



**Organising for EU Enlargement**

A challenge for member states and candidate countries

## **MULTILEVEL GOVERNANCE**

The Implementation of the Habitats Directive in Estonia

OEUE PHASE II  
Occasional Paper 2.3 – 08.04

Leno Saarniit

University of Tartu



FIFTH FRAMEWORK PROGRAMME



Dublin European Institute  
A Jean Monnet Centre of Excellence



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### **Organising for EU Enlargement Project**

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## **ORGANISING FOR EU ENLARGEMENT:**

Challenge for the Member States and the Candidate Countries

The Dublin European Institute, University College Dublin,<sup>1</sup> was awarded, in 2001, a research contract under the EU's Fifth Framework Programme<sup>2</sup> to carry out a comparative study of the impact of the EU on the structures and processes of public policy in six small countries: **Ireland, Greece, Finland, Estonia, Hungary and Slovenia**. The Project's partnership, under the direction of Professor Brigid Laffan, Dublin European Institute, University College Dublin<sup>3</sup>, includes: Professor Dr. Wolfgang Drechsler, University of Tartu; Professor Teija Tiilkainen, University of Helsinki; Professor Calliope Spanou, University of Athens; Professor Attila Ágh, Budapest University of Economic Sciences and Public Administration; and Professor Danica Fink-Hafner, University of Ljubljana.

The aim of the research project was to deepen our understanding of the processes of Europeanisation in a number of the existing member states and some of the candidate states.

The research project encompassed the following three objectives:

- The conduct of research which offers immediate policy relevance to key stakeholders in the enlarging Union;
- The conduct comparative, theoretical and empirical research on the management of EU public policy making in three existing member states – Ireland, Greece and Finland – and three candidate states – Estonia, Hungary and Slovenia;
- The shedding light on the capacity of smaller states to adjust and to adapt to the increasing demands of Europeanisation on their systems of public policy-making and thus to identify the barriers to effective, efficient and accountable management of EU business.

### **Research Strategy**

The research design consisted of two phases and within each phase, two levels of analysis. **Phase I** analysed the management of EU business at the macro level of the core executive and was complemented by a micro case study of a recent policy negotiation using decision analysis. **Phase II** of the research broadened the analytical focus to encompass other levels of government – the EU and sub-state – through multi-levelled governance. Here attention was centred upon the emergence of policy networks and the interaction between public actors and the wider civil society in specific, discrete policy sectors.

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<sup>1</sup> National University of Ireland, Dublin (University College Dublin).

<sup>2</sup> European Commission, Community Research Fifth Framework Programme (Socio-Economic Research).

### **Methodology**

The study employed two specific methodologies: historical institutionalism and rational institutionalism in a new and innovative fashion. The use of combined perspectives provided a theoretically innovative and new approach to the study of the Europeanisation process. Both approaches could be used as they were applied to different elements of the empirical research.

### **Academic and Policy Implications**

This study's findings provide insight into the manner in which diverse state traditions, institutions and political and administrative cultures influence national adaptation to EU governance and how the interface between national policy processes and the Brussels arena is managed. It is expected that these findings will assist those making and managing policy, thus facilitating adjustments to the changing European Union while also contributing to the growing academic debate on Europeanisation.

At various stages during the course of this project the research findings and analysis were presented to a range of stakeholders and academics to facilitate feedback and enhance the analytical process. Further details about the Organising for EU Enlargement (OEUE) project are available on the project web site [www.oeue.net](http://www.oeue.net), along with i) the Project Report, ii) the OEUE Occasional Papers and iii) a selection of papers by the research partners which draw on various aspects their project research.

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<sup>3</sup> This project forms part of the Governance Research Programme, Institute for the Study of Social Change, University College Dublin, [www.ucd.ie/issc/](http://www.ucd.ie/issc/) and [www.ucd.ie/govern/intex.htm](http://www.ucd.ie/govern/intex.htm).

**Leno Saarniit**

Leno Saarniit is a research fellow with the Department of Public Administration, University of Tartu. Her publications address the application and use of public service codes of ethics with particular reference to Estonia. Leno Saarniit's research interests include public ethics and environmental policy.

## **ABSTRACT**

The aim of this article was to analyse how Estonia has implemented one of the two most important EU directives on nature conservation – the Habitats Directive. Although as a preliminary evaluation it may be said, that Estonia has been relatively successful in implementing the Habitats directive and its new standards and requirements, by adding another layer of protected areas to the existing nature protection system, the question – how does it influence Estonia’s nature in the long run – still remains. There seems to be an underlying conflict between the slogans emphasising the well-preserved nature in Estonia, and the reality, that is characterised by the increasing deforestation, draining the wet-lands, increasing popularity of the hunting and pressure from the real-estate developers

## **INTRODUCTION**

Estonia and Estonians like to take pride in their well-preserved nature, rich biodiversity and beautiful landscapes emphasising the long history of nature protection and nature friendly life-style of Estonian people. Estonian tourist information web-page even goes as far as to say that “/.../ the past – our history and nature – has been perfectly preserved”.<sup>4</sup> On the one hand, there is some truth to these slogans: compared to several Western European countries Estonia may still be proud of its bogs and forests, beautiful islands and areas along the sea-coast as well as several plant and animal species that have either thriving populations in Estonia or are only found here. On the other hand, the underlying conflict between the slogans and the reality has become more and more visible in the process of transposition of EU legislation, especially the Habitats directive.

The aim of this article is to analyse the harmonisation and implementation of one of the main directives in EU nature protection – Council directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and wild fauna and flora (the Habitats directive). Together with the so-called Birds directive (79/409/EEC), the Habitats directive forms the basis of nature protection in the EU member states. The negotiation process between Estonia and the EU, the first attempts to implement the necessary changes and the emerging conflicts have proved that the Habitats Directive is one of the most interesting directives to be implemented in the field of environmental protection.

This article is divided into three parts. The first part gives a short overview of Estonia’s environmental policy and nature protection, and analyses Estonia’s institutional, policy and legal framework in nature conservation. The second part analyses Habitats directive in the context of Estonian nature protection policy and gives an overview of the accession negotiations between the EU and Estonia. The aim of the third section is to analyse Estonia’s efforts in implementing the Habitats directive and bring out the most important aspects of the underlying conflict between the slogans and the reality.

## **NATURE PROTECTION POLICY IN ESTONIA**

Estonian environmental policy and the nature protection in particular, has a long history in both – governmental and non-governmental sphere. The oldest examples of nature protection activities date back to the 13th century (Peterson 1999: 4); the beginning of organised nature protection however can be traced back to 1910, when the first nature protection area was created in Vaika islands<sup>5</sup> (Kumari: 1973). In addition, similar to many other European states the first nature protection act was adopted between two world wars, in 1935.

However, nature protection has not been only a governmental initiative: the first society concerned with nature protection was created in 1853; a century later environmental protection

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<sup>4</sup> <http://visitestonia.com/index.php?page=2> (11.05.2004)

was already discussed on the level of academy of sciences –During the Soviet period the nature protection was characterised by the establishment of new nature protection areas (including the first national park in Soviet Union in Lahemaa), the adoption of a few laws and institutional development of environmental policy. The number and territory of protected areas has constantly risen since 1960ies: in 1960 the protected areas covered about 3%, in 1990 about 8% of Estonia’s total area (ÜRO 2001: 69).

