

# Rewilding in Romania

## Public Access and Restrictions

*Hikers in the Retezat mountain area, Southern Carpathians.  
Vlad Cvaša / Rewilding Europe*

### Core topics

- Types of access to land
- How to permit and/or limit access to private property
- Dealing with trespassers

### Key takeaways

- 1 As a rule, you are free to decide who can enter your private property.
- 2 If you are a private landowner, you can open your land to the public and still restrict access to some areas / impose specific entry conditions.

# Table of Contents

1. General considerations regarding public access .....	2
2. What are the types of access to private land? .....	2
2.1 General consideration on roads .....	2
2.2 Rights of way .....	3
2.3 Easement rights (in Romanian Servituțile).....	3
2.4 Right of way for water access, utilities, and works .....	4
3. What constitutes nuisance and damage? ..	6

## 1. General considerations regarding public access

Unlike Scotland or England, Romania does not have a universal right to roam across private land nor has a national network of public footpaths (see, respectively, [Scotland – Public Access](#) and [England and Wales – Public Access](#)). Romania allows public access to some natural areas, and access to forests and mountains is generally permitted, but farmland and enclosed private properties remain restricted unless legally permitted.

As a rule, private property is protected by law and landowners may decide to forbid or to allow entry onto their property.<sup>1</sup> Landowners also have the right to fence their property, and neighbouring landowners have the duty to help delimiting the boundaries of the properties.<sup>2</sup>

The rights to fence the property and to allow or restrict access extend to those having the right to use the land without being the owners. For example, this could be a tenant or the beneficiary of a superficies right (on these mechanisms see *Rewilding in Romania: Obtaining Land and Legal Mechanisms to Protect Wild Land*).

Whilst access to private land requires consent from the owner, or from who benefits from the right to use the land, there are cases in which the right to decide access is legally limited. This could be by a right of way for the land lacking access to the public road<sup>3</sup>, a right of way for works and utilities<sup>4</sup>, or easement rights<sup>5</sup>. These are detailed below.

## 2. What are the types of access to private land?

Under Romanian law, there is no general regime that provides for paths across private land. Only public roads may be accessed freely. Roads or lands that are not open to the public may be used if there is a right of use, access, or an easement agreement in place with the respective landowner.

### 2.1 General consideration on roads

The public has the right to access public roads and private roads that are open to public traffic, even when they cross private land. Roads are classified based on their intended use, as follows:<sup>6</sup>

- *Public roads*: roads designed for public use and/or serving the public interest, intended for

both vehicular and pedestrian traffic. These roads are subject to public ownership.

- *Private utility roads*: roads providing access (for both vehicles and pedestrians) for specific sites or activities, such as forestry, agriculture, energy, mining, industry, and other similar purposes. They also include access roads to private premises and roads within private properties. These roads are owned or managed by individuals or legal entities and fall under private ownership.

## 2.2 Rights of way<sup>7</sup>

A landowner who has no direct access to a public road, and whose only means of accessing the road is by crossing neighbouring land, has the legal right to pass through the neighbour's land to use their own property. This right is based on the necessity of ensuring that the landowner can access and make use of their property, whether personal or economic.<sup>8</sup>

It is generally considered that for *landlocked property* (land with no direct access to a public road) a right of way applies where access to the landlocked property is either impossible to access via a public road or where access would present significant inconveniences or be dangerous. These include situations where the existing access is not absolutely impassable, but the route is unsafe, inadequate, or unsuitable for regular use. In these cases, access is considered unfeasible due to the risks or difficulties involved. However, if the landowner can make the access route safe or usable at a reasonable cost, the land is no longer considered landlocked. The determination whether access involves "significant inconveniences" is assessed on a case-by-case basis.

The right of way over neighbouring land must be exercised in a way that causes the least possible impact to neighbour's property.<sup>9</sup> Furthermore, the owner of the land through which the right of way is

exercised is entitled to compensation for the inconvenience caused.

If there are multiple possible routes to access the public road, the right of way should be established on the route that causes the least impact to the neighbouring land.<sup>10</sup>

The right of way ceases when the land in need of access gains a direct connection to the public road without the need to cross private property. For example, if a new public road is built that provides direct access to that land.<sup>11</sup>

The terms of a right of way can be defined in one of three ways:<sup>12</sup>

- by mutual agreement between the parties;
- by a court decision; or
- by continuous use for a period of 10 years.

### Example 1

*Landowner A wants to allow public access to their rewilding landscape which is currently on private land with no public access rights. How can this be done and would this become a permanent right of way?*

Given the private nature of the land, Landowner A can open the land to the public by granting permission for individuals to enter. This could be achieved through clear

signage indicating the land is open for public access. Additionally, the creation of defined paths is another option, which could then be registered with the relevant authorities.

