



Report on implementation
of the **NATURA 2000 NETWORK**
in Europe



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1. Introduction

1.1. Characteristics of the Natura 2000 network

Natura 2000 is an EU wide network of nature protection areas established under the 1992 Habitats Directive¹. As stated in the European



Commission strategy to protect Europe's most important wildlife areas, the aim of the network is to assure the long-term survival of Europe's most valuable and threatened species and habitats. It comprises Special Areas of Conservation (SAC) designated by Member States under the Habitats Directive, and Special Protection Areas (SPA) designated under the 1979 Birds Directive². The establishment of protected areas also fulfils a Community obligation under the UN Convention on Biological Diversity³.

The selection of Natura 2000 sites is based exclusively on scientific criteria, such as the size and density of populations of target species and the ecological quality and area of target habitat types present on the site. The Directive does not lay down rules regarding the consultation process to be followed in selecting the sites. This is for Member States to determine. The directives do not say how much land and marine areas are to be included in Natura 2000 network. This will depend on the biological richness of the different regions. If, for example, a Member State is particularly rich in specific species and habitats, it is expected to designate sites in proportion to this wealth of

biodiversity.

Although the establishment of Natura 2000 is not yet complete, an area equivalent to more than 15% of EU territory has now been proposed for conservation under the network (Annex 1).

Natura 2000 is not a system of strict nature reserves where all human activities are excluded. Human activities can continue on Natura 2000 sites, provided the future management is compatible with the objectives of biodiversity protection.

New activities or developments within Natura 2000 sites are not prohibited a priori, but are to be judged on a case by case basis. Procedure is defined in the Habitats Directive for assessment and subsequent decisions relating to development proposals that are likely to have an impact on designated sites.

Member States must ensure full compliance with the legal requirements of Natura 2000, regardless of whether they are in receipt of structural funds. However, it is particularly important to ensure compliance in situations that involve Community funded programmes. In the light of this concern the Commission has already informed Member States that failure to present lists of Natura 2000 sites could result in the suspension of payments under certain structural funds programmes. The threat of suspension of payments from such programmes was a precautionary measure to ensure that Community funded programmes would not contribute to irreparable damage to sites before they have been officially proposed for protection under Natura 2000 policy.

The Sixth Community Environment Action Programme specifies an objective to "protect and where necessary restore the structure and funding of Natura systems and halt the loss of bio-

¹ Directive 92/43/EEC of 21 May 1992 on habitats

² Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds

³ Cartagena Protocol on Biodiversity, 1992 /Montreal 01/29/2000

diversity, both in the European Union (EU) and on a global scale by 2010⁴. The Commission estimates the annual costs of managing the Natura 2000 network at €6,1 billion per year, disregarding marine protected areas.

The EU budget finances Natura 2000 from LIFE-Nature funding and from the structural and rural development funds. Current EU policy measures, particularly those covered by rural development policies such as the agri-environment schemes, as well as the dedicated LIFE Nature fund, are already providing financial support to the establishment of Natura 2000.

LIFE is a financial instrument with the object of contributing to the implementation, updating and development of Community environment policy and legislation. To this end, LIFE basically funds projects in two thematic areas: Environment and Nature.

LIFE-Nature includes actions on:

- conservation of natural habitats and of wild fauna and flora of EU interest;
- conservation of wild birds;
- setting up the Natura 2000 European network.

LIFE is a programme centrally managed by the Commission. Project proposals are received via Member States following a call for proposals and are evaluated by the Commission with the support of external expert teams. A number of Tech-

nical Assistance Offices are in charge of monitoring the implementation of projects throughout the Community. Discussions concerning future financing of Natura 2000 are ongoing.

In some Member States rural development and regional development programmes have often worked against EU nature conservation priorities. The Commission, in its Communication on the financial perspectives for 2007-2013 (COM (2004) 0487), states that "the Commission will require Member States to show how they have taken the financing needs of the environment, including relevant aspects of Natura 2000, into account in developing their national programmes under the structural funds...".

The Member States are responsible for the management of Natura 2000 sites. The Commission works with Member States and key stakeholder groups on implementation issues. This is done through the Habitats and Ornis committees, which have a statutory role in the implementation of the nature directives.



⁴ Decision No 1600/2002/EC of the European Parliament and of the Council laying down the Sixth Community Environment Action Programme (OJ L 242, 10.9.2002)

	NUMBER OF NATURA 2000*	NATURA 2000 SITES IN HA	NATURA PERCENTAGE OF NATIONAL TERRITORY	RESPONSIBLE AUTHORITY / AUTHORITIES	IMPLEMENTATION
FRANCE	1 674 sites : 1 335 SCI ⁵ 369 SPA	9,365 million ha	8,5 %	Ministries of Environment and Agriculture	In the "Code de l'environnement" et "Code rural"
FINLAND	2 282 sites : 1 715 SCI 467 SPA	4,9 million ha (3,6 million ha land area)	14,5 %	Ministry of Environment	In 1997 by the Nature Conservation Act, supplemented in 2004
CZECH REPUBLIC	902 sites ⁶ : 864 SCI 38 SPA	1,046 million ha	13,3 %	Ministry of Environment, Agency for Nature Conservation and Landscape Protection	Act n° 114/1992 Coll., on Conservation and Landscape Protection
AUSTRIA	215 sites: 166 SCI 96 SPA	1,23 million ha	14,7 %	Autorities of the Provinces	Nature conservation laws and various further laws (e.g. hunting, fishery, spatial planning) of the provinces plus special ordinances for the sites
HUNGARY	522 sites: 467 SCI 55 SPA	2 million ha	21 %	Ministry of Environment and Water, Ministry of Agriculture and Rural Development	Nature Protection Act, Government and Ministerial decrees
UNITED KINGDOM	871 sites: 613 SCI 258 SPA	4,1 million ha (3 million ha land area)	12,4 %	Department of Environment, Food and Rural Affairs	In 1994 through the Conservation (Natural Habitats, &C.) Regulations 1994 (as amended), for Great Britain ⁸ . In 1995 through the Conservation (Natural Habitats, &C.) Regulations (Northern Ireland), and in Gibraltar by the Nature Protection Ordinance (Amendment) Regulations 1995. The Offshore Marine Conservation (Natural Habitats, &C.) Regulations 2007
ESTONIA	pSCI ⁷ 509 66 SPA (partly overlapping)	Total area 1, 423 mil ha (including marine areas, 49% of it is land area)	16 % of land area	Ministry of Environment	Nature Conservation Act from 2004, before that Act for protected natural objects from 1994

*Source: EU Commission

5 SCI - Sites of Community importance which correspond to the SAC adopted as such by the European Commission.

6 The process of setting Natura 2000 is still in progress and about 270 new SCIs and a new SPA has been proposed (April 2008)

7 pSCI- Proposal of Sites of Community importance

8 England, Scotland and Wales

1.2. The parallel audit

At the EUROSAT WGEA Seminar, September 2005 in Vienna, Austria, an exchange of views between participants resulted in a project to audit the "Natura 2000 network". EUROSAT members confirmed their interest in participating in a parallel performance audit on this topic, which the French Court of Audit (FCA) and the European Court of Auditors (ECA) had already audited.

At the 4th EUROSAT WGEA seminar in Luxembourg, November 2006, ECA, FCA, and some other SAIs agreed to conduct a common audit. In February 2007, a letter was e-mailed by EUROSAT Secretary (as coordinator of WGEA) to the SAIs of EU Member States which are also members of EUROSAT WGEA, in order to obtain a broad participation in the audit.

The letter is presented in Annex 2.

SAIs of Austria, Czech Republic, Estonia, Finland, France, Hungary, and United Kingdom participated in the audit, coordinated by the French Cour des Comptes.

2. Assessment framework

The scope of the audit on implementation of the European Natura 2000 network was to examine whether and how the provisions of the European Directives, and especially Article 6 of the Habitats Directive, were observed in an effective and efficient way.

Article 6 of the Habitats Directive is based on four points :

- 1- necessary conservation measures (e.g. management plan);
- 2- avoidance of deterioration and disturbance of species;
- 3- assessment of any plan or project that

might have a significant impact;

4- compensatory measures if a project has overriding public interest.

The audit examined three key elements, namely compliance, governance and funding. Each is discussed below.

2.1. Compliance

The audit questions were :

- What were the main problems met in transposing and complying with the Natura 2000 Directives ?
- How did Member States react to infractions? Where were the origins of the problems ?
- Were there delays in implementing the national network; and if so what were the reasons for those delays, and any consequences ?

2.2. Governance

The audit questions were :

- Had Member States set up the required structures and organisation for adequate and efficient governance of Natura 2000 in their countries ?
- Did the "feedback administrative process" between central authorities and local governments work in an efficient way ?
- Had anyone noticed conflicts of interest? Between which entities ?

2.3. Funding, cost efficiency and effects of the Natura network

The audit questions were :

- How were European and national funds managed ?

- Had Member States established the necessary audit criteria and indicators to evaluate whether the public funds invested in Natura 2000 were contributing effectively to meeting the objectives set in the Directives ?
- How cost-effective was the Natura 2000 management process ?
- What effects has Natura 2000 policy had ?



3. Audit finding

3.1. Compliance

3.1.1. Main problems met in transposing and complying with the Natura 2000 Directives

In France, the Birds Directive and the Habitats Directive have been transposed in the relevant legal framework, "Code de l'Environnement" and "Code rural". A large number of implementation measures have been published in official circulars. Some additional measures have been taken to supplement the Natura 2000 policy, for example, specific provisions concerning designation of Natura 2000 sites within Natural Parks, Natural Reserves and classified landscapes.

The French authorities faced many difficulties in transposing the Birds and Habitats Directives, and in particular, in convincing NGOs and associations.

The Government underestimated the reluctance, of French interest groups (for example those representing hunting and fishing interests) and their determination to fight the project.

