

## ***Foreword***

Europe's biodiversity is in serious decline. At the species level, 42% of Europe's native mammals, 43% of birds and 45% of reptiles are threatened with extinction extinction. That's why we need Natura 2000, which – at least in principle - is a brave and encouraging policy to protect nature, to save Europe's most vulnerable habitats and species for the future. Today there are more than 25,000 NATURA 2000 sites across the EU. There are national parks and protected nature areas in other countries as well, but NATURA 2000 is the only systematic and scientifically planned nature protection policy on a continent level, throughout almost the whole Europe. (Candidate countries and neighboring policy partners are also encouraged to participate it.) NATURA 2000 is not only about the pure nature, its sites very often include towns, villages, farms and businesses and the aim is to protect „living landscapes”. The EU laws specifically provide for businesses and local authorities to work together to find ways to protect biologically unique sites in ways that are both good for the environment and for development, in the spirit of the sustainable development. Farming, fishing, forestry and hunting can all continue. Even major development projects can be carried out as long as they do not destroy the ecological value of the site. When the EU talks about protecting biodiversity, we do not mean the conservation of one or two species. As Environmental Commissioner Dimas pointed out, “our real concern is with ensuring that our natural ecosystems continue to provide us with food, timber, clean water, flood protection, nutrient re-cycling, medicines, recreation and the many other goods and services that we currently receive free.”

However in practice the sources for NATURA are limited, many times they are misused for simple agrarian subsidies. As a new MEP, in one of my first amendments – following the advice of the green NGOs - I proposed to guarantee a 21 billion euros fixed subsidy strictly for NATURA 2000 sites in the 2007-2013 budget, but it was voted down by a slight majority. In the next parliamentary period we should pass a similar rule, which guarantees that the EU funds for nature protection are strictly used for the original goal and shouldn't misuse for other purposes.

Wilderness is a special area of NATURA 2000. Around one percent of Europe's territory is still untouched by the human civilization. In the name of the European Parliament I was the rapporteur on Wilderness, and I proposed to guarantee a special and stricter protection for those areas inside NATURA 2000 policy. My report has been favored almost unanimously in the European Parliament, and hopefully in the next period there will be a legislative action to provide better protection for European Wilderness.

***Gyula Hegyi***  
*Member of the European Parliament*

## What is Natura 2000?

Natura 2000 is a European ecological network of protected areas designated by the EU Member States based on legally binding legislation: the Habitats and Birds Directives. According to Article 3 of the Habitats Directive (92/43/EEC), Natura 2000 is a coherent European ecological network of special areas of conservation (SAC) and special protection areas for birds (SPA).

The Habitats and Birds Directives are the most important legal instruments of the European Union for protecting biodiversity. The aim of the Habitats Directive is „to contribute towards ensuring bio-diversity through the conservation of natural habitats and of wild fauna and flora in the European territory of the Member States to which the Treaty applies” (Art 2.1).

The network consists of two types of protected areas: Special Protection Areas (SPA) and Special Areas of Conservation (SAC). SPAs are designated by the Member States according to the "Birds Directive" (79/409/EEC). The Directive obliges the Member States to "classify the most suitable territories" as SPAs in order "to

**Natura 2000 is a potential instrument to preserve natural values (Night heron - *Nycticorax nycticorax*)**

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ensure the survival and reproduction" of the bird species mentioned in Annex I. of the Directive. Similar measures have to be applied "for the regularly occurring migratory species not listed in Annex I.", and particular attention has to be paid "to the protection of wetlands and particularly to wetlands of international importance". The Commission's role is to ensure the coherence of the SPA network.

The designation of SACs compared with the designation of SPAs is a more complicated and longer process requiring cooperation between the Commission and the Member States.

Firstly, Member States draw up the list of proposed Sites of Community Interest (pSCIs) according to the criteria in Annex III stage I of the Habitats Directive. After this, the SCIs (Sites of Community Importance) are agreed between the Commission and the Member States. In this process, the biogeographic seminars play a crucial role. Finally, the Member States designate the adopted list of SCIs as SACs (Special Areas of Conservation).

The SCI selection should have been completed within six years after the notification (1992) of the Directive. After long delays all SCIs of the EU 15 have been adopted by the European Commission: Macaronesian region including Madeira, Azores and Canary Islands (2001), the Alpine region (2003), the Atlantic and Continental regions (2004) and Boreal regions (2005) the Mediterranean (2006) and the Pannonic region (2008). Regarding the Steppic and the Black Sea region, so far the initial list of sites has been adopted as of 2009.

### Further information:

- [www.ceeweb.org](http://www.ceeweb.org)
- [http://ec.europa.eu/environment/nature/index\\_en.htm](http://ec.europa.eu/environment/nature/index_en.htm)
- <http://europa.eu/scadplus/leg/en/lvb/l28076.htm>

### Source:

- CEEweb for Biodiversity: Natura 2000 Site Designation Process with special focus on the Biogeographic seminars (Second edition for Romania and Bulgaria, 2007)



## **NATURA 2000 problems in Bulgaria and Indicative cases**

### ***Natura 2000 problems with the protection of sites in Bulgaria***

After the accession of Bulgaria to the EU there are significant problems with the prevention policy concerning Natura 2000 sites. Numerous development projects affect Natura 2000 sites where assessments are either avoided or of low quality and conclusions for “lack of significant impact” prevail. As there are no sanctions on the part of the Bulgarian authorities, or in most of the cases their decisions are part of the problem, there are complaints already submitted to the EC with no progress whatsoever. It is time for actions now, otherwise the message to investors and authorities alike are that violations of EU nature conservation legislation has no consequences and problems continue to aggravate.

The main and most common violations of the European environmental legislation are related to the lack of protection of NATURA 2000, namely:

1. Articles 4 (1) and (2) of the Habitats Directive for not proposing a comprehensive list of scientifically accepted Natura 2000 sites, including 1 pSCI for habitats.
2. Article 6 (2)-(4) (appropriate assessment) of the Habitats Directive for not providing adequate protection of proposed Natura 2000 sites in conjunction with the Article 4 of the EIA Directive and Article 3 (2) of the SEA Directive.

Most common ways to avoid the real environmental impact assessments are:

- Municipalities authorize projects without any appropriate assessment (AA)/ Environmental Impact Assessment (EIA)/Strategic Impact Assessment (SEA) procedure (Western Rhodopes, Rila, Pirin, Strandzha, etc).
- Not assessing cumulative impacts – thousands of separate screening decisions for no need of full assessment in case of projects in one and the same locality. Consequently almost all sites in the Black sea region are severely fragmented and even completely destructed.
- Dividing projects into small pieces avoiding assessment of cumulative impact.
- Bad and incomplete EIA/SEA reports (Kaliakra Cape, Strandzha Nature Park, etc).

