

## COMMISSION NOTE ON ESTABLISHING CONSERVATION MEASURES FOR NATURA 2000 SITES

The purpose of this note is to provide guidance to assist Member States in establishing conservation measures for Natura 2000 sites. It complements the Commission notes on “[Designation of Special Areas of Conservation \(SACs\)](#)” and “[Setting conservation objectives for Natura 2000 sites](#)”, and should be read in conjunction with those documents.

### 1. What does the Habitats Directive require?

Article 1 1) of the Habitats Directive states that: **Special Area of Conservation (SAC)** means a site of Community importance designated by the MS through a statutory, administrative and/or contractual act **where the necessary conservation measures are applied** for maintenance or restoration, at a favourable status, of the natural habitats and/or the populations of species for which the site is designated.

Article 6(1) establishes a **general conservation regime** that must be established by the Member States **for all special areas of conservation (SAC)** and which applies to all the natural habitat types of Annex I and the species of Annex II present on the sites, except those identified as non-significant in the Natura 2000 Standard Data Form.

*Article 6(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”*

Often this will require the implementation of positive and pro-active measures which aim to contribute to achieving the general objective of the Directive. In that regard, Article 6.1 is distinguished from the three other paragraphs of Article 6, which focus instead on preventive measures to avoid deterioration, and significant disturbance (Article 6.2) and procedural safeguards to deal with plans and projects that may have significant effects on the Natura 2000 sites (Articles 6.3 and 6.4).

Article 6.1 concerns the SACs specifically, it does not apply to the Special Protection Areas (SPAs)<sup>1</sup>, unlike Article 6 paragraphs 2, 3 and 4, which also apply to areas designated under the Birds Directive. However, Articles 4.1 and 4.2 of the Birds Directive introduce a similar approach for the management of SPAs to that set out in Article 6.1, requiring that Member States ensure the species mentioned in Annex I and

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<sup>1</sup> A regime laying down special conservation measures for the SPAs classified under the ‘Birds’ Directive, is set in Art. 4, paragraphs 1 and 2 of the Birds Directive.

regularly occurring migratory bird species are subject to special conservation measures concerning their habitat in order to ensure their survival and reproduction in their area of distribution. This means that SPAs are subject to a similar protection regime as SACs.

**The implementation of Article 6(1) is not optional: the necessary conservation measures must be established for all SACs.**

#### **Legal interpretation as regards article 6.1**

In Case C-508/04 the Court of Justice has stated that a Member State cannot escape from taking all the necessary conservation measures in Natura 2000 sites. *“It is apparent from Article 6(1) of the Directive that the ‘necessary conservation measures’ must be adopted in all cases, and not ‘if need be’. In Article 6(1) the words ‘if need be’ concern only management plans and cannot be understood as a general restriction on the obligation to adopt the necessary statutory, administrative or contractual measures....*

*The Directive requires the adoption of necessary conservation measures, a fact which excludes any discretion in this regard on the part of the Member States.... Moreover, 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 fulfilment of the obligations owed by the Member States in the context of transposition of a directive”.*

## **2. What is meant by conservation measures?**

According to Article 6.1, conservation measures in SACs must correspond to the ecological requirements of the natural habitat types in Annex I and the species in Annex II present on the site. The **ecological requirements** involve all the ecological needs, including both abiotic and biotic factors, which are deemed necessary to ensure the conservation of the habitat types and species, including their relations with the physical environment (air, water, soil, vegetation, etc.).

These requirements rest on scientific knowledge and should be defined on a case-by-case basis, which means that the ecological requirements can vary from one species to another within a site but also for the same species from one site to another. It is however not necessary to establish specific conservation measures for species or habitat types whose presence on the site is considered non-significant according to the Natura 2000 Standard Data Form<sup>2</sup>.

The necessary conservation measures in a Natura 2000 site should be related to the **conservation objectives** of the site. Site level conservation objectives define the desired condition or state of the species and habitat types present on the site. This should be established in function of the degree of conservation of each species and habitat type significantly present at the time of designation as Site of Community Importance (SCI), as recorded in the standard data form. The SDF uses three criteria (representativity, relative surface and degree of conservation for habitat types, population, degree of

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<sup>2</sup> i.e. all species indicated as having an insignificant population size and density in relation to the populations present within the national territory, habitat types indicated as having an insignificant representativity (category D).

conservation and isolation for species) to determine the global assessment of each species and habitat type present within that particular site<sup>3</sup>.

