


## Workshop reader





Technical assistance workshop on nature protection,  
CITES implementation and forest fires

27-28 October 2015, Budapest, Hungary

### 1. Trainers' professional experience in brief

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|    | <p><b>Professional background:</b><br/> <b>Surname:</b> Schmidt<br/> <b>Name:</b> András<br/> <b>Date of Birth:</b> 25/02/1970<br/> <b>Nationality:</b> Hungarian<br/> <b>Education:</b> Agricultural engineer<br/> <b>Year of professional experience:</b> 20 years of professional experience</p>   |
| <p><b>Name:</b> András Schmidt</p> <p><b>Current Position &amp; Organization:</b> Deputy Head of Department for Nature Conservation and Head of Natura 2000 Unit<br/>Ministry of Agriculture</p> <p><b>Contact:</b><br/> Address: Kossuth tér 11.<br/> H-1055 Budapest,<br/> Phone: +36 1 795 2399<br/> Fax: +36 1 301 4646<br/> E-mail:<br/> andras.schmidt@fm.gov.hu</p> | <p>Main activities and responsibilities:</p> <ul style="list-style-type: none"> <li>▪ Coordination of Natura 2000 network operation in Hungary</li> <li>▪ Coordination of reporting under Articles 9 and 12 of the Birds Directive</li> <li>▪ Coordination of bird conservation in Hungary</li> </ul> <p>Coordination of the implementation of the Ramsar Convention in Hungary, as National Focal Point</p> <p>I have been working in the ministry responsible for nature conservation since 1995. First as personal secretary of the Deputy Secretary of State for nature conservation, and from 2003 in the Department for Nature Conservation, with main responsibilities in bird conservation (e.g. preventing electrocution and collision of birds along power lines) and the preparation of the Natura 2000 network in Hungary. I became head of Natura 2000 unit in 2008 and Deputy Head of Department for Nature Conservation in 2010. Within Natura 2000, my main responsibility is the co-ordination of works under the Birds Directive (e.g. management of Special Protection Areas).</p> |

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|    | <p><b>Professional background:</b><br/> <b>Surname:</b> Czirák<br/> <b>Name:</b> Zoltán<br/> <b>Date of Birth:</b> 30/06/1970<br/> <b>Nationality:</b> Hungarian<br/> <b>Education:</b> Biologist<br/> <b>Year of professional experience:</b> 19 years of professional experience</p>   |
| <p><b>Name:</b> Zoltan Czirak</p> <p><b>Current Position &amp; Organization:</b> CITES Scientific Authority<br/> Department for Nature, Conservation Biodiversity and Gene Conservation Unit, Ministry of Agriculture</p> <p><b>Contact:</b><br/> Address: Kossuth tér 11.<br/> H-1055 Budapest,<br/> Phone: +36 1 795 2046<br/> Fax: +36 1 301 4646<br/> E-mail:<br/> <a href="mailto:zoltan.czirak@fm.gov.hu">zoltan.czirak@fm.gov.hu</a></p> | <p>My Responsibilities include the task of CITES Scientific Authority (since 1998), the CMS national focal point of Hungary (since 2008), the AEWa national focal point of Hungary (since 2003), the Bern Convention national focal point (since 2003), IWC Commissioner of Hungary (since 2010); I am also working on Animal Welfare issues relating captive specimens of wild species (since 1998) and tasks related to Hungary's European regional representative status in the CITES Standing Committee</p> <p>In these tasks, – inter alia – responsible for CITES scientific issues, the tasks related to Hungary's EU accession, preparing legislation relating CITES, Birds and Habitats Directives, supervising activities of the regional CITES authorities, training of enforcement officials, etc.</p> |

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|    | <p><b>Surname:</b> Kőrösi<br/> <b>Name:</b> Levente<br/> <b>Date of Birth:</b> 09/08/1972<br/> <b>Nationality:</b> Hungarian<br/> <b>Education:</b> Agricultural Engineer<br/> <b>Year of professional experience:</b> 21 years of professional experience</p>  |
| <p><b>Name:</b> Levente Kőrösi</p> <p><b>Current Position &amp; Organization:</b> deputy head of Department for Nature and head of Conservation Biodiversity and Gene Conservation Unit, including CITES Management Authority, Ministry of Agriculture</p> <p><b>Contact:</b><br/> Address: Kossuth tér 11.</p> | <p>I have been working in the ministry responsible for nature conservation since 1994. As the head of the Biodiversity and Gene Conservation Unit, I am responsible for the implementation of international biodiversity-related conventions (CITES, CBD, CMS, Bern Convention, IWC, ITPGRFA), for agrobiodiversity matters, supervising gene banks and state activities related to the protection and utilisation of genetic resources, the regulation on GMOs, including the tasks of the gene technology authority. Since CITES CoP16 I am in charge of tasks related to Hungary's European regional representative status in the CITES Standing Committee. I have more than 20 years of experience in the implementation of CITES. I have been involved in preparation of legislation, permitting, registration, enforcement (making checks, seizures, confiscation),</p> |

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| H-1055 Budapest,<br>Phone: +36 1 795 3753<br>Fax: +36 1 301 4646<br>E-mail:<br><a href="mailto:levente.korosi@fm.gov.hu">levente.korosi@fm.gov.hu</a> | cooperation with other relevant bodies, including NGOs, training officials and in international cooperation and communication and also was involved in the preparation of Hungary's 2004 EU accession. |
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## **2. Learning objectives**

The presentations will show and participants will be able distinguish main steps in process of implementation the EU WTR, Birds and Habitats Directives and other, small pieces of EU nature conservation legislation and be able to apply in similar process of implementation in the Western Balkan region. Participants will be introduced to the development of the Hungarian legislation and will receive strategic recommendations in relation to the transposition of these provisions.

After completing this course participants will have a good overview of the requirements under the Birds Directive and the Habitats Directive as to how to establish the Natura 2000 network and what the main steps and characteristics of the appropriate assessment procedure are. The course also contains the main elements of species conservation, including hunting and trade restrictions under the Directives.

They will understand the main differences between the EU WTR and CITES provisions. The participants will be introduced to the process of implementation of EU WTR in Hungary and also to problems and obstacles. We have a lot of experience in harmonization with CITES and EU WTR what will be shared with participants. Furthermore, Hungary has been a Party to CITES for a long time and has eleven years of experience in implementing the EU requirements. They will be practising to perform the enforcement in realistic situations and find out better solutions for particular cases.

The participants will understand requirements that should be transposed in national legislation. Also they will be able to avoid major mistakes and problems in establishing the Natura 2000 network and incorporating the necessary provisions in national legislation to set up the legal framework for appropriate assessments.

## **3. Training abstract**

### **3.1 INTRODUCTION TO THE BIRDS DIRECTIVE AND THE HABITATS DIRECTIVE**

Adopted in 1979, the Birds Directive (BD) relates to the conservation of all wild birds, their eggs, nests and their habitats across the EU. Its strategic objective is 'to maintain the population of all species of wild birds in the EU at a level which corresponds to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements, or to adapt the population of these species to that level'.

The Habitats Directive (HD), adopted in 1992, covers around 1000 other rare, threatened or endemic species of wild animals and plants and some 230 habitat types. These are collectively referred to as habitats and species of Community interest. The strategic objective of the Habitats Directive is "to maintain or restore natural habitats and species of Community interest at favourable conservation status, taking into account economic, social and cultural requirements and regional and local characteristics".

The Directives require Member States to take a variety of measures to achieve these objectives. These measures include the designation of protected areas for birds (Special Protection Areas) and for habitats and species of Community interest (Special Areas of Conservation), which together comprise the Natura 2000 network. They also include the

adoption of strict systems of species protection, even outside the Natura 2000 network.

It is important to recall that core areas for trigger species and habitats (BD Annex I species and a selection of migratory species as well as HD Annex I habitats and Annex II species) are to be included in Natura 2000. The sites designated under both Directives form a coherent network aimed at achieving favourable conservation status for those habitats and species at bio-geographical level. Each site has a contribution to make to that objective. Economic, social and cultural requirements and regional and local characteristics can be taken into account only during the management of the Natura 2000 network, but not in the designation process.

The Natura 2000 network is an EU wide network of over 27,000 natural areas covering on land nearly 18% of the EU's surface. It is comprised of Special Areas of Conservation (SAC) designated by Member States under the Habitats Directive, and also incorporates Special Protection Areas (SPAs) which are designated under the Birds Directive. Many sites have been designated according to both Nature Directives, either in their entirety or partially, so in many cases both protection status overlap.

Sites are designated as part of the Natura 2000 network because they include the most important areas for the habitats types and species protected under the two nature directives, i.e. those which contribute significantly to the maintenance or restoration at a favourable conservation status of natural habitat types and species listed in the Habitats Directive (annexes I and II) or the most suitable areas for the conservation of species listed in annex I of the Birds Directive as well as regularly occurring migratory species not listed in Annex I, bearing in mind the need for protection of their breeding, moulting and wintering areas and staging posts along their migration routes. The selection and designation of Natura 2000 sites is also made taking into account the need to ensure the coherence of the network. The sites of the network therefore play a central role in relation to the conservation of European biodiversity.

The Habitats Directive sets the rules for the creation of the Natura 2000 network, the designation of the relevant sites for the network, their legal protection and management regimes.

#### I. Protection and management requirements for Natura 2000 sites

Once a site has been included in the Natura 2000 Network, Member States are required to manage and protect it in accordance with the terms of Article 6 of the Habitats Directive. Article 6 contains three key provisions; it requires Member States to:

- Establish the necessary conservation measures, on each site, which correspond to the ecological requirements of the protected habitat types and species of Community interest present (Article 6.1);
- Prevent any damaging activities that could significantly disturb these species or deteriorate their habitats or protected habitat types present (Article 6.2).
- Assess potential effects and protect the Natura 2000 sites from plans and projects likely to have a significant effect on the site by setting out a series of procedural and substantive safeguards (Article 6.3 and 6.4).

Within this structure, it can be seen that Natura 2000 sites are not strictly protected areas where all activities are systematically excluded. It advocates a different approach: one that fully recognizes that humans are an integral part of nature and that the two work best in partnership with one another. In this way, Natura 2000 supports the principle of sustainable development and use. Its aim is not to exclude economic activities, but instead to set the parameters by which these can take place whilst safeguarding Europe's most threatened and valuable species and habitats.

To ensure that each Natura 2000 contributes fully to reaching this overall target of FCS, it is important to set clear conservation objectives for each individual site. These should define the desired state, within that particular site, of each of the species and habitat types for which the site was designated. This is best done quantitatively wherever possible or appropriate, for instance by setting specific time bound targets for each of the habitat types and species of EU importance present.

## II. Appropriate assessment

Article 6, paragraphs (3) and (4) of the Habitats Directive state:

(3) Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.

(4) 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 be carried out for imperative reasons of overriding public interest, including those of social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted. Where the site concerned hosts a priority natural habitat type and/or a priority species the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest.

The Appropriate Assessment procedure can be divided into the following stages:

Stage One: Screening — the process which identifies the likely impacts upon a Natura 2000 site of a project or plan, either alone or in combination with other projects or plans, and considers whether these impacts are likely to be significant; If not, the procedure stops here and the permit can be issued.

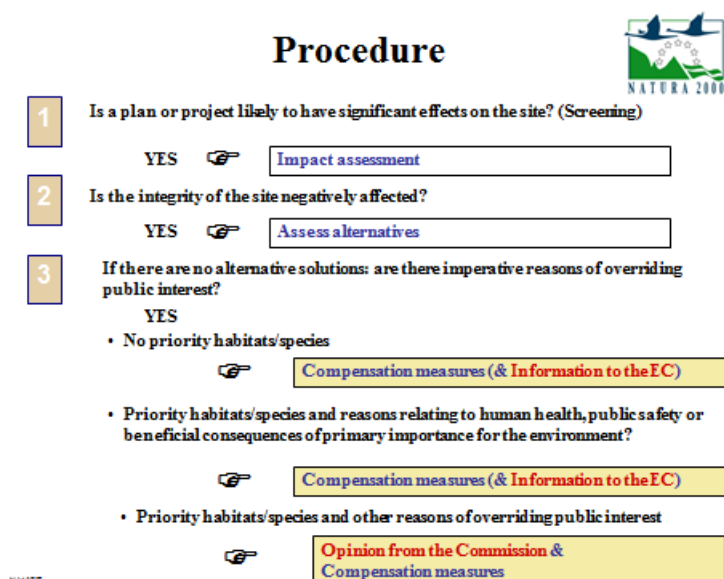
Stage Two: Appropriate assessment — the consideration of the impact on the integrity of the Natura 2000 site of the project or plan, either alone or in combination with other projects or plans, with respect to the site's structure and function and its conservation objectives.

