



## THEMATIC PAPER: BIODIVERSITY<sup>1</sup>

### 1. INTRODUCTION

This thematic paper has been prepared in order to facilitate constructive and focused discussions in the Thematic Session on *Biodiversity* at the 2010 Environment Forum Annual Meeting. A participatory approach was adopted in the drafting of this Thematic Paper. NGOs were invited to provide their input to a series of questions relating to biodiversity issues based on the situation in their country and building on discussions at the preparatory meeting in their country. Nine NGOs provided feedback on biodiversity issues, this input is summarised in the second section of this paper.

This thematic paper begins with a brief introduction to EU biodiversity policy, the current situation and key anticipated future developments. The second part of the paper provides an overview of the state of play in relation to biodiversity in the candidate and potential candidate countries, the main areas of concern highlighted by NGOs, a summary evaluation of the situation (using a SWOT analysis) and concludes with some specific issues and cases highlighted by the NGOs.

### 2. BIODIVERSITY IN THE EU<sup>2</sup>

#### 2.1 Background

In 2001, EU Heads of State and Government committed to halting the decline of biodiversity in the EU by 2010 and to restoring habitats and natural systems. To achieve this target it was recognised that conservation efforts need to be further encouraged and coordinated. Thus, the European Commission produced a strategy in May 2006 on 'Halting Biodiversity Loss by 2010 – and Beyond: Sustaining ecosystem services for human well-being' (COM(2006)216) accompanied by a detailed EU Biodiversity Action Plan (BAP).

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<sup>1</sup> Background paper prepared for the Environmental Forum Annual Meeting, 27-29 September 2010, Brussels

<sup>2</sup> This section draws on the biodiversity chapter of IEEP, (2010), Manual of European Environmental Policy, Earthscan, London



Despite the production of the BAP and progress with implementation of many conservation measures, the EU will fail to achieve its 2010 target (COM(2008)864). This appears to be due to a number of ongoing pressures on biodiversity including: shifts in agricultural production; abandonment of marginal agricultural land and traditional management practices; afforestation and conversion of some forests to plantations of low biodiversity value; loss and fragmentation of natural and semi-natural habitats as a result of developments related to urbanization, tourism, energy production, transport infrastructure etc; overexploitation of marine fish stocks, by-catch impacts and damage to sensitive habitats from fishing gear; eutrophication and acidification of natural and semi-natural ecosystems; increasing numbers and spread of invasive alien species; and the already detectable impacts of climate change. These pressures are also evident in the Balkan region and in Turkey where biodiversity related concerns are a sensitive issue in the process of adopting the EU acquis given ongoing/planned infrastructure projects, economic interests etc.

## **2.2 Current situation**

The two key pieces of EU nature protection legislation are Directive 79/409/EEC on the conservation of wild birds (the Birds Directive) and Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive). The Birds Directive aims to ensure that Member States take requisite measures to maintain the population of all species of naturally occurring wild birds in their territories at a level which corresponds to ecological, scientific and cultural requirements. The Habitats Directive includes a number of requirements for Member States to implement conservation measures for habitats and species of Community interest (listed in Annex I and II of the Directive). Both Directives require the protection and conservation management of sites particularly important for EU biodiversity and the strict protection of listed species, their breeding sites and resting places. The protection of important sites is carried out through the establishment of the Natura 2000 network. The network is made up of 'Special Areas of Conservation' (SACs) designated by Member States in accordance with the Habitats Directive and 'Special Protection Areas' (SPAs) classified pursuant to the Birds Directive.

Biodiversity conservation also depends on a number of interacting policies including measures that aim to regulate changes in the use of the land and sea (e.g. Environmental Impact Assessment Directive), measures that aim to control land use practices (e.g. cross-compliance measures of the Common Agricultural Policy), measures that require the regulation of activities impacting on the quality of aquatic and marine habitats (e.g. Water Framework Directive, Marine Strategy Framework Directive), and measures that seek to control pollutants discharged to water, oil spills at sea, emissions to air, pesticides etc, (e.g. Integrated Pollution Prevention and Control Directive). Furthermore, there are a range of instruments that provide financial incentives for land use and management practices that help to maintain or restore habitats of high biodiversity value (e.g. agri-environment measures under the European Agricultural Fund for Rural Development). Biodiversity considerations are also increasingly taken into account in other sectoral policies.

