European Union Network for
the Implementation and Enforcement
of Environmental Law

Nature Protection in permitting and inspection of industrial installations – implementation of Art. 6 (3) of the Habitats Directive

March 2015

Introduction to IMPEL

The European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) is an international non-profit association of the environmental authorities of the EU Member States, acceding and candidate countries of the European Union and EEA countries. The association is registered in Belgium and its legal seat is in Brussels, Belgium.

IMPEL was set up in 1992 as an informal Network of European regulators and authorities concerned with the implementation and enforcement of environmental law. The Network's objective is to create the necessary impetus in the European Community to make progress on ensuring a more effective application of environmental legislation. The core of the IMPEL activities concerns awareness raising, capacity building and exchange of information and experiences on implementation, enforcement and international enforcement collaboration as well as promoting and supporting the practicability and enforceability of European environmental legislation.

During the previous years IMPEL has developed into a considerable, widely known organisation, being mentioned in a number of EU legislative and policy documents, e.g. the 7th Environment Action Programme and the Recommendation on Minimum Criteria for Environmental Inspections.

The expertise and experience of the participants within IMPEL make the network uniquely qualified to work on both technical and regulatory aspects of EU environmental legislation.

Information on the IMPEL Network is also available through its website at: www.impel.eu

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Project manager: Gisela Holzgraefe (project manager) Martin Baranyai (co-chair)	**Report adopted at IMPEL General Assembly / written procedure: March 2015**
Authors: Gisela Holzgraefe and project team	**Number of pages:** [144] Report: [63] Annexes: [81]

Project team

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Executive summary:

The ToR of the IMPEL project "Nature Protection in permitting and inspection of industrial installations – implementation of Art. 6(3) of the Habitats Directive" was adopted by the General Assembly of the IMPEL network in December 2013 in Vilnius. The main objectives of the project were:

- clarification of screening criteria for industrial installations
- identification of assessment criteria for significant effects of industrial installations (while taking into account the linkage between Environmental Impact Assessment (EIA), appropriate assessment (AA) and the Directive on industrial emissions (IED))
- development of supporting material for setting assessment boundaries where projects and other sources of impacts which are to be assessed together are not located close together (cumulative impacts and their assessment)
- expanding the understanding of the protection requirements of Habitats Directive (HD) Art. 12 and 13 in respect of priority species and habitats outside of Natura 2000 network and implications to the permitting (using European Court of Justice (ECJ) and good practice examples).

The project team was asked to focus especially on clarification of screening criteria, assessment of significant effects, the assessment of cumulative impacts and, if possible mechanisms put in place to check compliance with permit conditions regarding mitigation measures established under Art. 6(3).

In relation to dealing with Natura 2000 in permitting and inspection of industrial installations thr project participants identified the following good practices:

- providing good guidance (general and sector specific) and supporting tools (databases and screening/evaluation tools) on screening and for AA,

- beforehand discussions / early communication of Natura 2000 aspects in permit procedures and screening,
- setting good and enforcable permit conditions concerning Natura 2000 sites (concerning monitoring and reporting),
- maintaining good cooperation between competent nature conservation and permit / inspection authorities,
- providing good working material and training for involved authorities.

Main challenges

Concerning the Art. 6(3) procedure of HD for projects of industrial installations the project team identified that there is a need for measures concerning capacity building through:

- improving knowledge about and use of EU guidance – participants partly did not know the EU documents,
- initiating development of new EU guidance, especially sector specific documents,
- exchange of knowledge about screening criteria, criteria for the "significant effects" and assessment methodologies.

The following recommendations concerning Natura 2000 aspects in permitting and inspection are made:

- Information about screening and AA (carried out or not and results/consequences) should be integrated into the permit.
- Only clear and well defined conditions concerning Natura 2000 sites that can be inspected and enforced should become part of the permits.
- Dealing with activities without permits (e.g. small farms) causes problems. For the assessment of cumulative effects permit authorities need information on their effects
- A separate IMPEL project on Natura 2000 sites in inspection activities related to industrial installations should be carried out.

Proposals for future work of IMPEL

So far the project dealt with basic knowledge. One recepe for all different species and all situations does not exist. For future work a step by step approach is necessary.
The core team recommends carrying out a follow-up project. It should focus on:

a) The evaluation of the applicability of the EU Guidance Document "Wind energy developments and Natura 2000" and
b) The development of a sector specific guidance document on dealing with Art. 6(3) HD in permitting of farm projects (pigs and poultry) (or one other sector the project team agrees on).

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Acronyms and Abbreviations

AA	Appropriate Assessment
APIS	Air Pollution Information System
CL	Critical Loads
COM	European Commission
Defra	Department for Environment, Food and Rural Affairs, United Kingdom
DE(SH)	Germany – Federal State (Land) Schleswig-Holstein
ECJ	European Court of Justice
EIA	Environmental Impact Assessment (2011/92/EU)
ELV	Emission Limit Value
ESLG	endangered species list of Galicia
EU	European Union
HD	Habitats Directive
HRA	Habitat Regulation Assessment (United Kingdom)
PT ICNF	Institute for Nature and Forest Conservation, Portugal
IED	Directive on Industrial Emissions (2010/75/EU)
IROPI	Imperative reasons of overriding public interest
LCP	large combustion plant
LWSSP	List of wildlife species under special protection
MS	IMPEL Member State
NGO	Non Governmental Organisation
pp	plans and projects
RNCA	Regional Nature Conservation Authority (Galicia)
SCAIL	Simple Calculation of Atmospheric Impact Limits
SEA	Strategic Environmental Assessment (2001/42/EC)
SEPA	Scottish Environment Protection Agency
UKSC	United Kingdom – Scotland

Responses to the questionnaire have been delivered from the following countries:

CZ – Czech Republic	IT- Italy	RO – Romania
DE – Germany	ME – Montenegro	SK - Slovakia
ES – Spain	NL – Netherlands	UK SC – Scotland
HU - Hungary	PL – Poland	UK – United Kingdom
IE - Ireland	PT – Portugal	

1. INTRODUCTION

1.1 Project background

Halting and reversing the loss of biodiversity by 2020 is a priority within the European Union (EU). The implementation of EU Nature legislation (the Birds and Habitat Directives) is essential to achieve the EU 2020 biodiversity target. However, implementation and enforcement need to be improved. There is a lot of work to be done for reaching the goals for 2020 as only 17% of species and habitat assessments indicate a favourable conservation status.

In 2013 the IMPEL project on "Building up IMPEL nature conservation capacities" identified existing networks related to the promotion of implementation of the EU nature conservation legislation and identified main challenges and difficulties. A major problem in the implementation of the Habitats Directive (HD) is related to
the appropriate assessment (AA) under the Habitats Directive Article 6(3), which often is of poor quality, as it was pointed out by the Commission, but also by some nature conservation authorities and Non Governmental Organisations (NGOs). Typical problem areas are, for instance, focusing on the site protection objectives during the AA, assessment of cumulative impacts, availability and analysis of the baseline conditions, drawing conclusions on the significance of the likely significant impacts in conformity with the assessment results, assessing alternatives for the sake of appropriate assessment, enforcing mitigation measures according to permits and timely communication of compensation measures to the Commission. Impact significance assessment is usually the crucial problem – to set the threshold of significance correctly, in order not to harm nature but also not to stop needed developments. Further work on particular problems in this field was recommended.

In 2013 a small IMPEL project explored the needs and requirements concerning nature protection in permitting and inspection of industrial installations. The need for more information was confirmed. The requirements often are met with difficulties and problems occur. Concerning Natura 2000 sites a number of challenges were identified and lack of knowledge in several related fields was confirmed.

The project team recommended having a follow-up IMPEL-project in this field and concentration on Natura 2000 sites. For collection of further input, dissemination of lessons learned and spreading knowledge on good examples the organisation of a workshop on the item was recommended. The focus should be on permitting of industrial installations according to the Directive on Industrial Emissions (IED) and the inter-linkages with the HD. The Terms of Reference (ToR, see annex I) were adopted by the IMPEL General Assembly in December 2013 in Vilnius.

1.2 Project objectives

According to the Terms of Reference the objectives of the IMPEL project 2014 were:

- clarification of screening criteria for industrial installations
- identification of assessment criteria for significant effects of industrial installations (while taking into account the linkage between Environmental Impact Assessment (EIA), AA and IED)
- development of supporting material for setting assessment boundaries where projects and other sources of impacts which are to be assessed together are not located close together (cumulative impacts and their assessment)
- expanding the understanding of the protection requirements of HD Article 12 and 13 in respect of priority species and habitats outside of Natura 2000 network and implications to the permitting (using European Court of Justice (ECJ) and good practice examples).

The project team was asked to focus especially on clarification of screening criteria, assessment of significant effects, the assessment of cumulative impacts and, if possible mechanisms put in place to check compliance with permit conditions regarding mitigation measures established under Art. 6(3).

The expected products were:

1. Overview and exchange of good practices for promoting compliance/ enforcement of permit conditions in accordance with Art. 6(3) of the Habitats Directive.
2. Recommendation for Member States on appropriate assessment in accordance with Art. 6(3) of the Habitats Directive in a Guidance document for IMPEL on appropriate assessment
3. Identification of the most frequent challenges jeopardizing the correct implementation of Art. 6(3) HD
4. Capacity development by benchmarking appropriate assessment under Art. 6(3) HD
5. Identification for which item(s) additional tools / guidance is needed.

2. Methodology of the IMPEL project 2014

The project was led by a project team consisting of 6 participants from 5 IMPEL member states. It consisted of the project manager – Gisela Holzgraefe, Germany, the co-chair Martin Baranyai, Czech Republic and four additional project team members: Klaus Hougaard (Denmark), Ana Garcia (Portugal), Maria Milagros Carnero (Spain), Iñaki Bergareche Urdampilleta (Spain)

A three-step process was used to get the necessary information. Firstly, a questionnaire (see annex II) was drawn up and then sent out to the Member States and Norway after which the

replies to the questionnaire were analysed (annex III – summary of answers). The main items of the questionnaire were:

- the legal background - implementation of the HD in the Member States (MS),
- the competent authorities and organisations in the MS and their cooperation,
- Natura 2000 sites in the permit procedure for industrial installations, supporting guidance and information (definitions, significance criteria, application documents, ...),
- content of permit applications and permit conditions as well as follow-up measures in general and for power plants and installations for intensive rearing of pigs.

The second step was to hold a workshop for gathering more in-depth information by discussing the most problematic questions, identifying key difficulties and good practices for different situations. The project team agreed that on top of that the topics of the workshop should also cover guidance documents of the Commission, results of the Commission "Study on Evaluating and Improving the Article 6.3 Permit Procedure for Natura 2000 Sites" finalised in 2014 and lessons learned from court decisions as well as other resources. Mr. Fotios Papoulias (DG Environment) attended the workshop. The workshop was held in Berlin from 2 – 4 July 2014.

The third step was to prepare a final report based on the questionnaire responses, the discussions within the project team and the workshop results. The questionnaire covered main topics of the first IMPEL project on nature protection in permitting and inspection and was completed by questions concerning concrete examples. The aim of the questionnaire was to clarify the similarities and differences in the practices of Member States' permit and inspection authorities while dealing with nature conservation and in particular with Natura 2000 sites. The focus lay on permit procedures and inspection activities for IED installations, but small enterprises were highlighted in some questions too.

14 completed questionnaires from the following 13 countries were submitted: Germany, Ireland, Italy, Hungary, Montenegro, the Netherlands, Poland, Portugal, Romania, Slovakia, Spain, the Czech Republic, and the United Kingdom (Great Britain and Scotland). 9 responses came from national and 5 from regional authorities. 13 of the organisations are competent bodies for permitting and inspection of industrial installations. 10 of them are at the same time responsible for nature conservation issues. 5 of the respondents have a nature conservation background (UK, PL, PT, CZ, HU), 6 are technical engineers, 3 have other qualifications. The compilation of the answers to the questionnaire is presented in Annex III (separate document) to this report.

organisation	national	9	regional	5
competent for	IED tasks	13	nature conservation	10
kind of tasks	supervising	13	practical	10
respondent works in the field of	permitting	11	inspection	11
	policy advisor	1	other	2
professional background	nature conservation	5	technical engineer	6
	other	3		
installations respondents deal with	all kinds	10	certain sectors	2
	not identified	2		

The project team is grateful to all who participated in this project by answering the questionnaire, by taking part in the workshop and by providing expert contributions to the project team meeting and the workshop as well as comments to the documents produced.

As mentioned above this final report is based on the responses to the questionnaire, the discussions within the project team and the workshop results. It was not possible to differentiate in this report always strictly between these three sources of input. Otherways too many repetitions would have been the cosequence.

3. LEGAL BACKGROUND

3.1 Directive on Industrial Emissions (2010/75/EC)

The IED Directive lays down rules on integrated prevention and control of pollution arising from industrial activities. It also lays down rules to achieve a high level of protection of the environment as a whole. And of course, Natura 2000 sites are part of the environment. According to the IED pollution is defined as the indirect or direct introduction, as a result of human activity, of substances, vibrations, heat or noise into air, water and land which may be harmful to human health or the quality of the environment, result in or damage to material property, or impair or interfere with amenities and other legitimate use of the environment.

3.2 Habitats Directive (92/43/EEC)

The link between permitting activities and Natura 2000 sites is defined in Article 6 of Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora. According to Article 6 par. 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 … the 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.

The requirements of the Habitats Directive apply to industrial installations under IED as well as to smaller projects or any other kind of projects, e.g. in agriculture or forestry.

Art. 6 par. 3 HD contains several general key terms that require clear definitions for the application of screening on the individual case and for carrying out the AA properly.

Project: Related to the IED a project is an industrial installation that belongs to the activities of its Annex I; smaller industrial installations such as wind farms or small animal farms below the thresholds of Annex I are projects as well.

Effect: Industrial installations may affect Natura 2000 sites and protected species in different ways and via different pathways, e.g.
via air: noise, vibrations, pollutants such as heavy metals, NO_x, NH_3, SO_2, particulate matter, light,
via soil: pollutants and substances with fertilizing effect
via water: pollutants, flowback of cooling water at a higher level of temperature etc.
other: barrier effect, collision risks for birds and bats, disturbance and displacement, habitat loss or degradation etc.

Significance: in the context of screening and AA defined criteria are needed for the assessment of the significance of effects. They have to be in relation to the site's conservation objectives.

Cumulative effects: For the screening and the AA the effects of the individual project and of other projects with the same or similar effects have to taken into consideration.

Conservation objectives: The provisions of Art. 4.4, 6 and 8.2 HD indicate the need for establishing site-related conservation objectives as a necessary reference for identifying site-related conservation measures and for carrying out appropriate assessments of the implications of plans and projects for a site. A conservation objective is the specification of the overall target for the species and / or habitat types for which a site is designated in order for it to contribute to maintaining or reaching favourable conservation status of the habitats and species concerned,

at the national, the biogeographical or the European level. [10]. Conservation objectives are part of the Standard Data Form of the site. The Standard Data Form provides details of the site (code, name, size, etc.), the site location and a brief description including its importance, vulnerability, protection status as well as management and conservation objectives.

There is a common understanding that the stage-by-stage approach provided by the Commission guidance document "Assessment of Plans and Projects significantly affecting Natura 2000 sites" (November 2001) is an applicable way to cope with the complex requirements of Article 6 (3) HD. Figure 1 shows the four stages.

The four stages of the Art 6 (3) HD procedure

1. **Screening**: Identification of likely effects of a project upon Natura 2000 site (either individually or in combination with other projects or plans). Are the effects likely to be significant?

yes

2. **Appropriate Assessment (AA):** Effects of the project on the integrity of the Natura 2000 site (individually or in combination with other pp) with respect to the site's structure and conservation objectives. Are adverse effects on the integrity of the site possible? →assessment of mitigation measures. Are significant effects still possible?

yes

3. **Assessment of alternative solutions**: Examination of alternative ways to avoid adverse impacts on the integrity of the Natura 2000 site. Alternative solution identified? → yes: return to step 1 or 2

no

4. **Assessment of compensatory measures:** In cases of negative result of the AA and where **no alternative solutions** exist and where adverse impacts remain a plan or project can only carried out for imperative reasons of overriding public interest (**IROPI)** including those of a social or an economic nature. In this case the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected.

Figure 1: The four stages of the Art. 6(3) HD procedure (according to the guidance document "Assessment of plans and projects significantly affecting Natura 2000 sites" [6])

In practice the assessment of alternative solutions may be part of the AA, namely for a plan or project with negative a negative assessment of the implications for the site.

3.3 Interlink between Art. 6 (3) Habitats Directive (HD), Directive on the Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA)

There are many similarities but also important differences between HD, EIA and SEA (scope, content, implications - see Table 1 below). For being in line with the requirements of all three pieces of legislation it is necessary to know the similarities, differences and consequences of them for the individual project. For projects needing an EIA/SEA and AA at the same time AA may be part of the EIA/SEA. But SEA and EIA cannot substitute for the AA. In all cases the AA must be clearly identifiable, either within the EIA/SEA report or in a separate report, so that its conclusions can be distinguished from those of the overall impact assessment. This refers to relatively big industrial projects. For smaller projects often only Article 6(3) HD applies and only a screening / an AA has to be carried out. In Spain the national law stipulates that if an AA has to be carried out for a project it will automatically be covered by the EIA Directive and an EIA has to be carried out. In these cases a complete EIA must be submitted. So it is not enough to cover only the aspects of nature conservation aspects of the HD. In practice the situation is the same in Denmark. In Germany apart from Schleswig-Holstein all federal states (Länder) deal with it in the same way.

One objective of the latest amendment of the EIA Directive was the streamlining of procedures. Where appropriate, procedures can be coordinated and/or jointly run (Art. 2(3), 2014/52/EU). In cases where more than one environmental assessment is needed for a project a designated authority shall coordinate the various individual assessments of the environmental impact of a particular project. The Commission shall provide guidance regarding the setting up of any coordinated or joint procedures for projects that are simultaneously subject to assessments under EIA Directive and Habitats Directive (92/43/EC), Water Framework Directive (2000/60/EC), Birds Directive (2009/147/EC) or the Directive on Industrial Emissions (2010/75/EU).

Comparison of appropriate assessment acc. to Art. 6(3)HD, EIA and SEA

The answers to some key questions may demonstrate the differences between the three pieces of legislation. EIA and SEA cover a broader scope and application than the Art.6.3 HD AA and have extended assessment obligations. In the Art. 6.3 procedure the effects have to be assessed in the AA in relation to the conservation objectives of the site whereas in EIA and SEA all likely significant effects have to be addressed. But the main differences between the three are the consequences. The result of the AA is binding for the permit authority. The permit for the project can only be issued if it will not affect the integrity of the site. The results of the EIA and the SEA have to be taken into consideration or to be taken into account. This means that due to the result of the AA a project for an industrial installation can be stopped. The consequences of EIA and SEA are not so very strict.

	AA	EIA	SEA
Which type of development?	Any plan or project likely to have an adverse effect on a Natura 2000 site	Projects listed in Annex I. Annex II projects determined on a case by case basis depending on thresholds or criteria	Any Plan or Programme (a) for certain sectors which set the framework for future development consent, or (b) require Art. 6 HD assessment
What impacts need to be assessed relevant to nature?	Assessment in view of the site's conservation objectives (for species/ habitats for which site was designated)	significant effects on …. biodiversity, with particular attention to species and habitats protected under the Habitats and Birds Directives.	Likely significant effects on the environment, including on issues such as biodiversity, fauna, flora & interrelationship
Who carries out the Assessment?	Responsibility of the competent authority but developer may need to provide necessary studies and information	The developer provides necessary information to be taken into account by the competent authority * Biodiversity should be taken into account in the screening process (Annex II.a, EIA amended Directive)	Competent authority for planning
How binding are the outcomes?	Binding. Agreement to the plan/project only if it will not affect the integrity of the site	The result of consultations and information must be taken into consideration in the development consent procedure	The environmental report and opinions expressed shall be taken into account during the preparation of the plan/program

Table 1: Comparison of Art. 6.3 HD AA, EIA and SEA

The aspect of carrying out the screening / appropriate assessment was discussed during the workshop. The assessment of imperative reasons of overriding public interest (IROPI) was not in the focus of the project.

4. Guidance documents and relevant court decisions

4.1 EU Guidance documents – overview

Provisions in the field of nature conservation are general and normally do not provide defined assessment criteria. For many effects of industrial installations like noise emissions and deposition of substances in habitats there are no defined criteria for significance. Permit authorities want to issue permits that are legally correct. For that purpose they need supporting guidance providing applicable procedures and defined criteria.

The European Commission has developed several guidance documents. General and sector specific documents have been provided. None of them is directly related to IED activities or smaller (industrial) installations but general principles explained especially in (2), (3), (7) and (9) are relevant for them as well.

(1) Managing and protecting Natura 2000 sites - The provisions of Article 6 of the 'Habitats Directive 92/43/EEC (2000)
(2) Assessment of Plans and Projects significantly affecting Natura 2000 sites (November 2001)
(3) Guidance document on Article 6(4) of the 'Habitats Directive 92/43/EEC
(4) European Commission Opinions issued according to Article 6 (4) of the Habitats Directive 92/43/EEC
(5) Guidance on Aquaculture and Natura 2000
(6) Inland waterway transport and Natura 2000
(7) The implementation of the Birds and Habitats Directives in estuaries and coastal zones
(8) Integrating biodiversity and nature into port development
(9) Wind energy developments and Natura 2000
(10) Non-energy mineral extraction and Natura 2000

EU guidance – wind energy developments and Natura 2000

Some of the main points of this guidance document are close to industrial installations but it does not cover the whole variety of effects of industrial installations. Main effects of wind farms are collision risks for birds and bats, disturbance and displacement, barrier effect, habitat loss or degradation. The main chapters of the document provide for information about:

- Wind energy developments in the EU
- EU's policy framework and legislation on Nature and biodiversity including the relationship between SEA, EIA and Art. 6.3 HD AA
- Potential impacts on nature and wildlife, including distinction between significant and insignificant effects, cumulative effects
- The step-by-step procedure for developments affecting Natura 2000 sites

4.2 National guidance - expert recommendations

The discussion of national approaches and guidance documents generally acknowledged by experts from different European countries showed that there are only a few examples.

The approach of the Picardie Region (France) has provided good guidance.
The German standards of significance for habitat loss "Fachkonventionen zur Bestimmung der Erheblichkeit im Rahmen der FFH-VP" (Lambrecht & Trautner 2007, http://www.bfn.de/0306_ffhvp.html) have been developed under broad participation of scientific experts. They are used successfully in practice and estimated as best scientific knowledge.
Several countries have standards for the assessment of the impact of nitrogen compounds (ammonia and nitrogen oxides) in place or currently work on them. The same applies to standards for assessment of acidification (e.g. through sulphur dioxide emissions (SO_2)).

National guidance on screening and the availability of defined criteria for deciding if the industrial installation “is likely to have significant effect” on a Natura 2000 site will be discussed in chapter 7.2.2 and 7.2.3.

4.3 Other resources for capacity building and development of common understanding of legislation

4.3.1 Relevant decisions of the European Court of Justice (ECJ)

Experts working on the development of guidance documents as well as permit writers and inspectors dealing with industrial activities may get input for their work from “bad examples” too. Such examples may be cases that went to (EU or national) court. Decisions of the European Court of Justice (ECJ) may provide important interpretation of Natura 2000 Directive and information about dealing with Natura 2000 sites in permit procedures. The decisions are available on the internet, link: **http://curia.europa.eu/jcms/jcms/j_6/**

Concerning permitting of industrial installations some key statements from relevant decisions on Art. 6 HD are summarised in the following paragraphs. Up to now ECJ decisions did not explicitly deal with industrial projects but nevertheless some core explanations and statements apply to them as well as to the specific case.

Case C-127/02: Waddenzone NL, Conservation of natural habitats and of wild flora and fauna - Concept of "plan' or "project' - Assessment of the implications of certain plans or projects for the protected site:

- Assessment implies that all aspects of the project which can, either individually or in combination with other plans or projects, affect those objectives must be identified in the light of the best scientific knowledge in the field.
- It is apparent that the plan or project in question may be granted authorisation only on the condition that the competent national authorities are convinced that it will not adversely affect the integrity of the site concerned.
- Where doubt remains, the competent authority will have to refuse authorisation.

Case C-98/03: Transposition of European Directives into German Law - failure of MS to fulfil obligations - Assessment of the implications of certain projects on a protected site - Protection of species:

- One consequence was that the definition of “project” in the German Federal Nature Conservation Act had to be changed. Originally it referred only to industrial installations covered by the Federal Immission Control Act. HD requires that Art. 6 (3) applies to all kinds projects.

Case C-304/05: Parco Nazionale dello Stelvio (IT) failure of MS to fulfil obligations - Assessment of the environmental impact of works to modify ski runs:

- All elements of the modification of a project have to be taken into consideration in the AA. It is not up to the project bearer to select what is integrated or not.

4.3.2 Relevant decisions of national courts:

On national level courts often deal with cases of permits for which no screening or AA was carried out at all or for which an AA of the poor quality was part of the permit application. The court decisions provide definitions and important information on what should be in the permit application and consequently taken into consideration in the decision making process.

A **motorway project** in Germany was stopped because of the use of an incorrect methodology. The court stated that:

- A simple rough estimation of N-Deposition is not sufficient for the assessment (Federal Administrative Court (BVerwG, Westumfahrung Halle)
- The court acknowledged the use of Critical Loads (CL) for the assessment of nitrogen depositions. The international definition for CL is: Critical Load means "a quantitative estimate of exposure to one or more pollutants below which significant harmful effects on specified sensitive elements of the environment do not occur according to present knowledge" (Nilsson & Grennfelt 1988).

Nitrogen compounds are fertilisers and may cause effects for sites with N sensitive vegetative ecosystems resp. habitat types.

In chapter 11.3 of this report the example of a Danish project of a **large combustion plant** (LCP) is presented in more detail. In Germany an NGO went to court (upper administrative court of North Rhine-Westphalia) because a permit for a large combustion plant had been granted without the necessary AA. The court made the following decisions:

- A priority rule / priority principle for taking into consideration the "other plans and projects" (pp) concerning the cumulative effects was defined: The relevant point of time for "relevant other pp" is the one at which the operator has submitted a complete application to the authority. Before that the Federal Administrative Court had decided that a precondition for taking into consideration the effects of other pp is that these other pp must be concrete and reliably predictable. It had not defined when this would be the case.
- The limit for the irrelevant effects of 3 % of Critical Loads is also valid in cases where the existing load exceeds the Critical Load already more than twice. Here the cumulating effects are to be considered.

As reaction on court decisions member states may develop further tools and supporting documents. E.g. lists with empirical CL and simulated values have been developed for the Natura 2000 sites and MS have further guidance on dealing with N-depositon in place or work on it.

4.3.3 Commission "Study on Evaluating and Improving the Article 6.3 Permit Procedure for Natura 2000 Sites" [5] and Case Studies [5 a]

In 2012 the Commission launched a study on evaluating and improving the Art. 6.3 permit procedure for Natura 2000 sites. The report was finalized in November 2013. The project team was asked to develop lessons learnt and good practice from this study (see chapter 13).

For a better understanding of the results of the study it is important to know that only nature conservation authorities were involved in the study. The answers came from authorities of different levels (national, regional, local). Main conclusions of the study are the following:

- The system of competent authorities involved in the Art. 6.3 procedure is very complex.
- A big variety of different approaches have been applied in practice.
- In total it was found that the Article 6.3 permit procedure is functioning well, but:
- MS do not have databases on all screenings or AAs. A full picture does not exist.
- There is no information about the percentage of plans and projects that is ruled out before going into the screening or AA procedure.

The authors identified the following on-going problems:

- poor quality of the AAs undertaken
- lack of skills / knowledge / capacity in the Art. 6.3 procedure
- an inadequate knowledge base in which to assess impacts
- inconsistent screening of plans and projects
- lack of understanding of key concepts and legal terms
- persistent lack of assessment of cumulative effects
- confusion with the EIA/SEA procedure
- lack of early dialogue
- problems during public consultation.

Key recommendations of the study:
There is still room for improvement in the Art 6.3 HD permit procedure.
Special attention should be given to:

- more **training** on the AA procedure for competent authorities/developers (especially at regional/local levels) to improve the understanding of the AA procedure;
- providing more targeted, user-friendly **guidance**, forms and checklists for the various stages of the AA; Improving access to data;
- sharing baseline data and improving **access to data** on Natura 2000;
- ensuring a more robust and consistent framework for screening plans and projects;
- encouraging early dialogue, planning and working in partnership – e.g. at pre-application stage - and between authorities
- promoting a more strategic approach to take account of Natura 2000 early on. There should be more margin for manoeuver. This would avoid/reduce problems later on and helps streamline AA. On top it should include promoting a more integrated and transparent process with more potential for win-wins.

5 Implementation of the Article 6 (3) HD procedure into countries legislation

The provisions of Article 6 par. 3 of the **Habitats Directive** have been implemented in **national legislation** by **specific regulations** concerning Natura 2000 (UK, IT, PT, NL, DE, ES, UKSC, HU, ME) and, in some countries (also) **integrated into EIA** (Environmental Impact Assessment) **or SEA** (Strategic Environmental Assessment) (UK, IT, PL, PT, ES, RO, CZ, HU), as shown in Figure 2. (Questionnaire 1.1.1)

Conclusions: Integrating the legislation concerning Habitats Directive into EIA/SEA legislation has the advantage that double work might be avoided. The number of application documents is lower. Contradictory statements and conclusions might be avoided too. But as

already mentioned above in all cases the AA must be clearly identifiable, either within the EIA/SEA report or in a separate report, so that its conclusions can be distinguished from those of the overall impact assessment. Neglecting this aspect may lead to incorrect conclusions and permit decisions may come under scrutiny.

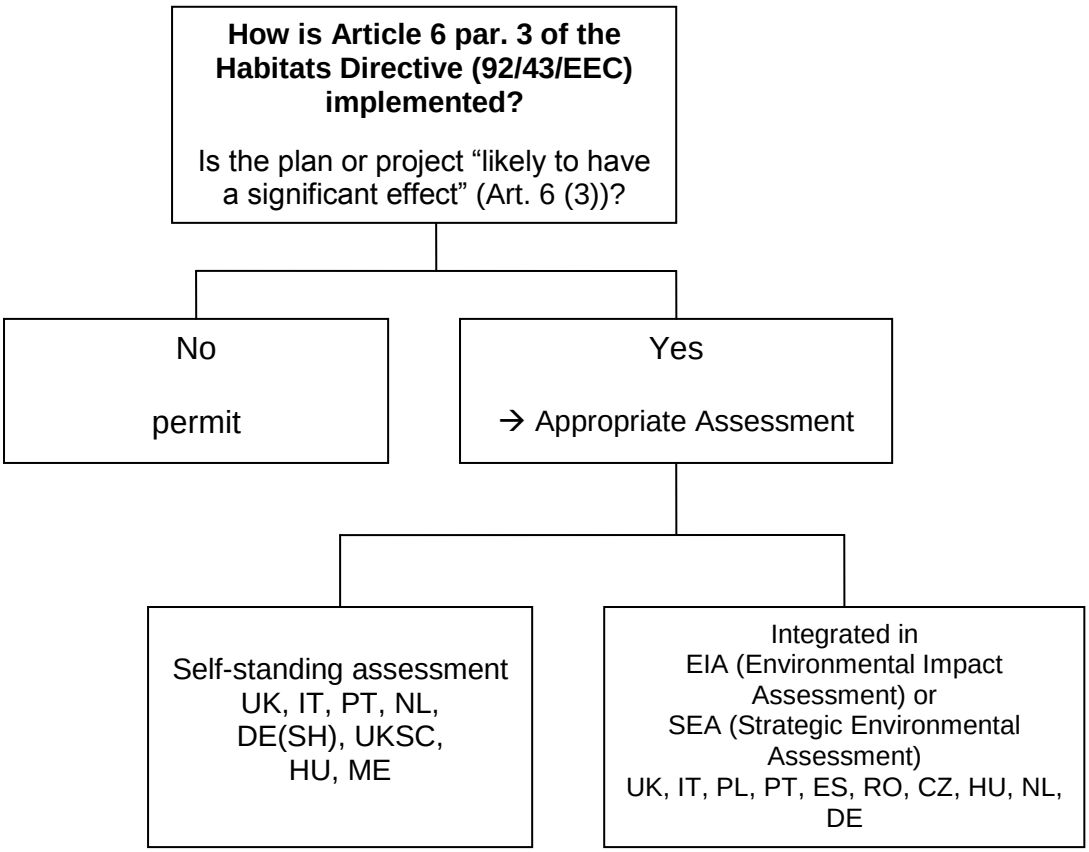


Figure 2: Implementation of AA, EIA, SEA in different countries

6. Authorities and organisations

Figure 3 shows the main questions concerning the **distribution of responsibilities** for the main Natura 2000 tasks among competent authorities involved in permitting and inspection of industrial installations.

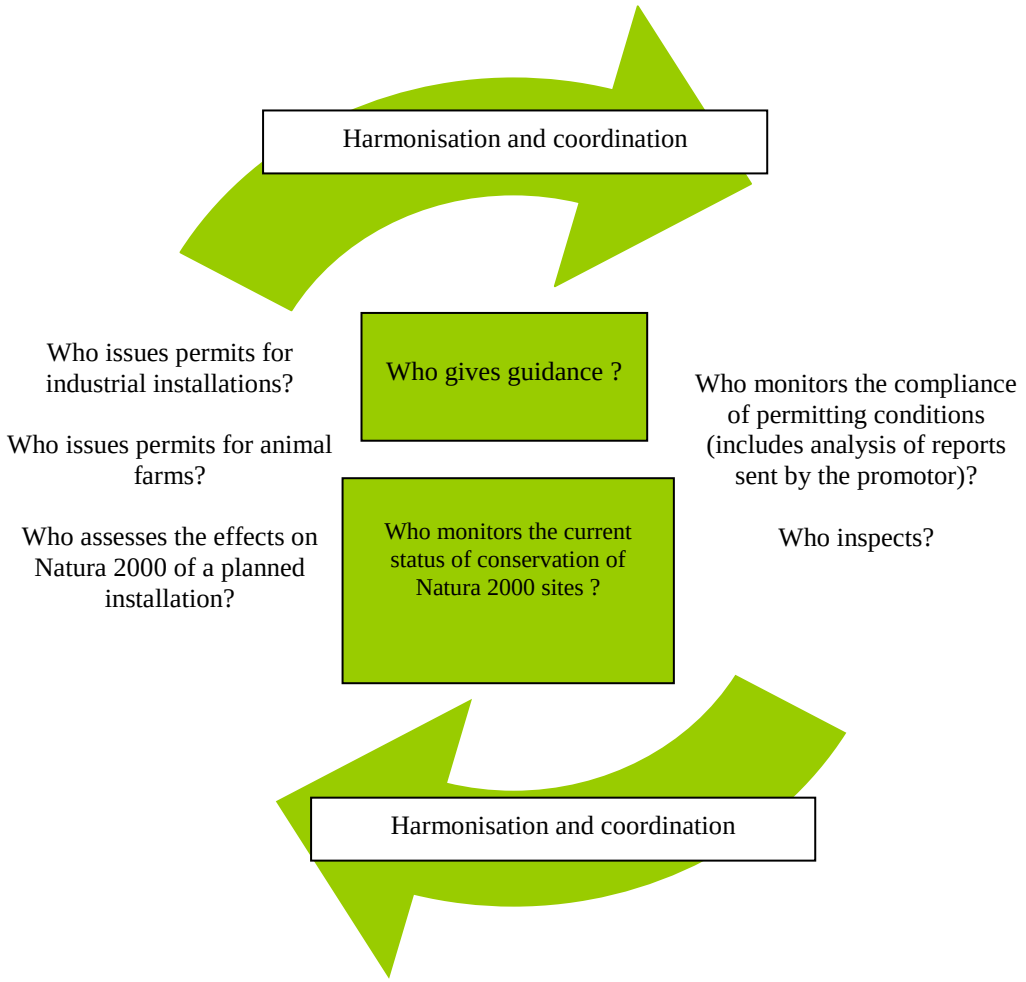


Figure 3: Key questions concerning competent organisations and authorities involved in Natura 2000 tasks in permitting and inspection of industrial installations

The answers to the questionnaire confirmed that the system of competent authorities involved in the Art. 6.3 procedure is very complex (see also COM study [5]). Most countries describe that many authorities have to work together: national, regional or municipal as well as colleagues from different ministries. In each phase of the circle, including development of **guidance**, **issuing of permits**, **screening and appropriate assessment of planned projects** (in this case industrial installations), **monitoring compliance** with permit conditions concerning Natura 2000 sites and **monitoring the current status of Natura 2000** sites, environmental and nature conservation bodies are involved.

