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**HOW TO HANDLE COURT PROCEEDINGS INVOKING NON-COMPLIANCE
WITH EU NATURE PROTECTION LAW
FOCUS ON SITE PROTECTION**

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Habitats and Birds Directives in light of the CJEU case law

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Topics

- Birds Directive
 - History and objectives
 - Provisions
- Habitats Directive
 - History and objectives
 - Provisions
- Natura 2000
- Fitness check of the Birds and Habitats Directives
- An action plan for nature, people and the economy
- Environmental Implementation Review excerpts



Birds Directive - history and objectives

- Birds Directive
 - Adopted in 1979
- Reasons for adoption
 - Need for controls and prohibitions to stop the trapping and killing of hundreds of millions of migratory birds and song birds each year in Southern Europe
 - EU implementation of the Bern Convention and the Bonn Convention



The Birds Directive which, like the Habitats Directive, was adopted unanimously by the Council is framework legislation. As indicated in the Commission Staff Working Document, Fitness Check, the 'detailed implementation [of both Directives] is regulated through national/regional law and decisions of national/regional/local authorities supported by guidance and other EU level policy documents'.

Birds Directive - provisions

▪ Article 1

- Sets out the main objective of the Directive, that is, to protect, manage and control the 500 species of wild birds that naturally occur in the European Union including their eggs, nests and habitats and to establish rules for their exploitation
- Note that article 1 refers to all species of wild birds that naturally occur in the EU
- Balances their protection, management and control with their exploitation (hunting)



In *Commission v Belgium* (Case No C-247/85, 1987), the ECJ stated that article 1 ‘relates to the conservation of all species of naturally occurring birds in the wild state in the European territory of the Member States and covers the protection, management and control of those species and lays down rules for their exploitation. The directive is based on the consideration that effective bird protection is typically a transfrontier environment problem entailing common responsibilities for the Member States’.

In 2007, the annual meeting of the Parties to the Bern Convention on the Conservation of European Wildlife and Natural Habitats 1979, adopted the European Charter on Hunting and Biodiversity. A key objective of the charter is the promotion of principles and guidelines to ensure the sustainability of hunting and hunting tourism in the EU. The Charter supports the EU’s Sustainable Hunting Initiative that was launched in 2001 to assist in improving the understanding of the legal and technical aspects of provisions on hunting in the Birds Directive and the development of a programme of scientific, conservation and awareness raising measures to promote sustainable hunting.

Birds Directive - provisions

- Article 2

- Directs Member States to take measures to maintain populations of the 190 species and sub-species of birds *listed in Annex I* at a level that corresponds to their ecological, scientific and cultural requirements, taking into account economic and recreational requirements
 - Note special protection measures for species and sub-species of birds listed in Annex I
 - Birds Directive does not explicitly mention favourable conservation status but implies it



In *Commission v Belgium* (Case No C-247/85, 1987), the ECJ ruled that article 2 is not a derogation in respect of hunting. The ECJ stated that 'it is ... clear that the protection of birds must be balanced against other requirements, such as those of an economic nature. Therefore, although Article 2 does not constitute an autonomous derogation from the general system of protection, it none the less shows that the directive takes into consideration, on the one hand, the necessity for effective protection of birds and, on the other hand, the requirements of public health and safety, the economy, ecology, science, farming and recreation'.

Annex I originally included 74 species and sub-species of birds; it currently covers 193 species and sub-species as a result of seven amendments, some of which relate to accession of new Member States to the EU.

Birds Directive - provisions

- Article 3
 - Provides that such measures shall include preserving, maintaining and re-establishing biotopes and habitats for *all naturally occurring wild birds in the EU* primarily by the following
 - Creating protected areas
 - Up-keeping and managing habitats inside and outside protected areas
 - Re-establishing destroyed biotopes
 - Creating biotopes



Article 3 thus requires natural habitats to be restored and managed outside, as well as inside, Natura 2000 areas.

Birds Directive - provisions

- Article 4(1)
 - Directs Member States to classify the most suitable areas in number and size as Special Protection Areas (SPAs) for Annex I species in order to ensure their survival and reproduction in their area of distribution
 - Classification must take account of the following
 - Species in danger of extinction
 - Species vulnerable to specific changes in their habitat
 - Species considered rare because of small populations or restricted local distribution
 - Other species that require attention



Article 4(1) and article 4(2) are considered in detail in the presentations by representatives of the European Commission's Environment Directorate in this workshop.

Delays occurred in the selection of sites to be classified as SPAs in all Member States.

Birds Directive - provisions

- Classification of SPAs
 - One-stage process
 - Member States designate SPAs solely on the basis of ornithological criteria
 - That is, criteria on the number of protected bird species and their relative importance in Member States
 - May not consider socio-economic criteria in classifying such areas
 - May select the most appropriate criteria for classification but must ensure that they classify the 'most suitable territories' in number and surface area



The European Commission and (now) CJEU sometimes refer to Important Bird and Biodiversity Areas (IBAs) prepared by Birdlife International (which consists of 120 partners across the world). In a press release entitled Nature protection: Commission takes legal action against 11 Member States over protected bird areas (IP/07/938, 27 June 2007), the European Commission stated 'The designation of SPAs must be based on objective, verifiable scientific criteria. To assess whether Member States have complied with their obligation to classify SPAs, the Commission uses the best available ornithological information. Where the necessary scientific information provided by Member States is lacking, national inventories of [IBAs] compiled by ... Birdlife International, are used. While not legally binding, the IBA inventory is based on internationally-recognised scientific criteria. The Court of Justice has already acknowledged its scientific value, and in cases where no equivalent scientific evidence is available, the IBA inventory is a valid basis of reference in assessing whether Member States have classified a sufficient number and size of territories as SPAs'.

In the publication, Science for Environmental Policy, entitled BirdLife International's 'Important Bird and Biodiversity Areas' well covered by Natura 2000 in Europe but potential to extend network, dated 23 February 2017, the European Commission announced a new study by Birdlife International. The Commission stated that the study had 'found 3 307 IBAs cover 634 725 square kilometres (km²) or 14.5% of the EU, while 4 876 SPAs cover 534 006 km² or 12.5% of the EU. A total of 418 108 km² of EU land is covered by both IBAs and SPAs, with 20.3% of IBAs falling almost completely (over 98%) within SPAs. In total, 66% of the IBA network is covered by SPAs. SPAs cover an average of 23% (almost 25% for IBAs) of the ranges of bird species and 25% (almost 28% for IBAs) of the ranges of mammals, reptiles and amphibians within the EU. When

combined, the SPA and IBA networks cover 17.3% of the EU's land area and an average of 27.5% of the EU-wide distributions of bird species. However, 24.4% of IBAs fall almost exclusively outside (less than 2% within) SPAs'.

Birds Directive - provisions

- Classification of SPAs (continued)
 - Based on information provided by the Member States, the European Commission then determines if the classified sites are sufficient to form a coherent network for the protection of the vulnerable and migratory species
 - Sites then become part of the Natura 2000 network
 - Birds Directive does not set deadlines for classifying sites



In *Commission v Bulgaria* (Case No C-141/14, 2016), the ECJ confirmed that Member States must classify all the sites in its territory as SPAs which, 'in accordance with the ornithological criteria, appear to be the most suitable for conservation of the species in question'.

Birds Directive - provisions

- *R v Secretary of State for the Environment* (Case No C-44/95, 1996) (*Lappel Bank*)
 - Preliminary ruling from the then UK House of Lords to the now Court of Justice of the European Union (CJEU)
 - Concerned Lappel Bank, an area of mudflats on the Medway estuary in Kent that provided winter feeding for ducks, geese and wading birds
 - Located next to the Port of Sheerness
 - 1989: Medway Ports Authority applied for and received planning permission to develop the area for a car and cargo park
 - Development did not take place at that time



According to the RSPB, which brought the Lappel Bank case, Lappel Bank supports an average of 53,900 wintering waders and wildfowl, with the mudflats themselves 'supporting average peak numbers of 1,700 birds including significant numbers of shelducks, ringed plovers, grey plovers, dunlins and redshanks'.

Birds Directive - provisions

- *Lappel Bank* (continued)

- 1993: Secretary of State designated the Medway estuary and marshes as an SPA, but left out Lappel Bank on economic grounds
- Royal Society for the Protection of Birds (RSPB) brought a judicial review action against the Secretary of State on the grounds that the Birds Directive did not allow economic considerations to be taken into account in SPA designations
- Case was referred to the CJEU
- CJEU concluded that the UK Government had acted illegally and could not exclude the mudflats from the SPA for economic reasons



Birds Directive - provisions

- *Lappel Bank* (continued)
 - Planning application for the car and cargo park, meanwhile, had been approved
 - One year after the CJEU's ruling, Lappel Bank was destroyed and the mudflats became a car park
 - Cross-undertaking in damages would have prevented this outcome but potential expense involved would have been prohibitive



Birds Directive - provisions

- *European Commission v Spain (Case No C-355/90, 1993) (Santoña Marshes)*
 - Marshes in the Iberian peninsula
 - Wintering area for many birds migrating from the EU to southern Africa
 - Spanish Government
 - Classified the marshes as a nature reserve in 1992
 - Subsequently proposed building a road across the marshes to improve access to the town of Santoña
 - Claimed that the new route was the best alternative, mainly because it affected only a small proportion of the total surface area of the marshes



The European Commission stated, in the Commission Staff Working Document, Fitness Check, that it had commenced 68 infringement procedures against Member States; 23 concerning the Birds Directive, 14 concerning the Habitats Directive, and 31 concerning both Directives. The Commission further reported that conformity checks of national measures that transposed the Directives had resulted in 43 infringement procedures concerning the Birds Directive, 39 concerning the Habitats Directive, and 15 concerning both Directives. All the above procedures were closed after Member States adopted legislative measures to transpose the Directives correctly.

Birds Directive - provisions

- *Santoña Marshes* (continued)

- European Commission considered that the proposed road resulted not only in a considerable reduction in the surface area of the marshes but also disturbed the peaceful nature of the area and protected birds
- Spain stated that it recognised the ecological value of the area but argued that the national authorities had a margin of discretion with regard to the choice and delimitation of SPAs and the timing of their classification



Birds Directive - provisions

- *Santoña Marshes* (continued)

- CJEU rejected Spain's argument

‘Although Member States do have a certain margin of discretion with regard to the choice of [SPAs], the classification of those areas is nevertheless subject to certain ornithological criteria determined by the directive, such as the presence of birds listed in Annex 1, on the one hand, and the designation of a habitat as a wetland area, on the other’

Discretion is less than discretion under Article 4(4) in modifying or reducing the extent of classified areas



Birds Directive - provisions

- *Santoña Marshes* (continued)
 - Case established that
 - Obligation on Member States to avoid deterioration of the habitats of bird species protected by the Birds Directive does not depend on the habitat having first been designated as an SPA
 - Objectives of the Birds Directive would be completely undermined if the conservation obligations operated only after formal designation of an area as an SPA



Birds Directive - provisions

- *Commission v Germany* (Case No C-57/89, 1991) (*Leybucht Dykes*)
 - Leybucht area of North Germany had already been designated as an SPA
 - Public authority proposed re-enforcing a water dyke to help prevent flooding
 - Undisputed that the area was at risk of serious flooding that could endanger human life
 - In carrying out the works, the authority changed the line of the dyke to benefit the nearby Leybucht Harbour
 - Resulted in reduction of the size of the SPA



Birds Directive - provisions

- *Leybucht Dykes* (continued)
 - CJEU considered whether a Member State could reduce an SPA in size and, if so, the applicable reasons
 - CJEU concluded
 - While article 4(1) affords a degree of discretion to Member States in selecting the most suitable territories in number and size as SPAs, once an SPA has been designated, any further discretion to reduce its size is extremely limited
 - Reduction in size can be justified only on exceptional grounds
 - Must be a public interest superior to the Birds Directive's ecological objectives

Birds Directive - provisions

- *Leybucht Dykes* (continued)
 - CJEU concluded (continued)
 - Economic and recreational considerations, whilst mentioned in Article 2 of the Birds Directive, are not specifically mentioned in respect of the SPA provisions of the Directive
 - Therefore, interference in a designated SPA is not permitted for economic or recreational reasons
 - Exceptions may be made only for reasons of public health and public safety, and only when some positive environmental benefits are thought likely to ensure designations to be made solely on ornithological criteria



Birds Directive - provisions

- *Leybucht Dykes* (continued)
 - CJEU concluded (continued)
 - On the facts of the case, such exceptional grounds existed due to the need to prevent potentially catastrophic flooding and the endangerment of human life
 - ‘the danger of flooding and the protection of the coast constitute sufficiently serious reasons to justify the dyke works and the strengthening of coastal structures as long as those measures are confined to a strict minimum and involve only the smallest possible reduction of the [SPA]’
 - ‘The desire to ensure the survival of the fishing port of Greetsiel could thus be taken into account in order to justify the decision on the line of the new dyke because there were the above-mentioned offsetting ecological benefits, and solely for that reason’



The ECJ noted that carrying out the measures had ‘specific positive consequences for the habitat of birds’ as well as negative consequences. The ECJ stated that ‘[o]nce the works are completed it will be possible to close two navigation channels which cross the Leybucht, with the result that the Leybucht will be left in absolute peace. Moreover, the decision approving the proposed works envisages a strict protection scheme for the Leyhörn area. The dyke which previously protected the Hauener Hooge site will be opened, thus once more exposing an extensive area to tidal movements and allowing the formation of salt meadows of considerable ecological importance’.

