

Eurosites Insights



## **Eurosites Insights**

Image, implementation, interpretation and integration of Natura 2000 in European perspective

*United Kingdom, Sweden, Spain, France and Hungary*

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## ABSTRACT

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This comparative study analyses Natura 2000 nature conservation (EU Birds- and Habitats Directives) alongside the key issues of image, implementation, interpretation and integration. Having quickscanned the EU25, five member states have been selected for further investigation: UK, Sweden, Spain, France and Hungary. After six learnings it is stated that (*inter alia*) an *in concreto* case law approach offers most progress opportunities and an often hallowed integrated environmental code however does not automatically lead to one integrated licensing system.

Keywords: nature conservation, Natura 2000, Birds- and Habitats Directives, implementation, European nature conservation law, environmental law, comparative law, image, management plans, agencies, devolution, policy effectiveness.

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## Contents

Preface	9
Summary	11
1 General introduction	15
1.1 Reason for this study	15
1.2 Research questions	17
1.3 Research design	18
1.4 How this report is structured	20
2 Emerging issues in all EU Member States	21
2.1 Introduction	21
2.2 Integration	22
2.3 Interpretation	26
2.4 Implementation and participation	29
2.5 Summary	33
2.6 Motive for the in depth study in five EU member states	34
3 Findings in depth study of five European Member States	37
3.1 Introduction	37
3.2 United Kingdom	38
3.2.1 Introductory remarks	38
3.2.2 Relevant contextual data of the United Kingdom	38
3.2.3 Images: political and social opinions regarding Natura 2000	40
3.2.4 Implementation	41
3.2.5 Interpretation	44
3.2.6 Integration	45
3.2.7 Used Policy instruments	46
3.2.8 Summary	48
3.3 Sweden	49
3.3.1 Introductory remarks	49
3.3.2 Relevant contextual data of Sweden	49
3.3.3 Images: political and social opinions regarding Natura 2000	51
3.3.4 Implementation	52
3.3.5 Interpretation	54
3.3.6 Integration	54
3.3.7 Used policy instruments	55
3.3.8 Summary	56
3.4 Spain	57
3.4.1 Introductory remarks	57
3.4.2 Relevant contextual data of Spain	57
3.4.3 Images: political and social opinions regarding Natura 2000	59
3.4.4 Implementation	60

3.4.5	Interpretation	64
3.4.6	Integration	66
3.4.7	Used policy instruments	67
3.4.8	Summary	68
3.5	France	69
3.5.1	Introductory remarks	69
3.5.2	Relevant contextual data of France	69
3.5.3	Images: political and social opinions regarding Natura 2000	70
3.5.4	Implementation	72
3.5.5	Interpretation	77
3.5.6	Integration	78
3.5.7	Used policy instruments	79
3.5.8	Summary	80
3.6	Hungary	81
3.6.1	Introductory remarks	81
3.6.2	Relevant contextual data of Hungary	81
3.6.3	Images: political and social opinions regarding Natura 2000	82
3.6.4	Implementation	83
3.6.5	Interpretation	90
3.6.6	Integration	90
3.6.7	Used Policy instruments	93
3.6.8	Summary	99
4	Interpretation, conclusions and recommendations	101
4.1	Introduction	101
4.2	The Netherlands: a short impression of the current situation	101
4.2.1	Introductory remarks	102
4.2.2	Relevant contextual data of the Netherlands	102
4.2.3	Images: political and social opinions regarding Natura 2000	103
4.2.4	Implementing Natura 2000	103
4.2.5	Interpreting Natura 2000	104
4.2.6	Integrating Natura 2000	105
4.2.7	Used policy instruments	106
4.2.8	Summary	107
4.3	Overview of learning experiences	107
	Glossary of acronyms and abbreviations	123
	Literature and further reading	127
Annex A	Outline of the Birds- and Habitat Directive - Natura 2000	137
Annex B	Outline of research methodology, reliability and validation	139
Annex C	List of participant's group conversations & interviews	145
Annex D	List of participants field trip	149
Annex E	List of interviewees/individual interviews	151
Annex F	Interview topics United Kingdom	153

Annex G	Interview topics Sweden	159
Annex H	Interview topics Spain	165
Annex I	Interview topics France	169
Annex J	Interview topics Hungary	173





## Preface

This comparative study, analysing Natura 2000 nature conservation (EU Birds- and Habitats Directives), has been made possible by the Dutch Ministry of Agriculture, Nature and Food Quality (LNV) and many others as well. We would also like to mention here the corresponding ministries in the five countries studied as well as the Dutch agricultural attachés in these countries for their warm reception and their help in organising the country visits. Without the openness of those interviewed in the five member states, this study would not have been possible.

We would also like to thank Sandra Rientjes, Rob Wolters and Agnez Bruszik (ECNC) and Wiebren Kuindersma and Rob Schröder (Alterra) for their contributions to this study. The interdepartmental task force for the Birds- and Habitats Directive (BHD) and the nature conservation- team of Nature Directorate of the LNV provided us with valuable feedback by reflecting with us on the study.

We are also grateful to Colleen Higgins for translating major parts of this report into eloquent English.

Finally, we look back upon our excellent and inspiring collaboration with Paul Vetter and Martin Lok (LNV), who asked us to do the study. Over the course of almost two years, we worked together on this project in a 'learning' approach to research and policy.

Autumn 2005,

*Ine Neven*

*Fred Kistenkas*

*Rob van Apeldoorn*



## Summary

This study into the implementation process of Natura 2000 has concentrated on possible learning experiences with regard to relevant issues for the Netherlands. The Dutch government wanted to investigate whether the implementation practices in the Netherlands were comparable to those in the other member states and how these countries have dealt with the search for policymaking scope in order to improve the image of and support for Natura 2000 and to allow the implementation process to proceed effectively.

In addition, more insight was needed into the similarities and differences in nature, politics and government in order to better understand and to learn from: the role, function and working methods of intermediary organisations when interpreting the directives, the increasing integration of Natura 2000 with environmental policy and environmental law, the regional solutions and the function of management plans and the use of strategies for communication and coordination. Such lessons could help to better deal with the administrative dilemmas that arise when trying to comply with both the demands of society as well as the requirements of Brussels. When re-examining all of the learning experiences, conclusions and recommendations as a whole, the following things stand out.

**Diversity of nature:** Every country studied gave the impression they were working extremely conscientiously with nature and European nature policy. The character and size of nature and solutions for conservation are endlessly varied.

**Always someone at something at the forefront:** All countries have chosen for a pragmatic and gradual way of implementation and finding problem-solving strategies for issues of image, implementation, interpretation and integration. In this, one country will be ahead of another on some of these issues. With regard to governance practices and the development of management plans, France, the United Kingdom and the Netherlands are out in front. In Sweden and the United Kingdom, effecting decentralisation, communication and coordination through depoliticised intermediary institutions is progressing very well, and the same applies to bringing in client managers in France. Hungary respects the knowledge and expertise of the NGOs by giving them a special position with regard to policymaking. Finally, Spain and Hungary stand out because of their strong relationships with Brussels.

**A gold mine of experiments:** There is no country where experiments and learning are not the order of the day. In some countries this happens by way of a more technocratic process that makes use of specialists (Hungary and Sweden), and in other countries this takes place more through an open and 'learning' policy process, which varies from case to case (Spain, France and the United Kingdom). Experimentation and learning reinforces the image and support for nature policy. The position of the Netherlands is somewhere in the middle, by balancing between 'providing direction' and 'providing space'.

### **Communication and coordination about casuistry is needed**

Interpreting and making concrete the difficult concepts in Article 6 of the BHD are seen as a joint responsibility of the member states and the European Union. Casuistry has to be gathered and built up case by case. Each country expressed the wish to communicate about this.

**Integration at planning level offers opportunities:** Finally, it is noticeable that integration can occur in a number of ways. The Netherlands stands out with its WABO bill (*Wet Algemene Bepalingen Omgevingsrecht*, 'General Provisions for Environmental Law Act'): one environmental law with one integrated environmental permit. Although some countries do indeed have integrated environmental laws, nowhere is there an integrated environmental permit. In some countries there is a degree of integration at planning level. This would also seem to be more likely for the Netherlands. Integrated legislation cannot do away with the problem of dealing with complexity. It would seem that an integrated environmental permit is either not feasible or very difficult to achieve.

If the Netherlands both wants to comply with the requirements of Brussels as well as the demands of our society, the following is recommended.

1. **Be aware of the diversity and value of the nature in neighbouring countries:** Consider and value Dutch nature and Dutch nature policy in a relative way and with more awareness with regard to size, its own merit and its merit relative to Natura 2000.
2. **Investigate bringing in and functioning of an intermediary organisation in the Netherlands:** Investigate whether an organisation like EN or SEPA can actually effect the implementation process of the conservation policy and contribute to the creation of support for nature policy. Investigate whether the decentralisation of authority to the provinces for the implementation of the Nature Conservation Act will lead to a more effective policy process. Investigate whether an intermediary organisation similar to EN can be beneficial for and functional in Dutch society. Investigate whether it would also be possible in the Netherlands to implement the principle of client manager, in the style of the *préfect* in France. Look into whether this position should come under the provincial system or under the central government.
3. **Improve image and support by letting go and deliberating:** Improvement of the image with regard to the implementation process of the BHD, will sooner have to be sought in social justification and legitimisation of the choice upon which ideological foundation the nature policy should be implemented. This can be done by entering into deliberations with the parties concerned, and by linking together formal and informal processes. The Dutch central government is moving away from a strategy of *taking care of* towards one of *taking care that*. In order to achieve this, it will have to have to dare to let go more. It will have to learn to trust a society that shall and will make its own contribution. The Dutch government can take the initiative in asking Europe for more openness, possibly

in conjunction with other countries: not just with regard to requests for requests for counsel and complaint procedures, but also with respect to other casuistry that can be learned from.

4. **Look for creative solutions for implementation practices in the regional approach:** It is important to give attention to the possible functions of management plans. In addition to a regulation for existing use, it might also be possible to have a regulation for future use. Investigate the possibilities for doing this. Dialogue promotes support for policy, and this increases the effectiveness of policy implementation. Investigate whether a contract-based approach like the one in France or a casuistic approach like the one in England would also work in the Dutch situation. In the interest of support and an effective process, these policy strategies should be taken up alongside the Dutch approach.
5. **Interpret BHD concepts case by case and collect casuistry:** Accumulating scientific and practical knowledge necessary to substantiate the meaning assigned to the concepts in the directives requires that this knowledge is actually collected, put together and communicated. It is recommended to build up casuistry on this and introduce it as part of a learning process, as well as to make someone responsible for this. As in Recommendation 2, it is recommended to look into whether this responsibility or responsible person or persons should fall under the provincial system. In the event that the proposed casuistry is collected, it is advisable to exchange this not only with other departments in the Netherlands, but also with the surrounding countries, which have many model cases of their own. As in Recommendation 3, the Dutch government would do well to take the initiative – possibly in conjunction with other countries – to ask Europe to systematically collect casuistry and, at the appropriate times, to ask for more openness about the knowledge that has been acquired.
6. **Don't try to catch complexity into one code, one permit or one piece of paper:** Acknowledge that an intrinsic answer to 'integration of legislation' for complex issues is actually a denial of the complex reality. Serving clients effectively requires made-to-measure integration by synergy of approaches to content and process. In the short term, then, the Netherlands should concentrate on integration at planning level rather than legislation level. Comparative studies have shown that nowhere integrated environmental permits have been shown to be feasible at this time. At this moment, don't bet on this kind of permit too strongly. Investigate which strategies can be used and who can introduce nature interests on an equal footing with other interests in planning processes.



# 1 General introduction

*“European nature policy is not about black-white situations, but just about a lot of grey. It passes (administrative) borders and it is perceived both as a blessing and a burden. European nature policy asks for debate, dialogue and mutual learning”.*

Above-mentioned quote, shared widely through Europe, indicates vagueness about European nature policy and a lot of uncertainty to deal with it. In 2004 the Dutch government expressed a need to reflect on its own position towards and way of dealing with the implementation process of Natura 2000. It also wanted to learn from the implementation practices other countries use for the BHD. Because of this, this report is intended particularly for Dutch politicians and for the administrators concerned. The conclusions are based on the comparison of implementation practices between five European countries and the Netherlands and the important lessons learned from this. The recommendations are aimed at translating these lessons into improvements in Dutch policymaking with regard to implementation of the BHD.

## 1.1 Reason for this study

Natura 2000 is a very important concept in European nature policy. The intention is to create a network of nature areas on a European scale. Member states designate these areas on the basis of the Birds Directive (BD, 79/409/EEC) and the Habitats Directive (HD, 92/43/EEC). Because of this, the BHD is the most important piece of European legislation for nature issues. Other important European directives significant for nature include the Water Framework Directive (WFD) and the Nitrates Directive (ND). Further information on the BHD is provided in the annexes accompanying the main report.

In the current debate on the increased interrelatedness between European, national and regional policy, both directives are receiving a great deal of attention from politicians, the public and scientists. The political attention has to do with the European Union's (EU) requirement that national nature policy be implemented according to the European directives. However, the member states want to be able to develop their own interpretations of the directives with a certain amount of freedom and in consultation with those involved in the region. Both the political and the scientific discussions are concentrating primarily on the official implementation process, which is about translating this into national legislation, interpreting the most important concepts of the BHD and integrating various nature legislation (Van der Zouwen & Tantenhoove, 2002).

At the same time, public attention and the interest by government officials and civil servants in the Netherlands is directed towards the day-to-day application of the BHD and how to obtain support for the implementation process.