This combination of authorities assures the **harmonisation and coordination of requirements** by means of:

- meetings, telephone conferences, conferences and newsletters (UK);
- joint assessments, eg. between planning authority and permitting authority (IR; PT).
- having designated a higher-order authority within the meaning of the Polish Administrative Procedure Code (PL);
- having a competent national authority that guarantees the harmonisation through communication and consultation as well as development of guidance that is available for other organisations (PT; UKSC; HU; DE);

In the Netherlands the national law on environmental protection and the National law on nature protection describe for each installation in detail which permit procedure should be followed, which authority is competent and which authorities should be asked for advice or asked for a declaration of no objection.
In the Czech Republic there is a constant cooperation between the Ministry of the Environment and the regional authorities. The Ministry is at the same time responsible for supervision of the authorities. (Questionnaire 2.2.2)

The responses to the questionnaire show that **guidance** is always given by a national authority, in some cases it can be further developed by regional authorities (IT, IR, PT, ES, NL, DE, CZ, SK) and in a few countries also by municipalities (IR, NL).

Competent authorities for permitting (including Natura 2000 tasks)

The authorities competent for **issuing permits** for **industrial installations,** including requirements concerning Natura 2000 sites, generally belong to the Ministry of Environment, Nature Conservation or Sustainable Development, but the permitting process can also involve authorities from other ministries competent for industry/economy or regional authorities. In Germany it is different in the different federal states (Länder) and normally municipal authorities are responsible for smaller industrial installations. In the Netherlands, in most cases, the competent authority is the municipality although a "declaration of no objections" of the province is needed.

In the case of **issuing permits** for **animal farms** (smaller farms or intensive rearing of pigs and poultry) including requirements concerning Natura 2000 sites, there seems to be particular concern when the location is on Natura 2000 sites or when there are aquatic emissions or it is an IED installation, because in these situations it is common that the competent authority is not municipal/local but regional or provincial. In Galicia until 28 December 2013, the municipal authorities were competent, and from that date on the regional authority became competent for this matter (Questionnaire 2.1.3).

Assessment
The organisations that carry out the **assessment of the effects** of a planned installation on Natura 2000 sites are: the authorities competent for issuing permits for industrial

installations in the UK, IR, ME, RO, NL, UKSC, HU, SK, DE(SH) or the authorities competent for nature conservation in PL, PT, ES, RO, HU, DE (in most of the federal states) (Questionnaire 2.1.4).

Monitoring

The competent authorities/organisations for **monitoring the current status of Natura 2000 sites** in the vicinity of a specific industrial project range in the countries from national authorities (UK, SK, PT, ES in some cases) to decentralised authorities competent for the environment and nature conservation (ES, PL, IR, HU) to provinces (NL) or regions (IT). Three countries report specific responsibilities such as for administrators and custodians in Romania. In Germany consultants with special expertise in nature conservation can do the monitoring for permit application documents if in a permit procedure requiring an AA no current data on a specific Natura 2000 site is available. In Scottland SEPA has the ability to require monitoring of such sites in relation to specific permits issued under the IED if deemed necessary. It remained unclear which organisation carries out the monitoring in these cases (Questionnaire 2.1.6).

Concerning the responsibility for **monitoring compliance** with permit conditions in Natura 2000 sites, countries are divided into two groups: those with only a central authority (IR, ME, SK), that can be a regional organisation, and those who also involve the authorities that emit the permits and that can act in collaboration (SP) or under the supervision (NL) with this central authority (Questionnaire 2.1.5).

Conclusions

Permit procedures for industrial installations are complex and require highly qualified experts in the authorities. This applies even to a greater extend to projects requiring EIA, SEA or AA. In these cases enforceable and inspectable permit conditions concerning EIA, SEA or AA can only be developed by experts of the different disciplines (at least of environmental protection and nature conservation) or by expert teams. Those involved in the procedure build up a common understanding of the project and learn what the colleagues need. Close cooperation between different authorities leads to harmonised results in the different related tasks such as

- development of guidance documents,
- screening and assessment of impacts / effects of planned installations on Natura 2000 sites ,
- monitoring of the current status of Natura 2000 sites,
- formulating of permit conditions and restrictions,
- supervision and monitoring compliance with permit conditions concerning Natura 2000 sites.

The project could not identify whether advantages are higher if authorities from national, regional or municipal authorities are the competent bodies. It might be a problem if

organisations are too small and permit writers / inspectors deal with many different installations and have a big variety of tasks.
In principle experts from nature conservation and environmental ministries or agencies are involved in the development of guidance documents. They should communicate with practitioners for integrating their knowledge and taking into consideration their needs.

In the screening phase and for the appropriate assessment the proponent can provide information about the current status of habitats and species in the planned location and the nearby Natura 2000 site. For that purpose he should contract experts from universities or consulting companies. Generally this is not specified in the legislation. In Spain for example there is no certification procedure for experts. They must have a university degree related to nature conservation (biology, forestry, environmental sciences/ engineering).

Environmental inspectors from national, regional or municipal authorities should have adequate training to enforce specific permit conditions related to Natura 2000 sites. It is highly recommended that joint inspections with nature conservation authorities should be carried out.
For permitting coordination and harmonisation of permit conditions is a crucial point. Contradictory permit conditions set by environment and nature conservation authorities may lead to partly not enforceable permits. For inspection tasks the coordination of different organisations is time consuming and might be regarded as a disadvantage.

7. Dealing with Natura 2000 sites in Permitting of Industrial Installations

7.1 Guidance and information

Less than half of the countries (5 of 12) apply the COM document “Assessment of plans and projects significantly affecting Natura 2000 sites – Methodological guidance on the provisions of Article 6 of the Habitats Directive 92/43/EEC” directly (questionnaire 3.1.1). Only the Czech Republic answered that this is not in the legislation, but the content is applied through methodological material on AA issued by the Ministry for the Environment. This is probably also the case in other countries which gave a negative answer. In Poland all issues related to the impact on Natura 2000 sites are resolved at the stage of EIA (decision on the environmental conditions).

10 of 13 respondents answered that enough information about Natura 2000 sites is available (questionnaire 3.1.2). The United Kingdom is already working on the identification of gaps to get greater clarity on conservation objectives and location information about the protected habitats and species. Ireland points out that more regular updates and greater monitoring are needed. Portugal proposes technical guidance on European level for the application of Dir 2004/35/EC on environmental liability with regard to the prevention and remedying of environmental damage to the existing scenarios of Natura 2000.

Most respondents say that there is enough information about Natura 2000 sites available and accessible their countries (questionnaire 3.1.2). Some proposals for improvement were made. More detailed information should be easily accessible via internet (UK). There should be a greater scope of information sharing e.g. by using geographical information system (GIS) databases (IE, ME, HU). Montenegro asks for a database on current Emerald sites and future Natura 2000. Spain wishes more information about habitat types of Annex I HD and species according to Annex II HD and Art. 4 Birds Directive (2009/147/EC).

7.2 Guidance for the applicant

7.2.1 Guidance on documents and data on Natura 2000 sites to be submitted by the applicant (Questionnaire 3.1.3)

Table 2 gives an overview about the availability and level of national / regional guidance provided to the applicant concerning the documents and data related to Natura 2000 sites that have to be submitted to the permit authority. Most countries have such guidance on national level, three of them offer it on regional level.

yes	UK, IE, PL, ES, NL, DE, UKSC, CZ	no	ME, SK
national	UK, IE, PL, ES, NL, DE, UKSC, CZ	regional	ES, NL, DE

Table 2: availability and level of national / regional guidance

Table 3 shows the official legal status of the national / regional guidance in the different countries (questionnaire 3.1.4). Generally it is non-binding.

	binding	non-binding
national	UK (n/a)*, HU, CZ	IE, PL, PT, ES, NL, DE, UKSC, CZ
regional	IT, NL	IE, ES, NL, DE

Table 3: legal status of national / regional guidance
(n/a = national/advisory, see text below)

Concerning the kind of guidance **United Kingdom** and **Ireland** have generic and sector specific documents. Whilst the guidance in the United Kingdom is advisory (a) it clearly identifies the key legal points of Article 6 par. 3 Habitats Directive. As such it is non-binding but the key legal points must be addressed, otherwise it would negate the value of the guidance. **Poland** has guidance on Natura 2000 in EIA and **Portugal** applies COM documents and the ICNF document „Guidance regarding the nature and application of compensation measures" (link: http://www.icnf.pt/portal/naturaclas/ordgest/aa/resource/doc/med-comp-dez2010).

In the **Czech Republic** the documents that need to be submitted to the permit authority in case there is the possibility of a significant effect on a Natura 2000 site are determined by law. On top the Ministry for the Environment has issued methodological material which specifically describes what has to be done in case of possible significant effects.

Spain has developed the "Guidance for the elaboration of environmental documentation needed for the environmental impact assessment of projects likely to have an effect on the Natura 2000 Network" (August 2012) on national level. Besides that there are documents of the regional governments of Castilla y Leon, Canarias, Murcia and Galicia.
Galicia has guidance for the quality control of the EIA reports. The document provides guidance for applicants in the form of a check-list for the quality control of the EIA report to be submitted. On top of that there are provisions in the legislation (Article 35 and Annex VI of the Spanish Parliament Act 21/2013 of 9 December 2013 on the environmental assessment (EASL)).

The Netherlands have national guidance with information for involved parties in permit procedures. Noord-Brabant has an internet site with information about procedures, necessary documents and investigation.
In **Germany** there is national guidance of the Federal Ministry for the Environment and the Federal Agency for Nature Conservation provides the important document with "Standards of significance for habitat loss" of Lambrecht & Trautner (2007). The federal states have additional documents. On top of that sector specific guidance of the Federal Ministry for Transport for road construction and inland waterways is available.
Scotland has application forms plus accompanying guidance (developed by SEPA).

7.2.2 Guidance on Screening / Data to be submitted / Availability

Half of the respondents confirmed to have specific guidance for screening (questionnaire 3.1.5 (1)) in place (see table 4). An overall clear picture about the kind of data to be submitted for screening purposes could not be achieved (3.1.5 (2)). The reason for it may be that a big variety of different industrial installations are concerned. The answers of United Kingdom and Spain are more detailed and their approach is a practical one: characteristics of the project and its effects, identified Natura 2000 sites in the vicinity, their sensitivity and the distance to the project. At the screening stage information about the conservation state of the Natura 2000 sites generally is not necessary. Scotland asks for information about the state of the site.

Country	yes	no	Kind of data to be submitted	Info on state of site required
	(1)		(2)	(3)
Czech Republic		√	The proponent has to submit information regarding the actual project to the nature protection authority which has the relevant information of the state of the site.	yes
Germany	√		screening guidance and lists (no federal screening list but in federal states (Länder) different lists are available)	generally no
Hungary		√		

Ireland		√		
Italy	√			
Italy (ICNF)		√		
Montenegro		√		
Netherlands	√		Information from management plans	
Poland		√		
Portugal	√		Case-by-case analysis (information concerns the projects characteristics, localisation, social and economics effects.	No
Romania		√		
Slovakia	√			
Spain	√		a. - Information about the project. b. - Information about the Natura 2000 sites. c. - Identification, analysis and assessment of the impacts. d. - Preventive and mitigation measures. e. - Global analysis of impacts on the Natura 2000 network. f. - Main alternatives considered. g. - Follow-up measures plan. h. - Author or authors of the Natura 2000 chapter. on top there are provisions in the legislation	No
UK Great Britain	√		applicant is required to submit the location(s), National Grid Reference, the volume and type of emission. They are also requested to identify early on, often with pre-application discussion, the location of any Natura 2000 sites in the vicinity.	No
UK Scotland	√			Yes

Table 4: guidance for screening - information about current state of the site

Generally the guidance for screening does not require information concerning the current state of the site. A clear picture on the availability of general or case specific screening checklists could not be generated (questionnaire 3.1.5 (3)). The project team did not receive any general or sector specific screening checklists from the respondents. Scotland informed about SCAIL-Agriculture, the screening tool that is used by environmental regulators throughout the UK to assess the impacts of agricultural installations on designated habitats including HD sites and designated sites under national legislation.

7.2.3 Criteria for the assessment of "likely to have significant effects" (questionnaire 3.1.6)

Article 6 (3) and national provisions on nature conservation are general and generally do not provide defined assessment criteria. For many effects of industrial installations like noise emissions and deposition of substances in habitats there are no defined criteria for significance concerning Natura 2000 sites. The big difficulty is that there is no defined and measurable relation between cause and effect, especially concerning pollutants like heavy metals, small amounts of additional fertilising substances coming in from industrial projects. But anyway, defined criteria make the work of permit authorities easier.

country	yes	no	Kind of criteria	Documen-tation of screening result
Czech Republic		√	only general criteria that ensure that requirements of Art. 6 (3) are met: size, extent of the project, land take, distance from Natura 2000 site, protection objectives, natural resources requirements, soil, water and air emissions, … direct or indirect effects such as reduction of the site, fragmentation of habitats or species biotopes, prediction of species density decrease, … criteria are not strict, specific or measurable as "significant effect", effect can arise from various effects of the project or their combination.	
Germany	√		Some criteria have been developed on national level, see BfN document on "Assessment of significant effects in AA" and "Standards of significance for habitat loss", convention on nitrogen deposition and others are under development. Apart from that court decisions and expert documents clarify criteria.	Yes
Hungary	√		Criteria systems are set forth by the legal rules. The decision whether the installation "is likely to have significant effect" depends on the deliberation of the authority in every case. There are no specific limit values that are fixed in advance and can decide if the effect is significant.	Yes
Ireland		√		Yes
Montenegro		√		No
Netherlands	√		An IT-tool called "Effectenindicator" is used for the general assessment of risk.	Yes
Poland		√		No
Portugal		√	There are no defined criteria for significance	
Romania		√		No
Slovakia				
Spain	√		Environmental assessment of projects likely to have effects on Natura 2000 sites. Guiding criteria for the elaboration of documentation (December 2009). There are three types of criteria: Criteria regarding the impacts - Type of impacts (positive or negative) - Magnitude of the impacts - Spatial extent of the impacts - Duration of the impacts - Timing and frequency of the impacts - Reversibility of the impacts - Cumulative and synergic impacts. Criteria regarding the features of community interest: - Direct destruction of the feature: loss of natural habitat type extension	Yes

			- Direct decrease in populations of species of community interest - Vulnerability of the feature of community interest: ecological requirements - Resiliency Confidence in the prediction of impact: certain, likely, unlikely, extremely unlikely	
UKGreat Britain	√		expert documents	
UK Scotland	√		Use of SCAIL and APIS systems	Yes

Table 5: Criteria for the assessment of "likely to have significant effects"

6 respondents confirm that in their country criteria for the assessment of significant effects are available. The description of the kind of criteria did not allow for a comparison. For that purpose it would have been necessary to study the procedures and documents of the countries in more detail. Consequently it was not possible to make a conclusion whether in this regard there is a level playing field throughout Europe.

7.2.4 Documentation of screening result (questionnaire 3.1.8)

The documentation of screening results is necessary for being able to prove that this step has been carried out in the procedure. Some countries use templates, others include it into the permit. 6 respondents confirm that they have defined provisions for the documentation of the screening result or the result of the assessment Natura 2000 sites according to HD (see table 5 last column). In the Czech Republic the requirements concerning documentation are set by both the law and methodological document issued by the Ministry of Environment. There is a template, but the screening result documents may vary depending on the authority that issues it and its detail might be different depending on expected effects of the project.

7.2.5 Decision on other projects to be taken into consideration (questionnaire 3.1.7)

Article 6 (3) HD requires that a*ny plan or project … likely to have a significant effect on a site, 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.* For that purpose a careful analyse of these "other projects" has to be carried out.

There may be different opinions concerning the question whether the assessment of other projects to be taken into consideration is part of the screening or whether – dealing with this point - requires already an AA where it is definitely part of. According to the four stages of the Art 6(3) HD procedure of the Commission guidance document "Assessment of Plans and Projects significantly affecting Natura 2000 sites" it should be part of both (see figure 1 of this report). This view is understandable because effects from other projects can influence the conclusion of the screening in that way that even small effects from the project assessed may already produce a significant gross effect for the Natura 2000 site. Consequently the effects that other plans or projects located outside but nearby

the Natura 2000 site can have on the species and habitats of that site should be taken into consideration.

The answers to the questionnaire did not produce a clear picture how permit writers decide in practice on the other projects that have to be taken into consideration. The assessment has to be carried out carefully. In Germany authorities receive more and more complaints that in this step not all relevant projects had been taken into account. Several cases were brought to court because of this point. This is why in Germany (SH) the result has to be documented in the file and in the permit with reasons. In Ireland the screening result and AA result must be recorded and published with reasons. Table 6 contains only those answers which somehow describe the procedure. General quotations of legislation are left out.

Country		Description of procedure
Czech Republic		Any already implemented or to be implemented plans or projects with possible cumulative or synergic effects that might affect the significance of the effects of the project in question have to be taken into consideration when deciding about the significance of the project both in the stage of screening and main AA.
Germany		industrial installation: following steps / questions to be analysed concerning effects and modelling of emissions from the installation, Are Natura 2000 sites in the vicinity? Are there effects of the project (loss of habitat, deposition of pollutants on the site)? Description of site (habitat types, species and sensitivities), for effects reaching the site(s) analysis of other projects (carried out or planned after notification of the site) and assessment of the gross effect. Application of criteria defined in „Fachkonventionen" in DE.
Ireland		applicant has to submit any details of screening undertaken by authorities
Netherlands		Cumulation of effects of different plans are taken into consideration, e.g. national programme in development to mitigate deposition of NH_3 and NO_x, all activities (now and in the near future) with ammonia, NOx-emission are taken into account.
Poland		Competent authority shall determine for which projects an EIA has to be carried out.
Portugal		Competent authority decisions are made in a case-by-case analysis.
Spain		*Environmental assessment of projects likely to have effects on Natura 2000 sites. Guiding criteria for the elaboration of documentation. December 2009, provisions in: Art. 4.3 "Impacts in combination with other projects, plans and programmes or with other features and activities"* **Galicia**: use of databases on IED installations, plans and programmes subject to EIA and SEA procedures as well as small installations subject to EIA procedures (for small installations likely to have effect on Natura 2000 sites an EIA has to be carried out). No defined criteria for spatial or time scope. Permanent habitat loss (past/future) relevant.
UK Scotland		case-by-case basis using SEPAS knowledge of other applications and models dispersion and deposition footprints. Existing loading in SCAIL / APIS

Table 6: Procedures for taking other projects into consideration

7.2.6 Need for guidance

The opinion concerning the need for guidance for permit writers giving advice on how to deal with effects on Natura 2000 sites was split into two groups. Half of the group denied it. Ireland wishes guidance on screening, Portugal on objective criteria for decision support.
Spanish colleagues identified a lack of guidance for the transposition of AA result to permit conditions and follow-up measures and want support for the decision whether EIA necessary. Guidance for inspectors would be helpful. Germany (SH) recommends that (sector) specific guidance for dealing with Natura 2000 sites in permit procedures for industrial installations should be developed. The Netherlands see a need for guidance on priority risks and Hungary recommends interactive guidance (accessible via internet). This means that the needs are manifold and do not refer clearly to one or two main items.

7.3 Summary and conclusions

It is rather difficult to draw general conclusions because some answers were very general, questions were not correctly understood , but

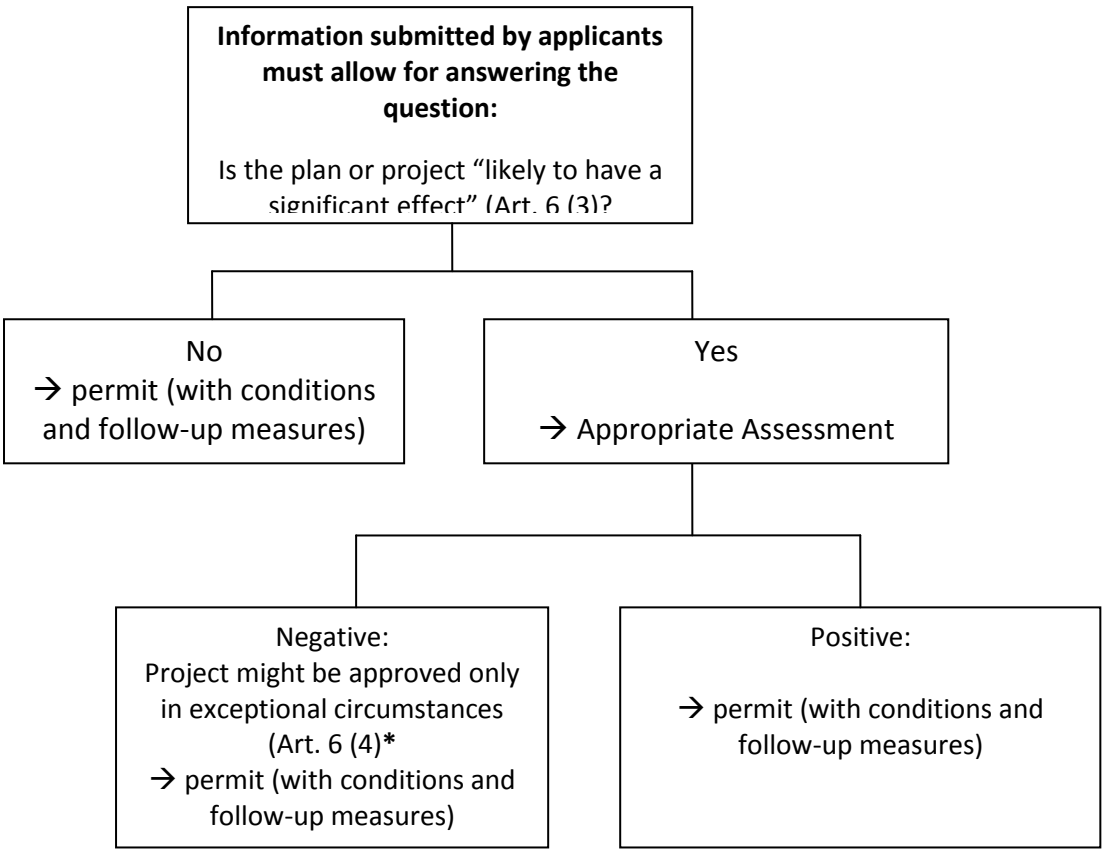
- ✓ Information on Natura 2000 sites are available and accessible for permit authorities, but some countries identified the need for GIS databases and ask for greater scope of data sharing and also the need for more detailed information
- ✓ In many countries guidance for the applicant is available, mostly on national level sometimes on both, national and regional level.
- ✓ Guidance is usually non-binding but it provides items that have to be addressed in the application and the permit procedure.
- ✓ When to address Natura 2000 subject? Early in the pre-application discussion. This guarantees that necessary documents are submitted early, decisions on it are made at an early stage in the procedure and avoids extra costs as well as unnecessary trouble.
- ✓ Half of the countries have guidance for screening. The descriptions of data to be submitted differ.
- ✓ Not all countries have defined criteria for „significant effects“.
- ✓ The documentation of screening results is necessary. Some countries use templates, others include it into the permit
- ✓ The decision on other projects covered by cumulation is a case-by-case decision. Some countries (e.g. Spain and the Netherlands) use databases for the identification of contributors.
- ✓ It is highly recommended to document the other projects taken into consideration during the assessment of cumulating effects in the file and in the permit with reasons. Several countries require explicitly that screening result and the AA result must be recorded and published with reasons.
- ✓ Guidance is needed on screening, objective criteria for decision support, transposition of the AA result into permit conditions and it is needed for inspectors.
- ✓ The question whether sector specific screening lists are necessary could not be answered. There was no clear vote for it. But it seems to make sense.

8. Dealing in practice with Natura 2000 sites in permit procedures for industrial installations

In the questionnaire the aspects of application documents, permit conditions and follow-up measures were addressed a) in general for getting an overview and b) related to different types of projects that occur in all countries: power plants and installations for intensive rearing of poultry and pigs. This methodology was chosen on purpose. The work with concrete examples may reveal whether difficulties are general or sector specific. The results concerning the examples can be found in separate chapters (see chapter 12)

8.1 Application documents

In a first phase the **applicant** must submit **detailed information** about the plan or (integrated) project, but also about its effects on the habitats and species to be protected to allow competent authorities to evaluate if it is not "likely to have a significant effect", considering the need to avoid deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated. If that evaluation is negative and no significant effect is considered, competent authorities might issue a permit which can have conditions and follow-up measures, without previously submitting that plan or project to an appropriate assessment**.** A permit is also issued after a positive decision on an appropriate assessment and only in exceptional circumstances if the decision is negative (see Figure 4).



* only for a limited number of industrial activities this seems to be an option (e.g. for power plants), it is not applicable to farm projects

Figure 4: Importance of Article 6, Art. 3 and Art. 4 of the Directive for permit procedures

For the purpose of analysing the effects of industrial projects on Natura 2000 sites, most Member States report the need to consider the **main characteristics of projects and plans, especially the expected emissions** and its **effects on species and habitats**. Some Member States specify the information in more detail within those features, for instance PT, UK and DE (questionnaire 3.2.1). In Portugal the EIA report includes all the relevant information that is needed for the AA. In Germany relevant data are normally provided by consulting experts (at least for IED installations and those under the Federal Immission Control Act). Projects for industrial installations are not situated within Natura 2000 sites.

For screening the following information must be in the application:

- description of the project (characteristics of the installation, phase of building and phase of operation) **(I)**
- description of pathways of emissions into air, land and water and amounts (by modelling) **(II)**
- description of Natura 2000 sites within the area of impact of the installation and those close to it (no. and official name of the sites) **(III)**
- description of possibly affected Natura 2000 sites: for each of them the protected natural habitat types and species (priority / non-priority), the current state, the conservation targets and development objectives, the sensitivity of habitats and species against the effects of the project and the existing loads e.g. of nitrogen compounds **(IV)**
- description of possible (direct and indirect) effects of the project within Natura 2000 sites, on natural habitats and species **(V)**
- description of other projects which might have direct or indirect effects on the Natura 2000 sites **(VI)**
- description of possible (direct and indirect) effects of the project - in combination with other projects – on the protected site and the natural habitat types and species **(VII)**

For the appropriate assessment the topics are the same but with much more details and with overall statement concerning the significance. **(VIII)**

Normally there is no differentiation between normal and integrated projects (including mitigation measures), besides eventual additional monitoring information (questionnaire 3.2.2). “Integrated project” means that the project does right from the beginning include measures to avoid significant effects on nearby Natura 2000 sites. For example in The Netherlands IED farm projects generally have to be neutral concerning the nitrogen balance. Consequently the installations for intensive rearing of pigs and poultry are alredy planned with abatement devices such as scrubbers. In Germany some federal states (Länder) force operators of farm projects to plan IED pig or poultry farms with scrubbers.

With exception of Poland and Ireland all countries participating in the project allow that the information from an EIA procedure can be used in the applications for HD screening or the appropriate assessment. (questionnaire 3.2.3).

The responses to the questionnaire do not show significant differences between the requirements in the application documents for new and existing installations. For the **change of an existing installation** only the difference between the situation at the date of notification of the Natura 2000

site and the new situation is relevant for the estimation of the effects on the Natura 2000 site and for establishing more permit conditions (questionnaire 3.2.4).

In some Member States **information** for the documents to be submitted / for carrying out the AA is patly **supplied** by **competent authorities**, such as the level of exposure of habitats and species to emissions. For some other information the **proponent** is responsible and it must be supplied by (**certified/accredited**) **experts**.
For example the Scottish Environment Protection Agency (SEPA) carries out the monitoring, assessement and regulation the effects of atmospheric emissions on habitats, using the Simplified Calculation of Ammonia Impact Limits (SCAIL) Project, especially to assess pig and poultry installations. They also use the UK Air Pollution Information System (APIS). APIS is a searchable web database that incorporates available research on air pollution and its environmental impacts.
http://www.sepa.org.uk/air/process_industry_regulation/habitats/apis.aspx

8.1.1 Overview - Information to be submitted in permit procedures in participating countries (questionnaire 3.2.1 – 3.2.5)

The answers concerning the required content of permit applications were differing but they allowed for identifying the following main points:
1. General description of the plan / project: characteristics of the installation, description of effects during the phase of building and the phase of operation (land take / consumption, the distance from the Natura 2000 site, the protection objectives, natural resources requirements; emissions into soil, water and air; extent of the excavation works, transportation demands, the dimensions of the construction, operation or removal; changes in an existing installation that must be evaluated; information concerning proponents such as contracts and the majorities for the determination of the boundaries of the project.

2. General description of other plans / projects which might have direct or indirect effects on the Natura 2000 sites together with the plan/project under analysis;

3. Emissions arising from the plan / project: Type, timing (whether continuous or intermittent), direct and indirect, and amounts of emissions into air, land and water and amounts (modelling) and environmental quality monitoring (air, water, etc.);

4. Status of qualifying features of species and habitats: Status of qualifying features (priority and non priority species and habitats) within the area of impact of the installation**,** the current state, the conservation targets and development objectives, the sensitivity of habitats and species against the effects of the project the existing loads e.g. of nitrogen compounds, and description of possible (direct and indirect) effects of the project within Natura 2000 sites, on natural habitats and species**;**

5. Cumulative effects with other plans and projects: description of possible (direct and indirect) effects of the project in combination with other projects – on the protected site and the natural habitat types and species;

6. Alternatives to the plan / project;

7. Mitigation measures;

8. Plan of follow-up measures;

The applicant should supply the information. In Germany it is common practice that he contracts consulting companies for writing the documents. Normally they hire experts to work on the documents concerning nature conservation issues. If possible and necessary, authorities provide available information.

For the evaluation of plans and projects that might affect Natura 2000 habitats and species authorities need information according to the stage of the procedure. For screening the information mentioned under point 1 are needed. If the effects do not reach the site the assessment is finished with the conclusion that there are no effects. If the effects may reach and have impact on the site an appropriate assessment has to be carried out. For the assessment of the effects the authority needs criteria for significance related to the individual effect to make the decision.

The definitions of Art. 1 HD include a number of criteria, e.g. negative effects on the distribution and abundance of species population, reduction of the natural range of species, alteration of population dynamics of species, species and habitat loss. There are a few standards of significance that are generally acknowledged, e.g. for loss of habitat, loss of species. In many other cases authorities look for applicable criteria. They find them in scientific studies or hire experts from universities or other organisations to elaborate them, e.g. for the assessment of the influence of fertilisers (NO_x and NH_3), influence of acidifying substances, influence of noise emissions on birds ... Here the big difficulty is that there is often no defined and measurable relation between cause and effect, especially concerning pollutants like heavy metals, small amounts of additional fertilising substances coming in from industrial projects.

Carrying out studies for an individual project is time consuming. More exchange of experience on methods and applied sgnificance criteria would be helpful and allow for defining smart (simple, measurable, appropriate, realistic / relevant, time-bound) generally acknowledged standards.

8.2 Salami Slicing

All Member States show concerns about **salami-slicing** of agricultural and industrial installations. Salami-slicing means that one or several promoters split one big project (or a change in an existing project) into various small projects to escape falling under the scope of legislation such as the Environmental Impact Assessment or the obligation to carry out an AA according to the Habitats Directive. In case of salami-slicing the authority should address it directly and point out that this cannot be accepted. If the case would go to court the permit might be suspended.

The UK stated that guidance of the Department for Environment, Food and Rural Affairs (Defra) includes how competent authorities should work together to prevent salami slicing of industrial installations. In Portugal legislation for EIA tries to prevent “salami slicing” by establishing the

possibility for a screening decision on project types listed in Annex II of the EIA Directive but not meeting the thresholds established given its nature, location and characteristics that may have significant environmental impacts. In these cases there is the possibility for a joint decision from the Minister of the Environment and the Minister competent in the field of the project to subject it to the EIA procedure.

Spain has provisions of legislation in place to subject any existing installation to a new IED or EIA procedure when changes are considered to be substantial (more than 50 % increase in capacity, resources consumption, waste production), but also to assessment of cumulative effects when the same proponent submits applications for two or more installations. For example proponents of wind farms may be asked to change their projects in order to share some infrastructure. In the Dutch legislation there is a very precise definition of an activity or installation. The name is “inrichting”. It’s practically impossible to split an installation in two or three new ones just to acquire more emission rights. When a company/an installation nevertheless splitts, rights split as well and new permit procedures should be started. In Germany the “Federal Ordinance on Installations Needing a Permit According to the Federal Immission Control Act” defines what an installation is. In practice it is possible to build installations with different owners on neighbouring sites but the permit authority has to check the contracts of the companies and the majorities to identify and prevent the splitting. If one of the owners who is involved in the different companies has the majority plus the overruling influence on them and the same machines or supporting devices are used for operating the installations of the different companies it is one installation.

8. 3 Permit Conditions

The **requirements** defined by the **authority competent for nature conservation** are usually **mandatory** and binding in all Member States.
The answers to the questionnaire concerning the general overview did not deliver good / convincing information on permit conditions directly related to the Natura 2000 site(s) or protected species in the vicinity of the installation. Possible reasons for it may be: The project does not have significant effects on the site either because the distance is high enough or the technical measures that are part of the project are well enough to prevent any danger for the site. In these cases the normal environmental permit conditions with emission limit values (ELVs), monitoring and reporting obligations are sufficient.