Birds Directive - provisions

- Political pressure following *Leybucht Dykes* resulted in exceptional public interest grounds including economic and social grounds being able to be considered in both the Birds Directive and the subsequently adopted Habitats Directive



Birds Directive - provisions

- Article 4(2)
 - Directs Member States to take protective measures for regularly occurring migratory species *not listed in Annex I*, taking into account their breeding, moulting and wintering areas and staging posts along their migration routes
 - Particular attention is to be given to the protection of wetlands, especially Ramsar sites



Article 4(2) thus requires measures to protect regularly occurring migratory birds to be taken in areas outside, as well as inside, Natura 2000 sites.

Birds Directive - provisions

- Article 4(3)

- 'Member States shall send the Commission all relevant information so that it may take appropriate initiatives with a view to the coordination necessary to ensure that the areas provided for in paragraphs 1 and 2 form a coherent whole which meets the protection requirements of these species in the geographical sea and land area where this Directive applies'



Birds Directive - provisions

- Article 4(4)

- 'In respect of the protection areas referred to in paragraphs 1 and 2, Member States shall take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article. Outside these protection areas, Member States shall also strive to avoid pollution or deterioration of habitat'
- Note greater protection for habitats and birds in SPAs
- Also note duty to take steps to avoid deterioration of habitats as well as avoidance of affirmative actions



Article 4(4) thus requires Member States to 'strive to avoid pollution or deterioration of habitat' in respect of birds outside, as well as inside, Natura 2000 sites.

Birds Directive - provisions

- Article 5
 - Sets out measures for the protection of all species of naturally occurring wild birds in the EU, prohibiting in particular the following
 - Deliberate killing or capture by any method
 - Deliberate destruction of, to damage to, their nests and eggs or removal of their nests
 - Taking of eggs in the wild and keeping of eggs even if empty
 - Deliberate disturbance of birds, especially during breeding and rearing periods
 - Keeping birds in respect of which the Directive prohibits their hunting and capture
 - NB: killing, destruction and taking of birds in Annex are listed in the Environmental Crimes Directive



Birds Directive - provisions

▪ Article 6

- Prohibits the sale, transport for sale, keeping and offering for sale, live or dead birds and any readily recognisable part or derivatives of them with the exception of
 - Bird species (game birds) listed in Annex III, Part A, provided that the birds have been legally killed or captured or otherwise legally acquired
 - Bird species (game birds) listed in Annex III, Part B, with certain restrictions, provided again that the birds have been legally killed or captured or otherwise legally acquired
- NB: possession of birds in Annex is listed in the Environmental Crimes Directive



Note the exception for game birds in article 6. When the Birds Directive was first implemented, the regulation of hunting was particularly controversial. In 2009, following extensive litigation, questions to the European Commission on the hunting provisions of the Birds Directive, and petitions to the European Parliament from hunting and bird conservation organisations, the European Commission published 'Guide to Sustainable Hunting under the Birds Directive'. The purpose of the Guide is to provide 'better clarification of the requirements of the Directive relating to hunting, within the existing legal framework and strongly based on scientific principles and data and the overall conservation aim of the directive'.

Birds Directive - provisions

▪ Article 7

- Sets out controls to be taken by Member States on hunting bird species listed in Annex II (over 80 species) including ensuring that the hunting does not jeopardise conservation efforts in their distribution area, and that hunting, including falconry, complies with the principles of wise use and ecologically balanced controls
 - Restrictions include prohibitions during the most vulnerable times, that is, the return from migration to nesting areas for reproduction and raising of young birds



In *Association pour la Protection des Animaux Sauvages v Préfet de Maine-et-Loire* (Case No C-435/92, 1994), the ECJ ruled that ‘the closing date for the hunting of migratory birds and waterfowl must be fixed in accordance with a method which guarantees complete protection of those species during the period of pre-mating migration and that, as a result, methods whose object or effect is to allow a certain percentage of the birds of a species to escape such protection do not comply with that provision’. The ECJ stated that ‘it should be noted that any hunting activity is liable to disturb wildlife and that it may in many cases affect the state of conservation of the species concerned, independently of the extent to which it depletes numbers. The regular elimination of individuals keeps the hunted populations in a permanent state of alert which has disastrous consequences for numerous aspects of their living conditions. It should be added that those consequences are particularly serious for groups of birds which, during the season of migration and wintering, tend to gather together in flocks and rest in areas which are often very confined or even enclosed. Disturbances caused by hunting force these animals to devote most of their energy to moving to other spots and to fleeing, to the detriment of time spent feeding and resting for the purpose of the migration. Those disturbances are reported to have an adverse impact on the level of energy of each individual and the mortality rate of all the populations concerned. The effect of disruption caused by hunting birds of other species is particularly significant for those species whose return migration takes place earlier’.

Birds Directive - provisions

▪ Article 8

- Directs Member States to prohibit the use of all means for large scale or non-selective capture of or killing of birds, particularly those listed in Annex IV(a) (including snares and poisoned bait) and modes of transportation listed in Annex IV(b) (aircraft, motor vehicles, and boats driven above specified speeds)



BirdLife International has commented that poisoned bait is a direct threat to European species such as the Spanish Imperial Eagle (*Aquila adalberti*), Eastern Imperial Eagle (*Aquila heliaca*), Red Kite (*Milvus milvus*) and the Egyptian Vulture (*Neophron percnopterus*), resulting in large numbers of birds being killed on an annual basis. Other species are also killed as a result of eating the poisoned birds.

SEO (BirdLife in Spain) and the RSPB (BirdLife in the UK) have launched the European Network against Environmental Crimes (ENEC) in order to improve implementation of the Environmental Crimes Directive (2003/109/EC), a project that is backed by the Criminal Justice Support Programme of the EU. In February 2016, the ENEC adopted a proposal for a European Action Plan to combat the illegal poisoning of wildlife. This includes the action plan set out in the Roadmap towards eliminating illegal killing, trapping and trade of birds (Version 5 February 2017);

<http://ec.europa.eu/environment/nature/conservation/wildbirds/docs/Roadmap%20illegal%20killing.pdf>

Birds Directive - provisions

- Article 9

- Allows derogations from Articles 5, 6, 7 and 8 provided (1) there is no satisfactory solution, and (2) they are made for the following reasons
 - In the interest of public health and safety
 - In the interest of air safety
 - To prevent serious damage to crops, livestock, forests, fisheries and water
 - For the protection of fauna and flora
 - For the purposes of research and teaching, of re-population, of re-introduction and breeding necessary for these purposes
 - To permit under certain strictly supervised conditions and on a selective basis, the capture, keeping and other judicious use of certain birds in small numbers



Birds Directive - provisions

- Article 9 (continued)
 - Derogations must specify the following
 - Species subject to the derogations
 - Means, arrangements or methods authorised for capture or killing
 - Conditions of risk and circumstances of time and place under which the derogations are granted
 - The authority that is authorised to specify the conditions, arrangements, methods that may be used, etc. and by whom
 - Directs Member States to send an annual report to the Commission on the application of derogations



In *Commission v Belgium* (Case No C-247/85, 1987), the ECJ stated that 'Article 9 of the directive authorizes the Member States to derogate from the general prohibitions and from the provisions concerning marketing and hunting. However, this possibility is subject to three conditions: first, the Member State must restrict the derogation to cases in which there is no other satisfactory solution; secondly, the derogation must be based on at least one of the reasons listed exhaustively in Article 9 (1) (a), (b) and (c); thirdly, the derogation must comply with the precise formal conditions set out in Article 9(2), which are intended to limit derogations to what is strictly necessary and to enable the Commission to supervise them. Although Article 9 therefore authorizes wide derogations from the general system of protection, it must be applied appropriately in order to deal with precise requirements and specific situations'.

In *Commission v Italy* (Case No C-159/99, 2001), the ECJ stated that 'the provisions of directives must be implemented with unquestionable binding force, and the specificity, precision and clarity necessary to satisfy the requirements of legal certainty ... mere administrative practices, which by their nature are alterable at will by the authorities and are not given the appropriate publicity, cannot be regarded as constituting the proper fulfilment of a Member State's obligations under the Treaty'. The ECJ stated that Italian law that 'permitt[ed] the capture and keeping of ... three species for the purposes of use as decoys have not been formally amended, thereby creating in this case an ambiguity rendering compliance with the prohibition of those activities laid down in the birds directive uncertain'.

Birds Directive - provisions

- Article 10
 - Directs Member States to encourage research and other works in order to provide the basis for the protection, management and use of all species of birds protected by the Directive, in particular research specified in Annex V
- Article 11
 - Directs Member States to ensure that any introduced species of birds do not prejudice the local flora and fauna



Member States are not required to notify the Commission about research carried out by them.

In respect of article 11, the Evaluation Study to support the Fitness Check of the Birds and Habitats Directives (March 2016) stated that introduced species should be limited to native species that do not require site management measures to be carried out.

Birds Directive - provisions

- Article 12
 - Directs Member States to prepare a composite report on the implementation of the Directive every 3 years
- Article 14
 - Provides that Member States may introduce stricter protective measures than those set out in the Directive
- Note: TFEU, article 193 also authorises Member States to adopt more stringent provisions:
 - 'The protective measures adopted pursuant to Article 192 shall not prevent any Member State from maintaining or introducing more stringent protective measures. Such measures must be compatible with the Treaties. They shall be notified to the Commission'



In 2011, the European Commission, in agreement with Member States, streamlined reporting under article 12 of the Birds Directive and article 17 of the Habitats Directive by revising the procedures for, and frequency of, submission of reports in order to focus reporting obligations on the status and trends of bird populations.

The European Environment Agency reported, in its report on the State of nature in the EU (EEA Technical report No 2/2015), that 'the most frequently reported threats and pressures on EU birds are agriculture (including both intensification and abandonment), changes in hydrology (especially for wetlands) and exploitation (including hunting)'. Chapter 2 of the report is 'an overview of bird population sizes and trends at national level ... and EU population status for all bird species naturally occurring in Europe'. The report stated that '[o]ver half of the bird species in the EU (52%) are considered to be 'secure' (no foreseeable risk of extinction), and in general, wintering birds (mostly waterbirds) show increasing populations'. It further stated that 'Member States reported for all naturally occurring breeding bird species, usually at species level, but sometimes for subspecies or populations (e.g. flyway populations), using a checklist agreed in advance. The number of breeding species and other taxa reported by the countries ranges from 27 (Malta) to 340 (Spain), with a considerable variation in bird statuses and trends reported. The countries also reported winter and passage populations for a selection of species, mostly waterbirds'.

Habitats Directive - history and objectives

- History
 - Adopted to implement the Bern Convention
- Establishes the Natura 2000 network by the designation of Special Areas of Conservation (SACs)



The Habitats Directive was adopted unanimously by the Council.

Habitats Directive - history and objectives

- Purpose

- Ensure restoration or maintenance of natural habitats and species of Community interest at a 'favourable conservation status' as part of the contribution to sustainable development
 - Not limited to species facing extinction



The term 'favourable conservation status' is described by the European Commission in its publication entitled Assessment and reporting under Article 17 of the Habitats Directive; Explanatory Notes & Guidelines for the period 2007-2012 (Final version, July 2011), as follows: "Favourable Conservation Status' (FCS) is the overall objective to be reached for all habitat types and species of community interest and it is defined in Article 1 of the Habitats Directive. In simple words it can be described as a situation where a habitat type or species is prospering (in both quality and extent/population) and with good prospects to do so in future as well. The fact that a habitat or species is not threatened (i.e. not faced by any direct extinction risk) does not mean that it is in favourable conservation status. The target of the directive is defined in positive terms, oriented towards a favourable situation, which needs to be defined, reached and maintained. It is therefore more than avoiding extinctions. Favourable Conservation Status is assessed across all national territory (or by biogeographical or marine region within a country where 2 or more regions are present) and should consider the habitat or species both within the Natura 2000 network and in the wider countryside or sea'.

Habitats Directive - history and objectives

- 'species of Community interest' are defined as
'species which, within the [EU] are:
 - i. endangered, except those species whose natural range is marginal in that territory and which are not endangered or vulnerable in the western palearctic region; or
 - ii. vulnerable, i.e. believed likely to move into the endangered category in the near future if the causal factors continue operating; or
 - iii. rare, i.e. with small populations that are not at present endangered or vulnerable, but are at risk. The species are located within restricted geographical areas or are thinly scattered over a more extensive range; or
 - iv. endemic and requiring particular attention by reason of the specific nature of their habitat and/or the potential impact of their exploitation on their habitat and/or the potential impact of their exploitation on their conservation status.Such species are listed or may be listed in Annex II and/or Annex IV or V'



The term 'species of Community interest' is defined in Article 1(g) of the Habitats Directive.

