



Draft Law of Ukraine

## **On the Conservation of Habitats**

This Law is aimed at fulfilling Ukraine's obligations under international treaties, the binding nature of which has been consented to by the Verkhovna Rada of Ukraine, and establishes the legal and organizational foundations for designating Emerald Network areas, special conservation areas, and special protection areas for the conservation of natural habitat types and habitats of species of wild fauna and flora that are subject to special protection in Europe, their management, including impact assessment on conservation areas in the process of decision-making on activities that may have an impact on conservation areas, taking into account economic, social, and cultural needs, as well as regional and local characteristics.

### **Article 1. Definitions**

1. In this Law, the terms are used in the following meanings:

- 1) site of Community importance – a site which, in the biogeographical region or regions to which it belongs, contributes significantly to the maintenance or restoration at a favourable conservation status of a natural habitat type listed in Annex I to this Law, or habitats of species from the list of animal and plant species for the conservation of which the designation of special conservation areas is necessary, and may also contribute significantly to the coherence of Natura 2000, and/or contribute significantly to the maintenance of biological diversity within the relevant biogeographical regions;
- 2) conservation – a range of measures required to maintain or restore the natural habitats and the populations of species of wild fauna and flora at a favourable conservation status;
- 3) compensatory measures – measures aimed at compensating for residual adverse effects on the relevant conservation area that cannot be avoided, mitigated, or eliminated, and at ensuring the maintenance of the overall coherence of Natura 2000, through the creation, restoration, improvement, or expansion of habitats or living conditions for species of wild fauna and flora equivalent to those that suffer loss or deterioration;
- 4) habitat of a species – an environment defined by specific abiotic and biotic factors, in which the species of wild fauna or flora lives at any stage of its biological cycle;
- 5) natural habitat – terrestrial or aquatic areas distinguished by geographic, abiotic and biotic features, whether entirely natural or semi-natural;
- 6) conservation status of a species – the sum of the influences acting on the species of wild flora or fauna concerned that may affect the long-term distribution and abundance of its populations in Europe;

7) conservation status of a natural habitat – the sum of the influences acting on a natural habitat and its typical species that may affect its long-term natural distribution, structure and functions as well as the long-term survival of its typical species in Europe;

8) special protection area – a site of land and/or sea area of Ukraine, designated in accordance with the procedure provided for by this Law, within which conservation measures are applied to ensure the survival, reproduction, maintenance or restoration at a favourable conservation status of populations of species of wild birds listed in the list of species of wild birds, including migratory ones, that are protected in Ukraine, and their habitats for the protection of which such a site is designated;

9) special conservation area – a site of Community importance, designated in accordance with the procedure provided for by this Law, within which the necessary conservation measures are applied to maintain or restore a favourable conservation status of natural habitats and/or populations of species of wild flora and fauna for which the site is designated;

10) favourable conservation status of a species – a status in which population dynamics data on the species of wild flora or fauna concerned indicate that it is and will continue to be a viable element of its natural habitat in the long term, the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis;

11) favourable conservation status of a natural habitat – a status in which its natural range and areas it covers within that range are stable or increasing, and the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and the conservation status of its typical species is favourable;

12) Emerald Network area – a conservation area established (designated) in accordance with the Convention on the Conservation of European Wildlife and Natural Habitats (hereinafter – the Bern Convention);

13) conservation objectives – target indicators defined for natural habitat types and species of wild fauna and flora at the site level for which such a site is designated, so that it contributes to the maintenance or restoration at a favourable conservation status of such natural habitats and species.

2. The term "public planning documents" is used in the meaning provided in the Law of Ukraine "On Strategic Environmental Assessment", the term "authorized territorial body" is used in the meaning provided in the Law of Ukraine "On Environmental Impact Assessment".

## **Article 2. Authorized State Bodies for the Management of Conservation Areas**

1. The authorized state bodies for the management of conservation areas are:

the Cabinet of Ministers of Ukraine;

the central executive body that formulates state policy in the field of environmental protection;

the central executive body that implements state policy in the field of environmental protection;

the central executive body that implements state policy in the field of management of conservation areas (hereinafter – the authorized central body);

the Council of Ministers of the Autonomous Republic of Crimea, oblast, Kyiv and Sevastopol city state administrations.

### **Article 3. Ensuring the Conservation of Natural Habitats and Habitats of Species**

1. The conservation of natural habitats listed in Annex I to this Law, and habitats of species defined in Annexes I and II to the Bern Convention, in the list of animal and plant species for the conservation of which the designation of special conservation areas is necessary, and in the list of species of wild birds, including migratory ones, that are protected in Ukraine, is ensured through:

- 1) identification of sites of occurrence or growth of species of wild fauna and flora and natural habitats;
- 2) establishment of Emerald Network areas, special conservation areas and special protection areas (hereinafter – conservation areas);
- 3) implementation of necessary conservation measures, including appropriate management plans specifically designed for such areas or integrated into other development plans, as well as appropriate statutory, administrative or contractual measures, which correspond to the ecological requirements of the natural habitat types and habitats of species present on such sites referred to in the first paragraph of this part;
- 4) taking appropriate steps to avoid, in the conservation areas, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the conservation objectives of the relevant site;
- 5) restoration of degraded natural habitats and habitats of species;
- 6) carrying out impact assessment on conservation areas;
- 7) monitoring the conservation status of natural habitats and the conservation status of species;
- 8) establishing conditions for carrying out activities, other interventions in the natural environment and landscapes, if such activities may have a negative impact on conservation areas;
- 9) promoting education and awareness-raising regarding the value of conservation areas, natural habitats and species of wild fauna and flora;

10) taking into account the conservation objectives defined for the relevant sites, the need to achieve a favourable conservation status of natural habitats and a favourable conservation status of species in the process of development and adoption of public planning documents, regulatory acts and other decisions by state authorities and local self-government bodies;

11) implementation of other measures aimed at the conservation of conservation areas, natural habitats and species of wild fauna and flora.

