



# Managing Natura 2000 sites

## The provisions of Article 6 of the Habitats Directive

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## Upravljanje območij Natura 2000

Določbe člena 6  
direktive 92/43/EGS o habitatih

[https://ec.europa.eu/environment/nature/natura2000/management/docs/art6/SL\\_art\\_6\\_guide\\_jun\\_2019.pdf](https://ec.europa.eu/environment/nature/natura2000/management/docs/art6/SL_art_6_guide_jun_2019.pdf)

# EU Birds and Habitats Directives: two pillars of protection

- **Natura 2000 sites**

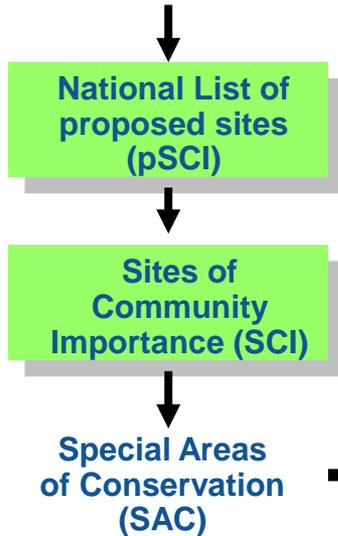
For habitat types listed in **Annex I** and species listed in **Annex II** of the Habitats Directive, and birds listed in **Annex I** (+ migratory bird species) of the Birds Directive, **Natura 2000 sites need to be designated and managed** to ensure that these features can be maintained or, where appropriate, restored at a **favourable conservation status**.

- **Strict protection of species**

For species listed in Annex IV HD and all wild birds **a strict protection regime** must be applied **across their entire natural range** in the EU (both within and outside Natura 2000 sites).

# Natura 2000: European network of protected areas

## HABITATS DIRECTIVE



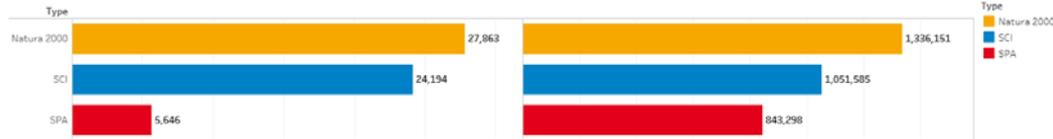
## BIRDS DIRECTIVE



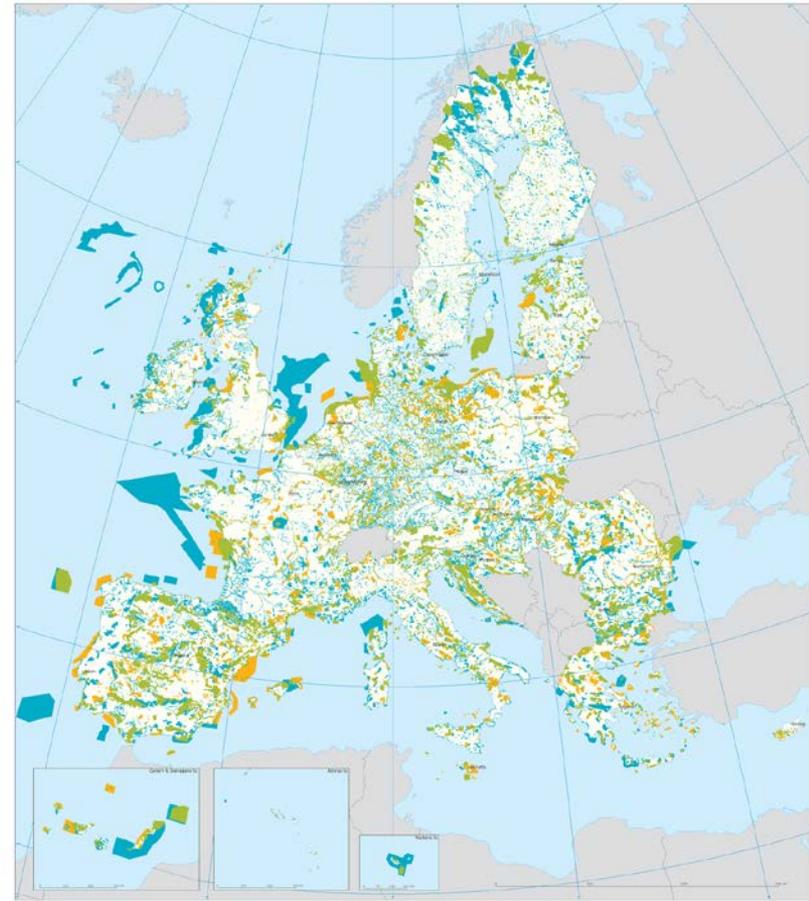
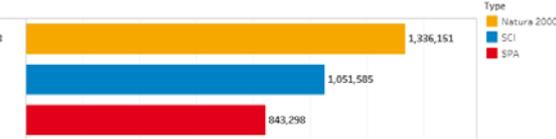
# Natura 2000 network - state of play

