

REGIONAL AFFAIRS

Carpathian Convention

One Step Forward, Three Steps Back?

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The *Framework Convention on the Protection and Sustainable Development of the Carpathians* (the Carpathian Convention) was signed in May 2003 in Kiev, during the 5th Pan-European Ministerial Conference “Environment for Europe”, and entered into force on 4 January 2006. The last ratification instrument, from Serbia – formerly Serbia and Montenegro – entered into force in March 2008. It is the second sub-regional framework agreement for the protection of a mountain range and its States Parties are Czech Republic, Hungary, Poland, Romania, Serbia, Slovak Republic and Ukraine. The “sister” Alpine Convention was signed in November 1991 and entered into force in 1994, and its States Parties are Austria, France, Germany, Italy, Liechtenstein, Monaco, Slovenia, Switzerland and the European Economic Community. Both are framework conventions, establishing basic institutions and procedures, as well as setting general objectives and principles, to be complemented and tailored into obligatory goals and measures through the adoption of implementing protocols. Within the framework of the Alpine Convention, protocols were adopted to cover a number of sectors: spatial planning, nature conservation, mountain agriculture, mountain forests, soil conservation, tourism, energy, transport, and dispute settlement.



The Uniqueness of the Carpathian Region

The Carpathians are very rich in biodiversity. They are home to almost one third of Europe’s endemic plants, as well as to Europe’s largest population of brown bears, wolves, lynxes, European bison and rare bird species, including imperial eagles.[8] They represent an important freshwater reservoir: major rivers of the region have their sources here, such as the Vistula, the Tisza, the Olt and the Siret, although much of the Carpathian aquatic biodiversity is provided by the smallest rivers, which are among the cleanest in Europe. Moreover, the region hosts

a rich cultural heritage, from traditional economic practices that respect the local environment – for example, shepherding practices that have led to the creation of semi-natural habitats, especially in Poland and Slovakia – to the wooden churches of Slovakia. Due to their remoteness, some large areas of the Carpathians did not suffer the effects of land collectivisation during the communist period, and this allowed many small-scale farming practices to survive, preventing the over-exploitation of forests. However, over the last decade, political turmoil has brought about socio-

economic changes that are increasingly threatening the status of the environment in the Carpathians, and putting pressure on their natural resources through overuse. The population of the region is almost 18 million, with people living in very varied environments, from small hamlets in remote mountain areas to major cities such as Kosice, Cluj-Napoca and Krakow.

The ongoing transitional period from communist regimes to free market economies in most Carpathian countries, together with their effort to adjust to the *acquis communautaire*, render the issues that this region must face particularly challenging. Even Serbia and Ukraine, the only two States Parties of the Carpathian Convention which are not EU members yet, are adjusting to EU legislation.

There are major challenges relating to land ownership, the private management of which has caused over-exploitation and, consequently, soil erosion; poor legislation which, in its current transitional state, suffers from inevitable inconsistencies, overlaps and lacunae; air and water pollution, even though at the end of communist times industrial production decreased considerably; inadequate infrastructure; and mass tourism. In all these fields, the need for development, felt quite strongly in the region, must be adequately balanced with the needs of environmental conservation. The Carpathian Convention is very much based on the concept of sustainable development, aiming to safeguard the values of outstanding natural and cultural heritage as the basis of sound economic and human development.

The Alpine-Carpathian Partnership

The Government of Ukraine played a central role in the development of the Convention. In 2001 it requested the Regional Office for Europe of the United Nations

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Environmental Programme (UNEP/ROE) to facilitate an intergovernmental consultation process among the Carpathian countries aiming at drafting an international agreement for the protection and sustainable development of the Carpathian mountain range. The Convention was drafted during a quite rapid negotiation process, and then opened to signature in May 2003. In May 2004, the Interim Secretariat of the Convention became operational, hosted by UNEP in its Vienna office, and financed by the States Parties on a voluntary basis, with substantial support from the Austrian government. Following its ratification by Slovakia, Ukraine, Hungary and the Czech Republic, the Convention entered into force on 4 January 2006, according to article 21.3.

