ROMANIA
BUCHAREST COURT
SECOND SECTION ADMINISTRATIVE AND FISCAL CONTENTIOUS

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Case No. 24872/3/2024

***** Inofficial translation *****

CIVIL JUDGMENT NO. 10482
Public hearing on 18 December 2025
The court was made up of:
PRESIDENT: Alina-Mihaela Ferenț
CLERK: Marilena Călin

The case concerns the administrative and fiscal dispute between the claimant, **Eco Civica Foundation**, and the defendants, **Ciurila Local Council**, **Cluj County Council**, **Cluj Environmental Protection Agency**, **Cluj General Directorate frSocial Assistance and Child Protection**, and **Ciurila Local Council**, concerning *the annulment of an administrative act.*

The substantive arguments were heard in a public hearing on 18 November 2025 and recorded in the minutes of that hearing, when, needing time to deliberate, the court postponed the ruling until 3 December 2025 and 18 December 2025, when it decided as follows:

THE COURT

Having deliberated on the civil case at hand, it finds the following:

By the summons dated 23 July 2024, registered under number 24872/3/2024 on the docket of the Bucharest Tribunal – Second Administrative and Fiscal Division, the plaintiff, **Eco Civica Foundation**, in opposition to the defendants, **Ciurila Commune Local Council**, **the Cluj County Council**, **the Cluj Environmental Protection Agency**, **the Cluj General Directorate for Social Assistance and Child Protection** and **the Municipality of Ciurila**, requested the suspension of the PUZ approved by Ciurila Local Council Decision No. 8/31 January 2023 for the construction of four sheltered housing units in the locality of Sălicea, Ciurila Commune, together with the related Local Urban Planning Regulations issued by the Ciurila Local Council, and with the documents on which its issuance is based, including opinion no. 196/13.09.2022 issued by the County Council; the suspension of the PUG approved by Ciurila Local Council Decision no. 48/28.07.2023 of the Ciurila Commune, with the related Local Urban Planning Regulations, together with the documents on which its issuance is based, including opinion 139/28.07.2023 on the General Urban Plan of the Municipality of Ciurila, issued by the Cluj County Council.

The claimant also requested the annulment of the PUZ approved by Ciurila Local Council Decision No. 8/31.01.2023 for the construction of four sheltered housing units in the village of Sălicea, Ciurila commune, together with the related Local Urban Planning Regulations and the documents on which its issuance is based, including opinion No. 196/13.09.2022 issued by the Cluj County Council; the annulment of the PUG approved by Decision no. 48/28.07.2023 of the Ciurila Local Council of the Ciurila Commune with the related Local Urban Planning Regulations, together with the documents on which its issuance is based, including opinion no. 139/28.07.2023 regarding the General Urban Plan of the Ciurila Commune.

The claimant also invoked the exception of illegality of classification decision no. 39/2022 regarding the preparation of PUZ documentation for the construction of four protected dwellings issued by

Cluj Environmental Protection Agency, and the exception of illegality of classification decision no. 123/2021 regarding the updating of the General Urban Plan of the Municipality of Ciurila issued by the Cluj Environmental Protection Agency.

The claimant also requested that the defendants be ordered to pay the costs of the proceedings.

In support of its claim, the claimant argued that, on 31 January 2023, the Local Council of Ciurila approved, by Decision No. 8, the Zonal Urban Plan for the construction of four protected dwellings in the locality of Sălicea, without complying with the provisions of Article 21(4) of Government Emergency Ordinance No. 57/2007 on the regime of protected natural areas.

It was pointed out that, through this act, it was proposed to extend the built-up area over habitats and species of conservation interest protected by GEO No. 57/2007 and over an area for which, at the time of issuing the acts, an application had been submitted for the establishment of a protected area and a draft Government Decision on updating the Consolidated List of Protected Natural Areas in Romania.

The claimant stated that, on 15 February 2024, it had sent a preliminary complaint against this PUZ, as evidenced by the attached documents.

He also mentioned that, on 28 July 2023, the Local Council of Ciurila approved, by Decision No. 48, the General Urban Plan of Ciurila, without complying with the provisions of Article 28(2) and (9) of Government Emergency Ordinance No. 57/2007, in conjunction with Article 21(4) and (5) of the same legislative act. It stated that, through the two decisions, urban plans were issued that seriously harm the environment, protected natural areas and habitats of conservation interest.

The claimant stated that the management plan approved by Order No. 1525/2016 proposed the extension of the Natura 2000 site ROSCi0074 Făgetul Clujului – Valea Morii to include habitats critical for species such as Euphydryas maturna, Colias myrmidone, Maculinea teleius, Liparis loeselii and Adenophora liliifolia.

She reported that, on 27 January 2021, the Ministry of Environment, Water and Forests submitted for public debate the draft Order on the establishment of the protected natural area regime and the declaration of sites of Community importance as an integral part of the European ecological network Natura 2000 in Romania, including the area proposed for the extension of the site to include the Colias myrmidone populations identified in 2014. By Decision No. 187/21.05.2021 issued by ANANP, it was established that the Natura 2000 site needed to be extended to include habitats critical for species such as Euphydryas maturna, Colias myrmidone, Maculinea teleius, Liparis loeselii and Adenophora liliifolia.