After Estonia regained its independence an international aspect was added to the nature conservation policy. Beginning of Estonia’s second independence period coincided not only with the increase in the importance of environmental issues within Estonia (e.g. ‘phosphorite war’ in 1980ies that played an important part in the beginning of independence movement) but also in the world as a whole. As the importance and “popularity” of the whole field of environmental and nature protection was increasing in late 1980-ies and early 1990-ies (for the first time attention was drawn to such major issues as ozone depletion, decreasing biological diversity, global warming etc.), other states were just as new to this field as the newly independent states in Central and Eastern Europe. This was an opportunity for Estonia to be regarded as an equal in the international co-operation, and not as a “younger brother”.

However, co-operation in environmental policy issues was not just a way to advance the international relations for Estonia. On societal as well as governmental level it has been recognised that on the one hand nature protection is one of Estonia’s opportunities to promote eco-tourism; on the other hand a well-preserved nature contributes to the quality of living environment. Compared to other countries situated north of 57th parallel, Estonia is considered to have a rich biodiversity (both in species and habitats) for its territory. The reason behind this, beside the diversity of climatic and geographic prerequisites, is the relatively big proportion of natural landscapes, preservation of traditional land use practices, and a low rate of introduction of non-native species<sup>6</sup>. At the same time, biological diversity in Estonia is affected by interrelated negative factors such as land use changes, use of fertilisers and pesticides, and the general pollution level. (Estonian Commission on Sustainable Development 2002: 35)

The aim of this section is threefold. Firstly, institutional setting will be examined by describing and discussing the responsibilities and roles of governmental and non-governmental institutions active in nature protection. Secondly, the legal framework will be discussed and most important legal acts for nature protection will be listed. Thirdly, the existing system of protected areas will be described, as this system is most influenced by the application of Habitats directive.

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<sup>5</sup> Now Vaika islands are a part of one of the four national parks in Estonia – Vilsandi national park.

<sup>6</sup> Although the general rate of introduction of non-native species is low, Estonia has recently had to turn more attention on *Heracleum sosnowskyi* and *Heracleum mantegazzianum*, poisonous plants brought to Estonia in 1950-60ies that are beginning to threaten not only people but the ecosystems as well. A national programme to limit the growth of these plants was adopted in 2002 (for the period 2003-2010).

## **Institutional Setting**

The following discussion of nature protection in Estonia focuses mainly on governmental institutions as on this level most of the decisions are made. The first section discusses different institutions in the executive (Ministry of the Environment, county environmental departments, environmental inspectorate) and the legislative (Environment Committee in the *Riigikogu*). Secondly, the role of several non-governmental organisations that are active in the field of nature conservation will be discussed.

### **Governmental institutions**

The main governmental institutions are divided between two branches of government. The main institutions preparing the policy documents and draft laws, applying the laws, collecting the necessary information and harmonising and implementing the EU directives are in the executive. These institutions include the Ministry of Environment with its subordinate institutions and the Environmental Inspectorate. Within the legislative branch of government, the Environment Committee in the *Riigikogu* is responsible for administering and preparing the adoption of laws.

The chief ministry in the area of environmental policy (and nature protection) is the *Ministry of Environment* (ME). It is responsible for regulating the questions concerning the protection of nature and environment, solving the tasks concerning the land-use (with keeping the national land cadastre), including co-ordination of the elaboration of regional plans, managing the use, protection and accounting of the natural resources, as well as surveillance over the use of environmentally hazardous compounds. Through its various programmes, the ME organises environmental monitoring, meteorological, geological, constructional and geodetic surveys and research in natural history. It arranges the environmental impact assessments of the projects of national importance and co-ordinates international relations in environmental matters. The Ministry of the Environment formulates national policies in its field of activities and prepares the bills of respective legal acts. (Vabariigi Valitsus 2002)

The Ministry of the Environment is led by the Minister of Environment, whose primary responsibility is to guarantee the accordance of the work of the Ministry with the Constitution and other laws and legal acts. The chief executive of the Ministry is the Secretary General who is in charge of managing the work of the sub-units of the Ministry and co-ordinating the activities of the institutions governed by the Ministry. Directly subjected to the Secretary General are four Deputy General Secretaries, having special fields of competence. (Vabariigi Valitsus 2002). Within the ME, nature protection policy is co-ordinated by one of the deputy secretary generals. The deputy secretary general on nature conservation and forestry manages the work of two departments – Nature Conservation Department and Forest Department. Duties of the Nature Conservation Department relate to co-ordination and management of protective activities in all the protected areas (national parks etc.) and around protected natural objects. Primary tasks of the department include preparation of legal grounds for protected areas, i.e.

harmonisation of the protection rules with applicable laws and preparation of management plans as well as managing actual protective activities. (Vabariigi Valitsus 2002)

It can be said that the main policy development and formulation takes place within the ME structure. However, the formal decisions are made by the government (e.g. National programme Natura 2000) or the minister of environment (e.g. different regulations on registering environmental damage, authorising local governments to manage protected areas and natural objects etc.). The main reason for that lies in environmental sphere being highly dependent on expert information, reliable data, and scientific approaches; another reason can be seen that recent coalitions have regarded economic, financial, and foreign affairs as their priorities. The ME co-ordinates the work of 15 county environmental departments. These departments do not belong to the structure of the county governments but to the structure of the ME and are therefore accountable to the minister, secretary general and deputy secretary generals (Vabariigi Valitsus 2002: chapter 9). County environmental departments have extensive responsibilities in all areas of environmental policy; the following are directly linked to the nature protection in Estonia:

- implement national environmental, nature protection, forest and fisheries programmes and action plans in the counties;
- co-ordinate and manage protection and use of the counties' natural environment;
- manage information gathering and reporting in the field of environment and nature use;
- administrate protected natural objects designated by the Government;
- manage protection of rare fossils and minerals as well as registration and protection of rare species and their habitats;
- participate in the development of Natura 2000;
- select key habitats and propose to the Ministry conclusion of habitat protection contracts;
- participate, if so provided, in environmental impact assessments;
- propose amendments to environmental legislation.<sup>7</sup>

As can be seen from the list above, these responsibilities are mainly executive responsibilities – application of nature conservation policy. Policy formulation is mainly left to the departments of the ministry.

In addition to the internal structure on the ME, there are several other independent institutions that are responsible to the ME, but are not directly a part of its structure. These institutions include national parks and other protected areas and their associations, environmental supervision agencies, several research institutes (e.g. Estonian Institute of Meteorology and Hydrology) etc. In regard to the nature protection and its control, most important of these agencies and institutions are the environmental supervision agencies. Environmental supervision is exercised by the Environmental Inspectorate, Land Board and local government bodies and agencies (Keskkonnajärelevalve seadus<sup>8</sup> §3, lg.1). As the Environmental Inspectorate is active in all fields of environmental policy, it also has extensive responsibilities in nature protection.

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<sup>7</sup> <http://www.envir.ee/eng/departments.html>

Among other tasks, it is responsible for implementation of mandatory environmental protection measures (Keskkonnajärelevalve seadus § 4, lg.2). The Environmental Inspectorate is responsible to the Minister of Environment (Keskkonnainspektsiooni põhimäärus § 3) and is organised on regional basis: it has 7 regional centres (Keskkonnainspektsiooni põhimäärus § 7, lg.3).

