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**REPORT FROM THE COMMISSION**

**on the implementation of the Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora**

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## **REPORT FROM THE COMMISSION**

### **on the implementation of the Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora**

#### **Part I Composite Report on Overall Progress Achieved**

##### **1. INTRODUCTION**

###### **1.1. Background to this report**

Biological diversity, essential for the maintenance of life on Earth, is being lost on a global level at a rate higher than at any other time in the past, according to the UNEP's Global Biodiversity Assessment. The same document states that in some EU Member States up to 24% of the species of certain groups such as butterflies, birds and mammals are presently extinct.

In its own assessment of the situation, the European Environment Agency (EEA) concluded that this decline of biodiversity in the EU was due mostly to highly intensive, partially industrial forms of agricultural and silvicultural land use, an increased fragmentation of remaining natural habitats by infrastructure and urbanisation, exposure to mass tourism and pollution of water and air. The EEA concluded that, given the projected growth in economic activity, the rate of loss of biodiversity is far more likely to increase than stabilise.

It is in this framework that the EU approved in 1998 a biodiversity strategy that recognised the EU's leading role in furthering the objectives of the Convention on Biological Diversity and set out the framework in which Community policies and instruments contribute to that purpose.

The strategy sets objectives in a number of policy areas of which the first is the conservation of natural resources. Two key objectives identified under this policy area are full implementation of the Habitats and Birds Directives (92/43/EEC and 79/409/EEC respectively), and support to the establishment of networks of designated areas, particularly the EU Natura 2000 network.

At the Göteborg European Council of June 2001, EU heads of state agreed the challenging objective of halting the decline of biodiversity by 2010. The means to achieve this target were elaborated in the Sixth Environmental Action Plan decided upon by Council and Parliament in July 2002. At a global level, the Johannesburg World Summit on Sustainable Development Plan of Implementation calls for a significant reduction of the current rate of loss of biological diversity by 2010. The EU is working with the EEA on development of a set of indicators against which progress towards the 2010 objective may be monitored.

Effective implementation of the Habitats and Birds Directives and the establishment of the Natura 2000 network are critical to meeting the EU and global 2010 targets. Information on progress with the Habitats and Birds Directives will be a vital contribution to the monitoring of progress against the broader set of biodiversity implementation indicators now under development.

This report provides a comprehensive overview of progress to date. While there have been serious delays in implementation, the recent progress provides ground for optimism with regard to the habitat protection requirements of the Directive. The situation concerning species protection measures is less positive and the report indicates clearly the need for higher priority in this area.

## **1.2. The reporting process established in the Directive**

Article 17 of the Habitats Directive provides the framework for the submission of information on progress in implementation of the Directive: Member States are required to draw up implementation reports every six years following the date at which the Directive came into force, with the first report due to cover the period from June 1994 to May 2000<sup>1</sup>.

Article 17 of the Directive sets out the framework for the time, content and the compilation and distribution of a composite version of these national reports. The national reports are to contain, in particular, information on the implementation of the measures taken under the Directive, as well as an evaluation of the impact of these measures on the conservation status of the natural habitat types of Annex I and the species in Annex II.

The European Commission is to draft a ‘composite report’ based on the national reports. The composite report is to contain an evaluation of progress achieved and, in particular, of the contribution that Natura 2000 has made to the achievement of ‘favourable conservation status’ of habitats and habitats of species. After submission to the Habitats Committee<sup>2</sup>, the composite report is to be published by the Commission, not later than two years after all Member State reports have been received. The report will be forwarded by the Commission to the Member States, EU institutions and made available to the public<sup>3</sup>.

Due to delays in implementation of the Directive, and in order to harmonise the reporting period with that provided for under the Birds Directive, the Habitats

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<sup>1</sup> The Habitats Directive was adopted on 21 May 1992 and transmitted to Member States on 5 June 1992, entering into force 2 years later, in June 1994.

<sup>2</sup> The Habitats Committee is the Committee set up under Art. 20 of the Habitats Directive to assist the Commission on issues concerning implementation of the Directive.

<sup>3</sup> Art. 17(2) specifies the relevant Community institutions as the European Parliament, the Council and the Social and Economic Committee. Since the Habitats Directive was approved the EU institutions have expanded to include the Committee of the Regions. This and future composite reports will be forwarded to all relevant EU institutions and will be made public through the European Commission’s website.

Committee agreed to extend the reporting period for the first national reports to the end of 2000. To allow time for drafting, the deadline for submitting national reports was set at the end of September 2001.

The Habitats Committee also agreed a set of guidelines for drafting the national reports, including a list of questions to be addressed. In relation to the first reporting period (1994-2000), it was agreed that:

- Member States should focus on experiences, notably the successes and the difficulties encountered during the first years of the Directive's implementation;
- due to the absence of Community lists of sites, those aspects of the reports concerned with the conservation of natural habitats and habitats of species should focus on proposed sites of Community importance, with information to be provided generally rather than individually by sites; and
- as regards the protection of species, only general information should be provided on legislation, monitoring and research.

Several of the national reports have included information on developments that took place after the end of the reporting period. For this reason, and since the process of implementation of the Directive is ongoing, this document, while illustrating the situation at the end of 2000 also includes information on major subsequent developments where this information exists.

### **1.3. Structure of the report**

This report is divided into two main parts:

- Part I – composite report on overall progress achieved
- Part II – summary national reports

Part I contains the main evaluation of progress achieved, particularly in relation to Natura 2000 over the period 1994 to 2000. The present section introduces the reporting context. A brief outline of the aims and provisions of the Directive is given in Section 2, including relevant case law. Section 3 presents an overview of EU level implementation activities. The main analysis of Member State implementation is given in Section 4, based on the official national reports submitted and supplemented by available official information. Key conclusions and recommendations are made in Section 5, with a view to strengthening the implementation process further, as necessary.

Separate sections reviewing implementation of the Directive in each of the 15 Member States are presented in Part II. The sections follow a common structure, aimed at identifying key measures taken under the Directive, and the impact of these measures on the conservation status of habitats and species. The ‘national’ sections in Part II were drafted by one or more consultants with specialist knowledge of the Habitats Directive in the Member State concerned. In preparing each section, the authors have drawn on the official national reports submitted by the Member States. Interpretation of the national reports was aided by discussions with selected governmental and non-governmental experts, as well as Commission officials. As provided for in Article 17 of the Directive, these sections have been scrutinised by each Member State to verify that the factual content is accurate and that the interpretation of information provided in the national reports has not misrepresented the factual information.

## 2. THE HABITATS DIRECTIVE 92/43/EEC

### 2.1. Aims of the Directive

The main aim of the Habitats Directive is ‘to contribute towards ensuring biodiversity through the conservation of natural habitats and of wild fauna and flora in the European territory of the Member States to which the treaty applies.’ Specifically, Member States are to maintain or restore, at favourable conservation status, natural habitats and species of wild flora and fauna of Community interest (Article 2).

