



# Evaluation Study to support the Fitness Check of the Birds and Habitats Directives

*DRAFT - Emerging Findings*

*For Fitness Check Conference  
of 20 November 2015*



**Disclaimer: The information and views set out in this study are those of the authors and do not necessarily represent the official views of the Commission.**

This Draft Emerging Findings report has been prepared by a consortium led by Milieu Ltd, and also comprised of the Institute for European Environmental Policy (IEEP), ICF International and Ecosystems Ltd. for the European Commission's Directorate General Environment under Service Contract number: ENV.B.3/ETU/2014/0014. This document has been prepared as a background document for the Conference held on 20 November 2015.

Milieu Ltd. (Belgium), Chaussée de Charleroi, 112, B-1060 Brussels, tel: +32 (0)2 506 1000; web address: [www.milieu.be](http://www.milieu.be).

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## Executive Summary

This Executive Summary presents draft emerging findings from the evaluation study for the Birds and Habitats Directives Fitness Check. It has been prepared by a consortium of experts and will feed into the final Commission report for the Fitness Check, which the Commission plans to issue in Spring 2016. **The information and views set out in this study are those of the authors and do not necessarily represent the official views of the Commission.**

This document has been prepared as background information for a dedicated stakeholder conference on the Fitness Check. The purpose of the Conference is to share the emerging findings of the consortium's evaluation work with a view to ensuring that:

- important findings are not overlooked in the conclusions;
- there is no misrepresentation of evidence in findings;
- adequate regard is given to the different inputs and the evidence that supports different views.

### Effectiveness

This examines the extent to which the objectives of the Nature Directives have been met, and any significant factors that may have contributed to or inhibited progress towards meeting those objectives. 'Objectives' refers to strategic objectives and also the specific or operational objectives of both Directives.

- Considerable progress has been made in the implementation of the Directives' measures, particularly regarding the creation of the terrestrial component of the Natura 2000 network, the legal protection of Natura 2000 and the protection and sustainable use of species. Progress has been slower than anticipated in a few areas, especially in the marine environment, although there is a growing impetus towards the completion of the Natura 2000 network, the development of management plans and the establishment of site conservation measures. Where fully and properly implemented the Directives have effectively reduced pressures on biodiversity, slowed declines and, with time, led to some recoveries of habitats and species.
- The Directives have been less successful in contributing to the management of features of the landscape outside of Natura 2000 that are important for fauna and flora. Common bird species that are more dependent on the wider countryside are more likely to be showing population declines.
- The impacts of the measures taken so far are not yet sufficient to meet the overall aims of the Directives. In particular, while 52% of bird species have a secure population, 17% are threatened, with a further 15% near threatened, declining or depleted. Of EU Annex 1 habitats, 16% have a favourable conservation status, with most others being classified as having an unfavourable-inadequate status (47%) or unfavourable-bad status (30%). Of the species listed in Annex II of the Habitats Directive, 23% have a favourable conservation status, with most species having an unfavourable-inadequate status (42%) or unfavourable-bad status (18%).
- The Directives make a major contribution to the EU's biodiversity target. They contribute directly through the conservation of targeted habitats and species, which include a high proportion of semi-natural habitats and threatened species (especially amongst vertebrates). Many more species are protected indirectly, through the diverse and species-rich habitats in the Natura 2000 network. The Directives also support all the targets of the EU's Biodiversity Strategy, especially the restoration of ecosystem services under Target 2. However, the Directives alone cannot deliver the EU 2020 goal of halting the loss of biodiversity without complementary action being taken, especially in other key policy sectors such as agriculture.

- The availability of funding has probably had the strongest influence on the implementation of the Directives. The increase in funding availability stimulated by the Directives (such as the LIFE programme and CAP agri-environment measures) has been vital; but there are now shortages that are limiting progress, especially in the establishment of conservation management measures. Other important influences include the degree of political support for the Directives; uncertainty over the Directives' provisions (although now largely addressed); levels of enforcement; stakeholder awareness and involvement; levels of biodiversity knowledge; progress with management planning; the unintended effects of certain incentives and subsidies in other policy sectors; levels of integration with spatial planning, impact assessments and other policies; and the capacity of competent authorities.
- The Directives have brought about unintended changes that are not required in the legislation but have impacted its effectiveness. A key positive change is increased public awareness and stakeholder participation in support of nature protection. They have also encouraged more integrated management of nature with socio-economic activities, which has generated business opportunities and new governance approaches.

## **Efficiency**

Efficiency is essentially a comparison between inputs used in a certain activity and produced outputs. The central question asked here is whether the costs involved in the implementation of the EU Nature Directives are reasonable in relation to the objectives pursued and the results achieved (benefits). Both 'costs' and 'benefits' can be monetary and/or non-monetary.

- Implementation of the Directives involves significant costs:
  - The direct costs of designating, protecting and managing Natura 2000 sites have been estimated at EUR 5.8 billion annually across the EU.
  - Opportunity costs arise where the protection of sites and species restricts development, land use change and land management. This is highlighted as a concern by certain businesses, although it affects a very small proportion of all proposed developments in the EU. In many parts of the EU land managers are compensated for restrictions on agriculture and forestry.
  - The costs of damage caused by protected species (e.g. large carnivores) and associated compensation payments can be significant at a local level but account for a small proportion of overall costs.
  - The administrative burdens of compliance with the Directives' site and species protection rules are significant. Effective implementation is dependent on the collection, analysis and sharing of information, interactions with stakeholders and consideration of plans and projects. Administrative burdens are therefore inevitable. Businesses and environmental groups differ in their views about whether there are substantial unnecessary burdens, but share the view that burdens are often caused by inefficient implementation at national, regional and local level.
  - Costs vary widely across the EU due to a range of environmental and socio-economic factors, including differences in the size of the Natura 2000 network and the approach to implementation.
  - There are numerous examples of cost-effective implementation practices, which are helping to reduce costs, including effective consultation and stakeholder engagement, partnership approaches, strategic planning, guidance, as well as coordinated collection and sharing of information.
- Implementation also delivers substantial benefits:
  - Core benefits are the protection and improvement of the status of habitats and species.

- Protection of sites and species helps to safeguard and enhance the delivery of ecosystem services with related benefits to wellbeing. These benefits have been estimated at EUR 200-300 billion per year for the Natura 2000 network.
- Implementation brings benefits for local economies through job creation and tourism. Natura 2000 sites attract estimated annual expenditure on tourism and recreation of EUR 50-85 billion.
- Studies indicate that the benefits of the site and species protection ensured by the Directives greatly exceed the costs of implementation at the EU, national and local levels. However, few studies have directly compared the costs and benefits of the specific actions required to implement the Directives. Those that have suggest that the benefits of action exceed the costs at most sites, but not at all sites. Responses to the evidence gathering questionnaire and public consultation, particularly from businesses, highlighted several examples where the costs of implementation were viewed as being disproportionate to the benefits.
- Non-implementation of the Directives would be expected to lead to a gradual erosion of the benefits of the sites and species protected by the Directives, including a loss of ecosystem services which would accumulate in value over time. It has been estimated that even a 1% reduction of the ecosystem services flowing from the Directives would cause losses of EUR 2-3 billion a year, which would accumulate over time.
- Despite an increase in research and monitoring activities, significant gaps in knowledge have led to implementation problems and contributed to costs and burdens. Key knowledge deficiencies include: the identification of marine SPAs and SCIs; the potential impacts of certain human activities on some species; and the location of European protected species and habitats outside Natura 2000 sites.

## Relevance

Relevance concerns the extent to which the objectives of the Nature Directives are consistent with the needs of species and habitats of EU conservation concern. It considers whether the objectives and requirements of the legislation are still valid, necessary and appropriate.

- According to Member State reports, the most frequent pressures on European protected habitats and species are linked to habitat loss and degradation arising from agriculture. Pressures also frequently result from forestry, pollution, hunting, fishing, building development and extractive industries. Invasive alien species affect some species groups and habitats. Climate change is an increasing threat. The provisions of the Directives, if well implemented, form a framework capable of addressing key problems that habitats and species face. However, to fully address these problems the Directives need to be integrated with the relevant policies in other sectors.
- Stakeholders generally agree that the Directives' principles and overall approach remain valid and appropriate. The Annexes have been updated mainly in response to EU enlargements. Many national authorities, and some other stakeholders, consider that the Annexes should be further updated, primarily to reflect taxonomic changes, new scientific information, gaps in coverage of threatened species and changes in the status of species. In contrast, all of the consulted nature conservation NGOs and some of the national authorities and businesses consider it more important to properly implement the Directives as they are now rather than risk legal uncertainty through further updates.
- The Directives make positive contributions to sustainable development broadly and to specific related goals, such as resource management, health and social benefits. They have been designed to allow economic development when compatible with the Directives' biodiversity objectives. Although the Directives give primacy to biodiversity objectives in decision-making, no evidence has been provided showing that this significantly constrains overall

sustainable development. Sustainable development could however be further facilitated, for example, by identifying potential conflicts early in the development planning cycle.

- There is a strong consensus among Europeans about the importance of nature protection. A significant majority (80%) of Europeans consider the decline and possible extinction of animals, plants, natural habitats and ecosystems to be a serious problem in Europe. The interest of EU citizens in nature is further demonstrated by the unprecedented participation rate in the online public consultation carried out for this evaluation. While many contrasting views emerged from this consultation, over 520,000 citizens stated that the Directives are important for conserving nature.
- A majority of Europeans (60%) believe that environmental decisions should be taken jointly between national governments and the EU; a significant majority (77%) consider EU environmental legislation necessary for protecting nature in their country. Most Europeans think that neither their national governments (70%) nor the EU (56%) are doing enough to protect the environment. The overwhelming majority of Europeans (89%) believe that areas where nature is protected should be expanded, and about as many (88%) support strengthening existing nature and biodiversity conservation rules.

### **Coherence**

Evaluating the coherence of legislation, policies and strategies means assessing if they are logical and consistent, internally (i.e. within a single Directive), with each other (i.e. between the two Directives), and with other legislation as well as with relevant policies. This includes whether there are significant contradictions or conflicts that stand in the way of the effective implementation of the Directives or which prevent the achievement of their objectives.

- The Birds Directive and the Habitats Directive are largely coherent, internally and with each other, despite some differences in scope and operational measures. Ultimately, both aim at contributing to ensuring biodiversity in coordination with other instruments. The protection regime for SCIs, SACs and SPAs has been harmonised through Article 7 of the Habitats Directive. Any potential inconsistencies arising from differences in scope, approach and wording have largely been addressed through CJEU rulings and Commission guidance over the years.
- The Nature Directives work in coordination with other EU environmental legislation and policies. Particularly important are the horizontal instruments, namely the EIA, SEA and Environmental Liability Directives, as well as legislation and policy in the key water, marine and climate change areas. The objectives and goals of these instruments are coherent with the Nature Directives, although coordinated implementation in practice is required to achieve the best outcomes. Improvements in coordination and management could also reduce the administrative burden on stakeholders, for example in reporting.
- Regarding other policy areas beyond environment, the picture is more mixed. There are many EU funding opportunities for financing biodiversity and Natura 2000 across different instruments. However, only the LIFE programme provides dedicated support to biodiversity and Natura 2000 as a primary objective, whereas other EU funding instruments are primarily targeted to deliver EU goals on rural, regional, infrastructural, social and scientific development. Evidence is mixed on the extent to which nature and biodiversity are successfully integrated into the funding programmes, as this depends on priority-setting at national and regional levels and capacity of stakeholders to absorb funds.
- The CAP and Nature Directives are potentially complementary, as some of the CAP's incentives and associated environmental conditions (e.g. cross-compliance) can be beneficial for biodiversity, although much depends on Member State implementation choices. For example, direct payments, as well as payments for areas facing natural and other specific constraints can support farming systems associated with certain European protected habitats and species, although eligibility rules have led to unintended biodiversity damage in some

areas. Pillar 2 funded measures, and especially agri-environment-climate schemes are the primary means of supporting management practices that are beneficial to biodiversity. Without such support via the CAP the conservation status of agricultural habitats and species would be worse than it currently is. However, the CAP could contribute more to the goals of the Nature Directives, especially if Pillar 2 funding was increased and Member States better tailored and targeted their measures more towards biodiversity priorities.

- Cohesion Policy has both positive and negative impacts on the objectives and implementation of the Directives. It can provide funding to directly support their objectives (e.g. conservation measures) but also for activities that may threaten nature objectives such as transport, energy and other infrastructure. There is room for improvement in the integration of the goals of both Directives into Cohesion Policy to enhance the role of green infrastructure and nature-based solutions.
- The development of network energy infrastructure and energy sources such as biofuels, wind power, shale gas and hydropower can also have negative impacts on habitats and species. There are good examples of ways to prevent/reduce such impacts in Commission guidance documents on wind energy and Natura 2000 and on environmental assessment for energy infrastructure; and through stakeholder initiatives such as the Renewables Grid Initiative, bringing together transmission system operators and NGOs.
- Transport policy can have negative impacts on habitats and species due to the construction of road, rail, waterborne, port and other transport infrastructure. These impacts are recognised in the TEN-T regulation and there are requirements to address them. Evidence shows progress in the way environmental considerations are integrated in TEN-T policy but occasional conflicts still exist.
- With regard to fisheries, the legal framework is considered coherent with the Directives; however the last reform of the CFP still has to deliver results on the ground. In this respect the completion of the marine part of the Natura 2000 network and its effective management is expected to bring an important improvement. Concerns have been expressed by some stakeholders about the impacts of aquaculture on habitats and species, but also about the burden placed on aquaculture caused by strict interpretation of the requirements under article 6.3 of the Habitats Directive.
- There is limited evidence available regarding the impact of the Directives on the EU internal market. A common approach through the Directives is considered as vital to avoid a 'race to the bottom' in environmental standards while giving business legal certainty. However some business stakeholders highlighted the fact that different implementation approaches across Member States have disadvantaged some economic operators and this has prevented a level playing field.
- On international and global commitments on nature and biodiversity, the Directives are generally considered as coherent. Very few inconsistencies, particularly in relation to species protection under international treaties have been identified and the Directives are key instruments for EU to deliver on these international commitments.

### **EU Added Value**

Evaluating the EU added value means assessing the benefits/changes resulting from implementation of the EU Nature Directives, which are additional to those that would have resulted from action taken at national and/or regional levels. It aims to determine whether EU action is still needed to achieve the objectives of the legislation.

- The literature reviewed and the responses to the evidence gathering questionnaire all recognise that the Directives have introduced innovative elements that provide added value to what could have resulted without the EU legislation. The transnational character of nature justifies EU level action as a more effective way to achieve the conservation objective of the

Directives, particularly through joint action on site protection for habitats and species of EU importance.

- The establishment of Natura 2000 as a coherent network, based on scientific information, with the concept of favourable conservation status and of ‘biogeographical regions’ has been innovative and has led to a substantial increase in the extent and coherence of land and marine protected areas. A flexible approach whereby socio-economic factors are considered within site management provided biodiversity objectives are respected has also been introduced.
- The species protection standards set up under the Directive have led to the control of illegal hunting practices and to the reversing of declines across a range of Annex I bird species, which would have been more difficult or impossible to achieve by Member States acting separately. The standards of protection are generally higher than those previously existing in national systems, and the harmonised requirement of such standards across the EU Member States has established a more level playing field for business in line with the single market.
- Through EU-level cooperation and guidance, the Directives have led to greater availability of knowledge and data, increased public awareness and stakeholder participation and increased use of public funding for biodiversity.
- EU action for the preservation and restoration of Europe’s biodiversity remains necessary and even urgent given the continued decline of biodiversity in the EU. Evidence points to the need for EU action to address potentially counter-productive impacts of sectoral EU-level policies (e.g. CAP, CFP) linked to the key challenges faced by habitats and species in the EU. Evidence and stakeholders point that without EU enforcement and pressure the implementation of the Nature Directives would have been weaker and more action is still needed.

## Introduction and methodology

### Introduction

As part of its Regulatory Fitness and Performance Programme (REFIT), the European Commission is currently undertaking a Fitness Check of the Birds<sup>1</sup> and Habitats<sup>2</sup> Directives. This involves a comprehensive, evidence-based assessment of the current regulatory framework to determine if it is ‘fit for purpose’ and delivering against its policy objectives.

The Fitness Check is a retrospective evaluation of both pieces of legislation covering the whole implementation period since their entry into force until now. The Fitness Check has been undertaken in accordance with the Commission’s Better Regulation Guidelines. Any future steps can only be considered once the findings of the Fitness Check are available.

The mandate for the Fitness Check<sup>3</sup> sets out the overall aim and scope of the exercise (see Annex I), including specific evaluation questions to be answered through the process. The Directives are being assessed on the extent to which they have been:

- **effective** in meeting their objectives;
- **efficient** in the use of the resources needed for the achievement of the objectives;
- **relevant** given the needs and its objectives;
- **coherent** both internally and with other EU policies and measures; **and**
- whether the Directives have achieved **EU added-value**.

A Fitness Check should pay particular attention to identifying any synergies (e.g. improved performance, simplification, lower costs, reduced burdens) or inefficiencies (e.g. excessive burdens, overlaps, gaps, inconsistencies and/or obsolete measures) within the group of measures which may have appeared over time.

The Commission is being supported in this Fitness Check by a consortium of consultants, led by Milieu Ltd and also involving the Institute for European Environmental Policy (IEEP), ICF International and Ecosystems Ltd. They have been working on a supporting study which is now entering its final stages.

### Role of the Conference in the Fitness Check process

The aim of the Conference is to share the emerging findings from the on-going study with high level representatives of government and stakeholders, including representatives from relevant economic sectors and non-governmental organisations at both EU and national level.

The Conference is the final stage of the evaluation process before the supporting study is finalised. It provides an opportunity to discuss with participants the current emerging findings with a view to ensuring that:

1. important findings are not overlooked in the conclusions;

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<sup>1</sup> Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7-25).

<sup>2</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7-50).

<sup>3</sup> Available at:

[http://ec.europa.eu/environment/nature/legislation/fitness\\_check/docs/Mandate%20for%20Nature%20Legislation.pdf](http://ec.europa.eu/environment/nature/legislation/fitness_check/docs/Mandate%20for%20Nature%20Legislation.pdf)

2. there is no misrepresentation of evidence in findings;
3. adequate regard is given to the different inputs and the evidence that supports different views.

### Purpose of this document

This document presents the ‘Draft Emerging Findings’ of the work conducted to date by the consortium of consultants. It provides their emerging findings (answers) to the evaluation questions set in the Fitness Check mandate and is made available in advance of the conference in order to facilitate debate and discussion which will then feed into the final conclusions of the consortium. The final study report from the consultants will be a more comprehensive document, explaining in detail the analysis undertaken and presenting their final conclusions. This study will then feed into the Commission's own Fitness Check report.

### Methodology

The methodology for carrying out the evaluation study has been developed by the consortium in close cooperation with the European Commission, taking into account the need to gather, collate and evaluate the best available evidence in a transparent and robust manner.

### Evidence gathering

The evidence gathering process has aimed at ensuring that the evaluation is based on the best available evidence, including both factual and opinion-based information. Between January and July 2015 the consultants have gathered information and data from different sources and stakeholders across the EU as follows:

- 1 **A database of published documents** relevant for the evaluation of EU Nature Directives has been developed and reviewed. It is important to note the large amount of information collected through this process. The database includes over 1700 documents.
- 2 **An evidence gathering questionnaire** covering each of the Fitness Check mandate questions has been sent to representatives of stakeholder groups (the competent authority for nature, one other public sector body, the private sector, and a conservation NGO) in each of the 28 EU Member States, as well as from EU-level representative organisations. In total 112 Member State level organisations and 47 EU level organisations received the questionnaire; 114 responses were provided.
- 3 **Four focus group meetings** were held in Brussels with 30 EU level stakeholder groups as well as meetings with key Commission services.
- 4 **Missions were held in ten representative Member States** to meet with key stakeholders to assess the gathered evidence in more detail and seek further evidence where necessary.
- 5 **A 12-week online open public consultation** was carried out from April to July on the European Commission’s "Your Voice in Europe" website, available in 23 languages. The consultation generated an unprecedented level of interest from individuals and organisations from across all 28 EU countries and beyond. A total of 552,472 replies were received. This is the largest response rate the Commission has ever received to one of its online public consultations.

The main sources of evidence used in the evaluation, including a working list of reference documents and all of the stakeholder evidence gathering questionnaires received by the consultants and more can be found on the European Commission’s website for the Fitness Check, at: [http://ec.europa.eu/environment/nature/legislation/fitness\\_check/](http://ec.europa.eu/environment/nature/legislation/fitness_check/)

### **Collation and evaluation of evidence**

As stated in the Better Regulation Guidance, ‘all evaluations should make credible efforts to obtain data from a wide range of qualitative and quantitative sources and distinguish between the opinion of, or data from, vested interests and independent sources’. To ensure all the evidence obtained from the evidence gathering process is assessed and used as appropriate across the team of consultants, the consultants used an Excel-based management tool to log and store all evidence in written format. This has enabled comparison and cross-validation of findings and the greatest possible confidence in the results.

The Better Regulation Guidelines also state that evidence-based conclusions need to be ‘as specific as possible’ and should be based on judgement criteria developed for each evaluation question (e.g. success factors, related indicators, required evidence and information). These were agreed with the Commission during the design of the evaluation and will be presented in the final study report.

To process and evaluate the collected evidence, the consultants have used the Excel management tool to collate all evidence relevant for each mandate question so it could be considered against the judgement criteria in an objective and systematic manner. Careful attention has been paid to full and balanced consideration of the entire body of evidence provided. Data or statements have been cross-verified from different sources in order to increase the level of confidence in the result. Findings and conclusions have been developed taking into account the reliability and representativeness of each piece of evidence and the relevant body of evidence as a whole. This is a complex undertaking and has relied to a certain extent on professional judgement, but always backed by clear presentation of the available evidence.