The applicant mentioned that, on 15 February 2024, the Romanian Academy issued its opinion on the establishment of the ROSCI Făget Sud-Colonia Făget protected natural area, covering all species and habitats identified in the area proposed for extension.

He argued that, through the Ciurila PUG, it was proposed to extend the built-up area over the pasture land, without documentation justifying the application of the exceptions provided for in Article 5 of Government Emergency Ordinance No. 34/2013, which led to the inclusion of protected natural habitats 91E0* – Alluvial forests of Alnus glutinosa and Fraxinus excelsior.

The maps presented show how the area included in the urban plan (marked in yellow) overlaps with the protected area and the Valea Morii Nature Reserve. The claimant pointed out that the PUG introduced a junction on the A3 motorway without public debate, environmental assessment or public consultation, in violation of CNAIR opinion no. 92/74498/29.10.2018. It also mentioned that a 19-hectare industrial park had been moved near the Ciurila lakes and a tertiary economic activity zone had appeared in the village of Sălișteː, without re-approval of the documentation and without public consultation.

The complainant pointed out that Chapter 3.10 of the PUG only identifies protected natural areas and, in part, species and habitats, without regulating measures for their protection and conservation, in violation of Article 21(4) of Government Emergency Ordinance No. 57/2007. It pointed out that page 113 of the General Memorandum contains false information regarding the 300-400 ha increase in the built-up area.

which would lead to 3,000–4,000 new homes and 3,000–4,000 new residents, without taking into account that the village of Sălicea does not have drinking water and sewerage, as stated in the water management notice issued by Apele Române, no. 72/2018. He mentioned that the PUG included land occupied by illegal constructions, without building permits, which violates Article 56(1) of Law No. 350/2001. He specified that the notices on which the adoption of the PUG was based have expired and are based on old versions of the PUG, subsequently modified without re-approval, which renders the documentation null and void pursuant to Articles 64 and 65 of Law No. 350/2001. The PUZ regulated the construction of four protected dwellings directly on the habitats mentioned in the Study on the Interaction of Built-up Areas with Protected Areas on the Territory of Ciurila Commune, without mentioning the existence of these habitats in the plans approved by the County Council and in the location maps.

The claimant pointed out that urban planning certificate no. 844/24.05.2021 falsifies the provisions relating to the legal regime of the land area affected by the PUZ, as it does not mention the overlap with the Natura 2000 site and the protection regime established by the management plan.

She pointed out that, on the date of adoption of the PUG, the urban planning certificate was no longer valid, having expired on 8 March 2022, without there being a new certificate on which to base the issuance of the PUG. It stated that, through the PUG, permanent pastures were transferred to the built-up area without meeting the conditions provided by law for the application of the exceptions provided for in Article 5 of GEO No. 34/2013, which violates the aforementioned legal provisions.

The claimant mentioned that, with regard to public consultation, there had been repeated and abusive violations of the public's rights to participate in the drafting and decision-making of public authorities regarding the normative act.

He specified that, with regard to the PUG, the public consultation procedure had not been followed, in accordance with Article 20(3) of Government Emergency Ordinance No. 195/2005 and Article 57 of Law No. 350/2001, as a road junction had been introduced on the A3 motorway without public debate, without environmental assessment and without public consultation, in violation of CNAIR opinion No. 92/74498/29.10.2018. It argued that, with regard to the PUZ, it was never communicated to the public, even after its adoption, from the public space, a minutes of a public debate on 8 September 2023 being uploaded, a date on which this PUZ was not debated, minutes which were never communicated to the public.

The claimant argued that the classification decision no. 123/2021 on the updating of the PUG for the municipality of Ciurila violated Article 28(1) and (2) of Government Emergency Ordinance no. 57/2007, in conjunction with Article 5 of Government Decision no. 1076/2004, as the PUG aims to introduce into the built-up area certain habitats protected at European Union level and regulated by the Management Plan approved by Order No. 1525/2016 and Decision No. 187/2021 of the ANANP.

The claimant argued that Decision No. 39/2022 on the preparation of the PUZ documentation for the construction of four sheltered housing units violated Article 28(1) and (2) of Government Emergency Ordinance No. 57/2007, in conjunction with Article 5 of Government Decision No. 1076/2004, as the PUZ introduces a portion of the Natura 2000 site and the "Făgetul Clujului" nature reserve into the built-up area, as stated in Opinion 196/2022 of the Cluj County Council.

The following evidence was requested in support of the claim: documents, witnesses, expert Bădărău Alexandru, audio-video recordings, photographs.

The application was legally stamped with a stamp duty of 140 lei in accordance with Art. 16 lit.
a) and Art. 27 of GEO No. 80/2013.

In **its response** dated 15 October 2024, the defendant, **Cluj County Council,** requested that the application be dismissed as unfounded.