In the parliament, the *Riigikogu* Environment Committee is one of ten standing committees (Riigikogu kodukorra seadus<sup>9</sup> § 18, lg. 2). The main tasks of a standing committee include the preparation of draft laws and control of the executive within its own field (Riigikogu kodukorra seadus § 18, lg. 1). All parliamentary committees have a right to propose draft laws (Riigikogu kodukorra seadus § 90, lg. 1). During the IX *Riigikogu* (1999-2003) the Environment Committee was a leading committee for 50 adopted legal acts (32 of them proposed by the Government, 18 by the *Riigikogu*; 5,7% of all legal acts adopted by the IX *Riigikogu*). The most important laws in nature protection adopted or amended during the IX *Riigikogu* include Environmental Impact Assessment and Environmental Auditing Act, Law on Protected Natural Objects, Environmental Supervision Act, etc. (see: [www.riigikogu.ee](http://www.riigikogu.ee)).

### **Non-governmental institutions**

Estonia's nature protection has a long history in social activities. The first nature protection society – Estonian Naturalists' Society was established already in 1853 and is still active today. Since then the number of organisations has constantly increased. Non-governmental organisations have played a large part in the development of state's activities and development of policies in nature protection and in recent years the ME has largely relied on the information gathered by universities and other scientific institutions. Most important of scientific institutions are the universities, especially the substructures of the University of Tartu, Agricultural University and Pedagogical University. University of Tartu<sup>10</sup> has played an important role in gathering information (e.g. on the populations of different species etc.) and its scientists have participated in the preparation of legal acts, establishment of new protected areas etc. Estonian Academy of Sciences and its commission on nature protection has published Red Data Books – lists on endangered species<sup>11</sup>.

In addition to scientific institutions there are several non-governmental institutions that have actively participated in the nature protection. Most important of them include Estonian Fund for Nature<sup>12</sup> (which lists nature conservation as one of its key areas for action), Estonian

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<sup>8</sup> Environmental Supervision Act

<sup>9</sup> Riigikogu Rules of Procedure Act

<sup>10</sup> In 1958 a nature protection society was established at the University of Tartu. Sepp (2000: 363) has brought out that as this society was the only non-political association at that time, it changed into more than just a nature protection society – it was characterised by a national (Estonian) romanticism.

<sup>11</sup> The last Red Data Book was published in 1998 and included 1318 species. As International Union for Conservation of Nature and Natural Resources (IUCN) published a new system of categories and criteria in 2000, the Estonian 1998 Red Data Book still follows the old IUCN classification system

<sup>12</sup> For more information see [www.elfond.ee](http://www.elfond.ee).

Ornithological Society<sup>13</sup>, Estonian Green Movement<sup>14</sup> etc.<sup>15</sup> In addition to those national organisations, there are several smaller, regional organisations, that actively participate in regional nature conservation.

### **Legal framework**

The Estonian constitution states:

§ 5 The natural wealth and resources of Estonia are national riches which shall be used economically.

§ 53 Everyone has a duty to preserve the human and natural environment and to compensate for damage caused to the environment by him or her. The procedure for compensation shall be provided by law.

These two paragraphs form the basis for all environmental legislation and state widely recognised "polluter pays" principle as one of the key-principles of Estonian environmental policy.

However, despite the clear constitutional basis of the environmental law, the legal framework is still fragmented. Many new laws have been adopted, but in the case when new laws do not exist, the laws adopted during the Soviet period regulate the situation.<sup>16</sup> The most important laws that had been adopted before the beginning of accession negotiations include:

- Law on Protected Natural Objects (1994,<sup>17</sup> Kaitstavate loodusobjektide seadus, KLOS)
- Forest Act (1998, Metsaseadus)
- Water Act (1994, Veeseadus)
- Law on protection of coasts (1995, Ranna ja kalda kaitse seadus)
- Hunting Act (1994; Jahikorralduse seadus) etc.

Of these legal acts, the most important is Law on Protected Natural Objects that establishes the procedure for designating protected natural objects, determines the nature of their protection, and stipulates the rights and obligations of land owners, land holders and third persons in regard to the objects. This law determines the protected natural objects that include protected areas, protected natural and natural-historical monuments, and protected species, fossils and minerals (KLOS § 2, lg. 1). Protected natural objects shall be designated on the basis of their endangeredness, rarity, representativity, scientific, historical-cultural, nature conservation or aesthetic value, or in accordance with obligations under international agreements (KLOS § 3).

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<sup>13</sup> Estonian Ornithological Society has actively participated in the formation of Natura 2000 Important Bird Areas. For more information see [www.eoy.ee](http://www.eoy.ee).

<sup>14</sup> Estonian Green Movement was founded in 1988, becoming one of the first environmental NGOs in Estonia that started to deal with wide range of environment and development issues. Its first campaign was a protest against the opening of a large phosphorite mine in northeast Estonia. For more information see [www.roheline.ee](http://www.roheline.ee).

<sup>15</sup> Although Estonian NGOs have been active in different areas of environmental policy, in nature conservation their role has mainly been collecting data; they have taken a more active role for instance in waste management (see: Pau 2003)

<sup>16</sup> For instance, this is the case in the management of protected areas (see chapter 1.3.2).

<sup>17</sup> In the brackets is given the year, the law was first adopted. If the law has been amended after that date, all the amendments are listed in the References as the numbers of State Gazette (Riigi Teataja).

Therefore, this law corresponds most closely to the Habitats directive and Birds directive on the EU level.

In addition to Estonian laws and other legal acts, since regaining independence Estonia has also signed several bilateral co-operation agreements concerning different aspects of environmental policy and all the major international protocols and agreements on environmental and nature protection. In the area of nature protection most important international conventions signed by Estonia include Convention of International Trade of Endangered Species of Wild Fauna and Flora (CITES), Ramsar Convention on Wetlands and Rio de Janeiro agreements on biological diversity. These conventions have been transported into Estonian legal system and the responsibilities set by them are met by Estonia - as stated by the Law on Protected Natural Objects the protected natural objects can be designated in accordance with the obligations under international agreements (KLOS § 3), i.e. obligations that Estonia has taken by signing the above-mentioned conventions.

Estonian government and the ME have also adopted several action plans, strategies and other documents on nature conservation policy. One of these documents is Estonian Environmental Strategy, which determines the goals and tasks of environmental policy until 2010 and the protection strategy of biological diversity and other national action plans. Although the strategy was adopted in 1997, it lists meeting the EU requirements as one of the key tasks (Keskkonnaministerium 1997: 36-37). The second document is Estonian Environmental Action Plan, adopted in 1998. One subsection of this document deals with the biological diversity (habitats and species both) by setting goals till 2006. One of the most important goals is the application of biological diversity conservation mechanisms in other fields of economic activity.

In conclusion it can be said that as "re-entering the west", including joining the EU has been a goal for Estonia since regaining the independence, the international regulations and EU legislation has been consciously taken into consideration and as an example in developing Estonia's legislation and management of environmental and nature conservation policy.

### **System of protected natural objects**

There are more than 350 various protected areas, 448 protected parks and more than 1,200 protected natural objects in Estonia (data from 2003). In all, 10,7 % of the Estonian territory (484 144 ha) is under state protection<sup>18</sup>. Of the 20,000 biological species registered in Estonia more than 500 are under protection as rare or endangered.