Although the Netherlands played a major role in the development of the BHD at European level, this does not indicate how the implementation process is proceeding in the Netherlands itself. To start with, it became apparent it would not be easy to carry out legal changes. It also emerged that European-level nature policy concentrated predominantly on the protection of species and habitats, while since the 1990 Dutch Nature Policy Plan (LNV, 1990), the government in the Netherlands has been concentrating mainly on regeneration, development of nature and habitat protection. In addition, there was a considerable increase in newspaper, radio and television coverage (Kuindersma, e.a. 2004). Unfortunately, this public attention wasn't focused on freedom with regard to policy or on the opportunities allowed for in the directives, but instead on the obstacles encountered when developing new plans and projects. In spite of the fact there were also many positive examples of implementation processes in the regions, the image of Dutch nature policy has been seriously affected by the increasing use of the Dutch slogan *Nederland op slot* ("The Netherlands under lock and key") (Anonymous, 2002).

In a letter to European Commission member Margot Wallström, Dutch minister of Agriculture, Nature and Food Quality Cees Veerman wrote: *The Dutch government endorses the objectives of the Birds Directive and the Habitats Directive for the protection of species and habitat in order to in this way contribute to sustainable development and conservation of biodiversity. Just like in other member states, in the Netherlands the implementation of both directives is meeting with many difficulties. As agreed during the Environment Council in June 2002, the Dutch government is taking a positive attitude to solving the 'existing difficulties'. With this in mind, a study on the implementation of the Birds Directive and the Habitats Directive will soon be carried out. The study's objective is to identify the difficulties in the Netherlands regarding the implementation of the BHD as well as to test its appropriateness and effectiveness. This evaluation is aimed at indicating areas for improvement and ways to solve problems (Ministerie van LNV, 2002).*

The European Commission answered it would consider an evaluation of the directives in 2007. To prepare for the evaluation, in 2002 the cabinet decided to conduct an interdepartmental policy study (IPS) into the bottlenecks and possible ways to solve problems regarding the implementation of the BHD in the Netherlands. After publication of the report *Nederland op slot?* in 2003, three interrelated clusters of recommendations were discussed in Dutch parliament. The first cluster of recommendations was aimed at improving communication between administrative bodies, the business community and nature conservation organisations. A forum for discussion could help with this. A second cluster of recommendations was aimed at promoting increased political and administrative attention for the BHD. Improvements could come about by (a) making the BHD concepts more clear, (b) making the BHD provisions more concrete, (c) gathering knowledge and insights in order to improve information provided about the BHD and (d) promoting its implementation by complying with and monitoring the BHD (IBO, 2003). Dutch parliament accepted the conclusions from the IPS study and adopted nearly all of the recommendations. In the above-mentioned letter, Minister Veerman also stressed the need for an evaluation study at European level because this was in the interest of implementing the BHD. He wrote: *I call on you to take the*



*initiative in this matter, and on our part we are willing to support the Commission in setting up and implementing a European-level evaluation.*

Two developments related to the implementation process of Natura 2000 ensured this last appeal was heard. First, the anniversary of the BD was observed in 2004. During the Dutch EU presidency that year, the Netherlands organised an international conference on the BD. Second, the newly amended 1998 Nature Conservation Act (*Natuurbeschermingswet 1998*) was discussed in autumn of 2004. In addition to the discussions on the results of the IPS study and the great desire for more information and communication, detailed questions were asked about (a) the provisions and concepts in the HD, (b) about the development of management plans, (c) about procedures and issuing permits, (d) about political and administrative problems related to the movement towards decentralisation and (e) integration of legislation. The Dutch parliament was interested in creative, new solutions for these problems. People wondered if they might be able to find these in other European countries.

## **1.2 Research questions**

This convergence of events initiated the current study and gave it direction. In 2004, the Ministry of LNV launched a comparative study into BHD implementation practices in Europe, which is now made up of 25 countries. LNV gave research institute Alterra Wageningen a three-part research assignment, keeping in mind the questions put by parliament.

The first assignment comprised four main questions intended to give a broad overview of implementation practices in Europe.

1. Determine the official and actual content and interpretation of directive concepts in the 25 member states.
2. In which way has the actual implementation process proceeded in practice in these EU member states, which policy-related and politically significant problematic situations have been encountered during implementation and which strategies have been employed to provide solutions?
3. Determine the diversity and items specific to these 25 countries and, where possible, provide insight into which factors can account for this diversity.
4. Select five countries that have similar policy-related and political problems, ones the Netherlands could possibly learn from.

The intention of the second assignment was to examine in more detail a number of countries of specific interest to the Netherlands. The following research question was central to this.

5. Describe the issues for the five selected countries and give illustrations of interest to the Netherlands of possible ways to solve policy-related, administrative and political problems.

Finally, the third assignment involved making recommendations.

6. Analyse the findings on implementation practices in Europe, and provide substantiated recommendations with regard to new possibilities and perspectives for the implementation process of the BHD in the Netherlands.

### 1.3 Research design

Central in this study is the actual, practical implementation process of the *problems related to the BHD and the possible solutions to these problems* in the following five European member states: the United Kingdom, Sweden, Spain, France and Hungary. The choice to study the problems and solutions in these countries was made in the first part of the study (Albinski, 1981; Segers en Hagedaer, 1980-1983; Hutjes en Van Buuren, 1992). In the second part of the study, the Natura 2000 problems and solutions were identified and described according to the points contained in four problem clusters.

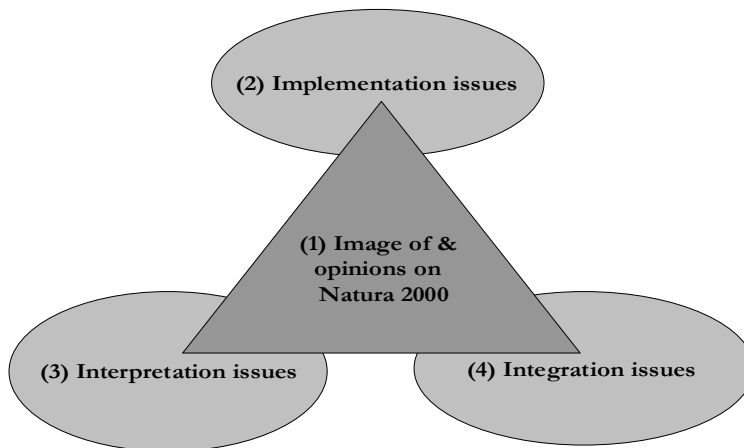


Figure 1. Subject and main themes for comparative study.

In most countries, translating the BHD into national and sub-national legislation is nearly complete. Following *Natura 2000's official implementation process*, however, an even more complex period will begin, which will attempt to integrate nature legislation into other environmental or spatial legislation (Kistenkas, 2004).

This will also be followed by an extended period of *interpreting Natura 2000*. When implementing the BHD, every country interprets the provisions and concepts of the European BHD in its own way. This is understandable, because in every situation there are different natural features and other forms of existing use, different kinds of new interventions and economic and social interests of different degrees of magnitude (Kistenkas, 2005-1).

The way in which scope for interpretation is handled says something about the *image of Natura 2000*, appreciation of nature and about the administrative culture in the countries concerned (Hofstede, 1984; Van Schendelen, 2002; Wit, 1999). However,

image research is quite complex, so for practical reasons, those interviewed were asked for their opinions: *In your opinion, is the BHD considered to be a blessing or a burden in your country?*

Finally, there are issues about *the integration of Natura 2000*. These issues play roles at different policy levels on the one hand, and different time periods on the other. At strategic policy level, including nature legislation in other legislation is looked to as a solution to issues of integration. This often requires long-term harmonisation, negotiation and development. At tactical policy level, this is expressed in the integration of planning processes. Often, a change can be effected within a medium-range period of time. In the end, integration questions can also be solved by integrating the issuance of permits at operational level (Kistenkas en Neven, 2004; Kistenkas en Broekmeyer, 2004).

The research strategy for answering the main questions was divided into three stages. During the *first* stage, it was most important to gather insights into the course of the official, practical BHD implementation process in the 25 countries of the EU. To this end, a study was made of literature on policy, politics and government, on participation, implementation processes and nature conservation (Bromley, 1997; ECNC, 2000; Lighthart en Neven, 2000; Bastmeijer en Verschuuren, 2003; Neven e.a. 2004; Kistenkas en Kuindersma, 2005). A document study was also carried out that examined documents, political discussions and new policy strategies of the past five years (TK; Rheenen, e.a., 2005; Ravensteyn e.a., 2005). In addition, the most recent relevant comparative studies on EU nature conservation law were examined, and various websites were also consulted. Based on this exploratory study, a choice was made for five country visits.

Learning was central to the *second* stage of the study (Lave & Wenger, 1991) In close cooperation with the Ministry of LNV and Dutch agricultural attachés, a two- to three-day visit was arranged in the five countries mentioned. The intention was to learn from each other about the implementation of the BHD, the alternative political, administrative and policy-related solutions to the problems of implementation and making a more detailed selection of relevant issues, which could be further developed during separate interviews.

This combined search took place during *group discussions* at the ministries responsible for nature conservation in the five countries (Cassel and Symon, 1994). In addition to both foreign and Dutch policy delegations, nature organisations, employers organisations and research institutes had also been invited to these group discussions. In addition, it was also possible to gather specific information on implementation practices during *a field trip* to a Natura 2000 area. This produced many good illustrations of the four issues mentioned earlier.

In the *third* stage, interpretation and reflection were key (Alvesson & Sköldbberg, 2000) . First of all, the researchers showed the interview reports to the interviewees for verification and the country reports were presented to officials from the host country for checking. Together with fellow scientists, we reflected on the findings

and analysis of the study. The Nature Directorate of the Ministry of LNV also organised meetings to reflect on and discuss the findings and conclusions. The conclusions of this study and the recommendations it contains are intended for the Dutch cabinet and to this end will be presented to the Nature Directorate of the Ministry of LNV, which commissioned the study.

#### **1.4 How this report is structured**

In this first chapter, attention is given to the reason for this study, as well as the research questions and the research design. The report is further structured as follows: In Chapter 2, the points of interest in the desk study are key. Chapter 3 contains the findings of the in depth study and includes many illustrations of examples specific to the various countries. In addition to an introduction on the political and administrative context within which the directives are to be implemented, the findings are organised according to image, implementation process, interpretation and integration issues. Chapter 4 presents a short impression of the current situation in the Netherlands, an overview of learning experiences and the results of the analysis and reflection. This report is concluded with a summary of conclusions and recommendations for policy and for research.

## 2 Emerging issues in all EU Member States

### 2.1 Introduction

In this chapter we look at the first assignment of this study; assess the state of the art of the legislative and executive implementation of the Habitats- and Birds Directives (BHD) of all 25 EU countries and give an answer to the first main question of this research (a) Determine the legislative and executive implementation and interpretation of concepts of the Birds- and Habitat Directives (BHD) of all 25 EU countries (b) How do the 25 EU countries deal with the implementation process in practice and what policy relevant consequences do emerge? (c) Determine the diversity and peculiarity of these 25 countries and possible the explaining factors (d) Select and motive a few countries for further research.

To get insight in the emerging problems of all 25 EU countries, we quick-scanned EU member states on their legislative and executive implementation of the Birds- and Habitat Directives by studying relevant *literature* on administration (Van Thiel e.a., 2004; Neven, 2003), participation (Wit, 1999), implementation and nature conservation (Tucker & Evans, 1997; Jongmans, e.a., 2001-2004) and relevant *documents* of the last 5 years related to the political discussions, new policy modes and specific cases of HBD in these 25 countries (Brink et al., 2000; Healey, 1997; Gluck, e.a. 2003; WWF, 2004; EEC, 2003). Besides that we used the outcomes of recent and relevant comparative EU nature conservation law research (ECWM, 2003; Kistenkas, 2005-1; Backes, Rotmeijer, 2002; IMI 2005; Van Ravesteyn et al., 2005) and we screened several websites notably <http://europa.eu.int/> and [www.wwf.nl](http://www.wwf.nl). The detailed results are elaborated and outlined in a matrix which can be unfolded. This matrix is fixed in the back flap of this report.

In the second paragraph we will discuss the state of the art on *integration*, both legislative and planning integration. The *interpretation* matters will follow in paragraph three starting with a quest of any already elaborated guidances on Natura 2000 in domestic nature conservation law. In this third paragraph also management plans and participation will be discussed. Finally, the legislative *implementation* proceedings on site and species protection in both newly accessed member states and the old member states will be described in a fourth paragraph. All preliminary results will be concluded in a summary. The findings of this orientation leads to a selection of five country visits in EU member states for further research.

## 2.2 Integration

Consequently, we will start now with the integration of BHD Nature Conservation into domestic environmental and spatial planning law. Interestingly, as recent as May 2005 in the Netherlands a draft bill was presented for an Environmental Code (*Wet algemene bepalingen omgevingsrecht*, mostly called after its abbreviations *WABO*), integrating nature conservation, environment and perhaps in near future even spatial planning law towards an one-stop-license and licensing procedure, hence including Natura 2000 and a habitats assessment.

A fully integrated system of environmental and nature conservation legislation, planning and licensing, however, was not found in any member state. This might be due to the up till now quite sectoral approach of past EU-directives, since there has been a number of separate Directives on for instance water quality, pollution and nature. Only the rather recent Water Framework Directive (WFD) could be seen as a first sectoral integration directive (water only). All other Directives seem to give way to separate legislative and executive implementation as well as a separate domestic planning and licensing system. Hence environmental law (nature, water, agricultural and industrial pollution) and spatial planning is not to be integrated easily. This might be seen as a regrettable circumstance, as ecologically spoken environment is just one entity, preferably not to be divided into separate legislation, planning and licensing.

The at this point quite relevant intergovernmental late 90s EU-document ESDP (*European Spatial Development Perspective*) was for guidance only and of no binding force whatsoever. Anyhow, this document might have triggered the discussion whether spatial planning should be at least an EU-matter as well, whereas other relevant matters like nature conservation and environment already had been EG-Treaty based Community matters for a long time. When close-reading the ESDP, this document suggests that there indeed should be an introduction of integrated strategies for the sustainable management of all environmental factors and the targeted protection of specific EU-areas like Natura 2000 and water (e.g. Integrated Coastal Zone Management). Anyway, sectoral policies could be integrated in near future, perhaps even under Brussels supervision, but as now nature, water and other environment policies seem to be sectoralized and separated quite severely from an overall spatial planning system.

