



Establishment of Natura 2000 network  
in Montenegro

Outline of the main  
obligations, activities and  
stages related to Natura 2000  
network  
establishment  
according to  
the EU Nature Directives



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## 1. LIST OF ABBREVIATIONS

AA	Appropriate Assessment
Art.	Article
BD	Birds Directive
CBD	Convention on Biological Diversity
EC	European Commission
EEA	European Environmental Agency
EEC	European Economic Community
EPA	Environmental Protection Agency
EU	European Union
FCS	Favourable Conservation Status
HD	Habitats Directive
IBA	Important Bird Area
IUCN	International Union for Nature Conservation
IPA	Important Plant Area
KBA	Key Biodiversity Area
KE	Key Expert
MNE	Montenegro
MoSDT	Ministry of Sustainable Development and Tourism
MS	Member State
NGO	Non-governmental organization
NKE	Non-key Expert
PA	Protected Area
PBA	Prime Butterfly Areas
pSCI	Proposed Site of Community Importance
SAC	Special Area of Conservation
SCI	Site of Community Importance
SDF	Standard Data Form
SPA	Special Protection Area
ToR	Terms of Reference
UNESCO/MAB	United Nations Educational, Scientific and Cultural Organization/Man and the Biosphere Programme

## 2. EXECUTIVE SUMMARY

The main purpose of this document is to give an overview of the meaning, goals and obligations regarding the Birds and the Habitats Directives, the cornerstones of the EU nature conservation policy. As designation of Natura 2000 sites is one of the conditions to enter EU, it has an important political weight.

According to the interpretation of the directives provided by the Court of Justice of the EU, Natura 2000 sites must be proposed, selected, shaped and designated based on technical criteria and data, exclusively. Thus the technical part of the exercise is very important. Delivery of the list of proposed sites is only the beginning of the process, the real everyday work comes after formalisation: first, negotiations with the European Commission on sufficiency of the proposed areas, then setting appropriate conservation measures, managing the sites, monitoring and reporting. One of the most challenging implementation segment is the procedure of appropriate assessment, as any plan or programme has to be proved against its influence on status of target species and/or habitat types of Natura 2000 sites.

Again, only good data on species and habitat types occurring in sites can assure fulfilling of obligations and taking proper decisions (that part is most crucial for investors). Thus dedicating time, money and trained people in this respect at the early stages means a good investment and not bare cost!

It is important to have a clear vision of the whole process up to the final stage in order to do focused and efficient first steps. As Montenegro's human capacities are limited, it is very important to rationalise and streamline processes, as well to use as much as possible experience from other countries in the region (EU: Slovenia, Croatia, Bulgaria; Non-EU: Bosnia, Serbia and Macedonia).

As Natura 2000 network is a relatively new approach, it is very likely that people start to mix this conservation tool with other approaches in nature conservation. Some most popular misinterpretations or 'myths' are explained in this paper.

This document is closely linked to the workshop organised for wide range of stakeholders in order to get common view on the process. When it is clear what we have to achieve, it will be possible to move in the same direction.

### 3. REQUIREMENTS OF THE BIRDS AND HABITATS DIRECTIVES

Europe's nature has been severely suffering from the impacts of various developments in the past. Many natural habitats in Europe suffer loss and fragmentation and many species are at risk of extinction due to the impact of activities such as agricultural intensification, urban expansion and infrastructural developments. The recognition of this major problems, followed by the need of protection of the natural heritage on the EU level and beyond national borders, has led to the adoption and enforcement of two EU Nature Directives (Birds Directive - 1979, Habitats Directive - 1992). They play a central role in nature protection in all the member states as nature is not limited by political borders.

Both directives are corner stones of the Europe's nature conservation policy, setting legal frame to protect all of the wild bird species naturally occurring in the European Union, including protection of habitats for endangered and migratory species, as well as the protection of habitat types and species of European concern.

Both Directives have the same logical approach: there are two pillars - **protection of selected species, and conservation of selected habitat types and habitats for selected species**. The first pillar requires establishment of the system of species protection on national level, whereas the second one designation of sites for conservation of habitat types and species, known as Natura 2000 network.

This document focuses exclusively on Natura 2000 and does not deal with species protection. However, that pillar should not be overlooked when planning full implementation of Nature Directives on national administrative level.

That means that the Directives target conservation in a very narrow and specific way - on species and habitat types of European interest only; that means those listed in the Annexes of the Directives, including regularly occurring migratory birds in any particular country.



Figure 1: Schematic structure of EU conservation approach within the Birds and Habitats Directive

### 3.1 BASIC PRINCIPLES OF THE BIRDS DIRECTIVE

The Birds Directive (2009/147/EC) was adopted in April 1979 (under the number 79/409/EEC) and re-codified in 2009 was the first piece of EU law designed to protect bird species and their natural environment (habitats). All bird species are protected; some exceptions due to hunting and trade are listed in Annexes II and III. There is an obligation to classify (which means the same as “designate”) protected sites (SPA) for species listed in Annex I and migratory species regularly occurring at the territory of particular Member States.

SPAs are designated to protect and manage areas which are important for long-term survival of rare and vulnerable bird species because they use them for breeding, feeding, wintering or migration stopovers. IBA inventory of BirdLife International is the basic reference for shaping the SPAs.

Member States (MS) designate SPA sites and send data on them (Standard Data Forms – SDF) to the European Commission. In case EC comes to an opinion that the national site proposal is not sufficient they may start the infringement procedure.