French Nature Protection NGOs mainly accused

the French Government of jeopardising the status of biodiversity or the preservation of species at certain sites while implementing the Natura 2000 network. For other interest groups, site proposals did not consider the specificities of the sites designated, as regards local environmental, hunting or agricultural specificities.

The French authorities therefore had to postpone decisions on designations declared to EU Commission.

In Finland, the Natura 2000 process has been ongoing since Finland's accession to the EU (1995). The Directives were implemented by a renewed Nature Conservation Act in 1997. Chapter

10 of the renewed law deals with Natura 2000 policy; some other laws, in addition to the Nature Conservation Act, complete the legal structure.

The main problem in implementing the Directives was that the legal measures concerning the non destruction and non deterioration of sites (Article 6/2) were not integrated into the Nature Conservation Act before 2004.

There is no special decision establishing a procedure to designate the sites as specific areas of conservation. The Finnish authorities are presently considering whether the procedure should be incorporated into the Nature Conservation Act.

The results of the Finnish audit revealed certain difficulties among Finnish authorities in understanding the aim and scope of the European law. A considerable hurry in the preparation of the

network didn't make the situation any better. The audit also mentioned unwillingness on the part of the EU Commission to communicate with this Member State about the interpretation of the Directives.

In the Czech Republic, the "European amendment" to Act No 114/1992 (nature conservation and landscape protection act) came into force three days prior to the Czech Republic's accession to the EU. In practice, however, several provisions of this amendment came into effect only after delimitation of the territories to which they are applicable, i.e. between October 2004 and January 2005 (SPAs) and in April 2005 (SCIs).

Further regulations whereby the Czech Republic transposed the two Directives came into effect only after the Czech Republic's accession to the EU (e.g. 38 Government regulations delimiting bird areas and Decree No 175/2006 Coll., amending Decree No 395/1992 Coll., implementing certain provisions of Act No 114/1992 Coll., on nature conservation and landscape protection).

Examples :

- Forest management plans and forest management schemes are not subject to review of their potential impact or consequences for the areas included in the Natura 2000 network. This is not in accordance with Articles 6(3) and 13 of the Habitats Directive;

- Section 90(2) and (12) of Act No 114/1992 Coll. contains exemptions that are not permitted by the Habitats Directive (at variance with Article 13 of the Habitats Directive).

In Austria, which is a federal state with nine different provinces, legislation and implementation of nature conservation laws, including the establishment of the Natura 2000 network, are the exclusive responsibility of the provinces. To a limited extent, the Federal Ministry for Agriculture, Forestry, Environment and Water Management coordinates activities, especially with regard to contacts with the EU. Implementation of the two EU Directives in Austria affects many of the individual provinces' laws, which have to be separately adapted within each province. The most important are the laws concerning nature conservation, hunting, fisheries, national parks and spatial planning. Due to major differences between these laws, implementation requires not only formal but also substantive adaptation in each case.

The nominated sites are defined by special ordinance. Once nominated to the EU, these sites – together with their habitats and species – enjoy increased protection under the nature conservation laws, even before the respective ordinances have been issued. The implementation of Article 6 of the Habitats Directive is described below :

- *article 6 (1)*, preservation measures and management plans: at the time of the audit, no province had available management plans that meet the requirements included in the audit of the Austrian SAI for all Natura 2000 areas. But further management plans are being prepared and for most of the areas at least studies exist, and preservation measures can be taken on that basis;

- *article 6 (2)*, prohibition on deterioration: with one exception, all nature protection laws stipulate a prohibition on deterioration and regulations for its enforcement and surveillance;

- *article 6, (3 et 4)*, assessment of compatibility: assessment of compatibility for pro-

jects which could have a negative impact on nominated sites was regulated by all nature protection laws. In some provinces the proceedings were applied by the provincial administration, in some provinces by the local authorities. Environment ombudsmen were party to the proceedings and exercised their rights. In general all public authorities were obliged to assess compatibility no matter what the proceedings concerned (road building, mining, events, business or industry). In case of doubt expert opinion was required and a decision had to be obtained from the nature protection authority.

In the United Kingdom, the Habitats Directive has been implemented in Great Britain⁹ through the Conservation (Natural Habitats, &c.) regulations in 1994 which came into force on 30 October 1994, in Northern Ireland through the Conservation Natural Habitats, &c./ Regulations (Northern Ireland) 1995 which came into force on 13 November 1995, and were incorporated into the laws of Gibraltar on 25 August 1995 by the Nature Protection Ordinance (Amendment) Regulations 1995.

In August 2007, the Offshore Marine Conservation (Natural Habitats &c)/ Regulations 2007 came into force in 2007. These regulations extended conservation protection measures to offshore marine habitats.

In the United Kingdom there were delays in the implementation of the Habitats Directives. This was due to difficulties in understanding exactly what the Directives required and how these intentions could be achieved. The United Kingdom did not think that the Directives adequately explained what was required and the scientific

classification used was different to that in use in the UK.

In Estonia, the majority of the provisions of the Birds and Habitats Directive, necessary for establishing Natura 2000 have been transposed into Estonian legislation. The implementation of the Birds and Habitats Directive has been adjusted to the national nature conservation system. There are no standalone legal or institutional structures for Nature 2000 network in Estonia. The positive aspect of the transposition measure chosen in Estonia is the avoidance of parallel structures, whereas the negative side lies in the fact that the Estonian law does not reflect with the adequate accuracy the characteristics of the

Natura areas.

The Estonian Nature Conservation Act provides that nature conservation shall be based on the principles of balanced and sustainable development. Therefore in each individual case alternative solutions shall be weighed in order to

find which, from the position of nature conservation, is more favourable

Unfortunately, this rule does not apply to all Natura 2000 areas, where other elements of sustainable development, such as the economy and social sphere, are secondary concerns. Also, the Forest Act holds that the aim of it is to ensure the protection of forest as an ecosystem and its sustainable management. In the context of the Forest Act the forest management is sustainable, if it ensures biodiversity, forest productivity, reforestation and viability and multiple uses of forest satisfying the ecological, economic, cultural and social needs. Again it has to be noted, that in Natura 2000 areas the ecological values enjoy



⁹England, Scotland and Wales.



clear dominance over other elements of sustainable development.

- *Article 6 (1)* of the Habitats Directive has been transposed adequately within the Nature Conservation Act. The drafting and enforcement of management plans in Estonia is obligatory, but there are no deadlines foreseen for drafting them. The majority of the management plans for Estonia's protected and special conservation areas are still incomplete.

- *Article 6 (2)* has generally been transposed well. The problem stems from the contradictions between the Nature Conservation Act and the Forest Act, particularly in the field of limited management zone¹⁰. Additionally, the discretionary powers invested in the governor of the special protected area are too wide and unspecified.

- *Article 6 (3)* has not been transposed completely. In Estonia the Natura assessment is integrated in the environmental permit procedure. Thus, in the case of activities on a Natura 2000 site or nearby, which do not need a permit, no assessment is obligatory. This situation conflicts with the Habitats Directive.

- *Article 6 (4)* has been transposed with the Nature Conservation Act and with the Environmental Impact Assessment and Environmental Management System Act. Transposition is

partial, because there is one requirement missing in the Nature Conservation Act –justifying that the overriding public interest has to be imperative as provided in the directive.

Majority of the management plans for Estonian protected and special conservation areas are still missing, however, concerning national parks and nature conservation areas, which are now Natura 2000 areas, the requirements existed already before EU accession.

A problematic aspect is the limited power of the Environmental Inspectorate to suspend an activity, which could potentially damage a site. The European Court holds that the member states have no right to tolerate the activities or inactivity, which endangers the goals of the Directive. In Estonia there are weaknesses in the supervision of Natura areas and with the powers of the inspector.

According to the Environmental Supervision Act, the Environmental Inspectorate has no right to suspend the activity (even if the permit is missing) unless obvious or apparent damage has been done. When the activity becomes damaging for the habitats and species is a matter of opinion.

¹⁰ According to the Estonian Nature Conservation Act, Estonian protected areas could include three zones: strict nature reserve, conservation zone and limited management zone. A limited management zone is a land or water area of a protected area where economic activities are permitted, taking account of the restrictions provided by the Nature Conservation Act. In case of protected park, only limited management zone regime applies.

3.1.2. EU Commission's reactions to the implementation of Directives in Member States

Significant difficulties between the **French** authorities and the EU Commission¹¹ resulted from national misunderstandings; the EU Commission reproached the French government for the considerable delays in establishing the protection system (20 to 25 years after notification of the Directives), as well as the weaknesses of proposals.

The EU Commission brought actions in the European Court of Justice (ECJ) in order to get the French authorities to fulfil their obligations¹².

This had satisfactory consequences with regard to the French position, and in 2006, fearing a rebuked from the ECJ, the French Ministry of Environment, worked hard to avoid sanctions.

In **Finland** too, the government had to face difficulties with the EU Commission. Finland received a first formal notice for failing to implement the Birds Directive from the Commission in 1996, and a second one in 1997. There has also been an issue with the insufficient coverage of the network. The most recent proceeding was in 2006, when a first written warning from the EU Commission called on Finland to comply with the 2003 Court of Justice judgment concerning the Birds Directive in the autonomous island of Åland.

In the **Czech Republic**, the government postponed the discussions concerning further bird areas at the end of 2004, due to numerous disputes between the Ministries of Agriculture, Industry and Trade, and Environment. Most of the disputes were solved by April 2005 when 39 SPAs were established.

Because of three proposed but outstanding SPAs the Czech Republic faces the threat that the Commission may initiate infringement proceedings and, if the situation is not remedied, a high lump-sum fine, or further penalties, may be imposed. One of these SPAs is to be officially established on 1st June 2008, the two remaining areas have the status of proposed SPA.

In **Austria**, three infringement procedures were noted.

