This required an annual agricultural development programme to be adopted containing specific provisions for mountain agriculture. It also set up a specialized Agricultural Fund, some of whose resources are to be allocated to mountain agricultural development. To this end, financial support can be given to agricultural producers in the form of investment loans (art. 13.1.5). In 1998 this Act was replaced by the Farmer Support Act, but it retained the provisions regarding the Agriculture Fund. According to the National Plan for Agriculture and Rural Development 2000–2006, revenues accruing to the Agriculture Fund totalled 49 million Euros in 1999.

(c) Tourism

The Act requires the central and local authorities to foster the development of tourism in mountain regions (art. 5). To do this, subsidies may be provided to put in place programmes to develop mountain tourism at the national, regional, and local levels (art. 6.1.2). Under article 8, these programmes must:

- increase the land available for thermal tourism and agritourism;
- foster commercial and handicraft activities connected with mountain tourism; and
- provide basic training and refresher courses for mountain tourism personnel.

The Act also made provision for defining what it calls "tourism zones" in regional and local physical development plans (art. 9.2).

1.4.2. Social Development

The many physical and climatic constraints which often make life difficult in mountain regions were taken into account when the Act was drafted, particularly in Chapter III, which is devoted entirely to improving infrastructure and social services. The central government has a statutory duty to work in partnership with the regional and local authorities to set the medium-term priorities for transport, communication, water supplies, health care, vocational training, as well as other social activities (art. 14.2).

The central government also fosters the social development of mountain regions by providing development loans. Promoters of projects to improve the social infrastructure and amenities in mountain areas are eligible for subsidies or highly concessional loans (art. 16.1). The central government also contributes to the maintenance of these infrastructure and amenities at mountain municipality level, through supplementary appropriations to local government budgets (art. 15).

Measures are also provided to improve education. Depending upon their remoteness, the State Health and Education Services, working in conjunction with the local authorities, ease the restrictions regarding the minimum number of children required for schools to be instituted (art. 18). In mountain regions, moreover, the central government budget also comprises provisions to finance what are known as "acclimatization schools" for children suffering from chronic illnesses, provided through the budget of the local municipality responsible for the school (art. 19).

Health and recreation centres are the subject of special provisions: the associations of mountain municipalities are empowered to freely use

State-owned recreational and medical complexes in some regions (art. 20).

1.5. Mountain Protection

Safeguarding the environment is the subject matter of constitutional provisions that lay a statutory duty on central government and on private citizens to do everything necessary to protect the natural environment (Articles 15 and 55 of the Constitution). Pursuant to these provisions, the Act devotes Chapter IV to water and forest resources. This particular chapter, which was designed in favour of mountain people, sets out the measures required to guarantee a balanced and sustainable management of natural resources. Concern for safeguarding the environment also lies behind the provisions regarding programmes for the promotion of agriculture and livestock rearing in mountain regions, such as those designed to effectively combat erosion, flooding and avalanches (art. 7.1.3).

1.5.1. Forests

Mountain regions include two-thirds of Bulgaria's forest cover (European Observatory of Mountain Forests). Forest resources, therefore, constitute one of the essential bases for the development of these regions and, if they are to be sustainably managed, they require adequate legislation. The Act makes it possible for subsidies to be provided to the local forest inspectorates and forest producers, if proposed by NBRM and agreed by the Forests Committee and the Ministry of Agriculture (art. 25):

- the former can benefit from these subsidies for forest regeneration, reforestation, planting valuable species, erosion prevention and protection of water capture zones (art. 23); and
- the latter can obtain them to produce valuable forestry and fruit tree species (art. 24).

The Act also sets out to enhance and exploit forest by-products. The central government and municipal authorities can grant private individuals the free use of buildings in which to set up businesses to dry and process mushrooms, medicinal herbs and wild fruits, and other forest by-products (art. 26).

Lastly, in light of the development of local economic activities linked to timber processing, the Act empowers local forest inspectorates to set logging quotas, presumably to prevent over-harvesting (art. 28). In this connection it has been noted that, as far as Bulgaria's mountain woodlands are concerned, "limiting clear-cutting and the felling of trees of the same age" has been one of the objectives pursued during the past few years (European Observatory of Mountain Forests).

1.5.2. Water

Although mountain regions provide over 80 percent of the national water resources, the Act contains no specific measures to protect water. Such measures are included in the Water Act. However, the Act creates a regime giving privileges to mountain zone users, who pay lower water charges (art. 22).

1.5.3. Protected Areas

It is in the mountain regions that most natural reserves and other specially protected areas are to be found (85 percent), as these are defined by the Act on Protected Areas, which is the main piece of legislation governing the conservation of natural habitats and landscapes (Giurova, 1995). National parks, protected sites and nature reserves have mostly been established in mountain zones and are therefore subject to the specific regime introduced by the Act on Protected Areas.

Moreover, under UNESCO's Man and the Biosphere (MAB) Programme, Bulgaria has a wide range of 14 biosphere reserves. Even though these are spread throughout the whole country, all are located – except for three – in mountain regions.

1.6. Conclusion

This review of Bulgaria's legislation shows how useful it can be to enact specific legislation governing mountains. The particular socio-economic development measures provided to favour mountain populations are designed to guarantee them living standards that are comparable with the rest of the country, in the hope of offering them equal opportunities for self-fulfilment.

The Act also has the merit of making provision for the establishment of institutions with special responsibilities for monitoring the development of mountain regions, and of establishing a special fund to mobilize and re-distribute the resources required to implement development programmes and projects in mountain zones.

However, the Act contains few provisions regarding specific conservation measures in mountain regions. Although Bulgaria has general legislation on the environment, the fact remains that this particular Act would benefit greatly if it were to be complemented by explicit provisions for the protection of natural resources in mountain zones.

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II. FRANCE

2.1. Introduction

For over thirty years, exploiting and enhancing the value of mountain regions of France has formed an important part of national development. As long ago as 1974, a first report on mountains was published. One year later it was complemented by the Brocard Report entitled "So that mountains can live" (*Pour que vive la montagne*). These documents emphasized the need to provide better protection for mountain regions and to give priority to combating the exodus from mountains (Prieur, 2001). In 1977, mountains were given the status of a global entity, combining ecological, agricultural, forestry and tourist functions,⁴ an approach that was confirmed in 1985 by Parliament with the adoption of the Mountains Act.

The national mountain policy is designed to enable local populations and their elected representatives to acquire the means for and the control of their own development, with a view to creating equality of income and living conditions between mountain and other regions, while fully respecting the cultural identity of mountain peoples (Mountains Act, art. 1). This policy was initially designed to redress the disadvantages of mountain regions, but now it is directed towards developing the success factors and potential of mountain ranges.

Legislation dealing with mountain regions is mainly found in the Development and Protection of Mountains Act 85-30 of 1985, which replaced the 1977 National Directive on Mountain Development and Protection. It requires the Government to endeavour to ensure that the European Community take due account of the objectives set down in Community agricultural policy and regional development decisions (art. 2).

Since its adoption, Act 85-30 has been amended several times. In its current version it comprises 102 articles, grouped together under seven Titles. Complementary provisions are also set out in the General Local Authorities Code, the Rural Code, the Environment Code, the Forest

⁴ Decree 77-1281 of 22 November 1977: National Development Directive on Mountain Protection and Management (*Directive d'aménagement national relative à la protection et à l'aménagement de la montagne*).

Code and the Town Planning Code, as well as in Act 95-115 providing guidelines for regional management and development. French mountain law therefore draws on a number of different legal texts.

2.2. Mountain Delimitation

The borders of mountain zones differ depending upon whether they are in metropolitan France or in the overseas departments. Furthermore, there are special provisions for the country's various ranges.

2.2.1. Metropolitan France

The demarcation of mountain zones in metropolitan France are set out in an interdepartmental order, based on altitude and the particular conditions stemming from it. Article 3 of Act 85-30 provides that mountain zones comprise municipalities or parts of municipalities with severely limited land-use possibilities and a substantial increase in the cost of works due to:

- either the very difficult climatic conditions caused by altitude, and the resultant very short crop-growing period;
- or, at a lower altitude, the fact that most of the territory comprises steep slopes that make mechanised farming impossible, or for which particular and very costly machinery has to be used;
- or a combination of these two factors.

It should be noted that the criteria for the demarcation of mountain areas have not changed a great deal since Decree 61-650 of 23 June 1961. This took a similar approach and provided that "mountain zones include municipalities of which at least 80 percent is at an altitude over 600 metres above sea level, or in which the difference in altitude between the highest and the lowest points under cultivation is not less than 400 metres. Municipalities which do not meet these altitude criteria or differences in the altitudes of the arable land, but whose economy is closely connected with that of neighbouring municipalities which fit the conditions defined in the previous section, may also be classified as mountain zones."

2.2.2. Overseas Departments

An inter-departmental order is also used to establish the demarcation of mountain zones in the overseas departments, using the same criteria as those applying in metropolitan France. But the Act exactly specifies the altitude levels to be considered, depending upon the department concerned. Mountain zones include municipalities above 500 metres in the department of Réunion, and above 300 metres in the departments of Guadeloupe and Martinique. Furthermore, mountains in these departments also include municipalities above 100 metres in altitude when most of the slopes in the territory have a gradient of at least 15 percent (Act 85-30, art. 4).