### 3.2 BASIC PRINCIPLES OF THE HABITATS DIRECTIVE

In 1992 the EU approach to nature conservation was extended to cover also the broad range of natural habitats and species other than birds, which resulted in the adoption of the Habitats Directive (92/43/EEC).

In this directive, its provisions only refer to specific features - selected habitat types and selected species (other than birds) listed in the annexes: Annex I – habitat types requiring site designation through Natura 2000, Annex II – species requiring site designation (Natura 2000 species), Annex IV – strictly protected species, Annex V – species which might require management measures.

There is a substantial difference in the preparatory and designation process compared to the Birds Directive in terms of its supranational control by the EC and its expert body. MS submits its national list of proposed sites of Community importance (pSCI) to the EC; the proposals are analysed by the European Topic Centre on Biodiversity and then tested at biogeographical seminars whether they meet the technical requirements of the Habitats Directive and whether the site proposal is sufficient to meet the goals of the HD. Usually, MS are required to amend their national list in line with the conclusions of the seminars. Once the national list has been completed, EC approves the sites as sites of Community importance (SCI). Subsequently, MS have to designate SCIs as special areas of conservation (SAC) and to set appropriate conservation measures for each particular site.

Thus, this process lasts several years and consists of three stages (managed and supervised by the European Commission, European Topic Centre for Biodiversity and the Habitats Committee):

- **Preparation of the national List of proposed sites of Community importance** - The first step in the preparatory process is a scientific assessment at national level of each habitat type or species of Community interest as to their range, distribution, and quality of occurrences. Based on this data, sites most important for individual habitat types and species can be identified and proposed in the form of national lists of pSCIs submitted to the European Commission. There must be a separate national list for the territory of each biogeographical region occurring at the territory of the MS. The sites are selected on the basis of common criteria: degree of conservation, representativity, ecological quality of habitat type, size and density of the population of species, degree of isolation of species, surface area occupied, etc. This stage has to occur prior to the accession.
- **Identification of sites of Community importance** - The selection is done by the European Commission in collaboration with the Member State after its accession to the EU. Each site proposed on the

national list is evaluated on the basis of its relative value, its importance as a migratory route or transboundary site, its total surface area, the co-existence of the various types of habitats and species concerned and its unique character within the given biogeographical region. The final selection of sites is approved by the Habitats Committee and subsequently by the EC; the approved Community list is published in the Official Journal of European Communities.

- **Designation of special areas of conservation** - When a site has been selected as a site of Community importance, the Member State must designate it as a special area of conservation within six years at the latest. The sites which are most endangered or most important for conservation must be designated first. This six-year period should be used by the Member States to develop and make obligatory the measures required to conserve and manage the sites which become obligatory from the date of SAC designation.

Protection and management requirements of the HD apply also to SPAs classified according to the Birds Directive. Details are explained in the chapter 5.

## 4. GENERAL PRINCIPLES OF THE IMPLEMENTATION OF THE NATURA 2000 NETWORK

Whereas the protection of species has been already historically developed and implemented in almost all countries, the protection and conservation of ecologically valuable habitat types is a new approach brought up by the Habitats Directive through its most ambitious goal: **setting up a coherent European ecological network of conservation sites called Natura 2000. The purpose of the network is to contribute to the main objective of all measures adopted pursuant to the Habitats Directive – to maintain or restore favourable conservation status of species and habitat types covered by the directive.** This new and rather focused approach can raise confusions as Natura 2000 sites often overlap with national protected areas and/or other ‘site based’ international nature protection tools (e. g. Ramsar sites, UNESCO MAB programme, UNESCO World Heritage sites...).