1. *Infringement procedure 1999/2115* deals with the Austrian choice of protected areas for birds (SPA), as some areas are not the most appropriate ones in terms of ornithological criteria, and the nominated areas are still insufficiently protected by regulations.

The infringement procedure requires firstly that the provinces Burgenland and Styria either nominate new SPAs or enlarge the nominated SPAs, and secondly that the whole of Austria enacts the ordinances¹³ for SPAs. Recently Austria sent a comment to the Commission in reply to a reasoned opinion of the Commission from December 2006. Austria's argument regarding the nomination or size of specific SPAs is mainly scientific/ornithological, the legal protection of nominated SPAs is announced for the near future.

2. *Infringement procedure 1996/2089* deals with the incompleteness of the list of nominated sites of Community interest (SCI). According to the Commission, six alpine and ten continental habitats, as well as twelve continental species are still insufficiently covered by the nominated sites. Nearly all provinces (except Vienna) are addressed.

In May 2007 Austria answered the second supplementary reasoned opinion of the Commission from March 2007. Austria argues mainly

¹¹ The EU Commission has to check the implementation of the Directives and the Court of Justice of the European Communities has powers of sanction.

¹² There are currently several cases pending at the Court of Justice concerning insufficient designations; not only France is concerned, but Greece, Spain, the Netherlands, Finland, Ireland and Italy as well (source: Court of Justice of the European Communities, Luxembourg, February 2007).

¹³ An ordinance is a regulation.

from a formal/legal point of view that there was no legal basis for the preliminary lists of sites and additional lists with reserves. According to Austria's reply, the Commission's argument was not scientifically based, and the onus of proof lies with the Commission.

3. *Infringement procedures C 507/04 and C 508/04* referred to some shortcomings concerning the implementation of the two EU Directives into the laws of individual provinces.

In May and July 2007 the European Court of Justice gave judgments penalising Austria.

In **Hungary**, legislation relating to Natura 2000 was transposed by October 2004 together with the list of SPA and pSCI-s sites. The land registry/cadastral numbers of these sites were published in 2005 and declared by 2006. For those nationally protected sites declared simultaneously as Natura 2000 sites the legislation already in place remained in effect, while new sites were regulated by the new government decree dealing with Natura 2000.

A letter of formal notice was addressed, however, to the government of Hungary relating to certain articles of the Birds Directive in 2006. Legislation was modified as a consequence, although no evaluation has been sent from the European Commission to Hungary about acceptance of efficiency of the required transposition measures¹⁴.

In line with the EU requirements, **Hungary** has managed to further develop the Hungarian regulations pertaining to nature conservation with a view to preserving the biological diversity of Europe. Within this framework it has adapted

the Hungarian legislation to the EU Birds and Habitats Directives by the end of the first half of 2007. At the same time, however, making these regulations up-to-date and accurate is an ongoing task due to the changing economic and public administrative environment. The Pannonian biogeographical seminar¹⁵, held in September 2005, found that 89% of habitats and species were covered appropriately by the proposed network of Hungarian SCIs, and the majority of remaining insufficiencies were of an administrative nature, i.e. lack of designation of already existing sites for a given species.

The **United Kingdom** received a formal notice for failing to implement the Habitats Directive from the EU Commission in 1998. This resulted in infringement action, in 2004 C 6/04. The ECJ issued a judgment that the UK had failed to correctly transpose the Habitats Directive in a number of areas with regard to strict species protection (Articles 6, 11-16 of Council Directive 92/43/EEC).

This was followed by C-131/05, which found that the UK failed to adopt all measures to ensure that all species, not just those native to the UK, are protected by the Directives and transposing legislation (Article 6 of Council Directive 79/409/EEC, Articles 12-13 in conjunction with Article 2 of Council Directive 92/43/EEC).

In response the UK has now implemented the Conservation (Natural Habitats, &c.) (Amendment)-Regulations 2007 and the Offshore Marine Conservation (Natural Habitats, &c.)-Regulations 2007.

It appears that following the initial activity to transpose the Directives in 1994, and actions taken between 1995 and 2001 to address the in-

¹⁴ In April 2008 a letter of formal notice was sent by the EU Commission but it only referred to three remaining issues on hunting legislation. Concerning the deficiencies revealed in relation to the transposition of 92/43/EEC the answer of the Hungarian Government is in progress.

¹⁵ Formal discussion between EU Commission and the member state on the efficiency of designation of Natura 2000 sites for individual species and habitat types within a biogeographical region.

sufficiency of sites, progress towards full implementation of Natura 2000 slowed down. In discussing progress implementing the Directives, the Department advised of four areas in which progress had been hindered.

- The United Kingdom had produced very detailed legislation and policy guidance. This was very time-consuming. However, the Department and the conservation agencies believed that this now provides a comprehensive and robust structure to deliver Natura 2000;

- It was suggested that the Directives were not written with a view to application in the marine environment and consequently transposing them in an offshore context had not been straightforward. The transposition was further hindered by the complex nature of marine law as not all breaches could be enforced through United Kingdom domestic law. Breaches in relation to freight and shipping were subject to international legislation, and fishing was subject to the common fisheries policy, where redress was through the European Commission;

- There had been high levels of turnover of staff at the Department delivering Natura 2000. Current staff had been in post for two years, there had been a number of staff changes in the legal department responsible for preparing the Regulations;

- Drawing up regulations had involved a significant amount of consultation, particularly with government departments whose policies in some cases did not support the promotion of Natura 2000. For example, the Department of Transport and the shipping industry had concerns that under the Offshore Marine Regulations prohibitions on releasing organisms into the sea would adversely impact upon the freight trade and affect competition with other member states. Freight ships carry sea water as ballast.

This could be taken on board in one country and then released in another country, transporting organisms alien to that marine area.

In **Estonia**, the European Commission requested Estonia to provide additional sites in respect of 26 habitat types (of 64) in the biogeographical seminar. Eight habitat types needed additional scientific investigation. Estonia sent its revision proposal in March 2007, however this still did not satisfy at the time of the audit all mentioned deficiencies which should be clarified within the next revised proposal in the future.

3.1.3. Delays in implementing the national framework and reasons for those delays

None of the countries audited were able to keep to the schedule proposed in the Directives, except the pre-accession countries for which a special regime for the implementation of European rules exists. However, even these countries encountered difficulties in keeping to deadlines. At the beginning of the Natura 2000 process of the majority of Member States underestimated the contributions required from national budgets to fund nature conservation.

In **Austria, Finland and France**, the main problems were :

- tightness of the timetable,
- difficulties in interpreting and transposing the Directives,
- inadequate training of human resources,
- problems with the introduction of digital maps and the poor quality of the EU-database,
- failures in communication and consultation, resulting in :
 - o conflicts with landowners,
 - o negative attitudes of farmers towards

the EU, and

- o misunderstandings between authorities and local NGOs.

In **Finland**, as a whole the hurry in the process put the nature conservation administration under serious pressure. One crucial delay in the process was caused by the massive amount of complaints (13,480 complaints and 1,067 statements) that the ministry of the environment received from land-owners and other stakeholders, and later appeals (1.600) that were made to the Supreme Administrative Court.

The **United Kingdom** considered there had been a lack of clarity in determining how the Special Area of Conservation selection criteria should be applied. In addition it suffered from a lack of scientific information and, like **Finland**, had encountered the problem of a different scientific tradition as regards its nature conservation classification system compared to the Central European tradition on which the EU-directives were based¹⁶.

The state of designations proposed by **French** authorities to the EU Commission should now be considered more satisfactory. By April 2006 the French Government had nominated to the EU Commission more than 1300 sites, all of which have been approved and published by the EU Commission.

This is also the case in **Finland**. In Finland, there were 1857 sites in 2007. Most of these are accepted by the EU Commission. 97 % of these were already protected nationally before Natura 2000.

In the **Czech Republic**, a government regulation containing new legislation and a list of the Natura 2000 sites should have been published

by the date of accession of the country to the EU, i.e. by May 2004. The most important part of legislation, the previously mentioned amendment of the nature conservation and landscape protection act came into force just 3 days before the accession. The list of SCIs was officially published by the Czech government in April 2005, SPAs were officially approved between October 2004 and January 2005. The negotiations between the Ministry of Environment and Agency for Nature Conservation and Landscape Protection on one side and the local authorities, landowners and other government departments on the other side seem to be the main reason for this delay.

The list of SCIs has been changed during the subsequent moderation process, about 270 new sites were proposed to the list. The moderation process for the continental biogeographical region as well as the negotiations of the newly proposed SCIs were still in progress at the time of the audit.

By June 1999, the **United Kingdom** had specified 340 proposed Special Areas of Conservation. However, the subsequent moderation process across Member States determined that the coverage in the United Kingdom was insufficient.

According to the European Commission, the proposed sites in the United Kingdom did not adequately cover the geographical range or ecological variation shown by some habitats and species, and in some cases the proportion of the total national resource covered by the sites was too low. In addition, the United Kingdom had only selected habitats and species which it considered were of outstanding European importance, whereas the European Commission

¹⁶ There is not a direct read across between the National Vegetation Classification (NVC) standard that had historically been used in the United Kingdom and the Corrie Classification used by the European Commission. As a consequence, many of the categories of vegetation and habitat types referred to by the European Commission could not be readily identified within the United Kingdom.

required all habitats and species listed in the Annexes to its Directives and which existed in any of the sites to be identified and recorded.

In total the United Kingdom has designated 871 sites. There are ongoing discussions with the Commission regarding the sufficiency of sites identified and listed in Commission Decision 2005/813. Recent submissions (August 2007) of sites by the United Kingdom have addressed most of these shortfalls: however two peat bog sites and possibly Salmon sites in which the Commission is interested remain undesignated.

