

# The Environmental-Legal Limits of the Recreational Potential of Municipality

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*„Rekreace a ochrana přírody – s přírodou ruku v ruce !“*

- The recreational potential of the territory includes not only **local conditions** in terms of factual natural conditions, but also **legal conditions and possibilities**.
- **The municipality** is a body which **both sets** and **carries** out the exploitation of the recreational potential of its territory.
- **On 1 June 2017**, the amended Act No. 114/1992 Sb. on Nature and Landscape Protection (**NLPA**), published in the Collection of Laws as **No. 123/2017 Sb. (Amendment)**, came into force.
- The environmental-legal limits of municipalities located in specially protected areas, namely **national parks**, when exploiting the recreational potential of their territories.

## The conceptual exploitation of the municipal territory

- § 43 of the Act No. 183/2006 Sb., on Zone Planning and Building Regulations.
- The municipality makes the basic conception of its territory „the zone plan“.
- The zone planning is to set the **conditions for the development of recreation**.
- Under law, objects can be placed in an undeveloped area to improve the conditions of its use for recreational purposes (e.g. cycling trails).

## The zone plan

- establish the so-called **recreation areas** (buildings used for **family recreation**, public camps, natural swimming pools, recreational meadows),
- establish the so-called **natural areas**.
- Amendment introduces an explicit regulation of the **powers of the regional planning authorities** in order to **preserve and create optimal ecological functions of specially protected areas and their protection zones** - as the **limit** for the conceptual exploitation of the territory of the municipality located in the specially protected area.

How is the recreational potential of the territory of the municipality in a specially protected area limited and how can this limitation be affected by the municipality itself?

- Municipality in **National parks**.
- National parks may have the so-called **protection zones**.
- Conservation of nature is in **public interest** which, however, clashes with the **interest of the municipality in promoting recreational activities**.
- The interest of the municipality in the recreational exploitation of its territory may **not be** (which is often the case) **pro-environmental**.

- Specially Protected Areas (SPA) as such represent the **primary limit of the recreational potential of the municipalities.**
- **The secondary limit is the protective conditions in these territories, consisting in prohibitions, restrictions or prerequisites of certain activities.**
- **§ 71** of the NLPA establishes the participation of municipalities in the protection of nature in its broadest sense.
- the municipality participates in the protection of nature in its territorial area, **expresses its opinion on the proclamation and cancellation of the specially protected area and its protection zone**
  - The municipality may file objections in writing within 90 days of the receipt of the project → **Consultative participation of municipalities.**

- Each municipality must abstain from all interventions that would negatively change or damage the preserved state of the area proposed for special protection from the time of publication of the intention to proclaim part of the area to be a SPA until its proclamation, but for a maximum period **of two years**.
- **We consider it essential to persuade the municipalities to see the proclamation of Specially Protected Areas positively.**

- **In the second phase**, the relevant legislation is issued, in the case of the National Park in the form of "Act". Municipalities can **participate** in the process with comments, in addition to the above-mentioned objections, according to the **rules of the legislative proces**.
- Changes and process of cancellation – only with the concerned municipalities.



- The protection of the national park also involves the exploitation of its territory for the purpose of **nature-friendly tourism**.
- **Basic protective conditions**
  - Originally were based on the zoning of the national park
  - since 1 June 2017 based on the criterion of "**the entire territory of the national park**" and "**the territory of the national park outside the built-up area of the municipality and the municipality areas that can be built up** (the so-called **municipal area**).

- **Basic protective conditions**

- § 16 (1) NLPA – the prohibition of fireworks

- § 16 (2) NLPA – prohibitions outside the municipal territory →

- The prohibited activities included in (b), (m) to (r) of the above mentioned legislation may be classified under the concept of recreation → cycling or riding horses off roads, local roads and places determined by the nature conservation authority, then a ban on climbing, watering or performing other water sports off places determined by the nature conservation authority, a ban on camping and making fires off places determined by the nature conservation authority, and a ban on organizing sports, tourist or other public events off places determined by the nature conservation authority.*

- We consider it quite important that due to the Amendment some bans concerning the territories of municipalities have disappeared. This means that the activities pursuant to Section 16 (2) NLPA are no longer prohibited in the built-up areas and in the areas of the municipalities that can be built in the territory of the national park.

- **More detailed protective conditions** are set for individual national parks (§16a to 16d NLPA), reflecting the specifics of the natural conditions of individual national parks.
- The basic and more detailed protective conditions are further complemented by the so-called **rest areas of national parks**.
- **The zoning of the national park** is another means of the protection of the territory of the national park and an exclusive instrument of differentiated care for its territory.
  - *three zones x four zones (the natural zone, the nature similar zone, the nature zone of intensive care and **the cultural landscape zone**).*

- Municipal territory → *the cultural landscape zone* → *but* the municipal territory can get into a regime other than that of the cultural landscape zones.
- The zones are subject to the prohibitions defined in § 18a NLPA.
- A discussion about determining the national park zones must be commenced no later than two years after the date of the Amendment entering into force, i.e. until **1 June 2019**.

- *Municipalities are, in their territorial districts, **involved in proceedings under this Act**, unless they are deciding the same case as nature protection authorities (§ 71 Para. 3 NLPA).*
- The Amendment changed the nature of many environmental institutes according to the NLPA when these are newly issued as "the only, or also" **measures of a general nature**.
- *"When dealing with the proposal of a measure of general nature pursuant to Part Three of this Act, the municipalities have, in their territorial districts, the status of the concerned authority according to the Rules of Administrative Procedure".*
- **Has the Amendment brought about major changes in this respect?**

Thanks for your attention.