However, there are some interesting exceptions. Since there is currently no (and might not be any) EU spatial planning policy, three domestic levels of integration could be distinguished in this study: integration of *legislation* (the Environmental Code like for instance in Sweden and Finland); integration of *planning* (like in Denmark and England and reputedly also on Malta) and the integration of *licensing* (which is not to be found yet, but probably on its way in the planning integration countries like England and Denmark) (Van Ravesteyn et al., 2005). Recently, as stated above, also the Dutch ministry of environment (*Vrom*) presented in draft an Environmental Code.

*Legislative integration.* The Swedish Environmental Code (*Miljöbalk* 1999) is an amalgam of 15 sectoral acts of parliament. Such an integrated Environmental Code is also to be found in Finland. Likewise the Germans tried to amalgamate sectoral environmental and nature conservation legislation into one codex, the *Umweltgesetzbuch* (UGB), but during the 90s it appeared that such a prestigious legislation project could politically not be made. There were also discussions on one license to all environmental, nature conservation and even spatial development matters, but it all failed. Such an one-stop-license is currently also being discussed in the Netherlands as part of the May 2005 *Vrom*-proposals to the *WABO*-draft. Anyway, legislative integration does not guarantee or automatically lead to integrated planning and licensing. Legislative or formal integration does not automatically imply any material or practical integration. In fact, the Swedish codification “did not change anything; the situation is the same as before the Code” (ECWM 2003/17, p. 151). Sweden may have an amalgamated Environmental Code, but this did not cause a boost on planning or licensing integration. Sectoral licenses are still to be needed and there is still a separate Planning and Building Act (PBA).

Consequently, protecting Natura 2000 and Annex IV-species, it has been noted in Sweden that one probably should not restrict one’s view too much to legislative integration as a panacea to all problems. The legislative integration process reportedly has even come to a kind of stand-still, since EU-Directives are still sectoralized (ECWM-reports 2003, nr.5, p.13).

*Planning integration.* Planning integration might perhaps be a much better option than. In England as well as in Denmark local planning authorities have to take into account not only environment and water management in their spatial development, but also European and domestic nature conservation law. The English Department for Environment, Food and Rural Affairs (DEFRA) could give (and already has given) guidance to the planning authorities on habitats protection (notably DEFRA PPG9 (Planning Policy Guidance on Nature Conservation) and on Annex IV-species protection (DEFRA, 2002).

Spain organized a strong coordination during the process of selecting the Natura-2000 sites by the establishment of the ‘Network of Environmental Authorities’. Because of this coordination several guidelines seem to be written to help other planning authorities to integrate the Natura 2000 requirements into their policies and activities.

Although species derogation license is still to be given by another authority (for instance English Nature: EN) this integrated planning gives perhaps way to a less sectoral approach than in other countries. Also EN could be steered by quasi-legislative DEFRA-guidance, whereas EN itself has given such guidance to the local planning authorities on species protection matters, for instance the Bat Mitigation Guidelines (EN 2004, These guidelines not only might be helpful to local authorities but to developers as well.

Not only quasi-legislation of both DEFRA and EN seems to play a key role in the integrative balancing, but also the widely accepted practice of government by a public agency (sometimes also being called: quasi NGO (or *quango*) expertise does. This is, we think, a very interesting and perhaps imitable practice. EN is such a public agency acting with some independence from DEFRA and clustering nature conservation expertise. Hence it acts possibly with great acceptance being a depoliticizing factor (clustering expertise) and thus avoiding some occasional political gridlock and agony. Such agency based government allegedly tends to be beneficial to the integrative balancing as well, especially when the agency becomes to one and only counter-duty. In most other member states environmental powers seem to be scattered around many other, mostly traditional governmental bodies like local, regional or functional authorities. EN has got not only licensing but also monitoring, research, sometimes even quasi-legislative and advising powers.

Curiously, also newly accessed Malta has a likewise agency-approach. The MEPA, short for Malta Environment and Planning Authority, combines nature conservation as well as other environment policies. Nordic countries and notably Sweden seem to have a similar agency-like approach. In Sweden an already 30 years old public agency of about 500 employees called *Naturvardsverket* or Swedish Environmental Protection Agency (SEPA) even has got judicial powers. SEPA has allegedly made some guidance on Natura 2000-assessments and consequently has interesting quasi-legislative powers.

Denmark, however, did not exercise itself in apparently prestigious matters like an overall environment codification, but simply saw the existing spatial planning law *Planloven* as an integration opportunity. Habitats and species protection is and traditionally always has been considered to be a strong interest in spatial planning. Like in Britain also Danish local planning authorities in fact do integrate nature and other sectoral policies into a quite decisive planning permission (Van Ravesteyn et al., 2005). Local authorities are however acting within the planning hierarchy and like in Britain are guided by quasi-legislative regulation. Spain is reported to have organized a strong coordination during the process of selecting the Natura 2000 sites by establishing the Network of Environmental Authorities. Because of this coordination several guidelines seem to be written to help other planning authorities to integrate the Natura 2000 requirements into their policies and activities.

Although being newly accessed, there already has reportedly been some discussion on improving some integration in the Baltic states as well as in Slovenia (BEF, 2004). In Latvia some integration of Natura 2000 into the National Water Management Plan and into the Latvian Sustainable Development Strategy has allegedly taken place. In Estonia the Rural Development Plan plays an important perhaps even integrative role and in Lithuania the State Protected Areas Service has planned to develop spatial planning schemes for a few SACs. Slovenia has expressed concern about the remarkable lack of integration and fears tremendous problems when this should not be altered. Especially problems might arise on Slovenian land use and river dams (Sava Dolinka is mentioned explicitly). Slovenia also reports and is initially aware of a limited cooperation between sectoral ministries (Anonymus, 2003).



*Licensing integration.* An one-stop overall license as recently advocated in for instance the Netherlands, integrating Natura 2000, water management and environment into one license, was not to be found yet in any member state.

Germany tried to, but failed (ECWM, 2003). Sweden has got a form of legislative integration (*Miljöbalk*) only, but no licensing integration occurred . Even in England or Denmark still several separated licenses are to be asked for (Van Ravesteyn et al., 2005). Anyhow, in May 2005 in the Netherlands a draft bill of an Environmental Code was presented introducing an one-stop-license.

*Preliminary results.* Three integration levels, we think, could perhaps be distinguished. A merely material integration on an executive level could be achieved by integrative planning and planning permission procedures as Denmark, England and reportedly also in newly accessed Malta and perhaps in near future also in Spain, show us.

They, as front runners, possibly might be an example to other less integrative member states. Planning permission might even become the overall and integrative environmental permission in these countries. Thus they could probably reach an as yet unseen licensing integration stage. Public agency based government could perhaps play a depoliticizing, expertise clustering and the integration processes facilitating role. English Nature (EN) is probably the best example. But also Malta (MEPA) and Sweden (SEPA) possess public agencies offering that role. Codification, formal integration only, like in Sweden, Finland and during the 90s unsuccessfully in Germany and recently drafted in the Netherlands turned out, at least in Sweden, not to be an automation for a fully integrated planning and licensing system.

## 2.3 Interpretation

*Interpretation guidances.* As already has been described above on the integration topic, some member states have allegedly made a number of guidelines on nature conservation. Especially the more integrative member states might have produced interpretation circulars. This could possibly be due to depolarization and expert governance of a public agency placed rather outside the ministerial departments, but also the long-lasting nature conservation tradition in those countries (notably Britain) might be relevant.

Anyhow, agencies like EN, SEPA and MEPA have allegedly produced some guidelines but a more detailed definition of for instance FCS or significance is as far as now not found in their guidances. There are some ad hoc indications like the Bat Mitigation Guidelines (EN, 2004) and the Indications of Good Practice for establishing management schemes on European Marine Sites (as a result of the UK Marine SACs Project 2001) and the Guidelines for Developing Conservation Objectives for Marine SACs. The latter giving some targets in FCS of both habitats and species.

In these guidelines a favorable condition was defined as: “the target condition for an interest feature in terms of the abundance, distribution and/or quality of that feature within a site, that we aim the feature to attain”. Then, a table gives the targets in FCS.

*Table 1. FCS Characteristics and targets.*

<b>Characteristics which comprise conservation status</b>	<b>Targets equating to FCS</b>
<i>Habitats</i>	
Natural range and areas covered within that range	stable or increasing
Structure and functions necessary for long term maintenance	exist and are likely to continue to exist
Conservation status of typical species	favourable as defined below
<i>Species</i>	
Population dynamics	Species is maintaining itself on a long term basis as a viable component of its natural habitats
Natural range	Neither being reduced nor is likely to be reduced for the foreseeable future
Supporting habitat	Is, and will probably continue to be, sufficiently Large [and, by implication, of appropriate quality] to maintain the populations on a long term basis

The definition is intended to apply to all designated sites and is not limited to Natura 2000 sites (throughout Britain usually called *Eurosites*). EN also use the following definition of favorable condition for Natura 2000 sites, which correspondes closely to the notion of FCS at a site-level: *A range of conditions for a natural habitat or species at which the sum of influences acting upon the habitat or species are not adversely affecting its distribution, abundance, structure or function within an individual Natura 2000 site in the long term. The condition in which the habitat or species is capable of maintaining itself on a long term basis.*

Likewise the Swedish government has instructed SEPA to consult relevant (sub) agencies and has analyzed the issues to which Sweden should give priority. SEPA already made for instance the *EU-related priorities to achieve the fifteen Swedish environmental objectives* (Naturvardsverket 2002) and an *Ordinance concerning environmentally hazardous activities* (1999) but they are not specifically focused on Natura 2000 sites and/or Annex IV species.

Also from recently accessed Malta several agency (MEPA) regulations as well as government notices have been reported. Traditional subsidiary legislation has an rather *ad hoc* character being for instance regulations on Conifer Trees (1949), Wild Thyme (1933) and Historical Trees (1932 already). In 2004 however four emergency and regular *Conservation Orders* under section 46 and 47 of the Maltese Development Planning Act 1992 were produced (downloads on [www.mepa.org.mt](http://www.mepa.org.mt)). Here again, it should be noted that there is indeed an interesting linkage between community nature conservation and spatial planning as discussed above on the integration topic.

*Management plans.* Under the Article 6 (1) of the HD member states are to “establish the necessary conservation measures” related to the ecological requirements of the site or species for which the site has been designated. The establishment of appropriate Management Plans (MP) can be one of these measures but member states are not obliged to develop MPs. When they establish a MP this must be related to the ecological requirements and so will be linked to the Favorable Conservation Status (FCS). The EU-15 (old member states) can be distinguished into two groups: those having a legal basis for MP’s (e.g. Denmark, the Netherlands, France, Greece, Belgium concerning the nominated marine protected areas) and those not having (e.g. Austria, Finland).

Under the HD (Art. 6) the MP’s are related to pSCIs that are designated as SACs. Although this designation process is still going on many countries have MPs for pSCIs. On the contrary others will wait till Brussels agrees with the lists of pSCIs and SPAs (e.g. Spain). Especially when sites are already protected under existing protection regimes (e.g. Nature reserves, National Parks etc.) site based MPs do exist in many member states. But for many nominated sites and large areas MPs (or other conservation measures) are lacking.

Some countries have or prepare a framework or guidelines for a more systematic approach of site management such as England, Sweden and France. Following their guidelines in England the MP’s are more scientific documents than the France DOCOBs (documents d’objectifs) that provide a more general guidance to stakeholders involved in a specific site. This seems to be the result of the strong resistance of some groups of stakeholders against the selected Natura 2000 sites in France. So after the failure of the first phase of the implementation the Ministry of Environment (MEDD) decided in 1997 to relaunch the implementation starting a multi-actor process to establish management plans (DOCOBs) for selected sites. Now 200 DOCOBs are operational and 700 are underway. Very recently the evaluation of the first 52 DOCOBs has started.

In the new member states MPs specific for Natura 2000 sites do not exist (Lithuania, Cyprus) or are being developed (Malta, Slovenia, Latvia). In some cases they are developed as pilot projects with the help of the EC LIFE and PHARE programs (Poland, Estonia, Lithuania) or other supporting programs such as the Dutch PIN Matra program (Czech Republic, Slovakia). Some of these countries provide or are assumed to provide a legal basis for MPs (Hungary). But in many new member states MPs for protected areas other than SACs already do exist (Latvia, Estonia, Slovenia, Slovakia) (VisSKon, 2003). Costs for management planning, administration, management activities or incentives are being analyzed now and cost calculations are being made. Several EU funds for Natura 2000 are well known and used especially the LIFE-fund. Other used funds are the Structural Fund (European Agricultural Guidance and Guarantee Fund, the Guidance and Guarantee Sections) and the European Regional Development Fund. Important is the recent reform of the CAP that reinforced the role of the EAGGF in financing Natura 2000.