The legislative basis for the system of protected areas in Estonia is Law on Protected Natural Objects. Under this law new rules of protection were fixed. There are three categories of protected areas: national parks (rahvuspark), nature conservation areas (looduskaitseala) and landscape protection areas (maastikukaitseala) (KLOS § 2, lg. 2).

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<sup>18</sup> In 1990, just before regaining independence, the protected areas formed about 8% of Estonia's territory (ÜRO 2001: 69).

Each protected area can be divided into several zones of protected area which represent different levels of protection. These zones include strict nature reserve, special management zone and limited management zone (KLOS §10, lg.1). The zones differ in the management requirements: nature reserve (1,39% of all protected areas, 0,16% of Estonia's territory) excludes almost all human activity, while in limited management zone only a few restrictions have to be met. These three zones are applied in the management of protected areas (e.g. strict nature reserves are found only in national parks, while limited management zones are found within all types of protected areas) correspond to the International Union for Conservation of Nature and Natural Resources (IUCN) categories (Sirel 2003).

### **Protected areas**

National park is a protected area of special national importance for the preservation, protection, investigation and promotion of awareness of the natural and cultural inheritance; it includes ecosystems, examples of biological diversity, landscapes, national culture and is subject to sustainable nature management (KLOS § 15, lg. 1). In the beginning of 2004, there were four national parks in Estonia, including Lahemaa<sup>19</sup>, Karula, Vilsandi and Soomaa (KLOS § 15, lg. 3). All the national parks represent natural and cultural landscapes typical for a part of Estonia (respectively northern, southern, western and central Estonia). In addition to preserving typical landscapes two of the national parks are also focused on more specific areas of protection: Soomaa National Park was established for the preservation of largest bogs and floodplain meadows in Estonia; Vilsandi National Park in addition to Western Estonian coastal landscapes and sea is aimed at preserving islets rich in birds<sup>20</sup>. Therefore, the system of protected areas takes into account Estonia's need for nature protection, not the international level.

The second category of protected areas - in Estonian *looduskaitseala* - has multiple translations in English: Nature Conservation Area, Nature Reserve, Nature Preserve or Nature reservation. The first term will be used in this article. A nature conservation area is an area protected for its nature conservation or scientific value set aside for the preservation, protection, and investigation of natural processes and endangered or protected plant, animal and fungus species and their habitats, inanimate objects, as well as landscapes and natural monuments (KLOS §16, lg. 1). In the beginning of 2003, there were 47 nature conservation areas in Estonia (EELIS: Eesti kaitsealad; 01.01.2003). The last type of protected areas is landscape protection area. Landscape protection area is an area of natural or cultural heritage value, which is rare or typical for Estonia, and is established for nature conservation, cultural or recreational purposes. Parks, arboreta and botanical gardens, which have been taken into protection are also considered protected landscapes. (KLOS §17, lg.1) In 2003, there are 91 landscape protection areas in Estonia (Eelis: Eesti kaitsealad; 01.01.2003).

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<sup>19</sup> Lahemaa was the first national park created in Soviet Union in 1971.

<sup>20</sup> Therefore, Vilsandi National Park based on EU council directive 79/409/EEC (the Birds directive) qualifies as important bird area (IBA).

In addition to the three categories of protected areas, some of the protected areas are managed according to earlier regulations that have not been changed yet. These protected natural objects include riverbeds, forests, lakes, caves, different habitats for specific species etc. In January 2003 this was the most numerous group, including 221 objects, areas etc. (Eelis: Eesti kaitsealad; 01.01.2003). The process of adopting new rules is under development.

### **Classification of protected natural objects**

In 2003 there were 538 species of plants, fungi and animals under protection in Estonia. Law on Protected Natural Objects divides protected natural objects into 3 categories. Protection Categories I, II and III are based on the specific characteristics of the object and designated according to the strictness and specific features of their protection regime (KLOS § 2, lg. 4). How and who has the right to designate the protection of natural objects, also depends on the protection category. Category I species and national parks are listed in the Law on Protected Natural Objects (KLOS § 21 and § 15 respectively). Category II species, nature reserves and protected landscapes are designated by the government. Category III species and single natural objects are designated by the minister of Environment.

All protection categories are characterised by different requirements for their management as well. Category I protection regulation includes prohibition of causing damage to specimens or to their habitats, nesting, breeding or maturation sites and migration routes. Disclosure of information concerning the exact site of growth or habitat of a species of Protection Category I and II is prohibited in cases where this might endanger the object. Protection regulations of Categories II and III are less strict (KLOS).

If the applied protection measures have not given any results and the given species is still in danger, protection management plans for the species may be applied. During the last few years minister of the environment has adopted such plans for *Aquila clanga* (Suur-konnakotkas), *Halichoerus grypus* (Hallhüljes), *Mustela lutreola* (Euroopa naarits) etc. If Estonia has a responsibility to protect the species under the commitments resulting from international conventions, but the species is not under protection within the Estonian nature protections system, the ME develops protection and management action plans.<sup>21</sup>

## **DYNAMICS OF MIS-FIT**

### **Mis-fit of Habitats Directive and Estonian system of nature protection**

During the preparation period, several inventories were carried out in order to determine the similarities and differences between the Habitats Directive and Estonian nature conservation system. In regard to the Habitats directive, the most important of them was the inventory on species and habitats of international importance (1998-2000) that gathered the information on species and habitats named in the international conventions Estonia had signed and the EU

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<sup>21</sup> This applies to the EU requirements as well. See chapter 3 for longer discussion.

Habitats and Birds Directives. The inventory was led by Estonian Fund for Nature. In addition to that, several projects concerning forests, semi-natural habitats, wet-lands etc. were carried out.

Initial analysis of the Habitats directive showed that there are 60 types of habitats and 54 animal and plant species in Estonia listed in the directive. There were several differences in the protection strictness of plant and animal species or whether species named in the Habitats Directive were under protection in Estonia at all. The most important of these differences concerned four species of mammals that were not under protection in Estonia, but were listed in Annex II and IV of Habitats Directive. There were several missing legal acts: e.g. framework law on nature conservation, an updated law on hunting, that would regulate the acceptable methods and means of hunting, law on environmental impact assessment and environmental auditing, and law on the environmental control and supervision.

Institutional arrangements, i.e. existing institutions and protected areas were being reorganised and the regulations concerning the management of protected areas and species were constantly renewed. The main needed change was the designation of Natura 2000 areas. It was clear that mostly Natura 2000 areas would coincide with the existing protected areas, but the network of Natura 2000 would be wider. Although Estonia had and has a system of protected areas, the EU has not accepted a national Natura 2000 network based only on the existing areas, i.e. Estonia had to increase the territory under protection by the designating Natura 2000 areas. In addition to other institutional arrangements Estonia had already joined the EMERALD database, which is aimed at implementing the Bern convention. EMERALD is in many aspects similar to the Natura 2000 database, therefore it can be used as basis for developing a new EU centred database (Merilain 2003: 32).