- Not taking into account position papers of NGOs and scientific experts. No communication whatsoever of competent authorities with the respondents of the Natura 2000 sites.
- Hiding permissions and rejecting access to them in order to prevent court appeals.

For many of the sites submitted to the EC a large number of projects initiated prior to accession have been authorised (tourist development, wind and hydropower plants). All permissions are given with the conclusion that they do not affect species and habitats. However, cumulative impacts already deteriorate habitats and species and thus make the ecological information in the Natura 2000 data base submitted by the government, assessed and adopted by the Commission **not correct**. Therefore sites proposed in such a way cannot meet the requirements for a coherent network of SPAs/SCIs.

Another specific problem is the imminent threat to the grey and white dune habitats (habitat codes 2130 and 2120) caused by changing their formal land use type from protected by law beach sands to ordinary forests or pastures, and preparing them for urbanisation (Kamchia Sands, Shabla).

3. Article 9 of the Aarhus convention because of deliberately limited access to public information on the most problematic environmental issues (Rila,

#### **Pirin National Park today**



Kamchia, Pirin, etc.) and limited access to administrative or judicial procedures to challenge illegal authorization acts (Strandzha, Western Rhodopes, etc.). In fact, the legal base in Bulgaria leads to denial for justice since appeal periods.

These problems are not restricted to a certain number of sites. Such damage occurs in at least 60 potential SPAs and pSCIs across Bulgaria. Pressure on approved SPAs/pSCIs from proposed investment projects continues to increase. In most of the cases the investment projects are related to building of summer villages, hotels, golf-courses, ski-runs, extraction of sand, gravel, stones, wind farm and micro-hydropower stations construction. Most endangered is the Black Sea Coast and the high mountains. **If no urgent measures are undertaken immediately, within 1-2 years period near 100% of the whole Black Sea coast will be urban build-up area, without natural hab**

#### **Indicative cases**

##### **1. Cape Kaliakra - pSCI "Complex Kaliakra" BG0000573.**

##### **Importance**

The sites contain the last remnants of the Great European steppe in Bulgaria with typical steppe habitats and the largest coastal cliffs in Bulgaria. The big portion of the national coverage of the Ponto-sarmatic steppes (2800 hectares in the site), a priority habitat is protected in the Kaliakra site. The only vital population of Iberian or Greek tortoise in the coastal Black Sea habitats in the northern section of the region (north of town of Varna) is protected here.

##### **Threats**

Two projects, related to construction of golf course and summer villages (investors: „Tracian Cliffs Golf & SPA resort“ Ltd.) started to be implemented before 1 January 2007 and irreversibly damaged 60 ha of the habitat type 62C0\* - Ponto-Sarmatic Steppe. Implementation of the project and construction works have destroyed in 2007 and 2008 more than 80% of the Iberian tortoise population. The latter species will soon become extinct in the site, if restoration of habitat is not undertaken.

Between 2003 and April 2008 460 investment projects were proposed in pSCI "Complex Kaliakra". Of these 364 investment projects were approved or proposed after 1 January 2007, most of them – without EIA. Projects affecting the largest area of the site are the 28 wind farm projects that together consist of 212 wind turbines. Other projects are mainly related to urbanization (houses, summer villages, resorts) and leisure activities – golf courses, speedways. Large scale destruction of important habitats has already taken place in Kaliakra. In total 278 ha of the Ponto-Sarmatic Steppe (with other 60 hectares destroyed by the golf course construction or 12 % of its area in pSCI has already been destroyed after 1 January 2007 due to implementation of projects initiated before the date of accession.

Because of the ongoing approval of projects it is expected that almost all of the steppe habitats will be completely destroyed and other key habitats irreversibly damaged. If the planned projects go ahead about 52% of the steppe habitats, 10% of the arable land and 2.7% of the forests will be permanently destroyed within the pSCI. The remaining habitats will be fragmented and deteriorated to a large extent.

This is a clear violation of the EU law, which leads to damage of EU natural heritage that cannot be compensated.

## 2. Kamchia Sands - Two sites protect the area: pSCI Kamchia BG0000116

### **Importance**

Kamchia pSCI holds the best preserved flooded forest (code 91F0) along the Black Sea coast, named 'longoz', which is a unique representative example of such habitat in the whole of Europe. The sites also include the largest sand dune complex (grey dunes, with wet dune slacks; forested dunes) along the Bulgarian Black Sea Coast, which is also priority habitat for conservation in the European Union. The site holds 1 of 3 remaining vital populations of Hermann's Tortoise in the coastal Black Sea habitats in the middle section of the region (between the towns of Varna and Burgas). The forest is designated as a reserve and the area between the forest and the sea as protected area "Kamchiiski pyasatsi" (Kamchia Sands) which lost its protection status by a decision of the Supreme Administrative Court under investors' pressure.

**The mouth of the River Kamchia, viewing from the reserve.**

© via Internet: [http://en.wikipedia.org/wiki/Kamchia\\_\(biosphere\\_reserve\)](http://en.wikipedia.org/wiki/Kamchia_(biosphere_reserve))



### **Threats**

In 2008 a vast project for construction of summer resort "Kamchia Park" in the flooded forest and the sand dunes was **authorized without environmental assessment and any public consultations which implies another violation of the EU Directives**. The forests and the dunes in the ex-protected area were acquired by the investors after a swap deal with the state which constituted a state aid of 200 million Euros. The result will be the imminent destruction of 100% of the dunes in the site (near 100% of the national area of wet dunes slacks, code 2190, near 50% of the national area of grey (2130) and forested (2190) dunes); 100% of the coastal tortoise population in the site.

This is not only a case requiring immediate reaction – it is a case of crime without punishment. None of the NGO signals to the prosecutors had reliable response.

## 3. Strandzha Nature Park - Strandzha pSCI

### **Importance**

Strandzha Nature Park is the biggest protected area in Bulgaria. It is one of the five European representative areas recognized within the 'Environment for Europe' initiative as containing unique oak forests.

### **Threats**

In 2007, the civil movements restored the protection status of the park after it had been cancelled by the Supreme Administrative Court under pressure of illegal constructors within the park's territory.

In 2008, the Government authorized a Master Spatial Plan designating for urbanization 85% of the Strandzha SPA/pSCI's coastal habitats and despite the negative statements of the scientific experts making the assessment report: "According to the impact assessment 25 % of the populations of priority species will be damaged." (citataion from the Master Spatial Plan appropriate assessment report,, 98 p.)