In the EU15, the old member states, the involvement of stakeholders during the implementation process varies strongly. In most countries NGOs and scientists or expert bodies (museums, scientific institutes) were involved in collecting data and the selection of preliminary Natura 2000 sites. Also regional and municipal authorities were sometimes consulted (Italy, Luxembourg, Belgium, France). The nomination of sites as national SPA or pSCI was in most countries the task of the ministry responsible for the implementation but in some countries dedicated to a public agency (UK, Sweden). In some member states definite lists of SPA and pSCI were discussed during public consultation with landowners and other stakeholder groups (e.g. The Netherlands, Sweden, UK). During consultation strong opposition to the site selection originated from private landowners, stakeholder groups in for instance France and Finland (compare also Austria, Denmark, Germany, Ireland, Italy, The Netherlands). But also regional government (Italy, Spain) and municipalities opposed to the lists of selected sites. In France the opposition against the selection of pSCIs was so strong that the whole process had to be re-organized in another way causing a delay in the site selection process. In many countries the number of selected sites was higher than the number of national nominated sites sent to Brussels. The interference of other ministries during the selection process can also be mentioned as a factor influencing the list of national nominated sites. In new member states the involvement of stakeholders during the designation process varies strongly. In most countries NGOs and scientists were consulted or were involved by collecting data in the nomination of sites as SPA and pSCI. Sometimes only scientists were involved (Estonia, Cyprus). Some countries have to inform or to consult private landowners and other stakeholders like municipalities or local communities according to their law (e.g. Czech Republic, Hungary, Lithuania, Malta, Slovakia, Slovenia). In only a few states some groups of stakeholders must agree with the nominated sites as in Lithuania and Slovenia. In Lithuania nominated sites were removed from the national list when private owners did not agree with their nomination. In Slovenia stakeholders were poorly informed and consulted and now signs of resentment are coming up by means of legal actions. In Estonia private stakeholders were informed very lately on the nominated sites. This maybe caused a high number of objections. And the ministry of Environment decided to remove all private owned lands of

which the owner objected against nomination from the national list. Also in Lithuania local stakeholders prohibit the nomination of some Natura 2000 sites. At Cyprus and in Latvia specific bodies were installed for the nomination of sites. They consulted (Latvia) or did not consult (Cyprus) groups of stakeholders during the selection process of the sites. A specific group of stakeholders are the ministries that are not responsible for the implementation of the BHD (in most of the new member states the ministry of Environment is responsible). In some countries they had or have a strong influence in the definite lists of SPAs and pSCIs (eg Poland, Slovakia). *Preliminary results.* First it turned out that already some preliminary interpretation guidances might have been produced in some member states. Even in member states with any tradition as to nature conservation, interpretation of HBD terminology seems to be in a rather preliminary stage as yet.

Secondly it turned out that the management plans in old and in new member states do exist, especially for protected sites under existing protection regimes. How they are related to the BHD requirements (notably Article 6) is still unclear because information has not been collected till now. Besides an ecological and financial evaluation of the effectiveness of MPs (and their measures) is still impossible. For Natura 2000 sites specific MPs are scarce. France seems to be the first country that has already evaluated some out of her DOCOBs. Further analysis of the French DOCOBs will show how implementation and interpretation problems can be solved. The reform of the CAP stresses the role of the EAGGF funding in financing Natura 2000. This enables the realization of Natura 2000 in the light of rural development initiatives and policies.

Third it turned out that in many countries, there is a lack of public support for the implementation of BHD. Analysis of the French implementation process in which multi level governance as well as multi stakeholder governance is at stake, can generate general points of interest to reach public support in other countries.

## **2.4 Implementation and participation**

The first phase of the implementation can be characterized by a process in which the member states have to transpose the requirements of the BHD into their national law, to constitute lists with proposed sites (SPAs and pSCIs) as Natura 2000 sites that have to be send to the European Commission for approval. After all evaluation of the lists by the EC the final lists of Sites of Community Importance (SCI) have to be designated by the member states as Special Areas of Conservation (SACs). All member states differ in going through this process but none of the 25 countries had been able to designate a list of approved SCIs before the end of 2004.

The main aim of the HD is “to contribute towards ensuring biodiversity through the conservation of natural habitats and of wild fauna and flora in the European territory of the member states to which the treaty applies”. Specifically, Member States are to maintain or restore, at favorable conservation status, natural habitats and species of wild flora and fauna of Community interest (Art. 2). A ‘coherent European ecological

network' of sites, the Natura 2000 network, is to enable the maintenance or restoration of natural habitat types and the habitats of species at favorable conservation status (Art. 3). The ecological coherence of Natura 2000 can be improved through the management of landscape features of major importance to wild fauna and flora (Art. 10). The protection of flora and fauna species is also to be secured through the establishment of systems of strict protection for species throughout their natural range (Art. 12-16). The Directive contains a number of supporting provisions on surveillance and monitoring, re-introducing native species, introductions of non-native species, research and education.

A central element of the Habitat Directive involves the establishment, safeguard and management of special areas of conservation (SACs) as parts of the Natura 2000 network. Member states have up to six years to designate the SPAs and pSCIs as SACs. Once a proposed site is agreed by the EC to become SAC the countries have to take appropriate steps to avoid the deterioration of habitats and the habitats of species. In addition they are required to establish the necessary conservation measures. All these requirements are described in the HD. Given the described requirements the timetable of the 15 old member states was:

*Table 2. Time table HD of the old EU Member States.*

<b>Requirements</b>	<b>Legal deadline</b>
formal transposition of Directive's provisions	10 June 1994
Conservation of natural habitats and habitats of species	
Transmission of national lists of pSCI's	10 June 1995
Adoption of list of SCI	10 June 1998
Designation of adopted SCI's as SAC's	6 years after adaptation of list
Protection of species	
Establishment of strict system of protection for plant and animal species	10 June 1994
Implementation reports send to EC	10 June 2000
Publication of EC composite implementation report	2 years after receipt of national reports

During the implementation process certain provisions have been subject to examination and clarification by the European Court of Justice (ECJ). One clarification concerned the process to establish SAC's. In November 2000 (C-371/98) the ECJ stated: *Member states may not take account of economic, social and cultural requirements or regional and local characteristics when selecting and defining the boundaries of the sites to be proposed to the Commission as eligible for identification as sites of Community importance.* In addition ECJ stated in 2001 (cases C-67/99, C- 71/99 and C- 220/99) that the choice of sites had to be based on scientific criteria only; the list had to be complete; and the sites proposed had to provide a geographical cover, which was homogenous and representative of the entire territory of the Member State, with view to ensuring the coherence and balance of the resulting network Natura 2000. Regarding the protection of species the ECJ stated that the Member States are obliged to assure an *effective* system of strict protection of species (Cases C103/00).

The clarifications of the ECJ mentioned here involve the failure of transposing provisions of the Habitat Directive within the required time period (cases against Greece, Germany and France); the failure of submitting complete lists of pSCIs and the associated information (against Ireland, Germany and France); failure in the protection of species (against Greece).

Given the implementation timetable and the clarifications of the ECJ the results of the implementation process are summarized. From this overview it can be concluded that by 2004 all 15 countries have transposed the BHD requirements into national legal systems but in some national legislation still had to be adjusted (eg. The Netherlands). Except the Netherlands none of the 15 member states had succeeded in the in time designation of pSCIs in SACs under the HD. And only three countries (Belgium, Denmark, The Netherlands) had largely completed the designation of sites under the BD (SPAs) into SACs. So the establishment of Natura 2000 sites under the BD is not progressing very well. Important progress has been made in selecting pSCIs under the HD, particularly since 1999. Nevertheless, the process is several years behind schedule and attention is needed to complete the process of site selection and designation, and to ensure sites are appropriately protected and managed to secure the favorable conservation status.

*Site protection.* At present for only two of the six biogeographically regions in EU15 (Alpine and Macronesian region) lists of SCIs have been approved by the EC. Approval of the lists by the EC concerning the other four regions is expected in the course of 2004. According to the EC more than 70% of the habitats and the habitats of species under the HD is sufficiently covered (EC 2003). For 30% of the habitats the EC has to discuss the addition or enlargement of sites with the member states. Especially marine, tidal and coastal habitats are not enough protected due to being unclear which ones need to be protected under the HD. Annexes show the number of sites and their area send to the EC per country (EU barometer, 2005).

Both figures do not show the steady growth of the designated (BD) and proposed (HD) number of sites during the last eight years. SPAs an average of 7.6% of the European territory is protected now and for SCIs an average of 12.5%. In most, if not all member states, insufficient habitat and species data caused problems in the site selection process, particularly when sites were not already protected under other schemes. Many national lists involved at the beginning mainly already protected sites (e.g. Austria, Finland, The Netherlands and UK). Later on a considerable number of new sites have been proposed, as well buffer and transition zones to increase coherence and connectivity between sites. But many nominated (HD) and designated (BD) sites and a high percentage of the national selected area still are not protected. Especially Spain has a high percentage of not protected sites that are designated. This seems to contrast with the importance of a strong coordination during the first implementation phase resulting in the integration of site selection at national and regional levels. The protection status of already protected sites varies in and between countries. All kind of protection categories can be found looking at the nominated and designated sites. It is unclear if and how this existing protection will satisfy the BHD requirements.

The enlargement of the European Union with 10 new member states causes a wider application of the BHD to a larger territory. Most changes of this enlargement concern the annexes of the directives. New typical and endangered species and habitats have been included but also a new biographic region: the Pannonian region. Compared to the significant delays in site designation in the EU15, the process of implementation is relatively going well. A number of the lists of pSCI have been received by the EC. But delays are expected in the case of the Czech Republic, Hungary and possibly Cyprus. As far as lists have been looked at for approval by the EC in some cases (Poland, Cyprus) substantial additions are needed.

By accession the new countries are very obliged (a) to have transposed legal requirements BHD into national law (b) to designate SPAs and giving appropriate protection status (c) to submit data of national list of SPA's to EC and (d) to nominate a national list of pSCIs and submit data to EC. From accession onwards they are obliged (a) to protect and manage all SPAs (in relation to article 6.2, 6.3 and 6.4 of HD) (b) to apply article 6.2, 6.3 and 6.4 of HD for all pSCIs (c) to establish in cooperation with EC lists of SCI's (within 3 years after date of accession) and (d) to designate SCIs as SPAs in national legislation and establish conservation measures as described in art. 6.1 of HD (within 9 years after date of accession).

Review of the sources shows the results of the implementation process in the new member states. The overview illustrates that all new EU members have the BHD requirements transposed into national legislation or are very close to verbatim transposition. But in some cases serious flaws have to be addressed (Poland, Hungary). More detailed information on the further implementation of the national laws can be found in country specific reports (language problem). Lists of selected SPA and pSCI based on the EC criteria exist in all countries. In most countries these lists have been considered by the ministry responsible for the implementation and resulted into national lists of nominated SPAs and pSCI which have been sent to Brussels. Four countries (Latvia, Slovakia, Malta, and Lithuania) had sent their lists to Brussels already in spring 2004. The others were expected to do so in or at the end of the summer 2004.

Some countries have sent a preliminary list of SPS and pSCIs to Brussels because of consultation of stakeholders (municipalities, private landowners etc.) is still going on (Czech Republic, Hungary, Slovenia). In some countries the consultation of private stakeholders or the involvement of ministries others than the responsible one (most times the ministry of Environment) resulted in rather shorter lists of nominated sites than on ground of the scientific criteria of the BHD were selected (Poland, Slovakia, Cyprus, Estonia). Not all countries (if necessary) have selected marine areas to protect but some have such as Latvia and Lithuania. For these reasons approval of the EC can be a problem and can cause time delay for the final national designation.

The protection status of existing protected areas in the new member states varies remarkably. As most common can be mentioned: Bio Reserve; Landscape Park; National Park; Nature Area; Nature Park; Nature Reserve; Nature Monument; Protected Landscape Area; Protected Site; Regional Park. In all countries a number



(or even all) protected areas have been nominated as SACs. For this reason nominated SACs have different existing protection status (compare Latvia nominating 247 Nature Reserves, 4 State Reserves, 3 National Parks, 38 Nature Parks, 9 geological monuments and 23 Micro-reserves). It is unclear if and how this existing protection will satisfy the BHD requirements.

Preliminary results. First it turned out that protected sites do exist in all (old and new) member states, but that there is an urgent need to collect information on their protection regimes and to compare these with the BHD requirements. Secondly it turned out that Natura 2000 sites outside protected areas often lack protection. In some countries, e.g. Spain, a strong coordination of national and subnational authorities had a positive effect on the first phase of the implementation. Further analysis of the implementation process in Spain will show the role of coordination in the following phases. This will probably be instructive for federal as well as federal states. Thirdly it turned out that in many (old and new) member states species oriented regulations and conservation policies do exist. A comparison of these regulations with the requirement of strict protection of the BHD is however at this moment impossible, because of the lack of detailed information from the member states.

## 2.5 Summary

In order to get an answer on the third main question of this research (*determine the diversity and peculiarities of the 25 EU countries*), we summarize the results of the analyses of documents. These results are presented alongside the threefold of integration, interpretation and implementation as learnt lessons. These lessons could stimulate the discussion and progression in the implementation processes of the HBD.

### *Lessons to be learned from integration issues*

- Much could probably be learned from integrative practices in member states with some experience with a kind of overall planning integration as described above in section 2.2. In these member states spatial planning seemed to be seen as framework for balancing all environmental interests including Natura 2000 and even one planning permission comes in the picture, whereas most other countries still have a traditional sectoral approach. Since we currently might be in a transitional period from sectoral to merely integrative legislation (nationwide but also Europe wide probably, as far as the ESDP is concerned) best practices and experiences could probably be found in planning integration nations like UK, Denmark and probably Malta as well.
- Public agency oriented government might play an interesting depoliticizing, expertise clustering and integration facilitating role. EN is probably an useful example.

### *Lessons to be learned from interpretation issues*

- As some HBD-terminology is still unclear, also interpretation guidances on those open criteria were as yet hardly to be found. They were in the utmost to

be found in the UK again, but as stated above, they are still in a preliminary stage, as they do not add more to the already existing definitions of the Habitats Directive itself. None of the EU-25 seem to have found the ultimate and elaborate habitats assessment interpretation guidance as yet.