2. The list of animal and plant species for the conservation of which the designation of special conservation areas is necessary, and the list of species of wild birds, including migratory ones, that are protected in Ukraine, are approved by the Cabinet of Ministers of Ukraine.

#### **Article 4. Emerald Network Areas**

1. Emerald Network areas are established for the purpose of protecting natural habitats and habitats of species that are subject to special protection in accordance with the Bern Convention, taking into account the need to maintain or restore their favourable conservation status within their natural ranges.

2. Emerald Network areas include sites of land and/or sea areas that, from a scientific point of view, are most suitable for maintaining or restoring a favourable conservation status of natural habitats and species that are subject to special protection in accordance with the Bern Convention, taking into account the representativeness of natural habitat types, area, degree of conservation and restoration possibilities, population size and spatial structure of species of wild fauna and flora, degree of isolation, and overall importance of the area for the conservation of natural habitats and habitats of species that are subject to special protection in accordance with the Bern Convention.

3. The establishment of Emerald Network areas, as well as changes to their boundaries and status, is carried out in accordance with Ukraine's international obligations, taking into account scientific recommendations and assessment of ecological needs of natural habitats and habitats of species that are subject to special protection in accordance with the Bern Convention.

4. The list of sites designated as Emerald Network areas is approved by the Cabinet of Ministers of Ukraine.

5. Information on Emerald Network areas is entered into the National Register of Conservation Areas.

6. A special legal regime is established on Emerald Network areas, aimed at maintaining and restoring a favourable conservation status of natural habitats and/or populations of species of wild flora and fauna for which such areas are designated. Within Emerald Network areas, any activity that causes deterioration of natural habitats and habitats of species or disturbance of species of wild fauna and flora for which the area is designated is prohibited, in so far as such disturbance could be significant in relation to the conservation objectives of the relevant site.

Compliance with the special legal regime of Emerald Network areas is ensured through the implementation of necessary conservation measures via management plans and other statutory, administrative or contractual measures.

## **Article 5. Special Conservation Areas**

1. Special conservation areas are designated for the conservation of sites of Community importance, with the aim of maintaining or restoring a favourable conservation status of natural habitats and/or populations of species of wild flora and fauna for which such sites are designated.

2. The authorized central body ensures the preparation of the list of proposed sites of Community importance. To form the list of proposed sites of Community importance, sites of land and/or sea areas of Ukraine are selected where natural habitat types listed in Annex I to this Law are present, as well as habitats of species defined in the list of animal and plant species for the conservation of which the designation of special conservation areas is necessary, and which are capable of creating conditions for maintaining or restoring a favourable conservation status of natural habitat types and habitats of species within their natural ranges.

To form the list of proposed sites of Community importance, sites are selected that, based on scientific information, best meet the following criteria:

- a) degree of representativity of the natural habitat type on the site;
- b) area of the site covered by the natural habitat type in relation to the total area covered by that natural habitat type within the territory of Ukraine;
- c) degree of conservation of the structure and functions of the relevant natural habitat type and restoration possibilities;
- d) population size and density of the species present on the site in relation to the populations present within the territory of Ukraine;
- e) degree of conservation of the features of the natural habitat which are important for the species concerned and restoration possibilities;
- f) degree of isolation of the population present on the site in relation to the natural range of the species;
- g) global assessment of the value of the site for conservation of the natural habitat type or species concerned.

The list of proposed sites of Community importance is formed based on data from the inventory of natural habitats and species of wild fauna and flora, in accordance with Article 7 of this Law, and other data on these habitats and species.

3. Other central executive bodies, oblast, Kyiv and Sevastopol city state administrations, and in the territory of the Autonomous Republic of Crimea – the Council of Ministers of the Autonomous Republic of Crimea, enterprises, institutions and organizations, scientists,

citizens and their associations may submit proposals to the authorized central body for the list of proposed sites of Community importance, in accordance with methodological guidelines approved by the central executive body that formulates state policy in the field of environmental protection.

Proposals for the list of proposed sites of Community importance are submitted and considered by the authorized central body in the procedure approved by the central executive body that formulates state policy in the field of environmental protection.

4. The central executive body that formulates state policy in the field of environmental protection submits the list of proposed sites of Community importance for approval to the European Commission, and the authorized central body enters such sites into the National Register of Conservation Areas as proposed.

5. Information on the approval of a site of Community importance by the European Commission is entered by the authorized central body into the National Register of Conservation Areas no later than five working days from the date of official publication of the relevant decision by the European Commission.

The requirements of Articles 3, 11-17, 20-21 of this Law regarding conservation areas apply to sites of Community importance approved by the European Commission from the moment of adoption of the relevant decision by the European Commission.

6. The list of designated special conservation areas for sites of Community importance adopted by the European Commission is approved by the Cabinet of Ministers of Ukraine upon submission of the central executive body that formulates state policy in the field of environmental protection, within forty-five working days from the date of official publication of the relevant decision of the European Commission on the approval of the list of sites of Community importance.

7. Information on the designation of a special conservation area is entered by the authorized central body into the National Register of Conservation Areas.

8. A special legal regime is established on special conservation areas, aimed at maintaining and restoring a favourable conservation status of natural habitats and/or populations of species of wild flora and fauna for which such sites are designated. Within special conservation areas, any activity that causes deterioration of natural habitats and habitats of species or disturbance of species of wild fauna and flora for which the area is designated is prohibited, in so far as such disturbance could be significant in relation to the conservation objectives defined for the relevant site.

