

## TASK 1

### 1.1. AUDIT OF THE CURRENT SITUATION

*” Valuing landscape of the border Romania-Bulgaria ”*

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## PART 1. ABOUT LANDSCAPE

### 1.1. INTEGRATION OF THE EUROPEAN LANDSCAPE CONVENTION IN THE NATIONAL LEGAL FRAMEWORK

In the European Union, landscape protection, planning and management process is inspired by the European Landscape Convention (ELC) that was adopted in Florence (Italy) the 20 October 2000.

In the ELC, “Landscape” designates an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors. This definition applies to the entire territory and covers natural, rural, urban and peri-urban areas. It concerns landscapes that might be considered outstanding as well as everyday or degraded landscapes.

This definition underlines the necessity to acknowledge and take into account people’s perspectives on their landscapes and surroundings. This encounter between the natural and the cultural may seem a prior difficulty to the implementation of a landscape policy. At the contrary it is the key of its success since the landscape is grasped holistically with its historical, social, cultural and physical factors and with its relations to many aspects of everyday life.

Landscape can also be given two extreme understandings that policies have to take into consideration without identifying with them.

**The sight-seeing:** the panoramic view on a beautiful design of nature.

**The *Weltanschauung*:** A world view located at a very small scale, the landscape being considered as a world in itself, example of the cultural and natural peculiarity of a distinct area but also door to a possible isolation of the landscape, viewed as an empire within an empire.

As we see the landscape definition of the ELC can even raise philosophical questions and demands the participation of the population which make the work of the policymaker more complicated and difficult.

The ELC was ratified in Romania through on 7 November 2002 and entered in force the 1 March 2004. In Bulgaria the law was ratified it on 24 November 2004. The Convention entered into force in Bulgaria on 1 March 2005.

### 1.2. THE IMPACT OF THE CONVENTION

By signing the European Landscape Convention, Bulgaria and Romania undertook the following principles:

- a) *to recognize landscapes in law as an essential component of people’s surroundings, an expression of the diversity of their shared cultural and natural heritage, and a foundation of their identity;*
- b) *to establish and implement landscape policies aimed at landscape protection, management and planning through the adoption of the specific measures set out in Article 6;*

- c) *to establish procedures for the participation of the general public, local and regional authorities, and other parties with an interest in the definition and implementation of the landscape policies mentioned in paragraph b above;*
- d) *to integrate landscape into its regional and town planning policies and in its cultural, environmental, agricultural, social and economic policies, as well as in any other policies with possible direct or indirect impact on landscape.*

Apart from this broad and innovative concept of "landscape" that Romania and Bulgaria have adopted through the ratification of the European Landscape Convention, there is still a lack of national legal framework and of secondary legislation concerning landscape protection and management. Moreover, no raising awareness actions have been made towards the relevant public and private stakeholders and the population while the European Convention underlines the need to involve citizens in landscapes planning and management process. Thus, landscape is becoming, to a greater extent, a matter of public interest that transcends specialized fields and gradually reaches citizens themselves; inhabitants should become more aware of their environment and organize themselves to protect landscape richness, quality and diversity in both natural and urban environments.

### 1.3. Legislation situation in both countries

Until now, no specific legislation has been adopted in both countries in order to identify, evaluate, manage and plan landscapes and no specific authority is in charge of landscape protection and valorisation. At present, many regulations (spread in different laws) address the protection and sustainable development of the landscape in both countries. Most of the provisions are aimed at protecting the natural aspect of the landscape.

Nevertheless, an attempt to create a specific legislation has been made in Bulgaria at the end of 2013 (See in annex the draft of the law) but the proposed law has not been ratified.

In Bulgaria, for example, the most important measure for protecting specific components of the landscape is their designation as being protected: the protection of the natural component of the landscape is provided by the Protected Areas Act and the protection of the cultural component of the landscape is regulated under the Heritage law, although these laws do not explicitly mention the term 'landscape'. Moreover, the different key measures related to the protection of the landscape are spread in different legal acts according to three main thematic, Spatial Planning, Environment and Agriculture as the following examples taken out of the Bulgarian legislation:

- The environmental impact assessment procedure under the EPA. One of the procedure's main objective is to ensure adequate public participation in decisions that affect protection and management of the landscape;
- The development of a national ecological network mentioned in the Biological Diversity Act has as a main objective the "long-term conservation of biodiversity, geological and landscape diversity"
- The reclamation of land under the Protection of Agricultural Land Act, which aims to restore damaged sites as close to their natural state as possible

- Preventive structural protection pursuant to the Spatial Development Act aimed at the protection of areas that have high natural landscape, ecological and cultural value but are not declared as protected by a special act

### *Regulations on Spatial and Urban Planning*

#### **Romania**

- Law no. 350 / 2001 on spatial and urban planning
- Government Decision no. 525 / 1996 approving the General Urban Planning Regulation

#### **Bulgaria**

- Spatial Planning Act from March 2001 with all the following ordinances
- Law on Regional Development enforced since 31.08.2008

### *Environment regulations*

#### **Romania**

- Government Emergency Ordinance no. 195/2005 (approved and modified by the LAW 265/2006) with subsequent modifications on environment protection
- Government Decision 1076/2004 concerning the procedure for the Strategic Environmental assessment
- Government Decision 918/2002 concerning the framework procedure for the environmental impact assessment and for the approval of the public or private projects submitted to this procedure
- Law 49/2011 for approval of the Governments Emergency Ordinance no. 57/2007 about the strategy concerning protected natural areas, conservation of natural habitats and of their wild fauna and flora
- Law no. 265/2006 for the approval of Government's' Emergency Ordinance no. 195/2005 about protection of the environment
- Mountain Law 347 of 2004
- Government Emergency Ordinance nr 57/2007 about the strategy concerning protected natural areas, conservation of natural habitats, of their wild fauna and flora
- Law no. 389/2006 ratifying the Convention concerning protection and sustainable development of the Carpathians
- Law no. 137/2010 ratifies the Protocol concerning conservation, sustainable use of biological diversity and landscape diversity
- Law no. 24/2007 concerning regulation and administration of green spaces in urban localities
- Law 107/1996 Law for water
- Government Emergency Ordinance no. 195/2005 (approved and modified by the LAW 265/2006) with subsequent modifications on environment protection
- Government Decision 1076/2004 concerning the procedure for the Strategic Environmental

<p>assessment</p> <ul style="list-style-type: none"> <li>• Government Decision 918/2002 concerning the framework procedure for the environmental impact assessment and for the approval of the public or private projects submitted to this procedure</li> </ul>
<p><b>Bulgaria</b></p> <ul style="list-style-type: none"> <li>• Environmental Protection Act (EPA) in force from 2002                             <ul style="list-style-type: none"> <li>○ Decree No. 59 of the 07.03.2003</li> <li>○ Decree No. 139 of 24.06.2004</li> </ul> </li> <li>• The Protected Areas Act 1998</li> <li>• The Biological Diversity Act (BDA) from 2002                             <ul style="list-style-type: none"> <li>○ Decree No. 349 of 30.12.2008</li> <li>○ Decree No. 201 of 31.08.2007</li> </ul> </li> <li>• Forests Act from 2012</li> <li>• Water Act from 2000</li> </ul>
<p><i>Heritage regulation</i></p>
<p><b>Romania</b></p> <ul style="list-style-type: none"> <li>• Law no. 422 / 2001, republished in 2006 on historic monument protection</li> <li>• Law no. 5 / 2000 approving National Spatial Plan-Section III- protected areas</li> <li>• Law no. 182 / 2000 on protection of the national mobile cultural heritage</li> </ul>
<p><b>Bulgaria</b></p> <ul style="list-style-type: none"> <li>• Law on the Cultural Heritage with amendments and supplements, in force from 2009</li> </ul>
<p><i>Agriculture</i></p>
<p><b>Romania</b></p> <ul style="list-style-type: none"> <li>• Law on land improvements no. 138/2004</li> <li>• Organization, administration and operation of permanent grassland and land amending and supplementing Law no. 18/1991. Ordinance 34/2013</li> <li>• Law for the organization, administration and operation of grasslands, 214/2011</li> <li>• Law no. 100/2010 on Afforestation</li> </ul>
<p><b>Bulgaria</b></p> <ul style="list-style-type: none"> <li>• Agricultural Land Ownership and Use Act (ALOUA)</li> <li>• Agricultural Land Conservation Act (ALCA)</li> <li>• Agricultural Land Protection Act (ALPA)</li> </ul>

## PART 2. REVIEW OF URBAN AND TERRITORIAL PLANNING FRAMEWORK

### 2.1. ROMANIAN URBAN AND TERRITORIAL PLANNING FRAMEWORK

Until 2001, the legislative framework in the domain of urban and territorial planning was supported solely by the Law 50 /1991 and the Order 91 / 1991 applicable on the entire National territory.

Starting with 2001, the Law 350/2001 on urban and territorial planning was adopted, followed by several revisions out of which the last one is HG 190 / 2013. As a consequence, urban planning and territorial planning are defined as complex activities of general interest and urban and territorial documents become, according to the legal provisions, authority acts once they got approved. The technical provisions of these documents thus became normative opposable provisions.

One of the most important roles of the law is defining the scope of the spatial planning activity including the “protection of built and natural landscapes, the preservation of biodiversity and the creation of ecological continuities” that are constitutive elements of landscapes.

The juridical structure that supports the urban planning law is composed of several types of secondary instruments (urban and territorial documents) as well as other laws that are applicable at national or sectorial level (property law, environment law etc.)

#### **Types of urban and territorial planning documents:**

- General Regulations of Urban Planning Act - Regulamentul general de urbanism – RGU
- National planning document - Planul de amenajare a teritoriului național – PATN
- Regional planning document - Planul de amenajare a teritoriului regional – PATR
- County planning document - Planul de amenajare a teritoriului județean – PATJ
- Zonal territory planning document - Planul de amenajare a teritoriului zonal – PATZ
- General Urban Plan - Planul urbanistic general – PUG (which contains Regulamentul local de urbanism – RLU)
- Zonal Urban Plan - Planul urbanistic zonal – PUZ (which contains Regulamentul local de urbanism – RLU)
- Detailed Urban Plan - Planul urbanistic de detaliu – PUD

As a direct consequence of the law 350/2001 as well as of the law 190/2013 several types of provision emerge:

- General development axis provisions - general orientation (PUG)
- Compulsory or technical-operational provisions (PUG, PUZ, PUD)

The general development provisions defines development guidelines, defining areas, corridors for intervention, establishing dominant categories of activities and functional prescriptions for certain areas as well as their vocation. They can also establish certain priority areas, protected perimeters etc. They constitute the articulation between regional and territorial plans and the urban planning documents.

Their focus is wider and does not involve or affect directly the private property; it is not therefore opposable to third parties. Nevertheless, a PUG is a key document for landscape protection as it made a clear distinction between urbanisable and non-urbanisable land on the city or commune administrative territory. This distinction, which regulates the right to build, can become a very useful instrument for landscape protection and valorisation.

The operational provisions (compulsory) establish, at the scale of the property limit (plot) the type of use, building parameters, functional prescriptions etc. It is, therefore, the responsibility of the local public administration to translate the general orientation provisions, that come from a superior level, into operational and specific provisions.

Operational provisions are drafted so that each works project can be placed within guidelines. This coherent frame of rules regulates: if building is possible, what can be built (what activity is allowed), how can it be built (what rules should be respected by the new building)?

Their focus is clear and involves directly the private property; it is therefore opposable to third parties.

The separation between general orientation and operational provisions is also important for landscapes. It seems that the more adapted documents to tackle the protection and management of landscapes are the most technical-operational documents. Indeed, operational instruments at larger scales (PATN, PATJ) are not opposable instrument and cannot really implement measures for the preservation of landscapes. Nevertheless, there must be a clear link between the high-scale territorial planning document and the small scales ones as the later ones cannot take into account landscapes in their diversity (more details on this issue will be given below in the conclusion part)

1. **The General Regulations of Urban Planning Act** (Regulamentul General de Urbanism - 525/1996 - RGU) further adopted by Local Regulations of Urban Planning Act that accompanies any urban planning document. The RGU hasn't been updated since its issuing in 1996 but, even so, its framework allows landscape prescriptions. The appearance and conformation of buildings, the occupancy typology of plots, the green areas, the hedges etc. can constitute single elements or parts of more complex landscapes and it is, therefore, possible to ensure some landscape protection and promotion directly through these prescriptions. A recommendation would be a more detailed take on the landscape along with its revision. As it stands at the base of any Local Urban Planning Act, it must state the possible types of landscape to be considered and protected.
2. **The National territorial planning document (PATN)** Currently, there is no specific section dedicated to landscape. On the other hand, it can act as a very proficient tool in the identification and classification of different types of macro-landscapes that can be further detailed in the subordinate documents.



## Conclusion

According to the European Landscape Convention, "Landscape" means an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors". Therefore, the following conclusions can be made:

- The interaction of people and natural factors produces only rarely territorial limits that coincide with the administrative or property ones; there is usually no coincidence between the administrative/property limits and the limits of landscapes.
- It is thus obvious that as the present urban planning documents or territorial planning documents base their protection on the "plot" or property unit, their present structure cannot take into account landscapes as a whole. The direct consequence is a fragmentation of certain landscapes through the planning practice. It is therefore necessary to introduce landscape analysis inside the urban and territorial planning secondary legislation (PATJ, PATZ, PUG, PUZ) as a separate element that can take into account the entire landscape. After identifying the landscape coherence that is relevant for the administrative or property unit(s) in question, the study can provide the essential elements (urban indicators, architectural quality, types of urban structure, constructability, withdraws, etc.) that apply to the administrative/property territory under study from the landscape protection and preservation perspective.
- In addition, landscape protection and valorization has to be treated in a coherent way between the planning documents at different territorial levels (PATN to PUD). For the moment, the legislation doesn't indicate precisely how the provisions from higher-level documentation should be translated onto the smaller scale secondary urban/territorial planning documentation. This is both a big problem (because the higher level documentation, more relevant to landscape analysis and protection is not well translated into the documentation of smaller territorial units) and a good opportunity (as landscape is a flexible concept that can ensure a viable closer connection between the different territorial levels if it becomes the subject of a separate study/analysis inside the PATJ, PUG, PUZ, PUD, etc.) for the legal framework for landscape protection. For example, the PATJ should include a landscape chapter that might be a mandatory normative frame for the PUG in the county.

