



# Assessment of plans and projects in Natura 2000 sites

## Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC

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# Background

- Fitness check of the Nature Directives → improve implementation, provide support
- **Action plan for nature, people and the economy** COM(2017)198 final:

***Priority A:** Improving guidance and knowledge and ensuring better coherence with broader socioeconomic objectives*

→ Action 1. **Update, develop and actively promote**, in all EU languages, **guidance on:**

(a) **site permitting procedures**, species protection and management as well as sector-specific guidance

...

# Background

- Article 6(3) and (4) of the Habitats Directive: assessment of plans and projects with likely effects on Natura 2000 sites
- Relevant guidance documents on Article 6(3) and 6(4):
  - Interpretation guidance on Art. 6, key concepts and terms: published in 2000, revised/updated in 2018 (incl. partial update of Art. 6(4) part in 2007).
  - **Methodological guidance on the provisions of Art. 6(3) and 6(4) - published in 2001**
    - **Updated with this new guidance document**
    - to be read in conjunction with the interpretation guidance

# Methodological guidance - review

## THE PROCESS

### 1. Scoping exercise (Jan-June 2018):

- ✓ Literature review

- ✓ Consultation of Member States and stakeholders: questionnaire – 28 MS, 17 NGOs, 34 sectoral organisations.

  - identification of main issues to cover in the review of the guidance

  - methods and best practice examples (case studies)

### 2. 1st draft of guidance document (Sept 2018)

### 3. Workshop (Brussels, 29 October 2018)

### 4. 2nd draft of guidance document (March 2019)

### 5. Consultation with NADEG (March-April 2019)

### 4. Final draft (August 2019)

### 5. Adoption/publication (expected end 2019)

Questionnaire sent to	Replies received
All Member States authorities	24 - environment/nature, transport authorities
Sectors' organisations (private & public)	22- industry, energy, mining, roads, railways, ports (incl. TEN-T), forest, aquaculture, hunting.
NGOs (environment/nature)	14 - NGOs (EU & national)

# Scoping exercise - Results

## Identified needs for further guidance

### Methods, tools, standard criteria for assessment under Art. 6(3)

- Screening: need to ensure a more robust and consistent framework. Criteria to assess significance
- AA: How to determine adverse effects on site integrity
- Assessment of cumulative effects: what other plan or projects to consider, where to find information
- AA of plans

### Article 6(4) – methods, tools, proper understanding

- Methods for the assessment of alternatives
- IROPI – criteria
- Compensatory measures – design, implementation, monitoring effectiveness

### *Other issues:*

### Effective consultation and public participation

- Early consultation, improved dialogue with stakeholders and public participation

### Strategic approaches

- Strategic planning – to consider Natura 2000 at the stage that is most efficient
- Streamlining AA with other environmental assessment procedures (EIA/SEA, WFD)



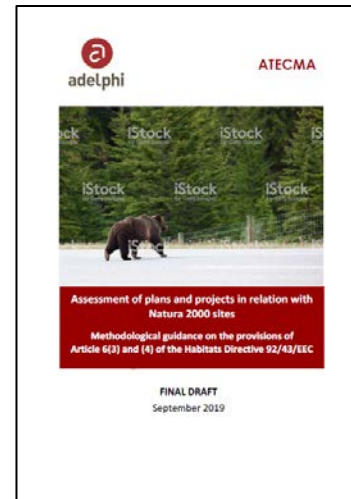
# Assessment of plans and projects in Natura 2000 sites: Methodological guidance

- ✓ in accordance with the revised Article 6 interpretation guidance:  
*"Managing Natura 2000 sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC"*

## Stage by stage approach

Three main stages:

1. Screening
2. Appropriate Assessment
3. Derogation regime under Art. 6(4):  
alternatives, IROPI and  
compensatory measures