For example Montenegro (ME) reports that the **permit** shall contain **conditions** relating to (questionnaire 3.3.1):

1. Implementation of best available techniques or other technical requirements and measures;
2. Measures contained in the Environmental Impact Assessment Study;
3. Emission limit values for pollutants determined for the relevant installation;
4. Measures of air, water and soil protection;
5. Measures relating to management of waste generated during the operation of the installation;
6. Measures relating to reduction of noise and vibrations;
7. Measures relating to the efficient energy consumption;

8. Requirements relating to monitoring of emission with:
9. The specified methodology;
10. The defined frequency of measuring;
11. The defined rules for interpretation of measuring results;
12. The set obligation to submit the data to the competent authority;
13. Measures for prevention of accidents and elimination of their consequences;
14. Reduction of pollution, including the transboundary environmental pollution;
15. Measures planned for start-up, for momentary stoppages in cases of disruption in functioning of the installations as well as for termination of operations;
16. Undertaking of measures of protection of the environment after the final termination of activities aimed at avoiding the risk of pollution and returning of the site into the satisfactory status;
17. Way, frequency and scope of data contained in the report that shall be submitted to the competent authority in accordance with the regulations;
18. Results of the review of conditions and obligations set by the permit;
19. Other specific requirements.

These conditions are related to IED permitting. They do not explicitly refer to avoiding derogation of the site or population of protected species. A number of them support at the same time the protection of sites.

Specific permit conditions may be necessary for individual sectors. For example the operator of a wind farm may get the obligation to monitor the bird accidents / hazards and if the critical mortality is reached the installations have to stop operation for a certain time of migration. But the item of sector specific permit conditions will be explored a little bit more in detail in the chapters on best practice examples.

8.4 Follow-up measures

The conditions concerning follow-up measures related to Natura 2000 sites are usually incorporated into the permit. Montenegro (M**E)** reports **obligations** of the **operator** (questionnaire 3.2.6 and 3.3.2): The operator shall

1. Act in compliance with conditions set by the permit;
2. Submit monitoring results to the competent authority;
3. Inform the competent authority about all changes in operation, namely functioning of the installation or an accident, with possible visible impacts on the environment or human health;
4. Submit to the competent authority the annual report on execution of activities that the permit was issued for;
5. Inform the competent authority on the planned change of Operator;
6. Execute all measures that the competent authority prescribes upon termination of validity of the permit.

These follow-up measures are again general and related to IED permitting. They do not explicitly refer to Natura 2000 sites or population of protected species. As mentioned above the item of sector specific follow-up measures will be explored a little bit more in detail in the chapters on best practice examples.

9. Consultation of the public / information available to the public

The main questions in this chapter are: a) Which information should be available to the public? and b) In which phase should the public be consulted? (questionnaire 1.1.3)

Considering provisions of **transparency of decisions** concerning the Habitats Directive implemented in national legislation the text of Article 6, par. 3 of Habitat Directive should be reminded. *"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."*** This means that public consultation is an option and in the text of the Directive it is only considered for the projects subject to appropriate assessment and does not include the plans and projects that are "not likely to have a significant effect" (questionnaire1.1.3).

When the procedures follow an EIA public consultation is mandatory and all relevant information, including the final decision is available to the public.
For projects that are subject to appropriate assessment, but not included in an EIA procedure, some countries state that the final decision is a public document because although there are no specific provisions concerning the public access to decisions on the Habitats Directive there are acts on access to administrative documents that must be respected. We should notice that this might not mean public participation, namely if the documents are available only on request. Examples: Scotland reports that there is a public consultation process within all of the environmental permitting regimes. Ireland states that all decisions of the competent authority must be made available on a website and circulated to applicants and third parties.
The answers to the questionnaire do not specify if the decisions concerning projects or plans "not likely to have a significant impact" are also available to the public on a public site on the internet (questionnaire 1.1.3).

Conclusions: Generally the citizens have access to information about permitting and environmental monitoring according to the Aarhus Convention. The information / involvement of the public is different in the countries. It depends on the national administrative laws and procedures. Policy makers decided for active involvement with publishing on the internet and / or public hearings and passive involvement by giving information on demand.

10. Follow-up measures and Natura 2000 in Inspections

10.1 General aspects

The Council Directive 92/43/EEC of 21 May 1992, on the conservation of natural habitats and of wild fauna and flora does not specify the permitting, monitoring and inspection process. In general, Member States integrate this permitting, monitoring and inspection on the environmental regulation process. The answers to the questionnaire considered all environmental impacts and not specifically impacts to Natura 2000 sites and species, perhaps because they are related. The permits (or in some

countries the decision on environmental conditions concerning EIA) incorporates requirements concerning Natura 2000 items, namely monitoring of emissions and ecological impacts.

The Directive aims to maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest. Those definitions are included in Figure 5.

Concerning the conservation of natural habitats and of wild fauna and flora Art. 2 of the Council Directive 92/43/EEC of 21 May 1992 states:

Article 2

2. Measures taken pursuant to this Directive shall be designed to maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest.

AND WHAT IS A FAVOURABLE CONSERVATION STATUS? *Note the definition in Article 1*

(a) *conservation* means a series of measures required to maintain or restore the natural habitats and the populations of species of wild fauna and flora at a favourable status as defined in (e) and (i);

(e) *conservation status of a natural habitat* means the sum of the influences acting on a natural habitat and its typical species that may affect its long-term natural distribution, structure and functions as well as the long-term survival of its typical species within the territory referred to in Article 2.
The conservation status of a natural habitat will be taken as 'favourable' when:
— its natural range and areas it covers within that range are stable or increasing, and
— the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and
— the conservation status of its typical species is favourable as
defined in (i);

(i) *conservation status of a species* means the sum of the influences acting on the species concerned that may affect the long-term distribution and abundance of its populations within the territory referred to in Article 2;
The *conservation status* will be taken as 'favourable' when:

- population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and
- the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and
- there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis;

Figure 5: The favourable conservation status, the overall aim of the Hbitats Directive as stated in Article 2 HD.

Member States must take measures to maintain or restore a favourable conservation status of habitats and species. **Article 11 of the Directive** states that Member States shall undertake surveillance of the conservation status of the natural habitats and species referred to in Article 2 with particular regard to priority natural habitat types and priority species. Nevertheless **this surveillance is at a national level and might not be adequate** to assure that at special areas of conservation, there is no deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated. This kind of surveillance is general and not focussed on the effects of a specific industrial or other activity at a determined location.

Information on the conservation status of habitats and species as well as the conservation objectives of an individual site can be found in its Standard Data Form. If the information is poor or rather old

monitoring of the status might be necessary for an individual permit procedure. **The status of conservation of habitats and species** and of the environment (air, water, soil) might be of great importance in the phase of assessing if the projects or plans will have significant effects and for defining conditions and follow-up measures in the permits or imposing restrictions.

This can be done by gathering knowledge about deterioration of natural habitats and the habitats of species as well as concerning disturbance of the species for which the areas have been designated, and if possible to relate it with the effects of projects and plans.

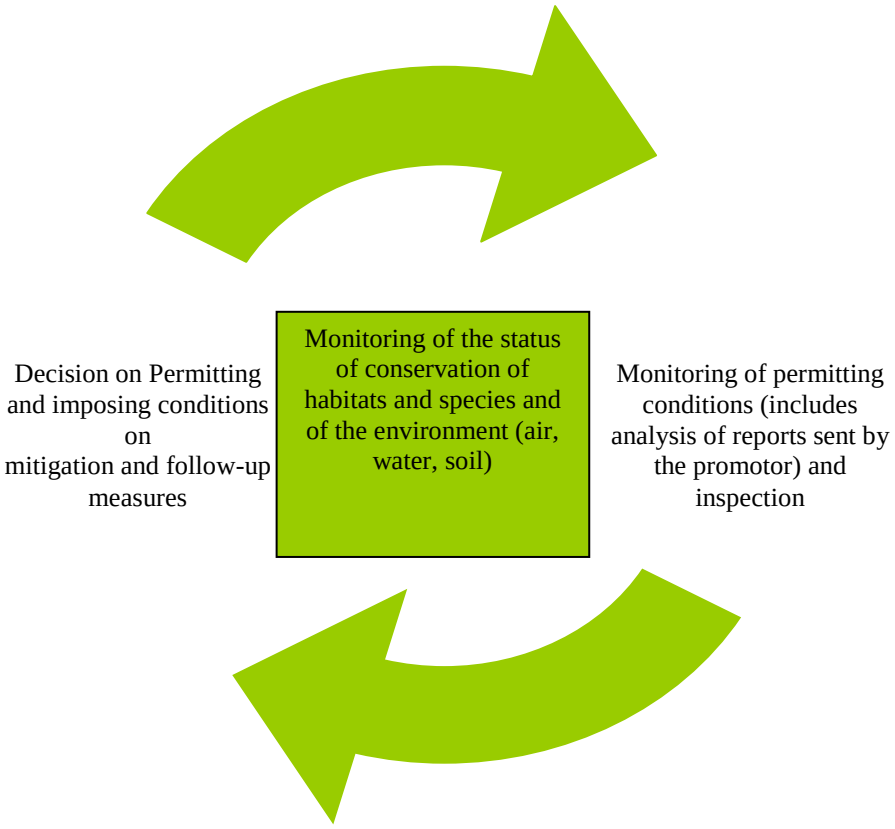


Figure 6: Relation between permitting and monitoring of permit conditions and monitoring of the status of conservation of habitats and species and of the environment.

Some MS refer to water/air quality data, species indicators or a broad spectrum of indicators and others state that there is no comprehensive program for monitoring Natura 2000 sites in relation to the effects of industrial installations.

Spain refers to the indicators:

- Area occupied by the natural habitat types included in the Annex I of HD.
- State of the structure and the specific functions of the natural habitat types included in the Annex I of HD.
- Continuity and connectivity among the different natural habitat types.
- Area of presence, number of populations and population's size.

Spain also includes the document *Designing of a methodology to apply to conservation status indicators in Spain* (Simón, J.C., García, R., Del Barrio, G., Ruiz, A., Márquez, S., Sanjuán, M.E. 2013. Ministerio de Agricultura, Alimentación y Medio Ambiente. Madrid. 318 pp.). These indicators are

designated for carrying out the monitoring that has to be done every six years. They may provide support in individual permit procedures respectively the permit conditions in specific permit procedures for an industrial installation.

Scotland mentions specific methods employed that have been agreed at UK level with the other nature conservation authorities for England, Wales and Northern Ireland, through a process known as “Common Standards Monitoring”. SEPA is in the process of developing specific ecological monitoring techniques to employ for monitoring particular pressures from permitted installations, the greatest priority for which is for the monitoring of nitrogen deposition effects. In Germany European documents and the documents of the Federal Agency for Nature Conservation (BfN), e.g. “Concept for monitoring of the conservation status of natural habitat types and species acc. to Habitats Directive in Germany” are used.

10.2 Practical aspects

Member States defined **follow-up measures** concerning Natura 2000 sites after having issued the permit for the installation, namely monitoring by enforcement bodies with competences in nature conservation. In Spain, environmental **inspections** are carried out if they are included in the Environmental Inspection Plan (general information on the concept for planning and organisation of inspections – IED requirement) that are approved at intervals of 6 years. It is made public on the official website of the Regional Government. The inspections are carried out regularly or when incidents and accidents are reported or complaints are submitted by citizens or NGOs. Environmental inspections can also be requested by permit issuing authorities. The inspection programme (IED requirement – list of installations with inspection intervals) is based on risks. Installations with the highest risks obtain high priority. This means a more thorough inspection and more frequent (questionnaire 3.2.6 and 3.4.1).
Montenegro (ME) states that during an **inspection** the environmental inspector shall control the following in particular:

1. The operation of new installations with respect of permit obtaining;
2. The operation of the existing installations with respect to compliance with the requests and conditions for permit obtaining set by this Law;
3. The implementation of the prescribed measures and environmental conditions contained in the permit;
4. Any change in operation, namely functioning of the installation;
5. Conducting of emission self-monitoring, monitoring results and their submission;
6. Annual reports on execution of activities that the permit was issued for;
7. Operator’s documentation related to permit issuing, extending, changing or revoking;
8. Implementation of other prescribed environmental protection measures.

These inspection tasks are general and related to IED permitting. They do not explicitly refer to Natura 2000 sites or population of protected species. As mentioned above the item of sector specific follow-up measures will be explored a little bit more in detail in the chapters on best practice examples.

Portugal and Germany report that if the competent inspector for industrial installations needs the support of the competent nature conservation authority joint inspections should be carried out.

11. Best practice examples

11.1 Supporting tools

11.1.1 Databases

In the Commission "Study on Evaluating and Improving the Article 6.3 Permit Procedure for Natura 2000 Sites" [5] it was stated that Member States do not have overall information on all assessments according to EIA, SEA and HD Directives. Consequently there is no knowledge about the percentage of projects that undergoes screening or assessment procedures. There is the impression that the majority of projects are ruled out in the screening phase. Databases might help to get an overview.

11.1.1.1 Natura 2000 and EIA database in the Czech Republic – the EIA and SEA Information System

In the Czech Republic, the EIA and the SEA process is regulated by the Act No. 100/2001. The purpose of these processes is to identify, describe and evaluate the effects of assessed plans and projects on public health and the environment in all crucial respects including impacts on fauna and flora, ecological systems, soil, geological environment, water, air, climate and landscape, natural resources, tangible property, cultural monuments and on the mutual interactions and connections between them. The aim is to mitigate their adverse impacts on the environment. This is the overall objective. In the context of EIA and SEA as part of permit procedures the aim is to obtain an objective and professional foundation for issuing a decision or measure pursuant to special regulations and thereby contribute to the sustainable development of the society.

All construction work, activities and technologies listed in Annex 1 of the Act No. 100/2001 shall be a subject to the EIA process. The EIA process (for category I projects – full EIA, for category II projects – full EIA if decided in a screening) is always carried out before a permit is issued for the project. Strategies, policies, plans or programs prepared or assigned by a public administration authority and subsequently approved or submitted for approval by a public administration authority or plans referred to in sec. 10a paragraph 1 of the Act No. 100/2001 are a subject to the SEA. Those can be e. g. national or regional strategies, development programs or municipal local plans. Also all plans or projects which may, either individually or in combination with other plans or projects, have a significant effect on the subject of protection or the integrity of a SCI or SPA are a subject to the appropriate assessment within the EIA or SEA process (sec. 45h and 45i of Act No. 114/1992).

The EIA Information System (http://portal.cenia.cz/eiasea/view/eia100_cr) has been developed and maintained by the Czech Environmental Information Agency (CENIA). This information system is designed for relevant authorities managing the framework of the whole process and for public. It is used for displaying documents related to the process on the internet (as required by the law) and for keeping records about the assessed projects, including the EIA progress.

The SEA Information System (http://portal.cenia.cz/eiasea/view/SEA100_koncepce) has also been developed and maintained by the Czech Environmental Information Agency (CENIA) and designed for public and relevant authorities under the Act on the assessment of environmental impacts in the SEA. It is used for keeping records of assessed strategies, policies, plans or programs, storing all the data and documents related to the SEA process in the same way as the EIA Information System.

As mentioned above, the EIA / SEA Information Systems allow broad public to follow the progress of the environmental assessment of plans / projects based on documents and other data displayed on the internet by the relevant authority. Information about ongoing environmental assessment processes are also published on the official notice boards of respective local self-governments (region, municipal authorities) and e. g. in local newspapers (or using other usual way).

The overview of EIA / SEA authorized experts (for the project EIA and SEA) and appropriate assessment authorized experts (for the appropriate assessment carried out as a part of the EIA and SEA process as required by Article 6.3 of the of the 92/43/EEC Council Directive) is also a part of the EIA / SEA information systems.

11.1.1.2 The “effectenindicator” – the Dutch Screening tool

11.1.1.2.1 Introduction to the “effectenindicator” - answers to 5 questions

The Dutch Ministry of Economic Affairs has developed an IT-tool for screening, called “effectenindicator” (effect indicator). In spring 2014 it has been updated concerning the disturbing effects of eutrophication and acidification by nitrogen deposition from the air and the sensitivity of habitat types and species to this disturbance.

1. What is the effect indicator?

The effect indicator “Natura 2000 - ecological conditions and disturbing factors" is an IT-screening tool for promoters, licensing authorities and planners who have to deal with activities in or near Natura 2000 sites. The effect indicator is an instrument with which potential adverse effects resulting from activities and plans can be explored. It provides information on the sensitivity of species and habitat types for the most common disturbances. This information is generic: to determine whether or not an activity is detrimental in practice must be explored in a follow-up study.

2. How can the effect indicator be used?

Promoters can use the effect indicator:

1. to determine to which disturbing factors an activity (project or action) or a plan can lead,
2. to determine which species and habitat types are in principle sensitive to these disturbing factors.

In this way the project bearer obtains an indication regarding the possible damage of the Natura 2000 site. By confronting this information with the specific characteristics of the activity and planning, combined with the location-specific data of the Natura 2000 site (protected species / habitat types and conservation objectives), he can determine whether there will be any adverse effects. He is thus motivated to decide whether further investigation is necessary.

Licensing authorities can use the effect indicator:

1. to determine in a test whether all possible disturbing factors have been considered,
2. to determine whether all potential impacts have been evaluated for an activity.

In this way, an insight into the possible effects under investigation is gained and whether a follow-up study should be carried out. It is recommended that the project initiator, the consultant and the permit authority should meet at the earliest possible stage and discuss the process.

3. For what can the effect indicator not be used?

The impact indicator gives no information about the actual harmful effects of an activity or about the significance of this.

To determine the specific level of actual effects information about the activity and the species and habitat types should be present. In order to determine the significance information on the conservation objectves is necessary. Actually significant impacts have to be identified in a further study. Such research requires qualified experience and expertise. The impact indicator gives only generic information about possible effects of the activity on a Natura 2000 site. With the impact indicator it cannot be deduced in advance whether an activity is harmful.

4. At which point of time can the effect indicator be used?

The impact indicator is used in the screening phase. A pre-test is needed when activities (projects or activities) and plans are intended to be undertaken in or (direct) near Natura 2000 areas. During this test it must be determined "whether there are any (significant) impacts on the Natura 2000 site due to the activity or plan. The impact indicator is helpful in identifying potentially occurring disturbing factors and to determine the possible effects.

5. What information can be gained by the effect indicator?

The impact indicator “Natura 2000 - ecological conditions and confounding factors" provides information about the sensitivity of all Natura 2000 species and habitat types in respect of disturbance.

Which species and habitat types are covered?

The impact indicator deals with all habitat types and species that have contributed to the limitation of Natura 2000 areas. It is about 51 Habitat types in Annex I of the Habitats Directive and 35 plant and animal species in Annex II of the Habitats Directive. Concerning the Birds it involves 44 species of Annex 1 of the Directive and 52 species covered by Article 4 paragraph 2 Birds Directive. For all these species and habitat types the Netherlands should ensure the favorable conservation status.

Which disturbing factors are included?

For the impact indicator the most common disturbing factors have been described. Disturbing factors are effects that occur as a result of activities. Think of "habitat loss” or “eutrophication”. The impact indicator distinguishes 19 disturbing factors.

When is a species or habitat type prone to a disturbing factor?

A species or habitat type is 'in general' sensitive to a disturbing factor if the disturbing factor is leading to negative effects on a species or habitat type. Negative effects may affect the favorable conservation status.

For habitat types and plant species the allocation of sensitivity is based on the optimal prevention status of the type or kind, a quantitative analysis of available quantitative data as well as abiotic

conditions for habitat types and species originally derived from expert knowledge.
For animal species where available also assumed quantitative spatial data are used. In other cases, the sensitivity is allocated through expert knowledge based on the ecological characteristics of the species.

11.1.1.2.2 Application and result of the "effect indicator"- IT tool

First the user is asked to select one or several habitat types and / or species and to select the activity (I). Then he is asked to determine one or several disturbance factors and to click the button "Show Effects" (II). The result is a "species / habitat types - disturbance factors matrix" which indicates the sensitivity of a species / habitat type for different disturbance factors (III).

I. Choice of habitat/species (characterized in question 5) and activities

The following activities are covered:
introduction of species, maintenance water body / watercourse management, inundation of retention area, level management of surface water, surface water extraction, groundwater extraction, housebuilding, business, industry, line, waterway, road, cables and pipes, hunting, land-based agriculture, no land-based agriculture (greenhouses), commercial fishing freshwater, commercial fishing and coastal sea, sport fishing, water recreation, country recreation, military activities, coastal and dike improvement, dams and weirs, land reclamation by polder, method / embankments, sand and gravel extraction, oil and gas extraction, wind turbines.

II. Species-, habitattypen- and disturbance factors choice

step 1 Select one or several habitat types and / or species
step 2 Select one or several disturbance factors
19 disturbance factors are covered: 1 - Habitat Loss, 2 – Fragmentation, 3 - Acidification by atmospheric nitrogen, 4 - Eutrophication by nitrogen from the air, 5 – Sweetening, 6 – Salinization, 7 – Pollution, 8 – Drought, 9 – Rewetting of areas, 10 - Change of flow (current speed), 11 - Change in flood frequency, 12 - Change in substrate dynamics, 13 - Disturbance by noise, 14 - Disturbance by light, 15 - Disturbance by vibration, 16 - Optical disturbance, 17 - Disturbance by mechanical effects, 18 - Change in population dynamics, 19 - Conscious change of species composition.

III. The result – example

The following matrix shows the result for the site "Boetelerveld" and the activity "industry":

	1	2	3	4	7	8
Weakly buffered fens						
wet heaths						
juniper thickets						

* Nardus grasslands						
blue Grasslands						
Pioneer vegetations with beak rush						
Floating water plantain						
crested newt						

very sensitive, sensitive, not sensitive, n.v.t., ... unknown

For the activity “industry” additional information is given and for each of the disturbance factors information on the feature itself, the interacting factors and the result is provided.

11.1.1.3 The UK Air Pollution Information System (APIS) (text from SEPA website)

The UK Air Pollution Information System (APIS) is a searchable web database that incorporates available research on air pollution and its environmental impacts. APIS aims to enable a consistent approach to air pollution assessment across the UK. This free database allows users to search for information on:

- particular air pollution issues (eg acidification, euthrophication);
- pollutants (eg SO_2, NOx);
- habitats (eg native pine woodland and acid grassland);
- species/species groups (eg Scots pine, brown trout, mosses and liverworts).

In addition, the system provides quick access to overviews on the pollutants, receptors and impacts, as well as a glossary and relevant literature references.

APIS is a support tool for:

- UK conservation and regulatory agencies;
- industry;
- local authorities;
- non-governmental organisations;
- universities;
- students.

It can be used for assessing the potential effects of air pollutants on habitats and species. The information in APIS is used to inform assessments of Pollution Prevention and Control applications and to inform assessments required under the Habitats Regulations or other legislation.

Anyone interested in finding out more about air pollution effects on wildlife can also use APIS.

11.1.1.4 The Scottish screening tool for Simplified Calculation of Ammonia Impact Limits (SCAIL) (text from SEPA website)

SEPA has a duty to consider the effects on Special Areas of Conservation (SACs), Special Protection Areas (SPAs), Ramsar sites and Sites of Special Scientific Interest (SSSIs) when processing applications for, and reviews of, environmental licenses. As part of this work, the SCAIL screening tool has been developed by the Centre for Ecology and Hydrology (CEH) in co-operation with SEPA, the Scottish Government, the Environment Agency and other nature and environment protection agencies in the UK.

Under the Integrated Pollution Prevention and Control (IPPC) Directive, permits are required for pig and poultry systems with more than a certain number of livestock (40000 places for poultry, 2000 fattening pigs or 750 places for breeding sows). The SCAIL Agriculture tool was developed to provide an estimate of the amount of nitrogen deposited, in the form of ammonia (NH_3), on a habitat from the assessed livestock unit. The estimated deposition value can then be used to assess whether more complex dispersion and deposition modelling is needed to determine if the impact limits for the habitat are exceeded or not.

In June 2014 the revised SCAIL Agriculture tool was released - which originally was introduced to evaluate the impact of ammonia emissions on habitat sites; particulate matter (PM10) emissions on human health; and odour emissions on nearby receptors. The new system also automatically looks up protected sites (e.g. SSSIs, SACs) within a set radius of the source.

The SCAIL model is freely available at: http://www.scail.ceh.ac.uk/

12. Consideration of Natura 2000 aspects in sector specific permit procedures

Unfortunately the information generated by the questionnaire on Natura 2000 requirements in permitting and inspection of large combustion plants was not sufficient for being presented as best practice example. But the respondents provided enough information concerning the installations for intensive rearing of poultry and pigs (see chapter 12.1). Additionally an example of screening for a windfarm project was presented in the workshop and intensively discussed (see chapter 12.2).

12.1 Installations for intensive rearing of poultry or pigs

Table 7 provides information on the competent permitting and inspection authorities for small and big farms in the IMPEL member states.

	same	different
Authority	IT, PL, PT, NL, RO	CZ, DE, ES, HU, IE, ME, UK, UKSC, SK
Kind of authority in case of different	---	small farms: local authorities big farms: IED installations: regional or state authorities

Table 7: competent permitting and inspection authorities for small and big farms

In 5 out of 14 countries / regions the competent permit authority is the same for small and big pig and poultry farms. (questionnaire 2.1.3) In 9 others local authorities issue the permits for small farms and regional or state authorities do it for big farms and IED installations respectively.

Only four countries (Germany, Spain, Hungary and the Netherlands) provided input concerning the kind of information related to effects on Natura 2000 sites that has to be part of the application documents (questionnaire 3.2.1 c)). One answer referred to farms on Natura 2000 territories. This is a rather seldom situation. Big pig and poultry farms are generally not situated within Natura 2000 sites. In the Netherlands permit authorities for pig or chicken farms especially want exact information about ammonia emissions and exact estimations of the deposition in the Natura 2000 site.
In Scotland all pig and poultry facilities above the relevant IED (then-IPPC) thresholds were subject to screening and, if required, assessment of their likely significant effects on Habitats Directive qualifying features in special areas of conservation (SACs). A number of appropriate assessments were undertaken where a likely significant effect on a Natura site's qualifying features was identified. (The answer did not clearly point out whether the authority took the data from the existing files or who provided the information.)

In Spain applicants have to submit the following information:

- Description of the project / capacity in places,
- Annual manure management plan with
  - identification of land used for spreading the manure,
  - amount of manure used per piece of land,
  (or alternatively installations permtted by Environmental and Agriculture authorities to which the manure will be transferred)
- Manure storage infrastructure (capacity for 6 month of storage mandatory),
- Alternatives that have been considered,
- Description of the direct, indirect and cumulative effects on the site,
- Mitigation measures and compensations proposed,
- A follow-up measures plan,
- A summary of all the information submitted,

The nitrogen and phosphate deposition for each plot, depending on the crop and soil characteristics, derived from manure spread, is estimated by the environmental regional authorities following models. Critical loads for nitrogen and phosphate manure spread. Rural Affairs (Agriculture) Regional Department must issue a permit to the plot owners.
Based on all this information the authorities competent for nature conservation carry out the assessment of the effects. (questionnaire 2.1.4)

In Germany the situation is similar, but for Natura 2000 purposes the focus is not so much on manure spreading. As in the Netherlands for farms one focus is on nitrogen deposition and Natura 2000 sites. Existing farms and farm projects are generally not situated within Natura 2000 sites. Application documents have to the following information:

- Description of the project

- Description of emissions and pathways of emissions
- Description of relevant Natura 2000 sites
- Description of Natura 2000 sites: habitat types and species, current state, conservation targets and development objectives, sensitivity of habitats and species against effects of the project, background exposition, Critical Loads
- Description of possible direct and indirect effects on Natura 2000 sites
- If necessary, description of other projects with direct or indirect effect
- if necessary, description of cumulative effects of the project in combination with other projects (cumulative effects from ammonia plus NOx (other installations)

Documents are provided by consultants who get the information from authorities. If it is not available they carry out own investigations.

Integrated farm projects (questionnaire 3.2.2 c) - additional monitoring information required

If the housing units of pig or poultry farms are planned not far away from protected sites project bearers often decide for integrated projects. This means that they integrate mitigation measures directly into the project. Consequently the permit authority needs information on how operators will make sure that the measures work and how it is monitored. The answers concerning this item were not very precise.

In Spain operators information on the implementation of a follow-up measures plan in projects subject to EIA has to be submitted. The results of the following controls have to be reported:
- noise emission level controls (annually),
- emissions into surface water (annually),
- emissions into soil and groundwater (every six months),
- manure management plan (annually).

Regular inspections will be carried out, as established in the IED.

In Germany a description of the current situation must be part of the permit application. For proving the long term success of the mitigation measures adequate monitoring must be carried out. The obligations become part of the permit. There are for example many pig farm projects with scrubbers for minimisation of ammonia emissions, odour and particulate matter. In these cases applicants have to describe the intended measures for maintenance of the device, how the monitoring of the proper functioning of the scrubber will be carried out and information about checks carried out by external experts (frequency and parameters ...).

Use of information from the EIA (3.2.3 c) for screening or AA

In 8 out of 10 answers it was confirmed that information from the EIA procedure can be used in the applications for screening or the appropriate assessment (UK, PT, ES, NL, DE, UKSC, HU, SK). Two denied it (IE, PL).

In Spain especially the description of the project, information about the alternatives that have been considered, description of the direct, indirect and cumulative effects on the environment, mitigation measures and compensations proposed and the follow-up measures plan can be used in the context of screening or AA.

In the Netherlands EIA data can be also used, especially when EIA gives information about emissions of ammonia and NO_x. In Germany all kind of useful information from EIA can be used. UK states that the content of the EIA information is very different to that required for the Habitat Regulation Assessment (HRA) – due to the wider nature of the EIA. However where possible all relevant material from an EIA is used in the HRA. However, due to the very specific nature of HRA assessments, we have found that often, extra information is required on top of that gathered for the EIA.

Different application documents for new and existing installations (questionnaire 3.2.4 c)
4 respondents out of 8 confirmed that there are differences between necessary application documents for new and existing installations (ES, NL, DE, HU).
For existing installations Spanish authorities want
- a new description of the project,
- a new manure management plan and new sizing of manure storage,
- new assessment of cumulative effects,
- new consideration of alternatives,
- additional description of mitigation, compensation and follow-up measures.

In the Netherlands the application date of the Natura 2000 sites for the HD (07 December 2004) submitted to the European Commission is used as reference date. For existing installations that were established before that date and since then without any change there are no further requirements. For new installations or expansions after 07.12.2004 there are more severe requirements, e.g. the implementation of air-scrubbers (95 % reduction). Another possibility is to buy or take over emission rights.

For projects of new installations Germany requires that the total amount of effects e.g. emissions) has to be taken into consideration. If an assessment of cumulating projects has to be made all projects carried out or having got a permit after the notification date of the Natura 2000 site at the European Commission are part of it. For existing installations only the difference between the situation at the date of notification and the new situation is relevant. For cumulative effects it is the same as mentioned above.

Instructions on how to avoid salami-slicing (questionnaire 3.2.5 c)) – agricultural installations
10 countries answered the general question concerning salami slicing. Five confirmed to have instructions against salami-slicing in place (ES, NL, DE, HU, PT), five gave a negative answer (UK, IE, PL, ME, UKSC). Those which have instructions refer to their general provisions for dealing with agricultural projects (see chapter 8.2). So, in general countries do not have special regulations for avoiding the splitting of installations for intensive rearing of poultry and pigs. In Germany some ferderal states (Länder) have decrees concerning the item, e.g. Lower Saxony, Schleswig-Holstein. As they are very complex and many different items have to be checked the assessment is really a challenge for the authorities.

Requirements concerning Natura 2000 sites in permits for projects of intensive rearing of poultry and pigs (questionnaire 3.3.1 c)

The project team received 10 general answers (IE, PL, ME, ES, RO, DE, NL, UKSC, HU, SK) but only 4 with direct reference to farm projects.
Dutch permits for farm installations with air-scrubbers contain requirements with operating parameters, maintenance obligations, requirements defining emission reduction rates to be achieved and emission limit values.
For integrated projects with taking a certain part of land in the vicinity of the Natura 2000 site out of farming use in Germany this has to be part of permit application. Taylor-made permit obligations are taken up into the permit and the item will be part of the inspections. If air-scrubbers are used there must be a description with technical documents in the application. The authority integrates obligations concerning maintenance, monitoring of the proper function of the scrubbers and reporting into the permit:

Requirements concerning follow-up measures related to Natura 2000 sites in inspections (questionnaire 3.4.1)
In general inspectors have to check the compliance of the installation and its operation with the permit. This applies to the requirements concerning scrubbers as well as to a change from intensive to extensive use of land in the vicinity of a Natura 2000 site.
Portugal provided information about one example of a pig farm: The operator had to build a green barrier at the perimeter of the installation. The correct implementation has to be checked in the inspection.

The Dutch approach concerning inspection and monitoring of air scrubbers
The Netherlands have big problems with high concentrations of ammonia and nitrogen oxides in the atmosphere. The major amount of ammonia comes from installations for intensive rearing of animals. The deposition of nitrogen compounds endangers the sensitive species in protected sites. A national programme for the reduction of emissions of nitrogen compounds was initiated. It includes:

- requirements concerning serious reductions of emissions in permits
- strict restrictions for emmissions that can only be achieved by using air scrubbers for farming activities
- requirements concerning effective inspection and monitoring of installations. Local authorities are responsible for supervision of environmental permits and for enforcement activities.

A description of the “programmatic approach to dealing with nitrogen emissions affecting Natura 2000 sites in the Netherlands” can be found on page 80 of the COM study [5].

In the province of Noord-Brabant the deposition of nitrogen compounds is four times higher than protected species and habitats can stand. Biodiversity decreases dramatically. The province faces an enormous concentration of intensive animal husbandry, mostly pig farms (5,5 million pigs and 2,3 million human inhabitants). The farming activities cause huge import of fodder, i.a. tapioca, soybean flour from abroad. These imports produce a gigantic surplus of nutrients and thus a high risk of environmental pollution. As a further increase of emissions of nitrogen compounds cannot be tolerated project bearers have to prove the neutrality of effects of their projects in permit applications. If they are not able to prove it from their own projects they can buy emission rights from other farmers. The use of air scrubbers is increasing. A reduction of ammonia emissions of 95 % is possible. But inspection activities showed that the operation of the scrubbers can easily be

manipulated and that announced inspections provoke fraud. The inspection frequency of once in two years is not sufficient.

In 2011 a series of 200 inspections was carried out. It revealed that only 47 % of the installations were in compliance with the permit, 12 % of the operators had not built the scrubber or the scrubber did not function. In 2012 a national investigation was carried out. Only 28 % of the installations complied with the requirements. Because of the bad results the province of Noord-Brabant decided to sharpen the inspection programme and to introduce the requirement of electronic monitoring with permanent automatic sampling and registration for the air scrubbers. For new installations it applies immediately and existing farms need to be equipped by 1 January 2016. Recorded parameters: acidity, use of electricity of pumps, conductivity of wash water and production of waste water. Authorities and farmmanagers have permanent insight into the working of these installations. On top the inspection authorities took further initiatives to improve compliance, which consist of:

- more severe punishment,
- working with the principle of faming and shaming,
- deprive illegal benefits from farmers,
- carrying out only unannounced inspections,
- encouragement of lower local authorities to take responsibilities and
- obligation to monitor electronically the operation of air scrubbers.

Intensive rearing of animals, especially pigs and poultry has become an industrial business with high environmental impacts. Farmers have problems with the proper operation, the proper maintenance of air scrubbers and with minimising emissions in general. But if they want to be further in the business they have to learn it. On the authority side the inspectors must be well trained and get the necessary resources for their work.