If Landowner A opts to create specific paths for public use, these could be registered as a private right of way with a public right of access (an easement, as in subsection 2.3). The right of way would be recorded in the Land Registry (in Romanian *Oficiul de Cadastru*), granting the public the legal right to use the path whilst the land remains privately owned. This approach would protect public access to the path, ensuring its continued availability without requiring the land to be fully designated as public land. The right of access could be permanent, although conditions or limitations regarding the use of the path would need to be specified.

## 2.3 Easement rights (in Romanian *Servituțile*)<sup>13</sup>

A limited right of public access can also be established through an easement. Easements typically arise where there are two adjacent parcels of land owned by different landowners and one of them grants the other a right of access or use over their land (for further details, see *Rewilding in Romania: Obtaining and Protecting Wild Land*).

An easement, as an *in rem* right (in Romanian *drept real*) encumbering one piece of land for the benefit

of another, is accessory in nature, i.e. it is legally tied to the dominant land and can only be transferred along with ownership of that land, even in the absence of an express contractual clause to that effect.

### Example 2

*Landowner B owns a forest estate dedicated to rewilding. The estate includes walking trails and wildlife observation areas that attract researchers and eco-tourism groups. However, the estate lacks a direct access route to a nearby river, which is an important natural feature for the project.*

*Landowner C owns the adjacent property, which includes a private access road leading to the riverbank. To support conservation efforts and controlled public access, Landowner C agrees to grant an easement over a designated portion of their land, allowing Landowner B to use the road for eco-tourism and conservation purposes.*

*Does the easement remain valid and binding if Landowner C decides to sell their estate to a new owner (Landowner D)? Can Landowner C revoke the easement after it has been established?*

Easements are accessory in nature, meaning that easement rights remain tied to the servient land, which is Landowner C's land. If Landowner C sells their property to Landowner D, the easement automatically transfers, even if the sale contract does not explicitly mention it.

Landowner C cannot revoke unilaterally the easement, as it was legally established and registered. The only way to terminate it is by consolidation (when both lands have the same ownership), waiver by the dominant property's owner (in our case, Landowner B), expiration of the contract, redemption, permanent impossibility of use, non-use for a period of 10 years, or the loss of any practical benefit (see *Rewilding in Romania: Obtaining and Protecting Wild Land*).

In summary, since the easement is lawfully established, registered, and accessory to the dominant land, Landowner D (the new owner) inherits the easement. Landowner C cannot revoke it at will, which ensures continuity of access to the river for conservation and eco-tourism purposes.

## 2.4 Right of way for water access, utilities, and works<sup>14</sup>

In certain circumstances, landowners may be required to grant limited access to their property for water access, the installation and maintenance of utility networks, or necessary works on neighbouring properties. These ensure that water supply, infrastructure, and property maintenance can be carried out whilst balancing the rights of affected landowners.

Access to water is particularly relevant for rewilding. If a natural spring, river, or well is located in private land and serves as the only viable water source for a neighbouring property, an easement may be established either by law or through agreement. This right of access applies only when no reasonable alternative exists, and the affected landowner is entitled to fair compensation. Any disputes over water access can be resolved through legal or administrative channels, ensuring a balance between access rights and property protections.

Similarly, landowners may be required to allow temporary access for necessary works on a neighbouring property. This may include repairing or maintenance of walls, fences, other boundary structures, or for pruning overhanging branches and harvesting fruit from trees growing near the property line.

These provisions help balance private property rights with practical needs, ensuring that infrastructure development, water access, and property maintenance can proceed whilst safeguarding landowners' interests.

### Example 3

Landowner D manages a rewilding area where a herd of wild horses has been reintroduced to help restore the natural ecosystem. These horses play a crucial role in shaping the landscape, maintaining biodiversity, and preventing overgrowth. However, the land does not have a natural water source, meaning the horses cannot access fresh drinking water without human intervention. The only available alternative would be excavation works to create an artificial pond, which would be costly, time-consuming, and potentially disruptive to the existing ecosystem.

Landowner E, who owns the adjacent property, has a natural spring that flows year-round and is already used by wildlife. To avoid unnecessary excavation, Landowner D wants to propose to Landowner E an agreement so the horses can access their land to drink fresh water.

Landowner D may request an easement allowing the herd of wild horses to access the spring through a designated path crossing Landowner E's land.