The conservation objectives for the site will be to either maintain (if they are already in good condition) or improve the condition of the species/Habitats types present on that particular site. In this way every site can contribute in the best possible way to achieving favourable conservation status at the appropriate (national biogeographic) level, taking into account the natural range of the respective species or habitat types.

Once the conservation objectives are defined for a Natura 2000 site, there is some flexibility **in defining and establishing the conservation measures**, and **possible alternatives can be considered** also taking into account other socio-economic activities in the sites.

Conservation measures are the actual mechanisms and actions to be put in place for a Natura 2000 site with the aim of achieving the site's conservation objectives.

### **3. When are the necessary conservation measures to be established?**

Member States must **designate** SCIs as Special Areas of Conservation (SAC) and **apply the necessary conservation measures** required under Article 6.1 **within six years** of the site being adopted as a Site of Community Importance (SCI) by the Commission (in accordance with article 4.4 of the Habitats Directive). SAC designation triggers the implementation of Article 6.1 and it can be understood from this that the six year period between the adoption of SCI and designation of the site as an SAC is foreseen to be used to establish the necessary conservation measures so that they are ready to be implemented once the sites are designated as SACs. It is therefore advisable that Member States start identifying the necessary conservation measures well before this deadline.

This was confirmed by the Macaronesia case (C-90/10) which found that a Member State had failed to fulfil its obligations “*by failing to adopt and apply, in accordance with Article 6(1) and (2) of Directive 92/43/EEC, the appropriate conservation measures and a protection system to prevent the deterioration of habitats and significant disruption to species, ensuring the legal protection of the special areas of conservation corresponding to the sites referred to in the Decision 2002/11/EC*”, which had approved the SCI Community list more than six years ago.

Later on, the conservation measures for Natura 2000 sites may be revised or adjusted taking into account new relevant knowledge achieved or any possible changes in the status of the habitat types and species concerned.

### **4. Ways to implement article 6.1**

According to the Provisions of Article 6.1 of the Habitats Directive, the necessary conservation measures involve:

- *if need be, appropriate management plans specifically designed for the sites or integrated into other development plans, and*

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<sup>3</sup> See new reporting guidelines and Standard Data Form:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32011D0484:EN:NOT>

- *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”.*

The choice is left to the Member States, in line with the principle of subsidiarity. The Directive sets out the objectives to be achieved and the provisions that need to be applied but in the case of Article 6.1 leaves it up to the Member States to decide how to apply these provisions in practice. Often, the different options referred to in Article 6.1 are used in combination for the management of Natura 2000 sites.

### Management Plans

Management Plans are widely used in the EU countries. Although management plans for Natura 2000 sites are not an automatic requirement under the Habitats Directive, these plans seem to be a preferred option for most Member States and are even considered obligatory in many of them.

In general, management plans at site level are used to formulate the site’s conservation objectives together with the measures necessary to attain these objectives. Management plans are often used as a tool to guide managers and other interested parties in dealing with the conservation of Natura 2000 sites, and to involve the different socio-economic stakeholders and authorities in implementing the necessary conservation measures that have been identified.

Management plans are a useful tool for ensuring the implementation of Article 6.1 provisions is done in a clear and transparent way, enabling all stakeholders to be informed about what Natura 2000 sets out to achieve and engaging their active participation in this discussion. Management plans may also help identifying the funding for the measures and achieving better integration into other plans.

Management plans can be stand-alone documents or can also be ‘integrated into other development plans’, in conformity with the principle of integration of the environment into other EU policies. In the case of an integrated plan, it is important to ensure that clear targets and conservation measures are set for the relevant habitats and species present on the site.

Different types of management plans are currently used in the Member States in Natura 2000 sites:

- Management plans for individual sites or for a group of sites.
- Sectoral management plans, which set conservation objectives and specific measures for Natura 2000 sites which are relevant to that particular sector e.g. on forestry, agriculture, water, etc.

It must however be noted that existing management plans for other protected area categories (e.g. National or Natural Parks, etc.) are not always sufficient to address the management of Natura 2000 sites and should therefore be adapted to reflect the specific conservation objectives to be pursued in these sites in function of the species and habitat types of Community interest present. Furthermore, the boundaries of other types of protected area and those of the Natura 2000 site may not be coincident.

## Statutory, administrative and contractual measures

Among **statutory, administrative or contractual measures**, a variety of measures may be considered appropriate to achieve the conservation objectives established for each site. Often this involves active management but, in some cases, it can also involve more passive pre-emptive measures (e.g. non-intervention management). On the other hand, these measures are not necessarily new measures, since existing measures can also contribute to achieve the conservation objectives of the site.

