




Jana Šmelková*

 <https://orcid.org/0000-0001-6619-7553>

Comenius University in Bratislava

Slovakia

Martin Dufala**

<https://orcid.org/0000-0001-6065-0548>

Comenius University in Bratislava

Slovakia

Brown bear in the legal system of the Slovak Republic – monitoring, protection, responsibility***

Abstract: The brown bear (*Ursus arctos*) is a protected animal species under Act No. 543/2002 Coll. on Nature and Landscape Protection. The level of protection of this species directly affects the existence of state liability for damage caused by its activity. In our contribution, we will address the legal regulation of the status of the brown bear, its activity and the level of protection. We base our analysis not only on the legal regulations of the Slovak Republic but also on sources of international and European law. The reason for choosing this topic is the current issues of legal and factual protection of the brown bear in the territory of the Slovak Republic, which have become the subject of not only professional but (unfortunately) also political discourse.

Keywords: brown bear, protected animal, designated animal, monitoring, exception to the ban, shooting

* Department of Administrative and Environmental Law, Faculty of Law, Comenius University in Bratislava.

** Department of Administrative and Environmental Law, Faculty of Law, Comenius University in Bratislava.

*** This work was supported by the Slovak Research and Development Agency under the Contract No. APVV-23-0645.

1. Introduction

The brown bear as the largest carnivore in the Slovak Republic, in addition to its biological uniqueness and high level of protection, is also a unique legal problem. In our article, we address the substantive and procedural aspects of the legal protection of the brown bear, but also, conversely, the tools for its *de facto* elimination and assessment of their suitability.

In the Slovak Republic, conflict situations are resolved in an *ad hoc* manner. The most common is the removal (both lethal and non-lethal) of individual brown bears.¹

The basis for our analysis is primarily the legal regulation of the Slovak Republic *de lege lata* and the decision-making practice of administrative courts.

2. Protected animal species

The list of protected animal species is regulated by the legislator by the Decree of the Ministry of the Environment of the Slovak Republic No. 170/2021 Coll. implementing Act No. 543/2002 Coll. on the Protection of Nature and Landscape, as amended (hereinafter: the Decree). The brown bear is included in the list of original protected animal species as a species of European importance, pursuant to Annex No. 5 of the Decree² but also as a so-called priority species, for the preservation of which protected areas are declared. The social value of this protected species is 5,000 EUR, which fully reflects its biological and ecological value, taking into account the rarity and vulnerability of this species. Within the assigned values, we rank the brown bear among the significantly more “valued” individuals.³ The amount of social value of a protected species of animal is applied pursuant to Section 95 of the Act No. 543/2002 Coll. on Nature and Landscape Protection (hereinafter: ZOPK), particularly when assessing the seriousness of the act consisting in the unauthorized handling of an animal and when quantifying the damage thus incurred, determining the amount

¹ M. Haring, Ch. Silviu, K. Miha, K. Ivan, *Defining, preventing, and reacting to problem bear behaviour in Europe*, <https://www.academia.edu/26354474> [accessed 6 December 2025].

² For more details, see Section 2, letters w) and x) of the Act No. 543/2002 Coll. on Nature and Landscape Protection.

³ According to the Decree, the golden eagle (*Aquila heliaca*) is of the highest social value and represents up to 40,000 EUR.

of benefit, the value of the thing and the extent of the act; preparing expert opinions or determining the amount of the find.

The protection of a protected species of animal in the conditions of the Slovak Republic – species protection, is classified together with the territorial protection of nature and landscape under the so-called special protection, which is also related to the restriction of the use of this species. The Ministry of the Environment may declare species of European importance or national importance as protected species by a generally binding legal regulation, with the exception of species of wild birds that naturally occur in the territory of EU Member States, as these are automatically considered *ex lege* to be protected animals pursuant to Section 33, par. 3 of the ZOPK. A protected species of animal is also any individual of which at least one parent is itself a protected animal.

According to § 35 of the ZOPK, it is prohibited to:

- intentionally capture a protected animal in its natural range;
- intentionally injure or kill it in its natural range;
- intentionally disturb it in its natural range, especially during the period of nesting, reproduction, raising young, hibernation or migration;
- crossbreed species to create hybrids;
- keep, raise in human care, transport, sell, exchange or offer for sale or exchange;
- collect or intentionally damage or destroy eggs of a protected animal in its natural range in the wild or keep them, including empty eggs;
- remove or intentionally damage or destroy nests of a protected animal in its natural range;
- damage or destroy breeding sites or resting places of a protected animal in its natural range.