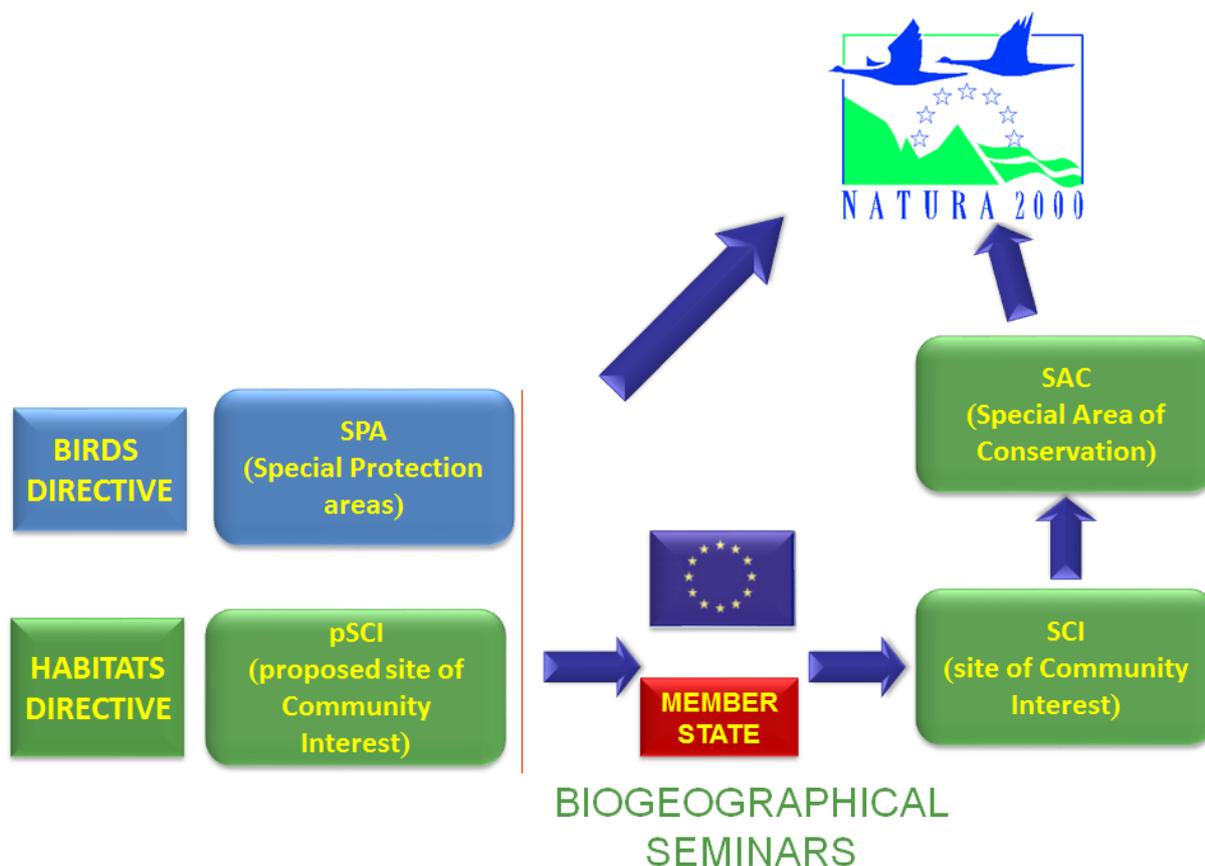


Figure 2: Designation of the Natura 2000 network

The ultimate goal of the Birds and Habitats Directives is not to designate the Natura 2000 network but to effectively manage its sites in order the network would contribute to the above-mentioned objective of maintaining or reaching favourable conservation status of habitat types and species of European interest in every MS. Therefore, everyone to be involved in elaboration of management plans and future management of Natura 2000 sites should very well know the principles of implementation of both directives. **Full understanding their**

practical implications is a precondition for complete and correct transposition to the national legislation as well as proper implementation of the management of Natura 2000 sites.

In addition to the terminology and definitions introduced by these two directives, the European Commission has provided more interpretation by the guidelines 'Managing NATURA 2000 sites, the provisions of Art. 6 of the Habitats Directive 92/43/EEC', available on the EC website and also followed in this document (see references).

#### 4.1 PRINCIPLES OF IMPLEMENTATION

Practical implementation of management of Natura 2000 sites is described in Art. 6 of the Habitats Directive. Its paragraphs (2) – (4) apply to SPAs, too.

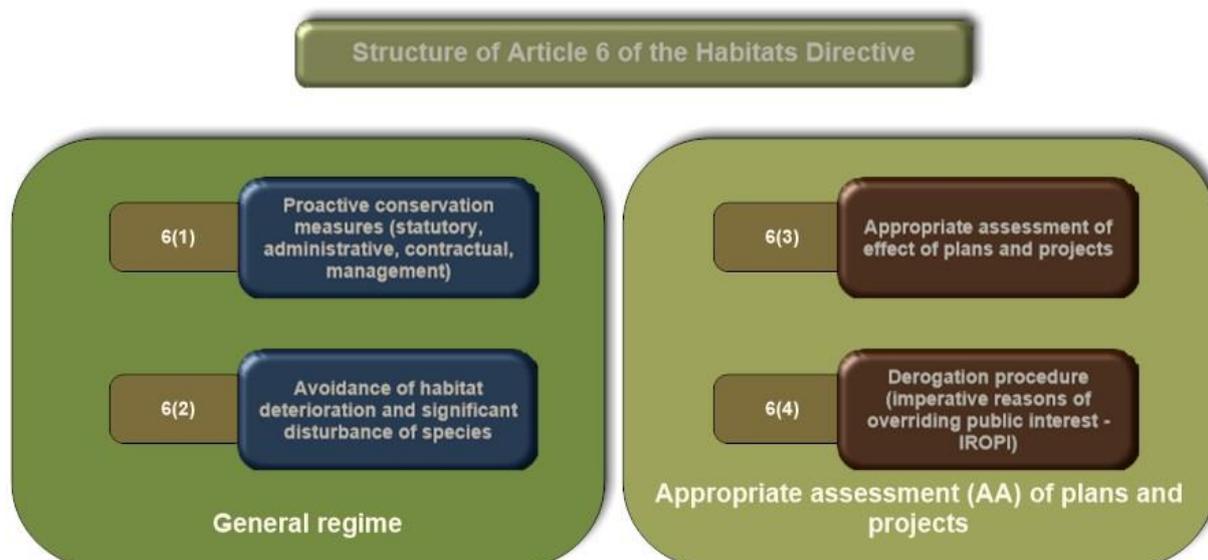


Figure 3: Structure of Art. 6 of the Habitats Directive

Art. 6 consists of 2 parts: the first two paragraphs deal with management requirements while the following two paragraphs with reactive tools (appropriate assessment of effects of a plan or a project on target species and habitat types of specific sites).