The negotiation process was supported by several international organisations, academic institutions, and NGOs. It also benefited from the experience of the Alpine region thanks to the Alpine-Carpathian partnership, shaped and launched in 2002, the International Year of Mountains. This Partnership served as a fruitful platform for the exchange of information and experiences. During the drafting process and in the first phase of implementation of the Carpathian Convention, it proved to be a useful tool in seeking for solutions to problems. However, at this stage in the development of the convention, the Carpathian countries must begin to tailor it to their own needs and visions.[1]

There are some major differences between the Alpine arc and the Carpathian mountain region. The environment in the latter is much better preserved, although the quest for economic growth, felt so strongly in post-Communist societies, is threatening the environment and natural resources of these countries. The main threats are the over-exploitation of forests, illegal cutting, lack of proper environmental impact assessment for industry, uncontrolled infrastructure development, abandonment of land, loss of cultural heritage, and mass tourism.[2]

The First Phase of Implementation: COP 1, the Establishment of Working Groups and the Development of Implementation Projects

The entities involved in the negotiation process of the Carpathian Convention were the first ones supporting the very first phase of implementation of the treaty, even before it entered into force. In 2003, a Partnership Agreement between UNEP, the Italian Ministry for the Environment, Land and Sea, and the Regional Environmental Center for Central and Eastern Europe (REC), launched the project “Support for the implementation of the

Carpathian Convention in the framework of the Alpine-Carpathian Partnership”. The aim of the project – joined in 2004 by the European Academy of Bolzano/Bozen (EURAC), as technical and scientific support to the Italian Ministry for the Environment – was to raise awareness among the States Parties of the obligations they had undertaken and to prepare them for complying with them. The project, articulated into four different components – delimitation of the scope of application, location of the



Inner Western Carpathians/West Carpathian, Tatra, Dolina 5 Stawow Polskich, Poland

Courtesy: Wikipedia

permanent Secretariat, a guide to implementation, and a legal audit – produced three important outcomes: a study on the delimitation of the physical scope of the convention,[18] an explanatory handbook,[3] and a comprehensive and comparative assessment of the legislative and administrative situations of the States Parties from an environmental point of view.[1] [5] [6] [7] [12] [13] [14] [16] The project ended in June 2008, after a series of workshops were organised in each Carpathian country, aimed at disseminating amongst local authorities and stakeholders the knowledge acquired during the development of the project, to facilitate the first phase of implementation of the convention.

Only a few months after it entered into force, the first concrete steps of implementation were undertaken. In May 2006, the EU INTERREG III B CADSES “Carpathian Project” for the implementation of the Carpathian Convention was approved. Funded by EU Structural and – for Romanian and Ukrainian partners – Pre-accession funds, the Carpathian Project’s aims were to gather basic data and maps, identify pan-Carpathian strategic issues, raise awareness of the Carpathian Convention, and share the experiences on Small and Medium Enterprises in mountain areas. Thematic working groups were established in the field of conservation and sustainable use of biological and landscape diversity, cultural heritage and traditional

knowledge, spatial planning, sustainable agriculture, rural development and forestry, sustainable industry, energy, transport and infrastructure, and sustainable tourism. Together with sustainable and integrated water/river basin management, these are the issues of particular interest enumerated in articles 4–11 of the Carpathian Convention.

COP 1, held in Kiev on 11–13 December 2006, officially launched the implementation phase of the convention. It created an Implementation Committee, to function as an executive committee, which would meet between COPs, in the manner of the Permanent Committee under the Alpine Convention, and would coordinate the activities of the thematic working groups. COP 1 also created the Carpathian Network of Protected Areas (CNPA) and its Steering Committee, as a full body of the Carpathian Convention, under the Working Group on Conservation and Sustainable Use of Biological and Landscape Diversity (BWG), and not just as a network of protected areas like its Alpine equivalent, the Alpine Network of Protected Areas (ALPARC).

The approval of the Carpathian Project speeded up the creation of the working groups, allowing the first meetings to take place in early 2007, and the first draft protocols to circulate by the end of the same year. However, the composition of the Carpathian Project partnership, 19 bodies including regional authorities, interest groups, and research centres, led by the Interim Secretariat, was different from the constituency of the Carpathian Convention, that is, the States Parties. This led, on some occasions, to useful participative consultations within the working groups; on other occasions, collaboration between the intergovernmental process and the EU cooperation project was less close.[9][10] In addition, the pace and timing of the project did not always match that of the convention, nor were all the issues of particular interest to the convention covered by the project, such as water/river basin management, agriculture, or industry and energy (the working groups on forest and transport were supposed to deal with these issues, but they scarcely did so). Nevertheless, the project proved to be extremely beneficial to the development of the convention, providing it with the means to make the first steps towards implementation.[10]

The EU 2007–2013 budget has not created a “Carpathian Space Programme” through which the Structural Fund could finance projects specific to the Carpathian mountain region (similar to the EU Alpine Space Programme, which generously funds cooperation projects in the Alps). However, given that the Carpathian Project ends in August 2008, several “family members” or “friends” of the Carpathian Convention, as well as new partners, have presented a number of follow-up project proposals to various EU funding programmes including ETS, CENTRAL, SEES, INTERREG IV C and LIFE+. Despite its delayed approval and technical hitches, the experience of the Carpathian Project has generated interest in new cooperation projects, stimulating new project ideas, thus raising awareness of the issues covered by the Carpathian Convention. Unfortunately, though, most of the lead promoters of these new project ideas are institutions from

“old” EU member states, such as Germany, Austria and Italy, reflecting their greater experience in managing, and profiting from, European projects.

