

# The Legal Framework for Biodiversity



**Workshop background document for capacity building in the framework of the Life+ supported project, European Capitals of Biodiversity.**

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# 1. Background

In the framework of the LIFE+ supported project, *European Capitals of Biodiversity*, this background document has been prepared by IUCN to support a series of capacity building workshops for municipal staff in France, Germany, Hungary, Slovakia and Spain. This module aims to provide a simple overview of the legal framework for biodiversity, by summarising the main provisions of a number of important biodiversity-related international and regional conventions as well as several EU Directives. Its precise objectives, expected outcomes, and target audiences are outlined below.

This document was updated with project examples taken from all European Capital of Biodiversity competitions. This update was done By Deutsche Umwelthilfe (DUH) after the end of all competitions.

## ***1.1 Objectives and expected outcomes***

In undertaking this module, participants should:

- Gain an awareness and understanding of the legal framework for biodiversity at international, regional and local levels;
- Understand the basic provisions for protecting biodiversity and their importance in upholding the integrity of nature; and
- Be able to identify relevant legislation for a given biodiversity-related issue and procure more detailed legal information on that issue.

## ***1.2 Target audience***

- Local and regional decision makers;
- City and regional managers;
- Heads of departments;
- Interested council members; and
- Officers and experts of local and regional governments with responsibilities in the field of urban planning, strategic nature protection, environmental management and municipal services.

## 2. Biodiversity-related conventions

The EU and its Member States are Parties to a number of important biodiversity-related international and regional conventions. These conventions require support and commitment at all levels of governance if they are to be fully implemented and if their shared goals of conserving and sustainably utilising biodiversity are to be met. In pursuit of these goals, the conventions have employed various mechanisms, including complementary approaches and operational tools e.g. programmes of work, trade permits and certificates, multilateral systems for access and benefit-sharing etc. However, such mechanisms are not thoroughly described herein, as this module is only intended to provide a simple overview of the international legal framework for biodiversity. Details of the specific rights and obligations of Parties to the conventions may be attained via the provided links to the homepages of the conventions.

There are six major international conventions with a focus on biodiversity issues, the logos of which are shown in figure 1.



**Figure 1.** Logos of the major biodiversity-related international conventions. Left to right: Convention on Biological Diversity; Convention on International Trade in Endangered Species in Wild Fauna and Flora; Convention on the Conservation of Migratory Species of Wild Animals; Convention on the Conservation of Migratory Species of Wild Animals; The International Treaty on Plant Genetic Resources for Food and Agriculture; Convention on Wetlands of International Importance, especially as Waterfowl Habitat; The Convention Concerning the Protection of the World Cultural and Natural Heritage (source: <http://www.cbd.int/blg>).

In addition to these six conventions, the United Nations Framework Convention on Climate Change (UNFCCC) and its related Kyoto Protocol (KP) also bear a strong relevance to biodiversity owing to the mutual dependency that exists between biodiversity and the climate system. Moreover, climate change mitigation and adaptation measures such as afforestation and the construction of coastal defences can have profound implications for biodiversity. As such, the UNFCCC and KP are also summarised in this module.

Additionally, a number of relevant biodiversity-related regional European agreements and EU Directives are covered herein as well.

## ***2.1 Convention on Biological Diversity***

Adopted at the Rio Earth Summit in 1992 and entering into force one year later, the Convention on Biological Diversity (CBD) aims to ensure the following:

1. Conservation of biodiversity;
2. Sustainable use of its components; and
3. Fair and equitable sharing of benefits arising from genetic resources.

The agreement covers all ecosystems, species, and genetic resources and acknowledges that the conservation of biodiversity is “a common concern of humankind”. The precautionary principle is evoked in the Convention, as is the notion that conservation of biodiversity will confer strong environmental and socio-economic benefits.

The Convention covers issues such as: access to genetic resources and traditional knowledge; equitable benefit-sharing; access to and transfer of biotechnology; technical and scientific cooperation; environmental impact assessment; education and public awareness raising; provisioning of financial resources; and national reporting.

To implement the Convention, most Parties have established National Biodiversity Strategies and Action Plans (NBSAPs) sometimes bolstered by the contributions of local authorities in the form of Local Biodiversity Action Plans (LBAPs).

In 2000, the CBD was augmented by the Cartagena Protocol on Biosafety, which seeks to protect biodiversity from the potential risks posed by modified live organisms resulting from modern biotechnology.

Decision IX/28 at the 9th Conference of the CBD held in Bonn, 2008, emphasises that successful biodiversity conservation requires the full dedication of cities and local authorities.

For more information visit the CBD homepage at: <http://www.cbd.int>

## ***2.2 Convention on International Trade in Endangered Species of Wild Fauna and Flora***

By affording varying degrees of protection to over 33 000 animal and plant species, this Convention, commonly known as CITES, aims to ensure that trade in species does not threaten their survival. The Convention is compatible with the General Agreement on Tariffs and Trade (GATT), with the GATT Secretariat having played an active role in its development. The Convention entered into force in 1975 and since then only one species, namely, the Spix's Macaw, has been driven to extinction in the wild by the trade of it.

CITES is legally binding on its Parties and works by subjecting international trade in specimens to heightened control measures. The import and export of species which are listed in the CITES appendices must be authorised through a strict permitting system overseen by a designated Management Authority.

In effect, CITES seeks to prevent the unsustainable use of biodiversity as opposed to the CBD which seeks to promote the sustainable use of biodiversity.