Apart from violation of the Habitats Directive there was also a violation of the Aarhus Convention – the authorities did not announce publicly the acts which can be appealed in court, thus depriving the general public of access to justice on environmental issues.

## 4. Sunny Beach, Irakli Beach and Cape Emine – Two sites protect the area: pSCI Emine-Irakli BG0001004 and Aheloj – Radva – Nesebur BG0000574

### **Importance**

The site BG0001004 protect narrow sand beach (white dunes 2120), rocky shore (Mediterranean cliffs 1240), oak forests (91MO, 91AA), small estuary (1130) and flood forest along Vaya River (91F0). The coastal part and habitats in the site BG0000574 was almost completely demolished by construction of hotels directly on the beach after 2005.

### **Threats**

Just between 2005 and 2008 vast mass-tourism development took place in the southern part of the Emine Mountain around the existing resort “Sunny Beach” (pSCI Aheloi – Radva – Nesebur BG0000574. As a result all the coastal area was completely urbanized by hotels and the sand dunes and coastal forests and grasslands – completely destroyed. The tourist capacity of the beach there is maximum 40 000 people and related beds (8 m<sup>2</sup> per person on the beach), however the constructed number of beds is 450 000. New projects are continuing to be implemented.

During the pre-accession period 17 projects were permitted in the area of Irakli beach and adjacent estuary and river (15 after screening, 2 after full EIA) with the statement that they do not affect species and habitats. However if implemented they will destroy 50% of the dunes in the site (2120) and 100% of the flooded forest (91F0), estuary (1130) and related to them protected species – otter, European turtle. All of them already are adopted for protection in the site.

After May 2007 two projects were implemented without being subject of any EIA or other environmental assessments. Down stream of river Vaya was totally cleared, river bed changed to channel and a dike constructed. Without permission and EIA assessment in autumn of 2007 a construction of a holiday village started at the same place. As a result of both projects estuary in the site and 50% of the flooded forest were destroyed. The illegal construction was temporary stopped by the Regional Inspectorate of Environment and Waters in Burgas – till EIA is prepared and project legalized. Bulgarian Minister of Environment rejected NGO appeals to start restoration of destroyed habitats.

### **5. Western Rhodope Mountain - Western Rhodopes pSCI**

#### **Importance**

Western Rhodope pSCI is the largest site in Bulgaria which protects more than 20 natural habitats and the populations of priority species such as bear, wolf, Balkan chamois.

#### **Threats**

Despite the importance of the site , in 2007 the Municipality of Smolyan authorized the enlargement of the Perelik ski resort on an area of 10 000 ha in the Natura 2000 sites without any SEA/AA indicating the total disregard for the Birds, Habitats and SEA Directives.

### **6. Rila National Park**

#### **Importance**

Rila National Park (category II of IUCN, PAN park member) is also protected as Rila pSCI. In violation of the Birds and Habitats Directive its buffer zone was excluded by the Bulgarian government from the Natura 2000 network despite the

scientifically founded significance of the buffer zone for the protection of priority species. Rila Buffer pSCI hosts a significant percentage of the population of European wolf (*Canis lupus*), Brown bear (*Ursus arctos*), Bullhead (*Cottus gobio*), Stone Crayfish (*Austropotamobius torrentium*), all of them priority species and many other Natura 2000 species. Rila –Buffer is crucially important for the Brown bear. Rila pSCI and Rila Buffer pSCI both host about 30% of the population in the Rila region. The officially adopted site (Rila pSCI) hosts mostly the winter den areas. Excluded are most of the forest areas with the spring and summer dens and feedings areas for the species. The connectivity of habitats of the bear with neighboring regions is also cut off with this exclusion.

#### **Threats**

The complete rejection of “Rila-buffer” pSCI for economical reasons **deprives** them of protection according to the national and EU laws and leads to breaking both obligations: to have a list of sites relevant to requirements of both nature Directives and to guarantee protection of both sites according to Article 6 of the Habitats Directive. Destruction of these areas has already started as there are projects for development of 8 big ski resorts affecting non-approved as well as approved Natura 2000 sites.

The implementation of all projects started after 1.1.2007 without EIA and Appropriate Assessments, without review of permits under Art. 6(2) of the Habitats Directive and in violation of Art 4(4) Birds Directive in the not-approved part of “Rila” IBA.

#### **Bullhead (*Cottus gobio*)**

© Sallai Zoltán (Nimfea)



## 7. Pirin National Park

### **Importance**

Pirin National park (category II of IUCN, UNESCO Natural Heritage site) is also protected as Pirin pSCI. Pirin hosts the most significant for the country habitats of old growth endemic Macedonian pine forest 95A0, as well as habitats of European wolf, Brown bear and chamois.

### **Threats**

Destruction of habitats due to ski-resort and tourism development takes place both in the approved SPA/pSCI and in the excluded areas. Bansko ski-resort has expanded its territory beyond the scope of the given permissions, which led to big scale forest cutting, strong erosion processes and vast urbanisation on the borders of the National Park. Various ski facilities and infrastructure elements are authorized and built without any EIA/AA. Two other big-scale ski resorts are planned completely within the National Park (approved SPA and pSCI).

### **Pirin National Park is a World Heritage site.**

© via Internet: [http://en.wikipedia.org/wiki/Pirin\\_National\\_Park](http://en.wikipedia.org/wiki/Pirin_National_Park)



## *The last great forests of Europe, in three large Natura 2000 sites from Romania damaged by construction of useless road*

The Carpathian region are hosting natural landscapes outstanding in Europe for their low degree of fragmentation and form the most important distribution range for large mammals in Europe. Nevertheless, mainly the new EU member-states in this region are currently facing a socio-economic transition, combined with an increase of the transport infrastructure development. Despite the European Union conservation regulation which is mandatory for all member states and which form an important basis for accession countries, there is a great danger of underrating landscape conservation requirements in favor of infrastructure development.

In Romania, there are many cases when private individuals, businesses or even state authorities are realizing infrastructure development projects without respecting the legal obligations regarding nature conservation. Probably the most outstanding example of infrastructure development which started to be realized without taking into account the natural values, without mitigation measures and even without mandatory authorizations is the road which links “Băile Herculane” – an area famous for the beauty of its surroundings and for its baths - to the Jiu Valley – an area famous as the ex - “coal mining” center of country.