Conclusions conc. pig farms and Natura 2000 sites in permitting / inspection

What did we learn about dealing with Natura 2000 sites in permitting and inspection of pig or poultry farms? The questionnaire could not give the whole picture. Concerning the application documents for farm projects it was found out that the basic data to be submitted are the same. But the understanding / definition of the installation in the context of farm projects is different in the countries, some include the manure management and the land for manure spreading as well as the amount of manure used per ha of land into “the project”, others not. In others one main focus is on exact information about ammonia emissions and exact estimations of the deposition in the Natura 2000 site. The focus seems to be put on the biggest problem of the Member State. Is it necessary to adjust the approach? For “farm projects” mitigation measures often become part of the project, so that there are no significant effects on the Natura 2000 site (by means of air scrubbers, big distance to the site etc.)

What do authorities need for dealing with farm projects?

The results of the questionnaire and the workshop showed that there is indeed need for:

- a sector specific screening list,
- indicators / criteria for significance,
- recommendations / supporting documents.
- Guidance for the inspector for checking the need of a permit

- Air scrubbers are BAT and thus should be included in the BREF document and the BAT conclusions.

Some project participants recommended that Natura 2000 aspects and cutting down emissions due to the vicinity to a Natura 2000 site should be part of the revision of the permits.

12.2 Screening for a Windfarm in Galicia

The Natura 2000 screening for a Windfarm in Galicia was carried out in the context of the Environmental Impact Assessment (EIA) procedure.

12.2.1 Description of the project

Phase 1: In 1999 the operator got a permit for 28 turbines with a total power of 24 MW, 24 of them were installed (17,56 MW with 9 different models à 750 kW). 7 of the turbines were placed inside the Fragas do Eume Natural Park, the rest close to the border. The operator was obliged to monitor and report the collision fatalities of birds and bats during the operation of phase 1. Results: 1999 – 2012 one casualty in 2011. A skylark collision fatality was reported.
Phase 2: In 2012 the operator submitted an application for 2 additional turbines with a total power of 9 MW (4,5 MW for each turbine). The project was an integrated one, where mitigation measures were directly integrated into the project. For example: It was decided to limit the number of turbines to two and to locate them off the main alignment of turbines outside the Natura 2000 site.

12.2.2 Competent authority for AA is the Regional Nature Conservation Authority (RNCA): currently the General Directorate for Nature Conservation, department of Environment, Planning and Infrastructure. Regional Government of Galicia. Territorial Units of A Coruña and Lugo. The assessment was carried out on the field by both Territorial Units.

12.2.3 Appropriate Assessment:

The appropriate assessment was based on the "*Study about the effects of wind farms on bird species in Galicia and the impact mitigation plan. 200"*" commissioned by request of the General Directorate for Nature Conservation of the Regional Government of Galicia.

12.2.3.1. Impacts.

The following impacts were considered:

- Collision risk.
- Displacement and disturbance due to presence and operation of wind farms.
- Barrier effect: collision avoidance behaviour is a relatively common but still poorly understood phenomenon (Wind energy developments and Natura 2000, Guidance document. EC. 2011). Barrier effect and the collision risk are spatially mutually excluding.
- Habitat loss and actual land use change

11.2.3.2. - Species.

There are no offshore wind farms currently in Galicia and they are not foreseen in future plans. Species with exclusively marine habits were therefore excluded from the study. The remaining non-accidental 237 bird species present in Galicia were taken into account.

There is evidence of fatalities due to collisions in 52 species in Galicia (23 %) in contrast with 121 in the whole of Europe (51 %).

Species affected by disturbance and displacement are more difficult to assess due to less progress of research in this field. In Europe there is evidence of such an effect for at least 14 species of those included in the study, 9 of which are also affected by collision risk.

Collision fatalities data are included in the study for the years 2001 to 2009 (396 carcasses of 52 species reported in 116 wind energy developments). When evidence of disturbance and displacement for a species is documented in Europe the observation is included in one column of the table in the study summarising data of all affected bird species.

As a summary the most sensitive species to wind farm impacts in Galicia are listed below:

- *Buteo buteo*
- *Falco tinnunculus*
- *Circaetus gallicus*
- *Gyps fulvus*
- *Circus pygargus*
- *Ardea cinerea*
- *Asio otus*
- *Circus cyaneus*
- *Neophron percnopterus*

Texts published including population size data consulted are listed in the study.

Installations of phase 1 and phase 2 of the windfarm are situated inside priority breeding, feeding, dispersal and local concentration areas of bird species included in the List of Endangered Species of Galicia (ESLG). Some of them coincide with species referred to in Article 4 of Bird Directive.

12.2.3.3. Proposal of follow-up measures

Follow-up measures are based on the proposal of a standardized methodology by the Territorial Unit of A Coruña for the formulation of Monitoring Plans regarding the evaluation of impacts of wind farms on bird & bat populations under the title 'Minimal conditions to be established for monitoring plans regarding the control of collision fatalities in wind energy developments during the operation stage'.

Part of the permit are these minimal conditions. They pursue the objectives:

- To evaluate the actual impact of the permitted project,
- To establish corrective measures in case of significant impacts,
- To establish minimal instructions, easily to be applied and which will provide homogeneous information.

Content of the monitoring plans:

a. - A visits programme for the first 3 years of operation

b. - A visits programme from year 4 of operation until decommissioning

c. - A definition of the carcass search standardised method

The sampling unit will be a circle with a diameter equivalent to 110 % of the wind turbine rotor diameter. Each of the wind turbines will be properly identified. Carcass search will be carried out by trained searches. The use of trained dogs is recommended. The use of dogs for carcass search is mentioned in the expert document "*Dogs as a tool to improve bird-strike mortality estimates at wind farms"* [7]. A detection rate of more than 65 % for birds of quail (*Coturnix coturnix*) size will be guaranteed by search teams.

d. - A calculation of the carcass removal rate by the action of scavengers

A survey will be carried out inside sampling units in order to estimate the carcass removal rate by the action of scavengers. Rates for three groups will be estimated: one for large size birds (similar to pheasants), another for middle size birds (similar to quails) and a third one for little birds and bats.

e. - A calculation of the actual collision fatalities rate

Mathematical models scientifically validated exist as formulated by M. Huso in "*An estimator of wildlife fatality form observed carcasses"* [8] and in the article "*A new method to determine bird and bat fatality at wind energy turbines from carcass searches*" [9].

f. - A report elaboration programme

g. - Exceptional reports

h. - Alert and critical fatality thresholds for each species (as limit values in IED):

- Observed fatality rate: fatality rate of last 3 years
- Critical threshold: non acceptable fatality rate:
    - 1 % of the Galician population for species non listed in the endangered species list of Galicia (ESLG) nor in the List of wildlife species under special protection (LWSSP)
    - 0,1 % of the Galician population for species non listed in the ESLG but listed in the LWSSP
    - 0,01 of the Galician population for species listed in the ESLG
    - The value will be always 2 or more
    - The **critical threshold may change** if the status of the species changes (from not been listed in ESLG or LWSSP to been listed for instance)
- 'Galician population' is the most updated datum available as long as it has been scientifically validated (so **it can change** during the operation stage of the installations). If there are not available data of the Galician population the critical threshold will be 2.
- Alert threshold: observed fatality rate which will allow taking corrective measures before reaching the critical threshold. The alert threshold will be 50 % of the critical threshold.

i. - Procedure to follow if the observed fatality rate exceeds the alert threshold:

- Report to the RNCA
- During the subsequent year of the alert a census of bird & bat populations will be carried out in the largest area of one of the following areas:
    - the area at a distance of less than 2 km from the wind turbines
    - the area around the wind turbines equivalent to 2 times the average home range of the species in the survey area

- Establish a visits programme during the subsequent 3 years equal to a)
- The developer will take all suitable measures he/she considers to avoid reaching the critical threshold. The RNCA will be reported on the measures taken and the results of the census

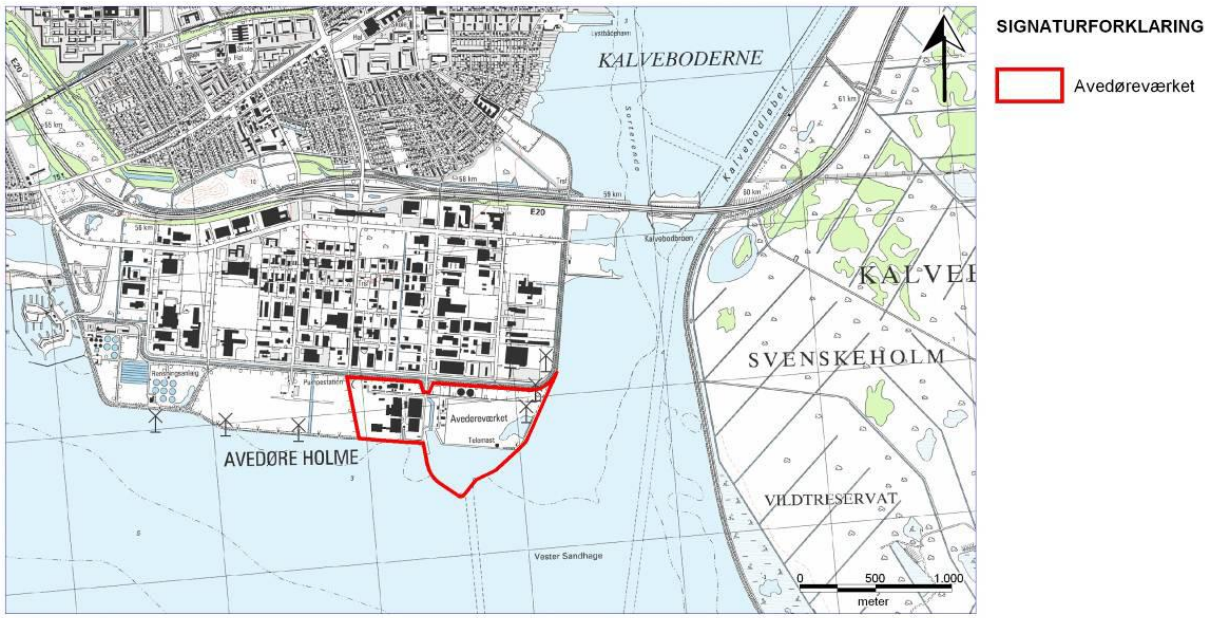
j. - Procedure to follow if the observed fatality rate exceeds the critical threshold:

- Report to the RNCA
- The census mentioned in i will be repeated and a visits programme to the turbines for the subsequent 3 will be established
- As a precautionary measure the operator will stop operating those turbines where the fatal collisions happened
- RNCA will take all suitable measures for reducing mortality rates under the alert threshold. These measures will be compulsory for the operator.

12.3 Learning from a current court decision – Danish court case concerning a permit procedure for a fuel change at a large combustion plant (LCP)

Case story

For an existing large combustion plant (LCP) consisting of two blocks designed for multi fuel burning a permit procedure concerning the change of fuel to coal in one of two blocks has been carried out. The conservation status of the nearby lying Natura 2000 site is not favorable. The greatest threats to the Natura 2000 site are eutrophication, alteration of hydrology, invasive species, land changes and disturbance of species. In relation to the marine habitat the main threats are eutrophication and the relatively high content of heavy metals and hazardous substances in the sediment.



The environmental issues associated with the fuel conversion was centered on air pollution in the form of emission of flue gases from the two block chimneys including indirect effects of air pollution (eg. deposition of heavy metals in water bodies and deposition of nitrogen in natural areas).
The Operator has given information on:

- Deposition of nitrogen and heavy metal (primary mercury) from the project to the Natura 2000 site.

- Background deposition of nitrogen and heavy metal (primary mercury) to the Natura 2000 site.
- Assessment of the effects of the depositions on the appointment basis for the Natura 2000 site.

Nitrogen deposition

The deposition for the 0-scenario was estimated to 0,22 kg N/ha/year. The main scenario would not change this deposition. The background deposition was estimated to 11 kg N/ha/year. The critical load for the most sensitive type of nature is 10-20 kg N/ha/year. The assessment result was that the deposition from the LCP is not significant and will not influence the ability to achieve favorable conservation status of habitats and species named in the identification basis for the Natura 2000 site.

Heavy metal deposition

The deposition of heavy metals to soil was estimated to be significant below background deposition. The deposition was assessed as a minor environmental impact.

The deposition of heavy metals to the marine environment was estimated to be below 10 % of water quality criteria for most metals. For mercury the deposition for the main scenario was estimated to 18 % of the water quality criterion. The deposition was assessed as a minor environmental impact on the Nature 2000 site and will not influence the conservation status of annex IV species.

Summarized the screening concluded that the impact from the total LCP is not significant at the Nature 2000 site and it will not influence the conservation status of annex IV species, which is believed to live in the surroundings of the LCP.

Environment Board of Appeal

The permit was appealed. On the same data the Board concluded:

"*The Environmental Board of Appeal conclusions are made on the basis, that the main problem in relation to the Natura 2000 site is emissions of mercury from the LCP.*

Mercury is toxic even at very low concentrations for most forms of life, as long-term exposure to mercury can cause serious chronic damage on reproduction, embryonic development and the nervous system. Chronic effects on aquatic animals, is estimated to occur in about 0.1 micrograms per liter, while acute toxic effects is estimated to occur at concentrations around 1 microgram per liters.

In addition, mercury has a high potential to become bio accumulated up through the food chain and in the environment, mercury often pose the most significant risk particularly to fish-eating top predators such as birds and marine mammals. Inorganic mercury is converted by bacteria into methyl mercury easily accumulates in the food chain via benthic animals (biota), including mussels and fish etc., onto animals higher up the food chain as fish-eating birds, seals and porpoises, where it has long-term effects."

The Environmental Board of Appeal concluded:

- That the fuel conversion at the LCP will produce a permanent increase in pollution with sulfur, nitrogen and heavy metals,
- That the LCP under the present system emit large amounts of sulfur, nitrogen and heavy metals,
- That mercury is a dangerous pollutant,
- The plant is located in the immediate vicinity of a Natura 2000 site,
- The Natura 2000 site includes several species and habitats that are in unfavorable conservation status and which potentially could be affected by the plant's pollution;
- That part of the area already is very congested by mercury pollution from other older sources.

Based on this, the Board found that it cannot be excluded that the project itself or in conjunction with the plant's current emissions pose a risk of harm to the Natura 2000 site's integrity and uncertainties may cause, that a more detailed evaluation must be made.

Before giving a permit to the applicant, there should thus be an impact assessment, which shows that from a scientific point of view it is beyond reasonable doubt possible that the project will harm the international nature conservation integrity, having regard to the conservation objectives of this.

The Environmental Board of Appeal has noted that the environmental assessments carried out in relation to the Natura 2000 site, was solely made as materiality assessments under the Habitats Directive Art. 6.3, but without detailed impact assessment under the Habitats Directive Art. 6.3

In the Boards view, it was not proven that the project itself or in conjunction with the plant's current emissions does not pose a risk of harm to the Natura 2000 site's integrity. The permit is therefore subject to a significant deficiency within the meaning of Habitats Directive Article 6, paragraph 3.

In this context the Environmental Board of Appeal made clear that it is not possible to provide an

exhaustive description of the requirements for an impact assessment under the Habitats Directive, as it will always depend on a specific assessment of the current project in terms of the affected area's appointment basis and conservation objectives, the area's nature in general and the specific ecological conditions attached to the designated species and habitats. However, the Board pointed to sources of existing data and knowledge, which for example could come from the government's own environmental monitoring, knowledge of existing and known potential future impact of hazardous substances, knowledge of causal relationships and the influence of entire ecosystems at different trophic levels, etc.

In the Boards view, the existing pre-load of habitats and species in the appointment basis for the Natura 2000 site should be described in the impact assessment, so it is possible to assess the impact of the increased impact of the project. It is in this context necessary that the development of the environmental state over a longer period of time is described in such a way that environmental robustness (or lack thereof) is known at the time when the increased load begins.

The Board also considers that the extra burden that ecosystems are exposed to, should be assessed from a process point of view. Thus, the substances - especially heavy metal - mobility within and between terrestrial, freshwater and marine habitats should be illuminated, the consequences of any mobility and accumulation particularly at high trophic levels should be treated.
On this basis the Environmental Board of Appeal repealed the permit.

13. Lessons learnt from the COM study

The project team was asked to develop lessons learned and good practices from the "Study on Evaluating and Improving the Article 6.3 Permit Procedure for Natura 2000 Sites". The study consists of the final report and "Case Studies on the Article 6.3 Permit Procedure under the Habitats Directive" [5 a]]. First of all it must be said that the COM study was not in the focus of the IMPEL project. The main objectives of the study and the IMPEL project were different. In the COM study only nature conservation authorities were involved. To the IMPEL project representatives from competent permit authorities for industrial projects as well as from nature conservation authorities made contributions. But nevertheless the project team confirms the conclusions and recommendations of the study. Especially the on-going problems have been identified.

The collection of case studies covers forestry, water management, fishery, infrastructure projects and development of land use plans. It does not provide examples of industrial installations. The descriptions deliver general information on the system in the reporting countries and on the case but do not contain e.g. concrete criteria that could be used in permit procedures for industrial installations. Consequently the IMPEL project team could not develop lessons learnt from the COM study and the case studies.

14. What the project could deliver / open questions

In the development of the questionnaire for collection of input to the project the objectives and the expected products defined in the ToR were taken into consideration. For getting good input on

dealing with Natura 2000 sites in permit procedures for concrete examples the questions concerning practical aspects were related to a) general information, b) large combustion plants and c) intensive rearing of pigs and poultry. The answers often were not concrete and differed a lot.
Table 8 provides an overview of the objectives of the ToR and what could be achieved in the project.

Objective	**What could be done**
clarification of screening criteria for industrial installations	For some examples they were discussed but a systematic evaluation could not be done. Some widely acknowledged criteria e.g. for habitat loss and nitrogen deposition do exist.
identification of assessment criteria for significant effects of industrial installations (while taking into account the linkage between Environmental Impact Assessment (EIA), AA and IED)	The answers to the questionnaire did not produce much, but concerning the examples a number of assessment criteria could be identified. The MS use different quantities / set different limit values: Pig farms – fertilizer and eutrophying substances, distance from Natura 2000 site, land take / loss of habitat LCP: emissions of substances, NOx, SO_2, .. Wind farm project: land take / loss of habitat, disturbance by noise, collision risk, barrier effect
development of supporting material for setting assessment boundaries where projects and other sources of impacts which are to be assessed together are not located close together (cumulative impacts and their assessment)	The question of cumulative impacts was discussed, but apart from the identification of difficulties no extra supporting material could be developed.

Table 8: overview of the objectives of the ToR and what could be achieved in the project.

These objectives were ambitious and due to the complexity of the of the Art 6(3) procedure only partly achievable in phase 2 of the project on "Nature Protection in permitting and inspection of industrial installations – implementation of Art. 6 (3) Habitats Directive". Especially the last point could only be discussed for wind energy projects. The reasons for this are manifold. The answers to the questionnaire differed widely, some answers were only related to IED permitting and did not refer to Natura 2000 sites. Nevertheless the evaluation of the answers allowed for the conclusions of chapter 15 of this report.

Under point 3.2 of the ToR the expected products of the project were described.

Expected products	**What could be done**
Overview and exchange of good practices for promoting compliance/ enforcement of permit conditions in accordance with Art. 6(3) of the Habitats Directive.	The questionnaire covered the topics "cooperation of authorities"and "guidance and information". Right from the beginning of the project it was obvious that a complete overview could not be produced,

	therefore the questionnaire concentrated on a general overview and two examples (LCP and pig farms).
Recommendation for MS on appropriate assessment in accordance with Art. 6(3) of the Habitats Directive in a Guidance document for IMPEL on appropriate assessment	Given the limited time frame for the project a guidance document could not be developed. General guidance documents of the Commission do exist. As the item is very complex the project team recommends to carry out an assessment of the applicability of the sector specific EU guidance document "Wind energy development and Natura 2000" and develop in a follow-up project a sort of guidance document for pig farms or for another sector.
Identification of the most frequent challenges jeopardizing the correct implementation of Art. 6(3) HD	The items could be identified in the answers concerning guidance that is still needed: Screening, objective criteria for decision support, permit conditions and follow-up measures, priority risks, ... (see chapter 13.2)
Capacity development by benchmarking appropriate assessment under Art. 6(3) HD	Due to the lack of time this could not be done in this project.
Identification for which item(s) additional tools / guidance is needed.	In this point the answers to the questionnaire were very different. I.e. guidance on screening, objective criteria for decision support, guidance for transposition of the AA-result into permit conditions and follow-up measures, sector specific guidance for permit procedures for industrial installations, guidance on priority risks,

Table 9: Expected products of the IMPEL project (point 3.2 of the ToR)

Concerning the expected products the same difficulties occured as for the achievement of the objectives. The project team had expected to get clear information on documents and data to be submitted with the permit applications in the MS, applied screening check lists (general and for the LCPs and for farm projects) and criteria. But the answers to the questionnaire were differing so much that up to now no general conclusion is possible. The answers reflect the difficulties in the implementation of HD regarding industrial installations.

15. Conclusions

15.1 General conclusions

1. Article 6 (3) permit procedure provides the main provision for prevention of significant effects of industrial activities on Natura 2000 sites and thus is the important tool for conservation of biodiversity and habitats.

2. For achieving a common understanding of the provision the key terms need to be clarified for all kinds of projects (here industrial activities). The stage-by stage approach (consisting of screening, AA, assessment of alternative solutions and IROPI) is an applicable and acknowledged procedure.
3. The European Commission has published different general and sector specific guidance documents on Article 6 (3) and (4) HD. The only one with relation to industrial installations is on "Wind energy developments and Natura 2000". As this document covers only a small number of possible effects from industrial activities a big number of uncertainties is still left.
4. The project team confirms the main findings concerning the problems with the AA, the conclusions and recommendations of the COM "Study on Evaluating and Improving the Article 6.3 Permit Procedure for Natura 2000 Sites". Measures have to be taken to further improve the application of the Art. 6.3 procedure of HD.

15.2 Main challenges

Concerning the Art. 6.3 procedure of HD for projects of industrial installations the project team identified that there is a need for measures concerning capacity building through:

- improving knowledge about and use of EU guidance – participants partly did not know the EU documents,
- initiating development of new EU guidance, especially sector specific documents,
- exchange of knowledge about screening criteria, criteria for the "significant effects" and assessment methodologies.

The following recommendations concerning Natura 2000 aspects in permitting and inspection are made:

- Information about screening and AA (carried out or not and results/consequences) should be integrated into the permit.
- Only clear and well defined conditions for monitoring the functioning of mitigation measures should become part of the permits for industrial installations. Only conditions that can be inspected and enforced are good ones.
- Dealing with activities without permits (e.g. small farms) causes problems. For the assessment of cumulative effects permit authorities should get the information they need on their effects.
- A separate IMPEL project on Natura 2000 sites in inspection activities related to industrial installations should be carried out.

15.3 Good practice

In this project the following good practices were identified in relation to dealing with Natura 2000 in permitting and inspection of industrial installations:

- good guidance (general and sector specific) and supporting tools (databases and screening/evaluation tools) on screening and for AA,
- beforehand discussions / early communication of Natura 2000 aspects in permit procedures and screening,

- good and enforcable permit conditions concerning Natura 2000 sites (concerning monitoring and reporting),
- good cooperation between competent nature conservation and permit and inspection authorities,
- It is good practice to provide good working material and training for involved authorities.

15.4 Proposals for future work of IMPEL

So far the project dealt with basic knowledge. One recipe for all different species and all situations does not exist. For future work a step by step approach is necessary.

The core team recommends to carry out a follow-up project. It should focus on:

c) The evaluation of the applicability of the EU Guidance Document "Wind energy developments and Natura 2000" and

d) The development of a sector specific guidance document on dealing with Article 6(3) HD in permitting of farm projects (pigs and poultry) (or one other sector the project team agrees on).

16. References and Literature

[1] Directive 2010/75/EU of the European Parliament and the Council of 24 November 2010 on industrial emissions (integrated prevention and control)

[2] Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild flora and fauna

[3] Directive 2014/52/EU amending 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (EIA Directive)

[4] Directive 2001/52/EC on the effects of certain plans and programmes on the environment (SEA Directive)

[5] Study on Evaluating and Improving the Article 6.3 Permit Procedure for Natura 2000 Sites, Contract N° 07.0307/2012/623211/SER/B3, Final Report November 2013

[5 a]] Case Studies on the Article 6.3 Permit Procedure Under the Habitats Directive, June 2013, ECOSYSTEMS LTD, Brussels

[6] COM guidance document "Assessment of Plans and Projects significantly affecting Natura 2000 sites" (November 2001)

[7] João Paula, Miguel Costa Leal, Maria João Silva, Ramiro Mascarenhas, Hugo Costa, Miguel Mascarenhas (2011): *Dogs as a tool to improve bird-strike mortality estimates at wind farms.* Journal for Nature Conservation 19 (2011): 202-208

[8] Huso, M. 2010: *An estimator of wildlife fatality form observed carcasses*. Environmetrics 22: 318-329

[9] Franzi Korner-Nievergelt, Pius Korner-Nievergelt, Oliver Behr, Ivo Niermann, Robert Brinkmann & Barbara Hellriegel. 2011: *A new method to determine bird and bat fatality at wind energy turbines from carcass searches*. Wildlife Biology 17: 350-363

[10] Commission note on setting conservation objectives for Natura 2000 sites (November 2012)

Annex I

Terms Of Reference (TOR) for an IMPEL project

1. Project title & version control

1.1 Name of project 2014/14			
Nature protection in permitting and inspection of industrial installations Implementation of Art. 6(3) of the Habitats Directive			
1.2 Abbreviated project name (where deemed required)			
Permitting under Art. 6(3) HD			
1.3 Version Control			V4 12/11/2013
1.4 Where was this TOR amended to current version?		**Autumn Cluster I. in Graz 29/10/2013**	
1.5 How many years do you foresee this project lasting?			1 year
1.6 Current year of project?	2014	**1.7 Approved at which G.A?**	Vilnius/ December 2013

2. Outline business case (why this project?)

2.1 Legislative driver(s) (name the Directive, Regulation etc)	
Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (Habitats Directive or HD). Directive 2010/75/EU on industrial emissions, integrated prevention and control (IED)	
2.2 Link to MASP priority work areas (indicate which of the following apply)	
Assist members to implement new legislation.	
Build capacities in member organisations including through the IMPEL review initiatives.	Yes - exploring this for the green issues
Work on trans-frontier shipment of waste.	
Work on 'problem' areas of implementation identified by IMPEL and the	IED

2.3 Description of the project (include reasons why the project is needed)

Halting and reversing the loss of biodiversity by 2020 is a priority within the European Union. The implementation of EU Nature legislation (the Birds and Habitat Directives) is essential to achieve the EU 2020 biodiversity target. However, implementation and enforcement need to be improved. A relatively high number of complaints and infringement procedures related to these nature Directives reach the EC every year. There is a lot of work to be done if we want to reach the goals for 2020: only 17% of species and habitat assessments indicate a favourable conservation status. We need to strengthen the inspection and enforcement on this item and to do so it is necessary to join forces with other Nature networks in Europe. IMPEL is willing to combine the effort of all these networks and use its experience in inspection and enforcement.

IMPEL carried out the project "**Building up IMPEL nature conservation capacities**" in 2013 where the project team identified existing networks related to the promotion of implementation of the EU nature conservation legislation and identified main challenges and difficulties via a questionnaire distributed to nature conservation capacities and NGOs. The IMPEL project in the field of nature protection should focus the work on particular problems in its second year. A major problem in the implementation of the Habitats Directive is related to the appropriate assessment under the Habitats Directive Article 6(3), which often is of poor quality, as it was pointed out by the Commission, but also by some nature conservation authorities and NGOs. Typical problem areas are, for instance, focusing on the site protection objectives during the AA, assessment of cumulative impacts, availability and analysis of the baseline conditions, drawing conclusions on the significance of the likely significant impacts in conformity with the assessment results, assessing alternatives for the sake of appropriate assessment, enforcing mitigation measures according to permits and timely communication of compensation measures to the Commission. Impact significance assessment is usually the crucial problem – to set the threshold of significance correctly, in order not to harm nature but also not to stop needed developments.

IMPEL also carried out the project "**Nature protection in permitting and inspection**" in 2013 where the project team explored the needs and requirements concerning nature protection in permitting and inspection of industrial installations. The need for more information was confirmed. Via a brief questionnaire the project team identified that in all participating countries permit writers have to consider protected areas and species. The requirement often is met with difficulties and that problems occur. Concerning Natura 2000 sites it was identified that permit writers face the following challenges:

- difficulty in assessing the likelihood of significant impacts on site's conservation objectives due to the lack of information and the management plans;
- lack of scientific studies and concrete criteria for the assessment of "significant" effects and its likelihood beyond reasonable scientific doubt
- difficulties in determining boundaries for the assessment
- difficulties in the identification of contributors for the cumulative impact assessment
- the project may include measures for mitigation. For the assessment of the

proposed measures a set of example measures would be appreciated
There is a lack of knowledge in several related fields. Therefore the project team recommends to have a follow-up IMPEL-project in this field.

Consistency of implementation of Article 6(3) and (4) of the Habitats Directive across Member States is a key not only for the effectiveness of the Directive as such, but for the realization of nature protection in the EU as a whole and reaching the European biodiversity policy targets in general, for instance with respect to the Biodiversity Strategy and the aim of halting biodiversity loss by 2020 and for the No-Net-Loss target. On the other hand, the challenges in implementing Article 6 of the Habitats Directive continue result in bad application and therefore in the failure of implementation of that Directive. Against that context, a critical issue, to be addressed by this project, is to ensure that mitigation measures that have been approved by MS authorities in accordance with Art. 6 of the Habitats Directive, are properly monitored and implemented, in compliance with permits, and they are adapted whenever necessary so that they remain fit for the purpose.

According to Articles 12 and 13 Member States have to ensure the protection of certain animal and plant species outside of the Natura 2000 network. The requirements of the Habitats Directive do not refer to industrial projects covered by the IED Directive only, but to all projects *not directly connected with or necessary to the management of the site*. Permit writers have to take into consideration protected areas under the EU and national law, priority habitats of unique value (e.g. bogs and peat fields that are not necessarily declared as protected objects) and priority species outside the Natura 2000 network.

It would be useful to collaborate with the **Working Group on Appropriate Assessment procedure**, which had meeting in Mikulov at 4-6th October 2013 and follows on from three similar workshops held in Oxford (2009), Pilsen (1011) and Dublin (2012). Seminars were organized and attended by volunteers (mostly AA practitioners) from various institutions and organizations across the EU who have felt a need for an exchange of information and best practice in the field.

European Commission in 2013 worked on the draft EC study entitled "**Evaluating and improving permitting procedures related to Natura 2000 requirements**" which conclusions and recommendations should be taken into the consideration of the project team in 2014.

2.4 Desired outcome of the project (what do you want to achieve?)

Capacity building, awareness raising, extend the network, strengthen collaboration among EU nature conservation authorities.

Bringing together IED permit writers and inspectors with nature authorities and inspectors.

2.5 Which Cluster will review this TOR (I or TFS)?	Cluster I

3. Structure of the project

3.1 Describe the activities of the project (What are you going to do?)

The project team may be composed of knowledgeable experts from five Member States. It would seem reasonable to have one or two workshops. The use of a questionnaire focusing on specific issues would appear very appropriate. However, any focused questionnaire should be sent out only after having established a list of the relevant contacts in the EU Member States. A promising way forward would be working at the level of:

1. IMPEL member contacts at national level (national IMPEL member – national nature conservation authority/ties with enforcement duties and permitting authorities (depending on the questionnaire))
2. IMPEL contacts at EU level with
   (a) ENCA
   (b) Habitats Committee
   (c) ORNIS Committee
   (d) EPA
   (e) EHF
   (f) JASPERS
   (g) Working Group on Appropriate Assessment procedure

At the project meeting between delegations of experts from environmental and nature conservation authorities should discuss the real cases and practical examples from MSs regarding the appropriate assessment in accordance with Art. 6(3) of the Habitats Directive, review methods, tools and mechanisms, checking permits, compensatory measures, etc.

The project "**Nature protection in permitting and inspection**" in 2013 was a very small in scope and participation with representatives only from 5 MS and working in the field of IED permitting and inspection and enforcement of legislation on nature protection. For collection of further input and dissemination of lessons learned and good examples the project team recommends the organisation of a workshop on the item. The focus should be on IED permitting and the inter-linkages with the HD. The objectives are:

- clarification of screening criteria for industrial installations
- identification of assessment criteria for significant effects of industrial installations (linkage between EIA, AA and IED)
- development of supporting material for setting assessment boundaries where projects and other sources of impacts which are to be assessed together are not located close together (cumulative impacts and their assessment)
- expanding the understanding of the protection requirements of HD Article 12 and 13 in respect of priority species and habitats outside of Natura 2000 network and implications to the permitting (using ECJ and good practice examples).

Given the area of expertise of IMPEL and the limited resources for this project, the project team could develop lessons learned and good practices from the study on the appropriate assessment under Art. 6(3) which has been already done under a separate contract by the Commission. The project team should focus especially on clarification of screening criteria, assessment of significant effects, the assessment of cumulative impacts and, if possible mechanisms put in place to check compliance with permit conditions regarding mitigation measures established under Art. 6(3). As regards assessment which concluded after assessing alternative solutions with IROPI and compensatory measures, only one or two

examples will be provided.

