

# The Piatra Craiului Pension in Romania

EIA

Case Study

*Justice and Environment 2011*

**The Piatra Craiului Pension in Romania  
EIA**

**Case Study**

- I. Title: EIA CASE STUDY – Bat’s Cave Pension**
- II. Description of the developer: who is the developer, relevant experience in the type of projects, financial capabilities, known attitude towards environmental protection, etc.**

The developer is a limited commercial company from Bucharest, named Pestera Liliacilor (Bat’s Cave). They bought 4000 square meters in a village named Cave (Peștera), after the name of an actual cave located in the same area, named the Bat’s Cave. We think that the company was created for this project to be developed.

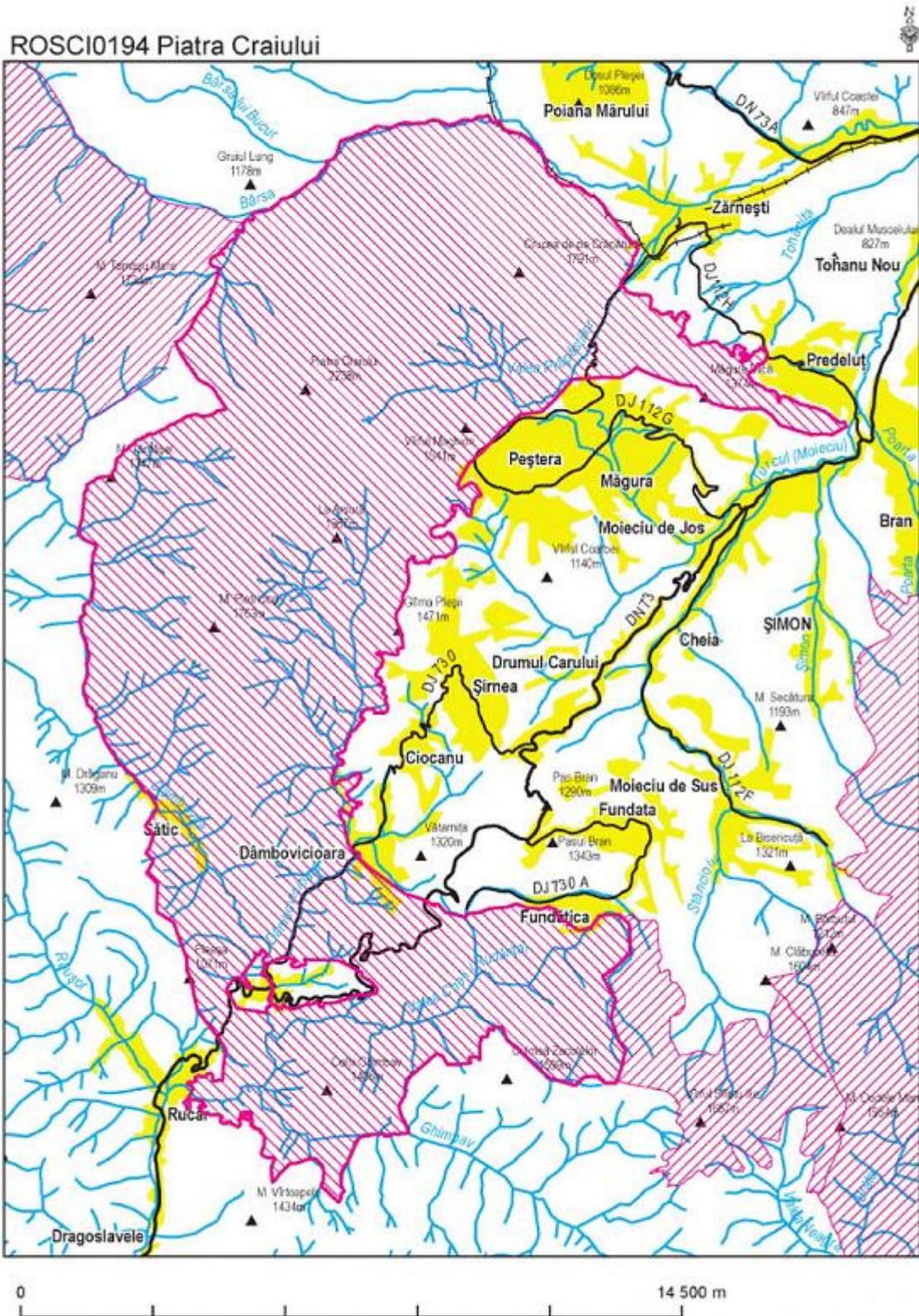
- III. Subject of the case: description of the project, if it is national, local, transboundary, etc.**