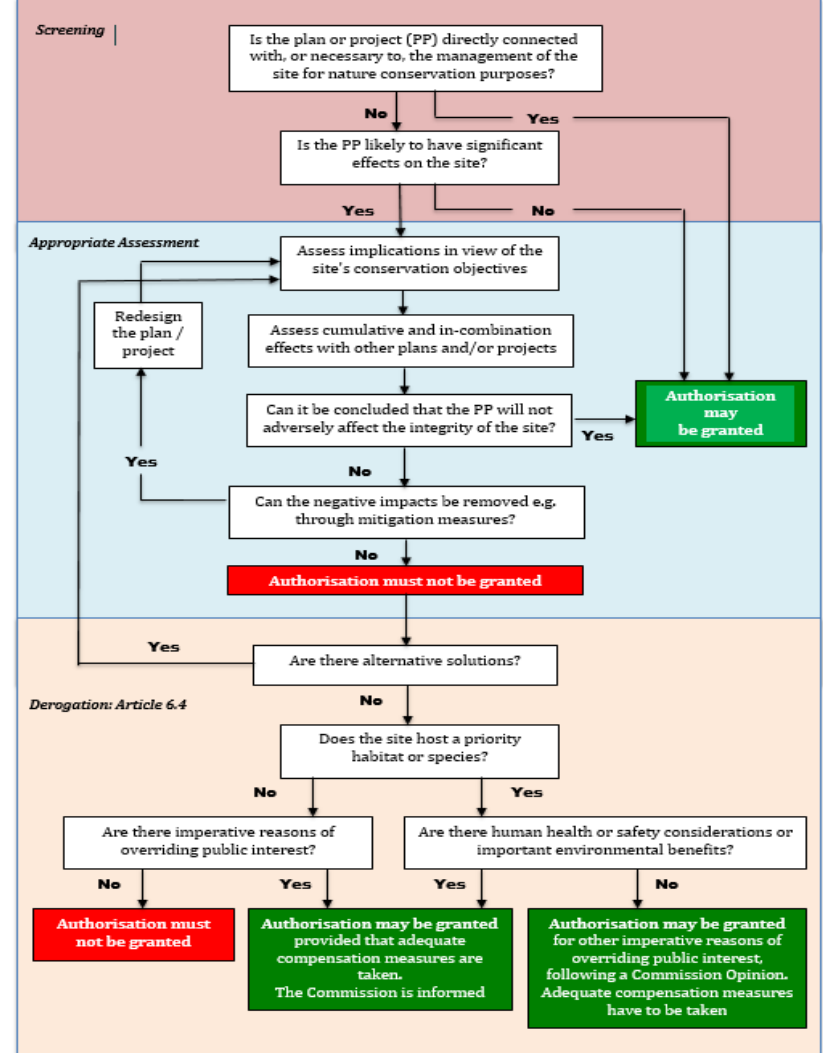
# CONSIDERATION OF PLANS AND PROJECTS IN RELATION TO NATURA 2000 SITES

## Provisions of Article 6(3) and 6(4)

**Screening:** Likely significant effects – is an AA necessary?

**Appropriate assessment - 6(3):** Adverse effects on the integrity of the site – **If Yes: No permit**

**Derogation - 6(4):** no alternatives, IROPI and compensatory measures

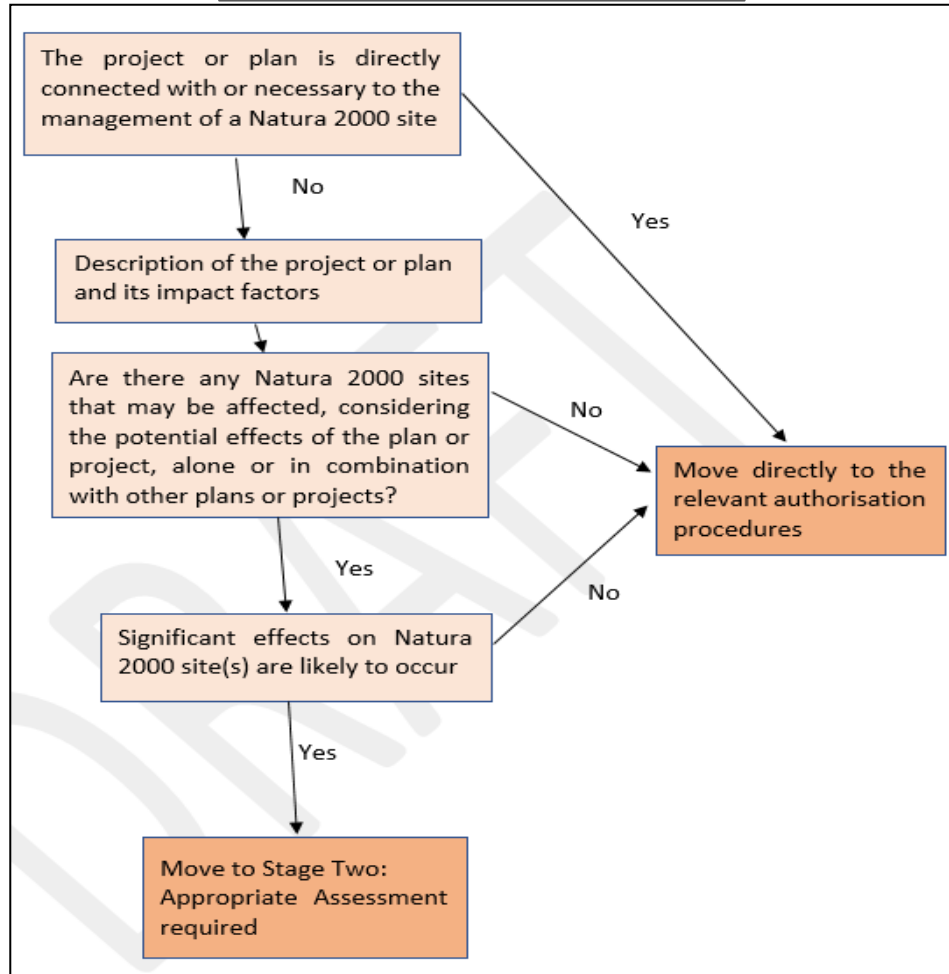


## *Differences between the screening stage and the appropriate assessment*

<b>Screening</b>	<b>Appropriate Assessment</b>
Evaluates if significant negative effects on a Natura 2000 site are <u>likely</u> as a result of the plan or project implementation.	Assesses the <u>likely</u> effects on the Natura 2000 site in view of its conservation objectives and determines whether adverse effects on the integrity of the site will or might be caused by implementation of the plan or project.
If significant effects cannot be excluded with certainty, an Appropriate Assessment is necessary.	Project can be permitted only if adverse effects on the Natura 2000 site integrity can be excluded.
Can be usually based on existing data, available knowledge and experience and expert opinion.	Requires detailed assessment, often field surveys and expert advice and consideration of the individual case by experts.
Mitigation measures are not considered in the Screening (Case C-323/17)).	Mitigation measures and their effectiveness to eliminate or reduce the adverse effects are considered in the assessment.



## Stage one: Screening



# Methods / guidelines

- P/P directly connected to the **CONSERVATION** management of site?
- **Identify Natura 2000 sites** that may be affected by the proposed plan/project.
- Relevant information to assess **potential effects** of a plan or project on the site – examples of information systems available in different countries.
- Assessing likely significant effects - methods, types of effects which are likely to be significant, aspects to consider in significance assessment, possible thresholds. Examples: standards of significance for habitat loss used in Germany.
- Consideration of **cumulative effects** - information on other plans and projects, links with SEA and EIA ...

# Stage two: the appropriate assessment

## Appropriate Assessment – main steps:

- Gathering information on the project and on the Natura 2000 sites concerned.
