

EUROPEAN UNION



**Committee of the Regions**

**The implementation of the Natura 2000,  
Habitats Directive 92/43/ECC and  
Birds Directive 79/409/ECC  
(Preparation for an ex-post  
territorial impact assessment)**

**This report was prepared by the Ecologic Institute, UCL Centre for Law and the Environment.**

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# 1 Executive summary

The Habitats and Birds Directives form the core of EU nature legislation by providing a common framework that sets standards for nature protection across the 28 EU Member States, thereby promoting the conservation of natural habitats and wild fauna and flora. The Natura 2000 network of protected areas is one of the main instruments under the two Directives to achieve this objective.

Available studies suggest that costs resulting from the implementation of the Habitats and Birds Directives are greatly outweighed by the environmental and socio-economic benefits provided by them, particularly by the conservation measures within the Natura 2000 network. Natura 2000 sites provide a range of valuable ecosystem services and contribute to local and regional development, for instance, through tourism and recreation at Natura 2000 sites. Development restrictions, on the other hand, may lead to forgone benefits (opportunity costs) such as in agriculture or in the context of infrastructure projects.

Despite the overall positive effects of the Natura 2000 network, implementation of the Habitats and Birds Directives is hampered in many cases. It was found that relevant responsibilities, requirements for consultation and public participation were not sufficiently specified in the Habitats Directive to ensure a better co-operation and coordination between the European Commission and Member States as well as within Member States. This leads to problems in the process of designating Natura 2000 sites especially with regards to stakeholder conflicts.

When it comes to infringement procedures, a review of case law indicates that the countries which generally appear to be having the most difficulties with implementation and application of these two Directives are the Southern Member States such as Greece, Italy and Spain. These three Member States alone account for over 40% of all the cases before the European courts. Overall, regions in the Mediterranean and the Macaronesian biogeographical regions face the most implementation issues.

Various implementation challenges exist for local and regional governments. Limited or under-qualified personnel were cited as key inhibiting factors in the available literature. It was found that there is not necessarily a lack of funding possibilities for conservation measures and management planning for Natura 2000 sites. Instead, it is suggested that site managers and regional authorities need to

improve their strategic approaches to site management in order to apply for the different funding programmes and improve the overall investment rate.

## **2 Implementation and state of play of the Directives and of the Natura 2000**

### **2.1 Flexibility of the Directives in selecting Natura 2000 sites**

We have assessed the flexibility that exists in the wording of the Directives and then the variations that exist in practice regarding the designation of Natura 2000 sites.

#### **2.1.1 Flexibility within the relevant Articles**

To summarise, according to articles 3(1), 3(2) and 4(1) of the Habitats Directive, Member States are required to designate sites for the conservation of Annex I habitats and Annex II species conservation based on the criteria of Annex III (Stage 1). These lists are then sent to the Commission. Based on the criteria set out in Annex III (Stage 2), the Commission then establish, in agreement with each Member State, a draft list of Sites of Community Importance (SCI) drawn from the Member States' lists identifying those which host one or more priority natural habitat types or priority species. On the basis of the national lists and by agreement with the Member States, the Commission then adopt a list of SCIs. According to Article 4(4) of the Habitats Directive, the Member State concerned must designate it as a Special Area of Conservation (SAC) no later than six years after the list of SCIs was adopted.

The deadlines for designation were between 2007 and 2014, depending on the region. The list of regional deadlines is contained in Table 1 in Appendix 1. All Member States have now designated their sites, except Croatia which designated sites after these deadlines because its accession only happened in July 2013. The state of progress by Member State in designating sufficient protected areas under the Habitats Directive is contained in Figure 1 Appendix 1. In 2013, only eight Member States (DK, NL, IT, BE, FI, DE, EL, SE) announced sufficient sites.

For the Birds Directive the process is much simpler. Under Article 4 of the Birds Directive, Member States are obliged to designate all of the most suitable sites as Special Protection Areas (SPAs) to conserve wild bird species. To assess whether Member States have complied with their obligation, the Commission uses the best available ornithological information. Where the necessary scientific information

provided by Member States is lacking, national inventories of Important Bird Areas (IBA) compiled by the non-governmental organisation Birdlife International, are used.

The SPAs and the SACs make up the Natura 2000 network. The relevant articles for the designation of SACs and SPAs and the potential flexibility in the wording within the articles are presented in Appendix 1 of this report. These can be categorised into types of flexibility that exists within the Directives as summarised below:

- Different options for implementation such as statutory or administrative (Habitats Directive article 1(h)).
- Room for interpretation as in some of the habitats in Annex I (Habitats Directive article 3(1) and Annex I).
- Criteria triggering additional options such as the proportion of suggested sites in relation to national territory (Habitats Directive article 4(2) and Annex III, Stage 2).
- Flexibility in the wording such as “degree of” etc. (Habitats Directive article 4(1), Annex I and Annex II, article 4(2), Annex III, Stage 2).
- Uncertainties and subjectivity e.g. with regards to quality of data and assessment of values for site selection (Habitats Directive 4(1), Annex I and Annex II, article 4(2), Annex III, Stage 2).

Consequently, one can conclude from Table 2 in Appendix 1 that there is a degree of flexibility within the articles, but in order to have a better understanding of its relevance, it is necessary to look at the practical implementation of the designation process across the Member States.

### **2.1.2 Variations in Practice**

The identification of possible sites by Member States took place in at least two rounds in almost all Member States, as a consequence of the Commission wanting to add additional sites to those already selected (Tromans, 2001). The problems encountered during the designation process have been widely reported, provoking conflicts across a number of Member States during the 1990s. The main reason for these conflicts was the top-down and non-inclusive site designation process followed initially by most Member States. Member States designated sites on the basis of scientific criteria and existing scientific information, without consulting local landowners, civic groups or others who were affected by site designation (Paavola et al., 2009).



In practice, the Member States differ in the way they designate sites. A study analysing the designation in 27 EU Member States was able to distinguish two different approaches in designating sites (Van Apeldoorn, 2009). One group of Member States favoured designation using a legal instrument (e.g. ministerial decree or order) in which a few site characteristics are mentioned but the site objectives are worked out in detail using management plans. The other group of Member States developed designations using a legal instrument that is more site-specific, because detailed site objectives and descriptions are presented. These objectives can also be elaborated upon in a management plan. Apart from a few exceptions, the Member States organise the planning of the management of the Natura 2000 sites separately from the designation process, although often the same organisations and government departments are involved (Kruk, 2010).

Baffert (2012) points out that although this decentralised organisation was supposed to allow for an optimal adaptation of the policy to the field's needs, the European Parliament expressed concern that this degree of flexibility in implementation leads to abuses by Member States when implementing EU environmental legislation; and that the unclear definition of roles may also have enabled each institutional actor to shift responsibility for a policy operation to each other. Baffert also argues that the mismatch between policy ambition and policy formulation stems from the ambiguous formulation of the Habitats Directive. Article 2(3) stipulates that measures taken shall take account of economic, social and cultural requirements and regional and local characteristics but in contrast the designation of sites was exclusively based on scientific criteria, it does not impose any consultation procedure for the sites designation, and only mentions this as a possibility for the establishment of management plans (Baffert, 2012).

From the above, one can argue that the relevant responsibilities, requirements for consultation and public participation were not sufficiently specified in the Habitats Directive to ensure a better co-operation and coordination between the European Commission and Member States as well as within Member States. The problems encountered in the designation process are therefore not so much dependent on the flexibility that exists within the articles of the Directives but rather on the flexibility that follows from not specifying sufficiently important stages in the designation process.

## **2.2 Implementation and Infringement overview**

Member States that have had problems with implementing the requirements of the Directives were identified. Desk based research was conducted analysing case law and publications (i.e. European Commission Annual Reports on Monitoring the Application of Community Law) to outline uniform implementation issues and to seek to identify implementation problems at a regional level.

### **2.2.1 Implementation Overview**

There have been four primary implementation issues concerning the Habitats Directive in the last decade:

- The insufficient designation of important nature areas as SAC by Member States (after the deadline).
- Member States authorising plans and projects (e.g. golf courses, mining, tourist developments), which potentially allow for the destruction, or deterioration, of priority natural habitat.
- Member States not taking the requisite measures to protect certain species populations.
- Member States not taking the requisite measures to prevent the deterioration of habitats.

There have been three primary implementation issues concerning the Birds Directive in the last decade:

- The insufficient designation of important bird areas as SPAs under the Birds Directive.
- Member States authorising plans and projects (e.g. wind turbines, power lines, highway developments) that have endangered bird species, as the area they were placed in was an important migratory route and resting, feeding and nesting place for those species.
- Member States not taking the requisite measures to protect wild birds e.g. by application of rules on hunting and trapping (e.g. either fixing these with periods which overlapped with reproduction/pre-nuptial migration periods, too generous hunting derogations which were granted on incorrect grounds, or turning a blind eye to illegal hunting).

Also, a significant number of new sites after 2010 have been made up of marine sites (approximately half). In the past, the Commission has indicated in their Annual Reports on Monitoring the Application of Community Law that further significant progress as regards the designation of marine areas is still needed, especially offshore (European Commission (g), 2010). A Marine Biogeographical Seminar for the sea regions (Mediterranean, Black Sea, Macaronesian and Atlantic) was organised in 2009 and 2010 and proposals of SCIs in these regions were evaluated. Member States were expected to have made substantial marine designations, both for SCIs under the Habitats Directive and SPAs under the Birds Directive, by 2012.

Another issue that needs to be considered is the enlargement of the European Union with 10 new member states (Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia) in 2004, Romania and Bulgaria in 2007, and Croatia in 2013, which means that EU nature conservation legislation has to be applied to a much larger territory than before.

### **2.2.2 Infringement Actions Brought by the Commission**

Despite the small number of legal instruments in this field, nature conservation legislation accounts for between a fifth and a quarter of environmental infringements.

The reason for this is that the European Commission considers in its Annual Monitoring Reports legal enforcement mechanisms for nature conservation in the Member States are often weak or inappropriate (e.g. European Commission (d), 2014). Therefore, the Commission receives numerous complaints from citizens and NGOs regarding threats to SACs and SPAs. Table 3 in Appendix 1 shows that the Commission can receive 50 petitions a year relating to the issue of nature protection. The subjects raised in these petitions ranged from measures for the protection of Natura 2000 sites to the environmental effects of infrastructure plans and projects on designated sites.

Because of the above, the nature sector also accounts for the highest number of open environmental cases. Table 4 in Appendix 1 demonstrates those open cases concerning nature protection for the years 2005 to 2013. As well as the high numbers of complaints the Commission also considers in its Annual Monitoring Reports the high number of cases relating to these two Directives to be mainly to the size/extent of the Natura 2000 sites (e.g. European Commission (d), 2014).

Following the designation deadlines, the Commission launched a significant number of new infringement procedures against Member States which had yet to provide sufficient designations for the Natura 2000 network, or which have not designated within the deadline required by the Habitats Directive. Since 2007, approximately 16 cases have been brought before the European Court of Justice (ECJ) (although not all of these cases were for designation).

According to our calculations, there have been approximately 84 mentions of non-compliance with the Habitats Directive, and 99 mentions of non-compliance with the Birds Directive, in the annual monitoring reports of the European Commission since 2005 (European Commission (d, e, f, g, h, I, j, k, l) 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013). Table 5 to 8 in Appendix 1 show the breakdown for these figures.

The countries that generally appeared to experience the most implementation difficulties in relation to the Habitats Directive were the EU-12 countries. These accounted for 8 of the top 11 places of EU Member States that had been mentioned in a non-compliance context in the European Commission's annual report (44 mentions out of 84 total). However, they were also the more likely group to have cases closed after reacting positively to legal proceedings. Southern European countries such as Italy, Spain, Greece and Portugal particularly seemed to have experienced difficulties.

The countries that generally appeared to be experiencing the most implementation difficulties with the Birds Directive were 10 of the new EU Member States that had joined since 2004 (Croatia did not form part of our statistics because of their very recent accession). These accounted for 50 of the 99 mentions of non-compliance. The other observation was that, like the position with the Habitats Directive, the Southern European countries such as Italy, Greece and Spain also particularly experienced difficulties in implementing the Birds Directive.

Table 10 to 27 of Appendix 1 (using the data from Table 5 to 8) examine implementation of Natura 2000 sites according to biogeographical regions. This suggests that the regions experiencing by far the most difficulties in implementation have been the Mediterranean and Macaronesian regions. The next two regions with the most problems would appear to be Alpine regions and Continental regions.

Table 28 and Figure 2 of Appendix 1 (using the data from Table 5 to 26) examine the regions with the largest % of sites to see whether size is an issue in

implementation. We found that the Black Sea had the highest percentage of sites but seemed to generally have the least amount of implementation difficulties. However, the regions with the next three biggest percentages of sites – Alpine, Macaronesia and Mediterranean all were in the top three rankings of regions experiencing the most difficulties in implementation.

### **2.2.3 Case Law and Biogeographical Regions**

We also examined case law in the European Courts (e.g. Court of First Instance; Court of Justice) to see what picture this revealed. According to our calculations there have been approximately 75 cases in the European courts involving the Habitats Directive and Birds Directive, since 2004. Table 29 in Appendix 1 shows the breakdown of these figures.

Table 30 in Appendix 1 indicates that the countries that generally appear to be having the most difficulties with implementation and application of these two Directives are the Southern Member States such as Greece, Italy and Spain. These three Member States alone account for over 40% of all the cases before the European courts.

We also examined the detail of all the 75 cases to see if we could identify the specific location(s) involved, so we could then work out which regions in which countries were experiencing problems. Regions that have had implementation problems (based on European court cases) would seem to be: Apulia and Sardinia (Italy), Zakynthos (Greece), Andalucia (Spain), Walloon (Belgium), Alentejo (Portugal), Styria and Lower Austria (Austria).

We also used the research above identifying the specific location(s) involved, to then work out in which biogeographical regions these problems occurred. Table 31 shows that unsurprisingly (bearing in mind the findings above) that the countries in the Mediterranean biogeographical region had the highest number of court cases (over one third). Three other biogeographical regions made up the majority of all the other cases – Alpine, Continental and Atlantic (nearly two thirds). The remaining regions (Black Sea, Steppic, Pannonian and Boreal) had very few court cases among them – although this could in part be owed to the fact that they contain accession countries from the last decade.

## **2.2.4 Legal Implementation and Enforcement Priorities**

The priorities in the nature sector have largely remained the same over the last ten years. Legal enforcement work in this sector, as in other environmental sectors, has been prioritised in the interest of the efficient pursuit of the objectives of environment legislation. The approach to be taken in the implementation of EC environmental law in particular is laid down in the Commission's two Communications on implementing European Community Environmental Law (European Commission (a), 2008), and Improving the Delivery of Benefits from EU Environment Measures (European Commission (p), 2012).

