

Proposal for Methods and Presentation Forms for Impact Assessments (IA) pursuant to the Birds and Habitats Directives

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Preliminary Draft

A cooperative effort of the

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1 Screening: The Preliminary Examination

1.1 Objective of the Preliminary Examination

The objective of the preliminary examination (screening) is to avoid unnecessary expenses in the planning process by identifying plans and projects which have obviously no significant effects on a site's conservation objectives and thus require no further examination. The task of the preliminary examination is to provide, by simple means, a clear decision whether a complete impact assessment (IA) is required or not.

In the process of screening three different situations are possible:

- Projects with obviously serious consequences usually can be easily recognized: An IA is required. The preliminary examination can be very brief.
- If a project has no effects on a site's conservation objectives at all, in most cases the proof of missing significance can easily be provided.
- Problems usually occur in those cases in which a project will obviously engender an impact which, however, might be non-significant. Due to the relatively low depth of investigation of the preliminary examination, all facts necessary for a sound judgment may not be available. Therefore, a high risk of misjudgment is given.

If the preliminary examination comes to the conclusion that a negative effect on a designated or potential Natura 2000 site can be definitely excluded, this will be the only consideration of the provisions of the Habitats Directive in the entire procedure of authorization of the project.

Therefore, the preliminary examination has to be as reliable as the appropriate assessment does. Accordingly, clearly understandable statements are necessary to document the result. In some cases, the results of the preliminary examination had to be able to sustain a complaint procedure.

1.2 Recommendations for the practice

The demand to keep the expenses low in a preliminary examination limits its informational value. An unequivocal assessment of impacts requires that the individual sensitivities of the species and the natural habitats of the site possibly affected by a project are known, and that the consequences of the project are analyzed precisely. Cumulative effects by other projects also have to be taken into account.

The preliminary examination must be able to prove comprehensibly that the project has no negative effects on the site. In some cases, this proof is not easily achieved. A preliminary examination cannot conclude with a statement that it can be assumed that negative impacts, though possible, are non-significant.

If it becomes apparent that negative impacts cannot be excluded, the IA is the appropriate form of assessment.

It is recommended that the preliminary examination should determine

- whether **negative impacts** are possible,
- and **not** whether **significant negative impacts** are possible.

If negative impacts cannot be excluded, they should be treated in an IA. In these cases the preliminary examination should confine itself to determine potentially negative impacts.

- **Are general thresholds of significance reliable?**

Attempts to establish general thresholds are frequent. (i.e. “*If a road runs at a minimum distance of x m from a protected site, it **never** causes significant negative impacts.*”). According to scientific methods, it is necessary to determine the significance of an effect in relation to specific features and environmental conditions of the Natura 2000 site. The application of general thresholds contradicts the particular consideration of the site’s conservation objectives. For example, it is quite obvious that noise spreads considerably further in flat, open landscapes than in hilly regions. Pollutants in rivers may be relevant even at a very long distance from a building site. The reactions of the species and natural habitats strongly relate on their specific sensitivity in a given area and under given circumstances. A population in a non-optimal conservation status may be entirely exterminated by a minor or temporary negative impact. On the other hand, large and stable populations might be able to compensate the same negative impact without major problems. Regarding these facts, an analysis of the individual case is always required.

- **Are there plans or project types which are never relevant?**

According to Art. 6(3), the only plans or projects not subject to mandatory examination are those directly connected with or necessary to the management of the site. The Habitats Directive does not provide any further exceptions to the mandatory examination rules. This means, that all other kinds of plans and projects with possible significant effects upon a Natura 2000 site are to be assessed.

Attempts have often been made to define types of plans or projects which generally will not impair preservation sites (“*Paddling on a river in a canoe can **never** trigger significant negative impacts.*”). The same reasons which hinder the applicability of general thresholds of significance make it very difficult to define types of land use which could never trigger a significant effect. The potential for negative effects do not derive exclusively from the technical characters of a plan or project. It is always necessary to take into account the specific sensitivity of the species and of the natural habitats as well as the specific environmental conditions in the site. In the canoe example mentioned above, heavy boat traffic could trigger major disturbance of kingfisher populations in their breeding grounds (a species in Annex I of the Birds Directive).

- **Which sites have to be assessed?**

The specifications of Art. 6(3) of the Habitats Directive apply to all sites of the Natura 2000 network.

At the moment, special difficulties arise from the fact that the establishment of the network has not been completed yet. Further sites might be included into the network in future. For this reason it is recommended to check in a first step, if additional sites should have been integrated into the network. This applies for areas with a significant occurrence of natural habitats or species of the Annex I and II of the Habitats Directive as well as for important areas for birds species of Annex I resp. Art 4 (2) of the Birds Directive. Some sites deserve classification, but had not been classified yet, i.e. certain Important Bird Areas (IBA) and Wetlands of International Importance (Ramsar-Sites). An assessment of non-certified areas will occasionally be necessary as long as the bilateral consultation procedure for Natura 2000 sites has not been completed.

Firstly, it is of interest whether a plan or project could have negative effects upon the site directly. But negative effects can also arise from a fragmentation of the network. This means that the area of preliminary assessment should not be restricted to the direct surroundings of the project. Broad-scale functional relationships between neighbouring sites have to be taken into account.

- **What to do in case of gaps in the data**

The preliminary examination can usually be carried out on the basis of existing data on the occurrence of species and natural habitats, as well as on accepted empirical values on the extent and intensity of impacts.

Data gaps regarding relevant habitats and populations of a site may prevent an sound assessment of impacts at the level of a preliminary examination. In this case, the data gaps have to be filled and a complete IA has to be carried out. Should special technical knowledge be required for a reliable evaluation of the significance of the impact, an IA should be carried out with the assistance of competent experts.

1.3 Contents and Scope of the Preliminary Examination

At the stage of the preliminary examination, a project is acceptable only if negative effects upon a designated or potential Natura 2000 site can definitively be excluded. Accordingly, the main focus should be on the specific sensitivity of relevant species and habitats of the protected site to possible impacts of the project.

1.3.1 Contents

The preliminary examination has to consider the territorial delimitations of the site, its conservation objectives, the functional relationships of the site and its surroundings, as well as the effects of the project and cumulative effects with other plans and/or projects.

Following details are required:

- Description of the project:
The technical description of the project must be sufficiently concrete to permit a clear statement on possible impacts. The features of the project have to be described without any mitigation measures.
- Description of the site affected:
In addition to designated or certified sites, other areas may have to be taken into account (e.g. sites of shadow-lists, IBA). If the survey confirms that these sites are worth of being designated, the possible integration of the site into the network Natura 2000 should be examined in coordination with the competent authorities on a case-by-case basis.
- Details on species, habitats, conservation objectives of the site;
- Impact likely to be triggered by the project;
- Other plans and projects which could trigger adverse impacts in combination with the project; The significance or non-significance of these impacts has to be established clearly.
- If impacts cannot be definitely excluded, they have to be assumed, in accordance with the precautionary principle.

1.3.2 Scope of the Preliminary Examination

Scope and depth of the preliminary examination are dependent upon the concrete situation.

If during the process of preliminary examination it becomes apparent that negative effects on the site's conservation objectives cannot be excluded, the results compiled for the preliminary examination (e.g. data about species and natural habitats, cumulating effects of other plans and projects) will be used for the ensuing IA. So the collection and the interpretation of data in the preliminary examination does not cause any additional expenses, but rather merely a shift of the particular assessment steps.

If there is no possibly affected Natura 2000 site near the place where the project shall be realized, and if even under assumption of most far-reaching impacts, a damage can be excluded, the preliminary examination can confine itself to the documentation of the essential facts, and can be kept accordingly brief.

1.4 Annotated Structure of the assessment report and Checklist for the Screening

According to the concept chosen for the original paper in German, the information is conveyed in two levels of different depth. The information for the procedure of the screening is given in the following annotated structure of the assessment report. Background information is given in information sheets in the appendix of the original paper. The annotated structure and the information sheets are complementary instruments.

- The annotated structure of the assessment report answers the question: **What** must be accomplished in the impact assessment? The annotated structure also includes a checklist for the different steps of the procedure.
- The thematic sheets answer the question: **How** are the requirements set forth in the annotated structure to be fulfilled?

The series of 60 information sheets is very extensive (over 200 pp.). Therefore it is not possible to provide an English translation yet.

The following suggested structure of the assessment report and the checklist have been drafted for cases in which a proof is needed that a project has no negative effects on a Natura 2000 site's conservation objectives. For a comprehensible proof a detailed report is necessary. If negative effects are foreseeable, an abbreviated report is sufficient, with a main emphasis on the affected conservation objectives, in order to justify the necessity for a more detailed IA.

The following annotated structure refers to a SAC (Special Area of Conservation) or a pSCI (proposed Site of Community Importance) designated under the Habitats Directive. For a Special Protection Area (SPA) certified under the Birds Directive, the structure is nearly identical. Instead of the natural habitats of Annex I and the species of Annex II of the Habitats Directive, the bird species of Annex I and migratory birds as per Art. 4 Sect. 2 of the Birds Directive are to be addressed.