A ‘coherent European ecological network’ of sites – Natura 2000 – is to enable the maintenance or restoration of natural habitat types and the habitats of species at favourable conservation status (Article 3). The ecological coherence of Natura 2000 can be improved through the management of landscape features of major importance to wild fauna and flora (Article 10). The protection of flora and fauna species is also to be secured through the establishment of systems of strict protection for species throughout their natural range (Articles 12-16). The Directive contains a number of supporting provisions on surveillance and monitoring, re-introducing native species, introductions of non-native species, research and education.

### 2.2. Main provisions of the Directive

The broad aims of the Directive are to be delivered using three main strategies: development of a coherent ecological network of areas designed to protect the habitats and species of Community interest, species protection and the various supplementary provisions. The timetable for transposing the Directive’s provisions into national law and deadlines relating to establishing special areas of conservation (SACs), species protection measures and reporting on implementation are given in Table 2.2.

Table 2.2 Formal Timetable for Implementing the Habitats Directive

Requirement	Article	Legal Deadline
Formal transposition of Directive’s provisions	23(1)	10 June 1994
<i>Conservation of natural habitats and habitats of species</i>		
Transmission by Member States to Commission of proposed national lists of sites of Community importance (SCIs)	4(1)	10 June 1995
Adoption of list of sites of Community importance	4(3)	10 June 1998

Designation of adopted SCIs as special areas of conservation (SACs)	4(4)	6 years after adoption of list
Protection of species		
Establishment of strict system of protection for plant and animal species	12 - 16	10 June 1994
<b><i>Implementation reports</i></b>		
National implementation reports to be drawn up and submitted to the Commission	17(1)	10 June 2000 <sup>4</sup>
Publication of the Commission's composite implementation report	17(2)	2 years after receipt of national reports <sup>5</sup>

### 2.2.1. *Special Areas of Conservation and Natura 2000*

A central element of the Directive relates to the establishment, safeguard and management of special areas of conservation (SACs), as part of the Natura 2000 network<sup>6</sup>. Each Member State is to designate sites as SACs, based on a two-stage process involving the Member States and the Commission, as follows.

- Stage 1 - Member States are to forward a list of *proposed sites of Community importance (pSCIs)*, selected on the basis of criteria set out in Annex III of the Directive and relevant scientific information.
- Stage 2 – on the basis of criteria set out in Annex III, and in the framework of the biogeographical regions and the EU territory as a whole, the Commission is to establish, in agreement with each Member State, a list of *sites of Community importance (SCIs)* drawn from the Member States' lists, identifying sites hosting priority natural habitat types or species.

Member States then have up to six years to designate the areas as *Special Areas of Conservation (SACs)* (Article 4(4)).

<sup>4</sup> Modified to September 2001 by decision of the Habitats Committee on 26 June 2000

<sup>5</sup> Since the last national report was sent to the Commission only on 6 December 2002, this would set the deadline for the Commission's composite report at December 2004.

<sup>6</sup> The Natura 2000 network comprises both SACs designated under the provisions of the Habitats Directive and special protection areas (SPAs) classified under the provisions of the Birds Directive.

Once agreed as a ‘site of Community importance’ (SCI) on the Commission’s list, Member States are to take appropriate steps to avoid the deterioration of natural habitats and the habitats of species, as well as the disturbance of species for which areas have been selected (Article 6(2)). Any plan or project likely to have a significant effect is to be subject to appropriate assessment of its implications for the site (Article 6(3)). If the assessment is negative and there are no alternatives, but the project or plan is necessary for ‘imperative reasons of overriding public interest’, Member States are to take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected (Article 6(4)). Where the site hosts a priority habitat type or priority species, the reason for going ahead must be related to human health or public safety, be beneficial to the environment, or, further to an opinion of the Commission, relate to other imperative reasons of overriding public interest.

For sites formally designated as SACs, Member States are in addition required to establish the necessary conservation measures, for example, management plans, statutory, administrative or contractual measures, reflecting their ecological requirements (Article 6(1)).

#### *2.2.2. Establishing a system of strict protection for animal and plant species*

Member States are also obliged to set up a system of strict protection for animal and plant species of Community interest (Articles 12 and 13). It is, for example, prohibited to deliberately capture or kill specimens of listed animal species<sup>7</sup> in the wild, or to deliberately disturb them, particularly during their breeding, rearing, hibernation and migration periods. Breeding sites and resting places must be protected against deterioration and destruction. In addition, Member States are obliged to establish a system to monitor the incidental capture or killing of animal species listed in Annex IV (a). If necessary, further research and conservation measures must be introduced to make sure that incidental killing or capturing does not have a significant negative impact on the conservation status of the species (Article 12 (4)).

Taking in the wild of certain animal and plant species of Community interest (specified in Annex V) as well as their exploitation is permitted but this must be compatible with their being maintained at a favourable conservation status (Article 14). Where capture and killing of species is permitted, Member States are to prohibit the use of all indiscriminate means of killing (Article 15).

If there is no alternative, a Member State can, under certain specified circumstances, derogate from the provisions of Articles 12, 13, 14, and 15. Specified reasons include protecting wild fauna and flora; preventing serious damage to, for example, crops, livestock, forests, etc.; protecting public health and safety or other imperative reasons of overriding public interest; and research or educational purpose. Derogations may be permitted, provided that there is no satisfactory alternative and that the derogation is not detrimental to the favourable conservation status of species in their natural range. (Article 16).

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<sup>7</sup> Species protected under these provisions are listed in Annex IV of the Directive. Annex IV(a) lists animals and Annex IV(b) lists the plant species concerned.

### 2.2.3. *Other general provisions*

To support the provisions of the Directive, the Commission and the Member States are to encourage research and scientific work, with particular emphasis on work necessary for site selection and the management of features of the landscape (Article 18). Member States should also study the desirability of re-introducing native Annex IV species. The deliberate introduction of non-native species is to be regulated or if necessary prohibited. Education and general information on the need to protect species and conserve their habitats is to be promoted. (Article 22)

### 2.3. **Legal clarifications**

Since adoption of the Directive, certain provisions have been subject to examination and clarification by the European Court of Justice. In particular, the Court has had the opportunity to refine the criteria for selecting proposed sites of Community importance and for the application of the system of strict protection provided for under Article 12 of the Directive.

With regard to the first point, the Court of Justice has brought clarifications to the implementation of the process to establish SACs. Thus, in November 2000 (C-371/98, *First Corporate Shipping Ltd*), the Court found that a 'Member State may not take account of economic, social and cultural requirements or regional and local characteristics when selecting and defining the boundaries of the sites to be proposed to the Commission as eligible for identification as sites of Community importance.

Moreover, in September 2001 (cases C-67/99, C-71/99 and C-220/99, -*Commission against Ireland, Germany and France* respectively), the Court went further by stating that the discretion afforded to Member States in drawing up lists of sites was limited and subject to compliance with the criteria laid down in the Directive. The choice of sites had to be based on scientific criteria only; the list had to be complete; and the sites proposed had to provide a geographical cover, which was homogenous and representative of the entire territory of the Member State, with view to ensuring the coherence and balance of the resulting network, Natura 2000.