Additionally, where there are adverse impacts, an assessment of the potential mitigation of those impacts;

Stage Three: Assessment of alternative solutions — the process which examines alternative ways of achieving the objectives of the project or plan that avoid adverse impacts on the integrity of the Natura 2000 site;

Stage Four: Assessment where no alternative solutions exist and where adverse impacts remain — an assessment of compensatory measures where, in the light of an assessment of imperative reasons of overriding public interest (IROPI), it is deemed that the project or plan should proceed.

The procedure is best summarised in the following flowchart:



The purpose of the screening stage is to identify whether a significant effect on the trigger species and habitats of the given Natura 2000 site is possible, alone or in combination with other plans or projects. The precautionary principle is to be applied, that is it must be assumed there may be a significant effect if its possibility cannot be excluded. The burden of proof is on demonstrating that there will be no adverse effects on the integrity of the site (that is, it is not the authority that has to prove there will indeed be an adverse effect, but the other way around). Potential impacts have to be analysed in all aspects that may affect trigger species or habitats of the given Natura 2000 site.

The authorities have to assess the possible effects on the Natura 2000 site in light of the conservation objectives of the given site. Cumulative effects have to be considered (effects of several different projects or plans). Salami slicing of projects must not be allowed (and may be even counterproductive for developers if, for example, a road section is not permitted, while connecting road sections have already been built). The assessment is to be supported by a documentation prepared and submitted by the project developer or planner, but the authority is not restricted to the information contained therein, and may request further information from the developer/planner or from other sources. Important information on the sites, such as trigger species and habitats and their parameters are officially contained in the Standard Data Form of each site, which is publicly accessible in the Natura 2000 Viewer.



If adverse effects are identified, mitigation measures must be planned to reduce or even completely eliminate them (e.g. wildlife passages). If adverse effects can be fully eliminated, the project can be permitted. If not, alternative solutions have to be examined, including the zero alternative (no project or plan is implemented). Alternatives can be designed as to location, design or scale. If no alternative is found that has no adverse effect on the Natura 2000 site at all, then the project or plan must be refused – unless imperative reasons of overriding public interest (IROPI) justify its implementation. IROPI have to be balanced against the conservation aims of the Directive and include the following:

- human health,
- public safety,
- beneficial consequences of primary importance for the environment,
- other interests of a social (e.g. employment) or economic nature.

The public interest must be overriding: that is, it must be a long-term interest which is fundamental for the society. If, despite adverse effects of the project or plan it is permitted due to IROPI, compensation measures must be implemented and communicated to the European Commission after issuing the permit. If a priority trigger feature (habitat or species) is adversely affected by the project or plan, only human health, public safety and environmental reasons can justify implementation. Other interests of a social or economic nature can only justify implementation after a preliminary positive opinion issued by the European Commission at the request of the Member State concerned (describing also the proposed compensation measures). If no priority feature is affected, other interests of a social or economic nature may also justify implementation.

Compensatory measures are not defined in the Habitats Directive. They have to be designed specifically to a given project or plan, as a weapon of "last resort" and have to secure the „coherence of the network". Compensatory measures have to be additional to the normal practice under the Birds and Habitats Directives. They have to address, in comparable proportions, the habitats and species negatively affected and provide functions comparable to those which had justified the selection criteria of the original site. Preferably, they should be implemented on the given site or at least on a nearby site within the same biogeographical region. It is important that compensatory measures should be implemented and be effective BEFORE the irreversible harmful effects of the project or plan become effective. They have to be proportionate to the damage caused and should normally overcompensate them, especially if they cannot be implemented before harmful effects of the project or plan. Public information and/or consultation stages should be incorporated in the designing of compensatory measures, as well as monitoring of efficiency and reporting. Designations of new Natura 2000 sites can be part of a compensation package, although the designations on their own are insufficient without the accompanying measures.

In line with the 'polluter pays' principle, the promoter of a project bears the cost of the compensatory measures. In case of projects co-financed by the EU compensatory measures are eligible for co-financing (provided that the project meets all the rules and procedures applicable to the EU regional funds). A subsidy granted by a public authority for measures taken in order to compensate for damage to a Natura 2000 site can be considered as a "state aid".

A guidance document of the European Commission on Appropriate Assessment is available at:  
[http://ec.europa.eu/environment/nature/natura2000/management/guidance\\_en.htm#art6](http://ec.europa.eu/environment/nature/natura2000/management/guidance_en.htm#art6)

### III. Species protection over their whole range

The Habitats Directive also includes provisions for the protection of species of Community interest within the whole territory of Member States. For species and sub-species listed in Annex IV (over 400 species, including many that are also listed in annex II) a strict protection regime must be applied across their entire natural range within the EU, both within and outside Natura 2000 sites

These protection obligations must be interpreted in terms of the overall aim of the Directive, i.e. the conservation of natural habitats and of wild fauna and flora in the European territory.

Annex IV lists the species of Community interest in need of strict protection over their whole distribution area, while Annex II includes the species of Community interest whose conservation requires the designation of special areas of conservation (Natura 2000 sites). Many species of EU interest are included both in Annex II and Annex IV. Some are only included in Annex IV or in Annex II.

A listing in Annex II was chosen for species for which the conservation of their (often quite specific) habitat is the principal factor determining their survival and wellbeing. The protection and management of sites were selected here as the appropriate instrument. The group of species listed in Annex IV may be less suited to conservation by only establishing protected areas, but instead needs protection of the species populations and of the most important parts of their habitat (i.e. their breeding sites and resting places) throughout the territory of a Member State. This is because of the specific threats they face, the measures needed to counteract them, the species' pattern of occurrence (e.g. scattered) or the type or specific character of their habitat<sup>1</sup>.

Article 12 of the Habitats Directive requests that Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in annex IV(a) in their natural range, prohibiting:

- (a) all forms of deliberate capture or killing of specimens of these species in the wild;
- (b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;
- (c) deliberate destruction or taking of eggs from the wild;

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<sup>1</sup> Guidance document on the strict protection of animal species of Community interest under the Habitats Directive 92/43/EEC. Available at:  
[http://ec.europa.eu/environment/nature/conservation/species/guidance/pdf/guidance\\_en.pdf](http://ec.europa.eu/environment/nature/conservation/species/guidance/pdf/guidance_en.pdf)

- (d) deterioration or destruction of breeding sites or resting places.

Member States shall also establish a system to monitor the incidental capture and killing of these animal species. In the light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

As regards plant species, Article 13 of the Habitats Directive states that Member States shall take the requisite measures to establish a system of strict protection for the plant species listed in Annex IV (b), prohibiting, among other, the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the wild.

Article 16 allows the application of derogations of the protection system established under Articles 12 and 13 under certain circumstances, which must be reported by the Member States.

The Birds Directive contain similar provisions regarding species protection. Article 5 requests Member States to establish a general system of protection for all species of birds covered by the Directive, prohibiting in particular:

- (a) deliberate killing or capture by any method;
- (b) deliberate destruction of, or damage to, their nests and eggs or removal of their nests;
- (c) taking their eggs in the wild and keeping these eggs even if empty;
- (d) deliberate disturbance of these birds particularly during the period of breeding and rearing, in so far as disturbance would be significant having regard to the objectives of this Directive;
- (e) keeping birds of species the hunting and capture of which is prohibited.

Therefore the Directive bans activities that directly threaten birds, such as those listed above and associated activities such as trading in live or dead birds, with a few exceptions (listed in Annex III - III/A allows trading in all Member States; III/B allows trading in Member States in agreement with European Commission). The Directive recognises hunting as a legitimate activity and provides a comprehensive system for the management of hunting (limited to species listed in Annex II - II/A allows hunting in all Member States; II/B allows hunting in listed Member States) to ensure that this practice is sustainable. This includes a requirement to ensure that birds are not hunted during certain periods, such as the return migration to the nesting areas, reproduction and the raising of chicks. It requires Member States to outlaw all forms of non-selective and large scale killing of birds, (especially the methods listed in Annex IV). It promotes research to underpin the protection, management and use of all species of birds covered by the Directive (Annex V).

So, the Directive provides for exceptions to the general prohibitions set out in Articles 5 and 6. The trade in species listed in Annex III of the Directive is permitted, provided that the conditions and restrictions within Articles 6 (2) and 6 (3) are observed.

In relation to hunting, species listed in Annex II may be hunted under Article 7 of the Directive owing "to their population level, geographical distribution level and reproductive rate throughout the Community ". Where a species is not listed in Annex II, an exception to the prohibitions in Article 5 is only possible where the strict requirements of Article 9 are fulfilled.

The Article 7 hunting exception to the Article 5 prohibitions is subject to several conditions set out in Article 7. Member States are required to ensure "that the practice of hunting, including falconry if practised, as carried on in accordance with the national measures in force, complies with the principles of wise use and ecologically balanced control of the species of birds concerned and that this practice is compatible as regards the population of these species, in particular migratory species, with the measures resulting from Article 2." They are also required to ensure that "the species to which hunting laws apply are not hunted during the rearing season or during the various stages of reproduction. In the case of migratory species, they shall see in particular that the species to which hunting regulations apply are not hunted during their period of reproduction or during their return to their rearing grounds."

The full text of Article 7 goes as follows:

*"1. Owing to their population level, geographical distribution and reproductive rate throughout the community, the species listed in Annex II may be hunted under national legislation. Member states shall ensure that the hunting of these species does not jeopardise conservation efforts in their distribution area.*

*2. The species referred to in Annex II/A may be hunted in the geographical sea and land area where this Directive applies.*

*3. The species referred to in Annex II/B may be hunted only in the member states in respect of which they are indicated.*

*4. Member states shall ensure that the practice of hunting, including falconry if practised, as carried on in accordance with the national measures in force, complies with the principles of wise use and ecologically balanced control of the species of birds concerned and that this practice is compatible as regards the population of these species, in particular migratory species, with the measures resulting from Article 2. They shall see in particular that the species to which hunting laws apply are not hunted during the rearing season nor during the various stages of reproduction.*

*In the case of migratory species, they shall see in particular that the species to which hunting regulations apply are not hunted during their period of reproduction or during their return to their rearing grounds. Member states shall send the commission all relevant information on the practical application of their hunting regulations."*

Further qualifications are set out in Article 8, which requires Member States to prohibit « the use of all means, arrangements or methods used for the large scale or non-selective capture or killing of birds or capable of causing the local disappearance of a species, in particular the use of those listed in Annex IV (a). Hunting from the modes of transport and under the conditions mentioned in Annex IV(b) is also required to be prohibited.

In addition to the exceptions for trade and hunting set out in Articles 6(2),(3) and 7, Article 9 allows Member States to derogate (i.e. depart) from the basic prohibitions in Article 5, 6, 7 and 8 provided three conditions are fulfilled:

- ✓ there is no other satisfactory solution;
- ✓ one of the reasons listed in 9(1)(a), 9(1)(b), or 9(1)(c) applies;
- ✓ and the technical requirements of Article 9(2) are fulfilled.

Derogations under Article 9 are also possible with regard to the prohibitions set out in Article 7 and 8.

The species conservation may be addressed in specific action plans that define the necessary measures to be applied over their whole range. Species action plans are very useful tools to better understand the ecological requirements and the conservation needs and guide the appropriate actions to be taken in their distribution area.

The Commission has supported the elaboration of some species action plans at EU level, while many Member States have also produced such planning tools for their most threatened species.

#### IV. Non-native species

The Habitats Directive (Article 22) requests Member States to ensure that the deliberate introduction into the wild of any species which is not native to their territory is regulated so as not to prejudice natural habitats within their natural range or the wild native fauna and flora and, if they consider it necessary, prohibit such introduction.

Introduction of non-native species, accidentally or deliberately, into a natural environment where they are not normally found, can have serious negative consequences for their new environment.

## 3.2 Hungarian case studies relating to the Birds and Habitats Directives

### Introductory overview of the Natura 2000 network in Hungary

Introduction to the habitat types of Annex I and species of Annex II of the Habitats Directive and Annex I and migratory bird species for which Natura 2000 sites are designated

Hungary hosts **46 habitat** types of Annex I and **142 species** of Annex II under the Habitats Directive. Among those habitats and species, Hungary has **18 priority habitat types** and **16 priority species** under the terms of the Habitats Directive.

Hungary hosts regular populations of **74 bird species listed on Annex I of the Birds Directive**, while **48 migratory species** which are not listed on Annex I are also qualifying features of Special Protection Areas of the Natura 2000 network.