Beside designated or certified sites, it might be advisable to take additional sites into account (e.g. sites of shadow-lists, IBA not yet certified). The structure of a report for these sites is not basically different from that for sites under the official designation procedure. Nevertheless modifications may be necessary, since, for instance, no standard data form exists for non-designated areas and there are no specifications on conservation objectives by the competent authorities.

Annotated Structure of the Assessment Report for the Screening	Sheet no.	Check-list
1 Introduction		
The preliminary examination has the task to investigate the possibility of a negative impact on a Natura 2000 site. "Combined investigations" for several sites do not fulfill this purpose. Every protected site should therefore be assessed independently.	7	<input checked="" type="checkbox"/>
The official code number and name of the site must be mentioned. The specific nomenclature for the identification of the status of the site must be used (pSCI, SAC, SPA).	1	<input checked="" type="checkbox"/>
In addition to designated and certified sites, other sites may also have to be taken into account (e.g. sites of the <i>shadow lists</i>). The reasons for assessing a site which is not part of the official designation procedure must be stated.	2 to 5	<input checked="" type="checkbox"/>
2 Description of the Site and its Conservation objectives		
Overview description of the entire protected site: Even if a project could affect only a small part of a large site, an overview-like description of the entire site is necessary as a basis for the assessment of impacts on "the integrity of the site".	8	<input checked="" type="checkbox"/>
Detailed statements on the completeness and reliability of the available data: If the standard data form is referred to, the data of this form are to be examined for plausibility, actuality and completeness.	21	<input checked="" type="checkbox"/>
Gaps in the data: The effect of missing data on the result of the screening has to be described. An uncertain or incomplete data base can be a sufficient reason for the implementation of a detailed impact assessment.	22	<input checked="" type="checkbox"/>
The description of the conservation objectives must stress on the particular situation of the site. General explanations on species and habitats do not provide a sufficient basis for excluding potential adverse impacts. The specific conservation status of the site must be explained. Existing previous impacts have to be included in the description. Since usually no special investigations have been carried out for the preliminary examination, the assessment takes the most sensitive life phases of the species or the most sensitive functions of the site as assumption.		
The following information is necessary: <ul style="list-style-type: none">priority/non-priority natural habitats, including their characteristic speciespriority/non-priority species	14 16	<input checked="" type="checkbox"/>
<ul style="list-style-type: none">Site management plan, conservation and restoration objectives of the site (according to the specifications of the competent authorities).	12	<input checked="" type="checkbox"/>

2 Description of the Site and its Conservation Objectives (continued)		
• Functional relationships to other NATURA 2000 sites	19	<input checked="" type="checkbox"/>
3 Description of the Project		
Technical description of the project and its components: Identification of the impacts which typically appear, with special consideration for far-reaching or intensive processes. Parts of the project inside and outside the protected site are to be considered.	30	<input checked="" type="checkbox"/>
No mitigation measures should be taken into account at the stage of the screening. If mitigation measures are necessary, it can be assumed that a significant impact is likely to be expected. Therefore, an appropriate assessment should be carried out.	6	<input checked="" type="checkbox"/>
It must be stated if the project could be subject to substantial modifications during the further planning procedure. All the technical details needed for the reliable assessment must be available.		<input checked="" type="checkbox"/>
4 Prediction of possible Project-related Adverse Impacts		
Relevant Impact Processes The significance of the impact processes depends on the sensitivity of the potentially affected natural habitats and species and of the nature of the impacts. The expected impact processes must therefore address the individual situation of the site. A distinction between construction-related and operationally-related processes is recommended.	31	<input checked="" type="checkbox"/>
Identification of Possible Adverse Impacts No evaluation of the magnitude (intensity) of the negative impacts is carried out at the level of the preliminary examination. Negative impacts can affect natural habitats, species, features of the landscape vital to them or the implementation of conservation and restoration measures. Possible adverse impacts upon the interrelationships between various Natura 2000 sites must also be taken into account. Every natural habitat or species must be treated individually.	32	<input checked="" type="checkbox"/>

5 Prediction of possible Adverse Impacts of Other Interacting Plans and Projects		
The possible negative impacts of other interacting plans and projects must be described. For more detailed information → Chapter 7 of the annotated structure of the IA-Report		<input checked="" type="checkbox"/>
6 Overview of possible Adverse Impacts		
Particularly for sites with extensive species and habitat inventories and in case of several examined other plans and projects, an executive summary in matrix or tabular form is highly recommended. The tables can be used for reviewing the preliminary examination.		
7 Summary		
Due to the thematic main emphasis, technical terms cannot be avoided entirely in some parts of the report. In the summary, by contrast, only the results are presented. In most cases, technical terms can therefore be dispensed.		<input checked="" type="checkbox"/>
8 References		
The list of references should make clear that the specific information on Habitats or Birds Directives and impact assessment has been consulted. This includes e.g. information which is available on the homepage of the EU Commission.		<input checked="" type="checkbox"/>
Appendix		
Non published documents which are important for understanding or reviewing the report should be accessible in the Appendix. In addition to the usual data appendices which serve to relieve the text from too much detail, the following documents should be included (e.g.): <ul style="list-style-type: none"> • The standard data form of the site (if not available, an official description issued for the designation procedure) • Official documents of the specifications by the competent authorities on the conservation objectives and the provisions of the management plan of the site. 	53	<input checked="" type="checkbox"/>

2 Impact Assessment under Art. 6(3) of the Habitats Directive

2.1 The Stage of the Appropriate Assessment in relation to the whole procedure

The detailed assessment of a project usually follows immediately after the screening preliminary examination, if negative impacts cannot be definitively excluded.

The overall examination procedure of a project includes an identification of the impacts of the project on the Natura 2000 site, and an assessment of their significance for the conservation objectives of the site. As a result, it has to be stated whether the project is compatible with the provisions of the Habitats Directive or not.

The evaluation of the significance or non-significance of the effects of the project provides the basis for the ensuing authorization procedure. If the Impact Assessment (IA) concludes that the project will not trigger any significant impacts upon the conservation objectives of the Natura 2000 site, the project can be authorized from the point of view of the Habitats Directive. If a significant impact is determined, the project may be authorized only as an exceptional case, after implementation of a procedure of derogation (→ Chapter 3).

2.2 Scope

Both the screening (preliminary examination) and the appropriate impact assessment (overall examination procedure) assess the compatibility of a project with the conservation objectives of a site. Usually the first steps of the assessment procedure, such as the determination of the potentially affected sites, the conservation objectives potentially affected and the impact processes of the project, will have been carried out in the context of the preliminary examination, albeit with a lesser investigation depth. In cases in which the preliminary examination has been sharply abbreviated – because of an obvious necessity for a more thorough examination – these steps have to be carried out *post-facto*.

During the IA process the data collected for the preliminary examination have to be enlarged and differentiated for a comprehensible deduction of the significance of potential impacts. If necessary, mitigation measures have to be developed.

The assessment is based **exclusively on ecological facts**. Social and economic aspects have no relevance for the determination of the intensity of the impacts of a project.

2.3 Implementation of the Impact Assessment

The suggested structure of the assessment report arises from the logic sequences of the examination procedure. However, there are some differences to common structure for EIS:

- Before the project and its impacts are treated in Chapter 3 of the report, the Natura 2000 site which is the object of the assessment is introduced in Chapter 2. Unlike in an EIS, the focus of the examination is not on the conflict between the project on the one hand and an site with all its protected assets on the other, but rather on the impacts upon a delimited protected site with its specific conservation objectives.

In a Natura 2000 site not the entire inventory of all species and habitats are under the special protection of the Habitats Directive. The topic of the IA is restricted to the significant populations of species listed in Annex II and the habitats listed in Annex I listed (or the Birds and their habitats of Annex I and of Art. 4 Sect. 2 of the Birds Directive). Thus, the significance of an impact arises only from the specific effects on the the species and natural habitats mentioned above. For this reason it is more efficient to describe the site with its objectives first and then go on for the description of the technical details of the project. Long explanations about effects which are not relevant for the conservation objectives can be avoided.

- The impact assessment has to take adverse effects with other interacting plans and projects into account. Therefore it is logical to make the final decision on the significance of negative effects after cumulating plans and projects have been treated. If no adverse impacts are to be expected from other plans and projects, the decision on the significance of negative effects can be immediately deduced from the results explained in Chapter 5 (Project-Related Negative Impacts on Conservation objectives).

1. Introduction
2. Description of the Natura 2000 site (SAC, pSCI, SPA)
3. Description of the project
4. Area of impact
5. Project-related adverse impacts
6. Project-related mitigation measures
7. Adverse impacts by other interacting plans and projects
8. General overview of the results of all assessment steps
9. Non technical summary
10. References
11. Appendix

2.4 Annotated Structure of the Assessment Report and Checklist

The following structure of the assessment report refers to a Special Area of Conservation (SAC) or a (proposed) Site of Community Interest (pSCI). For a Special Protection Area (SPA) certified to the Birds Directive, the structure is identical. Instead of the natural habitats of Annex I and the species of Annex II of the Habitats Directive, the bird species of Annex I and migratory birds as per Art. 4 Sect. 2 of the Birds Directive are to be treated.