Compliance with the special legal regime of special conservation areas is ensured through the implementation of necessary conservation measures via management plans and other statutory, administrative or contractual measures.

9. Changes to the boundaries or recognition of a special conservation area as having lost its status as a special conservation area are carried out in accordance with the procedure provided for in parts two to seven of this Article for the designation of a special conservation area.

## **Article 6. Special Protection Areas**

1. Special protection areas are established for the purpose of conservation of wild birds and migratory wild birds that regularly occur in the territory of Ukraine, defined in the list of species of wild birds, including migratory ones, that are protected in Ukraine, taking into account the need for their protection in geographically defined marine areas and land territories, including breeding sites, moulting sites, wintering sites and staging posts along migration routes.

2. The authorized central body ensures the preparation of proposals for special protection areas based on data from the inventory of species of wild birds, including migratory ones, that are protected in Ukraine, and their habitats, and other data on these species and their habitats, with the aim of ensuring the survival and reproduction of the relevant species within their natural ranges.

3. Other central executive bodies, oblast, Kyiv and Sevastopol city state administrations, and in the territory of the Autonomous Republic of Crimea – the Council of Ministers of the Autonomous Republic of Crimea, enterprises, institutions and organizations, scientists, citizens and their associations may submit proposals to the authorized central body for special protection areas in accordance with methodological guidelines approved by the central executive body that formulates state policy in the field of environmental protection.

Proposals for special protection areas are submitted and considered by the authorized central body in the procedure approved by the central executive body that formulates state policy in the field of environmental protection.

4. When designating special protection areas, sites of land and/or sea areas of Ukraine are selected that, from a scientific point of view, are most suitable for achieving the conservation objectives defined for the relevant site, in particular to ensure the survival, reproduction, maintenance or restoration at a favourable conservation status of populations of species of wild birds defined in part one of this Article, taking into account the ecological requirements of the relevant species of wild birds and their natural habitats.

5. The list of designated special protection areas is approved by the Cabinet of Ministers of Ukraine upon submission of the central executive body that formulates state policy in the field of environmental protection.

6. Information on special protection areas is entered by the authorized central body into the National Register of Conservation Areas and transmitted by the central executive body that formulates state policy in the field of environmental protection to the European Commission.

7. Wetlands that, in accordance with the legislation of Ukraine and international treaties of Ukraine, have acquired the status of wetlands of international importance are considered special protection areas and are subject to entry into the National Register of Conservation Areas.

8. A special legal regime is established on special protection areas, aimed at maintaining and restoring a favourable conservation status of natural habitats and/or populations of species of wild birds for which such areas are designated. Within special protection areas, any activity that causes deterioration of natural habitats and habitats of species or disturbance of species

of wild birds for which the area is designated is prohibited, in so far as such disturbance could be significant in relation to the conservation objectives of the relevant site.

Compliance with the special legal regime of special conservation areas is ensured through the implementation of necessary conservation measures via management plans and other statutory, administrative or contractual measures.

#### **Article 7. Inventory of Natural Habitat Types and Species of Fauna and Flora**

1. The authorized central body ensures the inventory of natural habitat types listed in Annex I to this Law, and species of fauna and flora defined in Annexes I and II to the Bern Convention, in the list of animal and plant species for the conservation of which the designation of special conservation areas is necessary, and in the list of species of wild birds, including migratory ones, that are protected in Ukraine, in the procedure established by the Cabinet of Ministers of Ukraine. Inventory data are updated every six years.

2. The inventory of natural habitat types and species of fauna and flora is carried out taking into account data from the state environmental monitoring system, state accounting and cadastre of the plant world, state cadastre of the animal world, cadastre of territories and objects of the nature reserve fund.

3. Data from the inventory of natural habitat types and species of fauna and flora include geospatial data, metadata and services, which are published on the Internet and access to which is provided in accordance with the Law of Ukraine "On the National Infrastructure of Geospatial Data".

#### **Article 8. National Register of Conservation Areas**

1. The authorized central body maintains the National Register of Conservation Areas, which includes data on Emerald Network areas, special conservation areas and special protection areas.

2. Information entered into the National Register of Conservation Areas is open, and free access to it is provided via the Internet.

3. The procedure for maintaining the National Register of Conservation Areas is determined by the Cabinet of Ministers of Ukraine.

4. Data from the National Register of Conservation Areas are entered into the State Land Cadastre, cadastres of other natural resources, urban planning cadastre and other information systems in accordance with the Procedure for Information Interaction between Cadastres and Information Systems, approved by the Cabinet of Ministers of Ukraine.

5. Data from the National Register of Conservation Areas include geospatial data, metadata and services, which are published on the Internet and access to which is provided in accordance with the Law of Ukraine "On the National Infrastructure of Geospatial Data".