For more information visit the CITES homepage at: <http://www.cites.org>

### ***2.3 Convention on the Conservation of Migratory Species of Wild Animals***

The agreement, also known as the CMS or Bonn Convention, was reached under the auspices of the United Nations Environment Programme in 1979 in Bonn, before entering into force in 1983. The CMS aims to protect migratory species whether terrestrial, marine or avian, throughout their entire ranges. Trans-boundary and endangered migratory species are a particular focus of the Convention. Appendix I of the Convention lists endangered migratory species that must be protected by the Parties through the removal of obstacles to their migration, the restoration of degraded migratory stopovers and pathways, and the alleviation of other adverse pressures.

Appendix II lists migratory species that require international cooperation amongst Range States to ensure their continued survival. Parties cooperate to conserve such species and their habitats by establishing multilateral agreements for conservation and management and by collaborating in research and conservation activities. A number of such “knock-on” agreements, both formal and informal, have been forged under the aegis of the CMS including the following:

- EUROBATS (concerning populations of European bats).
- ACCOBAMS (concerning cetaceans of the Mediterranean Sea, Black Sea and Contiguous Atlantic Area)
- ASCOBAN (concerning small cetaceans of the Baltic, North East Atlantic, Irish and North Seas)
- Wadden Sea Agreement (concerning seals in the Wadden Sea)
- AEWA (concerning African-Eurasian Migratory Waterbirds)
- Agreement on the Conservation of Albatrosses and Petrels
- Middle European Population of the Great Bustard

For more information visit the CMS homepage at: <http://www.cms.int>

### ***2.4 International Treaty on Plant Genetic Resources for Food and Agriculture***

This agreement, also known as the International Seed Treaty, aims to ensure the conservation and sustainable use of plant genetic resources for food and agriculture as well as the fair and equitable sharing of benefits that arise out of their use. Developed under the

aegis of the United Nations Food and Agriculture Organisation (FAO), the Treaty was opened for signature in 2002 and entered into force just two years later. The Treaty complements and builds upon certain provisions of the CBD regarding sustainable agriculture and food security. The Treaty establishes a multilateral system of access and benefit sharing which covers around 64 crops and forages. Farmers are affirmed certain rights under the Treaty including free access to genetic resources, unrestricted by intellectual property rights; participation in certain policy discussions and decision making; and to use, save, sell and exchange seeds, subject to their national laws.

For the International Seed Treaty homepage visit: <http://www.planttreaty.org>

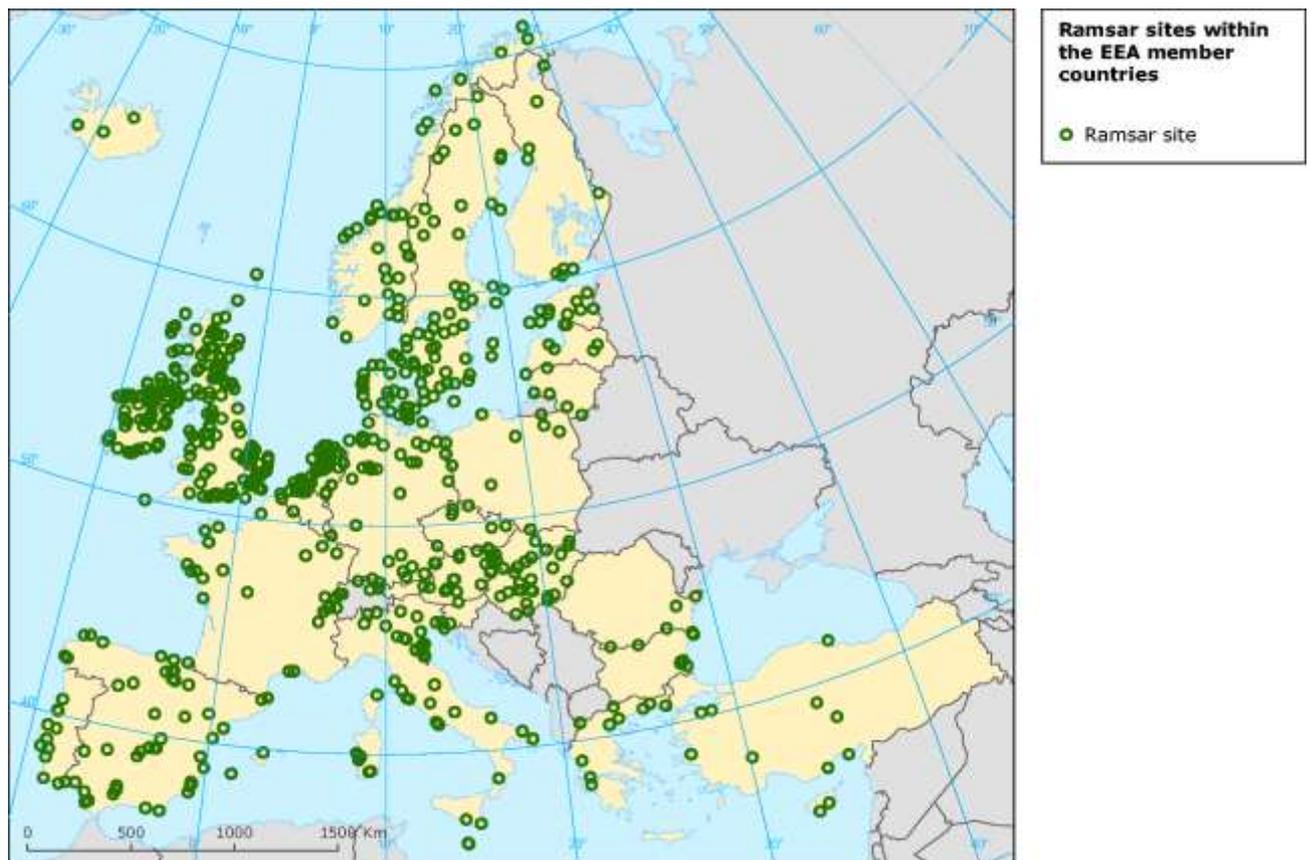
IUCN has produced an explanatory guide on the Treaty available at: <http://app.iucn.org/dbtw-wpd/edocs/EPLP-057.pdf>