The following annotated structure refers to a SAC (Special Area of Conservation) or a pSCI (proposed Site of Community Importance) designated under the Habitats Directive. For a Special Protection Area (SPA) certified under the Birds Directive, the structure is nearly identical. Instead of the natural habitats of Annex I and the species of Annex II of the Habitats Directive, the bird species of Annex I and migratory birds as per Art. 4 Sect. 2 of the Birds Directive are to be addressed.

Beside designated or certified sites, it might be advisable to take additional sites into account (e.g. sites of shadow-lists, IBA not yet certified). The structure of a report for these sites is not basically different from that for sites under the official designation procedure. Nevertheless modifications may be necessary, since, for instance, no standard data form exists for non-designated areas and there are no specifications on conservation objectives by the competent authorities.

The proposed structure of the assessment report may look very extensive at first glance. The following structure takes into account a variety of possible situations. In practice, particular points may prove to be irrelevant (e.g. if the site and the area of impact are identical or if there are no further relevant plans and projects). If this involves substantial issues which are normally part of the central concern of the Impact Assessment pursuant to the Habitats Directive, a comprehensible justification has to be given why in the concrete situation the structure of the report is not applied.

Annotated Structure of the Assessment Report for the Impact Assessment	Sheet no.	Check-list
1 Introduction		
<p>The IA has the task of examining the negative impacts upon the conservation objectives of a site triggered by a project. Basically, the assessment should be a case-by-case survey. “Collective examinations” for several sites in one report do not permit an individual analysis of the protected area. Each report treats one single Natura 2000 site.</p>	7	<input checked="" type="checkbox"/>
<p>This recommendation also applies for sites which were designated in exactly the same boundaries under Habitats Directives and certified according to Birds Directive. The boundaries may be identical, but the sensibility of their specific conservation objectives and their relationships to surrounding landscapes are different. This requires a specific description of different areas of impacts, different impact processes, as well as different mitigation measures and cumulative effects with other plan and projects.</p>		
<p>The official code number and name of the site must be mentioned. The specific nomenclature for the identification of the status of the site must be used (pSCI, SAC, SPA).</p>	1	<input checked="" type="checkbox"/>
<p>In addition to designated and certified sites, other sites may also have to be taken into account (e.g. sites of the <i>shadow lists</i>). The reasons for assessing a site which is not part of the official designation procedure must be stated.</p>	2 to 5	<input checked="" type="checkbox"/>
2 Description of the Site and its Conservation Objectives		
<p>In the present proposal, it is assumed that the Natura 2000 site is larger than the area of impact. The entire site is described in Chapter 2, while in Chapter 4, the situation in the potentially affected part of the site is treated. If the site and the area of potential impact are identical, Chapters 2 and 4 are merged. The level of detail of Chapter 2 then corresponds to that recommended for Chapter 4.</p>		
<p>Even if the area of impact is restricted to a small part of a large site, an overall description of the whole site is mandatory. The significance of small-scale impacts must be evaluated in relation to their consequences for the “integrity of the site” at a larger scale. Therefore, an appropriate description of the whole site is necessary.</p>	8	<input checked="" type="checkbox"/>
2.1 Location of the Site and Features of the Landscape		
<p>A general introduction to the landscape in which the site is embedded is recommended. An overview of significant features of geology, geomorphology, climate, hydrology, soils, landscape history, land-use etc., may be useful for the understanding and evaluation of adverse impacts.</p> <p>A detailed description should only be attached for aspects which contribute to the comprehensibility of the argumentation (e.g. previous damage, impact chains, special significance or sensitivity due to the overall territorial structure).</p>		<input checked="" type="checkbox"/>

2 Description of the Site and its Conservation Objectives (continued)		
2.2.3 Species of Annex II		
An adequate description of the species of Annex II will include information on the structure and dynamics of populations, as well as statements as to whether the available habitats permit the long-term conservation of a stable population in the site.		
For this purpose, the specific environmental conditions necessary for a favorable conservation status of the species in the site must be described. This includes e.g. functions, such as assurance of a sufficient food supply, and linear structures essential for migration or dispersal.	18	<input checked="" type="checkbox"/>
Since some species undertake long distance movements and may use several sites in the course of their life cycles, it is useful to focus consideration on the specific functions which a given site fulfills for a species (e.g. for bats: feeding habitats, summer roosts, winter roosts). However, the relationship with other specific habitats of these species have to be explained. In addition to the habitat conditions in the protected site, the ecological network <u>outside</u> the site may also be of central importance for the species population of the protected site.	17	<input checked="" type="checkbox"/>
Priority and non-priority species should generally be assessed separately, due to the differing legal consequences in case of a negative result of the IA.	24	<input checked="" type="checkbox"/>
2.3 Other Species Mentioned in the Standard Data Form		
Species listed in the standard data form in the category of other species of fauna and flora are not objects of the IA unless they are of significance for the occurrence of species of Annex II or habitats of Annex I. A description is recommended, but not required mandatory. The same applies to bird species in sites which are designated under the Habitats Directive.	27	
The other fauna and flora species may also include species of Annex IV of the Habitats Directive. For these species, Arts. 12 (animals) and 13 (plants) stipulate that a strict conservation system in the whole territory has to be established. Due to the great importance which the Habitats Directive attaches to them, a description of this inventory in the protected site is recommended. However, they are not a primary object of the impact assessment.	26	
2.4 Conservation Management Plans		
For the maintenance and restoration of a favorable conservation status of the species and natural habitats of a protected site in Central Europe specific management measures may be needed. These measures are drafted by the competent authorities and described in the management plan of site.		
Projects which hamper or prevent the implementation of such measures thus lead to negative effects upon those habitats or species which have to be managed. Therefore, the consequences of a project on the implementation of the management plan have to be examined as well. At the level of consideration of the entire site, an overview is sufficient. However, a detailed description is required for the area of impact (→ Chapter 4).	12	<input checked="" type="checkbox"/>

2 Description of the Site and its Conservation Objectives (continued)		
2.5 Contribution of the Site to the Coherence of the Natura 2000 Network		
2.5.1 Contribution to Biodiversity <p>Conservation and support of species and habitat diversity is among the central goals of the Habitats Directive. Specific descriptions of the biodiversity of the site are best practice. However, in the IA they are optional.</p> <p>A short description of the contribution of the site to the species diversity in Natura 2000 may include details on species richness, on the occurrence of threatened species and Annex IV species, and on species for whose conservation the member state carries a special responsibility.</p>	18	
2.5.2 Functional Relationship with other Natura 2000 Sites <p>Some migrating species undertake long distance movements. Their habitats can extend across several sites (e.g. fish species which migrate between marine and fluvial habitats). If there are such functional relationships between sites, adverse impacts in one site can have negative consequences on the conservation status of the species in other Natura 2000 sites (e.g. impacts on spawning sites of salmon affect marine sites as well).</p> <p>Information about functional relationships is of central importance in identifying other plans and projects to be taken into account (→ Chapter 7), since they determine whether cumulative effects of significance may appear due to negative impacts elsewhere. They are also of central importance for the choice of suitable locations for compensatory measures.</p>	19	<input checked="" type="checkbox"/>
3 Description of the Project		
3.1 Overview of the Entire Project		
<p>Some projects (e.g. transportation projects) are implemented in several sections. A description of the entire project extending beyond the section being treated is required in order to examine possible negative impacts upon the Natura 2000 network. Thus, fragmentation effects originating outside the section to be examined may be relevant for the site being treated. In addition to the location and role of the different sections in the overall project, details on the implementation time frame for other sections may be relevant.</p>	29	<input checked="" type="checkbox"/>
3.2 Technical Description of the Project		
<p>The description must provide a concise and comprehensive description of the technical characteristics of the project. The description can be restricted to the technical aspects which are relevant to the natural habitats and species of the site. These may include measures inside and outside the site alike.</p>	30	<input checked="" type="checkbox"/>

3 Description of the Project (continued)		
<p>For the description of the project appropriate technical plans and details have to be used. Information on the duration and on the time frame of the construction measures are required in most cases. The scope and type of the necessary technical details comply with the technical standards which are known from EIS.</p>		
<p>3.3 Probable Effects on the Conservation Objectives of the Site</p> <p>A short description of the expected effects (e.g. drainage, emissions) of the project in Chapter 3 has the task of providing comprehensible justification for the delimitation of the area of impact which has to be investigated in detail (→ Chapter 4.1). Unlike the EIS, in which, corresponding to the project-related examination task, all impact processes connected with a project have to be taken into account, the strictly habitat and species related analysis of the IA only considers those effects which are relevant for the conservation objectives of the site.</p> <p>For better transparency of the decisions taken concerning the delimitation of the area of impact and field investigations to be carried out, it is recommended that the most important effects are already listed in Chapter 3.3.</p> <p>Since all relevant processes have to be explained in detail in Chapter 5 from the perspective of their impacts upon the natural habitats and species of the site, only a brief overview should be given in Chapter 3. Long explanations about effects which are not relevant for the conservation objectives are avoided, as well as unnecessary repetition in Chapter 5.</p>	30	<input checked="" type="checkbox"/>
4 Description of the Area of Impact		
<p>In large sites, or in sites of great longitudinal extension (e.g. streams), it may be useful to limit the area of investigation to impact relevant sections of the site.</p> <p>The evaluation of impacts always has to consider the integrity of the whole site. As the occurrence of unaffected habitats and species populations in has to be taken into account for the evaluation, a limitation of the more detailed examination to one section does not make a thorough description of the entire site superfluous (→ Chapter 2).</p> <p>Frequently, it is necessary to investigate a larger area than the protected site itself, e.g. in order to ascertain adequately the movements of animals between the site and its surroundings.</p>		
<p>4.1 Justification for the Delimitation of the Impact Area and of the Investigation Program</p> <p>In this chapter, the delimitation of the area examined in detail and the investigation program have to be described transparently. The decisions taken during this phase have a significant effect on the quality of the IA, and are not transparent without adequate justification.</p>		<input checked="" type="checkbox"/>