With regard to the second point, the Court of Justice, in its ruling of 30 January 2002 in case C-103/00, *Commission against Greece*, has amongst others specified that the Member States are obliged to assure an *effective* system of strict protection of species.

### 3. EU LEVEL IMPLEMENTATION ACTIVITIES

The European Commission has supported implementation of the Directive in a variety of ways, using the threat of legal proceedings against Member States in breach of the Directive, but also providing positive encouragement and support through LIFE-Nature projects and other activities. The latter is increasingly also being targeted at the Candidate Countries as they prepare to join the EU.

The wording of the Directive has meant that several key provisions would benefit from further clarification or elaboration. To facilitate this process, the Commission has developed technical guidance documents covering different aspects of the Directive, such as an interpretation manual for Article 6<sup>8</sup> and methodological guidance on Article 6(3) and 6(4) regarding the assessment of plans and projects<sup>9</sup>. While these documents do not have a legal status, they provide a useful instrument to ensure a consistent application by the Member States of the Provisions of Article 6.

A series of working groups has also been established since 2000, to clarify and respond to specific aspects of the Directive. In 2002, such groups considered a range of topics, including hunting, co-financing under Article 8, species protection under Article 12, communication and marine habitats and species.

In May 2002, the ‘El Teide Declaration’ gave renewed political support to implementing Natura 2000, and particularly the management of the network. The Declaration commits to finalising the full implementation of Natura 2000, promoting a better understanding of Natura 2000 and the development of partnerships involving the broad range of stakeholders in the conservation and management of sites. Support is to be given to the sharing of experience and good practice in managing the network, the sustainable use and management of areas such as for educational and research purposes, and ensuring that the needs of Natura 2000 are effectively implemented in other Community policies.

The Declaration was made by the Commissioner for the Environment, Margot Wallström, and the Spanish Minister for the Environment, Jaume Matas, on behalf of the Council. Environment ministers from all 13 EU candidate countries<sup>10</sup> signed the declaration in July 2002.

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<sup>8</sup> ‘Managing Natura 2000 sites, the provisions of Article 6 of the ‘Habitats’ Directive 92/43/EEC’

<sup>9</sup> ‘Assessment of plans and projects significantly affecting Natura 2000 sites, methodological guidance on the provisions of Article 6(3) and 6 (4) of the Habitats Directive 92/43/ EEC’.

<sup>10</sup> Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia and Turkey

### 3.1. Dealing with legal infringements

Since 1994, the Commission has received large numbers of complaints concerning the Habitats Directive, amounting to a significant percentage of all complaints relating to all EU environmental legislation. In cases of persistent failure to implement the Directive, the Commission has initiated legal proceedings against Member States.

As a result of these legal proceedings, the European Court of Justice has ruled in three cases against Member States for failing formally to transpose provisions of the Directive within the required time period<sup>11</sup>. There have also been three rulings regarding the failure to submit complete lists of proposed sites of Community importance and the associated information required by the Directive<sup>12</sup>. A first ruling relating to the protection of species under Article 12 was given in 2002.<sup>13</sup> Additional infringement proceedings are under way against many Member States concerning the lack of protection of proposed sites.

### 3.2. LIFE-Nature funding

Since 1992, the EU's LIFE-Nature instrument<sup>14</sup> has provided important co-financing in support of the Habitats Directive. Projects have helped develop scientific inventories, prepare the ground for on-site actions, land lease or acquisition, the restoration or improvement of sites, and public awareness raising initiatives. Assistance has also been given to the development of projects involving partners in several Member States, to support the exchange of experiences between projects, or to support projects that focus on monitoring, evaluation and dissemination of results.

#### Box 3.2 Examples of LIFE-Nature Projects

The aim of the French project “**Corsican Flora**”<sup>15</sup> (1994 -1997) was to provide a sound basis for future conservation of the island's flora. Corsica has a very rich flora, including 12 priority habitats and 15 plant species (of which 5 are priority) listed under the Habitats Directive. For each of these a conservation management plan was drawn up, as well as a global plan for the island. The inventory covered the whole island and included sites hitherto little known or as yet undiscovered in the interior of the island, including forest habitats. Valuations of the land occupied by all the Natura 2000 sites were also made. The result was a complete set of information on the flora of the island, which provides a basis for its long-term conservation management. The project was part of a wider conservation plan for Corsica's flora co-financed also by

<sup>11</sup> Concerning general legal transposition (Greece C-329/96), (Germany C-83/97) and transposition of Article 6(3) and (4) (France C-256/98)

<sup>12</sup> Ireland C-67/99, Germany C-71/99 and France C-220/99

<sup>13</sup> Case 103/00 (Greece) concerned Article 12(1)(b) and (d)

<sup>14</sup> Council Regulation (EEC) No 1973/92 of 21 May 1992, followed by Regulation (EC) No 1655/2000 of the European Parliament and of the Council of 17 July 2000 concerning the Financial Instrument for the Environment (LIFE) OJ L192, 28.07.2000, p.1.

<sup>15</sup> « Conservation des habitats naturels et des espèces végétales d'intérêt communautaire de la Corse », reference B4-3200/94/752

the state and region.

The British project “**Bittern Conservation Actions**”<sup>16</sup> (1996 – 2000) executed part of the species action plan in the U.K. to restore the population from a critically low level. Through creation, restoration and improvement of reed-bed habitats the carrying capacity has been increased to 25 bitterns, equivalent to half the Species Action Plan Target for 2010. Due to the time taken for new habitats to be colonised, it will take around 10 years to see the full effects of the project. Most of the sites were in eastern England and work was carried out in partnership with wetland management agencies.

Project experience has been shared with European partners and bittern monitoring programmes set up. European reed-bed management guidelines will be produced.

Due to problems encountered with land purchases, the target reed-bed creation had to be reduced considerably. The action plan has been continued in a new project started in 2002. New sites have been identified for restoration and alternative sites are foreseen for land purchase, should proposed purchases fall through..

Between 1994 and 2000, 418 projects were supported with a total budget of approximately €279 million. Between 2000 and 2004, the third LIFE period, a further €300.8 million has been earmarked to co-finance nature conservation projects.

Regional authorities and non-governmental organisations (NGOs) play an important role in implementing the Habitats Directive given their local basis and expertise. They have consequently received a significant share of LIFE-Nature funding, while partnerships between local authorities, NGOs and stakeholders have also become increasingly popular.

### **3.3. Financing Natura 2000**

Article 8 of the Habitats Directive was drafted in recognition of the ‘exceptional financial burden’ that Natura 2000 might place on the Member States, particularly those rich in biodiversity. Article 8 therefore provides for Community co-financing of measures required for the implementation and ongoing management of priority features of Natura 2000.