### **What is the problem with such a road?**

The Natura 2000 sites in the south-western part of the Romanian Carpathians (Domogled – Valea Cernei, Platoul Mehedinți, Nordul Gorjului de Vest, Munții Tarcu, Munții Retezat) are forming a large continuous protected area complex - see attached map. Part of this area was classified as the last “Large Intact Forest Landscape” from Romania (and from the EU, except the boreal area of Finland) by Greenpeace and later confirmed in a study ordered by the Ministry of Environment and realized by the Romanian Forest Research Institute. **The road which is under construction at this moment is crossing in the middle of this “wilderness” hardly touched by humans yet, declared as Natura 2000 sites, “importing” human disturbance and creating the possibility of developing unwanted tourism infrastructure.**

During the first phase of the construction, when the road from the Jiu Valley to the Retezat National Park was made, **political pressures** on the nature conservation bodies (National Park Authorities, NGOs) were made in order to support the - at that time -totally illegal construction.

In November 2006 – Greenpeace reveals that an **illegal road construction** is going on. The road construction has no authorizations despite the fact that it is projected through Retezat National Park and is practically cutting in two the Domogled – Cerna Valley National Park. In this period the Natura 2000 sites were already proposed, but not officially declared. The road will affect three large Natura 2000 areas: Retezat, Domogled – Valea Cernei and Nordul Gorjului de Vest.

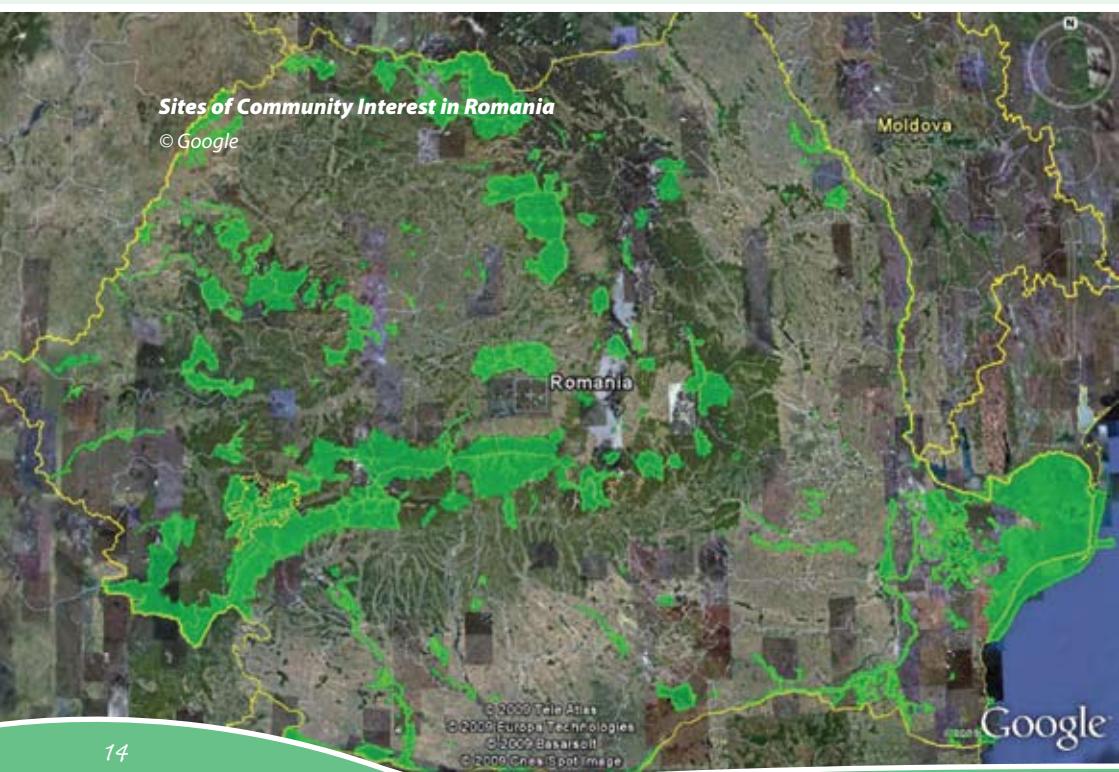
In July 2007 after many protests from 16 NGOs (lead by Greenpeace and WWF) and from the Retezat National Park, the Environmental Guards from Hunedoara county stopped the construction of the road because of lack of authorizations (no Environmental Permit, “acord de mediu”, no permission from the Scientific Commission of the Retezat National Park, no development plan for the area).

In August 2007 the Scientific Committee of the Retezat National Park agrees with the construction of the road, but only with serious conditions – development plan for the area (to avoid chaotic constructions), many passage for the animals, etc.

Conditions from the Retezat National park were accepted and seems like they are put into practice in the area neighboring the park.

### **What are the consequences, lessons learned and what will happen next?**

1. Despite the fact that the road is not bringing many advantages for the local population, is **damaging one of Europe's last large undisturbed natural areas and affecting three Natura 2000 sites** - still it is made. Even if with some compensatory measures for nature where included, the major damage – bringing traffic and human disturbance to this untouched area – was done.
2. Authorities were trying to push this project **illegally** - the president of Romania is personally very interested of the road and intervened many times for the road, even when it was completely illegal (people in Romania know about this road only as the Road of Basescu). The main reason why the mitigation measures were accepted and the road was not built totally illegally was the strong opposition of the Retezat National Park. As the Natura 2000 sites in Romania don't have Management Plans and Managing Bodies, the rest of the road which will go through the **N2000 sites: “Domogled – Valea Cernei”** (it has the same surface like the National Park with the same name) and **“Nordul Gorjului de Vest”** probably **will affect** these ones much more seriously, as there will be no strong opposition from the conservation side.



**Brown bear in the Carpathians (*Ursus arctos*)**

© Sallai R. Benedek (Nimfea)



3. The road is projected on the edge of the Retezat National Park and N2000 site, but it will have a much more serious effect on the Domogled – Valea Cernei National Park and N2000 site as it will go through the middle of the site, affecting a part of the site which was not very much disturbed before.
4. With all the mitigation measures, the road will bring a lot of disturbance in an area which was not disturbed before, will act as a barrier for many animals, creates the possibility for invasive species to spread into the area, will make possible the development of undesirable tourist infrastructure, will facilitate illegal tree-logging in N2000 sites and might have other, not yet known effects, too.

Even if the work started long time ago, and part of the road is finished, there is still not too late to stop this useless and very nature-damaging construction.