### **Presentation of draft emerging findings**

The draft emerging findings of the study are presented for each evaluation question in the following sections of this report, for each of the different evaluation criteria (effectiveness, efficiency, relevance, coherence, EU added value). These findings summarise the most relevant and important aspects of the response to each question, as identified through the consortium's analysis. They represent a first draft of the consortium's findings with a view to being presented, reviewed and discussed with stakeholders at the Fitness Check conference. For each question a summary is provided of the interpretation and approach taken and the main sources of evidence used to generate findings and then present the draft emerging findings. The discussions during the conference will be taken into account during the development of the final study report and finalisation of the consortium's conclusions (answers) to the evaluation questions.

## Effectiveness

This examines the extent to which the objectives of the Nature Directives have been met, and any significant factors which may have contributed to or inhibited progress towards meeting those objectives. 'Objectives', refers not only to the strategic objectives, but also to other specific or operational objectives of both Directives.

### **S.1 - What progress have Member States made over time towards achieving the objectives set out in the Directives and related policy documents? Is progress in line with initial expectations? When will the main objectives be fully attained?**

#### **Interpretation and approach**

This analysis assessed progress towards achievement of the strategic and operational objectives of the Directives, which relate mainly to the identification and designation of Natura 2000 sites, site protection, site management, wider landscape measures, species protection, non-native species, reintroductions, research, education and awareness, financing, monitoring and reporting. The evaluation also sought to quantify progress towards achievement of the overall aims of the Directives. For the Habitats Directive, this refers to maintaining or restoring favourable conservation status of species and habitats of Community interest, while for the Birds Directive it refers to good conservation status of birds.

The assessment also considered the degree to which changes in the status of European protected species and habitats were the result of the conservation interventions undertaken through the implementation of the Directives, examining, for example, whether or not the establishment of the Natura 2000 network has had a measurable benefit for European protected habitats and species. In addition, it examined whether or not the Directives resulted in actions and impacts that went beyond what would have been expected in their absence (e.g. if the size and coherence of the protected area network would have been the same without them).

The assessment of the degree of progress against expectations was particularly difficult, as neither Directive sets a timetable for the achievement of its aims and objectives. This aspect of the evaluation, and the estimation of the likely date that the objectives would be achieved, was, therefore, based on the views of stakeholders.

#### **Main sources of evidence**

- Member State reports for 2001-2006, and 2007-2012, in accordance with Article 17 of the Habitats Directive on conservation status of habitats and species of Community importance – summarised in the 2015 State of Nature report.
- Member State reports for 2008-2012, in accordance with Article 12 of the Birds Directive on population size and trends of bird species – summarised in the 2015 State of Nature report.
- The Commission's / ETC-BD's assessment of the adequacy of the Natura 2000 network.
- Scientific studies assessing the impact of the Directives on conservation status and trends, including any added value provided by the Directives. Of particular importance are the 2007 study of bird population trends by Donald et al updated in 2015 by Sanderson et al.
- Evidence gathering questionnaire responses from stakeholders, within which most of the evidence provided was of a qualitative nature.

## Draft Emerging Findings - For Discussion

- Substantial progress has been made by all Member States on:
  - *Identification and designation of SPAs and SCIs/SACs, i.e. the creation of the Natura 2000 network, which is nearly complete in the terrestrial environment (and has greatly increased the extent of protected areas in many Member States), with an impetus to complete the marine network.*
  - *Legal protection of Natura 2000 sites (Article 6(3) and 6(4) of the Habitats Directive).*
  - *Protection and sustainable use of species, including regulating and enforcing hunting.*
  - *Research (e.g. to identify appropriate sites for Natura designation) and surveillance / monitoring, although significant knowledge gaps remain (see question Y8).*
- Progress has been less significant in the areas of:
  - *Development of conservation measures for Natura 2000 sites (e.g. through management plans and practical land management agreements with owners).*
  - *Establishment of adequate financing mechanisms, both at an EU level and within Member States (see questions Y2 and C7).*
  - *Management of landscape features that improve the ecological coherence of the Natura 2000 network.*
- The Directives have also encouraged actions on non-native species, reintroduction programmes and education and awareness activities, however **there is not sufficient information** for a definitive assessment of progress.
- **The impacts of the measures taken so far are not yet sufficient to meet the overall aims** of the Directives. In particular the 2015 State of Nature report indicates that, in the EU, while 52% of bird species have a secure population, 17% are threatened, with a further 15% near threatened, declining or depleted. Of EU Annex 1 habitats, 16% have a favourable conservation status, with most others being classified as having an unfavourable-inadequate status (47%) or unfavourable-bad status (30%). Of the species listed in Annex II of the Habitats Directive, 23% have a favourable conservation status, with most species having an unfavourable-inadequate status (42%) or unfavourable-bad status (18%).
- **The limited progress** towards improving the status of most European protected species and habitats **needs to be considered in the context** of the strong evidence of ongoing decline before the Directives came into force, the current stage of implementation and the time needed for ecosystems and species populations to respond to conservation measures. Recent assessments suggest that many declines have been arrested, and many stakeholders consider that more widespread improvements in conservation status will occur when the Directives' measures are fully implemented.
- There is strong scientific evidence that the Directives have a beneficial impact over time on birds in Member States with high proportions of SPA, and for species with species action plans. Habitats and species with an unfavourable conservation status are also more likely to show positive trends where a high proportion of their area or population occurs within Natura 2000 sites. **The status and trends of Annex I birds and species and habitats of Community interest would therefore be worse in the absence of the Directives.**
- Common bird species that have a large proportion of their populations within SPAs are more likely to have more favourable population trends. In contrast, a high proportion of species that are widely dispersed, particularly in agricultural habitats, are declining.
- Most consultees consider that **progress has been slower than expected**, mainly due to delays and problems with transposition and resulting legal challenges, slow identification and designation of sites (especially in the marine environment), funding constraints and slow development of management plans (further discussed under S3). It is not possible to predict the likely date by which the main objectives will be met. A large number of factors constrain full implementation (e.g. funding) and threats such as nitrogen deposition and climate change (see question R1) are difficult to tackle and reverse.

## **S.2 - What is the contribution of the Directives towards ensuring biodiversity? In particular to what extent are they contributing to achieving the EU Biodiversity Strategy\* Objectives and Targets?**

### **Interpretation and approach**

The objectives of the Nature Directives ensure that they contribute to EU biodiversity policies and targets to some extent, however, mismatches may occur, given that both Directives predate the EU's 2010 and 2020 biodiversity targets and associated strategies by many years. The evaluation of this question firstly considered the contributions made by the Directives to the conservation of biodiversity as a whole, in particular taking into account the following key factors:

- The proportion of biodiversity that is directly targeted by the Directives (i.e. European protected habitats and species).
- The proportion of other biodiversity that indirectly benefits from the measures for target species.

Secondly, the evaluation considered the extent to which the Directives contribute to the achievement of the specific targets and related actions in the current EU Biodiversity Strategy to 2020. Target 1 - to halt the deterioration in the status of habitats and species covered by the Directives - has been considered in the context of question S1. Target 6 - to increase contributions to averting global biodiversity loss and its associated actions - is not related to, or affected by, the Nature Directives. Notwithstanding their steps to avert losses in the EU (which benefit some species that move beyond the EU), the Directives are of limited relevance to Target 6. This evaluation, therefore, focused on the following 2020 Biodiversity Strategy Targets 2, 3, 4 and 5.

### **Main sources of evidence**

- Scientific studies that have investigated the degree to which the Directives cover biodiversity at EU level, and more local scales, through assessments of the species listed in the annexes, as well as those which have examined the adequacy of the Natura 2000 network for threatened species.
- Preliminary results from an ongoing Commission funded study on the wider biodiversity benefits of Natura 2000
- The 2015 EU State of Nature report.
- The recently published Mid-term Review of the EU Biodiversity Strategy.
- Other information from the evidence gathering questionnaire, such as national examples of contributions to the targets, as well as highlighted gaps.

### **Draft Emerging Findings - For Discussion**

- Many stakeholders state that **both Directives make a major contribution to the EU's biodiversity target**, and are widely regarded as the cornerstone of the EU's biodiversity policy.
- *Firstly, the Directives contribute directly through the conservation of their target European protected habitats and species. These include all naturally occurring bird species under the Birds Directive, providing a comprehensive policy framework for this species group. The Habitats Directive complements the Birds Directive by addressing the conservation of other species, natural and semi-natural habitats. Although the Habitats Directive targets a selected group of threatened species and habitats, these comprise a significant proportion of the most threatened biodiversity in Europe.*
- *Secondly, the Directives indirectly provide some protection for a much larger number of EU non-target species. This is because most Natura 2000 sites are selected on habitat-based*

*criteria, and qualifying habitats are generally species-rich and often hold rare species. Evidence shows that the network contains the majority of the most diverse and species-rich habitats, and that there is a lower degree of nature conservation interest in the wider environment. European protected species and habitats and Natura 2000 sites thus provide a so-called umbrella benefit. There is evidence that this umbrella effect is significant for both birds and butterflies.*

- **There are inevitably some deficiencies in the coverage of biodiversity.** For example, studies of the distribution of some habitats and species in relation to the location of Natura 2000 sites have found that marine habitats and temporary freshwater habitats are underrepresented in the Mediterranean region. However, the studies are too localised and taxa specific to be able to draw any general conclusions on the adequacy of the Natura 2000 network in relation to both the habitats and species in the directives and other threatened species.
- The measures contained within the Directives contribute towards the achievement of the specific targets of the EU's biodiversity strategy, as follows:
  - **Target 2: Maintenance and restoration of degraded ecosystems, with more use of green infrastructure.** As per the aims of the Directives, the maintenance and restoration of habitats and species populations are closely aligned with the objectives of Target 2. In addition, these aims have stimulated funding support for restoration projects from the LIFE nature programme, CAP agri-environment measures and, to a lesser extent, other EU funds.
  - **Target 3: Increase the contribution of agriculture and forestry to biodiversity conservation.** As discussed under Questions C.5 and C.6, the CAP is now more coherent with the aims of the Nature Directives, with Rural Development Programme (RDP) measures taking into account the needs of European protected habitats and species, both within Natura 2000 sites and in the wider environment. This has been facilitated through the development of Prioritised Action Frameworks by Member States. The development of management plans for Natura 2000 sites also helps to identify and prioritise appropriate agri-environment climate scheme measures, as well as feeding into forest management plans. However, mismatches remain between RDPs and Natura 2000 priorities and funding requirements, and progress on Natura 2000 site management planning has been slow in most countries.
  - **Target 4: Sustainable management of fish stocks.** Although the Directives do not directly influence the management of fish stocks, they are likely to provide indirect benefits, primarily through the designation of marine Natura 2000 sites (which may help depleted fish stocks to recover), but also through pollution control measures.
  - **Target 5: The control and eradication of invasive alien species.** The Directives require measures to be taken to prevent the introduction of alien species and, indirectly, to address their impacts on European Protected Species, and have therefore resulted in actions being taken well in advance of the biodiversity strategy and the recently developed Invasive Alien Species Regulation. Sufficient information is not yet available to quantify or reliably assess the significance of these actions.

### **S.3 - Which main factors (e.g. implementation by Member States, action by stakeholders) have contributed to or stood in the way of achieving the Directive's objectives?**

#### **Interpretation and approach**

This analysis sought to identify the main factors that have affected the Directives' ability to achieve their specific and operational objectives, as well as their overall aims. It considered whether their overall approaches and strategic objectives are consistent with their overall aims, but primarily focused on factors that have affected the implementation of their measures (e.g. transposition, approaches towards protecting sites and species, funding, promotion to the public and monitoring). The analysis also distinguished between previously influential factors and ongoing issues.

#### **Main sources of evidence**

- EU level studies that have examined the implementation of the Directives and identified factors that have contributed to, or hindered their achievements. Of these, two are of particular relevance: an ETC-BD literature review of the ecological effectiveness of the Natura 2000 network and a study of the cross-scale functioning of the Natura 2000 network, through a targeted survey of European conservation scientists using a structured questionnaire.
- Studies on implementation of the Directives in one or more Member States that provide insight into the factors that have influenced their achievements so far, including studies in Greece, the Netherlands, Italy, Poland, Romania and the UK.
- The evidence gathering questionnaires provided information which, together with the evidence from the EU level and national literature, was used to develop a list of key factors against which stakeholder responses were quantified (i.e. the number of respondents that clearly identified each of the key factors as a contributing or hindering factor were counted).

#### **Draft Emerging Findings - For Discussion**

- ***The availability of public funding has probably had the most influence on implementation.*** Funding constraints on authorities have affected the establishment of the Natura 2000 network, as well as other important actions, such as stakeholder engagement, management planning, permitting and enforcement measures. Public funding is also usually essential for incentive/compensation measures for landowners to secure appropriate management. Although the Directives have undoubtedly increased the availability of funding, there is strong evidence to suggest that this is insufficient and/or difficult to access, and will continue to be a constraint on implementation (see question Y2).
- ***The degree of political support for the Directives was frequently listed by NGOs and some other stakeholders as a key factor that has affected implementation*** through its effects on funding (e.g. with respect to the prioritisation of funding) and key implementation decisions, such as the ambitions of the Natura 2000 network.
- ***Uncertainty regarding the implications of some legislative provisions has led to some delays in transposition, leading, in turn to infringement procedures, legal cases and further delays.*** Case law has, however, clarified interpretation and confirmed whether Member States have acted lawfully in transposing and implementing their provisions. This process of learning in collaboration with stakeholders has also been supported by Commission guidance.
- ***Lack of awareness of the implications of the Directives for, and among, landowners and local communities slowed the establishment of Natura 2000.*** Concerns over possible impacts on land uses and property rights, combined with inadequate or absent compensation payments, led to objections in some Member States. While early consultation with stakeholders on Natura 2000 initially slowed the designation process, it is expected to yield long-term benefits through greater acceptance of site designations and participation in site management.

- **The level of ecological knowledge**, such as the distribution of European protected species and habitats and their ecological requirements, clearly **has an important influence** on the effectiveness and efficiency of the implementation of the Directives (see Y8 for details).
- **The development of management plans** according to best practice principles, including clear site conservation objective-setting and adequate participation of landowners and other key stakeholders, has been shown to be **an effective means of addressing stakeholder concerns** and forming the basis for management agreements.
- Limited and varying development of national and regional conservation objectives frequently constrained strategic and site level management planning. Associated issues were the difficulties in assessing the potential impacts of activities on species and habitats. In some Member States this has contributed to an overly risk-averse approach to dealing with impacts on some protected species, such that the focus is on individuals rather than marinating the conservation status of the population concerned.
- **The existence of incentives**, such as payments that encourage agricultural, forestry and fishery systems and practices that make **it difficult in some circumstances to secure appropriate management** of habitats, especially outside Natura 2000 sites (i.e. where there are less land and sea-use restrictions).
- **Good integration of the nature Directives with planning and impact assessment procedures**. Strategic spatial planning, combined with best practice and joined-up SEA, EIA and appropriate assessment (AA) procedures can help to identify potential conflicts early in development cycles, thus helping to avoid economic, social and biodiversity impacts. This is particularly effective where good up-to-date spatial data are available on protected species and habitats.
- There is good evidence that problems have arisen as a result of limited expertise and inconsistent standards with impact assessments and permitting procedures. This appears to have been a particular problem where decision-making has been devolved to regional and local administrations, which often lack the expertise and experience to cope with complex nature legislation issues. In contrast, where Member States have invested in providing training, guidance and adequate resources, decision-making was found to be more consistent, effective and efficient.
- **Stakeholder cooperation is a major factor**, particularly in relation to stakeholders who utilise biodiversity, such as hunters, fishers and sport anglers, (who benefit from the sustainable management of species and their habitats). Partnerships between nature authorities and nature conservation organisations have been instrumental in greatly increasing surveying, monitoring, research and management planning. Engagement with businesses also has had a role to play, as they have become increasingly aware of both the need to manage biodiversity associated business risks, and the opportunities to make positive contributions to biodiversity objectives.
- **The level of general public support for the environment, and biodiversity in particular, has been influential** in many cases, for example by stimulating political support. Where there are high levels of interest in nature, then there are also benefits in terms of nature-based tourism to Natura 2000 sites, especially in economically disadvantaged rural areas.

*It is important to note that **some of the problems listed above are largely historical**, because the action in question is now complete (e.g. transposition related problems), or are becoming less significant as a result of improved practice (facilitated by experience sharing, training and Commission guidance).*

## S.4 - Have the directives led to any other significant changes both positive and negative?

### Interpretation and approach

The analysis assesses whether the implementation of the Nature Directives has brought about any significant environmental, social or economic effects or changes that were not intended or foreseen by the Directives at the time of their approval, and whether these effects/changes were positive, negative or neutral in light of the objectives of the Directives. The positive, negative or neutral changes should be the result of effects that were either unintended or unforeseen at the time of the approval of the Directive (causality) and they should be significant (magnitude). The effects/changes assessed refer only to those not defined as objectives of the Directives but which support or block the achievement of the Directives' objectives. The significance of the changes is assessed by its impact on the achievement of the Directive's objectives.

### Main sources of evidence

- Responses to the evidence gathering questionnaire were the primary information source, complemented by relevant case studies and detailed evidence shared by the stakeholders
- The results from the visits to ten representative Member States and meetings with relevant Commission services, as well as the results of the online public consultation, provided a general overview of the unintended and significant effects/changes brought by the Directives.
- National and EU level documents provided additional data on unintended effects.

### Draft - Emerging findings - For discussion

- *The Directives have brought about unintended changes that are not required in the legislation but have impacted its effectiveness. Some of the changes identified are discussed in other evaluation questions (e.g. climate change under question R.1 and C.3, level playing field and internal market under C.6, or administrative burden and ecosystem services under Y.1) and are not, therefore, described in this section.*
- *The positive change most frequently mentioned by stakeholders is the increased public awareness of nature leading to behavioural changes. In addition to this, the Directives have triggered a proactive approach by national authorities to raising awareness and information exchange on innovative elements of the Directives. This proactive approach has increased public understanding and helped to avoid public objections. The most obvious example refers to the implementation process established in France, following difficulties in the designation of Natura 2000 sites. This process is based on the principle of public participation and framed within an awareness raising and information scheme for the establishment of the Natura 2000 network.*
- *The largely unforeseen effect triggered by the Directives' site protection system is the increased stakeholder participation and involvement in the definition of site conservation measures and the management of Natura 2000 sites. This was highlighted by most of the stakeholders responding to this question (nature authorities, NGOs and private sector) and by the specialised literature. While this trend has been confirmed in those countries where public authorities have facilitated participation, in others it remains a problem, with conflict created as a result of failure to meet stakeholder expectations. For example, the integrated plan for the Port of Antwerp, which has facilitated the involvement of local stakeholder groups to strike a balance between economic and ecological interest, was supported by LIFE awareness raising actions. However, stakeholders in some Member States claimed that participation in the management process does not exist in practice*
- *Literature, stakeholder contributions and EU guidance documents all recognise that the Nature Directives have promoted an innovative approach to nature conservation based on*

*integrated management stimulating sustainable development. The innovative concept of Natura 2000 is based on a more flexible system of protection, going beyond traditional nature reserves, whereby socioeconomic activities are not automatically banned and economic factors are considered, provided they respect the site conservation objectives. This concept has had a positive impact on socioeconomic activities, generating business opportunities, i.e. in tourism and sustainable farming or fishing practices. It has generated new governance approaches, such as the 2014 ministerial decision establishing a voluntary framework on Natura 2000 and tourism in Spain.*

- *The literature and the responses to the evidence gathering questionnaire point to the unintended effect of improved knowledge and understanding of protected species and habitats. The site designation process of the Nature Directives is based on scientific criteria and evidence, requirements which have triggered Member States' development of new inventories of habitats and species, supported by public funding and increased transparency of data.*
- *The clear legal protection system introduced by the Nature Directives has positively influenced non-target species and habitats outside the Natura 2000 Network, the control of illegal hunting and wider landscape protection.*
- *The legal protection introduced by the Nature Directives has, in some Members States, led to stronger systems or broader and more holistic approaches to biodiversity. On the other hand, unintended effects occur where local authorities prohibit specific types of activities affecting a Natura 2000 site, even in cases where these could be carried out in line with site conservation objectives, or where they request disproportionate requirements for their authorisation. Such negative effects have been highlighted by private sector or nature authorities in several Member States. While the Commission sectorial guidelines may allow the development of socioeconomic activities (i.e. renewable energy, extractive industries) under certain conditions, the Court of Justice of EU (CJEU) has reiterated the Member States' discretion to adopt more stringent measures.*
- *Specialised literature and stakeholders in national authorities and NGOs refer to an unintended effect related to the enforcement system triggered by the Directives. The establishment of this uniform legal system that is enforceable by the public concerned, has led to high numbers of cases brought to national or EU courts. While this has generated a higher level of compliance, as well as case law shedding light on the interpretation of the legislation, it has also created fear among authorities and operators at local level, of being taken to Court. In addition to causing delays, such fears create risk-averse decision-making on authorisations for projects or activities.*
- *The evidence shows the importance of national choices in the implementation of the Directives (including raising awareness) which may lead to unintended changes. This stems from the considerable flexibility left to Member States on how to deliver the Directive's objectives. For example changes or restrictions on property rights (from expropriations to imposed management measures) regarding a site designated as part of the Natura 2000 network that have been raised by certain stakeholders stem from national choices in the implementation of the Directives, or lack of information on the impacts of Natura 2000. The first proposal of Natura 2000 sites generated strong opposition from landowners in several countries fearing impact on their property rights. However, those issues were subsequently resolved through a greater understanding of the implications of the Directives.*

## **Efficiency**

Efficiency is essentially a comparison between inputs used in a certain activity and produced outputs. The central question asked here is whether the costs involved in the implementation of the EU Nature Directives are reasonable in relation to the objectives pursued and the results achieved (benefits). Both 'costs' and 'benefits' can be monetary and/or non-monetary.