#### **Article 9. Management Plans for Conservation Areas**



1. Management plans for conservation areas are developed and approved within six years after the adoption of the relevant decisions provided for in part 4 of Article 4, part 5 of Article 5 and part 5 of Article 6 of this Law.
2. If a conservation area is located within an existing territory or object of the nature reserve fund, for which a project for the organization of the territory or object of the nature reserve fund is developed in accordance with the Law of Ukraine "On the Nature Reserve Fund of Ukraine", such organization project must take into account the management plan for the relevant conservation area, which is developed and approved as a separate annex as part of the organization project for the territory or object of the nature reserve fund.
3. The management plan is developed for an individual conservation area or for several areas that are geographically connected or have similar natural characteristics, provided that they are located within one oblast, or fully or partially within one territory or object of the nature reserve fund, for which a project for the organization of the territory or object of the nature reserve fund is developed in accordance with the Law of Ukraine "On the Nature Reserve Fund of Ukraine".
4. The management plan for a conservation area located within the cities of Kyiv, Sevastopol, one oblast or the Autonomous Republic of Crimea is approved by the oblast, Kyiv and Sevastopol city state (military) administration, and in the territory of the Autonomous Republic of Crimea – by the Council of Ministers of the Autonomous Republic of Crimea upon submission of the authorized territorial body.
5. The management plan for a conservation area that is fully or partially located within an existing territory or object of the nature reserve fund, for which a project for the organization of the territory or object of the nature reserve fund is developed in accordance with the Law of Ukraine "On the Nature Reserve Fund of Ukraine", is developed and approved in the procedure for approving the organization project for the territory or object of the nature reserve fund in accordance with the Law of Ukraine "On the Nature Reserve Fund of Ukraine" within the period provided for in the first paragraph of this part. At the same time, if the conservation area is only partially located within the relevant territory or object of the nature reserve fund, the management plan must cover the entire area of such conservation area.
6. The management plan for a conservation area located within two or more oblasts is approved by the central executive body that formulates state policy in the field of environmental protection, upon submission of the authorized central body.
7. The management plan for a conservation area that is part of two or more territories or objects of the nature reserve fund, for which organization projects for the territories or objects of the nature reserve fund are developed, is approved by the central executive body that formulates state policy in the field of environmental protection, upon submission of the authorized central body.
8. Management plans for conservation areas are developed in accordance with the procedure for developing management plans for conservation areas and methodological guidelines on the preparation of management plans for conservation areas, approved by the central executive body that formulates state policy in the field of environmental protection.

9. The management plan for a conservation area includes the following information:

- 1) description of the conservation area and its boundaries;
- 2) data from the inventory of natural habitat types and species of wild fauna and flora;
- 3) identification of existing and potential risks and threats to the favourable conservation status of natural habitats and the favourable conservation status of species;
- 4) conservation objectives;
- 5) definition of conservation measures that correspond to the ecological requirements of the natural habitat types and species of wild fauna and flora present within the relevant conservation area;
- 6) definition of conditions for carrying out economic and other activities within the conservation area;
- 7) action plans, which include, inter alia, information on measures, expected results, necessary human and financial resources, time frames for implementation of measures;
- 8) requirements for monitoring the conservation status of natural habitats and the favourable conservation status of species within the conservation area;
- 9) indicators necessary for assessing progress towards achieving conservation objectives;
- 10) changes that need to be made to public planning documents necessary to achieve a favourable conservation status of natural habitats and a favourable conservation status of species;
- 11) cartographic materials using geographic information systems.

10. Management plans for conservation areas are reviewed at least once every six years. Management plans developed as part of organization projects for territories and objects of the nature reserve fund are reviewed and taken into account during the development of five-year action plans for the implementation of the relevant organization projects for territories and objects of the nature reserve fund for the second period.

12. State authorities or special administrations for the management of territories and objects of the nature reserve fund that ensure the development of management plans for conservation areas may conclude contracts on the management of the conservation area with landowners and land users of land plots that are part of conservation areas. The procedure for concluding contracts on the management of the conservation area and the standard form of such contract are approved by the Cabinet of Ministers of Ukraine.

13. The management plan for the conservation area takes into account the provisions of contracts on the management of the relevant conservation area.

14. The state authority that approved the management plan for the conservation area, no later than five working days from the date of approval of such plan, sends it to the authorized

central body, which enters the management plan for the conservation area into the National Register of Conservation Areas within three working days from the date of its receipt.

15. Urban planning documentation reflects information on the boundaries of conservation areas and management plans for conservation areas.

#### **Article 10. Financing of Activities in the Field of Establishment and Management of Conservation Areas**

1. Financing of works on the establishment, functioning and development of conservation areas is carried out at the expense of funds from the state and local budgets, funds of institutions, organizations and enterprises, and other sources not prohibited by law.

2. The amount of state budget funds allocated for the establishment and management of conservation areas is determined annually in the law on the State Budget of Ukraine for the relevant year.

#### **Article 11. Main Provisions on Impact Assessment on Conservation Areas**

1. Impact assessment on conservation areas is mandatory in the process of strategic environmental assessment, environmental impact assessment, as well as in the process of approval of activities provided for in Article 12 of this Law, within conservation areas in the manner prescribed by this Law. It is carried out with the aim of determining the adverse impact on conservation areas, taking into account the effects of the activity or the consequences of the implementation of a public planning document on the integrity and achievement of the conservation objectives defined for the relevant sites.

2. If a public planning document is subject to strategic environmental assessment in accordance with the Law of Ukraine “On Strategic Environmental Assessment”, the likely consequences for conservation areas shall be assessed within the framework of the strategic environmental assessment in accordance with the Law of Ukraine “On Strategic Environmental Assessment”.

3. If the planned activity is subject to environmental impact assessment in accordance with the Law of Ukraine “On Environmental Impact Assessment”, the impact on conservation areas shall be assessed within the framework of the environmental impact assessment in accordance with the Law of Ukraine “On Environmental Impact Assessment”.