## 2.3 Key future developments

The EU has a good foundation for biodiversity conservation with relatively comprehensive legislation on species and habitat conservation. However in practice this is not fully implemented, tends to be less effective outside protected areas, and to date has had limited impact on the marine environment. Problems with the current approach are increasingly recognised and a new post-2010 biodiversity target is being developed by the Commission and Member States which is expected to aim to halt the loss of biodiversity and ecosystem services by 2020 and restore biodiversity to some extent (COM(2010)4). The European Commission is currently carrying out a public consultation on a post-2010 EU biodiversity policy. A revised Biodiversity Action Plan to achieve the new target is expected before the end of 2010. Currently, it seems unlikely that the plan will call for the development of any major new EU biodiversity policy instruments other than an EU strategy and actions to address biodiversity threats and existing impacts from invasive alien species. The core elements of the future plan are likely to call for faster and more effective implementation of the Habitats and Birds Directives and supporting instruments and for the further integration of biodiversity considerations in all sectoral policies. Other key future developments/challenges include the adoption of a comprehensive soil policy, further Community action on forestry, engaging other sectors in formulating responses to the biodiversity challenge, improving coherence between biodiversity policy and sectoral policies, ensuring the reform of the Common Fisheries Policy in 2012 delivers an ecologically sustainable fisheries policy in line with biodiversity targets, strengthening rural development policy with a view to developing ecosystem services in the next reform of the Common Agriculture Policy, optimising the use of the EU Structural Funds, and enhancing complementarities between different Community financing mechanisms to promote biodiversity objectives across the EU.

## 3. BIODIVERSITY IN THE CANDIDATE AND POTENTIAL CANDIDATE COUNTRIES

### 3.1 The State of Play in Candidate and Potential Candidate Countries

Since the mid-1990s, countries in the Western Balkans region have taken several actions to protect species and habitats, most notably increasing the share of territory designated as protected areas (in 2007, 9% of the region's total surface area was a designated protected area). Some countries have also set national targets for protected areas (e.g. Serbia and the former Yugoslav Republic of Macedonia have set targets to protect 10% and 12% of their territory respectively by 2010)<sup>3</sup>. Most countries also identify Important Bird Areas (IBA) taking into account criteria of regional conservation treaties such as the Emerald Network under the Bern Convention, the Helsinki Convention, the Barcelona Convention, and the EU Birds Directive. A number of cross-border initiatives have been launched by local and international organisations, e.g. the Peace Parks (Albania, Montenegro and Kosovo)<sup>4</sup>, Bulgaria and Serbia), the Dinaric Arc Initiative (primarily encompassing the area facing the eastern Adriatic Sea, with the Dinaric Arc and Balkans Environment Outlook (DABEO) Reporting Process), the European Green Belt (a proposal to create an ecological network from the Barents Sea

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<sup>3</sup> EEA, (2010), Environmental trends and perspectives in the Western Balkans: future production and consumption patterns, EEA Report No 1/2010, <http://www.eea.europa.eu/publications/western-balkans>

<sup>4</sup> Under 1224

to the Black Sea), and the CARDS/Emerald programme (which covers Albania, Bosnia-Herzegovina, Croatia, Montenegro, Former Yugoslav Republic of Macedonia and Serbia and has been an important tool in preparing these countries for future implementation of the Natura 2000 and compliance with the Habitats and Birds Directives).

### 3.2 Areas of concern

In spite of the advances described above, major challenges remain and the region's biodiversity and natural habitats continue to face several threats, including habitat fragmentation or destruction, over-harvesting, illegal logging, deforestation, inappropriate management measures, unregulated development, and unregulated exploitation of natural resources. Efforts have been undermined by a lack of resources, limited capacity, and lack of monitoring systems and methodologies to evaluate the status of and impacts on biodiversity<sup>5</sup>.