### **Y.1 - What are their costs and benefits (monetary and non-monetary)?**

#### **Interpretation and approach**

Implementation of the Directives gives rise to a range of costs and benefits to society and the economy in the EU. Costs include the direct costs of designating, protecting and managing Natura 2000 sites, the opportunity costs of habitat and species management (including the associated restrictions to development and the outputs of land use), the damage costs of protecting species (e.g. large carnivores) and associated compensation payments, and the administrative costs of compliance with the site and species protection rules within the Directives. Benefits include the protection and improvement of the status of habitats and species, their role in safeguarding and enhancing the delivery of ecosystem services with related benefits to wellbeing, and their benefits for local economies (e.g. job and income creation, and tourism benefits). Some costs and benefits can be relatively easily monetised, such as the financial costs of management of Natura 2000 sites and the benefits to the tourism sector. However, a comprehensive assessment requires wider analysis of opportunity costs, non-monetised administrative costs, and benefits for biodiversity and untraded ecosystem services, quantifying these where possible.

Among the stakeholders in the EU bearing the costs of implementation are developers and other businesses undertaking or proposing activities with potential impacts on protected sites and species, landowners and land managers in Natura 2000 areas, and public authorities responsible for implementation of the Directives at national, regional and local level. Implementation also delivers a range of public and private benefits, both for particular businesses (e.g. water utilities benefiting from ecosystem services) and the public at large.

Difficulties arise in distinguishing between the effects of the Directives and those of other nature conservation laws and designations in the Member States, given that most countries have national policies pre-dating and complementing the Directives. While much of the evidence on costs relates to the costs of measures required to implement the Directives, most evidence on benefits relates to the overall benefits of the sites and species protected, making direct comparisons of costs and benefits problematic. (See question Y.6 for a consideration of the costs of non-implementation of the Directives).

#### **Main sources of evidence**

- Studies have been completed from EU level to site-specific analyses. These include major EU wide assessments of the costs and benefits of delivering the Natura 2000 network, as well as the costs and burdens related to specific processes. National studies have also examined the costs and benefits of the Directives, in particular Member States (e.g. the Netherlands, UK), as well as assessments of particular sites and species. Evidence gathering questionnaire responses and national missions yielded examples of the costs and benefits associated with the Directives, varying in their robustness and degree of quantification.
- Online public consultation invited stakeholders and members of the public to comment on the significance of a range of costs and benefits of the Directives.

Together, these sources provide much evidence for addressing aspects of this question. Given the wide range of costs and benefits, activities involved and geographical scales, the evidence base is far from complete and there are significant gaps.

For example, evidence is stronger for Natura 2000 sites than for species protection measures, for financial costs compared to opportunity costs, for benefits of tourism compared to water regulation, and for North-Western compared to Eastern Europe). Few studies focus on the additional costs and benefits of the Directives themselves, but, rather, on the broader costs and benefits of the habitats, sites and species covered by the Directives.

#### Draft - Emerging findings - For discussion

- *Overall assessments indicate that the annual costs of full implementation of the Natura 2000 network would be approximately EUR 5.8 billion per annum. This 2010 estimate, based on Member State responses to an EU questionnaire, includes estimates of the capital and annual management costs of designating, protecting and managing Natura 2000 sites. Subsequent assessments by some Member States in Prioritised Action Frameworks (PAFs) and other documents, and, while these do not allow a comprehensive analysis, support the 2010 estimate.*
- *The extent to which the Directives give rise to opportunity costs by restricting development and land management activities is less clear. The costs of implementation of Natura 2000 include compensation paid for foregone opportunities, through land purchases, compensation payments and land management incentives, with one EU study estimating that compensation for opportunity costs could account for 36% of the annual EUR 5.8 billion implementation costs. Evidence gathering questionnaires and the online public consultation suggested that opportunity costs at certain sites are a major concern for business, particularly where compensation is not paid. However, statistics from several Member States indicate that only a small proportion of development proposals are subject to appropriate assessment (AA) under the Habitats Directive, and only a small minority of assessments lead to the application being refused. The Directives also restrict some farming and forestry operations, with the impact dependent on the extent to which compensation is paid to the owners and managers of land. A number of businesses and hunting representatives highlighted the costs of damage and compensation relating to large carnivores and fish-eating birds. These costs are small compared to the overall costs and benefits of the Directives, but can be significant at the local level.*
- *The Natura 2000 network has been estimated to deliver annual benefits of EUR 200-300 billion across the EU by supporting valuable ecosystem services. A separate analysis, concentrating on the value of economic activity supported by Natura 2000, estimated that the network attracts annual expenditure on tourism and recreation of EUR 50-85 billion. Numerous estimates are available for individual sites. Actions taken towards the objectives of the Directives have been shown to create jobs and incomes in nature conservation, tourism and the land-based sectors at local, regional and national level. One study estimated that full implementation of the Natura 2000 network could create 174,000 full-time equivalent jobs across the EU, and that the number of jobs created per EUR 1 billion expenditure compared favourably with CAP and Cohesion Policy spending.*
- *The online public consultation revealed contrasting responses on costs and benefits, with a large majority of individual respondents highlighting their environmental, economic and social benefits. Business, by contrast, tended to highlight the costs of the Directives. This reflects concern that, while the Directives benefit society as a whole, individual businesses may incur significant costs.*

## **Y.2 - Are availability and access to funding a constraint or support?**

### **Interpretation and approach**

This analysis examined the extent – if any – to which the availability of funding from the EU and from national, regional and local sources, affects the Directives' implementation, efficiency and achievement of objectives. In particular, it explored the extent to which EU and Member State funding meets the identified needs. Funding plays a key role in meeting the objectives of the Directives, particularly given the significant levels of investment involved in the establishment, implementation and management of the Natura 2000 network. Both one-off and ongoing investment is required by authorities - often in partnership with conservation organisations and researchers – to carry out a range of activities essential for successful implementation of the Directives, as well as funding associated staff costs. Funding also has the potential to affect costs and administrative burdens, for example if implementation of the Directives is not accompanied by adequate financing to allow information gathering, advice, consultation and communication. The main responsibility for implementing the EU Nature Directives, including securing sufficient funding, lies with the Member States. However, the implementation of the Directives can also be supported by EU funding (as specified in Article 8 of the Habitats Directive) and the recent requirement for Member States to produce Prioritised Action Frameworks (PAFs) is an attempt to improve the strategic allocation of EU financial resources to Natura 2000.

The evaluation examined evidence concerning:

- Funding needs to achieve objectives.
- Potentially available funding and the extent to which this is taken up in practice.
- Funding availability affecting implementation and achievement of objectives and/or the efficiency of implementation.

In general, quantitative information assessing the available funding against the identified funding needs (i.e. the funding gap) is very limited. Similarly, no studies exist that clearly quantify the relationship between available funding and the effectiveness of the Directives. Furthermore, there is no systematic body of evidence of the funding needs related to species protection measures outside the Natura 2000 network. Therefore, the assessment also draws on qualitative evidence and examples from the evidence gathering questionnaires and online public consultation, as well as the views expressed by stakeholders.

### **Main sources of evidence**

- A number of EU-level assessments on the available opportunities for, and uptake of, EU co-financing. These include, for example, the assessment of funding needs for Natura 2000 network, assessment of the uptake of EU funding for biodiversity during the 2007-2013 period and assessment of opportunities for using EU funds for biodiversity in 2014-2020.
- European Court of Auditor reports on integration of biodiversity into key funds (e.g. ERDF).
- Member States' PAFs and fund-specific programmes (Operational Programmes and Rural Development Programmes), some of which include quantitative estimates for funding sources and/or needs.
- The views of stakeholders responding to the evidence gathering questionnaire (80 responses to question Y2) and online public consultation. Additional information has also been provided under questions S.3 and C.7, the former concerning the main factors contributing to or hindering progress towards achieving the Directives' objectives, with the latter exploring the integration of co-funding obligations into different EU sectoral funds.
- Individual examples - taken from stakeholders' responses to the evidence gathering questionnaire and/or supported by documented case studies - of the identified funding constraints and their effects on implementation and achievement of objectives.

### Draft - Emerging findings - For discussion

- *It is clear that the Directives have enhanced the delivery of funding required for nature conservation in the EU, and that without them finance for site, habitat and species conservation would have been far less. This is particularly the case in many of the Southern, Central and Eastern European Member States, where EU funds have brought new finance for conservation actions in pursuit of the objectives of the Directives. This point is made by many stakeholders in the evidence gathering questionnaire, and it is also reflected in the results of the online public consultation.*
- *All groups of stakeholders emphasise that both a severe shortage of funding and different constraints in uptake of funding (EU funding especially), inhibit progress towards the objectives of the Directives across the EU. This view is supported by the existing assessments indicating that the estimated EU co-funding for biodiversity during the 2007-2013 period represented only 9-19% of the estimated financing needs of EUR 5.8 billion / year for managing the Natura 2000 network. While the EU funding is not foreseen to cover all Natura 2000 related financing needs (as per Article 8 of the Directive), the existing assessment concludes that that national funding is unlikely to be able to cover the significant gap (80-90%) between the estimated total needs and the available EU allocations.*
- *Funding shortages are highlighted across all Member States, and are particularly apparent with respect to the ongoing management and monitoring of the Natura 2000 network, which relies greatly on additional finance for site protection and management activities. A further issue (as indicated in the response to S.3), is that nature authorities and associated public management bodies are also affected by serious under-financing (e.g. in relation to staff costs). Evidence indicates that the latter can have an impact on implementation, e.g. delays in site designation, management planning and permitting. This can further increase the costs of conservation actions in the future (e.g. resulting in an increased need for expensive restoration activities) and lead to higher costs and burdens for some stakeholders (e.g. knowledge gaps, as described under Y.8).*
- *The existing evidence and stakeholder views highlight the significant role that EU LIFE funds play in supporting the implementation of the Nature Directives. However, although the LIFE programme is seen by many stakeholders as very efficient, its funding is less than 1% of the total EU budget, and it is therefore generally considered inadequate for the current funding needs.*
- *In conclusion, the existing evidence strongly indicates that the funding gap is so large that achievement of the objectives of the Directives will not be possible without a very significant increase in funding.*

### **Y.3 - If there are significant cost differences between Member States, what is causing them?**

#### **Interpretation and approach**

This involves a comparative assessment of the costs of implementing the Directives across the EU. As well as the overall costs of implementing the Directives, it is important to consider if these costs differ significantly between Member States and the reasons for any such differences.

Cost differences may arise because of differences in needs between Member States, variable implementation of the Directives and their requirements, or because of variations in the efficiency of implementation. Understanding the reasons for cost differences will help to identify opportunities for more cost effective implementation, and to understand variations in financing needs across the EU. If there are differences in costs between Member States, this could mean that the Directives have uneven burdens and economic impacts across the EU. This could have

important policy implications. For example, if costs are high in some parts of the EU, there is a danger that resource constraints and cost burdens could lead to incomplete implementation of the Directives and/or opposition from business and other stakeholders. One of the principal reasons for environmental legislation at EU level is that it helps to ensure common rules and a level playing field, thereby facilitating the working of the internal market. In some sectors, such as international ports, where the costs of complying with nature legislation are significant and competition is high, large differences in costs could have implications for competition and the level playing field within the EU.

At a minimum, differences in costs would be expected to lead to differences in financing needs and challenges, including the need for EU co-financing. In assessing differences in costs, it is helpful to distinguish between the different types of costs identified in question Y.1, and the impact of these costs on different groups. For example, variations in the costs of implementing the Natura 2000 network may raise significant challenges for public funding and co-financing in some parts of the EU, while significant differences in private sector compliance costs and administrative burdens could impact negatively on businesses.

The analysis examined quantitative evidence of cost differences, however, this was found to be limited in extent. Qualitative evidence and views based on the experience of stakeholders were, therefore, also examined..

### Main sources of evidence

- The most important sources of evidence are EU studies by Gantioler et al. examining the costs of implementing the Natura 2000 network, the Ecosystems report on Article 6(3) and Farmer et al study on the time taken to complete appropriate assessments (AA) and associated permitting processes.
- The evidence gathering questionnaire collected views and evidence from 56 stakeholders, including a range of EU organisations, national authorities, business interests and NGOs.
- The evidence provides some insights into the reasons for cost variations. However, the available literature quantifying and analysing cost differences is limited, and questionnaire responses provided mostly qualitative evidence. While the evidence provides a broad consensus on some of the main reasons for cost differences, detailed quantitative assessments are lacking.

### Draft - Emerging findings - For discussion

- ***Quantitative comparisons of costs between Member States, although few, suggest significant cost differences, both in absolute costs and in unit costs (e.g. cost per hectare of Natura 2000 sites). However, comparisons are clouded by differences in estimation methods.***
- ***The main existing quantitative assessment is the 2010 Gantioler et al. assessment. This found that estimates of the annual costs of implementing Natura 2000 – as provided by Member State authorities - ranged from EUR 14 per hectare in Poland to more than EUR 800 per hectare in Cyprus, Luxembourg and Malta. These differences reflected variations in a range of one-off costs (e.g. land purchase and compensation payments) and annual management costs. In absolute terms, the largest overall cost estimate was for Spain, at EUR 1.56 billion per year, reflecting both the large size of the network and the relatively high unit cost estimates submitted by the government.***
- ***The study suggested that the main drivers of cost differences include the overall extent of the Natura 2000 network, the degree of ambition applied to its implementation, economic factors (e.g. land and labour costs), national circumstances (e.g. type and size of site, land use, location, ecological status, pressures), management strategies, and variations in the level of current data. However, although common guidance was provided, a major cause of variation***

- was due to differences in estimation methods and scope of costs (e.g. total or incremental costs; actual, planned, required or aspirational expenditures). Some Member States included large estimates of the costs of land purchase, while most assumed that this would account for only a small proportion of costs.*
- *Qualitative answers to the evidence gathering questionnaire reiterate these findings. The factors affecting costs most commonly identified by respondents were:*
    - *Population density, land use pressures, land prices and opportunity costs (21% of responses).*
    - *Conservation status and restoration need (18% of responses).*
    - *Labour costs (14% of responses).*
    - *The knowledge base in the Member State (14% of responses).*
    - *Concentration of protected habitats and species (13% of responses).*
    - *Size of Natura 2000 area (11% of responses).*
    - *Level of ambition (11% of responses).*
    - *Differences in implementation approaches, administrative structures, interpretation of rules (11% of responses).*
  - *Studies of the administrative costs related to permitting under Article 6 of the Habitats Directive reveal a scarcity of quantitative data but suggest that variations in capacity and implementation between Member States, as well as procedures for appeals and the resolution of disputes, can cause differences between Member States. The review by Ecosystems found that in some countries, an overall lack of understanding of, or willingness to accept, the Article 6(3) procedure amongst certain authorities and/or sectors has caused difficulties in implementation and led to more frequent delays, inconsistencies in application and frustrations amongst developers, authorities and NGOs. A lack of skills, resources and basic understanding of the requirements of the Article 6(3) procedure can render its application inefficient. Encouraging a more constructive dialogue between the plan and project promoters and the nature authorities was emphasised as one of the key factors to help improve AA procedures.*

#### **Y.4 - Can any costs be identified (especially regarding compliance) that are out of proportion with the benefits achieved? In particular, are the costs of compliance proportionate to the benefits brought by the Directives?**

##### **Interpretation and approach**

This question compares the costs of meeting the requirements of the Directives with the benefits achieved. There is a particular focus on compliance costs, i.e. the costs on businesses, landowners and authorities in meeting the requirements of the Directives.

As well as considering the balance between the overall costs and benefits of implementing the Directives, it is important to examine whether their implementation results in specific practices which are disproportionately costly because they incur high costs for relatively little benefit. Such examples might provide opportunities to improve efficiency. It is important in such instances to understand whether disproportionate costs arise from the provisions of the Directives themselves, or as a result of inefficient implementation. The question considered:

- Quantitative evidence comparing the costs and benefits of the Directives and their provisions at different levels (EU, national, regional, local).
- Examples providing qualitative or semi-quantitative evidence of cases where the Directives may give rise to significant costs with limited apparent benefits, or very high costs with moderate benefits.

## Main sources of evidence

Evidence available includes:

- Overall studies valuing the costs and benefits of the Directives at EU level (Gantolier et al.'s 2010 study and ten Brink's 2011 study).
- EU studies providing more qualitative evidence of the efficiency of implementation (e.g. Ecosystems Ltd's 2013 review of implementation of Article 6(3) of the Habitats Directive).
- National studies of the costs and benefits of Natura 2000 in certain Member States (e.g. Germany and the UK) .
- Numerous studies of costs and benefits at individual sites.
- Evidence gathering questionnaires and national missions, examining the costs and benefits of implementation and pointing to examples of disproportionate costs. 80 questionnaire responses, of which 55 provided qualitative evidence and examples, with a further 16 providing quantitative evidence.
- Online public consultation, considering the benefits and costs of implementation.

These sources quantify the relative costs and benefits of the Directives to varying degrees and at different scales. Where direct monetary comparisons of costs and benefits were not available, assessment of proportionality required a degree of judgement. Where estimates were available of costs but not benefits, assessment of proportionality was aided where these costs were put in context, e.g. where information was provided about costs per hectare of habitat, per breeding pair of a species, and/or percentage of overall project costs.

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- *Overall evidence from cost-benefit assessments suggests that the benefits of the Directives greatly exceed the costs at EU, national and local scales. For example:*
  - *EU level assessments have put the benefits of the Natura 2000 network at EUR 200-300 billion annually, compared to the estimated annual cost of EUR 5.8 billion to implement the network.*
  - *Regional and national studies in Scotland, England, and Germany examining Natura 2000 and related biodiversity expenditures found benefit cost ratios ranging between 3:1 and 12:1.*
  - *Benefits have been shown to exceed costs for many individual sites around the EU.*
- *Few studies have examined the net costs and benefits of the specific provisions of the Directives in detail. Most of the available evidence relates to the overall benefits of the sites and species protected by the Directives, rather than the benefits of measures arising specifically from the Directives themselves. Nevertheless, a 2011 study by Arcadis applied a valuation toolkit to estimate the costs and benefits of management changes at 11 Natura 2000 sites. Summing the benefits that could be valued, and deducting the estimated costs of the conservation measures required, led to estimates ranging from a small net cost at three sites, to net benefits with a present value of EUR 53-60 million (Telascica, Croatia), EUR 45-65 million (Montserrat, Spain) and EUR 38-74 million (Humber Estuary, UK).*
- *Different groups of stakeholders responding to the evidence gathering questionnaire and online public consultation expressed markedly different views about the relative costs and benefits of the Directives. Most environmental NGOs and many Member State nature authorities argue that benefits exceed costs, and that the costs of compliance are therefore justifiable. However, many respondents, particularly among business interests (including representatives of agriculture, forestry, hunting, fisheries and a range of industrial sectors), gave examples of costs that they considered to be disproportionate or unjustified. Overall, 41% of stakeholders expressed the view that costs are not disproportionate, while 49% argued that there are examples of disproportionate costs.*

- *The most frequently cited examples of particular costs considered to be disproportionate included:*
  - *Costs of protection of individual species* (e.g. certain birds, amphibians) at particular sites (e.g. mining and development sites) (19% of responses).
  - *Various examples of inefficient or delayed implementation* of the Directives at national level, giving rise to uncertainties, fines and delays (18% of responses).
  - *The need to protect widespread species and habitats* listed in the annexes, diverting resources from more pressing national priorities (15% of responses).
  - *Administrative burdens, costs of surveys and permitting resulting from Article 6(3) of the Habitats Directive* (10% of responses).
  - *High costs of habitat management at particular sites* (6% of responses).
  - *High costs of derogations* (5% of responses).
  - *High opportunity costs* (e.g. restrictions on forest operations, extraction) (5% of responses).
- *Numerous examples of costs and/or delays were provided by stakeholders. However, it was frequently argued, by representatives of all stakeholder groups, that disproportionate costs can be attributed to inefficient practices undertaken to implement the Directives at national or regional level, rather than the Directives themselves.*
- *The online public consultation also indicated that inefficiencies are perceived to arise both from the Directives themselves and the manner of their implementation. However, implementation of the Directives at national, regional and local level is perceived to be a greater cause of inefficiency than the wording of the legislation itself, or its enforcement at EU level.*

## **Y.5 - Can good practices, particularly in terms of cost-effective implementation, be identified?**

### **Interpretation and approach**

Efficient implementation of the EU Nature Directives can be informed by the identification and sharing of examples of good practice, in which the objectives of the Directives have been met at relatively low cost. It may be expected that growing experience in the implementation of the Directives has enabled initial problems - which may have involved unduly costly or burdensome processes - to be identified and addressed.

Cost effective implementation may be evidenced by low unit costs relative to the results achieved, for example low costs per hectare of habitat protected or managed, per species protected, or per appropriate assessment undertaken. However, as noted in question Y.3, variations in costs are affected by a range of factors, such as differences in local needs and conditions, and economic variables such as land and labour prices, as well as good practice in implementation. Cost effectiveness cannot therefore be inferred by comparisons based on costs alone. The strongest evidence relates to cases where costs in a particular Member State have been reduced as a result of changes in practice, without reducing the benefits of the Directives. Much of the available evidence is qualitative, including case studies where costs have been reduced by streamlining processes, resulting in more efficient implementation and compliance.

### **Main sources of evidence**

- EU studies of the implementation of the Nature Directives, and the costs of Natura 2000 and Article 6(3) of the Habitats Directive.

- Member States' reviews of implementation, such as the review undertaken in England, as well as initiatives undertaken in other Member States.
- Examples of good practice identified in the evidence gathering questionnaires. Of the 71 responses to this question, 59 provided examples of activities representing cost effective implementation.
- Views expressed in the national missions and through online public consultation

These sources provided numerous examples of cost effective implementation. While these examples are mostly qualitative in nature, with few providing estimates of reductions in costs, a number of common themes emerge on factors that can support cost effective implementation.