In its statement of grounds, the defendant stated that, by means of the application registered with the Cluj County Council Registry under no. 31584/03.08.2022, it requested the issuance of the Chief Architect's opinion for

the Urban Plan for the Construction of Four Protected Housing Units in the Commune of Ciurila, Localities of Sălicea, the beneficiary being the General Directorate of Social Assistance and Child Protection.

The defendant argued that, following the analysis of the documentation at the meeting of the Technical Commission for Urban Planning and Land Use on 15.09.2022, favourable opinion no. 196 of 30.09.2022 was issued, and urban planning certificate no. 844/24 May 2021 was issued for the aforementioned objective. It was noted that, in Chapter 1, Legal Status of the Land, paragraph 1.4. of the urban planning certificate, it was mentioned that the property is not included in the lists of historical or natural monuments or in their protection area, and the boundary of the Făgetul Clujului Nature Reserve is on the eastern side of the plot.

The defendant mentioned that the urban planning certificate drew attention to the determination of the buildable area, taking into account the distance from the forest edge (protected area), with the establishment of a protection zone around it, as well as the obligation to obtain the necessary permits for the construction of the requested project, including the permit from the Cluj Forestry Directorate and the Cluj Forest Guard, as well as the regulatory document issued by the Cluj Environmental Protection Agency.

The defendant reported that, in the content of the classification decision no. 39/08.03.2022 issued by the Cluj Environmental Protection Agency, in chapter 2 Characteristics of the effects and the area likely tobe affected, point g) effects on areas or landscapes with nationally, communally or internationally recognised protection status, it was stated that this was not the case. It was pointed out that, in the favourable opinion no. 3177/AAV/02.07.2021 issued by the Cluj Forestry Directorate, it was specified that the area in question is not forest land and is not included in forest management plans, but that the objective must not affect the forest fund and forest vegetation.

He argued that the explanatory technical memorandum submitted with the documentation for obtaining the permit mentioned that the land borders a forest belonging to the private domain of the municipality of Ciurila, and that the land partially overlaps with a protected natural area of national interest, RONPA0352 – Făgetul Clujului, and with the Natura 2000 site ROsCl0074 – Făgetul Clujului – Valea Morii, with an area of approximately 4,290 square metres. He pointed out that no interventions or removal from agricultural use are proposed for the overlapping area, and that the proposal to include it in the built-up area and the proposed intervention only concern an area of approximately 5710 square metres of the total plot NC 55670. He mentioned that, since the beneficiary had submitted the complete documentation, complying with the conditions imposed by the urban planning certificate, favourable opinion no. 196/2022 was issued for the PUZ – Construction of four protected dwellings on the land identified by C.F. no. 55670 UAT Ciurila.

The defendant stated that, at the end of the opinion, it was specified that this was a technical opinion and could only be used for the purpose of approving the PUZ, and that the Project for the authorisation of construction works (DTAC) could only be drawn up after the approval of the PUZ and with the obligation to comply strictly with its provisions.

He reported that the aforementioned zoning plan was approved by Decision No. 8/31.01.2024 of the Local Council of Ciurila Commune, and the solution approved by it was subsequently incorporated into the General Urban Plan of the Municipality of Ciurila, approved by Local Council Decision No. 48/28.07.2023, and illustrates for the land under study that it is located within the built-up area in the Reference Territorial Unit - CRS - the area designated for social reintegration centres.

The defendant argued that, with regard to the summons issued against the undersigned, he invokes Decision No. 1923 of 6 April 2012 of the High Court of Cassation and Justice, in which the court ruled that the opinion, whether advisory, optional or mandatory, was merely a procedural step prior to the issuance of the administrative act, and not an administrative act itself, as it did not produce any legal effects on its own, but merely contributed to strengthening the legal nature of the administrative act.

It pointed out that, in this regard, the High Court specified that the distinction between the administrative act and the opinion (administrative operation) is of practical importance, particularly in administrative disputes, because the court can only exercise control over administrative acts challenged in court, but cannot, in the case of direct action, control, separately from the administrative act, the administrative operations on the basis of which that act was issued. It pointed out that the opinions issued by the chief architect/technical commission are a preliminary procedure to the approval of the Urban Development Plan by the local/county council decision (the actual administrative act). Finally, it requested that the lawsuit filed against the Cluj County Council be dismissed as unfounded and without merit.

In law, the following legal provisions were invoked: the Code of Civil Procedure and Law No. 50/1991 on the authorisation of construction works.

The following evidence was requested: documents.

In **its response** dated 17 October 2024, the defendant, **the Cluj General Directorate for Social Assistance and Child Protection**, requested that the plaintiff's claim be dismissed as unfounded.

In its statement of reasons, the defendant stated that it had obtained favourable opinion no. 3177/AAV/12 July 2021, as the land on which the four sheltered homes are to be built is not forest land, is not included in forest management plans and does not affect the forest fund and forest vegetation.

It argued that, although the land borders a private forest and partially overlaps with the protected natural area RONPA0352 – Făgetul Clujului and the Natura 2000 site ROSCI0074 – Făgetul Clujului – Valea Morii, no interventions are proposed for the overlapping area and no construction will take place, even partially, within the protected area.

