

Are we willing and are we able to protect endemic species from becoming extinct?

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Abstract

Legal protection for endemic species depends where they appear. In protected areas, it is simpler to argue for their preservation because the ecological balance is a target of these areas. Otherwise, you can discuss the protection of endemic species along an environmental assessment if needed. The last resort perhaps is a species conservation assessment. Other legal makeshifts do not help.

Keywords

legal protection, kinds of protected areas, ecological balance, species conservation assessment

As ombudsman for the environment my job is to forward the interests of nature and environment in administrative proceedings. In such proceedings, the interests of economy often collide with the interests of nature protection. Those discussions are difficult enough, if a project should take place in a protected area or if they endanger some nice animals or beautiful plants. The protection of endemic species is even much more difficult to argue because there is no specific legal protection for them.

In Styria the Koralpe is besides Gesäuse and Zirbitzkogel the most important hot spot for endemic species. This mountain ridge is situated between Pack and Soboth and it is the scene of many large-scale projects with huge drain of land resources (windfarms, pumped storage power plants, forest roads etc.). On the other hand, there are broad areas without protection status. The Koralpe hosts many local endemic species in the higher regions, which are extremely sensitive.

By my order, the first comprehensive representation of the zoological and botanical endemic species of this unique mountain massif was compiled in 2016 (ÖKOTEAM – KOMPOSCH et al. 2016). Therefore, now a scientific document is available which describes which endemic species do exist at the Koralpe and where. Now the question is what to do with this knowledge?

If we talk about a project which takes place in a protected area we have to ask for the purpose of the rule: the bylaw of 'Landschaftsschutzgebiet' normally does not say much about the purpose of the rule and is not very definite. Nevertheless, law points out to the fact, that for approvals, among the rest, you also have to take care for the balance of nature and its interactive system. This means, the correlation of biotic and abiotic environmental factors make sure that all indigenous species can exist and develop. It is sure that you can transfer this regulation to negative repercussions a project has for endemic species: if it endangers a certain population, the ecological balance may come out of order. Similar questions in small nature reserves have to be handled in the same way, because the law refers to the same basis, e.g. the conservation of ecological balance. Natura 2000 is a little bit different because here only FFH habitat types and species are relevant.

If a project does not take place in a protected area but an environmental assessment is necessary, endemic species are also an important part, because animals, plants and their habitats are protected resources in these administrative proceedings. Therefore, the knowledge about the existence of endemic species and the effects a project has on them, are an important question in the EA.

A project without EA and out of protected areas might be relevant for the protection of species. FFH directive says, that there are species, which are protected everywhere, not only in reserves. Styria has used the implementation of the FFH directive to protect 'all local species' in some orders or families. For example, all grand beetles larger than 20 mm are protected. For sure, this bylaw also is in force for endemic species. Therefore, the study mentioned above (ÖKOTEAM – KOMPOSCH et al 2016) is very important, because one can prove if a certain endemic species is endangered by a project. If that is the case, a special administrative proceeding is necessary, the species conservation assessment (SPA). However, we have a problem, when the project applier refuses to apply for approval because there is no possibility to force him. In this case, you can only report to the authority and they can give a fine or instruct him to re-establish the former state. This is very unsatisfactory, because damage is done and unique local endemic species may be extinguished forever.

Endemic species, which the bylaw about species conservation does not mention, have no specific protection. In such a case, legal remedies like the environmental liability law are not useful, too, because the annex does not list endemic species. Therefore, now we are at the border of juridical possibilities for the protection of endemic species: if you cannot argue with the bylaw concerning the protection of species at least, there is no protection at all. For sure, there are agreements of international law, which point out to the importance of biodiversity. Nevertheless, there are no binding rules to transfer those agreements into national law.

Endemic species, which you cannot incorporate in the protection rules explained above, are without protection. Therefore, I really think that we do not want to protect them, because it is complicated and might disturb “the economy” although they are a treasure and we are just beginning to lift it.

References

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