Part of the species protection of animals is also the legal regulation of the general obligation to notify the nature protection authority of the finding, injury or killing of an individual of a protected species, without delay and also a set of prohibited methods and means of capturing and killing a protected animal (methods and non-selective means that may cause local extinction or endangerment of populations of its species or any forms of capturing and killing from means of transport).⁴

⁴ The prohibited hunting methods are regulated in more detail by § 7 of the Decree, according to which, when hunting a protected animal (mammal or bird), it is prohibited to use:

1. a net, a snares, a hook, a net, a foot trap or a jaw trap;
2. a trap based on the principle of non-selective capture or a trap that catches non-selectively when used,
3. a bird trap,
4. a blind, crippled or otherwise handicapped animal used as bait,
5. a tape recorder or other sound carrier,
6. an electrical or electronic device capable of killing or stunning,

In the interest of a more comprehensive approach to species protection, we present further restrictions on the use of plant and animal species, which are regulated by Section 37 of the ZOPK. This provision regulates a special regime of species protection, which it grants to plants and animals that are not protected species but whose protection is necessary in order to maintain a favourable status of the species.

An important document that approximates the scope of legal protection, occurrence, population, habits, abundance, monitoring and management of the protection of (not only) the brown bear is the document *Ochrana a manažment veľkých šeliem na Slovensku* (Protection and management of large carnivores in Slovakia) issued under the auspices of the State Nature Conservation Agency of the Slovak Republic.⁵ At the same time, as part of the project “Research and monitoring of large carnivores and wild cat populations in Slovakia,” the Brown Bear Care Programme in Slovakia was adopted under the auspices of the Slovak Forestry Commission, which, in addition to providing an overview of the current situation and protection of the brown bear, also sets specific goals and measures to maintain a favourable state of the brown bear population in the Slovak Republic.⁶ A practical problem related to the success of brown bear monitoring is its relatively low population density and large territories. In the conditions of the Slovak Republic, as well as in the world, a combination of various methods of determining the abundance and structure of populations at different levels is therefore used. Monitoring methods include: direct observation, monitoring using camera traps, monitoring of residence signs, vocalizations, telemetry, recording of damage caused and genotyping using the collection of non-invasive

-
7. an artificial light source,
 8. a mirror or other dazzling device,
 9. a device for illuminating targets,
 10. an observation device for night shooting with electronic image magnification or an image converter or other similar device enabling shooting in night,
 11. explosives,
 12. crossbows or bows,
 13. chemicals, poison, bait with poison or with an anesthetic or bait that contains a chemical substance that can cause death or malfunction of the physiological organs of an animal;
 14. gas or smoke,
 15. self-loading or automatic weapons firing individually or in bursts with a magazine that can contain more than two rounds,
 16. lead ammunition when hunting birds in wetlands,
 17. aircraft, vessels, motor vehicles, snowmobiles or other vehicles.

⁵ A. Lešová, V. Antal (eds.), *Ochrana a manažment veľkých šeliem na Slovensku*, Štátna ochrana prírody SR, Banská Bystrica 2015.

⁶ At the level of EU law, the legal regulation of bears is represented mainly by the Convention on the Conservation of European Wildlife and Natural Habitats (the Bern Convention) and Council Directive No. 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.

samples. Within the scope of the individual administrations of protected landscape areas and national parks, all of the aforementioned monitoring methods are carried out with varying intensity.⁷

In 2015, the State Nature Conservation Agency of the Slovak Republic introduced the Comprehensive Information and Monitoring System (KIMS). This is a database of data on the occurrence of plants, animals, and habitats in Slovakia. All observations are localized using GPS coordinates. At the same time, photo documentation can be made, which can also be entered into the KIMS together with data on the occurrence of the species itself.⁸

3. Designated animal

In order to protect selected species of protected animals, the Slovak legislation reflects cases where a person and their property collide with the activities of these animals, while the legislator assumes the existence of damage in this collision. The legal institute providing for the described set of situations is compensation for damage caused by animals regulated in the eighth part of the ZOPK. The affected group of animals for which the state assumes responsibility (to the extent specified by the law) is referred to as designated animals, which has long included the brown bear. Despite the fact that we are talking about a public law institute here, the subsidiary and general provisions of the Civil Code apply to legal relations pertaining to compensation for damage. However, the substantive legal prerequisites for the claim for compensation for damage are specifically regulated by the ZOPK:

1. It assumes the occurrence of damage, not in general, but specific damage (to the life and health of a natural person, selected domesticated animals, dogs used to guard selected domesticated animals or used in their herding, fish kept in ponds (to the extent provided for by law), beehives and beekeeping facilities, unharvested field crops, woody plants or forest stands, hunted ungulates).

2. Special conditions are met regarding the specific property of the injured party, namely:

- a) in the case of damage to selected domesticated animals, fish, beehives and beekeeping facilities and woody plants, it is necessary that preventive measures be taken to protect this property, which are specified in detail in the decree;

⁷ <https://www.soprs.sk/web/?cl=251> [accessed 12 September 2025].

⁸ <http://www.biomonitoring.sk/> [accessed 10 September 2025].