- *Statutory measures usually* follow a pattern laid down in procedural law and can set specific requirements in relation to activities that can be allowed, restricted or forbidden in the site.
- *Administrative measures* can set relevant provisions in relation to the implementation of conservation measures or the authorisation of other activities in the site.
- *Contractual measures* involve establishing contracts or agreements usually among managing authorities and land owners or users in the site.

Among the measures involving positive actions, agri-environmental or sylvi-environmental measures serve as a good example to illustrate how socio-economic requirements can be taken into account when establishing agreements which benefit Natura 2000 sites.

Agri-environmental agreements with farmers within the Rural Development Regulation can be used as a contractual measure aiming at maintaining or improving the conservation status of certain habitat types (e.g. meadows, pastures) and species across a suite of sites. Sylvi-environmental measures can also be used to establish contracts and agreements with forest owners on the management of the forest to favour the conservation of habitats and species.

In view of the wide range of possibilities available for establishing the necessary conservation measures, there may also be a need to use other kinds of contracts and agreements and other types of specific measures, including voluntary conservation measures.

## **5. Key elements to consider in establishing the necessary conservation measures**

Guidance about the formulation of conservation measures as well as for conducting the management planning process in Natura 2000 sites is available in many countries. Some of the key elements to consider are presented below.

### Sound information base

In order to define and establish adequate and feasible conservation measures, it is necessary to have a sound information base on the existing conditions in the site, on the species and habitats status and the main pressures and threats that can affect them, the existing land uses and stakeholders interests, etc.

The main land uses and activities that can influence the conservation status of relevant habitats and species should be identified as well as the identification of all **relevant stakeholders** that need to be involved or consulted in the management planning process. This analysis allows considering potential conflicts and possible ways and means to solve them.

It is useful to identify and map the precise location of the key natural features (habitat types and species) and the existing and planned socio-economic activities in the site. These maps are useful to discuss with stakeholders about the site management needs.

An overall objective when preparing the conservation measures should be to achieve integrated management of the sites, which means taking into consideration all relevant interests of stakeholders and seeking to integrate those as far as possible with the achievement of the conservation objectives.

### Participation, consultation and communication

Public **participation** in planning and preparing the conservation management of a Natura 2000 site that allows for taking into account the views of the people that live and work or use the site, can provide an excellent opportunity to create a social atmosphere more favourable to environmental conservation.

The likelihood of success will be greatly enhanced if the different stakeholders are engaged in and committed to the management of the site. Participation can be carried out **throughout the process of management planning** with the relevant management instrument made available for public consultation prior to its eventual approval and publication. **Early consultation and involvement of stakeholders** from the first stages usually requires a multidisciplinary and professional approach.

Appropriate communication with all relevant stakeholders will make them aware of the importance of participating in the process and the role they can play. It is important to **communicate the conservation objectives for the site to all relevant stakeholders** at an early stage in the process, informing about the importance of the site for the conservation of certain habitats and species in a clear manner that can be easily understood by people living in or using the area, to help them understand the importance of taking steps to ensure proper management of the site and involve them in the process.

Current good practice in many EU MS involves ensuring the active contribution of all relevant stakeholders, e.g. through setting up **steering groups or committees** to develop conservation management. These steering committees usually involve the local authorities concerned and representatives of the land owners, users and main operators in the Natura 2000 site.

Organizing effective public consultation requires an **efficient organization of the process and the collaboration of different policy levels**, as well as **sufficient staff and budget** and **using effective communication tools and means**. In order to help ensure that different stakeholders, especially those not involved directly with environmental management, understand well the legal environmental obligations, the proposed conservation objectives and measures for each site, as well as the opportunity which the appropriate management of the site might entail, it may also be necessary to provide **well targeted training and information opportunities** and – if need be in some cases - effective conflict resolution methods. This will make it easier to reach agreements on management issues.

It has proven to be of great added value when the process of the development of conservation measures, stakeholder participation and – in some cases – conflict resolution is facilitated by a specifically appointed **"site champion"**, who can be appointed and/or financially supported by the responsible administration, but can also be from the main land owner, local authorities, a local NGO or other stakeholders. This

function can also be combined with the role to overview or facilitate implementation of the measures.

#### Defining the necessary conservation measures

**Conservation measures should be defined with sufficient level of detail** to facilitate their implementation (who does what, when and how) and to avoid possible conflicts that may result from a lack of clear information. The conservation measures for the site **must also be realistic, quantified and manageable**. The language used when describing the conservation measures should aim to be clear in order to make them widely understandable.