2.2.3. Ranges

A decree is issued to define each range. In metropolitan France, every mountain zone and the immediately contiguous zones forming with them one single geographic, economic and social entity, constitutes a range. At the present time there are seven ranges in metropolitan France. In overseas departments, there is one range for each department, which exclusively comprises mountain zones (art. 5).

2.3. Mountain Institutions

The Act set up institutions with specific functions regarding mountains at both the central level and for each range, as follows: the National Mountain Development, Management and Protection Board, and Mountain Range Development, Management and Protection Committees.

2.3.1. National Mountain Board

The National Board defines the objectives and determines the actions deemed appropriate for developing, managing and protecting mountains, and for promoting the coordination of public activities in mountain zones. It is also consulted for its opinions on the priorities for action and the general conditions for granting aid to mountain zones from the resources of the National Physical Planning and Development Fund (discussed below). Each year it receives a progress report on central government investment plans in each mountain range (Act 85-30, art. 6).

The organization of this Board is laid down in Decree 85-994 of 20 September 1985. It is chaired by the Prime Minister or the Minister of Physical Planning, deputising for him (art. 1), and comprises 59 members representing all the sectors relating to mountains, in particular nationally, regionally and locally elected representatives, advisory bodies, professional and trade union organizations, associations, rural operators, and range committees (art. 2). The Board meets at least once a year and may summon anyone to attend its hearings if they are considered to be useful for the work of the Board (arts. 4 and 5).

The Board has a Standing Committee composed of 17 persons appointed from among its members, which assist the Chair in drawing up the Board's programme of work. It supervises implementation of the recommendations and proposals issued by the Board and can also summon anyone to a hearing whom it considers useful for its work (arts. 6 and 7).

2.3.2. Mountain Range Committees

There is one committee for each of the seven mountain ranges in France. Their composition and operation are defined by decree and can be adjusted depending upon the specific features of the ranges concerned, which are: the Massif Central (Decree 85-995); the Northern Alps (Decree 85-996); the Southern Alps (Decree 85-997); Corsica (Decree 85-998); the Pyrenees (Decree 85-999); the Massif Jurassien (Decree 85-1000); and the Massif Vosgien (Decree 85-1001).

The range committees are chaired by the representative of the central government, who is appointed to guarantee coordination in the range, and is generally the regional Prefect. The committees comprise representatives of the regions, departments, municipalities or groups of municipalities, consular public entities, national and regional parks, social and professional organizations and associations involved in the development, management and protection of the range (Act 85-30, art. 7). Articles 2 and 3 of all the decrees governing the range committees make provisions for their chair and composition.

Like the National Board, the range committees lay down the objectives and decide on the actions needed to foster the development and protection of their particular range. They issue proposals, opinions and advice for the coordination of public activities in the range, taking part

in drawing up guidelines for the interregional range plan, and are involved in designing provisions regarding the economic, social and cultural development of the range which are incorporated into the corresponding regional plans. These committees are also given an annual report on the appropriations made in the local section of the National Physical Planning and Development Fund, as well as on the agricultural development and investment programmes of the central, regional and departmental governments, and of the public corporations in the range. The committees also address any proposals to change the boundaries of the mountain ranges, and they may take the initiative to propose any such changes (Act 85-30, art. 7).

As far as town planning is concerned, the range committees provide input for the drafting of mountain zone management directives. The Town Planning Code provides that fundamental central government guidelines regarding the management and balance between development, protection and exploitation of the territories are to be laid down by territorial management directives, issued by decree, after receiving an opinion or a proposal from the regional councils or the range committees concerned (arts. L111-1-1 and L145-7). Furthermore, the range committees can also draft specific recommendations for certain sensitive areas, such as high mountain sectors.

2.4. Mountain Development

One of the purposes of Act 85-30 is to promote the local development of mountain zones by enhancing and exploiting their resources, in order to foster their economic growth while preserving their identity and specificity (art. 1). In this regard, it enshrines the "right to take account of differences and the right to national solidarity" (Title II). This makes it necessary to adapt the national provisions to the specificity of the mountain, and the general provisions governing mountain development to the particular situation of each range or each part of a range (art. 8).

At the national level, the specific needs of mountains must be reflected in the economic and social development plan. This lays down strategic policies, objectives to be achieved, and the means of achieving them in general terms (Act 82-653, art. 1), and it must also contain particular provisions for the development, management and protection of mountain zones. The same applies to the regional development plan (Act 85-30, art. 9).

Furthermore, in 1995, Act 95-115 made it possible to take better account of the geographical situation of mountain ranges by inserting article 9-bis into Act 85-30. As ranges straddle more than one region, they can only be developed on the basis of inter-regional policies. These policies are drawn up and approved jointly by the regional councils responsible for the management of the range, after consultation with the range committees.

2.4.1. Economic Development

(a) Funding

With the creation of the National Physical, Planning and Development Fund in 1995, two types of funding were pooled: appropriations designed specifically for physical planning, restructuring of mining zones and rural planning, as well as *mountain development*. The resources of the National Fund are shared between a general section and a local section under devolved management (Act 95-115, art. 33).

The appropriations for the general section are distributed by the Prefect of the region acting as the range coordinator on proposals made by the range management commissioner, and after receiving the opinion of the range committee concerned. Decisions regarding the allocation of the appropriations for the local section are notified by the representative of central government to the presidents of the regional councils and the general councils concerned. He is also responsible for submitting an annual progress report to them on the implementation of these decisions.

When using the appropriations which central government provides for investment in public works and buildings, climatic constraints of mountain regions must be taken into account (Act 85-30, art. 14).

(b) Agriculture

Act 85-30 stresses the importance of agriculture in mountain zones in the following terms: "because of its contribution to production, employment, soil maintenance and landscape protection, mountain agriculture is recognized as being in the general public interest as a basic activity of mountain life" (article 18 which has become article L113-1 of

the Rural Code).⁵ This statement of the conduct to be followed to promote agricultural development in mountain zones is backed by other provisions dealing with mountain agriculture set out in the Rural Code (art. L113-2), Act 99-574 on Agricultural Policy (art. 1) and the Town Planning Code (art. L145-3).

Particular measures may be taken for the maintenance of mountain regions in which agricultural activities, mainly pastoralism, contribute to the safeguarding of the natural environment. In particular, pastoral groups can be created for this purpose with a priority right of use of pasture lands when the majority of the members of these groups are local farmers (Rural Code, art. L113-3).

In order to exploit and enhance the products of mountains, their quality and their specificity are protected by law. The use of the "mountain" label is subject to the conditions laid down by Decree 2000-1231. The denomination "mountain" can only be granted if the production, livestock, fattening, slaughtering and dressing, the manufacturing, processing and packaging of foodstuffs (other than wines), non-food and non-processed agricultural products, as well as raw materials used for animal feed or for the manufacture of food and products, *are located in or come from a mountain zone* (art. 1). However, there are certain exceptions (art. 2). For example:

- the requirement that the products must come from a mountain zone does not apply to raw materials which, for reasons due to their nature, cannot be produced in the mountains;
- the raw materials can come from mountain zones situated outside France; and
- the cereals and oilseeds used for animal feed, the place in which the animals are slaughtered and where the food or agricultural products are packaged may be located elsewhere than in the mountains where specific technical conditions make this necessary.

⁵ Initially, the chapter dealing with the development of agricultural, pastoral and forestry activities in Act 85-30 had amended several texts, including the Agricultural Orientation Act 60-808, the Rural Code, Act 72-12 on the Pastoral Use of Regions with a Mountain Economy, and the Forest Code. Most of the provisions of this chapter were subsequently incorporated into the latter texts by consolidation. Reference must therefore be made to these texts.

The unauthorized use of the "mountain" label is liable to penalties (art. 12), thus ensuring better control over the quality of mountain products.

(c) Tourism

Act 85-30 devotes one of its chapters to organizing and fostering mountain tourism, which complements the Town Planning Code on matters related to town and physical planning (Prieur, 2001). As a new or expanding activity, tourism generates land use changes and requires greater accommodation capacity. This is why new provisions for tourism were added to the Mountain Act, and then introduced into the Town Planning Code (art. L145-9 and following).

Municipalities, associations of municipalities or the joint union of local authorities concerned are responsible for monitoring the implementation of tourism development operations. When any new tourism development is to be implemented, the promoter must conclude a contract with the municipality, association of municipalities or joint union, according to the procedures set in Act 85-30 (art. 42).

The 1977 Mountain Directive had already created a form of supervision and a framework for developing new tourism complexes. These provisions were subsequently further elaborated and incorporated into Act 85-30, and then into the Town Planning Code. They laid down the principles for the development and protection of mountain zones in general, and specific rules for new tourism complexes in particular.

The 1977 Directive prohibited construction on mountain slopes, mainly to protect farmlands. In addition to protecting farmlands, Act 85-30 regulated urban development in mountains more generally. For example, all constructions in new tourism complexes must be "in continuity with existing villages and hamlets" (Town Planning Code, art. L145-3), in order to rationalize rural land use (Romi, 2001).