## ***2.5 Convention on Wetlands of International Importance, especially as Waterfowl Habitat***

This agreement, popularly known as the Ramsar Convention, was adopted in the Iranian city of Ramsar in 1971, before entering into force in 1975. Countries and NGOs negotiated the Convention in the 1960s as a knee-jerk reaction to alarming rates of wetland degradation and loss that were having resounding impacts on populations of migratory water-birds. The Convention's vision is "the conservation and wise use of all wetlands through local and national actions and international cooperation, as a contribution towards achieving sustainable development throughout the world." The Convention employs a very wide definition of wetlands that encompasses lakes, rivers, swamps, marshes, wet grasslands and peatlands, oases, estuaries, deltas and tidal flats, near-shore marine areas, mangroves and coral reefs and human-made sites such as fish ponds, rice paddies, reservoirs, and salt pans. It recognises wetlands as exceptionally important ecosystems rich in biodiversity and essential for the wellbeing of humans. The distribution of Ramsar sites across the EU is shown in figure 2. The Convention comprises three pillars of activity:

1. Designation of wetlands of international importance;
2. Promotion of the wise use of all wetlands in the territory of each country;
3. International cooperation with other countries to further the wise use of wetlands and their resources.

The wise use of wetlands is defined as "the maintenance of their ecological character, achieved through the implementation of ecosystem approaches within the context of sustainable development".



**Figure 2.** Map of designated Ramsar sites in European Environment Agency member countries (source: <http://www.eea.europa.eu/data-and-maps>).

For more information visit the Ramsar Convention homepage at: [www.ramsar.org](http://www.ramsar.org)

## ***2.6 Convention Concerning the Protection of the World Cultural and Natural Heritage***

This agreement, commonly known as the World Heritage Convention (WHC), seeks to identify and conserve sites throughout the world that are of outstanding universal value. The WHC deems that such sites should be preserved for all humanity and aims to ensure their protection through international cooperation. The WHC was adopted in 1972 and entered into force in 1975.

The Convention established a World Heritage List which now includes hundreds of properties that are considered to be significant components of the world's cultural and natural heritage. Parties to the Convention must conserve listed sites within their territory and also take measures to protect their national heritage. Additionally, Parties are urged to integrate their natural and cultural heritage into regional planning programmes, set up staff and services at listed sites, conduct scientific and technical conservation research, and promote the role of the heritage in the life of the community.

For more information visit the WHC homepage at: <http://whc.unesco.org>

## **2.7 United Nations Framework Convention on Climate Change**

In 1992, the United Nations Framework Convention on Climate Change (UNFCCC) was adopted and opened for signature. It entered into force in 1994 and since then has become one of the world's most universally supported multilateral environmental agreements.

The Convention's ultimate objective is "to achieve stabilisation of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner."

Parties to the convention must compile an inventory of their greenhouse gas emissions report on their actions in implementing the Convention. These reports, called national communications, are used to monitor global progress in achieving the Conventions ultimate objective. Parties must also establish national programmes comprising climate change mitigation measures, as well as provisions for developing and transferring environmentally beneficial technologies, sustainably managing carbon sinks, preparing to adapt to climate change, climate change research, climate observation, data exchange, and the promotion of awareness relating to climate change.

In addition to these general commitments, the UNFCCC divides countries into three main categories with different commitments. Annex I Parties comprise mostly industrialised countries that were members of the Organisation for Economic Co-operation and Development (OECD) as well as some countries with economies in transition (EIT Parties). Annex I Parties must reduce their greenhouse gas emissions to 1990 levels by 2000 (this target was actually missed by the majority of Parties) and are subject to stringent reporting requirements. EIT Parties are allowed more freedom in implementing their commitments, for example in choosing a base year other than 1990.

Annex II Parties are those of the OECD members in Annex I, which must provide financial resources to help developing countries reduce their emissions and adapt to climate change. In addition, Annex II Parties are encouraged to develop and transfer environmentally friendly technologies both to EIT Parties and developing countries.

Non-Annex I Parties comprise mainly developing countries and are recognised as being especially vulnerable to the impacts of climate change and also lacking the capacity to respond to climate change. Non-Annex I Parties have no quantitative obligations under the UNFCCC and need only produce national communications if sufficient funds are received. 48 Non-Annex I Parties, comprising the least developed countries (LDCs) need only submit their national communications at their own discretion.

Under the UNFCCC, special funds have been created to respond to the needs of the most vulnerable countries e.g. the Special Climate Change Fund and the Least Developed Countries Fund.

For more information, visit: <http://unfccc.int/2860.php>

## 2.7.1 Kyoto Protocol to the UNFCCC

In 1997, the Kyoto Protocol was adopted by Parties to the UNFCCC in Kyoto, Japan. Detailed rules for the implementation of the Protocol were adopted at the 7<sup>th</sup> Conference of the Parties in Marrakesh, 2001, and are called the “Marrakesh Accords.” It entered into force in February 2005 after being ratified by the 55<sup>th</sup> State, including Annex I Parties responsible for 55% of this group’s carbon dioxide emissions in 1990.