### Number and area of Natura 2000 sites

On January 18, 2013 the European Commission published its progress report concerning the designation of sites under the EU Habitats Directive in individual member states. As the progress report confirms, **Hungary is among those few member states where sufficient territories have been designated for the conservation of species and habitats of community importance, and no new site designations are necessary.**

Hungary proposed the first set of Sites of Community Importance (SCI) in October 2004. Designations of member states sharing the Pannonian biogeographical region (the Czech Republic, Slovakia and Hungary) were reviewed in the framework of the first Pannonian Biogeographic Seminar held on September 25-27, 2005. According to the decision of the Commission, Hungary was expected to designate additional areas for 7 habitat types, 11 plant species and 8 animal species.

As a response in 2010 10 new pSCIs were designated and 29 existing sites were extended. The review of site designations carried out in the framework of the second Pannonian Biogeographic Seminar organized on October 5, 2011 resulted in the conclusion that deficiencies had been eliminated for all species and habitat types in question, **site designations in Hungary were sufficient.**

|  |                         |                              |                                    |                    |                               |
|--|-------------------------|------------------------------|------------------------------------|--------------------|-------------------------------|
| Special Areas of Conservation (SACs)               | Total SACs              | Total SAC Area (km²)         | Terrestrial SAC Area (km²)         | % of National Area | Marine SAC area (km²)         |
|  | 477                     | 14.432                       | 14.432                             | 15.5%              | 0                             |
| Special Protection Areas (SPAs)                    |                         |                              |                                    |                    |                               |
|  | Total SPA sites         | Total SPA Area (km²)         | Terrestrial SPA Area (km²)         | % of National Area | Marine SPA area (km²)         |
|  | 56                      | 13.745                       | 13.745                             | 14.8%              | 0                             |
| (from spatial information in Natura 2000 database) |                         |                              |                                    |                    |                               |
| Total Natura 2000                                  |                         |                              |                                    |                    |                               |
|  | Total Natura 2000 sites | Total Natura 2000 Area (km²) | Terrestrial Natura 2000 Area (km²) | % of National Area | Marine Natura 2000 area (km²) |
|  | 525                     | 19.939                       | 19.939                             | 21,4%              | 0                             |
| (from spatial information in Natura 2000 database) |                         |                              |                                    |                    |                               |

### Relevant legal provisions

General rules on the field of nature conservation are laid down in the Nature Conservation Act no. 53 of 1996, while more detailed and specific prescriptions are stipulated in its implementation regulations. Within this framework the protection of Natura 2000 sites is regulated by the Government Decree no. 275/2004. (X.8.). The list of species receiving legal protection, including those of Community importance and those that naturally do not occur in Hungary, is provided by the Decree of the Minister of Environment no. 13/2001. (V.9.).

At the first instance the departments for environment and nature within the county authorities are responsible for law enforcement related to Natura 2000 sites, while at the second instance the responsible authority is the National Inspectorate for Environment and Nature. Any activities influencing the favourable conservation status of protected areas and Natura 2000 sites may be performed based on official permits. The authorities define conditions related to the protection of nature, and ensure that nature conservation considerations are sufficiently integrated in the permitting process. In addition to permitting, current legislation allows for limiting, suspending or banning activities if they are against nature conservation objectives of the area in question. When limitations are decided upon, the authority may also oblige relevant actors to restore the original state or implement compensatory measures. The authority may also limit, suspend or ban activities damaging or jeopardizing Natura 2000 sites, protected areas and values. In case of plans or projects with an expected impact on Natura 2000 areas, the authority assesses possible impacts on the conservation status of those species and habitat types that provided the basis for site designation. In case a significant impact is expected, a detailed impact assessment is performed. For certain activities possible impacts on Natura 2000 are assessed in the framework of environmental impact assessment or the environmental permitting process.

### Example for appropriate assessment – M8 motorway

The detailed environmental impact analysis was prepared in a several-year iterative (reflecting recommendations of the environmental authority) process by the Developer for the M8 motorway between Dunavecse and Kecskemét as part of the TEN-T infrastructure elements. One section of the M8 motorway lies between the planned M4 expressway (Szolnok) and the new Dunaújváros Danube bridge (Dunavecse). This section of the M8 motorway crosses over a Natura 2000 site, the Upper-Kiskunság marshland (HUKN20003). The Developer designed several alternative routes and the least damaging one was selected by the authority. However, even this version crossed an important part of the Natura 2000 site. The Upper-Kiskunság marshland site is a special area of conservation on the border of the alluvial plain along the Danube and the tableland between the Danube and the Tisza, forming a 55-km long unbroken strip of land of N-S direction, while the motorway is planned to cross this part of the country in an E-W direction. The site consists of mosaics of humid and heath habitats, which contain reeds, *Magnocaricon*, *Salicetum cinereae*, *Molinietalia*, residues of fenwood at the lower reliefs, and sandy vegetation rich in species typical of sand-hills at the higher reliefs. The wealth of species of its habitats makes it unique in the network of the semi-natural areas of the Plain. It holds, among others, a population of *Vipera ursinii* (an endangered viper endemic to the Carpathian Basin), a priority species on Annex II of the Habitats Directive, as well as other priority features protected by the Habitats Directive. The Developer incorporated a number of mitigation measures (e.g. wildlife passages) into the project to reduce negative effects, but not all impacts could be excluded. Therefore, compensation measures were also planned to counter residual negative effects. The environmental authority, via the ministry responsible for nature conservation, submitted to the European Commission a request for opinion as to whether the project could be approved on



the ground that no alternative existed and it was justified by imperative reasons of overriding public interest.

The Commission asked for further information in several rounds and particularly requested further evidence that no alternative route could be designed that would not infringe on the Natura 2000 network. Finally, the Developer withdrew the request for permission and the motorway construction did not go forward.

### Species protection

Permission requirements for protected species:

According to the Act on Nature Conservation No. 53 of 1996 the authorization of the inspectorates of environment, nature and water (as the regional nature conservation authorities) shall be required for:

- any population control
- the collection, capture, killing, possession and training of any individual
- the breeding in captivity of any individual
- the taxidermal preparation and preservation or the possession of such preparations of any individual
- the keeping of any individual in live animal collections
- the supplementing of any population with individuals from foreign populations
- the artificial exchange of genetic matter between populations
- the exchange or sale and purchase of any individual
- the exportation from, importation to or transportation through the Republic of Hungary of any individual
- the reintroduction or introduction of any individual
- the application of alarming methods in order to prevent any damage caused by them
- the transfer of the nest of any individual
- the domestication of any individual of protected species

It means, that if a specimen of a species is listed on the Annexes and at the same time protected in Hungary, two documents are required for export or import (with some exceptions: eg: hunting trophies, land tortoises). However, after Hungary's accession to the EU, CITES export/import documents are not applicable within the community yet the system for the authorization of the import, export, keeping etc. of protected species still remained the same.

The list of protected species was published by *Decree of the Minister of Environment no. 13/2001 (V. 9.) KÖM on the protected and strictly protected plant and animal species, strictly protected caves as well as on the plant and animals species of Community importance*

According to *Government Decree no. 348/2006 (XII.23.) on the Detailed Rules on Protection, Keeping, Display and Utilisation of Protected Species*, protected and strictly protected species are not allowed to be kept, displayed or utilized other than for nature conservation or other public interest purposes. Exemption was set for the following species of birds of prey for falconry purposes:

- *Accipiter gentilis*
- *Accipiter nisus*
- *Falco peregrinus*
- *Falco biarmicus*
- *Falco rusticolus*
- *Aquila chrysaetos*



These birds have to be captive bred and marked by microchip transponders. Hybridization of these species and keeping of hybrids is prohibited.

Falconers have to pass a special exam on nature conservation legislation before obtaining a permission for keeping.

According to the Act on Conservation of Game, Game Management and Hunting No. 53 of 1996 and its implementation regulation, only 15 species of birds can be hunted, in accordance with the provisions of Article 7 of the Birds Directive (you can see the full list in Section 6.2)

Since 2000, 11 bird species became fully protected species for the following reasons:

**grey heron (*Ardea cinerea*)** – formerly could be hunted at artificial fishponds, between 1<sup>st</sup> of August to 31<sup>st</sup> of March, but not listed in Annex II of Birds Directive

**teal (*Anas crecca*), garganey (*Anas querquedula*), pochard (*Aythya ferina*), goldeneye (*Bucephala clangula*), and rook (*Corvus frugilegus*)** – Although these species are listed in Annex II of the Birds Directive, they have unfavourable conservation status, therefore hunting of these species did not meet the criteria "Member states shall ensure that the practice of hunting, including falconry if practised, as carried on in accordance with the national measures in force, complies with the principles of wise use and ecologically balanced control of the species of birds concerned and that this practice is compatible as regards the population of these species, in particular migratory species, with the measures resulting from Article 2."

**goshawk (*Accipiter gentilis*)** – formerly could be hunted at game farms and pheasantries all year round, but not listed in Annex II of the Birds Directive. Furthermore the conservation status of this species is unfavourable.

**black-headed gull (*Larus ridibundus*)** – formerly could be hunted at artificial fishponds, between 1<sup>st</sup> of August to 31<sup>st</sup> of March, and although this species is listed in Annex II of the Birds Directive, it has unfavourable conservation status, therefore hunting of this species did not meet the criteria expressed above.

**herring gull (*Larus argentatus*)** – formerly not protected at all, but this species is not listed in Annex II of the Birds Directive. Furthermore, the conservation status of this species is unfavourable.

**house and tree sparrows (*Passer domesticus* et *P. montanus*)** – formerly not protected, but these species are not listed in Annex II of the Birds Directive. Furthermore, the conservation status of these species is unfavourable.

And the further 3 species can be controlled by special permits only:

**great cormorant (*Phalacrocorax carbo*)** – formerly not protected, but this species is not listed in Annex II of the Birds Directive. Can be shot with special permit only.

**yellow-legged gull (*Larus cachinnans* incl. *michahellis*)** – formerly not protected, and although this species is listed in Annex II of the Birds Directive, now it can be shot with special permit only.

**starling *Sturnus vulgaris***) – Although this species is listed in Annex II of the Birds Directive, it has unfavourable conservation status, now it can be shot with special permit only to protect crops and fruits.

#### Species protection plans

According to the Act on Nature Conservation No. 53 of 1996 the minister responsible for nature conservation, as part of the implementation of the National Nature Conservation Action Plan, orders the preparation of plans targeting the conservation of natural values. As laid down in National Nature Conservation Action Plans for 2003-2008 and 2009-2014 endorsed by the Hungarian Parliament, for species of particular relevance for Hungary conservation plans are to be prepared and implemented. These plans should focus on globally endangered species with significant populations in Hungary, recognizing the outstanding responsibility of the country in ensuring their conservation

In line with the above mandate, 43 species protection plans have been prepared (for 23 animal species and 20 plant species) in the last decade, targeting species protected by national legislation, the EU Birds Directive and Habitats Directive and through different international agreements.

Until present species protection plans have been prepared for 31 species of Community interest, as follows:

- 15 Plant species: *Dianthus diutinus*, *Onosma tornensis*, *Ferula sadleriana*, *Angelica palustris*, *Pulsatilla pratensis* ssp. *hungarica*, *Pulsatilla patens*, *Buxbaumia viridis*, *Dicranum viride*, *Gladiolus palustris*, *Crambe tataria*, *Cypripedium calceolus*, *Dracocephalum austriacum*, *Aldrovanda vesiculosa*, *Liparis loeselii*, *Paeonia officinalis* ssp. *banatica*
- 16 Animal species: *Lynx lynx*, *Canis lupus*, *Sicista subtilis*, *Microtus oeconomus mehelyi*, *Triturus carnifex*, *Vipera ursinii rakosiensis*, *Chilostoma banaticum*, *Polymixis rufocincta*, *Coenonympha oedippus*, *Gortyna borelii*, *Hypodryas maturna*, *Phyllometra culminaria*, *Pilemia tigrina*, *Dorcadion fulvum cervae*, *Hygromia kovacsi*, *Erannis ankeraria*

### **3.3 Introduction to CITES**

CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora) is an international agreement between governments. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival.

Annually, international wildlife trade is estimated to be worth 159 billions of dollars and to include hundreds of millions of plant and animal specimens. The trade is diverse, ranging from live animals and plants to a vast array of wildlife products derived from them, including food products, exotic leather goods, wooden musical instruments, timber, tourist curios and medicines. Levels of exploitation of some animal and plant species are high and the trade in them, together with other factors, such as habitat loss, is capable of heavily depleting their populations and even bringing some species close to extinction. Many wildlife species in trade are not endangered, but the existence of an agreement to ensure the sustainability of the trade is important in order to safeguard these resources for the future.

Because the trade in wild animals and plants crosses borders between countries, the effort to regulate it requires international cooperation to safeguard certain species from over-exploitation. CITES was conceived in the spirit of such cooperation. Today, it accords varying degrees of protection to more than 35,000 species of animals and plants, whether they are traded as live specimens, fur coats or dried herbs.