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- A wide range of factors were identified by stakeholders as contributing to **cost effective implementation**. The most frequently cited examples from the evidence gathering questionnaire refer to:
  - The role of **participation, consultation and stakeholder engagement** to develop shared understanding and guide implementation, especially at an early stage in planning processes or development proposals (18% of responses).
  - **Strategic planning approaches** to manage conservation and other land uses (14% of responses).
  - The provision of **guidance to stakeholders** affected by the Directives (13% of responses).
  - Coordinated collection and sharing of information to reduce information costs (13% of responses).
  - Partnerships and joint initiatives between industry, NGOs and the nature authorities to meet common objectives (10% of responses).
  - Use of **volunteers** for conservation action (7% of responses).
  - **Voluntary codes of conduct** to reduce regulatory burdens (6% of responses).
  - **Synergies** in implementation with other directives (6% of responses).
- EU wide reviews of implementation of Article 6(3) of the Habitats Directive identify similar factors that contribute to cost effective implementation. For example, key factors identified by Ecosystems Ltd in their 2013 review, include data, guidance, expertise/ capacity, consistent screening procedures, early dialogue/ partnership approaches, adopting a proactive and strategic approach, a coordinated approach to major infrastructure, and looking for win-wins and co-benefits. A more recent assessment by Farmer et al, pointed to simplified planning processes and strategic spatial planning, technical guidance and protocols, expertise and skills, and streamlined appeal procedures.
- In some **Member States**, reviews of implementation have helped to identify initiatives that can improve cost effectiveness. A strategic review in England, for example, created initiatives to facilitate nationally important infrastructure projects (e.g. through streamlined processes and advance collection of data, and early identification of any issues relevant to the Directives), improve the quality, quantity and sharing of data (such as a new group to develop and share marine evidence, consultation on standards of evidence for decision-making, plans for enhanced sharing of environmental evidence, and improved surveillance of protected species), improve the 'customer experience' for developers (e.g. through new partnership approaches), and improve implementation processes and the streamlining of guidance.
- Some **industrial sectors – notably the ports and renewable energy sectors - provide a wealth of evidence and examples**. This is because their development has become dependent on the identification of cost effective solutions that work within the requirements of the Directives.
- While the evidence and examples demonstrate that there has been considerable progress towards cost effective implementation, this is not reflected in the **online public consultation**,

**where stakeholders hold the view that implementation is becoming less efficient at local, regional and national level.** The majority (54-55%) expressed the view that implementation of the Directives at national, regional or local level has become less efficient over time, compared to 20-21% who believed it had become more efficient. On the other hand, the management of the Directives at EU level, together with their interaction with other laws and policies at both EU and national level, were considered by the majority of respondents (around 57%) to have remained steady over time, although a notable proportion (11%-15%) also stated that they did not know the answer.

## **Y.6 - What are likely to be the costs of non-implementation of legislation?**

### **Interpretation and approach**

Non-implementation can be expected to lead to a failure of the Directives to fully meet their stated objectives, with potential adverse impacts on species and habitats in the EU. The benefits of the Directives (see question Y.1 and sections on effectiveness) would therefore not be fully delivered. Non-implementation could also be expected to lead to other policy impacts, given the synergies across policy objectives, and a range of socioeconomic impacts related to the flow of ecosystem services to citizens, society and the economy. Non-implementation therefore relates to:

- The consequences of non-delivery of the overall objectives of the Directives with respect to species and habitat conservation.
- The implications for EU policy priorities, including those set out in the EU Biodiversity Strategy, and in particular the headline 2020 biodiversity objective.
- The socioeconomic impacts stemming from a loss of certain ecosystem services, which can lead to higher costs to citizens, society and EU economies (e.g. costs of clean water supply or flood management). There may also be lost income or missed opportunities for economic development (e.g. from tourism and recreation), as well as effects on communities and wellbeing.
- Potential knock-on effects with regard to other national and EU policy objectives (e.g. health, cohesion, climate mitigation and adaptation, water, marine and food security).

Non-implementation is, however, unlikely to lead to the loss of all of the benefits provided by the species and habitats protected by the Directives, as, even without the Directives, some degree of protection for nature would continue to be provided by national conservation policies in the Member States. Furthermore, while non-implementation would be expected to reduce the level of protection and conservation management activity, adverse effects on sites and species might be expected to occur gradually rather than immediately. The costs of non-implementation were therefore examined with respect to a counterfactual that considered the consequence of a failure to implement the specific provisions of the Directives, rather than an entire loss of nature in the EU.

### **Main sources of evidence**

- 68 responses to the evidence gathering questionnaire, providing views, judgements and evidence on the costs of non-implementation.
- Studies of the costs of policy inaction with respect to biodiversity, such as those completed by the OECD in 2008, Braat et al. in 2008 and ten Brink et al. in 2009.
- Studies on the benefits of biodiversity, such as those mentioned in question Y.1.
- Evidence on benefits to biodiversity assessed in the sections on effectiveness.

While there is evidence of the benefits of the sites and species protected by the Directives, no exact consequences of non-implementation have been mapped, although international studies of the costs

of policy inaction provide some illustration of the possible effects. The evidence gathering questionnaires provided mostly qualitative evidence, based on the judgements and opinions of stakeholders.

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- Achieving the full benefits of the Directives depends on managing pressures on habitats and species in the EU, as well as on managing land and active measures to achieve favourable conservation status. **Non-implementation would therefore be expected to result in the gradual erosion of the benefits** identified in question Y.1, as well as potentially imposing additional costs on society and the economy.
- **Cost of policy inaction (COPI) studies and wider literature show that biodiversity loss and degradation leads to ecosystem service losses**, and to a range of important social and economic costs, from losses of carbon storage, soil quality maintenance, clean water provisioning, air purification services, recreation and tourism. In 2008 Braat et al examined the losses of ecosystem services resulting from ongoing losses of biodiversity globally, estimating an 11% loss of natural areas and about 18% degradation overall (across land use designations) in the world from 2000 to 2050, leading to an increasing loss of ecosystem service flow from lost natural capital. A year's loss of natural areas and wider degradation was estimated to lead to EUR 50 billion loss globally (loss of carbon stock and seven other services), growing over time as additional biodiversity loss is incurred and as values of services loss grow (linked to economy, population, climate impacts).
- A 2011 report by ten Brink et al on the benefits of the Natura 2000 network developed a first illustrative estimate of the benefits from the ecosystem services flowing from the (terrestrial) Natura 2000 network as a whole. These were valued at between EUR 200-300 billion per year across a range of ecosystem services. No study has attempted to make a detailed estimate of the share of that value that would be lost per year through non-implementation of the Birds and Habitats Directives. However, inaction leading to a 1% loss of services would lead to an indicative loss of services worth EUR 2-3 billion per year. These annual losses would accumulate over time.
- A 2011 study on the costs of not implementing the EU environmental acquis completed by COWI et al. noted that there would be adverse effects on a variety of sectors (including agriculture, forestry, fisheries and tourism), ecosystem services, and biodiversity in the EU and globally. The report speculated that the annual cost of non-implementation of the acquis with respect to nature and biodiversity alone could be as high as EUR 50 billion (taken from global estimates, based on the EU's share of global GDP), but conceded that this number was very uncertain and may be overestimated.
- The consequences of non-implementation most frequently identified in the evidence gathering questionnaires relate not only to reduced conservation outcomes and ecosystem services, but also adverse impacts on tourism and economic activity, a loss of legal certainty, and increased costs via legal actions, fines, disputes and delays in development. The types of costs most frequently cited in the 68 responses were:
  - A loss of biodiversity or nature conservation benefits (56%).
  - A loss of ecosystem services (35%).
  - A loss of jobs/ tourism/ economic activity (25%).
  - A loss of legal certainty for industry/ developers, with related conflicts, delays and administrative burdens (25%).
  - A loss of benefits from coordinated EU action, in terms of the ability to address transboundary conservation issues, protect migratory species and/or to maintain a level playing field (15%).
- The questionnaire responses gave a number of specific examples of the consequences for biodiversity, ecosystem services and the economy of a failure to implement the Directives

*fully. However, one in eight stakeholders argued that these lost benefits would be limited because nature conservation efforts would be expected to continue at national level.*

- *The costs and lost opportunities from inaction vary according to national context, and depend on the state of biodiversity and the effectiveness of conservation approaches and other policy measures in place. Without the Directives, the costs of inaction would therefore vary considerably across the EU.*

## **Y.7 - Taking account of the objectives and benefits of the directives, is there evidence that they have caused unnecessary administrative burden?**

### **Interpretation and approach**

Administrative burdens are defined as the additional administrative costs incurred by enterprises, the voluntary sector, public authorities and citizens as a result of EU legislation. They result from legal obligations to provide information to the authorities that would not otherwise be collected. Administrative burdens are often necessary to meet the requirements of EU legislation. For example, Article 6(3) of the Habitats Directive requires that any plan or project likely to have a significant effect on an SAC shall be subject to appropriate assessment (AA) of its implications for the site, in view of the site's conservation objectives. Such an assessment is designed to ensure that potential adverse impacts are identified and addressed, but inevitably gives rise to administrative burdens. Significant burdens also often arise from species protection rules under both the Birds and Habitats Directives, which require that the effects of developments and other activities with potential to impact on protected species, are assessed and mitigated.

Administrative burdens result in a range of costs, including:

- Costs to the authorities of implementing and administering the Directives.
- Costs to developers and other stakeholders in providing the information required to achieve compliance (e.g. commissioning surveys, assessments and monitoring). Time and resources required to comply with administrative processes.
- Costs resulting from delays and uncertainties, which may increase financing costs and/or lead to opportunity costs by delaying or affecting economic activities.

Implementation of the Directives is highly dependent on information, and, as a result, significant administrative burdens are inevitable if the objectives are to be met. The question, however, addresses the issue of unnecessary burdens that could be avoided or reduced while still meeting the objectives of the Directives. The evaluation therefore collected evidence not just of the extent of administrative burdens, but also whether alternative methods of implementation could be more efficient.

### **Main sources of evidence**

- A limited number of EU studies examining the implementation of Article 6 of the Habitats Directive (the Ecosystems report on Article 6(3) and the Farmer et al. study on the time taken to complete appropriate assessments and associated permitting processes).
- A limited number of Member State reviews, including the national review of implementation of the Habitats Directive in England, and national estimates of administrative costs in the Netherlands;
- Individual case studies and examples of administrative burdens provided in the evidence gathering questionnaires and online public consultations. Of the 91 respondents to this question, the majority provided opinions, with 63 providing examples or qualitative evidence, and 16 providing quantitative evidence.

- Views expressed in the online public consultation (questions 21-22 addressed administrative costs).

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- ***Implementation of the Directives gives rise to administrative burdens, which, in some cases, are significant for the individuals and organisations concerned. These include direct financial costs (e.g. costs of surveys, monitoring, legal and professional fees), the costs of time incurred in permitting and compliance, and delays and uncertainties which affect development activities.***
- ***There are differences between countries in terms of cost-effectiveness. Environmental Impact Assessment Directive – under this process there are significant differences between countries. The average duration of the process in the Member States varies between 4.75 and 27 months, and the average direct cost to developers varies between less than 4,000 and 200,000 EUR per project. The scale and nature of each project, of course, varies.<sup>4</sup>***
- ***EU studies indicate that environmental legislation accounts for less than 1% of the overall administrative burden on business in the EU, that one third of administrative burdens are caused by inefficient public and private administrative practices, and that perceived burdens are higher than actual ones. The only available quantitative estimate of administrative burdens resulting from the Directives was made in the Netherlands, where the annual costs of administrative burdens to business of the Dutch laws that implement the Birds and Habitats Directives, were estimated at EUR 38 million in 2014. The costs to the authorities were estimated at an additional EUR 10 million.***
- ***A national review of implementation of the Directives in England in 2011 found that in the large majority of cases it was working well, allowing both development of key infrastructure and ensuring that a high level of environmental protection is maintained. However, some developments encountered delays. Although the Habitats Directive may only be one contributory factor, the review found that in some cases costs and delays for developers can arise in the implementation process.***
- ***Stakeholders are divided as to the extent to which the current scale of administrative burdens is necessary to achieve the objectives of the Directives. Responses to the evidence gathering questionnaire, particularly from businesses and their representatives across a range of industries, cite examples of perceived excessive burdens on business, while some representatives of Member State authorities point to the burdens associated with reporting to the EC. On the other hand, stakeholders across all groups note that such burdens are often the result of methods of national or regional implementation rather than the Directives themselves. Overall, 40% of the 91 respondents considered that the Directives give rise to unnecessary burdens, while 43% argued that they do not.***
- ***The most frequently mentioned types of burdens considered by stakeholders to be excessive or unnecessary included delays and the costs of commissioning surveys. Unnecessary causes of administrative burdens were most frequently identified as:***
  - ***Inefficient methods of implementation of the Directives at national/regional/local level (23% of responses).;***
  - ***Complex and bureaucratic procedures and a lack of flexibility (16% of responses).***
  - ***Article 6(3) procedures (including excessive requirements for appropriate assessment (15% of responses).***
  - ***Species protection rules (14% of responses).***
  - ***Reporting procedures at EU level (9% of responses).***

<sup>4</sup> [http://ec.europa.eu/environment/enveco/memberstate\\_policy/pdf/Differences%20in%20costs.pdf](http://ec.europa.eu/environment/enveco/memberstate_policy/pdf/Differences%20in%20costs.pdf) (relates to our IA for the revision of the EIA Directive) Study also had some findings on assessment procedures for HD, but less specific and covered elsewhere I think.

- *Derogation procedures (5% of responses).*
- *Lack of capacity in authorities (5% of responses).*
- *10% of questionnaire responses originating from both industry representatives and NGOs, argued that the Directives provide a clear legal framework and that, in their absence, a loss of legal certainty would be expected to increase administrative burdens.*
- *Quantitative evidence is limited, with the available evidence relating to the overall scale of administrative burdens rather than the extent of unnecessary burdens. It does, however, allow some judgement on the extent to which burdens are proportionate. The available evidence suggests that a minor proportion of all development projects and other activities are subject to administrative burdens under the Directives, and that the costs, while not insignificant, are small compared to the overall administrative burdens associated with legislative compliance, and compared to the benefits that the Directives deliver. (See Y.5 for measures that may be taken to reduce administrative burdens).*

## **Y.8 - Is the knowledge base sufficient and available to allow for efficient implementation?**

### **Interpretation and approach**

Knowledge based on adequate and reliable information is required for the effective and efficient implementation of the Nature Directives, in guiding conservation actions, targeting the application of scarce resources, anticipating and avoiding potential adverse impacts, and monitoring and evaluating the effectiveness and efficiency of delivery. Implementation efficiency may be compromised where insufficient knowledge causes, for example, suboptimal design of the Natura 2000 network, failures to use lowest cost management or protection actions, or requires businesses and other stakeholders to expend resources in gathering new information. This question has therefore sought to establish:

- What knowledge is needed to implement the Directives effectively and efficiently?
- How does the knowledge available compare to these needs?
- Are there examples where inadequacies in the knowledge base contributed to the costs and burdens identified in previous questions?

### **Main sources of evidence**

The evaluation has been primarily based on the evidence gathering questionnaires completed by stakeholders, including those related to question S3, where knowledge gaps were frequently listed as key factors constraining implementation. Nature authorities provided particularly valuable information on institutional knowledge issues (e.g. relating to site designation, management planning, AA). NGOs provided useful indications of knowledge gaps in surveying/mapping of species and habitats and monitoring of their status, drawing on their involvement with site selection, the setting of conservation objectives and management planning. Other stakeholders, such as land and sea users, hunters, and sports fishers provided useful insights into associated knowledge issues relating to the establishment of management plans and measures.

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- **No systematic review of knowledge requirements and gaps has been undertaken**, although some studies examining implementation of the Directives have noted both the gain in knowledge stimulated by the Directives, and current implementation constraints from knowledge gaps. While such studies highlighted some of the most important issues, they did not describe the impacts on costs and burdens.
- **Adequate reliable knowledge is fundamental to many activities associated with implementation**, including identifying appropriate sites for inclusion in the Natura 2000 network, defining favourable conservation status, developing site conservation objectives and management plans, identifying funding requirements, working with stakeholders to establish management measures and funding, developing guidance, undertaking AA of possible impacts from activities, permitting, planning reintroductions, identifying research gaps and monitoring activities and their impacts.
- **The Directives have stimulated a significant increase in research and monitoring activities**, essential for the implementation of many measures, in particular the identification of appropriate sites for inclusion in the Natura 2000 network. However, in most, if not all Member States, **there are significant data and knowledge gaps that constrain efficient (and effective) implementation**. The most significant deficiencies in knowledge relate to:
  - Identification of some **offshore marine SPAs** for seabirds, SCIs in the marine environment and some SCIs for inadequately surveyed terrestrial species (e.g. various invertebrates).
  - Understanding the extent to which the Natura 2000 network adequately conserves **species groups that have low representation in the Annexes**, and the implications regarding the potential need for adding species to the Annexes.
  - Assessing the adequacy of the coherence of the Natura 2000 network in terms of its **functional ecological connectivity**, such as its ability to support viable meta-populations and enable required inter-site movements (e.g. for migration, feeding and dispersal).
  - Assessing the **potential impacts of climate change** on European protected species and habitats (both within and outside the Natura 2000 network) and the most appropriate measures to tackle it.
  - Understanding **historic and current population and range distributions of species and habitats**, in order to define favourable conservation status at national and biogeographical levels.
  - Understanding the **ecological requirements of some species and habitats**, in order to define appropriate management measures.
  - Understanding the **causes of observed declines** in some European protected species.
  - Knowledge of the **potential impacts of certain human activities** (such as hunting, marine noise, biomass production) on European protected species and habitats.
  - Having **sufficient spatial data** on the location of European protected species and habitats to feed into SEA, EIAs and trigger and inform AA.
  - **Quantifying the values of ecosystem services** provided by European protected habitats and species in Natura 2000 sites and elsewhere.
- **Knowledge gaps have sometimes led to implementation problems**, contributing to costs and burdens (see also Y1 and Y4) including:
  - **Uncertainty related to the potential designation of areas as Natura 2000 sites in the future**, which can lead to project delays and opportunity costs.
  - **Uncertainty of the location of European protected habitats and species**, hindering SEA and spatial planning processes, and making early avoidance of the most significant biodiversity and economic conflicts difficult.
  - **The absence of definitions of favourable conservation status and site conservation objectives**, which make it difficult to assess possible impacts of activities, leading to delays and/or risk-averse decision-making.

- ***Uncertainty relating to the possible impacts of activities on European protected habitats and species, which slows decision-making.***
- ***Incomplete knowledge of the ecological requirements and associated management measures of European protected habitats and species, which constrains or slows the establishment of site management objectives and management plans. This, in turn, impacts on the provision of Natura 2000 compensation funds or the establishment of agri-environment measures, etc.***

DRAFT

## Relevance

Relevance concerns the extent to which the objectives of the Nature Directives are consistent with the needs of species and habitats of EU conservation concern. The question of relevance relates to whether the objectives of the legislation are still necessary and appropriate; whether the objectives and requirements set out in the EU Nature Directives are still valid.

### R.1 - Are the key problems facing species and habitats addressed by the EU nature legislation?

#### Interpretation and approach

The key problems faced by species and habitats were identified, with an assessment made of whether or not they are addressed by the Nature Directives. Key problems are understood to mean the main pressures on, and threats to, species and habitats, and which are so geographically widespread (incidence) and/or severe (magnitude) as to potentially affect achievement of the Directives' conservation objectives. A key problem is considered to have been addressed where two conditions are met: (i) the Directives apply to that problem, and (ii) they provide for procedures and mechanisms to deal with it.

#### Main sources of evidence

- The principal evidence used to identify the key problems faced by species and habitats was the summary of Member States' reporting for the period 2007-2012 on pressures (past and present impacts) and threats (foreseeable impacts) affecting the long-term viability of habitats and species of European Community interest, and on pressures on birds listed in Annex I of the Birds Directive and a selection of regularly occurring migratory bird species. As a common typology of threats was used by all Member States for both reports this provided broadly consistent, clear and robust evidence of the frequency of most pressures and threats.
- Published literature (e.g. reports from the Commission, the European Environment Agency, Member States, other relevant bodies (e.g. research centres), and peer-reviewed articles.
- EU legal acts in addition to the Habitats and Birds Directives (e.g. the 7<sup>th</sup> EU Action Programme), as well as judgments of the European Court of Justice (CJEU).
- Responses to the evidence gathering questionnaires were categorised according to the type of respondent, the key problems identified, and the stated opinion on whether or not the Nature Directives address the key problems.

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##### *Identification of key problems*

- *The most frequently reported pressures on European protected habitats and species are linked to agricultural land use. This reflects the large proportion of bird species and other European protected species that depend at least partly on agricultural ecosystems, and the number of grassland habitats in Annex I, plus other habitats that require regular management through grazing and/or cutting.*
- *The second most frequently reported pressures relate to the modification of natural conditions, which result from a number of activities, such as agriculture (e.g. water abstraction for agricultural use), forestry (e.g. modification of natural fire dynamics), or navigation and flood protection (canalisation, weirs & dams, changed water flow, embankments, dredging, cutting off of wetlands and grasslands from river and tidal dynamics, coastal defences, etc).*
- *Terrestrial and marine pollution* were identified by Member States as a high level pressure/threat on freshwater birds, other species and habitats, and on some wetland, forest,

grassland and heath/scrub habitats. Modelling studies confirm that **nitrogen deposition from air pollution is a significant pressure** on wetlands, grasslands, dunes, forests, heath and scrub, and rocky habitats, particularly in North-Western and Central Europe.

- Other frequent pressures relate to forestry, hunting, fishing and other activities using living resources, both legal and illegal, and to human disturbance related to recreational activities.
- **Habitat loss (land take) and other pressures from built developments and mining and quarrying, are moderately frequent overall**, with some areas of greater prevalence (e.g. in the Black Sea and Mediterranean regions). Modern after-mining and after-quarrying approaches may include land rehabilitation reducing the impacts on biodiversity.
- **Invasive alien species** are not frequently listed as a pressure, but are a particular threat to freshwater fish and amphibians.
- Climate change is reported to be a fairly infrequent pressure, but the impacts of climate change are expected to increase considerably, and to exacerbate other existing threats.

