



Natura 2000 and Transport Projects -Requirements of proper assessment

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Legal framework

- **Council Directive 79/409/EC of 2 April 1979 on the conservation of the wild birds ("Birds Directive")**
194 vulnerable bird species (Annex I)
migratory bird species (esp. wetlands)
- **Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora ("Habitats Directive")**
Species and habitats of Community interest
240 habitats
865 species

What is Natura 2000?

Different process = the same network



HABITATS DIRECTIVE

National List of
proposed sites
(pSCI)

Sites of
Community
Importance (SCI)

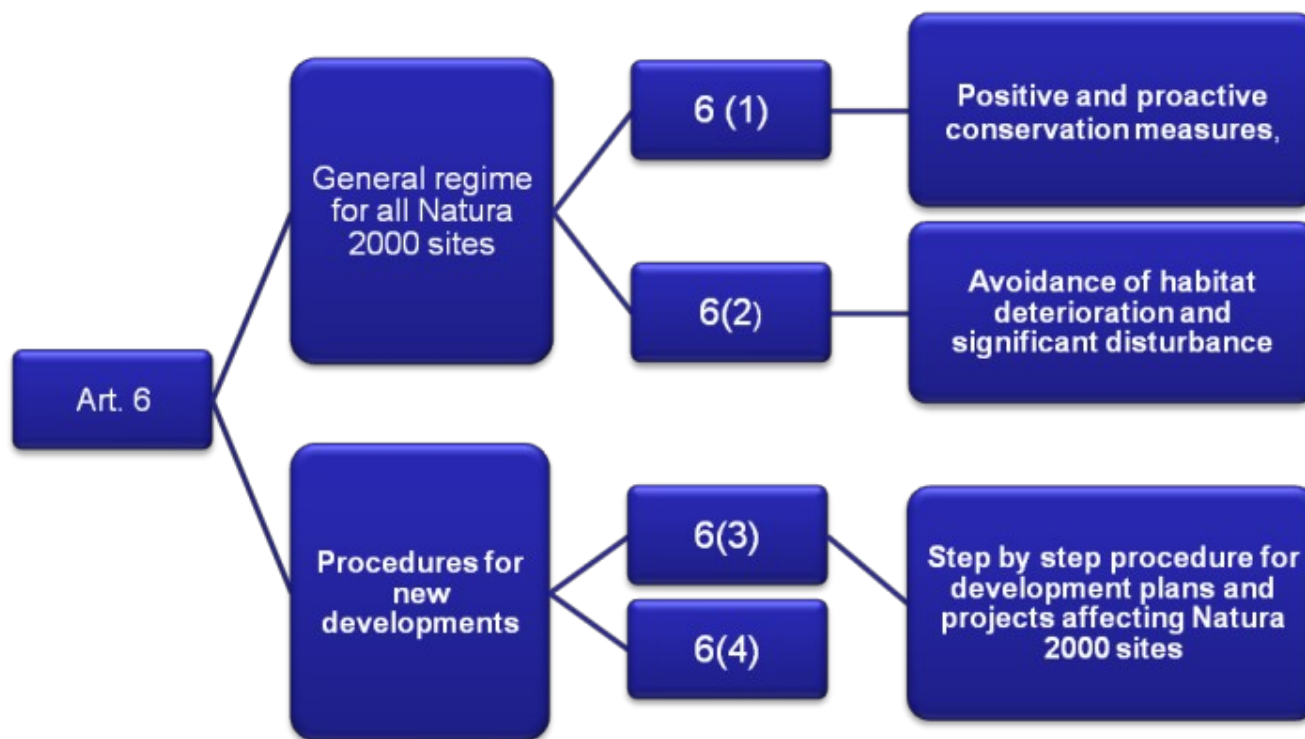
Special Areas of
Conservation
(SAC)

BIRDS DIRECTIVE

Special
Protection Areas
(SPA)



Art 6 of the Habitats Directive



Art 6.3. of the Habitats Directive



- 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 provision 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.



Art 6.3. of the Habitats Directive

- What is to be assessed ?

- ... any plan or project not directly connected with or necessary to the management of the site

- When is a plan or project to be assessed?