***Information about this topic can be found in the international media:***

- The Guardian, "The last great forest" by Stephen Moss, 04.01.2007
- <http://www.guardian.co.uk/environment/2007/jan/04/g2.conservationandendangered-species>
- The Independent, "Europe's finest forest put at risk by road 'disaster'" by Elizabeth Davies, 27.11.2006
- <http://www.independent.co.uk/news/world/europe/europe-s-finest-forest-put-at-risk-by-road-disaster-425997.html>
- Information about the intact forest landscape: [www.intactforests.org](http://www.intactforests.org)

***The ecological system of the Carpathians is the habitat for several unique values***

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## Cases in Hungary

### Boar game park in Derekegyháza

Dalerd Closed Limited Company (state-owned forestry company) planned a game park for boars, together with other development projects on a Natura 2000 site near Derekegyháza. Nimfea Environment and Nature Conservation Association came through this case while monitoring the management of Natura 2000 sites. The Association decided to obtain a legal standing as an NGO.

The area concerned is a part of a Natura 2000 site with the code HUKM20002 (Alsó-Tisza-völgy SPA and Vásárhelyi Kék-tó pSCI).

In its „information” letter the Bureau of the Agricultural and Forestry Ministry did not recognize the legal standing of the Association. Nimfea took the necessary steps so the legal decision recognizing the standing of the Association was made. Dalerd Co. appealed. Legal standing of Nimfea was suspended for the period of judging the appeal, and before making the decision on the appeal, Dalerd received the permission for the project.

**Wild boars mean a threat mainly to the vegetation –  
Pyramidal Star of Bethlehem (*Ornithogalum pyramidale*)**

© Sallai R. Benedek (Nimfea)



Nimfea turned to the County Prosecutor as second instance because of breaking the law, as the permission process should have been suspended until the decision on the Association's legal standing is made. The public prosecutor issued an objection; the Agricultural Administration Office as second instance also acknowledged the infringement of rights, so Nimfea became able to go for legal remedy - and that's what the Association did.

In its appeal the Association states that the area concerned is a Natura 2000 site, a habitat for protected species, and an impact assessment should have been made before issuing the permission (by the competent authority, Alsó-Tisza-vidéki KÖTE-VIFE), the “precautionary principle” should have been applied and so on.

As a result of the appeal (but not regarding its content) the permission was withdrawn by the second instance authority and the permission request of Dalerd Co. was refused. Dalerd submitted a court claim against the decision. As Nimfea got knowledge about the Court process, it intervened as a friend-of-the-defendant, requesting that nature conservation and other profession aspects be considered.

In the meanwhile, Dalerd was not waiting for the permission process, and fenced the forest. Nimfea reported this fact, but the information was ignored by the Forestry Directorate of the Agricultural Administration Bureau. The Association had to take a firm position again, and as a result, an ex officio procedure was launched regarding the unauthorised construction of the fence – Nimfea was excluded from the process by the Agricultural Administration Bureau claiming that the Association has no legal standing; the rights to review documents were also denied. Nimfea Association made an appeal, but the Center of the Agricultural Administration Bureau as second instance approved the decision of the first instance. Nimfea went to Court, referring to several pieces of legislation (Act on administrative procedures, Supreme Court decision for the unity of the law in public administration, Act on the Protection of the Environment, Aarhus Convention), but Court dismissed the claim saying that this is not an administration procedure, but an infraction of regulation.

In the meantime a judgment condemning Dalerd Co. for unauthorized water right infringement was delivered, because of building a lake on the site without any permission. Nimfea submitted a claim making reference to the Act on the Use and Ownership of Land, because the use of cultivable land had been changed without permission, but Court denied the procedure.

In the procedure regarding the permission, the Court obliged the second instance to start a new procedure. Thus the procedure was divided into sections, and first a decision was delivered declaring that the Association has no legal standing - ignoring the objection by the public prosecutor.

The Association went to Court, but the Court – in a “strange” non-trial procedure – stated that the Association has no legal standing. The Supreme Court decision for the unity of the law is clearly misinterpreted by the Court by saying that a nature conservation authority procedure is not an environmental authority procedure. Nevertheless the real twist in the case is denying right to legal remedy by delivering the decision in a non-trial procedure.

From this point on – due to the lack of legal remedy – the Association had no further knowledge on the proceedings, but according to hearsay, the establishment of the boar park on a Natura 2000 site has been authorized.

#### *Proceedings in progress:*

The legal representative of the Association selected the lawsuit as a case study for an international survey on public interest data due to the apparent infringements regarding the procedure on the NGO's legal standing; also turned to the Supreme Court requesting a decision for the unity in law in public administration, and also considers appealing to the European Court for Human Rights in Strasbourg because of the lack of legal remedy.

Nimfea Environmental and Nature Conservation Association will seek the support of the European Commission for preserving the habitat.

#### ***Battery disassembly factory on the Bihar plain***

An “environment protection” company has been trying to establish a battery disassembly factory, and it was looking for the right location for a long time. Then they found a settlement in a hidden corner of the Great Hungarian Plain, where the local government warmly welcomed the investment, glad for the employment opportunities.

The selected location was an SPA site of the Natura 2000 network, designated for Community protection as the wintering habitat of the Great Bustard (*Otis tarda*). The first wave of protests by local green NGOs was quickly compensated by providing them some remuneration for their work, so finally they became supporters of the planned project. The former high-level officer of the National Park (who was in charge at the time of designating the area as Natura 2000 site) also takes a position in favour of the investment as an „independent expert”, so the neighbouring municipality is the only one concerned by the harmful environmental impacts, and they stand alone as the opponent of the project. In this case it is easy to say that only “jealousy” and “envy” makes this local government protest against the factory.

In the first procedure initiated by the neighbouring municipality, the second instance authority obligated the first instance to complete the procedure again, making a more detailed analysis regarding the impacts of the factory on the Great Bustard. The second procedure stated that Great Bustards could be regularly seen in the close surroundings (500-600 m) of the planned facility during wintertime, and the closest breeding area of this bird, which is absolutely intolerant of any disturbance, is only 3,5 km away. Nevertheless the second procedure again gave green light to the investment.

EMLA (Environmental Management and Law Association), the strategic partner of Nimfea Environment and Nature Conservation Association in environmental law, enters the scene as the legal representative of the neighbouring municipality and involves Nimfea as consultant.

The fact that Great Bustards use the site as their wintering area is confirmed. The Association clearly declares that the expected noise and light pollution, together with the likely increase of transportation and traffic, is a significant disturbing factor endangering the habitat of the designating species, the Great Bustard. This statement is based on 20 years of monitoring Great Bustard populations living around the Central Office of Nimfea Association (Törkeve, Dévaványa, Ecsegi-sík under the territorial competence of Körös-Maros National Park).