- b) in the case of damage to fish, it must be proven that a specific species of designated animal is demonstrably present at the location where the damage occurred;
 - c) in the case of damage to fish and game ungulates, it was not a case where a previous exception to the conditions of species protection for the capture, killing or disturbance of a designated animal was allowed, which was also valid at the time of the damage;
 - d) in the case of damage to field crops, only if they were harvested within the agrotechnical deadline for their harvest, usual for the given territory.
3. The damage that is the subject of the claim must be caused by one of the designated animals.
4. The damage must be caused in the territory of the Slovak Republic.
5. None of the statutory grounds for excluding state liability are met if it concerns an animal kept in human care or an animal that escaped or damage that occurred to a hunter while hunting a designated animal.

The abovementioned substantive requirements for the establishment of a claim find their limits when it comes to applicability, especially when the following prerequisites must be met: proving the fulfillment of preventive measures, the occurrence of a designated animal at the place of occurrence of the damage, but also, for example, assessing whether it is a direct action of a designated animal or the consequences that arose as a result of the action of a designated animal. In this regard, the relevant nature protection authorities (district authorities) approach the interpretation of the legal regulation rather restrictively. In the case of the action of a brown bear as a designated animal, in the conditions of the Slovak Republic, damage mainly occurs to bee colonies, agricultural crops, domesticated animals, ungulates, but also to the life and health of human individuals.

We learn about the current number of individual brown bears from the Study of the Estimation of the Brown Bear Population,⁹ which was prepared by the Faculty of Natural Sciences of Charles University in Prague on the basis of an order from the State Nature Conservation Agency of the Slovak Republic. Using scientific methods and collecting biological material, this study concluded that the number of brown bears was in the range of 1,012–1,275 individuals (in 2021). However, this study also states that the number of protected animal species has varied in the past depending on the source. For example, according to information from the National Forestry Centre, the estimated number of brown bears in 2021 was up to 2,997 individuals.¹⁰ The undesirable impact

⁹ https://www.soprs.sk/news/file/00%20%C5%A0T%C3%9ADIA%20FINAL%20-%20Ve-likost_populace_medved_Slovensko2.pdf [accessed 10 September 2025].

¹⁰ *Odhad velikosti populace medvěda hnědého (Ursus arctos) na Slovensku analýzou DNA* (A study of the estimation of the brown bear population size prepared by the Faculty of Natural Sciences, Charles University in Prague by: N. Tkáčová, J. Šrutová, B. Černá Bolfiková, V. Kornová, M. Apfelová, M. Kalaš, V. Antal, S. Findo, M. Hletko and P. Hulva), p. 70,

of the brown bear, which enters the sphere of the population's disposal and potentially poses a threat of damage, is also addressed by the legislator through a special regulation in Act No. 79/2015 Coll. on waste by establishing the obligation of the waste holder to secure waste against the access of the brown bear. The implementing regulation subsequently specifies the list of territories and types of waste to which this obligation applies. It also specifies the method of securing collection containers.¹¹ In 2022, almost 400,000 EUR was paid out for damage caused by bears, in 2019 it was approximately 190,000 EUR, in 2021 – 197,000 EUR.¹²

4. Brown bear shooting

Exceptions to the conditions for the protection of protected species are regulated by Section 40 of the ZOPK. Activities prohibited in the interest of the protected species may be carried out on the basis of a prior written decision of the nature conservation authority – by granting an exemption from the prohibition, which the competent authority shall issue on the condition that the activity to be carried out is necessary to ensure the care of protected species and their habitats. This permit may also apply to activities for the purposes of research carried out on the basis of a requirement applied in a binding opinion of the nature conservation authority within the framework of the environmental impact assessment process. The legislator also regulates exceptions regarding activities damaging the natural nesting and breeding sites of protected animal species, provided that the activity is permitted by the nature conservation authority within the

https://www.sopsr.sk/news/file/00%20%C5%A0T%C3%9ADIA%20FINAL%20-%20Velikost_populace_medved_Slovensko2.pdf [accessed 10 September 2025].

¹¹ Pursuant to Section 18(3)(a) of Decree No. 371/2015 Coll. implementing certain provisions of the Waste Act:

- a) the waste collection container shall be placed in a closed area that is not freely accessible; the closed area shall be constructed in such a way that its technical design shall prevent a brown bear from manipulating the collection container placed in this area in any way;
- b) the waste collection container shall be placed in a closed area that is equipped with functional electrical security or
- c) a sufficiently durable and lockable collection container shall be used for waste collection; the locking of the collection container shall be adjusted in such a way as to prevent a brown bear from damaging or loosening the lock.

¹² Information made available upon request by the State Nature Conservation Agency of the Slovak Republic.

framework of territorial protection and will not have a negative impact on the population of the protected species, nor on the subject of protection of the affected area, or its favourable condition. An exemption from the ban is issued by the competent authority only if there is no other economically and technically feasible alternative and the exemption does not jeopardize the maintenance of a favourable status of the population of the species concerned in its natural range. At the same time, at least one of the conditions for the admissibility of granting an exemption must be met.