Art.6(1) deals with proactive conservation measures that are closely related to the management process:

*Art 6(1): For special areas of conservation, Member States shall establish the necessary **conservation measures** involving, if need be, appropriate **management plans** specifically designed for the sites or integrated into other development plans, and appropriate **statutory, administrative or contractual measures** which correspond to the ecological requirements of the natural habitat types in Annex I and the species in Annex II present on the sites.*

First we have to mention that legally Art. 6(1) is relevant only for Member States with established Special Areas of Conservation (SAC), i.e., several years after accession at the earliest. However, it is important to stress that it is good to bear in mind all the requirements of Art. 6(1) already in the pre-accession period as landowners and other stakeholders in future Natura 2000 sites will need to know what will be the management of the sites. Besides that, provisions of Art. 6(2) become obligatory immediately after the approval of SCIs, i.e., usually soon after the accession, and it is almost impossible to implement them without having any conservation

measures already in place. In practical terms, it makes sense to plan the system of conservation measures (Art. 6(1), i.e., the site management), already during the pre-accession period.

Thus, in its first part Art. 6(1) requires that Member States establish appropriate site conservation measures including appropriate **management plans**. They are not set as obligation ('...if need be...'), but are recommended as a tool found by most MS the most appropriate one. The Act on Nature Protection envisages management plans for all sites of ecological network. These plans may be established for individual sites or together for higher number of sites, as appropriate. At this place we would like to stress that the conservation measures must be established only for target habitat types (Annex I) and target species (Annex II) of each specific site, but in a tailored way: what is suitable for one site does not need to be appropriate for the other. This is one of the reasons why the process of preparation of management plans containing conservation measures for each particular site has to be based on expert field work and as much as possible relevant data.

In its second part, Art. 6(1) provides a clear obligation to Member States to establish appropriate statutory, administrative or contractual measures for implementation of conservation measures. The reason is that conservation measures *per se*, as well as management plans, are not obligatory and therefore the MS has to decide on the way in which these conservation measures will be implemented.

The three possible types of measures may be characterized as follows:

- **Statutory** – the approach is close to classical protection of a site with specific measures (prohibitions, restrictions, obligatory guidelines) laid down in a legal act by which the site is designated;
- **Administrative** – measures prescribed by authorities and competent bodies (e.g. decisions and permits) as well as some measures that derive from another regulation but have positive effect for reaching the goal of the specific case (e. g. forest certification schemes);
- **Contractual** – the body responsible for management of the Natura 2000 site concludes a contract with the landowner regarding specific measures in the site (e. g. extensive mowing or pasture).

At least one of these kinds of measures is obligatory, whereas MS is free to develop the most appropriate and effective approach according to its national legislation. There is the freedom that comes with the Directives: depending on cultural and legislative traditions and funding possibilities, in some countries contractual measures may be the best option while most MS combine all three kinds of measures when implementing Art. 6(1).

All the measures have to correspond to the ecological requirements of target habitat types and species. That means that good knowledge of those requirements is a prerequisite for preparation of these measures.

Art. 6(1) does not apply to special protection areas (SPAs), but analogical provisions of the Art. 4 of the Birds Directive should lead to the same result.

*Art 6(2): Member States shall take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of this Directive.*

Art. 6(2) is often overlooked but it is a very important provision with practical consequences for every MS. It applies from the date of adoption of Community list of SCIs, i.e., usually within 1 – 2 years after accession<sup>1</sup>.

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<sup>1</sup> For example, the most recent EU member, Croatia, entered the EU on 1<sup>st</sup> July, 2013, and its Community lists came into force in January 2015.

According to it, MS must ensure that the status of target habitat types and target species of each SCIs is not deteriorated compared to the status at the moment of their submission of national lists of pSCIs. As such, this provision also sets minimum conservation objectives for Natura 2000 sites: each MS may establish more ambitious conservation objectives for some or all sites but if not, this minimum conservation objective, known also as “ban of worsening of status of target habitat types and target species”, is obligatory.

The last two paragraphs of the Art. 6 deal with obligations to assess the effects of various developments likely to affect Natura 2000 sites.

*Art 6(3): Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.*

In 6(3) an **obligation for so-called appropriate assessment** is set up. This is a step-to-step procedure ensuring that any plan or project is thoroughly assessed as to its possible effects on Natura 2000 sites. Assessed must be all plans and projects likely to affect Natura 2000 sites regardless of their location – they may be inside or outside the sites, important is only of they may have an effect. First it is to check whether plan or project could have any effect on target species and habitats within the site. If the answer is positive, a full assessment – so-called main assessment - has to be done answering the question whether the effect of this particular plan/project will have adverse effect on the integrity of the site concerned. If the appropriate assessment confirms the likelihood of adverse effects on site integrity, the plan or project must not be authorized.

*Art 6(4): If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.*

*Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest.*

Art. 6(4) represent a derogation provision to Art. 6(3): in exceptional cases, even if AA of a plan or project has come to the conclusion that its significant adverse effects cannot be excluded, it may still be allowed to go ahead, provided there are no alternative solutions and the plan or project is considered to be justified for **imperative reasons of overriding public interest**. In such cases the Member State must take appropriate compensatory measures to ensure that the overall coherence of the Natura 2000 network is not affected.