#### **Article 12. Scope of Application of Impact Assessment on Conservation Areas**

1. The following types of activities within conservation areas that may have an adverse impact on these areas shall be subject to impact assessment on conservation areas in the manner prescribed by this Law:

activities provided for in Article 3 of the Law of Ukraine “On Environmental Impact Assessment”, below the threshold values set out in that Law;

management of hunting grounds;

industrial fishing;

forest management on the basis of forest inventory materials (except for types of activities provided for in the Law of Ukraine “On Environmental Impact Assessment”);

construction of facilities classified as having medium (CC2) or significant (CC3) consequences outside settlements on an area exceeding 1 hectare, except for types of activities provided for in the Law of Ukraine “On Environmental Impact Assessment”;

geological exploration and pilot-industrial development of mineral deposits, if this leads to the removal of the fertile soil layer on an area exceeding 100 square metres, except for planned activities provided for in the Law of Ukraine “On Environmental Impact Assessment”;

change of land use categories of agricultural land plots by converting pastures or hayfields to other categories;

removal and relocation of the soil cover (fertile soil layer);

abstraction of water from surface water bodies in a volume exceeding 300 cubic metres per day;

dredging works, laying of cables, pipelines and other communications on lands of the water fund, except for planned activities provided for in the Law of Ukraine “On Environmental Impact Assessment”;

any other activity that may have a significant adverse impact on a conservation area and requires a decision on the carrying out of the activity.

2. Impact assessment on conservation areas for the types of activities specified in part one of this Article shall be carried out prior to obtaining (or amending) a decision of a state authority or local self-government body issued in the form of a permit document or other act of a state authority or local self-government body (hereinafter – decision on the carrying out of the activity), in particular:

a construction permit;

a decision approving the project for the organisation and development of hunting grounds;

a special permit for the use of forest resources;

a decision on the granting of land plots for use or ownership;

approval of detailed land management projects developed for the purpose of removal and relocation of the soil cover (fertile soil layer);

a permit for the placement, construction of structures, road service facilities, petrol stations, laying of engineering networks and performance of other works within the road right-of-way;

limits and forecasts of allowable special use of aquatic bioresources of national importance;

a decision on entering information into the State Land Cadastre and on making changes thereto regarding the description of boundaries, area, designated purpose (land category, type of land use within a certain land category), composition of land plots, and information on restrictions on the use of land plots;

a special permit for subsoil use;

a permit for special water use;

a permit for dredging works, laying of cables, pipelines and other communications on lands of the water fund.

### **Article 13. Determination of the Need to Carry Out Impact Assessment on Conservation Areas**

1. To determine the need to carry out impact assessment on conservation areas, a natural or legal person intending to carry out an activity specified in part one of Article 12 of this Law (hereinafter – the applicant) shall submit to the authorized territorial body a notification of the planned activity that may have an adverse impact on a conservation area (hereinafter – the notification). The notification shall contain information on:

- 1) the applicant;
- 2) the planned activity, namely its location, description and characteristics;
- 3) the envisaged procedure for impact assessment on conservation areas and opportunities for public participation therein, the name of the authorized territorial body to which public comments and proposals are to be sent;
- 4) the type of decision on the carrying out of the activity and the body authorised to adopt that decision.

The form of the notification and the procedure for submitting documentation for the issuance of a conclusion on impact assessment on conservation areas shall be approved by the Cabinet of Ministers of Ukraine.

The notification shall be entered by the authorized territorial body into the Register of Impact Assessment on Conservation Areas (hereinafter – the Register) and published on the official website of that body and on the Register portal on the Internet within three working days from the date of its receipt.

2. Within ten working days from the date of publication of the notification, the public shall have the right to submit comments and proposals regarding the need to carry out impact assessment on conservation areas in written form (including electronically).

3. Based on the results of consideration of the notification, public comments and proposals, and taking into account the nature, scale and location of the activity, within a period not exceeding fifteen working days from the date of publication of the notification, the authorized territorial body shall adopt a decision on the need to carry out impact assessment on conservation areas, determining the likelihood of an adverse impact on the conservation area and whether or not such assessment is required.

If the results of the consideration do not allow a conclusion to be drawn that there is no adverse impact of the activity on the conservation area, the authorized territorial body shall adopt a decision on the need to carry out impact assessment on conservation areas. The criteria for determining the likelihood of an adverse impact of the activity on conservation areas shall be approved by the Cabinet of Ministers of Ukraine.

4. The decision of the authorized territorial body on the need to carry out impact assessment on conservation areas shall be issued free of charge.

5. The decision on the need to carry out impact assessment on conservation areas shall be entered into the Register and published on the official website of the authorized territorial body and on the Register portal on the Internet within the time limit provided for its issuance.

A report on public discussion containing all written comments and proposals received from the public, as well as a table indicating full consideration, partial consideration or reasoned rejection of the comments and proposals received during the public discussion (if any), shall be attached to and published together with the decision stating that no impact assessment is required.

#### **Article 14. Report on Impact Assessment on Conservation Areas**

1. An applicant who has received a decision determining the need to carry out impact assessment on conservation areas shall ensure the preparation of a report on impact assessment on conservation areas and submit it to the authorized territorial body.

If the applicant independently identifies a likelihood of an adverse impact of the activity on conservation areas, the applicant shall have the right to submit a report on impact assessment on conservation areas to the authorized territorial body without following the procedure provided for in Article 13 of this Law.