In population control methods, area-wide culling is also a consideration. Experts and zoologists strongly reject the implementation of the method of culling of brown bears, which they have also expressed in public discourse: “The only option for solving the factual problem is selective interventions against problematic individuals (from aversive conditioning to removing individuals from the population based on approved protocols), consistent application of preventive measures, effective waste management, effective elimination of additive food sources, and systematic information and education of people on how to avoid close encounters with bears and how to behave around them.”¹³

An exemption from the statutory protection conditions may also be granted by the Ministry of the Environment pursuant to Section 8 of Act No. 15/2005 Coll. on the protection of species of wild animals and wild plants by regulating trade in them and on amendments and supplements to certain acts. The Ministry of the Environment shall issue a certificate granting an exemption from the ban on commercial activities if the protection conditions are met and there are no reasons relating to the protection of the species that would prevent the issuance of this certificate.

The admissibility of killing a brown bear is considered exclusively in cases limited by law. Pursuant to Section 65a, para. 5, ZOPK is an authorized entity for scaring, capturing or killing a protected animal by the State Nature Conservation Agency of the Slovak Republic (ŠOP SR), in the event that the animal, by its behaviour outside its natural habitat, directly threatens the health or safety of the inhabitants of the municipalities. The provisions of the hunting legislation do not apply to these cases. A specific tool for applying the possibility of using this provision in the case of the brown bear in the Slovak Republic is a specialized intervention team, which was established by issuing the Methodological Instructions of the Director General of the Nature Conservation and Landscape Creation Section of the Ministry of the Environment of the Slovak Republic on the establishment, organization and work of the intervention team

¹³ *Výzva na prehodnotenie rozhodnutia a zastavenie plošného lovu medveďa hnedého na Slovensku* (An appeal of experts to the Ministry of Environment of the Slovak Republic on brown bear management, Bratislava 2025), https://www.aegis.org/wp-content/uploads/2025/05/appeal-to-the-slovak-ministry-for-bears_final_sk.pdf [accessed 6 December 2025].

and its regional groups for the brown bear.¹⁴ The brown bear intervention team has been established as a separate department at the Directorate of the Slovak Forestry Agency since 1 December 2022, and is currently composed of twelve members, who are divided into three sections of four employees each, namely: Intervention Team North, Intervention Team South, Intervention Team West. The intervention team ensures nationwide care for the brown bear population, which also includes the exclusion of specific problem brown bear individuals from the population by killing (euthanasia).¹⁵ In addition to using the tools required by law to eliminate dangerous brown bear individuals, the intervention team focuses mainly on educational, coordination and prevention activities.

Authorization of an exception to a prohibition represents a decision of the competent nature protection authority granting an exception to an *ex lege* prohibited activity concerning protected species. The law for granting an exception requires the cumulative fulfillment of three general conditions:

- it must be a justified case,
- there is no other economically and technically feasible alternative,
- it will not endanger the maintenance of a favourable status of the population in its natural range.¹⁶

The reason for granting an exemption may be:

- protection of the species concerned or protection of natural habitats,
- prevention of serious damage to crops, livestock, forests, fish farming, water management,
- public health or public safety of people,
- research and education,
- restoration of the population of the species concerned and their return to their habitats or for their cultivation or breeding in human care necessary for these purposes,
- taking, trapping or keeping of individuals in small numbers under strictly controlled conditions, on a selective basis and to a limited extent,
- declaring an emergency situation in connection with the undesirable occurrence of the brown bear.¹⁷

The last of the above reasons was added to the ZOPK in 2024. The reason for this legislative change was to shorten the process of granting an exception

¹⁴ Methodological Instruction of the Director General of the Nature Conservation and Landscape Creation Section of the Ministry of the Environment of the Slovak Republic on the establishment, organization and work of the intervention team and its regional groups for the brown bear (under number 4970/2014-2.3 dated August 27, 2014.

¹⁵ <https://zasahovytim.sopsr.sk/o-nas-2/> [accessed 10 September 2025].

¹⁶ The judgment of the Supreme Court of the Slovak Republic of 18 June 2020, File No. 3 Sžk 22/2019, also the resolution of the Constitutional Court of the Slovak Republic of 24 June 2014, File No. II ÚS 326/2014.

¹⁷ Section 40(3) of the ZOPK.

in those areas if an emergency situation has been declared under Act No. 42/1994 Coll. on Civil Protection of the Population. This emergency event is to be identified based on an analysis of the area, so that within the limits of legal obligations according to the currently valid legal status, the relevant part and components of the local government monitor the occurrence of the population of large carnivores. Part of this change in the law is also the exclusion of the application of the Administrative Code (Act No. 71/1967 Coll.) to the process of granting exceptions to the ban, so that it is possible to achieve a legal status that will allow an exception to be issued in the shortest possible time for the purpose of eliminating problem individuals. For the sake of completeness, we add that part of this last amendment was also an obligation regarding the ban on creating bait stations that could attract bears. At the same time, it creates an obligation for local governments to purposefully remove existing bait stations, which should contribute to the return of the brown bear to its natural habitat. In the event that the absence of bait stations cannot be causally linked to the occurrence of large carnivores, the new legislation allows, by way of an exception, for the elimination of problem individuals whose occurrence and behaviour pose a potential threat to life, health, and property.¹⁸

Other obligations of the nature protection authority when issuing permits are regulated by Section 82, paras. 11 and 12 of the ZOPK. The competent authority shall also take into account the compliance of the permitted activity with the nature and landscape protection documentation and with the use of the territory (within the scope of land-use planning activities).