## 4.2 NATURA 2000 AND THE CONCEPT OF THE FAVOURABLE CONSERVATION STATUS

Regarding individual Natura 2000 sites the minimum conservation objective for every site according to Art. 6(2) is to maintain the status of its target habitat types and species at the same level as when the sites were proposed as pSCIs or designated as SPAs. This obligation should not be mixed up with meeting the ultimate

objective of all measures carried about pursuant to the Habitats Directive as a whole: maintaining of restoring all habitat types and species of Community interest in favourable conservation status (FCS). This objective has been set in Art. 2(2) HD and applies to all habitat types and species listed in annexes I, II, IV and V of the Directive. The FCS is defined in Art. 1 of the Directive as the target status of every habitat types and species from these annexes at the whole territory of MS. Thus, concept of FCS does not have anything in common with particular sites of the Natura 2000 network. Natura 2000 sites are only one of the tools contributing to achieving of the goal of FCS. Therefore, it is necessary to ensure that the Natura 2000 sites are properly managed based on conservation measures set in a procedure described in the preceding chapter. Only if this condition is met, Natura 2000 can play the expected role as vital contribution to reaching the FCS of particular habitat types and species at the territory of the MS.

The Birds Directive does not recognize the term “conservation status” at all. Nevertheless, for SPAs designated pursuant to this directive the same rule applies as for the sites according to the HD: the status of their target bird species must not be deteriorated compared to the date of designation – i.e., the same ban of worsening the status of target species applies to SPAs like to SCIs.

There has to be an agreed consensus between experts on possible evaluation of status of species and habitat types which is closely linked to the availability of hard data (recent distribution, population estimations, trends, threats...) for the whole region and basis for shaping sites. Thus technical work does not finish with the designation of Natura 2000 sites, but continues with monitoring of the conservation status at the country level.

For meeting all these obligations – i.e., **appropriate assessment, monitoring under the Directives, management as well as administrative decisions – relevant and updated field data is necessary.** Therefore, it is recommendable to set an institutional framework for technical work regarding implementation of both Directives, based on the experience of pre-accession project activities. It has to include a central data-base (updating of SDF data, GIS supported) for data updating and managing and appropriate technical unit to manage the database regularly.

The necessary conservation measures must **take into account the economic, social and cultural requirements** as well as local and **regional characteristics** mentioned in Art.2 (3). Here is one of the opportunities to take into account those issues, as for the designation of the sites this is definitely not the case: **the designation has to follow exclusively technical arguments based on the existing data and information and no other (economic, social, local) interest!**

A member state must also take into account all the influences of the environment (air, water, soil, territory) which act on the habitat/s and species present on the site. Member states have to determine the conservation measures in relation to the ecological requirements of the natural habitat types and species. This involves all the ecological needs of abiotic and biotic factors necessary to ensure the FCS of the target habitat types and species, including their relations with the environment.

It might sound rather complicated, but the basic logical assumption is that the conservation measures depend on and therefore should be adjusted to specific characteristics of a site and the habitat types and species that inhabit it. These characteristics should therefore be known in detail before adequate conservation measures can be determined.

**This is why it is important that already in the process of designation a solid technical basis and network of specialists is available as the steps from designation to implementation are deeply related!**

This part of the work is entirely technical: ecological requirements have to be defined by specialists for a particular taxonomic group (e. g. plants, butterflies, fish...) and can be in large extent be used from the experience of other countries.

### 4.3 SUFFICIENCY OF THE NATURA 2000 NETWORK

It is a very frequent question: **how many % of the national territory should be enough** to fulfil the obligations of the Directives?

In this case proportion of the territory is absolutely not relevant. **Only a thorough examination of the reference data on species and habitat types can give the final answer.** Every country has different ecological conditions and distribution and quality of particular habitat types and species. The Natura 2000 sites must reflect these ecological, biogeographical as well as conservation circumstances and their total number, size and shape must ensure that they are sufficient for long-term maintenance of all target habitat types and species. The sufficiency is verified at biogeographical seminars exclusively based on biological data; the percentage of the country covered by the Natura 2000 network is never taken into account. **The more appropriate and numerous field data are available, the easier it is to prepare the sufficient Natura 2000 proposal and the easier are the subsequent discussions with the European Commission.**

In principle, countries with rich biodiversity have obligation to designate larger proportion of the country as Natura 2000 than countries with poor nature.

### 4.4 STANDARD DATA FORM (SDF)

Natura 2000 concept is based on natural science, yet is a specific legal instrument. Therefore, the data underpinning the site proposals must be precise and rather specific. Natura 2000 is not a scientific exercise but a nature conservation policy tool which requires targeted, specific scientific data for its establishment that must be provided in agreed format and quality. Scientists have a crucial role to play when preparing Natura 2000, but there must be **a clear message to the scientists which data on species and habitat types are needed.** Equally important is that specialist for particular groups understands the principles and goals of the Directives, so data collecting methods and field work are adequately designed. Otherwise one can get data not relevant for Natura 2000 and on the contrary, there can be serious data gaps.

Core data structure in a binding format is prescribed by the Commission Decision 2011/484/EU. It is commonly referred to as the Standard Data Form (SDF).

SDF brings a reference (baseline) information on each Natura 2000 site and is used for any purpose related to this site. Thus the quality of this information is of utmost importance and should go far beyond just a rationale for site designation.