- Assessing the implications of the plan or project in view of the site's conservation objectives.
- Determining whether the plan or project can have adverse effects on the integrity of the site.
- Considering mitigation measures (including monitoring).

## • Methods, guidelines

- Baseline information, key issues.
- Scoping recommended (as in EIA Directive)
- Conservation objectives
- Identification and quantification of effects (relevant parameters).
- Analysis of cumulative effects.
- Site integrity (meaning).
- Assessment of effects on the integrity of the site (criteria, standards).
- Elements for identification.
- Monitoring of mitigation measures.

- Consultation. Public information.
- Checklist to ensure quality of AA.

**Table 6. Assessment criteria, descriptors and indicators**

Conservation objective	Assessment criteria	Qualitative description of effects	Quantitative indicator	Timeframe
<b>Habitats</b>	Loss of habitat area	Importance, role and function of the habitat, in the site	Area of habitat loss (ha and %)	Duration of the effects  Reversibility: Likelihood and time needed for recovery
	Deterioration of structure and/or functions	Type and degree of deterioration (e.g. loss of typical species, etc.). Consequences in the long term. Habitat fragmentation. Increase in pressures and threats	Area of habitat deterioration (ha and %)	
<b>Species</b>	Loss /reduction of population.  Alteration of population dynamics in the site.	Displacement of individuals. Disturbance in critical periods. Consequences for the local population. Alteration in population demography. Increase in pressures and threats.	Population loss (number and %) in the short and long term. Changes in demographic parameters (e.g. breeding success, etc.)	
	Loss of species' habitat	Type of habitat loss, e.g. loss of foraging habitat, resting places, breeding areas.	Area of habitat loss (ha and %)	
	Deterioration of habitat quality	Type and degree of habitat quality deterioration. Consequences in the long term. Increase in pressures and threats	Area of habitat deterioration (ha and %)	



# Example: standard criteria to assess the effects on the integrity of the site in Germany

In general, **permanent loss** of habitat types and habitats for species (CO) → is **adverse effect** on the site integrity .