Habitats Directive - provisions

- Article 1
 - Definitions
- Article 2
 1. 'aim of this Directive shall be to contribute towards ensuring biodiversity through the conservation of natural habitats and of wild fauna and flora in the [EU].
 2. Measures taken pursuant to this Directive shall be designed to maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest.
 3. Measures taken pursuant to this Directive shall take account of economic, social and cultural requirements and regional and local characteristics'



The maintenance and restoration, at favourable conservation status of natural habitats and species listed in the annexes to the Directive, as those measures contribute to biodiversity in the EU, is the main aim of the Habitats Directive.

Habitats Directive - provisions

- Definition of 'conservation status of a natural habitat'
'the sum of the influences acting on a natural habitat and its typical species that may affect its long-term natural distribution, structure and functions as well as the long-term survival of its typical species within the [European territory of the Member States]'
- Conservative status of a natural habitat is 'favourable' when
 - 'its natural range and areas it covers within that range are stable or increasing, and
 - the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and
 - the conservation status of its typical species is favourable ...'



The publication by the European Commission entitled Assessment and reporting under Article 17 of the Habitats Directive; Explanatory Notes & Guidelines for the period 2007-2012 (Final version, July 2011), describes the term 'conservation status' as '[t]he result of an evaluation of the status of a species or habitat type at the scale of a biogeographical or marine region using the assessment matrix based on 4 parameters'. Those parameters are 'range, area, structure & function & future prospects (habitats); range, population, habitat for species & future prospects (species)'.

Habitats Directive - provisions

- Definition of ‘conservation status of a species’
‘the sum of the influences acting on the species concerned that may affect the long-term distribution and abundance of its populations within the [European territory of the Member States]’
- Conservation status is ‘favourable’ when
 - ‘population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and
 - the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and
 - there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis’



The European Commission’s publication entitled Assessment and reporting under Article 17 of the Habitats Directive; Explanatory Notes & Guidelines for the period 2007-2012 (Final version, July 2011), states as follows:

“‘Conservation Status’ is a concept first developed in the context of Red Books or Red lists of threatened or endangered species, either at global, regional or national scale and in this context is understood as an assessment of the relative risk of extinction of a habitat type or species. ... while Red Lists assess the distance from extinction, the three conservation status categories under the Article 17 report aim at assessing the distance from a defined favourable situation.

However, while both Article 17 and Red Listing aim to assess conservation status of species and habitat types they use related but different criteria and consequently there will not always be a one to one relationship between an IUCN category and an Article 17 category although it would be expected a species considered “Critically endangered” by the IUCN would normally be assessed as “Unfavourable-Bad” for Article 17’.

Habitats Directive - provisions

- ‘The favourable conservation status of a natural habitat or species has to be considered *across its natural range*, according to Articles 1(e) and 1(i), i.e. at *biogeographical and, hence, Natura 2000 network level*. Since, however, the ecological coherence of the [Natura 2000] network will depend on the contribution of each individual site to it and, hence, on the conservation status of the habitat types and species it hosts, the assessment of the favourable conservation status at *site level* will always be necessary’

Managing Natura 2000 Sites; The Provisions of Article 6 of the ‘Habitats’ Directive 92/43/EEC
(European Communities, 2000) (emphasis added)



Habitats Directive - provisions

- Natura 2000 network is composed of 14 biogeographical regions
 - Terrestrial
 - Atlantic
 - Continental
 - Alpine (includes the Pyrenees, Alps, Carpathian mountains and parts of Scandinavia)
 - Mediterranean
 - Boreal (Finland, Sweden, Estonia, Latvia and part of Lithuania)
 - Macaronesian (Madeira, Azores and Canary Islands)
 - Pannonian (essentially Hungary and parts of the Czech Republic, Romania and Slovakia)
 - Steppic (added when Bulgaria and Romania joined the EU)
 - Black Sea (added when Bulgaria and Romania joined the EU)



The primary purpose of the Natura 2000 network is to preserve specified species and natural habitats in the EU, as listed in the Birds Directive and Habitats Directive.

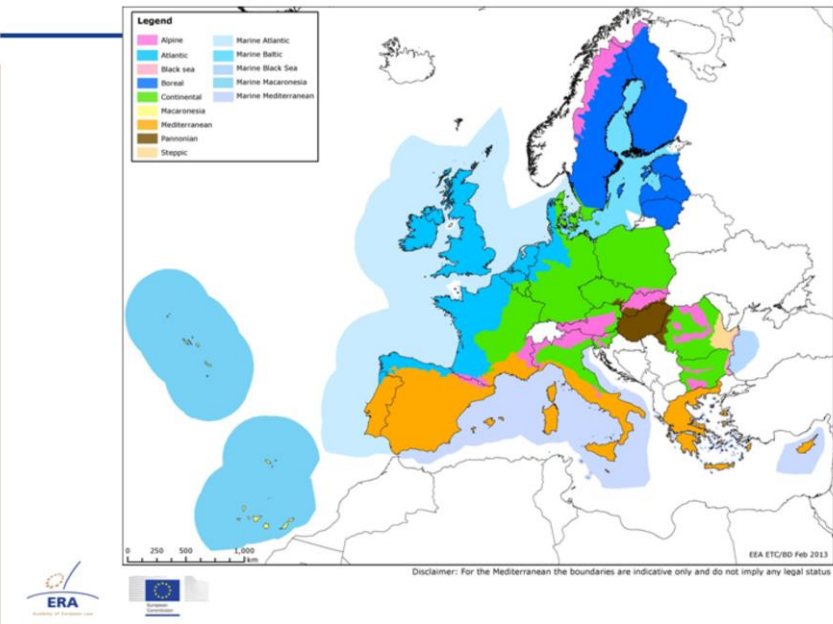
Natura 2000 includes privately owned areas and areas owned by public authorities. The mix of private / public areas varies between individual Member States.

Habitats Directive - provisions

- Natura 2000 network is composed of 14 biogeographical regions
 - Marine
 - Marine Atlantic
 - Marine Baltic
 - Marine Black Sea
 - Marine Macaronesia
 - Marine Mediterranean



Habitats Directive - provisions



Habitats Directive - provisions

- Only about 23% of animal and plant species and about 16% of habitat types in the EU are in a favourable conservation status
- No deadline for achieving favourable conservation status



The European Environment Agency's report entitled State of nature in the EU ((EEA Technical report No 2/2015), stated that it is not surprising that the proportion of species that have an unfavourable conservation status under the Habitats Directive is higher than the proportion of species under the Birds Directive. The reason for this is that the Birds Directive covers all species of naturally occurring wild birds in the EU whereas the Habitats Directive covers only habitats and species that have been listed in the annexes because they are considered to be rare and/or endangered.

Habitats Directive - provisions

▪ Article 3

1. 'A coherent European ecological network of [SACs] shall be set up under the title Natura 2000. This network, composed of sites hosting the natural habitat types listed in Annex I and habitats of the species listed in Annex II, shall enable the natural habitat types and the species' habitats concerned to be maintained or, where appropriate, restored at a favourable conservation status in their natural range.

The Natura 2000 network shall include the [SPAs] classified by the Member States pursuant to [Birds Directive]'

- Annex II: lists over 900 animal and plant species whose habitats are designated as sites of Community importance (SCIs) and included in the Natura 2000 network
- Note the incorporation of SPAs into the Natura 2000 network



A 'site of Community importance' is a site that has been accepted by the European Commission and published on a Community List.

The Habitats Directive has six annexes as follows:

- Annex I – Natural Habitat Types of Community Interest whose Conservation Requires the Designation of Special Areas of Conservation;
- Annex II – Animal and Plant Species of Community Interest whose Conservation Requires the Designation of Special Areas of Conservation;
- Annex III – Criteria for Selecting Sites Eligible for Identification as Sites of Community Importance and Designation as Special Areas of Conservation;
- Annex IV – Animal and Plant Species of Community Interest in Need of Strict Protection;
- Annex V – Animal and Plant Species of Community Interest whose Taking in the Wild and Exploitation may be Subject to Management Measures; and
- Annex VI – Prohibited Methods and Means of Capture and Killing and Modes of Transport.

The annexes to the Habitats Directive list over 1,200 species and sub-species and 231 habitat types.

Habitats Directive - provisions

- Definition of 'sites of Community importance'

'a site which, in the biogeographical region or regions to which it belongs, contributes significantly to the maintenance or restoration at a favourable conservation status of a natural habitat type in Annex I or of a species in Annex II and may also contribute significantly to the coherence of Natura 2000 referred to in Article 3, and/or contributes significantly to the maintenance of biological diversity within the biogeographic region or regions concerned'.

For animal species ranging over wide areas, sites of Community importance shall correspond to the places within the natural range of such species which present the physical or biological factors essential to their life and reproduction'



The above definition is set out in article 1(k) of the Habitats Directive.

Habitats Directive - provisions

- Article 3 (continued)
 2. 'Each Member State shall contribute to the creation of Natura 2000 in proportion to the representation within its territory of the natural habitat types and the habitats of species referred to in paragraph 1. To that effect each Member State shall designate, in accordance with Article 4, sites as [SACs] taking account of the objectives set out in paragraph 1.
 3. Where they consider it necessary, Member States shall endeavour to improve the ecological coherence of Natura 2000 by maintaining, and where appropriate developing, features of the landscape which are of major importance for wild fauna and flora, as referred to in Article 10'



Habitats Directive - provisions

- Article 4 establishes procedures and criteria for designating SACs
- Three stages
 - Stage 1
 - Member States propose to the Commission, on the basis of criteria set out in Annex III, a list of sites indicating which natural habitat types set out in Annex I and which species set out in Annex II are native to its territory in each site
 - Annex III: lists criteria for selecting sites eligible for identification as SCIs and designated as SACs
 - Annex I: lists natural habitat types of Community interest whose conservation requires the designation of SACs



Article 4(1) and article 4(2) are considered in detail in the presentations by representatives of the European Commission's Environment Directorate in this workshop.

The Habitats Directive lists two-thirds of the natural habitats in the EU.

All Member States delayed in selecting sites to be designated as SACs, which then resulted in delays by the Commission in adopting SCIs. Some of the delays resulted in the Commission bringing infringement proceedings against Member States. The number of Natura 2000 sites increased significantly from the late 1990s after some proceedings resulted in rulings by the ECJ against Member States and after Member States that had complied with the Directives had received funding from the Cohesion Policy funds.

Habitats Directive - provisions

- Definition of 'natural habitat types of Community interest'
'those which, within the [EU]:
 - i. are in danger of disappearance in their natural range; or
 - ii. have a small natural range following their regression or by reason of their intrinsically restricted area; or
 - iii. present outstanding examples of typical characteristics of one or more of the nine following biogeographical regions: Alpine, Atlantic, Black Sea, Boreal, Continental, Macaronesian, Mediterranean, Pannonian and Steppic.Such habitat types are listed or may be listed in Annex I'

Note: now 14 biogeographical regions – Nine terrestrial and five marine



The definition of 'natural habitat types of Community interest' is set out in article 1(c) of the Habitats Directive. The European Environment Agency stated, in its report on the State of nature in the EU (EEA Technical report No 2/2015), that 'Of the EU assessments of Annex I habitats, 16% are favourable, with most being either unfavourable inadequate (47%) or unfavourable-bad (30%). One-third of the unfavourable assessments are stable, with only 4% improving. For the terrestrial biogeographical regions, the Alpine, Macaronesian and Steppic regions have the largest proportion of habitat assessments as favourable. The Atlantic biogeographical region has the lowest proportion of favourable assessments (9%), although it also has the highest proportion of unfavourable assessments which are improving (11%). The Boreal region has the highest proportion of unfavourable assessments which are deteriorating (close to 50%). The number of marine habitats listed in Annex I of the directive is very low (6 to 8 per region), and although there is variation between the regions, it is difficult to draw any reliable conclusions. The two most frequently reported pressures and threats for habitats (both mentioned in 19% of Member State reports) are associated with agriculture (including both intensification and abandonment) and modification of natural conditions of waterbodies, mostly changes to hydrology. As for species, there is considerable variation across countries, with the proportion of assessments reported as favourable ranging from 4% (the Netherlands) to 98% (Cyprus). The proportion of habitats reported as unfavourable-bad was highest (approximately 70%) in Belgium, Denmark and the United Kingdom, while Bulgaria reported no habitats as unfavourable-bad'.

Habitats Directive - provisions

- Stage 1 (continued)
 - Proposed sites must appropriately represent natural habitat types and animal and plant species listed in the Directive
 - Lists must indicate sites that host one or more priority natural habitat types and priority species
 - Member States are prohibited from considering socio-economic factors in their selection of proposed sites



Neither the Habitats Directive nor the Birds Directive include provisions that require competent authorities to follow any specific consultation or public participation procedures in selecting proposed sites for inclusion in the Natura 2000 network or in developing management plans for them. This lack of procedural requirements has resulted in a wide variation of procedures between Member States, with some competent authorities consulting widely with owners and users of sites that are proposed for inclusion in the Natura 2000 network, and others that do not do so.