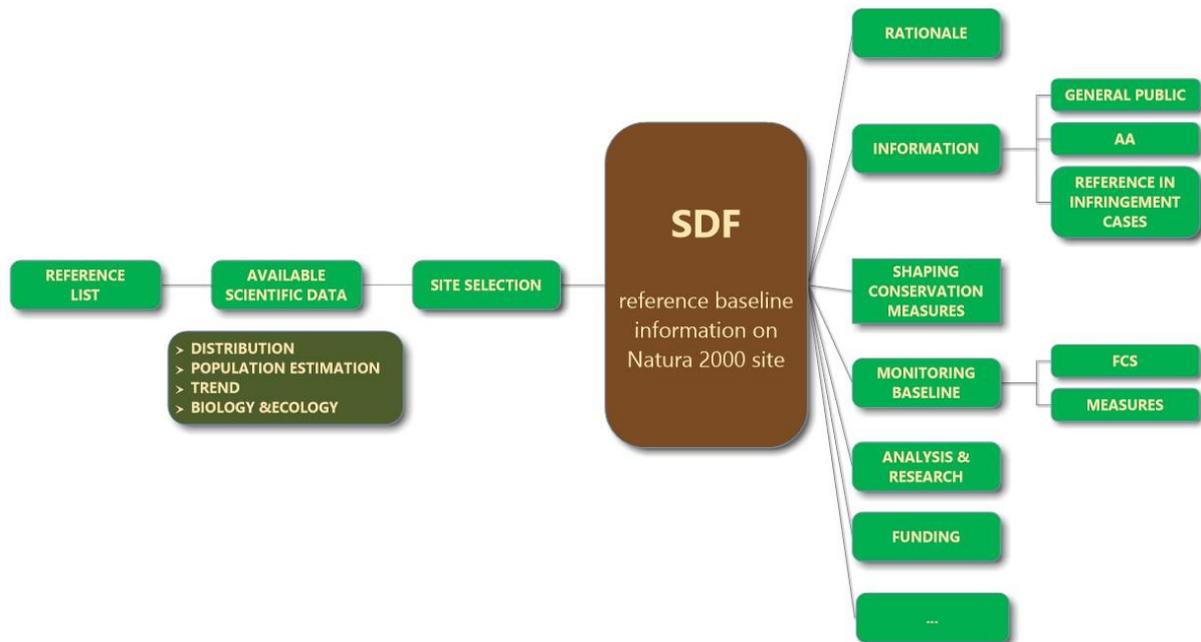


Figure 4: Relevance of the SDF for different uses

## 5. WHAT IS NOT NATURA 2000

They are plenty of different national and international initiatives and even legal instruments that lead to designation of areas for nature conservation or similar purposes. However, they must not be mixed by Natura 2000 sites. In this section we explain **what is NOT Natura 2000** as this is essential for proper understanding and correct subsequent preparatory works.

### 5.1 NATURA 2000 IS NOT A NETWORK OF PROTECTED AREAS

In most cases people understand Natura 2000 as a network of protected areas of European concern. But this is should not be the case. Natural protected areas under national jurisdiction (like e. g. National Parks, Regional Parks, Landscape Areas, Natural Reserves, Natural Monuments...) have legally binding regime usually consisting of fixed restrictions and limitations. The purpose of a protected area is to usually protect the integrity of the whole site.

Natura 2000 site is much more narrow oriented: its purpose is “only” to maintain or recover target habitat types and/or habitats of target species. That means that conservation objectives should refer only on species and habitat types that are the reason for site designation (listed in SDF).

As Natura 2000 site design should stem from species/habitat needs (coverage of ‘best’ areas for particular species/habitat types) the borders of Natura 2000 sites doesn’t necessarily need to fit to the borders of protected areas.

There are no fixed regimes prescribed and in principle all activities and processes can be done within a Natura 2000 site, unless they are in line with conservation measures or it has been checked through appropriate assessment that they do not jeopardise the status of target species/habitat types and site conservation objectives.

### 5.2 NATURA 2000 IS NOT A KEY BIODIVERSITY AREA, IPA, PBA...

There are many different initiatives, mostly organised by dedicated international or domestic NGOs pointing out areas important for some group of animals or plants: IPA (Important Plant Areas), PBA (Prime Butterfly Areas), ... Independently of it, there has been initiatives attempting to identified “biodiversity hot-spots” in particular countries based on gathering and compiling data on as much as possible biodiversity targets in the country; the result of such a compilation is the overview of sites called “Key Biodiversity Areas<sup>2</sup>”. According to IUCN these are “sites contributing significantly to the global persistence of biodiversity”. They often do not overlap with national protected areas. Any of these “labels” do not have any official legal status and serve as an indication for nature conservancy where to put attention at the national level as regards nature protection and conservation.

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<sup>2</sup> Recently (2016), IUCN have approved a document defining Key Biodiversity Areas at the global scale (see <https://portals.iucn.org/library/sites/library/files/documents/2016-048.pdf>). However, these KBAs are usually different from those identified at the national level.

It is similar with some other designations, based on international law, such as UNESCO World Heritage Sites, UNESCO MAB areas, Ramsar sites. Each of those designations has its own rationale and goals according to the treaty itself but their establishment is not obligatory and as a rule they do not possess any legal status at the national level.

On the contrary, Natura 2000 is very different from any of those initiatives and other international designations: it is a legally binding and focuses on a very limited but specific set of species/habitat types, listed in Annexes. The focus is very narrow and very clear. In addition, it requires that the sites are managed in order to meet conservation objectives, and the obligations are internationally enforceable.

Thus, all the listed initiatives and treaties can be used as a selective data source for some species or habitat types relevant for Natura 2000 by coincident, but nothing more.