### **Accession negotiations**

On the one hand, the environment chapter was regarded as less complex for Estonia. The main reasons for such evaluation included relatively small industry sector, no problems with nuclear energy. On the other hand, it was clear that the administrative capacity in the environmental policy was low. A critical aspect of the environment chapter was the oil shale industry and energy. Problems were seen in such areas as adopting and implementing the necessary laws and administrative capacity. Capacity for implementation was mainly problematic due to the difficulties in financing the necessary investments; this problem was the main reason for asking the transition periods. Therefore, the readiness to implement the *acquis communautaire* was mainly dependent on the financing possibilities. (Välisministeerium 14.02.2003)

The negotiations on environmental chapter began with multilateral and bilateral screening meetings in January 1999; the environment chapter was closed on 1 July, 2001. The Ministry of Environment was responsible for the preparation of negotiations concerning the environment chapter. Estonian positions were mainly prepared by the ministry officials; however, the main work-group included scientists and experts from non-governmental institutions as well (Merilain 2003: 27).

The participation of non-governmental actors in preparing the Estonian position was considered especially valuable. Firstly, it was important considering the size and complexity of the environment chapter, which is one of the largest fields in EU legislation with more than 300 directives and other legal acts. Secondly, as the quality of environmental management depends very heavily on excellent scientific data (species' population, habitats, quality etc.) the ME had to take most advantage on the existing knowledge. However, it is important to emphasise, that the non-governmental actors participated as experts, not as an interest group; i.e. their function was gathering information. For instance, Kaarel Roht (2003), ME specialist on hunting, brought out that hunters gathered data, rather than influence the decisions on Estonian position for the negotiations.<sup>22</sup>

In addition to the officials in the ME and experts from NGOs, other actors involved in the preparation of the environment chapter included Ministry of Foreign Affairs, that was responsible for the accession negotiations in general, Office of the European Integration, that was responsible for the internal co-ordination (Merilain 2003: 27) and representatives of other ministries if the contents of the directives required it. Preparation of Estonia's position on Habitats' directive involved officials from the ME and experts from NGOs. Estonia asked for and achieved more transition periods in the environment chapter than in any other chapters. At first Estonia's requirements for the Habitats directive included transition periods for the establishment of Natura 2000 network until 2005; the full implementation until 2010<sup>23</sup> and changes into the annexes of the directive. Those requested changes concerning the Habitats directive included the exclusion of bears (*Ursus arctos*), lynxes (*Lynx lynx*), wolves (*Canis lupus*) and beavers (*Castor fiber*) from Annex II and IV of Habitats directive (designation of SAC and strict protection outside the SAC) and their inclusion in Annex V (species subject to national management plans).

The requests for excluding those four species from annexes II and IV were motivated by mainly two factors. Firstly, the size and growth trends of the populations of these species in Estonia. Estonia has viable populations of all the four species that are important and rare on the EU level: in order to avoid the excessive growth of the populations which as a result may endanger people, contribute to the spread of diseases etc., these species need to be subjected to management measures (including hunting). Secondly, Estonia was concerned by the Habitats directive demand for the establishment of conservation areas for these species: considering the circumstances – these species require large habitats – Estonia's territory as a whole should have been taken under strict protection.

Estonia's requests for exclusion also included several species of fish, butterflies and invertebrate. In addition to exclusions, Estonia requested several inclusions concerning the habitats (especially in regard to different forest types characteristic of Fennoskandia), the

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<sup>22</sup> See section 3.3. for longer discussion.

<sup>23</sup> This request for transition period was the same for the Birds's directive.

inclusion of several plant species. Estonia also requested naming the mink (*Mustela lutreola*) as one of the priority species.

As the result of accession negotiations, the EU and Estonia agreed upon the following. Estonia withdrew its requests for transition periods concerning the Habitats directive<sup>24</sup> in February 2001, agreeing to present a list of protected habitats and Natura 2000 database by the time of accession to the EU (Välisministeerium 14.02.2003). According to Estonia's request, all four species were excluded from Annex II of the Habitats directive, i.e. the establishment of SAC for lynx, bear, wolf and beaver was not required by the EU. Wolves, lynxes and beavers were excluded from Annex IV and included in Annex V. The agreement on lynxes that was achieved in the very end of negotiations stipulates that the EU grants Estonia's request based on the scientific analysis and evidence presented, but five years after the accession the situation (size of the lynx population, its influence on other wild species etc.) has to be reviewed<sup>25</sup>. However, Estonia's request regarding the bears was not granted: the EU required the strict protection of bears, but agreed to Estonia allowing hunting.

The commission declined most of Estonia's requests for including new species in the Habitats Directive. No new habitats were added to Annex I and only two new species – *Rhinanthus osiliensis* (saaremaa robirohi) and *Saussurea alpina* ssp. *esthonica* (eesti soojumikas) were included in Annex II and IV as plant species found only in Estonia. Estonia's request on including minks as priority species, was also granted. Only one of Estonia's other requests was granted: the exclusion of Estonian population of *Lampetra fluviatilis*. These agreements were reached at different times; the main discussions involved the four large species. An agreement regarding the exclusion of wolves and beavers from Habitats Directive Annex II and IV was achieved already during the screening meetings; the negotiations concerning the lynxes and bears lasted until the Copenhagen summit in 2002.

The EU was reluctant to allow exceptions on several reasons. One of the main hindrances was the quality of data presented by the Estonian negotiation team. The data was scarce, not sufficient and not even regarding the timeline. These objections made it impossible to say what the optimal population of these species is in Estonia. This problem has been brought out by several Estonian experts (e.g. see: Marv 2003: 34; Lõhmus 1999: 22; Lõhmus 2001: 38). The problem concerns especially the data before 1991, as the data collecting requirements were changed after Estonia regained its independence. The EU, however, has always emphasised the high quality of information as one of the key aspects in adopting and implementing environmental policies (Judge 1993: 236).<sup>26</sup>

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<sup>24</sup> The same concerns the Birds' Directive.

<sup>25</sup> As the European Commission Report on the results of accession negotiations states the EU had to take into account the biodiversity of acceding countries, by modifying the contents of the directives annexes according to the conservation status in the European context (2003: 47).

<sup>26</sup> E.g. The counting methods used until 2001 gave 576 as the size of bear population in Estonia; in 2001 according to the new method based on all year round observation and mapping, the population was considered to be 407; adding the areas where the observation was not conducted, the bear population is considered to be approximately 500. (Marv 2003:32)

A second problem brought out, is linked to the communication and co-operation problems within Estonian environmental circles. Marv (2003: 33-34) states that mistakes have been made: conflicting opinions have not been discussed sufficiently, which results in opponents of decisions turning directly to EU institutions. Not being able to solve conflicts on the state level has been seen as undermining Estonia's credibility in negotiations. However, the interviewed officials in the ME have pointed out that most of the non-governmental actors were not trying to influence the process, but were supplying the data need for decision making.<sup>27</sup>

### **IMPLEMENTATION OF THE HABITATS DIRECTIVE IN ESTONIA**

As follows from the discussion above, in order to implement the Habitats Directive, Estonia had to:

1. Designate Natura 2000 areas;
2. Develop management plans for lynx, beaver and wolf population;
3. Develop strict protection measures for bear population;
4. Improve the legal framework.

