ECONNECT
LEGAL BARRIERS AND POSSIBILITIES FOR THE IMPLEMENTATION OF ECOLOGICAL CORRIDORS IN THE ALPS

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Maison de la Nature et de l'Environnement de l'Isère
Grenoble, France

About forty people took part in the day's exchanges, thereby bringing their points of view on the capacity of current legal tools to respond to the stakes raised by ecological connectivity and more particularly by ecological connectivity when applied to a specific territory: the Alps.
This international technical seminar brought together a majority of French participants, but also Italians and Austrians. We regret the low level of participation of partners from the Econnect project, many of whom had informed us that they would not be able to come to Grenoble. We therefore wish to thank even more warmly all those who came to the seminar from other countries.

Summary of the Day's Presentations

MORNING

Introduction: opening remarks, presentation of the seminar and the Econnect project

The day began with a few opening remarks by Alexandre Mignotte, Director of the French committee of the Commission Internationale pour la Protection des Alpes (CIPRA France).
This day of work was organized in partnership with CIPRA International within the framework of the Econnect project (Interregional Alpine Area Programme). The general aim of this project is to promote the implementation of ecological corridors throughout the Alps. The work that we carry out within the Econnect project is incorporated into work module n°6 which deals with the legal aspects of the implementation of ecological corridors in the Alps. This work module, placed under the supervision of the Italian government, includes the holding of this seminary which is based on two objectives and work phases:

- Discussing and comparing the results obtained through a questionnaire: how are natural areas, whether protected by regulations or not, making vigorous efforts to implement the policy of ecological corridors? Some territories have already become a driving force, setting up specific strategies (e.g.. the Conseil général de l'Isère), what about the others ? Are Alpine territories and players working together? And if so, how?
- Identifying the legal obstacles, barriers and opportunities necessary to the development of ecological connectivity on an **Alpine scale**.

Alexandre Mignotte ended this short introduction to the day by insisting on the necessity of raising the debate to an Alpine, cross-border level.

Aurélia Ullrich, of CIPRA International presented the Econnect project in its globality (structuration, partners, objectives, pilot regions, etc.). This project came into being by the wishes of different kinds of players: non-governmental organisations, governmental organisations, natural areas administrators, jurists, scientists ... Thus its foremost ambition is for the administrators of the pilot regions (7 throughout the Alpine Arc) to meet together and hold an exchange in order to put forward solutions to the implementation of ecological corridors in the Alps, thereby countering in the best way possible the fragmentation of the landscape. This supposes a certain amount of harmonisation between the geographical data, the languages, the transfer of knowledge, the management of this knowledge and the cartographies, in order to adopt a common methodology which takes into account local specificities. The project requires a high level of mobilisation on the part of the administrative body.

Certain animal and plant species have been designated as « indicators » within the project. Beyond the purely ecological interest of the analysis, the study of their capacities and modes of movement makes it possible to consider the perspectives of combining the protection of the environment with other activities such as agriculture.
The final aim is to set up model activities on the territory of the pilot sites. What is at stake, therefore, is to identify the physical and legal barriers which prevent connectivity from going further. To do this interactive tools are available, notably through the Internet. Their objective, among others, is to encourage cooperation between several entities over several disciplines, on different scales and levels.
This project, its objectives, etc., contribute not only to the direct application of the Alpine Convention but also to the dissemination of knowledge on a very large scale. Many regions are very interested in the development of this issue and some are seeking to reinforce initiatives of this kind.

Results and Analyses of the Survey Carried out in the Natural Areas: the Legal Tools which Favour the Implementation of Ecological Corridors.

Delphine Charpin, jurist in mountain law at CIPRA France, presented the work and approaches carried out within the framework of WM 6 of the Econnect project. In order to successfully reach the objectives set out by Alexandre Mignotte, we have implemented a methodology based on two main actions.