### **5.3 NATURA 2000 AND EMERALD NETWORK**

Emerald network is a network of “areas of special conservation interest”, a voluntary tool based on the recommendations of the Standing Committee of the Bern Convention on conservation of Natural Habitats, Wild Fauna and Flora of the Council of Europe. Conceptually it is complementary to the Natura 2000 network but regarding implementation in most cases does not reach Natura 2000 standards. The principles of site valorisation are very similar but identification of individual sites in praxis does not entirely match with the requirements of the Habitats Directive for the Natura 2000 network, despite there are some regional checking similar to the biogeographical seminars with the assistance of ETC/BD. Still the quality standards, at least in the Balkan area, do not meet HD requirements.

Emerald network is now applicable for some non-EU countries which have concluded relevant agreements with Council of Europe.

Following the explanation of the Secretariat of the Bern Convention the Natura 2000 sites are therefore considered as the contribution from the EU member states to the Emerald Network<sup>3</sup>.

The Emerald network is based on voluntary agreements of the international treaty. Standing Committee of the Bern Convention is adopting candidate sites of the national network (for Montenegro such candidate list was adopted). It is expected that national designation follows. Till this in not the case, Emerald sites do not have any legal status and, subsequently, also no legal protection.

Emerald network can be an excellent preparatory exercise for future Natura 2000 network but can never replace it automatically. It can be used for Natura 2000 preparation as one of data sources, but must be thoroughly checked for the compliance with all Natura 2000 criteria.

### **5.4 NATURA 2000: DISPELLING SOME OF THE MYTHS**

In practice many misconceptions about the implementation of Natura 2000 have developed over the years. Not only has this caused a lot of confusions but it has also creating unwarranted concerns amongst certain interest groups. European Commission have gathered some most commonly heard remarks and concerns in the hope that this would allay certain fears and promote a better understanding of the ultimate objectives of Natura 2000. Here they are:

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<sup>3</sup> <http://www.coe.int/en/web/bern-convention/emerald-network>

### **"The Habitats Directive is an EU initiative that was concocted in secret by Brussels technocrats"**

Ministers of the Member States unanimously adopted the Habitats Directive – which provides for the establishment of the Natura 2000 network – in May 1992 after five years of debate in the Council and the European Parliament. Many interest groups communicated their position to both the Member States and to Brussels during that period and their observations were taken into account.

### **"The European Commission decides the sites to be included in Natura 2000"**

The responsibility for proposing sites within Natura 2000 lies first and foremost with the Member States.

The Habitats Directive defines three stages in the establishment of the Natura 2000 network:

1. each Member State proposes a list of sites for that country;
2. on the basis of these national lists, the Commission selects, in agreement with each Member State, a European list of sites of Community Importance (SCI);
3. it is then the Member States who must designate them as special areas of conservation (SAC).

The Birds Directive, an earlier piece of legislation, has only one stage. It is solely the Member States that designate sites directly as Special Protection Areas under Natura 2000.

### **"Natura 2000 sites will all become nature reserves"**

If a site is in the Natura 2000 network, it is because it is of EU importance for the species or habitat types listed in the Habitats or Birds Directive. In many cases, these species or habitats are in good state thanks to existing human activities. All that is needed is this to be maintained. Nominating a site as SCI does not therefore a priori imply that the activities underway within the site will have to change or stop.

This principle is also reflected in the Directive. Member States have a choice of mechanisms to use to manage a site, they can be statutory (e.g. making a protected area) but do not have to be. They could just as well be done contractually (e.g. signing a management agreement with the land owner) or administratively (accompanied by providing the necessary funds to manage the site).

### **"We will have to stop all our activities within a site for the sake of preserving nature"**

There will, of course, be occasions where decisions will have to be made about restricting or stopping certain activities that are a significant threat to the species or habitat types for which the site is being proposed as a Natura 2000. But these need to be addressed on a case by case basis.

Maintaining species or habitats is not necessarily incompatible with human activities. This even applies to well managed hunting. In 1996 Mme Bjerregaard, European Commissioner for the Environment wrote 'I do not consider that hunting within Special Protection Areas should be generally or automatically prohibited' This consideration refers to protection areas for birds but it applies equally to the majority of other species and habitats for which Natura 2000 is being set up.

In fact, many of the natural areas are highly dependent upon certain human activities for their survival (e.g. agriculture). Some of these sites are already being managed in the spirit of Natura 2000. Their inclusion in the Natura 2000 network should not only provide an opportunity to valorise these activities but also to ensure that they will continue well into the future.

Finally, nature conservation can also provide additional opportunities for human use activities (environmental tourism, pursuit of leisure activities, labelling of natural produce, etc.). The Commission's communication on

Environment and Employment identified conservation of high-value natural areas and sustainable forestry as being two particularly promising areas for job creation.

**"Brussels will dictate to us what can or cannot be done in each site"**

The Habitats Directive, and the Natura 2000 network, are based on the principle of subsidiarity. It is up to the Member States to decide how best to conserve the sites that are identified as being of Community importance.

Although not an obligation, management plans are identified in the Directive as a useful tool in determining what needs to be done to maintain or restore a site. These plans are site specific and provide a vehicle for consultation with local interest groups, thereby ensuring that the fate of a Natura 2000 site can be decided together and in a spirit of cooperation and co-management. In fact, discussions specifically about management plans often help the different interest groups to find an area of common ground among them.

**"Once a site is included in Natura 2000 it becomes untouchable as regards future developments"**

The Directive does not *a priori* prevent any new activities or developments within a Natura 2000 site from taking place. Article 6 does however require that new plans or projects that are likely to have a significant effect undergo an appropriate impact assessment before being authorized. If it turns out that a proposed activity is likely to cause significant damage to a site and all possible alternatives have been exhausted, it may still go ahead but only if it is of overriding public interest and if measures are taken elsewhere to compensate for the loss of the species or habitats affected.