The Commission have generally focussed on the main implementation priorities: the core obligations of the directives were effectively addressed (i.e. correct and complete transposition of the Directives). The Commission have often given high priority to pursuing infringement cases concerning significant non-conformity of national implementing legislation with the Birds and Habitats Directives

More specifically, they have also given case priority to insufficient site designations (mainly in the EU -12 Member States) and the lack of adequate legal protection and management regimes for the Natura 2000 sites, including the lack of designation of SCIs as SACs where the deadline has expired. As per the non-compliance results in the Annual Reports legal action seems to have particularly been pursued against the EU-12 Member States. Several Member States have increased the number of designated areas following infringement procedures launched by the European Commission and several of these procedures have been closed in 2010. Another key focus has also been on addressing breaches concerning big infrastructure projects or interventions involving EU funding that have significant adverse impacts on Natura 2000 sites.

The Commission has also increasingly decided to launch horizontal infringement cases in nature protection enforcement. The Commission has a number of times sought for interim measures from the ECJ. Several Member States have reversed decisions following intervention by the Commission.

## **2.2.5 Non-Legal Strategies to Aid Implementation**

The Commission has taken five non-legal measures to improve implementation (European Commission (q), 2011):

- Firstly, they have focussed on proactive cooperation with Member States: this includes the awareness-raising, drafting of interpretative guidance documents for the main provisions of the Habitats and Birds Directives; the development of targeted guidance for economic sectors such as the port sector, wind energy, the non-energy extractive industry, and inland waterways, which have particular challenges in relation to the legislation; training of the competent authorities; regular contacts with the national, regional and local authorities, and the establishment of the “Green Enforce Network“.
- Secondly, they have concentrated on improvements in the handling of complaints: specific methods have been developed with the purpose of helping the complainants (i.e. ad hoc nature supplementary information form, which guides the complainants as regards the information needed to evaluate a complaint) and making more effective use of complaints (i.e. grouping of complaints in order to focus on systemic breaches). Those measures have had a significant effect, as they resulted in the reduction of the implementation deficit.
- Thirdly, an expert group on the management of Natura 2000 was established. The aim of this is develop and exchange information on best practice in Natura 2000 management, focusing in particular on SAC designation, integrated management approaches, reconciling nature conservation and economic development objectives, and increased integration in other EU policies.
- Fourthly, work to assure adequate financing of Natura 2000 through EU funds was undertaken and a communication on that issue was released in 2011. A guidance handbook was produced in 2013 (European Commission (m), 2013).
- Finally, the Commission in 2012 launched a new process at biogeographical level in order to address jointly with Member States the conservation needs of the respective Natura 2000 sites. This multi-stakeholders' co-operation process at biogeographical level, including seminars, workshops and cooperation activities to enhance effective implementation, management, monitoring, financing and reporting of the Natura 2000 network.

## 2.3 Specific Issues on Local and Regional Level

### 2.3.1 Involvement in Site Designations

The designation process involves a number of actors where coordination is required. The certain degree of control asserted on a higher administrative level and the reliance on implementation on lower administrative level has brought tension between top-down and bottom-up approaches. A 2003 Commission memorandum indirectly acknowledged an initial lack of communication about Natura 2000 and recognised the need to include a large range of actors in its consultation strategy (European Commission (r), 2003). While underlining that consultation was not really needed at the sites designation stage, officials from DG Environment admitted that some mistakes ‘were made at the beginning regarding information, communication, and public awareness’.

A report entitled ‘Current practices in solving multiple use issues of Natura 2000 sites’ assessed the main conflicts on the process of information and communication during site selection (European Commission (c), 2010). These issues provide an overview of the problems that the local and regional authorities faced during the selection of sites and are listed below:

- Exclusion from the site selection process of concerned stakeholders as private landowners, municipalities, local businesses.
- No, inadequate, or ineffective information (poor communication) especially regarding the effects of site designation for current and future use creating uncertainty and misinformation amongst concerned stakeholders.
- Inadequate consultation procedures.
- Use of scientific data and information and the legislation (both of which are set out in institutionalised language that is inaccessible to the majority of stakeholders, or is perceived as a weapon or completely inflexible object against which it is almost impossible for a layperson to construct an argument; the result is a feeling of powerlessness, frustration and despair resulting in conflicts.
- Delaying the designation process after initial announcements and consultations thereby creating uncertainty, deterioration in trust and frustration on the part of owners and occupiers of land.
- The designation process reignites old animosities and previous conflicts which are then replayed on a different stage.



The above conflicts seem to indicate that the national and regional authorities are not always at fault, and that some actions at EU/national level can trigger actions at a local/regional level if the local and regional authorities have not been properly involved. The report on ‘Multilevel governance dynamics in the Western Med’ states that Natura 2000 has shown that the supranational level can open up areas of action at the regional level (Cugusi and Stocchiero, 2010). The report argues that the local and regional authorities have not been promoted by the higher administrative levels, as in the case of, for example, Cohesion Policy. However, it should be noted that in several Member States, regional authorities were in charge of site selection, so that they might have responsibility for some of the conflicts listed above.

In the drawing up of the policy (ascending process of EU policy making), central governments remain the sole legitimate representatives of the domestic interests. Notwithstanding the role played by regional authorities in the implementation of the network, the interactions between these actors and the supranational levels are weak.

### **2.3.2 Setting up Conservation Measures: Management Plans**

The management of Natura 2000 sites varies widely between the Member States, because of a range of factors, such as traditions in nature conservation, population density and differing governance structures. Management plans for Natura 2000 sites are compulsory in about half of the Member States, and for those Member States that they are not compulsory, they are often written anyway as guidance to stakeholders and administrations. In some countries management plans are only obligatory for specific sites, or for some kinds of land use, depending on legal specifications (Kruk, 2010).

There are great differences between the Member States in setting up common management plans. They are usually written for an individual site, or for several sites grouped for geographical, ecological or planning reasons to lower the administrative load and to simplify the arrangement of management measures (Kruk, 2010). The approach of joint management of a group of several similar sites with one management plan brings together different stakeholders, actors and local/regional authorities based on territorial similarities and ought to improve co-operation and make the process more cost-effective. Joint management is also likely to improve the coherence of the Natura 2000 network as those developing the management plan have a broader understanding of the conservation needs, as well as social and economic opportunities that go beyond those of considering a single,

smaller site. It could also be argued that a joint approach would make it easier to identify and capitalise upon the benefits that ecosystem services can bring, instead of the sites being isolated from their surroundings.

In a few countries, such as Finland and Denmark, regional master management plans are drafted in that organise the overall coordination of regional work on Natura 2000 sites and coordinate the development and priority of management plans for sites or groups of sites, from a regional perspective (Kruk, 2010).

### **2.3.3 Prioritised Action Frameworks**

To strengthen coordination and integration of financing for Natura 2000, the European Commission together with the Member States have agreed that in 2014-2020 financing of the network should be based on Prioritised Action Frameworks (PAFs). The purpose of these documents is to establish a national or regional strategy for protection and management of Natura 2000, within the context of the relevant EU financial instruments, and to identify funding opportunities. The aim of PAFs is therefore to ensure adequate allocations for Natura 2000 under different funds and related programmes (Kettunen, 2014).

Article 8 of the Habitats Directive requires that the PAFs are to be revised every two years and consequently the PAFs can help the local and regional authorities in identifying and contributing to relevant funding opportunities. In other words local and regional authorities can use existing PAFs as a source for identifying available co-financing opportunities for Natura 2000, and they can also contribute to the future revision of PAFs in order to ensure that local and regional Natura 2000 funding needs are properly incorporated into the PAFs.

## **2.4 Opinions about the Directives**

Gantioler et al. (2010) undertook stakeholder interviews in 23 Member States, including representatives of national governments, NGOs, stakeholder groups and academia. The interviewees were requested to estimate how important they saw Natura 2000 in terms of providing different ecosystem services at local, national and global level respectively. The study found that stakeholders' consider benefits to function mainly at local and national level. The most relevant ecosystem services provided by Natura 2000 sites were the mitigation of climate change, purification of water and maintenance of water flows, safeguarding natural pollinators,

preservation of landscape and amenity values, and support of tourism and recreation. In addition, the role of Natura 2000 in preserving genetic and species diversity was recognised to be of high importance. The assessment also revealed that the appreciation of Natura 2000 related ecosystem services was in general the highest in the Eastern Member States (i.e. Bulgaria, Czech Republic, Hungary, Poland, Romania and Slovakia). On the other hand, the Southern Member States (i.e. Cyprus, Italy, Malta, Portugal, Slovenia, and Spain) seemed to have the highest appreciation of different cultural services provided by Natura 2000. Overall, Natura 2000 was seen to play an important role in maintaining a number of key ecosystem services across different Member States.

Gantioler et al. (2010) conducted also interviews to establish public's perception of the benefits of the network and found that the knowledge about the socio-economic benefits was generally low. Often, the predominant perception was that Natura 2000 represents a burden on economic well-being, particularly among landowners and farmers. Local authorities and national policy makers were more likely to have an understanding of the benefits of Natura 2000, but this was more typical for those working in environmental sectors.

Snethlage et al. (2012) assessed in more detail the opinions of Natura 2000 for the agricultural, forestry, and tourism and recreation sectors based on the views of conservation organisations and government agencies in Denmark, France, Germany, the Netherlands and Poland. This study found that agriculture is widely perceived as the sector where most challenges emerge in relation to the implementation of Natura 2000, whereas, the tourism, sports and recreation sector is most aware of how Natura 2000 is important for the development of their sector.

## **2.5 Stakeholder positions towards the REFIT process**

A desk-based review was conducted to evaluate the range of existing opinions towards the Habitats and Birds Directives fitness check and evaluation process. While the search identified several published opinions in the form of official position statements, articles and feature pieces, the authors were largely NGOs (at the national or EU level).

In 2012, DEFRA conducted a review of the implementation of the Habitats and Wild Birds Directives and its impact. In their key findings, they mention the following points for improving the Directives and therefore show their approval for the REFIT process:

- High complexity of the Directives and corresponding guidelines result in a lack of transparency and understanding by implementing authorities;
- Authorisation process is divided across several authorities that in case of lacking integrated management will increase costs for implementation;
- Lack of data for the assessment of sites;
- Insufficient capacities and capabilities of all implementing bodies.

Few opinions which were written specifically by local or regional authorities or a given Member State were identified. This highlights the relevance and necessity of targeting this aspect in the planned public consultation and structured interviews with local/regional authorities (see section 6). The opinions that were identified are outlined below, in alphabetical order by author organisation:

- Austrian Federal Economic Chamber – “AFCO supports a legally reliable implementation of EU nature protection legislation, which must take the attraction of Europe as a business location and the creation of jobs into account. These economic interests should be considered stronger in the future” (AFCO, 2014: 12)<sup>1</sup>.
- BirdLife International and Cement Industry – “We are deeply concerned by the suggestion that the Birds and Habitats Directives should be merged and “modernized”. A protracted process of re-legislation at the EU level, and the inevitable uncertainties and social conflicts it would bring would harm both nature conservation and security of investments. We would rather call on the Commission to focus on improving implementation, in full cooperation with all stakeholders in order to identify any specific problems and address them within the existing legal framework on the basis of openness, scientific evidence and objectives-driven policy making”<sup>2</sup>.
- Environmental Justice Organisations, Liabilities and Trade (ejolt) – “The inclusion in the mandate of orders to consider changing the EU Nature protection legislation, pre-empting the results of the ongoing fitness check, suggests a high level decision to weaken biodiversity protection in the EU” (Meynen, 2014)<sup>3</sup>.

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<sup>1</sup> <https://www.wko.at/Content.Node/Interessenvertretung/Europa-und-Internationales/Europa/REFIT-Interim-report2014remarksAFCO.pdf>

<sup>2</sup> [http://www.birdlife.org/sites/default/files/attachments/2014\\_10\\_8%20JOINTAPPEAL-BL-CEM%20%28signed%29.pdf](http://www.birdlife.org/sites/default/files/attachments/2014_10_8%20JOINTAPPEAL-BL-CEM%20%28signed%29.pdf)

<sup>3</sup> <http://www.ejolt.org/2014/09/eu-plans-to-cancel-environmental-policies/>

- IUCN – “An assessment of these directives can be useful for fine-tuning and improving their effectiveness, but a review that aims to make them 'fit for purpose' and turn them into a 'modern piece of legislation' leaves dangerous room for interpretation in the context of deregulation. There is a clear risk that this overhaul could weaken Europe's nature legislation ...”(Bas, 2014)<sup>4</sup>.
- RSPB – “In the current climate, there is no doubt what the consequences of the Directives being opened would be... A view to ‘merging them into a more modern piece of legislation’... is thinly-veiled political speak for weakening the protection they afford to nature across Europe, and provides the clearest political indication yet of the likely consequences of amending the Directives” (Farrar, 2014)<sup>5</sup>.

Additional organisations are currently also preparing position papers. The UK’s Wildlife and Countryside Link organisation, for example, has formed a ‘REFIT Task and Finish Group’<sup>6</sup> to address the Habitats and Birds Directives review. While recognising room for improvement, they are of the opinion that revising the legislation should take place at a later date when the political climate is less uncertain and thus when there is less risk of weakening the Directives. They have previously submitted an opinion<sup>7</sup> relating to Defra’s UK Review of the Directives.

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<sup>4</sup> <https://www.theparliamentmagazine.eu/articles/opinion/eu-commission-overhaul-could-weaken-europes-nature-legislation>

<sup>5</sup> <http://www.rspb.org.uk/community/getinvolved/b/specialplaces/archive/2014/11/20/the-laws-that-protect-nature-for-nature-s-sake.aspx>

<sup>6</sup> <http://www.wcl.org.uk/habsregs.asp>

<sup>7</sup> See [http://www.wcl.org.uk/docs/link\\_response\\_to\\_nature\\_directives\\_060212.pdf](http://www.wcl.org.uk/docs/link_response_to_nature_directives_060212.pdf)



### 3 Implementation challenges for the local and regional governments

While every Member State is responsible for preparing, implementing and managing its Natura 2000 sites, decisions are extremely varied regarding the delegation of responsibilities in this regard. Typically, the national Environmental Ministry shares and/or assigns power to the local and regional Environmental Authorities, newly established management authorities, national park or equivalent protected area authorities, institutes for nature conservation and biodiversity and/or regional and local governments (municipalities) or provinces (Kurk, 2010). This chapter explores challenges arising for the final group - local and regional governments – when they are assigned responsibility for implementing the Habitats and Birds Directives.

Although information is quite limited on this topic and would benefit greatly from a targeted consultation, the five main challenges identified in the literature are listed below. Anecdotal evidence is then provided to highlight Member States' experiences with these interrelated factors. Unless indicated otherwise, the following information stems from the report "*Information and communication on the designation and management of Natura 2000 sites - Organizing the management in 27 EU Member States*" (Kruk et al, 2010). Identified challenges include:

- Insufficient personnel capacities;
- Lack of knowledge and/or skills of management staff;
- Insufficient finances designated for implementing the Habitats and Birds Directives;
- Unsuitable financing mechanisms resulting in a lack of management plans for implementation;
- Communication barriers between authorities and/or with stakeholders; and
- Lacking or weak political commitment and support for biodiversity policy.