## 2.2. BULGARIAN URBAN AND TERRITORIAL PLANNING FRAMEWORK

In an article, Kosyo Stoychev from the University of Sofia informs us that "the requirements for spatial planning in the Republic of Bulgaria are defined by structure, frame schemes and structure plans. There are two types of structure frame schemes– national one and regional ones. In accordance to their content they could be divided in two types – complex areas and specialised ones. All the regional schemes reflect the predictions of the National structure scheme. There are only two types of structure plans, the General Structure Plan – which defines the predominant and structure pattern of the separate parts of the territories, and the Detailed Structure Plan – they make concrete the structure of the

territory, its construction regimes and the functions of each land”<sup>1</sup>. (more details are given in the Annex 2)

An ESPON publication helps us to have a clearer view of this dichotomy since “the planning of Regional Development and Spatial Planning in Bulgaria are 2 separate systems”<sup>2</sup>

### 1. *The regional development planning*

The National Strategic Planning of regional development comprises establishment and update of a system of documents for the purpose of sustainable integrated regional and local development, including the development of cross-border, transnational and interregional cooperation.

The territorial breakdown of Bulgaria is defined in article 4 of the Law on Regional Development enforced since 31.08.2008.

- NUTS 1:
  - Northern and Eastern Bulgaria;
  - South-Western and South Central Bulgaria.
- At NUTS 2 are defined 6 regions:
  - North-Western; North-Central; North-Eastern; South-Eastern; South-Western and South-Central.
- NUTS 3 – 28 administrative districts.
- LAU level 1 – 265 municipalities.

The system of documents for strategic planning and programming of regional development includes:

- i. National development plan;
- ii. National strategic reference framework;
- iii. Operational programmes, co-financed by the European Union funds;
- iv. National regional development strategy;
- v. 6 regional development plans;
- vi. 28 district development strategies;
- vii. 265 municipal development plans.

<sup>1</sup> Kosyo Soychev, “Regional development and spatial planning in bulgaria: geographical perspectives”, Geographical planning, n°9, p 4

<sup>2</sup> Epson Interstrat, Current context of integrated development in Bulgaria, p 1

The National Regional Development Strategy (NRDS) for the period 2012-2022 is currently the fundamental document defining the strategic framework of the government policy for attaining balanced and sustainable development of the country's regions and for overcoming the intra- and interregional differences/disparities in the context of the European policy of cohesion and achieving smart, sustainable and inclusive growth. As mentioned in the Strategy, the NRDS must:

- *“Ensure regional competitiveness through strong local economies, improving territorial connectivity and paying attention to the environmental, landscape and cultural assets of the regions”*
- *“Connect the environmental, landscape and cultural assets of the regions and regarding them as the added value of development”*

The importance of Landscape is underlined in the document as it is considered as an environmental and as a tourism asset for the regional development of Bulgaria. Nevertheless, the NRDS is a structure frame scheme and does not give further details on the landscape typology or characteristics. That is the responsibility of spatial planning documents.

## 2. Spatial Planning<sup>3</sup>

The Spatial Planning in Bulgaria is based on the Law of the spatial planning (promulgated in State Gazette 1 of 2 January 2001) and is connected with the structure of the territory, the investment designing and the construction. The guiding principles of spatial planning policy are determined by the Council of Ministers.

The Spatial planning schemes ensure spatial structure of the territories corresponding to the social economic development guaranteeing the preservation of environment. Spatial planning schemes can be worked out for the territory of the whole country of one or more regions or of a group of neighbouring municipalities. The schemes according to their content shall be complex and specialized.

The Spatial planning plans are:

- General development plans;
- Detailed development plans.

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<sup>3</sup> *Epson Interstrat, Current context of integrated development in Bulgaria, P 2*

The Spatial Planning Act (SPA) is composed of different regulations<sup>4</sup> :

- Regulation # 1 dated 30.07.2003 on the nomenclature of structure types - defines the nomenclature of structure types for different categories depending on their characteristics, significance, complexity and risks of exploitation referred to in Art. 137, Para. 1 of SPA.
- Regulation # 2 dated 31.07.2003 allowing the utilization of construction in Bulgaria.
- Regulation # 3 dated 31 July 2003 for the drawing up of documents and reports during construction - The terms and conditions for the production of these documents for preparation, for opening the construction site, setting the building line and level, for acceptance of completed construction works, construction of the sites in different stages or parts thereof.
- Regulation # 4 dated 21.05.2001 on the scope and content of the investment projects. The ordinance defining the scope and content of investment projects and the related preliminary (pre-investment) research and project assignments. This regulation applies to all objects, which require an approved investment project for the issuance of a building permit.
- Regulation # 5 dated 28.12.2006 on technical passports of buildings.
- Regulation 6 on the conditions and procedures for compulsory insurance in design and construction.
- Regulation # 7 dated 22.12.2003 laying down rules and regulations for different types of spatial and territorial development zones.
- Regulation # 8 dated 14.06.2001 on the scope and content of development schemes and plans.
- Regulation # 9 dated 22.5.2001 on licensing of individuals engaged in construction supervision.

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<sup>4</sup> The list is provided by architect Victor Petrof: "<http://arh-viktor.com/en/laws-and-regulations>"

Until the regulations 7 and 8, the notion of landscape is lacking in the Spatial Planning Act that refers most of the time to green spaces and parks:

- *In the regulation 7, the Article 106 rules out that: "The master plan of a municipality or of a part thereof shall determine: (paragraph 6) the spatial-development areas for active application of landscaping and aesthetically effective arrangement"*
- *In the Regulation 8, Detailed Plans, Article 108, it is mentioned that: "Detailed plans shall particularize the planning and building development of nucleated-settlement areas and of the land-use areas of nucleated settlements, as well as of the dispersed settlements. The projections of detailed plans shall be mandatory in development project designing", in the paragraph 2, it is specified that: "A detailed plan shall be accompanied by grading plans, diagram maps of the communication and transport network, of water supply, sewerage, electrification, by landscaping and spatial renewal plans, etc." Finally, the Article 112, paragraph 2, defines that "A detailed plan,..., shall regulate: 5. The blocks and lots for landscaping intended for a recreational, protective and land reclamation purpose"*

In conclusion, at an institutional level, we can summarize the objectives of regional and spatial planning documents in the following way:

- National: national targets and priorities in all fields: economic, social and infrastructural
- Planning regions: regional targets, priorities, programmes and projects
- Districts: project targets, priorities and programmes at district level
- Municipalities: operational targets, local strategies with concrete priorities and activities

The regional planning documents and the General Development plans are key documents for giving guidelines on landscape characteristics and assets at a higher scale, until the District level. The Detailed Development plans are the key documents that can give very precise inputs at a small-scale level, municipality level, before delivering a building permit for example. They apply the guidelines of the General Development plans.

Thus, it is necessary to introduce landscape assessment chapters in the regional planning documents and the General Development plans and enhance Landscape design studies in the detailed development plans. A focus and a prioritization can be made on the Municipality detailed development plans.

Other laws related to the conservation and the valorisation of landscapes can be found in the Bulgarian urbanism and planning laws:

1. **The Black Sea Coast Spatial Planning Act** complements the Spatial Planning Act as it relates to the spatial development policy for coastal areas along the Black Sea. Its key objectives are<sup>5</sup>:
  - to create conditions for the conservation, sustainable integrated development and spatial design of the Black Sea coast;
  - to provide unimpeded public access to beaches;
  - to ensure the conservation and careful use of natural resources;
  - to prevent and reduce pollution of the Black Sea coast;
  - to protect the coast from erosion, abrasion and landslides;
  - to restore and preserve the natural landscape and cultural heritage.

2. **The law on the cultural heritage**, in force from the 10.04.2009, has been amended several times during the last years and mentions landscapes in several articles:

- Art. 6, point 5 that “Cultural heritage shall be: models of park art and landscape architecture”
- Art. 7, point 6 that “According to the scientific and cultural area, to which they refer, the immovable cultural valuables shall be: cultural landscape: combination of spatially isolated sustainable cultural levels, as a result of interrelation between the human being and the natural territory”
- Art. 169, point 3 „The designs for conservation and restoration of art cultural valuables. The cultural landscape and natural cultural valuables shall be obligatory developed by the persons, registered for the relevant conservation-restoration activity”

## Conclusion:

The Deputy Minister Nikolova adds that “ the **Regional Development Act** rules on the drafting of medium-term strategies and plans and establishes the regional and local development policy implemented by the authorities at different territorial levels<sup>6</sup>”

These strategies don't include any specific chapters on landscape but mentioned as an asset to protect for environmental reasons and to valorise for tourism reasons. A more specific chapter on landscape characteristic assessment will be useful in order to enrich the territorial and socio economic analysis of these plans.

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<sup>5</sup> Summary given by Mrs. Nikolina Nikolova in a “brainstorming event for Romanian and Bulgarian authorities on maritime affairs in the black sea” p2

<sup>6</sup> Ibid

The Spatial Planning Act is the key law that regulates the drafting of schemes and plans for territorial development. It rarely underlines the importance of landscapes or landscape assessment and focuses more on the green spaces and parks, which is quite different from the European Landscape Convention definition. Nevertheless, landscape studies are included in the Detailed Plans methodology and their importance must be increased. Finally, more recent legislations such as the Black Sea Coast Spatial Planning Act or the law on Cultural Heritage are giving more importance to landscape conservation and valorisation, which seems to indicate a more and more concerned approach on landscape issues.

## PART 3. ENVIRONMENTAL LEGISLATION

### 3.1. ENVIRONMENTAL LEGISLATION IN ROMANIA

The notion of landscape is very present in the environment protection normative framework, primary or secondary. Its legal formulation illustrates a very diverse or vague understanding of what landscape is and how it can be perceived in regulatory terms in the field of environment protection. Nevertheless, given the fact that “landscape” is generally associated to the “nature” component of the territory, the concept of landscape is much more present in the environmental protection framework than anywhere else. It is an integrative concept without a clear legal definition; having thus little legal applicability in practice (i.e. it is less likely to be opposable to aggressive interventions in the natural environment than other more specific provisions).

The main regulatory documents (laws, ordinances, etc.) that include the concept of landscape are the following:

- The law no. 49 of April 7th 2011 for approval of the Governments Emergency Ordinance nr 57/2007 about the strategy concerning protected natural areas, conservation of natural habitats and of their wild fauna and flora mentioned in its Art.1, point 17 and 18:

*“17. Landscape - area perceived by the population as having specific characteristics that are the result of actions and interactions of natural and / or human factors;*

*18. Protected natural areas - terrestrial and / or aquatic zones that contain species of wild plants and animals, biogeography, landscape, geological, paleontological, speleological elements and formations with an ecological, scientifically or cultural special value, and enjoy a special legal protection and conservation status.”*

Landscape is therefore perceived as being the result of interactions between nature and the anthropogenic environment and is not anymore restricted to the terrestrial domain. On the other hand, the human factor is introduced as a key element that participates actively in the formation of landscape and its perception.

At point 18, landscape is defined as a natural value, which can be transformed or influenced by the cultural environment. These “cultural” aspects become now the subject of conservation alongside exceptional geological forms or flora and fauna.

- The law no. 265/2006 for the approval of Government's' Emergency Ordinance no. 195/2005 about protection of the environment *“Creates a uniform and general framework that states the principles that are the basis of the whole environment protection endeavour.”* Landscape is one of the components that compile the surrounding environment, being listed as part of the natural elements - Art. I (2). The chapter XII - Protection of human settlements, art. 70 a) and b) specifies that public authorities have the obligation to take care and to protect the landscape, as well as to protect and improve the natural and anthropogenic landscape background, in order to ensure a healthy environment for the community life. They must also intervene in deteriorated areas, from landscape and ecological point of view.
- The Mountain Law 347 of 2004, republished in 2009 specifies in its Chapter II, art. 3) that the application of mountain policies supposes sustainable exploitation of resources through balanced development of economic activities while maintaining the sustainable rural character and *“promoting sustainable methods of exploitation with conservation measures for landscape and biodiversity.”*
- The Government Emergency Ordinance nr 57/2007 about the strategy concerning protected natural areas, conservation of natural habitats, of their wild fauna and flora, approved with modifications and additions by the Law no. 49 of 2011 that aimed to update the national legislation about nature protection according to the EU legislation. The Chapter I, general disposition art. 2 (g) specifies that: *protection and conservation measures for wild endangered, vulnerable, endemic and/or rare species of animal and plants, as well as protection and conservation measures for geomorphological and landscape ...., that exist in the perimeter of protected natural areas and / or outside of them.”*
  - *The “Annex 1: Objective and type of management of categories of protected natural area” specifies in the paragraph:*
    - **e) Natural parks:** *“Natural parks are natural areas that seek to protect and conserve some landscape ensemble in which human activity and natural activity have interacted through time and created a distinct area with important landscape and / or cultural value, often with a big biological variety.”*
    - **f) Biosphere reserves:** *“These natural areas have a special protection and conservation regime for complex terrestrial and aquatic biodiversity. They are protected in the same category as natural flora and fauna elements and harmonious natural landscapes resulting from traditional improvement of the territory”.*

As part of the category V of the IUCN, these natural parks protect landscapes that are the result of interaction between man and nature and that have a positive impact on biodiversity. The traditional way of living of local communities must be maintained and touristic, recreational and pedagogical activities are allowed.

- The convention concerning protection and sustainable development of the Carpathians was adopted in Kiev on May 22nd, 2003 and has been ratified by the law no. 389/2006. The Convention was adopted in order to encourage the sustainable development of the Carpathians Mountains and follows the example of the *Framework-Convention for the Alpine Mountain*. The Carpathians are thus considered from the standpoint of preservation policies including all approaches: ecological, biological, cultural and traditional. The Art. 4 of the law mentions as an



objective the “*conservation and sustainable use of biodiversity and of landscape variety*” that will be implemented through sustainable conservation policies for ecosystem and for the specific cultural heritage of the area. It is recognized in this document that landscapes and biological diversity represents a trademark and has an image that gives a special status to this mountain formation on the European scale.

- The Law no. 137/2010 ratifies the Protocol concerning conservation, sustainable use of biological diversity and landscape diversity, adopted and signed in Bucharest on June 19<sup>th</sup> 2008 and completes the law 389/2006. It underlines the necessity of conservation and/or re-creation of the biodiversity and landscapes of the Carpathians mountains. Conservation and sustainable development of “biological and landscape diversity” of the Carpathians are mentioned as key elements to maintain an ecological balance. The Article 3 - Definitions, indent (k) defines the landscape as: “*an area, according to people’s perception, which character is the result of actions and interactions of natural and/or human factors;*” and indent (l): “*landscape diversity is the variability between landscape shapes*” . The definition here is quite vast and doesn’t seem to constrain itself to natural landscapes, but don’t mention clearly the landscape’s cultural diversity.
- The regulation and administration of green spaces in urban localities is framed by the law no. 24/2007 concerning regulation and administration of green spaces in urban localities, with ulterior modifications (Law 47/2012, Law 313/2009). Landscape is mentioned as a key element of the quality of life and the population’s health - art. 7 (b) “*maintaining and developing protection functions of green spaces concerning water, soil, climate change, maintaining landscape so as to protect population’s health, the environment and enhancing quality of life.*”

Landscape may also be regulated by the Law for Water, Law 107/1996 with ulterior modifications and additions, as landscape includes aquatic ecosystems.