**Figure 3.** Delegates celebrate the adoption of the Protocol in 1997 (source: [http://unfccc.int/kyoto\\_protocol/items/2830.php](http://unfccc.int/kyoto_protocol/items/2830.php)).

The Protocol sets binding emissions targets for 37 industrialised countries and the European community for reducing greenhouse gas emissions by an average of 5% below 1990 levels over the five-year period, 2008-2012. Whilst the UNFCCC encouraged industrialised countries to stabilise their emissions, the Protocol commits them to do so. The Protocol recognises that industrialised countries are primarily responsible for the current high levels of atmospheric greenhouse gas concentrations and thus, invokes the principle of “common but differentiated responsibilities” to assign commitments to different groups of countries.

Under the UNFCCC, countries must meet their targets through national measures. However, the Kyoto Protocol created novel market-based mechanisms to grant countries some flexibility in meeting their targets by utilising the lowest-cost solutions. These mechanisms are as follows:

- Emissions trading
- Clean development mechanism
- Joint implementation

For more information, visit: [http://unfccc.int/kyoto\\_protocol/items/2830.php](http://unfccc.int/kyoto_protocol/items/2830.php)

## **3. Regional agreements**

### ***3.1 Convention on the Conservation of European Wildlife and Natural Habitats***

This agreement, commonly known as the Bern Convention was adopted in Bern, Switzerland, 1979 and entered into force in 1982. The Convention aims “to conserve wild flora and fauna and their natural habitats, especially those species and habitats whose conservation requires the cooperation of several States, and to promote such cooperation. Particular emphasis is given to endangered and vulnerable species, including endangered and vulnerable migratory species.”

The Convention categorises protected species into four appendices, the first of which, Appendix I, lists strictly protected flora species, and the second of which, Appendix II, lists strictly protected fauna species. Appendix III lists protected fauna species and Appendix IV lists prohibited activities relating to methods of killing, capturing and exploiting species.

The Convention is coordinated by a Standing Committee that meets annually to adopt recommendations and resolutions, and organises seminars and technical groups. The Standing Committee has established an effective monitoring system and developed a comprehensive work programme to implement the Convention. Additionally, the institutional structure includes a Bureau of the Standing Committee, a Group of Experts on threatened species, and a Secretariat hosted by the Council of Europe.

The activities are organised by the Standing Committee with a focus on:

- The promotion of national policies for the conservation of wild flora, wild fauna and natural habitats;
- The integration of wild flora and fauna into national planning, development and environmental policies; and
- The promotion of education and dissemination of information on the need to conserve species of wild flora and fauna and their habitats.

For more information visit the Convention’s official webpage at:

[http://www.coe.int/t/dg4/cultureheritage/nature/bern/default\\_en.asp](http://www.coe.int/t/dg4/cultureheritage/nature/bern/default_en.asp)

### ***3.2 Convention on the Protection and Sustainable Development of the Carpathians***

This agreement, commonly known as the Carpathian Convention, entered into force in January 2006. It is a framework agreement that aims to ensure the protection and sustainable development of the Carpathians through international cooperation in the implementation of consistent and comprehensive policies. The Convention is designed to conserve and restore the region’s unique, rare and typical natural complexes, protecting them from the adverse impacts of human activities. It promotes the adoption of joint policies

for sustainable development between the following countries: Czech Republic, Hungary, Poland, Romania, Serbia, Montenegro, Slovakia and Ukraine. The Convention was devised in cooperation with and modelled on the Alpine Convention. The Convention's Secretariat sits in Vienna and is coordinated by UNEP. The Convention tries to balance the region's economic requirements for development, with the protection of nature.

For more information, visit the Convention's official webpage at:

<http://www.carpathianconvention.org/index.htm>

### ***3.3 Protocol on Conservation and Sustainable Use of Biological and Landscape Diversity***

The Carpathian Convention has been augmented by a biodiversity-related Protocol, the full title of which is, *Protocol on Conservation and Sustainable Use of Biological and Landscape Diversity to the Framework Convention on the Protection and Sustainable Development of the Carpathians done in Kiev on 22 May 2003*. The Protocol aims: to mitigate threats to the biological and landscape diversity of the Carpathians and to promote the sustainable use of their natural resources; and to ensure a more effective implementation of existing legal instruments.

Parties are obliged to develop and implement policies and strategies in their national territory aiming at the conservation, restoration and sustainable use of the biological and landscape diversity of the Carpathian region. In doing so, Parties must cooperate with each other and integrate the objectives of sustainable use into their sectoral policies particularly those concerning spatial planning and land resources management, water and river basin management, agriculture and forestry, transport and infrastructure, tourism, industry and energy.