Limited or under-qualified personnel were cited as key inhibiting factors. In Hungary, for example, management plans are to be written by the National Park Directorates and regional environmental authorities. Although the area of protected sites increased with the designation of Natura 2000 sites, the capacities of the responsible administrations remained the same.

Although an array of EU policy instruments are intended to support Natura 2000 management, funds allocated to or accessed by Member States for such purposes have been deficient. A recent report<sup>8</sup> estimates that Member States only allocated a maximum of 20% of the funding that is required for successfully implementing Natura 2000. In Germany, this is due in part to difficulties in accessing such funds - particularly for adopting the agricultural funding schemes for forestry-related Natura 2000 activities (Möhring & Schäfer et al., 2014; Entenmann & Schaich, 2014). Difficulties can be linked, for example, to the contracts for funding within the European Agricultural Fund for Rural Development, which have a duration of one to five years and thus do not take account of the turnaround time of forest ecosystems. This has resulted in some cases in insufficient financial incentives due to the high bureaucratic burden for the forest owners (Entenmann & Schaich, 2014). Another formal issue of the financing instruments is the delineation of site to apply for area dependant funding that proved to be infeasible for smaller forest plots (Entenmann & Schaich, 2014).

Another barrier in securing financing is connected to the development of management plans. The failure to produce such plans can result in a lack of funds for implementing the foreseen activities (Schneemann, 2014). Apart from the lack of personnel capacities as observed in Hungary, the lack of a clear methodology to draft management plans from the vast amount of scientific data was reported as an underlying cause for Spain's delayed drafting of management plans (Herrero Corral, 2008).

The resulting insufficient finances and inadequate budgets designated for Natura 2000 related activities have consequences in a number of Member States and regions. In Greece, a lack of secured funding for management administration personnel results in short staff contracts and consequent gaps in skills and knowledge. Latvia, Lithuania, Bulgaria and Estonia are further examples of countries in which inadequate financial resources for local management authority personnel and capacity building exercises threaten the realisation of conservation status goals. In Latvia and Lithuania specifically, lacking funds have resulted in delayed implementation of management plans by as long as four to five years. As these plans are only valid for 10 years, this issue is likely to become even more critical.

Two main types of communication barriers were cited: those existing between authorities and those occurring with stakeholders. In Spain, coordination is lacking

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<sup>8</sup> European Commission (t), 2014, pp. 32.



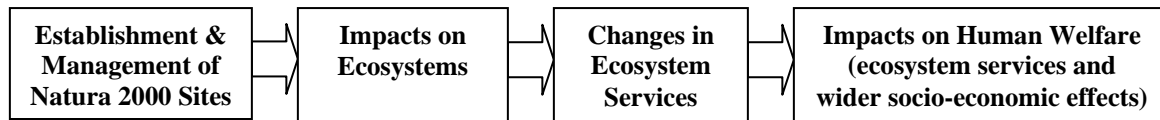
between environmental and agricultural administrations and has resulted in an impaired ability to make funds readily available for Natura 2000 management (European Commission (t), 2014). Despite targeted communication campaigns and initiatives, complications persist in Hungary between government authorities and stakeholders as well as between environmental authorities, Nature Park Directorates and Inspectorates. Frequent turnovers in responsible personnel within ministries or local/regional management authorities can exaggerate existing challenges in this regard and ultimately even lead to distrust and resentment amongst certain stakeholder groups. The top-down approval of management plans for Natura 2000 sites without the involvement of stakeholders is another source for distrust towards government authorities and resentment towards compliance with the nature conservation objectives (Entenmann & Schaich 2014).

Insufficient political support or commitment can act as a further barrier to the functioning of management authorities. This includes, for example, the prioritisation of other sectors and policies over biodiversity policy either on a national or regional level due to any of the aforementioned factors (e.g. inadequate knowledge, lack of staff experience or insufficient funding). Several former Eastern European countries cited this as a weakness towards the effective management of Natura 2000 sites.



# 4 Economic, environmental and social benefits and disadvantages

This section reviews the available literature on the environmental and socio-economic effects of the Birds and Habitats Directives (particularly Natura 2000) with a focus on the regional level in Europe. The analysis is based on the following conceptual framework (adapted from Defra, 2007):



## 4.1 Environmental effects

Although the main aim of designating Natura 2000 sites is the protection and conservation of key habitats and species, habitat connectivity is a central feature of the Natura 2000 network, which supports the conservation goal. Nature conservation efforts show a variety of other environmental benefits which can broadly be described as the provision of ecosystem services like flood protection, water quality control and air quality improvement to name only a few. Chapter 4.2 portrays the provision of such services from the socio-economic perspective. Based on the reportings of the EU Member States<sup>9</sup>, the following section summarises the effects of the Birds and Habitats Directives at the regional level for birds and habitats.

### 4.1.1 The state of the birds at the regional level

While half of the bird populations are reported as being secure, around a sixth are regionally threatened and another sixth are near threatened, declining or depleted. There were slightly more decreasing breeding bird population trends in the short-term than in the long-term trends. Wintering bird populations appear to have fared better than breeding bird populations, although data was only available for a subset of birds, mostly waterbirds.

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<sup>9</sup> For detailed information, see upcoming EEA report ‘State of nature in the EU: Results from the Reporting under the Nature Directives 2007-2012’.

Many bird species and subspecies in Annex I of the Birds Directive are increasing. These results suggest that conservation action supported by the Birds Directive is having a positive effect on their populations. However, a high proportion of these birds remain threatened. In addition, Annex I birds that have a SAP have a higher proportion of increasing population trends, confirming the effectiveness of such plans.

Overall, the most frequently reported pressures or threats for birds were changes in agriculture, followed by modification of natural processes and use of living resources (hunting, trapping, poisoning and poaching). Agricultural pressures/threats are particularly associated with grasslands or heathland and scrub ecosystems, and include modification of cultivation practices and changes in grazing regimes. Modifications of natural processes include changes in hydrological regimes and loss and fragmentation of habitats.

#### **4.1.2 The state of the (non-bird) species at the regional level**

Assessments of conservation status were produced for each biogeographical or marine region in which a species or habitat occur based on the Member State reports. Only about a fifth of the species assessments have a 'favourable' conservation status, while over half are 'unfavourable'. A sixth of the EU assessments are unknown. Trends in conservation status show that while a small portion of 'unfavourable' species assessments are improving, a fifth are stable, another fifth are declining and a sixth are unknown.

Conservation status assessments vary significantly between biogeographical regions, particularly among the marine regions. The biogeographical regions with the highest proportion of assessments as 'favourable' are the Black Sea and Alpine, while the highest proportion of 'unfavourable-inadequate' conservation status was the Pannonian region. The Atlantic and Boreal regions have the highest share of 'unfavourable-bad' assessments.

The proportion of EU assessments for marine regions varied from zero (Marine Black Sea) to 20% (Marine Baltic) with a high percentage of 'unknowns' in most regions. However, the number of species assessed is low, especially in the marine Black Sea (three species) and the Marine Baltic (five species).

The two most frequently reported high-ranked pressures and threats for species are the modification of natural conditions and agriculture, followed by natural processes. The 'modification of natural conditions', for example, is credited with

over two thirds of the reported pressures on fish, a third of the pressures on molluscs and a quarter of the pressures on amphibians. ‘Disturbances due to human activities’ accounts for less than a tenth of the high-ranked pressures, but for a fifth of the pressures on mammals.

### **4.1.3 The state of Annex I habitats at the regional level**

Sixteen percent of the habitat assessments are ‘favourable’, while 47% are reported as ‘unfavourable-inadequate’ and 30% as ‘unfavourable-bad’. Only 4% of ‘unfavourable’ habitat assessments are improving, while 33% are stable and 30% of ‘unfavourable’ habitat assessments are declining.

The number of EU regional habitat assessments as ‘unknown’ has decreased significantly from the last reporting period (from 13% to 7%), mostly due to Spain, which reported a high number of assessments as ‘unknown’ for the previous period.

The Alpine, Macaronesian and Steppic regions stand out with comparatively high shares of ‘favourable’ conservation status (26% - 50%), while the habitats in the Atlantic and Boreal regions have a particularly high proportion of ‘unfavourable-bad’ assessments (each over 50%). A large proportion of habitats in the Marine Atlantic region were reported as improving (43%), while the share of assessments reported as declining for the Marine Baltic region exceeds 70%, followed by the Marine Black Sea region with 43%. However, the number of marine habitats is very low.

The two most frequently reported high-ranked pressures and threats for habitats are agriculture and modification of natural conditions (each 19%). Commonly reported agricultural pressures and threats include fertilisation, changes in grazing by livestock and the abandonment of pastoral systems/lack of grazing. For ‘modification of natural conditions’, these include changes in hydrology such as river engineering and water abstraction from groundwater.

## **4.2 Socio-economic effects**

The following section summarises the socio-economic effects of the Habitats and Birds Directives with a focus on Natura 2000 sites. It distinguishes between welfare benefits provided by ecosystem services and direct effects on the local and regional economy, particularly through tourism and recreation.

### **4.2.1 Positive effects arising from provided ecosystem services**

Gantioler et al. (2010) concluded that the existing examples of the benefits of Natura 2000 underline the wide range of ecosystem services that are provided by the network – e.g. tourism and recreation, water quality, flood control and wider cultural services. The authors found that:

- A number of examples have demonstrated that the benefits can be larger than the associated costs. In Ireland, the total rate of return on government support to the Burren park was estimated (conservative) to be around 353 – 383%, (with or without tourism), and 235% if all operating costs of the farming programme and all direct payments are considered;
- Natura 2000 sites can be particularly important for local and regional economic development as they help attract financing and offer an important source of direct and indirect employment;
- Even though our knowledge on the value of biodiversity, ecosystems and their services is steadily increasing, there is still an apparent lack of quantitative/monetary and well-documented information on the socio-economic benefits associated with Natura 2000.

Ten Brink et al. (2011) further investigated the socio-economic benefits provided by individual Natura 2000 sites. They found that various studies are available which show the benefits provided by different Natura 2000 sites. These studies indicate that different sites deliver different benefits and that estimates of the value of these vary widely. In the context of their study, an extensive review of studies assessing the value of services delivered by Natura 2000 sites was undertaken. The analysis focused on studies that:

- Covered a wide range of ecosystem services provided by the sites in question in order to enable a reasonably complete assessment of benefits;
- Provided estimates of the annual per hectare value of benefits or enabled such an estimate to be derived, as estimating benefits on a per hectare per annum basis provides a standardised basis for the analysis and upscaling of values;

- Related to terrestrial and coastal sites only; marine sites were considered separately.

The review provided 35 different estimates of the value of the benefits of Natura 2000 sites from 20 different studies. A summary of suitable estimates is given in Table I. All values had been estimated on a per hectare per annum basis and had been converted to Euros at 2011 prices.

The per-hectare values were derived from estimates of the value of services delivered by each site divided by the area of the site. The available estimates give a wide range of values for the benefits of Natura 2000 sites, ranging from just less than €50 per hectare per year to almost €20,000 per hectare per year.

The range of values identified underscores that sites are not uniform while estimates of the value of the services they deliver also vary according to the methods used and data available.

Variations in value estimates reflect differences in:

- The location and characteristics of different sites (including their condition, scarcity and substitutability);
- The ecosystem services delivered, which vary by habitat and location relative to people and natural resources;
- The value placed on those services by people and by markets;
- The extent to which studies have been able to estimate ecosystem service delivery and its value; and
- The methods used in valuation, and the assumptions used in benefit estimation.

Table I: Summary of valuation studies, by site (source: Ten Brink et al., 2011)

Site	Ecosystem services	Site value /ha/year (€, 2011)	Reference
Pond Complex of Central-Limburg, Belgium	Provisioning services, tourism and recreation	1,285	Desmyttere and Dries (2002)
Scheldt estuary, Belgium	Regulating and provisioning ES (various)	3,990	Ruijgrok, E.C.M. (2007)
Skjern River restoration, Denmark	Biodiversity/ existence values, recreation, water purification and regulation, fibre production	1,218	Dubgaard et al (2002)
Protected forests in eastern Finland	Non market values	403	Kniivila et al (2002)

Site	Ecosystem services	Site value /ha/year (€, 2011)	Reference
La Crau, France	Social benefits of N2K site + hay production	229	Hernandez and Sainteny (2008)
Donana, Spain	Ecosystem services	375	Martin-Lopez et al (2007)
Sites protected for Large Blue butterfly, Landau, Germany	Range of services and values including non-use values	6,932	Watzold et al. (2008)
Burren, Ireland	Cultural services: tourism & recreation; Broader socio-economic benefits: beneficial externalities	2,714	Rensburg et al. (2009)
Wadden Sea N2K sites, Netherlands	Provisioning, regulating and cultural services	3,650	Kuik et al (2006)
River N2K sites, Netherlands	Use and non use values	5,324	Kuik et al (2006)
Lake and marsh N2K sites, Netherlands	Tourism, recreation, non use	5,944	Kuik et al (2006)
Dune N2K sites, Netherlands	Flood protection, recreation, non use	13,198	Kuik et al (2006)
High fen and sandy soil N2K sites, NI	Recreation, non use	1,274	Kuik et al (2006)
Stream valley and hills N2K sites, NI	Provisioning, amenity, recreation, non-use	4,974	Kuik et al (2006)
Białowieża Forest, Poland	Recreation, amenity & existence, freshwater, range of provisioning services (e.g. food, timber), tourism, pest control.	2,799	Pabian and Jaroszewicz (2009)
Pico da Vara / Ribeira do Guilherme, Azores, Portugal	Water provision, quality & regulation. Recreation and eco-tourism. Landscape and amenity values.	642	Cruz and Benedicto (2009)
Lower Green Corridor, Romania	Provisioning services: fisheries, forestry, animal fodder; Regulating services: nutrient retention; Cultural services: recreation	512	Ebert et al. (2009)
Danube floodplains (7 countries, 60% in Romania)	Provisioning services, recreation, water purification	572	Gren et al (1995)
Clyde Valley Woods, Scotland	Use and non use values	5,665	Jacobs (2004)
Waukenwae and Red Mosse, Scotland	Use and non use values	14,769	Jacobs (2004)
River Bladnoch, Scotland	Use and non use values	5,341	Jacobs (2004)
Sands of Forvie, Scotland	Use and non use values	4,404	Jacobs (2004)
Tips of Corsemaul and Tom Mor, Scotland	Use and non use values	19,763	Jacobs (2004)
Strathglass Complex, Scotland	Use and non use values	87	Jacobs (2004)
Lewis and Harris, Scotland	Use and non use values	155	Jacobs (2004)
Sites of special scientific interest in England and Wales (~80% are N2K)	Range of 7 key ecosystem services (gross)	7,926	GHK (2011)



Site	Ecosystem services	Site value /ha/year (€, 2011)	Reference
Wallasea Island, England	Range of key ecosystem services	1,447	Eftec (2008)
Derwent Ings , England	Social benefits of N2K site	1,318	Willis, K.G (1990)
Skipworth Common, England	Social benefits of N2K site	5,987	Willis, K.G (1990)
Upper Teasdale, England	Social benefits of N2K site	1,150	Willis, K.G (1990)
Ingleborough National Nature Reserve, England	Recreation, food and fibre, non use values	290	Natural England (2009)
X Dale, England	Recreation and non use values	49	Natural England (2009)
Alkborough Flats, North Lincolnshire	Range of ecosystem services	4,508	Everard, M. (2009)
Humber Estuary, England	Amenity and recreation, carbon	847	Luisetti et al (2010)
Blackwater Estuary, England	Amenity and recreation, carbon, fisheries	4,371	Luisetti et al (2010)

By supporting sustainable food production, including organic farming, maintenance of soil fertility, maintenance of pollinators and maintenance of natural pest control, Natura 2000 sites have a positive impact on food security in the EU. They also have a positive impact on the health sector, for instance by providing opportunities for research and innovation for the pharmaceutical industry (Kettunen et al., 2014).