#### *Lessons to be learned from implementation issues*

- Transposition of the BHD requirements into national law has been nearly finished in all (old and new) member states, but still further legislation had to be admitted or flaws had to be addressed.
- The designation process of SPAs and pSCIs as SACs is strongly delayed. In many countries this delay is caused by a lack in the public support of the (implementation of the) BHD. Information is needed from member states that have experience with stakeholder participation in the implementation process (e.g. the multi-actor process around DOCOBs in France). Also more information on the importance of (multi-level) coordination in the implementation process will help to solve implementation problems.
- To evaluate the implementation process more detailed information is needed on e.g. existing (site and species) protection regimes in relation to the BHD requirements.
- EU funding to realize the BHD policies is related to rural development programs. This can create opportunities to solve implementation problems but causes a need to relate conservation and rural development policies and options.

## **2.6 Motive for the in depth study in five EU member states**

To get an answer on the *fourth* main question of this research, we analyzed the findings of this orientation study. This analysis leads to a selection of five country visits.

First, as stated above, all EU member states have been quick-scanned on their legislative and executive implementation of the Habitats- and Birds Directives. The results are elaborated and outlined in the Appendix and could again be clustered around the triangle of HBD-implementation into domestic law, interpretation of HBD-terminology and the integration of HBD nature conservation into other relevant environment policy. Thus indeed a threefold of *implementation, interpretation* and *integration* related problems emerged as an ever prevailing trinity of key issues for this comparative study.

Given the results of this quick-scan five member states were selected for further enquiry and comparison with the Netherlands. In the *Report from the Commission on the implementation of the Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora* (EU Ci, 2003, p 106) the United Kingdom claims to have issued government guidance setting out principles and priorities to be observed in land use planning in a nature conservation context. Formal guidance on both interpretation and integration is reported to clarify effects of any proposed development either in or close to Natura 2000 sites subjecting them to a most rigorous examination. Thus

UK originated guidance notes might possibly give useful clarification or even best practices as to the significance test, opportunities of Natura 2000 zoning or perhaps even listing of activities significantly affecting Natura 2000 sites. Elaboration of management plans is also reported as being 'relatively advanced' throughout the UK.

Interestingly the UK has established statutory conservation agencies. These specific authorities have got executive powers as to public law, but mostly they act rather autonomously and independently from traditional central or regional governments. They are commonly and strikingly described as *non-departmental public bodies*. Scottish Natural Heritage (SNH), the Countryside Council for Wales (CCW), the Joint Nature Conservation Committee (JNCC) and, focusing on England, the Environment Agency (EA) and English Nature (EN) are such specific authorities with a high degree of independence of government. These public agencies, also known as quasi-NGOs, might have been facilitating the practical and executive implementation process remarkably.

Likewise Sweden established such a public agency called the Naturvårdsverket SEPA (Swedish Environmental Protection Agency). This SEPA is reported by the European Commission not only to work continuously with programs to protect endangered species and habitats, but also to prepare guidance of requirements for a special Natura 2000 EIA as well as guidance on management measures and plans. Whereas in the UK guidance still seems to come from government, in Swedish guidance on nature conservation apparently initiated by the executive agency itself. Moreover Sweden gets the honours of being the first member state ever with a fully integrated legislation on nature conservation, environment and water management (*Miljöbalken, 1999*), whereas other member states still have got quite separate sectoral legislation. As implementation, interpretation as well as integration tend to be the three ever emerging key issues of this investigation, not only the UK and notably England is a very interesting country but also Sweden is.

France curiously has opted for a contract-based approach, supplemented by regulatory measures under existing protection and management regimes. Under this approach management plans are known as or being developed under DOCOBs (Documents d'Objectifs) and have allegedly already been developed at a very local level. For each particular site so called *comités de pilotage* are being set up and chaired by department prefects. Experiences with this contractual DOCOB-approach might be of any interest in this investigation. An overall research interest could be analyzing how (or if) France tackled the problem of politicization the implementation and interpretation process compared to agency-based models like in the UK and in the Nordic countries.

Hungary is not only of any importance as being one of the newly accessed member states, but might also be of paramount interest because of the experience in bridging the gap between the national and sub national levels. There are certain similarities in the Hungarian and Dutch Natura 2000 contexts. An initially centralized national approach in designation had to be translated to a decentralized and regional approach in implementation. Also the Hungarian approach in involving and consulting various

stakeholders may be of relevance, especially concerning low land and flood plain areas which are common to both countries. An overall research interest would be whether the fact that Hungary had access to cases of good and bad practice in the old EU of 15 member states had a positive effect on the way in which the Natura 2000 process took place and in turn has become an example of good practice itself.

Documents on Spain indicate the importance of a strong coordination on the implementation and integration at national and sub national levels. The structure of this organization, the way it works and its advantages and disadvantages could be instructive for the present Dutch situation. Because of the strong coordination by the so called *Network of Environmental Authorities* even guidelines seem to be written to help planning authorities to integrate the Natura 2000 requirements.

Consequently we selected Hungary, France, Sweden, Spain and England for further examination, since case studies, interviews on location as well as further document analysis might reveal rather useful practices.

## 3 Findings in depth study of five European Member States

### 3.1 Introduction

In the brief overview given in Chapter 2 you were able to get an impression of the state of affairs with regard to the implementation processes of the BHD in the 25 member states of the European Union in 2004. For 2005, part of this data was adjusted based on the recently published *2005 Barometer* and included in the discussion in Chapter 4. Chapter 2 also indicated why the United Kingdom, Sweden, Spain, France and Hungary were chosen for further investigation of their implementation practices. In this chapter, we will look for an answer to the fifth research question: *Describe the issues for the five countries chosen, identify the problem areas and give illustrations of interest to the Netherlands of possible ways to solve policy-related, administrative and political problems.*

On the one hand, the answer to this question is important for the Dutch government, because it wants to test the assumption that implementation practices in the Netherlands are comparable to those of other member states. On the other hand, this answer is important to the Dutch government because it wants to gain more insight into the 'why' and the effects of the negative image of the European directives in the Netherlands. Does the intense political attention for the directives work for or against effective, supported implementation of policy, and how do other countries deal with this? The fact is, this question also raises administrative dilemmas about the way in which to accommodate the requirements of Brussels as well as those of Dutch society.

An in-depth study of a number of issues relevant for the Netherlands was made possible because the researchers were able to accompany the Dutch delegation during the five country visits. In addition to having the opportunity to conduct interviews, the researchers were also given the opportunity to include the group discussions with the foreign delegation in the study. In the following sections, the findings are presented per country according to the four areas of special attention along with a short impression of the facts about the nature and the political culture. This is covered comprehensively in the main report, and for every country three or four illustrations have been included on relevant issues and possible ways to solve problems.

## 3.2 United Kingdom

### 3.2.1 Introductory remarks

The desk study showed that the United Kingdom claims to have issued government guidance setting out principles and priorities to be observed in land use planning in a nature conservation context. Formal guidance on both interpretation and integration is reported to clarify effects of any proposed development either in or close to Natura 2000 sites subjecting them to a most rigorous examination. Thus UK originated guidance notes might possibly give useful clarification or even best practices as to the significance test, opportunities of Natura 2000 zoning or perhaps even listing of activities significantly affecting Natura 2000 sites. Elaboration of management plans is also reported as being 'relatively advanced' throughout the UK.

### 3.2.2 Relevant contextual data of the United Kingdom

Entrance into the EU	1973
Form of government	Parliamentary democracy
Political system	Constitutional monarchy
Governance: interaction between locus (administrative levels) and focus (policymaking: interaction between strategic, tactical and operational administration)	Locus: 3 Focus: EN mediates in policy implementation
Population density	60 million
Total area not including EEZ of the federation of England / Scotland / Northern Ireland / Wales	245,000 square kilometres
area of nature – water	9,109 square kilometres
area of nature – land	15,991 square kilometres
pSCI SACs / SPAs / MAPs	610 / 225 / 5

The United Kingdom is made up of four separate constituent parts: England, Scotland, Wales and Northern Ireland. As a result, it is politically relatively complex. Different legislative procedures are used in Scotland and Northern Ireland from England and Wales. Consequently the enhancement of legislation often needs three separate Acts of Parliament. This is similar to some other European countries with a federal structure. Political relationships still are changing and need attention for instance because of the pressure for a greater degree of independence and autonomy in Wales and Scotland and the unresolved political situation in Northern Ireland. This especially is noticed by the JNCC as a forum of the national statutory advisory agencies (English Nature, Countryside Council of Wales, Environment and Heritage Service and Scottish Natural Heritage) responsible for Great Britain as a whole and internationally.

National Government in England is based on the House of Commons and the House of Lords. The political party with the largest representation in the House of Commons forms the government. This is supported by a professional Civil Service which is divided into departments or ministries, each one headed by a member of the government as a Secretary of State. The Department for Environment Food and

Rural Affairs (DEFRA) is one of them. Ministries have a wide range of executive, advisory and policy-making powers. For DEFRA this means that for instance it controls the agencies that are responsible for regulating the environmental performance of industry and service providers but also the statutory nature conservation agencies such as English Nature. In Scotland, Wales and Northern Ireland a separate governmental organization exist. A different political situation in these parts of the UK is further complicated by the fact that Scotland and Northern Ireland have different legal systems as to England and Wales.

The second level of government consists of the County Councils that are elected at local level or Regions and is supported by their own locally founded professional administration. Furthermore, government has its own Regional Offices (County and District Authorities) at the county level for the administration of central government policy and that can comment of and overrule strategic and other plans of the local authorities.

The main functions of the County Councils are broadly speaking twofold: a strategic or planning role and an executive and regulatory role. Strategic plans are produced for their areas, based on land-use and infrastructure developments. These are reviewed and/or revised by central government and part of public consultation. The statutory nature conservation agencies (like EN) are statutory consultees on development matters which affect SACs. The plans guide the planning process and consequent decisions must fit into these plans. Furthermore, some central policies and legislation are implemented by local government. At the lowest level the Town or Parish Councils exist. They do not have significant powers and responsibilities, nor do they have any full-time administrative support.

Next to the governmental organizations that are important to the implementation of the BHD other important (public and private) bodies exist. Important public nature conservation agencies (country based) are the Countryside Council for Wales, English Nature and Scottish Natural Heritage, that together are united in the JNCC. The JNCC is a forum through which the three agencies deliver their statutory responsibilities for Great Britain as a whole and internationally. Their main tasks are: advice ministers on conservation policies establish common standards for monitoring and for research and commission or support research). EN has (only for England) legally based advising duties to the English government and is funded by DEFRA. For this reason it seeks to implement government policy, but also acts as an independent advisor on nature conservation and landscape conservation respectively. It offers grants to other groups and manages sites. Four main tasks could be distinguished in this non-departmental public body licensing (species only), advising, monitoring and research.

The Royal Society for the Protection of Birds (RSPB) is one of the world's largest nature protection charities that can be compared to WWF. At the county and district level many organizations (also RSPB) manage local reserves (compare Froglife, see below) and conserve wildlife interests.

Also ecologically UK is relatively complex and has two main biogeographical zones, the “Atlantic” and the “Continental”. Caused by parts of its economic history nature conservation has been an important political issue in the UK. The amount of land protected for nature conservation is around the European average. Furthermore also caused by its history and the physical conditions “country life” is a powerful lifestyle in the UK.

Large natural areas are protected by the National Parks (comparable with the French Regional Parks) which aim it is to protect and enhance the natural landscape, provide for informal recreation and to safeguard traditional land uses such as agriculture (rough grazing) and forestry. Most of the lands are in some form of private ownership. More or less comparable with the Parks are the Areas of Outstanding Natural beauty and National Scenic Areas (Scotland).

Contrary to the protection of landscapes habitats and wildlife have been protected in specific sites such as the National Nature Reserves (NNR: around 200 of an average 700 hectares in size; compare also the many local Nature Reserves) and Sites of Special Scientific Interest (SSSI: some 4000 of around 300 hectares).

### **3.2.3 Images: political and social opinions regarding Natura 2000**

At the national level, especially UK politicians do have the feeling that existing protective legislation is sufficient to implement the BD. Still in 1999, under pressure of Greenpeace notably, national law was amended to HD obligations and the so called National Regulations were constructed. It took some time to fulfil these EC obligations, due to the legitimate demand of NGOs for public consultation. This demand offers these organizations a strong social position. DEFRA also mentions the drawback: *“it takes time to create social support and acceptance, but this role of the NGOs is important for balancing the implementation process of the BHD”*.

RSPB states: *“The Birds Directive has contributed much to UK wildlife conservation and sustainable development, but implementation of the Directive is still far from complete. Compared to the total number of planning applications (625,000 in 2003 in England alone) those affected protected sites are relatively few”*, suggesting that the impact of the Directives is not disproportionate to its benefits to wildlife and human quality of life.

For several stakeholders key factors of success are (a) involvement of relevant stakeholders early in the decision making processes (e.g. designation, protection by article 6) public inquiries at case level (b) understand each objective (c) agree on impacts and consequences (d) search for positive solutions (e) contribution to long term sustainable development.

Many stakeholders agree that the decision making process is participatory and allows all stakeholders to be involved and put across their views, including developers, the general public, statutory bodies and non-government organizations. Nevertheless implementation of the Aarhus Convention has to further improve the ability of the public and others to participate in and influence environmental decision making.



### 3.2.4 Implementation

The implementation process started when the UK statutory conservation agencies (EN, CCW, EHS and SNH) prepared the UK list of candidate SACs. This list was critically reviewed, at an early stage, by a range of professional groups and statutory committees. In 1995 the UK initial list was published for the first public consultation. The next four years a significant number of additional sites were proposed. The judgment (1999) of the EC expert group for the Atlantic Regions, that a relatively large number of habitats and species were insufficiently represented, was accepted by UK government. After additional work, this list was extended, proposed again to involved partners and formally submitted to the EC.

DEFRA and the other statutory nature conservation agencies do have primary responsibility for the implementation of UK legislation as to (a) transposition of international obligations into UK law (b) designation of Natura 2000 sites (c) accomplishing measures like (1) the development of conservation objectives and management plans for sites (2) the development of legal agreements and helping management with appropriate financing (3) encouraging nature friendly farming by agri-environmental schemes (4) initiate and stimulate collaboration and consensus building between public and private organizations and individuals as well.