A specific content element of this group of decisions is the determination of the conditions for the performance of the activity, including measures to mitigate or eliminate the adverse effects of the permitted activity and the validity period of the issued consent and the permitted exception. In cases where the permitted exceptions to the prohibition are contested, the limited temporal validity of the decision may be the reason for terminating the proceedings, including proceedings before the court on the grounds that the subject matter of the proceedings has ceased to exist and has thus created an irremovable obstacle.¹⁹

When searching for judgments of the Supreme Court of the Slovak Republic (hereinafter: NS SR) in the field of nature and landscape protection, we came across a significant number of decisions in the field of granting exceptions to the ban, in particular for the shooting of brown bears. These were initiated in most cases by conservation associations, including a complaint to the Constitutional

¹⁸ Explanatory report to Act No. 127/2024 Coll., amending Act No. 543/2002 Coll. on the Protection of Nature and Landscape, as amended, and amending Act No. 42/1994 Coll. of the National Council of the Slovak Republic on Civil Protection of the Population, as amended.

¹⁹ See: The resolution of the Supreme Court of the Slovak Republic of 26 July 2016, File No. 6 SZO 130/2015.

Court of the Slovak Republic (hereinafter: ÚS SR), in which the complainant pointed out the issues of legitimacy and proportionality in granting exceptions to species protection. The ÚS SR states in its resolution rejecting the complaint: “As follows from the cited provisions, their purpose is not to exclude the granting of exceptions, but to establish the rules for their granting by defining the legitimate aim of the granted exception and by establishing criteria for assessing the proportionality of the interest in nature protection and the content of the permitted exception.”²⁰

In other proceedings, arguments of conservationists appear regarding the objection of the unreviewability of the contested decision, by which the nature conservation authority granted an exception for shooting, because there is no argumentation as to what facts established in the proceedings justify the assumption that the exception is capable of leading to the achievement of the pursued objective, since the reasons for synanthropization existing before the granting of the exception are not reduced by it. However, the NS SR stated that “if there is a threat to the health and safety of the population, mainly as a result of the synanthropization of the brown bear in the assessed localities, it is not possible to resolve the situation in real time otherwise than by granting an exception for the killing of this animal.”²¹ At the same time, however, it is necessary to bear in mind in these proceedings that the competent authority “is obliged in each individual case to examine the justification for granting an exception and to examine whether, from the point of view of nature protection (whether the brown bear population will not be endangered), it is necessary to adopt certain measures in specific locations that are necessary with regard to public safety of people.”²² A problematic aspect of granting exceptions to the shooting of brown bears for the safety of the inhabitants of the affected area is the fact that these exceptions are granted for the number of individuals, not specific individuals, which may ultimately result in a shooting that does not contribute to fulfilling the reason for granting the exception. The NS SR also dealt with this issue when it did not agree with the argumentation of the regional court and stated that “a protected animal is not identifiable to such an extent that it would be possible to mark a specific individual when causing damage, or when its behaviour threatens the safety of the population, and then kill this specific individual on the basis of a permit. Given the development of science and technology, it is not excluded that such an ‘individual’ approach will be possible in the future, but in the current state of affairs, the provisions of Act

²⁰ The resolution of the Constitutional Court of the Slovak Republic of 24 June 2014, File No. II ÚS 326/2014.

²¹ The judgment of the Supreme Court of the Slovak Republic of 26 February 2018, File No. 5 Sžo 52/2016.

²² The judgment of the Supreme Court of the Slovak Republic of 28 November 2016, File No. 10 Sžo 268/2015.

No. 543/2002 Coll. would be unfeasible according to the criterion of the regional court as stated in this way.”²³

At the same time, we would like to point out the apparently established case law of the NS SR regarding the declaration of invalidity of the granted exception to the permit for the shooting of a protected animal – a brown bear. Assuming that the invalidity occurred upon the expiry of the period for which the exception was granted, this fact has the consequence that the subject matter of the proceedings has lapsed, because the exception that was the content of the decision has already expired and does not exist. The administrative authority, or rather the court, may (and even must) stop the proceedings on the exception, at any stage of the proceedings.²⁴