#### **4.2.2 Positive effects arising from tourism and recreation**

When it comes to the assessment of wider socio-economic effects related to Natura 2000, benefits related to tourism and recreation well described in the available literature. In a comprehensive study, BIO Intelligence Service (2011) estimated the economic value of the benefits provided by tourism and recreation related to the Natura 200 network. According to the definition of the authors, these benefits include the economic impacts derived from visitor expenditure, the recreational benefits that refer to use values, and the employment supported by Natura 2000. The study states that:

- In 2006, between 1.2 and 2.2 billion visitor days to Natura 2000 were estimated, representing a total amount of spending between 50 and 90 billion Euros. Total visitor expenditure generated between 50 and 85 billion Euros of additional income in the economy.
- Natura 2000 directly supported around 8 million FTE jobs each year during the period 2006-2008, and indirectly 4 million FTE jobs.

At the site level, a number of case studies exemplify the positive effects of Natura 2000 sites on the local and regional economy (see Gantioler et al., 2010). For

instance, Neidlein and Walser (2005) estimated that the Wattenmeer national park in Germany is responsible for around 23% of total tourists in the region and that the associated gross economic income amounted to over of over €100 million in 2003. Similarly, Job and Metzler (2005) state that the yearly profits associated with tourism in the three German national parks Bayerischer Wald, Berchtesgarden and Müritz amount to almost €14 million per year. For Finland, Metsähallitus (2009) estimated that the total annual revenue linked with visitor spending in the existing national parks was €70.1 million. The authors found that €1 of public investment to protected areas provided €20 in returns.

To sum up, Natura 2000 sites can have positive effects on local and regional economies, both in terms of visitors spending and in terms of direct and indirect job creation. As the case of Finland (Metsähallitus, 2009) shows, the benefits arising from protected areas might very well outweigh the costs associated to their designation and management.

#### **4.2.3 Negative effects arising from restricted economic development**

European Commission ((b), 2010) and Birdlife (2003) present several cases which highlight the use of conflicts with regards to structural development in Natura 2000 sites. For example, the Danube delta (Tulcea district, Romania) was designated as one large-scale Natura 2000 site including the settlement areas. Here, the local population has to employ higher efforts to incur structural development (construction of buildings and especially wind turbines, European Commission (b), 2010).

Another prominent example is the planned construction of the Via Baltica highway in Poland (European Commission (b), 2010). The planned trajectory, which was chosen for economic reasons, passed through several Natura 2000 sites, amongst others through the Rospuda Valley which is home to a variety of Natura 2000 species and habitats. The plan was changed to exclude the vulnerable areas.

Byron & Arnold (2008) evaluated the plans for the priority projects within the Trans-European Network: Transport (TEN-T) and their overlap with Natura 2000 sites for EU25 countries. As a result, they stated that 8% of the SPAs and 4% of the SCIs were affected by the plans. Transport infrastructure therefore poses a threat to biodiversity conservation. However, good practice examples show that conflicting goals do not need to result in threats to these plans if goals are streamlined and adapted accordingly in an early stage.

## 5 Funding opportunities for the local and regional governments

The current, insufficient funds through lacking accession of funding sources and resultant consequences for Natura 2000 implementation and management have been highlighted. This chapter looks towards the 2014-20 financing period and highlights EU and other funding opportunities that are available for local and regional governments to finance e.g. the drafting of management plans and guidance documents and the implementation of capacity building and management activities. The following information is largely drawn from the guidance document ‘*Financing Natura 2000 Guidance Handbook Part 1 – EU funding opportunities in 2014-2020*’ (Kettunen et al., 2014).

While Natura 2000 is based on the principle of solidarity and thus envisioned to be financed by the Member States, Article 8 of the Habitats Directive directly outlines the obligation of the EU to co-finance the delivery of related conservation measures. The Commission has underlined the importance of Union funding within the next multiannual financial framework in its Communication on ‘A budget for Europe 2020’ (European Commission (u), 2011) and Working Paper on ‘Financing Natura 2000’ (European Commission (q), 2011). An emphasis is placed on utilising the diverse EU sectoral funds for the next financing period, including the: European Agricultural Fund for Rural Development (EAFRD), European Maritime and Fisheries Fund (EMFF), European Regional Development Fund (ERDF), European Social Fund (ESF), Cohesion Fund, European financial instrument for the environment (LIFE)<sup>10</sup> and Framework Programme for research and innovation (Horizon 2020). There are also important possibilities for regions to look into available Operational Programmes outside of the thematic Objective 6.

Due to variations in funding allocations, the thematic concentrations that depend on the fund/region and factors such as the GDP per capita and GNI/head, not all of these funds are available to all Member States or regions but need to be evaluated for suitability and applicability for the different Member States. This results in considerable differences in their importance and rate of uptake across the EU. Kruk et al. (2010) outline that the rural development ‘pillar’ of the Common Agriculture Policy, for example, is widely utilised across all Member States as it enables agri-environmental management payments to be paid to farmers or be applied for local

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<sup>10</sup> LIFE is the only dedicated EU funding instrument targeting biodiversity and Natura 2000, as opposed to delivering broader EU development goals.

on-site trainings to support management actions. Taking the case of Hungary, the management of Natura 2000 grassland sites is primarily financed by agri-environmental contracts. As LIFE is the EU funding instrument directly targeting biodiversity and Natura 2000, it is central to realise the aims of the network (particularly regarding aspects like stakeholder participation and implementing management measures and restoration projects). It has also been a key tool for financing actions by private bodies or NGOs (European Commission (t), 2014).

Nevertheless, only 9-19% of the financial needs of the network were covered between 2007-2013 (Kettunen et al., 2014), leaving significant room for improvement in the use of EU funds. The Commission, in agreement with the Member States, has thus begun promoting Prioritized Action Frameworks (PAF) based on provisions of Article 8 of the Habitats Directive in order to identify strategic priorities/measures for 2014-2020 as well as corresponding EU financing instruments (European Commission (t), 2014).

The European Commission has also begun to emphasise the largely untapped value of utilising innovative approaches and market-based instruments (including private funding) to supplement the aforementioned resources (European Commission (t), 2014). This is underscored by Kettunen et al. (2014), who highlight the potential of e.g. Payments for Ecosystem Services, product markets, corporate markets, offset schemes, debt instruments or fiscal incentives. Of central importance to all of these approaches is clearly outlining the range of (public and private) benefits and services provided by the network to the various stakeholder groups.

Public-private partnerships, for example, hold large potential to make larger future contributions to Natura 2000. In Austria, such cooperation models have already been established among NGOs like the Austrian League for Nature Conservation and other public bodies or research institutes (Kirchmeir et al., 2012). In some cases, NGOs can also take the lead in developing management plans on their own initiative, including arranging funds for writing the plans and the executing its management (Kruk et al., 2010).

Incentives or tax breaks are other innovative tools recommended to be more widely applied. In Abruzzo, Italy, for example, special incentives have been developed for voluntary actions which are not legally binding (European Commission (t), 2014). France has also enabled exemptions from land tax on un-built property and increased access to public funds as a benefit of signing a Natura 2000 charter, particularly in relation to forest habitats (European Commission (t), 2014).

In summary, it is not a lack of funding possibilities for conservation measures and management planning for Natura 2000 sites that resulted in the low investment rate during the last programming period. Site managers and regional authorities need to improve their strategic approaches to site management in order to apply for the different funding programmes. Often, this requires a high degree of technical capacity for proposal development which oftentimes is lacking.



## **6 Consultation and interviews – filling the gaps**

The following questions are proposed to be included in the Committee of the Region's survey and utilised for the subsequent targeted interviews. The issues raised highlight gaps which were identified in the desk research and aspects which would benefit from more targeted responses and regional representation.

Given the aims of this study as outlined in the File Note and the groups of individuals who are most familiar with the aspects wanting to be addressed, 'public' consultation was understood within this context to refer to key stakeholder groups and particularly local and regional authorities and site managers. Therefore, those aspects that are insufficiently answered by the survey or for which regional representativeness could be improved can be utilised in a second round of data gathering via the envisioned interviews where the interviewee can elaborate more in depth. Several questions are relevant to both target groups. However, few questions are specifically designed for the site managers or the LRA.

Regarding the selection of specific regions or local/regional authorities to be invited for interviews, the research indicates that LRA located within the Mediterranean biogeographical region belong to a key target group facing challenges in their implementation of the Directives. More specifically, LRA that also take into account the ESPON regions could then be selected from this overarching list based on the court cases identified. Accordingly, it is also recommended to identify positive regional approaches from the same biogeographical region in order to facilitate the comparison of experiences and highlight success factors that may be replicable. In addition, representatives of regions which have been part of Interreg IVc projects should be considered for interviews. Finally, depending on the breadth of survey responses received, underrepresented regions, regions which have identified struggles and means to overcome these challenges, successful 'best practice' regions, etc. can all be considered as valuable to complement this study and the survey findings with more in depth information.

The choice for regions is based on literature research of good and bad practice examples of regions as well as issued law cases. Based off of this, the selection of regions is exemplary and does not provide a complete picture.

In Spain, several regions with implementation issues could be identified. The NUTS 3 regions Huesca, Teruel or Zaragoza in Aragon and La Coruña, Lugo, Ourense or Pontevedra in Galicia were selected based on their lack of management plans and the fact that Galicia is one of the autonomous regions that lags far behind in implementation (WWF, 2012). Additionally, Aragon is situated in the Mediterranean biogeographical region. The province Catalonia started in 2006 as a pioneer for the implementation of the Habitats and Birds Directives (WWF, 2012). The lack of management plans in Catalonia might be a good indicator for obstacles to implementation. Therefore, one of the regions, Barcelona, Girona, Lleida or Tarragona, should be invited for the interviews.

With regards to other countries facing implementation constraints, the selection of regions was based on law cases that were issued, taking the infringements as an indicator for implementation constraints. Regions that have had implementation problems (based on European court cases) would seem to be: Apulia and Sardinia (Italy), Zakynthos (Greece), Andalucia (Spain), Wallonia (Belgium), Alentejo (Portugal), Styria and Lower Austria (Austria). It is suggested to invite representatives of those regions for structured interviews.

Several Interreg projects have been carried out that focus on Natura 2000 sites and bring the implementation of the Directives forward. Those could have provided good practice examples. In the following, projects and regions involved are mentioned:

- ECO – LAGUNES (Environmental management of lagoon areas with aquaculture uses) 2009 – 2011: Barcelona (ES), Aude (FR), Algarve (PT), Cadiz (ES), Hérault (FR), Gironde (FR).
- RECHARGE.GREEN (Reconciling Renewable Energy Production and Nature in the Alps) 2012 – 2015: Cuneo (IT), Gorenjska (SI), Belluno (IT), Bludenz-Bregenzer Wald & Rheintal-Bodenseegebiet (AT), Haute-Savoie & Savoie (FR).
- TRANSECONET (Transnational Ecological Networks) 2009 – 2012: Moravskoslezský kraj (CZ), Jihomoravský kraj (CZ), Zlínský kraj (CZ), Győr-Moson-Sopron (HU), Nordburgenland (AT), Südburgenland (AT), Vas (HU), Savinjska (SI), Pomurska (SI).



## Survey questions

### **Contact information:**

- Name, email, phone number.
- Institution, Department.
- Region, Country.
- Type of authority or association (European/national/regional/local).
- Position held.
- Would you be willing to participate in a follow-up phone interview? (Y/N).

### *Questions specifically to site managers:*

1. In case your administration went through the process of drafting site management plans, did you face problems during this process? (Y/N)
  - a. If yes, what type of problems did you encounter (e.g. problems due to technical capacity, spatial or land-use planning, occurring stakeholder conflicts)?
  - b. Which stakeholders were involved in the process?
2. In case that the LRA had the responsibility to draft the management plans, how did the LRA and the site management cooperate for establishing the plan?
3. How is the Natura 2000 site utilised? How is it marketed (e.g. tourism offers, agriculture)?

### *Questions specifically to LRAs:*

1. Have projects been conducted in your region that made an appropriate assessment necessary? (Y/N)
  - a. If yes, please describe the process of this assessment in detail.
  - b. What is the result of the assessment? How was it perceived by the stakeholders involved?

2. Does your administration cooperate with LRA with different focus areas (tourism, nature conservation, transport, regional development etc.)? (Y/N)
  - a. If yes, for which instances do the LRAs cooperate?
  - b. Please describe the type of cooperation in more detail.
  
3. Have efforts been made to involve LRA in the selection and/or scope decision-making processes of Natura 2000 at the national level? (Y/N)
  - a. If yes, please describe the mechanisms in place to support LRA involvement.
  - b. More specifically, what role have local authorities played in the design and implementation processes?

*Questions relevant to both target groups:*

1. Has your organisation produced any statements or documents outlining its position towards the EU Fitness Check of the Habitats and Birds Directives? (Y/N)
  - a. If yes, what are the main opinions expressed (positive or negative).
  
2. Are you aware of problems within your region that have been encountered in implementing the Habitats and Birds Directives (e.g. administrative, financial, stakeholder disputes, lack of scientific knowledge, etc)? (Y/N)
  - c. If yes, please describe the nature of the problem(s) and what efforts have been made to resolve these issues.
  
3. Does your administration have sufficient financial resources to implement the measures required under the Habitats and Birds Directives? (Y/N)
  - d. If no, please specify which areas/aspects are not sufficiently financed and the consequences of these gaps.
  - e. Can any costs to your administration be identified which are not proportional to the benefits received? Please specify.