He mentioned that the beneficiary complied with the conditions imposed by the urban planning certificate and obtained favourable opinion no. 196/2022 for the PUZ – Construction of four sheltered housing units, an opinion that was used exclusively for the approval of the PUZ. He pointed out that the Zoning Plan was approved by Decision no. 8/31.01.2024 of the Local Council of Ciurila Commune and included in the General Urban Plan of the commune by Local Council Decision no. 48/28.07.2023, the approved solution indicating that the land is located within the built-up area, in the area designated for social reintegration centres.

The defendant stated that all necessary permits and documents had been issued legally and that the works would be limited to an area of approximately 5,710 square metres of the total plot of 5,870 square metres. It reported that the claimant had not proven the existence of imminent damage or circumstances that would cast serious doubt on the legality of the administrative acts, so that the conditions for suspension provided for in Article 14(1) of Administrative Litigation Law No. 554/2004 were not met. It therefore requested that the application for suspension be dismissed and that the application for annulment of the administrative acts be dismissed as unfounded.

In law, the following legal provisions were invoked: the Code of Civil Procedure and Law No. 50/1991 on the authorisation of construction works.

In **its response** dated 23 October 2024, the defendant, **the Cluj Environmental Protection Agency**, requested the rejection of the requests for suspension of the PUZ approved by HCL No. 8/31 January 2023 and the PUG approved by HCL No. 48/28 July 2023, both issued by the Local Council of Ciurila Commune, as well as the dismissal of the lawsuit as unfounded and the obligation of the claimant to pay the court costs.

In its statement of grounds, the defendant argued that the suspension requests made by the claimant did not meet the conditions set out in Articles 14 and 15 of Law No. 554/2004, as the grounds invoked did not raise serious doubts as to the legality of the administrative act and the imminence of damage had not been proven. The defendant argued that a summary analysis of the appearance of the right

be replaced by an in-depth analysis of the merits of the case, and that the claimant had not indicated a legal basis for the suspension.

It pointed out that classification decision No. 123/2021 on the updating of the Ciurila Commune's PUZ did not violate the provisions of GEO No. 57/2007 and GD No. 1076/2004, since at the time of its issuance it was not located in a protected natural area, and the planned activities did not have a significant impact on the environment.

The defendant mentioned that favourable opinion no. 3177/AAV/12.07.2021 of the Cluj Forestry Directorate excludes the need for an additional environmental assessment, and the authorities complied with the simplified procedure for adopting the urban plan.

It stated that the subsequent designation of the Făget Sud-Colonia Făget area as a protected natural area by the Romanian Academy in 2024 cannot affect the legality of the 2021 decision, as the principle of "tempus regit actum" requires the administrative act to be assessed according to the legislation in force at the time of its issuance.

The defendant pointed out that classification decision no. 39/2022 on the preparation of the PUZ documentation did not violate the provisions of GEO no. 57/2007 and GD no. 1076/2004, as the public consultation procedure was followed, and the authorities concluded that the project did not have a significant impact on the environment.

It argued that the Natura 2000 opinion was not mandatory, as the legislation requires it to be issued only in cases of proven negative impact on Natura 2000 sites, and the authorities had determined that the land in question did not significantly interfere with them.

In law, legal provisions referred to in the statement of defence were invoked.

The following evidence was requested: documents.

The application filed on 24 June 2025 stated that the defendant, the Cluj Environmental Protection Agency, had been dissolved following the adoption of Government Emergency Ordinance No 103/2024, with all its rights and obligations being taken over by the National Agency for the Environment and Protected Areas.

The court took note of the change of defendant at the hearing on 24 June 2025.

At the hearing on 18 November 2025, the court admitted documentary evidence for all parties and took note of the fact that the claimant had withdrawn its requests for expert evidence and witness evidence to be admitted.

After looking at the lawsuit, the documents and stuff in the file, and the laws that apply here, the court says this:

In fact, by Decision No. 8/31.01.2023 of the Ciurila Local Council (f. 163 vol. I), the Zonal Urban Plan for the construction of four sheltered housing units in the locality of Sălicea, Ciurila commune, Cluj county, was approved in favour of the Cluj General Directorate for Social Assistance and Child Protection, on land located within and outside the town limits, registered in the land registry extract no. 55670 Ciurila.

By notice no. 196/30.09.2022, the Cluj County Council – Urban Planning and Land Use Department approved the Zonal Urban Plan for the construction of four sheltered housing units in Sălicea, Ciurila commune, Cluj county, in favour of the Cluj General Directorate for Social Assistance and Child Protection, on land located within and outside the built-up area of the locality, registered in the Land Registry extract no. 55670 Ciurila. This approval stated that, according to the provisions of the previous General Urban Plan, the land was located outside the town, and the proposed ZUP would bring it within the town.

By Decision No. 48/28.07.2023 of the Ciurila Local Council (f. 61 vol. I), the General Urban Plan of the Municipality of Ciurila and the related local urban planning regulations were approved.