A Working Group on Article 8 (Co-financing) was established by the Commission in December 2001, with the purpose of assessing more comprehensively the legal

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<sup>16</sup> « Urgent actions for *Botaurus stellaris* (bittern) in the UK », reference B4-3200/96/551

implications of Article 8 and the financial costs of Natura 2000. The Working Group undertook a detailed assessment of current and estimated future expenditure in the Member States, in relation to Natura 2000. The estimate was based on existing research studies and direct expenditure estimates supplied by the Member States. The result, for the whole terrestrial network, is a range of average figures for the cost of managing Natura 2000 in the EU, of between €3.4 billion and €5.7 billion per year between 2003 and 2013. The cost estimates and recommendations regarding future co-financing sources are to assist with the preparation of a Commission communication on co-financing that is expected in 2003.

#### **3.4. Preparing for Enlargement**

Much of the Commission's work has focused on the existing EU Member States, but attention is increasingly also being given to preparations for enlargement in 2004, when central, eastern and southern European countries join the Union. The countries will make a significant contribution to EU biodiversity and bring a 58 per cent increase in land area, with many unspoiled landscapes, forests and parks.

The main pre-accession activity has centred on amending the annexes of the Directive to reflect the approximately 173 additional species and 20 habitat types for the ten countries. The Candidate Countries now also participate as observers in official meetings, such as the meetings of the Habitats Committee. Five candidate countries (six as from 2002-03) from central and eastern Europe also participate in LIFE under Association Agreements.

## 4. OVERVIEW OF IMPLEMENTATION IN THE MEMBER STATES

### 4.1. Establishing the Natura 2000 network

During the first ten years following adoption of the Directive, the emphasis of Member States' work has been on the transposition of the Directive into the national legal systems and in setting up the Natura 2000 network. Important progress has been made in selecting proposed sites of Community importance under the Directive, particularly since 1999. Nevertheless, the process is several years behind schedule and significant attention is still needed to complete the process of site selection and designation, and to ensure sites are appropriately protected and managed to secure favourable conservation status.

#### 4.1.1. *Proposed sites of Community importance (pSCIs)*

Under the Directive, Member States were to come forward with lists of proposed sites of Community importance by June 1995. The lists were to be accompanied by site-specific information, including site maps, the name, location and extent of the sites, and data resulting from application of the criteria in Annex III. The information is to be provided in a format established by the Commission (ie using the Natura 2000 Standard Data Form) after approval by the Habitats Committee.

Up to the end of 2000, the period covered by the Article 17 reports, all Member States had still only submitted partial lists of proposed SCIs to the Commission. Using the first lists, the Commission initiated a process of 'moderation' in 1996, based on discussions in a series of seminars covering the six biogeographical regions (Alpine, Atlantic, Boreal, Macaronesian, Mediterranean and Continental regions). These seminars provided an opportunity to examine the lists, in consultation with Member State representatives but also independent scientists, NGOs and since 2001 representatives of landowners.

Progress in relation to the Macaronesian region led to adoption, in December 2001, of the list of SCIs for that region.<sup>17</sup> The list contains a scientific reserve concerning the distribution of 'reefs'. The reservation means that the list is open to alteration in the light of further developments in scientific knowledge. The process of agreeing lists of SCIs for other regions is ongoing, and expected to be concluded in 2004.

Despite these serious delays, more than 14 per cent of the EU's territory has now been proposed for or included in Natura 2000. The following table (Table 4.1) illustrates the overall situation as regards site proposals under the Habitats Directive at the end of 2000, as well as progress achieved by May 2002. According to this, the lists from Belgium, France and Germany are still notably insufficient, although there has been significant progress in these countries, Sweden and the UK in 2002.

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<sup>17</sup> Decision 2002/11/EC

Table 4.1 Overall Situation Regarding Site Proposals

<i>Member State</i>	<i>Number of proposed sites of Community importance</i>		<i>Coverage of proposed sites (km<sup>2</sup>)</i>		<i>% of national territory</i>		<i>Assessment of national lists</i>	
	December 2000	March 2003	December 2000	March 2003	December 2000	March 2003	December 2000	March 2003
Austria	127	160	9,144	8,896	10.9	10.6	✱	✱
Belgium	209	270	1,105	3,178	3.6	10.4	✱	✱
Denmark	194	194	10,259	10,259	23.8	23.8	✱	✱
Finland	1,381	1,671	47,154	60,090	13.9	17.8	✱	✱
France	1,029	1,174	31,440	40,632	5.7	7.4	✱	✱
Germany	2,196	3,535	20,434	32,143	5.8	9.0	✱	✱
Greece	234	236	26,522	27,641	20.1	20.9	✱	✱

Ireland	317	364	6,140	9,953	8.7	14.2		
Italy	2,507	2,369	49,364	41,266	16.4	13.7		
Luxembourg	38	38	352	352	13.6	13.6		
Netherlands	76	76	7,078	7,330	17.0	17.7		
Portugal	94	94	16,502	16,500	17.9	17.9		
Spain	937	1,276	90,129	118,496	17.9	23.5		
Sweden	2,454	3,420	50,908	57,476	12.4	12.8		
UK	386	576	17,941	24,064	7.4	9.9		
<b>EUR15</b>	<b>10,250</b>	<b>15,453</b>	<b>360,681</b>	<b>458,276</b>	--	<b>14.4</b>		
 notably insufficient  substantial list but still incomplete  complete								
Information based on the Natura Barometer; DG Environment; <a href="http://europa.eu.int/comm/environment/nature/barometer/barometer.htm">http://europa.eu.int/comm/environment/nature/barometer/barometer.htm</a>								

### *Scientific references or inventories – experiences and difficulties*

Member States were to base their proposed lists of SCIs on ‘relevant scientific information’. Several Member States (e.g. Belgium, Finland, France, Germany, the Netherlands, Sweden, and the UK) based their inventories and subsequent site selection on information contained in existing databases, such as red data lists and existing national protection programmes. In other cases (Greece, Italy, Ireland, Spain and Portugal) Community-funded inventories, evaluations and mapping projects were undertaken specifically to assist the identification and proposal of sites.

In most, if not all Member States, insufficient habitat and species data represented a hurdle in the site selection process, particularly with respect to sites not already designated under other schemes. Many national lists predominantly reflected the distribution of existing designated areas (e.g. Austria, Finland, the Netherlands and UK). Nevertheless, in several cases a considerable number of new sites have subsequently been proposed, as well as buffer and transition zones to increase coherence and connectivity between sites.

The information contained in inventories or other scientific references was commonly elaborated using expertise from relevant authorities (nature conservation, agriculture, forestry and fisheries), scientific and research institutions, and conservation organisations. In Finland, for example, a working group was appointed by the Ministry of the Environment to prepare the national list. The group consisted of representatives from different administrative units, research institutions and organisations.

### *Public consultation and reactions*

In a number of Member States, the preparation of draft national lists of proposed SCIs was followed by public consultation (e.g. Denmark, Finland, France, Germany, Portugal, the UK and certain regions of Spain). Where there was no full-scale public consultation process, more targeted stakeholder events were in some case organised to facilitate local debate (e.g. in the Walloon region of Belgium, Greece and Sweden).

Proposed lists of sites frequently met with public and administrative opposition, as reported in Austria, Denmark, Germany, Ireland, the Netherlands and Spain. The Netherlands and several regions of Spain cited the lack of clarity on the legal implications and/or future financing of Natura 2000 sites as an impediment. Member States responded to these difficulties in different ways, for example, through awareness-raising actions.