3.2 Describe the products of the project (What are you going to produce?)

6. Overview and exchange of good practices for promoting compliance/enforcement of permit conditions in accordance with Art. 6(3) of the Habitats Directive.
7. Recommendation for MS on appropriate assessment in accordance with Art. 6(3) of the Habitats Directive in a Guidance document for IMPEL on appropriate assessment
8. Identification of the most frequent challenges jeopardizing the correct implementation of Art. 6(3) HD
9. Capacity development by benchmarking appropriate assessment under Art. 6(3) HD
10. Identification for which item(s) additional tools / guidance is needed

3.3 Describe the milestones of this project (How will you know you are on track to complete the project on time?)

January 2014: identification of project team members
February 2014: development of the questionnaire
March 2014: first project team meeting
June 2014: workshop
August 2014: second project team meeting
September 2014: draft final report for Cluster i
November 2014: submission of the draft final report to GA

4. Organisation of the project

4.1 Lead (Who will lead the project: name, organisation & country)

To be determined

4.2 Project team (Who will take part: name, organisation & country)

Core team members:
5 representatives of 5 IMPEL member states dealing with both items

Workshop participants:
Experts from enforcement authorities competent for IED permitting and inspection as well as nature protection
Representatives from relevant contacts at EU level, e.g. Working group for Appropriate Assessment procedure
MS nature conservation authorities and/or other relevant authorities/bodies (e.g. inspectorates, agencies) – to be determined

4.3 Other IMPEL participants (name, organisation & country)

Workshop: 20 participants from 20 MS
4.4 Other non-IMPEL participants (name, organisation & country)
ENCA, Habitats Committee, ORNIS Committee, JASPERS, Working group for Appropriate Assessment procedure MS nature conservation authorities and/or other relevant authorities/bodies (e.g. inspectorates, agencies) – to be determined NGOs (e.g. BirdLife Europe) – to be determined

5. High level project budget projection over life of project

	Year 1	Year 2	Year 3	Year 4	Year 5
Year 2014	**17.100**				
How much money do you require from IMPEL?	17.100				
How much money is to be co-financed?					
Total cost	**17.100**				

6. Detailed cost of the project during 1st year (subsequent years see annex1)

6.1 Meeting costs	Event 1		Event 2		Event 3	
	Name : - project team meeting I.		*Name: - workshop*		*Name: - project team meeting II.*	
	Month March		*Month June*		*Month August*	
	To be determined		*To be determined*		*To be determined*	
	€	**No.**	**€**	**No.**	**€**	**No.**
Total numbers of participants		6		20		6
Travel costs/numbers	1800 (360 € pP)	5	7200	20	1800 (360 € pP)	5
Catering costs/numbers	150	6	1000 (2 days)	20	150	6
Hotel costs/number	450 (90 € pP)	5	3600 (2 nights)	20	450 (90 € pP)	5
Total costs	2400		11800		2400	

6.2 If you use a consultant what is the total cost?	0
6.3 What is the total amount of any other costs?	500

6.4 Where a consultant is used what will they do?

6.5 Where there are other costs what will they be spent on?

Project manager participation at the Cluster I. meeting

6.6 Where money is co-financed detail which organisation(s) will provide the money?

6.7 Where money is co-financed describe how that money will be spent?

7. Communication & follow-up (ensuring value for money)

7.1 How will you communicate the outputs of the project?

The final report will be made available on the IMPEL website. It will be sent to the national IMPEL coordinators. The report will also be sent to other target groups, e.g the non-IMPEL participants, e.g. ENCA, Habitats Committee, ORNIS Committee, JASPERS, Working group for Appropriate Assessment procedure.

7.2 Who will you communicate the outputs of the project to?
7.3 What follow-up will you undertake to ensure the outputs of the project are embedded? (Include how & when you intend to carryout the follow-up)
Guidance document in 2015 – establishing alternative solutions, imperative reasons of overriding public interest (IROPI) and compensation measures established under Art. 6 (4).

8. Review & approval

8.1 Which cluster meeting(s) will you discuss the project? (Include what you plan to discuss eg. progress reports and/or draft documents)?
At Cluster 1 meeting in Graz – October 2013 was discussed 3 project proposals: - EC proposal for project focused on Art. 6.3 and 6.4 of the Habitats Directive - Draft Terms of Reference of following project BINCC II. - Implementation of Art. 6.3 and 6.4 of the Habitats Directive - Draft Terms of Reference of Nature protection in permitting and inspection - focus on protected areas under EU law and protected species Cluster I members recommended to merge all project ideas into 1 joint proposal focused on permitting process under Art. 6.3 of the Habitats Directive Progress reports will be discuss at Cluster I meetings in 2014
8.2 Which General assembly will you seek to get final approval by?
December 2014

Annex II

2. May 2014

Questionnaire concerning „Nature Protection in permitting and inspection of industrial installations“

According to Article 6 par. 3 Habitats Directive (hereinafter HD) 92/43/EEC:
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 … the 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.
According to HD Articles 12 and 13 Member States have to ensure the protection of certain animal and plant species.
In 2013 IMPEL carried out the project "**Nature protection in permitting and inspection**" where the project team explored the needs and requirements concerning nature protection in permitting and inspection of industrial installations. The need for more information was confirmed. Concerning Natura 2000 sites it was identified that permit writers face many challenges.
For collection of further input and dissemination of lessons learned and good examples IMPEL intends to carry out a workshop on the item in 2014. The focus is on permitting according to the Directive on Industrial Emissions (hereinafter IED) 2010/75/EU and the inter-linkages with the Habitats Directive. The main objectives are:

- clarification of screening criteria for industrial installations
- identification of assessment criteria for significant effects of industrial installations (linkage between EIA 2011/92/EC, AA under HD 92/43/EEC and IED 2010/75/EU)
- development of supporting material for setting assessment boundaries where projects and other sources of impacts which are to be assessed together are not located close together (cumulative impacts and their assessment)
- expanding the understanding of the protection requirements of HD Article 12 and 13 in respect of priority species and habitats outside of Natura 2000 network and implications to the permitting (using ECJ and good practice examples).

This project will concentrate on the first three points.
For the preparation of the workshop the project team wants to collect some input by using the following questionnaire. The project team kindly asks you to send your answers by **27 May 2014** to the following email addresses:
Gisela.Holzgraefe@melur.landsh.de and Baranyai_Martin@hk.cizp.cz . During the workshop which is planned to take place end of June 2014 the results will be discussed. Further information about place and date of the workshop will be provided as soon as possible.
If you cannot answer questions (e.g. because it is too specific or not applicable for you), please indicate it and skip them. If any questions and problems occur, please do not hesitate to contact us.
Information about respondent, organisation and contact details

Name of respondent	Mr. / Mrs.			
e-mail address phone				
Country				
Name of your organisation				
Address of the organisation				
Is the organisation	national		regional	
	Other, please specify:			
Is your organisation / authority responsible for	Permitting and inspection of industrial installations		Nature conservation issues	
Does it carry out	Supervising tasks		Practical tasks	
Do you work in the field of:				
Nature conservation	yes		no	
Permitting and/or inspection of industrial installations	permitting		inspection	
Which is your professional background?	Nature conservation		Technical engineer	
	Other, please specify			
Which are the installations you deal with? Please note also the number of Annex I Directive on Industrial Emissions	please specify:			

The answers only represent the opinion of the respondent and reflect the circumstances in ……...

1. LEGAL BACKGROUND **1.1 Implementation of Article 6 par. 3 of the Habitats Directive (92/43/EEC)**									
1.1.1 How have the provisions of Article 6 par. 3 of the Habitats Directive been implemented in your legislation?									
Self- standing assessment	yes		no		Integrated with EIA, see 1.1.2	yes		no	
	Please note the act / directive / decree …								
	Please specify or summarise the wordings or key provisions (optional):								
1.1.2 If the assessment as required by Article 6 par. 3 of the Habitats Directive is									

	integrated in the Environmental Impact Assessment (EIA) how?					
	Please note the act / directive / decree / …					
	Please summarise the wordings of the provision (optional)::					
1.1.3	Have any provisions concerning transparency of decisions on the Habitats Directive been implemented in your legislation?					
	yes		no	.		
	Please note the act / directive / decree …					
	Please summarise the wordings of the provision (optional)::					

2	**THE AUTHORITIES AND ORGANISATIONS**									
2.1	**Competent authorities and organisations**									
2.1.1	Which ministry/authority is competent for giving guidance on dealing with Natura 2000 sites in environmental permits?									
	national		regional		municipal					
	Please specify									
2.1.2	Which authorities are competent for issuing permits for industrial installations including requirements concerning Natura 2000 sites?									
	Answer:									
2.1.3	Which authorities are competent for issuing permits for animal farms (smaller farms or intensive rearing of pigs and poultry) including requirements concerning Natura 2000 sites?									
	Answer: a) For small farms: b) for intensive rearing of pigs and poultry									
2.1.4	Who / Which organisation has to carry out the assessment of the effects of a planned installation on Natura 2000 sites?									
	the authorities competent for issuing permits for industrial installations			yes			no			
	the authorities competent for nature conservation			yes			no			

	other, please specify .....
2.1.5	Which authorities / organisations are responsible for monitoring compliance with permit conditions concerning Natura 2000 sites?
	Answer:
2.1.6	Which authorities/organisations are competent to monitor the current status of Natura 2000 sites?
	Answer:
2.1.7	Which instruments do they use, e.g. indicators?
	Please describe?
2.2	**Co-operation between authorities/organisations**
2.2.1	Which organisations/authorities are involved in Natura 2000 issues in your country? Please describe their competences?
	a) On guidance issues, b) Consulting issues c) In the permit procedure for industrial installations d) In the permit procedure for animal farms (small farms and intensive rearing of poultry and pigs
2.2.2	How is the harmonisation and coordination between the organisations/authorities referred to under 2.2.1 assured?
	Please describe:
3. Natura 2000 SITES IN THE PERMIT PROCEDURE FOR INDUSTRIAL INSTALLATIONS **3.1 Guidance and information**	
3.1.1	Do you apply the document “Assessment of plans and projects significantly affecting Natura 2000 sites – Methodological guidance on the provisions of Article 6 of the Habitats Directive 92/43/EEC” directly?

	Answer:	yes		no	
3.1.2	Is there enough information about Natura 2000 sites (such as where they are and what are their protection objectives) for the permit authorities and inspectors and is this information easily accessible?				
	Enough	yes		no	
	If no, what kind of improvement do you see?				
	Easily accessible	yes		no	
	If no, what kind of improvement do you see?				
3.1.3	Permit applications for industrial installations: Is there any national / regional guidance provided to the applicant concerning the documents and data related to Natura 2000 sites that have to be submitted to the permit authority?				
	Answer:	yes		no	
		national		regional	
	If yes, what kind of guidance				
3.1.4	What is the official status of the national / regional guidance?				
	national:	binding		Non-binding	
	regional:	binding		Non-binding	
	Please specify				
3.1.5	Do you have specific guidance for the screening / decision whether an assessment according to HD is necessary or not?				
	Answer:	yes		no	
	If yes, what kind of data has to be submitted for screening?				
	If yes, does it include information concerning the current status of conservation of Natura 2000 sites?				
	If available, please send a general or a case specific screening checklist to the project team..				
3.1.6	Do you have defined criteria in your guidance for the assessment to decide if the industrial installation “is likely to have significant effect” on a Natura 2000 site?				
	Answer:	yes		no	

	If yes, what kind of criteria? Please describe				
3.1.7 How do you decide which other plans and projects have to be taken into consideration?					
	Please describe how you proceede:				
3.1.8 Do you have defined provisions for the documentation of the screening result or the result of the assessment Natura 2000 sites according to HD?					
	Answer:	yes		no	
	If yes, please describe the information that must be reported				
3.1.9 Do you see any need for guidance for permit writers (for industrial installations) giving advice on how to deal with the effects on Natura 2000 sites or any other guidance document on HD?					
	Answer:	yes		no	
	If yes, what kind of guidance				

For the following questions (3.2. to 3.4.) please
a) give a general overview.
provide concrete examples from permitting procedures for
b) large combustion plants
c) intensive rearing of poultry or pigs.

3.2 Application documents	
3.2.1 What kind of information concerning effects on Natura 2000 sites is the operator required to include in the application?	
	a) General overview:
	b) example 1:
	c) example 2:
3.2.2 In case of integrated projects (including mitigation measures) what kind of additional monitoring information is required?	
	a) General overview:
	b) example 1:
	c) example 2:

3.2.3 Can information, e.g. from the EIA procedure, be used in the applications for the screening or the approprite assessment?					
	Answer:	yes		no	
	If yes:				
	a) General overview: (e.g. which information be used in this field …)				
	b) example 1:				
	c) example 2:				
3.2.4 Are there any differences between the requirements in the application documents for new and existing installations?					
	Answer:	yes		no	
	If yes:				
	a) General overview:				
	b) example 1:				
	c) example 2:				
3.2.5 Do you have any instructions on how to avoid salami-slicing of industrial / agricultural installations?					
	Answer:	yes		no	
	If yes:				
	a) General overview:				
	b) example 1:				
	c) example 2:				

3.2.6 Do you have defined follow-up measures concerning Natura 2000 sites after having issued the permit for the installation?					
	Answer:	yes		no	
	If yes:				
	a) General overview:				
	b) example 1:				
	c) example 2:				

3.3 Permit conditions					
3.3.1 How are the requirements concerning Natura 2000 sites incorporated into the permit?					
	a) General overview:				
	b) example 1:				
	c) example 2:				
3.3.2 Are conditions concerning follow-up measures related to Natura 2000 sites incorporated into the permit?					
	a) General overview:				
	b) example 1:				
	c) example 2:				

3.4	**Follow-up measures**
3.4.1	How are the requirements concerning follow-up measures related to Natura 2000 sites incorporated into the inspection work?
	a) General overview:
	b) example 1:
	c) example 2:

Additional comments:

Proposals for the workshop:

IMPEL Project „Nature Protection in permitting and inspection of industrial installations“

ANNEX III

SUMMARY OF ANSWERS TO THE QUESTIONNAIRE

r

Information about respondent, organisation and contact details

Responses has been delivered from following countries:

IE - Ireland	DE – Germany	CZ – Czech Republic
UK – United Kingdom	IT- Italy	UK SC – Scotland
PL – Poland	NL – Netherlands	HU - Hungary
ES – Spain	ME – Montenegro	SK - Slovakia
PT – Portugal	RO – Romania	

Norway announced that as a non-member country is not following Habitats Directive

Denmark (Danish EPA) announced that they have no capacity to fill the questionnaire

The German respondent states that the answers mainly reflect the situation in Schleswig-Holstein and do not stand for all federal states.

Is the organisation	National	UK, IR, PL, PT, ME, CZ, UKSC, HU, SK	regional	PL, RO, ES, NL, DE, HU
	Other, please specify: RO – competent rover basin			
Is your organisation / authority responsible for	Permitting and inspection of industrial installations	UK, IR, PL, PT, ME (Only for Permitting of industrial installations), ES, RO, NL, DE, CZ (Ministry – see 2.1.2., Inspectorate - only inspection), UKSC, HU, SK	Nature conservation issues	UK, IT, IE, PL, PT, ME, NL, DE, CZ, HU
	NL - **The province is responsible for certain Nature restoration and conservation; the execution of these projects is delegated to several NGO's and civil services**			
Does it carry out	Supervising	UK, IT,	Practical	UK, IE,

	tasks	IE, PL, PT, ES, RO, NL , DE, CZ (ministry), HU UKSC, SK	tasks	PL, PT, ME, ES, RO, NL, CZ (inspectorate), UKSC
Do you work in the field of:				
Nature conservation	Yes	UK, PL, PT, CZ, HU	No	IE, PT, ME, ES, UKSC
Permitting and/or inspection of industrial installations	permitting	UK, IT (DVA), IE, PT, ME, ES, RO, DE, UKSC, HU, SK	inspection	UK, IT (DVA), PL, PT, ES, RO, NL, DE, UKSC, HU, SK
	NL - **My function is policy advisor supervision and enforcement nature legislation**			
Which is your professional background?	Nature conservation	UK, IT, PL, CZ, HU	Technical engineer	PL, PT, ME,RO, UKSC, SK
	Other, please specify			
	IT – Staff: An architect and two biologists IE – Agricultural Science ES - 1 biologist (María Milagros Pereira Carnero) and 2 Forestry engineers (Gonzalo Perales Garat and Iñaki Bergareche Urdampilleta). **NL - Environmental engineer / Spatial planner** **Agricultural/botanic engineer** DE – chemist CZ – Forestry engineer			
Which are the installations you deal with? Please note also the number of Annex I Directive on Industrial Emissions	please specify: UK - My role as National technical conservation advisor means that I work with all installations across all sectors. IT – DVA IE - All – I offer guidance on Habitats Directive compliance for inspectors engaged in permitting under the IED. PL - 1, 2.4, 3.5, 4.1, 5.4, 6.1, 6.5, 6.6, 6.7 PT - Answer by IGAMAOT: All installations that can have environmental impacts. Answer by ICNF: Any installation provided it is located inside a Natura 2000 area or has been considered as likely to have a significant effect thereon. ME - 1.Energy industries			

	1.1.Combustion of fuels in installations with a total rated thermal input of 50 MW or more 2.Production and processing of metals 3.Mineral industry 5. Waste management 5.4. Landfills, as defined in Article 2(g) of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste(1) OJ L 182, 16.7.1999, p. 1., receiving more than 10 tonnes of waste per day or with a total capacity exceeding 25 000 tonnes, excluding landfills of inert waste ES - Installations located in the Province of A Coruña included in: - Annex I IED installations; numbers 6.6, 6.4, 2, 3, 5, 4, 1, 6.1, 6.7, 6.8 and 6.5 (ordered by number of installations in the Region) which hold an integrated environmental permit. - Other installations and activities not included in Annex I IED, giving rise to emissions, especially waste with the focus on hazardous waste. Some of these installations/activities hold a specific environmental permit (for instance to store or to manage waste; to emit polluting substances to air, water or soil below certain levels etc.). Other installations/activities are required to register. The permit conditions and compliance with legislation of these are checked and enforced. RO - The Romanian water authority is involved in permitting and inspection of industrial installations under the IED Directive, Annex I, and WFD. NL - We are policy advisor supervision and enforcement issues also concerning nature legalisation. DE - all kinds of installations of Annex I UKSC - All activities prescribed in Annex I to Directive 2010/75/EU on industrial emissions (hereinafter 'the IED') HU - The modification of the Government Decree No. 314/2005. (XII. 25.) SK - all of which are listed in Annex I IED

IT – without identification of respondent

PL – without identification of respondent

Name of respondent	Mr Craig Rockliff

e-mail address phone	craig.rockliff@environment-agency.gov.uk
Country	United Kingdom
Name of your organisation	Environment Agency
Address of the organisation	

Name of respondent	Mr. Donal Grant
e-mail address phone	d.grant@epa.ie 00353 53 9060600
Country	Ireland
Name of your organisation	Environmental Protection Agency
Address of the organisation	PO Box 3000, Johnstown Castle Estate, Co. Wexford, Ireland.

Name of respondent	Mr. / Mrs. IGAMAOT: Mrs. Ana Garcia ICNF: Mrs. Paula Sarmento
e-mail address phone	IGAMAOT: agarcia@igamaot.gov.pt/00351213215500 ICNF: paula.sarmento@icnf.pt / icnf@icnf.pt / 00351213507900
Country	PORTUGAL
Name of your organisation	IGAMAOT - General Inspection for Agriculture, Sea, Environment and Spatial Planning ICNF - Institute for Nature and Forest Conservation (Instituto da Conservação da Natureza e das Florestas, ICNF)

PT - Please note that answers to the questionnaire include also feedback from ICNF, but also from 3 Coordination Commission for Regional Development (CCDR Norte, Centro, Alentejo and Algarve) and from the Portuguese Environmental Agency

Name of respondent	Mr. / Mrs. Dragan Asanovic
e-mail address phone	dragan.asanovic@epa.org.me
Country	Montenegro
Name of your organisation	Environmental Protection Agency
Address of the organisation	IV Proleterske 19

Name of respondent	Ms María Milagros Pereira Carnero Mr. Gonzalo Perales Garat Mr. Iñaki Bergareche Urdampilleta
e-mail address phone	maria.milagros.pereira.carnero@xunta.es gonzalo.perales.garat@xunta.es inaki.bergareche.urdampilleta@xunta.es
Country	Spain
Name of your organisation	Regarding Milagros Pereira Carnero and

	Gonzalo Perales Garat: The Regional Government of Galicia. Department of Environment, Planning and Infrastructures. General Secretariat for Quality and Environmental Assessment (hereinafter the Regional Environmental Authority). Regarding Iñaki Bergareche Urdampilleta: The Territorial Unit of A Coruña Province of the Regional Environmental Authority. (1)

Name of respondent	Mrs.Giana Popa , Mr. Attila Notarius
e-mail address phone	giana.popa@dast.rowater.ro; attila.notarius@sgasm.dast.rowater.ro
Country	Romania
Name of your organisation	**Somes Tisa River Basin Administration,** National Administration "Apele Romane" (Romanian Waters Authority
Address of the organisation	Vanatorului str. No.17, Cluj Napoca, Cluj county

Name of respondent	Mr. Han de Haas en Rob Segers
e-mail address phone	jmdhaas@babant.nl +31 73 681 22 29 rsegers@odbn.nl +31 6 46 93 56 39
Country	The Netherlands
Name of your organisation	Provincie Noord-Brabant (Province of Brabant)
Address of the organisation	Brabantlaan 1, 's-Hertogenbosch

Name of respondent	Mrs. Gisela Holzgraefe
e-mail address phone	Gisela.Holzgraefe@melur.landsh.de +49 431 988 7133
Country	Germany
Name of your organisation	Ministry for Energy, Agriculture, the Environment and Rural Areas of Land Schleswig-Holstein
Address of the organisation	Mercatorstr. 3 24106 Kiel

DE - The answers only represent the opinion of the respondent and reflect the circumstances in Schleswig-Holstein

Name of respondent	a) Mr. Martin Baranyai b) Mr. Petr Havel

e-mail address phone	a) Baranyai_Martin@hk.cizp.cz +420 731 405 210 b) Petr.Havel@mzp.cz +420 267 122 925
Country	Czech Republic
Name of your organisation	a) Czech Environmental Inspectorate b) Ministry of the Environment of the Czech Republic
Address of the organisation	a) Regional Inspectorate Hradec Kralove Resslova 1229, 500 02 Hradec Kralove b) Vršovická 65, 100 10 Prague 10

Name of respondent	Mr. K. McAndrew
e-mail address phone	Keir.mcandrew@sepa.org.uk
Country	Scotland
Name of your organisation	Scottish Environment Protection Agency (SEPA)
Address of the organisation	Strathallan House, Castle Business Park, Stirling FK9 4TZ, UNITED KINGDOM

Name of respondent	Mr.Zoltán Szentmiklóssy dr.
e-mail address phone	orszagos@zoldhatosag.hu +36-1-2249-100
Country	Hungary
Name of your organisation	Regional Environment Protection and Nature Conservation Inspectorate, Ministry of Rural Development, National Environment Protection and Nature Conservation Inspectorate
Address of the organisation	H-1016 Budapest, Mészáros str. 58/a. H-1055 Budapest, Kossuth square 11.

Name of respondent	Mr. / Mrs. Peter Šimurka
e-mail address phone	peter.simurka@sizp.sk
Country	Slovakia
Name of your organisation	Slovak Inspectorate of the Environment
Address of the organisation	Karloveská 22, 842 22 Bratislava

The answers only represent the opinion of the respondent and reflect the circumstances in ……...

1. LEGAL BACKGROUND **1.1 Implementation of Article 6 par. 3 of the Habitats Directive (92/43/EEC)**
1.1.1 How have the provisions of Article 6 par. 3 of the Habitats Directive been

implemented in your legislation?

NL - These provisions are integral translated and incorporated in the national "Natuurbeschermingswet" (national law of nature protection).

Self- standing assessment	yes	UK, IT, PT, NL, DE, UKSC, HU	No	ME, ES	Integrated with EIA, see 1.1.2	yes	UK (n/a), IT, PL, PT, ES, RO, CZ, HU	No	ME

Please note the act / directive / decree …

UK - The Environment Agency has a detailed process to ensure that the Article 6 part 3 is fully considered with all plans, permissions and projects that we either permit or undertake ourselves.
IT – Art. 5 DPR 357/97
IE - European Communities (Birds and natural habitats) Regulations, 2011
PL - The Act of 3 October 2008 on sharing information about the environment and its protection, public participation in environmental protection and environmental impact assessment
PT - Answer by IGAMAOT and ICNF:
Decree-Law n.º 140/99, of 24th of April, ammended by the Decree-Law n.º 49/2005, of 24th of February, and by the Decree-Law n.º 156-A/2013, of 8th of November.
ME - Law on Nature Protection, (Official Journal of MN, No 51/ 2008) article 12 and 13
ES- 1. - Article 45.4 of the Spanish Parliament Act 42/2007 of 13 December 2007 on the conservation of natural heritage and of biodiversity (hereinafter NCSL).
2. - Articles 6 (on SEA) and 7 (on EIA) of the Spanish Parliament Act 21/2013 of 9 December 2013 on the environmental assessment (hereinafter EASL).
3. - Article 4 of the Regional Government of Galicia Decree 37/2014 of 27 March 2014 by which the sites of Community importance of Galicia are designated as special areas of conservation and the Master Plan for the Natura 2000 Network of Galicia is approved (hereinafter Natura 2000 MPRG).
RO - Order 135/2010 approving the methodology for the application of environmental impact assessment for public and private projects
NL - **Art 19 of the national Law of natura protection gives execution to article 6, par 3 of the HD. All details of article 6 are fully integrated in art. 19.**
DE - Federal Nature Conservation Act in the version promulgated on 06 August 2009 (Federal Law Gazette [Bundesgesetzblatt] I p. 2542), Article 34
CZ - Nature Protection Act No. 115/1992, Art. 45h and 45i
EIA Act No. 100/2001
UKSC - Implementation of the Habitats Directive in the UK has been affected principally through the Conservation (Natural Habitats, &c.) Regulations 1994. These regulations give SEPA the duty to ensure that the integrity of SACs and SPAs are protected from significant damage arising from activities controlled by SEPA. We can't issue permits if the integrity of such an area would be affected, or if we are not able to determine that it

	would not be affected HU - We have implemented the provisions of the Habitats Directive in many legal rules in Hungary. Most important of them is the Act LIII of 1996 on Protection of the natural environment, the Government Decree No. 275/2004 on the rules for Natura 2000 areas, etc. SK - 543/2002, 24/2006
	Please specify or summarise the wordings or key provisions (optional): UK - We have a suite of internal guidance, broadly split into generic and functional specific guidance documents. *PL - Proposed projects which may have a significant impact on the environment have to obtain a decision on the environmental conditions. Within the framework of the procedure to issue a decision on the environmental conditions the environmental impact assessment for a project shall be conducted.* PT - Answer by IGAMAOT Number 1, of Article 10 of the Decree-Law translates the wording of the Article 6 par. 3 Habitats Directive "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." **ME - Appropriate Assessment** **Article 12** For intended projects, activities and actions for which it is required by the law to undertake an environmental impact assessment, a appropriate assessment is an integral part of the environmental impact assessment. For intended projects, activities and actions for which it is not required by the law to undertake an environmental impact assessment, a appropriate assessment for performing afore – mentioned activities, actions or operations in protected natural asset shall be prepared. Appropriate assessment shall contain in particular the following: conditions and measures for prevention, reduction and removal of possible harmful effects to nature, compensatory conditions and measures. More detailed instructions referring to the content and processes of drafting the appropriate assessment for planned projects, activities and actions, types of actions and activities that require appropriate assessment, and more detailed content of the request for issuance of approval from article 11 of this Law shall be prescribed by the Ministry. **Issuance of Approval** **Article 13** If the appropriate assessment referred to in Article 12 proves that intended projects, actions and activities are acceptable, then the management authority shall issue an approval for the implementation of the afore mentioned projects and activities in the protected natural asset. Nature protection conditions and measures shall be established by the approval referred to in paragraph 1 of this Article.

	ES - 1. - The wordings are exactly the same as in Article 6 par. 3 of the Habitats Directive. 2. - The procedures of assessment of the effects of plans, projects and programmes likely to have significant effects on Natura 2000 sites will be carried out as established in EIA legislation. Plans and programmes will be subjected to a SEA procedure. Projects will be subjected to an EIA procedure. 3. - The procedures of assessment of the effects of plans, projects and programmes will be carried out as established in EIA legislation. The assessment referred to in Article 6 par 3 of the Habitats Directive will be carried out by the Directorate General of the Regional Government of Galicia responsible for Nature Conservation through a mandatory and binding report. (Currently the Directorate General for Nature Conservation of the Department of Environment, Planning and Infrastructures of the Regional Government of Galicia (hereinafter the Regional Nature Conservation Authority)). RO - "Setting stages of environmental assessment procedures for public and private projects " "Specific requirements for adequate assessment to potential effects of the projects concerning protected areas " NL - The assessment is integrated in art 19. If the assessment shows possible negative effects the activity can't take place without a permit. To obtain a permit one should follow the procedure founded in art 19 of the law. **DE - Compatibility and inadmissibility of projects; exceptions** (1) Prior to the approval or the implementation of projects, their compatibility with the conservation objectives of a Natura 2000 site shall be assessed, if they, either individually or in combination with other projects or plans, have the potential to affect the site significantly, and do not directly serve the purpose of the site's management. Where a Natura 2000 site is a protected part of nature and landscape within the meaning of Article 20 (2), the standards applying to such compatibility shall derive from the protection purpose, and from the provisions issued to that end, if such purpose and provisions already take account of the relevant conservation objectives. The project proponent shall provide the documents needed for assessing such compatibility and fulfilment of the conditions pursuant to (3) through (5). (2) If appropriate assessment of compatibility reveals that a project can result in significant adverse effects on a site, in the elements of the site that are relevant for the conservation objectives or protection purpose, the project shall be inadmissible. CZ - The proponent that intends to implement a project which may, either individually or in combination with other policies or projects, have a significant effect on favourable status of the subject of protection or the integrity of a Natura 2000 site shall be obliged to submit proposal of the policy or project to a nature protection authority to obtain an opinion whether it may, either individually or in combination with other policies or projects, have a significant effect on favourable status of the subject of protection, or the integrity of Natura 2000 site. The nature protection authority shall issue a substantiated opinion within 30 days of the day of receipt of the application.

	If the nature protection authority through its opinion does not exclude the possibility of a significant impact, then the given policy or project has to be subject to the appropriate assessment. HU - The impact assessment of Natura 2000 according to Article 6 Section 3 of the Habitats Directive shall be carried out in an environmental impact assessment procedure (The modification of the Government Decree No. 314/2005.), in a Strategic Environmental Assessment (The modification of the Government Decree No. 2/2005.) or in administrative proceedings or specific administrative proceedings of the environmental authority (The modification of the Government Decree No. 275/2004.). I.e. it is possible to have independent Natura 2000 impact assessment procedure, but it is also possible to carry out part of the integrated environmental impact assessment depending on the type and scale of investment.
1.1.2	If the assessment as required by Article 6 par. 3 of the Habitats Directive is integrated in the Environmental Impact Assessment (EIA) how?
	Please note the act / directive / decree / … UK - EIA and the Habitats Directive are considered alongside each other in the work that we review or complete. As a regulator we consider the alone and in combination impacts of the proposed plan, permission or project and ensure that all legal duties are complied with. IT- Art. 5 DPR 357/97 and Legislative decree 152/06 (art. 6) *PL - The Act of 3 October 2008 on sharing information about the environment and its protection, public participation in environmental protection and environmental impact assessment.* *Assessment as required by Article 6 par. 3 is a part of environmental impact assessment.* PT - Answer by IGAMAOT, APA and ICNF: Decree-Law n. º 140/99, of 24th of April, amended by the Decree-Law n. º 49/2005, of 24th of February, but also Decree-law nº 151-B/2013, of 31st October, regarding the assessment of the effects of certain public and private projects on the environment When a project is subject to environmental impact assessment, the assessment foreseen under Habitats Directive is integrated within the EIA procedure. ME - Article 6 par. 3 of the Habitats Directive isn't integrated in the Environmental Impact Assessment (EIA). ES - 1. - Articles 20.2 and Annex IV.4 (on SEA), Articles 35 and 45 (on EIA) of EASL. 2. - Article 4 of Natura 2000 MPRG. CZ - If the nature protection authority does not exclude a significant effect of the project on the Natura 2000 site, the full EIA has to be carried out. The AA is a part of the EIA documents. The EIA is not a permit procedure however the project with possible significant effect on Natura 2000 sites cannot go forward unless the EIA is carried out. RO - Order 135/2010 approving the methodology for the application of environmental impact assessment for public and private projects **NL - Art. 19. F. 2 of the national Law of nature protection gives the possibility of integration with EIA.** HU - The modification of the Government Decrees No. 275/2004. and 314/2005.

	Please summarise the wordings of the provision (optional): *PL - The environmental impact report for a project shall contain information about the envisaged effects of the options analysed on the purposes and object of the protection of a Natura 2000 site and the integrity of this site. Where the environmental impact assessment for a project indicates that the project may have a significant adverse impact on a Natura 2000 site, the authority competent to issue a decision on the environmental conditions shall refuse to authorise the implementation of the project, unless the premises referred to in Article 34 of the Nature Conservation Act of 16 April 2004 occur (required by Article 6 par. 4 of the Habitats Directive).* PT - Answer by IGAMAOT, APA and ICNF: Decree-Law n.º 140/99, of 24th of April, amended by the Decree-Law n.º 49/2005, of 24th of February: Number 7, Article 10: The decision upon plan or projects likely to have significant effect shall be preceded by public consultation, when necessary. When a project is subject to EIA (Decree-Law nº 151-B/2013, of 31 of October): Public consultation is mandatory (article 15) This regime establishes provisions to ensure that all relevant information (including the final decision) is available to the public concerned. (article 30) Access to justice is also granted (article 37) ES - 1. - A specific chapter for the appropriate assessment of direct or indirect effects on Natura 2000 likely to be significant will be included in the information (named '*estudio ambiental estratégico*' ('*strategic environmental impact report'* in English) to be submitted by the proponent (Articles 20.2 and Annex IV.4, on SEA). This specific chapter will also be included in the evaluation of the foreseeable effects to be submitted by the proponent for the screening procedure (Article 45 on the so called 'simplified EIA procedure') and in the information (named '*estudio de impacto ambiental*' ('*environmental impact assessment report'* in English)) (Article 35, on EIA) to be submitted as part of the EIA procedurets. 2. - The procedures of assessment of the effects of plans, projects and programmes will be carried out as established in EIA legislation, concretely in EASL or in any substituting legislation . The assessment referred to in Article 6 par 3 of the Habitats Directive will be carried out by the Directorate General of the Regional Government of Galicia responsible for Nature Conservation through a mandatory and binding report. RO - The integrated approaches through informing and consulting all the environmental authorities and participation in a local or regional committee of technical analysis (inclusive the Romanian Waters Authority, the local, regional or central authorities, the National Guard, the Territorial Inspectorate for Emergency Situations, and others **NL - Art. 19. F. 2 of the national Law of nature protection gives the possibility of integration with EIA.** DE - It is not integrated, but in practice it is allowed to use the relevant information of the EIA for purposes of the appropriate assessment. But there must be a separate chapter on Art. 6 (3) in permit applications. The information must be completed by those required acc. to Art. 6 (3) and a clear statement concerning the effects must be part of it. In Schleswig-Holstein the competent authority for nature conservation carries out the

assessment.
HU - The modification of the Government Decree No. 275/2004. :
Section 10 Para (5) Impact assessment shall be carried out – in consideration of this Section and Section 10/A. –
a) in the environmental assessment procedure if it falls under the scope of the legal rule on environmental assessment of the plan, specific plans or programmes;
b) in the environmental impact assessment or in the integrated pollution prevention and control procedure if the investment falls under the scope of the legal rule on environmental impact assessment and the integrated pollution prevention and control procedure; or
c) cases not included in points a)–b) in the administrative proceedings or specific administrative proceedings of the inspectorate.
Section 10 Para (6) In the cases specified in Para (5) Points a) and b) the impact assessment documentation in Para (3) shall be **prepared as an independent part** of the application for the environmental impact assessment, environmental impact study or the integrated pollution prevention and control.

The modification of the Government Decree No. 314/2005. (XII. 25.) :
Section 5. Para (1) Point d) if a Natura 2000 area is expected likely to have significant effect, the content requirements of the environmental impact study **is specified in the legal rule on nature conservation areas of European Community importance in consideration with the provisions regulating the content of impact assessment documentation.**

1.1.3. Have any provisions concerning transparency of decisions on the Habitats Directive been implemented in your legislation?