The decision delivered in the administrative procedure is negative for the neighbouring municipality: the investment project obtains the necessary permissions, as the decision is based on the „expert opinions” put forward by the investors, and these opinions assume no significant impact for the Great Bustard.

The case illustrates well the anomalies around Natura 2000 sites, showing that a) either sites had been designated without proper justification, so activities with environmentally harmful (or unknown) impacts can be carried out at such sites without any problem, or b) being a Natura 2000 site does not protect the habitat and the species, because Natura 2000 does not mean a “serious” protection, or c) the “precautionary principle”, one of the basic principles of the EU environmental policy is not implemented in practice.

The enforcement of legislation relevant to the implementation of the Natura 2000 network is quite questionable in this case. What makes the situation even more embarrassing is that the NGO acting as one of the most important expert organization during the Natura 2000 designation process, finally decides to stop protesting against the project and supports the establishment of the battery disassembly factory.

#### ***In the case of Bihari-sík the discussion was about the impact on the Great Bustard (*Otis tarda*)***

© Szóke Péter (Nimfea)



Surprisingly all competent authorities support the planned investment, only the decision of the Supreme Court brings a happy ending to a sad story. The Supreme Court annuls the permission and states in the justification: in Natura 2000 sites the primary aim is to ensure the preservation of the designating species.

The final outcome of the case was favourable for the Great Bustard, but it could not have happened this way, if the decision of the authorities based on the “independent expert opinions” had been accepted. The interests of nature conservation could be advocated only by several legal steps and remedy actions.

### **Case of game park in Körösladány**

The sad “flagship” case of Nimfea Environmental and Nature Conservation Association, proving through many procedures the low efficiency of advocating for nature conservation in Hungary. This case diverges into several lengthy administrative and court procedures, with an interesting lesson to learn.

Forestry of the Southern Plain Closed Limited Company (Dalerd Co.) in 2005 comes up with the idea of establishing a 500 hectare boar game park in Körösladány, in a forest rich in natural values. The forest is in favourable ecological status, provides habitat to several protected plant species, and to the moth *Gortyna borelii* (Fisher's Estuarine Moth) of Community importance.

The “problem” is that a part of the selected area is protected, and in such cases the nature conservation authority (at this time it was Körös-Maros National Park) should be involved according to the Act on Hunting. Dalerd Co. requests preliminary information from the National Park regarding the area. The National Park in its answer adequately describes the protected natural values affected.

Dalerd Co. does not choose the route that should be followed in a well-meaning procedure, but instead, in order to prevent any potentially arising “difficulties”, looks for another solution. Based on an independent expert's opinion, contacts the local government of Körösladány to request that the locally protected status of the area shall be abolished. The expert opinion in question is not suitable for this given purpose, as it only gives answer to a general question about a selected species, not all of the concerned protected species. If the protected status is abolished, then there is no legal obligation to involve the nature conservation authority, so natural values do not need to be taken into consideration.

The local government of Körösladány has no idea about the background, only expects some new employment opportunities from the game park, so the municipality is ready to comply with the request of Dalerd Co and abolishes the protection status. Unfortunately the local government ignores the fact that the Constitutional Court consistently argues for maintaining existing protection levels, therefore almost only theoretical reasons allow the decrease or abolishment of protection status.

Dalerd Co. starts the permission process and at the end of 2005 the establishment of the game park gets green light. The designation of Natura 2000 sites is in progress

at that time. The geographically competent conservation guard puts forward the area because of the presence of the moth *Gortyna borelii* (Fisher's Estuarine Moth), but the designation process somehow stops (information based on personal communication). Unfortunately the documentation filed at the National Park does not reveal the causes, why this site disappears from the list of proposed sites. The first important failure of national nature conservation can be seen here. Especially regarding the fact that the European Union later found that the habitats of this moth are not sufficiently represented among the Hungarian Natura 2000 sites, and demanded further sites in this matter, but due to unknown reasons, this very important and recognized habitat of the species is still not designated. This fact gives place to some concerns. Nevertheless the area is still the habitat of a species listed in Annex 1 and under national protection, even though it is not a designated Natura 2000 site.

Nimfea Environmental and Nature Conservation Association regularly monitors the area, this way it gets knowledge about the planned game park. The Association requests official information on the case, so the National Park explains the preliminary steps leading up to the current condition.

This is the second failure: the National Park at this stage gets knowledge about the decreased protection level, in which case it should have started an ex officio procedure – the National Park informs the local government about the infringement, but does not take any actions to change this unlawful and unconstitutional situation.

The Association finds that the planned project potentially threatens natural values, so tries to get involved in the procedure with a legal standing, and starts its lengthy and complicated endeavour to protect the area. The Association asks Dalerd

***In this case the Fisher's Estuarine moth (*Gortyna borelii*) plays the leading role from the background***

© dr. Baranyi Tamás



Co. not to establish the game park, asks the notary of Körösladány not to permit the construction of the fence, asks the competent nature conservation authority (Körös-vidéki Directorate for Environment, Nature Conservation and Water) to prevent the destruction of natural values, asks the competent department of Agricultural Ministry to withdraw the issued permit and files a claim to the Public Prosecutor.

All of the addressed authorities and agencies declare that the case is either not their territorial or not their jurisdictional competence, or if none of these, then they cannot do anything, because Dalerd Co. acquired their right "in good faith", the permission is already in effect, the Association has no legal standing in the case – and so forth and so on.

The Association does not give up, and turns to the Supervisory Committee of Dalerd Co. Finally the Association starts a court trial in order to "forbid" Dalerd Co. to further damage natural values.

In the meanwhile the fence is finished, the habitat of hundreds of protected plants is ploughed - natural values are damaged in a well-documented way. Nimfea documents mass destruction of natural values, so reports the case to the police, asks for authority actions and for the objection of the public prosecutor. (An interesting remark with regards to legal safety: first the National Park Directorate was the competent nature conservation authority, then after restructuring administrative competences the Körös-völgyi Directorate of Environment, Nature Conservation and Water takes over the case, then this institution soon finishes its operation, so the area is attached to the territorial competence of Alsó-Tisza-vidéki Directorate of Environment, Nature Conservation and Water, then after another reorganisation, the case continues at the Tiszántúli Directorate of Environment, Nature Conservation and Water.)

The law-suit initiated by Nimfea proceeds slowly – the year 2006 brings no substantial result. Authorities are getting nowhere, an independent expert is appointed to examine the construction of the fence, then two procedures are withdrawn for procedural reasons – time is running out.