The main area of concern raised by all NGOs relates to the **poor implementation and enforcement** of biodiversity related legislation and the environmental acquis in the candidate and potential candidate countries. Some of the stated reasons for this include:

- inadequate institutional capacity;
- weak and/or corrupt inspection systems;
- lack of interest / political will;
- lack of adequate finances;
- prioritization of economic development;
- limited knowledge/understanding of the EU acquis leading to poor/incomplete transposition;
- issues relating to translation of the acquis into the national language;
- basic acts not elaborated or harmonized in by-laws and horizontal legislation;
- lack of inter-sectoral cooperation; and
- low level of public awareness.

In relation to biodiversity related **requirements of regional/multilateral agreements and initiatives**, NGOs note that while a number of countries in the region have signed and ratified many international conventions, implementation of obligations under these agreements is a major problem. Reasons for this slow implementation include:

- national authorities that are uninformed / unmotivated to comply with the requirements;
- lack of clear implementation timeframes;
- inappropriate design of legislative measures; and
- lack of political support and awareness.

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<sup>5</sup> EEA, (2010), Environmental trends and perspectives in the Western Balkans: future production and consumption patterns, EEA Report No 1/2010, <http://www.eea.europa.eu/publications/western-balkans>

There are however some cases of progress, for example in Serbia implementation of the CITES and the Ramsar Convention has been good due to the professional approach of staff in the Ministry competent for environment and the Institute for Nature Conservation.

Despite the number of agreements and conventions in place, there are some biodiversity rich areas which are not protected by multilateral agreements. For example, some NGOs highlighted the need for more initiatives relating to the protection of mountain, forest, landscape and wildlife habitats.

### **3.3 Implications of EU biodiversity policy, potential challenges, and the role of different actors**

In general, **NGOs considered EU biodiversity policy/legislation to be very beneficial to their countries**, in particular in terms of establishing and implementing the Natura 2000 network. The harmonization of national legislation and policies and the adoption of relevant legislation in this area are considered to be an important part of the accession process with significant benefits at the national level. The adoption of the acquis is seen as very positive and an important opportunity to improve biodiversity protection and environmental management in general, it was also noted that regional/national biodiversity features need to be taken into account in this process. There are however concerns among the NGOs that the opportunities provided by the process are not being fully utilised, that challenges are not being adequately addressed, and that the lack of financial resources make it difficult to bring implementation practices in line with EU policies.

In terms of the **role of different actors in the process**, it was considered that **NGOs** should play an active role in implementing biodiversity related legislation, e.g. monitoring wildlife and mapping pollution spots; lobbying national governments; educating the public, raising awareness and transferring knowledge and skills at all levels, especially the Government sector. The role of the **Environment Forum** was considered to be that of lobbying EU and national governments; supporting local NGOs; organising debates and workshops to improve cooperation among NGOs in the region; providing a channel of communication with the EU; encouraging the development of regional initiatives; and strengthening expertise of national decision-makers. The role of **national Governments** related to adopting a long-term, holistic planning approach across all sectors; educating key officials; launching public awareness campaigns on biodiversity; prioritising biodiversity issues; implementing best practices from other EU countries; and increasing the budget for biodiversity and capacity building. The role of the **European Commission** was considered to be that of confronting candidate and potential candidate countries with stricter rules; providing good examples from other EU member states; sharing best practices; and providing financial support.

#### **Suggested priorities for future EU biodiversity policy**

NGOs highlighted a number of issues that future EU biodiversity policy should take into account which include the following:

- improve implementation of biodiversity policies in member states and create implementation guidelines for SEE countries;
- protect migrant wildlife due to hunting, fire, deforestation and urbanisation;
- prioritise forestry, mountain ecosystems and invasive species;
- address unsustainable resource use;

- increase financing;
- improve policy integration;
- address policy gaps (e.g. soil); and
- invest in knowledge on biodiversity and ecosystem services.

### Potential challenges

NGOs identified a number of potential challenges which include the following:

- lack of capacity to implement legislation, especially at the local level;
- limited inclusion of civil society in decision-making process;
- lack of awareness among decision-makers of biodiversity/environmental issues;
- lack of capacity among NGOs;
- limited budget for biodiversity programmes;
- corrupt procedures (EIA/SEAs) and inspection systems;
- lack of understanding of EU policies/legislation;
- lack of cooperation between the Government and NGOs;
- incoherence between sectors;
- lack of recent data on the status of biodiversity and future trends; and
- lack of an integrated national strategy.