The definition of conservation measures requires an **appropriate level of technical expertise** to allow the consideration of a range of possible measures for achieving the site objectives, identifying those which are essential and those for which there are **various alternative options for implementation**, so that local interests can adapt these measures within the overall limits of the plan. The precise location and a description of the means and tools required for their implementation should be provided. This is best achieved by a **work plan** that indicates the time of implementation and assigns the roles and responsibilities for those involved in their implementation. Such a work plan would need to be flexible enough to allow its review and adaptation as required, e.g. on the basis of the results of the measures already implemented. It is important also to set a **timeline** to review the conservation measures taken, in terms of their suitability for, and progress towards, achieving the conservation objectives, in order to check appropriateness, measurability and implementation.

#### Resources for implementation. Cost and benefits estimates and identification of possible financial instruments

If possible, the resources needed to implement the conservation measures should be considered in any management instruments for Natura 2000 sites, including information about estimated costs for implementation and monitoring of all the planned activities, administration, compensation payments, etc. Just as important as the financial resources are the human resources. Proper management of Natura 2000 sites requires people with appropriate skills among those involved in designing and implementing the measures. This information is also important to allocate funds from different possible sources and support schemes.

In addition to providing a clear basis to achieve conservation objectives the establishment of conservation measures for Natura 2000 can also provide important benefits to society and the economy by ensuring the continued flow of vital ecosystem services<sup>4</sup>. The network is a major store of carbon rich habitats and has an important role to play in responding to the challenges of climate change, both through mitigation and adaptation<sup>5</sup>. It also delivers other socio-economic benefits such as maintaining water flow and quality, conserving natural pollinators, preserving landscape and amenity values, and supporting tourism and recreation. Therefore, there needs to be full regard to the multiple benefits that flow from investing in Natura 2000.

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<sup>4</sup> European Commission (2013). The economic benefits of the Natura 2000 network. [http://ec.europa.eu/environment/nature/natura2000/financing/docs/ENV-12-018\\_LR\\_Final1.pdf](http://ec.europa.eu/environment/nature/natura2000/financing/docs/ENV-12-018_LR_Final1.pdf)

<sup>5</sup> European Commission (2013) Guidelines on climate change and Natura 2000. [http://ec.europa.eu/environment/nature/climatechange/index\\_en.htm](http://ec.europa.eu/environment/nature/climatechange/index_en.htm)

An evaluation of costs and benefits linked to the implementation of Natura 2000 sites is only possible if the management is properly planned. The importance of socio-economic factors should be properly identified for each site, if the relevant information is available. The sectors of economic activity and their relations and interactions with the natural environment should be analysed to allow determining possible costs and benefits arising out of the site management. This can also be useful to determine the actual need for financial support and make available the relevant support mechanisms, payments for services provided, etc.

### Effective implementation and communication

Once the conservation measures are developed, there should be some mechanism to ensure their effective implementation. Member States must be able to demonstrate that they have introduced the necessary conservation measures in the sites, and there must be some evidence that they are not just established but also implemented. Member States must report every six years about the conservation measures taken in Natura 2000 sites (according to article 17 of the Habitats Directive, see below).

Some Member States make management plans and conservation measures legally binding. As regards communication and information, the conservation measures established for the sites – or, if they contain commercially or other sensitive and private information a public summary of them - should be transparently available for the general public (e.g. on websites or official registers) as a source of information for all people who live in the area and are affected by the designation.

## **6. Monitoring, evaluation and review of conservation measures**

Monitoring activities in Natura 2000 sites in relation to the proposed conservation measures should have two purposes:

- to assess the actual implementation of the planned conservation measures and their effectiveness in meeting the conservation objectives for the site;
- to assess the impact of the measures on the degree of conservation of target habitats and species present at the site.

The monitoring mechanisms should include measurable and clearly verifiable objectives, and could include a system of indicators to facilitate the follow-up and evaluation of results. Monitoring and surveillance activities are referred to in the Habitats Directive (articles 11 and 17). Article 17.1 requires Member States to provide information concerning the conservation measures referred to in Article 6.1 as well as an evaluation of the impact of those measures.

Monitoring programmes to assess the conservation status of habitats and species of EU interest are currently under way in many Member States. According to the guidelines for the implementation of article 17, the assessments must be made in every country at the biogeographical level, considering their whole distribution area. However, as regards the review of management plans and measures, it should be carried out within an appropriate timeframe to allow adapting the site management to possible changes, taking into account the conservation objectives and the type of measures and circumstances in each Natura 2000 site.