- The largest coordinated network of protected areas in the world
- 28 countries – one network, same rules
- Almost 28 000 sites, 1 336 151 km<sup>2</sup>
- Over 18% of EU land territory + 10% of EU marine area

Number of Natura 2000 sites



Natura 2000 total area km<sup>2</sup>

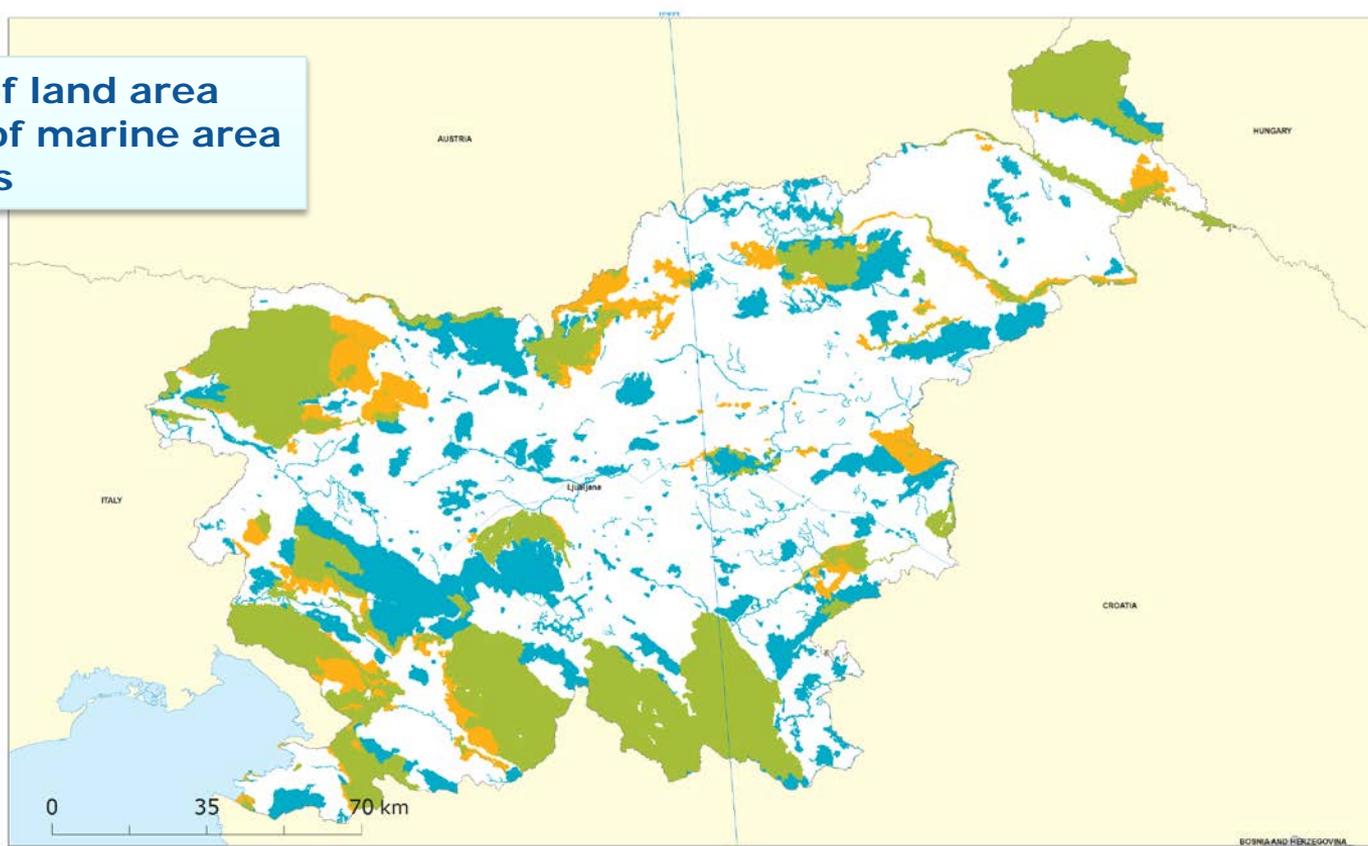


**NATURA 2000 - EUROPEAN UNION**  
 Yellow: Birds Directive sites (SPA)  
 Blue: Habitats Directive sites (SCI, SCS, SAC)  
 Green: Sites - or parts of sites - belonging to both Directives

European Environment Agency



37,8% of land area  
10 km<sup>2</sup> of marine area  
355 sites



### Natura 2000 – Birds and Habitats Directive Slovenia

Site type

 Birds Directive sites SPA

 Habitat Directive sites pSCI, SCI, SAC

 Sites – or parts of sites – proposed or designated under both Directives

 Lakes

 Rivers



European Environment Agency



Source:  
- Natura 2000 - DG ENV, compiled from databases from the Member States,  
- © EuroGlobeMap - meteo-graphica,  
- Settlements - ICG-IGP/AT,  
Variants of Natura 2000 data for Slovenia. National dataset provided 2013.  
Projection: Lambert Azimuthal Equal Area.

# Objectives of both Directives for Natura 2000

- ❖ avoid disturbance the species and/or deterioration of habitats for which the site has been designated;
- ❖ maintain and restore those habitats and species to a favourable conservation status in their natural range



**The ultimate objective is to ensure that the species and habitats reach favourable conservation status**



European  
Commission

# Key protection principles of Natura 2000

- Conserves species and habitats **across entire natural range in EU**, irrespective of political boundaries
- Selects sites using **the same scientific criteria**
- Offers **strong legal protection** but has **high flexibility and subsidiarity** provisions
- Works **in collaboration** with land owners and users
- Natura 2000 is as much a network for nature as it is a **network for and of people!**
- Supports **sustainable development**: a good tool to avoid unnecessary damage to our valuable natural heritage
- **Integration and cooperation** with other sectors is needed
- Cooperation **between different administrations and stakeholders** is important

[http://ec.europa.eu/environment/nature/natura2000/faq\\_en.htm](http://ec.europa.eu/environment/nature/natura2000/faq_en.htm)