2. The report on impact assessment on conservation areas shall include:

1) a description of the planned activity, in particular:

the objectives of the activity;

a description of the location of the activity, prepared using geoinformation resources;

a description of the characteristics of the activity during preparatory and construction works;

a description of the main characteristics of the activity during its implementation: production processes indicating technological equipment that is a source of pollution or physical impacts on the environment; types and quantities of materials and natural resources to be used;

2) identification of the conservation areas that may be affected by the planned activity, taking into account direct and indirect impacts, and providing geographical information on those areas using geoinformation resources;

3) a description of the conservation area (or the part of the area falling within the zone of influence of the activity) and its current state, and a characterisation of the conservation status of the natural habitats and species protected within that area;

4) identification and characterisation of the individual and cumulative effects and impacts on conservation areas that are likely to arise as a result of preparatory and construction works and the carrying out of the activity, including their magnitude and spatial extent, intensity, duration and frequency, with identification of impacts on:

the conservation status of natural habitats and species of wild fauna and flora subject to special protection within the conservation area;

the integrity and conservation objectives defined for the relevant site;

5) identification of measures to prevent, mitigate and eliminate the impact of the activity on the conservation area, including on natural habitats and species of wild fauna and flora subject to special protection within the conservation area, on the integrity and conservation objectives defined for the conservation area, as well as measures to maintain or restore a favourable conservation status of natural habitats and a favourable conservation status of species of wild fauna and flora, taking into account justified alternatives;

6) a list of references indicating the sources used for the descriptions and assessments contained in the report;

7) a list of all authors (executors) indicating their qualifications.

3. The applicant shall be responsible for the accuracy and completeness of the information contained in the report on impact assessment on conservation areas in accordance with the law.

4. The report on impact assessment on conservation areas shall be signed by all its authors (executors).

5. Methodological guidelines for the preparation of a report on impact assessment on conservation areas and the development of measures to prevent, mitigate and eliminate impacts on conservation areas shall be approved by the central executive body that ensures the formation of state policy in the field of environmental protection.

6. The report on impact assessment on conservation areas, other documents and information received from the applicant in the course of the impact assessment on conservation areas shall be entered by the authorized territorial body into the Register and published on the official website of that body and on the Register portal on the Internet within three working days from the date of their receipt.

### **Article 15. Public Discussion of the Report on Impact Assessment on Conservation Areas and the Register of Impact Assessment on Conservation Areas**

1. The authorized territorial body shall ensure the conduct of public discussion of the report on impact assessment on conservation areas by publishing an announcement on the commencement of public discussion, providing the public with access to the documents and information submitted by the applicant, collecting and taking into account public comments and proposals, in the manner prescribed by this Article.

2. Announcements on the commencement of public discussion shall be entered into the Register and published on the official website of the authorized territorial body and the Register portal simultaneously with the report on impact assessment on conservation areas.

The announcement shall contain information on the time limits and procedure for public discussion, postal and electronic addresses to which public comments and proposals are to be submitted, the decision on the carrying out of the activity, and the body that will consider the results of the impact assessment on conservation areas.

3. Public discussion of the report on impact assessment on conservation areas shall begin on the day of its publication in accordance with part six of Article 14 of this Law and shall last for twenty-five working days. Public discussion shall be conducted by submitting comments and proposals in written form (including electronically). The public shall have the right to submit any comments and proposals relating to the activity without the need to substantiate them.

4. Public comments and proposals shall be entered by the authorized territorial body into the Register and published on the Register portal on the Internet within three working days from the date of their receipt.

5. Based on the results of consideration of public comments and proposals, the authorized territorial body shall prepare a report on public discussion. An integral part of the report on public discussion shall be all written comments and proposals received from the public, as well as a table indicating full consideration, partial consideration or reasoned rejection of the comments and proposals received during the public discussion.

6. All information and documents generated in the course of impact assessment on conservation areas shall be open and entered into the Register.

7. The holder and administrator of the Register shall be the permitting authority, which shall designate the technical administrator of the Register and conclude an agreement with it.

The permitting authority shall ensure the use of the Register in accordance with the procedure for electronic information interaction between registers.

The Register shall be integrated with the system of electronic interaction of electronic resources. Information interaction of the Register with other state electronic information resources shall be carried out by means of the system of electronic interaction of electronic resources or other information and communication systems using appropriate integrated information protection systems that have confirmed compliance as a result of state expertise in the manner prescribed by law.

The establishment and maintenance of the Register and its software and hardware shall be carried out at the expense of the state budget, funds of international technical assistance and other sources not prohibited by law. The owner of the software and hardware of the Register shall be the State.

The Register shall be established and maintained in accordance with the Law of Ukraine “On Public Electronic Registers”.



The procedure for maintaining the Register shall be approved by the Cabinet of Ministers of Ukraine.

#### **Article 16. Adoption of Decision Based on the Results of Impact Assessment on Conservation Areas**

1. Within a period not exceeding fifteen working days from the date of completion of the public discussion of the report on impact assessment on conservation areas, the authorized territorial body shall issue a conclusion on impact assessment on conservation areas or refuse to issue it.

2. Grounds for refusal to issue a conclusion on impact assessment on conservation areas shall be:

– grounds provided for by the Law of Ukraine “On the Licensing System in the Sphere of Economic Activity”;

– violation by the applicant of the requirements of the legislation regarding the content of the report on impact assessment on conservation areas.

After elimination of the reasons that served as grounds for refusal to issue the conclusion, the applicant shall have the right to resubmit the report on impact assessment on conservation areas. In this case, public discussion of the report shall be conducted again in accordance with the requirements of Article 15 of this Law.

3. Based on the assessment of the impact of the activity on the integrity and achievement of the conservation objectives defined for the relevant site, the authorized territorial body shall determine the presence or absence of an adverse impact of the activity on the conservation area, determine the admissibility or substantiate the inadmissibility of the activity and establish ecological conditions for its implementation within the conservation area.

In the event of substantiated grounds to believe that the carrying out of the activity will have an adverse impact on the conservation area, the authorized territorial body shall issue a conclusion on impact assessment on conservation areas stating that the activity is inadmissible within that conservation area.

In the event of no substantiated grounds to believe that the carrying out of the activity will have an adverse impact on the conservation area, the authorized territorial body shall issue a conclusion on impact assessment on conservation areas stating that the activity is admissible and establishing conditions for its implementation within the relevant conservation area, including measures to prevent, mitigate and eliminate the impact on that conservation area. When establishing such conditions, the authorized body shall be guided by the interests of ensuring the integrity and achievement of the conservation objectives defined for the relevant site.