- The objective of working module 6 is to seek and improve the best level of compatibility between the different legislations of the Alpine protected areas and so be able to propose an optimal set of regulations for the implementation of ecological corridors on a cross-border scale. The partners have sought first of all to draw up an inventory of all the measures likely to favour the implementation of ecological connectivity in each Alpine Arc state. It has to be added that these national reports regroup measures linked to the taking into consideration of ecological connectivity as well as measures allowing the implementation of cross-border cooperation. The question of the local governance appropriate to the application of these two types of measure is also being closely looked at. A fundamental question springs from the results of this first phase: is it necessary to create a new body of laws which would be specific to ecological connectivity or are existing laws sufficient? After revealing the various obstacles to their implementation, the analysis nevertheless suggests that the tools enabling the implementation of ecological corridors on an Alpine scale already exist and are quite effective in their present state. Unfortunately the lack of initiatives in this area has incited the project partners to look into how these measures and tools were- and, above all, were not being used on the scale of particular territories: principally in the pilot regions.
- Secondly, therefore, the module 6 partners concentrated on the application of the tools listed in the national results reports. A "test" questionnaire tried out with some French natural area administrators was later improved, translated and submitted to all the pilot regions. The aim of this questionnaire was to collect information about the concrete practices of administrators of natural areas as far as corridors were concerned through a series of thematic questions (e.g. what level of integration of the issue in the administration policy? What resources are mobilised? On what regulatory and legal tools is your strategy based? What operations do you have in cross-border cooperation?). On the basis of the responses given it was possible to identify the principal potentials of and brakes on ecological connectivity on an Alpine scale. However, our analyses have to be placed into perspective as several pilot regions responded in a laconic and very succinct fashion. If we regret this fact, it does testifiy to a rather modest global level of advancement of the 'corridors' strategy in the pilot regions and more widely in the Alpine natural areas, and this in spite of the very advanced situation in certain territories,(le Conseil Général of Isère e.g.). Many indicated to us, in fact, that they were only beginning to implement of their strategy or even that they had not really started to do so. Those to whom the questionnaire was addressed were almost unanimous in adding that their operations are often carried out in a very empirical manner, sometimes even to the point of ' throwing together' as best they could the legal tools on which they could base their actions. Most of these questioned also told us how difficult it is for them to follow closely and absorb the constant evolution of legal and town and country planning measures

The speaker concluded by saying that, despite the considerable brakes on the implementation of ecological connectivity (insufficient resources and skills, imperfect knowledge of information, the complexity of interpretation of the law, dispersing of measures in different sectors of development, etc.), national, regional and local initiatives are being developed and really are taking into account the stakes involved in biodiversity.

DIVA-Corridors Programme, Action 10 'Ecological Continuities and Public Policies': What Legal Procedures for the Design and Implementation of Corridors can Open New Lines of Action?

Alexandra Langlais, jurist in environmental law, works in the DIVA corridors project. This French ministry of the environment research programme is being carried out in partnership with the federation of regional natural parks. It is led by Françoise Burel (ecologist, university of Rennes) and includes a small team carrying out legal research.

As an introduction, Alexandra Langlais explained that part of the research being carried out in this programme concerns agricultural areas, for example the *workshop zone of Pleines-Fougères* north of Rennes (Brittany). She insisted on the interest given to ordinary biodiversity in this work.

Their study is essentially concerned with the project of greenways, which are different from ecological corridors. Indeed, ecological corridors are one of the aspects of greenway law.

The capacity of jurists to seize the concept of biodiversity comes up against various difficulties which cast doubt on the existence of an applicable law. At the same time the acknowledgement of this fact illustrates the legal difficulty in apprehending the notion of ecological corridor.

The concept of biodiversity does not exist as such in the legal field, but there are legal measures which apply to biodiversity and the contents of these has evolved in diverse ways : pollution law, then the protection of species and outstanding ecosystems and, more recently, laws to protect ecological networks and ecosystemic services. This same evolution of the legal content of the concept of biodiversity gives rise to a superimposition of the applicable rights which makes more and more doubtful their ordering in a structure which would effectively take into account ecological connectivity.

One of the principal reasons why it is difficult to take ecological connectivity into account, therefore, is that the law has set out to protect extraordinary biodiversity and has remained silent on ordinary biodiversity.

Moreover, if, through the notion of ecological corridors, the law has understood the necessity of a global and ecosystemi - and not sectoral- approach to the protection of the environment, this approach poses a real challenge to the law ,which has to seize and convey accurately all the complexity of living beings and ,of course, respond to it. Well, how can what is not fully apprehensible by science be apprehensible by law? How can the law be adapted to the scales of time, space and change which characterize the understanding of biological processes?

Three difficulties in applying the law have thus been identified, and the issue of ecological corridors – as seen by law- is situated between the following:

- The legal heritage of the concept of biodiversity,
- The linking of the different existing ecological zonings and the legal arrangements,
- Responding to the global dynamic need for the protection of biodiversity.

On the basis of this contract the DIVA programme is seeking the most adapted legal tools and analysing their effectiveness.

In spite of the on-going examination of the Grenelle II law and 2010, the year of biodiversity, Alexandra Langlais underlined the poor visibility (notably in the media) and understanding of the issue of greenways and indeed little acknowledgement of the stakes involved in ordinary biodiversity, which is found in an equally small number of operational tools. Now, the fact that a tool is operational supposes that the law has at its disposal a territorial field of application in order to apply a legal system. Therefore to build itself and be effective, the law needs spatial demarcation, but it is difficult, nay impossible, to define the spatial demarcation of ecological corridors. **If we claim that connectivity has no limits, law, on the other hand, needs limits for its very existence!** Indeed, the terms connectivity, corridor, ecological solidarity cannot be clearly identified by law. They are often not yet defined themselves, or distinguished from each other. Sometimes some terms have not yet even entered the legal sphere.