A **certain level** of loss could be insignificant for some habitat types and species - conditions:

1. **No important or special function or variant of the habitat is affected.**
2. Orientation values of absolute area loss are not exceeded
3. Relative area loss < of 1% of total area in the site.
4. **Cumulative effects with other projects or plans or with other impact factor do not lead to exceeding the above values.**

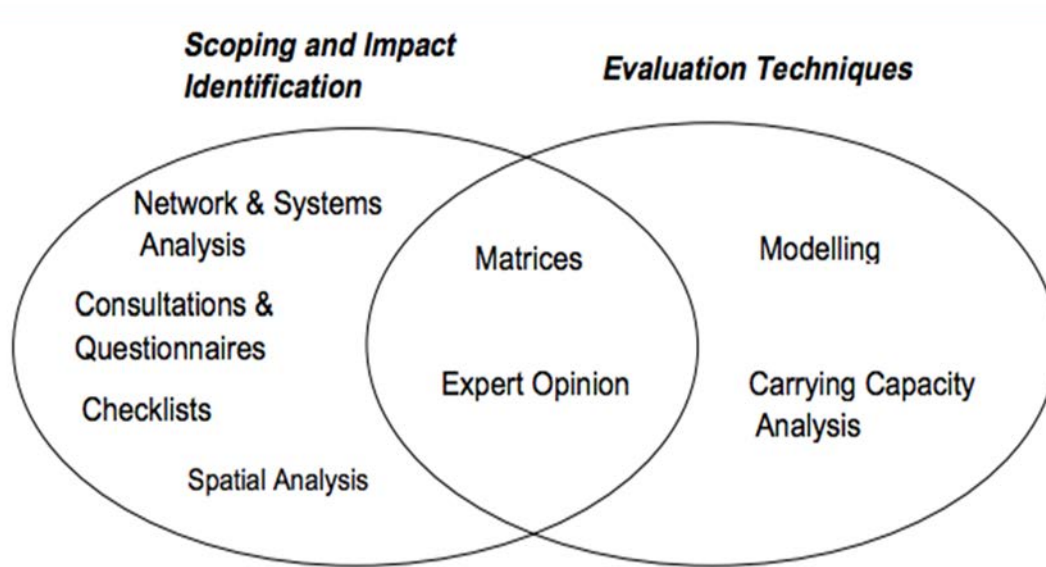
All these conclusions/ figures/ thresholds are intended to act **as guidance only**. This means that **a case-by-case approach within each AA is still required**.

Code	Habitat-Type	Orientation value for habitat loss (in m <sup>2</sup> )			
		Level I	Level II	Level III	
<b>Indicative values of tolerable loss</b>		<b>If loss ≤ 1 %</b>	<b>If loss ≤ 0,5 %</b>	<b>If loss ≤ 0,1 %</b>	
9110	Luzulo Fagetum Beech Forest	5	250	1.250	2.500
9130	Asperulo Fagetum Beech Forest	5	250	1.250	2.500
9170	Oak Hornbeam Forest	4	100	500	1.000
91E0*	Alluvial Forest	4	100	500	1.000
6510	Lowland hay meadows	4	100	500	1.000
4030	European dry heaths	3	50	250	500
6430	Hydrophilus tall herb fringe commun.	3	50	250	500
6120*	Xeric sand calcareous grasslands	2	25	125	250
7110*	Active raised bogs	1	0	0	0
7220*	Petrifying springs with tufa formations	1	0	0	0

# Cumulative impacts

- Cumulative impacts can result from the successive, incremental, and/or combined effects of a development (plan, project) when added to other existing, planned, and/or reasonably anticipated developments
- Plans or projects already completed, approved but uncompleted or applied for consent
- Examples: several HPP within the same river; or mine site + access roads + transmission lines

# Possible methods and tools for assessment of cumulative impacts as well as impact interactions



*From: European Commission, 1999. Guidelines for the Assessment of Indirect and Cumulative Impacts as well as Impact Interactions.*

# Mitigation measures

Required to *remove, pre-empt or reduce* the impacts identified in the appropriate assessment.

The AA promotes a hierarchy of mitigation measures:

- **avoidance:** prevent significant impacts from happening in the first place
- **reduction:** reduce the magnitude and/or likelihood of an impact.

Table 7. Examples of mitigation measures

Types of mitigation measures
<b>Avoidance</b>
<ul style="list-style-type: none"><li>▪ Technical solutions to prevent negative effects of the plan or project (e.g. noise suppression devices)</li><li>▪ Siting of project elements to avoid key areas (entire Natura 2000 sites or core areas within or connecting Natura 2000 sites)</li><li>▪ Protective fences to prevent damage to vegetation</li><li>▪ Wildlife fences.</li><li>▪ Avoidance of key periods for implementation works (e.g. breeding season)</li><li>▪ Desisting from impact-generating actions.</li><li>▪ Optimisation of coordination of works to avoid cumulative impacts.</li></ul>
<b>Reduction, moderation, minimization</b>
<ul style="list-style-type: none"><li>▪ Emission controls</li><li>▪ Noise barriers</li><li>▪ Screens</li><li>▪ Pollutant interceptors</li><li>▪ Controlled access to sensitive areas during construction/operation</li><li>▪ Wildlife crossings (e.g. bridges, tunnels and “ecoducts”)</li><li>▪ Adapting impact-generating actions to reduce effects to the extent possible</li></ul>