The extent to which local concerns were reflected within the eventual lists of pSCIs has been somewhat controversial, particularly in light of successive rulings by the European Court of Justice, namely in the aforementioned case C-371/98, First Corporate Shipping Ltd. In Sweden, local authorities had been required to receive approval from landowners before submitting site proposals. This requirement was later (1999) changed so that authorities must now simply gather the opinion of landowners.

#### 4.1.2. Conservation measures

##### *Management measures (objectives, management plans, etc)*

Under Article 6 (1) of the Directive, Member States are to ‘establish the necessary conservation measures’ which correspond to the ecological requirements of the site or species for which the site has been designated. This may involve the establishment of appropriate management plans.

Article 6 (1) applies only to Special Areas of Conservation and therefore only after the process of designation is completed. However, all Member States have, in one way or another, started applying management measures to some of the pSCIs.

Generally speaking, the development of management plans for pSCIs was still at an early stage in all Member States at the end of the reporting period (December 2000). While sites which were already protected under other protection schemes (e.g. National Parks) frequently benefited from formal management plans and/or measures, these were in place for relatively few of the pSCI outside existing protected areas. In some Member States and regions (e.g. Spain), pSCIs in this latter category cover large areas of territory.

Significant progress in developing management plans is noted in two areas. In the UK, a series of management plans have been developed for marine areas, based on a major LIFE project. Indeed, UK work on management plans in general, is at an advanced stage, with many sites in the process of completing management plans. Progress is also noted in France where ‘documents of objectives’ (*documents d’objectifs* or DOCOB) are being developed for 300 sites. DOCOBs are not scientific documents, but provide general guidance to those involved in the site.

Progress in developing national frameworks and guidelines for more systematic site management of pSCIs also varies considerably between Member States. For example, very little progress is reported from Spain (where the task of site selection has been far more challenging than expected), whereas France and the UK are well advanced. In France, a Circular has been issued by the Ministry of Environment requesting *département* Prefects to begin work on preparing the DOCOBs, with the legal framework provided by the Environment Code.

In the absence of national management frameworks and site based management plans, existing conservation measures frequently consist of a combination of restoration projects, land-use agreements, agri-environment measures, sustainable forest management, water management schemes and management of visitor pressure, to name but a few.

##### *Protecting sites from deterioration*

Member States are to avoid cases of deterioration of sites and significant disturbance of species. Despite the delay in agreeing lists of SCIs, many of the sites proposed for Natura 2000 designation in the Member States are already under some form of national or regional protection. In Sweden and the UK, for instance, approximately 70 per cent of proposed SCIs partially or totally coincide with existing designations. In the Netherlands, 95 per cent of

Natura 2000 sites are included in the Main Ecological Structure (EHS). In France, preventative measures are to be taken in Natura 2000 sites covered by other categories of protected areas or by management plans (DOCObS).

Although such protection can be less stringent than that set out in Article 6(2) of the Directive, it nevertheless provides a degree of protection against deterioration in the short term. Some Member States and regions have also taken steps to protect proposed sites that are not within existing protected areas. On the other hand, certain regions have taken the view that this is only required once an agreed list of SCIs is formally published in the Official Journal of the European Communities.

#### *Evaluation and authorisation of new activities*

Most if not all Member States are reported as having in place provisions that required some form of environmental assessment and/or authorisation of development projects in or near Natura 2000 sites which include an assessment of the effects of the projects on the sites. France, Germany, Greece, Portugal, the Netherlands, Sweden and the UK, for instance, report that environmental assessments are applied wherever justified by the nature of development projects. However, it is not possible to ascertain from the reports to what extent these provisions are being applied in practice.

#### *Impact of measures on the conservation status of habitats and habitats of species*

The information provided in the national reports does not allow an evaluation of the impact that measures have had on the conservation status of habitats and habitats of species.

#### *4.1.3. Co-financing under the Directive*

##### *Estimating the costs of Natura 2000*

Within the reporting period (1994 to 2000), there were few national initiatives aimed at estimating the costs of Natura 2000. Some Member States noted the inappropriateness of undertaking such work before the extent of Natura 2000 is known, and in the absence of management plans and/or clear management objectives (ie a definition of favourable conservation status). Nevertheless, some *ad hoc* or preliminary studies or estimates were undertaken in Belgium, Finland, France, Germany, Greece, Portugal, the Netherlands and the UK.

##### *National/EU sources of funding*

National funding sources have tended to derive from state or federal budgets, with estimates of national funding varying significantly. For example, the Walloon region allocated nearly €10 million to Natura 2000 in 2001. By contrast, the considerably larger and more diverse Spanish regions of Aragon and Extremadura have nature conservation budgets of less than €600,000 per year. Greece distributed approximately €17.4 million to projects and activities associated with the habitats Directive over the period 1994 to 2000.

A number of different sources of EU funding have been drawn upon in support of Natura 2000, with Member State reports commonly referring to LIFE-Nature, the Structural Funds - European Agricultural Guidance and Guarantee Fund (Guidance Section) and European Regional Development Fund, including funds distributed through Community Initiatives (Interreg and Leader).. The Guarantee Section of the European Agricultural Guidance and Guarantee Fund is also used as a funding source.

It is important to note that the recent reform of the Common Agricultural Policy reinforced considerably the role of the EAGGF in financing Natura 2000, by specifically targeting Article 16 to support the implementation of Natura 2000, by increasing the ceiling for co-financing and the maximum co-financing rate for agro-environmental measures and by explicitly mentioning cross-compliance with the Habitats and Birds Directives

#### *4.1.4. Surveillance*

Article 11 of the Habitats Directive requires that Member States undertake surveillance of the conservation status of the natural habitats and species, with particular regard to priority natural habitat types and priority species. Additional monitoring is required by Article 12 in relation to the incidental capture and killing of Annex IV(a) species. The Member States and the Commission are to encourage the necessary research and scientific work needed for this purpose. The Habitats Directive specifically requires that the results of surveillance work are to be included in the national reports prepared under Article 17.

Most Member States highlight surveillance systems and sometimes results of surveillance, but only for a number of individual species rather than for the full range of habitats and species covered by the Directive. Only Denmark provided general surveillance results, based on historical and recent data gathered from a number of different sources. Information is collated from known locations where species and habitats of Community interest occur to give a site 'conservation status' category, and aggregated to provide an overall national categorisation. In relation to the 13 priority habitat types which occur in Denmark, results show that 2 are favourable, 3 unfavourable, 6 uncertain and 2 unknown.

In other countries or regions, for example, in Austria and Portugal, surveillance is interpreted as a site-specific activity, rather than monitoring conservation status of habitats and species throughout their range and against established targets. Surveillance is in some cases also focused on pre-existing protected areas, rather than focusing on or being tailored to Natura 2000. Some Member States do report that more comprehensive surveillance systems are being elaborated (e.g. Finland, Ireland, Sweden), following initial pilot or scoping work (e.g. Germany, the Netherlands). In many cases it is not evident that these surveillance systems will evaluate progress against pre-determined targets corresponding to favourable conservation status.