Given the above-presented diversity of legal provisions on landscape and the fact that landscape is already present in the environment protection legal framework, it is very important to understand the possibility of rendering the concept operational at intervention/investment level. The most important operational instrument defined by the environment protection legislation is the environmental assessment of programs/strategies and projects. These assessments at different levels (and the subsequent environmental permits) are intended to ensure the conformity of any intervention with all the provisions of the environment protection legislation. It is thus possible to make “landscape” protection more operational by including a specific landscape tool inside the different levels of environmental assessment.

The environmental assessment is performed for different types of territories (urbanized territory, protected natural area, etc.) and at different conceptual levels (for strategic documents such as a PUG or a PUZ, for specific projects, for specific activities, etc.). Naturally the assessment method and tools are also different and adapted to each case:

- **Strategic Environmental Assessment (SEA)** : assesses the impact on environment of the provisions of general strategy documentations (plans, programmes) (→ Environmental permit for plans and programmes)

- **Environmental Impact Assessment (EIA):** assesses the impact on environment of the activities of specific projects (→ Environmental approval)
- **Environmental Permit :** assesses the impact on environment of individual activities (→Environmental authorisation)
- **Integrated Environmental Permit:** assesses the impact on environment of the functioning of certain facilities/equipments (→Integrated environmental authorisation)

Not all these tools are equally adequate to tackle the landscape protection aspect. Given the comprehensiveness of the landscape and its heterogeneous legal understandings, its “operationalization” seems feasible only at more comprehensive level like SEA and EIA. Individual activities and the functioning of certain facilities can be targeted by a landscape-protective approach.

The laws in the field of environmental assessment are the following:

- Government Emergency Ordinance no. 195/2005 (approved and modified by the LAW 265/2006) with subsequent modifications on environment protection
- Government Decision 1076/2004 concerning the procedure for the Strategic Environmental assessment
- Government Decision 918/2002 concerning the framework procedure for the environmental impact assessment and for the approval of the public or private projects submitted to this procedure

A brief presentation of the steps of each of the environmental assessments that can include a landscaping component, with the indication of where a landscaping assessment (based on a landscaping plan) can be included in the law:

#### a. **Strategic Environmental Assessment (SEA):**

The Strategic Environmental Assessment is applicable to any programme or plan/strategy in virtually any sector (agriculture, forestry, fishing and aquaculture, energy, industry, transport, waste management, water management, telecom, urban and territorial planning, etc.) that can have an **important** impact on the environment. It has the following stages:

1. Drafting the environmental report:
  - i. Preliminary scan concerning the possible environmental effects of the activities that are included in the program/plan and their classification according to their possible impact
  - ii. Finalisation of the program/plan and of the relative environmental report – **a study on the landscape relevant for the area targeted by the plan with recommendations for its preservation and sustainable management.**
  - iii. Analysis of the environmental report
2. Public or private stakeholders’ consultation
3. Taking into account the environmental report in the decision making process
4. Informing the public about the final decision

In order to obtain the **Environmental permit**, a plan/program is submitted **to the SEA** only if its environmental impact is deemed “important”. Given its partial subjective nature, the landscape can be influenced by virtually any intervention, even though from a purely technical environmental perspective, this intervention might seem harmless. In order to avoid the possibility of some strategies/programs/plans to impact strongly the landscape without being submitted to a SEA, a landscape study might be made mandatory for receiving the environmental permit, regardless of the necessity of a SEA. In the case a SEA is not mandatory, the **landscape study should be mandatory for the initial documentation submitted to the National Environment Protection Agency**.

#### b. Environmental Impact Assessment (EIA):

The Environmental Impact Assessment is applicable to any project in virtually all the fields that can have **a significant impact (direct or indirect)** on the environment, defined as humans, flora and fauna, ground, water, air, landscape, material goods and heritage and their interaction.

The EIA has the following stages:

1. Drafting the environmental impact assessment
2. Deciding on providing/not-providing the environmental approval of the project
3. Informing the public about the final decision

As in the case of the SEA, the law provides for a preliminary analysis of any project in order to inform the decision on whether the project needs to undergo an EIA for obtaining the environmental approval. It is thus possible that some projects, with important impact on the landscape, will not be submitted to the EIA. In order to avoid this legal shortcoming, it is advisable to make mandatory a **landscape study** at the level of the initial submission of the documentation for the **environmental approval**.

#### c. The adapted evaluation:

The adapted evaluation is applicable to any program, project or activity that has **a significant environmental impact** on the areas included or envisaged to be included into the NATURA 2000 network. This procedure has the following stages:

1. Drafting the adapted evaluation (only if in the preliminary stage the program/project was identified as one likely to have significant impact on a NATURA 2000 area)
2. Deciding whether or not to provide the NATURA 2000 Permit (several other sub-stages take place inside this stage according to the law in order to accommodate the necessity to provide alternative development scenarios for the area under study and integrate possible mitigation measures).
3. Informing the public about the final decision

As in the case of the previous procedures, it is easy to imagine different specific cases where the NATURA 2000 permit is delivered without an adapted evaluation to fully take place. There are indeed many small-scale projects that touch the NATURA 2000 sites, have an impact on the landscape (at least on the modification of the subjective perception of the landscape) but would be considered as not having a significant impact on the environment. **A landscape study for each intervention at the level of**

**NATURA 2000 sites, be it the result of a programming document or a direct result of the activities of a project, should be included already during the preliminary stage (when the public authority for the protection of the environment decides whether or not to submit the program/project to the adapted evaluation).** The adapted evaluation is not needed if the intervention that has an impact on a NATURA 2000 site is submitted to the SEA or EIA evaluation. This means that an adapted evaluation will take place only if the intervention is targeting a very specific site included in the NATURA 2000 network. As such, providing a landscape study in the first stages of requesting a NATURA 2000 permit will ensure that even in this case landscape is taken into consideration.

## Conclusion:

Environment legislation proposes different definitions of the landscape and of its characteristics. The landscape concept is present in virtually all of the environment legislation but it plays only a minor role, given its difficult operationalization. Nevertheless its widespread presence in the existing legislative framework as an integrative concept makes the environmental legislation one of the best places to better take into account the landscape protection and management. Protecting and restoring landscape is directly linked to protecting and restoring the diversity of flora and fauna.

Taking into account the landscape in a legislative approach means answering the following question: what environmental procedure can include a landscaping assessment and study that can effectively have an effect on the subsequent intervention?

Given the legislative framework it **is advisable to include a Landscape study as a mandatory piece to be included in the documentation that needs to be submitted in the preliminary stage of each type of environmental assessment procedure:** the Strategic Environmental Assessment, Environmental Impact Assessment and the adapted evaluation.

## 3.2. ENVIRONMENTAL LEGISLATION IN BULGARIA

The main objective of the Bulgarian legislation is the protection of ecosystems biodiversity and the preservation of natural processes as well as of typical or remarkable natural features and landscapes.

### General law

The Environmental Protection Act (EPA) regulates the relations with regard to protection of the environment, conservation and use of the environmental assets, conservation of the biological diversity; the control and management of factors damaging the environment; the exercise of control over the state of the environment and over the sources of pollution, the prevention and limitation of pollution, etc.

The Environmental Protection Act has been promulgated by the State Gazette No. 91/25.09.2002 and corrected, amended and supplemented numerous times since its promulgation. It includes in its Article 4 a wide definition of the environmental media that includes Landscapes: *"The environmental media shall comprehend: ambient air, atmosphere, water, soil, bowels of the earth, landscape, natural sites, mineral diversity, biological diversity and the components therein."* Following the ratification of the

Landscape Convention, a new paragraph was introduced in the article 51 in the SG *“The natural landscape shall be conserved and used in a manner and by means precluding a harmful impact, irreversible modifications and/or damage of the elements thereof.”*

The responsibility of landscape protection and restoration is clearly defined by the law and by its tools of implementation such as: the Environmental Impact Assessment (EIA) and the Strategic Environmental Assessment (SEA).

Indeed, the Article 15, paragraph 5, rules on that *“The Municipality Mayors shall perform the following functions: organize and oversee the cleanness, maintenance, conservation and expansion of the settlement green structures within the nucleated settlements and in the country areas, as well as the conservation of biological diversity, of the landscape and of the natural and cultural heritage therein”*

Moreover, according to the Environmental Protection Act, the Environmental Impact Assessment (EIA) and the Strategic Environmental Assessment (SEA) are the key tools for landscapes protection.

1. The Environmental Impact Assessment (EIA): As mentioned in Chapter Six, Environmental assessment and environmental impact assessment, Section I, Article 81, paragraph 5, *“The environmental impact assessment referred to in Item 2 of Paragraph (1)<sup>7</sup> shall identify, describe and assess in an appropriate manner, in the light of each particular case, the direct and indirect effects of a development proposal for execution of construction, activities and technologies on: human beings; biological diversity and the elements thereof, including flora and fauna; soil, water, air, climate and the landscape; the bowels of the Earth, physical structures and the cultural and historical heritage, as well as the interaction among these factors.”*
2. The Strategic Environmental Assessment (SEA), Section II, Environmental Assessment of Plans and Programmes:
  - a. Article 85, paragraph (4) (Amended and supplemented, SG No. 77/2005) *The Minister of Environment and Water or the competent RIEW Director shall determine by a decision the need of environmental assessment of a plan or programme proposed or modification of any such plan or programme according to the procedure established by the ordinance referred to in Article 90 herein, in conformity with the following criteria for determining the likely significance of the effects thereof: 2. (Amended, SG No. 52/2008) characteristics of the effects and of the area likely to be affected, having regard to: probability, duration, frequency, reversibility and cumulative nature of the potential impact; potential transboundary impact, potential impact on and risk to human health or the environment, including as a result of accidents, magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected), value and vulnerability of the area affected (as a result of special natural characteristics or cultural and historical heritage; excess of environmental quality standards or limit values; use of*

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<sup>7</sup> 2. Environmental impact assessment (EIA) shall be conducted for development proposals for execution of construction, activities and technologies listed in Annexes 1 and 2 hereto

*land for intensive agricultural purposes); impact on areas or landscapes which have a recognised national, Community or international protection status”*

- b. Article 86, paragraph 3, *“The environmental assessment report shall mandatorily contain: point 6 (supplemented, SG No. 77/2005, amended, SG No. 52/2008) “likely significant impacts on the environment, including biological diversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural and historical heritage, including architectural and archaeological heritage, landscape and the inter-relationship between the above factors; these impacts must cover any secondary, cumulative, simultaneous, short, medium and long-term, permanent and temporary, positive and negative effects”*

Finally, some complementary provisions are given in the Supplementary Provisions Chapter, in order to underline the necessity to take account of landscapes in these environmental studies:

- Paragraph 13. Landscapes shall be an area whereof the specific aspect and elements have emerged as a result of actions and interactions between natural and/or human factors.
- Paragraph 17 (Amended in the SG No. 77/2005) Development proposals shall be: (b) other interventions in the natural surroundings and landscape, including those involving the extraction of mineral resources.
- Paragraph 18 Impacts shall be any direct effect on the environment that may be caused by the implementation of a development proposal for construction, activity or technology, including the effect on human health and safety, flora, fauna, soil, air, water, climate, landscape, historical monuments and other physical structures or the interaction among these factors.

According to the ordinance defining the terms and conditions for the evaluation of environmental impact approved by the Decree Nr 59 of the 07.03.2003 and amended several times, the Environmental Impact Assessment Framework must detailed in its Chapter 4, the *“Characteristics of the potential impact (short description of the possible impacts of the project implementation”*

- *The impact on people and their health, land use, material assets, air, atmosphere, water, soil, earth, landscape, natural sites, mineral diversity, biological diversity and its components and protected areas of individual and group real cultural values and the expected impact of natural and anthropogenic substances and processes various types of waste and their locations, risky energy sources - noise, vibration, radiation, and some genetically modified organisms.*
- *The Cross-border impacts”*

According to the ordinance that defines the procedures for conducting environmental assessment of plans and programs and that was approved by the Decree № 139 of 24.06.2004 and amended several times, the Strategic Environmental Assessment as the Environmental Impact Assessment can evaluate the cross border impact of a study.

As we have seen it, the EPA determines the principles on which environmental protection is based. The introduction of these principles in the special laws dealing with the different environmental issues is of crucial importance for the harmonious functioning of the legal regulations.

### **Special laws**

The four special laws whose subject is the conservation of nature and its resources and that mentioned landscapes are given a thorough description in a document of the National Audit Office of Bulgaria published in 2004<sup>8</sup>.

#### **1. The Protected Areas Act:**

“It regulates the effective management, conservation, control and security of protected areas with a view to achieving sustainable development of the natural resources therein. The Act defines the different categories of protected areas in accordance with the internationally accepted classification and their protection regimes; it determines the responsibilities of the governmental institutions with respect to planning and conducting the necessary maintaining, scientific and research, and educational activities in accordance with the intended use of the protected areas; it ensures the participation of all interested organs, organisations and parties in the procedures for establishing, designating, forming and implementation of the management plans<sup>9</sup>”.

It specifies six main types of protected natural areas, which depend on their management scheme: reserves, national parks, natural landmarks, managed nature reserves, nature parks and protected landscapes. The protected natural spaces include forests, terrestrial and aquatic areas. The provisions of the Act establish different protection regimes depending on the type of protected natural area.

- According to the ordinance regarding the development of management plans for protected areas that was approved by the Decree Nr 7 of the 8.02.2000 and that is effective since 20.07.2012, the management plans of non natura 2000 protected areas must include a landscape chapter that will be composed of the following sub chapters:
  - Structure of the landscape
  - Aesthetic qualities

#### **2. The Biological Diversity Act (BDA):**

“The BDA, which complies with the European directives on the habitats and the conservation of birds, was adopted in 2002. It repeals the Nature Protection Act (NPA). The BDA regulates the conservation and sustainable use of the biological diversity in Bulgaria. This act is the first to provide legally for the establishment and maintenance of a national ecological network as a system of protected areas and buffer zones with a view to the protection and conservation of wildlife habitats<sup>10</sup>”.