The issues of judicial review of decisions granting an exemption from the ban have certain limitations due to the specific circumstances arising from the shooting. A valid permit for an exemption from the ban entitles the holder of this permit to carry out the shooting at a specified time. Any judicial review that would follow the shooting – provided that the aim of the judicial review is not only to review the legality of the decision, but also to protect the public interest in the protection of selected animal species – cannot be achieved without a decision granting suspensive effect to the administrative action. As a specific example, we would like to cite the application for the shooting of seven brown bears in the Liptovský Mikuláš district. The plaintiff – as a third sector entity, sought suspensive effect in order to prevent the shooting, which he considered to be unjustified, threatening the favourable status of the species and irreversible. Granting suspensive effect to the action in the sense of the plaintiff’s statement would not be contrary to the public interest. The administrative court may grant suspensive effect to an administrative action²⁵ if the immediate execution or other legal consequences of the contested decision would threaten serious harm, significant economic or financial damage, serious harm to the environment, or other serious irreparable consequence, and granting suspensive effect is not contrary to the public interest. The granting of an exception to the prohibition, on the basis of which individuals of a protected species are killed, is undoubtedly irreversible in nature and may lead to environmental damage, therefore the first of the two cumulatively required conditions for granting suspensive effect in this type of decision is clearly met. The question of meeting the condition that the suspensive effect will not be contrary to the public interest is particularly specific in this case, which is why we decided to present this specific example from application practice. Before submitting the application for an exemption

²³ The judgment of the Supreme Court of the Slovak Republic of 20 May 2015, File No. 2 Sžo 20/2014.

²⁴ The resolution of the Administrative Court in Banská Bystrica of 13 May 2025, File No. 3 S 61/2024.

²⁵ Pursuant to Section 185(a) of the Act of 21 May 2015 – Administrative Court Procedure.

permit for the shooting of seven brown bears, the relevant district office issued an emergency situation for the affected territory (Liptovský Mikuláš District) based on Act No. 42/1994 Coll. on Civil Protection of the Population. An emergency situation is understood to be a period of threat or a period of influence of the consequences of an emergency event on life, health or property. According to Section 3, para. 2, letter d) of the Civil Protection Act, an emergency event is also a condition that is assessed as a risk of endangering life, health or causing damage to crops, livestock or serious damage to property in connection with the occurrence of a brown bear in the territory in which an emergency situation is declared. The declaration of an emergency situation defined the need to protect the public interest, which in the case we describe comes into conflict with the public interest in protecting the environment, specifically a protected species of animal. The Administrative Court stated here that the mere general finding that the suspensive effect would not be contrary to the public interest does not constitute a reason to grant a motion to order the suspensive effect of an administrative action, especially after taking into account the declared state of emergency under the Civil Protection Act.²⁶

We have encountered a similar case in other parts of Slovakia, and the plaintiff's procedure was identical. The administrative court assesses the issue of granting suspensive effect each time according to the specific circumstances of the case, while the threat of immediate harm to an interest protected by law is obliged to be demonstrated by the plaintiff, and not only as a hypothetical possibility. When deciding on such a proposal, the administrative court must take into account the exceptional nature of this institute, which interferes with a legally valid and enforceable decision of a public administration body, and the degree of interference with the plaintiff's rights must be assessed.²⁷

Another procedurally significant aspect that is part of the proceedings concerning the shooting of the brown bear is the issue of the procedural status of non-governmental organizations and their possibility to enter into the proceedings in the procedural status of the interested public.

The Court of Justice of the European Union has recognized the status of a party to the proceedings of the interested public even in proceedings that were not preceded by proceedings under the EIA Act, in connection with the application of Article 9(3) of the Aarhus Convention. The Court of Justice has thus recognized the status of a party to the proceedings of the interested public, for example, in administrative proceedings concerning the granting

²⁶ The resolution of the Administrative Court Bratislava of 30 April 2025, File No. 4 S 32/2025.

²⁷ The resolution of the Administrative Court Bratislava of 25 April 2025, File No. 3 S 142/2024; the resolution of the Supreme Court of the Slovak Republic of 30 May 2018, File No. 7 Sžsk 17/2018, the resolution of the Constitutional Court of the Slovak Republic of 30 May 2017, File No. III ÚS 364/2017-16.

of an exemption from the brown bear protection regime (judgment of 8 March 2011, Lesoochránárske zoskupenie VLK, C-240/09). However, the Court has clearly established that the rights of participation granted to the public by Article 6 of the Aarhus Convention apply only where a decision is taken on a proposed activity having a significant impact on the environment (judgment of 20 December 2017, Protect Natur-, Arten- und Landschaftsschutz Umweltorganisation, C-664/15, paras. 64 to 67). This does not therefore apply to cases where a negligible or minor impact on the environment is identified. Although the complainant is a non-governmental organization which declares an interest in environmental protection, it does not therefore have the status of party to the proceedings in any authorization procedure, but only in one which is likely to have a significant impact on the environment and which such an impact is also the subject of an argument by such an NGO.²⁸

5. Conclusions

The brown bear has been the subject of social, political, conservation and legal debates in the Slovak Republic in recent years.