A particular procedure is used for establishing new tourism complexes when municipalities have their own land use plans (Town Planning Code, art. R145), which involves the main following stages:

- an application is filed for authorization to set up a building unit with the Prefect of the department by the municipality or municipalities involved in the project;

- the application is forwarded to the specialized commission of the range committee for examination;
- the matter is then made public in order to seek comments from the general public; and
- authorization is granted to proceed with the building, if it is approved, under an order issued by the Prefect of the region responsible for coordinating the range.

In making the decision, the Prefect must take account of the natural hazards that new developments may create (Environment Code, art. L563-2) and ensure that the location, design and building of the tourism units respect "the quality of the sites and the main natural balances" (Town Planning Code, art. L145-3).

Lastly, Act 85-30 provides the possibility to impose easements or rights of way on certain lands, including private lands, to built tourism installations on them (art. 53). For example, servitudes may be created in order to permit access to ski slopes or ski lifts and cable car facilities. Landowners affected by the servitudes must be compensated for any loss or damage caused to them (art. 54).

2.4.2. Social Development

Act 85-30 is designed to provide mountain people with services of a comparable quality to those delivered to the population living in the rest of the country, particularly by adapting and improving their facilities.

(a) Public Services

In each mountain department, a committee is responsible for proposing measures to improve the organization of public services in mountain areas, and to submit it to the chair of the General Council and to the central government representative. The composition of this committee is laid down by decree (art. 15).

With regard to communications, technical adjustments must be made in order to guarantee that radio and television broadcasts can be received in all mountain zones (art. 16). Equal access to information and communication services must also be generally guaranteed by the

collective services scheme provided by Act 95-115 on guidance for physical planning and development.

(b) Education

The education system is also organized to take account of the particular features of mountains. Thus, the Rural Code provides that programmes for agricultural education establishments must be adapted to the specific conditions of the natural, economic and social environment of the various mountain ranges, and that consideration must be taken of the particular requirements of the regional mountain range plans (art. L815-1).

"Rural tourism education centres" and vocational training establishments situated in mountains must also provide appropriate training courses in relation to the specific features of their respective areas. Furthermore, public interest groups can be created for the promotion of mountain-related research in order to disseminate information or training regarding the protection and enhancement of mountain areas (Act 85-30, arts. 11 and 12).

(c) Trade and Crafts

Trade and crafts in mountain zones also form the subject matter of a chapter in Act 85-30, which states that commercial facilities and adequate handicraft services in mountain zones are in the general interest in view of their contribution to local development (art. 55). This guiding principle must underlie all public activities relating to the economic and social development of mountain zones. The central government must submit an annual report to the National Mountain Board and to the range committees on the measures it has adopted for the benefit of traders and craftspeople in mountain areas (art. 56).

2.5. Mountain Protection

In view of the vulnerability of mountain ecosystems, Act 85-30 provides that "protection of ecological and biological balances, conservation of sites and landscapes, rehabilitation of existing buildings and promotion of cultural heritage" must be one of the pillars of national mountain policy (art. 1). According to the Environment Code (art. L333-2), one of the direct ways of implementing these policy guidelines is to create

regional nature parks in mountain zones. Other protection measures must also be adopted in relation to forests, water and soil.

2.5.1. Forests

The Forest Code provides that the enhancement and protection of forests are recognised as being in the general interest (art. L1). Given the specific features of mountain forests and the natural constraints on their use, it provides a system of public aid to assist them. The benefits vary according to the difficulties of using and protecting woodlands and forests in mountain zones (art. L7).

Permission to carry out land clearing in mountain forests may be refused for the purposes of conservation, for example when the protection "of woodlands or the ranges which they complement is needed to preserve the land on the mountains or on the slopes" (art. L311-3). In the department of Réunion, it is prohibited in principle to clear woodlands and forests, except where a special waiver is granted (art. L363-2). Lastly, forests whose conservation is recognized as being necessary to maintain the land in mountain areas may be declared as "protected forests" and thereby be granted total protection (art. L411-1).

2.5.2. Water

In order to protect water, all new constructions, installations and roads, as well as extraction or excavation operations, are forbidden on a width of 300 metres from the banks of water bodies less than 1 000 hectares in size. This prohibition allows, however, for many waivers: buildings for agricultural, pastoral or forest use, mountain refuges, and road or staging posts open to the public for rambling, excursions, scientific installations, if no other facility is possible and the necessary facilities for hosting and guaranteeing the safety of bathers or people practising water sports may be authorized (Town Planning Code, art. L145-5). As one author (Romi, 2001) has noted, Act 85-30 is a retrograde step compared with the 1977 Mountain Directive, which prohibited all developments on all water bodies without exception.

2.5.3. Soil

Act 85-30 does not explicitly deal with protecting mountain soil against erosion, but the Forest Code devotes a whole title to mountain lands

conservation and restoration. Measures to be taken vary depending upon the state of the soil.

When the soil does not seem to be sufficiently seriously degraded to require restructuring, the area is placed under "protection" (*mise en défens*) (art. L421-1). The purpose of this measure is to conserve fragile soils by excluding not only grazing but all other forms of use (Liagre, 1997). By decision of the Prefect, a particular area can be declared prohibited for any kind of use for a period of up to ten years, and the private owner must be compensated for being deprived of its use. When this prohibition extends beyond ten years, the State is required to purchase the land if the owner so requests (art. L421-2).

When a piece of land is seriously degraded, restructuring can be declared by decree to be in the public interest. This is done after a public enquiry, the adoption of a resolution by the municipal councils, and the issue of an opinion by a special commission and of the opinion of the General Council. The public authority requesting restructuring is responsible for paying the cost of the work (art. L424).

2.6. Conclusion

The statutory regime introduced by Act 85-30 reflects the specific conditions and needs of mountain regions from many points of view. The Act makes it possible to clearly define mountain zones based mainly on altitude-related criteria, complemented by a particular marking-out of each of the country's mountain ranges. The Act also institutes specific bodies with conception, consultation and management functions for mountain areas and ranges. Furthermore, the Act allocates part of the National Physical Planning and Development Fund's resources for the promotion of mountain resource activities.

Several provisions of Act 85-30 have, since their adoption, been incorporated into various Codes which, together with this Act, comprise French mountain law. Mountain agriculture, for example, which is recognized as being of paramount importance for mountain people, is governed by the Rural Code. Similarly, tourism developments are addressed by Act 85-30, but they are dealt with more extensively by the Town Planning Code. Likewise, environmental protection in mountain zones, where there are forests, woodlands or water bodies, are governed by specific provisions of the Forest Code and the Town Planning Code.

This has created a favourable legal framework for the management and development of French mountains.

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- Le développement touristique en espace montagnard : www.chez.com/geotourisme/espace.htm
- Le monde de la montagne : http://perso.wanadoo.fr/skizo_industrie/ENVIRonnement.htm.

III. GEORGIA

3.1. Introduction

Under the Georgian Constitution, the central government is required to promote the equitable development of the whole of the national territory, with the possibility of enacting legislation to introduce special privileges to guarantee the economic and social progress of high mountain regions (Art. 31). This provision of the Constitution was implemented in 1999 by the adoption of the Act on the Socio-economic and Cultural Development of Mountain Regions. In view of the geopolitical importance of mountains, the purpose of this Act was to create favourable conditions for their sustainable development, to enhance and exploit their economic potential, and to curb the exodus of mountain populations.

The legislation governing mountains is primarily based on the 1999 Mountain Act, which is short and simple, and whose adoption led to the amendment of other acts, particularly the Act on Education and the Act on Health Care. Both were altered in 1999 to make their provisions complementary to, and consistent with, the purposes of the Mountain Act.

3.2. Mountain Delimitation

The demarcation of mountain regions in Georgia is mainly based on the hypsometric criterion (contour lines). As a general rule, a region must lie at a minimum altitude of 1 500 metres to be considered mountainous. In addition to this basic criterion, the Act adds other parameters such as the steepness of the gradients, environmental conditions, soil quality, geographical situation, economic and ethnic features, demographic and migration features.

This broadens the concept of "mountain" and enables the Act to apply to other zones such as the southern part of the Caucasus and the Adzhar and Guria ranges, which are below 1 000 metres above sea level, and even below 800 metres in some cases (art. 4). Furthermore, independently of the contour criteria, the Act applies to certain areas that are being rehabilitated for human settlement, such as the regions of Mtianeti, Pshav-Khevsureti, Tusheti and the Gudamaknri Ravine (art. 5).

In addition, the Act contains a Schedule naming the villages and towns which fall within its scope (art. 6).

3.3. Mountain Institutions

The Act did not create any specific institution responsible for mountain regions. It must therefore be enforced by existing competent authorities. In reality, however, a Committee for Mountain Regions and Settlements was established within the Georgian Parliament to promote the development of mountain regions.

The Committee works in close conjunction with an NGO which has been established to defend the interests of mountain zones, the Georgian Union of Mountain Activists. This was founded in 1999 and comprises mountain specialists from different backgrounds, working for the Georgian mountains at both national and international levels. The Union played an active part in drafting the Mountain Act before its adoption, and is now supporting its enforcement. It recently conducted a survey to define mountain regions based on the so-called "complexity" criteria. These identify the distinctive features of each mountain region, particularly in terms of such factors as altitude, topography, climate and the road network (Georgian Union of Mountain Activists, 2002). Furthermore, its programme of action comprises various environmental, socio-economic, tourism-related and legal measures to support the development of the country's mountains and to promote a "Caucasian Convention" to establish a regional framework for trans-Caucasian cooperation.⁶

3.4. Mountain Development

Mountain regions cover more than two-thirds of the whole country, and are home to a population of about 500 000, which makes them crucially important to the national economy in general (Gulua, 1998). Their socio-economic development therefore plays a prominent part in the Mountain Act.