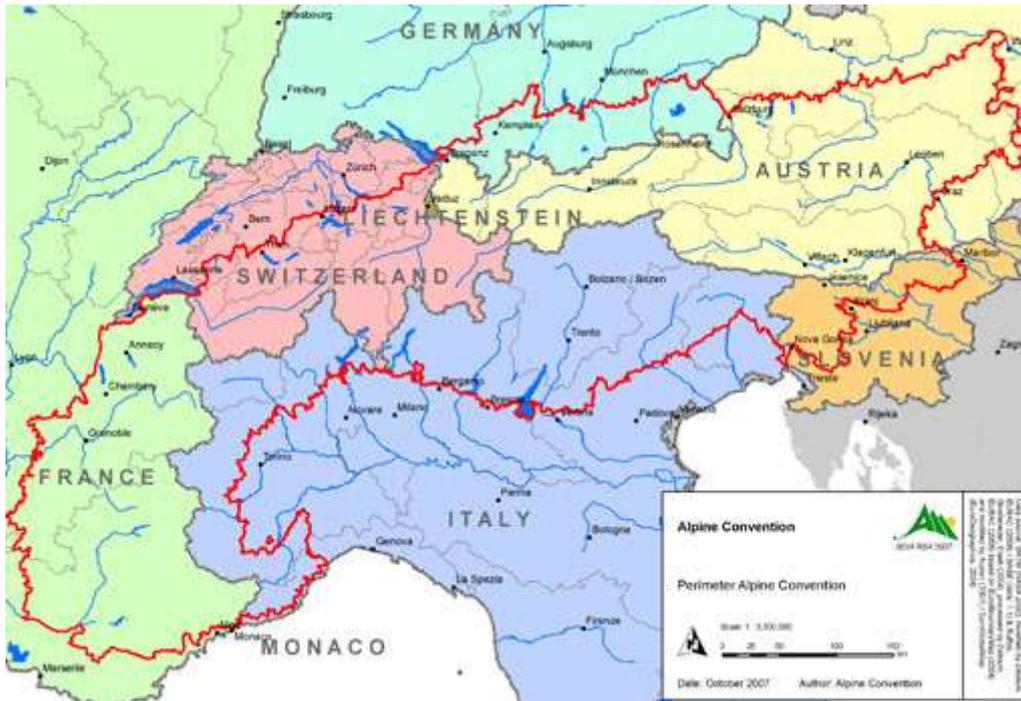
Parties must also take measures to facilitate the participation of regional and local authorities as well as other stakeholders, in the development and implementation of policies for conservation, restoration and sustainable use of biological and landscape diversity of the Carpathians.

Parties must also encourage active cooperation among the competent institutions and organisations at the international level in pursuit of the Protocol's objectives, and must facilitate the cooperation between regional and local authorities in the Carpathians at the international level, and seek solutions to shared problems at the most suitable level.

For more information visit: <http://www.carpathianconvention.org/protocols.htm>

### ***3.4 Convention on the Protection of the Alps***

In November 1991, the Alpine States, namely, Austria, France, Germany, Italy, Lichtenstein, Monaco, Slovenia and Switzerland (see figure 4), signed, the Convention on the Protection of the Alps, commonly known as the Alpine Convention. In doing so, the Alpine States recognized the Alps as a unique, common area in need of a common development and preservation policy.



**Figure 4.** Contracting Parties (source: [http://www.alpconv.org/theconvention/conv05\\_en.htm](http://www.alpconv.org/theconvention/conv05_en.htm)).

The Convention, which entered into force in March 1995, is a framework that defines the fundamental principles for all activities and includes general measures for the sustainable development of the Alpine region. It reflects a growing awareness of the importance of the mountains and outlines the major challenges for the region, emphasizing the value of region's natural, cultural and social heritage. The Convention aims to develop the common heritage of the Alps and preserve it for future generations through transnational cooperation between the Alpine States, regional and local authorities, and with the involvement of the scientific community, the private sector and civil society.

General obligations of Contracting Parties include:

- Preservation and promotion of culture and social independence of the indigenous population;
- Foresighted regional planning to ensure the economic and rational use of land, and the conservation and rehabilitation of natural habitats;
- Prevention of air pollution;
- Soil conservation and control of erosion;
- Water management to preserve or reestablish healthy water systems;
- Conservation of nature and the countryside to protect and where necessary rehabilitate the natural environment to ensure the smooth functioning of ecosystems, and the maintenance of nature's capacity to regenerate and sustain production;

- Maintenance of traditional mountain farming practices which are environmentally compatible;
- Preservation and restoration and improvement of mountainous forests;
- Harmonisation of tourism and recreational activities with ecological and social requirements;
- Reduction in the volume and dangers of inter-Alpine and trans-Alpine transport traffic;
- Introduction of environmentally friendly methods for the production, distribution and use of energy, and promotion of energy-saving measures; and
- Waste management and waste avoidance to meet the special topographic, geological and climatic requirements of the Alpine region.

Contracting Parties implement the Convention through a number of protocols and must exercise legal, scientific, economic and technical cooperation in pursuit of the Convention's objectives.

The Alpine Convention has inspired the establishment of similar conventions other in mountainous regions, such as the Carpathian Convention.

For more information please visit the official webpage of the Convention at: [http://www.alpconv.org/index\\_en](http://www.alpconv.org/index_en)

### ***3.5 Pan-European Biological and Landscape Diversity Strategy***

This Strategy, commonly abbreviated to PEBLDS, constitutes a European effort to improve the implementation of the Convention on Biological Diversity. The Strategy was ratified in Sofia, 1995, by the pan-European Ministers of Environment. Formally proposed in the Maastricht Declaration Conserving Europe's Natural Heritage (1993), the Strategy augments and builds upon a number of multilateral treaties including the aforementioned Bern Convention. The Council of Europe was instrumental in developing PEBLDS, in cooperation with international and national organisations, including governments and NGOs.

PEBLDS is considered to be an innovative and proactive approach to stop and reverse the degradation of biological and landscape diversity values in Europe. It is innovative because it addresses all biological and landscape initiatives under one European approach. It is proactive because it promotes the integration of biological and landscape diversity considerations into social and economic sectors.