In **Hungary**, as far as the schedule of the designation of the Natura 2000 network is concerned, the government agencies and ministries underestimated the timeframes necessary for the designation of Natura 2000 sites by topographical numbers both before and after the accession. It was not known at the time of the audit whether EU support funds will be available at the required level and by the required schedule. In connection with justified compensation it is questionable whether the support funds are sufficient to operate the Natura 2000 network on 1.3 million hectares in Hungary efficiently, based on an approach of motivation rather than penalisation.

During the Natura 2000 establishment process in **Estonia**, the problems encountered related to the quality of the habitats inventory. Therefore the number of habitats covered within the Natura 2000 network may not be enough to ensure the favourable conservation status of the habitats described in Annex I of the Habitats Directive.

Estonia delivered the proposal Natura 2000 network in April 2004. The proposal consisted of 66 SPA and 509 SCI. The boreal biogeographical seminar concluded that the representation of a

third of habitats could be improved. A revised list of sites for designation was not submitted until March 2008. This list has not satisfied all the shortcomings that were raised at the biogeographical seminar.

Estonia had problems with the inconsistent quality of information in the Natura database. Several mistakes were made in the inventories of sites, and in many cases the sites mentioned in the database do not exist in nature. The selection of sites and inventories was carried out hastily and experts did not receive enough training. The range and total area of valuable habitats in the whole country was not established before the selection of sites for the Natura 2000 network. The proposed network was formed mainly on the basis of existing protected areas. As the range and total area of habitats in the whole country was not considered, there is no certainty that enough sites have been included in the network for ensuring favourable conditions of habitats in the whole country as required by the Directives.

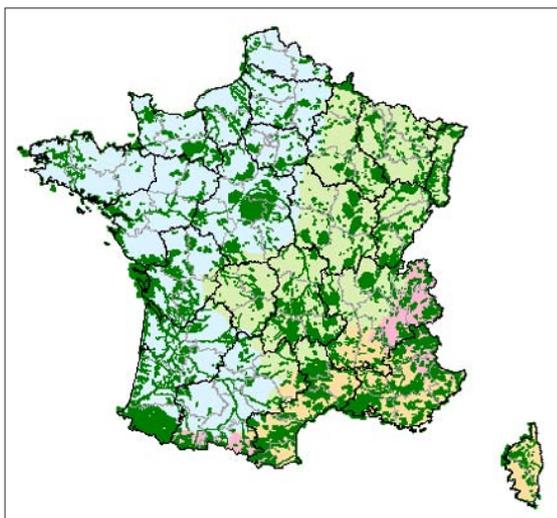
3.2. Governance

The Directives allow each Member State to choose the governance structure that best fits its specific social context. This has also influenced the way in which the network is managed.

3.2.1. Structures and organisation for governance of Natura 2000 network

France has given preference to contractual aspects as a means of facilitating the negotiation between Government and landowners; the Natura 2000 governance process is based on contractual agreement; conservation measures are taken under the "Natura 2000 contract" which represents a form of free agreement between government and landowners and contains precise requirements concerning the management of the Natura 2000 site.

Before the contract is signed, the two parties agree on the "DOCOB" (document d'objectifs), which includes economic, social and cultural provisions for active management and preventive measures. The DOCOB is drawn up by the Prefect¹⁷, after consultation with municipalities, regional representatives, landowners and farmers.



source : Portail Natura 2000

A Natura 2000 steering committee (Comité de pilotage) is set up on behalf of the Prefect to review the requirements of the DOCOB and assess its implementation.

In **Finland**, the Ministry of the Environment is responsible for Natura 2000 policy. In the preparation of the Natura 2000 network there were, however, shortages in leadership of the process. The general management of the environmental administration didn't take a strong enough a role, but left the officials in the nature conservation sector alone. At the beginning of the process the State did not understand the possible conflicts that Natura might cause and thus did not allocate enough resources to communication with land-owners.

The Finnish proposal for Natura 2000 sites was made in two phases and later completed over several phases. First major proposal covered state-owned areas and was sent to EU Commission in 1996. Second phase dealt with private owned lands. This created a lot of criticism among land-owners and created political pressure. This is why a ministerial working group, with real decision-making power, was established in 1997. The decision regarding private-owned sites was made in 1998.

There are several methods to protect nature areas in Finland. The State may purchase the land from private owners, or compulsorily purchase it, or a landowner may suggest putting the land under protection. In all these cases, full compensation is paid by the State to the landowner. Most of the Natura 2000 sites were, however, already protected and owned by the State.

Management of the Natura sites in Finland has begun with framework plans, which identify the areas that need a detailed management plan most urgently. Planning the management has

¹⁷ Local representative of Government

been highly participative and it has been driven by the state organisations (Forest and Park Services or Regional Environmental Centres).

In the **Czech Republic**, the authorities in charge of Natura 2000 are the Ministries of Environment and Agriculture, Agency for Nature Conservation and Landscape Protection (ANCLP), and National Parks, which participate with ministries in implementing the Natura 2000 network.



In its management of funds specifically intended for implementation of the Natura 2000 network, the ANCLP acted at variance with the budgetary rules by expending funds amounting to EUR 30 000. For example, there were many formal imperfections in contracts concluded for mapping (some contracts were concluded on or after the date of performance, though the work was always performed); several contracts were concluded with the same subject of performance without detailed specification of the work; unrealistic contracts were concluded with certain mappers - the mappers would be obliged to map up to 64 ha every day for a period of five months in order to perform the work within the agreed deadline (also in these cases the work was often done before the contract was signed). Other important authorities in managing some of Natura 2000 sites beside ANCLP are national parks administrations, which have responsibility for public administration and organisation of

professional and practical management of natural and landscape environment in the territory of the national parks (the whole territory of the national parks is covered by Natura 2000, though all of them were established before Natura 2000 network was set up in the Czech Republic). The Ministry of Environment and the national park administrations have in some cases failed to ensure the timely preparation of management plans for some of national parks.

In **Austria**, due to the federal structure there was no central authority for the specification, administration or financing of the Natura 2000 network. The official negotiations concerning the coordination of the provinces were conducted via a platform called "Verbindungsstelle der Bundesländer" (Länder Liaison Office). A so-called "Gemeinsamer Ländervertreter" (Common Länder Liaison Officer) was appointed to represent the provinces at the federal ministries and the EU.

He also had operational duties such as preparing and delivering files concerning all provinces.

The areas were safeguarded in different ways. In part, the provinces purchased or leased the land. In most cases, however, they entered into contracts with the landowners. These contracts assure a nature-compatible use of the areas, in line with management plans. The payment of

compensation was part of the individual contracts.

In Austria generally, solutions based on contractual agreement are preferred to legal constraint. Landowners and other interested parties (e.g. hunters, local NGOs) are involved in the negotiations to assure a high level of acceptance for the planned measures.

In the **United Kingdom**, the Department of Environment, Food and Rural Affairs (the Department) is responsible for implementing Natura 2000. Financial incentives are offered to landowners to encourage them to adopt environmentally beneficial land practices. The Department is supported by the devolved administrations in Scotland, Wales and Northern Ireland. The key bodies responsible for preparing, implementing and managing Natura 2000 sites in the UK are :

- Natura 2000/Ramsar Steering Committee which was set up to provide strategic direction to the implementation of Natura 2000;

- Joint Nature Conservation Committee provides scientific advice and knowledge on nature conservation; co-ordinates the input of the statutory nature conservation agencies to UK and international issues; oversees the common monitoring standards and research;

- statutory nature conservation agencies identify sites, consult, manage and enforce the regulations. They act as statutory advisors to the competent authorities and have a general overview of the implementation of the Habitats Regulations;

- local authorities, whose functions include land use planning, coastal protection and the designation of local nature reserves and ac-

ting as competent authorities; and,

- Ministry of Defence (which owns significant areas of land) and Environment Agencies¹⁸ have specific responsibilities regarding implementation of the Habitats Regulations.

In **Hungary**, the growing number of Natura 2000 tasks and the completion of an increasing number of legal obligations were not matched by capacity enhancement in the Ministry of Environment and Water of the institutions supervised by the Ministry.

In addition, two of the twelve environmental authorities and one of the ten National Park directorates were downsized and merged with other authorities or directorates. There is a programme, however, to enlarge the staff of environmental authorities and nature conservation by 450 people in the coming years.

Many difficulties come, however, from the multisectoral nature of Natura 2000 management; the responsibility for fulfilling international environmental commitments and also the enforcement of restricting regulations are assigned to the Ministry of Environment and Water, and compensatory payments are supposed to be paid by the Ministry of Agriculture and Rural Development, which has other competing priorities for payment of funds.

In **Estonia**, the Ministry of Environment is responsible for the establishment and implementation of Natura 2000 network. The Ministry of Environment governs and manages Natura areas through its county environmental departments and State Nature Conservation Centre (SNCC). As a result of the reform of the nature conservation administration in 2005 the functions of governing and managing the conservation areas

¹⁸ The Environment Agency is the principal environmental regulation body in England, controlling emissions to air, water and land. The Scottish Environmental Protection Agency is the regulatory body for Scotland.

were separated. Presently all the conservation areas, including Natura 2000 areas, are governed by the county environmental departments, who decide the conditions of conservation and of the natural resource utilisation in protected areas. SNCC, established in 2006 under the administration of the Ministry of Environment, carries out the management of Natura 2000 areas together with its regional centres and in cooperation with the county environmental departments of the Ministry of Environment. Earlier the governance of the conservation areas was divided between the county environmental departments and conservation areas administrations. Estonian nature information system (EELIS) is administered by Estonian Environmental Information Centre. Up till now the information system includes only the outside borders of Natura 2000 areas.

3.2.2. "Feedback administrative process" between central authorities and local governments

The **French audit** concluded that there were insufficient measures in place for managing and organising the administrative scheme at every level before 2002: the weaknesses of the designation process and the unreliability of landowners and NGOs within the institutional framework (ministries, Prefects...) had impaired the fluidity and efficiency of the overall system for 25 years.