⁶ According to one influential member of the Union, Mr Gigineishvili, this Convention could play a crucial part in helping to develop the Caucasian mountain chains by encouraging cross-border cooperation between the regions involved in legal, economic and ecological matters. (*The Caucasian Convention: Contours and Prospects available at www.itic.org.ge/geomountain/sympos_e.htm*).

3.4.1. Economic development

(a) Funding

The mobilization of resources from various sources, including European Union funds, for the benefit of mountain regions, is one of the main objectives of the Act (art. 1(g)). There is provision for two particular sources of funding: appropriations from local budgets, and resources from a fund to be established, whose resources will come from local natural resource-use revenues, rents from grazing lands, donations, etc. (art. 5.2).

(b) Agriculture

Mountain regions make a major contribution to national agricultural production. However, during the 1990–1994 period, there was a political and economic crisis in the country which seriously affected the arable lands and traditional farming systems, leading to huge falls in output both of agriculture and livestock (Gulua, 1998). It was partly to make up for these difficulties that the Mountain Act was passed in 1999, in the hope of giving mountain zones a further impetus to development. And this is why the Act makes agriculture, in its different forms (livestock production, vegetables, fruit, fish), the basis of the economic, social and cultural development of mountain regions (art. 2).

(c) Tourism

Georgia was formerly one of the most popular tourist destinations, attracting, at the beginning of the 1990s, more than 1.7 million Georgian visitors and 170 000 foreign tourists.⁷ Tourism later slumped, largely because of the political instability, the shortage of accommodation and the lack of a favourable economic environment (Mountain Agenda, 1999). To reverse this trend, and banking on the attraction of national mountains to tourists, in 1998 the Government declared tourism to be "one of the key sectors of national development".⁸ This political decision

⁷ Centre for Sustainable Tourism, Tbilisi (www.mtnforum.org/emaildiscuss/discuss98/mar98/031798b.htm).

⁸ Ministerial Cabinet Decision of 7 December 1998 (www.mtnforum.org/emaildiscuss/discuss98/mar98/031798b.htm).

was echoed a year later in the Mountain Act, with its specific measures to promote tourism. Preferential loans can be granted from the Central government budget to anyone investing in mountain regions to develop tourism, recreational and sports facilities, and to protect and restore rural, historical and natural monuments (art. 3).

(d) Handicrafts

The Act also encourages investment in handicrafts in mountain regions for the benefit of mountain communities. In addition to setting up training centres, a number of craft activities are eligible for financial support, such as wood-carving, pottery and the manufacture of musical instruments. Facilities are also available to local enterprises using mountain resources and local labour (art. 3).

3.4.2. Social Development

Because of the high altitudes and the lack of adequate infrastructure, mountain populations are sometimes isolated and often have to cope with difficult living conditions. This induces them to leave their home mountain regions, causing them to lose their culture and traditional knowledge (Curtis, 1994). The social measures to help mountain people, under the Act, are designed to address this issue (art. 1).

(a) Education

Following the entry into force of the Mountain Act, the Act on Education was amended in June 1999, creating free primary and secondary education in mountain regions, with central government funding for schools. Being free of charge, this benefits pupils living in mountains who, without schools in their areas, must attend schools in the lowlands. School syllabuses and curricula in mountain regions are now required to include courses on ecology and handicrafts. If these courses do not already exist, the central government must set up special schools to provide handicraft training.

To compensate for the difficulties of living in mountains, teachers are awarded salary increments to encourage them to settle in mountain zones. The benefits are laid down according to altitude: in schools in areas of up to 1 200 metres, salary increments are equivalent to 50 percent of the salary; in areas above 1 200 metres, teachers are entitled

to social benefits in addition to an increment equivalent to 70 percent of their normal salary. Lastly, teachers in those areas retire on 100 percent of their final salaries.

(b) Health

Changes have also been made to the Act on Health Care following the adoption of the Mountain Act. The amended Act provides free medical care in mountain regions. Central government covers the cost of building medical facilities and pays their operating costs. It also awards salary increments to medical personnel to encourage them to settle in mountains, varying according to the altitude: a 50 percent increment of the basic salary in regions of up to 1 200 metres, and a 70 percent increment above that altitude.

3.5. Mountain Protection

One of the objectives of the Mountain Act is to promote the protection of mountain ecosystems and landscapes (art. 1). To do this, mountain regions can be declared as "protected" (art. 3). Furthermore, mountain development projects must be implemented in such a way that they guarantee the rational use of local resources, in accordance with the principles of sustainability enshrined in the Alpine Convention (art. 2).

Other than these fairly general provisions, no other specific measures are laid down in the Act for the protection of the environment in mountain regions. However, there are related acts (on protected areas, forests, water, etc.) which do contain complementary provisions of relevance to the conservation of the mountain environment.

3.6. Conclusion

Although the Mountain Act is set out in very concise terms, it addresses the main aspects of mountain development. In order to be fully enforced, the Act requires detailed implementing regulations, but these have not so far been forthcoming. At the institutional level a Committee has been set up in the Parliament to promote and coordinate mountain development activities. The Act also lists socio-economic activity sectors (agriculture, tourism, handicrafts, education, etc.) which are eligible to benefit from incentives to invest in mountain regions. Lastly, the Act

contains some concise provisions regarding the protection of mountain ecosystems.

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- Georgian Union of Mountain Activists: www.itic.org.ge/geomountain.

IV. ITALY

4.1. Introduction

Italy's mountains, with a population of over 10 million, contain some of the wealthiest but also some of the poorest regions in the country. Twenty-three of the 30 wealthiest municipalities are in mountain zones (mostly in the North), as well as 27 of the 30 poorest municipalities (mostly in the South).⁹ No mountain policy can therefore ignore this difference in development levels in the mountains, and must attempt to redress it.

The 1947 Italian Constitution (which came into effect in 1948) is unique in the special place it attributes to mountain zones, requiring that they must be given specific statutory advantages (art. 44). It is this constitutional provision that underlay the enactment of various mountain-related laws since the 1950s.

Today, there are essentially two complementary acts for protecting and enhancing mountain regions: Act 1102 of 1971 enacting new provisions for mountain development, and Act 97 of 1994 enacting new provisions for mountain zones. In order to combat the socio-economic inequalities between people living in the valleys and mountain communities, stress is placed on improving the living conditions of such communities, particularly by promoting public services and infrastructure facilities. Furthermore, an integrated approach is taken to the various dimensions of rural development: agriculture, forestry, tourism and the environment.

These two basic laws were complemented by several other pieces of legislation, particularly Acts 72 of 1975 and 93 of 1981 providing financing for mountain communities, the Local Authorities Act 142 of 1990 (amended by Act 265 of 1999) which sets down the status of those communities, and a number of other specific instruments, some of which are dealt with below.

⁹ United Nations Sustainable Development Web site: *Natural Resources Aspects of Sustainable Development in Italy* (1997) (www.un.org/esa/agenda21/natinfo/countr/italy/natur.htm#mountains).

Most of mountain regions also have their own mountain legislation, but regional laws are not examined in this short overview of national legislation.

4.2. Mountain Delimitation

A precise definition of the notion of "mountain" makes it easier to specify the territorial scope of application of the statutory provisions regarding mountains. The criteria for defining mountains used in legislation were originally based primarily on altitude. Act 991 of 1952 on woods, forests and mountain areas considered to be mountainous any municipality having at least 80 percent of its area over 600 metres above sea level, as well as any zone having in its area a difference in altitude of at least 600 metres (art. 1).

This "mechanical" approach for defining the borders of mountain zones was later adjusted by the introduction of Act 657 in 1957, which made it possible to include, among the mountain municipalities, those which did not meet the altitude criteria, but which had the same agro-economic conditions. This broadening of the criteria led to a gradual increase in the number of mountain municipalities up to 4 194 by the end of 1994, that is, about 51 percent of the total number of municipalities, involving 54 percent of the national territory (Maglia and Santoloci, 1998).

Act 142 repealed the classification criteria (art. 29.7) without laying down any new ones, and merely set strict limits on the structures of mountain communities. In view of this, the Home Affairs and Agriculture Ministers decided jointly in 1995 that there was no point in continuing to classify mountain municipalities. As a result, the number of municipalities already classified at that date was fixed for ever (Maglia and Santoloci, 1998).

4.3. Mountain Institutions

4.3.1. A Decentralized Institutional Framework

Following Act 1102 of 1971, the institutional framework for mountains was marked by a considerable decentralization of authority, with broad powers being devolved on the regions and other local autonomous authorities. Previously, actions in favour of the mountains were mostly

taken at the national level, albeit in a fragmentary fashion, forming part of a policy to assist mountain regions.

Under the Italian Constitution, which was amended in 2001, the regions are empowered to enact legislation in areas which are not under the jurisdiction of central government, and also in matters over which central and regional governments have shared jurisdiction (art. 117). Administrative functions are vested in municipalities and, in some cases, in provinces, *città metropolitane*, regional governments and central government, on the basis of the principles of subsidiarity, differentiation and adjustment (art. 118).