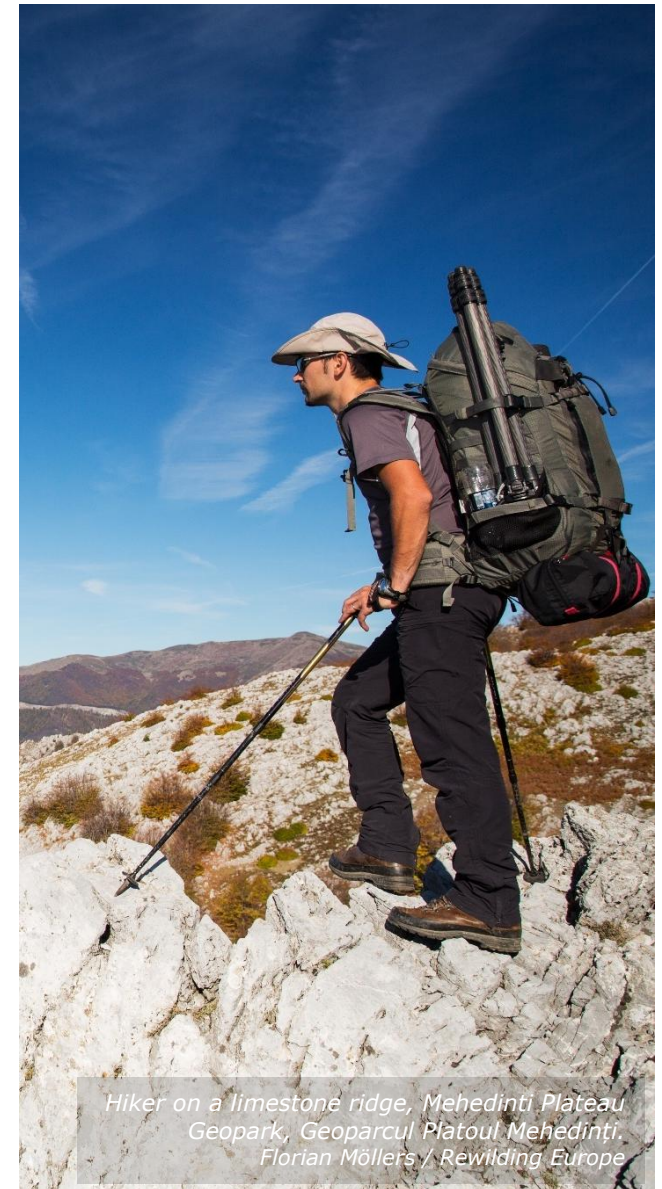
Since Landowner D cannot feasibly create a new water source because it would be extremely costly, potentially disruptive, and ultimately unnecessary, given the availability of a nearby natural spring, the easement is justified under the legal obligation

to allow access when no reasonable alternative exists.

To regulate this access, Landowner D and Landowner E establish an easement agreement, allowing the wild horses to access the spring via a specified route, specifying access conditions, if necessary, to prevent overuse or overgrazing, and providing fair compensation to Landowner E for any inconvenience or potential land degradation. In this case, Landowner E could negotiate a sum for the use of the land and a compensation for any damage caused by the movement of the animals.

Should Landowner D sell their land later, the right for the wild horses to access the water remains in place. The easement transfers automatically with the property, ensuring continuity for the rewilding project.

This easement could terminate if both parties agree to its termination, if the spring permanently dries up, making the easement impossible to use, or if the easement is not used for an extended period (for further details, see *Rewilding in Romania: Obtaining and Protecting Wild Land*).



Hiker on a limestone ridge, Mehedinti Plateau Geopark, Geoparcul Platoul Mehedinți. Florian Möller / Rewilding Europe

#### Example 4

Landowner F has introduced a herd of *Taurus* cattle onto their land as part of a rewilding initiative. Whilst the land is generally open to public access, Landowner F is concerned that human presence during the breeding season could disturb the animals and disrupt the natural behaviour of the herd and increase the risk of accidents between visitors and protective bulls or mothers with calves.

To ensure the well-being of the herd, Landowner F seeks to restrict or regulate public access during breeding season whilst complying with legal obligations.

What legal options are available to restrict, divert, or condition public access to the land? Can Landowner F temporarily close or redirect existing paths?