Habitats Directive - provisions

- Stage 1 (continued)

- Definition of 'priority natural habitat types'

'natural habitat types in danger of disappearance, which are present [in the territory of the EU] and for the conservation of which the Community has particular responsibility in view of the proportion of their natural range which falls within the territory [of the EU]; these priority natural habitat types are indicated by an asterisk (*) in Annex I'

- Definition of 'priority species'

'species referred to in [the definition of species of Community interest] for the conservation of which the Community has particular responsibility in view of the proportion of their natural range which falls within the territory referred to in Article 2; these priority species are indicated by an asterisk (*) in Annex II'



The definitions of 'priority natural habitat types' and 'priority species' are set out in article 1(d) and article 1(h), respectively, of the Habitats Directive. Priority natural habitat types and priority species are a sub-set of the natural habitat types and species protected by the Habitats Directive that are considered to be especially vulnerable and have a natural range that is mainly, or exclusively, within the territory of the EU.

Habitats Directive - provisions

- Stage 2
 - Commission evaluates the proposed sites in the context of the terrestrial European Union and its biogeographical regions and prepares a draft list of SCIs in agreement with relevant Member States
 - Draft list identifies sites that host one or more priority natural habitat types or priority species for each biogeographical region



The European Commission, together with the Topic Centre for Biodiversity of the European Environment Agency and scientific experts, and in agreement with Member States, selects SCIs. As stated by the Commission Staff Working Document, Fitness Check, if the Commission considers that a Member State has failed to submit a list of SCIs that is sufficient in proportion to the representation within that Member State of species' habitats and natural habitat types, the Commission requests the Member State to propose further sites.

Habitats Directive - provisions

▪ Stage 3

- Commission issues a Decision to adopt the sites selected as SCIs, again identifying sites that host one or more priority natural habitat types or priority species
- No later than six years after the selection, the Member State must designate the sites as SACs
- Designation has, however, been slow and has resulted in the Commission bringing infraction proceedings against Member States
 - E.g. 2008: 16 ongoing infraction proceedings under the Birds Directive; 17 ongoing infraction proceedings under the Habitats Directive



The Commission updates the SCI lists every year to ensure that any new sites proposed by Member States have a legal status. When a new Member State accedes to the EU, it must have transposed the requirements of the Birds and Habitats Directive into its domestic law by the date of accession as well as having prepared for the establishment of Natura 2000 in its territory. The procedure includes submitting lists of proposed SCIs, called pSCIs, to the European Commission.

The Commission Staff Working Document, Fitness Check, noted that '[o]ut of the 22,419 [SCIs] existing in January 2010, one third had not been designated as [SCAs] by January 2016', with three Member States not having designated any SACs on time.

Habitats Directive - provisions

- Stage 3 (continued)
 - Major reason for slow designations: strong opposition to proposed designations
 - Examples
 - 2001: 756 appeals against proposed designations in Ireland
 - Finland: approximately 1,600 judicial actions by landowners challenging proposed designations and environmental NGOs challenging failure to include land in designations



Common concerns raised by landowners on the inclusion of their land in the Natura 2000 network included:

- respect for property rights; some landowners were informed, not consulted, about the designation of their land and/or management plans for it;
- insufficient influence due, partly, to a lack of clarity concerning the degree to which their views and comments were taken into account in decisions regarding their land;
- inflexibility in managing their businesses due to the imposition, in some cases, of standardised management measures and fixed contract periods, especially in agri-environment schemes;
- increased administrative requirements to obtain agri-environment payments or permits to carry out activities such as the construction of forest roads;
- fear of restrictions in land use and what was considered to be insufficient compensation for restrictions on the economic use of their land;
- fear, in some Member States, on increased visits by the public and the consequent need to take measures to avoid damage or unlawful entry; and
- restrictions or bans on hunting in some Member States.

Habitats Directive - provisions

- *Commission v Germany* (Case No C-71/99, 2001)
 - European Commission submitted that a Member State's discretion in submitting a list of sites to the Commission is subject to three conditions
 1. Only criteria of a scientific nature may guide the choice of proposed sites
 2. Proposed sites must provide a geographical cover which is homogeneous and representative of the entire territory of each Member State, with a view to ensuring the coherence and balance of the resulting network
 - List to be submitted by each Member State, therefore, must reflect the ecological variety (and, in the case of species, the genetic variety) of the natural habitats and species present within its territory



Habitats Directive - provisions

- *Commission v Germany* (continued)

3. the list must be complete, that is, each Member State must propose a sufficient number of sites to ensure representation of all the natural habitat types listed in Annex I and all the species' habitats listed in Annex II which exist on its territory
- CJEU concluded that Germany had breached the Habitats Directive because the list of designated areas of SACs and information on those areas was 'manifestly inadequate' and far exceeded the margin of discretion available to Member States in drawing up the list



Habitats Directive - provisions

- *R v Secretary of State ex parte First Corporate Shipping* (Case No C-371/98, 2001)
 - Only ecological factors are relevant to designation of SACs
 - Member States cannot take account of economic, social and cultural requirements or regional and local characteristic



First Corporate Shipping had argued that the Secretary of State had to take account of economic, social and cultural requirements when the UK proposed sites to the European Commission under the Habitats Directive. The ECJ ruled that the Habitats Directive allows only assessment criteria concerning the objective of the conservation of natural habitats and wild fauna and flora to be considered at this stage in order that the European Commission has an exhaustive list of sites of ecological interest to enable it to establish the Natura 2000 network.

Habitats Directive - provisions

- Article 5
 - Sets out procedures for bilateral consultation procedure between a Member State and the European Commission if the Member State 'fails to mention a site hosting a priority natural habitat type or priority species which, on the basis of relevant and reliable scientific information' that the Commission 'considers to be essential for the maintenance of that priority natural habitat type or for the survival of that priority species'



Habitats Directive - provisions

- Article 6(1)
 - Provides that after a site has been designated as an SAC or classified as an SPA, the Member State must establish conservation measures and, if necessary, appropriate management plans specifically designed for the sites or integrated into other development plans, and appropriate statutory, administrative or contractual measures which correspond to the ecological requirements of the natural habitat types in Annex I and the species in Annex II present on the sites
 - Note the link to the Birds Directive



The provisions of article 6 of the Habitats Directive are considered in detail in the presentation by Christoph Sobotta in this workshop.

Habitats Directive - provisions

- Article 6(1) (continued)
 - Conservation measures must ensure the survival and reproduction of listed species and regularly occurring migratory birds, maintain or restore the habitat and species of fauna and flora at their favourable conservation status and ensure that the structure and functions necessary for their long-term maintenance are likely to continue to exist for the foreseeable future
 - Above requirements generally mean active management of the sites
 - May prohibit the owner or user from carrying out former activities
 - By 2016: only about 50% of Natura 2000 sites had management plans with conservation objectives and measures
 - Reasons: limited resources, weak enforcement, poor integration of nature objectives into other policy areas, insufficient knowledge and access to data, poor communication and stakeholder involvement



Habitats Directive - provisions

- Article 6(2)
 - Provides that 'Member States shall take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of this Directive'
 - Note the inclusion of avoidance of deterioration as well as avoidance of affirmative actions



Habitats Directive - provisions

- Article 6(3)

- Provides that 'Any plan or project not directly connected with or necessary to the management of the site 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 implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public' (emphasis added)



Habitats Directive - provisions

- Article 6(3) thus establishes a two-step process
 1. Consider whether there is a risk of a significant likely effect on a site arising from a plan or project
 2. If so, carry out an appropriate assessment of the site in view of its conservation objectives
- Habitats Directive does not define 'plan or project'
- NB: article 6(3) does not require public participation in the assessments
 - Depends on individual Member States



Habitats Directive - provisions

- Article 6(4)

‘If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for *imperative reasons of overriding public interest*, including those of a social or economic nature, the Member State shall take all *compensatory measures* necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.

Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations that may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other *imperative reasons of overriding public interest*’ (emphasis added)



Habitats Directive - provisions

- Article 6(4) (continued)
 - That is
 - Only relevant considerations for an SAC that includes a priority habitat type or a priority species are those that relate 'to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest'
 - If the plan or project satisfies the above criteria and is carried out, the Member State must 'take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected' and must notify the Commission of such measures



Habitats Directive - provisions

- Article 6(4) (continued)
 - What does “imperative reasons of overriding public interest” (IROPI) mean?
 - Not defined but article 6(4) mentions human health, public safety and beneficial consequences of primary importance for the environment
 - Guidance document on Article 6(4) of the ‘Habitats Directive’ 92/43/EEC (January 2007)
 - Clarifies the concepts of: alternative solutions, imperative reasons of overriding public interest, compensatory measures, overall coherence



Habitats Directive - provisions

- Article 6(4) (continued)
 - Guidance document (continued)
 - Only public interests can be balanced against conservation aims of Directive
 - Projects developed by private bodies can only be considered if above public interests are served
 - Short-term interests cannot be overriding
 - Examples of overriding public interest
 - Linking high-speed line (TGV East) in France to other lines (could only be done at certain location)
 - Reservoir in River Guadalquivir basin to provide water for human consumption and industrial uses and agriculture



Habitats Directive - provisions

- Article 6(4) - compensatory measures
 - Different from mitigation measures
 - Must be independent of the plan or project including any associated mitigation measures
 - Intent is to offset negative effects of a plan or project in order to maintain the ecological coherence of the Natura 2000 network
 - Examples of compensatory measures
 - Species reintroduction
 - Species recovery and reinforcement
 - Land purchase rights acquisition



Habitats Directive - provisions

- *Landelijke Vereniging tot Behoud van de Waddenzee v Staatssecretaris van Landbouw, Natuurbeheer en Visserij* (Case No C-127/02, 2004) (*Wadden Sea*)
 - Mechanical cockle fishing in the Waddenzee, Netherlands
 - Issue: was cockle fishing a 'plan or project' that required an assessment under article 6(3)?
 - Mechanical fishing for cockles consists of trawls or dredges in the form of metal cages dragged over the seabed by a vessel. The leading edge of the cage consists of a metal plate, 1 m in width which scrapes the upper 4-5 cms of the seabed into a cage. The metal plate is fitted with a nozzle which sends out a powerful jet of water that pulverises the seabed so that a mixture of water, sand, cockles and other organisms enters the cage allowing the sieved contents of the cage to be sucked on board hydraulically



The Wadden Sea is a biologically rich area that extends over 500 km along the coast of the North Sea in Denmark, Germany and the Netherlands. The tidal flats of the Wadden Sea account for 60 per cent of all tidal areas in Europe and North America and form the largest unbroken area of sand and mudflats in the world. Much of the Wadden Sea has been classified by the three Member States as an SPA under the Birds Directive or designated as an SAC under the Habitats Directive.

Habitats Directive - provisions

- *Wadden Sea* (continued)
 - CJEU concluded that mechanical cockle fishing is an activity ‘within the concept of “plan” or “project”’ within the meaning of article 6(3) of the Habitats Directive
 - Referred to article 1(2) of Directive 85/337/EEC (Environmental Impact Assessment Directive; now 2011/92/EU, as amended by 2014/52/EU), that is, an ‘intervention in the natural surroundings and landscape’, stating that such a definition of a project is relevant to defining the concept of plan or project as provided for in the Habitats Directive



Habitats Directive - provisions

- *Wadden Sea (continued)*

‘any plan or project not directly connected with or necessary to the management of the site is to be subject to an appropriate assessment of its implications for the site in view of the site’s conservation objectives if it cannot be excluded, on the basis of objective information, that it will have a significant effect on that site, either individually or in combination with other plans or projects’

- Very low threshold



Habitats Directive - provisions

- *Sweetman v An Bord Pleanála* (Case No C-258/11, 2013)
 - Construction of the Galway By-Pass to cross the Lough Corrib candidate SAC
 - Would result in a permanent loss of karstic limestone pavement (priority habitat) in 1.47 hectare area within the Natura 2000 site
 - Total area of Natura 2000 site: 270 hectares
 - An Bord Pleanála (competent authority) concluded
‘localised severe impact on the [candidate SAC; cSAC], would not adversely affect the integrity of [the cSAC]’



Note that this decision involves a priority habitat type. The CJEU did not need to decide, and did not decide, whether the same principles apply to a non-priority habitat type.

Habitats Directive - provisions

- *Sweetman v An Bord Pleanála* (continued)
 - CJEU concluded that a plan or project will adversely affect the integrity of a site
 - ‘if it is liable to prevent the lasting preservation of the constitutive characteristics of the site that are connected to the presence of a priority natural habitat whose conservation was the objective justifying the designation of the site in the list of SCIs, in accordance with the directive.
 - The precautionary principle should be applied for the purposes of that appraisal’



Habitats Directive - provisions

- *Briels v Minister van Infrastructuur en Milieu* (Case No C-521/12, 2014)
 - Widening of a motorway in the Netherlands that would damage six hectares of an SAC containing molinia meadows (non-priority habitat type under the Habitats Directive)
 - Minister proposed creation of new meadows on another part of the SAC of at least the same size and more diverse than the meadows affected by the widening
 - Concluded that, in carrying out an appropriate assessment, account should be taken of the new meadows
 - Thus concluded that the project did not have a negative effect on the integrity of the SAC
 - CJEU rejected Minister's arguments



The CJEU agreed with the European Commission that ‘the effectiveness of the protective measures provided for in Article 6 of the Habitats Directive is intended to avoid a situation where competent national authorities allow so-called ‘mitigating’ measures – which are in reality compensatory measures – in order to circumvent the specific procedures provided for in Article 6(3) and authorise projects which adversely affect the integrity of the site concerned’.