	Yes	UK, IT, PL, PT, ME, ES, CZ, HU, SK	no	DE, UKSC

Please note the act / directive / decree …
UK - All documents regarding decisions on the Habitats Directive are available under the Freedom of Information Act, with due regard to limitations on incomplete working and commercially sensitive information. A clear auditable system is in place to show the steps that we have undertaken to meet HD decisions. Often these documents are also shared with Natural England or Natural Resources Wales when seeking their expert opinion.
IT- If 6.3 Assessment is included in the EIA (art. 24 Dlgs 152/06) or in the SEA (art. 14 Dlgs 152/06). In the other case, is related to the different regional laws previsions
IE - European Communities (Birds and natural habitats) Regulations, 2011
PL - The Act of 3 October 2008 on sharing information about the environment and its protection, public participation in environmental protection and environmental impact assessment.
PT - Answer by IGAMAOT, APA and ICNF:
Decree-Law n.º 140/99, of 24th of April, amended by the Decree-Law n.º 49/2005, of 24th of February
Decree-law nº 151-B/2013, of 31st October, regarding the assessment of the

	effects of certain public and private projects on the environment, when a project is also subject to EIA Answer by CCDR Alentejo, complements that: Decree-Law n.º 215-B/2012, of 8th of October: This act specifies that the process of assessment of some typified projects concerning renewable energies not in the scope of EIA Directive but located in Natura 2000 sites is mandatory. Under this act the public consultation is mandatory. ME - Law on Nature Protection, (Official Journal of MN, No 51/ 2008) article 12 and 13 ES - 1. - Articles 17 to 32 (on SEA), Articles 33 to 48 (on EIA) and Articles 49 to 50 (on consultation to other Member States regarding trans boundary effects) of EASL. 2. - Ministerial Order of the Ministry of Agriculture, Food and Environment of the Government of Spain AAA/2231/2013 of 25 December 2013 by which the procedures of communication and previous consultation to the European Commission regarding compensatory measures contemplated in Article 6 par. 4 of the Habitats Directive are regulated. 3. - Spanish Parliament Act 27/2006 of 18 July 2006, by which the rights of access to information, of public participation and of access to justice in environmental matters are regulated (incorporates Directives 2003/4/EC and 2003/35 / EC)." CZ - The public participation is ensured within the EIA itself and in the permit procedures subsequent to the EIA process. See EIA Act No. 100/2001 Coll. and 123/1998 Coll. (about the right for the environmental information) RO - Order 135/2010 approving the methodology for the application of environmental impact assessment for public and private projects **NL - Chapter VIII, article 41 till 44 describes the permit and decision procedure.** HU - The modification of the Government Decree No. 275/2004. and 314/2005.
	Please summarise the wordings of the provision (optional):: IE - All decisions of the competent authority must be made available on our website and circulated to applicants and third parties *PL - Prior to the issue of a decision on the environmental conditions, the authority competent to issue the decision shall ensure the possibility of public participation in the procedure within the framework of which the environmental impact assessment for a project is carried out.* PT - Answer by IGAMAOT, APA and ICNF: Decree-Law n.º 140/99, of 24th of April, amended by the Decree-Law n.º 49/2005, of 24th of February: Number 7, Article 10: The decision upon plan or projects likely to have significant effect shall be preceded by public consultation, when necessary. When a project is subject to EIA (Decree-Law nº 151-B/2013, of 31 of October): Public consultation is mandatory (article 15) This regime establishes provisions to ensure that all relevant information (including the final decision) is available to the public concerned. (article 30) Access to justice is also granted (article 37) ME - see 1.1.1 ES - 1. - Mandatory public information and consultation shall be included as a step of the SEA and EIA procedures. The outcome of the SEA and EIA procedures will be made public.

	2. - The procedure and templates regarding communication and previous consultation to the European Commission as established in Article 6 par. 4 are regulated. RO - Stage quality analysis report on the environmental impact – public debate **NL - The permit-procedure is a very transparent process. Described is that the permit should contain several requirements and restrictions (art 43 of the national law of nature protection) to protect the priority habitats and species.** UKSC - There are no specific provisions regarding transparency in the implementing Regulations for the Habitats Directive in Scotland (the Conservation (Natural Habitats, &c.) Regulations 1994) but there are public consultation processes within all of the environmental permitting regimes for which SEPA is responsible. SEPA also has a specific Nature Conservation Procedure for Environmental Licensing which incorporates a template for recording our assessment of Likely Significant Effect on any European Site and any subsequent appropriate assessment undertaken. This creates an audit trail of our assessment and its final conclusion in respect of our Habitats Directive responsibilities. HU - The decision of the environmental authority is public. Furthermore, the direct public participation is possible in the Natura 2000 impact assessment and environmental impact assessment procedures. The modification of the Government Decree No. 275/2004. : Section 10 Para (11) Before the investment is permitted the competent authority shall **hold a public hearing** if the investment may cause changes in the conservation status of the species and habitat types specified in Annexes 1-4 due to which significant deterioration of services rendered to public may happen caused by these species and habitat types. The provisions of this Section shall not provide either for investments which fall under the scope of a separate legal rule on specific procedural provisions on procurement related to classified data, security of state, interests related to elementary security or state security or interest requiring specific security measures or for the Natura 2000 areas. The modification of the Government Decree No. 314/2005. Korm. r.: Section 4 Para (4) The inspectorate enable the affected public to have **access to** application, preliminary (environmental) assessment documentation, official assessment of specific authority and expert assessment within eight days from request or availability. Section 9 Para (1) The inspectorate shall **hold a public hearing** except when the activity falls under the scope of military secrecy or the application was refused. The inspectorate shall inform the notary of the municipality competent according to the location of the installation and of the related settlement about the environmental impact of the secret military activity. Section 21 Para (9) The inspectorate shall **make public** the decision regarding the commencement, modification or supervision of the activity which is subject to the integrated pollution prevention and control procedure on the official website within five days from making the decision.
DE - There are no specific transparency provisions concerning the decisions on the Habitats Directive, but acc. to the Act on Access to Administrative Documents and Information everybody can apply for copies of the relevant documents of the authority.	

2 THE AUTHORITIES AND ORGANISATIONS **2.1 Competent authorities and organisations**						
2.1.1	Which ministry/authority is competent for giving guidance on dealing with Natura 2000 sites in environmental permits?					
	national	UK, IT, IR, PL, PT, ME, ES, RO, NL, DE, CZ, UKSC, HU, SK	regional	IT, IR, PT, ES, NL, DE, CZ, SK	municipal	IR, NL, DE(?)
	Please specify UK - We follow the draft Defra Habitats Regulation guidance and use this together with advice from Natural England to ensure our internal guidance is legally compliant. Our internal guidance documents have been written jointly with English Nature and the Countryside Council for Wales (now Natural England and Natural Resources Wales). IT - The Ministry of Environment is the Surpervisory Authority of Natura 2000 sites, while Regions are the responsible authorities for the implementation of art. 6.3 of HD (art. 5 DPR 357/97). These authorities can develop specific Regional Laws and guidelines IE - It is the responsibility of individual competent authorities to provide guidance to applicants and to their own staff. PL - *Ministry of Environment* *The General Director for Environmental Protection* PT - Answer by IGAMAOT, APA and ICNF: ICNF (Institute for Nature and Forest Conservation), national authority that has decentralised departments/Ministry of Agriculture and Sea ME - Ministry of Sustainable Development and Tourism ES - 1.- The Directorate General for Quality and Environmental Assessment and Natural Environment of the Ministry of Agriculture, Food and Environment of the Government of Spain (hereinafter the National Nature Conservation Authority which is also the National Environmental Authority), at the national level. 2. - The Regional Nature Conservation Authority. CZ - Ministry of the Environment of the Czech Republic or regional authorities RO - The Romanian Environmental Ministry In Romania, Environment and Climate Changes Ministry is in charge with the protection/conservation of habitats and species. **NL - The national authority is responsible when concerns of a national scale are involved e.g railways or highways. In other situations the provinces or municipalities are competent. In most cases municipal authorities are competent. This competence is given to the municipal authorities on base of the national law of environmental protection (Wet algemene bepalingen omgevingsrecht). However in the permit procedure the local authority needs to ask for a "declaration of no objections" coming form the provincie. This obligation is founded in art 47b of the National Law of Nature Protection. In this municipal procedure in fact the province is still competent/responsible for the permit and the**					

	requirements/restrictions. DE - The German Federal Agency for Nature Conservation (BfN) has published guidance documents. The federal states (Länder) have developed guidance on dealing with Natura 2000 sites in permits for their authorities and have issued decrees concerning details. CZ - Ministry of the Environment issued the guidance (in Governmental magazine No. 4/2006) UKSC - This is effectively a shared responsibility between SEPA as the permitting authority and Scottish Natural Heritage (SNH) that has responsibility for the overall protection of Natura 2000 sites. SNH must be consulted by SEPA with regard to permitting decisions that might affect Natura 2000 sites and the comments made by SNH must be taken into account in the final issued permits. HU - Ministry of Rural Development, National Environment Protection and Nature Conservation Inspectorate SK - Ministry of the Environment; District office
2.1.2	Which authorities are competent for issuing permits for industrial installations including requirements concerning Natura 2000 sites?
	Answer: UK - Ourselves the Environment Agency, Natural England and Natural Resources Wales are the lead authorities, however all competent authorities can be involved in aspects of industrial installations, due to their complex nature IT - The ministerial EIA Commission for national projects (according to EIA thresholds), in the other cases at regional level DVA IE - Environmental Protection Agency *PL - The Regional Director for Environmental Protection* PT - Answer by IGAMAOT, APA, CCDR Alentejo and ICNF: The competent authorities for issuing permits for industrial installations are from the area concerning the main activity of the industrial installation, namely from the Ministry of Economy but also from the Ministry of Agriculture and Sea (food production) or Ministry of Environment, Spatial Planning and Energy (waste management and major energy production plants). The APA (Portuguese Environmental Agency) is responsible for issuing environmental licences, for installations IPPC in the scope of DEI Directive. The final permit can only be issued after a positive decision on EIA or Habitats directive. This final permit ensures that all the requirements established in these previous decisions are fulfilled. The competent authorities for issuing EIA decision are APA or CCDR's, depending on the category of the project. When EIA does not apply, ICNF is the national competent authority for issuing a decision regarding the appropriate assessment foreseen under Habitats Directive. The projects location and scope of plans concerning all installations (including those IPPC in the scope of DEI Directive) must previously be submitted, and approved, by CCDR and ICNF.

	ME - Environmental Protection Agency ES - 1. – Integrated environmental permits for IED-installations: The Regional Environmental Authority. The projects/plans & programmes will be subjected to EIA/SEA procedures when Natura 2000 sites are concerned (and in other Annex I/II EIA 2011/92/EU Directive installations) which will be carried out by the same authority except when this competence is on the side of the Government of Spain (for example in large combustion plants of more than 50 MW) as mentioned in 2. In this last case the EIA procedure will be carried out by the National Environmental Authority at request of the Ministry of Industry, Energy and Tourism of the Government of Spain (hereinafter the National Industry & Energy Authority). 2. - Permits regarding legislation on industry and industrial security when the competence is on the side of the Government of Spain: The National Industry & Energy Authority, as in the following installations: - Large combustion plants of more than 50 MW. (In this and other IED-installation cases, an integrated environmental permit will be issued by the Regional Environmental Authority, as mentioned in 1). - Installations in the territorial sea (example: petroleum exploration and extraction). - Electricity generation installations and secondary electric power transmission and distribution networks affecting the territorial base of more than one Region. - All primary electric power transmission networks. - Basic natural gas network and other hydrocarbon installations such as distribution and transmission networks affecting the territorial base of more than one Region. - Other industrial installations affecting the territorial base of more than one Region. - Other installations when the competence to adopt, to approve or to permit the projects is on the side of the Spanish Government. In those cases, an EIA/SEA procedure is needed when Natura 2000 sites are concerned. This EIA/SEA procedure will be carried out by the National Environmental Authority at request of the National Industry & Energy Authority. Although the decision on the procedure taken by the National Environmental Authority is not an actual permit, it is binding and the whole decision, including the conditions, will be included in the permit issued by the National Industry & Energy Authority. In non-IED installations, some specific (non-integrated) additional environmental permits issued by the Regional Environmental Authority may be needed regarding waste production, storage etc. or emissions to air, water or soil. In other cases operators are only requested to register. 3. - Permits regarding legislation on industry and industrial security when the competence is on the side of the Region of Galicia: The Department of Economy and Industry of the Regional Government of Galicia (hereinafter the Regional Industry & Energy Authority) for installations located in the Region except those issued by the National Industry & Energy Authority as mentioned in 2. In those cases, an EIA/SEA procedure is needed when Natura 2000 sites are concerned. This EIA/SEA procedure will be carried out by the Regional Environmental Authority at request of the Regional Industry & Energy Authority. Although the decision on the procedure taken by the Regional Environmental Authority is not an actual permit, it is binding and the whole decision, including the conditions, will be included in the permit issued by the Regional Industry & Energy Authority. As mentioned in 1, in IED-installations, an integrated environmental permit issued by the Regional Environmental Authority is needed. In non-IED installations, some specific (non-integrated) additional environmental permits issued by the Regional Environmental Authority may be needed regarding waste production, storage etc. or emissions to air, soil or water (for emissions to water permits are issued by the National or Regional Watershed Authorities, depending on the watershed receiving the emissions; Regional if the whole of the watershed

	is located in the Region and National if it covers more than one Region). In other cases operators are only requested to register. 4. - Under the provisions of the Galician Parliament Act 9/2013 of 19 December 2013 on entrepreneurship and competitiveness of Galicia (hereinafter ECRGL), since 28 December 2013, certain non-IED / non- EIA small projects, as they were before but with new provisions, have to be subjected to an environmental incidence evaluation (hereinafter EIE) procedure. As an output of this procedure, conditions are established by the Territorial Units of the Regional Environmental Authority for the project to proceed. Before 28 December 2013 these projects were also subjected to EIE but the permits were issued by municipal authorities. The permits had to include the conclusions and conditions of the EIE procedure. From 28 December 2013 onwards, this new legislation has eliminated the permit requirement which has been substituted by an advance notice of initiation of the activity provided that the EIE procedure's results are positive and that conditions are met. When this small projects are likely to have effects on Natura 2000 sites, the Territorial Units of the Regional Environmental Authority are instructed to submit them to its headquarters in order to subject them to an EIA procedure (Territorial Units are not competent for this). 5. - Under the provisions of Natura 2000 MPRG, some new installations and activities are directly excluded from Natura 2000 sites (as open cast mining installations & activities, wind farms, hydroelectric power plants etc. with some exceptions). Other activities are allowed to proceed without a permit, as in the case of maintenance activities in existing industrial installations not likely to have effects on the site. When these activities are likely to produce effects an appropriate assessment is required under the provisions of Article 6.3 of HD and Article 45 NCSL. CZ - Ministry of the Environment of the Czech Republic (transboundary effects of projects) or regional authorities RO - The National Environmental Agency The National Administration " Apele Romane" (Romanian Waters Authority) **NL - Local and provincial authorities. The same as in 2.1.1** DE - In Germany this is different in the Länder. In SH the Agency for Agriculture, the Environment and Rural Areas (LLUR) is the competent permit and inspection authority for industrial Installations under the Federal Immission Control Act. IED installations are part of them. For smaller industrial authorities the counties are responsible for these tasks. UKSC – SEPA HU - Regional Environment Protection and Nature Conservation Inspectorate SK - Slovak Inspectorate of the Environment
2.1.3	Which authorities are competent for issuing permits for animal farms (smaller farms or intensive rearing of pigs and poultry) including requirements concerning Natura 2000 sites?
	Answer: NL - The permit procedure is described in 2.1.1. a) For small farms:

	UK -The local authority and occasionally the Environment Agency dependent on whether there are aquatic emissions. IT- DVA IE – Planning Authority *PL - The Regional Director for Environmental Protection* ME - Local self-government ES - a.1. - Until 28 December 2013: Municipal authorities (Local Councils). a.2. - From 28 December 2013 on: The Department of Rural and Sea Affairs (hereinafter the Regional Agriculture Authority). RO - The National Environmental Agency by territorial agencies The National Administration " Apele Romane" (Romanian Waters Authority) by basin authorities NL - Local and provincial authorities (only when Natura 2000 is concerned).. DE - the counties (15 counties in SH) CZ - Permitted by the local development (building) authorities with respect to the appropriate assessment (if carried out) UKSC - Smaller farms (sub-IED threshold) are permitted under development planning legislation managed by individual local authorities. HU - Government Office, notary SK - Regional Office b) for intensive rearing of pigs and poultry – UK - Environment Agency, Natural England, Natural Resources Wales and the Local Authority. IT- DVA IE - Environmental Protection Agency *PL - The Regional Director for Environmental Protection* PT - Answer by IGAMAOT and APA: The competent authorities for issuing permits for animal farms (smaller farms or intensive rearing of pigs and poultry) are from the Ministry of Agriculture and Sea (5 Regional Directions of Agriculture and Fisheries). The APA (Portuguese Environmental Agency) is responsible for issuing environmental licences, for installations IPPC in the scope of DEI Directive (intensive rearing of pigs and poultry). The final permit can only be issued after a positive decision on EIA or Habitats directive. This final permit ensures that all the requirements established in these previous decisions are fulfilled. The competent authorities for issuing EIA decision are APA or CCDR's, depending on the category of the project. When EIA does not apply, ICNF is the national competent authority for issuing a decision regarding the appropriate assessment foreseen under Habitats Directive. ME - Environmental Protection Agency (EIA) ES- b.1. - For IED-installations (more than 40.000 places for poultry; or 2.000 places for production pigs (over 30 kg); or 750 places for sows): The Regional Environmental Authority, who will carry out an EIA procedure. The decision on the EIA and the conditions established in it will be included in the permit. b.2. – For Non-IED installations (less than 40.000 places for poultry; or 2.000 places for production pigs (over 30 kg); or 750 places for sows) (4). b.2.1. - Until 28 December 2013: Municipal authorities (Local Councils).

	b.2.2. - From 28 December 2013 on: The Regional Agriculture Authority. CZ - Ministry of the environment of the Czech Republic (transboundary effect of project) or regional authorities RO - The National Environmental Agency by territorial agencies The National Administration " Apele Romane" (Romanian Waters Authority) by basin authorities NL - Local and provincial authorities. DE - the Agency for Agriculture, the Environment and Rural Areas, department "Technical Environmental Protection" UKSC - IED threshold and above farms are permitted by SEPA HU - Regional Environment Protection and Nature Conservation Inspectorate SK - Slovak Inspectorate of the Environment for installations according to Annex I IED

2.1.4 Who / Which organisation has to carry out the assessment of the effects of a planned installation on Natura 2000 sites?

SK - State Nature Conservancy of the Slovak Republic (SNC)

	the authorities competent for issuing permits for industrial installations	yes	UK , IE, ME, RO, NL, UKSC, HU, SK	no	PL, CZ
	The authorities competent for nature conservation	yes	PL, PT, ES, RO, DE, HU	no	UK, IE, NL, UKSC
	other, please specify ..... IT - EIA regional or national Commission, according to EIA thresholds *PL - The Regional Director for Environmental Protection* ME - In Montenegro case, same CA-EPA. RO - The management of Natura 2000 sites is operated by the custodians of protected areas or by the National Agency for Environmental Protection. (not all Natura 2000 sites have custodians: when a Natura 2000 site has no custodian, National Agency for Environmental Protection is in charge with the administration of Natura 2000 sites). DE - In Schleswig-Holstein: the competent nature conservation authorities. They get support from the department for Nature Protection of the Agency for Agriculture, the Environment and Rural Areas CZ - The Ministry of the Environment or the regional authorities depending on the EIA thresholds. The experts with special authorization prepare the appropriate assessment itself (the authorization can be only obtained through the Ministry of the Environment). The proponent of the project funds the appropriate assessment as a part of the EIA report, the EIA authority funds the AA as a part of the EIA report review. UKSC - Please see the answer provided under 2.1.1 above – the legal responsibility is SEPA's but SNH have a role to play as a statutory consultee for such developments. HU - Both competency falls to the same organization. SK - for assessment is responsible SNC				

2.1.5	Which authorities / organisations are responsible for monitoring compliance with permit conditions concerning Natura 2000 sites?
	Answer: UK - Environment Agency and the Local Authority are principally responsible, however a lack of compliance can be raised by Natural England when they have concerns from their Natura 2000 site monitoring. IT - Regions or their delegated local authority IE - Environmental Protection Agency *PL - The Regional Director for Environmental Protection* PT - Answer by IGAMAOT, APA and ICNF: APA and CCDRs, under EIA regime. ICNF, in all situations. For projects subject to EIA, monitoring concerning Natura 2000 sites is guaranteed under the monitoring established on the EIA decision. ME - Administration for Inspection Affairs - Department of Environmental Inspection ES - The authorities competent for issuing permits as answered in 2.1.2 and 2.1.3. In non IED-installations it means that National and Regional Industry & Energy Authorities and Regional Agriculture Authorities are responsible for monitoring compliance with permit conditions. At their request, environmental inspectors may collaborate in the monitoring. When additional environmental non-integrated permits issued by the Regional Environmental Authority are needed, regarding waste production, storage etc. or emissions to air, water or soil; the Regional Environmental Authority is responsible for monitoring compliance with these permit conditions. When operators are requested to register regarding those items, compliance with legislation is also monitored by the Regional Environmental Authority. - Under the provisions of the Galician Parliament Act 1/1995 of 2 January 1995 on the environmental protection of Galicia (hereinafter EPRGL), environmental inspectors of the Regional Environmental Authority may inspect any installations and activities likely to produce effects on the environment of the Region. CZ - The Czech Environmental Inspectorate that supervises the legal compliance of administrative decisions taken by the public administration bodies in the area of the environment RO - The National Environmental Guard The National Administration " Apele Romane" (Romanian Waters Authority) by basin authorities **NL - The authority that issues the permit (see above) is responsible for the inspections and the monitoring of compliance. But under supervision of the province for each Natura 2000 site an inspection program is made. Municipalities participate in this process.** DE - the authorities competent for nature conservation UKSC – SEPA HU - Regional Environment Protection and Nature Conservation Inspectorate, The National Park Directorates. SK - Slovak Inspectorate of the Environment
2.1.6	Which authorities/organisations are competent to monitor the current status of Natura 2000 sites?

	Answer: UK - Natural England and Natural Resources Wales IT - Regions or their delegated local authority IE – National Parks and Wildlife Service *PL - The Regional Director for Environmental Protection* PT - Answer by IGAMAOT: ICNF is responsible for monitoring and surveillance of the conservation status of species and habitats. ME - Environmental Protection Agency in terms of the preparation of Annual Programme Monitoring Report ES - 1. - The Regional Nature Conservation Authority for all sites of the Region, except open sea sites included in the territorial sea. 2- The National Nature Conservation Authority for the open sea sites included in the territorial sea. CZ - Nature Conservation Agency of the Czech Republic, a governmental body established by the Ministry of the Environment RO - The National Environmental Agency, The Environmental national Guard, the custodians, the administrators NL - Provinces DE - the authorities competent for nature conservation. If no current data on a specific Natura 2000 site are available, consultants with special expertise in nature conservation can do the monitoring for permit application documents. UKSC - Normally SNH has responsibility for monitoring the current status of natura sites. SEPA has the ability to require monitoring of such sites in relation to specific permits issued under the IED if deemed necessary. HU - The National Park Directorates. SK - State Nature Conservancy of the Slovak Republic
2.1.7 Which instruments do they use, e.g. indicators?	
	Please describe? UK - Natural England report on a six yearly cycle to JNCC, a broad spectrum of indicators, all targeted towards considering whether the protected site is in favourable conservation status. The parameters used range from water quality parameters to species populations and densities. IT – DVA IE - Monitoring, water/air quality data, species indicators *PL - The methods and terminology of monitoring are precisely identified in the management plans.* *Chief Inspectorate for Environmental Protection is responsible for nature monitoring on the territory of Poland. This body is also responsible for the art. 17 HD report data preparation.* PT - Answer by ICNF: No comprehensive program for monitoring Natura 2000 sites has been implemented in Portugal so far. No essential biodiversity indicators are thus identified, but several specific monitoring programs have been carried out focusing particular species of conservation interest or otherwise considered as representative of some taxa, that can in the future integrate the suite of indicators needed to measure the current status of Natura 2000 network. ME - Regulation on National list of Environmental Indicators (Official gazette of Montenegro No. 19/13)

	ES - 1.- Those included in *Diseño de una metodología para la aplicación de indicadores del estado de conservación de los tipos de hábitat de interés comunitario en España.* (Simón, J.C., García, R., Del Barrio, G., Ruiz, A., Márquez, S., Sanjuán, M.E. 2013. Ministerio de Agricultura, Alimentación y Medio Ambiente. Madrid. 318 pp.) (*Designing of a methodology to apply to conservation status indicators in Spain)* Ministry of Agriculture, Food and Environment of the Government of Spain. (Paragraphs 3.1.1.2/ 3.1.3.2/ 3.2.2/ 3.3.2). The document is attached to the questionnaire. 2.- Natura 2000 MPRG includes the following: - Area occupied by the natural habitat types included in the Annex I of HD. - State of the structure and the specific functions of the natural habitat types included in the Annex I of HD. - Continuity and connectivity among the different natural habitat types. - Area of presence, number of populations and population's size. **NL - Most important is the monitoring of conservation or expansion of priority species and habitats on the site. When goals will not be reached extra requirements or restrictions will be introduced.** **Every site has a Natura 2000 management-plan with a turnaround of 6 years. In the management-plan the indicators that should be monitored are described.** DE - They use European documents and the documents of the Federal Agency for Nature Conservation (BfN), e.g. "Concept for monitoring of the conservation status of natural habitat types and species acc. to Habitats Directive in Germany" CZ - Various site-specific environmental parameters. UKSC - Scottish Natural Heritage employs a range of ecological monitoring approaches that are habitat specific in order to allow it to assess and report on the conservation status of the qualifying features on all Special Areas of Conservation and Special Protection Areas. The specific methods employed have been agreed at UK level with the other nature conservation authorities for England, Wales and Northern Ireland, through a process known as "Common Standards Monitoring". SEPA is in the process of developing specific ecological monitoring techniques to employ for monitoring particular pressures from permitted installations, the greatest priority for which is for the monitoring of nitrogen deposition effects. HU - Not relevant for our organization. SK - knows SNC
2.2	**Co-operation between authorities/organisations**
2.2.1	Which organisations/authorities are involved in Natura 2000 issues in your country? Please describe their competences? IE - There are at least 30 different organisations listed in national legislation as competent authorities
	a) On guidance issues, UK - Defra, Environment Agency, Natural England and Natural Resources Wales. *PL - General Director for Environmental Protection - participation in the implementation of the policy on environmental protection in the scope of nature conservation and the control of the investment process*

	ME - Ministry of Sustainable Development and Tourism and Environmental Protection Agency ES - The Nature Conservation National Authority. - The Regional Conservation National Authority. - Universities and Research institutions by request of National and/or Regional authorities competent. **NL - First responsibility the national authority/government. Second the provinces.** DE - In Germany: Federal Agency for Nature Conservation (BfN) and Federal Agency for the Environment (UBA), both belonging to the Federal Ministry for the Environment, Nuclear Energy and Building (BMUB) competencies: BfN: initiating scientific studies and work on background information as well as development of guidance documents concerning Natura 2000 items In Schleswig-Holstein (SH): The Ministry for Energy, Agriculture, the Environment and Rural Areas (Department 5: Nature Conservation), the State Agency for Agriculture, the Environment and Rural Areas CZ - Ministry of the Environment of the Czech Republic - is the EIA authority conducting and overseeing the EIA process (including the appropriate assessment) depending on the EIA threshold - methodologically leads the appropriate assessment authorized experts - methodologically leads the regional authorities regarding the AA issues Regional authorities - are the EIA authority conducting and overseeing the EIA process (including the appropriate assessment) depending on the EIA threshold ÜKSC - SNH has produced guidance on a broad range of Natura 2000 issues including on planning and development http://www.snh.gov.uk/planning-and-development and, in relation to point b) below, consulting issues. HU - Ministry of Rural Development, National Environment Protection and Nature Conservation Inspectorate – national level competences. SK - Ministry of the Environment b) Consulting issues UK - Environment Agency, Natural England and Natural Resources Wales. *PL - Regional Director for Environmental Protection - the conduct of environmental impact assessments or the participation in these assessments* ME - Ministry of Sustainable Development and Tourism and Environmental Protection Agency - ES - The State Council for the Natural Heritage and Biodiversity acts as the national official public participation body which will report on any national legislation, strategy or plans and programmes related to nature conservation issues. - The State Commission for the Natural Heritage and Biodiversity acts as the national official advisory and cooperation body between the

Spanish State and the Regions on nature conservation issues. Its specialized committees are the Committee on Protected Natural Areas (Natura 2000 sites included), on Wetlands and on Wildlife (Flora and Fauna).

- The Galician Council for the Environment and Sustainable Development acts as the official advisory body to the Regional Government of Galicia on nature conservation issues.
- In the Region of Galicia the University of Santiago de Compostela and the University of Vigo have been involved in consulting issues at request of the Regional Government of Galicia to elaborate Natura 2000 MPRG.
- Private consultants.

NL - National authorities, provinces and local authorities.

DE - experts from universities and consulting companies

CZ - Nature conservation authorities at a regional scale
- can be consulted prior to the submission of the proposal of the project for the opinion (see 1.1.1)

HU - Regional Environment Protection and Nature Conservation Inspectorates, National Park Directorates – regional level competences.

c) In the permit procedure for industrial installations,

UK - Environment Agency and Natural Resources Wales.

PL - Regional Director for Environmental Protection - the conduct of environmental impact assessments or the participation in these assessments

ME - Environmental Protection Agency

ES - The Regional Environment Authority as mentioned in 2.1.2.

- The Regional Nature Conservation Authority.
- The National and Regional Watershed Authorities as mentioned in 2.1.2.
- The National Industry & Energy Authority as mentioned in 2.1.2.
- The Regional Industry & Energy Authority as mentioned in 2.1.2.
- Directorate General for Cultural Heritage of the Department of Culture, Education and Universities of the Regional Government of Galicia (hereinafter the Regional Cultural Heritage Authority).
- Regional and local planning authorities.

NL - Both provinces and municipalities (see before). Depends of the permit procedure that will be followed and size and type of the installation.

DE - In Schleswig-Holstein:

installations needing a permit acc. to the Federal Immission Control Act: the nature conservation authorities of the counties supported by the Agency for Energy, Agriculture, the Environment and Rural Areas (Department 5 “Nature Conservation”) and department 7 of the agency as permit authority plus consulting companies providing support to the applicant

smaller installations: the nature conservation authorities of the counties supported by the Agency for Agriculture, the Environment and Rural Areas (Department 5 “Nature Conservation”) and the permit authorities of the counties plus consulting companies providing support to the applicant

CZ - The Ministry of the Environment of the Czech Republic (transboundary effects of projects) or a regional authority

UKSC - SEPA has produced guidance on permitting procedures and

Natura 2000. It has also developed tools to assist in assessing the impacts of installations on Natura 2000 sites as evidenced by SCAIL http://www.sepa.org.uk/air/process_industry_regulation/habitats/scail_project.aspx and APIS http://www.sepa.org.uk/air/process_industry_regulation/habitats/apis.aspx

HU - Regional Environment Protection and Nature Conservation Inspectorates, National Park Directorates – regional level competences

SK - Slovak Inspectorate of the Environment

d) In the permit procedure for animal farms (small farms and intensive rearing of poultry and pigs

UK - Environment Agency, Natural Resources Wales, Local Authorities, National Farming Union (NFU), British Pig Asscoiation.

PL - Regional Director for Environmental Protection - the conduct of environmental impact assessments or the participation in these assessments

PT - Answer by IGAMAOT, APA, CCDR Alentejo and ICNF:

Please see the table in Annex to the questionnaire.

ME - Environmental Protection Agency and Local self-government

ES - The Regional Environment Authority.

- The Regional Nature Conservation Authority.
- The National and Regional Watershed Authorities.
- The Department of Rural and Sea Affairs of the Regional Government of Galicia.
- The Regional Cultural Heritage Authority.
- Regional and local planning authorities.

NL - Provinces and municipalities (see before). Depends of the permit procedure that will be followed and size and type of the installation.

DE - see answer to c)

CZ - Same as c), see 2.1.3

UKSC - The guidance referred to under point c) above is equally applicable to IED farms.

HU - Regional Environment Protection and Nature Conservation Inspectorates, National Park Directorates – regional level competences.

SK - District office for small farms; Slovak Inspectorate of the Environment for installations according to Annex I IED

RO - "Romanian Waters" National Administration involves in development of protected areas National Register by his contributions related to existing water surces protected areas established in according with 98/83/EC Directive. Also, is involved in developing the Management Plan and operating rules for protected area, together with Environment and Climate Changes Ministry, the custodian and other interested factors.

Periodic assessments is provided for the rivers quality (echological status), all surface waters even from protected areas, for the representative biological elementes (ihtyofauna, phytoplankton, others) and the physico – chemichals parameters.

NAAR has in own administration hydrotehnical works (dams, flood defense works) located in protected areas, so it's important to be correlated both Protected Area Management Plan and Operatin Rules Plan of those constructions, for better compliance with the Habitats Directive.

The custodians of protected areas, “Romanian Waters” National Administration and National Environmental Guard are in charged with the inspection. “Romanian Waters” National Administration only on Water Law. Unfortunately, the Romanian law harmonized with Habitats Directive, not given inspection responsibilities to “Romanian Waters”, so the water inspections are doing under incidence of Water Law. “Romanian Waters” National Administration and National Environmental Guard from Environment and Climate Changes Ministry establish a calendar of themed checks and colaborate with the custodians of protected areas. There is no difference of responsibilities: all of them have to defend the protected areas.	
2.2.2	How is the harmonisation and coordination between the organisations/authorities referred to under 2.2.1 assured?
	Please describe: UK - Meetings, telephone conferences, conferences and newsletters. IE - There are provisions in the Regulations for joint assessments, eg. between planning authority and permitting authority. *PL - The General Director for Environmental Protection shall play the functions of a higher-order authority within the meaning of the Administrative Procedure Code with respect to the Regional Directors for Environmental Protection.* PT - Answer by ICNF: ICNF is the competent national authority in what concerns the application of the Habitats Directive and thus this organisation guarantees the harmonisation through guidance, communication and consultation that is available to other organisations. Answer by APA: When the Habitats Directive assessment is undertaken under EIA procedure, the environmental impact assessment authority (APA or CCDR, as applicable) ensures the coordination between all relevant entities. CCDR Alentejo, complements that: Coordination of the process of assessment of some typified projects concerning renewable energies not in the scope of EIA Directive but located in Natura 2000 sites (by Decree-Law n.º 215-B/2012, of 8th of October) is assured by the 5 CCDR. ME - Environmental Protection Agency informed other interested organization in accordance with Law on EIA or IPPC Law ES - In permitting issues: Through the SEA and EIA procedures and through the EIE procedure. **NL - The national law of environmental protection (Wet algemene bepalingen omgevingsrecht) and the National law of nature protection describe for each installation in detail which permit procedure should be followed, which authority is competent and which authorities should be asked for advice or asked for a declaration of no objection.** DE - Development of guidance documents:BfN and UBA cooperate with the working groups of experts from BMUB and the federal states (Länder) permit procedures:the permit authority is responsible CZ - Constant cooperation between the Ministry of the Environment of the Czech Republic and the regional authorities, supervision. UKSC - SEPA and SNH work in partnership on Natura 2000 issues on a number of projects. Furthermore, SEPA must consult SNH with regard to permitting decisions that may have impacts on Natura 2000 sites. This assures coordination between the different agencies. At a UK level, there is harmonisation of monitoring approaches (Common Standards Monitoring) between the regional –scale conservation authorities for the four	

	administrations within the UK (England, Scotland, Wales and Northern Ireland). HU - Between the Ministry of Rural Development and the Regional Environment Protection and Nature Conservation Inspectorates: ministerial orders and guidances Between the National Environment Protection and Nature Conservation Inspectorate and the Regional Environment Protection and Nature Conservation Inspectorates: as between the I. and II. Degree of Authorities, interpretation of legal issues, etc. Between the National Park Directorates and the Regional Environment Protection and Nature Conservation Inspectorates: according to the Law for procedures of Administration, and on the basis of Agreement for Cooperation between the specific NPD and our Inspectorate.