PEBLDS reinforces the implementation of existing measures and identifies additional actions that need to be taken over the next two decades. It also provides a framework to promote a consistent approach and common objectives for national and regional action to implement the Convention on Biological Diversity. Currently the Secretariat of PEBLDS is hosted by UNEP in Geneva. The decision-making body of PEBLDS consists of countries and observers and is called the Strategy Council. This body receives executive support from Strategy Bureau. The institutional structure also comprises a Joint Secretariat, several Task Forces, and an Expert Committee.

PEBLDS aims to achieve its activities by:

- Facilitating and supporting the exchange of experience on, and creation or further development of National Biodiversity Strategies, Action Plans and Programmes as stipulated by the CBD, and promoting a consistent approach and common objectives in all European countries;
- Using all other existing international and national legislation and policy, such as the EU Natura 2000 Programme, sectoral policies relating to agriculture, fisheries, transport, regional development and social policies, and implementing the EU Environmental Action Programme and the EU Sustainable Development Strategy;
- Facilitating, supporting and promoting the implementation of the existing international agreements and treaties.

For more information, visit PEBLDS's official webpage at: <http://www.peblids.org/>

## 4. Directives of the European Union

Directives are legislative acts of the European Union. Unlike regulations which are self-executing and do not require any implementing measures, directives compel Member States to work towards certain time-tabled goals without dictating the means by which to do so. Article 288 of the Treaty on the Functioning of the European Union provides the legal basis for the enactment of directives:

### ***“Article 288***

*To exercise the Union's competences, the institutions shall adopt regulations, directives, decisions, recommendations and opinions.....A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods....”*

Once a directive is adopted, Member States must implement their chosen measures and produce adequate results within a set time-frame. Directives are normally translated into national law through a process known as transposition which can entail the creation and amendment of respectively new and existing national legislation.

The European Commission can initiate legal action against Member States in the European Court of Justice for failure to adequately transpose a directive or abide by its provisions.

### **4.1 Water Framework Directive**

The Water Framework Directive (2000/60/EC) (WFD) constitutes the most far-reaching and ambitious water legislation ever produced by the European Commission. The tone of the WFD is aptly set in its first sentence, “Water is not a commercial product like any other, but rather a heritage that needs to be protected.”

The WFD aims to prevent the further deterioration of the ecological and chemical status of all bodies of surface water and sets a mandatory target for all inland and coastal waters to reach “good status” by 2015.

Before the WFD, the European legal framework for managing the river basins was fragmented and disjointed, addressing only specific issues and giving disproportionately low priority to groundwater, and aquatic ecosystems. The WFD attempts to remedy these problems by, *inter alia*:

- Introducing higher levels of environmental protection;
- Adopting the “polluter pays” and “precautionary” principles;
- Targeting pollution at source and ensuring that preventative action is taken when appropriate;
- Enhancing international collaboration in the management of transboundary river basins;
- Ensuring water pricing reflects cost recovery to promote prudent water use;
- Increasing public participation in river basin management.

Member States must calculate the Ecological Quality Ratio (EQR) to provide indications on the ecological status of concerned water bodies. Article 2(21) defines ecological status as “...an expression of the quality of the structure and functioning of aquatic ecosystems associated with surface waters...” The EQR expresses ecological status as a deviation from past or present reference conditions and has five categories including the aforementioned “good status”. In calculating the EQR, biological, chemical and geomorphological traits are taken into account.

The WFD requires that river basin management plans are established and that measures are taken to address the following environmental pressures:

- Eutrophication and organic pollution;
- Hydromorphological changes;
- Habitat fragmentation;
- Acidification; and
- Toxic pollution.

Although the term, biodiversity, does not appear in the WFD, it is considered implicitly in the criteria for ascribing ecological status. Furthermore the WFD provides that Member States uphold their obligations for Natura 2000 sites. Where the environmental protection provisions under the WFD mismatch with those of the Birds or Habitats Directives, the WFD stipulates that the most stringent provisions prevail.

The WFD was transposed into Member State’s national laws in 2003. Thereafter, intensive environmental surveys were undertaken and monitoring programmes were established. Final river basin management plans were submitted in 2009 and are currently being implemented. The WFD provides ambitious, legally binding and enforceable targets but, at the same time, leaves Member States with enough flexibility to achieve the stated objectives in a way that encourages innovation and makes good use of science as well as funding opportunities.

For more information visit the European Commission’s webpage on the WFD at:

[http://ec.europa.eu/environment/water/water-framework/index\\_en.html](http://ec.europa.eu/environment/water/water-framework/index_en.html)

**Box 1. Public involvement in river renaturation, Berlin (here: district of Pankow), Germany**  
Best practice from the European Capitals of Biodiversity competitions

The Water Framework Directive requires informing and involving citizens prior to the beginning of any construction work aiming at improving the ecological quality of a European waterway. In a pilot project for the exemplary implementation of the directive specifically in a highly urban area, the small river Panke, which runs across the Berlin district of Pankow, is currently being renaturated along its entire length of 27 kilometers.

Coordinated by the Senate Department for Health, Environment and Consumer Protection of the state of Berlin, the whole planning and development process has been accompanied by a diverse public relations campaign. Lecture series, information days called “Day of the Panke”, a website, and a computer game for children (“Straight was Yesterday: A river becomes natural”) give a glimpse of the spectrum of activities, involving a large network of stakeholders, including local and state authorities, Local Agenda 21, neighbourhood management bureaus and cultural institutions.