Habitats Directive - provisions

- *Briels* (continued)

- CJEU reiterated that Article 6(3) integrates the precautionary principle
- Appropriate assessment 'under Article 6(3) ... cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned'
- Protective measures included in a project with the aim of compensating for its negative effects on a SAC or SCI cannot be taken into account when carrying out an appropriate assessment



Habitats Directive - provisions

- *Briels* (continued)

- Any positive effects of the future creation of new habitat to compensate for the loss of existing habitat, even when bigger and of higher quality, 'are highly difficult to forecast with any degree of certainty and, in any event, will be visible only several years into the future ...'
- 'Such measures can be categorised as "compensatory measures" within the meaning of Article 6(4) only if the conditions laid down therein are satisfied'



Habitats Directive - provisions

- *Grüne Liga Sachsen eV v Freistaat Sachsen* (Case No C-399/14, 2016)
 - Construction of a bridge over the River Elbe
 - Part of the area had been designated as an SCI after consent had been given for construction
 - CJEU reiterated that an appropriate assessment under Article 6(3) 'may not have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned'



The CJEU reiterated that article 6(3) 'integrates the precautionary principle and makes it possible to prevent in an effective manner adverse effects on the integrity of protected sites as a result of the plans or projects being considered. A less stringent authorisation criterion than that in question could not ensure as effectively the fulfilment of the objective of site protection intended under that provision'.

Habitats Directive - provisions

- *Orleans v Vlaams Gewest* (Case No C-387/15, 2016)
 - Development of Port of Antwerp
 - Part of port was designated as an SCI
 - Regional development plan authorised the creation of new habitat to compensate for the proposed loss of habitat in the SCI before development on other parts of the site occurred
 - CJEU considered whether creation of the new habitat should be considered under Article 6(3) or whether the creation was a compensatory measure under Article 6(4) and, thus, subject to the IROPI test



The CJEU reiterated its statement in *Grüne Liga* that article 6(3) ‘also integrates the precautionary principle and makes it possible to prevent in an effective manner adverse effects on the integrity of protected sites as a result of the plans or projects being considered. A less stringent authorisation criterion than that set out in that provision could not ensure as effectively the fulfilment of the objective of site protection intended under that provision’.

Habitats Directive - provisions

- *Orleans* (continued)
 - CJEU reiterated that an appropriate assessment under Article 6(3) 'may not have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned'
 - Creation of new habitat, the completion of which would take place after an assessment of the significant adverse effects of the project on the SCI could not be taken into account in the assessment
 - Such measures are 'compensatory measures' under Article 6(4)



Habitats Directive - provisions

▪ Article 8

- European Union recognised the burden on Member States that have many ecologically diverse areas in their national territories and, therefore, must designate a larger percentage of their national territory than other Member States
- Article 8 thus provides for EU co-financing in 'exceptional case[s]' in which there is an 'excessive financial burden' on a Member State due to the location of priority natural habitats and priority species of Community interest in its national territory
- Does not specify the sources of EU funding which can be used for co-financing



The LIFE programme allocates funding for projects that support nature and biodiversity conservation; other EU funds do not include such allocations. As the European Commission noted, however, in Commission Staff Working Document, Fitness Check, although 'the EU LIFE programme plays a strategic role in supporting the implementation of the Nature Directives ... it represents less than 1% of the EU budget and its contribution to nature protection is currently less than 3% of the estimated annual needs to implement Natura 2000 in the EU. It has also been estimated that overall EU co-funding for Natura 2000 during the 2007-2013 period represented only 9-19% of the estimated financing needs and national co-funding was unable to cover the remaining gap'.

Habitats Directive - provisions

- Article 8 (continued)
 - A Member State may seek co-financing from the Commission when it submits its list of proposed SCIs
 - Commission identifies measures that are essential to maintain or re-establish the priority natural habitat types and priority species at the sites at their favourable conservation status, together with their costs
 - Commission then assesses the necessary financing, including co-financing, to carry out such measures and adopts a prioritised action framework for measures involving co-financing to be taken when the site has been designated as an SAC subject to available sources of EU funding



Habitats Directive - provisions

- Article 8 (continued)
 - Estimated EUR 5.8 billion per year for Natura 2000
 - Level of funding varies substantially depending, in large part, on the conservation strategies of Member States
 - Some Member States enter into management agreements with landowners and rarely purchase land
 - Other Member States consider that purchasing land is the most appropriate means to protect Natura 2000 sites
 - Sources of funding include the Common Agricultural Policy and LIFE



In 2013, the European Commission published a study, commissioned by it from the Institute for European Policy entitled The Economic benefits of the Environment Natura 2000 Network. The study estimated the value of benefits from the Natura 2000 network by, among other things, including estimates of the value of services provided by different natural habitats in the Natura 2000 network.

Habitats Directive - provisions

- Article 9

- 'Provides for a periodic review by the Commission of the contribution of Natura 2000 towards achievement of the objectives set out in Article 2 and 3
- Provides that, 'In this context, [an SAC] may be considered for declassification where this is warranted by natural developments noted as a result of the surveillance provided for in Article 11'



The European Commission has stated that article 9 limits declassification of an SAC to a situation in which declassification results from 'natural' developments and not those caused by human activities that could reasonably be avoided or prevented by applying measures under articles 6(1), 6(2) or 6(3).

In a Note to the Members of the Habitats Committee, on the subject of the Updating of the Natura 2000 Standard Data Forms and Database (JAC D(2005)), the Commission provided the example of changes caused to semi-natural habitats through natural succession that arise from the failure to carry out adequate management measures. The Commission stated that it would not regard such changes as 'natural' causes. Conversely, the Commission stated that it would regard changes arising from climate change as 'natural'.

Habitats Directive - provisions

- Article 10

‘Member States shall endeavour, where they consider it necessary, in their land-use planning and development policies and, in particular, with a view to improving the ecological coherence of the Natura 2000 network, to encourage the management of features of the landscape which are of major importance for wild fauna and flora.

Such features are those which, by virtue of their linear and continuous structure (such as rivers with their banks or the traditional systems for marking field boundaries) or their function as stepping stones (such as ponds or small woods), are essential for the migration, dispersal and genetic exchange of wild species’

- That is, encourages the development of ecological corridors (green infrastructure)



Member States have discretion whether to follow Article 10; it does not set out mandatory requirements.

Habitats Directive - provisions

- Article 11
 - Provides for surveillance of the conservation status of the natural habitats and species protected by the Directive with particular regard to priority natural habitat types and priority species



Note that the article does not relate to the surveillance of the favourable conservation status of priority natural habitat types and priority species but, instead, to their conservation status.

Habitats Directive - provisions

- Article 14

- If Member States deem it necessary, in light of the above surveillance, 'they shall take measures to ensure that the taking in the wild of specimens of species of wild fauna and flora listed in Annex V as well as their exploitation is compatible with their being maintained at a favourable conservation status that the taking in the wild of specimens of species of wild fauna and flora listed in Annex V as well as their exploitation is compatible with their being maintained at a favourable conservation status'

- Annex V

- Lists over 90 animal and plant species of Community interest whose taking in the wild and exploitation may be subject to management measures



Habitats Directive - provisions

- Article 12

1. 'Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV(a) in their natural range, prohibiting:
 - (a) all forms of deliberate capture or killing of specimens of these species in the wild;
 - (b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;
 - (c) deliberate destruction or taking of eggs from the wild;
 - (d) deterioration or destruction of breeding sites or resting places'



In *Commission v Greece* (Case No C-103/00, 2002), the ECJ ruled that, although Greece had taken certain measures to protect the sea turtle (*Caretta caretta*) in a marine park, it had failed to take sufficient 'measures to establish and implement an effective system of strict protection for the sea turtle ... so as to avoid any disturbance of the species during its breeding period and any activity which might bring about deterioration or destruction of its breeding sites'. Greece had, therefore, failed to fulfil its obligations under articles 12(1)(b) and (d) of the Habitats Directive.

Habitats Directive - provisions

- Article 12 (continued)
 2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.
 3. The prohibition referred to in paragraph 1(a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies
 4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV(a). In the light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned'



Habitats Directive - provisions

- Annex IV
 - Lists over 400 animal and plant species (including many Annex II species) of Community interest in need of strict protection
 - NB: Killing, destruction, possession or taking of specimens in Annex IV are listed in the Environmental Crimes Directive



Habitats Directive - provisions

- Proposed definition of 'deliberate' following CJEU case law
 - “Deliberate” actions are to be understood as actions by a person who knows, in light of the relevant legislation that applies to the species involved, and the general information delivered to the public, that his action will most likely lead to an offence against a species, but intends this offence or, if not, consciously accepts the foreseeable results of his action. In other words, not only a person who fully intends to capture or kill a specimen of an animal commits an offence: an offence is also committed by a person who might not intend to capture or kill a specimen but is sufficiently informed and aware of the consequences his action will most likely have and nevertheless performs the action, leading to the capturing or killing of specimens (e.g. as an unwanted but accepted side-effect), with reckless disregard of the known prohibitions (conditional intent). It goes without saying that negligence is not included in the meaning of “deliberate”
- European Commission, Guidance document on the strict protection of animal species of Community interest under the Habitats Directive 92/43/EEC (February 2007)



The two cases on which the European Commission's guidance is based are *Commission v Greece* (Case No C-103/00, 2002), referred to above, and *Commission v Spain* (Case No C-221/04, 2006). The case of *Commission v Spain* involved otters (*Lutra lutra*), which are protected under the Habitats Directive. The ECJ stated that it had not been established that the relevant Spanish authorities knew that otters were present in the area at issue in the case. Therefore, it was not established that the authorities risked endangering otters when they issued a permit for fox hunting in that area. The ECJ concluded, therefore, that the criteria for determining whether the capture or killing of a specimen of the protected species was deliberate had not been satisfied.

Habitats Directive - provisions



Habitats Directive - provisions

- Article 12 (continued)
 - *European Commission v France* (continued)
 - European hamster (*Cricetus cricetus*) was threatened with extinction in Alsace, the only area of France in which it lived because of disturbances to its breeding sites and resting places by agricultural practices (growing maize (corn)) and urbanisation
 - France accepted that the practices were harmful to the hamster and established measures to protect it including the creation of three priority action areas
 - Included ending all land uses except agriculture in those areas, with 22% of crops to be those favourable to the hamster (2% lucerne and 20% alfalfa and other cereals)



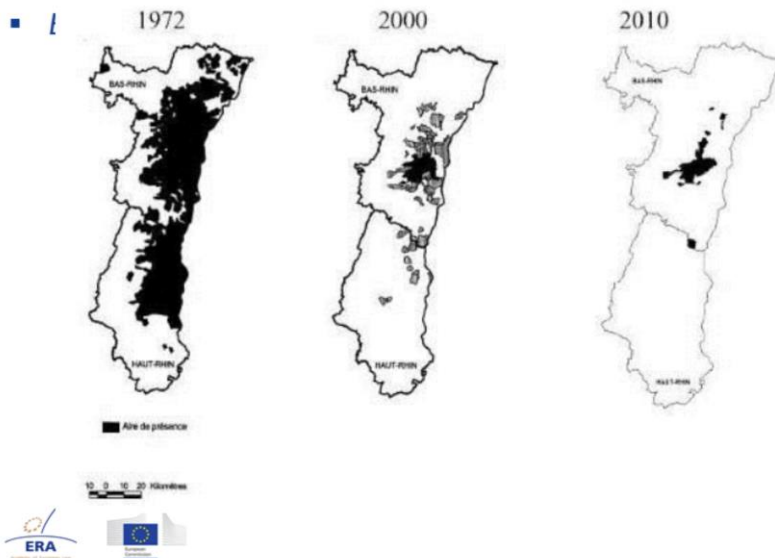
In *Commission v France* (Case No C-383/09, 2011), the CJEU noted that ‘between 2001 and 2007, the number of burrows of the European hamster in the “main areas” which served as a reference for observation of the population of that species fell from more than 1,160 to less than 180’. The CJEU further stated that ‘according to the result of the counts for 2009, drawn up by the *Office national de la chasse et de la faune sauvage* (National Authority for Hunting and Wildlife), the content of which is not disputed by the French Republic, there were no populations of the species in Alsace which reached its minimum viable population threshold, which is estimated at 1,500 individuals spread over an area of contiguous suitable land of 600 hectares’.