With regard to mountains, Act 1102 of 1970 introduced a particular form of local government, the mountain communities (*comunità montane*), which have a central place in enhancing mountain resources. The rules governing these communities have subsequently been changed, and are now set out in Act 142 of 1990, amended in 1999.

4.3.2. Importance of Mountain Communities

(a) Status of the Communities

Mountain communities comprise several mountain municipalities, or partly mountainous municipalities, and are established by the presidents of regional governments. Regional legislation sets out the procedures for approving the statutes of the communities, lays down the procedures for concerted action, regulates the zoning plans and annual programmes, sets the criteria for distributing regional aids and European Union funding, and governs relations between these communities and other entities working in the same territory (Act 142, art. 28, as amended).

The mountain community is considered both in literature and in case law as an autonomous local authority in political and administrative terms. Its purpose, as well as its status and autonomy, make it a "second tier" entity, lying between the municipalities, the provinces and the regions (Maglia and Santoloci, 1998).

Mountain communities have a representative body elected by the municipal councils of each community, and an executive body, composed of the mayors, deputy mayors and councillors of the municipalities forming part of the community (Act 142, art. 28.2).

The composition of mountain communities is based on geographic as well as demographic criteria. Municipalities with a population in excess of 40 000 are excluded from these communities. In addition, regional legislation may also exclude municipalities that are only partially mountainous, with fewer than 15 percent of the total population living in a mountain region. The zones that are excluded in this way are not, nevertheless, excluded from receiving the aids granted to mountain territories by the European Union, the central government or the regional government. A regional law may also incorporate into a given community any neighbouring municipalities with a maximum of 20 000 residents, and forming an integral part of the geographic and socio-economic system of the community (Act 142, art. 28.5, as amended).

(b) Prerogatives of the Communities

Act 142 provides that the purpose of mountain communities is to enhance the value of mountain zones, to perform their own functions and those delegated to them, and to allow the joint exercise of municipal functions (art. 28.1). To this end, communities must adopt multi-year action and intervention plans as well as annual operational programmes. They must also identify the resources required to pursue their socio-economic development objectives, including resources available from the European Union, as well as from central and regional governments (art. 29).

Mountain communities may also partially delegate to other entities the implementation of specific programmes and actions falling within their territorial jurisdiction. Conversely, they can take over the specific functions of any other entities forming part of them, if they delegate them to do so (Act 1102, art. 6), including functions of partially mountainous municipalities with a population of not more than 50 000 (Act 93, art. 4).

4.4. Mountain Development

4.4.1. Economic Development

(a) Special Fund

Act 97 of 1994 sets up the National Mountain Fund, whose resources are used to finance projects and actions to foster the economic,

ecological, social and cultural development of mountain regions. The resources of the Fund come from the European Union, central government and other public entities. Regular or special appropriations are also provided by the central government for local authorities (arts. 1 and 2).

The resources of the Fund are divided between the autonomous provinces and regions, which set up their own regional mountain funds, using additional appropriations from their own budgets. It is the responsibility of the autonomous provinces and regions concerned to enact legislation laying down the criteria for the allocation of these resources (Act 97, art. 2).

The criteria for distributing the resources of the Fund between the regions and autonomous provinces are laid down by an inter-departmental committee, acting on proposals of the minister concerned, and taking account of the opinions of concerned parties, particularly the need to safeguard the environment as well as to foster agricultural, forestry and pastoral development, the area of the mountain zones, the resident population, average incomes, and the level of public services (Act 97, art. 2).

(b) Agriculture and Related Activities

Even though Act 1102 deals with the socio-economic development of mountains in general, it does not explicitly refer to agriculture as such. This leaves the mountain communities a great deal of autonomy in this regard, subject to a few rules set out in other legal instruments. For example, Act 97 prescribes measures "for the conservation of the integrity of the agricultural enterprise" (art. 4).

From another perspective, in order to protect the historical and cultural heritage of mountains, Act 97 fosters the exploitation and improvement of typical mountain agricultural products, which are protected by a "denomination of origin" or a "geographic indication". Agri-food products produced in mountain municipalities or using raw materials from them can also be entitled to use the "products of Italian mountains" label, on the conditions laid down by ministerial order (art. 15).

Act 97 also deals with other rural activities which are generally important for the local economy in mountain zones: hunting, fishing, and gathering underwood products (art. 8). These activities must in particular: (i) be in accordance with current provisions governing the protection of the environment and natural resources; and (ii) create employment and local enterprises and activities in the agro-forestry and pastoral sector.

4.4.2. Social Development

One of the purposes of Act 1102 is to equip mountain zones with adequate infrastructure facilities and services to permit their harmonious development and improve the living conditions of local people, and help them to cope better with the difficulties of the mountain environment.

More specifically, Act 93 provides for special electricity and telephone charges to be paid by mountain communities. These must also contribute towards the cost of installing telephone and electricity cables and other services for users living outside the inhabited centres, and who are therefore disadvantaged by the distance, so that the cost paid by these residents does not exceed the cost charged to users living in the inhabited centres (art. 5).

4.5. Mountain Protection

4.5.1. The Environment

A few general provisions for protecting the mountain environment are given in Act 1102 (art. 9) and Act 97 (art. 7). The first Act gives regions, mountain communities and municipalities the possibility of acquiring or contracting long-term leases (for at least 20 years) of uncultivated or deforested mountain lands to convert them into forests, grazing lands or nature reserves. In the event of failure to acquire these lands at current market prices, the regional, community and municipal authorities concerned may expropriate them if this is necessary for soil conservation and the protection of the natural environment.

The second Act provides that development plans of mountain communities, whose primary purpose is to foster socio-economic activity, must also give priority to measures for safeguarding and enhancing the environment, particularly with regard to the water balance,

natural and cultural heritage, and rural and mountain landscapes, respecting both development and environmental demands.

4.5.2. Forests

Act 97 contains specific provisions on forest resources in mountain zones (art. 9). Mountain communities, separately or jointly, are required to promote the management of the forests within their jurisdiction by concluding agreements with the owners or by setting up forestry groups. Financing may be granted by the central government, the regions or the autonomous provinces to mountain municipalities and communities, in order to establish forest plantations. Regional, provincial and municipal authorities may also delegate mountain communities to manage their respective woodlands.

4.6. Conclusion

Italian mountain legislation, which is one of the oldest of its kind, has gradually developed and been enriched over the last three decades. It provides broad legislative powers for the regional authorities, which frequently use them by enacting regional laws specific to their own mountain zones. The regions can also delegate many of their functions to lower-tier local authorities, in order to involve mountain populations in protecting and enhancing the natural environment and their own living space. Italian legislation has also established specialized local entities to enhance mountains – the mountain communities.

In addition to agriculture, which plays an important part in the development of mountain zones, Italian legislation provides incentives to manage and exploit the natural resources of mountains so as to foster multiple activities.

At the social level, the legal instruments governing mountains stress the development of public services and infrastructure facilities to raise the living standards of mountain people and to narrow the differences in development levels between them and the population living in the valleys.

Lastly, the mountain environment is accorded protection, particularly in the form of incentives for the reforestation of lands that have lost their

tree cover, as well as for soil conservation, maintenance of the water hydrological balance and creation of nature reserves.

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V. RUSSIAN FEDERATION - REPUBLIC OF NORTH OSSETIA-ALANIA

5.1. Introduction

Even though the Russian Federation has nine mountain ranges (Curtis, 1996), it has not yet drawn up a specific policy for mountain regions, and neither has it adopted draft legislation laying down the criteria for awarding a region "mountain" status (Ministry of Environmental Protection and Natural Resources, 1996). In other words, there is no specific policy or legal instrument dealing with mountains at the federal level.

The Russian Federation's Republic of North Ossetia-Alania lies in the northern part of the Caucasian ranges, and is very much aware of the need to develop its mountain regions in order to improve the socio-economic conditions of the people living there. Mountains occupy over one-half of the territory of the Republic, and mountain policy is therefore one of the pillars of North Ossetian development (Vaguin, 1999). The Republic has its own development programme, the "Ossetia Mountain Programme," which was formally adopted by the Government (Badenkov, 1996) and subsequently passed into law when it was enacted by the Parliament of North Ossetia-Alania.

The Development of Mountain Regions Act of 30 December 1998 comprises 43 articles set out in seven Chapters. It covers every aspect of the socio-economic development of mountain regions of North Ossetia-Alania. Designed as a basic text setting out the fundamentals principles and the general rules governing the activities of mountain people, the Act is to be complemented and clarified by regulations for its implementation (art. 1).

Apart from the 1998 Act, mountain law in North Ossetia-Alania also draws on other related laws of the Republic and of the Federation (art. 6).

5.2. Mountain Delimitation

The Mountain Act sets out its scope by specifying the regions to which it applies and defining the concepts used (arts. 1–5). It lays down detailed criteria for the demarcation of mountain regions, even down to

specifying the contour lines. The Act also sets the size of human settlements in mountain areas in order to identify which populations are eligible to receive the statutory benefits it provides.