The project is local as importance. The environmental permit was issued by the county environmental protection agency. The project has no transboundary effects. The request of environmental permit was made in March 2008 and the environmental permit was issued in May 2009.

- IV. Location of the project and geographical area: if it is urban, if it is a natural protected area, and if so, what kind (Nature 2000, national park, natural reservation, etc.)**

The project aims to build a pension with 34 accommodation places and 60 places in the restaurant, parking space and other recreation places, on 4000 square meters. The project is located in Piatra Craiului (King’s Stone) National Park, and very near Nature 2000 Site Piatra Craiului (King’s Stone), in a village called Peștera.

In the map below the limits of the National Park are marked with a black line and the limits of the Nature 2000 site are marked with a red line.



## V. Interested public involved

During the EIA procedure no public was involved. The public announcements were made in local newspapers, distributed in very small area and limited circulation. The Environmental Protection Agency's web sites at the time were even more disorganized then today. Each institution had a different unclear structure and it was very difficult to find the page where announcement were made, the page were documentation was posted.

Center for Legal Resources was informed about the project by a local monitor hired in a project financed by EC through Phare called "Environmental impact assessment and strategic environment assessment - Process of transposition and implication at stakeholders' level"

The monitor was informed about the project by the Director of the National's Park administration who opposed the project.

## **VI. Estimated environmental impact of the project**

Impact of the project over the Natural Park is significant especially due to the cumulative effects with other projects on the protected species, but also due to the architecture of the Pension (castle shape), unspecific in the area. The negative impact is due to the extraordinary increase of the tourism in the area and the development of connected activities: a large number of cars, mostly 4x4, ATV driving, camping, etc.

## **VII. Analysis of the national/European legislation**

The project fits Annex 3 of EIA Directive transposed in Romania at the time through Governmental Decision no 1213/2006 and Order no 860/2002. The national legislation at that time requested and EIA procedure for all projects located in a natural protected area.

Emergency Governmental Ordinance no 57/2007 regarding the regime of the protected areas requested at the beginning of the procedure the approval of the administration's park according to art 28 paragraph 7. The ordinance was modified in November 2008 through Emergency Governmental Ordinance no 154/2008 that established a new content for art 28 of EGO 57/2007 where paragraph 7 of art 28 didn't mention the approval of park's administration because a new procedure named adequate evaluation was established, where the approval was also needed. But the articles prescribed by the EGO 154/2008 were to be enforced only when the methodology for the adequate evaluation procedure would have been approved. And this happened in 2010. So, for our project, the EGO 57/2007 was enforced with the original paragraph 7 of article 28 that required the approval of the park's administration.

Order no 1964/2007 art.4 required for all plans and projects developed into the Nature 2000 Sites as well as in the neighborhood, the SEA or EIA procedure must be done. Paragraph 2 requires that the environmental report/environmental impact assessment report must highlight all species and habitats protected into the Nature 2000 site and to establish mitigation measures, conservation measures and compensatory measures.