Habitats Directive - provisions

- Article 12 (continued)
 - *European Commission v France* (continued)
 - CJEU ruled that 'by failing to establish a programme of measures to ensure strict protection of the European hamster [France] has failed to fulfil its obligations under Article 12(1)(d) of the Habitats Directive'
 - France must take measures to reverse the decline of the hamster

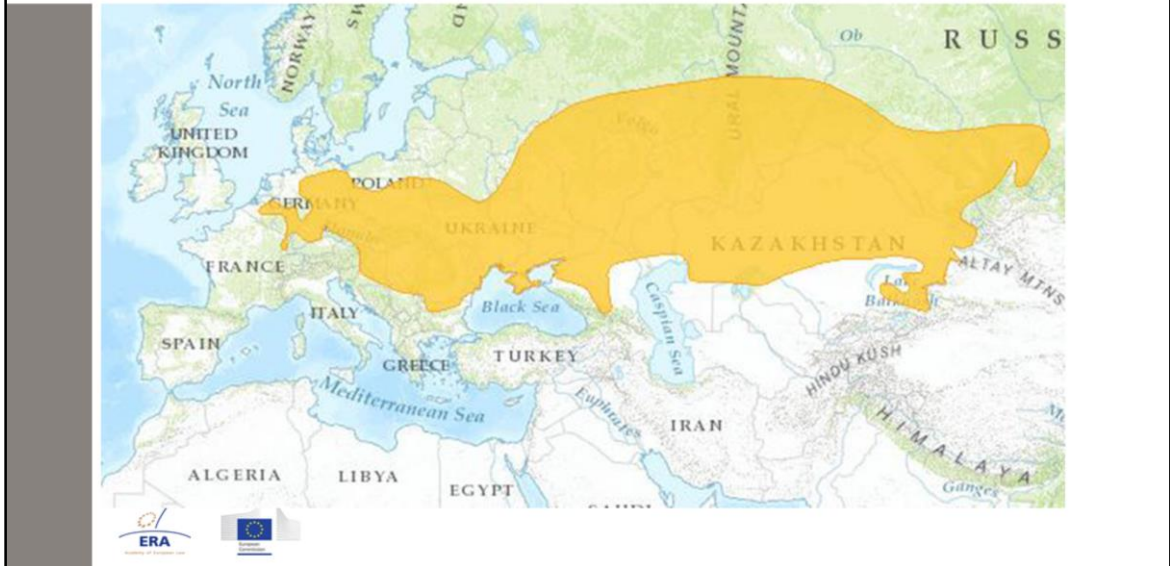


Habitats Directive - provisions



The shaded area denotes the declining natural habitat of the European hamster.

Habitats Directive - provisions



The shaded area denotes the natural habitat of the European hamster inside and outside the EU. Note, however, that the European hamster is threatened with extinction in substantial areas of this natural habitat.

Habitats Directive - provisions

- Article 13

1. Member States shall take the requisite measures to establish a system of strict protection for the plant species listed in Annex IV(b), prohibiting:
 - (a) the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the wild;
 - (b) the keeping, transport and sale or exchange and offering for sale or exchange of specimens of such species taken in the wild, except for those taken legally before this Directive is implemented.
2. The prohibitions referred to in paragraph 1(a) and (b) shall apply to all stages of the biological cycle of the plants to which this Article applies'
 - That is, establishes a strict system to protect plants listed in Annex IV(b)



Habitats Directive - provisions

- Article 15

- 'In respect of the capture or killing of species of wild fauna listed in Annex V(a) and in cases where, in accordance with Article 16, derogations are applied to the taking, capture or killing of species listed in Annex IV(a), Member States shall prohibit the use of all indiscriminate means capable of causing local disappearance of, or serious disturbance to, populations of such species, and in particular:
 - (a) use of the means of capture and killing listed in Annex VI(a);
 - (b) any form of capture and killing from the modes of transport referred to in Annex VI(b)'
- Annex VI: lists prohibited methods and means of capture and killing and modes of transport



In *Commission v United Kingdom* (Case No C-6/04, 2005), the ECJ concluded that the UK had failed to transpose article 15 properly in respect of the prohibition of all indiscriminate means of capture or killing of the species of wild fauna listed in Annex V(a). UK law did not impose a general prohibition but, instead, relied on updating lists, despite there being no duty to update them. The ECJ concluded, therefore, that the UK had failed to guarantee the prohibition in the UK of all indiscriminate means capable of causing local disappearance of, or serious disturbance to, populations of the protected species.

Habitats Directive - provisions

- Article 16

1. 'Provided that there is no satisfactory alternative and the derogation is not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range, Member States may derogate from the provisions of Articles 12, 13, 14 and 15(a) and (b):

- (a) in the interest of protecting wild fauna and flora and conserving natural habitats;
- (b) to prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property;
- (c) in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment;



Habitats Directive - provisions

- Article 16 (continued)

- (d) for the purpose of research and education, of repopulating and re introducing these species and for the breedings operations necessary for these purposes, including the artificial propagation of plants;

- (e) to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species listed in Annex IV in limited numbers specified by the competent national authorities'

- Allows derogations

- If no satisfactory alternative
 - Derogation is not detrimental to the favourable conservation status of the species in its natural range



In *Commission v Germany* (Case No C-98/03, 2006), the ECJ ruled that Germany had failed to transpose article 16 correctly because national law failed to ensure that a derogation was subject to all of the conditions specified in that article.

Habitats Directive - provisions

- Article 16 (continued)
 2. Member States shall forward to the Commission every two years a report in accordance with the format established by the Committee on the derogations applied under paragraph 1. The Commission shall give its opinion on these derogations within a maximum time limit of 12 months following receipt of the report and shall give an account to the Committee'
 3. Sets out specifications of the reports
- Commission has issued two reports
 - Report on the implementation of the Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (COM(2003) 845 final, 5 January 2004)



There is no duty on Member States to include data on the costs and benefits of the Birds and Habitats Directives in their reports. There is, thus, limited quantitative information available on an EU scale to allow assessments to be made on the efficiency of the Directives.

Habitats Directive - provisions

- Article 16 (continued)
 - Composite Report on the Conservation Status of Habitat Types and Species as required under Article 17 of the Habitats Directive (COM(2009) 358 final, 13 July 2009)
 - First systematic assessment of conservation status of species and natural habitats protected under the Habitats Directive
 - Included 2,240 species assessments across the EU
 - 17% were favourable
 - 52% were unfavourable
 - 31% were reported as having an unknown status
 - Concluded that relatively few Member States invest sufficient resources to monitor the status of species and habitats in their territories



The Habitats Directive listed 216 habitat types and 1,182 species at the time of the Composite Report.

The Commission Staff Working Document, Fitness Check, stated that no systematic overview of protected areas in the EU exists from the time that the Birds or Habitats Directive were adopted. The Fitness Check notes that protected areas, including national parks and nature reserves, have existed in Member States since before the adoption of the Directives.

Habitats Directive - provisions

- Article 16 (continued)
 - Composite Report (continued)
 - Habitat types linked to agriculture had a worse conservation status
 - Climate change was indicated as having a negative impact on the conservation status of 42 habitats (19%) and 144 species (12%)



The European Environment Agency's report entitled State of nature in the EU (EEA Technical report No 2/2015), stated that 'Under a quarter of EU biogeographical species assessments (23%) are favourable, while more than half are unfavourable. Of the species assessments which are unfavourable, approximately a quarter (26%) are improving or stable, but 22% are deteriorating. More than one sixth (17%) of species assessments overall are unknown, with data on marine species being particularly incomplete, as over 50% of assessments are unknown for cetaceans and turtles'.

Habitats Directive - provisions

- Article 17
 - Directs Member States to submit reports on implementation of the Habitats Directive to the Commission every six years
 - Commission to prepare a composite report based on those reports
- Article 18
 - Encourages research and scientific work to achieve the objectives of the Directive



In respect of the reporting requirement under article 17, the 'conservation status' of a species or natural habitat is assessed across the entire biogeographical region within the Member State that is carrying out the reporting. Each Member State's report consists of general information concerning implementation of the Habitats Directive, assessments of the conservation status of species, and assessments of the conservation status of natural habitats.

Habitats Directive - provisions

- Article 19

- Council, acting by a qualified majority, shall adopt amendments necessary to adapt Annexes I, II, III, V and VI due to technical and scientific progress on a proposal from the Commission.
- Council shall adopt such amendments to Annex IV, acting unanimously, on a proposal from the Commission
 - Annexes are amended, among other things, to reflect the biodiversity of acceding Member States
 - 2004 - 10 Member States (Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia)
 - 2007 - 2 Member States (Bulgaria and Romania)



Habitats Directive - provisions

- Article 19 (continued)
 - Annexes do not include all threatened species
 - Examples of numbers of species covered by the annexes
 - 75 out of 150 known threatened freshwater fish species
 - 11 of 30 threatened butterfly species
 - 7 of 273 threatened freshwater mollusc species
 - 14 of 235 threatened terrestrial mollusc species
 - Low coverage of threatened invertebrates



Habitats Directive - provisions

- Articles 20 and 22
 - Provides for establishment of a committee
 - Habitats Committee has two aims
 - To assist the Commission in the implementation of the Habitats Directive
 - To deliver an opinion on the draft list of LIFE-Nature projects to be financed each year
 - (Ornis Committee assists the Commission in the implementation of the Birds Directive)



Habitats Directive - provisions

- Article 22

- Provides that Member States shall, in implementing the provisions of the Directive
 - (a) 'study the desirability of re-introducing species in Annex IV that are native to their territory where this might contribute to their conservation, provided that an investigation, also taking into account experience in other Member States or elsewhere, has established that such re-introduction contributes effectively to re-establishing these species at a favourable conservation status and that it takes place only after proper consultation of the public concerned;



Habitats Directive - provisions

- Article 22 (continued)

(b) ensure that the deliberate introduction into the wild of any species which is not native to their territory is regulated so as not to prejudice natural habitats within their natural range or the wild native fauna and flora and, if they consider it necessary, prohibit such introduction. The results of the assessment undertaken shall be forwarded to the committee for information;

(c) promote education and general information on the need to protect species of wild fauna and flora and to conserve their habitats and natural habitats'



The most widely re-introduced species of animal in Europe is the Eurasian beaver (*Castor fiber*) which is listed under annex IV of the Habitats Directive as a species of Community interest. Eurasian beavers had been hunted to near extinction mainly for their fur; by 1900, there were only about 1,200 remaining in Europe and Asia. Since that time, they have been reintroduced into over 20 European countries.

Habitats Directive - provisions

- Article 22 (continued)
 - Most Member States have reintroduced species
 - Examples include
 - Germany
 - Baltic Sturgeon, Atlantic Salmon, Allis Shad, Eurasian Lynx, European Pond Turtle
 - Portugal
 - Iberian Ibex
 - Can be controversial, e.g. proposals to re-introduce wolves in Scotland



The Evaluation Study to support the Fitness Check of the Birds and Habitats Directives (March 2016) noted that introduced species should be limited to native species that do not require site management measures to be carried out. It also stated that any non-native species that are introduced should not prejudice native habitats and species.

Natura 2000

- Natura 2000 covers over 18% of the territorial area of the EU as well as about 6% of its marine areas
 - Considered nearly complete for land but not for marine areas
 - About 27,000 sites in Natura 2000 across the EU
 - Composition of sites: over 50% forests, over 34% agricultural lands and grassland ecosystems, nearly 10% wetland ecosystems including peatlands; also includes parts of rivers, including 40% of the River Danube
 - Smallest sites are under one hectare; largest are over 5,000 km²; 90% are under 1,000 hectares
 - Some Member States have established buffer zones around Natura 2000 sites; others have not



Some Member States limit the area designated as Natura 2000 sites to the area of natural habitat that meets the criteria under the Habitats Directive. Other Member States adopt a more holistic approach that includes designating areas of natural habitat that does not meet this criteria.

Natura 2000

- Extent of Natura 2000 network in each Member State varies
 - However, 65% of people in the EU live within 5 km, and 98% live within 20 km, of a Natura 2000 site



As stated in the Commission Staff Working Document, Fitness Check, Natura 2000 ‘is the largest multinational co-ordinated network of conservation and sustainable use protected areas in the world’.

Natura 2000

- Number of terrestrial and marine Natura 2000 sites and percentages of national land areas covered by the network
 - Austria (300) 15.13%
 - Belgium (310) 12.73%
 - Bulgaria (339) 34.46%
 - Croatia (779) 36.58%
 - Cyprus (63) 28.82%
 - Czech Republic (1,153) 14.14%
 - Denmark (350) 8.34%
 - Estonia (568) 17.87%
 - Finland (1,865) 14.45%
 - France (1,766) 12.84%



Natura 2000

- Percentages of national land areas covered by Natura 2000 sites (continued)

- Germany (5,211) 15.46%
- Greece (419) 27.09%
- Hungary (525) 21.44%
- Ireland (595) 13.13%
- Italy (2,596) 18.97%
- Latvia (333) 11.53%
- Lithuania (551) 12.38%
- Luxembourg (66) 27.03%
- Malta (48) 12.97%
- Netherlands (195) 13.29%



Natura 2000

- Percentages of national land areas covered by Natura 2000 sites (continued)

- Poland (987) 19.56%
- Portugal (165) 20.67%
- Romania (597) 22.74%
- Slovakia (514) 29.57%
- Slovenia (355) 37.86%
- Spain (1,863) 27.31%
- Sweden (4,084) 13.32%
- United Kingdom (925) 8.57%
- Entire European Union (27,522) 18.15%

Natura 2000 Barometer (February 2017)



Natura 2000

- Economic benefits from Natura 2000
 - Benefits are estimated at EUR 200 to 300 billion per year
 - Storage of about 9.6 billion tonnes of carbon, equivalent to 35 billion tonnes of CO₂
 - 2010 estimated value between EUR 600 and 1,130 billion
 - Mitigation of the impacts of floods, avalanches, landslides and other natural disasters and reduction of the overall vulnerability of communities to such disasters
 - 1990-2010, value of economic losses from natural disasters in the EU-25 was about EUR 163 billion



The Fitness Check of the Birds and Habitats Directives found, among other things, that there was a mismatch between persons who bore the costs of Natura 2000, such as landowners and developers, and persons who benefitted from Natura 2000, such as tourism and recreational entities and society in general. The Fitness Check noted the implications of the mismatch for designing compensation and incentive schemes.