Police refuses to investigate claiming there is no crime, but the Association complains at the public prosecutor, who orders to start the investigation. So the investigation starts, with repeated prolongation of its duration.

Prosecutors hand the files to one another (from the public prosecutor of Szeghalom to the County, then to the Chief Public Prosecutor). The Chief Prosecutor collects the documentation, makes further inquiries, then after almost a year states that the permission decision was unlawful. This is the first legal action confirming the Association's opinion that something is not going well around this game park.

As a result, in the restructured system the newly established Center of Agricultural Administration Office brings a resolution about the unlawfully issued permission. Dalerd Co. makes an appeal. The initiative to launch a new procedure is suspended until the Court case is finished. Nimfea gets involved in the case as the friend-of-the-defendant, that is the "friend of natural values". After some months, Metropolitan Court states that the petition of Dalerd Co. is unsubstantiated, so con-

firms the resolution of Agricultural Administration Office about the unlawful permission process. Unfortunately the authority, based on doubtful arguments, delays and finally officially suspends the new procedure, which would be necessary after the Court decision. The Association goes to Court because of this suspension – the procedure is still in progress (2008).

Finally a nature conservation fine is levied (30 million HUF, more than 10 000 EUR) for "endangering natural values", followed by an obligation to carry out an environmental supervision. Dalerd Co. makes an appeal regarding both the fine and the obligation. National Directorate on Environment, Nature Conservation and Water as second instance confirms the first instance decision on the environmental supervision, and refuses the appeal. Regarding the amount of the nature conservation fine, obliges the first instance to make a new procedure to more precisely define the facts and the scale of the fine. Dalerd Co. submits a claim to the administrative court regarding both of these authority decisions, Nimfea is a friend-of-the-defendant in the procedure. Court of Békés County decides that both claims of Dalerd Co. are unsubstantiated, so refused.

In the meanwhile the procedure on the civil court initiated by the Association makes very slow progress. Tiny administrative steps are taken in 2007, then a new judge is appointed.

While these procedures are going on, the boars are already living in the game park, the valuable grassland with the protected species is ploughed, groundwater drainage is established – no measure is taken to guarantee the preservation of Natura 2000 species on the site.

***The built fence unfortunately is only the first stage of damaging natural values***

© Sallai R. Benedek



The well-sounding principles of “precaution” and “prevention” are not applied by either the authorities, or the Court. The site affected is a habitat for a wildlife community protected on the national and Community level.

The Association would like to make those officers accountable, who could have prevented the destruction of natural values, but the supervisory authority delivers no effective result. In the beginning damages could have been prevented, at least those damages occurring during the construction of the fence. Nevertheless the procedures examining the responsibility of the officers did not reveal any mistakes or failures.

The Association addresses the Administrative Office with regards to the abolishment of the locally protected status, based on the decisions of the Constitutional Court, requesting the restoration of the original status. In the meanwhile negotiations are going on between Nimfea Association and Dalerd Co. on the mitigation of further damages.

The Public Administration Office confirms that abolishing the locally protected status was unconstitutional, and demands the restoration of the original status, which is done by the local government after some hesitation. From this point the investment is carried out on a protected area.

Negotiations with Dalerd Co. fail. The Association issues a press release at a certain point of the process.

For this publication (mentioning other questionable issues related to the company) Dalerd Co. files a lawsuit against Nimfea, its executive manager and one of its program coordinators for infringement of publicity rights, and also starts a civil suit against the executive manager for defamation. A bit later “anonymous” letters are delivered to the Public Prosecutor supervising non-governmental organizations, the tax authority, the supporters and donors of the Association – as a result, several supervisions and inspections start, with the non-surprising result that most of the ill-meaning statements of these letters do not have any ground.

Inspections are still going on.

#### *Proceedings in progress:*

Negotiations between Nimfea and Dalerd Co. has been terminated due to mutually unacceptable conditions. Investigation regarding Mr. Sándor Vass, the CEO of Dalerd Co. for the „reasonable suspicion of damaging natural values” was terminated. The Association used legal remedy against this decision – the procedure is still in progress. The repeated procedure regarding the nature conservation fine is still going on, and the environmental supervision is being done.

The Court procedure about the repeated permission process is still in progress, as well as the civil court trial initiated by Nimfea Environmental and Nature Conservation Association. In this latter case the jury appointed an independent expert, but his remuneration is so high, that the Association cannot afford to pay it, so it is not sure that the procedure can be continued.

#### ***The case of the gravel reef on the river Mura***

Nimfea Environmental and Nature Conservation Association received the information that there are plans to exploit the gravel reefs of the river Mura at a section where this activity would endanger several species protected on the national and the EU level. The area selected for the project is a Natura 2000 site, which received national protection under the name of Mura river Landscape Protection Area in the same year.

According to the researches completed by the Association, the following fish species occur in the river: Danubian gudgeon (*Gobio uranoscopus*), Kessler’s gudgeon (*Gobio kessleri*), Streber (*Zingel streber*), Golden spined loach (*Sabanejewia aurata*), Zingel (*Zingel zingel*) – these are nationally protected and species of Community importance. The reef is also a habitat for the Little Ringed Plover (*Charadrius dubius*). Gravel reefs are important breeding areas for fishes, and as such they play an essential role in the life-cycle of Natura 2000 fish species.

Based on the above scientific facts, the Association submitted a legally grounded request not to issue the permission for exploitation. Another NGO, Dráva Alliance came to the same conclusion. Both organizations made use of their legal standing in the case.

Despite expert opinions and statements, the authority gave the permission for exploiting the gravel. Both NGOs made an appeal to change this decision.

In the appeal the Association argued that the reefs would partly or entirely disappear, regardless of the fact that the planned exploitation would be authorized out of the breeding season of the fish. The surveys conducted by the Association in 2007 confirmed that the gravel reefs are living, resting and breeding areas for the above listed fish species under national and EU-level protection.

#### ***The intervention is endangering the habitat of among others the Zingel (*Zingel zingel*)***

© Sallai Zoltán (Nimfea)



The surveys found that out of the 14 species occurring during breeding season, 8 species (57%) are under protection on the national or the Community level. All of the listed protected species were represented by young specimens, evidencing that the site is also a breeding area. Considering the number of specimens, out of 149 caught fish 130 (that is 87%!) belonged to species under national or EU-level protection. These facts clearly highlight that the gravel reef is a habitat for a high number of protected species. Exploiting, destroying the reef would without any doubt make irreversible damage in the valuable fish fauna of the river Mura. As opposed to the findings of the Association, the authority referred to a preliminary impact assessment, in which a researcher of a renamed university had not found any fish at all on the reef.