As regards the tools and methods that applicable law has chosen to use, it is preferable to proceed by negotiation and incentive rather than pressure. Moreover, the Grenelle II bill favours contractual and local governance tools. The objective is also to turn to existing tools, but are these adapted? Our current research is concerned with this very question and it appears that certain tools that are sometimes neglected, such as environmental constraints or rural environmental leases, are nevertheless successful. It can be further noted that these tools strongly raise the question of the financing of biodiversity.

Alexandra Langlais concluded her presentation by two fundamental points:

- The contract is henceforth the preferred tool for the implementation of a strategy of protection of the environment, but it relies principally on the will of the players to ensure its permanence.
- The method of local governance is preferred, but it relies on the capacities of the local players to grasp specific complex notions and stakes which we have seen to be ill-defined and therefore ill-identified.

In her position as a jurist specialized in urban law,, Maëlle Martin, has brought her competencies to the DIVA corridors programme in the framework of the application of environmental constraints to environmental connectivity, notably giving her attention to the system of "greenways".
Maëlle Martin makes a distinction between two large categories of constraint: general constraints and special constraints. General constraints are also to be divided into "civil" (coming from private law) and "administrative" (coming from public law). Special constraints, for their part, are linked to a growing tendency to resort to constraints and to the broadening of their fields of application. With regard to the diversity of objects to which this multitude of constraints applies, there is no one statute that concerns them. They have a legal system which is unique to them, provided by special laws and rules, notably the rural, forestry and environmental codes.

Environmental constraints are a form of special constraint with the objective of protecting a territory of great environmental worth and limiting the possible repercussions of human activity. However, the latter do not apply to the totality of the territory and its field of application is concentrated on extraordinary biodiversity and that of specific areas (national parks, regional parks, etc.) Thus a double question is posed: **what is the interest of these constraints for green-and blueways (aiming to protect extraordinary AND ordinary biodiversity) and should a new environmental constraint be created, one which addresses the stakes of ecological connectivity?**
Another solution could be to turn to a conventional ecological constraint (or *conservation easement*) as is the case in Switzerland or in *Common Law countries* (a legal system based essentially on jurisprudence). This constraint takes the form of a contract freely negotiated between the parties and by which the owner of a piece of land gives up part of his property rights – for the purposes of conservation – to the beneficiary of the easement, most often in exchange for a sum of money. The duration of this type of constraint varies according to the legislative system of the country. In Switzerland the beneficiary of this constraint can be a public or private person. However, it is clear that the administration hardly ever resorts to this type of tool.

The aim in setting up a conservation easement would be to maintain the threatened habitat in its entirety by prohibiting a great number of activities such as construction, the spreading of fertiliser, tree-felling, clearing, etc. The innovation here is that a private law ecological constraint is set up in favour of a third party, without the condition of the existence of a dominant tenement as here the dominant tenement is replaced by the general interest. Such a tool could be useful in the legislative expression of the operationality of green- and –blueways (GBWs), where there is a severe lack at the moment.
The green- and blueways as planned in the Grenelle bill for the environment are an arrangement that will make necessary a legal mechanism of opposition in order to attain its goal of protecting biodiversity. In order to achieve this, the authorities have mobilised terms of respect, consideration and obligation of compatibility (terms which are found in the environment code. art. L371-1 to L371-6). However, their legal impacts differ and it is necessary to be acquainted with the legal consequences of the application of these terms.
The obligation of compatibility supposes that the planning documents and national plans will have to be compatible with national directions on protection and the reconditioning of ecological continuities. This formulation lays down a negative obligation not to be contrary. The decision or the inferior rule must not be contrary to the superior rule: it need not conform to it absolutely, but it should not be contrary to its essence. It is to be noted that, from the start, an obligation of consideration – which is much less of a constraint than an obligation of compatibility - was allowed for by the authorities. In the same way, the text of the Grenelle II bill allows for the notion of 'respect' of the national direction by the Regional Patterns of Ecological Coherence (SRCE), which constitute safeguards for the planning documents of rank submitted to it (DTA, SCOT, PLU, Charte de PNR, de PN[1]), even if the latter are only subjected to an obligation of 'consideration'. Does this notion indicate that the text must be respected literally or is it possible to adapt to the needs for protection as felt in the territory? At the present moment there is no answer to this question and we are awaiting details from the courts, as is the case for the obligation of consideration of the regional patterns of ecological coherence by the documents of regional planning (PLU, SCOT, etc.). This obligation of consideration (defined in 2004 by the Conseil d'Etat) refers back to the obligation of compatibility but with the possibility of dispensations granted in certain determined circumstances. The legal insecurity of this principal and the slim possibility of putting it into practice can be seen at once. Indeed, communes have as much opportunity to take this pattern into account as they have to infringe it. It will therefore be up to the jurisdictions to verify whether this infringement is justified or not. Generally speaking, many of those concerned by the stakes of ecological connectivity doubt the global

[1] Territorial Planning Directive, Territorial Pattern of Coherence, Local Town Planning, Charter of Regional Natural Parks, Charter of Natural Parks.

effectiveness of the TVB system, as the level of opposability chosen by the authorities is the lowest that can exist. One could have thought that, just when people became aware of the extent of the loss of biodiversity, the authorities would have adopted a more ambitious level of opposability. Furthermore, legal vagueness around the terms 'respect' and 'consideration' suggests that there will be serious legal bones of contention when green-and blueways come into existence.
Lastly, it is appropriate to raise the issue of the important role that jurisdictions will have to play in the implementation of green-and blueways by stipulating the contours and legal opposability that the mechanism of the latter will impose.