Natura 2000

- Economic benefits from Natura 2000 (continued)
 - Valuable plants and animals, such as pollinating insects, that are important to society
 - Annual average value of insect pollination services in Europe (not just Natura 2000) is estimated at EUR 14 billion per year
 - Tourism
 - Estimated 1.2 to 2.2 billion visitor days to Natura 2000 sites each year, generating recreational benefits worth between EUR 5 and 9 billion per year
 - About 4.4 million jobs, and EUR 405 billion in annual turnover, are directly dependent on the maintenance of healthy ecosystems, many of which are located in Natura 2000



Natura 2000

- Economic benefits from Natura 2000 (continued)
 - Water purification and provision
 - Information from Berlin, Vienna, Oslo and Munich indicated that the annual economic benefits of water purification are between EUR 7 and 16 million, and those of water provision are between EUR 12 and 91 million per city
 - Average per capita benefits are between EUR 15 and 45 per year for both water purification and provision combined in the four European cities analysed
 - Marine protected areas
 - Value of benefits from marine protected areas including marine Natura 2000 sites (equivalent to 4.7% of EU's marine area) estimated at approximately EUR 1.4 to 1.5 billion per year



Natura 2000

- 2017: European Court of Auditors Special Report, More efforts needed to implement the Natura 2000 network to its full potential
 - Concluded that 'Member States are not managing the Natura 2000 network sufficiently well'
 - Insufficient co-ordination between competent authorities, stakeholders and neighbouring Member States
 - Often delays and inappropriate definition of necessary conservation measures
 - Inadequate assessment of projects impacting sites
 - EU funds are not well mobilised to support management of the network



Natura 2000

- 2017: European Court of Auditors Special Report Conclusions (continued)
 - EU funding schemes (especially the European Agricultural Fund for Rural Development and the European Regional Development Fund) do not reflect funding needs
 - Monitoring and reporting systems are inadequate to provide comprehensive information on the effectiveness of the network
- Report made recommendations to the Commission and Member States with the aim of
 - Helping to achieve full implementation of the Nature Directives
 - Clarifying the financing and accounting framework of Natura 2000
 - Better measuring the results achieved by Natura 2000



Natura 2000

- Note

- Member States also designate areas to protect fauna and flora, and landscapes under domestic law



Fitness check of the Birds and Habitats Directives

- Fitness check under Regulatory Fitness and Performance Programme (REFIT)
 - Effectiveness: Have the objectives been met?
 - Efficiency: Were the costs involved reasonable?
 - Coherence: Does the policy complement other actions or are there contradictions?
 - Relevance: Is EU action still necessary?
 - EU added value: Can or could similar changes have been achieved at national/regional level, or did EU action provide clear added value?



Fitness check of the Birds and Habitats Directives

- Fitness check under REFIT (continued)
 - February 2014: fitness check of the Habitats and Birds Directives began
 - January - July 2015: evidence gathering and consultation of Member States and key stakeholders
 - 30 April - 26 July 2015: public internet consultation
 - 552,472 replies were submitted mostly from individuals
 - Also included 4,600 replies from organisations, half of which were from businesses
 - Most replies were from Germany and the United Kingdom (about 100,000 replies each), followed by Italy (about 70,000), Spain, Belgium, the Netherlands and France (about 40,000 replies each)



Fitness check of the Birds and Habitats Directives

- Fitness check under REFIT (continued)
 - May 2015: publication of the 'State of Nature in the EU' report, based on the Member States' assessment of the conservation status for the Birds and Habitats Directives
 - 20 November 2015: conference on the Fitness Check in Brussels including a presentation of the draft findings
 - 16 December 2016: Commission Staff Working Document, Fitness Check of the EU Nature Legislation (Birds and Habitats Directives) (COM(2016) 472 final) published
 - European Commission concluded that the Birds and Habitats Directives remain highly relevant and are fit for purpose



The Fitness Check confirmed that the Birds and Habitats Directives are fit for purpose, but noted that their success will depend on efforts to improve their implementation, especially their effectiveness and efficiency. The Fitness Check also noted that delays in establishing the Natura 2000 network and management measures for Natura 2000 sites have hindered their effectiveness. Further, the Fitness Check commented that due to only half of Natura 2000 sites having management plans together with substantial gaps in the marine environment, the Natura 2000 network has not been able to reach its full conservation potential. Other gaps noted by the Fitness Check include a lack of information and up-to-date guidance, weak enforcement, and poor communication between stakeholders.

An action plan for nature, people and the economy

- 10 February 2017: Communication from the Commission ‘An Action Plan for nature, people and the economy’
 - Four priority areas, which respond to the findings of the Fitness Check, to be carried out between 2017 to 2019
 - A. Improving guidance and knowledge and ensuring better coherence with broader socioeconomic objectives
 - B. Building political ownership and strengthening compliance
 - C. Strengthening investment in Natura 2000 and improving synergies with EU funding instruments
 - D. Better communication and outreach, engaging citizens, stakeholders and communities



To address the issues raised by the Fitness Check, the Commission adopted the Action Plan for nature, people and the economy. The Action Plan outlines 15 actions designed to increase implementation quickly and efficiently by the end of 2019. The actions are classified under four priorities: improving guidance and knowledge and ensuring better coherence with broader socioeconomic objectives; building political ownership and strengthening compliance; strengthening investment in Natura 2000 and improving synergies with EU funding instruments; better communication and outreach, engaging citizens, stakeholders and communities. The Commission intends to launch a series of bilateral dialogues with Member States in the framework of the Environmental Implementation Review in 2018 with the aim of resulting in a roadmap that focuses on the most pressing implementation issues. The Council's conclusions on the Action Plan published in June 2017 welcomed these support mechanisms and encouraged their use by national, regional and local authorities.

In its proposed resolution, the European Parliament's Committee on Environment, Public Health and Food Safety (ENVI) welcomed the Action Plan as a step in the right direction, but stated that it would not be sufficient to halt the loss of biodiversity by 2020 and reverse the loss of biodiversity and ecosystem services.

An action plan for nature, people and the economy

- 19 June 2017: Council adopted the Action Plan



Following the meeting of the Environment Council on 19 June 2017, Ministers expressed support for the Action Plan, with Dr José Herrera, the Maltese EU President, stating that 'These conclusions signal the EU's strong commitment to protecting species and natural habitats and to making progress towards the EU 2020 goal of halting and reversing the loss of biodiversity and ecosystem services.'

Environmental Implementation Review

- Excerpts from European Commission, Environmental Implementation Review Country Report Factsheets (April 2017)
 - Nature protection summaries
 - Conservation status of protected species were assessed by standards agreed by the European Commission and Member States
 - Four parameters
 - Range, population, habitat for the species, and future prospects
 - Each parameter was assessed as being in one of the following conditions
 - Favourable
 - Unfavourable-inadequate
 - Unfavourable-bad
 - Unknown



The European Commission's publication entitled Assessment and reporting under Article 17 of the Habitats Directive; Explanatory Notes & Guidelines for the period 2007-2012 (Final version, July 2011), stated that "Favourable Conservation Status" is defined in the Directive and effectively describes the situation where the habitat or species can be expected to prosper without any change to existing management or policies. The unfavourable category has been split into two classes to allow improvements or deterioration to be reported: "Unfavourable-Inadequate" for situations where a change in management or policy is required to return the habitat type or species to favourable status but there is no danger of extinction in the foreseeable future and "Unfavourable-Bad" is for habitats or species in serious danger of becoming extinct (at least regionally). There is also an "Unknown" class which can be used where there is insufficient information available to allow an assessment'.

The following slides set out the Nature protection summary and the Conservation status of protected species as of 2013 from the Factsheets that accompany the Environmental Implementation Reviews for each individual Member State.

Environmental Implementation Review: Austria

- Nature protection summary
 - 'Each of the nine Austrian Länder has a different legal basis for implementing the EU's nature Directives.
 - Austria must make significant efforts to complete the Natura 2000 designation process and put in place conservation objectives and the necessary conservation measures. Pressures coming from agriculture and land abandonment in higher Alpine regions remain an important issue for Natura sites.
 - Compared to other Member States of similar size, Austria has been very successful in obtaining LIFE-Nature funding, in particular for Alpine river-restoration projects'



Environmental Implementation Review: Austria

- Conservation status of protected species as of 2013
 - 47.34%: Unfavourable inadequate
 - 16%: Favourable
 - 2.37%: Unknown
 - 34%: Unfavourable bad



Environmental Implementation Review: Belgium

- Nature protection summary
 - 'Belgium needs to ensure the implementation of conservation measures in order to maintain/restore species and habitats of community interest to a favourable conservation status across their natural range. In particular this means dealing with pressures from agriculture



Environmental Implementation Review: Belgium

- Conservation status of protected species as of 2013
 - 26.15%: Unfavourable inadequate
 - 19%: Favourable
 - 12.31%: Unknown
 - 42%: Unfavourable bad



Environmental Implementation Review: Bulgaria

- Nature protection summary
 - 'Bulgaria needs to complete the Special Area of Conservation designation process, to put in place conservation objectives and measures for the sites, to provide adequate resources in order to maintain or restore species and habitats of Community interest to a favourable conservation status across their natural range, and to ensure effective management of the sites'



Environmental Implementation Review: Bulgaria

- Conservation status of protected species as of 2013
 - 35.63%: Unfavourable inadequate
 - 54%: Favourable
 - 8.05%: Unknown
 - 3%: Unfavourable bad



Environmental Implementation Review: Croatia

- Nature protection summary

- 'Croatia's Natura 2000 covers 36.5% of the country's land area (2nd largest network in the EU in relation to MS area) and a significant marine area (4986 km²). By 2015, Croatia had designated 741 SCIs and 38 SPAs. While the terrestrial part of the network can now be considered complete, the marine part still presents some insufficiencies in terms of designation.

Croatia needs to complete the SAC designation process and put in place clearly defined conservation objectives and the necessary conservation measures for the sites and provide adequate resources for their implementation. The aim is to maintain/restore species and habitats of community interest to a favourable conservation status across their natural range'



Environmental Implementation Review: Croatia

- Conservation status of protected species and natural habitats
 - 'Croatia has joined the EU in 2013 and therefore has not yet reported on the conservation status of habitats and species covered by the Habitats Directive and the status of the implementation of the Birds Directive. The first report is due in 2019'



Environmental Implementation Review: Cyprus

- Nature protection summary
 - 'Cyprus needs to make significant efforts to complete its Natura 2000 network (especially the offshore marine areas), to protect Natura 2000 areas from incompatible activities or developments that fragment or degrade them and to enhance policies and enforcement actions to eliminate illegal bird trapping'



Environmental Implementation Review: Cyprus

- Conservation status of protected species as of 2013
 - 12.73%: Unfavourable inadequate
 - 69%: Favourable
 - 16.36%: Unknown
 - 2%: Unfavourable bad



Environmental Implementation Review: Czech Republic

■ Nature protection summary

- 'Natura 2000 is regarded as complementary to the national nature protection system in the Czech Republic. This principle establishes a protection regime for the majority of Natura 2000 sites that is derived from a parallel regime for the country's nationally protected areas. The monitoring of habitats and species under the Habitats Directive is very well established and organised in the Czech Republic. Any problematic aspects involved in implementing both national and EU legislation are usually connected with general nature protection issues.