Mountain regions are defined as areas characterized by specific natural conditions (in terms of altitude, topography, climate) having a major impact on the human activities performed there (art. 1). Mountain regions comprise watersheds, mountain slopes and rocky chains, including depressions made up of pastures and woodlands. They have borders to the north, south and west: the "northern frontier" runs along the demarcation line of the State forest (the northernmost border of the Black Mountains); the "southern frontier" coincides with the border between the Russian Federation and Georgia; while the "western frontier" coincides with the administrative borders separating North Ossetia-Alania from the Republic of Ingush (art. 2). In addition to setting the borders, the Act also subdivides mountain regions into three categories in terms of altitude:

- the "low mountains", at an altitude up to and including 1 000 metres;
- the "medium mountains", at an altitude of between 1 001 and 2 000 metres; and
- the "high mountains", at an altitude of above 2 001 metres.

Human settlements in mountain zones are described as villages, working installations and other settlements located within the boundaries of the watersheds, slopes and rocky chains of the Grand Caucasus (art. 3). The Government of the Republic is required to draw up a list of these human settlements in accordance with statutory provisions. This is particularly important when establishing the identity of "mountain populations" because it makes it possible to register the residents of mountain settlements. These are people living permanently in mountain settlements or those who have worked there for more than one year and continue to live there for their work, or because of a disability, or because they are retired. All these people must be registered with a mountain settlement (art. 4).

5.3. Mountain Institutions

The Act makes provision for the establishment of a special institution with responsibility for mountain regions, but leaves the definition of its

powers and responsibilities and its organizational structure to regulations to be issued subsequently (art. 9). In the performance of its functions, this institution must coordinate its work with the environmental services, cooperating with the local authorities and respecting the rights of nature users (art. 10). The institution must also contribute towards regulating and managing natural resources in mountain regions, in conjunction with the technical services that have specific responsibility in this area (art. 35). Its budget will come mainly from appropriations provided by the Federation and by the Republic, and from revenues from taxes and licences for the use of the natural resources of mountain regions (art. 27).

The Act also sets out the jurisdiction of the central and local authorities regarding the protection and use of the natural resources of mountains. These central and local authorities also help at their respective levels to formulate, finance and implement mountain natural resource management programmes and measures to protect the environment. They also have their own specific functions. For example, central government is responsible for enacting legislation and issuing regulations governing the use of natural resources, keeping the land registries, and setting up natural resource data banks. The local authorities, on the other hand, adopt and execute their local budgets, contribute to setting up mountain regional development funds, regulate the use of water at the local level, and manage communal lands in mountain zones (arts. 7 and 8). Lastly, the central government and local government authorities are both responsible for the general scrutiny of the management of natural resources in mountain regions (art. 36).

5.4. Mountain Development

According to its preamble, the Act sets out to lay the socio-economic bases and provide the statutory framework for the sustainable development of mountain regions in the Republic, to preserve their natural resources so that they can be rationally utilized, and to safeguard the historical, cultural, and architectural heritage that they contain.

5.4.1. Natural Resource Use: Users' Rights and Obligations

In principle every person, national or foreigner, is entitled to enjoy the natural resources of mountain areas. However, the resident population has priority usage rights over these resources (art. 11). Privileges are also

granted to different categories of individuals and institutions, established in the mountains, to use their natural resources: farmers, producers of goods for use in mountain zones, municipal enterprises and entities responsible for education, public health and culture. The nature of these privileges is to be laid down by the Parliament of the Republic, acting on a government proposal (art. 19). Lastly, the Act vests mountain people with rights to use timber for gainful purposes (art. 17).

In exchange for the rights vested in them, the beneficiaries also have to undertake a number of obligations. The users of non-renewable natural resources must rationally harvest them in compliance with current environmental rules, with both administrative and criminal liability for non-compliance (art. 15). The users of renewable natural resources are required to ensure the protection, restoration and regeneration of water and soil resources, as well as fauna and flora. Any damage caused by the culpable depletion or loss of soil fertility by users must be redressed by the offenders. Criminal liability is also incurred by failure to comply with the laws and regulations governing natural resources (art. 16).

Infringements of mountain legislation also give rise to other specific civil and criminal penalties (arts. 40 and 41). In addition to paying compensation for loss and damage caused to the owners, anyone liable for offences against natural resources may be subject to the penalties provided by the laws of the Federation and the Republic. These provisions apply equally to nationals and foreigners, the latter having the same rights and duties as nationals of the Republic as far as mountain natural resources are concerned (art. 39).

5.4.2. Natural Resource Management: Economic and Financial Instruments

In mountain regions a permit is required for the gainful use of natural resources, including mining, the use of fresh and mineral water, tourism and leisure activities, felling, collecting medicinal plants, grazing or hunting. Permits are issued to applicants under conditions laid down by the laws and regulations governing each of these matters (art. 14).

Access to natural resources is free in some cases, while in others, a charge is made. A fee is payable, for example, to use the soil and the subsoil, fresh water resources, fauna and flora, and for the construction of industrial, medical and recreational installations and facilities (art. 17). The fees are set in accordance with current regulations or, if these do not

exist, by the Government of the Republic (art. 18). Conversely, certain not-for-profit activities can be performed free of charge. This applies mainly to the gathering of fruit, mushrooms and medicinal plants, to water extraction for domestic use or to grazing by mountain populations (art. 17).

The law also provides the possibility of using a number of economic and financial instruments for its implementation, such as taxes, appropriations or insurance (art. 24). The tax regime differs from one sector to another and from one taxpayer to another. As far as natural resources are concerned, taxpayers who are not mountain residents pay the same taxes as anyone else in the Republic and the Federation. Conversely, public enterprises that have been established in mountains have a 50 percent abatement of their tax liability. Lastly, all civil servants who have recently settled in a mountain region, as well as new residents and private producers for the first five years after becoming established there, are wholly tax-exempt (art. 20).

Depending upon whether natural resources are publicly or privately owned, activities relating to them are to be financed by the Government or private individuals (art. 25). The latter must also pay the cost of developing the natural resources they use in the mountains. Conversely, the operating costs of public services in the fields of culture, education, science, public health, communications and television are paid from the budgets of the Republic and the Federation (art. 26).

5.5. Mountain Protection

Programmes for the protection of natural resources must be implemented in mountain regions by the governmental institution responsible for those regions, in conjunction with the local authorities, and they must be funded from the budget of the Republic (art. 34).

Among the specific measures to safeguard the mountain environment, the Act requires natural resources to be carefully managed. In particular, logging must be carried out appropriately, rangelands must be improved, erosion combated, etc. (art. 14).

More broadly speaking, the Government is responsible for guaranteeing the ecological balance of mountains, particularly by carrying out environmental impact assessments. These must be conducted by specialized entities in the Republic before any projects or operations

likely to affect the natural environment in mountain zones can be implemented. Decisions taken by these bodies based on their ecological expertise can only be challenged in the courts (art. 37).

5.6. Conclusion

North Ossetia-Alania is the only Republic in the Russian Federation that has legislation dealing specifically with mountain regions. It is largely focused on the regime governing the management of mountain natural resources, and is designed to protect them and regulate their use. It lays down specific rights and duties in this regard, which vary depending upon the users and the sectors concerned, giving certain privileges to mountain populations and to activities which help to drive their development, mainly in the form of tax incentives.

The Act creates an institutional framework specifically for administering mountain regions and for the implementation of its provisions. It provides for new financial resources, mainly from government budgets. Lastly, it imposes a general obligation to conduct environmental impact assessments of all work and projects that are likely to damage mountain ecosystems. In all these areas, however, detailed regulations must be issued in order for the Act to be effectively implemented.

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VI. SWITZERLAND

6.1. Introduction

Unlike the other countries studied in this paper, Switzerland does not have a single "Mountain Act" but a series of texts comprising its "Mountain Legislation". Since the country is almost entirely mountainous, a large number of legal texts have been adopted over the years to regulate different aspects of mountain development and protection. The principal measures they contain are often financial in character, generally in the form of funding granted for the benefit of mountain regions.

Swiss mountain policy sets out to link the protection of nature with the people's right to adequate economic development. These objectives are pursued both by the Confederation and by the individual cantons, in view of the institutional character of Switzerland as a Federal State.¹⁰ They are therefore reflected in federal law as well as cantonal laws.

Federal Act 901.1 of 1997 on Aid to Investment in Mountain Regions is the main piece of legislation containing incentives for the development of mountains. Its aim is to foster the economic competitiveness of mountain regions, facilitate the exploitation of their potential, conserve their socio-cultural features, guarantee their sustainable development, and strengthen cooperation between mountain municipalities, subregions and regions (art. 1). These provisions are complemented by Federal Agriculture Act 910.1 of 1998 with regard to the development of mountain agriculture.

Social development is addressed specifically in two acts on mountain regions which provide financial benefits: the Federal Mountain Region Housing Improvement Act 844 of 1970, and the Federal Family Allowances in Agriculture Act 836.1 of 1952.

The Ordinance on the Cadastral Survey of Agricultural Production and Area Demarcation 912.1 of 1998 sets out the criteria for demarcating mountain regions.

¹⁰ SAEFL (Swiss Agency for Environment, Forests and Landscape), International Affairs Division, The Alpine Convention and Switzerland (www.buwal.ch/inter/fa_alpen.htm).

In addition to federal legislation, several cantons have adopted local legislation which takes account of their own specific mountain zones. This is particularly the case in the cantons of Berne, Fribourg, Neuchâtel and Vaud, whose laws are briefly examined below.