<sup>8</sup> Republic of Bulgaria National Audit Office, *Management of the Protected Areas in the Republic of Bulgaria – National and Nature parks ,performance audit, July 2004, Sofia*

<sup>9</sup> Ibid P 17

<sup>10</sup> Ibid p 16

Landscape is here defined in the Supplementary provisions chapter as: *“any area whereof the specific aspect and elements have emerged as a result of actions and interactions between natural and/or anthropogenic factors.”*

- a. In its Section I, General Dispositions, Article 3, paragraph 1, it defines the creation of a National Ecological Network *“The State shall develop a National Ecological Network which shall comprehend: 1 (supplemented, SG No. 94/2007) special areas of conservation part of the European Ecological Network NATURA 2000, which may incorporate protected areas; 2) protected areas outside special areas of conservation; 3 (amended, SG No. 94/2007) CORINE sites, Ramsar sites, Important Plant Areas and Important Bird Areas”*.
- b. In the Article 4, it determines that: *“ The National Ecological Network shall have the following purposes: 1) long-term conservation of biological, geological and landscape diversity”*.
- c. The Article 30, paragraph 2, mentions that *“To ensure the links between the special areas of conservation, the plans and projects referred to in Paragraph 1 ( The spatial-development plans, regional plans for the development of wooded areas, forestry plans and programs and the national and regional programmes elaborated according to the procedure established by other acts) shall include measures and activities for conservation of the features of the landscape which, by virtue of their linear and continuous structure or their function as stepping stones, are essential for the migration, dispersal and genetic exchange of plant and animal populations and species. “*
- d. Finally, the paragraph 3, defines: *“ The principal features of the landscape referred to in Paragraph (2):*
  - Rivers and river banks and water-logged old river beds;
  - Natural marshes, lakes, wet meadows and other wetlands;
  - Caves, rock edges, faces and dunes;
  - Cols and other natural landforms linking separate mountains;
  - Field boundary markings, forest shelter belts, dry meadows and pastures;
  - Flood plains and riverside vegetation;
  - Forests located at an altitude not exceeding 500 metres above sea level.

The Decree Nr 349 of 30.12.2008 has approved the ordinance, which defines the terms and conditions for the development and validation of management plans of protected areas. The management plans don't refer at any moment to landscape protection and valorisation through a specific chapter.

The Ordinance; which defines the procedure for drafting Environmental Impact Assessment of plans, programs, projects and investment proposals with the object and purpose of the conservation of protected areas; was approved by Decree № 201 of 31.08.2007 and was amended several times. Landscape is defined in a restrictive way here as it is considered that must be assessed and protected



only “the characteristic elements of the landscape which are essential for the migration, dispersal of species and genetic exchange between populations” in the Article 40, additional provisions, § 3 (f).

### 3. **Forests Act:**

The Forests Act” provides for the management, reproduction, usage and protection of forests in the Republic of Bulgaria. It regulates the relationships with respect to the usage of the forests and land tracts in the forest stock. The management of forests aims at their conservation, reproduction, sustainable development and use”<sup>11</sup>.

### 4. **Water Act:**

The Water Act “provides for the integrated and balanced management of water resources, including through measures for restoration of water quality and protection of waters against pollution, depletion and other adverse impacts on the regime thereof; measures for protection and conservation of the aquatic ecosystems and the environmental media related to them”<sup>12</sup>

- a. In its Chapter Eight, Protection of waters and water sites, Article 116. Paragraph 1 (Supplemented, SG No. 65/2006), it mentioned that “All waters and water sites shall be protected against depletion, pollution and damage, with a view to maintaining the appropriate water quantity and quality and a healthy environment, conserving the ecosystems, preserving the landscape, and preventing economic damage, including”

## PART 4. AGRICULTURE AND LANDSCAPE

European Union stresses the important of a sustainable agriculture that preserves and helps the management of landscape. The Commission views on these matters are not equivocal and are repeated in many documents. Agriculture and landscapes are interrelated and can benefit from several synergies at the conditions that environmental issues are well integrated in farming practices.

For instance the Commission presents on its website the following statement:

“Farming activity and agriculture are key factors in shaping the visual features of rural areas and creating valuable habitats for wildlife, as they are the main land user activities. Across the EU, agricultural land management has created rich landscape diversity, including a mosaic of woodlands, wetlands, and extensive tracts of an open countryside.

Nevertheless, farming activities, which helped to generate these features, are currently losing their competitiveness. The Common Agricultural Policy (CAP) stresses the importance of preserving the farmed landscape as:

- Traditional agricultural landscapes are a part of the European cultural and natural heritage,

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<sup>11</sup> Ibid p17

<sup>12</sup> Idem.

- The ecological integrity and the scenic value of landscapes make rural areas attractive:
  - for the establishment of enterprises,
  - as places to live,
  - for tourism and leisure activities

The ecological integrity of a landscape is an important element of its attractiveness and perceived value. The new concept of High Nature Value Farming recognizes the causality between certain types of farming activities and natural values, such as high levels of biodiversity or the presence of species and habitats with conservation concern.

Farming practices that preserve and enhance biodiversity are generally associated with low intensity grazing or mowing practices on semi-natural vegetation. More intensive agricultural landscapes can also have a positive effect on biodiversity, as they can be suitable sites for nesting and breeding or food sources on migratory corridors.<sup>13</sup> “

This long statement expresses fully the node that landscapes represent beyond their ecological or agricultural value. They have other functions and delivers other services, landscape is indeed an open space for initiatives, for different farming practices that have nevertheless the single objective to benefit from them by valorising their potential rather than exploiting their resources.

#### 4.1. THE VALUE OF AGRICULTURAL LANDSCAPE

Rich and diverse, rural landscapes reflect an ingenious adaptation of societies to their territories. They keep the memory of ancestral know-how; they bear the imprint of traditional practices and innovating techniques. Contributing to the identity of the place, they are an asset: as a living environment for residents, as branding landmark for economic development and tourism, as a reflection of a society's relationship to their environment.

The International Council on Monuments and Sites (ICOMOS) and the UNESCO hold a special day every year (18<sup>th</sup> of April) to celebrate world's heritage, in 2010 the chosen theme was “The Heritage of Agriculture”.

In one of its publications the ICOMOS presents “21 landscapes, mainly from the European continent, (which) have already been inscribed on the World Heritage List because of their outstanding universal value related to agricultural activities. Most of the agricultural landscapes inscribed on the World Heritage List are continuing landscapes (even though there are also examples of relict or fossil landscapes of outstanding universal value). Based on the criteria for their inscription related to agricultural activity, they could be divided as follows<sup>14</sup>:

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<sup>13</sup> [http://ec.europa.eu/agriculture/envir/landscape/index\\_en.htm](http://ec.europa.eu/agriculture/envir/landscape/index_en.htm)

<sup>14</sup> ICOMOS, *The International Day for Monuments and Sites Theme for 2010 – “The Heritage of Agriculture” Celebrate the world's heritage on 18 April 2010*, P 3

- **Vineyard landscapes** – received an international recognition. Up to eight landscapes have been listed, among which the Wachau Cultural Landscape (Austria), the Tokaj Wine Region Historic Cultural Landscape (Hungary), the Upper Middle Rhine Valley (Germany), the Jurisdiction of Saint-Emilion (France) or the Alto Douro Wine Region (Portugal).
- **Landscapes related to staple and/or economic crops** such as rice, wheat, maize, millet, coffee, tobacco, etc.
- **Landscapes related to nomadic, pastoral and transhumant societies**, among which the outstanding examples of the Orkhon Valley Cultural Landscape (Mongolia) or the Madriu-Perafita-Claror Valley (Andorra).
- **Fossil landscapes that have conserved, in exceptional conditions, historical remains of ancient agriculture and livestock techniques**, such as the Lopé Okanda Ecosystem and Relict Cultural Landscape (Gabon).
- **Landscapes where agricultural activity has produced particularly beautiful scenery**, their aesthetic values, rather than the agrarian activity itself, motivated their inscription, as the Val d'Orcia and Costiera Amalfitana Cultural Landscapes (Italy).
- **Agricultural landscapes whose outstanding universal value is mainly related to the vernacular infrastructures and buildings of the agrarian activity**, such as the Mill Network at Kinderdijk-Elshout Cultural Landscape (Netherlands).

**Agricultural landscapes significant for conserving all or part of the above mentioned values and features, characteristic for landscapes related to nomadism and transhumance** (Richtersveld Cultural and Botanical Landscape in South Africa, Laponian Area in Sweden, etc.), and which bear witness not only to the presence of these practices for over 2.000 years, but also to their continuity in the present. This is also the case of the mixed site of Mont Perdu (France-Spain) and the Kuk Early Agricultural Site (Papua New Guinea).<sup>15</sup>

The value of agricultural landscapes is therefore more and more acknowledged globally and especially at the European level. For example, areas such as the Causses and the Cévennes, with a specific Mediterranean agro-pastoral cultural landscape on a 302,319 ha property, has drafted a Landscape management plan that was supported by the key stakeholders such as the local farming communities. This 2007-2013 strategy included completing an atlas of the landscape; drawing up an inventory of attributes of the landscape; developing knowledge of the landscape; acquiring a common language for the landscape; developing a decision-making tool for the restoration and the management of the landscapes; and identifying emblematic sites of the cultural landscape.

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<sup>15</sup> Ibid p 4

In this case and in many others, by replacing the landscape in the heart of agricultural projects, farmers find ways to show their role in the protection and management of landscapes and in the environmental protection. Indeed, the environmental assets of agricultural landscapes are more and more considered, not only as tourism assets, but also as public goods and policy measures are therefore needed to ensure the delivery of these “public services”. For example, measures such as compensatory allowances or direct payments to sustain farming can be considered as agri-environment measures, even though they are not primarily targeted towards environmental outcomes.

During the last programming period of the Rural Development programme in both countries, the measure 214, Agri-environmental payments, promoted agri-natural resources; biodiversity and traditional landscapes are part of the national wealth. For conservation, restoration and maintenance of these valuable assets is granted assistance. The objectives are:

- Promote the use of *environmental planning* (multi-annual plan for nutrient management and crop rotation plan);
- Support the development of *organic farming* as an environmentally friendly method that is economically viable;
- Conserve soil and water resources, including in areas affected by severe erosion or threatened by loss of nutrients (e.g. Nitrate Vulnerable Zones);

The preferred beneficiary groups were:

- Farmers whose land is in the nitrate vulnerable zones;
- Farmers in communities with moderate to severe erosion problems.

This support policy will be reinforced during the next programming period based on new principles.

## 4.2. THE COMMON AGRICULTURAL POLICY

### 4.2.1. INTEGRATING ENVIRONMENTAL CONCERNS INTO THE COMMON AGRICULTURAL POLICY

The Common Agricultural Policy is one of the most complicated and controversial European Policy, it has long been a subject of confrontation and a source of a feeling of inequality between Members some allegedly taking advantage of other’s contributions in order to artificially sustain their agriculture.

A careful analysis of its history and current objectives shows that a shift has been made from the funding of a modernised and intensive agriculture to the inclusion of rural development and environmental concerns, the commission says clearly that “ the CAP has been increasingly adapted in order to integrate environmental concerns and to better serve **sustainability purposes**<sup>16</sup>”.

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<sup>16</sup> [http://ec.europa.eu/agriculture/envir/cap/index\\_en.htm](http://ec.europa.eu/agriculture/envir/cap/index_en.htm)

It is necessary to follow precisely the Commission argumentation in order to understand fully this very complex and delicate matter. Firstly it is very helpful to know the exact meanings of key words used by the Commission since they are the basis of its policy.

These definitions are based on well-known concepts of environmental economics as the Polluter-Pays-Principle inspired by the economist Pigou in 1920 and already adopted by the OECD in 1972.

### **Key terms as regards the CAP and environment**

#### **Polluter-Pays-Principle - Avoiding environmental damage**

The Polluter-Pays-Principle states that the polluter should bear the costs of avoiding or remedying environmental damage. Generally, farmers have to ensure compliance with mandatory national and European environmental standards and respect the basic mandatory standards forming part of the cross-compliance regime at their own costs. Non-compliance with mandatory requirements is subject to sanctions.

#### **Provider-Gets-Principle - Provision of environmental services**

The Provider-gets-Principle is described as remunerating voluntary environmental commitments going beyond legal requirements. For the CAP, this principle is taken up via agri-environment payments which encourage farmers to sign up for environmental commitments beyond the reference level of mandatory requirements. Agri-environment payments shall cover the costs incurred and income forgone as resulting from voluntary environmental commitments.

#### **Reference Level – Base Line**

The reference level or base line represents the demarcation between environmental requirements with compliance costs falling on the farmer and those measures that offer farmers a remuneration for environmental commitments. In line with the internationally agreed definition of the polluter pay principle, the reference level is represented by mandatory environmental standards, resulting from environmental legislation or cross-compliance requirements. Beyond this reference level, agri-environment payments can be applied.

#### **Public Goods**

A public good is a good that, even if one person consumes it, is still available for consumption by others. As the individual readiness to pay for public goods is frustrated by free-rider options of others, markets do not function with respect to ensuring a satisfactory supply of goods. Thus, the delivery of public goods, in line with society's demand, requires political action. On the supply side, agriculture can provide for public goods such as maintaining attractive, cultivated landscapes, contributing to the cultural heritage of regions or enhancing the environment.<sup>17</sup>

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<sup>17</sup> *Idem*

The Provider-Gets-Principle is complementary to the Polluter-Pays-Principle since it is looked forward that a balance will be ensured, the polluter paying the provider whose incentives will not be given directly by the EU but only redistributed.

This example permits to understand more the architecture of the integration of environmental concerns in the CAP and the interdependency between all initiatives. In a broader perspective the Commission highlights very well the connexion between these 4 concepts:

The integration of environmental concerns into the Common Agricultural Policy is based on a distinction between:

- Ensuring a sustainable way of farming by avoiding environmentally harmful agricultural activity and
- Providing incentives for environmentally beneficial public goods and services.

For ensuring sustainable agricultural activities, farmers are obliged to respect common rules and standards for preserving the environment and the landscape. The common rules and standards are mandatory and form the very basis for ensuring that agricultural activity is undertaken in a sustainable way. These rules and standards form the "reference level" up to which the costs for complying with these obligations have to be borne by the farmer, according to the "Polluter-Pays-Principle".

However, environmental objectives often go beyond what we can expect farmers to deliver by respecting compulsory legislation. If we want farmers to engage voluntarily in action to enhance the environment beyond the mandatory requirements, we have to provide appropriate incentives. After all, we have to take into account that, beyond their obligations, farmers employ their own private resources and factors of production to deliver environmental public goods and services, which are of interest to the wider public and society. Where farmers are remunerated for voluntarily engaging in environment-related activities, we speak about the "provider-gets-principle".

The Common Agricultural Policy reflects the two principles, the "polluter pays principle" and the "provider gets principle", in integrating environmental concerns into the policy via two mechanisms:

- Linking the respect of selected statutory requirements (Cross-compliance) to most CAP payments and sanctioning non-compliance by payment reductions.
- Paying for the provision of environmental public goods and services going beyond mandatory requirements (Agri-environment measures).<sup>18</sup>

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<sup>18</sup> *Idem*

This philosophy is in implementation since 1992, the commission underlines as we stressed above that the “the CAP\_has progressively been adapted to better serving the aims of sustainability, including environmental protection. This development became manifest in a reform process designed to moving from price and production support to a policy of direct income aid and rural development measures<sup>19</sup>”.