Strengths	Weaknesses
<ul style="list-style-type: none"> <li>• Wide range of biodiversity and natural resources</li> <li>• National commitment to become EU members</li> <li>• Some good laws in place / being developed</li> <li>• Some good (new) institutions</li> <li>• Process of Natura 2000 begun in many countries and the number of protected areas has increased</li> <li>• Countries are party to many MEAs recognized as important at the EU level</li> <li>• Exchange of information and experience in region</li> <li>• Interest and willingness of NGOs to address issue</li> <li>• Established cooperation between NGOs in the region through the BELLS movement</li> <li>• Use of traditional knowledge</li> </ul>	<ul style="list-style-type: none"> <li>• Poor implementation at national and local level</li> <li>• Lack of political will</li> <li>• Weak inspection system</li> <li>• Corruption</li> <li>• Weak civil society</li> <li>• Lack of adequate legal and policy framework, management plans and mapping of protected areas</li> <li>• Limited financial and technical support for biodiversity conservation and civil society</li> <li>• Lack of trained administration</li> <li>• Unsustainable tourism activities</li> <li>• Low level of public awareness</li> <li>• Poor public participation processes</li> <li>• Lack of stakeholder involvement</li> <li>• Lack of research and monitoring (poor data on biodiversity)</li> <li>• Lack of knowledge among national decision-makers of EU biodiversity policy</li> <li>• Insufficient use of communication channels with EU</li> <li>• Lack of communication and/or cooperation between organisations, NGOs, etc</li> <li>• ‘Brain migration’</li> </ul>

Opportunities	Threats
<ul style="list-style-type: none"> <li>• Biodiversity has high degree of conservation, and is currently only threatened by a small number of actions</li> <li>• Harmonise laws and regulations with EU</li> <li>• EU funds available for capacity building and supporting processes</li> <li>• Good relations with the EU</li> <li>• Regional initiatives and cooperation on biodiversity</li> <li>• Possibilities for twinning, sharing experience and practices</li> <li>• Identifying sites for Natura2000 network</li> <li>• 2020 EU biodiversity targets</li> <li>• RENA</li> <li>• Environment Forum</li> <li>• Establish communication channels with EU</li> </ul>	<ul style="list-style-type: none"> <li>• Forest illness, fire, illegal logging</li> <li>• Tourism activities / developments</li> <li>• Climate change</li> <li>• Mining</li> <li>• Over-fishing and over-hunting</li> <li>• Domestic and foreign investments in development projects</li> <li>• Reduction of domestic funds for biodiversity</li> <li>• Lack of subsistence alternatives to protect livelihoods of local communities</li> <li>• Illegal hunting and trapping</li> <li>• Uncontrolled overgrazing</li> <li>• Poor law enforcement</li> <li>• Bureaucracy and corruption</li> <li>• Insufficient cooperation of institutions</li> <li>• Loss of biodiversity through expansion of settlements</li> <li>• Lack of resources to strengthen implementation capacities</li> <li>• Insufficient regional cooperation</li> <li>• Delay in adoption of relevant strategies and laws</li> </ul>

A number of **actions** which need to be taken to improve the current situation were highlighted by NGOs and are summarised below.

There is a need for **multilateral and bilateral cooperation of countries in the region** to protect the common natural heritage and biodiversity. Some NGOs suggested developing a joint strategy for SEE countries for the protection of biodiversity. **Information and best practices should also be shared** across countries in the region.

NGOs highlighted the need for detailed and comprehensive **education and awareness raising** at all levels of society, in particular among national decision-makers. Training courses on biodiversity and protected areas administration and management need to be developed and public participation should be enhanced.

There is a need to develop the **legislative and management framework**, develop effective management plans for priority protected areas, and adopt an integrated management plan covering the entire country. An effective **monitoring and control mechanism** should be established for the conservation of nature. The participation of civil society organisations in the monitoring and evaluation processes should also be enhanced.

**Financial and technical assistance needs** should be assessed and capacity building efforts enhanced. There is a need for more financial support; better cooperation and coordination between Government institutions and NGOs and between stakeholders in different sectors.