European legislation made a very marked separation between environmental and agricultural issues (at least until 2006), and this led to separation of French Natura 2000 management between two ministries: Ministry of Ecology and Sustainable Development on the one hand, and Ministry of Agriculture and Forests on the other. This situation caused a great deal of difficulty as regards interpretation and coordination of Ha-

bitats Directive implementation by the Ministries, at both central and local level.

Lack of leadership and imprecise definition of responsibilities made it impossible to adopt a clear position on when, how, and why to create a Natura 2000 site.

For a very long period between the beginning of the implementation process and 2006 it was not possible for the French authorities to meet deadlines.

By 2002 a new body of circulars and decrees had been integrated into French legislation with a better affirmation of the leadership of the Ministry of Environment; these new rules have permitted the implementation of the institutional scheme to be achieved and have made local stakeholders the true decision-taking managers of Natura 2000 sites. Local government (local authorities, departments and regions) and Natural Parks are responsible for Natura 2000 site proposals.

According to the audit conducted in 2006, it appears that the Natura 2000 framework in France is complicated but efficient.

In **Finland**, the state is responsible for nature conservation. At the regional level, regional environmental centres, which are led by the ministry of the environment, are responsible for practical work related to nature conservation. Although municipalities have no formal role in nature conservation, better cooperation with municipalities, might have made the preparation of the Natura process more appropriate. Cooperation with municipalities might also have helped to create better relationships with landowners and helped to resolve the conflicts which arose in the selection of Natura 2000 sites.

In the **Czech Republic**, the main responsibility for nature conservation lies on the state. The local governments, municipalities and landowners take part in nature conservation as well. The proposal of SPAs and SCIs has been negotiated with local governments. The communication between the central authorities and local governments seems to be sufficient in general, nevertheless some disputes occurred, as mentioned in the next chapter of this report.

In **Austria**, due to the Austrian federal system, no feedback process between federal authorities and the provinces has been established or felt necessary. In the case of queries from the Commission to the Federal Republic of Austria, the competent federal entities (Federal Chancellery, Ministry for Agriculture, Forestry, Environment and Water Management) make direct contact with the provinces.

There are no standards or guidelines dealing with nature protection applicable throughout Austria. Some provinces have developed standards, e.g. for management plans, but these are only applicable within the province.

In the **United Kingdom**, the audit found that in principle the framework and governance appear to be robust. However recent changes within the Natura 2000/Ramsar Steering Committee (which plays a key role in providing the strategic direction for the delivery of Natura 2000) may affect the ability of the Natura 2000 Steering Committee to act efficiently as a decision taking body. A separate committee has been established to lead on marine issues. Decisions regarding Natura 2000 may therefore have to go through two committees, which could be time-consuming and may result in the marine and terrestrial committees taking different approaches. Additionally a restructuring of

the Department has placed the Marine and Terrestrial Biodiversity sections within two separate divisions, each reporting to different Ministers.

The Department performs two key roles: it is accountable for and represents the United Kingdom to the European Commission, and it is also the devolved administrative body for England. Some key staff questioned the distinction between these roles and whether the Department would focus on its role in England to the detriment of its work on behalf of the United Kingdom or vice versa.

The audit was not able to provide information on Gibraltar's performance in relation to implementing and managing Natura 2000.

In **Hungary**, ten (formerly twelve) environmental nature protection and water management inspectorates are responsible for issuing permits or fines on activities relating to Natura 2000. National Park directorates were formerly responsible for nature protection authority work but now their duties cover only the operation of natural parks and the supervision of protected areas. However, the rate of protected areas increased from 9% to 21%, while the staff of National Park directorates was not raised to fulfil these tasks. The local environmental authorities and directorates have good communication with the central authorities, the ministry and the chief inspectorate. However administrative channels and communication between local inspectorates and local national Park directorates are still developing.

In **Estonia**, nature conservation administration was reformed in 2005. As a result a new institution the State Nature Conservation Centre (SNCC) was created in January 2006, taking over the management responsibilities of the conser-

vation areas from county environmental departments and conservation areas administrations. Earlier the functions of governing and managing the conservation areas were in the hands of one institution, but now the duties concerned are divided between two regional institutions. The reallocation of the governing and managing functions has been time-consuming, and it is only now that the profile of the duties of the newly founded organisation is becoming settled. The co-ordination procedure with regard to the conservation areas has become too time-consuming and inefficient, since there are two institutions involved: county environmental department (as a governor) issues the environmental permit after approval from SNCC. The situations, where the governor and SNCC have different standpoints on issuing a permit are more complicated. For this reason the governance scheme should be more efficient. Also, the exchange of information between the central government and the regional units (county environmental departments, SNCC) should become more efficient.

3.2.3. Conflicts in preparing the Natura 2000 network

In **France**, conflicts between different administrative authorities have long endangered Natura 2000 implementation, as both the Ministry of Agriculture and Forest and the Ministry of the Environment competed for leadership of Natura 2000. In addition, insufficient leadership by local managers and a confused decentralised approach have led to difficulties which are not yet resolved; moreover, conflicts between environmental or hunting NGOs and local or central authorities have significantly spoiled the debate about Natura 2000 and delayed the creation of sites.

In **Finland**, the leadership was clearly in the hands of the Ministry of the Environment. This position was also determined by the Nature Conservation Act. However, the Ministry of Agriculture had different interpretations of the Directives and the significance of Natura. This caused tensions during the selection of Natura 2000 sites.

Despite the long tradition of nature conservation in Finland, the selection of Natura 2000 sites caused a great deal of conflict. One reason for conflicts was the insufficient information that was provided in the beginning of the process to the land owners by nature conservation administration. Part of the problem was that EU Commission did not provide any information material to the issue.

Particular controversies arose between the Central Union of Agricultural Producers and Forest Owners and nature conservationists as well as the nature conservation administration during the selection of Natura 2000 sites. Natura 2000 suffered from negative attitudes towards EU that were present in the Finnish countryside. In planning the management of sites the State has paid a lot of attention to communication and public participation.

In the **Czech Republic**, the responsibility for Natura 2000 lies mainly with the Ministry of Environment and the Agency for Nature Conservation and Landscape Protection (ANCLP). There were several disputes between the above mentioned organisations and other government departments (e.g. the Ministry of Agriculture, Ministry of Industry and Trade) and local governments regarding the specification of some Natura 2000 areas. Most of the disputes were solved "by the time". The most serious one (regarding the proposed SPA territory in northern Moravia) has been almost solved. The ne-

negotiations of two proposed SPA areas and newly proposed SCI areas are still in progress.

In **Austria**, at the beginning of Natura 2000 network implementation, support within local communities was rather low, particularly regarding restrictions on ownership rights in the fields of hunting, fisheries and agriculture.

These fears were partly based on incorrect information and had to be dealt with in long and time consuming information campaigns prior to the nomination of the sites.

In the audited provinces existing protected sites were nominated as a matter of priority.

Violations of the legal framework were prosecuted and fines were imposed. Surveillance varied between provinces - mostly it was performed by site custodians or by officers of the local authorities. NGOs were also involved in this surveillance system and informed the authorities of any observed violations. Usually there were no serious problems, because landowners and land managers were well informed as a result of the information campaigns.

Implementation measures did not meet serious difficulties, as landowners and land managers had good information.

Communication with stakeholders was improved in each province after the troubles encountered during the first round of negotiations and the first attempts of contracting with the landowners and /or regional NGOs.

In the **United Kingdom**, there were no significant conflicts in preparing the Natura 2000 network. The United Kingdom has a long history of countryside conservation and the delivery of Natura 2000 was aligned with the processes already in place for protecting Sites (or Areas) of Special Scientific Interest (Areas in Northern Ireland). In addition widescale consultation was

carried out prior to the submission of any sites. The key delays were due to consultation and negotiation with landowners, and withdrawal of planning or other consents¹⁹.

In **Hungary**, the main conflicts were due to capacity shortages in state nature conservation, and the related deficiencies in the authorities' licensing activities.

Another possible source for the conflict that affected the Natura 2000 network was the large scale industrial projects planned to be implemented close to the Hungarian national borders. The emergent conflicts of interests highlighted the desirability of reinforcing the relationship of environmental protection and physical planning and licensing, both nationally and internationally, as it is one of the best tools for preventing conflict.

The Natura 2000 network did not hamper agricultural activity, although farmers who only acquired their own land with the political changes in 1990 had concerns about it. It remains to be seen whether agri-environmental schemes will support them satisfactorily. More conflict was experienced with speculative buyers of land and also with some of the actors of the open surface mining industry, especially gravel mining, since a change of land use is permitted only if it does not adversely impact on the condition of the Natura 2000 site in question.

In **Estonia**, the majority of the problems during the creation of Natura network stem from the opposing landowners (particularly in some regions) and from the conflicting interests with the real estate development and forest management. In some cases this has led to the omission of the valuable habitats from the Natura 2000 network. In recent years the pressure for a more intensive forest management in state owned fo-

¹⁹ In the UK where organisations carry out operations such as peat extraction, or dredging, they are required to have permission to do so: we call this a "consent". To stop any operations which might be causing damage to Natura 2000 sites, it was necessary to withdraw these "consents" or permissions. Where consent is withdrawn the organisation can be entitled to compensation for loss of earnings.

rests has grown. The economic interests of the state-owned State Forest Management Centre have influenced also the establishment of Natura 2000 network in the state forest²⁰.

In four countries, **France, Finland, the Czech Republic and the United Kingdom**, the audits found that the task of preparing the Natura 2000 network exceeded the resources (financial and human) at the disposal of the nature conservation administration, at least in the early stages.

3.3. Funding, cost efficiency and effects of the Natura 2000 network

3.3.1. Funding

In **France**, the EU budget supported the Natura 2000 process mainly through EAGGF funds, and additionally, through the LIFE fund for local programmes.