There is consequently very little information provided by the Member States which would allow an assessment of progress towards the overall objectives of the Directive.

According to the European Environment Agency,<sup>18</sup> important eco-systems continue to be at risk, including forests, wetlands, species-rich agricultural habitats, several dry and arid areas, and some marine areas. Wetlands have been generally declining for decades, both in area and quality, but this is still difficult to quantify. Establishing trends for semi-natural grasslands is even harder than for wetlands, although trends in farm structure, farm management and farm species leave little doubt that species-rich agricultural habitats in Europe have declined considerably during recent decades. With regard to species, the EEA reports that surveys show the serious decline in some previously widespread species towards very unstable populations and reduced distribution ranges.

## **4.2. Protection of species**

### *4.2.1. Establishing strict systems of protection*

The Member State reports typically refer to national and regional legislation for the strict protection of animal and plant species. The legislative system in most countries builds on a mixture of nature conservation laws and national/regional hunting and fishing regulations.

Austria, Germany, Finland and Sweden have introduced separate regulations for game and/or fish species. In some instances, the protection of large mammals or specified groups of species is also dealt with as part of separate regulatory systems. Finland, for instance, has passed legislation that protects all whales within Finnish territory.

All national reports make reference to the use of Biodiversity Action Plans, Species Action Plans or other targeted species conservation measures. Most Member States (ie Austria, Belgium, Germany, Greece, Italy, the Netherlands, Spain, Sweden and the UK) report on the use of species action plans or special management plans to ensure strict systems of protection, which sometimes go beyond the requirements of the Directive. In Greece, the Netherlands, Sweden and the UK, initiatives are developed at the national level, while in Austria, Belgium, and Germany plans are instead developed from a regional perspective, reflecting the fact that responsibility for nature conservation is devolved to the regions. Spain has regional action plans under the umbrella of national strategies for certain key species.

Few of the national reports specify the type of measures taken to establish a comprehensive system of strict protection (other than the legislative), or to the prohibition of deterioration of reproduction sites.

### *Monitoring incidental capture and killing*

Article 12 (4) of the Directive requires Member States to ‘establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a)’ of the Directive. Member States are further obliged to respond to the results of such monitoring by preventing ‘negative impact’ of incidental capture and killing.

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<sup>18</sup> Chapter on Biological diversity, “Europe’s environment: the third assessment”, EEA, Copenhagen.

In general, national reports contain little information on relevant monitoring systems. Austria, Belgium, Luxembourg, Germany, Sweden, and the UK cite relevant provisions under their respective legal systems, but do not elaborate on the type of monitoring systems in place, or the results that have been obtained. In those Member States where monitoring systems are in place, these are frequently limited to particular regions (e.g. Austria, Portugal and Greece) or occasional surveys of the impact of, for example, fishing, power lines and traffic on wild fauna (e.g. Netherlands, Germany). In Greece, only certain marine species are subject to monitoring.

Existing monitoring systems tend not to cover the entire range of the species for which they are designed. The accent is generally put on monitoring of incidental captures or killings to species where monitoring is considered feasible or relevant. For certain species listed in Annex IV (a) of the Directive, the risk of incidental capture or killing is considered negligible (e.g. *Anaedyptis hispanica* in Portugal), or implementation of systematic monitoring of incidences of killing or capture is considered too difficult. Italy reports that there is no national system capable of monitoring all species throughout the territory.

Reports do not commonly specify management measures taken in cases where monitoring demonstrates this to be necessary. One case of measures being introduced concerns the incidental capture and killing of harbour porpoises (*Phocoena phocoena*). In light of scientific research, Danish authorities have drawn up an action plan to reduce such killing, notably requiring that problematical fishing nets are fitted with 'pingers' to deter porpoises from fishing nets. The Dutch report also states that research is being undertaken to address bycatch resulting from fishing activities and muskrat control measures.

#### 4.2.2. *Taking in the wild and derogations*

If surveillance under Article 11 suggests it to be necessary, Member States are to ensure that any takings of wild specimens of flora and fauna listed in Annex V, as well as their exploitation, is compatible with their favourable conservation status. Apart from continuing surveillance under Article 11, takings can be regulated by restricting access to property, applying hunting or fishing rules, etc.

Several Member States restrict all hunting or other forms of taking of specimens through the issuing of licences (e.g. Austria and Germany). The reports do not provide information on the surveillance results associated with the relevant Annex V species, or the impact that permitted takings have had on favourable conservation status. An exception is provided by Portugal which reports widespread regression of populations of fish species, resulting from inappropriate conservation measures, lack of supervision and habitat degradation.

Under Article 15 Member States are to prohibit the use of all indiscriminate means of capture and killing of the Annex IV (a) and V (a) species. While most if not all Member States are reported as having relevant legislation in place, overall enforcement of Article 15 could arguably be improved. Greece allows exceptions to the restrictions on prohibited means of capture (as listed in Annex VI of the Directive) by allowing the use of Aldrich traps for the fixing of emitters on bears and of bat nets for research purposes. Similarly, Portugal allows the use of box traps to reduce the predator density in certain game areas, and the Portuguese report states that, despite existing regulation, indiscriminate means of capturing fish are

reported from several proposed SCIs. The prosecution of those using prohibited traps and methods of killing and capture is reported as being lax.

Under Article 16, Member States ‘may derogate from the provisions of Article 12, 13, 14 and 15 (a) and (b)’,

- if no satisfactory alternative exists and
- if the derogation is not detrimental to the maintenance of the populations of the species at a favourable conservation status in their natural range.

Most reported derogations were made for scientific and educational purposes, although derogations have been made for a number of other reasons, including property development (Germany, Netherlands), to reduce predator density in game areas (Portugal), to prevent damage to livestock and/or crops (Finland, France, Portugal, Netherlands, Sweden) and for health and safety reasons (Finland). However, little information concerning the type of measures taken to ensure compatibility is provided by the national reports. As with takings, it is not generally possible to establish, on the basis of the reports submitted, whether these derogations are compatible with favourable conservation status.

### **4.3. Other general issues**

#### *4.3.1. Research efforts*

Research projects in the Member States tend to focus on individual species and habitat types, with projects co-ordinated and executed at the regional and local level. All Member States have engaged in research activity at such level.

There are examples of national research initiatives with a more generic approach to habitat and species conservation. The Finnish Environment Institute, for instance, ran a national project (SAVA, 1997-2002) on biodiversity and the protection of species in a changing forest environment. In the UK, the Scottish Natural Heritage Species Action Programme engages a co-ordinated approach to species conservation by taking a comprehensive look at how to best maintain and restore viable populations of Scotland’s most threatened wildlife. Similarly, Sweden is in the process of setting up a new research programme (to start in 2001) combining three main areas of study: (i) The Marine biodiversity, patterns and processes, (ii) Research to Forge the Conservation Chain, and (iii) Alien Species in Aquatic Environments.