By opinion No. 139/28.07.2023, the Cluj County Council – Urban Planning and Land Use Department gave a favourable opinion on the General Urban Plan of the Municipality of Ciurila. The technical memorandum prepared for this plan states in point 3.7.2.2.2 that the largest expansion of the built-up area is proposed for the locality of Sălicea, from 204.68 ha to 403.92 ha, to be carried out gradually.

By the scoping decision no. 123/22.10.2021 (f. 174 vol. I), issued by the Cluj Environmental Protection Agency, it was noted that the plan to update the General Urban Plan for the municipality of Ciurila does not require an environmental assessment and will be submitted for adoption without an environmental opinion.

By decision no. 39/08.03.2022 (f. 180 vol. I) issued by the Cluj Environmental Protection Agency, it was noted that the plan for the preparation of the documentation – the Zonal Urban Plan for the construction of four protected dwellings in the locality of Sălicea, Ciurila commune, Cluj county, CF 55670 Ciurila – did not require an environmental assessment and would be subject to approval without an environmental opinion. The report noted that the land partially overlaps with the RONPA0352 – Făgetul Clujului protected natural area of national interest and the ROSCI0074 – Făgetul Clujului – Valea Morii Natura 2000 site, covering an area of approximately 4,290 square metres, but no interventions or removal from agricultural use are proposed for this area.

Given that the two decisions of the classification stage formed the basis for the issuance of HCL No. 8/31.01.2024 and HCL No. 48/28.07.2023, the court considers that the exceptions of illegality invoked in relation to them should be analysed as a matter of priority.

With regard to **the exception of illegality** of the classification stage decisions No. 123/22.10.2021 and No. 39/08.03.2022, according to Article 4 of Law No. 554/2004 "*(1) The legality of an individual administrative act, regardless of its date of issue, may be examined at any time in court, by way of exception, either ex officio or at the request of the interested party.*

(2) The court hearing the merits of the case and before which the plea of illegality has been raised, finding that the resolution of the dispute on the merits depends on the individual administrative act, has jurisdiction to rule on the plea, either by an interlocutory decision or by the judgment it will deliver in the case. Where the court rules on the plea of illegality by way of an interlocutory order, that order may be challenged together with the merits of the case.

(3) If it finds that the individual administrative act is unlawful, the court before which the plea of unlawfulness was raised shall decide the case without taking into account the act whose unlawfulness has been established.

(4) Administrative acts of a normative nature cannot be the subject of an exception of illegality. Judicial review of administrative acts of a normative nature shall be exercised by the administrative court in the context of an action for annulment, under the conditions provided for by this law.

In accordance with this legal text, the admissibility of the exception of illegality is subject to the following requirements:

- the plea of illegality must relate to a unilateral administrative act of an individual nature, regardless of the date of its issuance;
- the resolution of the dispute on the merits depends on the administrative act in question.

With regard to the fulfilment of the first condition, the court finds that the decision at the classification stage is a regulatory act issued by the competent environmental protection authorities, which determines whether a particular project may have significant effects on the environment. Specifically, this decision determines whether or not an environmental permit is required – Article 13 of Government Decision No 1076/2004.

Consequently, the court finds that this decision is an act issued in enforcement of the law, which gives rise to rights or obligations for its beneficiary, issued in connection with a specific project, and is therefore an individual administrative act.

With regard to the second condition, the court finds that the contested classification decisions verified the environmental impact of the PUZ and PUG projects approved by HCL No. 8/31.01.2024 and HCL No. 48/28.07.2023, the legality of which has a direct impact on the legality of these decisions.

In view of these aspects, the court considers that the conditions for the admissibility of the two exceptions of illegality invoked by the claimant are met in this case.

According to Article 5(2) of Government Decision No. 1076/2004, *"All plans and programmes that:*

a) are prepared for the following areas: agriculture, forestry, fisheries and aquaculture, energy, industry, including the extraction of mineral resources, transport, waste management, water management, telecommunications, tourism, regional development, land use and urban planning or land use, and which establish the framework for the issuance of future single agreements for the projects listed in Annexes 1 and 2 to Government Decision No. 918/2002 on establishing the framework procedure for environmental impact assessment and approving the list of public-private projects subject to this procedure; or which

b) due to possible effects affecting special bird protection areas or special conservation areas regulated under Government Emergency Ordinance No. 236/2000 on the regime of protected natural areas, the conservation of natural habitats, wild flora and fauna, approved with amendments and additions by Law No. 462/2001."

According to point 2.1 of the Methodological Guide on the appropriate assessment of the potential effects of plans or projects on protected natural areas of Community interest, approved by Order No. 19/2010 of the Ministry of Environment and Forests, applicable in view of the date of issue of the two decisions, *"At this stage, the ACPM shall determine and decide whether the PP, alone or in combination with other PPs, is likely to have a significant negative impact on the protected natural area of Community interest and whether the PP will be subject to an appropriate assessment. The competent environmental protection authority shall take into account the existence of other PPs implemented and those undergoing regulatory procedures in order to assess, as far as possible at this stage, the cumulative impact.*

The notion of "significant negative impact" must be determined in relation to the specific features of the protected natural area of Community interest.