For the period 2002 to 2006, the French network also received national subsidies. As indicated above, the French audit highlighted the complexity of the financial structure, due to the division of financial resources between the Ministry of Agriculture and Forests (MAP) on the one hand and the Ministry of Ecology and Sustainable Development (MEDD) on the other. Each of them has local departments committed to undertaking the financial implementation of Natura 2000 on the ground.

To a lesser extent, local government in the form of local authorities, regional government or local public bodies can also grant subsidies to creating and managing a Natura 2000 site.

Within the Ministry of Agriculture, Natura 2000 policy is also involved with agri-environmental measures and it is not possible to identify individual expenditure items dedicated to Natura from funds granted to agri-environmental measures.



From the beginning, important difficulties have resulted from these two methods of management, and a French governmental accounting figure which would represent the global financial expenditure of Natura 2000 does not exist.

In **Finland**, most of the nature conservation is financed through the national budget and the Ministry of the Environment. There has been a framework for purchasing land for nature conservation purposes (1996-2009). It covered altogether 552 million euros. The EU funds allocated through LIFE programme have been considerable compared to other countries (see table 2.).

²⁰ The state forest is managed by the State Forest Management Centre, which receives 99% of income from forest cutting. Economic interests have prevailed over nature protection interests. The area of managed forest has reduced in state forest by establishing the Natura 2000 network

The agri-environmental measures are allocated through the Ministry of Agriculture. These sums are large (almost 300 million euro per year), but only marginal sums go to the Natura 2000 sites, since most of the farmland was excluded from the Natura 2000 network.

The European Regional Development Fund (ERDF) is managed by the Ministry of Interior; the European Agricultural Guidance and Guarantee Fund is managed by the Ministry of Agriculture and Forestry. Managing and paying authorities are regional environmental centres, regional councils, and employment and development centres.

In the **Czech Republic**, the process of establishing the Natura 2000 network started in 2000. From this year some national resources have been dedicated directly for mapping and monitoring Natura 2000 by Ministry of Environment; the average expenses were € 1,2 mil. per year (between 2000 and 2005).

Other funds connected with Natura 2000 sites came from the national budget e.g. the Nature Conservation Programme or the River System Restoration Programme. These programmes started before Natura 2000 network was established in the Czech Republic and were aimed to the existing Czech protected areas. Even after establishing the Natura network there are no special indicators showing how much money from the programmes is dedicated for the Natura 2000 sites. The Agency for Nature Conservation and Landscape Protection (ANCLP) estimated the total spend from these sources in connection with the Natura 2000 sites at about € 6,5 mil. per year in 2004 and 2005. Before 2004 Natura 2000 wasn't established in the Czech Republic which is the reason why ANCLP estimated expenses only for 2004 and 2005.

As regards European funds granted to Czech agriculture, part of those funds is dedicated to

agri-environmental measures, with one part supporting the Natura 2000 system. (This structure is the same as in other countries for this type of funds.)

The Czech audit, like the audit in France, encountered some difficulties in trying to identify the amounts going to Natura 2000 through agri-environmental measures.

Some projects were funded from the Phare and Life Programme, as mentioned in table 2.

In **Austria**, the audit examined more specifically six provinces expenditure, for which the total amount is 25 million euro, 27,71million euro for Austria as a whole (per year).

The provinces financed the measures for the Natura 2000 network from their own budgets earmarked for nature conservation. Funds from other areas such as water management, rural development, spatial planning, etc. were also used. The federal state's main contribution to Natura 2000 expenditure was in the form of co-financing for the national parks, most of which are also Natura 2000 sites, and as co-partner to LIFE projects.

Alongside financing for provinces' obligations, the Habitats Directive provides for an EU financial contribution to the measures for NATURA 2000 sites.

So far, the provinces have used different EU financing sources to co-finance certain costs for NATURA 2000 sites. Austria focused on agri-environmental measures (ÖPUL)²¹.

In some provinces (Burgenland and Lower Austria) financing by ÖPUL was very substantial. In Lower Austria ÖPUL payments amounted to 70 % of the total expenditure, whereas in Tyrol the percentage was insignificant (about 4 %).

The utilisation of ÖPUL is dependent on the agricultural use of areas in the Natura 2000 sites. In this respect, there were very few agricultu-

²¹ Austrian Programme for supporting a sustainable, extensive agriculture that protects natural habitats.

rally utilised areas in the Natura 2000 sites of Tyrol.

In the **United Kingdom**, it is not possible to fully identify all expenditure on Natura 2000-based activity to date. The audit was unable to disaggregate expenditure on purely Natura 2000 activity from other conservation and protection activity. Funding comes from a wide variety of sources; the cost of implementing the directives has fallen upon a number of government departments and agencies which were not able to provide cost data related to Natura-based activity. The contributions of local authorities and non-governmental organisations could not be calculated; and the cost of managing sites was only reported once sites had been formally identified. In addition each of the four devolved administrations has different funding mechanisms. However, the identification, management and surveillance of Natura 2000 were usually funded from seven main sources :

- national conservation agencies spent on average around €50,5 million on Natura 2000 based activity. It was estimated that over €425,7 million had been spent on implementing Natura 2000 since 1994;
- the Ministry of Defence estimated that it spent around €6 million each year on nature conservation;
- LIFE Funding 2001 to 2006, an amount of €33,2 million;
- between November 1994 and November 2006, the Heritage Lottery Fund awarded grants of almost €372 million towards projects that focused on nature conservation. It was not possible to identify the expenditure that related

to Natura 2000 sites from the data held;

- up to 1 April 2007 a total of around €55,5 million was set aside by the Department to cover compensation claims in respect of permissions under Regulation 50 of the Habitats Regulations 1994;
- in reviewing consents which might adversely impact on Natura 2000 sites in England and Wales the Environment Agency has estimated that it will cost around €2,2 billion; and
- National Rural Development Programmes: in England the total expenditure on agri environment schemes in 2006/07 was €380 million²². Of this €170,7 million was funded from European funds and €209,3 million from the Exchequer.

For the implementation of the Natura 2000 network, **Hungary** received support from the Pre-accession Funds (Phare), Transitional Facility, Structural Funds and the National Rural Development Plan (Ministry of Agriculture and Rural Development) in accordance with the budget structure of the EU. It was neither a requirement, nor a need, to separately register and evaluate funds spent on the development of the Natura 2000 network with the given budget structure of the EU and Hungary. Data collection was hampered by the horizontal nature of the Natura 2000 administration, as well as by the lack of an independent EU or member state level Natura 2000 priority or thematic action programme for Natura 2000.

These circumstances did not allow a full evaluation of the costs of establishing and operating the Natura 2000 system. The preparation of economic analyses was given less importance.

²² Conversion from pounds sterling to euro is at the rate of 1, 4866 provided by Reuters on 18.7.2007.

In **Estonia**, a significant amount of national funding for the creation and management of Natura 2000 network comes through the Estonian Environmental Investment Centre. The rest of national funding is allocated by the state budget and is managed by the Ministry of Environment. Since 2001 the support for the restoration and management of semi-natural communities has been financed mainly from the state budget. The EU funds ERDF and LIFE-Nature program are used to finance the conservation activities in Natura 2000 areas. The implementing authority for ERDF in Estonia is the Environmental Investment Centre, which involves the Ministry of Environment in the evaluation process of the

projects. The rural development program (for Natura sites) includes the support of the “semi-natural communities’ management²³ and the support given for the agricultural land within the Natura 2000 area. The implementing authority of these measures is the Estonian Agricultural Registers and Information Board.



²³ Semi-natural communities or semi-natural habitat types are habitat types of HD Annex 1, e.g.
1630 Boreal Baltic coastal meadows
6210 Semi-natural dry grasslands...
6280 Nordic alvars
6530 Fennoscandian wooded meadows
They are called semi-natural because these habitat types need regular management (mowing and grazing).

Table 2 : Financial resources to Natura 2000 network

	National budget	Agrienvironmental measures	Other funds	ERDF	INTERREG	LEADER
FRANCE	23,77€ million ²⁴ from 2000 to 2004		“Contracts” funded by Environnement Ministry 1,68€ million ²⁵ from 2002 to 2005			
FINLAND	21,2€ million per year by the Ministry of the Environnement, in addition to that finances from other ministries*	up until 2006 8€ million	LIFE Nature : 1995-2006 : 37 € million LIFE Environnement : 1995-2006 : 24€ million	up until 2006 9€ million	up until 2006 0,4€ million	up until 2006 0,4€ million
CZECH REPUBLIC	1.2€ million per year (direct expenses) 6,5€ million per year (estimate of ANCLP for 2004 and 2005)		LIFE : 0,55€ million (approved project, should be spent by the end of 2007) PHARE : 1,35€ million (spent in 2004 and 2005)	0,7€ million (approved, projects, should be spent by the end of 2008)		
AUSTRIA	4,65€ million per year	14,71€ million per year	LIFE: 8,35€ million per year			
HUNGARY	No funds earmarked to Natura 2000, funding was through general budget on environment	No funding earmarked to Natura 2000 until 2006; it benefited, however indirectly, from other funds (National Rural Development Plan)	LIFE III : 12,1€ million between 2001 and 2006	KIOP (Environment Protection and Infrastructure Operational Programme) KEOP (Environment and Energy Operational Programme)	INTERREG III A/B 12,3€ million (indirect utilisation) and INTERREG III B CADSES	
UNITED KINGDOM**						

* Finland: Is overlapping with other nature conservation tasks and total budgetary appropriations for buying land for nature conservation purposes: 1996-2009 € 552 Million (so called old nature conservation areas and Natura 2000 areas)

** In the UK, the audit was unable to establish specific costs to Natura 2000 network.

²⁴ This amount includes European and national funds.

²⁵ This amount includes European and national funds.

3.3.2. Audit criteria and indicators for evaluating Natura 2000 policy

In **France**, the reform of French financial legislation (LOLF) came into force in 2006.

This legislation involves a new public accounting and public management approach which, for NATURA 2000, has received concrete implementation through two programmes.