CITES was signed at a meeting of representatives of 80 countries in Washington, D.C., the United States of America, on 3 March 1973, and on 1 July 1975 CITES entered in force.



CITES is an international agreement to which States (countries) adhere voluntarily. States that have agreed to be bound by the Convention ('joined' CITES) are known as Parties. Although CITES is legally binding on the Parties – in other words they have to implement the Convention – it does not take the place of national laws. Rather it provides a framework to be respected by each Party, which has to adopt its own domestic legislation to ensure that CITES is implemented at the national level.

With its 181 Parties, CITES is one of the largest international nature conservation treaty.

All EU Member States have joined and ratified CITES at different dates. CITES is regulated uniformly in the EU through regulations that are directly applicable in all Member States.

### 3.4 Main differences between the EU wildlife trade regulations and CITES provisions

Several provisions in the EU Wildlife Trade Regulations (EU WTR) go beyond CITES in a number of respects. These differences step by step:

| Color coding  |  |
|---|--|
|  | These measures have been implemented prior to Accesssion in Hungary.     |
|  | These measures have not been implemented prior to Accesssion in Hungary. |

**SPECIES COVERED** 

The original three CITES Appendices are replaced by four Annexes in the EU WTR. These are as follows:

#### **Annex A**

- All CITES Appendix I species for which the Member States have not entered a reservation.
- Several CITES Appendix II and III species, for which the EU has adopted stricter domestic measures.
- Some non-CITES species

Currently there is no Apppendix I species which any MSs have entered a reservation to, therefore all Appendix I species are in Annex A.

In case of Appendix II or III species the main criteria for their inclusion in Annex A are the following:

- the species is extremely rare therefore any low level of trade may be detrimental for its conservation status, such as Mauritius Warbler or Madagascar Serpent Eagle.
- the species is protected from threat of any trade by the Birds Directive (all European species which are not listed in Annex III of this Directive) and Habitats Directive (species which are listed in Annex IV of this Directive), such as Red-breasted Goose, Brown bear, Wolf or Lynx
- the species or genus has several subspecies or species in Appendix I, such as Asiatic Wild Ass or Vini lories.

Non-CITES Species:

- the species is extremely rare therefore any low level of trade may be detrimental for its conservation status, such in the case of Abessinian Wolf, Greater Adjutant Stork or Latifi Viper.

### **Annex B**

- All other CITES Appendix II species for which the Member States have not entered a reservation.
- Some CITES Appendix III species, for which the EU has adopted stricter domestic measures.
- Several non-CITES species

Currently, there is no Appendix II species for which MSs have entered a reservation, therefore all Appendix II which are not in Annex A, are in Annex B.

In case an Appendix III species may be threatened by unsustainable trade and some import restriction may be warranted, the EU can adopt stricter domestic measures. Now, one Appendix III species, the Walrus is included in Annex B.

The main reasons when a non-CITES species is subject to an adopted stricter domestic measure:

- species may be threatened by unsustainable international trade and some import restriction may be warranted. Now, some species such as Goliath Frog, Timor Sparrow and several butterfly species are included in Annex B.
- species for which it has been established that the introduction of live specimens into the natural habitat of the Community would constitute an ecological threat to wild species of fauna and flora indigenous to the Community (Invasive alien Species – IAS). Currently, there are seven IAS are listed in Annex B.

### **Annex C**

- All other CITES Appendix III species for which the Member States have not entered a reservation.

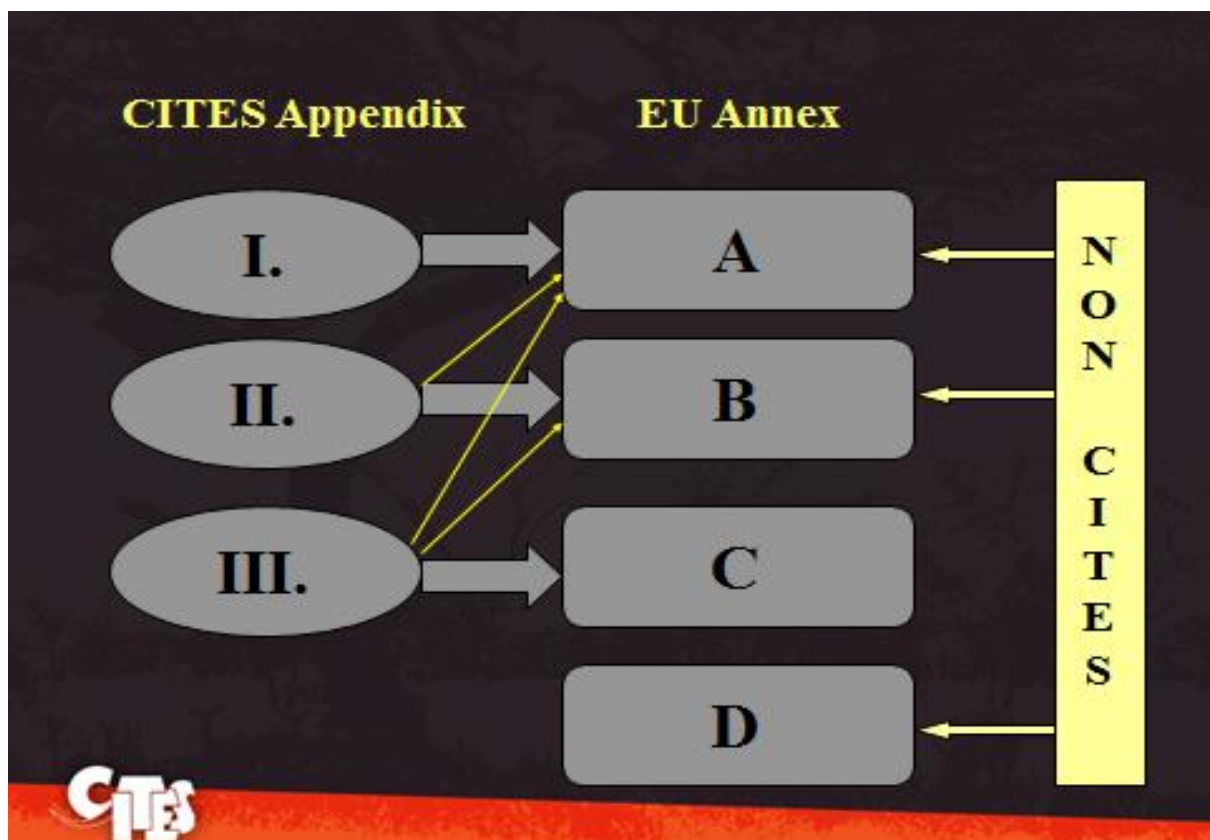
At this time, seven Appendix III taxa for which MSs have entered a reservation, all other Appendix III which are not in Annexes A and B, remain in Annex C. Non-CITES species cannot be listed in Annex C!

### **Annex D**

- Some CITES Appendix III species for which the EU holds a reservation
- Several non-CITES species

Seven Appendix III taxa (three Indian subspecies of red fox and four Asiatic mustelids) for which MSs have entered a reservation (Enter a reservation for these after accession is obligatory!) and Non-CITES species which are not listed in Annexes A to C, but which are

imported into the Community in such numbers as to warrant monitoring as well. The decision to include a species into this Annex is taken by the Management Committee on the basis of a proposal by the Commission and after consultation of the Scientific Review Group. Data for import of Annex D species is compiled yearly by UNEP-WCMC and can be consulted on this website. If the data gives rise to serious conservation concerns, inclusion of a species into Annex B may be considered. The only case where this procedure was used was of the Timor Sparrow. Currently 127 species are included in Annex D.



#### IMPORT CONDITIONS

a) Import permit or notification is required!

As the EU is one of the main market of products which are originated from wild species, the import conditions are especially important elements of the EU WTR. One of the most important stricter domestic elements of the EU law, that an import permit is required not only for Annex A, but for Annex B species too, to be applied for at the competent authorities in the Member State.

Furthermore, an import notification is required for Annex C and Annex D species. An import notification is a declaration filled in by the importer and to be submitted, in case of Appendix III species together with CITES documents from the (re-)exporting country, to the customs office of introduction into the Community.

b) Stricter conditions for issuing the import permits

For species in Annexes A and B import conditions are stricter than under CITES:

The import can be allowed only, when:

- the Commission has not established an import restriction in accordance with Article 4.6 of Regulation 338/97. (see next point.)

- in case of Annex A specimens, the Management Authority is satisfied that the specimens are not to be used for primarily commercial purposes i.e. will be used for purposes of which the non-commercial aspects clearly predominate
- Scientific Authority has advised the Management Authority of its finding (after considering possible opinion of the Scientific Review Group) that:
  - import would not have a harmful effect on the conservation status of the species or decrease the population concerned OR
  - (in the case of Annex A specimens only):
  - import is under exceptional circumstances required for the advancement of science or for essential biomedical purposes; species is the only one suitable and there are no captive bred animals OR
  - specimens are intended for captive breeding (animals) or propagation (plants) from which conservation benefits will accrue to the species concerned OR
  - specimens are intended for research or education aimed at the preservation or conservation of the species (Regulation (EC) 338/97 Article 4.1.a.ii, first indent)
  - or the import is for other purposes that are not detrimental to the survival of the species concerned.
- Management Authority in consultation with the Scientific Authority is satisfied that there are no other conservation factors against import.
- Scientific Authority is satisfied that intended accommodation for live animals/plants at the place of destination is adequately equipped to conserve and care for them properly.
- Applicant to provide documentary evidence that specimens were obtained in accordance with legislation on the protection of the species: for CITES specimens an export permit or re-export certificate, or copy thereof. Where a copy of an export permit or re-export certificate was the basis for the issue of an import permit, the latter shall only be valid if at the time of introduction it is accompanied by the valid original (re-) export document.

#### **IMPORT RESTRICTIONS**

Further strengthens the EU law, that WTR provides the Commission with the possibility to establish import restrictions with regard to certain species/countries combinations.

The procedure is relatively complicated and contains the following steps:

1. A Scientific Authority advises its Management Authority not to issue an import permit because it is of the opinion that one or more of the above import conditions are not met (or the Scientific Review Group decides at one of its meetings that this is the case).
2. The authorities in the other Member States are immediately informed of this advice and suspend the issue of import permits until a restriction is established or not. Due to the absence of internal border controls, it is essential that any import restrictions are applied throughout the Community.
3. The opinion of other Scientific Authorities of EU Member States is sought (if the case has not yet been discussed at the SRG meeting). If a non-detriment finding is made, the Scientific Review Group forms a Positive Opinion and imports can be resumed. If the initial opinion is confirmed, the Scientific Review Group forms a Negative Opinion. For as long as this opinion is in place Member States will normally reject all permit applications for the species/countries in question.

Periodically all opinions are reviewed by Scientific Review Group, and decides the maintain the current negative or positive opinion or change it. If the current negative opinion remains in place for subsequent import permit requests and Member States are expected to follow this decision, unless new information becomes available indicating the opinion needs to be reviewed by the SRG, or one of the exemptions in Article 71.4 of Regulation (EC) No. 865/2006 applies. After consultation with the MSs, the Commission may establish a formal import suspension for species/country combination subject to a negative opinion. If there is no new information provided by the range State or other sources, or if this information is not sufficient for a non-detriment finding, the Negative Opinion will be formalised through a publication of these import suspensions in the so-called 'suspension regulation'. It is important to note that import suspensions are reversible at any moment if new information is received.

4. On a regular basis, the Commission consults with affected Range States to ask them for any new biological and trade information on the species subject to an import restriction. If the range State provides this information, the Scientific Review Group reconsiders its decision to suspend the import. If the information leads to a non-detriment finding, the Negative Opinion is transformed into a Positive Opinion.

#### **TRANSPORT CONDITIONS**



Council Regulation (EC) 338/97 and Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations make compliance with the IATA Live Animals Regulations for air transport and the CITES Guidelines for Transport are legally binding. The transport into, from or within the EU of specimens from Annexes A to D should be undertaken in such a way as to minimize the risk of injury, damage to health or cruel treatment and in conformity with the EU legislation on the protection of animals during transport and related operations.

The Commission can also restrict imports for specimens of Annex B species subject to high transport mortality. Unfortunately, in light of absence of satisfactory scientific evidence, currently there are no existing restrictions in place.