A PP that has a significant negative impact on a protected natural area of Community interest may not have the same impact on another protected natural area of Community interest. Therefore, each assessment is an individual case, which must be treated according to the conservation objectives of the protected natural area of Community interest and the characteristics of the PP.

PP. The likelihood of a significant impact may result not only from PP located within a protected natural area of Community interest, but also from PP located outside it.

The court finds that the technical memorandum prepared in connection with the PUZ project approved by Ciurila Local Council Decision No. 8/31.01.2023 shows that the land registered in Land Registry No. 55670 is partially included in the protected natural area of national interest RONPA0352 – Făgetul Clujului and in the Natura 2000 site ROSCI0074 – Făgetul Clujului – Valea Morii, covering an area of approximately 4,290 square metres out of a total of 10,000 square metres, as also noted in the classification decision no. 39/08.03.2022 issued in relation to this project. This decision stated that the PUZ project does not require an environmental assessment and will be submitted for approval without an environmental opinion

, considering that, although the aforementioned overlap exists, no interventions or removal from agricultural use are proposed for this area.

However, the Court notes that, according to the provisions of the Guide presented above, a significant negative impact on a protected natural area may also exist in the case of a project located outside the protected area.

In the present case, it can be seen from the draft plans that the land proposed for conversion to urban land and the construction of four dwellings is located in the immediate vicinity of the protected area. In these circumstances, the court considers that the environmental authority should have carried out an assessment of the possible impact on the protected area that could result from the change in land use and the construction of the proposed buildings.

Thus, from the documents drawn up in connection with classification decision no. 39/08.03.2022, the court finds that when it was issued, the distance between the protected perimeter and the construction works provided for in the PUZ project was not taken into account, the environmental authority limiting itself to noting only that the project does not request a change in the legal regime of the land that is part of the protected area.

The court finds that the environmental authority did not analyse the criteria set out in the checklist in Annex 1 to the Methodological Guide on the appropriate assessment of the potential effects of plans or projects on protected natural areas of Community interest, including the question of whether there are natural habitats and/or wild species of Community interest on the project site and in its immediate vicinity that may be affected by its implementation.

The court also notes from the Memorandum prepared in connection with the classification decision No. 123/22.10.2021 (f. 15 vol. IX) that the criteria in Annex No. 1 to the Methodological Guide on the adequate assessment of the potential effects of plans or projects on protected natural areas of Community interest were not analysed in relation to the PUG project either, with only general references being made to protected areas and the need to conserve them, without any specific mention of the possible impact of the changes proposed by the draft PUG, which includes an extension of the built-up area of Sălicea from 204.68 ha to 403.92 ha.

In these circumstances, the court considers that the two decisions of the classification stage were not issued in compliance with the legal provisions, as the environmental classification stages of the PUZ and PUG projects for the commune of Ciurila were not carried out with the required environmental checks on the protected areas within or in the vicinity of their perimeter.

For these reasons, the court will uphold the objections of illegality of the classification stage decisions no. 39/08.03.2022 and no. 123/22.10.2021, and will remove their effects in the resolution of this case.

With regard to **the** merits of **the case**, according to Article 1(1) of Law No. 554/2004, *"any person who considers that their rights or legitimate interests have been infringed by a public authority through an administrative act or through the failure to resolve a request within the legal time limit may apply to the competent administrative court for the annulment of the act, recognition of the claimed right or legitimate interest and compensation for the damage caused. The legitimate interest may be both private and public*."

Art. 8 para. 1 and $1^1$of Law No. 554/2004 provide that *"(1) A person whose right recognised by law or legitimate interest has been infringed by a unilateral administrative act, who is dissatisfied with the response received to the preliminary complaint or who has not received any response within the time limit provided for in Art. 2 para. (1) letter h), may refer the matter to the competent administrative court to request the annulment of the act in whole or in part, compensation for the damage caused and, where appropriate, compensation for moral damage. A person who considers that their rights or*

legitimate interest by the failure to resolve a request within the time limit or by the unjustified refusal to resolve a request, as well as by the refusal to perform a certain administrative operation necessary for the exercise or protection of the right or legitimate interest. The grounds invoked in the request for annulment of the act are not limited to those invoked in the prior complaint.

(1^{1}) Natural persons and legal persons governed by private law may submit claims invoking the defence of a legitimate public interest only in a subsidiary manner, insofar as the harm to the legitimate public interest logically follows from the infringement of the subjective right or legitimate private interest. "

Firstly, the court finds that the illegality of decisions no. 39/08.03.2022 and no. 123/22.10.2021 in the present case leads to the conclusion that Ciurila Local Council Decisions No. 8/31.01.2023 and No. 48/28.07.2023 were not issued lawfully, as the existence of lawfully issued environmental classification decisions is mandatory for the continuation of the approval procedure for the proposed projects.

The court also notes that, according to Article 46(1) and $^{1)(1}$of Law No. 350/2001, the general urban plan is both guiding and strategic in nature, as well as regulatory, and represents the main operational planning tool, constituting the legal basis for the implementation of development programmes and actions, and its updating involves the revision of urban planning regulations, proposed urban indicators and the provisions of the initial plan by bringing them into line with the legislation in force, current socio-economic and environmental development trends and sustainable development requirements, as well as updating the list of investment projects necessary for the implementation of the development vision, based on specialist studies and analysis of the degree of implementation of the urban plans in force and their impact at the local level, if applicable.