- ... likely to have a significant effect thereon (on the site) either individually or in combination with other plans or projects

- What should be determined?

- ... its implications for the site in view of the site's conservation objectives

Art 6.3. of the Habitats Directive

■ What should be considered?

... in the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4 (...which natural habitat and which species that are native to its territory the site hosts...).

■ What are the implications of the assessment?

... 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

■ What is the role of consultation with the general public?

... and, if appropriate after having obtained the opinion of the general public



Art 6.4. of the Habitats Directive

- If, in spite of a negative assessment of the implication 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 which 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.



Art 6.4. of the Habitats Directive

- What are the conditions for applying Art. 6.4. ?
 - ... negative assessment of the implication for the site and in the absence of alternative solutions ...
(i.e. if you did not consider alternative solutions you should not apply this paragraph !!!)

- What is the interest to be fulfilled to proceed with the project?
 - ... a plan of project must nevertheless be carried out for imperative reasons of overriding public interest, including those of social or economic nature ... (see also the next sentence for "priority habitat or species")



Art 6.4. of the Habitats Directive

- **What must the Member State do if it is allowed to proceed?**
 - ... shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 network is protected
 - ... it shall inform the Commission of the compensatory measures adopted.

- **What should be done if the site hosts a priority natural habitat and/or priority species?**
 - ... the only consideration which 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

Art 7 of the Habitats Directive

- Obligations arising under article 6 (2), (3) and (4) of the Habitats Directive shall replace any obligations of the Birds Directive in respect of ... (SPA's) ...



PRECAUTIONARY PRINCIPLE

- EC Treaty (Art 174):
- „Community policy on the environment ... shall aim at a high level of protection taking into account the diversity of situations in the various regions of the Community.
- It shall be based on the **precautionary principle** and on the principles that preventive actions should be taken, that the environmental damage should as a priority be rectified at source and that the polluter should pay.



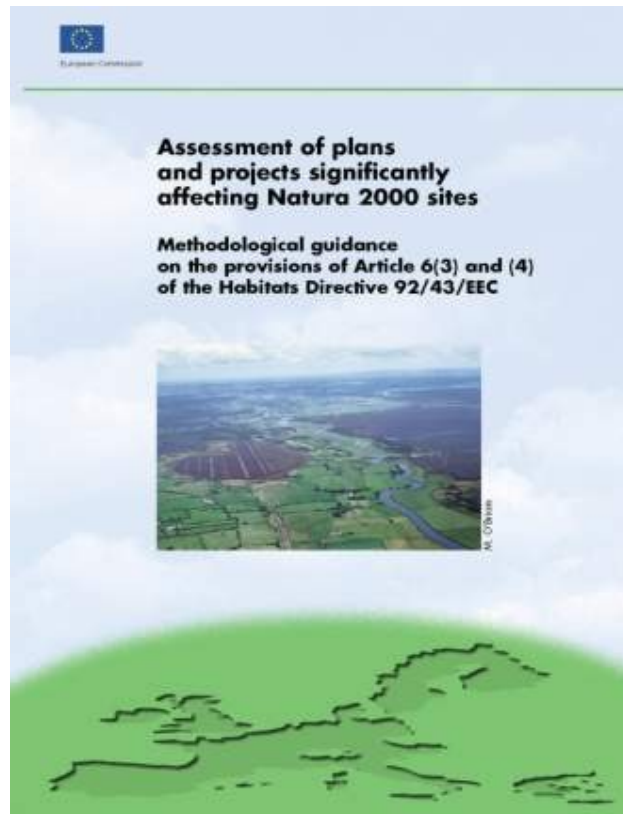
PRECAUTIONARY PRINCIPLE



- The precautionary principle is not defined in the Treaty.
- Rio Declaration 1992, preamble of the Convention of Biological Diversity:
...“in order to protect the environment, the precautionary approach shall be widely applied by the States according to their capability. Where there are threats of serious or irreversible damage, lack of scientific knowledge shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.”