The commission adds that “today, making the CAP compatible with market requirements goes hand in hand with environmental integration with the latter being reflected via **four types of measures**<sup>20</sup>:

1. Measures targeted towards objectives such as market stability or income support having positive secondary effects on the environment or contributing to maintaining environmentally beneficial structures or types of farming (e.g. LFA payments).
2. Measures targeted towards objectives such as income support, designed to contribute to the enforcement of mandatory environmental requirements and the polluter pays principle (e.g., decoupled payments in combination with cross-compliance).
3. Measures targeted towards encouraging the provision of environmental services on a voluntary basis (agri-environment measures).
4. Measures targeted towards facilitating compliance with compulsory environmental requirements (e.g., "meeting standards" measure) or compensate the relative economic disadvantage resulting from a region-specific pattern of environmental requirements (e.g. Natura 2000 and Water Framework Directive) <sup>21</sup>

#### 4.2.2. THE COMMON AGRICULTURAL POLICY AFTER 2013

- On 12 October 2011, the Commission has provided information about the future of the CAP, notably the new legal agenda that will be mainly oriented towards the publication of **4 Basic EU Regulations of the new Common Agricultural Policy** that will be implemented after 2013, their goal is “to make the CAP a more effective policy for a more competitive and sustainable agriculture and vibrant rural areas<sup>22</sup>”

<sup>19</sup> *Idem*

<sup>20</sup> *idem*

<sup>21</sup> *Idem*

<sup>22</sup> [http://ec.europa.eu/agriculture/cap-post-2013/legal-proposals/index\\_en.htm](http://ec.europa.eu/agriculture/cap-post-2013/legal-proposals/index_en.htm)

### THE 4 BASIC EU REGULATIONS OF THE NEW COMMON AGRICULTURAL POLICY (CAP)

The 4 basic EU regulations of the new Common Agricultural Policy (CAP) have been published in the Official Journal. (REGULATION (EU) No 1305/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 17 december 2013 ). According to these new rules, the vast majority of CAP legislation will be defined under 4 consecutive Regulations – a significant simplification – covering.

- 1) Rural Development
- 2) "Horizontal" issues such as funding & controls
- 3) Direct Payments for farmers
- 4) Market measures

Official Journal of the European Union, L 347, 20 December 2013

#### 10 key points of the reform:

- Better targeted income support
- Tools to address crisis management which are more responsive and better suited
- **A "green" payment for preserving long-term productivity**
- **Additional investment in research and innovation**
- A more competitive and balanced food chain
- **Encouraging agri-environmental initiatives**
- **Facilitating the establishment of young farmers**
- **Stimulating rural employment and entrepreneurship**
- **Better addressing sensitive areas**
- A simpler and more efficient CAP

### **4.3. LEGAL TEXT RELATED TO AGRICULTURE AND LANDSCAPE IN ROMANIA AND BULGARIA**

The existence of a dual agriculture, where coexist very small farms and increasingly large grain production structures, is a common issue in Bulgaria and Romania. Both landscapes are characterized by a highly fragmented land, consisting of small parcels, narrow and linear, making the use of agricultural machinery complicated and expensive. The irrigation system problems are due in the same way to a highly fragmented land.

#### *Example of laws concerning landscapes in the Romanian legislation on Agriculture*

The law no. 18/1991 for the Organization, administration and operation of permanent grassland and amended and supplemented by the Ordinance 34/2013 is an example of a law in the agriculture field that has a strong effect on landscapes. Indeed, traditional landscapes are shaped by livestock in many



areas. Grasslands have an ecological and a landscape value recognized internationally. Protecting grasslands and communal grazing is an important action that can be materialized by the drafting of management plans. Indeed, grazing animals are a crucial part of the ecosystem. When grazers are removed or when there is a land conversion to crop fields, these areas show a decline in both the density and the diversity of the vegetation. The expansion of woody species of plants due to land management deficiencies and to climate change is currently hindering the ecological importance of grassland communities and changing landscapes. For instance 'Animal grazing can be a tool to maintain or restore biodiversity of open landscape and contribute to the aesthetic and leisure importance of grassland'<sup>23</sup>. Local authorities in association with local populations may prepare management plan specific for grassland area and grazing activities.

In a similar way, rural development policy has been the main instrument for implementing forestry measures in recent years. Rural development policies support:

- The first afforestation of agricultural land,
- The first establishment of agri-forestry systems on agricultural land, and
- The first afforestation of non-agricultural land.

Natura 2000 payments can compensate private forest owners for costs incurred and income foregone, while support is also available for actions to restore and protect forestry potential.

In Romania, we can mention two laws on forests management that include the concept of landscape:

1. The law no. 76/2013 - that ratified the Protocol concerning the sustainable management of forests, adopted in Bratislava on May 27th, 2011 and signed by Romania, in the framework of the Convention for the protection and development of the Carpathians Mountains. This law underlines the necessity of protection and sustainable development of the forests in the Carpathian area.
2. The law no. 46 of March 19th, 2008 – The Forestry code (in force since July 16th, 2009), in its chapter IV, mentioned landscape as a regulating framework for any new plantations realised according to the national forestation program. All the beneficial effects of forestation (combating soil erosion, protecting shores and embankments, create the conditions for bigger harvests, protecting urban environment) are seen as part of a landscape optimization effort. Landscape is perceived by this law as the expression of the local balance of the general elements forming the environment. For example, in Chap. 12 - Accessibility of forests, art. 85 (1), it is specified that guidelines related to landscapes protection must be respected in the design and construction phases of accessibility roads: *"Design and construction of forest roads*

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<sup>23</sup> HUYGENS, Didier; ROTAR, Ioan; VIDICAN, Roxana; PĂCURAR, Florin; CARLIER, Lucien; MĂLINAȘ, Anamaria , *"The Influence of Different Type of Management upon the Floristic Structure of Grasslands Systems, with Special Attention on Arnica Trontana L"*, Bulletin of the University of Agricultural Sciences & Veterinary; March 2013, Vol. 70 Issue 1, p30

*must be done according to principles that respect integration in the landscape and don't affect water, soil and habitat quality."*

### *Example of laws concerning landscapes in the Bulgarian legislation on Agriculture*

1. The Agricultural Land Ownership and Use Act (ALOUA) regulates the protection, the restoration and the improvement of the fertility of agricultural lands. It determines the procedure and terms for using agricultural land for non-agricultural purposes;
2. The Agricultural Land Conservation Act (ALCA) regulates the protection, the restoration and the improvement of the fertility of agricultural lands;
3. The Agricultural Land Protection Act (ALPA). The Act's overall aim is to promote and ensure a secure land system, optimal land use and facilitate broad-based social and economic development without upsetting or threatening the ecological balance of the environment. The ALPA defines agricultural land as a major national asset and changes to its intended use "is allowed only in exceptional circumstances, proven need and the terms and conditions set by this law." According to the provisions of the existing legislation, construction on rural (agricultural) land of buildings/structures with functions not compatible with the use of the land as such, is only possible after a change of land use under the statutory order, followed by a mandatory action for amendment of the detailed development plan for the territory. The major conflict with the ideas for sustainable development declared in the laws and norms here considered is to be found in § 2 of the supplementary provisions of the Agricultural Land Protection Act. It gives the possibility of "legalizing" the already build construction on agricultural land. And it results, of course in an unplanned and uncontrolled expansion of the urbanized territories.

None of these laws really underline the importance of landscape conservation and valorisation even if grassland conservation for example is a key issue in this field. Moreover, in rural and agricultural lands are also ruled by Spatial Planning Acts. Therefore, it seems that on rural and especially agricultural territories, the measures of the Rural Development programmes in the framework of the Common Agricultural Policy are the main complementary mechanism for landscape protection and valorisation.

## Conclusion

To achieve the objectives of this legislation audit and proposals, namely the conservation, planning, restoration, development and valorisation of the landscapes in the cross border area, several options are available:

- 1) The development of a Landscape act in Romania and the ratification of the Bulgarian Landscape act. Both landscape acts must have synergic issues.
- 2) The amendments and the modification in a synergic way of all the different and various laws defining or regarding landscapes in the Romanian and Bulgarian legislation.
- 3) The enhancement of selected urbanism and environmental technical and operational documents, by introducing landscape chapters or by increasing their importance.

- 4) The introduction of landscape studies in high scale territorial planning documents in order to ensure coherence with small-scale technical and operational documents.

The options 1 & 2 seem difficult to apply, as they need a strong political and administrative support.

The first option, as it is detailed in the case of the Bulgarian Landscape Act that can be found in the annexes, requires the creation of new administrative institutions and a strong interministerial collaboration on various issues.

The second option requires a very long and painstaking work and will need strong political support to be implemented without having necessarily a very important impact. Indeed, there are already various definitions of landscapes and of its characteristics especially in the urban planning and environmental legislation that focus on different values of the landscapes and that can be unified by different stakeholders. This will allow an interesting “bridge or integrative concept” between different laws but won’t have a real efficient effect. Moreover, the legislation audit can develop general proposals to improve the environmental legislation such as:

- The Romanian law 265/2006 should include the obligation of landscaping studies as pre-requisites and parts of any documentation about the protection of the environment
- The Law 24/2007 should make mandatory the drafting of a landscape study before any intervention on urban green spaces

But it seems to us, as a conclusion of the legislation audit, that the necessity of taking into account landscapes is already present in Romanian and Bulgarian laws and that the key issue is how to increase its importance from a minor and theoretical issue to a strategic one. Indeed, in order to better integrate the “landscape” concept into the environmental legal framework, we need to enhance its operational stature.

Therefore, the third and fourth options, which are strongly linked, seem the most relevant and feasible even if it requires also a political and administrative support and involvement. For example, the third option proposes to require detailed landscape studies in different technical and operational documents such as the Urban Planning documents, the Building Permit or the management plan of protected areas. Moreover, these landscape studies must be coherent with higher scale territorial planning documents, such as county/district territorial planning documents, that must include, in turn, landscape planning chapters. We can also advise here the creation of specific territorial landscape charts such as regional landscape charts that will set out agreements between local and regional stakeholders in order to promote actions and strategies regarding landscape evaluation and management. This instrument could be used for major landscape coherent units, such as the Danube Delta, the Mureş valley in Romania. These regional landscape charts could be, in their turn, the basis for local landscape charts that will protect and manage landscapes locally, for a group of communes or a Local Action Group, and that could be relevant tools for raising awareness among citizens about their rights and obligations in landscape protection and management.

At the legal level, we can propose improving the urban and territorial planning, environment and agricultural legal framework within the legislation as it can be seen in the table below:



Legislation		Requirement
Romania	Bulgaria	
Urban planning general rules (RGU) Government Decision no. 525 / 1996 approving the General Urban Planning Regulation	General Spatial Plan Law on the spatial planning	A landscape study should be included in the RGU/ General Spatial Plan in order to state the general criteria that need to be followed for ensuring landscape protection at a national level. Some indicative fields that should be tackled in this study that would introduce a landscaping perspective into the RGU (and ensuing documentation): appearance and conformation of buildings, the occupancy typology of plots, the green areas, the hedges – to be specific to landscape zones, mentioned in an annex.
National planning document (PATN) Law no. 350 / 2001 on spatial planning and urban planning	National development plan Law on Regional Development	A section with the identification and classification of the macro - types of landscapes (that should be further detailed in the territorial planning documentations for inferior levels: PATJ, PATR, PATZ) should be included in the frame of the national planning documents.
Regional planning document (PATR) Law no. 350 / 2001 on spatial planning and urban planning	Regional development plans Law on Regional Development	A section with the identification and classification of the macro - types of landscapes (that should be further detailed) should be included in the regional planning document.
County planning document (PATJ) Law no. 350 / 2001 on spatial planning and urban planning – section 2, art. 41;	District development strategies Law on Regional Development	A section with the identification, classification and management of the various types of landscapes existing in each county should be included in each county planning document.
General Urban Plan (PUG) with the Local Urban Regulation (RLU)	General Spatial Plan (municipality level)	A landscape file or study should be included in any PUG/general spatial plan and tackle the following objectives:

<p>Law no. 350 / 2001 on spatial planning and urban planning – section 3, art. 46, alin. 2, 3;</p>	<p>Law on the spatial planning</p>	<ul style="list-style-type: none"> <li>• Identify and classify types of landscapes, within or outside the city, which should be protected, managed or developed according to the principles of sustainable development.</li> <li>• Identify and protect agricultural lands, propose and support developing directions for agriculture development near the city limits.</li> <li>• Define the land that can be built upon and the land that cannot be built upon which is a key delimitation for promoting landscapes at different scales</li> <li>• Establishes the existing green and blue network within the city, in connection with the territory with directions for development of green ways and ecologic corridors.</li> </ul>
<p>Zone Urban Plan (PUZ) with the Local Urban Regulation (RLU)                  Law no. 350 / 2001 on spatial planning and urban planning – section 3, art. 47, alin. 2;</p>	<p>Detailed Spatial Plan (municipality level)                  Law on the spatial planning</p>	<p>A landscape file or study should be included in any PUZ/Detailed Spatial Plan in order to establish regulations for rehabilitation, protection and management of landscapes inside the study area (the PUZ area).</p>
<p>Detailed Urban Plan (PUD)                  Law no. 350 / 2001 on spatial planning and urban planning – section 3, art. 48, alin. 2;</p>	<p>Detailed Spatial Plan (municipality level)                  Law on the spatial planning</p>	<p>A landscape file or study should be included in any PUD/Detailed Spatial Plan in order to present how the exterior aspects and materials used in the intervention on the area targeted by the PUD or the building permit will ensure integration of constructions in the local landscape.</p>

Legislation		Requirement
Romania	Bulgaria	
<b>Environmental regulations</b>		
<p>Environmental impact assessment (EIA)</p> <p>Government Emergency Ordinance no. 195/2005 (approved and modified by the LAW 265/2006) with subsequent modifications on environment protection – <b>as the legal framework it should include the general provision that landscape impact has to be assessed separately through a landscape study</b></p> <p>Government Decision 918/2002 concerning the framework procedure for the environmental impact assessment and for the approval of the public or private projects submitted to this</p>	<p>Environmental impact assessment (EIA)</p> <p>Environmental Protection Act</p> <p>Decree No. 59 of the 07.03.2003</p>	<p>Require a brief landscape study for any documentation that is screened for submission to the EIA. The following Laws have to be modified to include the obligation for anyone who initiates a project that includes a territorial intervention to submit in the first stage (screening) a landscape study:</p>