## **ANNEX: SPECIFIC ISSUES AND CASES FROM CANDIDATE AND POTENTIAL CANDIDATE COUNTRIES**

In spite of many achievements and progress in the area, NGOs noted many cases where they think opportunities have been missed and/or the acquis has not been properly implemented. The list below include some of the cases and issues which NGOs would like to highlight and stimulate discussion on lessons learned and what could be done to improve the situation or revert decisions.

### **Albania**

- Lack of a General National Plan (GNP) (which is obligatory by law) and the limited consideration of horizontal legislation (SEA) is likely to lead to developments which do not take into account the impact on other sectors of the economy and on the environment.

### **Croatia**

- Although a relatively pretty high percentage of Croatia has been put on the Natura 2000 list, other sectors are opposed to this and are lobbying authorities to reduce the area covered. Some sectors are also trying to exclude existing and planned infrastructure from Natura 2000 sites.
- Parliament issued a Law on Golf Courses saying that it is EU obligation.
- The Drava river regulation project plans to regulate the lower flow of the Drava River and built more than 100 different structures in the river bed. Although NGOs made comments on the EIA during the public hearing in 2008, none of their comments were taken into account. NGOs subsequently wrote a letter to the EU and the EU hired two independent experts to evaluate the project. During this time, the EIA was slightly updated and accepted by the Ministry without informing NGOs. The independent experts made a site visit and met with relevant authorities and NGOs in 2008 (these meetings were hosted by the EU Delegation in Croatia). The experts presented their evaluation in 2009 which concluded that given the numerous deficiencies relating to international standards and the insufficient EIA, the project should not be realized and made recommendations on how to proceed. However, Croatian authorities neglected these recommendations and decided to continue with the project as planned.

### **Kosovo**

- There is a need to develop a unique program or joint strategy for SEE countries for the protection of biodiversity in the region and for sharing experiences in implementing trans-boundary projects.
- Sharing best practices in implementing biodiversity strategies, how to secure EU funds for implementing projects related to the BAP, and the role of NGOs in implementing strategies and action plans.

### **Montenegro**

- Draft Strategy on biodiversity and the SEA of dams on the Moraca river.
- Bad transposition and poor implementation, in particular relating to SEA and EIA.
- A network of 28 NGOs has been created to promote and monitor biodiversity issues.

## Macedonia

- Rich biodiversity of Ohrid lake is endangered by severe fishing and wastewater pollution. The only effort to complete the purification system over the surface of the lake is at Ohrid-Struga.

## Serbia

- Opportunity to use lessons learned from neighboring countries (Bulgaria, Hungary, Romania), however Government does not have a positive attitude in this regard, thus it is likely that Serbia will repeat many of the mistakes made in other countries during the EU integration process. There is a need for more sharing of information and best practices.
- Nature protection legislation is often violated by tourism development plans.
- EIA and SEA laws have a number of gaps which undermine nature protection.
- Serbian terminology used in the Birds Directive and Habitats Directive is very confusing and could lead to mis-interpretations, e.g. Art. 6.3 of the Habitats Directive in its current form cannot be properly applied due to improper wording and the unclear relationship to the ecological network (part of which should be the future Natura 2000 network).
- The recent development of the biodiversity strategy and action plan was led by the UNDP and began in 2009. NGOs were not invited to the first consultation workshop (apparently due to lack of accommodation capacity) and were also not invited to the second meeting (despite their request to participate). Currently there is no available information on what is happening.
- The Rulebook on the declaration and protection of protected and strictly protected wild species of plants, animals and fungi, was suddenly adapted in early 2010. NGOs intervened and after much political manipulation a meeting between NGOs and the Ministry of Environment and Spatial Planning was organized. NGOs complained about the annexes (listed species were not considered properly in accordance with EU and international standards) and about the consultation process (only the hunting society of Serbia was involved). Following this, the Environment Ministry promised to organize a new round of consultations with NGOs.

## Turkey

- Legislation in policy areas linked to nature protection requires attention.
- Many environmentally unfriendly practices can be avoided in protected areas, however according to the new Draft Nature Protection Law, these areas will be defined with a different status.