4. A conclusion on impact assessment on conservation areas shall be a permit document. The conditions for the implementation of the activity and the measures to prevent, mitigate and eliminate the impact on the relevant conservation area established by such conclusion shall be binding.

5. A conclusion on impact assessment on conservation areas shall be issued free of charge. Re-issuance, revocation, invalidation, cancellation and appeal of a conclusion on impact assessment on conservation areas shall be carried out in accordance with the requirements of the Laws of Ukraine “On the Licensing System in the Sphere of Economic Activity” and “On Administrative Procedure”.

6. A conclusion on impact assessment on conservation areas shall be entered by the authorized territorial body into the Register and published on its official website and on the Register portal on the Internet within the time limit provided for its issuance. Simultaneously with the conclusion, the report on public discussion shall be entered into the Register and published.

7. Conclusions on impact assessment on conservation areas may be used for obtaining other permit documents provided for by law within five years from the date of their adoption, provided that they do not provide for changes in the activity that was assessed during the impact assessment on conservation areas or for the extension of the period of implementation of such activity.

8. It shall be prohibited to adopt a decision on the carrying out of an activity that, in accordance with this Law, requires impact assessment on conservation areas without obtaining either a decision on the need to carry out impact assessment on conservation areas stating that such assessment is not required, a conclusion on impact assessment on conservation areas stating that the activity is admissible within the relevant conservation area, or a decision on the admissibility of the activity on grounds of overriding public interest.

9. It shall be prohibited to carry out an activity within the relevant conservation area if the conditions for the implementation of the activity and the measures to prevent, mitigate and eliminate the impact on that conservation area provided for in the conclusion on impact assessment on conservation areas are not fully complied with.

#### **Article 17. Adoption of Decision on Admissibility of Activity on Grounds of Overriding Public Interest**

1. If a conclusion on environmental impact assessment or a conclusion on impact assessment on conservation areas determines that the activity is inadmissible due to its adverse impact on conservation areas, such activity may be permitted in the case of imperative reasons of overriding public interest and provided that there are no alternative solutions that would not have an adverse impact on conservation areas and that measures to prevent, mitigate and eliminate the impact on the relevant conservation areas and compensatory measures are taken.

2. A petition to initiate the procedure for approval of the activity on grounds of overriding public interest (hereinafter – the petition) shall be submitted to the authorized central body. The petition shall contain information on

1) the consideration and substantiation of the absence of alternative solutions for the implementation of the activity (territorial, technological or other) that would not have an adverse impact on conservation areas,

2) substantiation of the imperative necessity to implement the activity on grounds of overriding public interest in accordance with the criteria for determining imperative necessity approved by the Cabinet of Ministers of Ukraine,

3) substantiation of the long-term (10 or more years) significant positive impact of the activity on the socio-economic indicators of the State, and

4) proposals for a plan of measures to prevent, mitigate and eliminate the impact on the relevant special conservation area and compensatory measures (hereinafter – the plan of measures).

The petition and the documents attached thereto shall be entered by the authorized central body into the Register and published on the Register portal on the Internet within three working days from the date of their receipt. In the case of impact assessment on conservation areas carried out within the framework of environmental impact assessment, the petition and the attached documents shall be entered by the business entity into the Unified State Register of Environmental Impact Assessment and sent to the authorized central body for consideration. The form of the petition shall be approved by the Cabinet of Ministers of Ukraine.

3. Public discussion of the petition and the documents attached thereto shall be conducted in accordance with the rules for public discussion of the report on impact assessment on conservation areas provided for in Article 15 of this Law.

4. The authorized central body shall conduct consultations on the petition with other executive bodies and local self-government bodies in accordance with their powers on the issues raised in the petition. Such consultations shall be conducted in written and/or electronic form within the time limit for public discussion of the petition. If no comments or proposals are submitted within the specified time limit, it shall be deemed that no comments or proposals have been submitted.

Within the same time limit, in the case of impact assessment on conservation areas carried out within the framework of environmental impact assessment, the body that carried out the environmental impact assessment shall provide the authorized central body with proposals regarding the ecological conditions for the carrying out of the activity in the event of a decision on the admissibility of the activity on grounds of overriding public interest.

5. The decision of the authorized central body based on the results of consideration of the petition shall be adopted within a period not exceeding twenty working days from the date of completion of the public discussion of the petition, entered into the Register and published on the Register portal on the Internet within the time limits provided for its issuance. Together with the decision, the report on public discussion shall be entered into the Register and published. In the case of impact assessment on conservation areas carried out within the framework of environmental impact assessment, the decision of the authorized central body and the report on public discussion shall be entered by the authorized central body into the Unified State Register of Environmental Impact Assessment.

In the event of approval of the petition, the authorized central body shall include in its decision the substantiation of the imperative necessity to implement the activity on grounds of overriding public interest, the ecological conditions for the carrying out of the planned

activity (in the case of impact assessment on conservation areas within environmental impact assessment), and shall ensure the development of the plan of measures in the manner established by the Cabinet of Ministers of Ukraine.

6. A decision on the admissibility of the activity on grounds of overriding public interest shall be adopted by the Cabinet of Ministers of Ukraine, entered by the authorized central body into the Register and published on the Register portal on the Internet within three working days from the date of its adoption. An integral part of the decision on the admissibility of the activity on grounds of overriding public interest shall be the plan of measures.