<p>procedure – <b>as the specific legislation, it should be amended to explicitly require for any project a landscape study</b></p>		
<p>Management plans of natural protected areas (non-Natura 2000)                  Law 49/2011</p>	<p>Management plans of natural protected areas (non-Natura 2000)                  The Protected Areas Act                  Decree No. 7 of the 8.02.2000</p>	<p>The Law or decrees should include the obligation of a landscape management and development plan in the management strategies of any protected natural area (non-Natura 2000)</p>
<p>Project documentation for an intervention affecting Natura 2000 sites</p>	<p>The Biological Diversity Act (BDA)                  Decree No. 201 of 31.08.2007                  Decree No. 349 of 30.12.2008</p>	<p>A landscape study for each intervention at the level of NATURA 2000 sites, be it the result of a programming document or a direct result of the activities of a project, should be included already during the preliminary stage (when the public authority for the protection of the environment decides whether or not to submit the program/project to the adapted evaluation)</p>
<p>Strategic Environmental Assessment (SEA)                  Government Emergency Ordinance no. 195/2005 (approved and modified by the LAW 265/2006) with subsequent modifications on environment protection – <b>as the legal framework it should include the general provision that</b></p>	<p>Strategic Environmental Assessment (SEA)                  Environmental Protection Act                  Decree No. 139 of 24.06.2004</p>	<p>Require a landscape study for any documentation that is screened for submission to the SEA. The following Laws have to be modified to include the obligation for anyone who drafts a plan/program that includes or targets territorial intervention(s) to submit in the first stage (screening) a comprehensive landscape study</p>



**landscape impact has to be assessed separately through a landscape study**

Government Decision 1076/2004 concerning the procedure for the Strategic Environmental assessment– **as the specific legislation, it should be amended to explicitly require for any plan/program a landscape study**

## PART 5. Analysis of the relevant cross border studies

Project name	Partners	Budget - Euro	Period	Details
Cross-border model for nature conservation and sustainable use of the natural resources along the Danube	<p><b>LP</b> -Bulgarian Society for the Protection of Birds, Sofia</p> <p><b>P</b> - Romanian Ornithological Society, Bucharest Kozloduy Municipality, Vratsa Olt Environment Protection Agency</p>	326,356.76 EUR (276,815.80 EUR from ERDF)	25.09.2010 - 24.03.2012	<p><b>General objective</b> - To improve nature protection and contribute to sustainable use of natural resources in the Bulgarian-Romanian cross-border region along the Danube</p> <p><b>Specific objectives 1</b> - To mainstream biodiversity concerns into regional planning</p> <p><b>Specific objectives 2</b> - To raise public awareness on biodiversity conservation and sustainable use of natural resources</p> <p><b>Specific objectives 3</b> - To strengthen capacity of local environmental institutions.</p> <p><b>Project results:</b></p> <ol style="list-style-type: none"> <li>one common interactive Internet service of the cross-border natural assets developed</li> <li>one common biodiversity sensitivity map produced with five sensitivity classes</li> <li>10 developed site-specific monitoring schemes for Natura 2000 areas</li> </ol>

Project name	Partners	Budget - Euro	Period	Details
Cross-border regional General Toshevo – Negru Voda – Unknown tourist destination	<p><b>LP</b> - General Toshevo Municipality, Dobrich</p> <p><b>P</b> - Local Council of Negru Voda, Constanta</p>	<p>1,496,741.36 EUR</p> <p>(1,269,536.02 EUR from European Regional Development Fund)</p>	10.08.2010 - 09.12.2011	<p><b>General objective:</b> Development of the joint tourist potential of General Toshevo Municipality and the Local Council of Negru Voda</p> <p><b>Specific objective 1:</b> Conservation of the natural resources and the bio diversity of both municipalities</p> <p><b>Specific objective 2:</b> Setting up the conditions for joint social and economic development of both municipalities</p> <p><b>Specific objective 3:</b> Creation of alternative for employment in both municipalities</p>
Monitoring the environmental factors in the cross border area Olt- Belene	<p><b>Lead Partener:</b> Association for Inter-Community Development of Public Utilities for the Water Supply and Sewage Service "Oltul"</p> <p><b>Parteners:</b> Municipality of Belene</p>	<p>5,857,020 EUR</p> <p>(4,967,924.37 EUR from European Regional Development Fund)</p>	20.04.2012 - 19.04.2014	<p><b>General objective:</b> Enhance and develop the Romanian-Bulgarian cooperation and collaboration relations in order to prevent the degradation of the environmental quality in the Olt-Belene border region</p> <p><b>Specific objective 1:</b> Improving the environmental quality in the Olt-Belene border region</p> <p><b>Specific objective 2:</b> Streamlining the decision making process regarding the quality assurance of the environment within the Olt-Belene cross border region</p> <p><b>Specific objective 3:</b> Increasing the awareness of the decision makers in the field of water-channel from the Olt-Belene border region, but also of the public, media regarding the impact of water discharges on the environment and everyday life</p>

Project name	Partners	Budget - Euro	Period	Details
Cross Border Art of Gardening by the Black Sea	<p><b>Partener Lider:</b> Consiliul Local Techirghiol , Constanta</p> <p><b>Parteneri:</b> Institutul Cultural de Stat "Palatul Balcic", Dobrich; Universitatea Ovidius din Constanta, Facultatea de Agricultură și Științe ale Naturii, Constanta; Municipality Balchik , Dobrich; Universitatea din Sofia "St. Kliment Ohridski" Universitatea Grădinilor Botanice, Sofia</p>	<p>1,507,842.86 EUR (1,278,952.32 EURO din Fondul European de Dezvoltare Regională)</p>	<p>13.07.2013 – 12.01.2015</p>	<p><b>General objective:</b> To contribute to sustainable economic development of the Techirghiol-Balchik border area by strengthening Romanian-Bulgarian tourism season based on nature tourist attractions and cultural diversification.</p> <p><b>Specific objective 1:</b> To create, modernize and extend natural tourist attractions of Techirghiol-Balchik broader areas, which will diversify the local tourism attractions and will capitalize on current trends in tourism, namely natural and historical sites;</p> <p><b>Specific objective 2:</b> To stimulate common cross border initiatives and strategies in tourism season by promoting cross-border approaches capitalizing upon medium and long term project results.</p> <p><b>Specific objective 3:</b> To provide a multidisciplinary platform in order to promote cross-border cooperation based on project results;</p> <p><b>Specific objective no 4:</b> To increase visibility on new tourist attractions created by the project in two coastal regions of Romania and Bulgaria's external and internal market</p>

Project name	Partners	Budget - Euro	Period	Details
<p>High Nature Value farmlands: Recognising the importance of South East European landscapes</p> <p>CASE STUDY REPORT: Western Stara Planina, Bulgaria</p> <p>CASE STUDY REPORT: Mehedinti, Romania</p> <p>CASE STUDY REPORT: Rusenski Lom (Bulgaria)</p>		<p>Financed by a grant of the Government of Netherlands, BBI-Matra programme</p>		<p>The project was executed aiming at finding out at a local scale where agriculture overlaps with areas of High Nature Value in order to understand better the relation between both. The project linked the developing concept of High Nature Value farming to the reality of farming and considered the practicalities of implementing the EU commitments on identifying and supporting HNV farming in different local situations.</p> <p><b>Content :</b></p> <p><b>Nature values</b> – an analysis of the natural landscape, relief, habitats</p> <p><b>Land use and High nature value farmlands in each region:</b></p> <ul style="list-style-type: none"> <li>• HNV Type 1: Semi-natural grasslands (overview of HNV type 1 habitats as classified and protected by the EU Habitats Directive)</li> <li>• HNV Type 2: Small-scale mosaic of arable lands and orchards</li> </ul> <p><b>Case study farms</b></p> <p><b>Policy issues</b></p>

Project name	Partners	Budget - Euro	Period	Details
LP3LP - Landscape Policy for the 3 Countries Park	LP - RWTH Aachen University, Department of Landscape Architecture, Germany.	360 000.00	February 2012 – December 2013	<p><b>Thematic scope:</b> The 3LP, situated in the Euregio Meuse-Rhine, is a cross-border European landscape with high importance within its polycentric metropolitan context. In this project, ESPON studies and results are used to place this region in a European context, to identify the potential effects of EU policies and to take stock of the unique territorial potentials of this region.</p> <p><b>Main results envisaged:</b> The envisaged results of the targeted analysis are the following:</p> <ul style="list-style-type: none"> <li>• Insight through analyses of the core qualities and potentials of the landscape.</li> <li>• Recommendations for coordinating territorial development of various functions related to core qualities of the landscape.</li> <li>• Identification of options within relevant European policies and instruments to support landscapes across borders.</li> <li>• Consolidated new evidence regarding the identity of the 3LP within the European context, revealing territorial capital and potentials and identifying cross-border regions in Europe with similar landscape potential.</li> <li>• Design study and elaboration of a cross-border landscape framework, which can be used for water management, nature development, recreational access and landscape development.</li> </ul>

Project name	Partners	Budget - Euro	Period	Details
LIVELAND - Liveable Landscapes: a Key Value for Sustainable Territorial Development	Fundación Tecnalia Research and Innovation – ES.	€ 378 676,14	February 2012 – March 2014	<p><b>Thematic scope</b>                      The aim is to identify successful measures in combining landscape management and socio-economic development and to give concrete recommendations. The project seeks to identify how ESPON evidence could be used for integrating landscape and spatial planning and to provide new impetus for future research.</p> <p><b>Main results address</b></p> <ul style="list-style-type: none"> <li>• Guidelines for elaborating and implementing landscape plans in their socio-economic context.</li> <li>• Insight into how landscape planning relates to economic development and land use pressure.</li> <li>• Overview of ‘good practices’ of landscape planning and how they relate to regional territorial planning and development.</li> <li>• Options for incorporating landscape into territorial and cohesion policies.</li> <li>• Recommendations for the integration of the landscape into territorial planning and development.</li> <li>• Identification of knowledge gaps that could be covered by future ESPON research projects.</li> </ul>

Project name	Partners	Budget - Euro	Period	Details
<p>Activities on the implementation of the European Landscape Convention in Croatia</p>				<p>The task of the project is to establish the cooperation among institution regarding issues of landscape protection and cultural and natural heritage through the implementation of a common programme, education, transfer of knowledge and actions aimed at raising awareness. The goal is to connect activities in the application of news methodologies, increase the level of expertise and raise the citizen`s awareness of the way in which heritage can be used as an initiator for development.</p> <p><b>Landscape identification and assesement</b>                      The methodology for the development of the study has been harmonized based on the identification, evaluation and protection of landscape areas.</p> <p><b>Landscape quality objectives – landscape protection</b>                      Protection of the landscapes implies maintenance and preservation of their significant features.</p> <p><b>International Programmes, cross border Landscapes</b>                      Cultural and natural heritage protection at a cross border level</p> <p><b>Education – specific measures of the landscape protection</b></p>



## ANNEX 1:

### The Bulgarian Landscape Act

#### Chapter One

#### General Provisions

#### Section I.

#### Scope and application of the law

**Art.1.** This Law regulates public relations connected with:

- management and building landscape and all the territories included in it; planning the landscape as a national treasure;
- preservation, extent and manner of human intervention in different types of landscapes throughout the country to improve the quality of life;
- control and preservation of different landscapes;
- implementation of administrative criminal liability for unauthorized use of the landscape;
- establishment and functioning of national bodies (state, municipal, professional and Chamber of Landscape Architects) for the management, planning, preservation and maintenance of landscape;
- creating strategies and programs for planning, design, development and preservation of the landscape; regulating the collection and access to information on the landscape structure of the territories; regulation of landscape zoning and planning of the territories;
- regulation of economic organization of activities related to the landscape;
- formulation of rights and obligations of the state, municipalities, companies and individuals in terms of the landscape of Bulgaria;
- identifying the specific qualities of the landscape; improvement of the landscape;
- Park planning and urbanization of the urban and non-urban areas;
- Implementation of international and European commitments and synchronization with European norms on the landscape, taking into account that quality and diversity of European landscapes constitute a common resource.

**Art.2.** Basic objectives and principles of nature conservation and landscape management:

- Regulation and promotion of sustainable development.
- Restoring and improving the quality of the landscape in urban and rural environment.
- Integrating landscape conservation policy in sector and regional policies for economic

development and quality of life of citizens.

- Access to justice in matters relating to landscape.
- Avoiding permanent damage to the ecosystem and landscape by exploration activities, mining and excavation and backfill works.
- As part of the ecosystem, wildlife and plants and their co-existence and links should be preserved in their natural and historical diversity of species. Their biotopes should be protected, maintained, developed or restored.
- In populated areas available natural resources such as forest, protective forest belts, shrub plantings, roadside plantings, biotypes, water bodies or surface water, ponds, and other environmentally significant micro and macro structures should be preserved and developed.
- In planning the located in the area permanent building structures, roads, energy transfer networks and similar projects the natural landscape structures should be taken into account. Roads, energy transfer networks and similar projects should be formulated in such a way as to minimize the intervention in the landscape.
- It is necessary to preserve the landscape in its diversity, beauty and because of its importance as a place for rest and recreation of people. Its characteristic elements and structures should be preserved or developed. It is necessary to avoid distortion of the landscape for leisure and recreation. Areas with suitable quality and position should be protected and where necessary maintained, planned and preserved or made available for recreation purposes. Mostly, near urban areas enough space for recreation should be provided. For the purposes of this Act leisure activities shall include natural and landscape compatible outdoor sports activities.
- If not renewable, natural resources must be spared and exploited economically friendly. Exploitation of renewable natural resources is given special attention, they should only be used so as to maintain their sustainable existence.
- Soil should be maintained so that they can perform their functions in the ecosystem. Natural or naturally dense vegetation cover and coastal vegetation should be preserved. For soils that are not used for agricultural or forestry purposes or gardens whose vegetation cover has been removed, suitable for the area development of vegetation should be implemented.
- Soil erosion through landscape measures should be reduced and stopped.
- Historic landscapes and landscape areas and immovable cultural sites should be preserved in their authentic form.
- Common understanding of goals and objectives for nature conservation and landscape care is encouraged by appropriate means. In the conservation of nature measures and landscape care timely exchange of information between stakeholders and the interested public should be ensured.
- All citizens and organizations have rights to protect the landscape, as well as obligations to do so.

**Art.3.** Landscape components are:

(1) Natural:

1. abiotic: geological base, topography, climate, water and soil cover;
2. biotic: flora and fauna;

(2) Anthropogenic:

1. construction volumes, buildings, facilities;
2. infrastructure and engineering underground and overhead networks, communications and facilities;
3. urbanized areas and spaces;
4. agricultural plantations;
5. GMOs - genetically modified organisms.

**Art.4.** Every Bulgarian citizen must contribute to the objectives and principles of environmental and landscape care according to their personal abilities and act so that their behavior is not detrimental to and does not damage nature and landscape to an extent greater than inevitable under the circumstances.