#### **INTERNAL TRADE IN SPECIES**



Regulation (EC) 338/97 contains special provisions for trade within the European Union, i.e. within and between individual Member States. The following commercial activities involving Annex A specimens are prohibited:

- ✓ purchase
- ✓ offer to purchase
- ✓ acquisition for commercial purposes
- ✓ display to the public for commercial purposes
- ✓ use for commercial gain
- ✓ sale
- ✓ keeping for sale
- ✓ offering for sale
- ✓ transport for sale

A Management Authority of a Member State can grant a specific exemption by means of a certificate on a case-by-case basis and under certain conditions. By way of derogation, an exemption can be granted if a specimen was acquired before the relevant legislation



became applicable. The Commission has defined general exemptions. In these cases, no certificate is needed at all for the commercial activities, such as internal trade in artificially propagated Annex A plants, captive-bred specimens of some very easily breeding bird species (see Annex X of 865/2006/EC) or trade between scientific institutions with a non-commercial purpose, i.e. for research or education.

The above activities are also prohibited in case of Annex B listed species, except where it can be proved to the satisfaction of the competent authority of the Member State concerned that such specimens were acquired and, if they originated outside the Community, were introduced into it, in accordance with the legislation in force for the conservation of wild fauna and flora.

### **3.5 Hungarian case study relating to the WTR**

#### **A) LEGAL FRAME**

##### **The Convention**

Hungary signed the Convention on International Trade in Endangered Species of Wild Fauna and Flora in 1985. The text of the Convention and the Appendices were published in 1986 (Law decree no. 15 of 1986). In 2003 the Convention was re-promulgated by Act no. 32 of 2003 with the inclusion of the Bonn Amendment adopted by the Parties to CITES in 1979. The Appendices are regularly updated with the amendments adopted by the Conference of the Parties.

##### **EU Wildlife Trade Regulations**

Hungary acceded to the European Union on 1 May 2004. On the day of our accession the legislation on the protection of species of wild fauna and flora by regulating trade therein (EU WTR) automatically became applicable to the country. The EU WTR consists of 3 main regulations as follows:

##### **Basic regulation:**

*Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein*

##### **Implementing regulations:**

*Commission Regulation (EC) No 865/2006 of 4 May 2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein*

(since September 2012, a separate implementing regulation (792/2012 (EU)) contains the provisions for permits and certificates forms)

##### **Suspension regulation:**

*Commission Implementing Regulation (EU) No 757/2012 of 20 August 2012 suspending the introduction into the Union of specimens of certain species of wild fauna and flora*



Details of the EU WTR and the main differences between the EU regulations and CITES provisions are included in a separate chapter of this document.

### **National regulation for the implementation of CITES and EC Regulation**

Both the Convention and the EU regulations require Parties/Member States to adopt national regulation for the implementation of the provisions of the Convention and the EU WTR. These implementing legal acts should as a minimum designate the responsible authorities and provide for sanctions for cases of non-compliance with the provisions and may include stricter domestic measures.

The national implementing regulation in force is *Government Decree 292/2008 (XII.10.) On specific rules of the enforcement of international and European Community legal acts regulating the international trade in endangered species of wild fauna and flora*. This regulation

- designates the Management Authority, the Scientific Authority and the Enforcement Authorities responsible for the tasks given by the Convention and the EU WTR,
- include provisions for sanctions,
- introduce stricter domestic measures
- designates entry points for CITES specimens

#### **a) Designated authorities**

details will be given in the next chapter on the institutional background.

#### **b) Sanctions**

##### **a) Criminal liability**

According to our Criminal Code, anyone illegally *obtain, keep, sell, import, export or transport through the territory of Hungary, trade in or kill* a specimen of a species which is listed in Annex A or B of the EU WTR have to be sentenced to up to 3 years imprisonment. In certain cases, the sentence may be up to 5 years imprisonment.

Here we would like to note, that according to the EU's criminal directive (*Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law*) illegal trading in specimens of protected wild fauna and flora species and their parts and derivatives thereof shall be considered to be a criminal offence, except for cases where the conduct concerns a negligible impact on the conservation status of the species.

##### **b) Seizure and confiscation:**

If specimens of species listed in Annexes A to D to the Council Regulation are kept, transported or marketed without the necessary permits or documents, or if the specimens are transported in violation of legal rules or official regulations, the enforcement authority **shall seize** specimens and shall order with deadline the presentation of documents of origin of the specimens.

The designated enforcement authority (inspectors of environment, nature and water)

- a) **shall confiscate** the specimen if the owner does not present a document certifying its origin by the set deadline,
- b) **shall confiscate** the specimen which is kept illegally, or
- c) **may confiscate** the specimen the transport or keeping of which does not meet the contents of legal rules or official decisions, and therefore there is an imminent risk of death of or damage to the specimen.

Seizure and confiscation can also be performed in criminal procedure. In these cases the seizure is done by customs authorities or the police, the confiscation is ordered by the court.

Additionally, anyone not meeting or not properly meeting his/her obligations covered by the Convention, the Council Regulation, the Commission Regulation or this Decree may be obliged by the management authority to pay the costs of confiscation and seizure, including also the costs of keeping (storing) and transport.

#### c) Administrative fine

The inspectorate shall impose a nature protection fine amounting to minimum of 10.000 HUF and maximum 100.000 HUF depending on the severity and repetition of the offence in cases, where anyone not meeting or not properly meeting his/her obligations covered by the Convention, the EU WTR and the national implementing decree in respect of a specimen of a species not protected, strictly protected, or not considered of nature conservation significance in the European Community (in the case of these species, different rules are applicable). The fine may be imposed repeatedly in case of non-payment.

Fine shall be imposed by specimen in the case of specimens that are subject to the duty of registration, and by each 250 grams started in the case of caviar and caviar containing products, ivory or rhinoceros horn, and by each cubic metre started in the case of timber.

#### d) No permission is granted if the applicant:

- has been validly convicted for committing a criminal act in relation with environmental protection or nature conservation,
- is validly held responsible for breaching the rule of environmental protection or nature conservation,
- is fined by nature conservation penalty for certain period of time layed down in different decrees.

### c) *Stricter domestic measures*

#### Duty of registration

Anyone possessing a specimen of a vertebrate species listed in Annex A to the EU Council Regulation, or of a live specimen of mammal, bird or tortoise species listed in Annex B (specimens subject to the duty of registration) shall declare its acquisition, keeping, import to the territory of the country, export from the territory of the country, alienation, death, destruction, and progeny. Declaration shall be submitted to the competent inspectorate within 30 days, which register and keep record of the specimens. All data are stored in a computer based registration programme and the Management Authority and the inspectorates can follow the way of the specimens from one owner to another electronically. Inspectorates have the right to amend data which concerns activities on their territory while see all other information. The countrywide data is available for the Management Authority as

well, which uses these information in its permitting procedure and checks the legality of specimens before issuing any permits or certificates.

### **Obligatory internal documents**

Inspectorates issue documents (breeding certificate for the animals that were born at a Hungarian breeder, certification of origin if it was introduced to Hungary, or in case of Annex A specimens the MA issues EU certificate according to the EU rules) which proves legal acquisition and possession. It functions as the "identity card" of the animal and must be kept together with it and handed over when a specimen changes owner. Thus the owner and location of all specimens are known, and each specimen bred in captivity has an official document.

### **Obligatory marking**

Additionally, each and every specimens (not only annex A) that have to be registered must also be marked with seamless closed rings and/or microchip transponders. Other methods can also be permitted if they are in line with EU Regulations. For instance, photo documentation is used for the identification of young tortoises the carapax length of which is less than 10 cm.

Parts and derivatives are marked by the administrator's signature and the official stamp of the authority. All specimens must be documented by digital photo. The procedure is set down in official record. All cases are filed at the local authorities.

### **Breeding register**

Breeders keeping live specimens of species subject to the duty of registration for breeding purposes or keeping them in a way, where unintended progeny cannot be excluded shall keep breeding register. This provision is proved to be a good additional source of information for enforcement officers when making a check or deciding on an application.

### **Special rules for activities related with sturgeons**

Persons keep and breed of live specimens of sturgeon and paddlefish species falling under the effect of the Council Regulation shall notify the competent inspectorate of this activity, which shall register it.

The declaration shall contain the following information:

- a) detailed description of the activity,
- b) copy of document(s) certifying the origin of the specimens and its legal acquisition,
- c) description of the method of keeping or breeding, and
- d) estimation of the annually bred or marketed volumes.

Additionally it is explicitly stated, that during this activity sturgeons and paddlefish may not be let into natural waters - except for licensed reintroduction or introduction.

### **Designated ports of entry**

According to the requirement of the EU WTR, special entry points shall be designated in each Member States, where the introduction, export or re-export of specimens is allowed. The idea behind this requirement is that at these points the necessary capacity is available to control the movement of specimens, and it is ensured that the authorities involved (customs,

veterinary, phytosanitary authorities) are well prepared and have the necessary knowledge, information to properly perform their task. In Hungary there are altogether 10 entry points are designated at the Croatian, Serbian, Ukrainian border sections and at Budapest Liszt Ferenc International Airport.

## **B) INSTITUTIONAL FRAMEWORK**

Our domestic regulation (*Government Decree 292/2008 (XII.10.)*) designated the following authorities responsible for the implementation and enforcement:

### ***Management Authority***

the minister responsible for nature protection,

which is currently the minister of rural development since 2010, when our new Government decided to seize the Ministry of Environment and Water and incorporated it in the Ministry of Agriculture and created the Ministry of Rural Development. Within the Ministry, the Biodiversity and Gene Conservation Unit is responsible for the tasks.

Currently three persons are responsible for CITES.

### ***Scientific Authority***

the minister responsible for nature protection

Within the Ministry, the Nature Conservation Department, which is „independent” from the MA, is responsible for the SA tasks.

In special cases, where identification is difficult, or not possible without special expertise, we use individual experts from universities, research institutes and from the Hungarian Natural History Museum.

Currently one person is responsible for scientific matters related with CITES.

### ***Enforcement Authorities***

- inspectorates for environment, nature and water (10)
- National Inspectorate for Environment, Nature and Water
- police
- customs
- animal and plant health authority
- food safety authority

## **C) COOPERATION AMONG COMPETENT AUTHORITIES**

### ***Bilateral cooperation agreements***

The Ministry signed a cooperation agreement both with the **Police** and the **National Tax and Customs Office**. These contracts regulate the tasks of each authority in the frame of the agreement, the exchange of information, and the contact points at each level (national, regional, local) of the administration and also contain provisions on training of enforcement officers.

There are designated personnel in the customs and police authorities, who are responsible for CITES and wildlife trade issues.

Inspectorates for environment, nature and water, National Inspectorate for Environment, Nature and Water, animal and plant health and food safety authorities are under the supervision of the Ministry.

### ***Interagency CITES committee***

On an informal basis we operate a CITES committee in order to enhance the exchange of enforcement related information among the authorities. The committee meets twice a year, usually back-to-back with the EU's Enforcement Group meeting. Participants are invited from each of the authorities involved (customs, police, inspectorates, animal health authority) and occasionally a prosecutor also participates.

The interagency committee is a good forum to share the outcome of the EU Enforcement Group's outcomes, information of significant seizures, trends of illegal activities, prosecutions, court cases etc., as well as domestic issues.

### ***Training of enforcement officers***

We consider training of enforcement officers as of a crucial importance and regularly give basic and advanced training of their staff. Usually a 2-3 days seminar is organized for the designated inspectorates as well as for the designated customs and police officers every year.

We are participating in the basic education of customs officers by giving an introductory lecture to the students each year.

We – if our capacity allows us – visit designated customs entry points and police headquarters in order to give basic information about CITES requirements. This was particularly important before and right after the accession to the EU, to prepare these authorities for the changing situation and requirements. At that time, in the frame of a "CITES Roadshow" we visited all designated points and certain internal customs headquarters as well as police county headquarters and hold a 1-day presentation of CITES and EU provisions. Prosecutors were also targeted with these trainings.

## **D) HUNGARY'S PREPARATION FOR THE ACCESSION IN WILDLIFE TRADE REGULATIONS**

The area of wildlife trade is regulated in the European Union by regulations that are directly applicable in every Member State. So – in theory – candidate countries have no obligation to harmonize their legislation in order to fulfil the requirements. However they should be prepared for the implementation of the provisions from the time of accession. Taking into account that the EU rules are more detailed and stricter than CITES provisions, it is advisable to prepare for its implementation well in advance.

In 1990, 4 years after the ratification of the Convention, the first implementing regulation was published (Ministerial decree no.: 4/1990 (XII.7.)). This decree was in force until the end of 2002, when our new Government decree no. 271/2002. (XII. 20.) was adopted. In view of the coming EU accession, this decree adopted some elements of the EU WTR, as follows:

- the EU Annexes A-D,
- stricter import conditions
  - o import permit requirement for Annex B listed species
  - o import notification for Annex C and D listed species

During preparations, we examined, what elements have sensible to be implemented in Hungarian legislation and which have not. Finally the decision was made, that these two

were to be implemented and no provisions for the internal trade are adopted, taking into account that our domestic legislation has special provisions for the internal trade in and movement of specimens due to the obligatory registration, and certification, therefore the internal trade certificate system of the EU would not have been much added value.