6.2. Mountain Delimitation

The demarcation of mountain areas is defined by a general legal instrument that applies to the whole of Switzerland, Ordinance 912.1, which was issued in implementation of the Federal Agriculture Act.¹¹ Mountain zones are divided into four categories, ranging from *favourably situated mountain sites* (mountain zones I) to the *most deprived mountain sites* (mountain zone IV), with two intermediate categories (mountain zones II and III). The demarcation of these zones is done by reference to three factors which are, in decreasing order of importance: climate, communications, and configuration of the land. Firstly, the *climatic conditions* are evaluated in terms of the period during which vegetation is present, taking account of such elements as hours of sunshine, the projection of shadows, altitude and rainfall. Then the *state of the roads* is examined in terms of the localities served by them, distance between the farm and the village, and public transport. Lastly, the *configuration of the land* is evaluated in terms of the gradient of the land and the possibility of using agricultural tools.¹²

Under Ordinance 912.1, the demarcation of mountain zones takes place in three stages: (i) the Federal Agriculture Office sets the borders of a mountain region; (ii) the canton concerned makes its representations to the Office; and (iii) the Office places the demarcation lines on topographical maps, which are produced both electronically and on paper, and which constitute the Agricultural Production Cadastral Registry (arts. 4 and 5). The maps must be kept by: (a) the Office for the whole country; (b) the services appointed by the cantons for the cantonal territories; and (c) the municipalities for their own territories.

¹¹ Under the Federal Agriculture Act, the Federal Agriculture Office is responsible for subdividing the area used for agriculture into zones, and introducing a production registry for this purpose, giving the Federal Council jurisdiction for laying down the criteria for the demarcation of such zones (art. 4.3).

¹² Article 2 of Ordinance 912.1, complemented by information from the Federal Agriculture Office (personal communication).

The borders of the regions may be changed both at the request of the farmers or at the initiative of the Federal Agriculture Office, taking account of the aforementioned criteria. At this stage, the canton through whose territory the borderline to be modified runs must be able to make its representations (art. 6). The decision taken by the Office is published in the Official Gazette of the canton concerned, and must be kept in the same way as the topographic maps mentioned above.

Two other laws also refer to Ordinance 912.1 with regard to their specific areas of application: (i) Act 844 for the improvement of rents and leases in mountain zones, under which the borderlines of mountain zones are laid down in accordance with the Agricultural Production Cadastral Registry (art. 2); and (ii) Act 836.1 on Family Allowances for Agriculture (art. 6).

Act 901.1 of 1997 providing aid for investment in mountain regions (known as the "LIM regions") defines its own geographic scope. For the purposes of enforcing it, mountain regions are those listed in a schedule. The schedule names over 50 regions, which are commonly designated as "LIM regions". These regions comprise municipalities grouped together in terms of comparable geographic and economic features, and based on their intention to share the "tasks falling to them" (art. 3). However, their composition may be changed by the cantons or the municipalities concerned. Act 901.1 repealed the 1974 Federal Act governing aid to invest in mountain regions. The latter Act referred to the Livestock Production Cadastral Registry for setting the boundaries of mountain regions. In those days such regions were those "situated in the territory delimited by the Livestock Production Cadastral Registry". Nowadays, such registration system no longer exists.

6.3. Mountain Institutions

The legal instruments regarding mountain regions have not created any specific institution for mountain management. Responsibility for implementing these instruments therefore lies with bodies that already exist, and which are designated to enforce and apply them.

Switzerland being a Federal State, responsibility for natural resource management and environmental protection is shared between the Confederation, the cantons and, to a lesser extent, the municipal authorities. Under the Constitution, the Confederation must work for

the sustainable conservation of natural resources (art. 2), taking into account the particular features of the cantons and municipalities (arts. 46 and 50). The cantons perform all the functions which are not vested in the Confederation (art. 3). The Confederation and the cantons, working together, must try to establish a sustainable balance between nature and its use by human beings (art. 73). The enforcement of federal legislation in this area is the responsibility of the cantons, save where specific powers are vested in the Confederation. The municipalities exercise the powers which the cantonal laws vest in them (art. 50).

Mountain legislation spells out the jurisdiction of each organ. Act 901.1 indicates the powers of the Confederation and the cantons over granting aid: the cantons are responsible for implementing the Act and the Confederation must monitor its implementation (arts. 22 and 23). Financial aid is granted by the Confederation, and the cantons are responsible for setting the amount of the loans to be granted (art. 4). In the same way, Act 844 on housing improvements in mountain regions provides for financial support to be given to the cantons for this purpose by the Confederation, while the cantons are required to implement specific measures to improve housing in the mountains (art. 1).

Various associations are specifically concerned with developing and protecting mountain regions, two of which in particular stand out in terms of the magnitude of their contribution: the Swiss Group for Mountain Regions (*Groupement suisse pour les régions de montagne*) and the Swiss Aid to Mountain Peoples (*Aide suisse aux montagnards*).

The Swiss Group for Mountain Regions (SAB) was founded in 1943, and its membership comprises all mountain cantons and municipalities, agricultural organizations and professional mutual aid associations, the LIM regions (Act 901.1), other entities working in mountain regions, and numerous individuals. Sustainably using mountain resources, protecting mountains as a natural environment and an economic space, and improving the living conditions in mountain regions are some of SAB's main objectives. Jointly with the Federal Government, Parliament and other associations, SAB makes proposals and undertakes to assist mountain regions, ensuring respect for their specific features in every respect. It keeps public opinion informed through its publications (particularly its magazine "*Montagna*") and offers a number of services such as counselling, courses, surveys and studies.

The Swiss Aid to Mountain Peoples is an association recognized as a public utility, and was founded in 1952. It comprises individuals and corporations supporting its aims and its activities (article 4 of its Statute). The purpose of the association is to enhance the economic potential of mountain regions and improve living conditions of mountain residents, with a view to curbing rural exodus by supporting mountain agriculture and fostering mutual aid between small mountain farmers. It also sets out to improve housing and working conditions there, to enhance the value of mountain regions by constructing appropriate infrastructure, by helping young farmers to receive training and by supplying social support for people in difficulties.

6.4. Mountain Development

Being a mountainous country, Switzerland has every interest in implementing specific measures to foster the socio-economic development of its mountain regions. Various forms of assistance are therefore offered to these regions, either directly by central government, or with its support through independent organizations such as the Swiss Aid to Mountain Peoples, which works to improve the bases of the economic existence and living conditions in mountain regions (article 2.1 of its Bylaws).

6.4.1. Economic Development

(a) Special Funds

Act 901.1 established a fund to finance investment aid, whose resources come from the Federal Government, previous loan repayments and interest revenue from these loans, as well as contributions from the cantons which partly guarantee the loans granted.¹³ These funds are very important for effectively implementing the Act on Aid to Investment. According to the 2007 Agricultural Policy, its current resources total over 1.6 billion Swiss francs (Office fédéral de l'agriculture, 2001).

At the cantonal level, Act 901.1 is implemented in accordance with the corresponding provisions of cantonal laws. The cantons can also create a special fund under their own legislation. This has been done, for

¹³ The cantons bear a 50 percent liability for loan defaults (Act 901.1, art. 12).

example, by the Canton of Neuchâtel, which has set up a cantonal fund to aid mountain regions under its cantonal Act of 1999, introducing the Federal Investment Aid Act (art. 13). The same has been done in the canton of Berne where the Cantonal Investment Aid Fund was created by a similar act in 1997 (art. 1).

Some financing is also provided by such organizations as the Swiss Group for Mountain Regions (SAB) and the Swiss Aid to Mountain Peoples. The latter, for example, provides mountain communities with a special fund named "Measures for Promoting and Developing Mountain Regions"¹⁴ to carry out major regional projects which are often implemented in conjunction with SAB.

(b) Agriculture

Most of the measures relating to mountain agriculture are set out in the Agriculture Act 910.1. The Confederation is responsible for ensuring that everything is done to guarantee adequate agricultural production, meeting both sustainable development and market needs (art. 1). These measures, which are nationwide in scope, must be geared to the particular features of mountain zones, taking account of the prevailing difficult living and production conditions (art. 4).

The Confederation encourages agricultural development in mountain regions by providing "direct payments" to farmers who manage their own farms, at their own risk, and who have their residence in Switzerland. According to the Agriculture Report 2000, in 1999, 63 percent of the total amount of direct payments went to hill and mountain zones (Département fédéral de l'économie, 2000).

There is also another form of financial aid for farmers, which is granted according to the gradient of available arable land. The lands that are eligible for this aid are those situated in mountain regions and hill zones with a gradient of 18 percent and above (Ordinance 910.13, art. 35). Furthermore, a financial contribution can also be granted for keeping income-generating livestock that consumes rough fodder in mountain regions (Act 910.1, art. 74).

¹⁴ According to the Swiss Aid to Mountain Peoples Website: www.berghilfe.ch/f/unit_was.html.

In order to preserve mountain agriculture, the Confederation can also provide cantons with funds to finance small farm aids (art. 78). These aids are paid in the form of loans which can be used, for example, to enable farms in difficulty to return to viability, under preferential conditions in mountain zones. A farm can normally receive such loans only if: (i) it has long-term viability prospects thanks to supplementary off-farm income; (ii) it is rationally managed; and (iii) it is not excessively indebted. In mountain regions, these loans can even be granted to farms which are not viable – except if they have a principal source of off-farm income –, and hence to "ancillary enterprises" (art. 80).