Therefore, when updating the general urban plan, it is necessary to take into account the legal provisions on environmental protection.

In the present case, the PUG project approved by Ciurila Local Council Decision No. 48/28.07.2023 stated that the territory covered by this plan includes the sites of Community importance ROSCI0427 Pajiștea Liteni – Săvădisla, ROSCI0074 Făgetul Clujului – Valea Morii, 2330 Pârâul Dumbrava nature reserve and 2335 Făgetul Clujului nature reserve, but the potential impact on them that could result from the changes proposed by the project was not properly analysed, given that an important part of the project involves the transfer of land from outside the built-up areas of the localities to within them, with all the consequences that this change entails.

Nor did the technical memorandum drawn up in connection with the PUZ project approved by HCL Ciurila No. 8/31.01.2023 provide for measures to protect the protected natural area, although the land to be transferred to the built-up area and used for housing construction is located in the immediate vicinity of the Natura 2000 site of Community importance ROSCI0074 – Făgetul Clujului – Valea Morii.

According to Article 20 of the Regulation on the site of Community importance ROSCI0074 Făgetul Clujului – Valea Morii, approved by Order No. 1525/28 July 2016 of the Ministry of Environment, Water and Forests, '*(1) The updating of land use and urban planning documentation for the localities and areas included in the perimeter of the ROSCI0074 Făgetul Clujului – Valea Morii site and the overlapping nature reserves shall be carried out by the responsible public administration authorities, by integrating into this documentation the provisions relating to the aforementioned site of Community importance and to the protected natural areas of national interest.*

(2) The modification and updating of the land use and urban planning documentation referred to in paragraph (1) shall be carried out with the approval of the custodian of the ROSCI0074 Făgetul Clujului - Valea

Morii site and the overlapping nature reserves, in order to ensure compliance with the provisions of the Management Plan.

(3) The land use and urban planning documentation referred to in paragraph (1) amended and/or updated by the local public administration authorities referred to in paragraph (1) shall include in the graphic/drawn parts the boundaries of the ROSCI0074 Făgetul Clujului - Valea Morii site and the overlapping nature reserves.

And according to Article 4(1) of this Regulation, the Transylvania Nature Association acts as custodian, based on custody agreement No. 319 of 26 February 2014.

After analysing the documentation relating to the two decisions of the Ciurila Local Council, the court finds that the opinion of the Transylvania Nature Association on the projects approved by these decisions cannot be identified.

According to Article 28(1) and (2) of Government Emergency Ordinance No. 57/2007, in the form in force at the time of the adoption of the two decisions, "*(1) Activities within the boundaries of protected natural areas of Community interest that may cause pollution or damage to habitats, as well as disturbances to the species for which the areas were designated, are prohibited when these activities have a significant effect, taking into account the objectives of protection and conservation of species and habitats. For the protection and conservation of wild birds, including migratory birds, activities outside protected natural areas that would cause pollution or damage to habitats are prohibited.*

(2) Any plan or project not directly connected with or necessary to the management of the protected natural area of Community interest, but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its potential effects on the protected natural area of Community interest, taking into account the objectives of its conservation.

Therefore, the protection of protected natural areas concerns not only the interior of the area itself, but also activities carried out outside it that could have an impact on protected habitats and species.

The contested PUG and PUZ projects in question did not analyse the potential impact on protected areas of the proposed changes to land use or construction projects, with the defendants merely stating that these changes did not concern the interior of the protected areas.

For these reasons, the court will uphold the claimant's request and order the annulment of Ciurila Local Council Decision No. 8/31.01.2023 and Ciurila Local Council Decision No. 48/28.07.2023.

With regard to **the request for suspension** of these administrative acts, pursuant to Article 15(1) of Law No. 554/2004, "*The suspension of the execution of a unilateral administrative act may be requested by the claimant, for the reasons set out in Article 14, by means of an application to the competent court for the annulment, in whole or in part, of the contested act. In this case, the court may order the suspension of the contested administrative act until the final resolution of the case. The request for suspension may be made together with the main action or by means of a separate action, within a maximum of 60 days from the filing of the main action*."

According to Article 14(1) of Law No. 554/2004 "*in well-justified cases and in order to prevent imminent damage, after notifying, under the conditions of Article 7, the public authority that issued the act or the higher hierarchical authority, the injured party may request the competent court to order the suspension of the execution of the unilateral administrative act until the court of first instance has ruled. If the injured party does not bring an action for annulment of the act within 60 days, the suspension shall cease by operation of law and without any formality.*"

It follows from this text of the law that, in order for the enforcement of an administrative act to be suspended, two conditions must be cumulatively met, namely the existence of *well-justified cases* and *imminent damage*. In addition to these two conditions, the claimant must provide evidence of the *prior complaint*, i.e. the tax appeal, as well as proof of payment of the tax deposit.

In the present case, the court notes that the claimant has provided evidence of the prior complaint.