As for the stricter import conditions, the regulation required the following:

Import permit may not be issued

- a) in case of specimens of species, which cannot suffer captivity according to the present state of science,
- b) in case of specimens, where the adequate keeping conditions are not ascertained in compliance with the provisions of law in force,
- c) in case of specimens, whose escaping into the nature might constitute an ecological threat to wild species of fauna and flora indigenous to the country,
- d) if the species and/or the country of origin is under trade prohibition and the prohibition is in force,
- e) for the import of hunting trophies of species listed in Annex A of this present decree.

Import may be authorised exclusively for the interest of nature conservation

- a) in case of wild-taken or wild-collected specimens of species which are endangered - with this, Hungarian Management Authority did have the power to take into account the EU's suspensions and the Scientific Review Group's opinions upon deciding on an import application.
- b) in case of specimens of species which are endangered, if propagated in captivity, and there is no proof that meets the criteria artificially propagated or captive bred as defined by the respective Conf. Res.,
- c) in case of look-a-like species, if exists a great probability of confusing thereof with an endangered species and the import may impose a negative effect on the population of the endangered species.

With this regulation, Hungary also adopted the EU CITES permit forms.

As several provisions in our regulation would have been redundant, the Government decree needed to be amended before the accession. With this amendment a number of paragraphs – those that are regulated by the EU law and others which were not in line with it – have been deregulated. Since then our national decree amended several times, but it is more or less looks like today than it was after the accession.

Though Hungary has already been a Party to CITES for 18 years at the time of the EU accession, preparations in terms of capacity was crucial. In one hand we, as Management Authority had to prepare the implementation of the different rules and we also had to prepare other competent authorities. We put a lot of emphasis on our regional enforcement authorities (national park directorates at that time). Workshops, training courses were organized, and they were provided with technical equipment (microchip readers, ID books and guides, seized sample items for identification).

Though not in the frame of preparation, only after the accession we launched a training programme for customs, border police, veterinary and phytosanitary officers on CITES and EU wildlife trade regulations. In the frame of the project, the MA visited all border points designated as entry points for CITES specimens and internal headquarters where the staff of the different authorities have been trained together on the legislation relating to wildlife trade and their role in enforcement. MA visited 14 places and trained altogether 578 officers.

Similarly to this, a bit later we organized a „CITES-Roadshow" for police officers and prosecutors. In the course of this, 19 seminars were given for representatives of all county and town police headquarters by the CITES MA together with other colleagues from nature

conservation. The topics of the training were CITES and EU wildlife trade regulations, species involved in trade (in a practical perspective), domestic nature conservation regulations and the criminal offence for damage in nature. Altogether 250 participants attended the seminars: 188 police officers responsible for environmental crime and 62 public prosecutors.

## **E) LESSONS LEARNT**

In our experience, the most important provision to be implemented prior to accession was the adoption of the EU Annexes, the stricter import requirement and the accompanying criteria for the issuing an import permit for Annex B listed species. With these the country can well prepare for the application of the EU rules, gain experience, how to evaluate an import permit application, how the relevant criteria should be taken into account.

Adoption of Annex D however had no real result as only one import notification have been received by customs authorities during the 1,5 year period.

We did have a few stricter measures in our domestic regulation before accession, which had to be deregulated, as those were not in line with the EU regulations, the free movement of goods in particular. It is advisable to look the current legislation through in advance and point those elements which could be problematic at the time of accession.

As our main trading partners are EU MSs, the number of issued import and (re-)export permits are largely decreased (from around 550 to 200-250/year) after accession, while the issue of internal trade certificates became a huge administrative burden.

Workload increased not only because of the number of certificates, but due to the internal EU consultations. For this reason, we had to decentralize certain tasks of the Management Authority. Before accession power of control, keeping the register and issuance of internal documents have been transferred to the regional inspectorates. Recently the power of seizure and confiscation was also decentralized and became the responsibility of inspectorates.

We kept the issuance of EU certificates centralized with the exception of *Testudo graeca*, *T. hermannii* and *T. marginata*. We consider it important to keep the issuing of certificates in one hand, preferably in the hand of the MA responsible for issuing export and import permits, as this task needs special expertise and trained personnel. In some MSs, certificates are issued by regional or local authorities, which can cause problems.

Our experiences showed that training of enforcement authorities is very important. General courses are necessary as we could bring the whole topic close to the enforcement officials and they became involved. They have the opportunity to see the problems, get basic knowledge of the regulations and have a personal contact with the ones responsible for coordination. With this, they know who to contact, what to do if they face with a situation on the border or during an inland inspection. We experienced that though the legislation obliges the officers to carry out their duties coming from the regulations, the system only works well, if there is a personal interest. And such events are the best possibilities to build such interest.

Though these large-scale training programmes were taken place after the accession in Hungary, is advisable to hold such before accession if the capacity allows it.

At the time of our accessions there were voices in the EU that traders may circumvent the EU import restrictions by importing species under import restrictions to accession countries which will automatically be legal in the EU after the accession of that particular country. With implementing this particular part of the EU law prior to the accession, these doubts can be settled.

## **F) IMPLEMENTATION PROBLEMS**



### **Control of internal trade in Annex B species**

This is probably the most problematic matter in implementation. The problem is, that Article 8(5) of the Council Regulation (EC) 338/97 is unclear and provides for a wide range of interpretation among MSs. Article 8(3) indicates under which circumstances Annex A specimens can be used for commercial purposes. Article 8(5) states that Annex B specimens can be used for commercial activities when it can be proved to the satisfaction of the competent authority of the Member State concerned that such specimens were acquired and, if they originated outside the Community, were introduced into it legally. Those provisions however do not spell out which documentary evidence is necessary to demonstrate the legal acquisition or origin. They are interpreted differently by the Member States, which generates enforcement problems such as:

- problems with proper enforcement, especially concerning confirmation of legal origin of animals declared as captive-bred originating from breeding facilities of another MS, and other previously imported specimens;
- a lot of burden, concerning individual confirmation of documents with MS in which the specimen in question originates (consultation done by enforcement authorities or by MAs – the latter case if the specimen in question is subject to some application for issuing permit/certificate);
- in case of lack of official documents, sellers may present “breeder's declarations” – in such cases individual consultation still usually has to be done whenever legal origin is to be confirmed; even if all necessary data is included on declaration, such a document may be considered as too easy to produce to treat it as fully reliable. Even if it is not falsified, there is no possibility to confirm that it provides truthful information, if the MA analysing the document is not located in the MS in which the specimen originates. On the other hand, general confirmations of legal origin (basing e.g. on the fact that the species concerned is widely-bred in MS, so probably it is of legal origin), have to be applied very carefully. If such explanation would be accepted, Art. 8.5 would bring little or no effect in control of legal acquisition/origin of specimens in internal trade. If there are cases, where there is no real conservation concern and subsequently there is no need to spend resources on these, the species in question should be clearly identified. Factors that have to be taken into account in this regard are numerous: some species, e.g. *Brachypelma* spp., are very widely bred, but smuggling of grown wild specimens still takes place (justified by considerable increase of the price with age/size of the animal).
- in MSs in which breeding in captivity have to be confirmed individually, other problems may appear – e.g. declarations on found specimens / pre-convention origin of founder stock; such and other similar loopholes should be also tackled;
- lack of common standards stimulates shifts in commercial activities to countries with less rigorous provisions/interpretation in this regard;
- uncertainty for holders/breeders who cannot be sure, if another MS does not have different interpretation of Art. 8.5.

Some Member States have introduced in their domestic legislation mandatory marking, registration and/or book keeping requirements for Annex A and a number of Annex B species. Some of those Member States would favour the introduction of similar requirements in the IR. This is not privileged by Member States which have not put such a system into place.

There were suggestions (inter alia from HU), that at least it should be clarified in the regulation which minimal information should be included in the EU trading documents for Annex B specimens (scientific name, source code, country of origin, number/date of the import permit if relevant). We have such requirements in our domestic regulation in Hungary. A number of other Member States consider however that it would be overly complex or burdensome to introduce changes in the regulation on that matter. They rather favour that guidelines are developed to identify the most commonly acceptable proofs in the Member States. This could build on information already collected among Member States by the Commission in 2010 (although it only concerned Annex A specimens)



### ***Derogations***

There are a number of kinds of derogations, which are problematic to implement and/or quite a challenge for enforcement officers. These are:

- general derogations for personal and household effects (limited amount of caviar, worked specimens of crocodiles, dried seahorses, giant clams, queen conch, rain-sticks)
- derogation for plant specimens, exemptions for certain artificially propagated orchid hybrids are particularly problematic
- derogation for hunting trophy imports
- general exemptions for internal trade in certain Annex A listed birds

There are questions around the subsequent commercialisation of personal effects and the possible use of this derogation as a loophole. In some cases (for example in case of hunting trophies) the import is only possible if it is for personal purposes and it needs to be ensured that no commercialization will take place after imports.

Enforcement problems arise around the derogation for worked specimens of CROCODYLIA species, where the derogation only applies for Annex B species, while the identification of small leather products is problematic.

It is also questionable, how to proceed in cases, where the number of imported products is in exceed of the amount allowed by the derogation. Should the whole shipment be seized or only the specimens that are in exceed.

### ***Lots of kinds of documents***

There are a wide range of documents for different activities for different purposes, which also difficult to handle by enforcement authorities. In one hand, that EU WTR provides for many kinds of documents, such as the import, (re-)export permit, EU internal trade certificate, travelling exhibition certificate, personal ownership certificate, label for scientific material, import notification, and a new kind of document, adopted by CoP 16, the so-called musical instrument certificate.

On the other hand there are a number of documents used by the different MSs for regulating internal trade.

## **3.6 Advice, tips and warning for participants in the implementation of WTR**

- carefully consider, which elements of the EU WTR to implement prior to accession
- Annexes and the accompanying stricter import criteria which allows the implementation of the EU import restrictions is advisable to be adopted well in advance (see also the Lessons learnt part of the HU case study)
- requirement for internal trade certification for Annex A species may be useful, if Montenegro has no special internal measure for this
- preparation of enforcement bodies is crucial
- designation of entry points and ensuring the capacity necessary for the effective controls is important
- keeping the permitting and certification power in one hand is necessary for the effective implementation according to the HU experience

### 3.7 Crime types under CITES and the WTR, smuggling techniques

In general three different groups of actors can be distinguished in illegal wildlife trade. The activity of each of these groups may cause negative effects to the wild population of certain species.

**Tourists:** although they usually import small amounts, few specimens, the large number of them may cause a huge damage. If for instance 10 tourists import 2 live tortoises for personal use collected from the wild in one country, they will import in total 20 specimens which may cause serious problems for certain live populations. Tourists are often claiming that they were not aware of the rules. To be honest the breaking of the rules by tourists is often based on ignorance.

**Collectors:** this group of actors very often focuses on very rare species and always likes to have wild taken specimens. F.e. the description of a newly discovered cacti species was published in a specialist bulletin, short time later the wild living population was completely destroyed by collectors who want to have some of the specimens for their own collection. The collectors are usually well experienced and have a lot of knowledge on the relevant species groups. They are very often also aware of the regulations but they also very often argue that they are working on a scientific basis and that the species protection regulations should not hinder their scientific work.

**Commercial smugglers:** they usually smuggle large number of specimens, they do not really care about the animals/plants, only the profit. They are usually well aware of the rules and of the value of the specimens. Depending on the species they accept some mortality due to the transport conditions but they try to limit transport losses if high valuable specimens are involved.

The smuggling methods can be at least partly compared to methods to be used for the smuggling of drugs. These are concealing in cargo or carry on luggage, concealing in special compartments, such as film rolls, cosmetic boxes etc., concealing animals or bird eggs on a person, or mixing highly protected and valuable specimens in legal shipments. It is known from cases that sometimes protected animals are used to smuggle drugs f.e. some live giant snakes have been filled with preservatives filled with drugs. Some of the methods like false declaration or misdeclaration are used for the smuggling of protected species only. Especially the misdeclaration „bred in captivity/wild“ or „artificially propagated/wild“ can be hardly discovered by enforcement officers and need to be confirmed usually by experts.

Concrete examples and case studies were shown and explained during the presentation.

### 3.8 Other pieces of EU Nature Conservation Law

- a. **Regulation (EC) No 348/81 on common rules for imports of whales or other cetacean products**

The objective of protecting whales was advanced by a control on the import into the Community of certain cetacean products from 1 January 1982 by Council Regulation (EC) No 348/81. This was subsumed, and the extent of the controls extended, by Council Regulation (EC) No 3626/82 on the implementation in the Community of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which came into force on 31 December 1982. The latter one was replaced by the current WTR in 1997.