## **VIII. Description of the EIA procedure emphasizing the illegalities/shortcomings**

Regarding the public participation procedure:

- the interested public was not identified and invited into the procedure. The public announcements were as hidden as possible, and the website was very difficult to follow
- the documentation (environmental impact assessment report) was never published on website

Regarding the EIA report:

- Cumulative effects were not analyzed although the report mentions that a large number of pensions were build in the same area. The report states that since other pensions obtained en environmental permit, so they are also entitled to obtain it.
- The report mentions some protected species but not the ones protected into the nature 2000 Site. No impact analysis was done and no mitigation measures conservatory or compensatory were proposed.
- Increase of tourism into the national Park and the nature 2000 site was not assessed.

Regarding the approval of the administration of the natural park.

The administration of the park refused to approve the project due to the size of the project, connected with other similar projects in the same area. The administration of the park also criticized the biodiversity chapter of the EIA report and the architecture of the pension (castle style). The developer made a complaint to the superior authority of the park's administration, the National Forest Administration – Romsilva, who gave the approval instead of the park's administration.

#### **IX. Actions of the public during the procedure**

Center for Legal Resources learned about the procedure one day before the public debate and notified the Environmental Protection Agency that the public was not informed and consulted according to the legislation enforced, or Aarhus Convention and asked for all documents to be published in court and for the public debate to be postponed. The agency rejected the complaint. The Center for Legal Resources asked in court the annulment of the environmental permit.

#### **X. Decision of the environmental authority**

The Agency issued the environmental permit, disregarding two letters from the National Environmental Agency and from the Minister of Environment that answered a request of the Agency regarding the necessity of the Park's Administration approval. Both institutions mentioned art 28 paragraph 7 of EGO 57/2007 and concluded that the approval of the park's administration is mandatory.

#### **XI. Current status of the case**

The case is final in court too, and it was lost by Center for Legal Resources.

The first court rejected the case stating that:

- article 28 paragraph 7 of EGO 57/2007 will be enforced only when the methodology for adequate evaluation will be enforced, so that the park's administration is not mandatory. Obviously, the court didn't read the ordinance in the form enforced at that time, which clearly requested the approval of the park's administration.
- The court also stated that even if the approval would have been mandatory, the approval given by Romsilva, that was hierarchical superior to the park's administration and therefore it can be considered in the same time the approval of the park's administration because the latter is subordinated to Romsilva.

- The court appreciated that the public (Center for Legal Resources) didn't criticized the quality of EIA assessment during the EIA procedure, although the Agency published all announcement in time. But the court failed to analyze the quality of the announcement and the fact that no documentation was actually made public by the agency
- The court found that the national law regulates no sanctions for the failure of the public administration to consult the public during EIA procedure, and the failure to do so does not attract the nullity of the decision. Therefore, the court stated that the public consultation is not mandatory

The court of appeal maintained the decision of the first court, refusing to analyze all aspects of the case except the one regarding the approval of the park's administration where the judges agreed with the first court, stating that the approval of Romsilva was sufficient. The court of appeal appreciated that the arguments regarding public participation, the content of the EIA report, etc, were not made from the beginning but only to a later stage, after the documentation was submitted to the court file. The court refused to understand that we had no knowledge of the content of the documentation before we complained to the court because the documentation was not public. The issue of public participation procedure, invoked from the beginning by us was also considered to have been invoked too late (?!)

According to art 304<sup>1</sup> from the Civil Procedural Court, in the cases where there is only one appeal procedure available for the parties (usually there are two appeals available), the court will analyze all aspects of the case and not only the one criticized by the party that made the appeal. Although, according to art 129 from the same Act, the judge must have an active role in establishing the truth and make justice.

#### Contact information:

**name:** Rădulescu Cătălina Mihaela  
**organization:** J&E  
**address:** 19th Arcului St., sector 2 Bucharest  
**tel/fax:** 40 74 5138165/40 21 2120690/40 21 2120519  
**e-mail:** [info@justiceandenvironment.org](mailto:info@justiceandenvironment.org)  
**web:** [www.justiceandenvironment.org](http://www.justiceandenvironment.org)

The Work Plan of J&E has received funding from the European Union through its LIFE+ funding scheme. The sole responsibility for the present document lies with the author and the European Commission is not responsible for any use that may be made of the information contained therein.