Luc Bodiguel Jurist in rural law, underlined the interest of sectoral research, notably concerning agriculture, as a complement to the theoretical work being done in the DIVA programme on the legal understanding of notions of biodiversity, ecological corridor, ecological connectivity, etc. This more marked interest for the farming sector can seem obvious if we remember that 65% of France is considered as 'rural' and given over to forest and farming. Moreover, most 'physical' objects essential to ecological connectivity (hedges, banks, etc) are found in rural and agricultural areas, and greenways, of course, depend principally on these objects. However, the GBY arrangement makes very little mention of agriculture, which fact increases the interest of studying the state of the law and its application in this field.
First of all it must be realised that any system aiming to limit an area in order to apply public rules to it can constitute an attack on private property. Thus a conflict can arise between the public authorities and the landowner or the farmer who has the right to work the land. The first question to ask, therefore is **what types of rules can be adapted –if necessary- to make GBW approaches and ecological continuity compatible with the law.**
One answer may be to refer back to a certain number of mechanisms which are, we may add, totally indifferent to the type of farm involved. The image of the 'stick' and the 'carrot' illustrates these mechanisms .The 'stick' arrangement represents rules (the right to do and not to do, police rules, unilateral norms, orders).The injunctions of the administration are imposed on landowners even when private law protects private property: here begins the debate on the rights attached to private property. In all cases, if the administration wishes to impose ecological continuity, rules compel both parties.
The 'carrot' mechanism supposes financial support for farmers so that they will respect certain farming practices. The carrot is therefore the instrument, principally financial, whereby agriculture is given the means to contribute to the objective of connectivity. Thus we refer to the second pillar of the Common Agricultural Policy (CAP) and to the respect of several farming practices (restoration and upkeep of hedges, the reduced or prohibited use of pesticides, etc. These rules lead indirectly to the respect of certain areas strategic to ecological connectivity. The disadvantage of agro-environmental rules (AEM) lies in the fact that they are only aimed at certain plots. They therefore only draw dots and not lines, as the connectivity approach would wish.
The other possible solution is to combine 'the carrot and the stick', or rather to make CAP aid subject to conditions. These are a set of obligations to be respected by farmers in return for aid (association of environmental, hygiene etc. rules in a system which would be increasingly subject to control, whereas this was not very much the case at the outset).The appearance of 'good agricultural and environmental conditions marks a recent development. The latter constitute a set of special national or local rules which farmers have to respect (for example the grass strip corresponds to the good agricultural and environmental condition entitled 'maintaining topographical elements'; that is: hedges, banks - and others- which combine to bring about ecological continuities).The development of the CAP has had the effect of reinforcing the legal effect of the obligations of result expected from farmers Moreover, farmers regularly need to ask for public subsidies – from economic necessity – and consequently the link between the stick and the carrot is established. Incentive is combined with coercion.
It is to be noted that the carrot and the stick are both measures based on a voluntary system. For that reason their effectiveness can be doubted. If the law is operational, the players are not obliged to seize it. The problem of administrative control, or rather of the capacity to carry out this control, also places a limit on the measures of the CAP. Government services are not always able to intervene, materially and sometimes politically, in a control approach; at times more pedagogical methods have to be found .It is the case of some legal responses, here of the CAP, which are independent of the type of farming practiced in the territory.
Other legal tools, on the other hand, depend on the type of farming. A distinction is made between 'owner farming', where the landowner farms his own land, and 'tenant farming', when the landowner rents his land to be worked by another farmer.
In the second case (tenant farming), the issue of ecological continuity can be considered. As here it is a contract between two private persons, ecological continuity can probably be implemented through the terms of the contract, without going through the policy rules or mechanisms of direction of the CAP. **The question is**

therefore whether environmental items are going to be able to be added to the rural lease – which would protect ecological continuities.

This objective, which aims at integrating clauses called 'environmental clauses' in the rural lease (or tenant farming statute) has found a legal version in the modification of article L411-27 of the rural Code, which henceforward allows the integration of such clauses. However, in a contract of private law it can appear strange that a landowner is able to agree on special clauses with his farmer, knowing how difficult it is to integrate them as the statute of tenant farmer is already closely supervised by the law, notably by the protection of the freedom of direction of the farmer. The farmer may, furthermore, not necessarily want to include these environmental norms and ,from an economic point of view, it is perhaps not at all in his interests to do so.