These debates around downgrading the protection of large carnivores, such as bears, have become deeply political, especially in areas where these species are recovering in mainland Europe and also North America. Various viewpoints on lethal control, either by target or non-target removals or through culling by authorities or public hunting schemes, have particularly exacerbated the polarization around large carnivore conservation and are often riddled with biased arguments.²⁹

This largest Slovak beast arouses various emotions in the public, which creates the material basis for the legal regulation, according to which we can already speak of a relatively effective process of granting exceptions to species protection, and thus the *de facto* shooting of the brown bear. However, it is questionable whether these decisions on granting exceptions are effective in ensuring the protection of the population and the elimination of problematic individuals. A difficult aspect is the factual impossibility of assigning the issued exception to a specific individual of a protected species, because exceptions are granted

²⁸ The judgment of the Supreme Administrative Court of the Slovak Republic of 31 March 2025, File No. 7 Svk 3/2023.

²⁹ M. Kotal, M. Duľa, M. Haring, J. V. López-Bao, *Deeply Political and Populist Decisions on Large Carnivores in Europe in Recent Times*, "Conservation Letters" 2025, vol. 18, no. 4, e13125.

for the number of individuals occurring in a specific area, but these individuals are not identified in advance in any way, and therefore are not clearly determined even during the shooting. It is therefore questionable what facts established in the proceedings for granting an exception justify the assumption that granting an exception is conducive to the achievement of the intended goal. Neither the *de facto* conditions for synanthropization that were prior to the granting of the exception nor the implementation of the shooting may change or be reduced. From a procedural and legal point of view, we consider the described situation to be absurd. However, it is also necessary to take into account the issue of *de facto* protection of the population, when, due to the relatively frequent cases of bear attacks, it is necessary to actively resolve the situation, unfortunately, often by shooting problematic brown bear individuals. The relatively difficult question of the correctness of the procedure, in our opinion, finds a solution in improving monitoring and unambiguous identification of problematic individuals, which can subsequently be eliminated.

Bibliography

Professional and academic publications

Lešová A., Antal V. (eds.), *Ochrana a manažment veľkých šeliem na Slovensku*, Štátna ochrana prírody SR, Banská Bystrica 2015.

Legally binding and non-legally binding documents and legislation

The Act of 21 May 2015 – No. 162/2015 Coll. Administrative Court Procedure

The Act of 25 June 2002 – No. 543/2002 Coll. on Nature and Landscape Protection

The Decree of the Ministry of the Environment of the Slovak Republic of 19 April 2021 – No. 170/2021 Coll. implementing Act No. 543/2002 Coll. on Nature and Landscape Protection, as amended

The Decree of the Ministry of the Environment of the Slovak Republic of 13 November 2015 – No. 371/2015 Coll. implementing certain provisions of the Waste Act

Explanatory report to The Act of 21 May 2024 – No. 127/2024 Coll. amending The Act of 25 June 2002 – No. 543/2002 Coll. on Nature and Landscape Protection, as amended, and amending The Act of 27 January 1994 No. 42/1994 Coll. on civil protection of the population as amended.

Methodical Instruction of the Director General of the Nature Protection and Landscape Creation Section of the Ministry of the Environment of the Slovak Republic on the establishment, organization and work of the intervention team and its regional groups for the brown bear under number 4970/2014-2.3 dated August 27, 2014.

The judgment of the Supreme Court of the Slovak Republic of 28 November 2016, File No. 10 Sžo 268/2015.

- The judgment of the Supreme Court of the Slovak Republic of 20 May 2015, File No. 2 Sžo 20/2014.
- The judgment of the Supreme Administrative Court of the Slovak Republic of 31 March 2025, File No.7 Svk 3/2023.
- The judgment of the Supreme Court of the Slovak Republic of 26 February 2018, File No. 5 Sžo 52/2016.
- The judgment of the Supreme Court of the Slovak Republic of 18 June 2020, File No. 3 Sžk 22/2019.
- The resolution of the Supreme Court of the Slovak Republic of 26 July 2016, File No. 6SžO 130/2015.
- The resolution of the Administrative Court in Banská Bystrica of 13 May 2025, File No. 3 S 61/2024.
- The resolution of the Administrative Court Bratislava of 30 April 2025, File No. 4 S 32/2025.
- The resolution of the Administrative Court Bratislava of 25 April 2025, File No. 3 S 142/2024.
- The resolution of the Supreme Court of the Slovak Republic of 30 May 2018, File No. 7 Sžsk 17/2018.
- The resolution of the Constitutional Court of the Slovak Republic of 30 May 2017, File No. III ÚS 364/2017-16.
- The resolution of the Constitutional Court of the Slovak Republic of 24 June 2014, File No. II ÚS 326/2014.