With regard to the other two conditions, well-founded cases are defined by Article 2(t) of the same legislative act as "*circumstances related to the factual and legal situation, which are likely to raise serious doubts as to the legality of the administrative act*".

Imminent damage is defined by Article 2(ș) of the law as "*future and foreseeable material damage or, as the case may be, foreseeable serious disruption to the functioning of a public authority or public service.*"

The court notes that the suspension of the enforcement of administrative acts represents the temporary interruption of their effects, as if the act disappeared from the legal circuit, although, formally and legally, it exists.

The legal institution in question must offer citizens adequate protection against arbitrariness.

On the other hand, it should be noted that the administrative act enjoys the presumption of legality, which in turn is based on the presumption of authenticity (the act emanates from whom it claims to emanate) and the presumption of veracity (the act expresses what the issuing authority has actually decided).

This gives rise to the principle of ex officio enforcement, since the administrative act is itself enforceable. In other words, failure to enforce administrative acts issued under the law is equivalent to failure to enforce the law, which is inconceivable in a sound legal system, in a state governed by the rule of law and constitutional democracy.

For this reason, the suspension of the effects of administrative acts is an exceptional situation, which the administrative judge may resort to when the conditions imposed by Law No. 554/2004 are met, namely the existence of a well-justified case and imminent damage.

In the context of the request for suspension, the court will not examine whether the administrative act meets the conditions of legality and appropriateness, as this obligation falls to the court of first instance, which is responsible for ruling on the action for annulment.

The condition of the existence of a well-founded case, left by the legislator to the discretion and wisdom of the judge in terms of its content, presupposes that there is strong doubt as to the legality of the administrative act, and that this is evident without entering into a substantive examination of the provisions of the act, namely the legal consequences it has produced.

In order to remove, even temporarily, the rule of immediate and ex officio enforcement of administrative acts by suspending them, the court may assess the need for such a measure only by referring to the evidence administered in the case, which must provide sufficient apparent indications to overturn the presumption of legality, without analysing the substance of the administrative act, the court having the possibility to carry out only a summary examination of the appearance of the right.

According to the case law of the High Court of Cassation and Justice, "*a well-founded case may be constituted by: the issuance of an administrative act by an incompetent body or exceeding its competence, an administrative act issued on the basis of legal provisions declared unconstitutional, failure to state reasons for the administrative act, significant amendment of the administrative act in the course of administrative appeal*." (Decision No. 442/2013)

Considering the above aspects regarding the resolution of the request for annulment of normative acts, the court finds that the condition of a well-founded case is met in this case.

With regard to the existence of imminent damage, the court notes that the contested provisions adopted new urban planning amendments with a potential impact on the sites of Community importance ROSCI0427 Liteni – Săvădisla Meadow, ROSCI0074 Făgetul Clujului – Valea Morii, 2330 Părăul Dumbrava nature reserve and 2335 Făgetul Clujului nature reserve, without the proposed amendments being properly analysed from an environmental protection perspective.

The fact that these administrative acts do not directly alter the areas that are part of the protected areas is not sufficient to conclude that the protected habitats and species would not be affected. The court also notes that the protected natural area has now been extended to include part of the land on which the four dwellings are to be built.

Therefore, the court considers that the condition of imminent harm is also met in this case.

For these reasons, the court will grant the request and suspend the enforcement of the provisions of Ciurila Local Council Decision No. 8/31.01.2023 and Ciurila Local Council Decision No. 48/28.07.2023.

FOR THESE REASONS, IN THE NAME OF THE LAW, IT IS DECIDED:

Admits the application for legal action filed by **the** plaintiff **Eco Civica Foundation,** with its registered office in Sector 6, Bucharest, 24 Boişoara Street, against the defendants **Ciurila Local Council**, with its registered office in Ciurila, 5 Principală Street, Cluj County**, Cluj County Council**, with its registered office in Cluj-Napoca, Calea Dorobanţilor, no. 106, Cluj County**, the Cluj Environmental Protection Agency**, removed from the case, with its registered office in Cluj-Napoca, Calea Dorobanţilor, no. 99, Cluj County**, the Cluj General Directorate for Social Assistance and Child Protection,** with its registered office in Cluj-Napoca, str. g-ral. Eremia Grigorescu, no. 37-39, Cluj County, and **Uat Comuna Ciurila**, based in Ciurila, str. Principală, no. 5, Cluj County**.**

Admits the exceptions of illegality of the decisions of the classification stage no. 39/08.03.2022 and no. 123/22.10.2021.

Annuls Ciurila Local Council Decision no. 8/31.01.2023 and Ciurila Local Council Decision no. 48/28.07.2023.

Orders the suspension of the effects of Ciurila Local Council Decision no. 8/31.01.2023 and Ciurila Local Council Decision no. 48/28.07.2023, until the final resolution of this case.

With the right of appeal within 15 days of notification, to be lodged with the Bucharest Tribunal – Second Administrative and Fiscal Division.

Made available to the parties through the court registry today, 18.12.2025.

President
Alina Mihaela Ferenţ

Clerk
Marilena Călin

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