# Ensuring the quality of AA

- Relevant expertise/experience
- Formal specifications regarding the type of information and criteria for the AA
- Training and dissemination of good practice and methods
- Some countries have adopted a certification scheme or qualification system
- The system of quality assurance established in the EIA directive is useful

## Box 15. Checklist to ensure quality of appropriate assessment under article 6(3)

The assessment:

- Considers all elements contributing to the Natura 2000 site's integrity as indicated in the site's conservation objectives, management plan (where available) and Standard Data Form and the importance of habitats and species concerned in the context of network, and is based on best available scientific knowledge in the field.
- Considers the role of the site and its function within the biographical region and in the coherence of the Natura 2000 network.
- Includes a comprehensive identification of all the potential impacts of the plan or project likely to be significant on the site, taking into account cumulative impacts likely to arise as a result of the combined action of the plan or project under assessment and other plans or projects.
- Provides for the incorporation of effective mitigation measures into the plan or project concerned, in order to avoid, reduce or even cancel the negative impacts on the site.
- Applies the best available techniques and methods, to estimate the extent of the effects of the plan or project on the biological integrity of the site(s) likely to be damaged.
- Includes the best possible indicators to monitor the plan or project implementation.

#### **Box 16. Example of contents of the Appropriate Assessment report**

##### ***Relevant characteristics of the plan or project***

Aim, scope, location, main activities

##### ***Natura 2000 sites(s) likely to be affected and its (their) conservation objectives***

Describe the conservation objectives of the site(s) in the context of the appropriate assessment.

##### ***Assessment of the effects of the project or plan on the integrity of the site***

Describe the elements of the project or plan (alone or in combination with other projects or plans) that are likely to give rise to significant effects on the Natura 2000 site (from screening assessment).

Describe how the project or plan will affect species and habitats which justify the site designation, and the implications for the site's conservation objectives (e.g. loss of habitat, disturbance to species, mortality risk of species, fragmentation, hydrological changes, etc.). Acknowledge uncertainties and any gaps in information.

Justify whether the integrity of the site will be affected by the project or plan or not. Acknowledge uncertainties and any gaps in information.

Describe what mitigation measures are to be introduced to avoid or reduce the adverse effects on the integrity of the site. Acknowledge uncertainties and any gaps in information. Outline monitoring foreseen.

##### ***Conclusion***

Justify whether the integrity of the site might or will be affected by the project or plan or certainly not (regarding the precautionary principle).

##### ***Sources for the elaboration of the AA***

##### ***Results of consultation***

Name of agency(ies) experts / or body(ies) consulted  
Summary of response

# Stage three: Derogation regime under Article 6(4) - Essential requirements

1. **Alternative** put forward for approval is the least damaging for habitats, for species and for the integrity of the Natura 2000 site(s), **regardless of economic considerations**, and that **no other feasible alternative exists** that would not adversely affect the integrity of the site(s);
2. There are **imperative reasons of overriding public interest**, including ‘those of a social or economic nature’;
3. All **compensatory measures** necessary to ensure that the overall coherence of Natura 2000 is protected **are taken**.

# Methods/guidelines

- **Identification and assessment of alternatives.** Examples of alternatives (from EC Opinions).
- **Determining IROPI.** Examples (from EC Opinions).
- **Identification, assessment and adoption of compensatory measures.**
  - guiding principles for setting compensatory measures (overall coherence of the network, proportionality, ecological functionality)
  - steps in the design of compensatory measures
  - time scales for compensation
  - differentiation of compensatory (Art. 6.4) from conservation measures (Art. 6.1)
  - evaluation of effectiveness and monitoring of compensatory measures.
  - Examples of compensatory measures.


# Assessment of alternatives

**Table 9 Assessment of alternative solutions matrix**

<i>Assessment of alternative solutions</i>		
The description and objectives of the project or plan		The 'do nothing' alternative
Predicted adverse effects of the project or plan on the Natura 2000 site following the appropriate assessment		
<i>Comparison with chosen project or plan</i>		
Possible alternative solutions	Evidence of how the alternative solutions were assessed	Describe the relative effects on the conservation objectives of Natura 2000 (greater or less adverse effects).
<i>Alternative locations/routes</i> <i>Alternative size and scale</i> <i>Alternative means of meeting objectives (e.g. demand management)</i> <i>Alternative methods (construction, operational, decommissioning)</i> <i>Alternative timescales</i>		
Alternative One		
Alternative Two		
Alternative Three		
.....		