As politics, government and legislation differs between the four UK members, the implementation process differs too. The DEFRA and the UK-wide JNCC do signalize some evolution into a stronger federal structure by saying: "*The secretary of state of England has the power of attorney to implement the BHD in the whole UK; she has a red button, but will be very reluctant to use it*". In England itself nature conservation administration however follows the line from DEFRA, via EN to the local planning authorities.

*Illustration 1. English Nature (EN): An intermediary between national and local government.*

EN, mainly funded by government, provides 'independent' advice, monitoring, licensing and research on policy development and implementation to national and decentralized governments. EN is governed by a Council whose chairman and members are appointed by the Secretary of State for the Environment. DEFRA approves the yearly made working programs. EN as a non-departmental public body, can also be seen as a quango since it has powers as to public law, but is highly (though not entirely) independent from DEFRA.

The main focus is on conservation and management of wildlife and habitats, landscape and the geophysical environment, amenity and recreation and the promotion of the responsible enjoyment of the natural world around us. The most important mechanisms used by EN to fulfil its duties are: 1) the establishment and positive management of statutory protected site (e.g. Natura 2000 sites) 2) the promotion of wildlife friendly and sustainable management through advice, support, compensation, incentives and the provision of education (3) the promotion of sustainable use of the countryside (4) a statutory duty to issue licenses mainly focused on activities related to species protection (licenses to trap, study, and photograph protected species).

EN propagates successful conservation based on a partnership and intermediary approach between central and local government, statutory agencies, commercial bodies, voluntary organizations and individuals. EN advises on SSSIs but also on the SPA and cSAC lists and plays an important role in the protection of sites related to the article 6 HD (case work). Based on the experiences in this case work, EN has prepared and issues the Habitats Regulations Guidance Notes, which are translated to the situation in the other parts of the UK.

EN in cooperation with the other agencies and JNCC is developing a structured programme of site quality monitoring (Common Standard Monitoring scheme). It is planned to use the information from this monitoring scheme to report on the status of features on Natura 2000 sites for the next HD report (2007). EN will be united in 2007 with two other agencies (the Rural Development Service and the Countryside Agency) in a single body named "Natural England" (NE) that has the responsibility enhancing biodiversity and landscapes and wildlife in rural, urban and coastal areas, promoting access, recreation and public wellbeing, and contributing to the sustainable use of natural resources. NE has a broader scope than EN and more tasks and responsibilities. It is expected that the relation to national government does not change.

*The designation of SPAs and SACs and the acceptance by Brussels*

Under the Wildlife and Countryside Act 1981, the Site of Specific Scientific Interest (SSSI), about 1 million hectares was designated the UK. In Northern Ireland this designation is called Area of Special Scientific Interest (ASSI). Neither SSSIs nor ASSIs extend into sub tidal areas. The protection mechanism of these areas is the Marine Nature Reserve. All Natura 2000 sites are SSSIs. About 85% of the SSSIs respect also European protected habitats and/or species. Some sites are aggregates of several smaller SSSIs. All Natura 2000 sites do have a mix of national and BHD features.

EN, as the statutory agency of England, advises DEFRA, who has to advise and decide when a SSSI is qualified as a Natura 2000 site (so-called *Eurosite*). DEFRA send this recommendation to the Secretary of State and starts a consultation procedure with all involved stakeholders. EN informs the stakeholders about the consequences of the site being a Natura 2000 site. The site will be designated definitely if there aren't any problems left. After identification of UK SPAs and candidate SACs, the work on terrestrial and freshwater sites is almost completed. Most sites are designated. Northern Ireland is the only lagging behind.

In spring 2004, the 242 SPAs are covering an area of more than 1.47 million hectares. 605 candidate SACs are covering 2.5 million hectares. The Focus to day is pointed at the marine environment to complete the Nature 2000 network. At this moment one Marine SPA has been identified and submitted to Brussels. According to the English government *the identification and submission of marine SPAs and SACs is seen as one of the biggest challenges for the UK to fulfil its last but Europe wide probably front running BHD designation obligation. The selection, designation and protection of European marine sites is a significant innovation in the conservation of the marine environment. Although models of voluntary inter-agency working have already been applied in the coastal zone, the legislative framework for marine sites in the Habitats regulations is new. We are committed to effective implementation and consider that the best way to achieve this is through continuing consultation and co-operation, particularly at the local level.*

It is clear that the UK still has not fulfilled all its BHD obligations. Although front-runner in Europe, this is due to the designation of marine sites and to the fact, those nine years after the judgement of European Court of Justice, the UK did not yet deliver the compensatory intertidal habitat for Lappel Bank.

#### *The transposition into national legislation*

The Habitat Directive has been implemented in Great Britain (England, Scotland, and Wales) through the Conservation Regulations in 1994. Northern Ireland applied the provisions in force in the GB Regulations to their legal system. Most proposed SACs are underpinned by nationally important wildlife designations and notified as SSSIs and ASSIs (Northern Ireland).

In one of the group conversations the weak points of the protection of species were discussed (see further below). National law only protects them within and not outside SSSIs. Furthermore it was elucidate that *“National Law introduces species protection tests that are not in the Directives. National law is not BHD compatible. The Regulations describe procedures and the responsibilities and roles of all kind of organizations within these procedures. They are worked out by the so called Guidance Notes of EN”*.

#### *Management plans for the Natura 2000 sites*

A wide range of organizations are responsible for the preparation and implementation of management plans. Besides the four statutory nature conservation agencies (CCW, EHS, EN and SNH), also some parts of ministries of Defence, Forestry Commission, the NGOs like RSPB, National, County and Regional Wildlife Trusts, and local authorities (councils) are responsible especially for marine sites.

Management plans for terrestrial sites are not obligatory but strongly related to the existing protection regimes of SSSIs and NNRs. Plans can be missed in case the reserves do not cover the whole Natura 2000 site. The management plans will be reviewed in a five years cycle. While terrestrial sites do have a SSSIs history and a management agreement, most Marine SPAs and SACs do not have any history of special protection or management planning. To start with the developments of Coastal Habitats and Shoreline Management Plans is a great challenge for all involved authorities. It is the UK Regulation, that delegates responsibilities to public

bodies. They have to demonstrate the compatibility of site management with Natura 2000 interests. EN guides and advices in case of territorial waters sites and JNCC in case of marine sites outside the twelve miles zone.

It is stressed by the NGOs that *“although the protection of sites has been improved, the context in which they exist has not. Site condition has deteriorated, sometimes because of poor site management, but more often as a result of external factors such as eutrophication, over-abstraction of water, poor water-level management control etc.”*.

### 3.2.5 Interpretation

EN plays an important role in writing guidance's on important topics such as 'significant effect', appropriate assessment' and FCS (the Habitat Regulations Guidance Notes) and said: *“our experiences are coming from the case-to case- work and help us to deal with important topics of the BHD. As regards to the 'precautionary principle' in many cases negative effects are not expected but they are also difficult to exclude. For this reason we signed a legally binding contract to start the monitoring. When negative effects still do occur compensation measures will be taken following the contract”*.

*Illustration 2. Common Standard Monitoring Scheme for FCS and monitoring Natura 2000 sites.*

EN in cooperation with the other agencies and JNCC develops a structured programme of site quality monitoring (Common Standard Monitoring scheme). It is planned to use the information from this monitoring scheme to report on the status of features on Natura 2000 sites for the next HD report (2007). The scheme does not specify uniform methods on monitoring FCS, because these will vary considerably for different types of habitats or groups of species.

The scheme requires that the main characteristics of features be identified and their state, when in favourable condition, defined. These characteristics are then monitored and compared to what would have been expected were the feature in favourable condition. There are three condition categories: (a) favourable: maintained, recovered (b) unfavourable: recovering, no- change, declining (c) destroyed: partially, completely. Guidance on setting and assessing targets will be published. This guidance will include the selection and validity of the characteristics and the levels and range of acceptable natural change necessary to define favourable condition. Information to assess the status of protected habitats and species outside the sites has to come from others existing sources.

JNCC, working on UK scale, has several tasks. First they collect processes and analyze data from many sources and play an important role in interpreting the BHD topics and to give scientific advice about the state and trends, the habitats and species are in, within the Natura 2000 network, as well as outside the sites. Thereby they contribute to the development of the FCS. Secondly, after the designation of the Natura 2000 sites, JNCC formal tasks is, to review the implementation of article 6.2, concerning existing use or activities. Moreover, JNCC evaluates all existing permits in the light of possible significant effects on the SPAs and SACs. It happens that permits are amended or revoked, but in these cases, compensatory money has been paid. At least, JNCC also coordinates the identification, selection and submission of marine SACs in UK offshore waters (outside the 12 miles zone).

### 3.2.6 Integration

Within the UK, UK government and the devolved administrations are responsible for Nature Policy development. Planning authorities, local government and National Park Authorities are responsible for policy implementation the Nature Policy. The statutory nature conservation agencies consult in development matters, affecting SACs. The ultimate goal of UK government is to create a fair and efficient land-use planning system that respects regional differences and promotes high-quality sustainable development.

For reasons of integration the government formulates policy guides. In order to stimulate the integration of nature conservation policies with sustainable development, government formulated and wrote policy guides, notably planning policy guidance number 9: so-called PPG 9.

*Illustration 3. PPG- notes as an instrument to integrate environmental policies.*

In relation to land-use planning and nature, the Planning Policy Guidance Note No. 9 is very important. This PPG 9 links governmental policy with the practice regarding site selection and the review of extant permissions with the test of imperative reasons of overriding public interest. A PPG Note does not have the power of a law; but it has to be taken into account by local authorities, preparing their plans. Further, it may also support decisions on individual planning application and appeals. At this moment PPG Note 9 is being revised. As stated above more detailed information is given by the Habitat Regulations Guidance Notes (HRGN) of EN. Wales, Scotland and Northern Ireland do have comparable PPGs at their disposal. They differ in the extent of integrating natural heritage policies with other sectoral policy areas. Twice a year the different ministries deliberate and adjust these notes. Through the Planning Policy Guidances and development plans the government DEFRA asks local authorities to safeguard and enhance wider nature conservation interests beyond the confines of the Natura 2000 and other nature conservation sites.

In cooperation with other departments and agencies, DEFRA developed the Coastal Habitat Management Plans, who are comparable with the Water Level Management Plans and the Shoreline management Plans. These plans are meant to deal with the problems of flood and coastal defence activities and focus on the possibilities to integrate nature conservation and coastal defence. The Ministry of Defence has already integrated the management of Natura 2000 sites in Defence Policy. The UK implementation EU Environmental Impact Assessment Directive is incorporating the environmental sensitivity of Natura 2000 sites (and external effects).

EN had different formal tasks and responsibilities in the 'English case by case procedures' First, EN formalizes the planning integration of the protection of Natura 2000 sites (article 6.3 and 6.4 HD). One has to consult EN. Second, EN formulates plans and advises authorities and other cases involved about plan- and licensing issues. The advice is not legally binding. In case of an appeal or problems of any kind e.g. compensation measures, the law requests that there will be organized, a public inquiry. Inspectors draw up the report of the appeal and report this to the DEFRA and Ministry of Planning. DEFRA decides within 21 days. This procedure of 'case by

case work' aims at modification of plan or project, at the development of alternatives, at mitigation and compensation measures.

There are more than 1000 cases to be worked out per year. EN cooperates with the NGOs. DEFRA's regional officers do play an important role here. At this moment many cases deal with housing, flood defence, agriculture, port activities and offshore wind farms. Furthermore EN, as the NGOs as well, are involved in stakeholder discussions about infrastructure, ports, energy etc. Because of the laborious case by case work, EN stresses the importance of developing guidelines to help people to treat the directives in a proper way.

### **3.2.7 Used Policy instruments**

The UK trend of privatization, together with the complex UK government made the implementation of European law very complex. The central governmental department DEFRA delegates authority to local authorities. At this moment however UK concentrates more in amending relevant planning and wildlife legislation, in stead of issuing an advisory note through the department to local authorities. This is because the BHD and other European legislation are going to change into a system with more direct Acts and regulations.

Contemporary implementation process in the UK underlines the status of the advising agencies, which are operating closely to the government and more or less independent position. These agencies and the NGOs (re)present, proposed development plans affecting Natura 2000 sites and SSSIs, to the planning authorities. Real estate developers approach these agencies on forehand to discuss their plans. In case a satisfactory outcome is not found, the NGOs will bring the conflict to the public inquiry procedure or even to court. The statutory conservation agencies and the non-governmental sector are also very active in the promotion of formal and informal environmental education. References are made in many reports and programs. These references also made in the media, favour the awareness about biodiversity and nature conservation, BHD notably.

The implementation process of BHD at the local level is perceived as very positive. Projects and plans are voluntarily brought to the negotiation table, where the statutory and voluntary conservation bodies and the developers jointly develop win win solutions for wildlife and people. This so called 'evolution' is mentioned and positively judged by many stakeholders at the national and at local level, because these processes contribute to mutual understanding and learning, but above all to the acceptance of the BHD. There are many examples of sites mentioned where permission is given at the proposed developments, due to the premature changing or adjustments of the location, design or project.

*Illustration 4. Orton Pit.*

Due to clay extraction, Orton Pit, a 122 hectares great reserve not far from Peterborough, was left over to nature, seems to provide in a habitat for a wide range of protected animals and plants, the great crested newt one of the most important. This site gives house to the most sizeable population in Europe. The start of an enormous housing project, mend to attract people from London into the country, called for the need to cooperate. The developers, EN, community biologists, private national conservation organizations for the protection of amphibians and reptiles (Froglife) worked together, not only at the start of the housing project, but also in later periods. Froglife arranged the management of the site. The money to develop the site was paid in advance for five years by private developers. The very big operation of trapping and translocation of more than 170.000 amphibians into the reserve was also paid for. This operation last seven years. They uses four trappers on 200 days a year, 3000 traps and 8 km of drift fence. 400 tonnes of top soil (with seed) and 30.000 buckets of aquatic plants were translocated. Froglife is now managing the site in partnership with the developers, local people and other organizations. They have started to make the site, a sustainable educational resource for the whole local community.