4. Which funding sources are utilized by your administration to finance the implementation of the Directives? (please fill in as appropriate)

Fund/ Programme	Please specify share of total utilized funds (%)
EU Cohesion fund, EU Regional Development Fund, EU Social Fund	
EU Rural Development Fund, EU Maritime & Fisheries Fund	
LIFE Programme	
Framework programme for research & innovation	
National financing	
Regional funds	
INTERREG	
Public private partnerships (please specify)	
Other (please specify)	

5. Are there any underlying reasons why more funds than just those being currently utilized by your administration (see question 5) have not been made use of? (Y/N)
- a. If yes, please specify which funds have not been utilized due to specific reasons and provide an explanation.
6. Do you know of any examples of ‘innovative funding’ that have been utilized within your region or in other areas to support implementation of the Habitats and Birds Directives? (Y/N)
- a. If yes, please explain.
7. Are you aware of any regionally or locally focused cost/benefit assessments associated with your Member State’s implementation of the Directives? (*benefits* include environmental improvements, ecosystem services provided, and positive economic impacts; *costs* include administrative costs, management costs and negative economic impacts including opportunity costs) (Y/N)
- a. If yes, please include the names and/or links.

8. Taking into account the costs and benefits potentially resulting from the implementation of the Habitats and Birds Directives as outlined in the previous question, do you think that your region is predominantly positively or predominantly negatively affected? Please specify.
9. Does your administration have sufficient personnel resources to implement the measures required under the Habitats and Birds Directives? (Y/N)
  - a. If no, please specify the specific implementation aspects in which capacities are insufficient (e.g. planning, management, enforcement, compliance, etc).
10. In your view, what are the main benefits and disadvantages of the Directives? (e.g. restrictions on spatial planning, inhibited economic development, better quality of life, decreased/increased regional GDP, improved landscape attractiveness, etc)
11. Where do you see current shortcomings in the Habitats and Birds Directives?
  - a. Please outline any recommendations you or your administration have which could help to address these gaps.

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# APPENDIX 1

Table 1: SAC designation deadlines by region

Macaronesian	Alpine	Atlantic and Continental	Boreal	Mediterranean	Pannonian	Steppic and Black Sea
December 2007	December 2009	December 2010	January 2011	July 2012	November 2013	December 2014

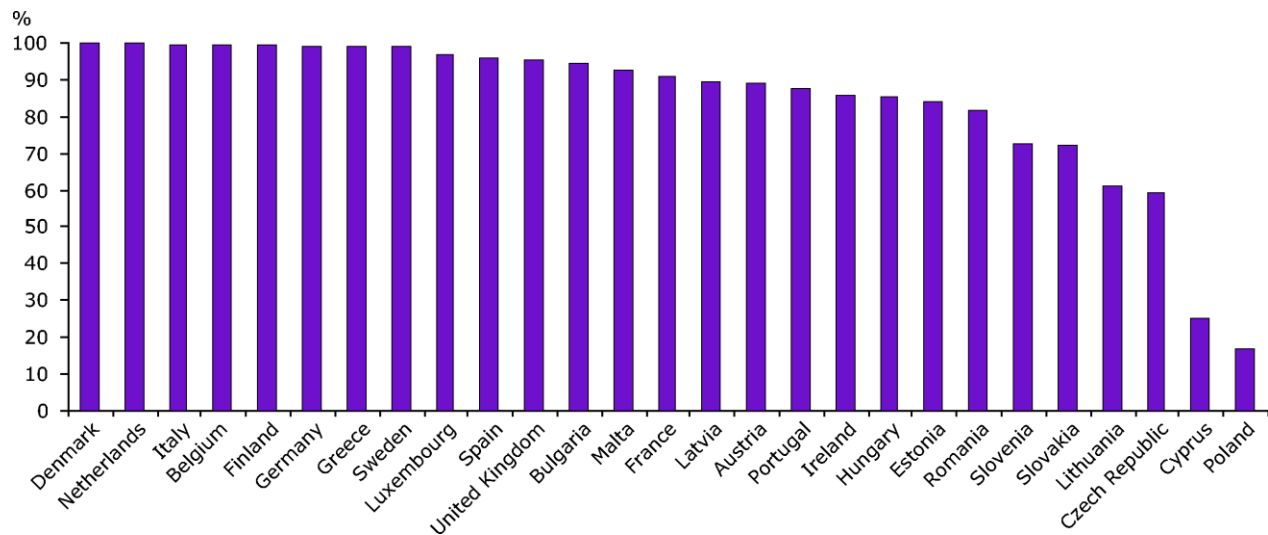


Figure 1: State of progress by Member States in designating sufficient protected areas (source European Environment Agency, 2013)

## Flexibility within the relevant Articles

Table 2: Articles of the Habitats and Birds Directives linked to designations

Article	Content	Flexibility in the Article
Habitats Directive article 1(h)	<i>special area of conservation</i> means a site of Community importance designated by the Member States through a statutory, administrative and/or contractual act where the necessary conservation measures are applied for the maintenance or restoration, at a favourable	Member States can decide if the designation is done through statutory, administrative and/or contractual act.

Article	Content	Flexibility in the Article
	conservation status, of the natural habitats and/or the populations of the species for which the site is designated;	
Habitats Directive article 3(1)	A coherent European ecological network of special areas of conservation shall be set up under the title Natura 2000. This network, composed of sites hosting the natural habitat types listed in Annex I and habitats of the species listed in Annex II, shall enable the natural habitat types and the species' habitats concerned to be maintained or, where appropriate, restored at a favourable conservation status in their natural range. The Natura 2000 network shall include the special protection areas classified by the Member States pursuant to Directive 79/409/EEC.	Annex 1 lists the natural habitat types that require to be designated as a SAC. There is a level of flexibility in how to interpret the different habitat types, such as “Sandbanks which are slightly covered by sea water all the time”. However, Annex 1 is supported by the “Interpretation Manual of European Union Habitats”.
Habitats Directive article 3(2)	Each Member State shall contribute to the creation of Natura 2000 in proportion to the representation within its territory of the natural habitat types and the habitats of species referred to in paragraph 1. To that effect each Member State shall designate, in accordance with Article 4, sites as special areas of conservation taking account of the objectives set out in paragraph 1.	Some flexibility in terms of Article 3(1) and 4(1)
Habitats Directive article 4(1)	On the basis of the criteria set out in Annex III (Stage 1) and relevant scientific information, each Member State shall propose a list of sites indicating which natural habitat types in Annex I and which species in Annex II that are native to its territory the sites host. For animal species ranging over wide areas these sites shall correspond to the places within the natural range of such species which present the physical or biological factors essential to their life and reproduction. For aquatic species which range over wide areas, such sites will be proposed only where there is a clearly identifiable area representing the physical and biological factors essential to their life and reproduction. Where appropriate, Member States shall propose adaptation of the list in the light of the results of the surveillance referred to in Article 11. The list shall be transmitted to the	Annex III sets criteria for selecting sites eligible for identification as sites of community importance and designation as SACs and provides a level of flexibility in proposing Annex I and Annex II sites. These include for Annex I (italics by authors): (a) <i>Degree of representativity</i> of the natural habitat type on the site. (c) <i>Degree of conservation</i> of the structure and functions of the natural

Article	Content	Flexibility in the Article
	<p>Commission, within three years of the notification of this Directive, together with information on each site. That information shall include a map of the site, its name, location, extent and the data resulting from application of the criteria specified in Annex III (Stage 1) provided in a format established by the Commission in accordance with the procedure laid down in Article 21.</p>	<p>habitat type concerned and restoration possibilities.</p> <p>(d) <i>Global assessment</i> of the value of the site for conservation of the natural habitat type concerned.</p> <p>These include for Annex II:</p> <p>(b) <i>Degree of conservation</i> of the features of the habitat which are important for the species concerned and restoration possibilities.</p> <p>(c) <i>Degree of isolation</i> of the population present on the site in relation to the natural range of the species.</p> <p>(d) <i>Global assessment of the value</i> of the site for conservation of the species concerned.</p>
<p>Habitats Directive article 4(2)</p>	<p>On the basis of the criteria set out in Annex III (Stage 2) and in the framework both of each of the nine biogeographical regions referred to in Article 1 (c) (iii) and of the whole of the territory referred to in Article 2 (1), the Commission shall establish, in agreement with each Member State, a draft list of sites of Community importance drawn from the Member States' lists identifying those which host one or more priority natural habitat types or priority species. Member States whose sites hosting one or more priority natural habitat types and priority species represent more than 5 % of their national territory may, in agreement with the Commission, request that the criteria listed in Annex III (Stage 2) be applied more flexibly in selecting all the sites of Community importance in their territory. The list of sites selected as sites of Community importance, identifying those which host one or more priority natural habitat types or priority species, shall be adopted by the Commission in accordance with the procedure laid</p>	<p>In Annex III (Stage 2), the Commission assessment of the Community importance of other sites on Member States' lists (not selected as part of Stage 1) will be based on the following criteria:</p> <p>a) <i>Relative value</i> of the site at national level</p> <p>b) <i>global ecological value</i> of the site for the biogeographical regions concerned and/or for the whole of the territory referred to in Article 2.</p> <p>The Commission may be requested by a Member State to apply the criteria for Annex III (Stage 2)</p>

Article	Content	Flexibility in the Article
	down in Article 21.	more flexibly in selecting all the sites for the Member State in question that are hosting one or more priority natural habitat types and priority species, representing more than 5 % of their national territory.
Habitats article 5(1)	Article 5(1): In exceptional cases where the Commission finds that a national list as referred to in Article 4 (1) fails to mention a site hosting a priority natural habitat type or priority species which, on the basis of relevant and reliable scientific information, it considers to be essential for the maintenance of that priority natural habitat type or for the survival of that priority species, a bilateral consultation procedure shall be initiated between that Member State and the Commission for the purpose of comparing the scientific data used by each.	Some flexibility (or rather uncertainty) in determining what is relevant and reliable information for an exceptional case.
Habitats Directive article 5(2)	If, on expiry of a consultation period not exceeding six months, the dispute remains unresolved, the Commission shall forward to the Council a proposal relating to the selection of the site as a site of Community importance.	No flexibility
Birds Directive article 4(1) (last para)	Member States shall classify in particular the most suitable territories in number and size as special protection areas for the conservation of these species in the geographical sea and land area where this Directive applies.	Flexibility in determine what are the most suitable territories



## Implementation Actions Brought by the Commission

Table 3: Number of petitions received by the Commission (nature protection cases) (European Commission, 2011 (g) and European Commission, 2010 (h)).

DATE	PETITIONS RECEIVED	HIGHEST PROPORTION FROM COUNTRIES
2010	32	Austria, Bulgaria, Denmark, France, Germany, Greece, Hungary, Ireland, Italy, Poland, Portugal, Slovakia and Spain
2009	50	Bulgaria, France, Malta and Spain

Table 4: Number of Commission open cases (nature protection cases) (European Commission, 2009 (i); European Commission, 2008 (j); European Commission, 2006 (l); European Commission, 2004 (s))

DATE	CASES OPEN
2008	168
2007	235
2005	179
2003	589

### Determining which Countries Were Experiencing Implementation Difficulties.

We wanted to determine which countries and regions appeared to be experiencing the most implementation difficulties in relation to the Habitats Directive and the Birds Directive. Using the annual reports on Monitoring the Application of EU Law (2005-2013) we examined which countries/regions look to have experienced implementation or conformity difficulties and when. The figures presented below should not be considered as scientific proof (e.g. they might cover the same infringement twice as the Commissions progresses with a case over years) and the methodology for presenting information in the reports changed over time. It is also not our intention to present them as a league table. The key purpose for constructing them was to see if the number of times they had been mentioned in the annual reports in respect to Commission enforcement action might help build a picture as to national and regional implementation difficulties.

Table 5: Member States Non-conformity with the Habitats Directive (Mentions in the Annual Reports on Monitoring the Application of EU Law (2005-2013))

DATE	COUNTRY	LETTER OF FORMAL NOTICE OR WARNING LETTER	REASONED OPINION	COURT PROCEEDINGS BEGAN / INTERIM MEASURES	JUDGMENT OF THE COURT	ACTION DROPPED
2013	Austria					X
2013	Denmark					X
2013	Germany					X
2012	Cyprus					X
2012	Cyprus				X Case C-340/10 (art 258)	
2012	France			X		
2012	Greece				X	
2012	Lithuania			X IP/07/938		
2011	Denmark			X		
2011	Poland				X Case -46/11	
2011	Spain				X Cases 404/09 and C- 90/10	
2010	Denmark		X			
2010	Germany				X Case C-226/08	
2010	Italy				X Case c-491/08	
2010	Italy				X Case 164/09	
2010	Italy				X 537/08	
2010	Poland		X			
2010	Spain					X Case C- 308/08
2009	Cyprus		X			
2009	Czech Republic		X			
2009	Finland					X Case- 362/06 Sahlstedt

DATE	COUNTRY	LETTER OF FORMAL NOTICE OR WARNING LETTER	REASONED OPINION	COURT PROCEEDINGS BEGAN / INTERIM MEASURES	JUDGMENT OF THE COURT	ACTION DROPPED
2009	Greece				X Case C-293/07	
2009	Lithuania		X			
2009	Latvia		X			
2009	Poland				X Case C-193/07	
2009	Romania			X		
2009	Slovakia		X			
2008	Bulgaria	X				
2008	Czech Republic	X (2 <sup>nd</sup> )				
2008	Estonia	X (2 <sup>nd</sup> )				
2008	France			X		
2008	Greece	X Case C-334/04 (art 228)				
2008	Ireland	X Case C-183/05				
2008	Portugal			X		
2008	Latvia	X				
2008	Lithuania	X				
2008	Poland	X				
2008	Slovakia	X				
2008	Hungary	X				
2008	Romania	X				
2008	Romania	X (2 <sup>nd</sup> )				
2008	Spain			X		
2008	Spain	X Case C-235/04 (art 228)				
2008	Spain				X Case C-308/08	
2007	Austria				X Case C-508/04	
2007	Finland				X Case c-342/05	

DATE	COUNTRY	LETTER OF FORMAL NOTICE OR WARNING LETTER	REASONED OPINION	COURT PROCEEDINGS BEGAN / INTERIM MEASURES	JUDGMENT OF THE COURT	ACTION DROPPED
2007	Greece					X (Case C-103/00)
2007	Italy					X Case C-518/04
2007	Italy				X Case C-388/05	
2007	Italy				X Case C-304/05	
2007	Italy				X Case C-179/06	
2007	Poland			X Case C-193/07 (also Birds)		
2006	Austria	X (final warning)				
2006	Cyprus	X				
2006	Czech Republic	X				
2006	Denmark	X				
2006	France					X
2006	Greece	X				
2006	Malta	X				
2006	Poland	X				
2006	Portugal					X
2006	Portugal				X Case C-239/04	
2006	Slovakia	X				
2006	Slovenia	X				
2005	Belgium	X				
2005	Belgium		X			
2005	France	X				
2005	Greece	X				
2005	Ireland			X		
2005	Italy				X Case C-117/03	
2005	Italy	X				
2005	Italy		X			