4 Description of the Area of Impact (continued)		
4.1.1 Habitats and Species potentially affected		
The habitats and species which are potentially affected are identified by correlating the population data as well as the specific sensibilities of the habitats and species with the maximum range of expected impact processes of the project. The delimitation of the area examined in detail has to be comprehensibly derived from this data set. The results have to be explained.	20	<input checked="" type="checkbox"/>
Special specifications formulated by the competent authorities on conservation and management objectives of the site must be stated transparently. Such specifications are necessary, for example if two or more incompatible conservation objectives could be realized in the area of impact.	10	<input checked="" type="checkbox"/>
Typical species of the natural habitats in the area of impact have to be selected for the assessment. The reasons for the selection has to be explained. In some German states, the typical species for each habitat are pre-selected by the competent conservation authorities.	15	<input checked="" type="checkbox"/>
4.1.2 Data Base and Investigation Methods		
For an appropriate IA special field investigations are often necessary to close data gaps still remaining after a qualitative and quantitative reviewing of the existing data. In this chapter, the primary issue is the comprehensible justification of the field investigations which have been carried out for the assessment. These include e.g. a survey of the distribution of habitat types and sub-types, of fauna species, of typical species of the habitats etc.	29	<input checked="" type="checkbox"/>
In some cases, supplementary investigations in the entire site may be necessary, if the status of conservation of a certain species or habitat type cannot be assessed with sufficient certainty on the basis of the available data. The goal of these supplementary investigations is to estimate the status of conservation of an relevant objective in the area of impact in relation to the status of the species or habitat in the whole site. Special explanations of survey methods and complete results would overburden the text of the report. They must nevertheless be reviewable. They should therefore be attached in abbreviated form, either as an Annex to the IA report or, if necessary, as complete topical reports. The results of these supplementary investigations will be included in the description of the species and habitats in the area examined in detail (Chapters 4.3 and 4.4).		
4.2 Gaps in the Data Base		
Even after conscientious examinations, unavoidable gaps in the data may appear in practice (e.g. the lack of year-long data compilations for the survey of trends in populations). These data gaps must definitely be transparently declared to uphold the reliability of the IA.	22	<input checked="" type="checkbox"/>

4 Description of the Area of Impact (continued)		
<p>Not all data gaps have necessarily to be filled by field investigations. If the area of impact hosts suitable habitats for a species e.g. of Annex II, but no data are available, it is possible to assess the potential impacts which would result if the species would occur in this area.</p> <p>If the assessment shows that there will be no significant impact on this objective, no extensive field studies are necessary to determine whether this species occurs in the impact area or not.</p>	22	
<p>4.3 Description of the Area of Impact</p> <p>4.3.1 Landscape Features</p> <p>A description of relevant landscape features in the area of impact may be useful. This may be the case if, due to the scale, the general description of the site in Chapter 2.1 does not provide sufficient detailed information e.g., about the embedding of the habitats of Annex I in the framework of other biotopes. In each individual case it has to be decided whether a separate description of the landscape features of the area of impact is required.</p>		
<p>4.3.2 Habitats of Annex I</p> <p>The habitats present in the area of impact of the project have to be described individually.</p> <p>The results of data survey and data research including field investigations flow into the detailed description of the habitat in the impact area. The typical species of the habitat have to be mentioned as an important part of the IA. Specifications deriving from the implementation of conservation measures and from the consideration of restoring potentials are included in the descriptions of the habitat. The same applies to landscape features of the area which are significant for the conservation of the habitat. The description of the habitat has to be clear and sufficiently detailed to carry out a sound assessment of the potential impacts. Therefore the following questions should be answered with the report:</p> <ul style="list-style-type: none"> • Which amount of the total surface of the habitat in the whole site will be affected? • Does the habitat in the area of impact belong to a special sub-type of the habitat? • Does the area of impact fulfill special functions in the life cycle of the typical species of the habitat? • Does the impact area host landscape patterns significant for the conservation of the habitat? (e.g. special succession pattern)? 	14	<input checked="" type="checkbox"/>
<p>4.3.3 Species of Annex II</p> <p>The species occurring in the area of impact of the project are described individually.</p> <p>The results of special data enquiries and data research carried out will be included in the detailed description.</p>	16	<input checked="" type="checkbox"/>

4 Description of the Area of Impact <i>(continued)</i>		
<p>Specifications deriving from the implementation of conservation measures and from the consideration of restoring potentials are included in the descriptions of the species. The same applies to landscape features of the area which are significant for the conservation of their habitats. The description of the populations and their habitats has to be clear and sufficiently detailed to carry out a sound assessment of the potential impacts. Therefore the following questions should be answered with the report:</p> <ul style="list-style-type: none"> • Which amount of the total estimated population of the species in the site occurs in the area of impact? • Which proportion of the suitable habitats is located in the area of impact compared to the entire site? • Does the area of impact fulfill a special function in the life cycle of the species? • Can local populations be affected by fragmentation effects? • Will a sufficiently unaffected population remain in the site to allow a resettlement of the area of impact in case of a time-limited disturbance? 	16	<input checked="" type="checkbox"/>
<p>4.4 Special Significance of the Area of Impact within the Natura 2000 site</p> <p>After the comprehensive description of single species and habitats, Chapter 4.5 provides the opportunity to give an summarized statement of the significance of the area of impact in relation to the entire protected site.</p>		
5 Prediction of project-related Adverse Impacts		
<p>General Remarks</p> <p>A single significant effect on any natural habitat or species of the Annex may compromise the authorization of the project. Therefore each conservation objective has to be treated independently.</p> <p>The reaction of each species or habitat to the same adverse process may vary considerably. A combined treatment of several species and habitats can be accepted only if these will show the same reaction with regard to all impact processes of the examined project.</p> <p>Previous impairment (e.g. due to already completed projects) have to be taken into account if they have continuing negative effects. After a major previous damage, an additional negative impact is more likely to be significant than with no or minimal previous impairment. The significance of an impact has to be determined in relation to the conservation status of the habitat or of the species in the Natura 2000 site.</p> <p>Art. 6 Sect. 3 of the Habitats Directive refers to plans or projects which are “likely” to have significant impacts. In its comments the Commission (Managing Natura 2000 sites, 2001) points out that not the certainty but the likelihood of a negative impact is determinant for decision making.</p>	20	<input checked="" type="checkbox"/>
	39	<input checked="" type="checkbox"/>
	36	<input checked="" type="checkbox"/>

5 Prediction of Project-related Adverse Impacts (continued)										
5.1	Method of Impact Prediction / Evaluation of Impact Intensity									
	The method used for the assessment of the significance of impacts has to be explained comprehensibly.	<input checked="" type="checkbox"/>								
	Although no special method is proposed in the present paper, an appropriate method should nevertheless meet the following requirements:	8 <input checked="" type="checkbox"/>								
	<ul style="list-style-type: none"> • The method should be suitable for assessing effects occurring in the area of impact in relation to the remaining unaffected Habitat/Species in the entire site. 	35 <input checked="" type="checkbox"/>								
	<ul style="list-style-type: none"> • The method should be suitable for the assessment of single impacts, residual impacts after mitigation measures (Chapter 6) and cumulative effects alike. Otherwise, the use of different assessment approaches or standards would lead to a distortion of the results. 	35 <input checked="" type="checkbox"/>								
	<ul style="list-style-type: none"> • The method should permit a comparison of the relative share of various impacts types and of various other projects (Chapter 7) in the stated overall result. This is imperative for a comprehensible justification of the suggested mitigation measures. The involved parties from different cumulative plans or projects usually wish a transparent justification of their share of the mitigation costs. 	35 <input checked="" type="checkbox"/>								
	<ul style="list-style-type: none"> • Threshold values can be helpful to assess the intensity of an impact. Nonetheless, the IA of the Habitats Directive is a case-by-case study. Therefore general thresholds have to be adapted to the concrete situation of the site. 									
	Assessment Steps									
	The significance of negative effects on the site's conservation objectives often results from a combination of negative impacts caused by the proposed project and from other plans and projects. For reasons of transparency several assessment steps are required.									
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30px; text-align: center; vertical-align: middle;">1</td> <td style="padding: 2px;">a) Assessment of the individual negative impacts by the proposed project to be examined;</td> </tr> <tr> <td></td> <td style="padding: 2px;">b) Assessment of the residual negative impacts after mitigation measures;</td> </tr> <tr> <td style="text-align: center; vertical-align: middle;">2</td> <td style="padding: 2px;">c) Assessment of the cumulative negative impacts with interacting other plans and projects;</td> </tr> <tr> <td></td> <td style="padding: 2px;">d) Assessment of the cumulative residual negative impacts after mitigation measures.</td> </tr> </table>	1	a) Assessment of the individual negative impacts by the proposed project to be examined;		b) Assessment of the residual negative impacts after mitigation measures;	2	c) Assessment of the cumulative negative impacts with interacting other plans and projects;		d) Assessment of the cumulative residual negative impacts after mitigation measures.	35
1	a) Assessment of the individual negative impacts by the proposed project to be examined;									
	b) Assessment of the residual negative impacts after mitigation measures;									
2	c) Assessment of the cumulative negative impacts with interacting other plans and projects;									
	d) Assessment of the cumulative residual negative impacts after mitigation measures.									
	At every step, separate assessments of impacts on the habitats and species have to be carried out, since it depends on intermediate results whether mitigation measures (→ Chapter 6) are required or not.	<input checked="" type="checkbox"/>								
	Evaluation Criteria									
	The evaluation criteria have to be objective and reviewable.									
	The IA is based on an evaluation of a potential change of the status of conservation of an habitat or a species in the assessed site. A favorable conservation status is defined in terms of structural and functional features, as well as on the basis of the preservation of restoration possibilities (Article 1(e, i.) of the Habitat Directive).	34 <input checked="" type="checkbox"/>								