*Conclusions on assessment of alternatives*

# Imperative Reasons of Overriding Public Interest

- Imperative: it must be **essential**, weighed in the context of the other elements below, that the plan or project proceeds
- Overriding: the interest served by the plan or project **outweighs** the harm (or risk of harm) to the integrity of the site as identified in the appropriate assessment
- Public interest: a **public benefit** must be delivered rather than a solely private interest.
-  If **priority habitat or species**: only considerations are human health or public safety, or beneficial for environment

# Compensatory measures

<b>Table 11. Types of compensatory measures suitable for Article 6(4)</b>	
<b>Compensatory Measure</b>	<b>Description</b>
Habitat restoration or enhancement in existing sites	Increasing the habitat area in the site concerned or restoring the habitat in another Natura 2000 site, in proportion to the loss due to the plan or project (except where a habitat should be restored according to the site conservation objectives )
Habitat recreation	Creating a habitat on a new or enlarged site, to be incorporated in the Natura 2000 network
Designation of a new site with implementation of management measures	Designating a new Natura 2000 site and implementing the appropriate accompanying measures (management plan and conservation measures)
Species reintroduction, recovery and reinforcement, including reinforcement of prey species	Reintroduction of species into sites where the species have disappeared (provided the scientific soundness of such a re-introduction). Re-stocking species populations in areas where they are declining.
<b>Accompanying measures</b>	<b>Description</b>
Land purchase	Acquiring an area of land for nature conservation and establishing the necessary conservation measures.
Rights acquisition for nature conservation	Acquiring management rights over an area of land or sea and establishing the conservation measures needed.
Reserve creation	Setting restrictions in the use of an area of land or sea.
Reduction of threats	Reduction in (other) threats, usually to species, either through action on a single source or through co-ordinated action on all threat factors.



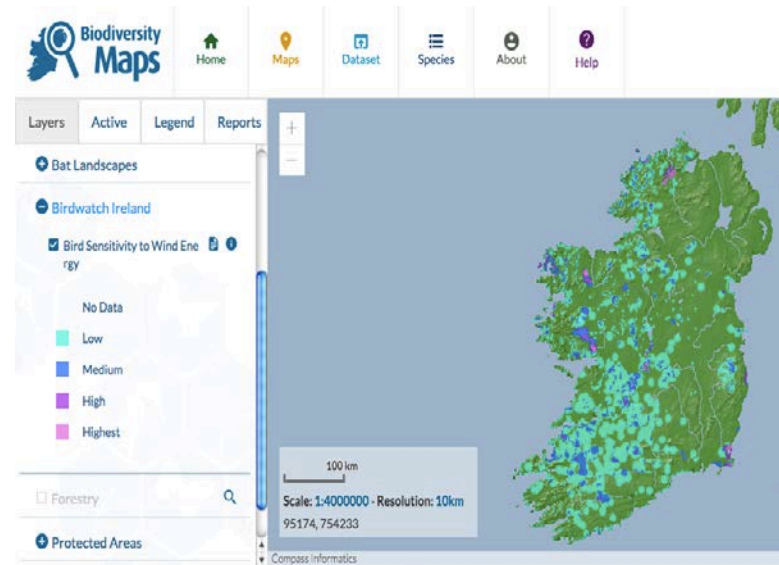
**Table 14. Key elements to assess effectiveness of compensatory measures**

<b>Location</b>	Must allow maintaining the overall coherence of the Natura 2000 network.
	Must have - or must be able to develop - the specific features, structure and functions that require compensation according to the AA.
	Must give proper consideration to qualitative ecological aspects such as the uniqueness of the assets impaired.
	Is determined by a careful analysis of local ecological conditions to ascertain the feasibility of compensation as close as possible to the area affected by the plan or project.
	Must be within the same biogeographical region or within the same range, migration route or wintering area for bird species.
<b>Extent</b>	Must be determined by: <ul style="list-style-type: none"><li>- the extent of negative effects of the plan or project on key features and ecological processes;</li><li>- scientific evidence of the feasibility of the measures for achieving the expected results for maintaining the overall coherence of the network.</li></ul>
	Is best set case-by-case, according to the information generated in the Appropriate Assessment under Article 6(3).
	Is initially set with the aim to outweigh the worst-case scenarios of likely adverse effects.
	Is ascertained by monitoring and reporting on ecological functionality outcomes.
<b>Timing</b>	Must ensure the continuity of the ecological processes essential for maintaining the structure and functions.
	Considers the coordination required between the implementation of the plan or project and the implementation of the compensatory measures.
	Is determined by the time required for habitats to develop and/or for species populations to recover or establish in a given area.
	Must include legal safeguards required for long-term implementation and the protection, monitoring and maintenance of the sites.
	May require the application of specific measures to outweigh interim losses that would occur until the conservation objectives are met.
	Requires establishing complete monitoring programmes for the assessment of the success of compensation.