A first programme managed by MEDD (management of natural environment and biodiversity) and a second one, managed by MAP (sustainable management of agriculture, fishing and sustainable development).

In **Finland**, an evaluation is currently being finalised in order to meet the reporting obligations under EU Directives.

In the **Czech Republic**, monitoring of the state natural environment from the viewpoint of conservation does not include systematic evaluation of the impact of specific management actions.

The Agency for Nature Conservation and Landscape Protection does not monitor changes in ecosystems once actions have been completed or finally evaluated. The Agency for Nature Conservation and Landscape Protection has drawn up "Draft Evaluation of Effectiveness of the Nature Conservation programme (a national programme also involving non-NATURA sites)" which has not been put into practice yet.

In **Austria** a system of criteria and indicators was under construction at the time of the audit to meet reporting obligations under the EU Directives.

In the **United Kingdom**, each of the finance sources is subject to audit in accordance with

national regulations. Whilst the Joint Nature Conservation Committee compiles six yearly monitoring reports regarding the condition of sites, the responsibility for evaluating the effectiveness of the UK's approach rests with the government of each devolved administration. The audit concluded that there was no systematic approach to evaluating the efficiency or effectiveness of the management of NATURA 2000 sites across all home countries. However, this is an area that the National Audit Office could look at in the future.

In **Hungary**, monitoring of species and habitats of Community interest is done through the National Biodiversity Monitoring System, initiated in 2001. New species and habitat types were added to the monitored biota²⁶. The framework of a Nature Conservation Information System has also been prepared. The lack of a nature conservation agency (recently closed down) to process data and evaluate information to help the ministry's work slows down the assessment of the use of Natura 2000 network considerably.

In **Estonia**, one of the duties of State Nature Conservation Centre (SNCC) is the performance evaluation to determine whether the established conservation procedure achieves the conservation goals. The audit did not ascertain whether the SNCC has drawn up evaluation instructions. The Ministry of Environment had not prescribed at the time of the audit any evaluation performance criteria or indicators for the SNCC. At the time of the audit, the SNCC had been in operation for only one year.

The Estonian Ministry of Environment and the Environment Information Centre is responsible for the implementation of the state environmental monitoring program, which should gather the information as to whether the favourable

²⁶ Biota (ecology) is the total collection of organism of a geographic region or a time period, from local geographic scales and instantaneous temporal scales all the way up to whole planet and whole-timescale spatiotemporal scales. The biota of the Earth lives in the biosphere.

status of habitats is secured. Until now the Estonian University of Life Sciences has been in charge of the public surveillance, starting next year the duty will go over to the SNCC²⁷.

3.3.3. Cost efficiency of the Natura 2000 network

In the national audits, how the different SAI's dealt with the question of cost efficiency was dependent upon their national audit framework. Thus, some focused on the costs while others were also dealing with cost-efficiency.

In **France**, the cost-efficiency management process was not studied before 2006; the former audit of Natura 2000 (October 2004) by the French Court highlighted the substantial costs of Natura for the preceding period (2000 to 2004) and the weaknesses of results obtained by French authorities.

The reform of financial legislation (LOLF) and the assessment of public programmes by relevant tools (indicators) will allow the cost-efficiency of the global system to be evaluated over the next few years.

Total expenditure, including national and European funds, has been estimated at €25 million for the period 2002 to 2005.

These amounts include payments by the Ministry of Environment (€1,7 million) and payments by Ministry of Agriculture (€23,7 million).

The French system is expensive, considering the cost of a contract: the unit cost for a contract²⁸ signed between government and a stakeholder is on average €25 000 to €30 000.

The efficiency of the French system hitherto has not been demonstrated.

In **Finland**, the total administrative cost of preparing the Natura 2000 network (1994-2006)

was about €12,4 million. This amounts to €2,50 per hectare, and €3,50 if only the land-area is counted. In the light of the Finnish audit, the cost does not seem excessive.

In Finland, Natura 2000 represents an approach that is slightly different to the traditional Finnish nature conservation approach where areas to be protected were purchased by the State at the market value. The audit concluded in a hypothetical calculation that the Finnish State would have had to pay €400 million more, if all the Natura sites had been protected with the traditional conservation strategy. Natura allows a more flexible conservation mechanism, which does not necessarily require purchasing the land, and which thus seems to be more cost-efficient than the traditional protection. This calculation relates to the creation of the areas only. Thus, the cost-efficiency related to the management of the sites is still unclear.

In **Austria**, in the year 2003/2004, cost estimates for financing the Natura 2000 network were calculated by all provinces on the basis of a uniform calculation formula. The estimated annual costs for Austria totalled €181 million, more than half of which was accounted for by agricultural and forestry operating costs.

As there was no continuous monitoring of the sites, it was not possible to evaluate efficiency and effectiveness of the invested funds

In the **United Kingdom**, as the system for delivering Natura 2000 has been merged with existing conservation processes, it has not been possible to disaggregate with any accuracy the costs of Natura 2000 sites for the United Kingdom as a whole.

The audit in **Estonia** and in the **Czech Republic** did not evaluate the cost efficiency of the

²⁷ Previous monitoring system does not provide information for favourable condition of habitats. State monitoring system has been renewed for monitoring habitats, but needs further improvement in order to provide reliable information.

²⁸ A contract is signed for a period of five years.

Natura 2000 process.

3.3.4. The impacts of Natura 2000 strategy

In the selection of Natura 2000 sites in **Finland** and in **France**, there were significant conflicts with landowners. Due to the information and communication weaknesses in the Natura network preparation process public trust in environmental authorities was eroded.

The Natura 2000 process also had positive effects, however. In Finland it has encouraged the development of communication skills and willingness to communicate in the environmental administrations. It has also changed the attitude of environmental administrations and facilitated a voluntary conservation strategy which is widely accepted among Finnish landowners.

Although Natura 2000 brought only 3 % of totally new sites to the Finnish nature conservation network, it has nevertheless increased the stability of nature conservation.

In all the countries audited, conservation work has become more systematic and general information about habitats has improved. Natura 2000 has also drawn attention to some habitats that were not well protected before, mainly in Finland. Natura 2000 has also accelerated the introduction of GIS²⁹ and other tools in environmental administrations.

In general, protection significantly increased in **Austria**, due to implementation of the Natura 2000 network. Approximately 60 % of the present Natura 2000 sites were better protected after their nomination than they had been before. About 30 % of nominated sites had not been protected before at all. Natura 2000 led to a new approach to nature protection, with a switch from protecting only defined areas to

protecting and maintaining habitats and species all over the country.

In **Hungary**, the Natura 2000 network relied heavily on the nationally protected sites, 90% of those were designated as pSCIs or SACs. In addition a number of new sites were added that brought the coverage of sites to 21% of the land's surface. National resources for staff, institution building, compensation schemes have not been increased significantly as yet, although Community funds (Phare, Life, KIOP, Transition Facility Programmes, etc.) have helped to ease the lack of national funding so far.

The **Czech Republic** audit did not evaluate the effects of Natura 2000.

In **Estonia**, the area of protected territory increased from 10, 5% to 16% by establishing the Natura network. The aquatic territory covered by Natura 2000 is 646 000 ha.

29 GIS: Geographical Information System

Natura 2000 parallel audit conclusions

In signing this joint report, each Head of the participating Supreme Audit Institutions validates the content of the sections describing the implementation of Natura 2000 EU policy in his/her country.

Furthermore, having compared the difficulties in implementing Natura 2000 EU policy in his/her country and in the other countries participating in the parallel audit, he also agrees to identify the following common findings.

1. Main findings relating to compliance

Most of the audited countries were not able to implement the Directives within appropriate timescales. This led to numerous infringement processes against Member States. One of the main reasons was that Member States and the European Commission (EC) failed to correctly estimate the magnitude of resources required to implement the two Directives. This statement applies in particular to the phase of selection and designation of sites. Member States underestimated the requirements in terms: of “volume” of scientific knowledge and data, of the time needed to provide information to, and consult with, multiple local stakeholders and for establishing appropriate management plans.

It is recommended that the EC should provide more guidance to the new member states and emphasize the scale of resources needed to implement this policy properly.

In some of the participating countries, the main source of delays in implementing the Directives

was the resistance of affected constituencies to accept this policy. Applying the EC’s coercive powers was eventually necessary to complete the network constitution. As a result some Member States had to invest additional resources in information and consultation processes; this effort proved generally to be successful.

2. Main findings relating to governance

The approach taken largely varies among the countries. However the players are generally the same ones: State and/or national agencies, regional or local government, landowners or farmers, and local associations or NGOs. Management approaches, such as regulations versus contracts, and the balance of influences between departments in charge of Agriculture or Environment largely vary among the countries. Such diversity in the way of governance is allowed by the Directives and eases their adaptation to the specific local context of each EU member state; it is thus acceptable.

In some participating countries, the responsibilities were split between departments, for example Environment or Agriculture departments. This led to unnecessary coordination needs and sometimes inconsistencies in implementation methods.

Many audits found that there was no systematic approach to how site condition was being monitored. It is recommended therefore that the EC develop further guidance material regarding monitoring tools used to assess the effectiveness of Natura 2000 network in securing favourable status of habitats and species of Community importance. This will allow fair comparison between Member States.

3. Main findings linked to cost, funding and effects

The parallel audit has not been able to precisely identify the cost to the participating countries of implementing the Natura 2000 EU policy, although the costs of implementation have certainly been high.

Data needs to be collected at national level, within a similar framework, which makes clear distinctions between:

- Initial investment and operational (functioning) expenditures;
- European and national funding resources; and
- Part of agricultural European funds devoted to Natura 2000 policy.

Although it is recognized that collecting such data will be difficult, it would be advisable to set up, at a national level, appropriate indicators to compare the cost and efficiency of the different methods used to achieve the Natura 2000 goals.