In the case of impact assessment on conservation areas carried out within the framework of environmental impact assessment, the decision on the admissibility of the activity on grounds of overriding public interest shall include the ecological conditions for the carrying out of the planned activity and shall be entered into the Unified State Register of Environmental Impact Assessment.

7. It shall be prohibited to carry out an activity on the basis of a decision on the admissibility of the activity on grounds of overriding public interest if the plan of measures is not fully complied with, and – in the case of impact assessment on conservation areas carried out within the framework of environmental impact assessment – if the ecological conditions for the carrying out of the planned activity are not fully complied with.

#### **Article 18. Monitoring of the Conservation Status of Natural Habitats and Species of Wild Fauna and Flora**

1. Monitoring of the conservation status of natural habitats and species of wild fauna and flora shall be carried out in accordance with the regulations and methodologies approved by the central executive body that ensures the formation of state policy in the field of environmental protection.

2. Monitoring of the conservation status of natural habitats and species of wild fauna and flora shall be coordinated by the authorized central body.

3. For the purposes of monitoring, the central executive body that ensures the formation of state policy in the field of environmental protection, upon submission of the authorized central body, shall designate leading institutions of the nature reserve fund.

4. A separate unit for monitoring the conservation status of natural habitats and species of wild fauna and flora shall be established within the leading institution of the nature reserve fund.

5. For the performance of individual works, the leading institution of the nature reserve fund may engage other institutions of the nature reserve fund, scientific institutions, higher education institutions and individual scientists and the public.

6. Scientific institutions and organisations may carry out monitoring of the conservation status of individual natural habitats and species of fauna and flora.

7. The leading institution, other institutions of the nature reserve fund, scientific institutions and higher education institutions shall provide the authorized central body with data from the monitoring of the conservation status of natural habitats and species of wild fauna and flora.

8. Data from the monitoring of the conservation status of natural habitats and species of wild fauna and flora shall be entered into the National Register of Conservation Areas.

9. Monitoring of the conservation status of natural habitats and species of wild fauna and flora shall constitute an integral part of the state environmental monitoring system.

10. The authorized central body shall ensure the preparation, once every six years, of reports on the conservation status of natural habitats and species of wild flora and fauna in the form established by the central executive body that ensures the formation of state policy in the field of environmental protection.

### **Article 19. Compensation for Damages Arising from the Conditions of Activity on Special Conservation Areas**

1. Landowners and land users who suffer damages as a result of the conditions of their activity established by the management plan for a conservation area shall have the right to compensation for such damages.

2. The right to compensation for damages provided for in this Article shall arise after the approval of the management plan for the conservation area.

3. The procedure for determining and compensating damages to landowners and land users shall be determined by the Cabinet of Ministers of Ukraine.

4. Income or profit that the landowner or land user could have received as a result of carrying out activities within the conservation area in the event of acquisition of the land plot after the designation of the conservation area shall not be subject to compensation.

5. This Article shall not apply to legal entities of state ownership.

### **Article 20. Judicial Appeal of Decisions, Actions or Inaction Regarding Conservation Areas**

1. Any decisions, actions or inaction of state bodies, local self-government bodies, natural and legal persons that violate the requirements in the field of designation and management of conservation areas, as well as impact assessment on conservation areas, may be appealed in court by any natural or legal person.

### **Article 21. Liability for Violation of Legislation on Conservation Areas**

1. Persons guilty of violating legislation on conservation areas shall bear civil, administrative and criminal liability in accordance with the law.

2. Offences in the field of management of conservation areas and impact assessment on conservation areas shall include:

- 1) violation of the procedure for impact assessment on conservation areas, including the procedure for informing the public and the procedure for conducting public discussion and taking its results into account;
- 2) adoption of a decision on the carrying out of an activity that, in accordance with this Law, requires impact assessment on conservation areas without obtaining a decision on the need to carry out impact assessment on conservation areas stating that such assessment is not required, a conclusion on impact assessment on conservation areas stating that the activity is admissible within the relevant conservation area, or a decision on the admissibility of the activity on grounds of overriding public interest;
- 3) carrying out of an activity that is subject to impact assessment on conservation areas without carrying out such assessment and obtaining a decision on the need to carry out impact assessment on conservation areas stating that such assessment is not required, or a conclusion on impact assessment on conservation areas stating that the activity is admissible;
- 4) carrying out of an activity within a conservation area without ensuring full compliance with the conditions for the implementation of the activity and the measures to prevent, mitigate and eliminate the impact provided for in the conclusion on impact assessment on conservation areas;
- 5) carrying out of an activity on the basis of a decision on the admissibility of the activity on grounds of overriding public interest if the plan of measures is not fully complied with, and – in the case provided for in the second paragraph of part four of Article 17 of this Law – if the ecological conditions for the carrying out of the planned activity are not fully complied with;
- 6) violation of the requirements of the management plan for a conservation area;
- 7) commission of an act that causes deterioration of a habitat within a conservation area or disturbance of species of animals within a conservation area for which such area was designated.

Other offences in the field of management of conservation areas may be established by the laws of Ukraine.

### **Final and Transitional Provisions**

1. This Law shall enter into force on the day following the day of its publication and shall be put into effect six months after the day of its entry into force.
2. Articles 3, 12–13 and 15–16 shall enter into force on 1 January of the year following the year of Ukraine's accession to the European Union.
3. Emerald Network areas approved by the relevant bodies of the Bern Convention prior to the entry into force of this Law shall be entered by the authorized central body into the National Register of Conservation Areas within twelve months from the date of entry into force of this Law.

Wetlands that, prior to the entry into force of this Law, were granted the status of wetlands of international importance shall be entered by the authorized central body into the National

Register of Conservation Areas as special protection areas within twelve months from the date of entry into force of this Law.