**"It is the inhabitants of the Natura 2000 sites that will have to support the costs of this protection"**

It is the Member States' and Commission's duty to ensure that the costs of Natura 2000 are shared by all.

There are a number of existing Community funds that may be used for this process (e.g. agro-environment measures, structural funds, LIFE, etc. ...). These are regularly being re-assessed to ensure that they are available to assist in the maintenance of the Natura 2000 Network.

**"There is a general lack of transparency on Natura 2000"**

Every effort is made to ensure that the European Commission's activities as regards the establishment of Natura 2000 are as transparent as possible.

[http://ec.europa.eu/environment/nature/info/pubs/docs/nat2000news/nat05\\_en.htm](http://ec.europa.eu/environment/nature/info/pubs/docs/nat2000news/nat05_en.htm)

## 6. FRAMEWORK OF OBLIGATIONS REGARDING NATURE DIRECTIVES FROM THE PRE-ACCESSION TO THE FULL IMPLEMENTATION

Despite that project goals are dealing only with Natura 2000 segment of nature obligations regarding EU Nature Directives, it is important to understand the whole framework. **Montenegro government will be responsible for the complete process, so it is crucial to plan establishment of the complete implementation framework. As Montenegro is a small country with very limited capacities it is essential to organise work in a very rational and efficient way.**

In the pre-accession period, most work for later implementation has to be done. First, **it is important to create the environment for implementation:** institutional and financial framework, technical background (institutional and voluntary), informational structure for gathering (data sources), valuating and retrieving data and an efficient communication platform for permanent consultation with stakeholders.

This is an ideal which could only be reached step-by step, thus it is important to start as soon as possible. This process must be backed by top-decision making, having in mind the whole picture about all the obligations. Approach, “it is now important to enter EU and then we will see...” has been proved as very inappropriate also in some highly developed EU Member States.

This means that at the beginning all needs for the implementation of obligations should be checked. On basis of that survey all the preparation work and organisation scheme should follow. Such **‘end of the pipe’ approach is surely safer on long run.**

We have to bear in mind that **designation of Natura 2000 is a precondition for accession.** If it is done on vague scientific basis, it can have immense consequences later during implementation of management, not only as communication with European Commission regards but also with possible problems of investors; if there is a lack of reliable scientific information underpinning the site designation, the results of appropriate assessment based on this information could be wrong, and many crucial investments may fail, if this has been revealed. .

**The more complete the basic knowledge about target species and habitat types is, the better will be the quality of decisions and assessments and the less possibilities for disputes and adverse financial consequences.**



**Figure 5: Main national obligations regarding Nature Directives from the pre-accession period till the EU membership and beyond**

In the pre-accession period a **solid scientific base is needed for negotiations on some technical adaptations**. In the entire field of nature conservation this is the only opportunity where a candidate country can negotiate with the Commission. First, it is theoretically possible to add, under strict rules set by the EU, some species and habitat types to the Annexes of the Directives. This is a very important chance to take into account national interests, but it has to be done with an extremely good biological knowledge and understanding of the spirit of the Directives. The other option regarding habitat types is to ask for amendments of the EURO 28 Interpretation Manual of EU Habitat Types in case that some habitat types occurring in the country do not fully match

with the current characterization in the latter document. Again, only serious, scientifically justified proposals may have a chance to succeed.

During the pre-accession period the designation of SPAs has to be finished as well as national list of pSCIs prepared, as at the latest at the day of accession data on sites have to be submitted to the Commission. That means that the main part of the technical works has to be done prior to the accession (surveys of distribution of species and habitat types according to the reference list, estimations on population size, status and trends, delineating the sites, data management work, SPA designation following the national rules, etc.).

Immediately after the accession, implementation will start. **The trickiest may be the obligation to avoid deterioration of bird habitats within SPAs as there have to be suitable legal as well as practical tools and measures available to ensure achieving this goal.**

The next step are 'biogeographical seminars', where the proposed sites according to the HD (pSCIs) are tested as to their sufficiency by the EC (supported by ETC/BD), NGO representatives and landowner representatives. The sufficiency of the network is tested separately for each species and each habitat type from the reference list for each biogeographical region.

Only after the missing sites (in case of insufficiencies stated by the EC at the seminars) have been amended and EC has adopted the Community lists of SCIs, the real implementation of this part of Natura 2000 can start.

The main implementation obligations resulting from the provisions of HD and BD are:

- implementation of the procedure of appropriate assessment (and its linking to SEA and EIA);
- setting relevant site conservation measures for both SPAs and SCIs;
- designating SCIs within 6 years after adoption of the Community list as SACs;
- conservation management of all Natura 2000 sites based on conservation measures set before;
- monitoring of the efficiency of site conservation measures;
- monitoring of conservation status of species/habitat types in the whole country (Art. 11 HD) as well as some kind of bird monitoring (not determined by the BD) carried out through a national monitoring system;
- meeting reporting obligations HD (Art. 6, 12, 16 and 17): require Member States to report on the conservation status of habitats and species, on compensation measures taken for projects having a negative impact on Natura 2000 sites and on derogations they may have applied to the strict species protection measures;
- meeting reporting obligations BD: reporting on the status and trends in bird populations (Art. 12) as well as on derogations (article 9) they may apply to the directive's obligations on bird protection.

## 7. REFERENCES

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