In general it can be said that Estonia does not have to change its existing nature conservation system completely: Estonia maintains the current system of existing protected areas and institutional arrangements. The main changes that have to be made are those particular to the EU regulations (Natura 2000 areas). The change of protection system concerns only one species. However, the most important difference that has to be overcome was in the way protection of species was organised: so far Estonia only had to take into account its own situation. The accession to the EU adds a community perspective that is new to the Estonian nature protection framework.

#### **Strategic documents on implementation**

Implementation of EU directives on nature conservation are an important part of two strategic documents adopted during the last few years in Estonia. The most important of these documents is "National Natura 2000 programme for 2000-2007". In order to implement the requirements of the Habitats directive (and the Birds directive), Estonian government adopted "National Natura 2000 programme for 2000-2007" (henceforth Estonian Natura 2000) on July 25, 2000. Estonian Natura 2000 is aimed at forming SAC or Natura areas. The programme emphasises, that similar to the experience of Sweden and Finland the difference between the nature of most member states and Estonia makes it more difficult to implement the required changes. (Vabariigi Valitsus 2000)

The implementation of the programme is managed and co-ordinated by the Ministry of Environment. The main implementing agencies include Nature Conservation Department in the ME and County Environmental Departments. In addition to the local governments and administration of conservation areas that are assisting the process, several non-governmental organisations are involved as well (universities, Estonian Society of Ornithology, Estonian Fund

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<sup>27</sup> See section 3.3. for a longer discussion on possible involvement of interest groups.

for Nature, Estonian Sea Institute etc.). Estonian Natura 2000 programme is also implemented through several co-operation projects that include e.g. Denmark, Finland, Nordic Council of Ministers, PHARE and others as partners. (Vabariigi Valitsus 2000)

Estonian Natura 2000 programme lists several tasks to implement the Habitats Directive. These tasks include publishing commented translations of Habitats Directive and handbooks for selection of habitats, pre-selection of Natura 2000 areas (SAC), mapping the selected areas, organising temporary protection for pre-selected areas, training public officials. The programme also includes a budget. Although the programme has been adopted and is applied quite well, there are a few problems as well. The Estonian Natura 2000 programme looks only at the establishment of Natura 2000 network, i.e. establishment of SAC, setting up the database, publishing handbooks etc. The programme does not include the necessary changes in the legal framework and deals with administrative capacity only in the context of training the officials on Natura 2000 area selection.

### **Implementation and reached goals**

Estonia's main goals in implementation of the Habitats are the following:

1. Designate Natura 2000 areas;
2. Develop management plans for lynx, beaver and wolf populations;
3. Develop strict protection measures for bear population;
4. Improve legal framework.

By 2004 the pre-selection of Natura 2000 areas was achieved in all counties. 476 areas (including 65 SPA and 501 SCI, some of which coincide) have been selected, but this number was subject to change, as some areas are united. Most of the existing nature conservation areas were also selected as potential Natura 2000 areas; exceptions include a few landscape protection areas and protection areas for the specific species, that are not of community, but of national interest. The administrative procedure for the selection of Natura 2000 areas was partly designed in the Estonian Natura 2000 programme, but many of the rules were already prescribed in the Administrative Procedure Act. The selection of areas was based on scientific criteria; after the first round of selection the proposals were sent back to the county environmental departments and administrations of nature conservation areas, who had to analyse the inclusion of the listed areas as potential Natura 2000 areas; this analysis had to include socio-economic criteria as well. As there is no specific list of administrative procedures for the Natura 2000 programme, the whole process had to follow the general procedures laid down in the Administrative Procedure Act, which prescribes openness of information, asking the opinions of the people concerned, possibility to challenge the decisions etc.

Before the Natura 2000 areas are officially accepted by the EU, there will be no significant changes in their levels of protection or management. The main change that comes with the selection of Natura 2000 areas, is the required environmental impact assessment. In some cases if a Natura 2000 area is designated the landowner has a right to receive governmental

assistance for maintaining and managing the habitat (e.g. coastal meadows). Another change is the need to consider the impact on the Natura 2000 area even if the planned action takes place outside the area.

Estonian government adopted the list of pre-selected Natura 2000 areas on 15 April 2004. As a result Estonia submitted to the Commission a list of 509 SAC, with total territory of approximately 1400 square km (half of which is sea), 136 bird species, 51 plant and animal species and 60 types of habitats. These new areas take an additional 4% of Estonia's territory under protection. (Keskkonnaministeerium 2004d) Development of legal framework has been uneven. The Hunting Act (Jahiseadus) was passed already in 2002 (came into force 1.03.2003); based on that law government regulation on species allowed for hunting has been adopted. The new Hunting Act, adopted in accordance with the Habitats directive, replaced the previous act from 1994, and considerably specifies the procedure (allowed time for hunting, which species can be hunted, which methods can be used etc.). Adoption of Environmental Impact Assessment and Environmental Auditing Act (2000) is important in the development of Natura 2000 areas (activities require a previous environmental impact assessment) and in the change in public consciousness as well. Environmental Supervision Act (2001) has structured more clearly the organisation and competency of supervision and control in environmental policy.

However, the framework law on nature conservation was only adopted on 21 April 2004, i.e. less than 10 days before the accession to the EU. Although the future adoption and different drafts of this law have been discussed since 2000, the draft law circulated between the ministries for approval until the beginning of 2004 (Möller 2003). The draft framework law was made available through the Internet for comments for a short period, but before its adoption there is certainly a need for a more substantial discussion and co-operation with the non-governmental organisations. The main critics of the draft law claim that it will simply make the present anarchical situation legal, but not change the existing system as a whole (Merilain 2003: 44). As it became obvious that one of the most urgent problems to be solved before Estonia's accession to the EU, is the adoption of the framework law, the law was "pushed" quite strongly: Lotman (2004) has said that law is not successful as it shows very clearly that the officials who drafted it are not aware what goes on in real life. In his opinion, the ministry officials have distanced themselves from people and not listened to the public opinion.

The Nature Conservation Act (Looduskaitseadus, 2004) however brought along several changes. Although most of the regulation on existing system of protected areas remained the same, another national park was included – Matsalu on Estonia's western sea coast. A major change included the references to the Habitats and Birds directives: the law states that Estonia participates in the Natura 2000 network in accordance with the two EU directives. The adoption of Nature Conservation Act also replaced three existing laws, including the law on protected natural objects and law on protection of coasts. The adoption of new management plans has also begun. In 2001 the protection management programme for wolves, bears and lynxes was

adopted (Keskkonnaministeerium 2001). A new environmental strategic plan is already under development (Keskkonnaministeerium 2004a).

### **Evaluation of the process**

Although no formal evaluation<sup>28</sup> of the Habitats Directive harmonisation and application process has been made, it is possible to bring out a few general assessments of the whole process. There are several problematic areas: administrative capacity, the effectiveness of environmental impact assessment and possible involvement of several pressure or interest groups. The first problematic area, that has been criticised by the EU<sup>29</sup> and the UN report on the effectiveness of Estonia's environmental policy (ÜRO 2001: 75), is the administrative capacity in environmental sphere, including nature conservation. For instance, 2002 regular report brings out the coordination problems between the ME and county environmental departments (European Commission 2002: 97) The main problems lie on the county level, where usually only one or two persons have to manage relatively large areas and a wide variety of problems in the nature protection. Therefore, despite the training the ME has been offering on Natura 2000 and joining the EU, further training is still needed, in order to achieve effective implementation of Estonian laws and EU directives. The same problem was emphasised by the interviewed ministry officials as well.