5 Prediction of Project-related Adverse Impacts (continued)		
<p>These criteria have to be specified in accordance with the specific needs of the reviewed species and habitats, taking into account the specific conditions in the site. More detailed information on particular aspects of the assessment issue can be gathered from the thematic sheets:</p> <ul style="list-style-type: none"> • background information about the term “significance” • threshold values of the intensity (magnitude) of impacts 	33 37	<input checked="" type="checkbox"/>
<p>5.2 Impact Processes</p> <p>Chapter 5 provides a comprehensive description and explanation of the processes and process pathways which cause the predicted impacts. It may be necessary to compile interacting single processes into process complexes. The distinction between processes related to construction and operation has proved to be suitable in the practice.</p>	31	<input checked="" type="checkbox"/>
<p>5.3 Impacts upon Habitats of Annex I</p> <p>Due to the differing legal consequences in case of a negative result of the IA, impacts upon priority and non-priority habitats should be treated strictly separately.</p> <p>All aspects relevant to long-term conservation of the habitat should be taken into account (e.g. abiotic and biotic factors, dynamics of vegetation, plant-animal interaction, buffer zones, etc.).</p> <p>Potential impacts on typical species should be considered. Basically, the definitions of Annex I habitats refer to vegetation units. This does not mean that typical animals can be excluded in the impact assessment. For example the typical birds of heath land habitats can suffer severely due to increasing disturbance or noise. Therefore birds are adequate indicators for the evaluation of the degradation of the general quality of these habitats. The decrease or the loss of the ability of a habitat to host typical birds can be interpreted as a significant impact.</p> <p>A project can effect the management of a site or impede the future restoration of a habitat which status of conservation should be improved according to the specification of the conservation objectives for this site.</p>	34	<input checked="" type="checkbox"/>
<p>5.3.1 Habitat 1</p> <p>Process A (e.g. lowering of the water table) → evaluation of impact level Process B (e.g. fragmentation) → evaluation of impact level</p>		
<p>5.3. n Habitat n</p> <p>Process A (e.g. lowering of the groundwater table) → evaluation of impact level Process C (e.g. air-born pollution) → evaluation of impact level</p>		

5 Prediction of Project-related Adverse Impacts (continued)		
5.4 Impacts upon Species of Annex II Due to the differing legal consequences in case of a negative result of the IA, negative impacts upon priority and non-priority species should be treated strictly separately.	34	<input checked="" type="checkbox"/>
5.4.1 Species 1 Process A (e.g. lost of habitat) → evaluation of impact level Process B (e.g. pollution by noise) → evaluation of impact level		
5.4. n Species n Process A (physical damage due to wind turbines) → evaluation of impact level Process C (food depletion due to the increase of turbidity of water) → evaluation of impact level		
6 Project-Related Mitigation Measures		
For significant negative impacts, mitigation measures are mandatory. It may be necessary to reduce even a impact of low level which, when viewed in isolation, might appear non-significant. This is mandatory when due to cumulative effects with other impacts of the same project or with impacts from other plans and projects (→Chapter 7) the threshold of significance of negative effects would be exceeded. More detailed information about the following aspects are provided in the thematic information sheets		
• The term “mitigation measure”	41	
• Distinction between mitigation measures and compensatory measures	42	
• Distinction between mitigation measures and alternative solutions	43	
6.1 Habitat / Species 1 6.1.1 Description of the Mitigation Measure The description of the mitigation measure requires a clear description of the problem to be solved. The IA has to proof that the proposed mitigation measure will be efficient and will not have other negative effects on the conservation objectives of the site.		<input checked="" type="checkbox"/>
Like for the general project specifications, the descriptions of the mitigation measures have to be concrete enough to allow a reliable assessment of the efficiency and of remaining impacts. Implementation time frames, deadlines and binding commitment of the developer have to be indicated.	44	<input checked="" type="checkbox"/>

6 Project-Related Mitigation Measures (continued)		
6.1.2 Assessment of Efficiency		
The efficiency of a mitigation can be assessed on the basis of the predicted residual impact after implementation of the measure.	44	<input checked="" type="checkbox"/>
Statements concerning the probability of success, monitoring of success and planned countermeasures in case of failure are to be recommended on the basis of best practice.		
6. n Habitat / Species n		
Note		
In some cases, it may be useful to use the individual measures as topic headings of Chapter 6, and to treat the conservation objectives as sub-headings. E.g., this is appropriate if the same measure contributes to the reduction of negative impacts upon several conservation objectives. However, the efficiency must be proved for every single conservation objective. The alternative structure of the report can be as follows:		
6.1 Measure 1		
6.1.1 Description		
6.1.2 Assessment of the efficiency		
Habitat 1 → evaluation of residual impact level		
Species n → evaluation of residual impact level		
Which structure is best suitable for a concise presentation and for avoiding repetition must be pragmatically decided on a case-by-case basis.		
If they are no interacting plans or projects → short cut to Chapter 8 (respective 7)		
7 Adverse Impacts in Combination with other Plans and Projects		
This assessment step is restricted to habitats and species affected by a residual impact after implementation of the project-related mitigation measures. Low level impacts after mitigation may in combination with impacts from other plans or projects reach a significant level.		
If a significant impact remains after mitigation, no further consideration of other plans or projects is mandatory. The project individually produces a significant impact and can be authorized only with a special derogation. If alternative solutions have to be assessed, cumulative effects may relevant for a comparison of the different solutions. In this case the further steps including the survey of cumulative impacts should be carried out.	46	
The national laws of some Member States (e.g. Germany) define which kind of actions meet the formal criteria of a “plan” or a “project”. Actions which do not fulfill the criteria are, according to these laws, exempted of IA even if they might have ecological impacts.	47	

7 Adverse Impacts by Other Interacting Plans and Projects (continued)		
<p>By contrast, under the Habitats Directive, only the likelihood of a plan or a project to have a significant ecological effect is decisive for carrying out an IA.</p> <p>It is recommended – if necessary against the restrictions of the national law – to follow the provision of the Habitats Directive. All plans and projects which might trigger significant adverse impacts upon a Natura 2000 sites by cumulative effects must be taken into account.</p>	47	
<p>7.1 Justification for the Choice of other Plans and Projects taken into Account</p> <p>The chosen criteria for the selection of other relevant plans or projects should be stated clearly. These criteria may be:</p> <ul style="list-style-type: none"> • Impact upon the same species or habitat in the same area or in a different part of the site • Impact due the same process • Impact due to interacting processes • Diffuse impacts at the same time etc. • As for the proposed project to be examined, other plans and projects that have to be taken into account can be situated both inside and outside the site. 	48	<input checked="" type="checkbox"/>
<p>7.2 Description of Plans and Projects with Cumulative negative Impacts</p> <p>Other plans and projects are taken into account exclusively from the perspective of their possible cumulative effects. Therefore, the their technical description can be restricted to those aspects which are relevant for the interaction with impacts of the proposed project.</p> <p>If the other plans and projects have been completed, or approved but not yet realized, the necessary information can be taken from their planning documents. If the other plans and projects are in a parallel planning process, the cumulative effects should be assessed by the planning teams in coordination. Cooperation raises the efficiency of the procedure and can be helpful in order to prevent diverging results of the assessment of cumulative impacts.</p> <p>Problems can arise if no sufficient data are available on the other plans and projects and no IA has been carried out. This situation occurs typically in the first stages of the implementation of the Directives in a member state. A certain amount of projects are still proposed and completed without consideration of the new European legal provisions.</p>	49	
<p>The negative impacts upon the habitats and species affected by cumulative effects have to be assessed by the same method of evaluation which was used for the negative impacts by the project to be examined.</p>	38	<input checked="" type="checkbox"/>
<p>7.3 Relevant Processes / Impact Process Complexes</p> <p>Frequently, impacts result from complex processes. Since pure additive effects are rare, the IA has to explain if and how impact processes are mutually reinforcing or trigger synergistic reactions. The correct assessment of synergistic effects belongs to most difficult issues of IA.</p>	38	<input checked="" type="checkbox"/>