#### **Whether the Directives address key problems**

- Legal analysis shows that the provisions of the Directives enable Member States to address the key problems that habitats and species face. The general approach of the Directives is not problem-specific, i.e. their provisions do not, as a rule, target specific key problems. Rather, they require Member States to take measures to avoid adverse effects on habitats and species (i.e. in providing favourable conservation status), irrespective of which particular key problem may be the cause. The full extent of the key problems cannot, however, be addressed in isolation, and while the Directives are capable of addressing key problems, if well-implemented, they should also be supported by coherent policies in other sectors.
- Analysis also shows that the Nature Directives' operational objectives (i.e. the Natura 2000 network, the systems of species protection, the assessment of impacts on sites and species and the potential management of landscape features) form a framework capable of addressing key problems. However, with some exceptions (e.g. the requirements for the assessment of plans and projects under Article 6(3) of the Habitats Directive), the Directives allow for significant flexibility for Member States to choose the procedures and mechanisms deemed suitable to achieve the Directives' objectives. The CJEU interpretation of the Directives provides for the necessary harmonisation, while respecting national discretion in implementation.
- The evidence gathering questionnaires support the conclusion that the Directives do address the key problems faced by species and habitats.
- The literature indicates that the Directives provide an adequate framework to address climate change, provided they are more proactively implemented. Evidence shows that Natura 2000 sites are facilitating species range shifts, and appropriate management of sites may slow climate-related declines, and the literature therefore recommends increasing the size, number and connectivity of protected sites, as well as enhancing monitoring and cooperation.
- A small minority of evidence gathering questionnaires stated that the Directives do not adequately address key problems, as their approach is too static to deal with the protection of dynamic habitats and species, natural ecosystem dynamics and climate change. However, this argument has not been substantiated by evidence.

## **R.2 - Have the Directives been adapted to technical and scientific progress?**

### **Interpretation and approach**

The Nature Directives aim to contribute to the conservation of overall biodiversity in the EU as a whole and in all Member States. However, the EU itself has changed since the Directives came into force, including the accession of new Member States. The pressures facing biodiversity have also changed, for example in terms of the growing threats from urbanisation and climate change, while

actions taken under the Directives have had impacts on the habitats and species. Scientific knowledge of the status of habitats and species has increased, with more information about the factors affecting them, their conservation management requirements and conservation techniques. Consequently, views on the status of some species and habitats have changed as a result of real changes and/or increased and more reliable information. This question has sought to establish the existence of a need to adapt the Directives to scientific and technical progress, and if so, have such adaptations been sufficient to keep pace with changes and to achieve their overall objectives effectively.

### Main sources of evidence

- Scientific studies that have examined the extent to which EU level and nationally threatened habitats and species are covered by the Directives.
- Evidence gathering questionnaire responses: A large proportion of stakeholders responded to this question, complementing the scientific information by providing views on whether or not progress towards the achievement of the Directives would have been, and would now be, enhanced overall through adaptation of the Directives' provisions and annexes. Although subjective opinions, they came from informed stakeholders with a range of relevant experience relating to the implementation of the Directives.

### Draft - Emerging findings - For discussion

- *There was a general consensus among stakeholders that the Directives' principles and overall approach remain valid and appropriate, with no stakeholders proposing fundamental changes to any provisions in response to scientific and technical progress.*
- *The annexes to the Habitats and Birds Directives have been amended on several occasions in response to the accession of new Member States to the EU. To date, however, they have not been significantly updated with respect to new scientific information, technological advances or changes in the status of species.*
- *Some stakeholders noted that under the provisions of the Directives it is not easy to update the Annexes.*
- *Although they have not been updated in response to monitoring results and Red-list assessments, scientific studies show that the annexes, for the most part, contain species and habitats of high conservation importance that still require conservation measures to either maintain or restore them to favourable conservation status (as confirmed by the recent EU conservation status assessments). Although some species now have a favourable conservation status and increasing populations, this is often at least in part a result of the Directives' actions. Some respondents to the evidence gathering questionnaire proposed that some species with a favourable conservation status and increasing populations should be removed from the annexes (or downgraded from Annex IV to V of the Habitats Directive) but it was not indicated how their favourable conservation status would be assured with lower levels of protection. Nature conservation NGOs often stated that the precautionary principle should be followed in such situations.*
- *A comparison of the recently published IUCN EU-level red list assessments shows that the annexes cover almost all threatened vertebrate species, including the majority of threatened freshwater fish, where knowledge and taxonomy have increased significantly since the annexes were drafted. The Habitats Directive annexes have low coverage of threatened invertebrates (particularly with regard to southern Europe and Macaronesia), and omit some species-rich groups almost entirely.*
- *However, scientific studies show that the European protected habitats and species targeted by the Directives, and their designated Natura 2000 sites, indirectly protect many threatened species that are not on the Annexes and other species (i.e. they have an umbrella effect, as described under S2). In addition, where necessary, Member States can undertake actions for*

- threatened species that are not listed on the annexes, for example through LIFE projects as all Red-listed species are eligible for funding.*
- *While the annexes do not use the most up-to-date taxonomy, nomenclature, or habitat classification systems, there is no evidence to suggest that this has caused significant problems, with many stakeholders pointing out that Member States have sufficient flexibility in the interpretation and implementation of the Directives to deal with such issues. The ETC/BD and Ornis Committee, in consultation with Member States, have also produced complete listings of the currently accepted taxa names and synonyms covered by the annexes, together with guidance on taxonomically critical or uncertain taxa.*
  - ***Many national authorities, some scientists, and some other stakeholders considered that the annexes should be updated,*** primarily to reflect taxonomic changes, gaps in coverage of threatened species and changes in the status of species.
  - *In contrast, all nature conservation NGOs, some scientists and national authorities, considered it more important to implement the Directives as they are now, rather than to update the annexes. Many believed such an update would be counter-productive, especially regarding Annex I of the Birds Directives and Annexes I and II of the Habitats Directives, as it would slow the completion of the Natura 2000 network and the establishment of management plans and conservation measures. They, along with some national authorities and businesses, also believed such an update would create uncertainty, with some new sites needing to be designated, some boundaries changed and some conservation objectives and management plans updated.*

### R.3 - How relevant are the Directives to achieving sustainable development?

#### Interpretation and approach

Sustainable development is a fundamental objective of the European Union, enshrined in Article 11 of the TFEU and recognised in the EU Sustainable Development Strategy, which was adopted in 2001 and renewed in 2006. It is associated with the integration of environmental considerations across a broad spectrum of EU policies. Sustainable development implies the commitment to not jeopardising the ability of future generations to meet their own needs due to meeting the needs of the current generation. Key guiding principles of particular relevance include solidarity within and between generations, policy coherence and governance, policy integration, the precautionary principle, promotion and protection of fundamental rights, and the polluter pays principle.

The relevance of the Directives to these aims and principles of sustainable development was examined in light of the following three sub questions:

1. What are the sustainable development objectives of the EU?
2. Would achievement of the Directives' objectives contribute to sustainable development?
3. Do the measures in the Directives allow developments to take place that are not linked to biodiversity objectives if sustainable (i.e. if in harmony with the Directives' objectives)?

#### Main sources of evidence

- Key policy documents used to judge the contribution of the Directives to sustainable development include the 2006 EU Renewed Sustainable Development Strategy, the Communications on 'A strategy for smart, sustainable and inclusive growth', 'A resource-

efficient Europe – Flagship initiative under the Europe 2020 Strategy’, the EU’s Seventh Environmental Action Plan, and the UNDP Sustainable Development Goals.

- Although no studies have specifically examined the contribution of the Directives to sustainable development, this analysis has drawn on a number of relevant sources, including Commission funded studies (e.g. on benefits of Natura 2000 and on Article 6(3) permitting procedure of the Habitats Directive), as well as national studies such as the UK review of the Habitats and Birds Directives implementation.

#### Draft - Emerging findings - For discussion

- *The key challenges that the 2006 Renewed EU Sustainable Development Strategy aims to tackle relate to the conservation and management of natural resources, sustainable consumption and production, sustainable transport, climate change and energy, public health, social inclusion, demography and migration, and global poverty and sustainable development challenges. The Nature Directives are a key element of the environmental pillar of sustainable development, directly contributing to the first of these aims, but also contributing indirectly to responses to climate change and public health (as described in question Y.1).*
- *The Directives’ contributions to sustainable development arise because the conservation of biodiversity is a sustainable development objective in itself, and also because they contribute to a wide range of other sustainable development goals. Most notably, they contribute to resource management (e.g. fisheries benefit from marine protected areas, the maintenance of habitat for game species, soil management), health and social benefits (e.g. the protection of quality green space, with high aesthetic values), provision of sites for recreation, education and research, and the delivery of a wide range of other ecosystem services to society.*
- *The Directives also explicitly take other social and economic goals into account, and have been designed to allow and facilitate sustainable development not linked to biodiversity objectives where this is compatible with the aims of the Directives. Consequently, Natura 2000 is based on a wider concept than maintaining nature reserves, and it allows for sustainable human activities that are compatible with the conservation objectives of the sites in question. The Directives do not result in rigid site protection with predetermined restrictions on activities, but, rather, the sustainability of activities is judged on a case-by-case basis.*
- *The provisions in Articles 6 (3) and 6(4) of the Habitats Directive are of key importance in enabling sustainable development by allowing activities provided they do not have an adverse effect on the specific objectives of the site, whilst taking a precautionary approach. Developments with adverse effects may also go ahead if there are imperative reasons of overriding public interest, and there are no alternatives. At the same time, in accordance with the polluter pays principle, the project promoter must compensate for any negative impacts on the coherence of the Natura 2000 network (e.g. through the restoration of habitats elsewhere).*
- *The species protection measures within the Directives have led to problems in some development projects (e.g. regarding some widespread species, as described in question Y.4). Evidence suggests, however, that these may arise from disproportionate or overly risk-averse implementation practices in some Member States (combined with knowledge constraints – see Y.8). In others, the measures are generally considered by most nature authorities and other stakeholders to have sufficient flexibility to enable activities that impact on protected species, provided steps to ensure that the overall objectives of the Directives are not hindered (i.e. the maintenance of favourable conservation status).*
- *A number of stakeholders stated that the Directives do not aim to balance environmental, economic and social interests, but instead give primacy to the Directives’ objectives, for example, in the context of selecting Natura 2000 sites and in decision-making under Article 6(3). There is no evidence, however, that the Directives are a significant constraint on overall sustainable development. In fact, a UK review of the Directives concluded that ‘the Directives are working well, allowing both development of key infrastructure and ensuring that a high level of environmental protection is maintained’. Evidence of the situation in other Member*

- States is limited, but the majority of respondents to the stakeholder questionnaire expressed similar views to the UK study's conclusions.*
- *Both the UK review and the evidence gathering questionnaires indicated that improvements can be made in the Directives' contribution to sustainable development, for example, by focusing on the achievement of strategic objectives rather than rigidly following processes, by identifying potential conflicts early in the development planning cycle (e.g. improved linkages to spatial planning and SEA), by improving data coverage, quality and accessibility, and by providing training and guidance for permitting authorities.*

## R.4 - How relevant is EU nature legislation to EU citizens and what is their level of support for it?

### Interpretation and approach

The evaluation considered firstly, the relevance to Europeans of the EU Nature Directives, i.e. how closely connected citizens are (or feel they are) to EU nature legislation. Relevant indicators include, for example, awareness among Europeans of the Natura 2000 network, that citizens make use of protected areas, and that they take action on the basis of the Directives (e.g. by participating in public consultation procedures for the permitting of relevant projects). Secondly, the analysis examined the extent to which Europeans support EU nature legislation, i.e. whether or not they are in favour of the Nature Directives. Relevant indicators include whether or not Europeans favour the expansion of protected areas and if they prioritise nature protection over infrastructure development.

### Main sources of evidence

- This comprised surveys of public opinion at different levels – EU-wide (Eurobarometer), national (e.g. surveys carried out by authorities or organisations in a specific Member State) or sub-national (e.g. academic articles investigating public attitudes in certain regions or around Natura 2000 sites).
- Additional evidence was drawn from responses to the evidence gathering questionnaires and the online public consultation.

### Draft - Emerging findings - For discussion

- *There is a strong consensus among Europeans about the importance of nature protection. Nearly all Europeans see biodiversity loss as a serious problem. They are not only concerned about global biodiversity loss, but also about biodiversity loss in their own country.*
- *Europeans' enjoyment of, and interest in, nature is demonstrated not only by surveys and other studies, but also by their active participation in the online public consultation carried out for this analysis (over 550,000 participants), in nature-related events and campaigns, in activities that contribute to the implementation of the Directives (e.g. volunteering in protected sites, species monitoring, public consultations), and to their correct application (e.g. complaints to the EU institutions, challenges to relevant decisions of competent authorities).*
- *At least two thirds of respondents consider that nature protection areas such as Natura 2000 are very important in protecting endangered animals and plants (69%), safeguarding nature's role in providing food, clean air and water (67%) and preventing the destruction of valuable nature areas on land and at sea (66%).*
- *Despite the importance attached to nature, Europeans are generally not well-informed about biodiversity, the Nature Directives, or the Natura 2000 network. However, significant differences in awareness of the network exist among Member States (ranging from 4% to 75% of national population having heard of it) and there are indications of public authorities'*

- failure to raise awareness or disseminate information about the Directives as required.*
- *Most Europeans do not view economic growth and environmental protection as conflicting objectives. On the contrary, most appear to believe that we have a responsibility to protect nature, and that the state of the environment and economic factors are equally important determinants of societal progress and their own quality of life. Both the literature reviewed and stakeholder responses to the evidence gathering questionnaires emphasise the economic benefits arising from the Directives, especially in the form of increased (eco)tourism and related job creation. While contrasting views emerged from the online public consultation, those responses were more polarised and appeared to have been influenced by campaigns led by different interests. Over 520,000 citizens participating in the online public consultation stated that the Directives are important for nature conservation.*
  - *Almost 60% of Europeans believe that environmental factors should be as important in measuring progress as economic criteria (e.g. GDP).*
  - *A strong commitment to European nature is confirmed by the fact that 46% of Europeans would prohibit all damage to, or destruction of, protected areas. 41% would only accept such consequences for projects of major public interest, and provided any damage or destruction is fully compensated for. Only 9% would prioritise economic development over nature protection and justify the associated destruction of, or damage to, protected areas. While there are some differences among Member States in the exact shares of population supporting the different positions, they do not invalidate the finding.*
  - *Most Europeans are unwilling to trade damage or destruction to nature in protected areas for economic development.*
  - *In conclusion, Europeans strongly value biodiversity and support its protection, even above some economic considerations. Although their knowledge of EU nature legislation might be limited, they see nature protection as a moral obligation and an important priority. As citizens, they generally favour the establishment of protected areas, they take action to manage, monitor and safeguard protected sites and they recognise the economic benefits deriving from protected areas, especially in terms of increased tourism.*

## R.5 - What are citizens' expectations for the role of the EU in nature protection?

### Interpretation and approach

This seeks to establish the extent to which Europeans believe the EU should act to protect nature. The analysis considered whether Europeans support EU action on nature protection, as well as their views on the types of initiatives that the EU should put in place. This information will help to identify those tasks that Europeans think belong at EU level, and those that should remain within the purview of Member States.

### Main sources of evidence

- Eurobarometer surveys of EU public opinion (which are designed to be representative) on the Nature Directives in particular, but also on biodiversity and the environment more broadly. Very few other sources of evidence were available, taking into account the limited responses of stakeholders to this question on the evidence gathering questionnaire. The online public consultation did not include questions specifically relating to Europeans' expectations of the role of the EU in nature protection.

### Draft - Emerging findings - For discussion

- *The majority of Europeans (60%), believe that environmental decisions should be taken jointly between national governments and the EU, while a little over a third (36%) believe that only national governments should take such decisions. A significant majority of Europeans (77%) believe that EU environmental legislation is necessary for protecting the environment in their country.*
- *Most Europeans think that neither their national governments (70%) nor the EU (56%) are doing enough to protect the environment and should do more. There are however significant minorities (21% and 23% respectively) who believe that both national governments and the EU are doing what they should.*
- *As to the types of instruments to be used for environmental protection, 93% of Europeans think that the EU should better inform citizens about the importance of biodiversity. Taking into account biodiversity concerns when planning new infrastructure developments and improving the implementation of existing biodiversity legislation also receive wide support (92%). The overwhelming majority of Europeans (89%) believe that areas where nature is protected should be expanded, and about as many (88%) support strengthening existing nature and biodiversity conservation rules.*
- *The majority of Europeans (52%) also think that the EU should work with other countries to include biodiversity protection into global trade policies and agreements. Fewer (43%) believe that the EU should encourage companies to reduce their impact on biodiversity or introduce mandatory sustainability requirements for imported goods. Better information to consumers on the biodiversity impact of products (e.g. through labels showing their biodiversity footprint) is supported by four in ten Europeans (40%). Only 6% believe the EU should do nothing at all on imports, because it is up to exporting countries to ensure the protection of their own nature.*

DRAFT

## Coherence

Evaluating the coherence of legislation, policies and strategies means assessing if they are logical and consistent, internally (i.e. within a single Directive), with each other (i.e. between the two Directives) and with other legislation as well as with relevant policies. This includes whether there are significant contradictions or conflicts that stand in the way of their effective implementation or which prevent the achievement of their objectives.

### C.1 - To what extent are the objectives set up by the Directives coherent with each other?

#### Interpretation and approach

This focuses on the coherence of objectives within and between Directives, with respect to the strategic objectives as well as to the specific and operational objectives of both Directives. It aims at providing evidence of those consistencies or inconsistencies that may positively or negatively impact on the implementation of the Directives. In addition, it assesses the existence of similarities or major differences in provisions, wording or structure in order to determine if such differences may cause conflicts in the implementation that would affect the coherence of the Directives. While the analysis draws on available sources of information, given the nature of the question, significant focus is placed on the legal examination of the text of the Directives.

#### Main sources of evidence

- Analysis of the legal provisions of both Directives and the formulation of their strategic and specific objectives, as well as the interpretation of those provisions in literature and case law from the European Court of Justice (CJEU).
- Evidence gathering questionnaires received from 61 stakeholders.
- Guidance documents from the European Commission on key provisions of the Directives, along with guidance documents developed by Member States or stakeholders. EU-level interpretations were prioritised due to the value of comparative assessments.
- A number of studies and publications either focused on the analysis of the coherence of both Directives, mainly developed as a response to the Fitness Check, or comparing the implementation in different EU Member States or specific to one Member State.
- Responses to the online public consultation were inconclusive, showing a polarisation of views according to types of interest. While respondents from agriculture and forestry, fisheries and hunting disagreed almost entirely with the statement that the Directives are consistent with each other, those respondents from environment and nature, as well as from industry, consider they are coherent to a significant degree.

#### Draft - Emerging findings - For discussion

- ***Both Directives have a system based on measures of protection for sites and for species, with specific requirements for the assessment of the impacts of activities, plans and projects. The system seems to be coherent for the achievement of each Directive's objectives.***
- ***Despite differences in wording, a higher degree of harmonisation between the Directives has been ensured through their interpretation by the CJEU). No evidence was found to suggest that the differences in wording lead to inconsistencies or conflicts between or within the objectives of the Birds and Habitats Directives.***
- ***Both Directives are coherent in their approach to the overall objective as they do not aim at ensuring biodiversity but, rather, contributing towards ensuring biodiversity together with other instruments. While the Birds Directive aims at conserving populations of species, the Habitats Directive aims at biodiversity in a broader sense, there is no evidence that this***

- difference has led to inconsistencies in implementation between the Directives.*
- **There is a difference in scope between the Directives.** The Birds Directive applies to all bird species, most of which are migratory, while the Habitats Directive focuses on species and habitats of European interest. However, this difference has not been considered a source of inconsistency between the Directives. While the broad scope of the Birds Directive may lead to conflicts of implementation measures regarding species that are not threatened and protected species, they may be avoided with appropriate prioritisation of conservation measures and sustainable management practices.
  - The Habitats Directive requires Member States to take measures to **maintain or restore, at favourable conservation status, natural habitats and species of European interest**. Although this is not explicitly stated as an objective of the Birds Directive, its applicability is justified by the fact that the Natura 2000 Network includes SPAs classified under the Birds Directive. Evidence from the literature and EU Guidance on the Birds Directive suggests that this objective is implicit in Article 2 of the Birds Directive.
  - Natura 2000 network site selection is, under both Directives, based on **scientific criteria and evidence**, as required by the Directive and clarified by the CJEU. While representatives from several national nature authorities, in response to the evidence gathering questionnaire, took the view that the difference in selection procedures between Directives may create inconsistencies in the designation process between SACs and SPAs, the evidence did not demonstrate significant and unavoidable inconsistencies in practice.
  - Similarly, there is **no evidence to suggest problems of inconsistency** resulting from the Habitats Directive provision for the possibility of de-designating SACs under certain conditions, something which is not explicitly provided for in the Birds Directive but which in practice has been applied for similar reasons.
  - The **protection regime for SCIs, SACs and SPAs has been harmonised** through Article 7 of the Habitats Directive. Although management provisions of Article 6(1) of the Habitats Directive do not apply to SPAs, Articles 4(1) and (2) of the Birds Directive provide for a similar approach. In practice, Member States apply management plans for both SACs and SPAs.
  - Both Directives explicitly require Member States to take **socioeconomic factors** into account when implementing the Directives. The CJEU has confirmed that while such factors do not apply in the selection of sites, they must be considered when developing site conservation measures and assessing the impacts of activities and projects in relation to sites and species. Both Directives are coherent in this respect. (For implementation of this objective see Questions S.1 and S.3).
  - Both Directives require Member States to establish **systems of species protection inside and outside Natura 2000 sites**. A potential inconsistency has been raised in that Article 12(1)d of the Habitats Directive forbids not only intentional killing or disturbance of species, but also unintentional acts, and is, therefore, stricter than the Birds Directive. However, the CJEU interpretation confirms that Article 5 of the Birds Directive covers intentional acts, but also 'acts involving no intention to infringe the rules for the protection of birds'. The Court also confirms the proportionality of the prohibition under Article 12(1)d of the Habitats Directive that is not limited to deliberate acts.
  - Article 16(1) of the Habitats Directive enables the granting of **derogations** for species under Annex IV on the basis of imperative reasons of **overriding public interests** (including those of an economic nature), while Article 9 of the Birds Directive does not include this consideration. While this is a difference between both Directives, no evidence of relevant cases has been provided or identified showing inconsistencies in practice.