So, how can these clauses be integrated (negotiated or imposed clauses) in conventions? In a first situation, it can be seen that no major difficulty arises when the landowner is a public person: the lease-holder rents in conformity with certain customs and practices fixed within a legal framework (the areas concerned were formerly communal or are often situated in the peripheries of the town), without posing a legal problem. This system also works for 'approved environmental associations' when they administrate agricultural areas.

In a second situation, when agricultural areas are situated in protected areas of whatever nature (classic protected areas : Parks, Natura 2000, 'Water Areas' and potentially RNP, etc.), the lease-holder is not necessarily a public person or an approved environmental association. The contract made is therefore a classic private law contract made up simply of the wishes of the parties. The integration, or non-integration, of environmental causes, can therefore lead to a serious risk of litigation.

In the third situation, there is neither public person nor approved association, nor protected area. The stake is high as the logic of corridors is also, and perhaps especially, present in these areas: this is precisely the case where there is a real conflict of rights between the rules contained in the rural lease (containing environmental clauses and what is not applicable in this instance) and the set of rules which organise the relationship between landowner and farmer (leaving him freedom of direction) .For this last example, answers need to be found. Therefore, we have to see if, through other leasing systems, clauses concerning the respect of identified ecological continuities can be included.

Without being limited to looking at the exact legal arrangements, the DIVA- corridors programme is also looking into methodological aspects where methodology is translated into law (which is not always the same approach as that of area administrators). Thus there is discussion on governance and notably about local governance. **How can this governance problem be handled in the case of greenways?** The questions are also about methodology: **which method should be adopted to implement ecological corridors in the territory?** Several difficulties become clear: should public and private persons be included in decision-making at a local level? What level of participation and involvement of the players can be fixed? On a legal level,which is the pertinent territory ? It is in fact the case that the gap between scientific reality (that of the catchment area for the SDAGE , for example) and legal reality (administrative reality) increases regularly: the scale adopted by one is not necessarily pertinent to the other. What financing can be mobilised (which tools are financed)? What pernicious effects of this new local governance are to be feared? etc. What is more, the list of players to be mobilised, of the existing tools, and of the objectives laid down, heralds an ambitious diagnosis: once past this step it is often noticed that the financing of the objects studied relates back to measures that exist elsewhere (those of the CAP, for example). The issue of a work of articulation to be shared by the players must be addressed.

According to Luc Bodiguel, local governance is characterised by the setting up of a local institution, such as the piloting committee planned for the administration of the Natura 2000 sites, for example. Can this logic be transposed to greenways ? By the Regional Pattern of Ecological Coherence (SRCE), the Grenelle refers essentially to the local Town Planning Department: in that case, is it logical to install specific local governance for a small piece of ecological continuity, whereas the measure which will be the most operational will come under the control of the commune ? A second question arises : should there be local governance with a participative system ? In the greenways system participative systems on a national level and a SRCE level are planned (with a representative mechanism which does not prevent questions about the legitimacy of the players present). During the phase of integration of the arrangements in the PLU, the préfet must also consult all the players. However, the local players do not feel at all involved and fear they may lose control of the process during the phase of implementation through the PLU.

For Econnect, the question of governance is different as the stake is to build international governance: in this sense it is very interesting to study the Alpine context. On the national level, what is at stake in governance is as follows : should new governances be set up – in the sense of a mechanism which will allow different players to take part in local decision-making – or should the existing authorities be used? Today it seems that the second proposition has been adopted and that what is being built is not a form of governance but rather a 'simple' application of decentralisation, by a gradual passing of state objectives to an implementation essentially at. commune level.

Despite the fact that the discussion about greenways is of recent date, Luc Bodiguel ended on the considerable number of tools which favour the implementation of ecological connectivity: they are numerous and up to now attention has only been focused on the most obvious ones. There is surely a need to set up new tools, but they must be part of a pre-existing legal arrangement (a legal community arrangement which does not yet exist in the case of the CAP).

Legal Aspects of the Measures to Improve Ecological Connectivity in the Alps

Yann Kohler and Delphine Maurice, representing the 'ALPARC' international coordinating unit (Task Force Protected Areas of the permanent secretariat of the Alpine Convention) described some concrete measures to improve ecological connectivity in the Alps. These examples are from a catalogue which lists 70 measures for the implementation of ecological corridors in different sectors (agriculture, forestry, land use planning, the protection of nature , education, tourism). These measures are based principally on obligations having a legal basis and the force of law. 3 types of measure can be combined: total or partial authorisation to act and to do or not to do, financial incentives, voluntary action.
The legal nature of the instruments comes partly from international, European or national texts, and is partly based on contracts (bi- or multilateral). At a local level the tools of application are often administration contracts and programmes. Can be quoted as examples as regards:

- the protection of nature : the creation of a quiet zone for birds nesting by rivers (with access prohibited at certain times of the year), the consideration of the habitat of bats during the renovation and alterations of old buildings, or again the renaturation of peat bogs
- agriculture: the catalogue contains measures concerning the fallow cycle (subsidized or obligatory in Switzerland), the adaptation of the seeds used, the use of pesticides, etc.,
- Forestry : the creation of forest reserves (controlled use)
- Land use planning: consideration of the parts of an ecological network by a development tool such as the PLUs.
- tourism : institution of a ban on flying over certain sensitive areas.