7 Adverse Impacts by Other Interacting Plans and Projects (continued)		
The assessment must refer to the impacts which will most likely apply as a result of the entire synergistic chain of effects. Due to yet unresolved methodological difficulties, it is assumed that the assessment of impacts by cumulative effects has mostly the character of an estimation.	38	<input checked="" type="checkbox"/>
If it is not possible to provide a “proof” for the predicted impact, it might often be useful to point out the likelihood of the impact and to refer to the precautionary principle of Article 6(3). Nevertheless objective reasoning on the basis of comprehensible criteria are required.	36	
7.4 Cumulative Impacts upon Habitats of Annex I The cumulative negative impacts are treated according to the same structure as the potential impacts due to the project to be examined (→ Chapter 5).		
7.4.1 Habitat 1 Impact process A Impact process complex B		<input checked="" type="checkbox"/>
7.5 Cumulative Impacts upon Species of Annex II		
7.5.1 Species 1 Impact process C Impact process complex D		<input checked="" type="checkbox"/>
7.6 Mitigation Measures for Cumulative Negative Impacts Additional mitigation measures may be required to avoid or to abate cumulative impacts. These measure must be developed in agreement with the parties implementing the other plans and projects. Since all parties have to avoid in-house significant impacts, it is not clear who shall bear the costs for the additional mitigation measures for cumulative impacts. The involved parties usually demand a clear assessment of their share of the common impact. Problems can arise if each IA uses different evaluation methods and criteria.	45	
7.6.1 Description of Measure 1 As for the in-house impacts of significance the description of the mitigation measure for cumulation impacts from other plans and projects requires a clear description of the problem to be solved. The IA has to proof that the proposed migitation measure will be efficient and will not have other negative effects on the conservation objectives of the site. Statements concerning the probability of success, monitoring of success and planned countermeasures in case of failure are recommended as best practice.		<input checked="" type="checkbox"/>

7 Adverse Impacts by Other Interacting Plans and Projects (continued)		
7.6.1 Assessment of Efficiency of Measure 1		
The efficiency of a mitigation is assessed on the basis of the predicted residual impact after implementation of the measure. The same method of evaluation as for the impacts of the proposed project is to be used for cumulative impacts from other plans and projects.		<input checked="" type="checkbox"/>
7.6.1.1 Habitat 1		
Impact process A		
Impact process complex B Habitat 1		
8 General Overview of the Results of all Assessment Steps		
<p>Following Chapter 7 the final results of all assessment steps will be given.</p> <p>Particularly for sites with extensive species and habitat inventories and in case of several examined other plans and projects, an executive summary in matrix or tabular form is highly recommended.</p> <p>Unlike in the Summary, also non-significant residual impacts should be listed. This is helpful for the following reasons:</p> <ul style="list-style-type: none"> • The tables in Chapter 8 convey a complete overview of the results, and can be used for looking up information quickly, or for reviewing the IA. In the digital version of the IA-report, cross-referencing to the headings of the single chapters are very helpful for the reader to navigate through extensive documents. • The overview is suitable for the quick identification of jointly affected conservation objectives and residual impacts if the examined project itself has to be taken into account as “another plan or project” in later planning procedures. For future IAs, the remaining impacts below the threshold of significance are of primary importance, since they will have taken place, and thus contribute to the overall status of conservation of the Natura 2000 site. 	51	
9 Non technical Summary		
<p>Due to the main thematic topic of the IA, technical terms cannot be avoided entirely in some chapters. In the summary, by contrast, only the results are presented. In most cases, technical terms can therefore be dispensed in this chapter.</p> <p>All facts and argumentation steps essential for understanding the results of the IA must be referred to in the Summary.</p>	52	<input checked="" type="checkbox"/>

10 References		
The list of references should make clear that the specific information on Habitats or Birds Directive and impact assessment has been consulted. This includes e.g. information available on the EU Commission homepage.		<input checked="" type="checkbox"/>
Appendix		
<p>Documents not published which are important for understanding or reviewing the IA-report should be accessible in the Appendix. In addition to the usual data appendices which serve to relieve the text of too much details, the following documents should be included:</p> <ul style="list-style-type: none"> • The Standard data form of the site (if not available, an official description issued for designation procedure), • Official documents of the specifications by the competent authorities on the conservation objectives and provisions of the management plan of the site, • Technical plans and special reports drafted specially for the IA (e.g. for specific mitigation measures). 	53	<input checked="" type="checkbox"/>
Glossary		
In case of extensive use of technical terms in the report a glossary is recommended.		

3 Assessment under Art. 6 (4) of the Habitats Directive

Normally, an authorization will not be granted if the IA has established that a significant impact is likely to affect a Natura 2000 site. As a rule, nature conservation has priority in all Natura 2000 sites. On the other hand, the conservation of the complete integrity of a site can involve such high costs, or such unbearable restrictions on other goals of public relevance, that an exception will be justified.

An exceptional authorization is possible if the conditions specified in Art. 6 (4) of the Habitats Directive are fulfilled. Thus, a project with significant impact upon a Natura 2000 site can only be allowed,

1. if **no alternative solution**, which might achieve the purpose of the project with little or no negative impact, is available,
2. and if the project is necessary **for imperative reasons of overriding public interest**, including those of social or economic nature.

If the stated conditions are met:

3. the Member State shall take all the compensatory measures necessary to ensure the overall coherence of the Natura 2000 network.

The procedure pursuant to Art.6 (4) offers the possibility to explain why a project, despite significant negative impact upon a Natura 2000 site, should be authorized. The reasons presented must be explained comprehensibly. Since an exceptional procedure is applied for, the argumentation must refer to the concrete situation. General explanations, e.g. on the fundamental significance of major infrastructure projects or of commercial sites do not suffice. It must be clearly demonstrated why the project should be realized precisely at the intended place and in the planned manner.

General standards for decision making cannot be given. Thus, for example, the need for harbor expansion is a very different matter in Member States which already have a tight network of infrastructure, than it is in countries in which such a project would mean an essential spark for structurally weak regions.

The procedure pursuant to Art.6 (4) is a process in which the pros and cons are weighed. Success, therefore, primarily depends upon a convincing and comprehensible argumentation.

3.1 Assessment of Alternative Solutions

If the authorization of a project with significant negative impacts upon a Natura 2000 site is applied for, the competent authorities first examine whether an alternative solution is available with less or no negative impacts.

Basically, only ecological criteria should be taken into account in the assessment of alternative solutions.

The legislation of some Member States (e.g. Germany) contains additional restrictions for unbearable solutions. Possible justifications are unbearable costs which would make the fulfillment of the project impossible or unbearable impacts on other assets (e.g. a highway through a city may cause an unbearable noise impact for the inhabitants). If reasons independent from a strictly Natura 2000-related point of view are given, a presentation in a different part of the report is mandatory. Environmental and non-environmental arguments should not be mixed.

In some Member States, statements on the unbearable character of some alternative solutions are prepared by the developers and their assessment teams. Nonetheless, decision-making remains the privilege of the competent authorities.

3.1.1 The role of the Alternatives in the Overall Procedure

From the legal point of view, the examination of alternative solutions is not required until the derogation procedure will start. However, the course of the planning procedure may differ considerably from the course of the legal procedure.

In some cases, the probably negative result of the IA can be foreseen long in advance. If the examination of alternatives is initiated only after the final (negative) result of the IA for the favored solution, there is a high risk of delay in the proceedings, since e.g. seasonally-limited field investigations may be necessary for the assessment of the alternatives.

In practice the examination of alternatives can be the first step of the planning process, although it is required only in the final stage of the approval procedure.

As soon as significant negative impacts upon a Natura 2000 site appear likely, an assessment of alternatives should be initiated.

An early examination of alternatives moreover allow a greater flexibility. As long as reservations remain regarding the designation procedure of Natura 2000 sites and about the exact inventory of many protected sites, flexibility is particularly needed. In many Member States problems arise from the designation or certification of new sites which were not relevant in the early stages of the planning procedure.

An early examination of alternatives should be carried out as a priority if no solution without significant impact can be found. If the project fulfills the remaining prerequisites for authorization (imperative reasons of overriding predominant public interest), an assessment of alternative solutions will in any case be required.

3.1.2 What is an Alternative Solution?

A solution can be considered as a possible alternative if it is able to fulfill the purpose of the project. An objective presentation of the goals of the project is therefore necessary. This information provides the basis for an objective justification why theoretically possible solutions are out of question.

All technically possible alternatives are to be examined as far as they more or less fulfill the goals of the project. Alternatives may be site alternatives (realization of a proposed project at a different place), or technical alternatives (e.g. a river crossing as a tunnel instead of as a bridge). All solutions which are suitable to fulfill the purpose of the proposed project are regarded as alternatives.

For the selection of the assessed alternative solutions, exclusively their suitability to avoid or reduce negative impacts upon NATURA 2000 sites is determinant. Non-conservation-related considerations (i.e. economic interests) are no reasons for excluding alternatives from the assessment procedure.

Not only the solutions which have already been taken into consideration by the applicant, but also other solutions suggested by third parties (competent authorities, NGOs), may also be considered as alternatives.

