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Landscape Protection Areas in Wine-Growing Regions in Hesse

1. Legal basis

According to the Federal Nature Conservancy Act, each state is obliged to ensure that valuable components of nature and landscapes are protected, maintained and developed. This includes nature reserves, landscape protection areas, protected landscape components, natural monuments, national parks, biosphere reserves and biotope networks.

The landscape protection areas are included in the new Digital Atlas of the Wine-Growing Regions of Hesse. The nature reserves may be omitted from the map view since only a very small number of vineyards in Hesse are located within their limits. In such instances, wine-growing is no longer of importance and the vineyards have been all but abandoned. Such areas are found in the landscape near Lorch and Lorchhausen and in the abandoned areas of the Weiherberg near Kiedrich. In the Hessische Bergstrasse such areas are limited to extremely steep sites, which can be ignored in this presentation.

This discourse will mainly deal with the landscape protection areas since these play a more important role in the wine-growing regions of Hesse. The Nature Conservancy Act defines these areas as follows:

- 1) Landscape protection areas are legally designated areas, within which it is necessary to protect nature and landscape,
- to conserve or re-establish the effectiveness of nature conservation or the use of natural assets
- because of the diversity, special character or beauty of the landscape,

- because of the outstanding recreational value.
- 2) Paragraph 1 section 3 of the Federal Nature Conservancy Act and the stipulations contained in the legal ordinance, paragraph 16 expressly prohibit any actions within a landscape protection area, which threaten to change the character of the landscape or the reason for conservation.

The procedure for allocating landscape protection areas is similar to that governing the designation of nature reserves. Basically, any responsible citizen can put forward a proposal. In the next phase, a scientific study is commissioned to verify and, where appropriate, substantiate the worthiness of protection. The worthy areas are surveyed and marked on the map according to the protection objective, for example arid site. A set of model regulations is created on the basis of the scientific study and the survey.

In the next phase, a written hearing is held in relation to the model regulations, involving the nature conservancy associations and the “agents of public concerns”. The latter includes all bureaus and institutions affected by the proposed protection, such as the communities, boroughs, wine-growers associations and the Office for Viticulture and Viticultural School in Eltville. The communities are usually responsible for publishing the model regulations to inform the affected land owners or users of the proposal. This offers them the opportunity to express their opinions and suggestions.

Following the written hearing, the **Regional Administrative Authority** sets a date for an oral

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hearing where all involved parties and those affected by the proposal can once more put forward their opinions in relation to the planned allocation. In the wake of this hearing, the Nature Conservancy Administration considers all requirements related to the protection objec-

tives and then decides on the contents of the regulation and the final boundary. The new regulations are finally published in the State Gazette for the State of Hesse and come into force as of this date.

2. Objectives and rules for allocating landscape protection areas

The objective of the previously mentioned legal foundations and instruments is to designate particular tracts of land as protected areas, with the objective of ensuring the conservation of ecological valuable areas within a proposed extensive biotope network.

These designated areas are intended to protect wild animals and plants in their natural habitats and communities. Parts of these areas may also be designated as nature reserves.

The laws clearly specify the objectives designed to protect the landscape. Thus, an attempt must be made to bridge the gap between preserving the defining landscape elements and biodiversity on the one hand and wine-growing on the other.

These objectives can only be attained by observing specific rules. The regulations do not usually include an embargo on normal management practices. They do specify particular measures and practices that require prior permission. Depending on the protection objective these may include:

- construction or changing buildings or structures such as vineyard huts, fences, etc.
- addition of large volumes of earth
- damaging or removing hedges, bushes and trees
- plowing of grassland
- any measures in the proximity to forest edges
- several other measures that are not relevant for winegrowers.

Permission to carry out any of these measures is only granted if these do not threaten the character of the area, change the scenery or oppose protection objectives. The landowners within the designated landscape protection area are generally not entitled to claim for compensation. The reasoning is that these limitations lie within the scope of the social responsibilities of property owners.

The main conflict in the landscape protection areas in Hesse primarily used for growing wine concerns the removal of hedges in core production areas.

The application for permits to add volumes of earth has been simplified: vintners seeking permission to balance losses due to erosion are only required to notify the Bureau for Viticulture in Eltville. Previously, this would have entailed filling out complicated building permits. The justification for this development is the realization that good vineyard practice requires soil losses incurred after the removal of weeds to be compensated. The simplified application procedure is the result of a constructive cooperation between the involved parties.

At this point in this discourse, it is necessary to deal with the special case of biotopes as defined by Section 15d of the State Nature Conservancy Act of Hesse.