UK has chosen for a mix of management Natura 2000 sites, by state, public and private organizations and contract-based-management. But financial instruments are also used. Water companies e.g. are put at disadvantage because increased management costs. They started negotiations with the government about 'increase water prices'.

In the first place, different ministries and their agencies e.g. DEFRA and the Ministry of Defence, give a financial impetus to implement the BHD. They pay for identification, acquisition, consultation, research, survey of sites, site management, protection, surveillance and monitoring. But also NGOs and local governments do contribute in the costs. Further, EC supports occasionally through the LIFE-fund projects. Finally the National Lottery provided funds to a number of projects.

Recently EN, CCW and SNH have negotiated successfully to change compensatory agreements to the enhancement of wildlife agreements such as scrub control, water level control. At the moment there are relatively few compensation payments for land managers, who lost their profits due to forecome damaging activities on their land. The fact is that the management agreements match with SSSI sites. Not clear is if these management agreements are also aimed at Natura 2000 interest and objectives. One expects that in a couple of years time, the agreements will be reviewed. Renegotiations are at stake if the need for additional management is required to protect the SAC features. Due to the CAP reforms, the impetus of agri-environmental schemes England Rural Development Programme (ERDP) has increased significantly. £ 1 billion of the total £ 1.6 billion is budgeted to important agri-environmental schemes including the Environmentally Sensitive AREA (ESA) scheme, the Countryside Stewardship Scheme (CSS) and the Habitat Scheme. Especially ESA and CSS, but also the former Moorland Scheme enables farmers and land managers to enter management agreements that focus on positive management approaches that are based on income forgone.

### 3.2.8 Summary

What are the most remarkable and striking events in England, looking at the fourfold of issues?

#### *1. Images: political and social opinions regarding Natura 2000*

- Decentralized Centralization: Englands nature conservation administrative power seems to follow the line from DEFRA, via the agency of English Nature to local planning authorities. English Nature normally does not give licences but plays an important intermediary role.
- In England Natura 2000 (often called *Eurosites*) is an important social issue; government is committed to effective implementation by multi-level and multiactor consultation and cooperation, continuously. At national level, EN and RSPB do approach the big sectors about Natura 2000 pro actively.
- Stakeholders, farmers notably, do have a positive opinion. NGOs play an important role in balancing the conflicts and uncertainties in the implementation process.

#### *2. Implementation: Designation-, legislative transposition - and development process of management plans*

- UK not yet fulfilled its BHD obligations completely, but Europewide they are probably front running BHD designation obligation.
- National law is not BHD compatible; National Law introduces species protection tests that are not in the Directives. The regulations describe procedures and responsibilities; they are worked out by the guidance notes of EN. Without any obligation, a wide range of statutory nature conservation agencies are taking the responsibility for the preparation of the implementation of management plans. However, not any BHD management plan is ready. The Scientific GNCC is dealing with the development of a method for preservation measures, keeping in mind the characteristic of the field and area.

#### *3. Interpretation of the key concepts of Natura 2000*

- EN plays an important role in writing guidances on topics like significant effects, appropriate assessments etc, there are no exhaustive HBD terminology guidelines as yet.
- The existing use of sites is not yet regulated; EN is asked for judgements of existing use. Small activities are not judged. A lot of financial compensation takes place.

#### *4. Integration of legislation, planning and or licensing*

- Integration is a bottom-up case-by-case process. EN and NGOs are involved in 1000 cases a year. Formally, EN has to be consulted in cases dealing with art 6.3. And 6.4. Their advice is not legally binding. In controversial case, a public inquiry takes place.
- There are differentiations in the extent in which PPGs do have an integrating effect. Planning Policy Guidance Note nr 9 integrates nature conservation and land use planning; hence there are some examples of spatial planning interaction.
- There is no licensing integration in England.



### 3.3 Sweden

#### 3.3.1 Introductory remarks

The Nordic enlargement of Sweden, Finland and Denmark, cooperating in the Nordic Council, entailed the incorporation of a higher ecological sensitivity in to the EU. Sweden is exemplary for the rest of Europe, because of its small sized ministries and resultant ability to be very active in setting new standards and closely following international and national opinion. Reverse to the normal entry procedure, other member states needed to conform to current Swedish control environmental standards. The European Environmental Agency acknowledged in 1995 that in many cases the Swedish law was stricter than European law. The key implementation agency in the Swedish environment is the Naturvardsverket SEPA (Swedish Environmental Protection Agency). This SEPA is reported by the European Commission not only to work continuously with programs to protect endangered species and habitats, but also to prepare guidance of requirements for a special Natura 2000 EIA as well as guidance on management measures and plans. Whereas in the UK guidance still seems to come from government, is Swedish guidance on nature conservation apparently initiated by the executive agency itself. Moreover Sweden gets the honors of being the first member state ever with a fully integrated legislation on nature conservation, environment and water management (*Miljöbalken 1999*), whereas other member states still have got quite separate sectoral legislation. As implementation, interpretation as well as integration tend to be the three ever emerging key issues of this investigation, not only the UK and notably England is a very interesting country but also Sweden is.

#### 3.3.2 Relevant contextual data of Sweden

Entrance into the EU	1995
Form of government	Parliamentary democracy free elections – district system
Political system	Constitutional monarchy
Governance: interaction between locus (administrative levels) and focus (policymaking: interaction between strategic, tactical and operational administration):	Locus: 3 Focus: SEPA mediates in policy implementation
Population density	8 million
Total area	414,864 square kilometres
area of nature (SCI marine)	5,833 square kilometres
area of nature (SCI terrestrial)	58,523 square kilometres
pSCI: SACs / SPAs / MAs	3903/509 / 1

On the date that EC formally became the EU, January 1995, Sweden joined the European Community. A country surface having a 600 percent greater surface than the Netherlands. The Swedish economy, particularly the welfare economy is very strong with an above average GDP. This high national wealth is further compounded by the very low population density of 8 million inhabitants (50% of the Netherlands).

The management of governmental affairs in Sweden is somewhat different to that of the other countries of Europe (Bromley, 1997). Much of the work of the government, at national level, is carried out not only by a government employed Civil Service, but by agencies and administrative boards. As a result, the actual ministries themselves are relatively small units that concentrate upon policy formulation and monitoring. The administration is as elsewhere undertaken by an elected parliament; ministries reside over their respective departments which follow very similar patterns to those found across Europe. The individual ministries promote and propose legislation that then goes before the Parliament for acceptance or rejection. The ministries then become liable for its implementation.

Local governments in Sweden mirror the organizational arrangements at National level with 21 countries and 290 municipalities, having local offices of the ministries and administrative boards. Local government is also managed by locally elected representatives who have certain local powers as of a right, but also certain statutory responsibilities handed to them by the National government.

The ministry of Environment and Nature Resources was reorganized from the former Ministry of the Environment and Energy in 1991. They propose and monitor legislation. The Environment Protection Agency does have a Department of Natural Resources. Within this department the management of nature conservation and flora and fauna protection are working alongside the management of forestry and agriculture. According to SEPA in Sweden, an increasing awareness of environment is perceived, encompassing air quality as nature compensation as well. The Swedish government and SEPA do have a lot of concerns. Besides the industrial and other emissions problems, causing acid rain, the SEPA is concerned about the integration of environmental thoughts into every sector of society and helping each sector to take responsibility for identification their own environmental problems.

The advisory Council, closely attached to the Ministry of Environment and Natural Resources, organizes formal discussions about environment and forthcoming environmental legislation, with a delegation of the ministerial departments, the NGOs, research institutes, university, some of the government's own agencies and some maintenance organizations.

The ministries consisting of 1500 officials, of which 22 working in the department of Natural Resources and 700 working at regional level, do have the responsibility for Nature Policy and the organization of Nature Conservation. The task of the local government authorities is to pursue these policies, predominantly through the local land-use plans and to implement the recommendations and advices of SEPA. Each county has a conservation unit which is responsible to the county administration. This county stands in direct contact with SEPA. This conservation unit has to advice the counties authorities on conservation issues at this specific level and has to initiate, designate and manage Nature Reserves in mentioned county. About 500 officials are working on this level. Unknown counts are working on Nature in particular. Sometimes this responsibility is further delegated to community or neighborhood levels were some 1500 officials are working.

In terms of the biogeography of Sweden, the country is split between ‘ Central European’ and in the North, Arctic, with a few pockets of ‘Atlantic’ on the exposed south-western coastline. It has a high proportion of forestry land, but a relatively low proportion of agricultural land. The last one of the reasons Sweden entered the EC. The amount of formally protected land is 13% of Swedish surface (*www.naturvardsverket.se*).

Sweden has a tradition on nature protection demonstrated in the next categories of protected areas the first category is the National Park (NP): There are 23 National Parks with a total area of 6300 km<sup>2</sup>; individually ranged in size from 28 ha to 198000 ha. These parks must be owned by the State and be relatively untouched by human land management activity and Nature Reserves. SEPA delegates responsibilities to the Forestry Board at county level. The SEPA manages the Gotska Sandön on the Islands of the southeastern Sweden themselves. All National Parks are managed through an integrated management plan which is drawn up by the managing authority but. This has to be agreed upon by the SEPA.

The second category is the Natural Reserves are much smaller than the NPs. The use of Nature Reserve designation is more flexible (15% for scientific reason designated) than elsewhere an often used to protect the areas of natural land around centers of population. These Natural Reserves are designated and are state-, county- or private ownership.

The third category of designations are the Conservation Areas. They are similar to the Natura Reserves but smaller and less restrictive. Human activity, mostly recreation, has compromised the natural integrity. Within this last category there are (a) the larger Landscape Management Areas where existing land use continues (b) the specific designations called: Wildlife Sanctuaries, which are designated at county level to protect threatened species. They get guidance from the SEPA (c) the Natural Monuments, which do relate to single outstanding examples of natural world, designated at county level and getting guidance from SEPA.

### **3.3.3 Images: political and social opinions regarding Natura 2000**

Nature conservation has not been a hot political issue in Sweden up till now, but in the conversation with the ministry of sustainable development it was brought forward that *“the introduction of the BHD was no hot political issue. Entering the EU (in 1995) the translation into Swedish Nature law (1996) was a quick job that brought little discussion. Only hunters warned that the consequences were not analyzed. Environmental NGOs (SNC) were not active then. The last years there were some local cases (from active regional NGOs and landowners) and some specialist discussion, as forest and coast. Nature conservation is a small world”*.

Not even the biggest environmental NGOs are given high priority to the HBD. The items ‘climate change’ and ‘ecolabelling’ are ruling the agenda. The general opinion of NGOs about the impact of Natura 2000, however, is positive; the ambition of nature

conservationists and the ministry too is increasing. Recently more sites have been designated, the relation between site- and species protection has cleared up and Sweden shows her European perspectives by taking responsibility for some 'common' species. At a conference in October 2004, one case, dealing with the interpretation of alternatives of a plan, was presented. In that case the SSNC appealed at.

In Sweden there are a few relatively large national agencies which have not only begun to be more influential, but have also begun to broaden their areas of activities. First there is the Swedish Society for the Conservation of nature (*Svenska Naturradsforeningen*). The Main function is to comment on propose legislation and generating public awareness, interest and involvement in nature conservation. Then there is the second largest NGO, the Swedish Ornithological Society (*Sveriges Ornitoloiska Forening*), concerning nature conservation and species and habitats. Both hope to stimulate and increase the mutual understanding about specific elements of nature conservation.

Swedish agriculture has an impact on the inland fresh water habitats. Historically these waters are very nutrient poor and the ecosystems have developed accordingly. The drive for more intensive agriculture has begun to be felt in these lakes and consequently in the rivers. There is an increasing conflict between the economic requirements of the rural areas and the natural history interests. Hunting (in NP) is a traditional culture, but the species hunted often include valuable wildlife, such as the brown bear. Swedish legislation has attempted to minimize those conflicts. The Swedish Hunter Association (*Svenska Jajoreforbundet*) liaises with the SEPA. At community level hunting is an integral part of the way of life of many Swedish people, as are timber processing factories (inside NP).

### 3.3.4 Implementation

#### *The designation of SPAs and SACs and the acceptance by Brussels*

Looking back, to the implementation process, in which 4000 sites have designated, the first phase can be characterized as a highly technical process. Without any political discussion, the implementation was worked out by SEPA and the counties. Even the NGOs made proposals for new sites on the list, without any further involvement. Some proposals were sent directly to the EC. For instance the SSNC wrote several letters, in 2003 to the ministry and in 2004 to the EC, proposing the idea to add *Kerstinbomyren* to the designated National Parks. They argued that this site should be among the 4000 sites being designated. Looking back, the ministry of Sustainable Development says: "*SSNC had no formal role; we were informed by counties. We have learned that the landowners could, perhaps should have been involved earlier*".

#### *The transposition into national legislation*

Looking at the second phase of Natura 2000, the transposition in national law, the approach can be characterised as a bit more participative and decentralised. In this process, the central government tried more to steer at distance, the responsibilities for nature protection was delegated to decentral policy levels. At regional level, the

counties (*Län*) became responsible for nature protection and granting permits and at local level, the municipality and landowners were made responsible for the application of measures. Dialogues with landowners, stakeholders and municipalities resulted in conservation plans, in which the relation between protection and future developments was worked out. Contrary to the ministry the scientists who have been interviewed were a bit sceptical about this approach, because as they say “*the success is too much depending on the interpretations by locals or at regional level. The management measures depend on the expertise of municipalities and stakeholders, both however are having little tradition in control, juridical preservation or enforcement*”.