These measures have been listed with the aim of giving ideas for concrete action to the local players and area administrators. They can draw inspiration from them and copy them locally.
Moreover, some measures have an innovative character, such as the 'flowering meadows programme' in the Massif des Bauges RNP: financial aid is given to farmers according to an obligation of result and not of means which would be fixed in advance. This approach has made it possible to begin the process of collaboration between farmers and administrators of protected areas. The latter are therefore no longer in a position of control but rather one of counsel, to help the farmers to reach the objectives fixed. The measures have been given a good reception by farmers as the result of their work is rewarded and valorised. These practices have developed particularly in Germany, Switzerland and France. The 'corridor contracts' of the Rhône-Alpes region are also part of these innovative measures. They make possible contracts with the players concerned, thereby making ecological connectivity part of local policy.
Thanks to these listed measures it can be seen that a new dynamic is being given impetus, together with a series of new questions and forms of cooperation between players. This changing and growing catalogue shows that there is no one technique to create ecological corridors, but considerable possibilities which adapt to the specificities of each territory. Finally, another essential feature of ecological connectivity must be underlined : local 'acceptance', that is the capacity to communicate with the players and thus find new forms of cooperation between the public and the private sectors. When these tools are available, what is at stake is to mobilise them in the most locally adapted way. Protection through laws and rules remains insufficient and it is necessary to find other mechanisms, compromises, notably by means of contracts.

The Intervention of Public and Private Players in the Legal Procedures for the Implementation of Ecological Corridors

Damien Hirribarondo, director of FRAPNA Haute-Savoie, presented the initiatives being taken within the framework of the 'corridor contract', an integral part of the Franco- Vaud-Geneva urban agglomeration project
In this cross-border territory the advance of corridor questions has been made possible by a favourable context. In 2007 the vote of the natural heritage policy of the Rhône Alpes region sanctioned the necessity of taking an interest no longer only in outstanding areas but also in more ordinary ones which play a connecting role between the outstanding natural areas. In autumn 2007 the département of Haute-Savoie set up a pattern of natural areas for the department, introducing two types of label; 'red' for the ecological network of the département (the areas presenting challenges and having a high degree of biodiversity), and 'nato' for ordinary

nature. A concerted action was then undertaken by the decentralized state services (DDT 74), the Conseil général and many other partners, including communities and associations. The Grenelle 2 and the regional pattern ecological coherence are also debating. In Switzerland the national ecological network has been set up, as in the canton of Geneva.
We are also witnessing the multiplication of initiatives in favour of ecological connectivity in and around the territory of the Franco- Vaud-Geneva urban agglomeration project, that is to say 200 communes over about 2000 km².Moreover, forecasts estimate the arrival of 140 000 to 200 000 more inhabitants in 20 years' time. Questions of housing, employment transport and also ecology must be addressed: what influences can the planned urban agglomeration project have on neighbouring nature by the year 2030?
The Landscape Plan drawn up in 2007, then the corridor contract, aims to identify areas of conflict between present and future nature and urbanisation. The corridor contract as such has the objective of stopping the erosion of biodiversity through the carrying out of special measures. It is therefore appropriate to identify the ecological networks, without necessarily drawing up a very exact cartography. The corridor contract also has the objective of integrating the corridors in the development practices of the territory and restoring biological continuities. It will proceed in two phases :

1. a preliminary diagnosis of the territory (1 to 2 years) : identifying and gathering the players (meetings by sector), building up databases and mapping the areas where there are challenges, drawing up a five-year plan of action (planned for late 2010-early 2011):
2. Carrying out of actions of restoration, administration and information.

Within the territory of the urban agglomeration project, 8 sectors where there are challenges have been identified as perimeters of coordinated agglomeration development. These areas are more particularly the object of a procedure of consultation on different proposed development scenarios Many players are taking part in this work, amongst whom various representatives of environmental associations. One of the delicate points in the drawing-up of diagnoses results from the absence of centralized data, notably on the French side.
The annual seminar of the agglomeration of 17th September 2010 will be a highlight as the 8 sectors will be brought together to present the diagnosis of the natural and rural areas and not only of the ecological corridors. The desired objective is to succeed in implementing territorialized piloting committees and, finally, to be able to reach the phase of drawing up contracts for the measures. To that end, the Rhône-Alpes region has fixed a structured framework by four large types of measure :

- The integration of the stakes of connectivity in regulatory documents;
- The carrying out of works (protection or restoration) of connectivity
- The carrying out of supplementary studies on certain particular sites where the stakes are high for biodiversity ;
- Communication, education, organisation of the project

The contracts are due to be signed during the first semester of 2011.
Through this intervention ,it can also be seen that the 'corridor contract' is a good financial lever for the implementation of ecological continuities : within the framework of this urban agglomeration project there is the sum of 1 million euros to be allocated by the Rhône-Alpes Region for the setting up of a corridor, on the condition that additional financial backing can be found.