DATE	COUNTRY	LETTER OF FORMAL NOTICE OR WARNING LETTER	REASONED OPINION	COURT PROCEEDINGS BEGAN / INTERIM MEASURES	JUDGMENT OF THE COURT	ACTION DROPPED
2005	Italy			X		
2005	Germany		X Case C-71/99			
2005	Netherlands	X (Art 228, C-441/03.)				
2005	Netherlands	X				
2005	Portugal		X			
2005	Portugal	X				
2005	Spain	X				
2005	United Kingdom	X				
2006	United Kingdom	X (final warning)				
2005	United Kingdom				X Case C-6/04	
2005	United Kingdom				X Case C-131/05	

Table 6: Summary of Member States Non-conformity with the Habitats Directive (Mentions in the Annual Reports on Monitoring the Application of EU Law (2005-2013))

COUNTRY	NUMBER OF TIMES IN ANNUAL MONITORING REPORT IN CONNECTION WITH HABITATS DIRECTIVE 2005 – 2013
Austria (1995)	3
Belgium (1952)	2
Bulgaria (2007)	1
Croatia (2013)	0
Cyprus (2004)	4
Czech Republic (2004)	3
Denmark (1973)	4
Estonia (2004)	1
Finland (1995)	2
France (1952)	4
Germany (1952)	3
Greece (1981)	6

Hungary (2004)	1
Ireland (1973)	2
Italy (1952)	11
Latvia (2004)	2
Lithuania (2004)	3
Luxembourg (1952)	0
Malta (2004)	1
Netherlands (1952)	2
Poland (2004)	6
Portugal (1986)	5
Romania (2007)	3
Slovakia (2004)	3
Slovenia (2004)	1
Spain (1986)	7
Sweden (1995)	0
United Kingdom (1973)	4
<b>Total</b>	<b>84</b>

Table 7: Member States Non-conformity with the Birds Directive (Mentions in the Annual Reports on Monitoring the Application of EU Law (2005-2013))

DATE	COUNTRY	LETTER OF FORMAL NOTICE OR WARNING LETTER	REASONED OPINION	COURT PROCEEDINGS BEGAN / INTERIM MEASURES	JUDGMENT OF THE COURT	ACTION DROPPED
2013	Bulgaria			X IP/13/966		
2013	Cyprus			X MEMO/13/122		
2013	Latvia					X
2013	Malta			X		
2012	Latvia					X
2012	Latvia			X		
2012	Lithuania			X		
2012	Poland				X C-192/11 & C-46/11	
2012	Portugal					X
2011	Austria					X
2011	Cyprus			X (IP/09/1793)		
2011	Czech Republic					X

DATE	COUNTRY	LETTER OF FORMAL NOTICE OR WARNING LETTER	REASONED OPINION	COURT PROCEEDINGS BEGAN / INTERIM MEASURES	JUDGMENT OF THE COURT	ACTION DROPPED
2011	Denmark					X
2011	Hungary					X (IP/11/43)
2011	Italy				X Case C-508/09	
2011	Latvia			X (IP/07/938)		
2011	Malta			X (IP/10/1409)		
2011	Poland			X (IP/11/71)		
2011	Poland				X Case C-192/11	
2010	Austria				X Case C-535-07	
2010	Belgium					X
2010	Greece	X				
2010	Italy				X Case C-573/08	
2010	Italy				Case C-164/09	
2010	Malta	X (Art 260)				
2010	Poland		X			
2010	Romania		X			
2010	United Kingdom	X				
2009	Slovakia		X			
2009	Denmark		X			
2009	Greece	X Case C-259/08				
2009	Italy	X			X Case C-508/09	
2009	Malta				X Case C-76/08	

DATE	COUNTRY	LETTER OF FORMAL NOTICE OR WARNING LETTER	REASONED OPINION	COURT PROCEEDINGS BEGAN / INTERIM MEASURES	JUDGMENT OF THE COURT	ACTION DROPPED
2008	Austria	X Case C-507/04				
2008	Czech Republic	X				
2008	Greece				X Case C-293/07	
2008	Hungary	X				
2008	Italy	X			X Case 573/08	
2008	Italy				X C-503/06	
2008	Latvia	X				
2008	Lithuania	X				
2008	Romania	X				
2008	Slovakia	X				
2008	Spain					X T-322/06, 323/06, 345/06, 366/06
2007	Austria				X Case C-507/04	
2007	Austria			X		
2007	Cyprus	X				
2007	Cyprus					X
2007	Czech Republic	X				
2007	Finland					X
2007	Germany			X		
2007	Greece				X Case C-334/04	
2007	Hungary	X				
2007	Ireland				X Case C-418/04	
2007	Latvia	X				
2007	Lithuania	X				
2007	Malta	X				



DATE	COUNTRY	LETTER OF FORMAL NOTICE OR WARNING LETTER	REASONED OPINION	COURT PROCEEDINGS BEGAN / INTERIM MEASURES	JUDGMENT OF THE COURT	ACTION DROPPED
2007	Malta	X (2 <sup>nd</sup> )				
2007	Poland			X		
2007	Poland			X Case C-193/07 (also Habitats)		
2007	Slovenia	X				
2007	Slovakia	X				
2007	Spain				X Case C-235/04	
2006	Austria	X				
2006	Cyprus	X				
2006	Czech Republic	X				
2006	Denmark	X				
2006	Estonia	X				
2006	Finland	X (Art 288 – C-240/00)				
2006	Finland	X (Art 288 – C-344/03)				
2006	France					X
2006	France					X
2006	Germany					X (Art 228)
2006	Greece	X				
2006	Hungary	X				
2006	Italy	X				
2006	Italy				X Case C-503/06	
2006	Latvia	X				
2006	Lithuania	X				
2006	Luxembourg (2nd warning letter)	X				
2006	Malta	X				
2006	Malta	X				

DATE	COUNTRY	LETTER OF FORMAL NOTICE OR WARNING LETTER	REASONED OPINION	COURT PROCEEDINGS BEGAN / INTERIM MEASURES	JUDGMENT OF THE COURT	ACTION DROPPED
2006	Netherlands	X				
2006	Poland	X				
2006	Poland	X (final warning)				
2006	Poland	X				
2006	Slovakia	X				
2006	Spain	X				
2006	Spain	X 2 <sup>nd</sup>				
2006	Spain	X (Art 288 – C-79/03)				
2006	United Kingdom	X				
2005	Finland	X			X Case C-344/03	
2005	France		X			
2005	Greece				X Case C-166/04	
2005	Greece		X			
2005	Netherlands	X (Art 228, C-441/03)				
2005	Spain				X Case C-135/04	
2005	Spain				X	
2005	United Kingdom				X Case C-131/05)	

Table 8: Summary of Member States Non-conformity with the Birds Directive (Mentions in the Annual Reports on Monitoring the Application of EU Law (2005-2013))

COUNTRY	NUMBER OF TIMES IN ANNUAL MONITORING REPORT IN CONNECTION WITH BIRDS DIRECTIVE 2005 – 2013
Austria (1995)	6
Belgium (1952)	1
Bulgaria (2007)	1
Croatia (2013)	0
Cyprus (2004)	5
Czech Republic (2004)	4
Denmark (1973)	3
Estonia (2004)	1
Finland (1995)	4
France (1952)	3
Germany (1952)	2
Greece (1981)	7
Hungary (2004)	4
Ireland (1973)	1
Italy (1952)	8
Latvia (2004)	7
Lithuania (2004)	4
Luxembourg (1952)	1
Malta (2004)	8
Netherlands (1952)	2
Poland (2004)	9
Portugal (1986)	1
Romania (2007)	2
Slovakia (2004)	4
Slovenia (2004)	1
Spain (1986)	7
Sweden (1995)	0
United Kingdom (1973)	3
<b>Total</b>	<b>99</b>

#### Analysis of Implementation of Natura 2000 Sites according to Biogeographical Regions

The nine biogeographical regions referred to in Article 1(c)(iii) of Directive 92/43/EEC are Atlantic, Continental, Mediterranean, Alpine, Boreal, Macaronesian, Black Sea, Pannonian and Steppic.<sup>11</sup> A number of implementing decisions adopting updates to the list of sites of

<sup>11</sup> [http://ec.europa.eu/environment/nature/natura2000/sites\\_hab/biogeog\\_regions/index\\_en.htm#boreal](http://ec.europa.eu/environment/nature/natura2000/sites_hab/biogeog_regions/index_en.htm#boreal)

Community importance for each of these regions is available online. These documents inform as to which individual Member States countries fall within each region. Some Member States can fall within multiple regions.

In this section, we examined implementation specifically from a regional perspective, by looking at the cumulative totals of the number of times each Member State from each region has been mentioned in the Annual Monitoring Reports of the European Commission. We did not have the % breakdown, as to the numbers and size of areas, in each Member State, in respect to which region they were in. Instead, to simplify things, we have just given each Member State the full number of their score each time for each individual region. Again, this is not meant to be a scientific method (possibly a more detailed study might be commissioned in the future), but just as a basic indicator as to whether certain problems might be regionally focused.

## 1. Atlantic Region

The Atlantic biogeographical region comprises the Union territories of Ireland, the Netherlands and the United Kingdom, and parts of the Union territories of Belgium, Denmark, Germany, Spain, France and Portugal as specified in the biogeographical map approved on 20 April 2005 by the Habitats Committee set up by Article 20 of the Habitats Directive.

Table 9: Implementation of the Habitats Directive in the Atlantic Region

COUNTRY (IN ATLANTIC REGION)	NUMBER OF TIMES IN ANNUAL MONITORING REPORT IN CONNECTION WITH HABITATS DIRECTIVE 2005 – 2013
Belgium (1952)	2
Denmark (1973)	4
France (1952)	4
Germany (1952)	3
Ireland (1973)	2
Netherlands (1952)	2
Portugal (1986)	5
Spain (1986)	7
United Kingdom (1973)	4
Number of countries = 9	Total Score = 33 Average Score (33 divided by 9) = <b>3.7</b>

Table 10: Implementation of the Birds Directive in the Atlantic Region

<b>COUNTRY (IN ATLANTIC REGION)</b>	<b>NUMBER OF TIMES IN ANNUAL MONITORING REPORT IN CONNECTION WITH BIRDS DIRECTIVE 2005 – 2013</b>
Belgium (1952)	1
Denmark (1973)	3
France (1952)	3
Germany (1952)	2
Ireland (1973)	1
Netherlands (1952)	2
Portugal (1986)	1
Spain (1986)	7
United Kingdom (1973)	3
Number of countries = 9	Total Score = 23  Average Score (23 divided by 9) = <b>2.6</b>

## 2. Continental Region

The Continental biogeographical region comprises the Union territory of Luxembourg and parts of the Union territories of Belgium, Bulgaria, the Czech Republic, Denmark, Germany, France, Italy, Austria, Poland, Romania, Slovenia, Croatia and Sweden, as specified in the biogeographical map approved on 20 April 2005 by the Habitats committee set up by Article 20 of the Habitats Directive.

Table 11: Implementation of the Habitats Directive in the Continental Region

<b>COUNTRY (IN CONTINENTAL REGION)</b>	<b>NUMBER OF TIMES IN ANNUAL MONITORING REPORT IN CONNECTION WITH HABITATS DIRECTIVE 2005 – 2013</b>
Austria (1995)	3
Belgium (1952)	2
Czech Republic (2004)	3
Denmark (1973)	4
Germany (1952)	3
France (1952)	4
Italy (1952)	11
Poland (2004)	6

Romania (2007)	3
Slovenia (2004)	1
Sweden (1995)	0
Number of countries =	Total Score = 40 Average Score (40 divided by 11) = <b>3.6</b>

Table 12: Implementation of the Birds Directive in the Continental Region

<b>COUNTRY (IN CONTINENTAL REGION)</b>	<b>NUMBER OF TIMES IN ANNUAL MONITORING REPORT IN CONNECTION WITH BIRDS DIRECTIVE 2005 – 2013</b>
Austria (1995)	6
Belgium (1952)	1
Czech Republic (2004)	4
Denmark (1973)	3
Germany (1952)	2
France (1952)	3
Italy (1952)	8
Poland (2004)	9
Romania (2007)	2
Slovenia (2004)	1
Sweden (1995)	0
Number of countries = 11	Total Score = 39 Average Score (39 divided by 11) = <b>3.5</b>

### 3. Mediterranean Region

The Mediterranean biogeographical region comprises the Union territories of Greece, Cyprus and Malta, parts of the Union territories of Spain, France, Italy, Portugal and Croatia (who we left out of this analysis because of their recent accession), and, the territory of Gibraltar, for which the United Kingdom is responsible for external relations, as specified in the biogeographical map approved on 20 April 2005 by the Habitats committee set up by Article 20 of the Habitats Directive.

Table 13: Implementation of the Habitats Directive in the Mediterranean Region

	<b>NUMBER OF TIMES IN ANNUAL MONITORING REPORT IN CONNECTION WITH HABITATS DIRECTIVE 2005 – 2013</b>
Cyprus (2004)	4
France (1952)	4
Greece (1981)	6
Italy (1952)	11
Malta (2004)	1
Portugal (1986)	5
Spain (1986)	7
United Kingdom [Gibraltar] (1973)	4
Number of countries = 8	Total Score = 42 Average Score (42 divided by 8) = <b>5.3</b>

Table 14: Implementation of the Birds Directive in the Mediterranean Region

<b>COUNTRY (IN MEDITERRANEAN REGION)</b>	<b>NUMBER OF TIMES IN ANNUAL MONITORING REPORT IN CONNECTION WITH BIRDS DIRECTIVE 2005 – 2013</b>
Cyprus (2004)	5
France (1952)	3
Greece (1981)	7
Italy (1952)	8
Malta (2004)	8
Portugal (1986)	1
Spain (1986)	7
United Kingdom [Gibraltar] (1973)	3
Number of countries = 8	Total Score = 42 Average Score (42 divided by 8) = <b>5.3</b>

## 4. Alpine Region

The Alpine biogeographical region comprises the Union territories of the Alps (Germany, France Italy, Austria and Slovenia), the Pyrenees (Spain and France), the Apennine mountains (Italy), the northern Fennoscandian mountains (Finland and Sweden), the Carpathian mountains (Poland, Romania and Slovakia), the Dinaric Mountains (Slovenia and Croatia) and the Balkan, Rila, Pirin, Rhodope and the Sashtinska Sredna Gora Mountains (Bulgaria), as specified in the biogeographical map approved on 20 April 2005 by the Habitats Committee set up by Article 20 of that Directive.