The Czech Republic needs to make further efforts to complete the establishment of its Natura 2000 network and ensure its protection and management towards the favourable conservation status of protected habitats and species'



Environmental Implementation Review: Czech Republic

- Conservation status of protected species and natural habitats 2007 to 2013
 - 39%: Unfavourable inadequate
 - 27%: Favourable
 - 4.25%: Unknown
 - 30%: Unfavourable bad



Environmental Implementation Review: Denmark

- Nature protection summary
 - 'Denmark needs to make further efforts to ensure site protection and management towards Favourable Conservation Status of protected habitats and species, by focusing, in particular, on reducing pressures from agriculture'



Environmental Implementation Review: Denmark

- Conservation status of protected species as of 2013
 - 12.82%: Unfavourable inadequate
 - 33%: Favourable
 - 26.50%: Unknown
 - 27%: Unfavourable bad



Environmental Implementation Review: Estonia

- Nature protection summary
 - 'Estonia has almost completed its part of Sites of Community Importance in the Natura 2000 network in the Marine Baltic region. It is also close to completing them in the Boreal region, and has designated a large majority of the sites as Special Areas of Conservation. However, there appears to be gaps in the implementation of the plans.
 - Estonia has provided one of the most complete Prioritized Action Framework which has been successfully used to ensure funding for Natura 2000 sites from different EU funds, e.g. the Rural Development Fund. It has been active in applying for LIFE funding to manage its Natura 2000 sites'



Environmental Implementation Review: Estonia

- Conservation status of protected species and natural habitats 2007 to 2013
 - 28.13%: Unfavourable inadequate
 - 54%: Favourable
 - 9.38%: Unknown
 - 8%: Unfavourable bad



Environmental Implementation Review: Finland

- Nature protection summary
 - 'Finland needs to make further efforts to complete the establishment of the marine component of its Natura 2000 network and to ensure site protection and management towards favourable conservation status of its protected habitats and species'



Environmental Implementation Review: Finland

- Conservation status of protected species as of 2013
 - 35.33%: Unfavourable inadequate
 - 46%: Favourable
 - 7.33%: Unknown
 - 11%: Unfavourable bad



Environmental Implementation Review: France

- Nature protection summary
 - ‘The main challenge in France with regard to the implementation of Natura 2000 is to ensure appropriate financing, from both national and EU funds, as well as to work towards a better integration between nature and agricultural policies. Together with the fact that the regions will now lead on biodiversity matters and are responsible for implementing the European funds, the recent territorial reshuffle in France will create both challenges and opportunities’



Environmental Implementation Review: France

- Conservation status of protected species as of 2013
 - 31.76%: Unfavourable inadequate
 - 28%: Favourable
 - 15.74%: Unknown
 - 24%: Unfavourable bad



Environmental Implementation Review: Germany

- Nature protection summary
 - 'Nature protection in Germany falls within the competence of 16 Länder. The country needs to make significant efforts to complete the Natura 2000 designation process and to put in place conservation objectives and the necessary conservation measures. Pressures created by agriculture remain an important issue for Natura sites'



Environmental Implementation Review: Germany

- Conservation status of protected species as of 2013
 - 31.08%: Unfavourable inadequate
 - 25%: Favourable
 - 15.14%: Unknown
 - 29%: Unfavourable bad



Environmental Implementation Review: Greece

- Nature protection summary
 - 'Greece must make significant efforts to put in place an efficient national system for the administration and functioning of protected areas and improve the enforcement of relevant environmental legislation on the ground'



Environmental Implementation Review: Greece

- Conservation status of protected species as of 2013
 - 31.76%: Unfavourable inadequate
 - 28%: Favourable
 - 15.74%: Unknown
 - 24%: Unfavourable bad



Environmental Implementation Review: Hungary

- Nature protection summary
 - 'Hungary needs to complete the Natura 2000 network with site-specific conservation measures, adequately resourced, which are able to maintain/restore species and habitats of community interest to a favourable conservation status across their natural range.
 - It is also necessary to develop and promote smart and streamlined implementation approaches, in particular as regards site- and species-permitting procedures, ensuring the availability of the necessary knowledge and data and strengthening communication with stakeholders'



Environmental Implementation Review: Hungary

- Conservation status of protected species as of 2013
 - 53.85%: Unfavourable inadequate
 - 36%: Favourable
 - 1.44%: Unknown
 - 9%: Unfavourable bad



Environmental Implementation Review: Ireland

- Nature protection summary
 - 'Ireland has to complete the Natura 2000 designation process and put in place clearly defined conservation objectives and the necessary conservation measures for the sites. In addition, it must provide adequate resources for their implementation in order to maintain/restore species and habitats of community interest to a favourable conservation status across their natural range'



Environmental Implementation Review: Ireland

- Conservation status of protected species as of 2013
 - 19.67%: Unfavourable inadequate
 - 52%: Favourable
 - 18.03%: Unknown
 - 10%: Unfavourable bad



Environmental Implementation Review: Italy

- Nature protection summary
 - 'Italy must complete the Natura 2000 designation process and put in place clearly defined conservation objectives and the necessary conservation measures. It needs to build capacity for the completion and implementation of management plans and use available EU funds to implement well-designed nature conservation measures'



Environmental Implementation Review: Italy

- Conservation status of protected species as of 2013
 - 33.94%: Unfavourable inadequate
 - 40%: Favourable
 - 8.99%: Unknown
 - 17%: Unfavourable bad



Environmental Implementation Review: Latvia

- Nature protection summary
 - 'Latvia must make significant efforts to complete the designation of Special Areas of Conservation under the Habitats Directive, put in place clearly defined conservation objectives and the necessary conservation measures for the sites and provide adequate resources for their implementation'



Environmental Implementation Review: Latvia

- Conservation status of protected species as of 2013
 - 38.74%: Unfavourable inadequate
 - 29%: Favourable
 - 11.71%: Unknown
 - 21%: Unfavourable bad



Environmental Implementation Review: Lithuania

- Nature protection summary
 - 'Lithuania is making progress in developing conservation plans for species and management plans for protected areas according to the requirements of European legislation. The main difficulties identified for implementation of the required nature management activities across the Natura 2000 network in Lithuania are the lack of financial resources for funding the surveillance of species and habitats as well as for activities related to habitat restoration and maintenance. The grassland habitats in need of protection under Natura 2000 are the weakest links of the network in Lithuania'



Environmental Implementation Review: Lithuania

- Conservation status of protected species as of 2013
 - 55.10%: Unfavourable inadequate
 - 27%: Favourable
 - 8.16%: Unknown
 - 10%: Unfavourable bad



Environmental Implementation Review: Luxembourg

- Nature protection summary
 - 'Luxembourg needs to complete the designation of Special Areas of Conservation process and put in place clearly defined conservation objectives and the necessary conservation measures for the sites. It must also provide adequate resources for their implementation in order to maintain/restore species and habitats of community interest to a favourable conservation status across their natural range.
 - It is also necessary to ensure that the Rural Development Programme favours biodiversity measures, and contribute to achieving a favourable conservation status for habitats and species. Further habitat fragmentation should be avoided and measures are needed to restore connectivity'



Environmental Implementation Review: Luxembourg

- Conservation status of protected species as of 2013
 - 40.68%: Unfavourable inadequate
 - 19%: Favourable
 - 6.78%: Unknown
 - 34%: Unfavourable bad



Environmental Implementation Review: Malta

- Nature protection summary
 - 'Malta must make a significant effort to complete the setting up of the marine component of its Natura 2000 network and ensure the protection and management of sites to achieve favourable conservation status for protected habitats and species. The alignment of hunting and trapping practices with the requirements of the Birds Directive is a priority'



Environmental Implementation Review: Malta

- Conservation status of protected species as of 2013
 - 36.54%: Unfavourable inadequate
 - 40%: Favourable
 - 15.38%: Unknown
 - 8%: Unfavourable bad



Environmental Implementation Review: Netherlands

- Nature protection summary
 - 'The Netherlands must make further efforts to ensure site protection and management towards Favourable Conservation Status of protected habitats and species, by focusing, in particular, on reducing pressures from agriculture.
 - In 2014, the Dutch government adopted a new nature vision, 'Nature of the Future', which has at its core a desired shift in thinking about nature policy: from protecting nature against society towards strengthening nature with society. Biodiversity targets should be reached by using all opportunities for synergy between nature values and social and economic activities'



Environmental Implementation Review: Netherlands

- Conservation status of protected species as of 2013
 - 23.08%: Unfavourable inadequate
 - 23%: Favourable
 - 3.85%: Unknown
 - 50%: Unfavourable bad



Environmental Implementation Review: Poland

- Nature protection summary

- 'In 2015, there were 987 Natura 2000 sites in Poland: 849 Sites of Community Importance (SCIs) and 145 Special Protection Areas (SPAs). In early 2016, the Natura 2000 network in Poland covered approximately 19.6 % of the land territory, with 15.5 % SPAs and 10.9 % SCIs.
- Although Poland has made substantial progress in designation of the Natura 2000 network in recent years, the objective of complete designation of the network has not yet been fully met. Intensive agriculture and human induced modifications of natural conditions (e.g. of water ecosystems) together with invasive alien species have been identified as the greatest threats to biodiversity in Poland'



Environmental Implementation Review: Poland

- Conservation status of protected species as of 2013
 - 37.08%: Unfavourable inadequate
 - 33%: Favourable
 - 17.23%: Unknown
 - 13%: Unfavourable bad



Environmental Implementation Review: Portugal

- Nature protection summary

- 'As of 2016, 20.6% of the national land area of Portugal was covered by Natura 2000 (EU average 18.1%).

Portugal must complete the Natura 2000 designation process, on land and at sea, and put in place clearly defined conservation objectives and the necessary conservation measures for the sites and provide adequate resources for their implementation.

Portugal should strengthen capacity-building to improve the management of Natura 2000 sites and species protection regimes and to ensure full integration with other policies and their associated funds'



Environmental Implementation Review: Portugal

- Conservation status of protected species as of 2013
 - 30.75%: Unfavourable inadequate
 - 19%: Favourable
 - 40.14%: Unknown
 - 10%: Unfavourable bad



Environmental Implementation Review: Romania

- Nature protection summary

- 'Romania should complete the Natura 2000 designation process and put in place clearly defined conservation objectives and the necessary conservation measures for the sites. It should also provide adequate resources for their implementation in order to maintain/restore species and habitats of community interest to a favourable conservation status across their natural range.

It should improve its administrative capacity for the designation and management of protected sites and enhance efforts to collect reliable data and improve the quality of assessments.

Romania should mitigate the current pressures on natural resources caused by the intensification of agriculture'



Environmental Implementation Review: Romania

- Conservation status of protected species as of 2013
 - 67.19%: Unfavourable inadequate
 - 19%: Favourable
 - 8.42%: Unknown
 - 5%: Unfavourable bad



Environmental Implementation Review: Slovakia

- Nature protection summary
 - 'Slovakia needs to make further efforts to complete the establishment of its Natura 2000 network and ensure its protection and management towards Favourable Conservation Status of protected habitats and species. Balancing the demands of agriculture and forest-management practices as well as the requirements of several policies (such as biomass use) with nature protection is a priority (e.g. the protection of large carnivores or pristine forests).'



Environmental Implementation Review: Slovakia

- Conservation status of protected species as of 2013
 - 41.14%: Unfavourable inadequate
 - 20%: Favourable
 - 18.99%: Unknown
 - 20%: Unfavourable bad



Environmental Implementation Review: Slovenia

- Nature protection summary
 - 'Slovenia designated the Natura 2000 network in 2004 upon its accession to the EU, with subsequent amendments. By early 2016, Slovenia had designated 355 Natura 2000 sites, including 324 Sites of Community Importance (SCI) under the Habitats Directive and 31 Special Protection Areas (SPA) under the Birds Directive. Together these cover 37.9 % of the land area (the largest percentage of Member State land area in the EU, where the average is 18.1 %) and 10.6 km² of marine waters. Some insufficiencies still remain in the designation for the marine components of the network'



Environmental Implementation Review: Slovenia

- Conservation status of protected species as of 2013
 - 40.85%: Unfavourable inadequate
 - 29%: Favourable
 - 19.51%: Unknown
 - 11%: Unfavourable bad



Environmental Implementation Review: Spain

- Nature protection summary
 - 'Spain boasts a very rich biodiversity and contributes the largest terrestrial surface to the EU Natura 2000 Network, covering around 27 % of its territory.
 - Spain must complete the Natura 2000 designation process and specifically put in place clearly defined conservation objectives and the necessary conservation measures, as well as providing adequate resources for their implementation.
 - Spain could capitalise on its very valuable natural capital to create jobs. In this context, further promoting further sustainable tourism would be a good focus for the country'



Environmental Implementation Review: Spain

- Conservation status of protected species as of 2013
 - 34.85%: Unfavourable inadequate
 - 22%: Favourable
 - 24.8%: Unknown
 - 19%: Unfavourable bad



Environmental Implementation Review: Sweden

- Nature protection summary
 - 'In Sweden, all grassland habitats and many of their associated species suffer from an unfavourable conservation status which indicates a substantial need for the management and restoration of those habitats as well as a requirement to enlarge nationally protected areas'



Environmental Implementation Review: Sweden

- Conservation status of protected species as of 2013
 - 13.7%: Unfavourable inadequate
 - 45%: Favourable
 - 0.3%: Unknown
 - 41%: Unfavourable bad



Environmental Implementation Review: United Kingdom

- Nature protection summary
 - 'As regards nature, compared to the EU average the percentage of land designated under Natura 2000 is low, the marine designation process is still under way, and the overall strategies dealing with dispersed species are missing. Monitoring is an issue across the board. Although there are significant differences between the various parts of the UK, further restoration work on habitats is needed'



Environmental Implementation Review: United Kingdom

- Conservation status of protected species as of 2013
 - 24.27%: Unfavourable inadequate
 - 43%: Favourable
 - 15.53%: Unknown
 - 18%: Unfavourable bad