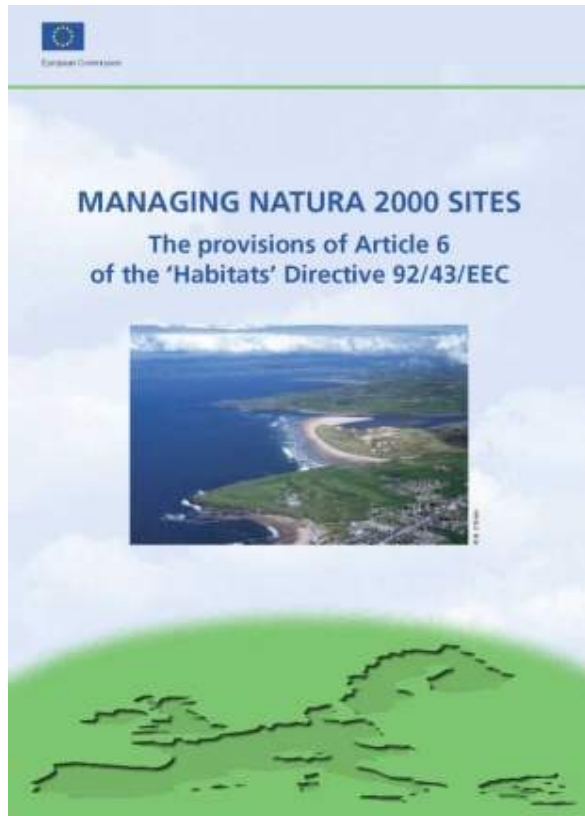


Methodological guidance



- **Assessment of plans and project significantly affecting Natura 2000 sites**
- **Methodological guidance on the provision of Article 6(3) and (4) of the Habitats directive 92/43/EEC**
- http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/provision_of_art6_en.pdf
- ... it is not obligatory, the Commission suggests - recommends a possible way to proceed with an individual assessment

Methodological guidance



- **Managing Natura 2000 sites.** The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC
- http://ec.europa.eu/environment/nature/natura2000/management/guidance_en.htm
- **+ Guidance document on Article 6(4):**
- Clarification of the concepts of: alternative solutions, imperative reasons of overriding public interest, compensatory measures, overall coherence, Opinion of the Commission
- http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/guidance_art6_4_en.pdf



Compatibility with EIA and SEA



- ... an assessment can be done individually independently or in the framework of an EIA assessment (complying with the requirements of Art 6.3 and 6.4 !!!)
- The suggested procedures in the guidance are similar to those in common use in EIA
- The assessment required by Art 6.3. of the Habitats directive should be clearly distinguishable and identified within the environmental statement or reported separately

Transport lines / migrations ways

- Loss of wildlife habitat
 - **Barrier effect**
 - Fauna casualties – collisions between transport and wildlife
 - Disturbance and pollution
 - Ecological functions of verges (edges of infrastructure development)
 - protection of migratory bird species (Art 4 of the Birds Directive)
 - system of strict protection of animal species (Art 12 of the Habitats Directive + Annex IV (a))
- Conservation objectives of Natura 2000 sites
- conservation status of habitats
 - conservation status of species



Implementation challenges

- Is it always possible to use the EIA process as a basis for Natura 2000 (Art 6.3.) assessment?
- When has been the EIA done ? (*pre-accession issues*)
- Has the EIA been done in a way compliant with the Art 6.3.,6.4. provisions?
 - mitigation measures
 - considering alternative solutions
 - considering compensatory measures

Specific recommendations for project development



- **consider the Nature (Natura 2000) at the beginning of the project, try to address it in an integral way**
- **consider the impact on Natura 2000 of all connected activities** (extraction of raw materials, handling, material flows - waste)
- **consider all possible impacts on Natura 2000 network even when the project is located OUTSIDE Natura 2000** (migratory routes)

Specific recommendations for project development



■ What is important:

- **to consider (to respect) the provisions of the Directive**
- to know the site and to assess properly the effects of the project (knowledge of the site, availability of data)

It is not possible to accept conclusions based on missing data

- case by case judgement

■ Remember:

- designation of Natura 2000 network is not complete
- every problem disclosed by the EC will lead at least to a considerable delay



Thank you for your attention

http://ec.europa.eu/environment/nature/index_en.htm