Originally, from 1 January 1982 the products listed in an Annex can be imported into the Community only upon production of an import licence. Licences may be issued only for purposes such as scientific research and no licence is to be issued for commercial purposes. This put an end to any interest in commercial whaling by the EU MSs.

The Annex lists a number of cetacean products such as meat, bones, fats, oil and spermaceti, but not ambergris (ambergris used commercially is generally not obtained from killed whales but is gathered from beaches); leather treated with oil from cetaceans; and also articles of leather or furskins treated with oil from cetaceans (e.g. handbags and shoes). The Annex in fact includes about 95 per cent of all secondary whale products, but excludes for instance cosmetics and lubricating oils containing small quantities of whale products. One implementing Commission Regulation (EC) No 3786/81 has been issued prescribing the form of the import licence and making minor exceptions from the need for a licence (e.g. personal luggage of travellers).

#### **b. Council Directive 83/129/EEC of 28 March 1983 concerning the importation into Member States of skins of certain seal pups and products derived therefrom**

In response to widespread concerns about the annual killing of certain seal pups, Council Directive 83/129/EEC was adopted to prohibit the import of seal pup products into the EU. It initially applied until 1 October 1985.

The products concern: *Raw furskins and furskins, tanned or dressed, including furskins assembled in plates, crosses and similar forms of whitecoat pups of harp seals and of pups of hooded seals (blue-backs).* This Directive does not apply to products resulting from traditional hunting by the Inuit people.

The Directive directs Member States to take or maintain all necessary measures to ensure that the listed seal pup products are not commercially imported into their territory.

In 1985 the Commission adopted Directive 85/444/EEC which extended the validity of the Directive 83/129/EC until 1 October 1989. The Commission was asked to report after two years on the conservation status of the two seal species concerned and on the development of markets for Inuit produced sealskins and other sealskins not affected by the Directive.

In March 1988 the Commission submitted the report to the Council. In 1989 the indefinite extension of the Directive was adopted through Council Directive 89/370/EEC of 8 June 1989. Reasons for this include:

- Doubts about the effects of non-traditional hunting on the conservation of harp seals in the East Atlantic, the Barents Sea and the White Sea;
- Renewed public pressure;

- The negative consequences that could be expected should the Directive not be extended.

**c. Regulation (EC) No 1007/2009 of the European Parliament and of the Council on trade in seal products**

Seal hunting occurs in various parts of the world for commercial, subsistence and cultural reasons. Seal hunting is also carried out in some areas for the sustainable management of marine resources. At least 15 seal species are currently hunted, but the majority of hunted animals belong to five species: harp seals, ringed seals, grey seals, hooded seals and Cape fur seals.

The seal populations that are hunted for commercial purposes – an estimated 15 million animals – are generally not endangered. Some 900,000 seals are hunted each year around the globe, with the commercial hunt in Canada, Greenland and Namibia accounting for some 60% of the seals killed each year. Hunting for commercial purposes also takes place in Russia and Norway. Around one third of the world trade in seal products either passes through or ends up in the EU market.

Seal hunts around the world are governed by different rules and regulations. In some countries comprehensive systems are in place, while in others the seal hunt is regulated to a lesser degree. Within the EU, certain methods and means of capture and killing are prohibited in areas protected under EU nature law (the Habitats Directive).

However, the European Union is concerned about the animal welfare aspects of the seal hunt. Doubts have been expressed about some of the methods used for hunting seals, such as shooting, netting and clubbing, that can cause avoidable pain and distress. Several EU Member States were considering, or had already introduced, national legislative measures to ban the import and use of seal skins and seal products. In the light of these concerns, on 16 September 2009 the European Parliament and the Council adopted a Regulation banning the trade in seal products in the European Union. It applies to seal products produced in the EU and to imported products. The aim of the Regulation is to ensure that products derived from seals are no longer found on the European market. The Regulation was published in the Official Journal on 31 October 2009, entering into force on 20 November 2009. The ban itself entered into force 9 months after the entry into force of the Regulation (i.e. 20 August 2010). The Regulation foresees limited exemptions to respect the fundamental economic and social interests of Inuit and other indigenous communities. It also contains exceptions for goods derived from seals for personal and non-commercial use.

On 10 August 2010, the Commission adopted an implementing Regulation which was published in the Official Journal on 17 August 2010. (Commission Regulation (EU) No 737/2010 of 10 August 2010 laying down detailed rules for the implementation of Regulation (EC) No 1007/2009 of the European Parliament and of the Council on trade in seal products.) Like the ban itself, it enters into force on 20 August 2010. This implementing Regulation sets out the conditions for the placing on the Union market of seals products thus ensuring a uniform application of Regulation (EC) No 1007/2009.

The newest regulations relating to this issue are as follows:

Regulation (EU) 2015/1775 of the European Parliament and of the Council of 6 October 2015 amending Regulation (EC) No 1007/2009 on trade in seal products and repealing Commission Regulation (EU) No 737/2010

Commission Implementing Regulation (EU) 2015/1850 of 13 October 2015 laying down detailed rules for the implementation of Regulation (EC) No 1007/2009 of the European Parliament and of the Council on trade in seal products

- d. Council Regulation (EEC) No 3254/91 of 4 November 1991 prohibiting the use of leghold traps in the Community and the introduction into the Community of pelts and manufactured goods of certain wild animal species originating in countries which catch them by means of leghold traps or trapping methods which do not meet international humane trapping standards

Council Regulation (EEC) No 3254/91 prohibits the use of leghold traps in the Community and the introduction into the Community of pelts and manufactured goods of certain wild animal species originating in countries which catch them by means of leghold traps or trapping methods which do not meet international humane trapping standards.

This regulation, popularly known as the Leghold Traps Regulation, is completed by Commission Decision (98/596/EC) listing those countries from which specific animal pelts and manufactured goods can be accepted. This Decision allows the imports of furs into the EU from countries that prohibit the use of leghold traps, or from countries where the trapping methods used for the listed species meet internationally agreed humane trapping standards. In 1997 the Community concluded an Agreement with Canada and the Russian Federation on international humane trapping standards. The Agreement was inspired by the desire to agree on international humane trapping standards as well as to avoid trade disputes with the main international fur exporters. The aim of the established humane trapping standards is to ensure a sufficient level of welfare of trapped animals, and to further improve this welfare. The European Community ratified the Agreement in 1998, followed by the Government of Canada in 1999 and the Russian Federation in 2008, which allowed the Agreement to enter into force in July 2008 and the schedule for the implementation of the provisions to start from that date. Between June 1999 and July 2008, the EC and Canada agreed to apply this Agreement on a provisional basis pending formal ratification by the Russian Federation which would allow.

A substantially similar agreement concerning the standards exists with the USA.

Each Party must implement the commitments and obligations arising from this Agreement in accordance with its internal procedures. Accordingly, the EC, Canada, the Russian Federation and the USA are committed to establish appropriate processes for testing and certifying trapping methods in accordance with the international humane trapping standards. Furthermore, the use of traps that are not certified in accordance with humane trapping standards must be prohibited within an agreed timetable. The Parties must promote research on the ongoing development of the standards and the Agreement also obliges the Parties to improve scientific knowledge for evaluating the welfare of trapped animals.

The Commission receives information on the implementation of the Agreement by Canada, the Russian Federation and the USA. According to the regular status reports on the fulfilment of the commitments and obligations arising from the Agreement adequate progress has been done and the Parties have indicated that they will be in a position to fulfil their obligations by the given deadlines.

The species which are protected by Leghold Traps Regulation:

American Beaver: *Castor canadensis*

Canadian Otter: *Lutra canadensis*

Coyote: *Canis latrans*

Wolf: *Canis lupus*

Canadian Lynx: *Lynx canadensis*

Bobcat: *Felis rufus*

Sable: *Martes zibellina*

Raccoon: *Procyon lotor*

Musk rat: *Ondatra zibethicus*

Fisher: *Martes pennanti*

American Badger: *Taxidea taxus*

American Marten: *Martes americana*

Ermine: *Mustela erminea*

#### 4. Suggested reading list and sources

1. [http://ec.europa.eu/environment/nature/index\\_en.htm](http://ec.europa.eu/environment/nature/index_en.htm)
2. [http://ec.europa.eu/environment/nature/legislation/birdsdirective/index\\_en.htm](http://ec.europa.eu/environment/nature/legislation/birdsdirective/index_en.htm)
3. [http://ec.europa.eu/environment/nature/conservation/wildbirds/hunting/docs/hunting\\_guide\\_en.pdf](http://ec.europa.eu/environment/nature/conservation/wildbirds/hunting/docs/hunting_guide_en.pdf)
4. [http://ec.europa.eu/environment/nature/conservation/species/habitats\\_dir\\_en.htm](http://ec.europa.eu/environment/nature/conservation/species/habitats_dir_en.htm)
5. [http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index\\_en.htm](http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index_en.htm)
6. [http://ec.europa.eu/environment/cites/home\\_en.htm](http://ec.europa.eu/environment/cites/home_en.htm)
7. [http://ec.europa.eu/environment/cites/pdf/differences\\_b\\_eu\\_and\\_cites.pdf](http://ec.europa.eu/environment/cites/pdf/differences_b_eu_and_cites.pdf)
8. [http://ec.europa.eu/environment/cites/pdf/2007\\_referenceguide2\\_en.pdf](http://ec.europa.eu/environment/cites/pdf/2007_referenceguide2_en.pdf)
9. <http://ec.europa.eu/environment/legal/crime/>
10. <http://www.unep-wcmc-apps.org/eu/taxonomy//>
11. <http://www.unep-wcmc-apps.org/eu/downloadlist//>
12. <http://www.eu-wildlifetrade.org/index.htm>
13. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32007H0425:EN:NOT>
14. [www.cites.hu](http://www.cites.hu)
15. [http://ec.europa.eu/environment/biodiversity/animal\\_welfare/hts/index\\_en.htm](http://ec.europa.eu/environment/biodiversity/animal_welfare/hts/index_en.htm)
16. [http://ec.europa.eu/environment/biodiversity/animal\\_welfare/seals/index\\_en.htm](http://ec.europa.eu/environment/biodiversity/animal_welfare/seals/index_en.htm)
17. <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV:I28038>
18. [http://ec.europa.eu/environment/biodiversity/animal\\_welfare/seals/seal\\_hunting.htm](http://ec.europa.eu/environment/biodiversity/animal_welfare/seals/seal_hunting.htm)

#### 5. Glossary (List of key concepts)

Introduction from the sea" means transportation into a State of specimens of any species which were taken in the marine environment not under the jurisdiction of any State;

IAS – Invasive Alien Species

EU WTR – EU wildlife trade regulations

Enforcement Group for wild life trade – consisting of representatives of each of the MS authorities that have responsibility for monitoring compliance with the Regulations, such as Customs, Police and Wildlife Inspectorates. The Group is chaired by the European Commission. The task of the group is to monitor enforcement policy and practice in the EU Member States and make recommendations to improve the enforcement of wildlife trade legislation

Trade – export, re-export, import and introduction from the sea

CITES - Convention on International Trade in Endangered Species of Wild Fauna and Flora, was signed in 1973 in Washington D.C. entered into force in 1975

Regulation - is a binding legislative act. It must be applied in its entirety across the EU.

Rescue centre – place authorised for keeping and handling with seized live animals or plants,

Personal and Household Effects – items fall under the derogation of Article VII of the Convention and Article 7. of the Council Regulation (EC) 338/97

## **6. Any other information**

Useful attachments:

- Hungarian Species on CITES/EU WTR
- Game bird species in Hungary and their open seasons.