An estimation about the effects of Natura 2000 policy on the state of the nature conservation was made in some audits. The general finding was that the Natura 2000 network has strengthened nature conservation, and for some countries created more stability compared to the previous nature conservation mechanisms.

The audits revealed that there is still a need for decision makers in a majority of participating countries to get a full understanding of the importance of biodiversity. It is a permanent challenge for policy makers to gain (and keep) the support needed from the public at large for the importance of this policy and its economical, so-



cial and cultural benefits, since they are mainly of a collective nature.

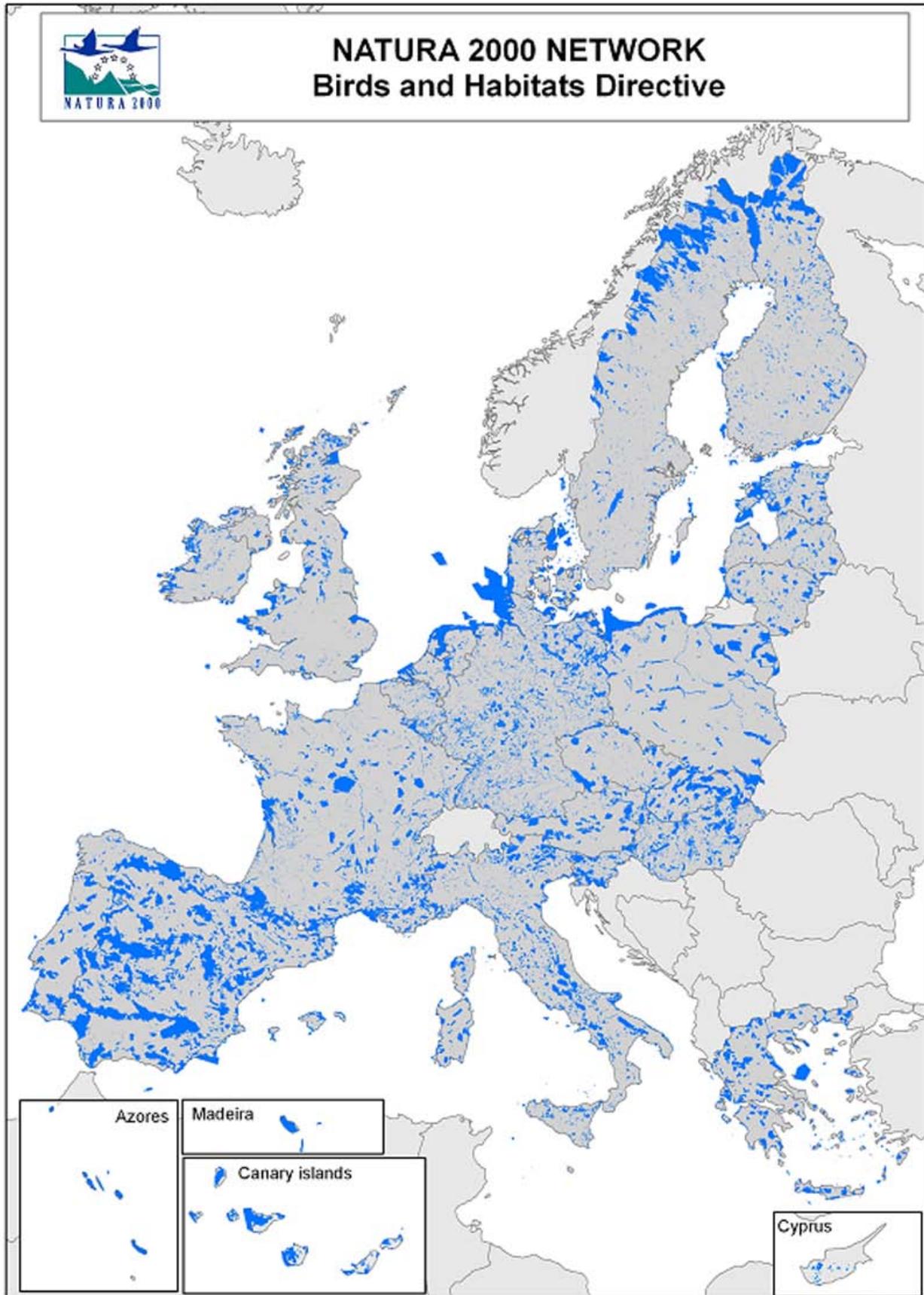
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The Heads of SAIs, signatories of the present report, have agreed to communicate these findings (and the report) as appropriate to the relevant bodies responsible for management and adaptation of the EU Natura 2000 policy in their country. Also, if it has not been done, to communicate the findings pertaining to their “national” audit of the implementation of Natura 2000 EU policy.

The coordinated audit has enabled the participating SAIs to compare national processes on an European level; it has given an overview of common difficulties and delays in implementing the two EU directives and the reasons for these delays. Therefore, this audit brings added value to the national reports and a higher level of information for decision makers on national and European level.

The report will raise awareness of nature protection goals in general and the Natura 2000 network specifically. It can contribute to the discussion about nature protection and biodiversity policies in the European Union and in the INTOSAI and EUROSAI working groups on environmental auditing. ◆

Annex 1 : Natura 2000 Network



Annex 2 : APM Natura 2000

NIK
Supreme Chamber of Control
Poland
EUROSAI WGEA

The fourth Euro Sai WGEA Seminar held in Luxembourg from 27 to 29 November 2006 has confirmed and extended the large support of the Group members for the parallel audit on Natura 2000. This is why I would like to thank all Group Members for the interest shown in this project and, in particular, those who have provided personal contributions by presenting their SAI's work on Natura 2000 during the Luxembourg Seminar.

The enclosed audit questions, which are based on the audit planning memorandum published on the EUROSAI WGEA site (<http://eurosai.nik.gov.pl/en/site/aktualnosci>), and programme calendar for 2007, should be regarded as a framework that would contribute to the smooth execution of the audit work and ensuring the comparability of main audit findings across Member States.

These findings will be used by the co-ordinator to set up the common report which will comprise three parts: Compliance, Governance and Cost Efficiency.

I would be grateful if you could confirm the participation of your SAI in the Natura 2000 parallel audit (if this has not yet been done), keeping in mind the programme for the audit work.

Written contributions in the form of audit results should be submitted before the deadline to the project co-ordinator, Mrs Marie Ortiz, French Court of Accounts (mortiz@ccomptes.fr), with a copy to Mr Armando do Jogo, European Court of Auditors (armando.jogo@eca.europa.eu).

Yours sincerely,

Zbigniew Wesolowski
WGEA Coordinator

Addressees: Presidents of the SAIs of EU Member States which are also Members of the Euro Sai WGEA.

A. Audit questions for Natura 2000 Parallel Audit

Standard reporting findings

Each participant should first perform preliminary work aiming to acquire sufficient background to be able to answer the following questions.

1. How is European legislation implemented in "my" country? Description of transposition of European legislation (Birds³⁰ and Habitats³¹ directives, especially compliance with Article 6); scope of national rules: decrees and other internal texts or internal rules and guidelines;

2. How does the national organisation work³²? Description of the national framework and main procedures used by government and other managers involved in the system: management procedures and practices, impact assessment of plans and projects for the sites³³, role of central decision makers, local landowners, associations, etc (including some precise examples of local Natura 2000 experience);

3. How much does it cost³⁴? Analytical procedure of public supplies and human resources; description of typology and sources of financial means used in the Natura 2000 policy. Description and process involving European funds: EAGGF, LIFE, ERDF, etc, and/or national funds: government funds, local funds, as well as other subsidies granted by local governments.

Specific audit objectives and evaluation criteria

The scope of the audit on implementation of the European Natura 2000 network is to examine

whether and how the provisions of the European directives, especially Article 6 of the Habitats Directive, are observed in an effective and efficient way.

1. Compliance

Compliance of national framework with European rules and specifically, observed rules of procedure for transposition of the European Birds and Habitats directives - description of principal inherent risks and difficulties.

1. What were the main problems met in transposing and complying with the Natura 2000 Directives?

2. How do Member States react to infringements? Where are the origins of the problems?

3. Delays in implementing the national network. Reasons for those delays, consequences.

2. Governance

Governance will be assessed from the aspects of efficiency of national organisations, of Natura 2000 implementation and capacity for resolving difficulties.

1. Have Member States set up the required structures and organisation for adequate and efficient governance of Natura 2000 in their country?

2. Does the "feedback administrative process" between central authorities and local governments work in an efficient way?

3. Did you notice conflict of interest? Between which entities?

4. Did the management systems put in place by the government allow effective resolution of difficulties arising from implementation of the directives (managing choice and classification of sites, conflicts of interest, meeting deadlines)?

³⁰ Council Directive 79/409/EEC of 2 April 1979.

³¹ Council Directive 92/43/EEC of 21 May 1992.

³² See Articles 3 and 4 of Habitats Directive.

³³ Article 6(3) of Habitats Directive.

³⁴ Article 8 of Habitats Directive.

3. Cost efficiency

Value for money audit: cost efficiency of EU and national aid financing the Natura 2000 network (European instruments and funds, national subsidies and coordination between them); performance of the financial system organisation in accordance with objectives assigned by EU.

1. How are European and national funds managed ?

2. Have Member States established the necessary audit criteria and indicators to evaluate whether the public funds invested in Natura 2000 are contributing effectively to achievement of the objectives set in the Directives ?

3. How cost-effective was the Natura 2000 management process ?

B. Timetable

SAI participants are supposed to carry out their own audits, keeping in mind that the results are expected to be presented by the end of 2007 at the next Eurosai WGEA meeting to be held in Slovakia.

Planned calendar

July 2007 (before summer break): contributions are sent to FCA and ECA;

From July to October 2007: coordination and synthesis by FCA and ECA;

October 2007: audit results are presented by FCA at the Eurosai WGEA Seminar in Slovakia.