3. Biotopes according to Section 15d of the State Nature Conservancy Act of Hesse

Covert biotopes are protected under Section 15d of the State Nature Conservancy Act of Hesse. These sites are protected on the grounds of their quality alone and not by special regulations such as nature reserves or landscape protection areas.

These protected sites are not signposted or marked in any way and may be overlooked by the casual observer.

Covert biotopes include: marshes, reeds, aggradation areas, ox-bow lakes, ponds, pools, spring zones, near natural stream sections, natural scree slopes, dwarf shrub heathland, mat grass and dry grassland, dry walls, hedges and outstanding trees, as well as wet meadows, for-

ests and brush, dry habitats, hollow ways and meadow orchards above a certain size. Covert biotopes may even include old gardens and espalier fruit orchards.

This list is by no means complete, presenting only the different types of biotopes found in the wine-growing regions of Hesse.

Any proposed expansion of a vineyard that threatens such a form of biotope, must be preceded by applying for exemption from Section 15d of the State Nature Conservancy Act of Hesse from the Upper Nature Conservancy Bureau of the Regional Administrative Authority in Darmstadt.

4. Conflicts

Any endeavor to increase the area under wine within the wine-growing regions of Hesse by converting meadows, fallow land, succession areas or brush, not protected under Section 15d of the State Nature Conservancy Act of Hesse, into vineyards requires permission from the Lower Nature Conservancy Bureau. The permit is subject to a fee and is coupled with the obligation to provide adequate compensatory measures. Permission will not be granted in cases where such an interference cannot be compensated.

The past has shown that wine-growers and the relevant authorities have sometimes developed different opinions and evaluations about what constitutes an interference. In some cases, this has led wine-growers to implement measures that they do not see as interfering with the conservancy act. This is especially pertinent when this involves measures to re-establish vineyards on abandoned, unstocked vineyards within the core production zone as defined by the Wine Law

regulatory statutes of Hesse. Often these measures have already been implemented causing irreversible damage. The conflict arises because of the restricted area available for wine-growing on the one hand and the necessity for maintaining and extending the biotope network on the other. The problem is likely to increase in the coming years because the period for restocking abandoned vineyards in the European Wine Law has been extended from 8 to 13 years. The “area principle” of the Wine Law has also been changed to the “company principle”. The outcome of this is that a wine-growing company can use all areas within the boundaries designated in the Wine Law regulatory statutes of Hesse for growing wine. In some cases, this may conflict with the objectives of nature conservation. The penalty for undertaking such measures may be quite substantial when discovered by the Nature Conservancy Bureau. In addition to this, the perpetrator will be compelled to provide specified compensa-

tory measures according to the Interference and Compensatory Regulations.

An additional source for potential conflicts is the objective of the wine-growing policy to preserve high quality steep slope vineyards and to restock abandoned vineyards on these sites. Conservationists are partially in support of this development since environmentally friendly viticulture also provides habitats for protected plants and animals. This is exemplified by a reptile survey carried out in the 1960s. This illustrates that abandoned vineyards on the steep slopes of the Rhine Valley are no longer able to provide the conditions required by reptiles since they have been all but completely covered with bushes. This proves that vineyards can also be seen as a part of the biotope network for heat-seeking reptiles.

The situation is aggravated by settlement areas, road and ICE line construction and the sealing of areas. There is only a finite area of land available and it is necessary to decide which type of land use should be given priority. This decision must take into account all aspects. The preservation of the cultural landscape of both wine-growing regions in Hesse helps to keep jobs and uphold the traditional production of wine while at the

same time preserving many sensitive areas. At this point, it is important to mention that the winegrowers voluntarily practice environmentally friendly viticulture without claiming compensation. On the other side, there stands the willingness shown by the conservationists to accommodate the desires of the winegrowers for example by simplifying the procedure for soil applications.

In the end, all parties involved must share the same objectives: to create a synapse between preserving the cultural landscape with its vineyards and biotopes. This will involve cooperating in all sectors. An example of how this can be achieved can be seen in the new allocation of the landscape protection area Taunus, which is aimed at conceding to the needs of all parties. The main objective of the new landscape protection area regulations is to preserve the cultural landscape that has been defined by agriculture and viticulture.

Long-term landscape protection can only be achieved if the "landscape" remains what it always has been, an interaction between nature, wine-growing, agriculture, settlements and recreation.

5. Index of referenced Laws and Regulations

Bundesnaturschutzgesetz vom 25. März 2002, BGBl. Nr. 22: 1193 ff.

Hessisches Naturschutzgesetz vom 19. September 1980, GVBl. I., S. 309, in der Fassung vom 16. April 1996, GVBl. I: 145.

Hessische weinrechtliche Abgrenzungsverordnung vom 14. Juni 1983, GVBl. I: 78.