# Natura 2000 management framework



- Strong legal basis
- Stakeholders involved
- Precautionary principle

## Conservation measures -Art. 6(1) HD\*

- Conservation measures which correspond to the **ecological requirements** of habitats and species

## Avoid deterioration -Art. 6(2) HD

- **Avoid the deterioration of habitats** of species as well as **disturbance of the species**

## Appropriate assessment of plans and projects -Art. 6(3) HD

- **Plan or projects** approved only after having ascertained that **they will not adversely affect** the integrity of the site

\* Applies to SACs but equivalent provisions exist for SPAs under BD

# Article 6 of the Habitats Directive

1. For special areas of conservation, Member States shall establish the **necessary conservation measures** involving, if need be, 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.

# Article 6(1)

- It applies to **SACs**
- It requires **the adoption of the necessary conservation measures**
- Goal: to maintain / restore FCS

Commission notes on establishing conservation objectives and measures (all languages)  
[http://ec.europa.eu/environment/nature/natura2000/management/guidance\\_en.htm](http://ec.europa.eu/environment/nature/natura2000/management/guidance_en.htm)

# Article 6 of the Habitats Directive

2. 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.

# Article 6(2)

- It applies
  - To **SCIs**, as soon as they are put on the list
  - To **SACs**
  - To **SPAs**, as from the entry into force of Directive 92/43/CEE (before this date Article 4(4) of Directive 79/409/CEE applies)
- Obligation of general protection - on-going in nature – preventive measures
- Margin of discretion for competent authorities in application
- It is also applicable to activities not requiring authorisation
- It is also applicable to natural developments
- It is also applicable to the implementation of projects authorised before Article 6(3) was applicable
  - It might require a subsequent review – if so, it should be in line with Article 6(3)

# Article 6 of the Habitats Directive

3. 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.

# Article 6 of the Habitats Directive

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 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.