Internet sources

- <http://www.biomonitoring.sk/> [accessed 10 September 2025].
- Haring M., Silviu Ch., Miha K., Ivan K., *Defining, preventing, and reacting to problem bear behaviour in Europe*, <https://www.academia.edu/26354474> [accessed 6 December 2025].
- Kutal M., Duľa M., Haring M., López Bao J. V., *Deeply Political and Populist Decisions on Large Carnivores in Europe in Recent Times*, "Conservation Letters" 2025, vol. 18, no. 4, e13125, <https://conbio.onlinelibrary.wiley.com/doi/10.1111/conl.13125> [accessed 14 December 2025].
- Odhad velikosti populace medvėda hnėdėho (Ursus arctos) na Slovensku analýzou DNA* (a study of the estimation of the brown bear population size prepared by the Faculty of Natural Sciences, Charles University in Prague by: N. Tkáčova, J. Šrutova, B. Āerna Bolfikova, V. Kornova, M. Apfelova, M. Kalaš, V. Antal, S. Findo, M. Hletko and P. Hulva, https://www.sopsr.sk/news/file/00%20%C5%A0T%C3%9ADIA%20FINAL%20-%20Velikost_populace_medved_Slovensko2.pdf [accessed 10 September 2025].
- <https://www.sopsr.sk/web/?cl=251> [accessed 10 September 2025].
- Vyzva na prehodnotenie rozhodnutia a zastavenie plošnėho lovu medveda hnėdėho na Slovensku* (appeal of experts to the Ministry of Environment of the Slovak Republic on brown bear management), Bratislava, May 1, 2025, https://www.aevis.org/wp-content/uploads/2025/05/appeal-to-the-slovak-ministry-for-bears_final_sk.pdf [accessed 6 December 2025].
- <https://zasahovytim.sopsr.sk/o-nas-2/> [accessed 10 September 2025].

Jana Šmelková, Martin Dufala

Niedźwiedź brunatny w systemie prawnym Republiki Słowackiej – monitoring, ochrona, odpowiedzialność

Streszczenie

Niedźwiedź brunatny (*Ursus arctos*) jest gatunkiem zwierzęcia chronionym na podstawie ustawy nr 543/2002 Zb. o ochronie przyrody i krajobrazu. Poziom ochrony tego gatunku bezpośrednio wpływa na istnienie odpowiedzialności państwa za szkody wyrządzone przez jego działalność. W niniejszym opracowaniu podejmujemy problematykę regulacji prawnej statusu niedźwiedzia brunatnego, jego aktywności i poziomu ochrony. Nasza analiza opiera się zarówno na przepisach prawa Republiki Słowackiej, jak i na źródłach prawa międzynarodowego oraz europejskiego. Przyczyną wyboru tego tematu są aktualne problemy prawnej i faktycznej ochrony niedźwiedzia brunatnego na terytorium Republiki Słowackiej, które stały się przedmiotem dyskursu nie tylko naukowego, lecz (niestety) także politycznego.

Słowa kluczowe: niedźwiedź brunatny, zwierzę chronione, gatunek wyznaczony, monitoring, odstępstwo od zakazu, odstrzał

Яна Смелкова, Марцин Дуфала

Бурый медведь в правовой системе Словацкой Республики – мониторинг, защита, ответственность

Резюме

Бурый медведь (*Ursus arctos*) является охраняемым видом животных в соответствии с законом № 543/2002 Zb. о защите природы и ландшафта. Уровень защиты этого вида напрямую влияет на ответственность государства за ущерб, причиненный его деятельностью. В данном исследовании рассматривается правовое регулирование статуса бурого медведя, его активности и уровня защиты. Наш анализ основан как на правовых положениях Словацкой Республики, так и на источниках международного и европейского права. Причиной выбора данной темы являются актуальные проблемы правовой и фактической защиты бурого медведя на территории Словацкой Республики, которые стали предметом не только научного, но и (к сожалению) и политического дискурса.

Ключевые слова: бурый медведь, охраняемое животное, биоиндикатор, мониторинг, отступление от запрета, отстрел

Jana Šmelková, Martin Dufala

L'orso bruno nell'ordinamento giuridico della Repubblica Slovacca – monitoraggio, protezione, responsabilità

Sommario

L'orso bruno (*Ursus arctos*) è una specie animale protetta ai sensi della legge n. 543/2002 R. sulla protezione della natura e del paesaggio. Il livello di protezione di questa specie influisce direttamente sull'esistenza della responsabilità dello Stato per i danni causati dalla sua attività. Nel presente studio affrontiamo la questione della regolamentazione giuridica dello status dell'orso bruno, della sua attività e del suo livello di protezione. La nostra analisi si basa sia sulle disposizioni legislative della Repubblica Slovacca, sia sulle fonti del diritto internazionale ed europeo. La scelta di questo tema è motivata dalle attuali problematiche relative alla tutela giuridica e fattuale dell'orso bruno sul territorio della Repubblica Slovacca, che sono diventate oggetto di un dibattito non solo scientifico, ma (purtroppo) anche politico.

Parole chiave: orso bruno, animale protetto, specie indicata, monitoraggio, deroga al divieto, abbattimento