3. Natura 2000 SITES IN THE PERMIT PROCEDURE FOR INDUSTRIAL INSTALLATIONS

3.1 Guidance and information

3.1.1 Do you apply the document "Assessment of plans and projects significantly affecting Natura 2000 sites – Methodological guidance on the provisions of Article 6 of the Habitats Directive 92/43/EEC" directly?

	Answer:	yes	IE, PL, PT, HU, SK	No	UK, ME, ES, RO, NL, DE, UKSC

UK - We do not apply the document directly as we have internal guidance that translates the legal context of that document into our procedures.
IE - Yes – it is one of a number of guidance documents we recommend
PL - All issues related to the impact on Natura 2000 are resolved at the stage of EIA (decision on the environmental conditions). A decision on the environmental conditions shall be binding for the authority which issues other decisions
NL – No, but there is a method in the dutch language (effectenindicator) which gives a general assessment of risk. I assume this method is the dutch version of the methodology.
CZ - Not in the legislation, but the material is applied through the methodological materials concerning the AA issued by the Ministry of the Environment.

3.1.2 Is there enough information about Natura 2000 sites (such as where they are and what are their protection objectives) for the permit authorities and inspectors and is this information easily accessible?

	Enough	Yes	IT, PL, PT, ME, RO, NL, DE, CZ UKSC, HU	No	UK, IE, ES

If no, what kind of improvement do you see?
UK - We are already working with Defra and Natural England to identify the gaps and address these over a three year period. Greater clarity is needed on conservation objectives and location information about the protected habitats and species.

	IE - Needs more regular updates and greater monitoring PT - Answer by IGAMAOT, ICNF and CCDR Norte: That information is publicly available. It is published by the Council of Ministers Resolution n.º 115-A/2008, 21th of July, and that is on the internet (http://www.icnf.pt/portal/naturaclas/rn2000), including on a geographic information system. Moreover, information of the Habitats Directive Article 17 Report (2001-2006) is also available at ICNF website. We see that improvements could be made concerning more available information about the current status of conservation of Natura 2000 sites. Answer by CCDR Centro: Propose the production of technical guidance, at an European level, concerning the application of the Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage to the existing scenarios of Natura 2000. Answer by APA: As for the EIA procedure, whenever a project is located in a Natura 2000 site, ICNF participates in the assessment committee; all the relevant information is available to support the EIA decision. SK - Create portal (maps)				
	Easily accessible	Yes	IT, PL, PT, ES, RO, NL, DE, CZ, UKSC	No	UK, IE, ME, HU
	If no, what kind of improvement do you see? UK - Limited information is available on the Internet but easier access and more detailed information would help our assessments. IE - Needs to be greater scope for information sharing, eg. GIS databases. PT - Answer by IGAMAOT, ICNF and CCDR Norte: That information is publicly available. It is published by the Council of Ministers Resolution n.º 115-A/2008, 21th of July and that is on the internet (http://www.icnf.pt/portal/naturaclas/rn2000), including on a geographic information system. Information of the Habitats Directive Article 17 Report (2001-2006) is also available at ICNF website. ME - Establishing a database in Environmental Protection Agency about current Emerald sites, future Natura 2000 and available geographical information system (GIS), will be very useful in facilitating better understanding of the relationship between all elements in a plan or project and the particular attributes of the Natura 2000 site. ES - The existing information is easily accessible through the SITEB Visor and databases at the website of the Regional Government. More information on habitat types listed in Annex I of HD and species referred to in Article 4 of Directive 2009/147/EC and listed in Annex II of HD is needed. HU - The development of geographic information systems.				
3.1.3	Permit applications for industrial installations: Is there any national / regional guidance provided to the applicant concerning the documents and data related to Natura 2000 sites that have to be submitted to the permit authority?				

	Answer:	Yes	UK, IE, PL, ES, NL, DE, UKSC, CZ	no	ME, SK
		national	UK, IE, PL, ES, NL, DE, UKSC	regional	ES, NL, DE

If yes, what kind of guidance :

UK - Generic and sector specific word documents.

IT – DVA

IE - Basic guidance for a number of different sectors. Not necessarily applicable to certain scenarios.

PL - Natura 2000 in environmental impact assessments

PT - Answer by ICNF

As mentioned before, information about Natura 2000 sites (such as where they are and what are their management guidance) is publicly available through ICNF website, as well as information of the Habitats Directive Article 17 Report (2001-2006).

Besides, European Commission guidance on the application of article 6 ("Managing Natura 2000 sites. The provisions of Article 6 of the 'Habitats' Directive 92/43/CEE", "Assessment of plans and projects significantly affecting Natura 2000 sites – Methodological guidance on the provisions of Article 6 of the Habitats Directive 92/43/EEC" and "Guidance document on Article 6(4) of the 'Habitats Directive' 92/43/EEC. Clarification of the concepts of: alternative solutions, imperative reasons of overriding public interest, compensatory measures, overall coherence, opinion of the Commission") and a document produced by ICNF on "Guidance regarding the nature and application of compensation measures in what regards the application of Decree-Law n.º 140/99, of 24th of April, amended by the Decree-Law n.º 49/2005, of 24th of February" are also available at ICNF website (http://www.icnf.pt/portal/naturaclas/ordgest/aa/resource/doc/med-comp-dez2010).

Answer by APA:

EIA regime: guidance on the content and scope of the information/assessment (environment impact report)

ES - 1. - Guidance provided by the Directorate General for Quality and Environmental Assessment and Natural Environment of the Ministry of Agriculture, Food and Environment of the Government of Spain (available on its website) under the title: *Directrices para la elaboración de la documentación ambiental necesaria para la evaluación de impacto ambiental de proyectos con potencial afección a la Red Natura 2000. Agosto 2012.* (*Guidance for the elaboration of environmental documentation needed for the environmental impact assessment of projects likely to have an effect on the Natura 2000 Network. August 2012*). This guidance is based on the document *Evaluación ambiental de proyectos que puedan afectar a espacios de la Red Natura 2000. Criterios guía para la elaboración de la documentación. Diciembre 2009* (*Environmental assessment of projects likely to have effects on Natura 2000 sites. Guiding criteria for the elaboration of documentation. December 2009*). Both documents are attached to the questionnaire. The Directorate General is currently working on another document.(6)

	2.- Guidance provided by some Regional Governments: a. - Guidance provided by the Regional Government of Castilla y Leon (available on its website) under the title *Guía metodológica para el análisis de proyectos y otras acciones en Natura 2000. Diciembre 2011.* (*Methodological guidance for the analysis of projects and other actions on the Natura 2000 network. December 2011*.). The document is attached to the questionnaire. b. - Guidance provided by the Regional Government of Canarias under the title *Guía para la evaluación de afecciones sobre los espacios de la Red Natura 2000 (Art 6.3 y 6.4 de la Directiva 92/43/CEE).* (*Guidance for the assessment of effects on Natura 2000 sites (Articles 6.3 and 6.4 of Directive 92/43/CEE)*) The document is attached to the questionnaire. c. - Guidance provided by the Regional Government of Murcia (not available on its website) under the title *PYMEs (pequeñas y medianas empresas) y la red Natura 2000. Manual para la elaboración de proyectos. 2005.* (*SMEs (Small and medium enterprises) and Natura 2000 network. Handbook for the elaboration of projects. 2005*). d. - Guidance document provided the Regional Environmental Authority of Galicia (available on its website) *Guía para la determinación del alcance del estudio de impacto ambiental*. (*Guidance for the determination of the scope of the environmental impact assessment report*). The document provides guidance in the form of a check-list for proponents requesting an opinion by the Regional Environmental Authority on the scope and level of detail of the information to be included by them in the environmental impact assessment report to be submitted, as provided in the EIA legislation. The document is attached to the questionnaire. e.- Guidance document provided the Regional Environmental Authority of Galicia (available on its website) *Guía para la revisión de la calidad de estudios de impacto ambiental*. (*Guidance for the quality control of the EIA reports*). The document provides guidance for proponents in the form of a check-list for the quality control of the EIA report to be submitted. The document is attached to the questionnaire. 3.- On top of that, there are provisions in the legislation which are compulsory: a. - Article 35 and Annex VI of EASL include provisions about the quantification and evaluation of the effects of all projects on the Natura 2000 Network to be considered by the applicants in the information they have to supply to the competent authorities. The following items have to be quantified: - The structure and function of the ecological components and identification of essential ecological processes. - Area, degree of representativeness and conservation status of priority and non-priority natural habitat types. - Size of the population, degree of isolation, ecotypes or locally adapted populations, genetic group, age structure and conservation status of the species present. - Relative importance of the site in the bio geographical region and for the coherence in the Natura 2000 Network. - Other ecological elements and functions identified in the site.

b. - Provisions of Natura 2000 MPRG.

RO - Probably for the environmental authority. For the water authority are generally guidance not specific to the protected areas.

NL - There is a national guidance that gives general information to licensing authorities, applicants, operators and advisors. Besides in the Province of Noord-Brabant, we have the provincial internet-site where one finds practical information concerning the procedure and the necessary documents and investigations.

DE - The following examples are not complete. They do not reflect the whole situation.
Federal Ministries /Federal Agencies and competent Ministries of the Federal states (Länder) have published guidance on the general principles on their websites.This is available for everybody, including competent authorities and applicants. On top of that permit authorities provide templates concerning the documents and data to be submitted with the application.
BfN: link to COM website plus:
Lambrecht et. Al. (2004): Assessment of significant effects in the frame of appropriate assessments
Lambrecht & Trautner (2007): Standards of significance for habitat loss
Hötker (2009): Assessment of significance and cumulative effects in appropriate assessments (documentation of an expert workshop) etc.

Road construction: Federal Ministry for Transport “Guidance for the HD appropriate assessment in A-road construction” plus
Scientific study on nitrogen immissions / depositions finalised, guidelines in preparation
Inland waterways: “Guidance for the HD appropriate assessment concerning federal inland waterways”

Federal States: some examples
Baden-Württemberg:” Checklists for HD assessments in Baden-Württemberg”
Bavaria: checklists for HD assessments and templates for documentation of results.
Brandenburg: “Guidance for the assessment of significant and irrelevant substance import into Natura 2000 sites” (under revision because of court decision)
Hessen: “HD appropriate assessment – yes or no”
Northrhine-Westphalia: “Guidance for HD appropriate assessment in Northrhine-Westphalia”
Schleswig-Holstein: decree on the item
……
Competent ministries for nature conservation and for permit and inspection of industrial installations of Federal States (Länder) in cooperation with BfN and UBA: preparation of guidance document concerning nitrogen immissions / deposition caused by industrial installations.

UKSC - As well as the application forms and guidance accompanying those application forms developed by SEPA please see the response to question

	2.2.1 c) above that lists tools developed to assist operators in making their submissions to SEPA. HU - There is no guidance but the legal rules set obligations what kind of documentation must be submitted to the authority: The modification of the Government Decree No. 275/2004. Annex 14. The modification of the Government Decree No. 314/2005. Annexes 4, 6 and 8 CZ: In the **Czech Republic** the documents that need to be submitted to the permit authority in case there is the possibility of a significant effect on a Natura 2000 site are determined by law. On top the Ministry for the Environment has issued methodological material which specifically describes what has to be done in case of possible significant effects.

3.1.4	What is the official status of the national / regional guidance?				
	national:	Binding	UK (n/a), HU, CZ	Non-binding	IE, PL, PT, ES, NL, DE, UKSC
	regional:	Binding	IT, NL	Non-binding	IR, ES, NL, DE
	Please specify: UK - Whilst our guidance is advisory it clearly identifies the key legal points of Article 6 par. 3 Habitats Directive. As such our guidance is non-binding but the key legal points must be addressed, otherwise it would negate the value of the guidance. **NL - The national guidance is a general guide. The provincial site provides general information about the procedure and the reason why a permit is necessary. But it also provides the request forms en describes which attachments should be added to the request form.** **This is partly binding and non-binding.** DE - Guidance documents are generally not binding. If cases go to court the judgement often refers to the guidance used so that it has, to a certain degreee relevance. If upper courts or the Federal administrative court reject the basic guidance used for the decision a revision will be a possible reaction. HU - There is no guidance but the legal rules give directions to the criteria system: The modification of the Government Decree No. 275/2004. Annex 15. The modification of the Government Decree No. 314/2005. Annexes 5, 13, 15.				

3.1.5	Do you have specific guidance for the screening / decision whether an assessment according to HD is necessary or not?				
	Answer:	yes	UK, PT (CCDR Norte), ES, NL , DE, UKSC,	no	IT, IE, PL, PT (ICNF), ME, CZ, RO, DE, HU

			SK		
	(2) If yes, what kind of data has to be submitted for screening? UK - The applicant is required to submit the location(s) National Grid Reference, the volume and type of emission. They are also requested to identify early on, often with pre-application discussion, the location of any Natura 200 sites in the vicinity. PT - Answer by CCDR Norte: By applying the EIA procedure, previously to the permitting procedures. In the screening phases of the EIA procedure, the information submitted concerns e. g. the projects characteristics, localization, social and economics effects. Answer by ICNF: Though there is no specific guidance for the screening, the decision whether an assessment according to HD is necessary or not is made in a case-by-case analysis that considers the legal requirements (Habitats Directive and DL 140/99 and respective amendments), guidance documents and information regarding Natura 2000 sites, habitats and species referred in 3.1.3. The location, nature and characteristics of the project are also taken into consideration, as well as other plans and projects that may concur to cumulative significant effects on Natura 2000 sites. ES - 1- Documents mentioned in 3.1.3.1) and 3.1.3.2.b) include specific guidance on the issue. The following data has to be submitted for the screening: a. - Information about the project. b. - Information about the Natura 2000 sites. c. – Identification, analysis and assessment of the impacts. d. - Preventive and mitigation measures. e. Global analysis of impacts on the Natura 2000 network. f. - Main alternatives considered. g. - Follow-up measures plan. h. - Author or authors of the Nature 2000 chapter. 2 .On top of that, there are provisions in the legislation that are compulsory: a. - Article 29, on SEA procedure and Article 45 on EIA of EASL. The wordings in Spanish of both Articles are attached to the questionnaire. b. - Annex III of EASL, where criteria are established to determine whether projects listed in Annex II are to be subject to an EIA. The wordings in Spanish of the Annex III are attached to the questionnaire c. - Annex V EASL, where criteria are established to determine whether plans and programmes are to be subjected to a SEA. The wordings in Spanish of the Annex V are attached to the questionnaire **NL - See 3.1.1. But for specific questions one can always call the provincial helpdesk.** DE - Up to now SH has only a screening checklist for an industrial area in Brunsbüttel, but not an own general guidance document for screening, SH uses checklist of Baden-Württemberg or a draft that will become part of an electronic tool. UKSC - Use of the SCAIL and APIS systems referred to in 2.2.1 c) above.				
	(3) If yes, does it include information concerning the current status of conservation of Natura 2000 sites?				

	UK - At this stage we do not regard the conservation status as relevant, just the presence or absence of Natura 2000 sites within a range of distances according the to the emission type and volume. PT - Answer by CCDR Norte: No. ES - No. This information is available in other documents and resources such as the official websites. The status of conservation of the sites is checked at intervals of six years as provided in Article 17 of HD. **NL - The recently produced managementplans for each site contain these information.** DE - For screening the conservation status of Natura 2000 sites is not taken into consideration. The presence or absence of sites is relevant. (siehe 3.2.1) UKSC – Yes SK - contact to SNC
	(4) If available, please send a general or a case specific screening checklist to the project team. PT - Answer by CCDR Norte: There aren't screening checklists available, only the lists of the limits above which a project is consider to be submitted to EIA procedure - Decree-Law n. º 151-B/2013, of 31st of October, amended by the Decree-Law n.º 47/2014, of 24th of March. **NL - See www.brabant.nl (dutch language) or http://www.synbiosys.alterra.nl/natura2000/effectenindicatorappl.aspx?subj=effectenmatrix&tab=1** DE - Schleswig-Holstein: For the industrial area of Brunsbüttel Schleswig-Holstein has a guidance document with explanation of criteria and an overview of Natura 2000 sites to be taken into account, the natural habitats and species, the conservation targets, impact criteria, significance SK - contact to SNC

3.1.6	Do you have defined criteria in your guidance for the assessment to decide if the industrial installation "is likely to have significant effect" on a Natura 2000 site?				
	Answer:	Yes	UK, ES , NL, DE, UKSC, HU	no	IR, PL, ME, CZ, RO
	If yes, what kind of criteria? Please describe 276_05_SD01.doc UK - See embedded document IT – DVA ES Criteria included in *Evaluación ambiental de proyectos que puedan afectar a espacios de la Red Natura 2000. Criterios guía para la elaboración de la documentación. Diciembre 2009* (*Environmental assessment of projects likely to have effects on Natura 2000 sites. Guiding criteria for the elaboration of documentation. December 2009):* Criteria regarding the impacts: - Type of impacts (positive or negative) - Magnitude of the impacts				

	- Spatial extent of the impacts - Duration of the impacts - Timing and frequency of the impacts - Reversibility of the impacts - Cumulative and synergic impacts. Criteria regarding the features of community interest: - Direct destruction of the feature: loss of natural habitat type extension - Direct decrease in populations of species of community interest - Vulnerability of the feature of community interest: ecological requirements - Resiliency Confidence in the prediction of the impact: - Certain - Likely - Unlikely - Extremely unlikely NL - See 3.1.5 DE - See under 3.1.3 CZ - Only general criteria that ensure the requirements of the Art. 6.3 are fully met; those criteria state which projects should be taken into consideration based on: size / extent of the project, land occupation, the distance from the Natura 2000 site or the protection objectives, natural resources requirements, soil, water and air emissions, extent of the excavation works, transportation demands, the length of the construction, operation or removal and the others. Direct or indirect effects on the site that have to be considered are: reduction of the site (e. g. habitat) size, disturbing the protection objectives, fragmentation of the habitats or species biotopes, species density decrease or a change of the habitat conditions / characteristics. Changes to a site that are caused due to those effects (e. g. decrease of a species population as a result of disturbing) also have to be taken into account. Those criteria are not strict, specific or measurable as "significant effect" on a Natura 2000 site can arise from various effects of the project or their combination. UKSC - Use of the SCAIL and APIS systems referred to in 2.2.1 c) above.x HU - Criteria systems are set forth by the legal rules: The modification of the Government Decree No. 275/2004. Annex 15. The modification of the Government Decree No. 314/2005. Annexes 5, 13, 15. The decision whether the installation "is likely to have significant effect" depends on the deliberation of the authority in every case. There is no specific limit values that are fixed in advance and can decide if the effect is significant.
3.1.7 How do you decide which other plans and projects have to be taken into consideration?	
	Please describe how you proceed: UK - We assess the effects alone and in combination with other plans and projects that could in combination have an adverse effect on site integrity. IE - We ask the applicant to submit any details of screening undertaken by

competent authorities related to the project, eg. planning authorities.

PL - The requirement to carry out the environmental impact assessment for a proposed project which may possibly have a significant effect on the environment (and Natura 2000 sites) shall be determined by the authority competent to issue a decision on the environmental conditions, taking into account all the following factors: the type and characteristics of the project, the location of the project, taking into account the possible danger for the environment, in particular as a result of the existing land use, the self-cleaning capacity of the environment, the renewal of natural resources, natural and landscape values as well as the conditions of local land-use plans, the type and magnitude of the possible impact on environment.

PT - Answer by ICNF:

Decisions are made in a case-by-case analysis (see 3.1.5.).

ME - Where projects or plans are subject to the EIA or SEA directives, the Article 6 assessments may form part of these assessments.

ES 1.- The document *Evaluación ambiental de proyectos que puedan afectar a espacios de la Red Natura 2000. Criterios guía para la elaboración de la documentación. Diciembre 2009* (*Environmental assessment of projects likely to have effects on Natura 2000 sites. Guiding criteria for the elaboration of documentation. December 2009)* in Paragraph 4.3 *Impactos en combinación con otros proyectos, planes o programas, o con otros elementos o actividades*. (*Impacts in combination with other projects, plans and programmes or with other features and activities*), include provisions on how to proceed. The wordings of Paragraph 4.3 are attached to the questionnaire.

Situation in the Region of Galicia:

- Databases containing data (and since some time ago digital maps) on projects, plans and programmes subjected to EIA or SEA procedures exist as in IED-installations.
- In the case of small installations subjected to EIE procedure, databases exist too, although if they are likely to have effects on Natura 2000 sites they have to be subjected to an EIA procedure as mentioned above.
- Databases containing data of emissions to air and water from classified installations exist (Emissions Register of Galicia (REGADE) following the provisions established for the European Pollutants Release and Transfer Register (PRTR) by the Directive 96/61/CE, the Decision 2000/479/EC and the Regulation 166/2006/EC.
- For smaller installations and activities not subjected to the previous procedures and permitted or positively reported by nature conservation authorities there are not databases available.
- There are not defined criteria for the spatial and time scope to be taken into consideration, but for instance, if permanent habitat loss in the site has taken place, no matter when in the past, it has to be taken into account.

NL - We take in consideration cummulation of effects of different plans. In the Netherlands there is for example a national programme in development that should mitigate deposition of ammonia and NOx to make Natura 2000-goals realisable. All activities (now and in the near future) with ammonia.

	NOx-emission are taken into account. DE - For an industrial installation the possible effects and pathways are analysed, a modelling of the emissions / immissions is carried out. Then the inventory of Natura 2000 sites within the distance of e.g. 3 km round the installation (depending on the modelling of immissions) is analysed and their habitat types and specific species as well as the sensitivities are assessed. If additional Natura 2000 habitats are in the vicinity they will be included into the assessment. If it is found out that special criteria, e.g. noise or import of substances might reach a sensitive Natura 2000 site and depending on the individual kind of effect it is investigated whether other projects (realised after the notification of the Natura 2000 site or currently planned) within the circle have similar effects and contribute to the gross effect. CZ - Based on the Art. 6.3 of the Habitats directive and section 45h and 45i of the Nature Protection Act No. 114/1992 Coll. Any already implemented or to be implemented plans or projects with possible cumulative or synergic effects that might affect the significance of the effects of the project in question have to be taken into consideration when deciding about the significance of the project both in the stage of screening and main AA. UKSC - This is done on a case-by-case basis, using SEPA's knowledge of other applications being considered at that time and the models that assess the dispersion and deposition footprints of those. Existing loading from relevant installations and their permits is already included in the modelling for deposition that is incorporated in the SCAIL and APIS systems referred to above as part of the existing background loading. The SCAIL tool has a limited capacity to assess the combined effects of multiple proposed sources. HU - In the knowledge of the site and its surroundings.

3.1.8	Do you have defined provisions for the documentation of the screening result or the result of the assessment Natura 2000 sites according to HD?				
	Answer:	Yes	IE, ES, NL, DE, UKSC, HU	No	PL, ME, RO
	If yes, please describe the information that must be reported UK - Unsure as to the nature of this question IE - Yes, the screening determination and the Appropriate Assessment determination must be recorded and published, along with the reasons for those determinations. ES - Provisions of Article 25, 26, 31 and 32, on SEA procedure and of Article 41, 42, 46 and 47 on EIA procedure of EASL. **NL - If significant negative effects because of the activity not can be excluded the applicant should deliver a "careful estimate" (passende beoordeling). In this estimate the applicant has to convince that no treathens of priority species and habitats are expected because of the activity.** DE - The result has to be documented. Many authorities have templates for				

	that. The permit authority lays down the decision in the chapter “statement of grounds” of the permit. CZ - The requirements are set by both the law and methodological document issued by the MoE. There is a template, but the screening result documents may vary depending on the authority that issues it and its detail might be different depending on expected effects of the project. . UKSC - Use of the SCAIL and APIS systems referred to in 2.2.1 c) above and the Nature Conservation Procedure for Environmental Licensing and its recording template. HU - In every case the authority must decide on the conclusion and its reason in (the purview of) a decision as well as the authority must decide on the reasons, documents and legal rules which constitute the basis of the decision.

3.1.9 Do you see any need for guidance for permit writers (for industrial installations) giving advice on how to deal with the effects on Natura 2000 sites or any other guidance document on HD?

	Answer:	Yes	IE, ES, RO, NL, DE, HU	no	UK, PL, CZ, UKSC

If yes, what kind of guidance

IT – DVA

IE - Primarily on screening of projects and plans.

PT - Answer by ICNF:

Though there is no specific guidance for industrial installations’ permits writers, there is general guidance regarding the application of the ‘Habitats’ Directive and the management of Nature 2000 sites, as mentioned in 3.1.3.

Answer by CCDR Alentejo:

Yes, a document containing objective criteria decision support.

ES - Guidance to assist permit writers in translating the result of the AA to the permit conditions and establishing appropriate follow-up measures.
Guidance to assist permit writers/competent authorities for issuing permits in deciding whether a project has to be subjected to the EIA procedure or not.
Guidance to assist inspectors in the enforcement of permit conditions.
Methodology and criteria given in the guidance shall not substitute criteria to assess individual cases when justified.
Guidance should be non-binding.

RO - From NAAR point of view: create a link between WFD and Habitats Directive

NL - It would be very helpful if there was a national guidance on several priority risks/themes.

DE - In Schleswig-Holstein guidance from other sectors (waterways or road construction) or other Länder is used accordingly for industrial installations. Specific guidance for permit procedures for industrial installations should be developed.

HU - An interactive guidance, easily assessable through internet.

For the following questions (3.2. to 3.4.) please

IT - DVA

a) give a general overview.

PT - Answer by APA:

When a project is subject to environmental impact assessment (EIA) procedure, the developer has to submit to the competent authority, the environmental assessment report that includes all the relevant information to support the assessment.

This report includes, namely, information on:

- the description of the project and its different alternatives,
- description of the relevant aspects of the current state of the environment,
- description of the factors likely to be significantly affected by the project,
- description of the likely significant effects of the project on the environment ,
- description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements.

This report also includes all the relevant information to support the appropriate assessment foreseen under article 6 of Habitats Directive, when applicable.

provide concrete examples from permitting procedures for

b) large combustion plants

c) intensive rearing of poultry or pigs.

3.2	**Application documents**
3.2.1	What kind of information concerning effects on Natura 2000 sites is the operator required to include in the application?
	a) General overview: UK - The operator is required to submit detailed information about the type and volume of emissions, the location and the chemical constituents if known. The timing (whether continuous or intermittent) is also needed. We then cross reference this information with type of Natura 2000 site, considering the species/habitats, their aquatic or terrestrial nature and their level of exposure. IE - Emissions, status of qualifying features (species, habitats) at the site, environmental quality monitoring (air, water, etc.) *PL - No further information is necessary in the application. All issues related to the impact on Natura 2000 are resolved at the stage of EIA (decision on the environmental conditions).* ME - The operator shall submit to the competent authority the application for permit issuing in accordance with - Rulebook on Content, Form and Manner of Filling-up Application for Issuing Integrated Permit (Official Gazette of the Montenegro, No. 03/08) based on IPPC Law. The permit shall contain among others conditions relating to: Measures contained in the Environmental Impact Assessment Study;

Measures of air, water and soil protection

ES - Description of the project.
- Alternatives that have been considered.
- Description of the direct, indirect and cumulative effects on the site.
- Mitigation measures and compensations proposed.
- A follow-up measures plan.
- A summary of all the information submitted.

NL - General description of the installation or activity. In addition all themes with possible negative effects on priority species or habitats should be quantitatively described.

DE - Relevant data are normally provided by consulting experts (at least for IED installations and those under the Federal Immission Control Act). Projects for industrial installations are not situated in Natura 2000 sites.

Concerning screening:

- description of the project (characteristics of the installation, phase of building and phase of operation) **(I)**
- description of pathways of emissions into air, land and water and amounts (by modelling) **(II)**
- description of Natura 2000 sites within the area of impact of the installation and those close to it (no. and official name of the sites) **(III)**
- description of possibly affected Natura 2000 sites: for each of them the protected natural habitat types and species (priority / non-priority), the current state, the conservation targets and development objectives, the sensitivity of habitats and species against the effects of the project and the existing loads e.g. of nitrogen compounds **(IV)**
- description of possible (direct and indirect) effects of the project within Natura 2000 sites, on natural habitats and species **(V)**
- description of other projects which might have direct or indirect effects on the Natura 2000 sites **(VI)**
- description of possible (direct and indirect) effects of the project - in combination with other projects – on the protected site and the natural habitat types and species **(VII)**

concerning appropriate assessment:

see a) but with much more details and with overall statement concerning the significance. **(VIII)**

CZ - The EIA statement (a conclusion and a detailed summary of the EIA process) which deals with effects of the project on Natura 2000 sites

UKSC - Use of the SCAIL and APIS systems referred to in 2.2.1 c) above.

HU - They can be found at the Annex 14. (15.) of the Government Decree No. 275/2004. (X. 8.).

SK - State Nature Conservancy of the Slovak Republic

b) example 1:

ME - Do not have these cases.

ES - There are not large combustion plants directly or indirectly producing effects on Natura 2000 sites in the Region of Galicia but provided that a project is proposed, IED permit procedure would be applied along with an EIA procedure.

NL - A request for a piggery or chicken farm should contain exact information about ammonia emissions as well as exact calculated estimations of the deposition derived from the livestock in the Natura 2000-site.

DE - project of a coal fired large combustion plant situated at the Elbe estuary (= Natura 2000 site): see under a) but especially
1 use of land within a / the Natura 2000 site for building a pipeline (below the surface) for abstraction of cooling water and underground cable
2 emissions to air with effect on Natura 2000 site(s) – nitrogen compounds (NOx and NH3 from SCR or SNCR), sulphur compounds (SO2),
3 emissions to water: discharge of waste water, discharge of saline waste water into the river Elbe (below or higher than natural concentration of Northsea water?), abstraction and discharge of cooling water (amount/volume and current flow rate), will a device for shooing fishes be part of the project? will devices for abstraction and discharge of cooling water be outside the zones of wadden sea and zones of shallow water?

3. Noise and vibrations (in this case relevant because of a nearby bird sanctuary)

UKSC - The transfer of Longannet coal-powered Power Station into IPPC was the subject of a major Habitats Regulations Assessment including an appropriate assessment.
HU - Its site- and project specific – We have not one installation like that on our Natura 2000 territories.

b) example 2:

ES - The same as in a) and additionally:
- Quantification of capacity in places.
- An annual manure management plan which shall include the identification and location (referred to SIGPAC identification codes; SIGPAC is the national official GIS for the land parcel identification as required by the Council Regulation (EC) No 1593/2000 of 17 July 2000 amending Regulation (EEC) No 3508/92) of the plots where the manure will be used as fertilizer and the amount of manure to be used in every plot. The plan has to be submitted every year to the environmental authority.
- A manure storage infrastructure building project including covered watertight slurry storage tanks with capacity enough to store the manure at least 6 months.

NL - A dairy farm or a arable farm should give precise information (daily, seasonally, yearly) about withdrawing of ground water in case the priority species or habitats are in danger because of draugt.
DE - project for a pig farm:
see under a) but especially:
exact information about ammonia emissions and the (dry and wet) deposition in the Natura 2000 site(s)
UKSC - All pig and poultry facilities above the relevant IED (then-IPPC) thresholds were subject to screening and, if required, assessment of their likely significant effects on Habitats Directive qualifying features in SACs. A number of appropriate assessments were undertaken where a likely significant effect on a Natura site's qualifying features was identified.
HU - Its site- and project specific – We have not one installation like that on our Natura 2000 territories.

3.2.2 In case of integrated projects (including mitigation measures) what kind of

additional monitoring information is required?

a) General overview:

UK - Most cases do not require monitoring, but occasionally more information is required to allows modelled analyses. This could be for a detailed air quality model, marine dispersal plume model or groundwater model.

IE - This scenario is case-specific and its difficult to give a general answer.

PL - No further information is necessary in the application. All issues related to the impact on Natura 2000 are resolved at the stage of EIA (decision on the environmental conditions).

ES- Regular inspections in IED installations every 1, 2 or 3 years depending on the environmental risk evaluation.

- Implementation of the follow-up measures plan in projects subjected to the EIA procedure. Follow-up studies carried out by the proponent have to be submitted to the permit issuing authority.

NL - Information of regionally tendencies should be available. If it is not available yet, the applicant should deliver this information (see 3.1.8).

DE - integrated projects are always tailor-made and specific solutions so that a general answer concerning monitoring information is difficult. A description of the current sitiuation must be part of the permit application. For proving the longterm success of the mitigation measures adequate monitoring must be carried out. The obligations must become part of the permit.

CZ - Very case-specific
UKSC - Use of the SCAIL and APIS systems referred to in 2.2.1 c) above.

HU - Its site- and project specific – We have not one installation like that on our Natura 2000 territories.

SK - State Nature Conservancy of the Slovak Republic

b) example 1:

b) Example 1:

ES - Regular inspections depending on the environmental risk evaluation.

- Implementation of the follow-up measures plan in projects subjected to the EIA procedure. Follow-up studies carried out by the proponent have to be submitted to the permit issuing authority. Results of the following controls will be submitted:

- Sound pressure level controls (annual)

- Emissions into air (monthly)

- Emissions into surface water (monthly)

- Emissions into soil and groundwater (every six months)

- Environmental Inspections if included in the Environmental Inspections Plan (Approved at intervals of 6 years; it is made public on the official website of the Regional Government; we are currently working on the 2013-2018 Inspection Plan. Each year during the Plan an Annual Programme is carried out which is also made public in which a specific campaign may be included; for instance a campaign to control the storage, collection and management of used mineral oils). The 2013-2018 Environmental Inspection Plan of Galicia and the 2014 Environmental Inspection Programme of Galicia are attached to the questionnaire.

NL - When an applicant wants to start or expand an animal farm, information is needed about regional concentrations in the atmosphere and data of deposition. For most Dutch regions this information is available.
DE - For an LCP in Hamburg a permit acc. to the water management act for an integrated project was issued. The operator had to build a fish pass into the Elbe river. A monitoring report about the fish population was part of the application. The operator has to monitor the use of the fish pass by the different species.
HU - Its site- and project specific – We have not one installation like that on our Natura 2000 territories.

c) example 2:

ES: - Regular inspections every 3 years in IED installations as a consequence of the environmental risk evaluation.