#### *4.3.2. Re-introductions and introductions*

A majority of Member States (the exceptions being Belgium, Luxembourg, Austria, and Greece), have had national projects involving the re-introduction of Annex IV species. The species concerned were mostly mammalian (*Castor fiber* (DK, DE, F, NL), *Cervus elaphus corsicanus* (F), *Cricetus cricetus* (F, NL), *Lutra lutra* (F, SE), *Lynx lynx* (DE), *Mustela lutreola* (DE), *Ursus arctos* (F)), butterflies (*Maculinea arion* (UK), *Parnassius mnemosyne* (FI)) or plants (*Cypripedium calceolus* (UK), *Agrimonia pilosa*, *Puccinellia phryganodes* (G) and *Arctophila fulva* (SF)). There are further attempts to reintroduce *Podarcis muralis* (NL), *Bombina bombina* (S), *Bombina variegata* (NL), *Emys orbicularis* (D, F) and *Hyla arborea* (D) into the wild. Ireland has reintroduced *Bufo calamita*. France has also reintroduced

*Acipenser sturio*. Both Finland and the UK remark on the difficulty and resources intensity that is associated with reintroduction programmes.

Portugal and Belgium report on the deliberate introduction of non-native species into the wild. The Belgian report highlights a number of introduced species (e.g. *Rana ridibunda*, *Rana perezi*, *Rana catesbeiana*, and *Alopochen aegyptiacus*) which have increased pressure on populations of indigenous species. Moreover, the illegal re-introduction of the beaver (*Castor fiber*) in the Walloon Region is also noted. The Flemish Region produced a special action plan on exotic species to address the issue. In Greece the introduction of *Rana catesbeiana* in Chania, Crete, is expected to have a negative impact on the ecological equilibrium of the area. *Helix aspersa* has also been introduced for commercial purposes, which possibly holds different genetic information than the local population. There have also been significant introductions of fish species. France is in the process of developing its policy in this area, including a €2.3 million research programme.

Italy also highlights the problem of non-native freshwater fish species, many of which have been introduced in the past. As effective preventive or recovery measures are extremely difficult, a study is under way to help develop monitoring and management guidelines.

#### 4.3.3. *Education and information*

Awareness raising and publicity relating to the Habitats Directive and Natura 2000 has often focused on Natura 2000 as a whole, as well as being species or site specific. Different media have been used, including the printed media, TV and radio features, educational facilities such as museums, field centres and botanical/zoological gardens, as well as formal training workshops and stakeholder events to publicise Natura 2000. Denmark incorporated information on the importance of Natura 2000 and its implementation within some national higher education curricula. Many Member States have increasingly also used the Internet to provide information on the Natura 2000 process.

Many initiatives have been targeted at the general public, although the importance of NGOs as ‘conductors’ is often also stressed. Training and awareness-raising has also been targeted at staff of relevant national and regional authorities.

#### 4.3.4. *Planning to encourage the management of landscape features*

Under Article 10 Member States shall ‘endeavour ...in their land-use planning and development policies and, in particular, with a view to improve the ecological coherence of the Natura 2000 network’ to encourage the management of landscape features, most notably those that serve as stepping stones or linear features that may act as wildlife corridors.

A number of Member States report on national progress with respect to the development of ecological corridors between protected areas. One initiative encouraging greater coherence of ecological networks has been taken forward by the Brussels Region of Belgium, which organised a programme aimed at bringing the ‘green and blue’ networks of the city together. The project highlighted the importance of creating connectivity between urban green spaces, as well as developing a link between the city’s waterways, lakes and green corridors. In Spain, several regional governments have programmes for the development of ecological corridors between protected areas, including proposed SCIs. In some cases, these programmes

focus on particular elements, such as drovers' roads or riverine woodlands, as connections between Natura 2000 sites. Greater cohesion between spatially dispersed sites is also to be secured by the Dutch 'Main Ecological Structure (EHS) under which Natura 2000 is being established, although it is noted that greater coherence is needed with the Habitats Directive's objectives. Greece is about to complete a national programme under which an inventory of landscapes bearing a potential for protection and conservation of their features has been carried out. This list of landscape sites will promote the creation of a network of landscapes that will be characterised as 'protected landscapes' and will be protected accordingly.

#### *4.3.5. Human resources*

Member States have adopted varied approaches to assessing human resources available within the administrations for the implementation of the Directive. In the UK, some 12,900 people were employed by those organisations contributing to the UK's national implementation report. This includes staff employed in a wide range of competent authorities. The Finnish report, on the other hand, focuses on personnel dealing more specifically with the implementation of Natura 2000, of which there are ten, plus 30 nature protection experts working in regional environment centres. This is complemented by 60 people at the Finnish Forest Research Institute and 300 people engaged in site management in the Forest and Park Services.

The existence of dedicated or specialist agencies to support implementation of the Directive is very variable, between Member States. The UK and its four government agencies contrasts with France which has no such agencies. On the whole, Natura 2000 and the implementation of the Habitats Directive is administered by existing members of staff, ie using existing resources for nature conservation at all levels of governance. Staff time in Spain (only a small handful of people in central and regional governments) has been devoted very largely to the process of site proposals over the past years, by necessity. This has left very little time for developing other aspects of Natura 2000 implementation. The situation in Spain is common to most other Member States.

## 5. CONCLUSIONS

The Habitats Directive, alongside the Birds Directive (79/409/EEC), is a key instrument to support EU policy on the conservation of biodiversity, and a vital tool to assist the EU to meet wider biodiversity conservation objectives, including the target to halt biodiversity decline by 2010.

This report is based on Member States' reports together with information on Commission initiatives, covering the first reporting period for the Habitats Directive, from 1994 to 2000. It provides an overview of progress in implementing the objectives of the Habitats Directive, and particularly the establishment of the Natura 2000 network. In view of the delay between the end of the reporting period and receipt of all the national reports from the Member States, this report also includes information on progress since 2000, to reflect the substantial additional efforts by some Member States, particularly with respect to the process of selection of Natura 2000 sites.

It is evident that Member States have, since 1994, made significant progress in implementing the Directive's obligations, particularly at the policy level and in site selection - although progress on this aspect has failed to meet the timescale as set out under the Directive. Progress in other areas, notably the establishment of surveillance and monitoring to assess conservation status of habitats and species of Community interest, the adoption of management objectives and plans, and the application of species conservation measures has been extremely poor.

### 5.1. Conservation of habitats and species

#### 5.1.1. Site selection

In relation to the selection of proposed sites, progress across the board has been at a similar (slow) rate for most Member States, with one or two exceptions. In the case of one biogeographical region, for example, three years passed between the first and second seminars. Some Member States and regions did not submit additional site proposals during that period, despite having numerous insufficiencies identified.

Since the end of this first reporting period (December 2000) there has been significant progress from those Member States that were most delayed. This has allowed the Commission to hold the final biogeographical seminars, which should allow for adoption of the remaining lists in 2003 and 2004. However, this is clearly behind schedule and insufficiencies remain in relation to all national lists of proposed sites.

The national reports identify a number of specific problems have hindered the site selection process.