The failure to promote a “Carpathian Space Programme” for the 2007–2013 period – bearing in mind that the convention only entered into force in 2006 – turns into a challenge for the Carpathian countries for the post-2013 period. Responding to this challenge will test the ability of the intergovernmental pressure groups that are clustered around the Carpathian Convention to raise issues related to the Carpathian mountain region on the European agenda.

As far as projects are concerned, because of its hybrid nature, the Carpathian Wetlands Initiative (CWI) is particularly interesting, as it contributes to the conservation and sustainable use of biological and landscape diversity in the region, and to sustainable and integrated water/river basin management. The initiative aims to foster cooperation between the Convention on Wetlands (Ramsar Convention) and the Carpathian Convention, thus becoming a regional framework contributing to the implementation of a global agreement. A Memorandum of Cooperation with the Secretariat of the Ramsar Convention was signed on 13 December 2006, in Kiev, during COP 1. A similar agreement with the CBD Secretariat was signed on 28 May 2008, in Bonn, together with that of the Alpine Convention, back-to-back with the COP 9 of the CBD. Both the CNPA and the CWI fall under the Biodiversity Working Group.

The Second Phase of Implementation: COP 2 and the Protocol on Biodiversity – One Step Forward

The States Parties to the Carpathian Convention, together with almost all the partners of the Carpathian Project, as well as several NGO representatives, met for the second Conference of the Parties in Bucharest on 17–19 May 2008. Like COP 1, in Bucharest there were more representatives from non-governmental bodies than governments. NGO participation remains a positive aspect of this international cooperation process, thanks to funding from the European Union, as well as other European countries.

The conference agenda contained several crucial issues for the development of the convention, in particular the issues of the scope of application, the seat of the permanent secretariat, relations with the European Union, and the adoption of the *Protocol on Conservation and Sustainable Use of Biological and Landscape Diversity* (Biodiversity Protocol). Only the latter was dealt with during the high-level segment of the conference in the presence of some Ministers of the Environment of the State Parties. The signature of the Biodiversity Protocol by five out of seven Carpathian countries (Czech Republic, Poland, Romania, Serbia and Ukraine) was actually the main achievement of COP 2, and a great step forward for the Carpathian Convention.

The Biodiversity Protocol has several similarities with the *Nature and Landscape Conservation Protocol to the Alpine Convention* (Nature Conservation Protocol), signed

in 1994, which was developed under the leadership of Germany. However, it also has several distinctive features. First and foremost, it is formulated in clear and strong language. By ratifying this protocol, the Carpathian States have committed themselves to taking measures to conserve, restore, and sustainably use biological and landscape diversity in the Carpathian mountain region. Throughout the protocol (the official version of which is in English), and for the vast majority of the clauses, the States Parties employ the English verb “shall”, implying a strong legal obligation. Therefore, by ratifying the protocol, the States Parties oblige themselves, for instance, to involve regional and local authorities and other stakeholders in the development of the protocol (article 6(2)); to ensure long-term conservation, restoration and sustainable use of natural habitats (article 8(2)); to maintain or restore, and sustainably use, semi-natural habitats (article 8(3)) etc.; as well as to establish an ecological network in the Carpathians (article 9(3)). Furthermore, the COP has the obligation to create two lists, the Carpathian Red List of Habitats (article 8(1)) and the Carpathian Red List of Species (article 12(1)).

So, while the Alpine Nature Conservation Protocol is formulated in rather vague language, with several conditional clauses, the Carpathian Biodiversity Protocol is striking for the number of obligations “to take measures” that it contains. On the other hand, the Alpine protocol stands out for the number of inventories it required. Another distinctive feature of the Carpathian protocol is the lack of deadlines for the various obligations to be complied with, while its Alpine predecessor contained precise deadlines for most clauses. The establishment of programmes and/or plans outlining specific measures for the general protection and management of nature and the landscape, that is required by the Alpine protocol (article 7) – aimed at guaranteeing integrated planning in each Alpine country – seems to be absent from the Carpathian protocol. On the other hand, the Carpathian protocol requires the COP to develop and adopt a Strategic Action Plan (article 21) – an action-oriented document aiming to guarantee consistent implementation throughout the Carpathian region – which was absent, in turn, from its Alpine predecessor.

Both protocols foresee the creation of monitoring and information systems (articles 20(3) and 18, respectively); however, the exact functioning of these systems remains unclear (almost 15 years on, the Alpine Convention still lacks one). Finally, both protocols create extremely “soft” compliance procedures, basically giving the Permanent Committee and the Implementation Committee respectively the responsibility of reporting any issue to the Ministers, who are in turn responsible for taking any measures they deem necessary (articles 23 and 28, respectively).