- Implementation of the follow-up measures plan in projects subjected to the EIA procedure. Follow-up studies carried out by the proponent have to be submitted to the permit issuing authority. Results of the following controls will be submitted:

- Sound pressure level controls (annual)

- Emissions into surface water (annual)

- Emissions into soil and groundwater (every six months)

- Manure management plan, as mentioned in 3.2.1.c) (annual)

- Environmental Inspections if included in the Environmental Inspections Plan (Approved at intervals of 6 years; it is made public on the official website of the Regional Government; we are currently working on the 2013-2018 Inspection Plan. Each year during the Plan an Annual Programme is carried out which is also made public in which a specific campaign may be included; for instance a campaign to

control the storage, collection and management of used mineral oils). The 2013-2018 Environmental Inspection Plan of Galicia and the 2014 Environmental Inspection Programme of Galicia are attached to the questionnaire.

NL - When an applicant wants to distract groundwater of drain his fields or pastures he has to image the effects of the activity and he has tot prove that his activity doesn't negative effects on priority species and habitats.

DE - For a new pig farm the applicant has to submit information about the existing load of nitrogen compounds for the site, the additional load derived from mathematical projections on the grounds of a mean annual frequency distribution and the total load round the installation (distance in the first step determined acc. to Technical Instructions on Air Quality Control – TA Luft). For the use in the context of the Habitats Directive a broader circle is used. This depends on the distance to the next Natura 2000 site.

In many cases integrated farm projects consist of the stables with scrubbers for minimisation of ammonia emissions. In these cases obligations concerning maintanence, monitoring of the proper function of the scrubbers and reporting become part of the permits.

HU - Its site- and project specific – We have not one installation like that on our Natura 2000 territories.

3.2.3 Can information, e.g. from the EIA procedure, be used in the applications for the screening or the approprite assessment?

Answer:	Yes	UK, PT, ES, NL, DE, UKSC, HU, SK	no	IE, PL

If yes:

UK - The content of the EIA information is very different to that required for the HRA – due to the wider nature of the EIA. However where possible all relevant material from an EIA is used in the HRA. However, due to the very specific nature of HRA assessments, we have found that often, extra information is required on top of that gathered for the EIA.

PT - Answer by IGAMAOT and APA:
The answer is yes, because when a project is in the scope of EIA and Natura 2000 the appropriate assessement is conducted under EIA procedures.
CZ - The appropriate assessment is conducted within the EIA process.

ME - The applicant shall submit the following, depending on the installation:

1) For new installations – the authorisation granted for the Environmental Impact Assessment Study and authorisation granted for the assessment of the hazard of accidents made in accordance with special regulations;
2) For the existing installations – the authorisation granted for the Environmental Impact Assessment Study, the authorisation granted for the assessment of the hazard of accidents made in accordance with special regulations and programme of measures of bringing of the existing installations or activities into compliance with the prescribed conditions.

HU - The impact assessment is part of the EIA if the permit is subject to EIA.

a) General overview: (e.g. which information be used in this field …)

ES - Description of the project.
- Alternatives that have been considered.
- Description of the direct, indirect and cumulative effects on the environment.
- Mitigation measures and compensations proposed.
- A follow-up measures plan.

NL - Very useful, especially when EIA gives information about emissions of ammonia and NOx.

DE - all kind of useful information, e.g. on emissions and pathways and the effects can be used from other parts of the documents

UKSC - In line with Article 12(2) of the IED, if information that has been submitted for the purpose of an EIA is of use in an IED permit application then this can be appended to the IED application. Scottish Government's guidance to competent authorities under the Conservation (Natural Habitats, &c.) Regulations 1994 also makes clear that information gathered for the purposes of EIA can, if suitable, be included as part of the assessment for Habitats Regulations purposes.

SK - EIA/SEA

b) example 1: SP – as in a)

NL - I don't have an example.

c) example 2: SP – as in a)

3.2.4 Are there any differences between the requirements in the application documents for new and existing installations?

Answer:	yes	ES, NL, DE, HU	no	UK, IE, PL, UKSC

If yes:

ME - see 3.2.3

a) General overview:

UK - The process that we follow is exactly the same whether they are new or existing installations. We did conduct a Review of Existing Consents from year 2000 to 2010, which followed a different assessment process, but his has now concluded.

IE - Appropriate Assessment process before, they may not need to submit as much information as a new applicant.

ES - In existing installations, a new description of the project has to be added

and cumulative effects have to be assessed. Alternatives considered and mitigation, compensation and follow-up measures have to be added to the existing ones.

NL - In the Netherlands the application date of the Natura 2000-sites for the HD (7 december 2004) is used as a reference point. Activities that existed before this date and till now did not expand, on the average don't have to fear. When farms cope with regular environmental requirements and restrictions normally no problems occur. Exceptions are made when the activity takes places in or very nearby a Natura 2000-site.

New initiatives or expansions after 7 December 2004 have to deal with more severe requirements.

DE - For new installations the total amount / volume of effects has to be taken into consideration → the full programme has to be carried out. All projects carried out after the notification date of the Natura 2000 sites or having a permit but not yet realised have to be taken into consideration for cumulation.

For the change of an existing installation only the difference between the situation at the date of notification of the Natura 2000 site and the new situation is relevant for the estimation of the effects on the Natura 2000 site. Concerning the cumulation the situation is the same as for new installations.

HU - In the case of existing installations the procedure must be shown – how and when will the installation meet the requirements.

b) example 1:

ES – as in a)

NL - Some older farms have still no or simple systems for emission reduction. New farms and new expansions have tot introduce severe emission reducing methods. For example an air-scrubber with 95% of reduction. Also an new or expanding company has to buy or take over emission rights form ending farms. In this way growth of emission is mitigated/compensated.

HU - Its site- and project specific – We have not one installation like that on our Natura 2000 territories.

c) example 2:

ES - Additionally to a), a new manure management plan and a new sizing of manure storage infrastructure has to be submitted. Cumulative effects have to be assessed.

HU - Its site- and project specific – We have not one installation like that on our Natura 2000 territories.

3.2.5 Do you have any instructions on how to avoid salami-slicing of industrial /

agricultural installations?

UKSC - What is salami-slicing? It is difficult to answer without understanding exactly what is meant by this term.

Answer:	yes	ES, NL, DE, HU	no	UK, IE, PL, ME, UKSC

If yes:

a) General overview:

UK - We follow Defra guidance on how competent authorities should work together to prevent salami slicing of industrial installations. We have learnt from experience that all competent authorities should work together from the project inception to deliver a coordinated HRA.

PT - Answer by APA:

EIA regime: The Portuguese EIA legislation tries to prevent "salami slicing" by establishing the possibility for a screening decision on project types listed under Annex II but not meeting the thresholds established. In these cases, the licensing authority, based on the criteria established in Annex III of the Directive (transposed into Annex V of Decree-Law 151-B/2013, of 31st October) may subject the project to EIA procedure if considers it to have significant environmental impacts.

The Portuguese legislation also foresees the possibility for a joint decision from the Minister of the Environment and the Minister competent in the field of the project subjecting to EIA procedure any project which, given its nature, location and characteristics, may have significant environmental impacts.

ES - Provisions of legislation to subject any existing installations to a new IED or EIA procedure when changes are considered to be substantial (more than 50 % increase in capacity, resources consumption, waste production).

- Assessment of cumulative effects when the same proponent submits applications for two or more installations.

- Example: Wind farms proponents may be asked to change their projects in order to share some infrastructure.

NL - In the Dutch legislation we have a very precise definition of a activity or installation. The name is "inrichting". It's practically impossible to split an installation in two or three new ones just tot acquire more emission rights. When a company/an installation nevertheless splits, rights split as well and new permit procedures should be started.

DE - Article 1 of the German ordinance on installations requiring a permit acc. to the Federal Immission Control Act defines what an installation is. In practice it is possible to build installations with different owners on different sites. The permit authority has to check the company contracts and the majorities.

HU - The modification of the Government Decree No. 314/2005. (XII. 25.) solved the problem.

b) example 1:

ES - As in a)

DE - concerning LCPs the problem does not occur
HU - Its site- and project specific – We have not one installation like that on our Natura 2000 territories.

c) example 2:

ES - As in a)

DE - Concerning farms the problem occurs.

HU - Its site- and project specific – We have not one installation like that on our Natura 2000 territories.

3.2.6 Do you have defined follow-up measures concerning Natura 2000 sites after having issued the permit for the installation?

Answer:	Yes	UK, ES, NL, DE, UKSC, HU	no	IE, PL

If yes:

UK - If the installation has required continued monitoring of emissions or ecological impact as a condition within the permit, then this will be maintained for the period agreed with the applicant. As we regulate @10,000 permits a year we do not automatically have follow-up measures for all that are connected with Natura 2000 sites. However we have due regard of the advice from Natural England, which can instigate post permitting measures.

ME - Obligations of the Operator

The Operator shall:

1) Act in compliance with conditions set by the permit;
2) Submit monitoring results to the competent authority;
3) Inform the competent authority about all changes in operation, namely functioning of the installation or an accident, with possible visible impacts on the environment or human health;
4) Submit to the competent authority the annual report on execution of activities that the permit was issued for;
5) Inform the competent authority on the planned change of Operator;
6) Execute all measures that the competent authority prescribes upon termination of validity of the permit.

UKSC - Where necessary, further monitoring requirements can be placed in permits to ensure that impacts on Natura 2000 sites are prevented in relation to permitting decisions.

	a) General overview: ES - Monitoring by law enforcement forces/bodies with competences in nature conservation: Nature Conservation Service Rangers (Regional Government of Galicia), SEPRONA (Nature Protection Service) units of the Guardia Civil (Ministry of Interior of the Government of Spain), UPA unit of the National Police (Spanish National Police of the Ministry of Interior ascribed to the Regional Government of Galicia) - Environmental inspections are carried out if they are included in the Environmental Inspections Plan (Approved at intervals of 6 years; it is made public on the official website of the Regional Government; we are currently working on the 2013-2018 Inspection Plan. Each year during the Plan an Annual Programme is carried out which is also made public in which a specific campaign may be included; for instance a campaign to control the storage, collection and management of used mineral oils). The 2013-2018 Environmental Inspection Plan of Galicia and the 2014 Environmental Inspection Programme of Galicia are attached to the questionnaire. - Under the provisions of EPRGL, environmental inspectors of the Regional Environmental Authority may inspect any installations and activities likely to produce effects on the environment of the Region. - Environmental inspections are carried out when incidents and accidents are reported or complaints are submitted by citizens or NGOs. Environmental inspections at request of permit issuing authorities. **NL - The installation is added to the inspection programme of the competent authority. The requirements and restrictions in the permit will be inspected. The inspection programme are based on risks. Installations with the highest risks obtain high priority. This means a more thorough inspection and more frequent.** DE - Depends on the obligations of the permit. If there are e.g. monitoring obligations for the Natura 2000 site in the permit, it has to be carried it out, checked and in case of offences followed-up by setting fines or issuing subsequent orders. HU - Periodical audits, Case inspections, Yearly IPPC reports.
	b) example 1: ES - As in a) **NL - The risk of a traditional dairy farm with marginal requirements concerning emissions will be inspected less frequent than an intensive piggery with an air-scrubber (air abatement- installation) with reduction percentage of 95 %. When the air-scrubber (air abatement- installation) does not function the company emits 20 times the amount that is allowed. This creates severe endangering of species and habitats.** DE - LCP: see 3.2.2 HU - Its site- and project specific – We have not one installation like that on our Natura 2000 territories.
	c) example 2:

ES - As in a)

DE - In case a project for a pig farm is an integrated project with a taking a certain part of land in the vicinity of the Natura 2000 site out of farming use (no spreading of manure, no animals on it), this has to be part of the application and the permit. An obligation concerning the check of the use of the land must be integrated in the permit.

HU - Its site- and project specific – We have not one installation like that on our Natura 2000 territories.

3.3 Permit conditions

3.3.1 How are the requirements concerning Natura 2000 sites incorporated into the permit?

a) General overview:

UK - Many permits that we issue contain numeric limits which are considered to be initial mitigation. Often these are stringent enough to allow us to ascertain no likely significant effect. Where the nature of the emission is uncertain and a full HRA is required this will either result in additional mitigation measures, or in the last stage of the HRA compensatory measures.

IE - through the general conditions and emission limit values designed to protect the receiving environment.

PL - New requirements concerning Natura 2000 sites are not incorporated into the permit. All issues related to the impact on Natura 2000 are resolved at the stage of EIA (decision on the environmental conditions).

ME - The permit shall contain conditions relating to:

1) Implementation of best available techniques or other technical requirements and measures;
2) Measures contained in the Environmental Impact Assessment Study;
3) Emission limit values for pollutants determined for the relevant installation;
4) Measures of air, water and soil protection;
5) Measures relating to management of waste generated during the operation of the installation;
6) Measures relating to reduction of noise and vibrations;
7) Measures relating to the efficient energy consumption;
8) Requirements relating to monitoring of emission with:
   - The specified methodology;
   - The defined frequency of measuring;
   - The defined rules for interpretation of measuring results;

- The set obligation to submit the data to the competent authority;

9) Measures for prevention of accidents and elimination of their consequences;
10) Reduction of pollution, including the transboundary environmental pollution;
11) Measures planned for start-up, for momentary stoppages in cases of disruption in functioning of the installations as well as for termination of operations;
12) Undertaking of measures of protection of the environment after the final termination of activities aimed at avoiding the risk of pollution and returning of the site into the satisfactory status;
13) Way, frequency and scope of data contained in the report that shall be submitted to the competent authority in accordance with the regulations;
14) Results of the review of conditions and obligations set by the permit;
15) Other specific requirements.

ES - Permit conditions for IED installations include all requirements concerning Natura 2000 sites. They are subjected to an EIA procedure in parallel. The requirements issued by the authority competent for nature conservation are mandatory and binding.

- The decision on SEA and EIA issued by the competent environmental authority includes all requirements concerning Natura 2000 sites. The requirements issued by the authority competent for nature conservation are mandatory and binding.

- Projects initially to be subjected to an EIE procedure are to be subjected to an EIA procedure when they are likely to produce effects on Natura 2000 sites.

- According to Natura 2000 MPRG, permits for projects and plans not subjected to EIA procedure include mandatory and binding requirements concerning Natura 2000 sites.

RO - the water law has limited specifications concerning the protected areas; but has very clear provisions concerning " prevent damage of all surface and underground bodies (including protected areas)", "protection and improvement of aquatic ecosystems and wetlands"
-a summary of the National Register of Protected Areas is included in the Basin Management Plan (elaborated by NAAR- the Basin Administration)

DE - In case a project for a pig farm is an integrated project with a taking a certain part of land in the vicinity of the Natura 2000 site out of farming use (no spreading of manure, no animals on it), this has to be part of the application and the permit. An obligation concerning the check of the use of the land must be integrated in the permit.

UKSC - The first element concerns setting permit conditions, including emission limit values that prevent impacts on Natura 2000 sites. The second element concerns interaction with SNH to ensure that no impacts are found and the third element concerns the possibility for SEPA to set monitoring conditions in permits for sites that might be impacted by a particular installation. Any or all of these provisions can be used.

HU - They appear as obligatory terms in the mandatory part of the permits.

SK - in permit conditions

b) example 1:

ES - As in a)

RO - all measures takes in consideration the links between the different Directives, the WFD and The HD

NL - A company with an air-scrubber (air abatement- installation). In the requirements is carefully how the installation should function, how its maintenance takes place, what emission reduction should be realised etc.
DE – LCP

HU - Its site- and project specific – We have not one installation like that on our Natura 2000 territories.

c) example 2:

ES - As in a)

RO - for industrial installations – the BAT provisions

DE - pig farm
If air-scrubbers are used to minimise amonia imissions obligations concerning maintanence, monitoring of the proper function of the scrubbers and reporting become part of the permits.

HU - Its site- and project specific – We have not one installation like that on our Natura 2000 territories.

3.3.2 Are conditions concerning follow-up measures related to Natura 2000 sites incorporated into the permit?

a) General overview:

UK - Yes they can be – see response to 3.2.6

IE - Occasionally, mostly relating to water quality.

PL - New conditions concerning follow-up measures related to Natura 2000 sites are not incorporated into the permit. All issues related to the impact on Natura 2000 are resolved at the stage of EIA (decision on the environmental conditions).

ME - see 3.3.1

ES -Permit conditions for IED installations include follow-up measures.

- The decision on SEA or EIA issued by the competent environmental authority includes follow-up measures.

- Follow-up measures can be established by the permit issuing authority and as a result of previous consultation and public information included in the EIA procedure.¨

RO - for the hydrotehnical works (flood defence works)

NL - No, the approach for enforcement and/or prosecution is determined in regional and national agreements.
DE - yes, see 3.2.6

UKSC - See response to question 3.3.1 above.

HU - They appear as obligatory terms in the mandatory part of the permits.

b) example 1:

ES - As in a)

RO - specific materials who can be integrated in the environmental space

DE - see 3.2.6

HU - Its site- and project specific – We have not one installation like that on our Natura 2000 territories.

c) example 2:

ES - As in a)

RO - assuring the fishes migration

DE - see 3.3.1 c)

HU - Its site- and project specific – We have not one installation like that on our Natura 2000 territories.

3.4 Follow-up measures

3.4.1 How are the requirements concerning follow-up measures related to Natura 2000 sites incorporated into the inspection work?

a) General overview:

UK - Please see response to 3.2.6

IE - compliance with any specific conditions would be measured during inspections.

PT - Answer by IGAMAOT (Inspection):

We do not have any large combustion plants on Natura 2000 sites.

Permits impose operating conditions and follow-up measures concerning the activity itself to assure the control of emissions and the consumption of resources. IGAMAOT inspects the compliance of those follow-up measures.

Permits can also impose follow-up measures concerning specific aspects of Natura 2000, for example cutting down trees with nests in breeding season or to construct a green barrier to the installation with specific plants. For these kind of conditions IGAMAOT can also inspect the compliance but if it is a very specific measure it will be accompanied by inspection from the entity that has competence for Natura 2000 (and that imposed that condition), CCDR or ICNF.

ME - In execution of inspection control the environmental inspector shall control the following in particular:

1) The operation of new installations with respect of permit obtaining;
2) The operation of the existing installations with respect of compliance with the requests and conditions for permit obtaining set by this Law;
3) The implementation of the prescribed measures and environmental conditions contained in the permit;
4) Any change in operation, namely functioning of the installation;
5) Conducting of emission self-monitoring, monitoring results and their submission;
6) Annual reports on execution of activities that the permit was issued for;
7) Operator's documentation related to permit issuing, extending, changing or revoking;
8) Implementation of other prescribed environmental protection measures.

ES - Any noncompliance by the proponent of permit conditions when is not corrected after request of the permit issuing authority may be subject of an environment inspection at its request.

- Environmental inspections are carried out if they are included in the Environmental Inspections Plan (Approved at intervals of 6 years; it is made public on the official website of the Regional Government; we are currently working on the 2013-2018 Inspection Plan. Each year during the Plan an Annual Programme is carried out which is also made public in which a specific campaign may be included; for instance a campaign to control the storage, collection and management of used mineral oils). The 2013-2018 Environmental Inspection Plan of Galicia and the 2014 Environmental Inspection Programme of Galicia are attached to the questionnaire.

- Under the provisions of EPRGL, environmental inspectors of the Regional Environmental Authority may inspect any installations and activities likely to produce effects on the environment of the Region.

- Environmental inspections are carried out when incidents and accidents are reported or complaints are submitted by citizens or NGOs. Environmental inspections at request of permit issuing authorities.

RO - the Water Law provides, in case of non-compliance, coercive measures

NL - A supervisor or inspector should know the in 3.3.2 mentioned agreements and knows which procedure he should follow.

DE - The inspection work is based on the permit. As the requirements are part of the obligations the inspector knows what to check. If the competent inspector for industrial installations needs the support of the competent nature conservation authority joint inspections should be carried out. This is the same for LCPs, for farms and all kinds of other installations.

UKSC - It is part of normal compliance procedures for SEPA to assess compliance with all permit conditions, including those that are related to Natura 2000 sites. At the same time, SEPA may be contacted by SNH in relation to new impacts identified that may require permit conditions to be updated. More information on SEPA's compliance work, including inspections, can be found here: http://www.sepa.org.uk/about_us/what_we_do/compliance_assessment.aspx

HU - They are fitted into the yearly inspection plan of our Inspectorate.

b) example 1:

PT - Answer by IGAMAOT (inspection):

> A permit of a mining activity has a condition to control the emission limit values of a specific wastewater discharge to a river and, at the same time, to monitor two specific sites of a river for the same parameters, before and after the discharge, and evaluate the impact and the need to protect the water quality since it is an important Habitat. Although the emission limit values were being complied the analysis from ICNF showed that the concentrations for those parameters on the river where affecting certain species. The installation had to deliver a plan with actions to correct this situation, with measures including changes in the wastewater plant and chemical products used to treat the mining material and even the composition of explosives. The company made a protocol with a university to study alternatives to treat the wastewater since it was difficult to substitute the chemicals/explosive products in use. In addition the company also implemented measures to provide the recirculation of the treated wastewater, instead of discharging it into the river. IGAMAOT accompanied, during its regular inspections, the fulfilling of the plan by the operator and the acceptance of the measures taken by ICNF.

ES - As in a) and additionally regular inspections every 1 year (in IED-installations)

RO -ensure the flow of servitude (ecological flow + flow downstream use)

HU - Its site- and project specific – We have not one installation like that on our Natura 2000 territories.

c) example 2:

PT - Answer by IGAMAOT:

A permit for intensive rearing of pigs has a condition to build and maintain a green barrier around the perimeter of the installation with specific plants from that region. CCDR informed

	IGAMAOT that the installation was not complying because there were major flaws in this barrier and a penalty was applied. Later on, the public prosecutor asked IGAMAOT to confirm that this situation was not corrected and there was an inspection to this installation that included this item. ES - As in a) and additionally regular inspections every 3 years. RO - reduce / eliminate any influence of anthropogenic activity HU - Its site- and project specific – We have not one installation like that on our Natura 2000 territories.

Additional comments:

PL - *All issues related to the impact on Natura 2000 are resolved at the stage of EIA (decision on the environmental conditions). A decision on the environmental conditions shall be binding for the authority which issues other decisions*

ES:

(1) There are currently 4 Territorial Units of the Regional Environmental Authority, one for each Province in which the Region of Galicia is administratively divided: A Coruña, Lugo, Ourense and Pontevedra. The coastal western provinces (A Coruña and Pontevedra) are the most populated and industrialized where most industrial installations (IED and non-IED) are located.

(2) Regarding Iñaki Bergareche Urdampilleta: Under the provisions of the Galician Parliament Act 9/2013 of 19 December 2013 on entrepreneurship and competitiveness of Galicia (hereinafter ECRGL), since 28 December 2013, certain non-IED / non- EIA small projects have to be subjected to an environmental incidence evaluation (hereinafter EIE) procedure. As an output of this procedure, conditions are established by the Territorial Units (provinces) of the Regional Environmental Authority for the project to proceed. I am a member of the technical team responsible for writing the conditions. Before 28 December 2013 these projects were also subjected to EIE but the permits were issued by municipal authorities. The permits had to include the conclusions and conditions of the EIE procedure environmental provincial authority. From 28 December 2013 onwards, this new legislation has eliminated the permit requirement which has been substituted by an advance notice of initiation of the activity provided that the EIE procedure's results are positive and that conditions are met.

(3) A screening is needed ('simplified EIA' under the EASL, which may result in an EIA procedure when Natura 2000 sites are concerned or even in other

cases (‘ordinary EIA’ under the EASL) in the permitting procedure for farms in the following cases:

a. More than 2.000 places for sheep and goats.

b. More than 300 places for dairy cows.

c. More than 600 places for beef cattle.

d. More than 20.000 places for rabbits.

(4) Under the provisions of ECRGL, an EIE (environmental incidence evaluation) procedure is needed for intensive rearing in the following cases:

a) Between 1.000 and 40.000 places for egg-laying chickens.

b) Between 1.000 and 55.000 places for meat-producing chickens.

c) Between 50 and 2.000 places for production pigs.

d) Between 25 and 750 places for sows.

e) Between 50 and 300 places for dairy cows.

f) Between 75 and 600 places for beef cattle.

g) Between 1.000 and 20.000 places for rabbits.

Nevertheless, if Natura 2000 sites are concerned, an EIA procedure will be needed.

(5) The document is known to the Regional Nature Conservation Authority but not directly applied. Based on this document, a guidance document issued by the National Nature Conservation Authority exists which is more easily applied which is mentioned in 3.1.3.1) A Spanish translation of the document is available on the website of the Regional Government of the Basque Country.

The National Nature Conservation Authority is currently working on a document on appropriate assessment of the effects on Natura 2000 sites in which criteria will be established for the assessment of significance for the 118 natural habitat types included in Annex I of HD and for the 176 species included in Annex II of HD present in Spain. The document will be based, among other documents, on the document “Fachinformationssystem und Fachkonventionen zur Bestimmung der Erheblichkeit im Rahmen der FFH-VP – Endbericht zum Teil Fachkonventionen, Schlussstand Juni 2007.” LAMBRECHT, H. & TRAUTNER, J. (2007): – FuE-Vorhaben im Rahmen des Umweltforschungsplanes des Bundesministeriums für Umwelt, Naturschutz und Reaktorsicherheit im Auf-trag des Bundesamtes für Naturschutz - FKZ 804 82 004 [unter Mitarb. von K. KOCKELKE, R. STEINER, R. BRINKMANN, D. BERNOTAT, E. GASSNER & G. KAULE]. – Hannover, Filderstadt. In this context, they are keeping

contact with Dirk Bernotat, one of the collaborators who participated in the elaboration of this document.

Legislation cited

a. - EU:

- Directive 92/43/EEC (HD)

- Directive 2010/75/EU (IED)

- Directive 2011/92/EU (EIAD)

- Directive 2014/52/EU amending Directive 2011/92/EU (I attach the Directive because I consider the amendment of Article 2.3 to be relevant for the project)

- Directive 96/61/CE concerning integrated pollution prevention and control (IPPC).

- Decision 2000/479/EC on the implementation of a European pollutant emission register (EPER) according to Article 15 of Council Directive 96/61/EC concerning integrated pollution prevention and control (IPPC).

- Regulation 166/2006/EC of the European Parliament and of the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register and amending Council Directives 91/689/EEC and 96/61/EC

b. - Spain:

- Spanish Parliament Act 42/2007 of 13 December 2007 on the conservation of natural heritage and of biodiversity (NCSL)

- Spanish Parliament Act 21/2013 of 9 December 2013 on the environmental assessment (EASL)

- Ministerial Order of the Ministry of Agriculture, Food and Environment of the Government of Spain AAA/2231/2013 of 25 December 2013 by which the procedures of communication and previous consultation to the European Commission regarding compensatory measures contemplated in Article 6 par. 4 of the Habitats Directive are regulated.

- Spanish Parliament Act 27/2006 of 18 July 2006, by which the rights of access to information, of public participation and of access to justice in environmental matters are regulated (incorporates Directives 2003/4/EC and 2003/35 / EC).

c. - Galicia:

- Regional Government of Galicia Decree 37/2014 of 27 March 2014 by which the sites of Community importance of Galicia are designated as special areas

of conservation and the Master Plan for the Natura 2000 Network of Galicia is approved (Natura 2000 MPRG).

- Galician Parliament Act 9/2013 of 19 December 2013 on entrepreneurship and competitiveness of Galicia (ECRGL),
- Galician Parliament Act 1/1995 of 2 January 1995 on the environmental protection of Galicia (EPRGL),

Attached documents

a.- *Diseño de una metodología para la aplicación de indicadores del estado de conservación de los tipos de hábitat de interés comunitario en España*. (Simón, J.C., García, R., Del Barrio, G., Ruiz, A., Márquez, S., Sanjuán, M.E. 2013. Ministerio de Agricultura, Alimentación y Medio Ambiente. Madrid. 318 pp.) (*Designing of a methodology to apply to conservation status indicators in Spain*) Ministry of Agriculture, Food and Environment of the Government of Spain. (Paragraphs 3.1.1.2/ 3.1.3.2/ 3.2.2/ 3.3.2).

b. - *Directrices para la elaboración de la documentación ambiental necesaria para la evaluación de impacto ambiental de proyectos con potencial afección a la Red Natura 2000. Agosto 2012*. (*Guidance for the elaboration of environmental documentation needed for the environmental impact assessment of projects likely to have an effect on the Natura 2000 Network. August 2012*). Ministry of Agriculture, Food and Environment of the Government of Spain.

c.- *Evaluación ambiental de proyectos que puedan afectar a espacios de la Red Natura 2000. Criterios guía para la elaboración de la documentación. Diciembre 2009* (*Environmental assessment of projects likely to have effects on Natura 2000 sites. Guiding criteria for the elaboration of documentation. December 2009*). Ministry of Agriculture, Food and Environment of the Government of Spain.

d. - *Guía metodológica para el análisis de proyectos y otras acciones en Natura 2000. Diciembre 2011.* (*Methodological guidance for the analysis of projects and other actions on the Natura 2000 network. December 2011*.). Regional Government of Castilla y León.

e. - *Guía para la evaluación de afecciones sobre los espacios de la Red Natura 2000 (Art 6.3 y 6.4 de la Directiva 92/43/CEE).* (*Guidance for the assessment of effects on Natura 2000 sites (Articles 6.3 and 6.4 of Directive 92/43/CEE)*). Regional Government of Canarias.

f. - Guidance document provided the Regional Environmental Authority of Galicia (available on its website) *Guía para la determinación del alcance del estudio de impacto ambiental*. (*Guidance for the determination of the scope and level of detail of the environmental impact assessment report*).

g.- Guidance document provided the Regional Environmental Authority of Galicia (available on its website) *Guía para la revisión de la calidad de estudios de impacto ambiental*. (*Guidance for the quality control of the EIA reports*).

h. – EASL: Wordings of Article 29, on SEA procedure; wordings of Article 45 on EIA procedure; Wordings of Annex III where criteria are established to determine whether projects listed in Annex II are to be subject to an EIA; Wordings of Annex V, where criteria are established to determine whether plans and programmes are to be subjected to a SEA.

i. - The 2013-2018 Environmental Inspection Plan of Galicia.

j. - The 2014 Environmental Inspection Programme of Galicia.

k.- Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment. Wordings of Article 2 Paragraph 3 of EIAD as amended by Directive 2014/52/EU:

'*In the case of projects for which the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and from Council Directive 92/43/EEC (HD) and/or Directive 2009/147/EC of the European Parliament and the Council (Birds Directive), Member States shall, where appropriate, ensure that* ***coordinated and/or joint procedures*** *fulfilling the requirements of that Union legislation are provided for.*

In the case of projects for which the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and Union legislation other than the Directives listed in the first subparagraph, Member States ***may provide for coordinated and/or joint procedures****.*

Under the coordinated procedure referred to in the first and second subparagraphs, Member States shall endeavour to coordinate the various individual assessments of the environmental impact of a particular project, required by the relevant Union legislation, ***by designating an authority for this purpose****, without prejudice to any provisions to the contrary contained in other relevant Union legislation.*

Under the joint procedure referred to in the first and second subparagraphs, ***Member States shall endeavour to provide for a single assessment*** *of the environmental impact of a particular project required by the relevant Union legislation, without prejudice to any provisions to the contrary contained in other relevant Union legislation.*

The Commission ***shall provide guidance regarding the setting up of any coordinated or joint procedures*** *for projects that are simultaneously subject to assessments under this Directive and Directives 92/43/EEC, 2000/60/EC, 2009/147/EC or 2010/75/EU.*'

Links

a. - Link to the Natura 2000 official website of the Region of Galicia

http://www.cmati.xunta.es/seccion-tema/c/Conservacion?content=Direccion_Xeral_Conservacion_Natureza/Espazos_protexidos/seccion.html&sub=Rede_natura_2000/

Documents are available to download such as Natura 2000 MPRG and the attached cartography.

b. - Link to the GIS providing information on Natura 2000 sites of the Region of Galicia.

http://inspire.xunta.es/siteb/acceso.php

b. - Link to the Natura 2000 official website of Spain.

http://www.magrama.gob.es/es/biodiversidad/temas/espacios-protegidos/red-natura-2000/default.aspx

Documents are available to download such as the guidance mentioned.

SK - Slovak Inspectorate of the Environment integrated permit conditions, which develop SNC, District office, EIA/SEA procedure

Proposals for the workshop:

NL - We advise to select a few themes for the workshop that in many countries occur and endanger the priority habitats en species. The themes can be discussed en worked out during the session.
Priority themes in the south-eastern of the Netherlands are:
- **Nitrification/ eutrophication of soils because of deposition of nitrogen containing compounds**
- **Drying of soils because of groundwater extracting.**
- **Nitrification/ eutrophication/ pollution of channels, rivers and brooks.**

PT - ANNEX (QUESTION 2.2.1)

Area	**Authorities / bodies**	**Tasks and responsibilities**
Protection of habitats and species within NATURA 2000 network	**ICNF** (Institute for Nature and Forest Conservation) (Ministry of Agriculture and Sea)	Guidance, consulting issues (note 1), permitting (all projects and plans concerning new installations or an increase of constructed area or land use in Natura 2000 sites or that can affect Natura 2000, must previously be submitted, and approved by ICNF)

	5 **CCDR** (Coordination Commission for Regional Development – Norte, Centro, Lisboa e Vale do Tejo, Alentejo and Algarve) (Presidency of the Council of Ministers)	Location permit for all installations; Participation on the process of Permitting of industrial installations and animal farms; Coordination of EIA for some of the installations that are under the EIA Directive. Coordination of the process of assessment of some typified projects concerning renewable energies not in the scope of EIA Directive but located in Natura 2000 sites. (all projects and plans concerning new installations or an increase of constructed area or land use in Natura 2000 sites or that can affect Natura 2000 sites, must previously be submitted, and approved, by ICNF)
	APA (Portuguese Environmental Agency) (Ministry of Environment Spatial Planning and Energy)	Permitting (environmental licences, for installations IPPC in the scope of DEI Directive); Coordination of EIA for some of the installations that are under the EIA Directive (note also that all projects and plans concerning new installations or an increase of constructed area or land use in Natura 2000 sites or that can affect Natura 2000, must previously be submitted, and approved, by ICNF)
	The competent authorities are from the Ministry of Agriculture and Sea, the 5 **Regional Directions of Agriculture and Fisheries** (Ministry of Agriculture and Sea)	Coordination of the Permitting of animal farms (small farms and intensive rearing of poultry and pigs)

	The competent authorities for industrial installations are the 5 **Regional Directions now integrated on the Executive agency for Competitiveness and Innovation** (Ministry of Economy) or, for some industrial installations, the Municipalities (if contracted power is equal or under 40 kVA, termal input is equal or under 8,106 kJ/h, and have 15 or less employees) Or, for large combustion plants, the National Directorate for Energy and Geology (Ministry of Environment Spatial Planning and Energy)	Coordination of the Permitting of industrial installations
	Universities, research institutions and non-governmental organisations	Consulting issues

Note 1: The consultive issues are not a requisite from national legislation. Nevertheless all operators can ask authorities to have a meeting to clarify technical issues.