3.1.3 Comparative Assessment

In order to carry out a thorough comparison, a data basis comparable to that of the project applied for is needed for every alternative. This means that an IA must be carried out for every alternative. An equally detailed presentation of the adverse impacts and of the mitigation measures is necessary. In order to avoid a distortion of the results, an assessment using **the same method** is mandatory.

This procedure may be very expensive, depending on the number of alternatives examined, and the amount of the potential negative impacts. Alternatives which would cause even more severe impacts are obviously out of question and therefore can be described more briefly.

3.2 Imperative Reasons of Overriding Public Interest

If there is no alternative solution without significant impact, the next step of the assessment is to examine the existence of imperative reasons of overriding public interest.

Decision-making is the privilege of the competent authorities. In some Member States, statements are prepared by developers and their assessment teams. This situation occurs frequently, when the competent authority is also the project proponent (e.g. in case of major infrastructure projects carried out by the government).

3.2.1 What does “public interest” mean?

Such reasons can only be present if there is actually an essential public interest. Projects which are entirely of private interest of enterprises or individual persons may thus not be considered as justifications for authorization. Though, public and private interests can intermingle (e.g. a private-run enterprise may be of public interest for the employment situation in a region). Nonetheless, a plausible assessment of the “public interest” of a project can be issued only by the competent (public) authorities.

3.2.2 What does “overriding interest” mean?

Nature conservation, too, is of “public interest”.

The significance of the project for the public interest must always be assessed in relation to the special importance of the European interest protected under the Habitats and the Birds Directives. The fact that a protected site of European importance might be affected lends the interests of Natura 2000 considerable weight as opposed to other public interests. The higher the value of the site, and the stronger the impact of the project, the greater the public interest pursued by the project must be, in order to be able to substantiate the required “overriding” character.

This presupposes an individual case-related argumentation. Only very few reasons (e.g. public safety) can be described as in principle “overriding”.

3.2.3 What does “imperative reasons” mean?

The project must be indispensable: The implementation of the project is not only useful, but imperative for the public interest.

This criterion can be assessed only in relation to the situation in a given Member State. A project which would be only “useful” in one state, may be elsewhere “indispensable” for the development of the country. Therefore, no detailed guidance can be provided.

3.2.4 Procedure for Sites Hosting Priority Habitats and/or Species

If priority habitats and/or species occur in the affected site, the only “**imperative reasons of overriding public interest**” which can be asserted will be those involving human health and public safety, or related with “beneficial consequences of primary importance for the environment”. For any other reasons (e.g. of economic or social nature) the Commission must be consulted previously.

It has not yet been fully clarified whether special requirements on authorization only apply when the priority habitats and/or species are actually effected, or whether they also apply if these priority habitats and/or species occur in a part of the Natura 2000 site which is not affected itself. Though, in its interpretation guide for Art. 6 of the Habitats Directive, the Commission gives the following indication:

“Art. 6 (4), second subparagraph may be understood as applying to all sites hosting priority habitats and/or species, when these habitats and species are affected.”

European Commission 2000, p. 48

3.3 Compensatory Measures

3.3.1 Scope

The compensatory measures aim to offset the impact caused by the project and its cumulative effects. Therefore, they have to provide a compensation corresponding exactly to the predicted losses. In contrast to mitigation measures, compensatory measures have no effect on the evaluation of the impact of a project. They are part of the derogation procedure which is only initiated if a significant impact was established previously.

If a project is exceptionally authorized, despite its significant negative impact upon a Natura 2000 site, it is to be assumed that imperative reasons exist which would, if necessary, also justify a very high expense for compensatory measures.

As stressed by the Commission, proposing compensatory measures do not “*exempt from the need to respect beforehand the steps described in Article 6, in particular the study of alternatives and the comparative assessment of the interest of the project/plan in relation to the natural value of the site*” (EU Commission 2000, p. 44).

3.3.2 Compensatory Measures and the Authorization of a Project

The implementation of compensatory measures is mandatory.

Since the measures must compensate exactly the negative impacts upon the affected species and habitats, restrictions may arise for habitats or species with special ecological requirements very difficult to fulfill. Some habitat types as active raised bogs (*7110) or very old forests are unlikely to be restored at other places. Given that the project fulfills all other conditions of derogation, if no compensation is possible, the authorization of the project cannot be granted.

If habitats and species for which no efficient compensation **can** be achieved, are likely to suffer a significant impact, this circumstance should be taken into account early in the search for adequate alternatives. If only alternatives with comparable, significant negative impacts are given, the possibility of carrying out effective compensatory measures may be decisive for the selection.

If all alternatives cause comparable significant negative impacts, the alternative with the more effective compensatory possibilities should be pursued.

In very rare cases, incomplete compensatory measures could be justified with reference to imperative reasons (e.g. of public safety), if no alternative with fully satisfactory compensation exists. As a rule however, significant negative impacts are to be compensated fully. If such compensation cannot be performed, it must be assumed that the authorization cannot be granted.

3.3.3 Communication to the Commission of Compensatory Measures

In the case of projects which affect significantly priority habitats and/or species, the compensatory measures belong to the report which must be submitted to the Commission **before** the authorization can be granted. Since the statement of the Commission also includes an assessment of the proposed compensatory measures, the consultation of the Commission can not take place until these measures have been fully drafted.

If no priority species or habitats occur in the area affected, no statement of the Commission must be sought before the authorization of the project. The competent authorities will then inform the Commission about the compensatory measures undertaken. No definitive specifications regarding the moment for this submission of information can be gleaned either from the Habitats Directive or from hitherto published comments by the Commission.

The description of compensatory measures must comprehensibly explain that the measures will fulfill their goal and that their implementation is ensured.

3.3.4 Full functionality of the Compensatory Measures at the Time of Impact

Compensatory measures must, as a rule, be effective when the negative impact occurs. An exception is possible only if it can be proved that for environmental-scientific reasons, a simultaneity of compensation is not required to ensure the contribution of the site to the coherence of the Natura 2000 network.

Numerous habitats of Annex I of the Habitats Directive develop over several decades, in some cases over centuries (e.g. raised bogs, forests). The possibilities of a timely compensation are highly restricted for such habitats.

The list of Annex I contends a large number of natural habitat types with very long development periods. If the requirement for full functionality of the measures just in time is strictly interpreted, no realistic compensation for many habitats of Annex I is possible.

In these cases the only way to achieve a restoration of the coherency of the Natura 2000 network is to extend the network by integrating new sites which have not been designated yet. Though, previous examples shows that the Commission has interpreted the requirement for simultaneity of compensation for habitats less strictly.

However, the situations in which simultaneous compensation is definitely possible should be clearly distinguished from those in which compensation cannot be obtained for scientific reasons. In the case of a planned industrial area near Aachen, Germany, the complaint was registered that timely measures for the compensatory of the negative impact or destruction of habitats of a hamster population (species of Annex IV) had been neglected, although the implementation of preparatory measures would have been possible.

The time lag between the initiation of the impact and the full functionality of the compensatory measures should be abbreviated as far as possible. The reasons for, and the consequences of a remaining time lag must be explained from an environmental-scientific perspective.

3.4 Annotated Structure of the assessment report and Checklist for the assessment under Art. 6(4) of the Habitats Directive

The following structure of the assessment report refers to a Special Area of Conservation (SAC) or a (proposed) Site of Community Interest (pSCI). For a Special Protection Area (SPA) certified to the Birds Directive, the structure is identical.

Annotated Structure of the Report for the Assessment under Art. 6 (4)	Sheet no.	Check-list
1 Introduction		
<p>The assessment under Art. 6 (4) of the Habitats Directive is carried out if the result of the IA as per Art. 6(3) concludes that a significant impact upon the conservation objectives of a Natura 2000 site is likely to occur. The scope of the report is to establish that the project fulfills the provisions of Art. 6 (4) and that all necessary compensatory measures will be implemented.</p>		
<p>The result of the IA is the reason for the assessment under Art. 6(4) and should be summarized at the beginning of the report.</p>		☑
2 Assessment of Alternative Solutions		
2.1 Purpose of the Project		
<p>A solution can be considered as a possible alternative if it is able to fulfill the purpose of the project. An objective presentation of the goals of the project is therefore necessary. This information provides the basis for an objective justification why theoretically possible solutions are out of question as alternatives.</p> <p>Note: Only fully inefficient solutions should be excluded. In order to reduce the impact upon the site (especially for sites hosting priority habitats or species), a notably less efficient design of the project may be acceptable.</p>		☑
2.2 Assessment of Alternatives from the Point of View of Natura 2000		
2.2.1 Justification for the Choice of the Alternatives examined		
<p>In this step of the assessment, it has to be proved that all possible alternatives have been taken into account.</p> <p>All technically possible alternatives are to be examined as far as they more or less fulfill the goals of the project.</p>	54	☑
<p>For the selection of the assessed alternative solutions, exclusively their suitability to avoid or reduce negative impacts upon NATURA 2000 sites is determinant. Non-conservation-related considerations (i.e. economic interests) are no reasons for excluding alternatives from the assessment procedure.</p> <p>Not only solutions which have already been taken into consideration by the applicant, but also other solutions suggested by third parties (competent authorities, NGOs), may also be considered as alternatives.</p>	54	☑
2.2.2 Comparative Assessment of the Alternatives		
<p>The adverse impacts upon the Natura 2000 site by various alternatives of the project applied for must be compared. Alternative solutions may affect other Natura 2000 sites.</p>		