The Agriculture Act also provides aid to improve the land and construct rural buildings. Land improvement means rural infrastructure and works, and the re-organization of land ownership and leasing arrangements, while rural buildings include farm and alpine buildings as well as community buildings to be used for processing and storing products (art. 94). The Confederation can finance up to 50 percent of the costs for mountain land improvements (art. 95). The 2007 Agricultural Policy proposes that the Confederation also takes charge of rehabilitating roads serving agricultural farm assets (Office fédéral de l'agriculture, 2001). The Confederation also supports the construction, renewal and conversion of rural buildings (art. 96). In order to ensure that aid is properly used, it is prohibited to use any constructions built for non-agricultural purposes for the 20-year period following the payment of Federal contributions (art. 102).

At the cantonal level, Act 8.15 of 1995 on the promotion of the agricultural economy in the canton of Vaud provides mountain agriculture incentives in the form of special subsidies, particularly to foster the selection of high-quality livestock and to facilitate the acquisition of agricultural machinery. The Act has been complemented by a regulation providing aid for ancillary crops, studies to promote mountain products, diversification of mountain agricultural activities, etc.¹⁵ Furthermore, to encourage livestock production in mountains, loans can be granted to purchase breeding cows and set up installations to diversify meat production, while contributions can be made available for embryo transplants and calf-fattening.¹⁶

¹⁵ Regulation of 13 January 1988 to encourage ancillary crops and promote mountain products and domestic trade.

¹⁶ Ordinance of 17 October 1990 to encourage livestock production in mountains.

Lastly, at the federal level, agricultural workers employed by an agricultural enterprise or having the status of "small farmers" may receive a family allowance, whether they live in plains or in mountains.¹⁷ However, the amounts of these family allowances are greater when the agricultural labourer or the small farmer works in a mountain zone.

(c) Infrastructure and Investments

Act 901.1 has set up a system of loans granted by the Confederation to develop infrastructure facilities in mountain regions. In each region, a Regional Development Agency must be established (art. 15). These agencies are responsible for drafting a development programme and a multi-year action programme which, taken together, directs the implementation of new infrastructure. All infrastructure projects must comply with the objectives of the development programme (art. 5). To obtain financial assistance from the Confederation, projects must be mainly intended to foster competitiveness of the regional industry, improve the quality of life and enhance the economic potential of the region (art. 6).

Loans are granted by the Confederation at below-market rates of interest and may even be interest-free if this can be justified by the borrowers' financial possibilities and the importance of the project (art. 9). In addition to federal contributions, the cantons also play a major part in financing such programmes. For example, the Berne Canton Investment Aid Fund is used to co-finance the aids provided by Act 901.1.¹⁸ The cantons of Fribourg¹⁹ and Neuchâtel²⁰ also make a 50 percent contribution towards these loans. In the event of loan default, these cantons are liable for one half of the amounts granted (Act 901.1, art. 12).

¹⁷ Federal family allowances in agriculture Act of 20 June 1952 (art. 1), which is examined below.

¹⁸ Berne Canton Act of 6 June 1997 introducing the Federal Act on Aid to Investment in Mountain Regions (art. 1).

¹⁹ Fribourg Canton Act of 27 November 1998 introducing the Federal Act on Aid to Investment in Mountain Regions (art. 6).

²⁰ Neuchâtel Canton Act of 1 February 1999 introducing the Federal Act on Aid to Investment in Mountain Regions (art. 6).

6.4.2. Social Development

Financial aid provided under Act 901.1 is also designed to improve the quality of life while guaranteeing or preserving the identity as well as the political and socio-cultural diversity of the region (art. 6). This provision, which was discussed above from an economic perspective, is also relevant in social terms. Furthermore, in order to make up for the precarious living conditions in mountain regions, two other pieces of social legislation contain corrective measures to deal with family and housing allowances.

(a) Family Allowances in the Agricultural Sector

The 1952 Federal Family Allowances in Agriculture Act introduced State social benefits for agricultural labourers and small farmers. The Cantonal Compensation Funds decide on the amounts to be allocated and distribute them (art. 13).

To be eligible for the benefits as an *agricultural labourer*, a person must be a paid worker employed by an agricultural enterprise. There are two types of allowances: a children's allowance for each child belonging to the family, and a household allowance for labourers living with their partner. Children's allowances are higher in the case of workers in mountain zones (arts. 1 and 9).

To qualify for an allowance as a *small farmer*, the person concerned must be a farmer, either the principal or in a secondary position, with an income below a given ceiling, or a mountain pastoralist (art. 5). The allowances are paid for each dependent child, and here again the benefit is higher when farms are situated in the mountains.

(b) Home Improvements in Mountain Regions

The 1970 Federal Home Improvement in Mountain Regions Act provides low-income individuals and families living in mountains with financial assistance for home refurbishment, construction or improvements in order to achieve healthy housing conditions (art. 1). The income ceiling for qualifying for this financial assistance is regularly revised (Maissen, 1999). The allowance is paid both by the Confederation and by the cantons and covers between 15 and 50 percent

of home improvement costs. Extremely poor people may receive a grant to cover up to 75 percent of these costs (Office fédéral du logement, 1999).

Under the Act, the building may not be put to another use for a period of 20 years. If a home which has benefited from this financial aid is used for a purpose other than its primary purpose, or is sold at a profit before the 20-year period has expired, the recipient of the aid is required to repay the monies received (art. 13).

6.5. Mountain Protection

Only a few provisions of the legislation reviewed deal with the environmental protection of mountains. For example, Act 844 provides that any work undertaken for home improvements in mountain regions must be done in accordance with the requirements of physical planning, protection of nature and landscape, and environmental conservation (art. 4). Similarly, one of the purposes pursued by Act 901.1, through the provision of loans for infrastructure programmes and projects, is to promote the sustainable development of mountain regions.

Apart from these specific provisions, measures that are more generally applicable to protecting the mountain environment are found in environmental and natural resource (forests, water, soil, etc.) legislation currently in force in the country. Under the 1999 Federal Constitution, sustainable conservation of natural resources must be one of the aims of Government policy (art. 2.4). This provision "formally anchors the principle of sustainable development" to Swiss legislation (Flückiger, 2001). At the cantonal level, one interesting example of a measure to support sustainable development is found in the Valais canton: in 1999, the canton created a *Foundation for the Sustainable Development of Mountain Regions*, mainly with the aim to "encourage all activities that foster the sustainable development of mountain regions" (article 3 of its Bylaws).

6.6. Conclusion

Several federal and cantonal legal instruments constitute the substance of the Swiss mountain legislation. All these instruments have a common objective: to guarantee appropriate mountain development. The particular features of mountain zones and the comparatively precarious living conditions there help to explain why economic and social benefits and incentives are provided under mountain legislation. Incentives to

foster the development of mountain regions are mainly financial: investment financing aid (mostly in the form of loans), direct grants for agriculture, attractive family allowances, home improvement support, etc. Conversely, despite the ecological wealth of the Swiss mountains, their environmental protection is only incidental in mountain legislation. Mountain environment protection measures are therefore less prominent in specific mountain laws than in the broader legislation dealing with the natural environment.

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- Ordinance 912.13, 7 December 1998, on direct payments to agriculture (*Ordonnance 912.13 du 7 décembre 1998 sur les paiements directs versés dans l'agriculture*).

(Texts available on www.admin.ch/ch/index.fr.html)

Cantonal legislation

Berne

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- Act of 16 June 1977 introducing the Federal Act on Mountain Region Investment Aid (*Loi du 16 juin 1977 portant introduction de la loi fédérale sur l'aide aux investissements dans les régions de montagne*).
(Texts available at www.be.ch)

Fribourg

- Order of 28 December 1954 on the participation of municipalities in funding family allowances for agricultural labourers and small farmers in mountain regions (*Arrêté du 28 décembre 1954 relatif à la participation des communes au financement des allocations familiales aux travailleurs agricoles et aux paysans de montagne*)
- Order of 8 September 1964 on the conditions and rates of subsidies provided for the individual acquisition of agricultural machinery in mountain regions (*Arrêté du 8 septembre 1964 concernant les conditions et le taux de subventionnement de l'acquisition individuelle de machines agricoles en région de montagne*)
- Act of 27 November 1998 applying the Federal Act on Investment Aid to Mountain Regions (*Loi du 27 novembre 1998 d'application de la loi fédérale sur l'aide aux investissements dans les régions de montagne*).
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Mountain law is still in its infancy. Most countries have not yet adopted mountain-specific laws, preferring to focus on the protection and development of mountains through existing sectoral legislation. However, a few countries such as France, Georgia, Italy, the Russian Federation (North Ossetia-Alania), Switzerland and Ukraine, have enacted legal instruments dealing specifically with mountains, and other countries are in the process of developing similar legislation. These converging efforts seem to signal an emerging trend towards a progressive increase in mountain law-making in the years to come. This publication looks at the development of mountain legislation. The first part broadly describes the main elements of mountain-specific legal texts, first in the international sphere, then at the domestic level. The second part contains six short case studies from countries where legislation on mountains has been passed or proposed.

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