# Article 6(3) - “Appropriate assessment”

- Birds and Habitats Directives provide clear framework within which appropriate decisions can be taken
- The «appropriate assessment» is a key tool of Habitats Directive in ensuring **sustainable development** and **nature protection**
- Economic development **compatible** with Natura 2000
- **Precautionary principle** applies
- Guidelines and standards very important in helping ensure quality and consistency of assessments
- No ‘a priori’ prohibition of new activities or developments - **judged on ‘case by case’ basis**

# Article 6(3) - “Appropriate assessment”

- Triggered by the **likelihood** of significant effects (“screening”)
- Assessment focusing on **conservation objectives** of the site on the basis of habitats/species for which it has been designated.
  - Consider **cumulative effects**
  - **Mitigation measures** form integral part of the process
- Competent authorities have key responsibility - authorisation if certainty exists, without any reasonable scientific doubt, that the plan or project will not affect the integrity of the site
- Practitioners need to have **necessary expertise** for delivery of assessments
- Value of **strategic approach and integrated planning** (e.g. spatial planning)
- AA process can be combined with EIA/SEA process but with different focus/implications

# Article 6(3)

- It applies
  - To **SCIs**, as soon as they are put on the list
  - To **SACs**
  - To **SPAs**, as from the entry into force of Directive 92/43/CEE (before this date Article 4(4) of Directive 79/409/CEE applies)
- It provides the **same level of protection as Article 6(2)**
- It is a two steps procedure - triggering if there is the **mere probability** that the plan or project will have significant effects on the site – **in case of doubt, AA should be done!**
- It has to be read in light of **the precautionary principle**

# Article 6(3)

- It implies that competent authorities might only authorise a plan or project after having ascertained that it will **not adversely affect the integrity of that site – no reasonable doubt remaining** (at the time of adoption of the decision)!
- Based on **best available scientific knowledge**, no lacunae, complete!
- Only protective measures aiming at **avoiding or reducing** the impact on the site can be considered
- **Compensation measures cannot be taken into account**, e.g. future creation/restoration of habitats
- It also applies to activities repeated for several years (e.g. licenced yearly)
- Application of Article 6(3) renders superfluous the application of Article 6(2)

# Article 6(3)

- **Significant effect** on the site is linked to the **conservation objectives**
- Not important if plans/projects are inside or outside the site – even long distances (e.g. rivers)!
- No general exemptions from categories of projects
- No exemption for plans or projects adopted through legislative procedure
- All aspects of the projects should be taken into account
- **Cumulative impacts** – including from projects authorised before transposition of the Directive
- Ex-post monitoring not sufficient to ensure compliance with Article 6(3)

# Article 6(4)

- It applies
  - To **SCIs**, as soon as they are put on the list
  - To **SACs**
  - To **SPAs**, as from the entry into force of Directive 92/43/CEE (before this date Article 4(4) of Directive 79/409/CEE applies)
- It is an **exception** to the rule – must be interpreted **strictly**
- **Absence of alternatives** must be demonstrated
- It can only be applied **after** appropriate assessment
  - Assessment of IROPI against damage caused
  - Nature of compensation measures
- **Compensation** aims to protect the overall coherence of the network (measures can be implemented inside or outside the affected site)

# Typical problems encountered with applying Article 6(3)/6(4)

- Trying to **avoid** Art 6.3. AA - inappropriate screening, non-respect of the precautionary principle
- Wrong interpretation of 'necessary for the management of the site', e.g. no AA of forest management plans
- No assessment or inappropriate assessments:
  - e.g. no AA on projects outside Natura 2000 but which affect Natura 2000 nearby or downstream
  - effects on species or habitats not well assessed, poor expert input
  - lack of consideration of cumulative impacts (salami slicing)
- Mixing-up **mitigation and compensation** measures

# Typical problems encountered with applying Article 6(3)/6(4)

- Trying to avoid going to Art 6.4.
- Negative results of assessments not respected
- No/insufficient alternatives considered
  - Economic arguments only are not enough
  - Best alternatives are not assessed on purpose so as to stick to old plans
  - Zero alternative not assessed
- No real IROPI
- No or inadequate compensation measures
  - Restoration takes time, so more than 1:1 in size expected
  - Using normal management measures such as restoration of existing sites as compensation



**Thank you!**

More information:

[http://ec.europa.eu/environment/nature/index\\_en.htm](http://ec.europa.eu/environment/nature/index_en.htm)