In order to directly involve the local citizens, two participation workshops were held in 2008, where the planners presented their ideas for each section of the river. This forum allowed citizens to actively get involved in the planning process, and the planners profited immensely from the population’s knowledge of the local area. The people of Pankow remain involved in the development of the Panke by adopting and looking after small sections of the river.

For further information, visit: [www.berlin.de/ba-pankow/](http://www.berlin.de/ba-pankow/) or [www.panke.info](http://www.panke.info)

## **4.2 Nature Directives**

The Birds Directive (79/409/EEC) and the Habitats Directive (92/43/EEC), collectively referred to as the ‘Nature Directives’, constitute the most important European legislation as regards biodiversity conservation and have great relevance to local authorities.

### **4.2.1 Birds Directive**

The main aim of the Birds Directive (79/409/EEC) is the preservation of bird species and their habitats through the creation, upkeep and re-establishment of protected areas and biotopes. Member States are required to pay particular attention to wetlands, specifically those that are of international importance. The Birds Directive establishes a network of such protected areas termed Special Protection Areas (SPAs). Member States must avoid pollution, deterioration of habitats and disturbances affecting birds listed in Annex I to the Birds Directive insofar as these impacts are significant inside protected areas. Outside protected areas, pollution and deterioration of habitats are to be avoided.

Member States must also establish a monitoring system through which deliberate disturbance of birds during periods of breeding and rearing is avoided and monitored. However, derogations are possible in the interest of public health and safety as well as the prevention of serious damage to crops, livestock, forests, fisheries and water. There is a requirement for Member States to report such derogations to the Commission annually.

## 4.2.2 Habitats Directive

The main aim of the Habitats Directive (92/43/EEC) is to promote the maintenance of biodiversity, taking account of economic, social, cultural and regional requirements. The Habitats Directive highlights the importance of trans-boundary issues and, like the Birds Directive, allows for derogations on certain conditions of necessity. The Habitats Directive applies to “natural habitat types of Community interest” which:

- a) Are in danger of disappearance in their natural range; or
- b) Have a small natural range following their regression or by reason of their intrinsically restricted area; or
- c) Present outstanding examples of typical characteristics of one or more of the nine following biogeographical regions: Alpine, Atlantic, Black Sea, Boreal, Continental, Macaronesian, Mediterranean, Pannonian and Steppic.

The Habitats Directive defines Special Areas of Conservation (SACs), which together with the SPAs designated under the Birds Directive, constitute the Natura 2000 network. Each EU Member State, must in collaboration with the European Commission, designate “Sites of Community Importance” that are to become part of the Natura 2000 network.

Member States must take action to ensure that a range of species, listed in Annex IV of the Habitats Directive, will not be deliberately disturbed during periods of breeding, rearing, hibernation or migration and that there is no destruction or deterioration of breeding sites and resting places. In addition to animal species, many plant species are also listed in Annex IV and protected from uprooting or destruction. The protection afforded to the Natura 2000 network is subject to clauses in Article 6 the Directive, which stipulate that:

- Member States must ensure that habitats do not deteriorate and that species in such habitats are not disturbed, in as far as such disturbance is significant;
- Any project to be developed with a likely significant impact on the site shall be subject to an appropriate assessment (essentially an environmental impact assessment) of its implications in view of the site's conservation objectives;
- If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless proceed for imperative reasons of overriding public interest, including those of a social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected.

For more information visit the European Commission’s webpage on EU nature legislation at: [http://ec.europa.eu/environment/nature/legislation/index\\_en.htm](http://ec.europa.eu/environment/nature/legislation/index_en.htm)

### **Box 2. Steppe conservation, Nagykőrös, Hungary**

Best practice from the European Capitals of Biodiversity competitions

The oak-forests of Nagykőrös are the last, more or less intact Euro-Siberian steppic woods in the Carpathian basin. These habitats are endangered by invasive species, a lack of natural regeneration, unsuitable forest management, habitat fragmentation, and the lack of interest and knowledge of society. Between 2006 and 2011, the Duna-Ipoly National Park Directorate, the Local Government of Nagykőrös and the WWF Hungary cooperated to ensure the long term protection of the Natura 2000 site and to improve the nature conservation situation of the Euro-Siberian steppic oak forests and the pannonic sand steppes.

Activities and measures:

- Weed control to get rid of invasive species and reforestation with traditional tree species.
- Modification of forest management methods and introduction of nature conservation management methods.
- Media work, creation of a webpage, events organized for professionals and the public;
- Nature experience institutions were established (a „forest school” and a camp) and three complex environmental education programmes developed

A Natura 2000 management plan has now been developed, incorporating all available data (e.g. archives, results of international and local research on biological status, monitoring of the effects).

The forest management has been profoundly improved on 175 hectares since the management was taken over from the original owners. Some 400 hectares have been freed from invasive species, 65 hectares have now been reforested. And the local society is now much more interested in their natural environment than they used to be.

For further information on Nagykőrös, visit: [www.nagykoros.hu](http://www.nagykoros.hu)

### **4.3 Environmental Impact Assessments Directive**

The Environmental Impact Assessments Directive (85/337/EEC) (EIA Directive) was introduced in 1985 to ensure that considerations of the potential environmental impacts of proposed developments are integrated into planning and decision making. Under the EIA Directive, any development that is likely to have a significant environmental impact must be subject to an EIA that provides adequate information to comply. The general process involves a detailed analysis of the likely impacts on the environment and the reporting of accrued results. EIAs are usually conducted for infrastructure projects, plans and programmes. The EIA analysis must cover the following issues:

1. Project description;
2. Consideration of alternatives;
3. Description of the environment;
4. Description of any significant environmental impacts;
5. Mitigation options;

6. Environmental Impact Statement (essentially a non-technical summary);
7. Knowledge deficits and technical difficulties.

