

CASE STUDY - NATURE PROTECTION

National park Šumava is situated in the South-Western part of Bohemia. The National Park is a unique scientific laboratory, enabling the monitoring of natural processes at a level which is unfeasible elsewhere. With its 68 064 ha Šumava National Park is the largest national park in the Czech Republic. Since the end of 1963, its territory has been declared as „Protected landscape area of Šumava(PLA)“ (which covers 168,654 hectares) with the aim to conserve and protect the nature and the unique character of the landscape. Lately (20. 3. 1991) the National Park has been established by the CR Government Regulation No. 163/1991 Coll. on the territory of the PLA. Šumava National Park includes the majority of the precious nature reserves in Šumava that require strong protection. For example, these are the remains of the virgin mountain forests, glacial lakes and upland moors.

Šumava gained the status of the "Biosphere Reserve" Since 1990, Šumava has been entered into the UNESCO list in Paris, with the borders usually including the former Šumava PLA, and the central area of Šumava National Park.

"Šumava peat-bogs" are the most typical phenomenon of nature conservation in Šumava, and have been listed since 1990 as the so called Ramsar Convention for the protection of internationally significant wetlands.

"Šumava" was included by the International Union for the Conservation of Nature (IUCN) in the "Red Book of ecosystems".



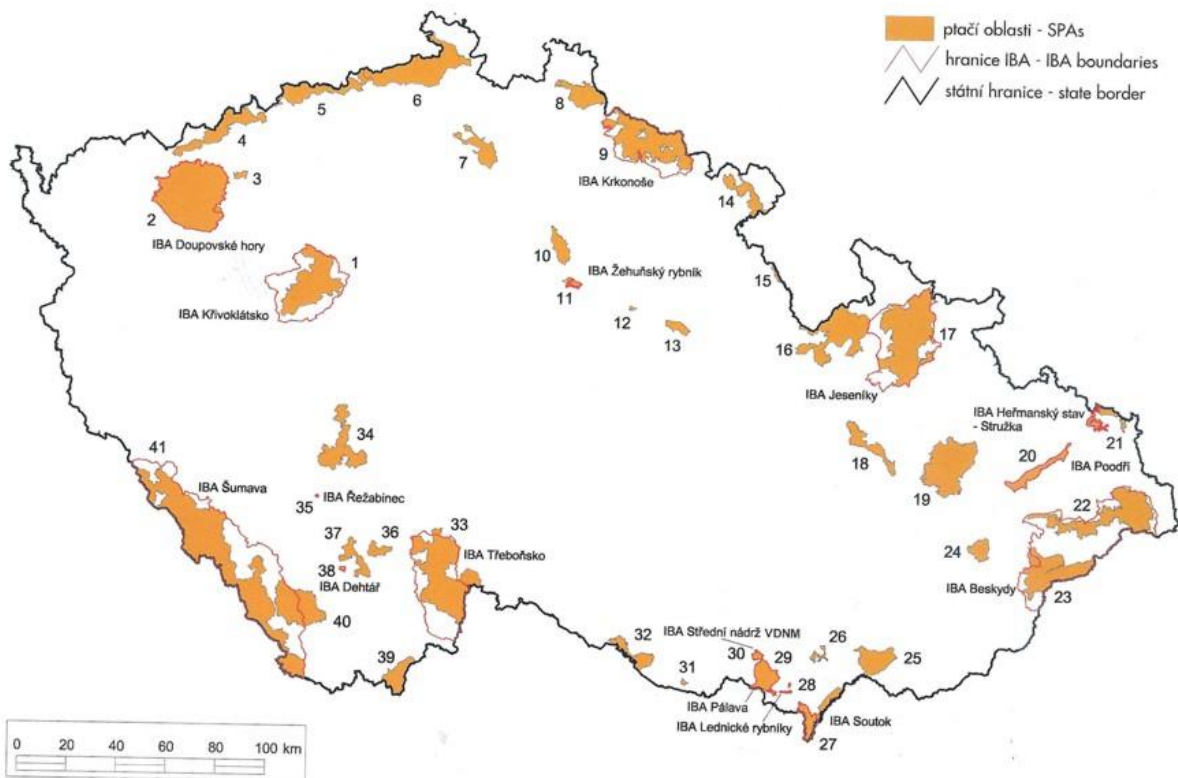
The Šumava landscape and its current condition is the result of the long time co-existence of the people and nature. The aim of the protection of the Natura 2000 sites is not the expulsion of the people from the countryside, but to support those activities that enable both humans and nature to survive in the future.