## C.2 - To what extent are the Directives satisfactorily integrated and coherent with other EU environmental law e.g. EIA, SEA?

### Interpretation and approach

This focuses on the extent to which the Nature Directives work together with other EU environmental legislation, and the extent to which they are mutually supportive. Several legal instruments aimed at protecting the environment in the EU interact with the Nature Directives, either because of their mutually supportive objectives and/or the use of complementary instruments. The analysis focuses on the key relevant horizontal EU legislation: the SEA Directive, the EIA Directive and the Environmental Liability Directive (ELD) Directives on the water, marine, air and climate change areas are addressed under question C.3. This analysis examines the interactions with a view to identifying possible gaps, overlaps, inconsistencies or contradictory requirements arising from the legal wording of the texts or their implementation in the Member States.

### Main sources of evidence

- The analysis focused, in the main, on legal examination of the provisions of Directives and of accompanying EU and Member State guidance.
- Other key sources were relevant case law from the European Court of Justice (CJEU), implementation reports and studies, legal literature and other publications.
- Evidence gathering questionnaires, in which 63 stakeholders provided opinions or descriptions of national examples. Very few provided documentary evidence such as national case law or studies.
- Results of online public consultation on the general question of coherence with other EU environmental legislation.

### Draft - Emerging findings - For discussion

- Overall, the Nature Directives are considered to be **coherent with the EIA, SEA, and the ELD Directives**, a view clearly expressed by stakeholders in both the evidence gathering questionnaire and the online public consultation. However, there was some suggestion from the evidence gathering questionnaire that conflicts may arise in individual projects.
- The overall legal framework for EIA/SEA and the appropriate assessment (AA) procedure required under the Habitats Directive, including the objectives and scope, definition of projects subject to the assessments, likely significant effects, cumulative effects and public participation, is coherent. However, AA is confined to implications for Natura 2000 sites whereas EIA and SEA focus on wider environmental impacts of projects, plans and programmes. Furthermore, AA conclusions require that any negative impacts are addressed within proposed developments, while the outcomes of SEA and EIA merely need to be taken into account. SEA typically involves a broader scope and longer timeframe than AA. EC guidance explains that an SEA considering biodiversity can be particularly supportive of nature protection objectives when carried out in an appropriate manner.
- The Commission impact assessment for the proposal to revise the EIA Directive in 2013 noted that **synergies between EIA and AA assessments** had not been sufficiently exploited. In addition, the regulatory impact assessment of the revised EIA Directive noted that species protection provisions tend to be neglected in EIAs, an issue raised by several stakeholders in the evidence gathering questionnaire. The revised EIA Directive establishes coordinated and joint procedures for EIA and other environmental assessments and specifically require effects on biodiversity to be assessed, with particular attention paid to species and habitats protected under the Nature Directives.
- **Issues of legal uncertainty regarding interpretation of key terms and approaches used in the**

- different environmental assessments have been clarified over time, either through case law or guidance documents. For example, the meaning of the terms 'project' and 'plan' and of 'significant effect' have been clarified by the CJEU. Stakeholders highlighted problems with access to data on specific habitats and species, or their conservation status, or the lack of clarity on which information should be used as part of the assessments. This issue has been addressed in the UK by means of a publicly available risk matrix for all regulated activities, which identifies the focus of investigation for every activity.*
- *Inconsistencies raised by stakeholders mostly related to issues of national implementation. For example, case studies show that the specific impacts on Natura 2000 sites are not always assessed in detail in countries where EIA and AA procedures are integrated. Stakeholders believe that new requirements for integrating EIA and AA procedures still lack sufficient emphasis on the need to properly consider the impacts on conservation objectives, an oversight which may exacerbate this situation. Several stakeholder types stated that SEA sometimes functioned as more of an administrative requirement, rather than an instrument for enhancing implementation of the Nature Directives. Some Member States have developed guidance documents to encourage a more focused approach to SEA.*
  - *Legal literature and EC Study on the implementation of ELD on biodiversity damage note the complementary role of the ELD and the EU nature protection legislation. Published studies refer to the potential to improve the coherence between the ELD and the Nature Directives, both in terms of the definition of environmental damage, and the adoption of preventative measures to avoid significant deterioration and disturbance in relation to the favourable conservation status of habitats and species. While responses specifically addressing the ELD were more limited in number than for the EIA and SEA Directives, the ELD was generally believed to be coherent with the Nature Directives, a view corroborated by the online public consultation.*
  - *The EC Study on the implementation of the ELD biodiversity damage highlights that uneven implementation of the ELD Directive with regard to biodiversity damage jeopardises its objective to complement the Nature Directives by ensuring application of the polluter pays principle for biodiversity damage.*

### C.3 - Is the scope for policy integration with other policy objectives (e.g. water, floods, marine, and climate change) fully exploited

#### Interpretation and approach

This evaluates the extent to which the objectives of the Nature Directives have been integrated into, support, or are supported by, the objectives of other relevant EU environment policies.

#### Main sources of evidence

- The provisions of the targeted Directives and policies were assessed for their coherence of objectives, measures and the reporting requirements with the Nature Directives. This information was complemented by available reports at EU and Member State levels.
- Evidence regarding implementation was, for the most part, obtained from the evidence gathering questionnaires with 42 responses from 23 Member States. About half of the responses came from environmental NGOs, the majority of whom expressed similar opinions and referred to the same studies. A response was also provided by authorities from 14 Member States (14 nature protection authorities and 2 marine-related authorities), with a further two responses from industry (water infrastructure and fisheries).
- Evidence on the coherence of implementation was mostly provided in relation to the WFD, given that the first full cycle of implementation finished in 2009. The Floods Directive (FD), the MSFD and EU climate change policy are relatively new EU instruments, with limited

experience of implementation. Evidence on the coherence of objectives was provided by 11 respondents on the WFD, 4 on the FD, 22 on the MSFD and 19 on EU climate change policy.

### Draft - Emerging findings - For discussion

- *The coherence of the objectives of the Nature Directives with these other EU environmental policy objectives and measures is generally considered adequate.* While the scope and terminology is different, these EU environmental legislative and policy instruments have the common goal of environmental protection and maintenance. The Nature Directives aim to achieve "favourable conservation status" - or equivalent - of the listed habitats and species which they seek to protect. Through its objective of achieving 'good ecological status' of rivers, lakes, transitional waters and coastal waters, the WFD has a clear aim to maintain or restore aquatic biodiversity. Similarly, the MSFD aims to achieve 'good environmental status' for marine waters, a major component of which is maintaining or achieving healthy ecosystems.
- At **implementation level**, the Nature Directives and other EU environmental policies have different requirements with respect to assessment scales, monitoring, reporting, the planning of measures and public consultation procedures. A 2014 European Commission Workshop on the coordinated implementation of nature, biodiversity, marine and water policies concluded that no major conflicts derive from those differences and that solutions can be found under the current legal framework through **better cooperation and dialogue**. Such improvements would also reduce the administrative burden on Member States, for example, in reporting to the European Commission. An EU-level process to develop a common agenda for reporting on nature, biodiversity, marine and water policies is ongoing, with the aim of improving such coordination.
- The majority of stakeholders confirmed the **coherence of implementation between the Nature Directives and the WFD**. For example, Natura 2000 sites are integrated in the River Basin Management Plans (RBMP), which also contain a programme of measures to improve the ecological status of European waters. Some stakeholders further stated that coordinated implementation is essential to achieve the combined objectives and avoid the conflicts which currently arise from lack of experience in implementing these recently adopted Directives and which can be solved on a case-by-case basis. Examples of apparent conflicts relate to the restoration of heavily modified water bodies to a more natural state, as required under the WFD. While the Nature Directives do allow for such restoration, stakeholders referred to damages to existing habitats and species due to restoration measures, which increase costs and delay projects with overall ecological benefits. However, evidence suggests that these conflicts can be avoided through enhanced coordinated planning and improved information on the conservation objectives, as demonstrated by water-dependent Natura 2000 sites in Germany.
- In addition, data collected under the Nature Directives (at species level) are difficult to compare with data collected under the WFD and MSFD (at the higher level of functional groups) and need to be better aligned.
- The **MSFD aims to achieve 'good environmental status'** of marine waters where these provide ecologically diverse and dynamic oceans and seas. This status is defined by 11 descriptors, the majority of which relate directly to marine biodiversity. In addition, under the MSFD, **Marine Protected Areas (MPAs)** will be designated. The evidence gathering questionnaires (from NGOs, nature authorities and the fisheries sector) showed some concerns about the means by which MPAs would be managed, since the measures are to be taken largely by other sectors, in particular fisheries and energy. These sectors, it was felt, would need to better understand the impacts of activities and measures in the conservation of marine biodiversity.
- The coherence of nature conservation and restoration measures with **flood risk management measures** is acknowledged in the 2014 EU policy document on Natural Water Retention Measures. However, the practical implementation of an integrated floods-nature management approach remains in the initial phase in many Member States.

- *Recognition of the importance of biodiversity for adaptation to, and mitigation of, climate change was reported by 16 out of 19 respondents. Natura 2000 sites are considered to be natural solutions for mitigating and adapting to climate change in the European Commission “Guidelines on climate change and Natura 2000”. A substantial number of good practice projects were highlighted by the stakeholders, such as the peatland protection projects in five Member States, with benefits for nature conservation, carbon sequestration (climate mitigation) and flood prevention (climate adaptation).*
- *Of the 12 stakeholders who specifically address the NEC Directive in the evidence gathering questionnaire, eight considered the NEC Directive to lack complete coherence with the Nature Directives. A German study concluded that the emission ceilings of the NEC Directive are not ambitious enough to meet the objectives of the Nature Directives, citing that the ‘critical loads’ of various habitat types are exceeded in 70% of the Natura 2000 territory in Europe. Interestingly, contrary views emerged in the online public consultation, where the majority found the NEC Directive to be coherent with the Nature Directives, but this may reflect the broad objectives and aims rather than the specific goals and implementation in practice.*

#### **C.4 - Do the Nature Directives complement or interact with other EU sectoral policies affecting land and water use at EU and Member State level (e.g. agriculture, fisheries, regional and cohesion policy, energy, transport, research, etc.)?**

#### **C.5 - How do these policies affect positively or negatively the implementation of the EU nature legislation?**

##### **Interpretation and approach**

Questions C.4 and C.5 of the evidence gathering questionnaire are addressed jointly as they relate to the same sectoral policies and the mandate for the Fitness Check links them together. While the focus of the first question is on coherence in legislation and policy documents, the focus of the second question is on implementation of policy provisions. The evaluation of Question C.4 assesses whether the provisions of the EU Nature Directives are sufficiently taken into account and integrated in EU sectoral policies. This includes an assessment of the content of the relevant EU sectoral legislation and policies and the extent to which they support or contradict the objectives of the Nature Directives, stating the main reasons for the lack of consistency. The evaluation of question C.5 involves assessing the impact of sectoral policies on the practical implementation of the Nature Directives. The analysis presents examples where specific policies exert a positive or negative influence on the implementation of the Nature Directives, including, where relevant, the implementation of EU funding programmes. Evidence and analysis are presented for key sectoral policies in the emerging findings below.

##### **Main sources of evidence**

- The literature review is primarily concerned with the relevant sectoral policy documents themselves (including legislation and strategy documents, as well as guidance documents).
- The evidence gathering questionnaire, although this varies for different sectors depending on the extent to which stakeholders addressed the sector.
- Additional studies and reports, often suggested by the stakeholders, were used to complement the analysis, along with opinions of stakeholders when supported by other sources.

Overall, stakeholder responses to these questions in the evidence gathering questionnaire were relatively low – not exceeding 20 – with the exception of the agriculture and fisheries sectors. In many cases, stakeholders avoided definitive statements such as ‘this policy area is fully coherent’ or ‘there is a complete lack of coherence’. Instead, responses tended to provide examples of cases where the policies were coherent or incoherent with the Nature Directives, with some individual stakeholders providing both positive and negative examples. General conclusions are, therefore, difficult to infer.

### Draft - Emerging findings - For discussion

#### **Common Agriculture Policy**

- *The overarching objectives of the 2014-2020 CAP are to support viable food production, the sustainable management of natural resources and climate action, and to achieve balanced territorial development. The CAP relies primarily on incentive measures, often with conditions attached, some of which concern the environment (e.g. via cross-compliance). Moreover, the Habitats Directive contains a number of semi-natural habitats which depend on the continuation of agricultural systems. Therefore the CAP and Nature Directives are potentially complementary.*
- *The reformed CAP does include more beneficial elements for biodiversity, but it is too early to assess its impacts on biodiversity, which are greatly influenced by Member State implementation choices.*
- *Historically, support payments under Pillar 1 of the CAP were mainly coupled to production, providing an incentive to increase agricultural production. This encouraged agricultural improvements and intensification in some areas, leading to well-documented detrimental biodiversity impacts (e.g. through losses of semi-natural habitats and overgrazing). The great majority of direct payments are now area-based. Although some voluntary coupled payments remain, evidence of their biodiversity impacts is scarce.*
- *At the same time, Pillar 1 direct payments (and additional payments for areas facing natural and other specific constraints under Pillar 2), play a role in supporting the continuation of farming systems and practices, such as extensive grazing, associated with certain protected habitats and species. For the period 2007-2013, Pillar 1 eligibility rules (e.g. concerning scrub and trees), as interpreted in some Member States, excluded large areas of farmland with semi-natural habitats and/or European protected species from receiving direct payment support. This has been reported as having, in some cases, detrimental effects on semi-natural habitats through land abandonment or degradation/destruction. The recent reform of the CAP gives Member States more flexibility to determine the eligibility of land for direct payments, but it is too early to assess if this has fully solved the problem.*
- *Cross compliance measures aim to ensure a basic level of environmental protection (*inter alia*) on farmland. They include Statutory Management Requirements that refer to provisions within the Birds and Habitats Directives, and standards for Good Agricultural and Environmental Conditions (GAEC) contributing to biodiversity. Although cross compliance has improved awareness of farmers on environmental concerns, there is little documented evidence of beneficial biodiversity impacts, apart from an indication that GAEC 7 has helped protect landscape features,*
- *From 2015, the green payments (which comprise 30% of direct payments) provide increased opportunities for Member States to protect habitats. In particular, the ability to designate environmentally sensitive permanent grasslands could be beneficial. Several of the options for Ecological Focus Areas can also provide biodiversity benefits (e.g. fallow). The impacts of the Greening measures will depend to some extent on Member State implementation choices and which options farmers put in place on the ground, and it is too early to assess this.*
- *Within Pillar 2 at least 30% of EAFRD must be dedicated to environment and climate*

**change objectives.** The Natura 2000 measures provides Member States with the opportunity to compensate for restrictions on farming and forestry activities in Natura 2000 sites. However, this is not widely used, due in part to the slow progress with establishment of site-specific conservation measures (e.g. development of site management plans). **The agri-environment-climate measure** (supported by non-productive investments) is the primary measure through which incentives are provided for farmers to continue or adopt management practices that are beneficial to biodiversity, both in Natura 2000 sites and elsewhere. Many schemes have contributed to improvements in the status of European protected habitats and species, although some have suffered from poor design and targeting. Greater application and better tailoring to biodiversity priorities is required to increase the scale of their impacts. Although a small number of other Pillar 2 measures have in the past been reported as having detrimental biodiversity impacts in some cases (e.g. afforestation of sensitive habitats, irrigation) the new EAFRD rules/conditions have been designed to help avoid such impacts if supported by proper checks and controls (e.g. through EIAs) by Member States.

- A substantial body of evidence suggests that without any support via the CAP, the conservation status of agricultural habitats and species would be worse than it currently is. However, the CAP could contribute more to the goals of the Nature Directives, especially if Pillar 2 funding was increased and Member States targeted their measures more towards biodiversity objectives.

### Cohesion Policy

- The main objective of Cohesion Policy has traditionally been to reduce significant economic, social and territorial disparities between European regions through co-financing investments targeting socioeconomic development. With the adoption of the Europe 2020 Strategy in 2010, Cohesion Policy and its structural funds became the 'key delivery mechanisms to achieve the priorities of smart, sustainable and inclusive growth in Member States and regions'.
- Cohesion Policy provides relatively large amounts of funding (EUR 351.8 billion or around 33% of the EU budget for 2014-2020) to co-finance investments in research, SME competitiveness, transport, low-carbon economy, labour and social inclusion, education and also environment and resource efficiency. Funding is available to directly support the objectives of the Nature Directives (e.g. for conservation measures or management of Natura 2000 sites), as well as for activities that may directly threaten nature objectives, such as transport, energy and other infrastructure.
- Cohesion Policy objectives are very broad, some more coherent with those of the Nature Directives (e.g. sustainable growth) than others (e.g. the focus on economic growth and job creation, which has the potential to promote interventions that threaten nature conservation objectives). Ultimately, the concept that economic growth should be achieved in a sustainable manner seems to suggest broad coherence with the Nature Directives. Evidence shows that this is not always the case, however, with both stakeholders and literature supporting the idea that **Cohesion Policy in practice has both positive and negative impacts on the objectives and implementation of the Nature Directives**.
- Cohesion Policy has evolved during the last three decades to provide more support for environmental policy, including biodiversity and nature-related issues, as confirmed both in literature and by stakeholders.
- The 'thematic concentration' approach introduced for Cohesion Policy 2014-2020 requires Member States and regions to concentrate funds on priorities related to research and innovation, support for SMEs and low carbon economy. This may come at the expense of environment and nature protection, especially in more developed regions where the concentration requirements are stricter.
- Overall, absorption rates for Cohesion Policy funds programmed for nature protection in 2007-2013 are in line with those for other sectors, indicating that funds allocated to this area have been spent. Nevertheless, research by NGOs and the European Court of Auditors

*indicates that there is room for improvement with regard to the role of nature and biodiversity within strategic planning and programming for Cohesion Policy, both in terms of support for Natura 2000, but also the role of green infrastructure and more nature-focused solutions to socioeconomic concerns.*

- *At the implementation level, several instruments and procedures exist to assess, identify and mitigate the impacts on environment and nature from the programmes and projects supported by Cohesion Policy. These include EU legislation on environmental assessments – including SEA, EIA and appropriate assessment (AA) as discussed in question C.2. The fact that the European Commission reviews the quality of Member States' strategic plans and spending programmes (including SEAs), approves large investment projects (> 50m or 75m in the transport sector) and provides technical assistance for preparation of large infrastructure projects (including EIA and AA), places some additional emphasis on the quality of environmental assessment procedures for Cohesion Policy plans, programmes and projects.*
- *The numerous NGO and other reports published on Cohesion Policy and the environment stress the importance of the involvement of environmental partners in the planning, programming and implementation of Cohesion Policy. As the main objectives of Cohesion Policy have traditionally been mainly economic (e.g. the promotion of growth and jobs), environmental partners – including authorities as well as non-governmental experts – have struggled to mainstream their role in the procedures. The situation varies across the Member States and is closely linked to issues of capacity and political culture.*

### **Energy**

- *The EU's Energy Union strategy includes five main areas: (1) supply security; (2) a fully integrated internal energy market; (3) energy efficiency; (4) emission reduction; and (5) research and innovation. EU energy policy makes many references to sustainability, linked to climate change goals. These can imply important synergies for nature protection and biodiversity, as governed by the climate-energy legislative package and '20-20-20 targets', the 2030 climate and energy framework and the 2050 roadmap. These goals imply the construction and operation of large amounts of new energy infrastructure, which may adversely affect habitats and species. At the same time, some stakeholders in the energy sector see the Nature Directives, particularly the requirements regarding impacts on Natura 2000 sites, as an obstacle to energy goals.*
- *The development of grid and pipeline networks for energy transmission and certain technologies for generation of energy from renewable sources are likely to have the greatest impacts. The renewable technologies most frequently referred to in literature and stakeholder responses are biofuels, wind power, shale gas extraction and hydropower. Potential negative impacts from these technologies include fragmentation, degradation and loss of terrestrial and marine habitats, as well as direct harm and mortality to species from construction activities and pollution. Of particular concern is the contact of migrating birds and bats with power lines and wind farms.*
- *There are several legal and policy provisions in place to prevent and mitigate the impacts of the energy sector on the environment. EU environmental legislation, including the EIA and SEA Directives and the Habitats Directive requirements on AA will apply. Sustainability criteria are provided for biofuels production in the Renewable Energy and Fuel Quality Directives, which prohibit the use of high biodiversity value land for production, however, these may not be sufficient. The Commission issued guidance on wind energy developments and Natura 2000, as well as a recommendation and guidance on the environmental impacts of shale gas extraction.*
- *The Trans-European Networks for energy (TEN-E) Regulation prioritises selected Projects of Common Interest (PCIs) in the electricity, gas, oil and carbon dioxide transport sectors. These network infrastructure projects benefit from 'streamlined' permitting procedures in the Member States, including a requirement to streamline the applicable environmental*

- assessment procedures (e.g. SEA, EIA, AA, etc.), which is a cause for concern.. Furthermore, PCIs may be considered of public interest from an energy policy perspective with reference to the Habitats Directive Article 6(4), assuming the necessary conditions have been met. The Commission has issued a guidance document for Member States to follow when taking measures to streamline environmental assessments for energy infrastructure PCIs. This document is based on good practice in carrying out effective environmental assessments in this sector. At present there is limited experience with permitting and implementing PCIs in the EU.**
- Both literature and stakeholder responses contain examples of cases where energy infrastructure projects have threatened habitats and species. At the same time, there are substantial examples of best practice and cooperation between the energy sector and environmental NGOs, with a firm belief by some stakeholders that EU energy policy and nature conservation goals are not incompatible. The Renewables Grid Initiative (RGI) declaration, which was signed by 24 environmental NGOs and the biggest transmission system operators (TSOs) in Europe in 2011, declares that there does not have to be conflict between energy and biodiversity goals, with both parties pledging to work together.