Table 15: Implementation of the Habitats Directive in the Alpine Region

<b>COUNTRY (IN ALPINE REGION)</b>	<b>NUMBER OF TIMES IN ANNUAL MONITORING REPORT IN CONNECTION WITH HABITATS DIRECTIVE 2005 – 2013</b>
Austria (1995)	3
Bulgaria (2007)	1
Finland (1995)	2
France (1952)	4
Germany (1952)	3
Italy (1952)	11
Poland (2004)	6
Romania (2007)	3
Slovakia (2004)	3
Slovenia (2004)	1
Spain (1986)	7
Sweden (1995)	0
Number of countries = 12	Total Score = 48 Average Score (48 divided by 12) = <b>4</b>

Table 16: Implementation of the Birds Directive in the Alpine Region

<b>COUNTRY (IN ALPINE REGION)</b>	<b>NUMBER OF TIMES IN ANNUAL MONITORING REPORT IN CONNECTION WITH BIRDS DIRECTIVE 2005 – 2013</b>
Austria (1995)	6
Bulgaria (2007)	1
Finland (1995)	4
France (1952)	3
Germany (1952)	2
Italy (1952)	8



Poland (2004)	9
Romania (2007)	2
Slovakia (2004)	4
Slovenia (2004)	1
Spain (1986)	7
Sweden (1995)	0
Number of countries = 12	Total Score = 47 Average Score (divided by 12) = <b>3.9</b>

## 5. Boreal Region

The Boreal biogeographical region comprises parts of the Union territories of Finland and Sweden and the Union territories of Estonia, Latvia and Lithuania, as specified in the biogeographical map approved on 20 April 2005 by the Habitats Committee set up by Article 20 of the Habitats Directive.

Table 17: Implementation of the Habitats Directive in the Boreal Region

<b>COUNTRY (IN BOREAL REGION)</b>	<b>NUMBER OF TIMES IN ANNUAL MONITORING REPORT IN CONNECTION WITH HABITATS DIRECTIVE 2005 – 2013</b>
Estonia (2004)	1
Finland (1995)	2
Latvia (2004)	2
Lithuania (2004)	3
Sweden (1995)	0
Number of countries = 5	Total Score = 8 Average Score (8 divided by 5) = <b>1.6</b>

Table 18: Implementation of the Birds Directive in the Boreal Region

<b>COUNTRY (IN BOREAL REGION)</b>	<b>NUMBER OF TIMES IN ANNUAL MONITORING REPORT IN CONNECTION WITH BIRDS DIRECTIVE 2005 – 2013</b>
Estonia (2004)	1
Finland (1995)	4
Latvia (2004)	7
Lithuania (2004)	4
Sweden (1995)	0
Number of countries = 5	Total Score = 16 Average Score (16 divided by 5) = <b>3.2</b>

## 6. Macaronesian Region

The Macaronesian biogeographical region comprises the archipelagos of the Azores and Madeira (Portugal) and the Canary Islands (Spain) in the Atlantic Ocean, as specified in the biogeographical map approved on 20 April 2005 by the Habitats Committee set up by Article 20 of the Habitats Directive.

Table 19: Implementation of the Habitats Directive in the Macaronesian Region

<b>COUNTRY (IN MACARONESIAN REGION)</b>	<b>NUMBER OF TIMES IN ANNUAL MONITORING REPORT IN CONNECTION WITH HABITATS DIRECTIVE 2005 – 2013</b>
Portugal (1986)	5
Spain (1986)	7
Number of countries = 2	Total Score = 12 Average Score (12 divided by 2) = <b>6</b>

Table 20: Implementation of the Birds Directive in the Macaronesian Region

<b>COUNTRY (IN MACARONESIAN REGION)</b>	<b>NUMBER OF TIMES IN ANNUAL MONITORING REPORT IN CONNECTION WITH BIRDS DIRECTIVE 2005 – 2013</b>
Portugal (1986)	1
Spain (1986)	7
Number of countries = 2	Total Score = 8 Average Score (8 divided by 2) = <b>4</b>

## 7. Black Sea Region

The Black Sea biogeographical region comprises parts of the Union territories of Bulgaria and Romania, as specified in the biogeographical map approved on 20 April 2005 by the Habitats Committee set up by Article 20 of the Habitats Directive.

Table 21: Implementation of the Habitats Directive in the Black Sea Region

<b>COUNTRY (IN BLACK SEA REGION)</b>	<b>NUMBER OF TIMES IN ANNUAL MONITORING REPORT IN CONNECTION WITH HABITATS DIRECTIVE 2005 – 2013</b>
Bulgaria (2007)	1
Romania (2007)	3
Number of countries = 2	Total Score = 4 Average Score (4 divided by 2) = <b>2</b>

Table 22: Implementation of the Birds Directive in the Black Sea Region

<b>COUNTRY (IN BLACK SEA REGION)</b>	<b>NUMBER OF TIMES IN ANNUAL MONITORING REPORT IN CONNECTION WITH BIRDS DIRECTIVE 2005 – 2013</b>
Bulgaria (2007)	1
Romania (2007)	2
Number of countries = 2	Total Score = 3 Average Score (3 divided by 2) = <b>1.5</b>

## 8. Pannonian Region

The Pannonian biogeographical region comprises parts of the Union territories of the Czech Republic, Romania and Slovakia and the Union territory of Hungary, as specified in the biogeographical map approved on 20 April 2005 by the Habitats Committee set up by Article 20 of the Habitats Directive.

Table 23: Implementation of the Birds Directive in the Pannonian Region

<b>COUNTRY (IN PANNONIAN REGION)</b>	<b>NUMBER OF TIMES IN ANNUAL MONITORING REPORT IN CONNECTION WITH HABITATS DIRECTIVE 2005 – 2013</b>
Czech Republic (2004)	3
Romania (2007)	3
Slovakia (2004)	3
Number of countries = 3	Total Score = 9 Average Score (9 divided by 3) = <b>3</b>

Table 24: Implementation of the Birds Directive in the Pannonian Region

<b>COUNTRY (IN PANNONIAN REGION)</b>	<b>NUMBER OF TIMES IN ANNUAL MONITORING REPORT IN CONNECTION WITH BIRDS DIRECTIVE 2005 – 2013</b>
Czech Republic (2004)	4
Romania (2007)	2
Slovakia (2004)	4
Number of countries = 3	Total Score = 10 Average Score (10 divided by 3) = <b>3.3</b>

## 9. Steppic Region

The Steppic biogeographical region referred comprises parts of the Union territory of Romania, as specified in the biogeographical map approved on 20 April 2005 by the Habitats Committee set up by Article 20 of the Habitats Directive.

Table 25: Implementation of the Habitats Directive in the Steppic Region

<b>COUNTRY (IN STEPPIC REGION)</b>	<b>NUMBER OF TIMES IN ANNUAL MONITORING REPORT IN CONNECTION WITH HABITATS DIRECTIVE 2005 – 2013</b>
Romania (2007)	3
Number of countries = 1	Total Score = 3 Average Score (3 divided by 1) = <b>3</b>

Table 26: Implementation of the Birds Directive in the Steppic Region

<b>COUNTRY (IN STEPPIC REGION)</b>	<b>NUMBER OF TIMES IN ANNUAL MONITORING REPORT IN CONNECTION WITH BIRDS DIRECTIVE 2005 – 2013</b>
Romania (2007)	2
Number of countries = 1	Total Score = 2 Average Score (2 divided by 1) = <b>2</b>

Table 27: Summary Table of Implementation of the Habitats and Birds Directives in the Nine Regions

<b>REGION</b>	<b>AVERAGE NUMBER OF TIMES EACH COUNTRY IN ANNUAL MONITORING REPORT IN CONNECTION WITH HABITATS DIRECTIVE 2005 – 2013</b>	<b>AVERAGE NUMBER OF TIMES EACH COUNTRY IN ANNUAL MONITORING REPORT IN CONNECTION WITH BIRDS DIRECTIVE 2005 – 2013</b>	<b>TOTAL AVERAGE NUMBER OF TIMES EACH COUNTRY IN ANNUAL MONITORING (HABITATS AND BIRDS DIRECTIVES) 2005 – 2013</b>
Alpine	4	3.9	7.9
Atlantic	3.7	2.6	6.3
Black Sea	2	1.5	3.5
Boreal	1.6	3.2	4.8
Continental	3.6	3.5	7.1
Macaronesian	6	4	10
Mediterranean	5.3	5.3	10.6
Pannonian	3	3.3	6.3
Steppic	3	2	5

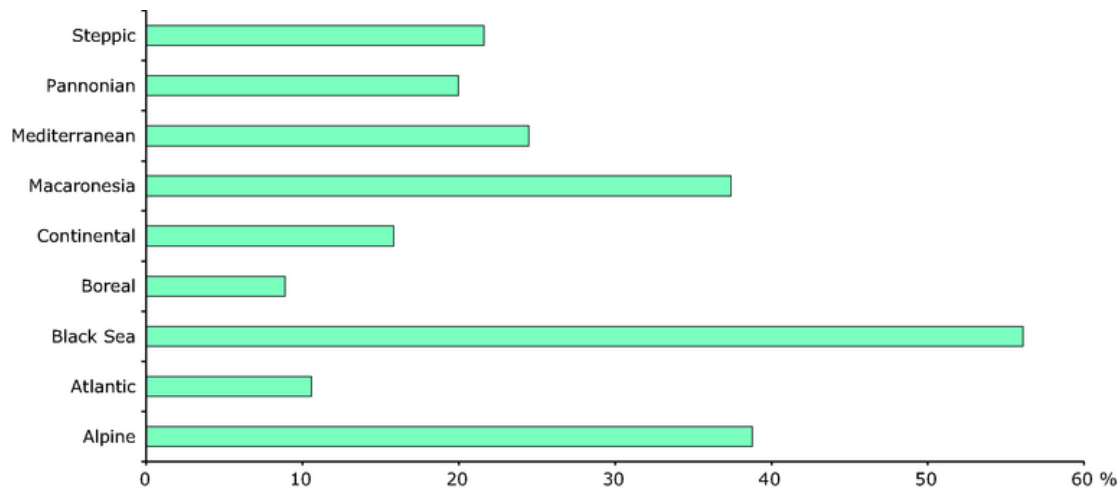


Figure 2: Largest % Sites in Regions

Table 28: Correlation between Size of Sites and Implementation Difficulties

REGION	RANKING 1-9 BIGGEST % IN SIZE (1 = BIGGEST)	RANKING 1-9 MOST IMPLEMENTATI ON DIFFICULTIES - HABITATS (1= MOST TIMES)	RANKING 1-9 MOST IMPLEMENTATION DIFFICULTIES - BIRDS (1= MOST TIMES)
Alpine	2	3	3
Atlantic	8	4	7
Black Sea	1	8	9
Boreal	9	9	5
Continental	7	5	4
Macaronesia	3	1	2
Mediterranean	4	2	1
Pannonian	6	6	5
Steppic	5	7	8

## Determining which Countries Were Experiencing the Most Court Cases in the European Courts

We also wanted to determine which countries appeared to be experiencing the most implementation difficulties in relation to actual cases in European Courts under the Habitats Directive and the Birds Directive. Using the Westlaw Legal Database we examined which countries looked to have experienced implementation or conformity difficulties and why and when. We then recorded the geographical location relating to the facts of the case and researched

which biogeographical region it was in. In cases brought against Member States for general non-transposition – where a particular region was not relevant, we added in every biogeographical region that was applicable to that country. This data is shown in Table 29 below.

Table 29: Case Law in the European Court of Justice (2004 – 2014).

<b>Case</b>	<b>Date</b>	<b>Issue</b>	<b>Location</b>	<b>Biogeographical Region</b>
Commission v Greece Case C-504/14	11/11/2014	Habitats Directive (failure to stop deterioration of site)	Peloponnese region, Greece	Mediterranean
Dimos Kropias Attikis v Ipourgos Perivallontos, Energias kai Klimatikis Allagis (request for preliminary ruling) Case C-473/14	20/10/2014	Habitats Directive (protection zones and SEA)	Greece (not regionally specific)	Mediterranean
Commission v Kingdom of Spain Case C-461/14	7/10/2014	Habitats Directive and Birds Directive (high-speed railway line between Seville and Almería)	Region of Andalusia, Spain	Mediterranean
Grüne Liga Sachsen e. V. and Others v Freistaat Sachsen (request for preliminary ruling) Case C-399/14	18/8/2014	Habitats Directive (bridge authorised before designation)	Russelsheim, Rhein-Main region, Germany	Continental
Commission v Greece Case C-600/12:	17/7/2014	Habitats Directive (discharge of waste in marine park)	Zakinthos, Greece	Mediterranean

<b>Case</b>	<b>Date</b>	<b>Issue</b>	<b>Location</b>	<b>Biogeographical Region</b>
T.C. Briels and Others v Minister van Infra-structuur en Milieu Case C-521/12	15/5/2014	Habitats Directive (compensatory measures, A2 motorway)	Hertogenbosch and Eindhoven, Region of North Brabant, Netherlands	Atlantic
European Commission v Hellenic Republic Case C-167/14	7/4/2014	Habitats Directive (failure to comply with judgement 440/06)	Greece	Mediterranean
Cascina Tre Pini Ss v Ministero dell'Ambiente e della Tutela del Territorio e del Mare. C-301/12	3/4/2014	Habitats Directive (Review of status in the event of pollution or degradation of the environment)	Lombardia, Italy	Continental, Alpine
European Commission v Republic of Bulgaria Case C-141/14	24/3/2014	Birds Directive (failure to designate and allowing tourist projects in these conservation areas)	Kaliakra, Southern Dobruja region, Bulgaria	Continental, Black Sea
Sweetman v An Bord Pleanala C-258/11	11/4/2013	Habitats Directive (road bypass consent, loss of limestone pavement).	Lough Corrib, County Galway, Ireland	Atlantic
Commission v Greece C-517/11	7/2/2013	Habitats Directive and Birds Directive (urban waste treatment, pollution)	Lake Koroneia, Thessaloniki, Greece	Mediterranean



<b>Case</b>	<b>Date</b>	<b>Issue</b>	<b>Location</b>	<b>Biogeographical Region</b>
Commission v Greece C-600/12	21/12/2012	Habitats Directive (permitting landfill site without complying with assessment procedures in Directive).	Zakinthos, Greece	Mediterranean
United Kingdom v Commission C-416/11 P	29/11/2012	Habitats Directive (overlap with Spanish designation)	Gibraltar, United Kingdom	Mediterranean
Nomarchiaki Aftodioikisi Aitoloakarnanias and Others C-43/10	11/09/2012	Habitats Directive (dam construction, diversion of water)	River Acheloos, region of Aetolia-Acarnania, Greece	Mediterranean
Government of Gibraltar v Commission C-407/11 P	12/07/2012	Habitats (annulment sought as Spanish designation was in their territorial waters)	Estrecho Oriental, Mediterranean, Southern Waters of Gibraltar, United Kingdom	Mediterranean
Sylogos Ellinon Poleodomon kai Chorotakton C-177/11	21/06/2012	Habitats Directive (link with SEA Directive)	Greece (not regionally specific)	Mediterranean
Commission v Cyprus C-340/10	15/03/2012	Habitats Directive (non designation and toleration of activities in SCIs)	Paralimni Lake, Xyliatos Dam, region of Famagusta, Cyprus	Mediterranean
Commission v Poland C-46/11	15/03/2012	Habitats Directive (Inadequate protection of otters)	Poland (not regionally specific)	Continental and Alpine

