According to Article 6(3) of the Habitats Directive, any plan or project likely to have a significant effect on a Natura 2000 site has to be subject to an appropriate assessment of its implications for the site in view of the site's conservation objectives and can only be approved if it will not adversely affect the integrity of the site. Article 6(4) establishes the conditions under which exceptions to this obligation may be accepted. A general exemption to the provisions of Article 6(3) is not foreseen in the Directive.

Romania has not notified the Commission about the law nor has it asked for a Commission opinion under Article 6(4) of the Habitats Directive on any hydropower plant. A general and unconditional provision such as the one referred to by the Honourable Member risks being incompatible with the provisions of the Habitats Directive. It also risks to stand in a tense relationship with the recent Commission proposal of 18 May 2022 for a Directive amending Directive 2018/2001 on the promotion of the use of energy from renewable sources under the REPowerEU plan, which establishes that plants for the production of energy from renewable sources are presumed as being in the overriding public interest and serving public health and safety while still requiring a balancing of legal interests in the individual cases.

The infringement procedure on the transposition of the Habitats Directive is at the letter of formal notice stage and was discussed at the nature dialogue held between the Commission services and the Romanian authorities on 8 December 2021. Another meeting to clarify the remaining issues is expected to be scheduled in the near future.

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