### **Fisheries**

- **The Nature Directives' protection system in the marine environment** requires the management of potentially harmful activities (e.g. overfishing and destructive fishing practices such as bottom trawling in sensitive areas), which affect important habitats like sandbanks or reefs.
- **The current legal framework of the EU fisheries policy can be considered coherent** with the Nature Directives as the conservation of marine resources is specifically stated as a strategic objective in Article 2 of the 2013 Common Fisheries Policy (CFP) Regulation, and implemented through the new Article 11 and other legal provisions of the 2013 CFP Regulation. Specific guidelines and funding instruments on fisheries and nature protection are also in place.
- **The division of competences regarding protection of marine biodiversity** in the context of the CFP was until recently unclear with regard to Member States' powers (and procedures) to adopt conservation measures that might affect the fishing interests of other Member States. Prior to 2013, the exclusive competence of the EU in the field of fisheries conservation was an effective obstacle for the adoption of restrictions to harmful fishing activities. Article 11 of the 2013 CFP Regulation empowers Member States to adopt fisheries measures with conservation objectives, in order to integrate the requirements of the Nature Directives. It also clarifies the procedure recognising the specific role of the European Commission to coordinate the process when measures affect the interests of more than one Member State.
- About 30% of the stakeholders responding to the evidence gathering questionnaire with regard to fisheries noted that the **recent reform of the CFP has brought promising changes** to the policy framework, although they acknowledge that more time is needed to confirm results.
- While the **development of the Natura 2000 Network in the marine environment** has long lagged behind, the designation process for marine protected areas can be seen now as the major contribution of MPAs in the EU, reinforcing the process of setting up MPAs under the MSFD, as well as under other international agreements. According to a 2015 EEA report and based on 2012 data, the Natura 2000 network constitutes over 4% of Europe's seas, compared to 5.9% of overall MPA coverage. Natura 2000 coverage is now greater than 5%.
- The implementation of **more sustainable fisheries management** is essential to support the Nature Directives' objective of ensuring biodiversity and dealing with overfishing as a result of species depletion and destructive fishing practices. While the process of establishing conservation measures for marine Natura 2000 areas benefits from the lessons learned from the terrestrial Natura 2000 areas, the implementation is challenging, due to a lack of scientific data or a harmonised approach across the Member States, and conflicts of interest between nature protection objectives and the fisheries sector. This has been reflected both in literature

*and in the evidence gathered from the stakeholders, highlighting the need for better harmonisation of conservation measures, including the preparation of management plans, which, in areas beyond territorial waters, involves international cooperation.*

- *Concerns have been expressed in relation to the licensing procedures linked to appropriate assessments of activities affecting Natura 2000 sites.* Contradictory views have been expressed on the impacts of aquaculture in Natura 2000 sites. Some concerns have been raised by several stakeholders representing this sector which reflect national implementation issues. For example, stakeholders from the private sector in several Member States argued that it is almost impossible to get a permit for aquaculture activities due to the interpretation of the requirements of Article 6(3) of the Habitats Directive and the application of the precautionary principle at a local level. Contrary views have been expressed by other stakeholders about licencing of activities at the local level causing damage to Natura 2000 sites.
- *Expenditure under the European Fisheries Fund has had a variety of impacts.* Some have been positive, such as those limiting destructive fishing techniques or promoting eco-management in aquaculture, while others have conflicted with nature and biodiversity objectives, such as those directed at fleet renewal, which increased fishing capacity and its impact on biodiversity.

#### **Non-energy extractive industries**

- *The Non-Energy Extractive Industry (NEEI) provides many of the basic raw materials for manufacturing and construction industries.* Access to these materials is very important for the competitiveness of these important EU economic sectors. The extraction of minerals through mines and quarries has the potential, if in appropriately designed and operated, to cause damage to wildlife and habitats, including through indirect effects such as water and soil contamination.
- *The 2008 EU Raw Materials Initiative, renewed in 2011, aims to secure reliable and undistorted access to raw materials in support of industrial competitiveness.* The initiative makes reference to improving the coherence of administrative conditions to ensure mining access across Europe, including the streamlining permitting procedures. The raw materials initiative also aims to boost resource efficiency and promote recycling to reduce the EU's consumption of primary raw materials.
- *In response to the raw materials initiative and calls from industry stakeholders, in 2011 the European Commission issued a guidance document clarifying how extraction activities in or near Natura 2000 sites can be reconciled with biodiversity protection.* The document explains how the needs of extractive industry can be met while avoiding adverse effects on wildlife and nature at Natura 2000 sites, and stresses the importance of strategic planning, Appropriate Assessment of new developments and the need for adequate mitigation measures.
- *Nevertheless, in the evidence gathering questionnaires four industry stakeholders referred to the overly restrictive application of the provisions of the Nature Directives by permitting authorities,* which has led to a de facto ban on developments in the Natura 2000 protected areas. As there is no automatic exclusion of extractive and quarrying activities in and around Natura 2000 sites, stakeholders have called for better implementation of Nature Legislation at, in particular, national, regional and local level, including dissemination and awareness of the Commission's guidance. It would lead to a more balanced, proportional and sustainable approach to permitting of potential new mining and quarrying developments.

#### **Transport**

- *EU transport sector goals* are set out in the 2011 White paper and focus on increasing mobility, removing major barriers in key areas, and creating conditions for economic growth and jobs, as well as the integration of resource-efficiency and sustainability goals. The latter are primarily focused on reducing dependence on foreign oil and cutting carbon emissions in transport by 60% by 2050. The Trans-European Networks for transport (TEN-T) policy

*supports this through the designation of priority corridors for transport links and EUR 26 billion is provided in support from the Connecting Europe Facility (CEF) for the preparation and construction of key infrastructure up to 2020.*

- *There is potential for conflict at the highest levels between transport and nature objectives.* Implementation of the TEN-T policy implies the construction and upgrading of significant amounts of road, rail, waterborne, port and other transport infrastructure that will frequently pose risks to protected habitats and species.
- *The impact assessments for both the White paper and the TEN-T Regulation refer to trade-offs between environmental objectives and socioeconomic goals linked to transport infrastructure, and stress the pressure exerted on biodiversity and ecosystems. The TEN-T impact assessment further refers to significant threats to biodiversity and Natura 2000 areas, resulting from ‘physical reduction of natural habitats, landscape fragmentation, migration barriers, collision of vehicles with animals, emissions of noise and air pollutants, changes to the water regime and others’. A similar assessment is presented in the impact assessment on the CEF Regulation.*
- *There are provisions in place to ensure better compatibility of transport goals with environment and nature protection objectives during implementation. The preamble to the TEN-T Regulation states that Member States and project promoters, in order to mitigate or compensate for negative impacts on the environment, should carry out environmental assessment in compliance with the Habitats, Water Framework, EIA and SEA Directives. These are recognised in the Regulation as ‘landscape fragmentation, soil sealing and air and water pollution as well as noise, and to protect biodiversity effectively’.*
- *Both literature and stakeholders provide mixed responses to the coherence between transport and nature policies in practice.* For example, environmental NGOs point out that the long history of conflict between transport projects and nature has led to improvements in the way in which environmental considerations are now reflected in TEN-T policy. Transport planners increasingly see the importance of identifying impacts and agreeing mitigation measures in order to prevent legal and public challenges. *The integration of nature concerns into strategic and spatial planning for the transport sector* - brought about in part by requirements of the Nature Directives - has been seen to have a positive impact.
- *Conflicts still exist, however.* Several NGOs point to examples of transport infrastructure projects implemented with the use of EU funds, which threatened biodiversity and nature. AA required under the Habitats Directive is not always carried out at the strategic planning stage, as it may be considered to apply only at project level. Some stakeholders refer to shortcomings in the AA carried out for some major transport projects, resulting in the selection of transport routes which are less attractive with respect to habitats and species.

### **Research**

- *Research is of critical importance for the objectives of the Nature Directives.* Biodiversity and nature protection are rapidly evolving areas and sound scientific research is essential to keep up with new developments and ensure optimal management and conservation practices. Both Directives contain provisions referring to the need for research and encouraging Member States and the Commission to enable the necessary research and scientific work in this area.. Literature also refers to the need for more coordinated research in the field of nature and biodiversity, in particular on the integration of Natura 2000 sites with broader social and ecological systems and on marine biodiversity.
- *EU research policy supports the objectives of the Europe 2020 strategy* focusing on smart, sustainable and inclusive growth. Horizon 2020 (The Framework Programme for Research and Innovation) has been the flagship initiative of EU research policy since 2014.
- *Sustainable development is established as an overarching objective of Horizon 2020,* with dedicated funding of 60% of the total Horizon 2020 budget, including 35% for climate-related expenditures. In addition, the 2016-2017 Working Programme stresses the role of nature-based

*solutions for territorial resilience. Such solutions should simultaneously improve economic, social and environmental resilience of rural and natural areas through, among others, preservation and restoration of biodiversity. These objectives show high-level coherence of the main EU research policy programme with the objectives of the Nature Directives.*

- *At the same time, biodiversity and nature protection are not directly targeted by any of the Horizon 2020 programmes 'societal challenges' or thematic research areas. Biodiversity is included within Societal Challenge 5: 'Climate action, environment, resource efficiency and raw materials' and Societal Challenge 2: 'Food Security, Sustainable Agriculture and Forestry, Marine, Maritime and Inland Water Research and the Bioeconomy'. These are very broad areas of research, containing some very high profile issues likely to receive the largest share of the available funding. Literature assessing funding from the 2007-2013 FP7 programme for research, reaches the same conclusion. Furthermore, there is no research funding specifically dedicated to Natura 2000, an issue raised by one NGO in response to the evidence gathering questionnaire.*

## C.6 - To what extent do they support the EU internal market and the creation of a level playing field for economic operators?

### Interpretation and approach

This focuses on coherence between the Nature Directives and the underlying principles of the common market. The key aspect to assess is whether the Directives have led to barriers to trade, either through the development of unnecessary requirements or requirements that discriminate between different operators. Although the imposition of environmental regulations might be expected to impose some regulatory burden on operators and the impacts of regulations may be affected depending on circumstances, of concern is whether regulatory requirements are proportionate, given the expected benefits.

### Main sources of evidence

- Stakeholder responses to the evidence gathering questionnaire. Of the 82 responses received that addressed this question, 64 came from Member State authority stakeholders, 17 from EU level organisations and one from a Commission DG.
- Literature reviewed, which included Commission Guidance documents on Natura 2000 implementation, NGO reports on Natura 2000, EU Commissioned studies on Natura 2000, and a Member State consultation on the Habitats Directive. There were no specific studies on the internal market and the Nature Directives.
- Stakeholder responses gathered through meetings held during the missions in France and the UK

### Draft - Emerging findings - For discussion

- *The research and consultation activities carried out for this evaluation did not reveal any strong evidence to suggest that the Nature Directives have caused disruptions or distortions to the functioning of the EU internal market. Some stakeholders have cited examples of cases where the Directives have had unequal impacts on different sectors of economic activity, or have suggested that the regulatory burden limits economic competitiveness, but the incidence of such response remains low. Conversely, the introduction of a common standard for designation and management of protected areas and approaches to conservation of key habitats and species has created a more level playing field between Member States.*
- *Some stakeholders raised concerns about the implications for SMEs of the administrative burden related to the Directives, however, only limited details were provided to support this*

*concern. SMEs are generally assumed to be more affected by administrative burden due to their overall capacities, therefore it could be expected that the implications of the Directives would impact them more severely, at least where significant obligations arise. An example of this would be on more marginal farming land, on which 40% of Natura 2000 sites are situated. More dedicated research would be required to substantiate this finding and determine if the overall administrative burden from the Directives leads to any significant internal market distortions.*

- *The evidence gathering questionnaires showed many stakeholders, particularly those from civil society, but also from Member States, found the introduction of a common approach through the Nature Directives to be vital for the functioning of the internal market more generally, removing the potential for a ‘race to the bottom’ in environmental protection standards, and giving businesses a level of certainty that would otherwise not have been available. For these stakeholders, the Directives facilitated the internal market by providing a level playing field.*
- *However, some industry representatives felt that the requirements placed on certain sectors, such as mining and forestry, were more onerous than for others, such as agriculture, and that the financial support afforded to different sectors was unequal.*
- *Some respondents from industry bodies representing extractive industry, forestry, and agriculture, as well as from Member State authorities, held the view that different implementation approaches for the same requirements across Member States have prevented the Directives from providing a level playing field. Indeed, some of the same stakeholders were in favour of greater harmonisation of legislation, a view also reflected in discussions with stakeholders during the mission meetings in France, and the focus groups with EU level industry organisations carried out within the framework of this project.*

## C.7 - Has the legal obligation of EU co-financing for Natura 2000 under Article 8 of the Habitats Directive been successfully integrated into the use of the main sectoral funds?

### Interpretation and approach

This builds on the assessment in question Y.2, examining in further detail Member States' compliance with the EU co-funding obligations. It focuses on assessing the success of the legal obligation, set out in Article 8 of the Habitats Directive, in providing co-financing from the EU budget to support the Natura 2000 network. Most EU co-funding for the Natura 2000 network has been made available by integrating biodiversity goals into existing EU funds or instruments (the so-called integrated approach). These instruments include the European Agricultural Fund for Rural Development (EAFRD), European (Maritime and) Fisheries Fund (EFF/EMFF), Structural and Cohesion funds (ERDF, ESF and CF) and the Framework Programme for research and innovation (Horizon 2020). In addition, the European financial instrument for the environment (LIFE) provides dedicated funding for the implementation of the EU's environmental policy objectives, including the Nature Directives. The evidence on the level of integration of conservation objectives into the different EU sectoral funds was also examined. In addition, the question also looks at how effective the Prioritised Action Frameworks (PAFs), set up for the new funding period of 2014-2020, have been in identifying funding requirements and securing matching resources.

The assessment examines the extent to which conservation objectives of the Directives feature in the regulatory frameworks for different EU funds, as well as evidence of the integration of these conservation objectives into the national and regional programmes implementing the EU funds. (See question Y.2 for an assessment of the take-up of EU co-funding).

## Main sources of evidence

- A number of EU level assessments on the level of integration of conservation objectives into EU funds. These include, for example, the assessment of the uptake of EU funding for biodiversity during the 2007-2013 period and assessment of opportunities for using EU funds for biodiversity in 2014-2020.
- European Court of Auditor reports on integration of biodiversity into key funds (e.g. ERDF).
- EU funding regulations / instruments (e.g. CAP, Cohesion Policy funds, European Maritime and Fisheries Fund, LIFE).
- EU & Member State Partnership Agreements for the 2014-2020 Multiannual Financial Framework.
- Member States' PAFs and fund-specific programmes (Operational Programmes, OPs and Rural Development Plans, RDPs).
- Stakeholders' responses to the evidence gathering questionnaires and online public consultation. In addition to C.7 responses, information was also provided under questions S.3 and Y.2, the former concerning the main factors that have contributed to or hindered progress towards achieving the Directives' objectives and the latter exploring availability and access to funding as a constraint or support.
- Individual examples - identified by stakeholders and/or supported by documented case studies - of the identified funding constraints and their effects on implementation and achievement of objectives.

## Draft - Emerging findings - For discussion

- *The assessments of the 2007-2013 and 2014-2020 periods show that there are a range of EU funding opportunities for financing biodiversity and Natura 2000 across different instruments. However, only the LIFE programme provides support to biodiversity and Natura 2000 as a primary objective, while all other EU funding instruments target a variety of EU goals on rural, regional, infrastructural, social and scientific development. With the exception of LIFE and Horizon 2020, decisions on the allocation of funds between different national and regional priorities are primarily taken by Member States.*
- *Existing assessments and stakeholder views indicate that national level priority setting (i.e. competing with broader sectoral priorities) and establishing links with broader sector-specific goals of different EU funds, hinder the level of successful integration in practice. Consequently, the uptake of biodiversity-related opportunities in the context of national and regional programmes (OPs and RDPs) is not making a sufficient contribution to the Directives' funding requirements (See question Y.2). The analysis of the 2007-2013 funding period indicated a significant shortfall in uptake of financing opportunities provided by different funds. The difficulties in sectoral integration at the national and regional level are considered to be one of the key underlying factors in explaining the relative lack of funding for the implementation of the Directives (see question Y.2).*
- *Stakeholder responses to the evidence gathering questionnaires highlighted the important role of EAERD as a key sectoral fund in supporting the implementation of the Nature Directives in most of the Member States. However, examples exist where biodiversity was both successfully integrated into the funding priorities at national level, as well as instances where it was not integrated. ERDF also plays an important role in contributing to the overall funding available, especially in many of the Central and Eastern European Member States. There are indications, however, that funding opportunities under the ERDF have declined at national and regional levels in the 2014-2020 period, due to changes in priorities. There is a limited uptake of funds under the ESF, EFF (2007-2013) and EMFF (2014-2020), although examples exist of successful individual projects addressing biodiversity concerns under these funds, indicating that integration is possible when supported by priority-setting at national level.*
- *The coordination between different funds has been identified as one of the challenges in*

*successfully implementing the EU integrated co-funding approach. While it is too early to assess the overall performance of PAFs, there are indications that when well prepared and given political impetus they can make a real, positive contribution towards securing the integration of biodiversity funding at a national level, as well as wider Natura 2000 funding needs (see question Y.2). Reports suggest that the development of PAFs missed opportunities in certain Member States, with some PAFs considered to be either too ambitious or insufficiently ambitious, and consequently likely to fail in practice. In some instances, the timing of developing PAFs has been undertaken too late, or with only limited consultation with stakeholders.*

## C.8 - Are there overlaps, gaps and/or inconsistencies that significantly hamper the achievements of the objectives?

### Interpretation and approach

This question has been integrated in the analysis of most of the other coherence questions, in particular C.1, C.2, C.3, C.4 and 5, C.7 and C.10. As described in each of those questions' interpretation and approach, the judgement criteria and indicators used to assess the coherence of the Nature Directives between themselves, with other EU Environmental law and policies, with other EU sectoral policies or funds or with other International Agreements are related to the identification and analysis of any overlaps, gaps or inconsistencies which are relevant enough to affect the achievement of the objectives of the Nature Directives. Most stakeholders did not respond to this question and those who did, referred to previous questions or repeated certain elements of the information already provided.

## C.9 - How do the directives complement the other actions and targets of the biodiversity strategy to reach the EU biodiversity objectives?

### Interpretation and approach

This analysis examines evidence of the ways in which the objectives and provisions of the Nature Directives complement those actions and targets of the EU Biodiversity Strategy that do not explicitly refer to the Birds and Habitats Directives (i.e. Targets 2 – 6). This question is complementary to question S.2, which discusses the effectiveness of the Directives in achieving the EU biodiversity strategy objectives. While question S.2 considers the extent to which the outcomes of implementation of the Directives are contributing to achieving the objectives and targets of the Biodiversity Strategy, this question examines how the Nature Directives complement biodiversity goals, focusing mainly on the stated objectives and intent of the legislation.

### Main sources of evidence

- Examination of the provisions of the Nature Directives constituted a first source of information to assess coherence with the aims, targets and actions of the EU Biodiversity Strategy.
- This information was complemented with available EU reports on the implementation of the EU Biodiversity Strategy and other national studies and reports.
- The evidence gathering questionnaires provided important information in relation to the restoration target of the Biodiversity Strategy (Target 2). Evidence relating to the implementation of the Biodiversity Strategy has been collated under question S.2.

## Draft - Emerging findings - For discussion

- *The objective of the Directives to conserve habitats, fauna and flora of European interest in the EU territory is coherent with the headline target of the EU Biodiversity Strategy to halt the loss of biodiversity and the degradation of ecosystem services by 2020. However, while the Directives focus on a list of protected habitats and species and on the management of the Natura 2000 network, the Strategy has a broader scope, and takes a more comprehensive approach to protect or restore biodiversity and ecosystem services, inside and outside of the Natura 2000 network.*
- *The Directives are coherent with the Strategy's target to establish green infrastructure and restore at least 15% of degraded ecosystems (Target 2) through its objective to restore habitats and species that do not have favourable conservation status. According to responses in the evidence gathering questionnaires, some nature authorities across the EU Member States have interpreted the restoration target in different ways. While the majority of stakeholders refer to the restoration of degraded ecosystems within the Natura 2000 network, some Member States explicitly refer to the restoration of species and landscape features outside the Natura 2000 network.*
- *The component of Target 2 to establish green infrastructure is a relatively new concept and is not referred to in the Directives. However, green infrastructure, as defined and elaborated in the EU Green Infrastructure Strategy, is coherent with the Directives and can be instrumental in supporting Articles 3(4) and 10 of the Habitats Directive, which seek to improve the connectivity of the Natura 2000 network by creating ecological corridors and stepping stones. 'Ecosystem services' is another relatively new concept included in the Biodiversity Strategy but not referred to in the Directives. The substantial ecosystem services of the Natura 2000 network have been documented in many EU studies and are considered coherent.*
- *Given that a large part of the protected habitats and species are forests, agriculture-related (e.g. grasslands, farmland birds, wild bees) and marine habitats and species, the objectives of the Directives can be said to complement both Target 3 (forests and agriculture-related habitats and species) and Target 4 (marine habitats and species). The measures to support biodiversity anchored in the reformed Common Agricultural Policy (CAP), Sustainable Forest Management Strategy and the reformed Common Fisheries Policy (CFP) can also support the objectives of the Directives and the Strategy. The coherence of implementation, however, depends primarily on the effective use of provided tools. (See question S.2).*
- *The provision under the Nature Directives to limit the intentional introduction of alien species is coherent with Target 5. The efforts to combat invasive alien species is also supported by the new Regulation on Invasive Alien Species (IAS).*
- *The coherence between the provision on compensatory measures for projects of over-riding public interest affecting the integrity of Natura 2000 sites, is coherent with and represents the practical application of the 'no net loss of biodiversity and ecosystem services' objective of the Strategy. The no net loss initiative however is broader, addressing habitats, species and sites both within and outside the Natura 2000 network.*
- *The Strategy also goes beyond the territory of the EU and aims to increase the EU contribution to averting global biodiversity loss. While the Directives do not have a provision to avert global biodiversity loss (Target 6), they have, nevertheless, inspired non-EU countries to protect biodiversity, e.g. by the establishment of the Emerald network and the African-Eurasian Migratory Water Bird Agreement, thereby indirectly complementing the implementation of Target 6.*

## C.10 - How coherent are the directives with international and global commitments on nature and biodiversity?

### Interpretation and approach

This seeks to assess whether and how the Nature Directives ensure the implementation of obligations arising from relevant international agreements on nature and biodiversity to which the EU and/or Member States have subscribed. A total of 17 agreements were identified, which are either mixed agreements, signed both by EU and Member States (e.g. the Bern Convention) or exclusive agreements, to which only Member States are party (e.g. Ramsar Convention). The first aspect examines coherence, incoherence and gaps between obligations arising from the agreements and the Directives. This covers strategic, specific and operational objectives of the Directives, as well as specific requirements under the Directives, such as derogations. The second aspect focuses on how the Directives, through their application, ensure implementation of the agreements. Although coherence with all 17 relevant agreements was analysed, only those with sufficient information to formulate conclusive findings are presented here.