A first assessment of this operation can be made.

Positive points:
- Fruitful cross-border exchanges (definitions-semantics, scientific knowledge, protection and inventory tools). Learning to coordinate actions that cross borders : 'erasing borders'
- High level of participation in the workshops ;
- Considerable amount of data produced and gathered;
- The dynamic of the urban agglomeration project, very high participation by all the players and notably the associations.

Negative points:
- 'We must manage to 'keep up the pace' of the dynamic of the project
- Mixed levels of knowledge
- Different states of progress in research and consideration
- Some databases have to be harmonized
- A vast, multifaceted territory, complex and under pressure : ' a territory bustling with activity'

The questions and the prospects:
- How can the territorial biological corridor contracts set up by the Rhône-Alpes region be harmonised with the arrangements planned in the Grenelle II bill?

- What statutory impact will the tools have? How compatible will they be? On what level?
-A recently-tabled amendment asks for financial compensation for local communities whose development would be affected by a corridor: are we moving towards the monetarism of biodiversity?
- Inspiration can be drawn from the forth-coming national guide of methodology and from the national list of GBW decisive species in order to fit into the regional pattern of ecological coherence planned in Grenelle II.

AFTERNOON

The Protection of Ecological Connectivity: Analysis of the Principal Legal Instruments. Comparisons between Swiss, French and Italian Jurisdictions.

The Italian Ministry of the Environment, represented by Santa Tutino, is a partner of the Econnect project within the framework of work module 6 and 7. Santa Tutino is also the representative of the Val d'Aoste region, in which the Mont Rose sector is one of the pilot regions of Econnect. Questions on the purely legal aspects are posed at two levels : that of the ministry and that of the Val d'Aoste.
The Italian Ministry of the Environment participates in the Econnect project by conducting analyses on the legal aspects of ecological connectivity, especially in the protected areas, in each country of the Alpine arc taking part in the project. The aim of this work is to identify the legal instruments pertinent to approaching connectivity from a legislative point of view. Discussion is more particularly concentrated on the legal tools for cooperation between cross-border areas.
The cross-border tool which Italy seeks to develop is the European Grouping of Territorial Cooperation (EGTC).Studies are still in progress, notably on the analysis of the potentiality of instruments existing on a European scale, but the following question arises :**how can this EGCT be used in the European cross-border protected areas?**
The Val d'Aoste region, for its part, is carrying out analysis of comparative law (between Italy, Switzerland and France). Its aim is to draw up an exhaustive list of the measures of implementation of ecological corridors in the designated areas. Consequently the overlapping and accumulation of norms and legal tools are obvious. They are very well-defined in the Val d'Aoste, but coordination remains to be achieved.
Santa Tutino ended her talk by mentioning an initial project of the EGCT to structure and reinforce the Euroregion AlpMed (Alps Mediterranean). This tool would facilitate cooperation between the regions of Liguria, Piedmont, Vallée d'Aoste, Rhône-Alpes , PACA and Corsica..
Another prospect for the implementation of an EGCT is currently under discussion in order to reinforce cooperation between cross-border protected natural areas, for example the Mercantour National Park and the Alpi Marittime National Park, or the Vanoise National Park and the Gran Paradiso National Park.
All the work carried out by the Italian Ministry of the Environment and the pilot region of d'Aoste will be presented during a final congress of the WP6 in December 2010.

Round Table Debates and Exchanges

The afternoon consisted of a session of collective work in order to mobilise the opinions and recommendations of those taking part.. The goal was to arrive at a veritable generation of knowledge and proposals on the basis of the following questions which served to give a direction to the exchanges:

- What are the potential cross-border possibilities for the structuring of legal tools according to the sectors of intervention of land use planning?
- What kinds of needs exist to improve the structuring of legal tools in favour of ecological connectivity throughout the Alps?
- What scales(s) is/are the best adapted to an improved application of legal measures in favour of the ecological networks throughout the Alps?

After an initial lapse of time necessary for all those taking part to enter the game which is the process of collective construction, a synthesis of mutual contributions was arrived at and organised into the following tables.
The exchanges between participants inevitably led to a reappropriation of the questions posed. The three tables presented here are therefore based on the adaptations to these questions formulated by those taking part

Do we need new tools or projects for the implementation of ecological corridors?

NO

The existing tools are effective and sufficient

Conventional land use tools (PLU, SCOT and general direction documents). Integration through cartography.