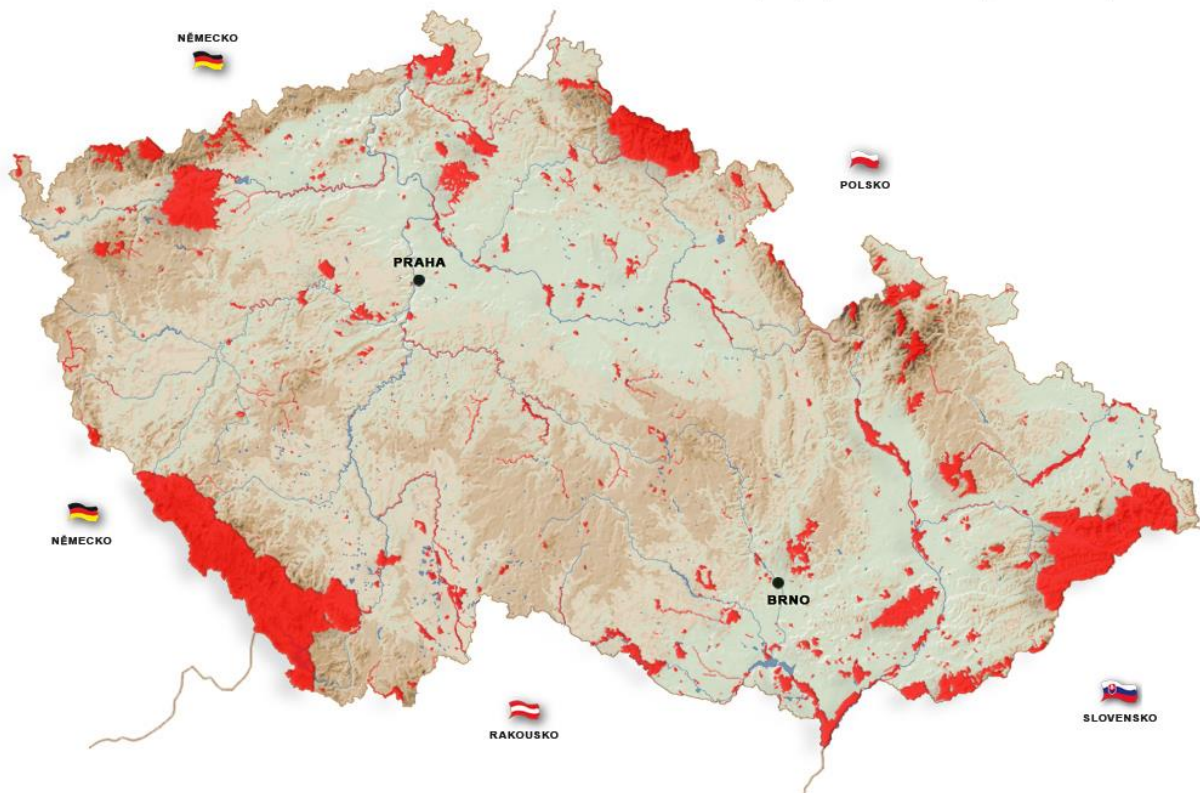
There are defined watercourses on the Vltava river for water tourism. Use of other rivers and streams in the National Park is not permitted in accordance with the Visiting Rules of the National Park Šumava..

These visiting rules have a special form specified in the Administrative Code and this document may be subject to a judicial review. At the same time, there are rules established by the EIA Act (Act. No. 100/2001 Coll.) and by Nature Protection Act (114/1992 Coll.) and by other general laws that must be complied with in the process of adoption of those visiting rules. These laws are supposed to implement the EU legislation.

It is obvious that water tourism may significantly affect the protected parts of the nature (especially some aquatic animal species). Without regards to this fact, Správa NP Šumava (which is the competent state authority for the territory of the national park) adopted the Visiting Rules of the National Park of Šumava enabling the water tourism in a specific parts of the Vltava river without proper assessment of the its impact on the nature. This was opposed by NGO Zdikovsko and by some of inhabitants living in the villages located close to the river.



Evropsky významné lokality v České republice



As can be seen above (1st picture = SPAs /special protection areas/, 2nd picture= SAC /special areas of conservation/), Šumava is protected as a part of Natura 2000 (under both habitats and birds directives).

Study Directive 92/43 on the conservation of natural habitats and of wild fauna and flora and Directive 2009/147, take into account the Aarhus Convention along with EU legislation on EIA/SEA and answer questions:

1/ Explain the possibility to carry out water tourism in Šumava. Consider also the possibility to carry out development activities (for example ski areas, industrial plants etc.)

2/ What duties established by the EU law for SPAs/SACs were breached by adoption of Visiting rules? In this regard, what steps should have been taken?

3/ Could Mrs. Mala (who is living 5 km away from the river) have a standing to bring an action against Sprava NP (nature protection authority) before the administrative court according to EU law/your national law? What claim she could try to enforce?

4/ Should the NGO Zdikovsko have the standing to bring the case before the court? Based on what grounds?

5/ What is your opinion on possible direct effect of Art. 6 of the Habitats Directive?

Related case-law:

C- 247/85; C- 149/94

C- 226/08

C- 127/02

C – 256/98