## **Section II. Upbringing, education, information and co-operation**

**Art.5.** (1) Awareness of the responsibility of people for caring attitude towards nature and landscape should promote and encourage responsible use of natural resources. General understanding of nature and the environment should be improved through education, information and educational institutions at all levels. This is true for the proposals on:

- importance of nature and landscape for society;
- tasks of protection and degree of human intervention in the landscape and its consequences in the future;
- fundamentals of ecology and ecological relationships;
- legal basis for nature and landscape conservation;
- consideration of landscape as an essential component of the human environment.
- multidisciplinary training programs in management policy, planning and protection for professionals in the private and public sectors and for associations concerned;
- school and university courses that in relevant subjects address the values connected to landscapes and issues regarding its management, planning and protection;

(2) Co-operation at local, regional, national and European level to improve the effectiveness of measures taken under the European Landscape Convention, and in particular:

1. providing mutual technical and scientific assistance in landscape matters through gaining and exchange of experience and results of research projects;

2. support the exchange of landscape specialists, in particular for the purposes of training and information;
3. exchange of information on all matters related to this Act;
4. promoting cross-border co-operation at local and regional level and, where necessary, prepare and implement joint programs for the landscape.

## **Chapter Two**

### **Public policy and management bodies, landscape planning and conservation**

**Art.6.** The state policy on landscape management, planning and maintenance is carried out by the Minister of Regional Development and Public Works through the National Landscape Council.

**Art.7.** (1) For discussion and decision making on key issues of landscape a National Landscape Council (NLC) is established to the Minister of Regional Development and Public Works.

(2) The National Landscape Council includes representatives of the Ministry of Regional Development and Public Works, Ministry of Agriculture and Food, Ministry of Environment and Water, Ministry of Culture, University of Forestry, Union of Landscape Architects and the Association of Municipalities.

(3) The National Landscape Council assists the Minister of Regional Development and Public Works in:

1. implementation of state landscape policy;
2. solving problems of high public importance connected with landscape.

(4) The Minister of Regional Development and Public Works shall appoint a landscape architect for president of the National Landscape Council and a second – for coordinator in/ for the Ministry of the activities related to landscape.

**Art.8.** The Minister of Agriculture and Food, Minister of Environment and Water and Minister of Culture shall each appoint one landscape architect for representative of the relevant ministries in the National Landscape Council and one in their subordinate ministries to coordinate the management, planning and conservation of landscape.

**Art.9.** The state policy on landscape management, planning and conservation is integrated into sectoral policies - construction, transport, energy, agriculture, tourism, ecology, culture, education, and healthcare industries, and is implemented by the competent authorities under this Act.

**Art.10.** (1) Competent authorities under this Act are:

1. The Minister of Regional Development and Public Works;
2. The Minister of Agriculture and Food;
3. The Minister of Environment and Water;
4. The Minister of Culture;
5. President of the National Landscape Council;
6. Expert Landscape Councils;

7. County Governors;
8. Chief Landscape Architects;
9. Union of Landscape Architects;
10. Chamber of Landscape Architects;
11. Mayors of municipalities, and in cities with district administrations – district mayors;
12. Regional Inspectorates of Environment and Water.

**Art.11.** (1) In municipalities with population over 100 thousand people chief landscape architects are appointed through a competition, as civil servants for a period of 4 years and not more than two consecutive terms.

If necessary, municipalities with populations under 100 thousand may appoint additionally chief landscape architects for the municipality, as civil servants.

In municipalities with a population of 50 thousand to 100 thousand people, landscape architects are appointed on the position of "Head of Department."

The chief landscape architects have a veto in the municipal expert councils.

**Art.12.** The Minister of Regional Development and Public Works:

- develops together with the National Landscape Council (NLC) the policy and strategy for management, planning and conservation of landscape in the Republic of Bulgaria;
- through the National Landscape Council carries out monitoring in the field of landscape planning;
- controls the condition of landscapes in the country;
- coordinates the supervisory powers of other bodies of executive power with regard to the landscape;
- issues orders, authorizations, instructions and approve methods together with relevant executive authorities, the Union of Landscape Architects and the Chamber of Landscape Architects;
- provides collection and provision of information about the landscape;
- prepares a five-year report on the landscape in Bulgaria;
- carries out other activities related to management, planning and landscape conservation in Bulgaria.

**Art.13.** (1) The National Landscape Council of the Ministry of Regional Development and Public Works implements the management of the monitoring of landscape system.

(2) The National Landscape Council assists the Minister of Regional Development and Public Works.

(3) The National Landscape Council is managed and represented by a chairman.

(4) The Minister of Regional Development and Public Works approves the Rules of Organization and Procedure of the National Landscape Council.

**Art.14.** Competent to undertake the provided by law activities and operations pursuant to their powers are:

1. On the territory of one county - the chairman of the National Landscape Council or the governor;
2. On the territory of municipalities with population over 100 thousand people, the chief landscape architect or the mayor, in cities with district division - the district mayor;
3. On the territory of the municipalities not included in item 2 - Expert landscape councils or the mayor.

**Art.15.** The county governors:

- ensure the implementation of the landscape policy in the region;
- coordinate the work of the executive authorities and their administrations in the region regarding the implementation of state landscape policy;
- coordinate the implementation of landscape policy between the municipalities in the region.

**Art.16.** (1) Municipal mayors:

1. inform the public about the state of the landscape as required by law;
2. control the construction, maintenance and landscape management in the urban environment and biodiversity conservation of landscape and natural and cultural heritage by coordinating their actions with municipal landscape expert councils, chief landscape architect of the county or the National Landscape Council according to the importance and the territorial scope of the developed landscape area;
3. organize the activity of landscape units created by a decision of the municipal council to the municipality, including on public basis, which may issue acts of administrative violations;
4. appoint officials who may issue acts for the establishment of administrative violations under this Act;
5. exercise other powers provided by law, in relation to landscape.

(2) Officials in the municipal administration implementing the activities of landscape management must possess the necessary professional qualifications.

(3) Mayors of municipalities may assign the functions under par.1 to mayors of mayoralties and mayors of districts.

**Art.17.** The Chamber of landscape Architects (CLA).

The Professional association of landscape architects with design qualifications for planning and investment design, is the Chamber of Landscape Architects (CLA) (Prom. of Art.2. of LCAEID (Amended - SG. 28 of 2009).

The types of design capacity and design experience is determined according to the Law on Chambers of Architects and Engineers in Investment Design (LCAEID);

Bodies of Management and Budget of CLA are established in compliance with the LCAEID.

**Art.18.** State, municipal and professional organizations provide each other information and co-operation on the management, planning, conservation, construction and maintenance of landscape.

### Chapter Three

#### **Landscape structure of territories**

**Art.19.** Landscape zoning aims at unifying the administrative and legislative approach to landscape development in the territories under this Act and the existing legislation in the country. It is based on the principle of relative homogeneity and territorial integrity of natural and anthropogenic components of the landscape.

**Art.20.** Typological classification of landscapes is done to differentiate landscapes according to their standard environment qualities in terms of operability and visual impact and to create a uniform system for evaluating them.

**Art.21.** (1) Landscape development plans are an integral part of the process of planning and territory management.

(2) Park development and Public Works are part of landscape planning.

**Art.22.** (1) In accordance with the levels of development of the National Comprehensive Development Scheme (NCDS) landscape development plans (LDP) at national, regional and local level must be developed as well.

(2) Specific requirements for the content of the LDP are defined in an ordinance issued by the Minister of Regional Development and Public Works.

**Art.23.** (1) LDP at national level (NLDP) is a professional development scheme for landscape architects in the country.

(2) The main objective of the National landscape development plan is a complex development of the landscape in the country, coupled with functional and integrating systems of NCDS, establishing a mechanism forming part of the legislative and regulatory basis of NCDS, for practical realization of this complex development connected to the harmonious development of the landscape and full environmental conservation at the maximum account of natural laws.

(3) The objectives of the NLDP are as follows:

1. Determining the adequacy of the landscape with regard to the systems of NCDS.
2. Determination of the permissible load of the landscape and its most appropriate suitability

for individual systems of NCDS.

3. Determination of degradation of the landscape as a result of human activity in terms of its timely removal and reconstruction of damaged areas.
4. Regulation of complex human activity on the landscape of the country by creating strategies and programs for its planning, conservation and development.

**Art.24.** (1) National landscape plan shall be developed in two phases.

(2) national landscape development plan is created for a forecast period of 20 years and is the basis for updating the National Regional Development Strategy (NRDS).

**Art.25.** (1) The National landscape development plan includes text and graphic materials made on the basis of the assignment in accordance with Art. 119 of the Law on Spatial Planning.

(2) The text materials contain - landscape analysis, landscape synthesis, landscape assessment and landscape proposal in accordance with Art.29 of this law.

(3) The graphic materials illustrate the analysis and proposals under par. (2).

**Art.26.** At the regional level regional landscape development plans (RLDP) are developed for:

- areas with specific natural and anthropogenic formations;
- areas of technical and building infrastructure (roads, power lines, communications facilities, oil and gas pipelines, landfills, railroads, irrigation facilities etc.)
- areas containing significant natural resources or areas of cultural and historical heritage.

**Art.27.** At local level detailed landscape development plan (DLDP) are developed on the territory of one or more adjacent municipalities.

**Art.28.** (1) Landscape development plan shall be developed based on the graphic materials including: cadastral, topographic and forest maps, approved by the Law on Cadastre and Property Register, and other specialized maps for specific landscape components.

**Art.29.** Preparation of landscape plans includes four stages: landscape analysis, landscape synthesis, landscape assessment and landscape proposal.

(1) Landscape analysis represents homogenization of existing data on the properties of the landscape components on a specific territory and selection of diagnostic indicators for assessment of each component of the landscape. Priority is given to those that determine the structure and those that give the appearance of the landscape.

(2) Landscape synthesis integrates related types of landscape on the respective territory and creates a global articulation (regionalization) in the territory, which makes it possible to develop and propose principal solutions to improve the condition of the landscape. Each region is characterized by certain specific types of groups that are its features. Thus the typology and regionalization obtained by synthesis are the basis for information in the next stages of planning the landscape.



(3) The landscape assessment allows to consider what are the possibilities of landscapes in the studied area and whether they can perform their socio-economic and environmental functions.

(4) The landscape proposal incorporates the development of recommendations for the conservation and optimum spatial development of landscapes, and also determines the most rational use of natural resources. It represents a specific design proposal for the development of territories in the future and indicates ways of solving existing environmental problems and even of enhancing the ecological functions of landscapes.

**Art.30.** Landscape planning is inextricably linked to spatial planning, urban planning, land management and forest management.

**Art.31.** The connection of landscape planning with spatial planning is implemented at all levels and stages of work in preparing landscape development plans:

1. For the collection and systematization of the required output information about the territories;
2. in the analysis of all natural and anthropogenic components of the landscape;
3. in the development of several options and prognosis for complex spatial development based on functional and spatial organization of all systems and subsystems;
4. in comparison and selection of an optimal development option; in the updating, revision and improvement of plans.

**Art.32.** The connection of landscape planning with urban planning is implemented in solving major urban problems:

1. selection of sites for construction and development of settlements and territorial complexes ensuring at the same time optimal comfort and environmental protection of natural and cultural values;
2. planning and development of suburban areas in accordance with the requirements for storage of agricultural and forestry fund and providing places for short rest;
3. harmoniously linking settlements in the landscape and positioning them in nature;
4. development of an integrated landscape system from urban and suburban parks and recreation areas for short rest;
5. formation of the spatial structure of settlements and their silhouette by linking the urban and natural spaces and accents;
6. solving the communication links in urban environments;
7. studying the impact of urbanization processes on landscape and eliminating the negative impact of occurring environmental changes on settlements.

**Art.33.** The connection of landscape planning with land planning is carried out in developing proposals for implementing specific development activities in agricultural landscapes:

1. determining the functional structure of agriculture, depending on topography, soils, climate, physical infrastructure etc.;

2. building a complete landscape system of agricultural areas by integrating the areas occupied by permanent agricultural crops in the consolidated massifs, alley plantations along rural roads and construction of a system of forest protection belts;
3. building an irrigation system of canals and facilities in accordance with their environmental and aesthetic impact on landscape;
4. designing the routes and technical infrastructure sites;
5. creating belts of insulating vegetation around livestock farms, farm yards, warehouses and buildings and their commitment to harmonious environment;
6. determining the amenities in appropriate areas - near small dams and watercourses, existing woodlands, historic sites, etc.

**Art.34.** The connection of landscape planning with forest planning is carried out in the planning of multipurpose use of forest resources and their timely reproduction.

(1) landscape plans for the forest fund sites include landscape and forest studies that are the basis of the so-called "landscape description".

(2) The Analysis of data from landscape development plans and landscape description serve for:

1. the effective protection of forests as an important raw material and natural resources for the country;
2. use of specific functions of forests - soil conservation, water protection, climate-regulating, sanitary, recreational and aesthetic, for the conservation of environment;
3. increasing the productivity of forests by improving their composition and the provision of extended reproduction;
4. determining the prospects for control and management of forests for economic and recreational needs depending on their purpose and status.

**Art.35.** According to their main purpose, as defined by (NCDS), landscapes in the country are: urban landscapes (settlements and settlement formations), agricultural landscapes, forest landscapes, protected landscapes and degraded landscapes.

**Art.36.** The specific purpose of the landscape is determined by a detailed landscape development plan (DLDP) and can be:

(1) in urban landscapes according to the predominant function of the territory – for habitation, for complex public service, labour, recreation, traffic and transportation, technical infrastructure, for special sites, etc.;

(2) In agricultural landscapes - circular crops, perennial plantations and uncultivated lands;

(3) In forest landscapes depending on the prevailing functions - for protection, for special and industrial tree plantations:

1. implementation of multipurpose forest management is achieved primarily through optimal coordination of business with recreational functions;

2. at the development of special purpose forests to enhance their role in shaping and protecting the environment and their recreational functions;
3. when on the same area special purpose forests of different categories are declared, for their development the requirements of the category with the most strict regime will be observed;
4. In developing a plan for the structure of a specific forest landscape, the following factors will be the subject of research and analysis:
  - a) existing forests;
  - b) availability of land with soil suitable for afforestation;
  - c) slope of the terrain and orientation of the slopes;
  - d) slopes, watercourses, water collection areas, which need vegetation cover and erosion protection;
  - e) wind protection of open areas exposed to prevailing winds;
  - f) visual disturbances in the landscape that can be covered with vegetation;
  - g) uncultivated and devastated lands that can be recovered and reclaimed through afforestation.
5. After analysis and evaluation a system of specific measures for improvement, restoration and conservation of forest landscapes is proposed in the landscape development plan.