Problem of the opposability of these documents: sometimes purely dependent on the wishes of the local players

The tools exist but there are some gaps

Natura 2000 legislation:
- The persistence of a problem of territorial governance
- The cross-border issue between the sites

The tools exist but they are underused

The Alpine Convention and its protocols of application : despite their ability to favour the articulation of tools, the protocols of application have not all been ratified by al the signatories of the Convention.

Tools placed at the disposal of territorial communities :
- the areas of concerted development (ZAC)
- the use of the pre-emptive right by the SAFER (in agricultural or natural areas) at the request of the communes or community of communes

The Franco-Vaud-Genevan Urban Agglomeration Project : a project which generates considerable links between sectors and scales.

The Convention of Espo (10 September 1991) A convention on the assessment of the impact of the environment in a cross-border context
Consultations are essential for certain projects having an impact on the environment.

An integrated cross-border plan for the Mont Blanc in order to develop cross-border projects having the aim of increasing the effectiveness of the interventions as well as the intensity and quality of cooperation through the widening of dialogue and the creation of stable networks between different players

NO

to the creation of a new tool as the existing tools are sufficient to implement ecological corridors

But YES
to the creation of a new legal tool to make easier the use and coordination of the existing legal tools

YES

A special environmental consideration in favour of Green and Blueways

Proposal of tool :

A tool having the same characteristics as those contained in the Law on water.

However ,the application of a strategy implementing ecological connectivity over the territory is above all the result of a political view and project which in most cases is dependent on the readiness of the territory's communities to include arrangements which favour this aim in their global policy and approach to their territory.

KEY POINTS STAND OUT IN THESE DEBATES:

- THE STAKES LINKED TO COHERENCE AND OPPOSABILITY OF THE VARIOUS TOOLS

- WHAT METHOD AND THEREFORE WHAT PROCEDURE ARE TO BE USED?
  => *COERCION, VOLUNTARY ACTION, CONTRACTS …*

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What is needed now and in the future to favour the consideration of ecological connectivity in the territories ?

Financing

Is there a real need for financing for the implementation of ecological corridors?

- No
  More efficient and rational financial management of the communities would enable them to find the means to develop projects of this type
- Yes,
  But on what scale?
  The European scale seems to be a good level (parallel to be made with Natura 2000 sites, LIFE and FEDER projects)

Demonstration, monitoring and defining

The 'pipes issue'

Move the species into predefined areas so that the players understand and take on board this notion.

Pernicious effect of the demonstration which conceptualises a pattern which does not necessarily correspond to reality

The tools for assessment and compensation

Assessment of the environment (cf. assignment by the relevant government services)

The compensatory measures: to ensure effective monitoring and control

Pernicious effect of this type of measure : a tendency to monetarisation and the right to destroy nature

The legal definition

The necessity of arriving at a definition, albeit generic and general, but generally accepted and acknowledged

In the absence of a legally established definition, no definition is possible and if there is no law, there is neither consensus nor legal basis, on which to rest .

Communication

Recipients and content of communication

Increase the awareness of a greater number of players

The networks of specific competent players are not clearly identified, local players do not know who to turn to.

Favour communication between the different players in order to achieve coherence of projects (E.g..: Motorway between Annecy and Geneva, a project to link the two sides of Geneva's Lake, etc.)

Education

Very great demand by territories and local politicians .
For example, the GBW project includes many points but local players who are concretely aware of exactly what is involved are very few.
.
The primary aim of the Green-and Blueway strategy has been to define its content .

Training

The competency and availability of the resource responsible for training.

Governance

An identified legal structure

A competent environmental authority

Coherence

Between the different scales

Between the different projects

Between the different types of tools

For some people the coherence of the law is not the major problem, but there was mention of setting up tools to monitor and inventory everything that can be done.

A MAJOR CHALLENGE :

➔ EDUCATION ABOUT THE ENVIRONMENT:

- Establish shared tools and databases
- Reinforce the sharing of information and experiences
- Draw up a common grammar and vocabulary

AN IMMEDIATE NEED:

➔ A COMMON GLOSSARY FOR AN APPROPRIATION OF THE CONCEPT

What is the most coherent scale for a project of ecological corridors ?

No scale is able to respond to all the complexity involved in the implementation of ecological connectivity over the territory

The need to adapt the scales to the needs of the territory.
Each scale has a role to play in the implementation of a strategy of ecological connectivity.
It is at one and the same time an opportunity and a drawback (the challenge of governance, coherence and coordination of policies).

The place of partnerships between bodies and institutions involved in any ecological connectivity policy or step

Cooperation is fundamental to the implementation of a coherent ecological network over the territories.

Topics for discussion

Taking the alpine scale as a reference and thus putting the forward biogeographical coherence of a territory on which to base the project and the procedure The demarcation of such a territory makes it possible procedure to valorise initiatives and encourage steps in order to present this type of project before the European Union and thus obtain political, technical and financial support

Have ecological connectivity recognised as an approach of general interest