- Delays in certain regions and Member States have held up the overall process. This has often been due to national debate as to the extent of designations required and challenges during the process of consultation on individual sites. It is not always clear that the processes at national level have followed the scientific criteria of the Directive, since inventories of eligible sites have not been published in all countries.

- There is a general lack of suitable scientific data and resources to support the requisite scientific work, as well as problems with the Annexes to the Directive, for example, the way in which some habitats are defined, or the exclusion of certain endemic species and habitat types, especially for the Mediterranean region.
- Lack of a clear process for site selection. Although the criteria in Annex III seem clear, their practical implementation was developed at the same time as the sites were being selected.
- Particular problems relate to marine sites, resulting from a lack of data, but also complicated jurisdictional issues and overlapping administrative responsibility. This difficulty is presently being addressed by a working group created by the Commission with the participation of several Member States.

#### *5.1.2. Site protection*

In terms of protecting proposed sites from deterioration or damaging impacts, three groups of Member States and regions have emerged:

- Member States and regions that have introduced full legal protection for all sites (including the UK, Ireland and Galicia) as soon as these are notified to the Commission;
- those that have taken some administrative steps to protect all proposed sites (e.g. most Spanish regions); and
- those only protecting proposed sites through existing protected areas, postponing the designation of other new sites until after the Community lists are formally adopted (e.g. Abruzzo).

The need to protect sites that were proposed by the Member States to integrate the Natura 2000 network has, in some cases, led to delays in infrastructure projects. This report has not been able to evaluate the implications and justification for such delays, and attention is drawn to the need to review this matter in future reporting. Experience has however shown that where project promoters instigate effective assessments and dialogue in the early phases of project planning these delays can be reduced significantly.

#### *5.1.3. Site management*

Again, different groups of Member States are emerging in relation to site management, distinguished in the following ways:

- those Member States incorporating proposed sites into their system of nationally protected areas as part of the selection process (e.g. UK), or where a system for establishing management plans has been set up and is underway (e.g. France); and
- Member States waiting for proposed sites to become definitive SCIs before taking this step (e.g. Portugal, Greece, some regions in Spain). In this case, sites already covered by national designations will be underpinned by existing management planning. For other sites, outside existing protected areas, progress on management has generally been limited, although certain site exceptions are noted, e.g. in Spain and Portugal.

#### *5.1.4. Site conservation measures*

In the case of all Member States, much activity is reported in relation to site conservation measures, although this is often not driven by Natura 2000, but relates to nature conservation activity in existing protected areas and/or for endangered species. Again, there are certain exceptions, but generally it seems the Habitats Directive has not led directly to new conservation measures at site level.

### **5.2. Species protection**

Species protection under Article 12, which includes strict protection of all breeding sites and resting places for Annex IV animal species, has been a requirement of the Directive since 1994.

However, several of the Member State reports are quite vague about the practical implementation of this requirement. Legal frameworks are often cited, but in general it is not clear if these constitute a 'strict system of protection' or if all Annex IV species benefit from the protection regime. It is also not possible to establish, due to the way in which information is supplied and the availability of that information, the ultimate effectiveness of the regime. In particular, there is no information from any Member States to demonstrate whether derogations from the strict protection system are having a detrimental effect on maintaining the species concerned at a favourable conservation status. This is of particular concern in relation to the derogations for Europe's large carnivores, which are among the most threatened and vulnerable species in the EU.

A Commission Working Group on Article 12 of the Directive, established in 2002, is expected to improve understanding of Member States' policy and practice in relation to the protection of animal species. This should support improved implementation and, ultimately, effectiveness of the species protection provisions.

### **5.3. Resources (human and financial)**

Due to the lack of data and, where data are provided, to the lack of standards in the approaches to reporting, the resources devoted to implementing the Habitats Directive are not entirely clear. However, there appear to be major differences between Member States and regions in resources committed to implementing the Directive. Some of the regions with the greatest biodiversity are trying to implement the Directive with very limited resources, as illustrated by expenditure in Aragon/Extremadura in Section 4.

Future reporting under the Habitats Directive could usefully place greater emphasis on assessing human and technical resources and capacity in relation to implementing the Directive.

### **5.4. Reporting under the Directive**

The purpose of this report is to assess progress in implementing the Habitats Directive, and in particular the contribution of Natura 2000 to achieving favourable conservation status of the habitats and species listed in Annexes I and II of the Directive. To this end, according to Article 17, Member State reports are to include 'information concerning the conservation

measures referred to in Article 6(1) as well as evaluation of the impact of those measures on the conservation status' of these habitats and species. As noted in section 4.1.2, Article 6(1) will apply only after the process of designation of SACs is completed. The national reports should also include the main results of surveillance activities required under Article 11 of the Directive, and the information should be assembled (or be able to be assembled) to provide assessments of the conservation status of all the habitats and species of Community interest.

In practice, it is difficult to develop a picture of general progress achieved in implementation of the Habitats Directive, or to identify areas or issues in need of greater attention, for the following main reasons.

- Despite the reporting guidelines agreed by the Habitats Committee, information in several reports has been provided at the site level, rather than giving a general but comprehensive overview of progress throughout the Member State concerned. The coverage of the reports is also quite variable, with some far more complete than others.
- Information on surveillance activities under Article 11 is particularly limited, in terms of the comprehensiveness of information provided in individual reports, and the extent to which information can be compared between reports. This is a major weakness and effectively prevents an overall evaluation of the extent to which the objectives of the Directive are being achieved. This major weakness reflects the accent that was put until now by all Member States on the process of site selection, and will remain until Member States put in place appropriate monitoring and surveillance schemes.
- In general, national reports have contained little critical analysis of experiences, in relation to successes or difficulties. For example, there is a tendency to describe legal and administrative developments, rather than actual experiences, positive and negative, relating to implementation of the Directive's measures on the ground.
- The requirement for 15 separate national reports to be drafted, independent of each other, makes it difficult to report on progress towards creating a coherent *European* ecological network of sites. This is compounded by the fact that reports only cover some of the activities relating to Natura 2000, ie excluding those measures aimed at protecting and conserving bird habitats. There may be an argument, for the sake of streamlining and improving reporting requirements, for merging the two reporting requirements in the future, whilst seeking information required to undertake a more substantive evaluation of progress.

In conclusion, it will be difficult to evaluate progress under the Habitats Directive and towards the broader objective of halting the loss of biodiversity by 2010 without a reporting procedure that goes beyond that presently available. The first round of Article 17 reports has failed to capture the full dynamics of implementation. Consideration should therefore be given to ways of deepening future evaluation, for example, developing more specific guidance, strengthening input from the European Environment Agency, and introducing external or peer review. The development of a more sophisticated approach to reporting relevant information will be all the more critical in an expanded EU of 25 Member States.

The Commission will be launching very soon a discussion with the present and future Member States, in the light of the new Reporting Directive, on how to maximise the usefulness of the national reports submitted under the Habitats and Birds Directives. Following the approval of the lists of sites of Community importance, the Commission will also review with the Member States ways to improve the effectiveness of the implementation of the Directive, reserving always the possibility of taking legal action when necessary.