(4) In protected landscapes:

1. depending on the categories of protected areas - for reserves, national parks, natural landmarks, for managed reserves, for natural parks, protected areas;
2. depending on other categories of sites with protected status - for beaches, dunes, water sources with sanitary protection zones, water areas, wetlands, protected coastlines and protect sites of cultural heritage (archaeological reserves, certain areas or land properties in settlements with cultural-historical, ethnographic or architectural significance);

(5) In damaged landscapes - for restoration and reclamation of quarries, mines, dumps, mill tailings ponds, landfills, land slides, tearing-aways etc.

1. Landscape development plan defines activities for restoration of open spaces in compliance with requirements for environmental comfort and aesthetic harmony.

## **Chapter Four.**

### **Landscape planning, investment design and construction of territories**

#### **Section I**

##### **Landscape planning**

**Art.37.** (1) The requirements for the development of the landscape are determined by the landscape development plans.

(2) Areas of particular spatial protection, including areas with specific characteristics defined under certain laws, may acquire a special regime of planning and control of the landscape.

(3) In areas and parts thereof, specified by the provisions of this Act, a landscape development plan may establish a regime of preventive development protection, to keep their actual use without compromising the quality and condition of the landscape.

**Art.38.** (1) The preparation of landscape development plan (LDP) is supervised by landscape architects with Master's degree in major "Landscape architecture", with work experience of not less than five years gained after graduation and full architect's capacity.

(2) RDLP and DLDP are prepared in parallel with the preparation of General Development Plan (GDP) and Detailed Development Plan (DDP).

(3) For the development of the LDP specialists from different fields relevant to the landscape and with appropriate expertise can be invited.

**Art.39.** (1) The Minister of Regional Development and Public Works issues an ordinance for the norms for different types of landscape areas.

(2) Specific standards under para.1 are adopted by the National Landscape Council on a proposal by the competent authorities under Art.10 and before the approval of landscape development plans. The Minister of Regional Development and Public Works approves or refuses to approve the decision of the National Landscape Council by an order promulgated in State Gazette. The order shall be final and binding on local authorities.

(3) Specific rules and regulations relating to state defense and security shall be determined in an ordinance of the Minister of Regional Development and Public Works, the Minister of Defense, the Interior Minister and the Chairman of State Agency "National Security".

(4) In order to maintain the natural balance and admissible antropogenic load of the territories, construction is carried out in accordance with the standards for necessary land under the ordinance in par.1.

(5) For areas requiring cultural and historical protection the setting of specific rules and norms under par.2 is mandatory. They are adopted by the National Landscape Council which shall include representatives of the Ministry of Culture and National Institute of immovable cultural heritage.

**Art.40.** Integral part of the general and detailed development plans are the LDPs at the appropriate level, according to Art. 38, par. 2.

## Section II

### Investment Design

**Art.41.** (1) Part "Landscape Architecture" is a compulsory part of the contents of the documentation in the investment design for all categories of sites.

(2) All project components must be brought in accordance with the approved landscape development plans, general development plans and detailed development plans.

(3) The technical and working projects in part "Landscape architecture" shall be coordinated and approved by the landscape architect of the municipality (region). The coordination of investment projects included verification of compliance with the provisions of the landscape development plan, general development plan, the detailed development plan and the rules and regulations for design.

**Art.42.** (1) Investment projects in part "Landscape architecture" can be made in the following phases:

- conceptual design;
- technical design;
- detailed design (executive drawings and details).

(2) All project materials (text and graphics) of the investment projects are signed by the designer and where necessary - by the person who has made the assessment for compliance, by the developer and the design engineer with full design capacity for part "Construction".

(3) The Minister of Regional Development and Public Works issues an ordinance for the scope and content of investment projects in part "Landscape Architecture".

**Art.43.** Projects in part „Landscape architecture" to the investment design and development planning are coordinated by the landscape architects of the respective municipalities, counties or ministries depending on their scope.

**Art.44.** Investment projects for which a building permit is issued shall be coordinated and approved in the order of the Law on Spatial Planning.

**Art.45.** Projects in part "Landscape architecture" are made only by landscape architects with design qualifications and a Master's degree in "Landscape architecture".

**Art.46.** Refusal to coordinate a preliminary investment design can be made only in conformity with law.

**Art.47.** The design documentation in part "Landscape architecture" may include pre-project feasibility studies - analysis, evaluations, opinions, and projects for: conceptual solutions, spatial layout, park planning and infrastructural development; dendrology projects, ornamental flooring, vertical planning, irrigation systems, tracing drawing of the landscape elements.

**Art.48.** All parts of the approved investment projects shall be coordinated and approved by the relevant competent institutions.

**Art.49.** In the event that within one year of approval of investment projects the developer has not filed a request to obtain a building permit, the project will become void.

### Section III.

#### Construction of part "Landscape Architecture"

**Art.50.** The implementation of an investment project containing part "Landscape architecture" is performed by landscape architects with Master's degree in "Landscape architecture" or secondary education in the specialty.

**Art.51.** For each site a file is created with the documents concerning the organization and implementation of the project in part "Landscape Architecture", and the file is kept by the Developer of the site.

**Art.52.** No permission for use and / or certificate of commissioning a site will be granted where part "Landscape architecture" of the investment project is not implemented.

### Section IV.

#### Participants in the construction of part „Landscape Architecture“

**Art.53.** (1) The Contractor shall appoint under a contract technically qualified persons with the necessary qualifications to carry out technical management of the sites under Part "Landscape Architecture".

(2) technically qualified persons are those who have received diplomas from accredited university with qualification "landscape architect" and experience in the specialty of not less than 3 years, regardless of the site category.

(3) In cases not included in this Article technical competence may be recognized for a foreign person under the conditions of reciprocity established in each separate case, who has a diploma legalized in due order, and meets the requirements of this Act.

(4) When the project is implemented by the developer, he is obliged to provide a technical manager – a Landscape Architect.

### Chapter Five

#### Administrative - penalty provisions

##### Compulsory administrative measures

**Art.54.** For prevention and termination of administrative violations under this Act and their harmful consequences the competent authorities or persons authorized by them impose compulsory administrative measures under Art. 55.

**Art.55.** (1) The Minister of Regional Development and Public Works:

1. Stops orders of central agencies, county governors or the Directorate for National Construction Supervision, which are in violation of this Act;
2. Suspends implementation of the LDP, GDP, DDP and projects approved in violation of this Act;
3. Controls in compliance with the provisions of this Act and the regulations for its implementation the management, planning, conservation and landscape design.

4. Designates an authority to exercise control on the observance of law and implementing administrative and penalty activities

(2) The National Landscape Council controls the landscape development activities of county administrations, regional directorates, directorates of national parks, municipal administrations and other agencies and in case of established violations of this law notifies the Minister of Regional Development and Public Works for their suspension.

(3) The Directorate for National Construction Supervision:

1. The Head of the Directorate for National Construction Supervision or his authorized officials shall monitor compliance with the provisions of this Act and the regulations of the planning, conservation, and landscape design.
2. The Head of the Directorate for National Construction Supervision or his authorized officials shall stop construction, parts thereof or individual construction works carried out in deviation from the approved construction documents or made in violation of the LDP and give permission for continuing after the removal of violations and payment of the fines and property penalties;

(4) County governors:

1. Stop orders of local authorities and local administration and the territorial units of the central executive administration in the region that are in violation of this law.
2. Ensure the conservation of landscapes, parks and landscape systems owned and refer violations other executive authorities

(5) The Regional Inspectorates of Environment and Water shall monitor the conservation and preservation of landscapes, landscape systems, parks, green areas and vegetation outside the territories of settlements in protected areas and habitats.

(6) The Directorates of National and Nature Parks supervise their territory to protect the landscapes and their components according to their competence, in co-operation with Regional Inspectorate for Environment and Water (RIEW).

(7) Municipal administrations:

1. Protect the landscape, landscape systems of settlements, parks, forest parks, green areas and vegetation, public works elements and park furniture in them through the landscape units, specialized agencies and departments to them.
2. Supervise the implementation of LDP, approved investment projects, construction permits, set building lines and levels as well as compliance with existing regulations on spatial planning.

## Section II

### Administrative violations and sanctions

**Art.56.** A fine of BGN 100 to 500, if the act does not constitute a crime, is imposed on an individual, who prevents performance of duties of the officials under this Act and regulations for its implementation.

**Art.57.** (1) A fine of BGN 100 to 1000, if another law does not provide a more severe penalty, is imposed to an official who:

1. Coordinates, approves or issues construction documents in violation of this Act, the regulations and the current landscape plans;
2. Requires as conditions for coordination and approval of an investment project or for issue of construction permit documents that are not required by this Act or any other regulation;
3. within a period specified by regulatory act fails to rule on the request for coordination, approval, preparation or issuance of construction documents, blueprints, visas and other design; fails to perform inspections or other technical services; fails to answer the complaint, fails to forward the request respectively complaint to the competent authority;
4. Fails to fulfill or performs poorly or untimely duties assigned under this Act, regulations and decisions and regulations based on them.

**Art.58.** A fine of BGN 1000 to 5000, if another law does not provide a more severe punishment, is imposed to every inspecting administrative authority (state or municipal), if it approves a project or construction site not complying with the requirements of this Act or any other person with no qualifications to exercise such control.

**Art.59.** (1) A fine of BGN 1000 to 5000, if another law does not provide a more severe penalty, is imposed to an official who:

1. fails to take timely measures to prevent unlawful construction, for suspension or removal of illegally performed construction works or to remove the effects of other distortions in the landscape;
2. authorizes, allows connection or connects external networks and technical infrastructure facilities to an illegal construction site or a construction with no permit for use, except in cases where a legislative act allows temporary connection;
3. fails to fulfill or performs poorly or untimely duties assigned under this Act, acts for its implementation and other rules and regulations for the design and construction, as well as decisions and regulations based on them.

**Art.60.** A fine of BGN 1000 to 5000, if another law does not provide a more severe penalty, is imposed to:

1. natural person or legal entity - a building contractor who performs works without approved project in part "Landscape Architecture", issues or coordinates construction documents in violation of this Act, its implementing acts and other rules and regulations for the design



and construction, and the valid development plans;

2. natural person or legal entity - a building contractor who does not fulfill the project in part "Landscape architecture" or modifies the project without the express consent of the designer;
3. Natural person or legal entity who, in one way or another does not comply with this Act and causes disturbance in landscapes.

**Art.61.** A fine of BGN 3,000 to 8,000, if another law does not provide a more severe punishment, is imposed to a natural person or legal entity - building contractor who carries out construction works without approved project in part "Landscape Architecture".

**Art.62.** A fine of BGN 500 to 1000, if another law does not provide a more severe punishment, is imposed to anyone who burns, damages, destroys or maintains with banned chemicals low vegetation and soil cover in field plots, slopes, uncultivated areas or alongside streets and roads.

**Art.63.** A fine of BGN 5,000 to 10,000 is imposed to anyone that takes any measures or actions that lead to or may lead to a significant or lasting harm or destruction of protected biotopes or landscapes.

**Art.64.** The construction of a site will be suspended in case of missing project in part "Landscape architecture", till the removal of the omission within a year. If the omission is not removed within the set deadline, construction should be demolished at the expense of the offender.

**Art.65.** Committing repeated violations

1. In case of systematic violations carried out by the landscape architect of the municipality (region), established by acts issued by the municipality, the Mayor may deprive the offender of the right to occupy the position at the municipality (region) for up to 1 year;
2. For repeated violations committed in contravention of this Act, committed by a natural person or legal entity, established by acts issued by the municipality, second reports of findings are issued with threefold increase of the sanctions.

**Art. 66.** Establishing violations.

1. The establishment of violations under this Act, the issuance, appeals and execution of penalty decrees shall follow the procedures of the Administrative Violations and Sanctions Act, unless this Act provides otherwise;
2. violations of this law shall be established by an act of a controlling authority of the municipal or state administration;
3. a penal decree imposing a fine of up to BGN 200 inclusive, is not subject to appeal.

**Art.67.** (1) Municipalities create Landscape System Funds, which accumulate funds from local fees and fines, and other acts related to the implementation of this law.

(2) Funds from the Landscape System Fund shall be used for conservation, development, restoration and maintenance of the components of the landscape within the respective municipality.

## **Chapter Six**

### **Transitory and final provisions**

#### **Section I**

##### **Additional Provisions**

1. For the purposes of this law:
  - "Landscape" means a dynamic complex of territories whose specific character and elements is the result of the actions and interactions of natural and / or human factors;
  - "Landscape policy" means the application by the competent public authorities of general principles, strategies and legislative actions that allow the taking of specific measures aimed at protecting, managing and planning landscapes;
  - "Landscape protection" means actions to conserve and maintain the significant or characteristic features of the landscape justified by its heritage value derived from its natural configuration and / or from human activity;
  - "Quality of the landscape" means for a specific landscape the competent landscape professionals or public authorities to comply with the aspirations of the public with regard to the characteristics of the surrounding landscape;
  - "Landscape management" means a set of actions with a view to sustainable development to ensure permanent upkeep of a landscape, so as to guide and balance changes caused by social, economic and environmental processes;
  - "Landscape planning" means forward-looking actions to research, design, improve, restore or create landscapes;
  - "Landscape system" means a structural unit of territories, open areas, surrounding areas in urban and rural environment, which are the subject of landscape planning. A specific integrated entity of the territories formed under the influence of natural and / or anthropogenic factors;
  - "Landscape architecture" means a specialty whose object is the management, planning, conservation, construction, and maintenance of the landscape system and its elements, some of which are park development and Public Works. An element of landscape architecture and related professionals is the development of the entire surrounding area beyond the buildings and facilities, and places provided for landscape design in the very buildings and facilities (roof gardens, terraces, etc.).

#### **Section II**

##### **Final Provisions**

2. Persons appointed as President and coordinator of the National Landscape Council and the chief landscape architects must have a university degree in "Landscape Architecture" – Master's degree with professional qualification "Landscape Architect" or "Landscape Engineer" for those graduated before 1994, full design capacity and experience in the specialty of at least 10 years,



gained after graduation.

3. The project in part "Landscape architecture" incorporates current concepts and terms: park planning, landscaping and gardening, as it replaces the current part "Park Planning and urbanization" in Regulation 4 issued pursuant to the SPA.
4. Landscape architects are professionals who can design, build, manage and conserve landscapes and their components within the meaning of this Act.
5. The implementation of this Act is assigned to the Minister of Regional Development and Public Works.
6. This Act shall enter into force six months after its promulgation in State Gazette.

The proposed draft law is based on the European Landscape Convention (promulgated in SG/issue 22 of 15.3.2005) and ratified by a law passed by the 39th National Assembly on 13.10.2004.

*Prepared by:*

*Commission on the regulations of the Association of Landscape Architects in Bulgaria.*

## ANNEX 2: Spatial Planning Related Instruments in Bulgaria 2008-2011