# Strategic planning and appropriate assessment of plans

- **Strategic spatial planning** over a broad geographical area is the most effective way of minimising the impacts on nature and **reduces the risk of difficulties and delays** at level of individual projects.
- Approaches to undertaking the AA of plans
- Identifying suitable locations
  - **Sensitivity mapping**
- Consultation and dialogue
  - Nature and other authorities
  - NGOs, stakeholder groups and the public (SEA – required)



# Streamlining environmental assessments (EIA / SEA / HD)

Opportunities and benefits of streamlining EIA/SEA and AA:

- more efficient use of resources needed to carry out the assessments
- better coordination in permitting procedures, etc.
- understand relationships between different environmental factors.
- cooperation between authorities and experts for the EIA/SEA and the AA (sharing information, etc.)

Specificities and differences in the EIA and AA procedures:

- **Binding results of the AA**
- Consideration of “significant adverse effects”, “mitigation and compensation” ...

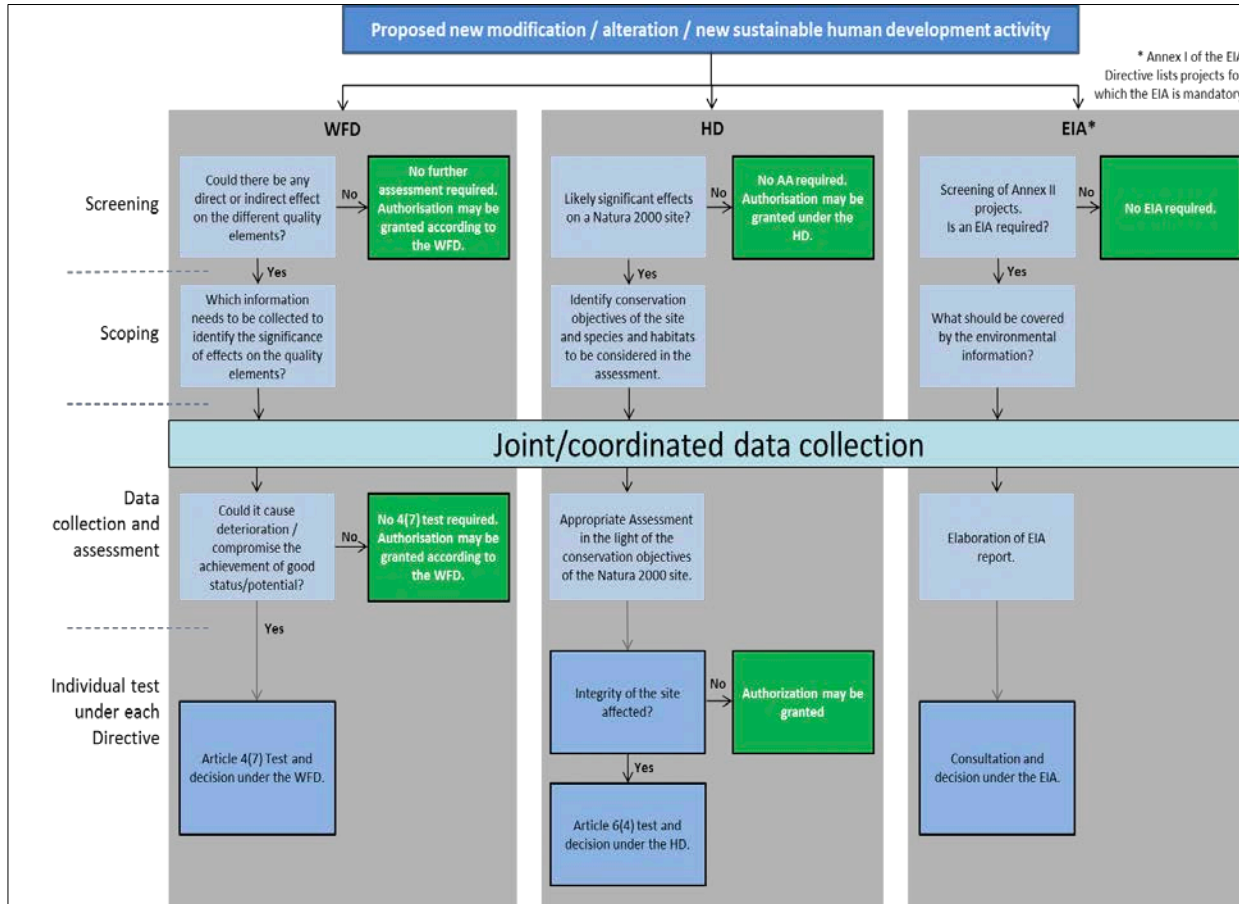
# Streamlining environmental assessments

## WFD / HD / EIA

- Assessments under the WFD (Article 4.7) coordinated or integrated with the Article 6(3) procedure
- WFD requires assessing **the effects of new developments on water bodies.**
- Art. 4(7) of allows **exemptions – approval of developments that result in the deterioration of the status of the water body** or prevent the achievement of GES
- Art. 4(8) – when applying article 4(7) of the WFD, MS must ensure consistency with the implementation of other EU environmental legislation.
- Where a project is granted a derogation under Article 4 of the WFD, it must comply with Article 6(3) & (4) of the Habitats Directive where they apply.
- If the development potentially affects both a WFD objective and a Natura 2000 site then both the Article 4(7) procedure under the WFD and the assessment procedure under Article 6.3 of the Habitats Directive must be undertaken (ideally in a coordinated or integrated manner).