The second problem concerns the environmental impact assessment. Although Environmental Impact Assessment and Environmental Auditing Act was adopted in 2000, its application is somewhat problematic because of the lacking expertise. As the whole requirement is quite new to Estonia, there is not enough expertise and experience yet (Möller 2003). Thirdly, as the accession to the EU approached, it was obvious that the ME, the county environmental departments and local governments were not able to inform the land-owners sufficiently about the changes that occur with the designation of the Natura 2000 areas and extending the borders of existing protected areas. The main concerns of the land-owners are related to the use of their property – what is allowed, how will the extra work or profit loss be compensated etc. (Kohler 2004a; Pau 2004) The regulation regarding the temporary restrictions on economic activities in potential Natura 2000 areas, was only passed 22 April 2004 (Keskkonnaminister 2004), i.e. less than 10 days before the accession to the EU. As the EU accession approached, the protests by the land-owners became more and more stronger, e.g. the local land-owners decided to question the designation of Võrtsjärv as a Natura 2000 area (Postimees online 05.03.2004); in Tartumaa and Saaremaa most of the designated areas were protested (Kohler 2004c; Postimees online 16.03.2004). As the official time for protesting the designation of Natura 2000 areas was only three weeks (12.02-05.03.2004, during that time over 600 protestes were submitted (Püüa 2004b), the public discussion was quite active and critical: the main criticism concerned the unavailable information (Postimees 08.03.2004).

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<sup>28</sup> The UN has published a report on the effectiveness of Estonian environmental action plan in 2001. Nature protection is a part of this report, but the suggestions and conclusions made in it, did not concern the Habitats Directive and its implementation. For a more detailed list of suggestions and conclusions see ÜRO 2001: 129-131.

<sup>29</sup> See European Commission 1999, 2000, 2001, 2002, 2003.

At the same time, the ME tried to provide more information. The ME tried to emphasise in its press-releases and newspaper articles as well as on its web-page, that the Natura 2000 areas limit the activities to a small extent or even provide the owner with extra benefits in the form of subsidies. (Keskkonnaministeerium 2004c; Lotman 2004) Such focus on the positive effects of Natura 2000 areas, has raised several questions: as it has been pointed out, all the available information focused on the positive sides, but nothing was said about the negative aspects (Kohler 2004a). However, it may be said that although the general information on Natura 2000 areas was available, it seems that what the landowners miss most, is the specific information on a specific property; i.e. the question "how does it concern me?" remains unanswered. It has been concluded, that the ME has tried to make the landowners to agree to Natura 2000 areas without letting them know what it is exactly they are agreeing to (Kohler 2004b).

Another aspect of the same problem – lack of information – concerns the designation process and the bases of designation as well. It has been questioned why certain state owned forests are not designated as Natura 2000 areas, although the neighbouring privately owned lands are (Kohler 2004b). The nature activists have also questioned the ME's decision to leave out the areas that have been connected to different business interests; the ME explains its decision with the necessity for more research (Muuli 2004). It can be said that these allegations raise a further question of the objectivity of the ME officials and also about the influence of business interests on nature protection. The assistant minister of environment, Olavi Tammemäe, emphasised, that the decisions to exclude certain areas in order to conduct further research is completely justified for scientific reasons and has nothing to do with the alleged influence of the business interests; he claims that "it was EU's requirement that the designation of Natura 2000 areas should only depend on the value of the nature. Therefore, every other argument [for excluding certain areas] is unsuitable" (Tammemäe 2004).

The last group of problems that can be brought out concerns some of the choices made in the nature protection policy in Estonia. The main part of the accession negotiations concerned the protection of four species. Estonia focused largely on the argument that hunting was necessary in order to regulate the populations of these species. This argument raises a question about the hunters and their organisations as an interest group. As mentioned above, the interviewed officials brought out that the hunters assisted gathering information about the size of the game populations, but did not try to influence the decisions directly. The hunters have expressed their opinion on several subjects, the most recent one concerned the vaccination of the wild animals against rabies (see: Lõhmus 2004). The ME did not approve of their proposal to delegate the vaccination to the hunters; one of the main reasons that was brought out by the ministry officials, was the unreliability of hunters.

However, the context of the decisions on nature protection policy must be taken into account: hunting can be considered quite popular in Estonia and hunters include quite a few high-level politicians, officials and businessmen. For instance, in the *Riigikogu* a hunting society has been formed that includes 11 of the 101 members of the parliament; the society also organised a

semi-formal hunting trip together with the members of the Finnish parliament. In addition, there seems to be a tendency to justify the hunting: as Mati Kepp, MP (the leader of the hunting society in the *Riigikogu*) has said "Hunting is not only hunting, it also has to do with nature protection and economy". (Püüa 2004a)

Another aspect concerns Estonia's willingness to accept hunters from foreign countries, to hunt in Estonia. Articles published in the newspapers seem to hint that Estonia has become quite an important place for hunting tourism<sup>30</sup>, as several species that cannot be hunted in other states because either the species is under an extremely strict protection or the species does not live in other countries. In 2003 2155 hunters from foreign countries came to hunt in Estonia, and exported 250 hunting trophies. As a hunting tourism trip costs at least 5500 EEK (approximately 350 Euros, including state fees) per person, it can be seen as a form of economic activity that helps to fill the state budget as well. The hunters on the other hand criticise the bureaucracy, i.e. the number of documents and certificates the state demands from foreign hunters is seen as too large. (Postimees online 21.02.2004). Another important interest group whose activities have recently conflicted with the nature conservation policies, are the real estate developers. As mentioned above, Estonia's seacoasts are rather well preserved because they were closed to the public during the Soviet period. During the last few years, real estate developers (as well as the wealthy in general) have put great pressure on local governments and the ME to change the rules and allow building on seacoasts (right now there exists a 100 metre restriction zone).

Although there are several cases where people have built their houses on sea coast, river banks or lake shores completely disregarding the laws (see for instance Postimees online 03.11.2003), the most recent case concerns Paldiski and Pakri landscape protection area (that includes at least six protected species of orchids and the habitat of a bird species extremely rare in Estonia), where the new general plan included a change in the borders of the protected area and building a new village. As Kaupo Kallas, the mayor of Paldiski explained: "The more wealthy people you have living in your local government, the better the local government does". Paldiski's proposition to change the borders of the protection area was declined by the ME. (Ernits 2003)

In the beginning of January 2004, Villu Reiljan, the minister of environment proposed the preparation of detailed plans for several areas on seacoasts in Harjumaa with the aim to protect these areas. Although the detailed plans are a possibility to regulate the use of these areas more accurately (and this seems to be a position that several local government leaders agree on, see: Postimees 10.01.2004 and 14.01.2004), the minister's proposals were opposed by the nature protection movement. It was feared that the detailed plans would simply make building on the sea coasts legal and further destroy the remaining green areas near Tallinn. (Mardiste 2004)

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<sup>30</sup> A similar problem concerns the small islands that are sometimes overcrowded by the tourists, including domestic tourists (see: Paluoja 2003).