2 Assessment of Alternative Solutions (continued)		
<p>2.2.2.1 Data Base</p> <p>In order to carry out a thorough comparison, a data basis comparable to that of the project applied for is needed for every alternative. This means that an IA must be carried out for every alternative. An equally detailed presentation of the adverse impacts, of the mitigation measures and other interacting plans or projects is necessary. In order to avoid a distortion of the results, an assessment using the same methods is mandatory.</p> <p>Alternatives which would cause even more severe impacts are obviously out of question and therefore can be described more briefly.</p>	55	<input checked="" type="checkbox"/>
<p>2.2.2.2 Table of Impacts due to the Considered Alternative Solutions</p> <p>The report of Assessment under Art. 6(4) presents the summarized results of the different IAs. Tables or matrices have proved to be a valuable presentation. A complete repetition of the IA-reports would overburden the text. Nonetheless, for better transparency, they should be attached in abbreviated form, either as an Appendix or, if necessary, as complete reports.</p>	55	<input checked="" type="checkbox"/>
<p>2.2.2.3 Comparative Assessment</p> <p>It is not easy to compare objectively a significant impact e.g. upon a forest, upon a raised bog and upon a bird species. Among others, possible criteria are:</p> <ul style="list-style-type: none"> • impacts on priority / non priority habitats or species • the conservation status of the habitat / species (favorable / non favorable) • the distribution in the Member State (widespread / very rare) • the location within Natura 2000 (important stepping stone) • additional severe impacts on Species of Annex IV • If a choice has to be made between solutions with equally severe impacts, the efficiency of possible compensatory measures can be helpful for decision making. 		<input checked="" type="checkbox"/>
<p>2.3 Conclusion</p> <p>If a solution which fulfills the purpose of the project with little or no negative impacts exists, it is mandatory to be pursued.</p>		<input checked="" type="checkbox"/>
3 Assessment of Imperative Reasons of Overriding Public Interest		
<p>In the absence of an alternative solution with little or no negative impacts, the next step of the assessment consists in the examination of imperative reasons of overriding public interest.</p> <p>Decision-making is the privilege of the competent authorities. In some Member States, statements are prepared by developers and their assessment teams. This situation occurs frequently, when the competent authority is also the project proponent (e.g. major infrastructure projects carried out by the government).</p>		

3 Assessment of Imperative Reasons of Overriding Public Interest (continued)		
3.1 Imperative Reasons of Overriding Public Interest		
A) In case of impact upon non-priority habitats and/or species: The presence of imperative reasons of overriding public interest must be comprehensibly explained using the following criteria:	57	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> • Proof of the overriding of the public interest: The significance of the project for public interest must always be assessed in relation to the special importance of the European interest protected under the Habitats and the Birds Directives. Therefore, it has to be proved that the project is of long-term interest and of outstanding, fundamental significance for the Member State or for the European Community. For these reasons, it outweighs the European interests protected by Natura 2000. 		
<ul style="list-style-type: none"> • Proof that the project is indispensable: The implementation of the project is not only useful, but imperative for public interest. 	57	<input checked="" type="checkbox"/>
These criteria can only be assessed in relation to the situation in a given Member State. A project which would be only “useful” in one state, may be elsewhere “indispensable” for the development of the country.		
B) In case of impact upon priority habitats and/or species: If the affected site hosts priority habitats and/or species and especially if these habitats or species are affected by the project, the imperative reasons that can be considered are restricted to those of human health or public safety. Projects with significant impacts upon Natura 2000 sites as well as “beneficial consequences of primary importance for the environment” can be of imperative overriding public interest. For all other imperative reasons (e.g. economic considerations), the Commission has to be consulted before the authorization of the project can be granted.	57	<input checked="" type="checkbox"/>
3.2 Conclusion		
The facts and argumentation steps essential for the proof of the existence of imperative reasons of overriding public interest should be summarized.		<input checked="" type="checkbox"/>
4 Assessment of Compensatory Measures		
The compensatory measures are mandatory. If no compensation is possible, the authorization of the project cannot be granted.	58	
4.1 Description of the Impacts to be compensated		
The compensatory measures aim to offset the impact caused by the project as well as by cumulative effects.	58	<input checked="" type="checkbox"/>

4 Assessment of Compensatory Measures (continued)		
<p>They have to provide a compensation corresponding exactly to the predicted losses. Therefore, the description must address in detail all significant negative impacts.</p> <p>The reasons given as determinant for the significance of the impacts are to be explained (e.g. loss of habitats, population reduction, restriction of restoration possibilities, loss of certain functions or some typical species of one habitat etc.).</p>	58	<input checked="" type="checkbox"/>
<p>4.2 Description of the actual State of the Implementation Area</p> <p>The description shall demonstrate that the selected area is suitable for the compensatory measures.</p> <p>Therefore, a detailed description on the species and habitats present in the area, as well as of relevant abiotic parameters and features of the landscape, is necessary.</p>	58	<input checked="" type="checkbox"/>
<p>4.3 Description of the Compensatory Measures</p> <p>The measures must be described in detail. Plans or maps should, if necessary, be enclosed. As a rule, the compensation must already be functional when the impacts will take place. Otherwise a justification must be given.</p> <p>The proposed compensation consists in measures</p> <ul style="list-style-type: none"> • in the same biogeographic region as the affected site • in an existing Natura 2000 site; • for expansion of an existing Natura 2000 site; • in exceptional cases, in new sites which have to be integrated in the network Natura 2000; • for recreating habitats or reintroducing species; • for improving the status of conservation of present habitats or populations of species in the site. 	58	<input checked="" type="checkbox"/>
<p>4.4 Assurance of Implementation</p> <p>A guarantee of implementation should be furnished.</p> <p>Possible conflicts with hunting regulations, land and water use etc., have to be solved. Information on the availability of the area, contractual agreements on management plans, etc., can be appropriate.</p> <p>The time frame for implementation and for any necessary follow-up monitoring, must be described.</p>	58	<input checked="" type="checkbox"/>
<p>4.4 Efficiency of the Proposed Measures</p> <p>The efficiency of the measures must be justified comprehensibly.</p> <p>For this purpose, the suitability of the implementation area, its functional connections (accessibility of the area for the affected species, position on the routes of migratory birds, dispersal pathways for plants), successful previous similar measures etc. should be discussed.</p>	58	<input checked="" type="checkbox"/>

4 Assessment of Compensatory Measures (continued)		
As far as measures are planned in an existing Natura 2000 site, it has to be proved that their implementation will have no negative impact on the other conservation objectives of the site. Finally, the time needed until full efficiency of the compensation measures should be estimated realistically.		
4.5 Monitoring A specific monitoring is required to reveal possible failures of the compensatory measures. Any necessary countermeasures for the case of failure must be addressed. The documentation should clearly state that these countermeasures are classified as compulsory.	58	<input checked="" type="checkbox"/>
5 Non Technical Summary		
The facts and argumentation steps essential for the choice of the solution proposed should be summarized. Due to the thematic, technical terms cannot be avoided entirely in some chapters. In the summary, by contrast, only the results are presented. In most cases, technical terms can therefore be dispensed.		<input checked="" type="checkbox"/>
6 References		<input checked="" type="checkbox"/>
7 Appendix		<input checked="" type="checkbox"/>

References

European Commission, DG Environment (1999): Interpretation Manual of European Union Habitats, Eur 15/2 (October 1999).

European Commission, DG Environment (2000): Managing Natura 2000 sites. The provisions of Article 6 of the “Habitats” Directive 92/43/ECC. Office for Official Publications of the European Communities, Luxembourg.

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European Commission, DG Environment (2001a): Guidance on EIA / EIS –Review. Office for Official Publications of the European Communities, Luxembourg.

European Commission, DG Environment (2002): Assessment of plans and projects significantly affecting Natura 2000 sites -Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC, Office for Official Publications of the European Communities, Luxembourg.

European Environment Agency (ETC/NC) (2002): Atlantic Region. Conclusions on representativity within pSCI of habitat types and species. Seminar held at Den Haag, The Netherlands, June 2002. unpublished.

European Environment Agency (ETC/NC) (2002a): Continental Region. Conclusions on representativity within pSCI of habitat types and species. Seminar held at Potsdam, Germany, November 2002. unpublished.

Internet addresses

Natura 2000 Barometer

<http://europa.eu.int/comm/environment/nature/barometer/barometer.htm>

European Commission, GD Environment

<http://europa.eu.int/comm/environment>

European Environment Agency (ETC/NC)

<http://www.eea.eu.int>

Web Sites of other Member States

- Denmark: Miljøministeriet, Skov- og Naturstyrelsen: [http:// natura2000.sns.dk](http://natura2000.sns.dk)
- Great Britain: Joint Nature Conservation Committee: [http:// jncc.gov.uk](http://jncc.gov.uk)
- France: Ministère de l'environnement et de l'aménagement du territoire:
[http:// natura2000.environnement.gouv.fr](http://natura2000.environnement.gouv.fr)
- Austria: Umweltbundesamt Österreich: <http://www.ubavie.gv.at/umweltsituation/natur/FFH-RL>

Legal Matters

- <http://curia.eu.int/index.htm>