# Streamlining environmental assessments

## WFD / HD / EIA



## **ANNEX**

### **Examples of national approaches, methods, tools & guidelines**

#### **SCREENING AND APPROPRIATE ASSESSMENT**

- Information and practical tools to support the screening and the Appropriate Assessment
- Guidance for assessment of different types of projects and impacts in some countries

#### **IMPERATIVE REASONS OF OVERRIDING PUBLIC INTEREST (IROPI)**

- Guidance for determining IROPI

#### **COMPENSATORY MEASURES**

- Examples of compensatory measures under Article 6(4)
- Time-related aspects of compensation measures

#### **LINKS BETWEEN ENVIRONMENTAL ASSESSMENT PROCEDURES: AA, EIA, SEA**

- Comparison of procedures under Appropriate Assessment, EIA and SEA

#### **STRATEGIC PLANNING - ASSESSMENT OF PLANS**

- Planning of highways in Austria
- Strategic planning of new hydropower developments in the Danube
- Spatial plan for offshore wind farms and grid connections in the German North Sea EEZ

# Thank you!

For more information:

Management of Natura 2000 sites

[http://ec.europa.eu/environment/nature/natura2000/management/guidance\\_en.htm](http://ec.europa.eu/environment/nature/natura2000/management/guidance_en.htm)

[Guidance documents in all EU official languages](#)

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## Management of Natura 2000 sites

### Links between the Nature Directives and Water Framework Directive, Marine Strategy Framework Directive and Floods Directive

- Frequently Asked Questions on links with the Water Framework Directive
- Frequently Asked Questions on links with the Marine Strategy Framework Directive
- Case studies on synergies between WFD, MSFD and Nature Directives
- Starter Guide : Overview of the main provisions of the WFD, MSFD, the Birds and Habitats Directives, and the Floods Directive: similarities and differences

### Commission notes

- Designation of Special Areas of Conservation (SACs)
- Starting conditions for designating Natura 2000 sites
- Designation of Special Areas of Conservation (SACs)

### Article 6.3 permit procedure - implementation

The Commission has funded a fact finding study to gather and review information on the procedural nature, extent and significance of the problems and burden associated with the Article 6.3 permitting procedure and to formulate recommendations for improving the efficiency of the procedure. The final report provides a first step ahead of how Article 6.3 operates in different parts of the EU. It also offers a wide range of good practice techniques and examples that have been used up to now to improve the efficiency of the procedure. The final report is accompanied by a more in-depth analysis of a number of case studies on the practical implementation of Article 6.3 under a range of different circumstances.

- Final report (Dec 2013) - summarising the findings of the study
- Case studies completion report (Dec 2013) - in depth analysis of 12 case studies

### Guidance

#### Article 6 - Managing and protecting Natura 2000 sites

Article 6 is one of the most important articles in the Habitats Directive as it defines how Natura 2000 sites are managed and protected.

**Paragraphs 6(1) and 6(2)** require that, within Natura 2000, Member States:

- Take appropriate conservation measures to maintain and restore the habitats and species for which the site has been designated to a favourable conservation status;
- Avoid damaging activities that could significantly disturb those species or deteriorate the habitats of the protected species or habitat types.

**Paragraphs 6(3) and 6(4)** lay down the procedure to be followed when planning new developments that might affect a Natura 2000 site. Thus:

- Any plan or project likely to have a significant effect on a Natura 2000, either individually or in combination with other plans or projects, shall undergo an **Appropriate Assessment** to determine its implications for the site. The competent authorities can only agree to the plan or project after having ascertained that it will not adversely affect the integrity of the site concerned (Article 6.3)
- In exceptional circumstances, a plan or project may still be allowed to go ahead, in spite of a negative assessment, provided there are no alternative solutions and the plan or project is considered to be justified for imperative reasons of overriding public interest. In such cases the Member State must take appropriate compensatory measures to ensure that the overall coherence of the Natura 2000 network is protected (Article 6.4)

#### Article 6 - General Commission Guidance

##### ESTABLISHING CONSERVATION MEASURES FOR NATURA 2000 SITES

- A review of the provisions of Article 6.1 and their practical implementation in different Member