In addition to problems, Estonia has several strengths as well. Firstly, Estonia has nature conservation databases (e.g. Natura 2000 areas, use of GIS technology in mapping the protected areas), that are considered to be better than the databases in most of the other candidate countries (Möller 2003). Secondly, the changes Estonia has to implement do not change the system significantly: the new requirements are added to the old system. The question that has been raised in the media and in the interviews with ministry officials is whether the changes Estonia has made during the last few years, would have occurred without the future accession to the EU. As Roht (2003) pointed out, the hunting of beavers, bears and lynxes has always been regulated; the only new hunting regulation concerned the wolves and that change was a result of internal processes in Estonia rather than an EU command. The same goes for the legislative changes: Estonia has built up the legal system since regaining the independence and this process would continue even if Estonia does not join the EU.

However, it is clear that Estonia's future membership in the EU and Natura 2000 programme has several positive consequences. Firstly, as Natura 2000 areas are included in a joint database, which on the one hand enables public servants as well as scientists quickly to find information; on the other hand this database makes the control over the directives' implementation more effective and efficient. Right now, in Estonia this function is performed by the database EMERALD, which includes the conservation areas of the non-EU members (Merilain 2003:32). Secondly, joining the EU nature protection systems, forces Estonia to review and modernise the existing system that otherwise may not have happened (although it has been questioned). The first problem that can be brought out at once is the missing framework law in nature protection; right now, the field is regulated by several specific laws. As a result of that the legislation is fragmented. Thirdly, through common standards EU member states can influence others nature policy and thereby achieve a higher level on nature protection policy and avoid the mistakes<sup>31</sup> that have been made by other states. It also increases the international co-operation within the EU. As mentioned above, Estonia has had to change its attitude: so far Estonia only had to consider its own interests and the situation of the species, habitats etc. With accession to the EU Estonia has to evaluate its nature from the European level, i.e. how important is the protection of species that is rare on European level, but common in Estonia.

A potential problem might occur when Estonia does not analyse its needs thoroughly enough. On the one hand, if the conservation standards are not strict enough it may result in some species or habitats being left out. This threat is made more real considering the better situation of wild nature compared to many Western European countries, that may lead to false, too optimistic evaluation<sup>32</sup> of the whole situation. (Merilain 2003: 33) Therefore, careful consideration of the circumstances and analysis of the available data is extremely important.

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<sup>31</sup> Estonia's biggest concern is probably the excessive deforestation – a mistake many Western-European states have already made (Merilain 2003: 32); the same can be said about bogs.

<sup>32</sup> The optimistic evaluation concerns the size of the populations of bears, wolves, lynxes and beavers and whether hunting should be allowed.

Giving a general assessment to the future harmonisation of Estonia's nature protection, it can be said that so far the process is characterised by several controversies and underlying conflicts. Most of the existing conservation areas, coincide with the Natura 2000 areas, required by the EU, and the changes in the legal system that come along with the implementation of the Habitats directive will not bring along too many stricter protection standards. New areas that will mainly concern the habitats that are well represented in Estonia (e.g. swamp and bog forests, lakes etc.) will be taken under protection, which will increase the overall territory. The agreements made with the EU do not require serious changes in Estonia's protection system. However, Estonia has to be careful: firstly regarding the analysis and evaluation of the situation of nature and secondly the role several interest groups play in the whole process. These aspects are the main reasons for the underlying conflict and can become the cause of major problems that may result in serious consequences on the nature protection.

## **CONCLUSION**

Estonia's nature protection has a long history: the first protected area was established in the beginning of the 20th century, the first nature protection societies more than 50 years earlier. The Soviet period brought along both negative and positive consequences: army, industry and consumer habits resulted serious environmental damage; at the same time as many regions (islands, sea coasts etc) were closed to the general public, the nature in those regions remained unspoilt. Environmental activism increased in the mid-1980ies: the popular movement against the opening of phosphorite mines contributed not only to the nature protection, but to the independence movement as well.

After regaining the independence Estonia began rebuilding its institutional and legal system in all policy areas, including nature conservation. During the first half of the 1990s, the system functioned largely based on the laws adopted during Soviet time, but since 1994 several new laws have been adopted and applied. In addition the territory of protected areas has constantly increased: new protected areas have been established, including new national parks. Although Estonia's nature protection policy has mostly been based on the national initiatives, the importance of the international aspect has increased constantly: Estonia has signed the most important agreements on nature protection as well as environmental policy in general. The most specific requirements and standards, Estonia has to meet, have been brought along by the accession to the EU. The aim of this article was to analyse how Estonia has implemented one of the two most important EU directives on nature conservation – the Habitats Directive.

Habitats Directive is aimed at protecting natural habitats and animal and plant species that are most important in the context of biological diversity in Europe. Together with the Special Protection Areas established according to the Birds Directive, Sites of Community Interest established based on the Habitats Directive form a network of conservation areas called Natura 2000. In order to implement the directive, each EU candidate country had to review the list of

habitats and species named in the directive, and based on the criteria select areas to be included in the network.

Estonia's process of implementation began in 1999, when the environmental chapter was opened during the accession negotiations. Although Estonia made several requests for exceptions and proposed a few new species and habitats for the annexes of the Habitats Directive, the negotiations mainly focused on the protection of four species of mammals: Estonia requested less strict protection standards for beavers, wolves, bears and lynxes based on the size of populations of these species. Estonia's requests for exclusion of wolves and beavers from Annex II and IV of the Habitats Directive were met. The negotiations on bears and lynxes took longer: the commission did not agree to Estonia's proposal to exclude bears from Annex IV of the directive; the exception on lynxes being excluded from Annex II and IV was granted but is to be reviewed five years after the accession. In addition, Estonia achieved inclusion of two new plant species in Annex II and IV and inclusion of one animal species as a priority species.

According to the national Natura 2000 programme, Estonia has pre-selected its Natura 2000 areas by the end of 2003; the process of pre-selection was finished in April 2004, when Estonian government approved the list of Natura 2000 areas to be presented to the Commission. In addition, Estonia has considerably improved its legal system as well: new laws on hunting, environmental impact assessment, environmental supervision and the new framework law on nature conservation have been adopted. The main problems include low administrative capacity, ineffectiveness in environmental impact assessment that may seriously threaten the effectiveness of Natura 2000 areas. One of the main conflicts to emerge during the selection process of Natura 2000 areas, was mainly a result of the inability of the ME to inform the land-owners what restrictions will the designation bring along. The lack of information brought along over 600 protests from private land-owners and also raised questions about the objectiveness of ministry officials during the designation process.

In addition to several problems, the ME seems to be underestimating (or unable to deal with) the potential interest groups and the may have led to questionable choices made in the nature protection policy. There seems to be an underlying conflict between the slogans emphasising the well-preserved nature in Estonia, and the reality, that is characterised by the increasing deforestation, draining the wet-lands, increasing popularity of the hunting and pressure from the real-estate developers. Although Estonia was able to meet the EU requirements in time, the question remains about the effectiveness of the whole process. Does Estonia's position on the protection of bears and lynxes help to preserve the populations of these species? How will the pressure from hunters, land-owners, real-estate developers influence the nature protection in the future? Although as a preliminary evaluation it may be said, that Estonia has been relatively successful in implementing the Habitats directive and its new standards and requirements, by adding another layer of protected areas to the existing nature protection system, the question – how does it influence Estonia's nature in the long run – still remains.

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