The report is disseminated for amongst key stakeholders including the general public who are invited to comment on the proposals. Feedback obtained during this consultative exercise is taken into account in the final planning decisions and the public are informed thereof.

For more information visit the European Commission's webpage on EIA legislation at: <http://ec.europa.eu/environment/eia/eia-legalcontext.htm>

#### **4.4 Strategic Environmental Assessment Directive**

The Strategic Environmental Assessment Directive (2001/42/EC) (SEA Directive) aims to introduce systematic assessment of the environmental impacts of strategic land use programmes. It mainly applies mainly to infrastructure development plans and programmes at the local and regional level. A typical SEA motions through the following process:

1. Screening to determine whether the plan or programme falls within the scope ambit SEA legislation;
2. Scoping to define the boundaries of the assessment;
3. Documentation on the state of the environment and determination of environmental baselines;
4. Determination of the likely environmental impacts;
5. Informing and consulting the general public and other key stakeholders;
6. Decision making on the basis of the assessment and feedback from stakeholders;
7. Monitoring of the impacts of the programme following implementation.

For more information visit the European Commission's webpage on SEA at: <http://ec.europa.eu/environment/eia/sea-legalcontext.htm>

## **5. Local legislation**

Local authorities have many options to develop biodiversity-related guidelines of their own. In the following, some examples from participants at the European Capitals of Biodiversity competitions are given, where cities are implementing their own local goals in biodiversity protection on various scales.

**Box 3. Minimum distance of 200 metres to nearest green area, Barcelona, Spain**

Best practice from the European Capitals of Biodiversity competitions

The city council of Barcelona has set up a programme for upgrading the building blocks in the Ensanche district, aiming to ensuring that almost 270,000 inhabitants have a green area within 200 metres of their home. This means that one out of every nine building blocks will have a public green area in their courtyard. The progress of this initiative has been extremely positive: in 1996 there were 9 courtyard gardens with a total surface area of 26,000 m<sup>2</sup>; and at the end of 2009, 40 areas had been restored to be public green spaces and leisure areas, occupying a surface area of 87,000 m<sup>2</sup>. At 1 December 2010, 43 courtyards had been upgraded, making a total of 92,634 m<sup>2</sup>. In addition, 18,066 m<sup>2</sup> are in the process of being restored, thereby allowing the opening of 11 new courtyard gardens on the short and medium term. These green areas have shady trees, hedges, children's play areas and urban fixtures.

For further information on Barcelona, visit: [www.bcn.es](http://www.bcn.es)

**Box 4. Spatial plan modification to save green area, Prievidza, Slovakia**

Best practice from the European Capitals of Biodiversity competitions

The main objective of the project was to prevent the existing green space "Cherry's orchard" from development. According to the Prievidza spatial plan the site concerned was determined for further individual residential construction. The Prievidza citizens remembered the site as a productive cherry orchard which used to be a favoured location for recreation in the past. Unfortunately, this area had been abandoned for 20 years and the land was not owned by the city of Prievidza.

In order to save the Cherry's orchard as a green space for the citizens, the city council bought 9,000 m<sup>2</sup> of the area and during the revision of the new spatial plan re-categorized the land as a territory specified for green areas. As a result, altogether 25,000 m<sup>2</sup> of green space were saved for the public.

This is an example involving several important factors leading to the protection of green spaces in the city – clever city council, cooperation of the city with civil associations and willingness of the city to invest in buying the lands. This formal part of the project was running from January 2007 to December 2009, bringing a tangible result – a modification of the spatial plan, purchase of some lands by the city. Starting in June 2010, the previous orchard is currently being modified to be a green area with an estimated investment cost of approximately 500,000 €. The project should be completed and the green space open to the city inhabitants in 2013.

For further information on Prievidza, visit: [www.prievidza.sk](http://www.prievidza.sk)

**Box 5. Ecological management of “Parc de la Citadelle”, Lille, France**

Best practice from the European Capitals of Biodiversity competitions

The “Parc de la Citadelle” of Lille has 110 ha and attracts both public and biodiversity. The park management has incorporated the ecological engineering techniques on a threefold basis: restoration of the natural environment, promotion of the military and historical inheritance, and welcoming outdoor activities.

The city’s ecologist, the partner institutions of the Lille Center for Biodiversity as well as other research departments regularly carry out an environment diagnosis and a species inventory. These observations are then translated into action programs and recommendations. In the past these recommendations have resulted in modifying intervals between grass-cutting, raising the cutting height by 8 cm, establishing exportation for grass, planting of herbaceous plants, shrubs and regional trees, or fighting invasive species (e.g. Japanese knotweed and muskrat). Dead wood has also been preserved in many forms: dead trunks are maintained standing upwards or are transplanted, and logs are installed in the ground or in ditches. Nature preservation is consistently incorporated in all projects such as ramparts’ restoration.

Each action is undertaken according to the needs of target species, and all actions are implemented simultaneously. Dead wood is maintained for saproxylic insects, extensive pasture supports grey flycatcher, and cavity trees for stock doves and Daubenton’s bats.

Measures have also been taken to change the public lighting to insect- and bat friendly lighting systems.

For further information on Lille, visit: [www.mairie-lille.fr](http://www.mairie-lille.fr)