The Carpathian Biodiversity Protocol also mentions explicitly the Carpathian Network of Protected Areas (CNPA). The CNPA is not only an institution pursuing the goals and objectives of the convention, as ALPARC

is under the Alpine Convention, but also a full body of the convention, created by the COP in Kiev (decision COP1/4(12)). The support of the ministerial conference to the CNPA has clearly the potential to boost the growth of this network. At the same time, linking the development of the CNPA to the timing of the COP risks limiting the CNPA itself. For example, article 14 of the protocol opened for signature in Bucharest apparently forces the CNPA to wait for the next COP for changes to its terms of reference to be adopted. Several critical issues remain open, for instance the seat of the personnel servicing the network, and exact terms of reference. Nevertheless, a meeting of the CNPA Steering Committee immediately followed COP 2, and the establishment of the CNPA is gaining momentum.

COP 2 Unsolved Issues: The Scope of Application, the Seat of the Secretariat, and the Role of the European Union – Three Steps Back?

Besides the Biodiversity Protocol, the agenda of the conference contained several other crucial issues, in particular the scope of application, the seat of the permanent secretariat, and relations with the European Union. Alas,



A satellite map of the Carpathians

Courtesy: NASA

although this was not the first time they were on the agenda, they were not mentioned during the high-level segment of the conference; and no significant progress was made during the conference. These are the greatest steps backward made by the Carpathian Convention in Bucharest.

COP 2 could have been an opportunity to finally define the scope of application of the Carpathian Convention, as well as that of the Biodiversity Protocol. The Carpathian Convention is a territorial convention *par excellence*. However, what kind of a territorial convention

can it be without a defined “territory”? According to article 1 of the Convention, the Carpathian region – that is, the scope of application of the convention – must be defined by the Conference of the Parties. The issue has been studied thoroughly, first by UNEP within the Carpathian Environmental Outlook (KEO) process,[2] then by the European Academy of Bolzano/Bozen (EURAC),[18] and several proposals were formulated using the most advanced methods for territorial delimitation. Both studies were presented to the COP; however no significant progress was made. Over the years, several countries have discussed the possibility of enlarging their national scopes of application, but no agreement has been reached by the States Parties, even though the wording of the convention is quite straightforward.

COP 2 could have seen an agreement reached on the establishment of a permanent secretariat, currently hosted in Vienna and serviced by UNEP on an interim basis. During COP 2, representatives from the cities of Brasov in Romania, and Chernivtsi in Ukraine, strongly and publicly advocated their respective cities for the seat of the secretariat. However, the status and procedure of the selection process is still unclear. During COP 2, UNEP representatives also voiced the possibility of the Carpathian Convention becoming a UNEP-managed convention. On the one hand, this would guarantee high levels of professionalism, high visibility on the global scale, good interlinkage with global processes, and low transition costs; on the other, it could reduce the regional ownership and, possibly, visibility of the convention, due to the *mare magnum* of UNEP-managed conventions. Hopefully, COP 3 will define both the exact scope of application of the convention and the permanent seat of the secretariat.

European Union representation was the significant “missing link” at COP 2. COP 2 could have been an excellent opportunity for the EU – if not to become actively involved in the Carpathian Convention process – at least to monitor its development and assure the necessary interlinkage between EU policies and the convention process itself. Will the European Commission forever continue to water the Carpathians with funding for joint projects, while deserting the Carpathian Convention, or will it start taking an active part in the convention process? It is unclear whether the European Union will ever become a Contracting Party to the Carpathian Convention – as it did for the Alpine Convention – or whether it will continue to neglect this initiative by new Member States who have joined forces with pre-accession states for the conservation of what is arguably at once the best preserved and the most endangered environment in Europe. An example of the consequences of such neglect is the absence of any clear reference to the interplay between the newly adopted Biodiversity Protocol and the relevant European legal framework, which is simply “taken into account”, at times when the issue of biological diversity was largely covered by European legislation and initiatives.

Increased involvement of the European Union, a permanent seat for the secretariat, and a clearly defined scope of application would greatly contribute to completing the

institutional framework, and to allowing this vital convention to focus fully on its main goal and objective, that is, the protection and sustainable development of this unique region. COP 2 marks the end of the Ukrainian presidency that accompanied the convention during its first steps, side-by-side with its Alpine partners. COP 2 opens the door to three years under Romanian leadership. Hopefully, Romania will succeed in leading the States Parties, completing the institutional setup, and launching the true implementation phase. The adoption of the Biodiversity Protocol was an important step forward: governments, citizens and stakeholders, all look forward to a convention fostering effective policies to protect and sustainably develop the Carpathian mountain region.

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