In the second instance procedure the authority found the concerns of the two NGOs substantiated, so obliged the first instance to carry out the permission procedure again.

In the repeated procedure the authority examined the impacts of gravel exploitation again, and concluded that such activities do not endanger natural values. Both NGOs made an appeal again, then the second instance – after “thorough reconsideration” – obliged again the first instance to start a new procedure.

The arguments of the first instance authority presented in the permission decision were so apparently ungrounded, that the NGOs requested the state secretary for nature conservation to revise the impartiality of the authority procedure.

#### *Proceedings in progress:*

The permission procedures are in different stages for different sections of the river (independent procedure is carried out for each kilometer). So far a permission was issued by the first instance, and then a new procedure was ordered by the second instance, so none of the cases are terminated yet.

## Contributors

### **Milvus Group, Romania**

#### *Mission*

The Association for Bird and Nature Protection “Milvus Group” is a non-profit, non-governmental organization, acting in the fields of education, research and advisory, in order to make Romania a better place for birds, wildlife and people. A few very enthusiastic young bird-watchers founded the Milvus in autumn 1991. Soon after this, we joined the Romanian Ornithological Society, becoming its branch in Tîrgu Mureș. Since the end of 2001 the Association for Bird and Nature Protection “Milvus Group” became an independent registered NGO.

#### *Office*

Currently the head office of the Association for Bird and Nature Protection “Milvus Group” is in Crinului Street 22 - Tîrgu Mureș. The local Town Hall allocated us this building but it needed complete reconstruction. Due to the generosity of local sponsors and volunteer work we have a totally new office, open to all people interested in birds and our work.

<http://milvus.ro>

### **“For the Nature” Coalition, Bulgaria**

#### *Campaign for preservation of the protected areas and territories in Bulgaria*

During the past two years, hundreds of citizens and media have supported the campaign “For the Nature” organized by the coalition of environmental organizations with the same name.

Coalition ‘For the Nature in Bulgaria’ is founded by the Bulgarian Association of Alternative Tourism, the Bulgarian Association for Protection of Birds, the Bulgarian Association of Phytocenology – 2001, the Bulgarian Foundation “Biodiversity”, the Information and Education Center of Ecology, the National Movement “Ecopublicity”, Association “Agrolink”, the Association for Wild Nature – BAL-KANS, the Association “For the Earth”, the Association “Borrowed Nature”, the non-profit organization “Green Balkans”, the Association “Nature Fund”, the Ecology and Sustainable Development Club UNECO of the Student Council of the Sofia University “St. Kl. Ohridski”, the Sofia Citizens’ Association “Shtastlivetza”, the

Citizens' Group "Let's Save Irakli", the Association "Eco Rila" – Samokov and WWF Danub-Karpatian Program Bulgaria. Approximately 30 organisations support the Coalition at the moment.

<http://en.forthenature.org/campaign/7/Initiators>

### **Green Balkans, Bulgaria**

Green Balkans is a leading organization in the field of conservation of rare species and habitats in Bulgaria.

The Organization was established in 1988 being Bulgaria's oldest nature conservation NGO. For its almost 20 years' existence, Green Balkans has won recognition from international and national institutions, authorities, and donors as a welcome partner and a highly reputable and competent organization.

Thanks to Green Balkans' hundreds of volunteers and experts, as well as the international and national support, the Society achieved significant results in the preservation of Bulgaria's unique natural heritage.

More than 110 projects have been implemented, as their investment in nature conservation exceeds \$ 3,5 million.

For its almost 20 years' history, Green Balkans has proven to be a genuine and impartial defender of Bulgaria's nature, regardless of the political parties in power and the policy they proclaim, and despite the risks of collisions with the political forces or the managing institutions.

[www.greenbalkans.org](http://www.greenbalkans.org)

### **Nimfea Environmental and Nature Conservation Association, Hungary**

Nimfea Nature Conservation Association was established in 1993, from an initiative of college students. In 1995 the central office was established in Túrkeve. Now the Central Office of Nimfea and its member organizations gives work to more than 10 full-time employees.

First, the main activities of the organization were nature conservation and environmental education, then the scope of activities gradually expanded., like the democracy development framework program, which was created with the aim of strengthening local civil society. Currently our programs are grouped under six framework programs:

- 1.) Biodiversity conservation (habitat and species protection, habitat reconstruction, ecological and biological researches).
- 2.) Environment protection (waste prevention and treatment, renewable energy resources etc.).
- 3.) Rural development (promotion of wise and sustainable use of natural resources, practical implementation of sustainability principles mainly through the Landscape Rehabilitation and Regional Development Program of Túrkeve).

- 4.) Democracy development (strengthening civil society, participation in local government, advocacy, influencing policy-making).
- 5.) Awareness raising (all environmental education activities: camps, forest schools, publications, on-line magazine, etc).

And at last but not at least:

- 6.) Preservation of cultural heritage (conservation of built heritage, traditional knowledge and local traditions).

[www.nimfea.hu](http://www.nimfea.hu)

### **CEEweb for Biodiversity**

#### ***The mission of CEEweb***

The mission of CEEweb for Biodiversity is the conservation of biodiversity in Central and Eastern Europe through the promotion of sustainable development.

CEEweb works through advocacy, influencing decision making, common projects, capacity building, networking and awareness raising.

It targets its members, local, national and international decision makers, NGOs and NGO networks, companies and the scientific community.

Pursuing its mission CEEweb aims to:

- identify and change drivers behind biodiversity loss;
- form common policies and actions for the enhancement of biodiversity in the Central and East European region;
- promote the enforcement of international conventions for nature and biodiversity conservation, with special regards to the Convention on Biological Diversity;
- promote the concept and strategies of sustainable development and contribute to their implementation;
- raise public awareness about the importance of biodiversity and its protection.

For these aims the network undertakes lobbying activities and campaigning, information and expertise exchange, capacity building and educational activities.

[www.ceeweb.org](http://www.ceeweb.org)



**Spoonbills** (*Platalea leucorodia*)

© Szőke Péter

### Nimfea füzetek 13.

### Experiences on the implementation of Natura 2000 in Central Europe

Cases in Bulgaria, Romania and Hungary

Habitats of the Natura 2000 network are our common heritage. We should convince our governments to make all efforts for the conservation of all these species and habitats. Countries of Central and Eastern Europe deserve special attention, as their desire for wrong interpreted economic development might push the interests of nature in the background, while these countries have the greatest ecological potential and they still host a wide range of valuable habitats.

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