## 6.1 Hungarian Species on CITES/EU WTR

| Scientific name   | CITES     | WTR |
|---|-----------|-----|
| <b>FAUNA</b>  |           |     |
| <b>Mammalia</b>   |           |     |
| <i>Canis aureus</i>   | III India | C   |
| <i>Canis lupus</i>  | II        | A   |
| <i>Ursus arctos</i>   | II        | A   |
| <i>Lutra lutra</i>  | I         | A   |
| <i>Felis silvestris</i>   | II        | A   |
| <i>Lynx lynx</i>  | II        | A   |
|   |           |     |
| <b>Aves</b>   |           |     |
| <i>Branta ruficollis</i>  | II        | A   |
| <i>Anas querquedula</i>   |           | A   |
| <i>Aythya nyroca</i>  |           | A   |
| <i>Oxyura leucocephala</i>  | II        | A   |
| <i>Pelecanus crispus</i>  | I         | A   |
| <i>Bubulcus ibis</i>  |           | A   |
| <i>Egretta garzetta</i>   |           | A   |
| <i>Egretta alba</i> ( <i>Ardea alba</i> ,<br><i>Casmerodius albus</i> ) |           | A   |
| <i>Ciconia nigra</i>  | II        | A   |
| <i>Platalea leucorodia</i>  | II        | A   |
| <i>Phoenicopterus ruber</i>   | II        | A   |
| <i>Pernis apivorus</i>  | II        | A   |
| <i>Elanus caeruleus</i>   | II        | A   |
| <i>Milvus migrans</i>   | II        | A   |
| <i>Milvus milvus</i>  | II        | A   |
| <i>Haliaeetus albicilla</i>   | I         | A   |
| <i>Neophron percnopterus</i>  | II        | A   |
| <i>Gyps fulvus</i>  | II        | A   |
| <i>Aegypius monachus</i>  | II        | A   |
| <i>Circaetus gallicus</i>   | II        | A   |
| <i>Circus aeruginosus</i>   | II        | A   |
| <i>Circus cyaneus</i>   | II        | A   |
| <i>Circus macrourus</i>   | II        | A   |
| <i>Circus pygargus</i>  | II        | A   |
| <i>Accipiter gentilis</i>   | II        | A   |
| <i>Accipiter nisus</i>  | II        | A   |
| <i>Accipiter brevipes</i>   | II        | A   |
| <i>Buteo buteo</i>  | II        | A   |



|  |    |   |
|--|----|---|
| <i>Buteo rufinus</i>                                   | II | A |
| <i>Buteo lagopus</i>                                   | II | A |
| <i>Aquila pomarina</i>                                 | II | A |
| <i>Aquila clanga</i>                                   | II | A |
| <i>Aquila nipalensis</i>                               | II | B |
| <i>Aquila heliaca</i>                                  | I  | A |
| <i>Aquila chrysaetos</i>                               | II | A |
| <i>Hieraaetus pennatus</i> ( <i>Aquila pennata</i> )   | II | A |
| <i>Hieraaetus fasciatus</i> ( <i>Aquila fasciata</i> ) | II | A |
| <i>Pandion haliaetus</i>                               | II | A |
| <i>Falco naumanni</i>                                  | II | A |
| <i>Falco tinnunculus</i>                               | II | A |
| <i>Falco vespertinus</i>                               | II | A |
| <i>Falco columbarius</i>                               | II | A |
| <i>Falco subbuteo</i>                                  | II | A |
| <i>Falco eleonora</i>                                  | II | A |
| <i>Falco cherrug</i>                                   | II | A |
| <i>Falco peregrinus</i>                                | I  | A |
| <i>Tetrax tetrax</i>                                   | II | A |
| <i>Otis tarda</i>                                      | II | A |
| <i>Grus grus</i>                                       | II | A |
| <i>Anthropoides virgo</i> ( <i>Grus virgo</i> )        | II | B |
| <i>Numenius tenuirostris</i>                           | I  | A |
| <i>Streptopelia turtur</i>                             |    | A |
| <i>Tyto alba</i>                                       | II | A |
| <i>Otus scops</i>                                      | II | A |
| <i>Bubo bubo</i>                                       | II | A |
| <i>Bubo scandiacus</i> ( <i>Nyctea scandiaca</i> )     | II | A |
| <i>Surnia ulula</i>                                    | II | A |
| <i>Glaucidium passerinum</i>                           | II | A |
| <i>Athene noctua</i>                                   | II | A |
| <i>Strix aluco</i>                                     | II | A |
| <i>Strix uralensis</i>                                 | II | A |
| <i>Asio otus</i>                                       | II | A |
| <i>Asio flammeus</i>                                   | II | A |
| <i>Aegolius funereus</i>                               | II | A |
|  |    |   |
| <b>Reptilia</b>  |    |   |
| <i>Vipera ursinii</i>                                  | I  | A |
|  |    |   |
| <b>Pisces</b>  |    |   |
| <i>Huso huso</i>                                       | II | B |
| <i>Acipenser gueldenstaedti</i>                        | II | B |

|   |    |   |
|---|----|---|
| <i>Acipenser nudiventris</i>  | II | B |
| <i>Acipenser stellatus</i>  | II | B |
| <i>Acipenser ruthenus</i>   | II | B |
| <i>Anguilla anguilla</i>  | II | B |
|   |    |   |
| <b>Annelida</b>   |    |   |
| <i>Hirudo medicinalis</i>   | II | B |
| <i>Hirudo verbana</i>   | II | B |
|   |    |   |
| <b>FLORA</b>  |    |   |
| <i>Galanthus nivalis</i>  | II | B |
| <i>Sternbergia cochiciflora</i>   | II | B |
| <i>Adonis vernalis</i>  | II | B |
| <i>Menyanthes trifoliata</i>  |    | D |
| <i>Cyclamen purpurascens</i>  | II | B |
| <i>Anacamptis coriophora</i> (syn.: <i>Orchis coriophora</i> )  | II | B |
| <i>Anacamptis morio</i> (syn.: <i>Orchis morio</i> )  | II | B |
| <i>Anacamptis palustris</i> subsp. <i>elegans</i>   | II | B |
| <i>Anacamptis palustris</i> subsp. <i>palustris</i> (syn.: <i>Orchis laxiflora</i> subsp. <i>palustris</i> , <i>Orchis palustris</i> )  | II | B |
| <i>Anacamptis pyramidalis</i>   | II | B |
| <i>Cephalanthera damasonium</i>   | II | B |
| <i>Cephalanthera longifolia</i>   | II | B |
| <i>Cephalanthera rubra</i>  | II | B |
| <i>Corallorhiza trifida</i>   | II | B |
| <i>Cypripedium calceolus</i>  | II | A |
| <i>Dactylorhiza fuchsii</i>   | II | B |
| <i>Dactylorhiza incarnata</i> (incl. <i>Dactylorhiza incarnata</i> subsp. <i>incarnata</i> , <i>Dactylorhiza incarnata</i> subsp. <i>haematodes</i> , <i>Dactylorhiza incarnata</i> subsp. <i>serotina</i> , excl. <i>Dactylorhiza incarnata</i> subsp. <i>ochroleuca</i> ) | II | B |
| <i>Dactylorhiza incarnata</i> subsp. <i>ochroleuca</i>  | II | B |
| <i>Dactylorhiza lapponica</i>   | II | B |
| <i>Dactylorhiza maculata</i> (incl. <i>Dactylorhiza maculata</i> subsp. <i>transylvanica</i> )  | II | B |
| <i>Dactylorhiza majalis</i>   | II | B |
| <i>Dactylorhiza sambucina</i>   | II | B |
| <i>Dactylorhiza viridis</i> (syn.:  | II | B |

|   |    |   |
|---|----|---|
| <i>Coeloglossum viride</i> )  |    |   |
| <i>Epipactis albensis</i>   | II | B |
| <i>Epipactis atrorubens</i> (incl. <i>Epipactis atrorubens</i> subsp. <i>borbasii</i> )   | II | B |
| <i>Epipactis bugacensis</i>   | II | B |
| <i>Epipactis exilis</i> (syn.: <i>Epipactis gracilis</i> )  | II | B |
| <i>Epipactis futakii</i>  | II | B |
| <i>Epipactis helleborine</i>  | II | B |
| <i>Epipactis latina</i>   | II | B |
| <i>Epipactis leptochila</i>   | II | B |
| <i>Epipactis mecsekensis</i>  | II | B |
| <i>Epipactis microphylla</i>  | II | B |
| <i>Epipactis moravica</i>   | II | B |
| <i>Epipactis muelleri</i>   | II | B |
| <i>Epipactis neglecta</i>   | II | B |
| <i>Epipactis nordeniorum</i>  | II | B |
| <i>Epipactis palustris</i>  | II | B |
| <i>Epipactis placentina</i>   | II | B |
| <i>Epipactis pontica</i>  | II | B |
| <i>Epipactis purpurata</i>  | II | B |
| <i>Epipactis tallosii</i>   | II | B |
| <i>Epipactis voethii</i>  | II | B |
| <i>Epipogium aphyllum</i>   | II | B |
| <i>Goodyera repens</i>  | II | B |
| <i>Gymnadenia conopsea</i>  | II | B |
| <i>Gymnadenia densiflora</i>  | II | B |
| <i>Gymnadenia odoratissima</i>  | II | B |
| <i>Hammarbya paludosa</i>   | II | B |
| <i>Himantoglossum adriaticum</i>  | II | B |
| <i>Himantoglossum caprinum</i>  | II | B |
| <i>Limodorum abortivum</i>  | II | B |
| <i>Liparis loeselii</i>   | II | A |
| <i>Neotinea tridentata</i> (syn.: <i>Orchis tridentata</i> )  | II | B |
| <i>Neotinea ustulata</i> (syn.: <i>Orchis ustulata</i> ) (incl. <i>Neotinea ustulata</i> subsp. <i>ustulata</i> , <i>Neotinea ustulata</i> subsp. <i>aestivalis</i> ) | II | B |
| <i>Neottia nidus-avis</i>   | II | B |
| <i>Neottia ovata</i> (syn.: <i>Listera ovata</i> )  | II | B |
| <i>Ophrys apifera</i>   | II | B |
| <i>Ophrys bertolonii</i>  | II | B |
| <i>Ophrys fuciflora</i> subsp. <i>fuciflora</i> (syn.: <i>Ophrys holoserica</i> )   | II | B |
| <i>Ophrys fuciflora</i> subsp. <i>holubyana</i>   | II | B |
| <i>Ophrys insectifera</i>   | II | B |

|   |    |   |
|---|----|---|
| <i>Ophrys oestrifera</i> (syn.: <i>Ophrys scolopax</i> )              | II | B |
| <i>Ophrys sphegodes</i>   | II | B |
| <i>Orchis mascula</i> (incl. <i>Orchis mascula subsp. signifera</i> ) | II | B |
| <i>Orchis militaris</i>   | II | B |
| <i>Orchis pallens</i>   | II | B |
| <i>Orchis purpurea</i>  | II | B |
| <i>Orchis simia</i>   | II | B |
| <i>Platanthera bifolia</i>  | II | B |
| <i>Platanthera chlorantha</i>   | II | B |
| <i>Spiranthes aestivalis</i>  | II | A |
| <i>Spiranthes spiralis</i>  | II | B |
| <i>Traunsteinera globosa</i>  | II | B |
| <i>Arnica montana</i>   |    | D |
| <i>Lycopodium clavatum</i>  |    | D |
|   |    |   |
| <b>LICHENES</b>   |    |   |
| <i>Cetraria islandica</i>   |    | D |

## 6.2 Game bird species in Hungary and their open seasons.

| <b>Scientific name</b>       | <b>English name</b>         | <b>Open season</b>  |
|------------------------------|-----------------------------|---|
| <i>Anser fabalis</i>         | Bean goose                  | 01.10 – 31.01.<br>(some restrictions in Eastern part of Hungary to protect Lesser White-fronted geese)                              |
| <i>Anser anser</i>           | Greylag goose               | 01.10 – 31.12.<br>(some restrictions in Eastern part of Hungary to protect Lesser White-fronted geese)                              |
| <i>Anser albifrons</i>       | Greater White-fronted goose | 01.10 – 31.01.<br>(some restrictions in Eastern part of Hungary to protect Lesser White-fronted geese)                              |
| <i>Branta canadensis</i>     | Canada goose                | 01.10 – 31.01.  |
| <i>Alopochen aegyptiacus</i> | Egyptian goose              | 01.10 – 31.01.  |
| <i>Anas platyrhynchos</i>    | Mallard                     | 15.08 – 31.01.<br>(in August only from certain distance from waters to protect juveniles and moulting mallards and avoid confusion) |

|                              |               |  |
|------------------------------|---------------|--|
|                              |               | with some threatened ducks<br>such as Ferruginous duck)      |
| <i>Perdix perdix</i>         | Partridge     | 01.10 – 31.12.<br>(released captive –bred<br>specimens only) |
| <i>Phasianus colchicus</i>   | Pheasant      | 01.10 – 28.02.<br>(cocks only)                               |
| <i>Fulica atra</i>           | Coot          | 01.09 – 31.01.   |
| <i>Scolopax rusticola</i>    | Woodcock      | no open season   |
| <i>Columba palumbus</i>      | Wood pigeon   | 15.08 – 31.01.   |
| <i>Streptopelia decaocto</i> | Collared dove | 15.08 – 31.01.   |
| <i>Garrulus glandarius</i>   | Jay           | 01.07 – 28.02.   |
| <i>Pica pica</i>             | Magpie        | 01.07 – 28.02.   |
| <i>Corvus corone cornix</i>  | Hooded crow   | 01.07 – 28.02.   |