### Main sources of evidence

- Responses to the evidence gathering questionnaire from 63 stakeholders, mainly nature protection authorities and NGOs, information obtained from visits to ten representative Member States and meetings with relevant Commission services, provided general information on the coherence between the Directives and the agreements.
- Legal analysis of specific provisions of international agreements and the Nature Directives, complemented by information from case law and on infringement proceedings, provided a more detailed view of the coherence between them.
- Related literature and international agreement implementation reports, together with Commission guidance documents, provided robust information on the implementation of the international agreements by the EU.

### Draft - Emerging findings - For discussion

- *The analysis suggests a widespread understanding that the Nature Directives are generally coherent with the relevant international agreements. There are numerous instances of coherence between them, particularly in relation to the overall objectives and species protection measures. Several instances of incoherence/gaps can also be identified, mainly concerning differences in scope related to species and habitat types covered, or measures applied, such as site protection. Finally, judicial enforcement is identified as an instrumental element of the coherence with international agreements.*
- *EU enforcement powers are stronger than those of the bodies responsible for managing the international agreements. Enforcement of the Nature Directives' provisions that also implement those of the agreements, have therefore had a positive impact on their implementation. For example, the literature and stakeholders both report wolf numbers and densities as significantly higher, and trends significantly more positive, in EU Member States (e.g. Sweden), where both the Bern Convention and the Nature Directives apply than they are in non-EU European states (e.g. Norway), where only the Convention applies.*
- *While 82% of responses to the evidence gathering questionnaire stated that the Nature Directives are coherent with the relevant international agreements, 49% of responses to the online public consultation process did not regard the Nature Directives to be in line with international commitments. This result may have arisen from the differences between the objectives and scope of the Nature Directives and the relevant international agreements (e.g. the issue of biodiversity of genetic resources contained in the Convention on Biological Diversity is addressed at the EU level by a separate regulation).*

- *The Birds and Habitats Directives are the key EU legal instruments giving effect to the objectives of the **Bern Convention** in the EU, and, as such, are generally coherent with the Convention. A very limited number of inconsistencies have been identified, where certain species are protected under the Convention but not covered by the Directives (e.g. badger). The Directives have influenced the further development of the Convention, in particular the establishment of the Convention's Emerald Network, as a protected area network was not originally foreseen under the Convention. In other instances, the Directives also go beyond the requirements of the Convention, for example, while the Convention forbids the deliberate damage to, or destruction of, breeding or resting sites, Article 12(1)(d) of the Habitats Directive forbids any deterioration and destruction, whether deliberate or not.*
- *The literature and stakeholders both regard the Nature Directives as an instrument to implement the **Convention on Biological Diversity** in the EU. Equally, decisions of the CoP to the Convention and the Convention implementation reports, regard the Directives to be coherent with the Convention. The significance of the Nature Directives in delivering key commitments under the Convention (e.g. Aichi Target on protecting at least 17% of terrestrial and inland water areas and 10% of coastal and marine areas by 2020) is recognised by numerous stakeholders.*
- *The Nature Directives are generally coherent with the **Ramsar Convention**. The wording of the Directives (i.e. explicit mention is made of wetlands of international importance in the Birds Directive), the literature and the extent to which the Convention's implementation reports refer to the Nature Directives, all point to such coherence. Most stakeholders regard the Nature Directives as a tool to implement the Ramsar Convention, and, in practice, the implementation of the Convention has benefited from the existence of the Nature Directives. In many Member States, (e.g. the Netherlands, Cyprus, Poland, Denmark and Estonia), all Ramsar sites are fully included in the Natura 2000 network, while in the other Member States, most Ramsar sites are also covered by the network. Management plans prepared for Natura 2000 sites are also used for the management of Ramsar sites.*
- *The provisions on species protection contained in the Nature Directives help to achieve the aims of the **Bonn Convention**. Member State nature protection authorities and NGOs acknowledged that the Nature Directives are key tools to give effect to EU commitments under the Bonn Convention, as well as agreements under the Convention (e.g. African Eurasian Waterbird Agreement). The Bonn Convention uses a different formulation of the favourable conservation status and, as with AEWA, changes to its appendices can be introduced more easily as each conference of the parties. This has led to a small number of cases where the listing or protection status of species are different under the Conventions and the Nature Directives.*
- *The Commission has acknowledged that there are a number of marine habitat types and species of European conservation concern which are listed by **OSPAR, HELCOM and UNEP-MAP documents but not currently covered by the Nature Directives**. The Commission has also recognised that these types and species require protection to ensure their favourable conservation status. The Commission stated that 'agreements on marine habitats and species of conservation concern will be relevant inputs to be considered in the first stages of the process of possible future adaptations of the Habitats Directive annexes in terms of the marine environment'.*

## Added Value

Evaluating the EU added value means assessing the benefits/changes resulting from implementation of the EU Nature Directives, which are additional to those that would have resulted from action taken at regional and/or national level. It also explores the need for continued EU action.

### AV.1 - What has been the EU added value and what would be the likely situation in case of there having been no EU nature legislation?

#### Interpretation and approach

This analysis assesses the EU added value resulting from the implementation of the Nature Directives for the conservation of natural habitats and of wild fauna and flora protected by them. Such value must be additional to the value that would have resulted from activities at regional and national levels. The Commission definition of the "added value test" is based on compliance with three conditions: policy relevance (what do we want?), subsidiarity (who should do it?) and proportionality (how do we want it?). It considers added value by assessing the likely situation without the legislation. The analysis is based on the objectives of the Directives and the principles of subsidiarity and proportionality under Article 5 TFEU for measures of shared competence.

The specialised literature suggests that a possible way to evaluate EU added value is to assess a counterfactual (i.e. what would be the situation had the EU laws not been adopted). However, the difficulty of identifying a 'robust counter-factual situation' has been acknowledged. This analysis selected the closest illustrative examples to those situations where the legislation exists, therefore linking it to its objectives. The examples are taken from literature, and drawn from those provided by expert stakeholders, covering temporal and spatial implementation comparisons, as well as comparisons of transformational changes.

#### Main sources of evidence

- EU studies and academic articles or literature on EU added value and on the benefits brought by the Nature Directives.
- The analysis of the Nature Directives' added value and the identification of the counterfactual were broadly based on the examples and information provided by stakeholders in the evidence gathering questionnaires. This has been complemented by views expressed in the online public consultation.

#### Draft - Emerging findings - For discussion

##### ***Added value in light of the policy objectives***

- *The specific EU studies exploring the added value of the Nature Directives, supplementary literature and the responses to the evidence gathering questionnaire all recognise that the Nature Directives have introduced specific innovative elements that are additional to what could have resulted without the EU legislation.*
- *The evidence highlights that the transnational character of nature justifies EU level action as a more effective way to achieve the conservation objective of the Directives. The Birds Directive was initially driven by the need to set a protection system for transboundary species, an aim then mirrored by the Habitats Directive. Most stakeholders recognise the clear added value of the Directives in ensuring biodiversity conservation through protection of the areas of European importance.*

- The Directives have provided added value by requiring joint efforts by Member States focusing on those **habitats and species that are important at the EU level**. The Directives have reinforced Member States' capacity to ensure protection of species and habitats beyond their national context, as they cover features that are not necessarily endangered at national level but which are important from the European perspective. In cases where this European perspective requires specific action by one Member State a few stakeholders claimed that this generates disproportionate requirements. However, there was no concrete evidence provided to support this claim.
- The concept of **favourable conservation status** introduced by the Directives is a new way of measuring biodiversity status, and its application across all Member States provides an added value from the situation prior to the Directives and which otherwise would not have been equally applied in all EU Member States.
- The Habitats Directive has created an **innovative process for the establishment of the Natura 2000 Network**. This **coherent** network in the whole EU territory is based on **scientific information and evidence**, and takes a '**biogeographical regions**' approach. It is broadly recognised by both stakeholders and the literature that the Directives have led to a substantial increase in the extent of land and marine protected areas, far beyond what might have been in the absence of the EU Directives. Quantitative data shows that 30% of designated land at EU level is additional to that designated at national level in EU Member States. However, more remains to be done in order to achieve the full potential added value of the Directives' provisions on coherence of the network.
- Literature and most stakeholders recognise that **the standards of protection** for Natura 2000 sites are generally higher than those that existed in most national systems of site protection prior to the adoption of the Directives. The provisions of Article 6(3) and 6(4) of the Habitats Directive (concerning assessment of impacts) are also recognised as innovative.
- Specialised literature shows that the **systems of species protection** have led to the control of **illegal hunting practices**. This would not have happened without the Directives, as the evidence points to difficulties in national implementation. For example, a study comparing the situation in countries along the Adriatic Flyway concludes that the implementation and control of legal standards for the protection of birds are stronger and more effective in EU Member States than in countries that are non-EU Members. In those countries, hunting laws are weaker and there is inconsistent implementation and control of the existing laws. Furthermore, scientific studies confirm **differences in trends of Annex I bird species within and outside the EU**, and state that declines across Annex I species have been successfully reversed after EU accession, demonstrating that, without the Directive, such declines in Annex I species would have continued.

#### **Added Value in terms of the principles of 'subsidiarity'**

- The Directives provided a common basis for **trans-boundary cooperation** for nature, for example in the Dogger Bank, an important marine site in the North Sea.
- The Directives have generated a major **transformational change in the legal framework** of Member States. They have triggered the adoption of legislation in some Member States where nature legislation was poorly developed prior to EU accession.
- The Directives have led to **increased knowledge**. Before their adoption, information collected by Member States was neither systematic nor comparable. A number of Member States (including Estonia, Ireland, Poland and Spain) used EU funding to support the development of inventories.
- The Directives have had very significant added value in relation to **stakeholder participation and public awareness**. One counterfactual example comes from France, where the decision to develop a system based on the principle of public participation framed within a public awareness national scheme, was directly linked to the Natura 2000 establishment. Different stakeholders in France recognised that without the Directives, the existing level of public

*participation and awareness on nature would not have existed. However, evidence shows that the Directives' potential impact or added value might be undermined by national decisions not to invest in raising awareness and stakeholders' participation.*

- Evidence from published literature concludes that the Directives established a **level playing field based on harmonised rules** to ensure that one Member State cannot gain competitive advantage over others through the adoption of lower standards. Some stakeholders stated their strong belief that different nature protection rules across the EU Member States could compromise achievement of a single market, and that different regimes for business and planning would lead to increased legal, administrative and compliance costs.
- Stakeholders and literature broadly recognise the added value of the Nature Directives in ensuring **compliance and strengthening international (global) commitments** regarding habitats and species protection, in particular regarding migratory species, but also on protected areas. The soft nature of the International Agreements is reinforced by the higher standards of protection and enforcement within EU legislation.

#### **Added Value in light of the principle of 'proportionality'**

- For funding, the added value of the Nature Directives can be seen in two ways: firstly, the financing component in Article 8 of the Habitats Directive has translated into different EU financing mechanisms, with an **increased use of EU funds for biodiversity and nature conservation**, including the LIFE programme cohesion funds, regional and rural development funds, CAP funding and FFP. Without the Directives, it is unlikely that EU funds would have been provided to this extent to support investments for nature. The Directives also act as **catalysts for national nature funding**, including co-financing for use of EU funds.
- An analysis of the legal provisions, supported by specialised literature, shows that the Habitats Directive's **concept of Natura 2000 sites** goes beyond the traditional definition of a 'protected area'. This introduces a flexible approach to site management, where socioeconomic factors can be considered in order to promote sustainable development and the participation of stakeholders. However, the implementation of this objective and approach is not exempt from the challenges described in question R.3, although there are several good examples highlighted by four different Member States, which show that the Nature Directives have helped businesses to integrate biodiversity in their planning.

## **AV. 2 - Do the issues addressed by the Directives continue to require action at EU level?**

### **Interpretation and approach**

The main consideration here was to examine the evidence to assess whether or not EU action is still required to tackle the problems addressed by the Directives, in particular, if the identified needs or key problems faced by habitats and species in Europe continue to require action at EU level.

### **Main sources of evidence**

- Evidence was drawn from the responses to the evidence gathering questionnaires and the views provided through the online public consultation.
- EU documents on Added Value and other specialised literature.

## Draft - Emerging findings - For discussion

- 64 responses to this question in the evidence gathering questionnaire were received from stakeholders from national authorities, the private sector and NGOs. Of these, 55 considered action at EU level to continue to be necessary. Only three responses stated that no action is required at EU level. Of the remaining responses, the information provided did not address this question.
- Scientific evidence shows that EU level intervention through the Birds and Habitats Directives has been effective at arresting the rate of loss of biodiversity, however, indicators such as the Pan-European Common Birds Indicator, show that biodiversity loss is still continuing. **EU action for the preservation and restoration of Europe's biodiversity remains necessary and even urgent given the continued decline of biodiversity in the EU.**
- Wildlife does not abide by national borders and its protection, therefore, **requires trans-boundary cooperation**. A continued **EU wide approach** is likely to be more effective in addressing this challenge than actions undertaken by individual Member States. This is particularly relevant for migratory birds and other mobile species (i.e. in the marine environment). The protection provided by EU legislation to **species across the whole of their migratory route**, goes beyond the protection that would be possible for these species at national level. For example, the designated SPAs of the Solent Coast supports up to 13% of the world population of Brent geese, and 30% of the UK population; national protection measures in isolation might be considered neither necessary nor effective, given that this migratory species is in different parts of Europe throughout the year.
- **Enforcement of the requirements of the Birds and Habitats Directives by the European Commission and the European Court of Justice (CJEU) has been instrumental** in ensuring the transposition and implementation of the Nature Directives, particularly in cases where national measures were not taken to address the conservation objective, or where further action was needed to close enforcement gaps. Without EU pressure regarding full implementation of the Nature Directives, stakeholders stated that it is highly unlikely that unsustainable management practices would stop. In fact, a more proactive role for the Commission's services was considered as necessary by some stakeholders from nature authorities or NGOs.
- The evidence coming from recent Article 17 Habitats Directive reports point to the need for **EU action to align measures within sectoral policies** with sustainable development and biodiversity goals. Key pressures and threats impacting on habitats and species such as agriculture, human induced modifications of natural conditions or use of living resources (fishing, harvesting aquatic resources and aquaculture) can be reduced by ensuring implementation of integrated EU sectoral measures (e.g. under CAP, CFP). As described in question R.1, increasing threats to biodiversity, such as climate change or the introduction of new invasive alien species, also justify continued EU action. The Nature Directives provide a common framework targeted to achieving biodiversity objectives and designed to promote the development of integrated measures linked to relevant sectoral policies.
- Stakeholders **highlight the need to effectively integrate** environmental, social and economic challenges at EU level. Some stakeholders from new Member States hold the view that additional **EU action is required to clarify some provisions** of the Directives that remain too vague to implement or which need interpretation (e.g. taking into account socioeconomic and regional considerations in the implementation of the Directives). Lack of EU action at this level would cause legal uncertainty, administrative burdens, resistance and conflicts. The need for additional methodological guidance and improved dialogue at EU level was also highlighted.
- According to several stakeholders, **EU action is also still needed to improve implementation** of the Nature Directives in Member States, for example to guide and promote better methodological frameworks for appropriate assessment (AA), effective site management and monitoring of favourable conservation status, international information and data exchange,

*and quicker and clearer procedures in cases of infringements of the Directives.*

- *A lack of EU action could lead to situations where some Member States would use deregulation to gain competitive advantage, thus negatively impacting the **level playing field** for businesses. EU level intervention is supported by business because of the advantages that this brings for the Single Market and environmental protection.*
- *EU level action is also justified to promote **coordination, sharing of experiences** or common activities that are considered elements of high value. Coordination at the EU level is important also with respect to **financing and cross-sector coordination**.*
- *Public concern across the EU about the environment remains high, as does public support for EU level action to tackle environmental problems.*
- *The few responses to the evidence gathering questionnaire from the private sector stakeholders which consider there to be **no further need for action at EU level**, are based on the assumption that habitats and species protection measures are more effective at a national level. No evidence, however, is provided to support this opinion. Other issues raised by this groups were the negative effect of EU actions on growth, jobs and competitiveness, and that the current problems as socioeconomic concerns are not sufficiently considered in the implementation of the Directives. They also point to the absence of flexible mechanisms to facilitate changes in the annexes of the Directives and adapt them to progress.*

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## List of Acronyms

AA:	Appropriate Assessment under the Habitats Directive
CAP:	Common Agriculture Policy
CEF:	Connecting Europe Facility
CFP:	Common Fisheries Policy
CJEU:	Court of Justice of the EU – European Court of Justice
EIA:	Environmental Impact Assessment
EEA:	European Environmental Agency
ELD:	Environmental Liability Directive 2004/35/EC
ETC-BD's:	European Topic Centre on Biological Diversity
EU:	European Union
ERDF:	European Rural Development Fund
FD:	Floods Directive 2007/60/EC
EFF:	European Fisheries Fund
MPAs:	Marine Protected Areas
MSFD:	Marine Strategy Framework Directive 2008/56/EC
NEC	National Emission Ceilings Directive 2001/81/EC
NGOs:	Non-Governmental Organisations
NEEI:	Non-Energy Extractive Industries
PAFs:	Prioritised Action Frameworks
PCIs:	Projects of Common Interest
RDP:	Rural Development Programme
REFIT:	Regulatory Fitness and Performance Programme
RGIs:	Renewables Grid Initiative
SACs:	Special Areas of Conservation
SEA:	Strategic Environmental Assessment
SEAD:	Strategic Environmental Assessment Directive 2001/42/EC
SCIs:	Sites of Community Importance
SMEs:	Small and medium-sized enterprises
SPAs:	Special Protection Areas
TEN-E:	Trans-European Networks for energy
TEN-T:	Trans-European Networks for transport
WFD:	Water Framework Directive 2000/60/EC

## Annex

### ***The EU Habitats and Birds Directives***

*Adopted in 1979, the Birds Directive relates to the conservation of all wild birds, their eggs, nests and their habitats across the EU. Its strategic objective is ‘to maintain the population of all species of wild birds in the EU at a level which corresponds to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements, or to adapt the population of these species to that level’.*

*The Habitats Directive, adopted in 1992, covers around 1000 other rare, threatened or endemic species of wild animals and plants and some 230 habitat types. These are collectively referred to as habitats and species of European interest. The strategic objective of the Habitats Directive is “to contribute towards ensuring bio-diversity through the conservation of natural habitats and of wild fauna and flora” by adopting measures “to maintain or restore natural habitats and species of Community interest at favourable conservation status, taking into account economic, social and cultural requirements and regional and local characteristics”.*

*The Directives require Member States to take a variety of measures to achieve these objectives. These measures include the designation of protected areas for birds (Special Protection Areas) and for habitats and species of European interest (Special Areas of Conservation), which together comprise the Natura 2000 network, and the adoption of strict systems of species protection.*

*For more information go to:*

- 1 *Fitness Check mandate:*

[http://ec.europa.eu/environment/nature/legislation/fitness\\_check/docs/Mandate%20for%20Nature%20Legislation.pdf](http://ec.europa.eu/environment/nature/legislation/fitness_check/docs/Mandate%20for%20Nature%20Legislation.pdf)

- 2 *An introduction to the EU Habitats and Birds Directives*

<http://ec.europa.eu/environment/nature/info/pubs/docs/brochures/nat2000/en.pdf>

[http://ec.europa.eu/environment/nature/pdf/20yrs\\_brochure.pdf](http://ec.europa.eu/environment/nature/pdf/20yrs_brochure.pdf)

- 3 *The state of Nature in the EU – reporting under the EU Habitats and Birds Directives 2007-2012* [http://ec.europa.eu/environment/nature/pdf/state\\_of\\_nature\\_en.pdf](http://ec.europa.eu/environment/nature/pdf/state_of_nature_en.pdf)

- 4 *The EU Biodiversity Strategy to 2020 -*

[http://ec.europa.eu/environment/nature/info/pubs/docs/brochures/2020%20Biod%20brochure\\_en.pdf](http://ec.europa.eu/environment/nature/info/pubs/docs/brochures/2020%20Biod%20brochure_en.pdf)

## EU Nature legislation