1. If Landowner F owns the land outright and there are no public rights of way or easements, they have the full right to regulate access. In this case, they may:
  - temporarily close access during breeding season (or other sensitive periods, such as heat season), and recommend that Landowner F posts clear signage to inform visitors; or

- divert paths by creating alternative routes that keep visitors at a safe distance from the animals; or
  - set conditions for entry, such as requiring visitors to follow specific rules during breeding season (e.g. no dogs, no loud noises and no approaching the herd).
2. If Landowner F's land is subject to an easement or a public right of way, Landowner F's options are more limited, as the beneficiaries of the access right are legally protected. However, there are still possible solutions:
    - if the easement was established by agreement between private landowners, the easement contract may include a clause allowing for temporary access restrictions during the breeding period;
    - Landowner F may negotiate amendments to the easement agreement, such as providing an alternative route for access during sensitive periods or claiming compensation for the inconveniences caused;
    - - if the right of way is public, Landowner F may need to request authorisation from local authorities to impose temporary restrictions for safety or restoration measures.

### 3. What constitutes nuisance and damage?

Unlike in many other jurisdictions, Romanian civil law does not explicitly regulate unauthorised access to private land as a standalone offence. This means that landowners cannot directly file a civil trespass claim against unauthorised individuals entering their property.

Instead, they must rely on preventive measures to protect their land, such as fencing, or "No trespassing" (in Romanian *Acces interzis*) signage. These measures are especially important for unfenced rural land, where public access is more difficult to restrict.

In fact, the Forest Code requires that the boundaries of the forest be clearly marked.<sup>15</sup> However, even though these boundaries are marked, access to the forest cannot be completely restricted because it is considered to be of national interest.<sup>16</sup> The Forest Code also provides that the conditions of accessibility in a private forest shall be posted on specific signs at the entrance.<sup>17</sup> For more information on access to forest funds and the Forest Code, see *Rewilding in Romania: Forest and Woodland Management*.

If unauthorised access causes harm, civil law provides indirect remedies. Landowners may file a possessory action under the Civil Code if someone

unlawfully occupies their land or they may claim damages for destruction of property, harm to animals, or interference with rewilding projects. In cases where trespassing is repetitive or ongoing, a court injunction may be sought to prevent further intrusion. However, these actions only provide compensation or restoration of possession; they do not penalise the trespasser.

Trespassing is primarily regulated under criminal law, prohibiting unauthorised entry into fenced properties or professional premises, with penalties ranging from fines to imprisonment of up to 3 years if force or threats are involved.<sup>18</sup>

However, open land and rural areas receive weaker protection unless an intent to commit a crime (e.g. theft, poaching) is demonstrated. Landowners discovering trespassers can call the police, particularly if the individuals refuse to leave or cause property damage, at which point law enforcement may issue fines or initiate criminal proceedings.

### Example 5

*An unauthorised person enters Landowner H's property and sets up camp overnight. Later that night, Landowner H notices flames from a fire a camper has lit. What are Landowner H's options?*

The first step Landowner H could take is to ask the camper to put out the fire and leave the property. If the camper complies and no damage is caused, Landowner H may choose to leave the situation as is.

However, if the camper refuses to leave or the fire becomes a danger, Landowner H should immediately call the police and firefighters. Once the police arrive, Landowner H must file a criminal complaint against the camper. If the fire has caused damage to vegetation, infrastructure, or animals, Landowner H may also add the offense of destruction, in addition to trespassing.

Furthermore, Landowner H has two options for seeking compensation:

- 1 *During the criminal proceedings:* before the judicial investigation begins, Landowner H may become a civil party in the case, requesting compensation.
- 2 *Through a separate civil lawsuit:* even if the criminal process is ongoing, Landowner H may file a direct civil claim for damages in court. This does not preclude pursuing criminal charges against the trespasser.

End Notes:

1. Civil Code, article 555(1).
2. Civil Code, articles 560-561.
3. Civil Code, article 617.
4. Civil Code, articles 621-622
5. Civil Code, articles 755-772.
6. Government Emergency Ordinance no. 43/1997 on the roads' regime ("**GEO 43/1997**").
7. Civil Code, article 617.
8. Civil code, article 617(1).
9. Civil Code, article 617(2).
10. Idem.
11. Civil Code, article 617(3).
12. Civil Code, article 619.
13. Civil Code, articles 755-772.
14. Civil Code, articles 621-622.
15. The Forest Code establishes the general framework, including matters such as forest types, regulation via forest management plans and limitations to forestry works. For full text of the Forest Code, please see [here](#). This particular obligation is stated in article 23(2k).
16. Forest Code, article 1(5): this status means that there is public access to privately owned forests. However, according to article 58(1)(5), anyone entering these forests does so at their own risk and must stick to marked trails and paths.
17. Forest Code, article 113(3).
18. Criminal Code, article 224

## Contact Us

More information about rewilding and the issues addressed in this guidance note is available on [The Lifescape Project](#) and [Rewilding Europe](#) websites.

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*This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice. You should not assume that the case studies apply to your situation and specific legal advice should be obtained.*