<b>Case</b>	<b>Date</b>	<b>Issue</b>	<b>Location</b>	<b>Biogeographical Region</b>
Solvay v Regione Wallone C-182/10	16/02/2012	Habitats Directive (railways and airport projects and outweighing conservation objectives).	Region of Wallonne, Belgium.	Continental
Commssion v Poland C-192/11	26/1/2012	Birds Directive (incoorect definition of the conditions for derogating)	Poland (not regionally specific)	Continental and Alpine
Commission v Spain C-560/08	15/12/2011	Habitats Directive (M501 road project)	Region of Community of Madrid, Spain	Mediterranean
Commission v Spain C-404/09	24/11/2011	Habitats Directive and Birds Directive (open cast mining projects on sites approved)	Alto Sil, River Sil, region of Castilla y León, Spain	Mediterranean
Commission v Spain C-90/10	22/09/2011	Habitats Directive (designation sites)	Canary Islands, Spain.	Macronesia
Azienda Agro-Zootecnica Franchini Sarl v Regione Puglia C-2/10	21/7/2011	Birds Directive and Habitats Directive (national legislation prohibiting wind turbines, eia).	Alta Murgia national park, region of Apulia, Italy	Mediterranean
Commission v France C-383/09	09/06/2011	Habitats Directive (inadequate protection of European hamster)	Region of Alsace, France	Continental

<b>Case</b>	<b>Date</b>	<b>Issue</b>	<b>Location</b>	<b>Biogeographical Region</b>
Commission v Belgium C-538/09	26/05/2011	Habitats Directive and Birds Directive (effluent leaking from industrial cattle shed onto site)	Bassin de Fagnard de l'Eau blanche en aval de Mariembourg, Philippeville, Walloon region Belgium	Continental
Bund für Umwelt und Naturschutz Deutschland, Landesverband Nordrhein-Westfalen eV v Bezirksregierung Arnsberg C-115/09	12/05/2011	Habitats Directive (coal fired power station within 8km of five SACs).	North Rhine-Westphalia, Germany	Atlantic
Commission v Romania C-522/09	14/04/2011	Birds Directive (designation of SPAs)	Romania (not regionally specific)	Steppic, Pannonia and Black Sea
Lesoochranská Zoškupenie VLK v Ministerstvo Zivotneho Prostredia Slovenskej Republiky C-240/09	08/03/2011	Habitats Directive (brown bear hunting)	Slovakia (not regionally specific)	Alpine
Commission v Italy C-508/09	03/03/2011	Birds Directive (derogations introduced that incompatible with EU law)	Region of Sardinia, Italy	Mediterranean
Commission v Italy C-164/09	11/11/2010	Birds Directive (derogations introduced that incompatible with EU law)	Region of Veneto, Italy	Alpine and Continental

<b>Case</b>	<b>Date</b>	<b>Issue</b>	<b>Location</b>	<b>Biogeographical Region</b>
Commission v Austria C-535/07	14/10/2010	Birds Directive and Habitats Directive (not designating)	Hansag, province of Burgenland and Niedere Tauern, province of Styria Austria	Alpine
Terre wallonne and Inter-Environnement Wallonie C-105/09	17/06/2010	Habitats Directive (EIAs and nitrate pollute in vulnerable was a plan or project)	Region of Wallonia, Belgium	Continental
Commission v Italy C-491/08	10/06/2010	Habitats Directive (tourist complex and golf course on SCI).	Is Arenas, Municipality of Narbolia, region of Sardinia  Italy	Mediterranean
European Commission v Spain C-308/08	20/05/2010	Habitats Directive (road upgrade in SCI and Iberian Lynx.).	Donana National Park, region of Andalucía, Spain	Mediterranean
Commission v France C-241/08	04/03/2010	Habitats Directive (transposition)	France (not regionally specific)	Atlantic, Continental, Mediterranean, Alpine
Stadt Papenburg v Germany C-226/08	14/01/2010	Habitats Directive (dredging at seaport and municipality's interest for national conservation criteria).	River Ems, Lower Saxony, Germany	Atlantic
Commission v Malta C-76/08	10/09/2009	Bird Directive (hunting periods)	Malta (not regionally specific)	Mediterranean

<b>Case</b>	<b>Date</b>	<b>Issue</b>	<b>Location</b>	<b>Biogeographical Region</b>
Sahlstedt and Others v Commission C-362/06 P	23/04/2009	Habitats Directive (owners foresters and farmers who asked for designation to be annulled)	Finland (not regionally specific)	Boreal and Alpine
Commission v Greece C-259/08	15/01/2009	Birds Directive (transposition)	Greece (not regionally specific)	Mediterranean
Commission v Netherlands C-249/07	04/12/2008	Habitats Directive (importation of oysters and mussels to be planed in coastal waters)	Netherlands (not regionally specific)	Atlantic
Commission v Italy C-503/06	15/05/2008	Birds Directive (derogations introduced that incompatible with EU law)	Region of Liguria, Italy	Mediterranean and Alpine
Commission v Spain C-186/06	18/12/2007	Birds Directive (failure to protect steppic birds and designate SPAs)	Segarra-Garrigues Canal, Lleida, Catalonia, Spain	Mediterranean and Alpine
Commission v Ireland C-418/04	13/12/2007	Habitats Directive, Birds Directive (classifications)	Cross Lough, County Mayo, Ireland	Atlantic

<b>Case</b>	<b>Date</b>	<b>Issue</b>	<b>Location</b>	<b>Biogeographical Region</b>
Commission v Greece C-334/04	25/10/2007	Birds Directive (classifications)	Greece (not regionally specific –as mentions most regions)  e.g. Pinios Delta, Reservoirs of former Lake Karla, Lake Amvrakia, Kalogria Lagoon, Strofilia Forest, Lamia Marshes, Lakes Khortaro and Alyki, Moudros Gulf, Diapori Fen, Fakos Peninsula, Gera Gulf-Dipi and Haramida Marshes, Lesvos	Mediterranean
Commission v Italy C-179/06	04/10/2007	Birds Directive and Habitats Directive (construction permits in SPAs and SCIs)	Murgia Alta, Altamura, region of Apulia, Italy	Mediterranean
Commission v Italy C-388/05	20/09/2007	Birds Directive (SPAs threatened by industrial projects)	Valloni e Steppe Pedegarganiche, Gargano National Park, Manfredonia, region of Apulia, Italy	Mediterranean
Commission v Austria C-507/04	12/07/2007	Birds Directive (provinces had not transposed articles into domestic law)	Burgenland, Upper Austria Carinthia, Lower Austria and Styria regions, Austria	Continental, Alpine

<b>Case</b>	<b>Date</b>	<b>Issue</b>	<b>Location</b>	<b>Biogeographical Region</b>
Commission v Spain C-235/04	28/06/2007	Birds Directive (non classification of SPAs)	Spain (not regionally specific –as mentions 11 regions)	Mediterranean, Alpine and Atlantic
Commission v Finland C-342/05	14/06/2007	Habitats Directive (hunting of wolves)	Finland (not regionally specific)	Boreal and Alpine
Commission v Austria C-508/04	10/05/2007	Habitats Directive (regional transposition)	Provinces of Styria, Tyrol, Carinthia, Salzburg and Lower Austria. Austria.	Alpine and Continental
Commission of the European Communities v Ireland C-183/05	11/01/2007	Habitats Directive (derogations).	Ireland (not regionally specific)	Atlantic
Commission v Portugal C-239/04	26/10/2006	Habitats Directive (motorway through SPA)	Castro Verde, Alentejo region Portugal	Mediterranean
Benkö and Others v Commission T-122/05	19/09/2006	Habitats Directive (depreciation in value of listed sites)	Marktgemeinde Götzendorf an der Leitha and Gemeinde Ebergassing, Lower Austria, Austria	Alpine and Continental
Bund Naturschutz in Bayern and Others C-244/05	14/09/2006	Habitats Directive (motorway objection)	Forstinning-Pastetten, Haag, Upper Bavaria, Germany	Continental and Alpine

<b>Case</b>	<b>Date</b>	<b>Issue</b>	<b>Location</b>	<b>Biogeographical Region</b>
Commission of the European Communities v Portuguese Republic C-191/05	13/07/2006	Birds Directive (changed boundaries of SPAs)	Moura, Mourão e Barrancos Alentejo região, Portugal	Mediterranean
Mayer and Others v Commission T-137/04	22/06/2006	Habitats Directive (owners foresters and farmers who asked for designation to be annulled)	Nockberge (Kernzone), Kärnten; region of Carinthia  Walterskirchen, region of Lower Austria, Austria	Alpine and Continental
Freiherr von Cramer-Klett and Rechtlerverband Pfronten v Commission T-136/04	22/06/2006	Habitats Directive (owners foresters and farmers who asked for designation to be annulled)	Hochries-Laubensteingebiet und Spitzstein, region of Bavaria  Kienberg mit Magerrasen im Tal der Steinacher Ach region of Bavaria, Germany	Alpine and continental
WWF Italia and Others C-60/05	08/06/2006	Birds Directive (hunting derogations)	Lombardy region, Italy	Continental, Alpine
Commission v Spain C-221/04	18/05/2006	Habitats Directive (authorising snares which killed otters)	Aldeanueva de la Sierra, Salamanca, region of Castilla y León, Spain	Mediterranean



<b>Case</b>	<b>Date</b>	<b>Issue</b>	<b>Location</b>	<b>Biogeographical Region</b>
Commission of the European Communities v Republic of Austria C-209/04	23/03/2006	Birds Directive and Habitats Directive (motorway and non-designation of sites)	Soren and Gleggen-Köblern, Lauteracher Ried National Nature Reserve, region of Vorarlberg, Austria	Alpine
Commission v Greece C-518/04	16/03/2006	Habitats Directive (failure to protect habitats used for breeding sites e.g. viper)	Island of Milos, region of South Aegean, Greece	Mediterranean
Commission of the European Communities v Germany C-98/03	10/01/2006	Habitats Directive (assessments, authorisation of emissions, derogations, pesticides, fisher catch legislation).	Germany (not regionally specific –as mentions most regions)	Atlantic, Continental, Alpine
Commission v Finland C-344/03	15/12/2005	Birds Directive (hunting dates)	Region of Aland, Finland	Boreal
Commission v United Kingdom C-131/05	17/11/2005	Birds Directive and Habitats Directive (non transposition)	United Kingdom (not regionally specific)	Atlantic
Commission of the European Communities v United Kingdom C-6/04	20/10/2005	Habitats Directive (assessments, obligations to protect breeding sites and derogations).	UK (not regionally specific although some failings were for Gibraltar alone)	Atlantic, Mediterranean
Commission v Spain C-135/04	09/06/2005	Birds Directive (hunting derogations)	Guipúzcoa, Basque Country, Spain	Mediterranean and Atlantic

<b>Case</b>	<b>Date</b>	<b>Issue</b>	<b>Location</b>	<b>Biogeographical Region</b>
Commission v Italy C-83/03	02/06/2005	Habitats Directive (Marina Development)	Fossacesia, region of Abruzzo , Italy	Mediterranean, Continental and Alpine
Commission of the European Communities v Netherlands C-146/04	14/04/2005	Birds Directive and Habitats Directive (transposition timings).	Netherlands (not regionally specific).	Atlantic
Commission v Netherlands C-441/03	14/04/2005	Birds Directive and Habitats Directive (inadequate transposition)	Netherlands (not regionally specific)	Atlantic
Societe Italiana Dragaggi SpA v Ministero delle Infrastrutture e dei Trasporti C-117/03	13/01/2005	Habitats Directive (dredging, contract before classification as SCI). A contract	Port of Monfalcone, region of Friuli-Venezia Giulia, Italy	Alpine, continental
European Commission v Spain C-79/03	09/12/2004	Birds Directive (hunting and traps)	Region of Valencia, Spain	Mediterranean
Landelijke Vereniging tot Behoud van de Waddenzee v Staatssecretaris van Landbouw, Natuurbeheer en Visserij C-127/02	07/09/2004	Habitats Directive (whether mechanical cockle fishing was a plan or project under art.6(3)).	Wadden Sea, region of Noord Holland, Netherlands.	Atlantic
Commission v Portugal C-117/02	29/04/2004	Habitats Directive (tourist complex)	Sintra-Cascais Natural Park, Ponta do Abano region of Lisbon, Portugal	Mediterranean
Commission v Austria C-209/02	29/01/2004	Habitats Directive (golf course)	Wörschacher Moos, Province of Styria, Austria	Alpine

Table 30: Highest Numbers of European Court Cases (Habitats and Birds Directive) By Member State 2004-2014

<b>POSITION</b>	<b>COUNTRY</b>	<b>HIGHEST NUMBER OF EUROPEAN COURT CASES (HABITATS AND BIRDS DIRECTIVE) 2004-2014</b>
4	Austria (1995)	7
8	Belgium (1952)	3
15	Bulgaria (2007)	1
16	Croatia (2013)	0
14	Cyprus (2004)	1
16	Czech Republic (2004)	0
16	Denmark (1973)	0
16	Estonia (2004)	0
8	Finland (1995)	3
12	France (1952)	2
5	Germany (1952)	6
1	Greece (1981)	11
16	Hungary (2004)	0
8	Ireland (1973)	3
1	Italy (1952)	11
16	Latvia (2004)	0
16	Lithuania (2004)	0
16	Luxembourg (1952)	0
15	Malta (2004)	1
6	Netherlands (1952)	5
12	Poland (2004)	2
8	Portugal (1986)	3
15	Romania (2007)	1
15	Slovakia (2004)	1
16	Slovenia (2004)	0
3	Spain (1986)	10
16	Sweden (1995)	0
7	United Kingdom (1973)	4
	<b>Total</b>	<b>75</b>

Table 31 below records the biogeographical regions with the highest number of court appearances between 2004 and 2014, in relation to the implementation and application of the Birds and Habitats Directives.

- Note 1: in some cases we identified a specific location but this area encompassed one, two or three biogeographical regions. In these circumstances all biogeographical regions were recorded in the tables.
- Note 2: in court cases where no specific location was an issue (and where we couldn't pinpoint a specific biogeographical region), we recorded all the biogeographical regions that were applicable to that Member State.

Table 31: Highest Numbers of European Court Cases (Habitats and Birds Directive) By Region 2004-2014

<b>POSITION</b>	<b>BIOGEOGRAPHICAL REGION</b>	<b>HIGHEST NUMBER OF EUROPEAN COURT CASES (HABITATS AND BIRDS DIRECTIVE) 2004-2014</b>
1	Mediterranean	36
2	Alpine	24
3	Continental	21
4	Atlantic	16
5	Boreal	3
6	Black Sea	2
7	Macronesia	1
7	Pannonian	1
7	Steppic	1
	<b>Total</b>	105