#### *Management plans for the Natura 2000 sites*

During the conversation, SNC made the remark that “*the staff of the ministry is too small and therefore not capable of doing the job; we are content with the role of SEPA making guidelines and giving advice to the counties*”. But that was not what scientists perceived. They expressed their tiredness by saying: “*In the beginning SEPA did not understand the EU law at all, for us that costs a greater effort and sometimes we got very tired of it*”.

#### *Illustration 4. Implementation guided by a non-departmental public agency (SEPA).*

SEPA acts like a ‘distant government’ quasi-NGO (hence often called *quango*). An important question still remains: how independent is SEPA actually? On the one hand SEPA is independent. They interpretate European and Swedish legislation; they develop guidelines for the regions, which do have an advisory function. They actually do decide in casuistic questions, in fact without any control of parliament. On the other side, SEPA is nevertheless also steered by the ministry of Sustainable Development: by having an appointed board and director general, by being financed and by being obliged to make a work plan each year. Only the ministry make binding rules for the regions and the municipalities. In Swedish law, the ordinance of area protection is given to the county administration. They have to establish the descriptions of FCS and the lists of habitats and species.

SEPA deals with two kinds of plans, the conservation plans and the management plans. The *conservation plans* aim at clarifying objectives and at rationalization of nature protection and treatment of threats. These conservation plans are to be made by the counties (*Län*) and must be ready in august 2005.

#### *Illustration 5. Content of a Swedish Conservation Plan of Broviken, made by the Län.*

During the field trip, the county of Stockholm’s Län, showed us a conservation plan in preparation. In the group interview with the administration board the following was illustrated: “*This is a paper of about 10 pages on the site “Broviken”, part of a lake and its shore of 300 ha. The plan is made in cooperation with local stakeholders, landowners and the municipality. Threats and measures are described in relation to the territorial plans of the municipality. Important part is the possible relation with development plans. So the conditions and measures are given under which a golfcourse could be developed without harming the natural values*”. A conservation plan though contains: (1) conservation aims and objectives per site, such as surface of the area, structures (% of tree cover) and typical species of flora and fauna (2) description of habitat en species (3) threats, degradation or destruction of the site (4) necessary measures (5) timetable, all published in the SEPA Handbook, 2003: Web-site: [www.sepa.nl](http://www.sepa.nl)

The *management plans* aim at concrete measures. These plans are part of the primary working processes of counties and municipality administrations, SEPA is making management books per habitat. For some (existing and) new activities a permission is

needed. The permit procedure can lead to restriction of the land use or the proposed activities. Depending on the kind of activity, the permission is given by the community, or by the county or by the government. When conservancy treatments do have a positive impact on the site then a management agreement about grants will be made.

### 3.3.5 Interpretation

Sweden, having an enormous surface and a small population and the ongoing learning process of the implementation still dealing with small number of cases, always can find compensation areas or chose between different locations, when dealing with a 'nature threatening' activity. But of course, also in Sweden there are exceptions. E.g. the construction of a new railway near the coastline, does have a lot of impact on nature and on the relevant planning process.

*Illustration 6. Railway construction Botnia train: unfair weighting between ecology and economy.*

There has been a great conflict about the construction of the Botniatrain in the North of Sweden. All interviewees mentioned this case. Why? The ministry of Industry, employment and communication decided the built a railway routed through the protected Umea River Delta, arguing there was a lack of alternative routes. As a consequence SEPA made an advise for compensation, which the EC accepted (letter EC 25-04-03). In January 2005, ENGO SSNC and others reacted and wrote a letter to EP to appeal against this decision. Swedish environmental court advocated that economic factors had weighted much stronger then ecological factor. The balancing of factors was based on the wrong arguments and considerations, which were not in line with art 6.4 of the BHD. During this research and writing this report Swedish court was still deciding.

There is not any elaborated and exhaustive guideline found in which the interpretation of the HBD terminology has been worked out, neither from SEPA nor from the National Department. According to a letter of the Ministry of Sustainable Development, "*SEPA is developing and working on interpretation of guidelines, but in Sweden it is still the Environmental Court that has "the final say" in the interpretation of the legislation implementing the Habitats and Bird directive and, of course the European Court of Justice. SEPA has got indications from the counties that their Handbook of Guidances is very useful, but of course there is a request for further guidelines, e.g. the ones regarding railway and road projects, mining and the ones answering the questions of compensation. A new version of the handbook handling these questions is under preparation*".

### 3.3.6 Integration

Sweden is the first country with an integrated environmental law on pollution, water and nature (1998). In this 'Environmental code' the old Swedish nature conservation law and some additions of the BHD were integrated under the chapter biodiversity. Also the process of EIA is part of the code. According to scientists "*the environmental policy system has some omissions; there is no control on the quality of ELAs; no regional plans on environment and spatial planning are obliged in which national goals have to be translated*

to a region. The implementation is ad hoc driven by cases and inclines toward a chaotic and arbitrary situation”.

*Illustration 7. Miljöbalk: one environmental code, one license? Learning process is still going on!*

The first Miljöbalk (environmental code) was copied by Finland. According to the Ministry of Sustainable Development it is a pity that the integrated law in Sweden has not yet lead to an “one-paper-permit” The assessment of different environmental themes (as pollution, water treatment and accident precaution) needs specialist knowledge from departments inside a county administration The Environmental Code gives a clear overview of all environmental rules and regulations. Politicians, policymakers and officials can have quick insight in their responsibilities and tasks. Specialists on several environmental themes (nature, water, pollution) are working “under 1 roof” with SEPA and the Counties. They can find each other very quickly. But the ‘transponding’ of European directives in Swedish legislation is not ready yet and concerns technical details. In practice still several permits are needed for an activity in or near a Nature 20000 site. For big projects, when many specialist assets and an EIA are needed, administrative costs can be high. The guidelines need regional interpretation and the practice is still based on ‘learning by cases’.

Besides legislative or licensing integration there has been a search at planning integration. Several important cases can be reported here. The planned railway ‘Eastern link’ e.g. is a ‘learning case’ for traffic planning. The Swedish railway authority Banverket is planning a high speed train network. In a pre-study, three alternative corridors have been designed. Up till 2007 there is the time to make an EIA. Banverket has however little experience with the new environmental legislation. Natura 2000 site Kings Tullgarn, south of Stockholm, is also a complicated ‘learning case’. Complicated because there is no outside corridor possible, interpretation of deterioration and disturbance is not available and there is a lack of environmental and ecological data. Together with an ecology consultant, Banverket prepares an EIA study and prepares the permitting process. If there is any disturbance, then a governmental and EU notification is needed.

### **3.3.7 Used policy instruments**

Voluntary agreements are made between government and landowners about the existing land use activities in Landscape Management Areas. They do have the choice to choose, either to continue the existing traditional methods of land management or to adopt new possible an appropriate methods of land management. There are no financial incentives for landowners who enter these agreements. They will be supported with advice and information. All interviewees mentioned that there is a need of more positive incentives. For grazing in agricultural settings on little surface in Sweden, management agreements are needed. All interviewees did not expect any problem in finding EU money for this purpose or to find it on national level. Landowners will be supported by SEPA in the form of advice and information.

### 3.3.8 Summary

What are the most remarkable and striking events in Sweden, looking at the fourfold of image, implementation, interpretation and integration?

1. *Images: political and social opinions regarding Natura 2000*
  - The SEPA acts as an intermediary agency or perhaps quasi-NGO. Therefore some decentralized centralization occurs. BHD is however not an hot political issue in Sweden (number nine on the agenda). Climate change and ecolabelling are number one at the moment.
  - There is an informal involvement of NGOs. Social and political Awareness is growing around specific cases.
2. *Implementation: Designation-, legislative transposition - and development process of management plans*
  - Designation of sites by SEPA and the counties was a technical discussion only without participation of stakeholders;
  - Implementation of Natura 2000 is integrated in broader environmental protection legislation; the Environmental Code.
  - The obliged management plans are made by county administrations guided by specialists of the intermediary agency (SEPA) and the 14 Regional Environmental Services. The four pages of the management plan, 236 in number, do not contain information about the preservation measures. Information about existing use is collected in cooperation with involved stakeholders. Threats of future developments are also indicated. Management plans contain a kind of information for the benefit of the BHD assessment, but they do not have the function of an ex ante BHD test.
3. *Interpretation of the key concepts of Natura 2000*
  - No exhaustive HBD terminology guidelines as yet. SEPA develops guidelines and judges the licence claims.
4. *Integration of legislation, planning and or licesing*
  - Sweden is indeed the first country with an integrated environmental legislation on pollution, water and nature (*Miljöbalk*).
  - In Sweden there is, however, no integration of planning.
  - In Sweden there is no licensing integration.



## 3.4 Spain

### 3.4.1 Introductory remarks

In 1986 the accession of Spain and Portugal (and previously Greece in 1981) to the European Community has on the one hand helped to gradually shift the orientation of the EC towards ecological sensitive issues for the south (such as water shortage, forest fires and soil erosion) and has counterbalanced the traditional weight attached to the pollution-related issues which were of higher concern for Central and Northern Europe. The accession has shown a great political and economic impact on upon nature conservation and upon the nation, moving towards regional government. Besides that the subsidies from the EU Regional Fund for infrastructure and industrial development became of great importance.

The desk study on Spain indicates the importance of a strong coordination on the implementation and integration at national and sub national levels. Partly as a result of local historical important legislative and administrative frameworks, regional differences in executive responsibilities do occur. Since 1987, the federal government has the tasks to execute the decentralization process within 25 years. This is a difficult ongoing process for national government to loose political powers to the regions and support the inter - regional coordination. The way this organization and coordination works, its advantages and disadvantages, could be instructive for the present situation in the Netherlands, because they are moving from central to a decentral governance of nature. Because of the strong coordination by the so called *Network of Environmental Authorities*, even guidelines seem to be written to help planning authorities to integrate the Natura 2000 requirements. This in depth study will focus on these issues.

### 3.4.2 Relevant contextual data of Spain

Entrance into the EU	1986
Form of government	Parliamentary democracy
Political system	Constitutional monarchy
Governance: interaction between locus (administrative levels) and focus (policymaking: interaction between strategic, tactical and operational administration)	Locus: 4 Focus: no, although there is coordination between regions
Population density	39.4 million
Federation of 17 autonomous regions	
Total area not including EEZ	504,782 square kilometres
area of nature (SCI marine)	5,191 square kilometres
area of nature (SCI terrestrial)	119,122 square kilometres
pSCI: SACs / SPAs / Mas	1382/480/ 20

Spain, a young democracy, the new constitution having been formed in 1978, is one of Europe's largest countries. it covers 500.000<sup>2</sup> km, has a population of 40 million inhabitants. The Northern part of the country (Madrid, Barcelona and other industrial towns and surroundings) is relatively rich compared to the southern regions.

Since 1980, the main responsibility for most aspects of government in Spain has been devoted to the 17 autonomous Regions, including nature conservation. These regions; Andalusia, Aragon, Canary Islands; Cantabria; Castile-la-Mancha; Vastile and Leon; Catalonia; Valencia; Extremadura; Galicia; Balearic Islands; La Rioja; Madrid; Navarre; The Basque county, Asturias and Murcia. The role of central or national government is to provide national guidelines through (quasi)legislation or decrees. These do not remote the rights of the regions to introduce amending or supplementary regulations or laws. Also the responsibilities for environment have been handed over, almost exclusively, to the regions. The bulk of political power within Spain is given to the regions. Each autonomous Region (*comunidades Autonomas*) has a Legislative Assembly (*Asamblea legislativa*) which is an elected body, based on universal voting rights. The Legislative Assembly has a Governing Council (*Conserjo de Gobierno*) which is the executive and administrative agency of regional government. The final tier of government is the city council or *comunidad*. Each urban area has its own locally elected council, which has a range of local and often very specific (administrative) responsibilities.

The shifts in authority and responsibility in Spain has had an impact on the organization of nature conservation in Spain. Already in 1972 it was acknowledged that the five ministries who are directly involved in land-based conservation issues in Spain and the many more agencies within these ministries, would lead to an almost inevitable confusion and lack of continuity. Therefore the ministry of Environment (Ministerio Medio Ambiente; MMA), former part of the ministry of Agriculture, had to be reorganized (See [www.mma.es/en](http://www.mma.es/en)). It now includes EIA, Waters & Coasts and Meteorology. At the regional level responsibilities for most forms of nature conservation have been transferred to the governments of the autonomous regions.

Spain's dominant biogeographically zone is Mediterranean in the North, consisting Alpine areas and macronesian in the south. A very large proportion of Spain is under forest or agriculture and at 93% this is the highest in Europe (depending on the definition of these land uses). According to the ministry of Agriculture 4,9 million ha land is designated as Natura 2000 sites, meaning 33% of the European Natural territory. 1,6 million ha cattle breeding, 2,2 million ha feeding plant without irrigation, 678.419 ha wood plants, like olive trees and 378.789 ha irrigated plants. The autonomous districts with the biggest area of Natura 2000 are Castilla y León (1,1 million ha), Castilla-La-Mancha (518.264 ha), Aragón (424.640 ha), Galicia (209.303 ha en Cataluña (142.968 ha).

Four categories of protected areas are of importance (1) Nine National Parks (2) 58 Nature Parks (in 1988), which are smaller than the NP and where the objectives are slightly less rigorous than those in the NP. Designation takes place by the regional authorities. (3) 22 small, highly protected sites called Integrated Reserves of Scientific Interest; protecting specific habitats (4) 74 small, second tier protected sites, called Nature Sites of National Interest. [www.mma.es/conservnat](http://www.mma.es/conservnat) National government is, despite the decentralization process, still responsible for the protection of the National Parks; however it is accepted that this responsibility also will be handed over to the regions.

The contribution of Spain to Europe Nature 2000 network is special because the great diversity in plants and species. From the 8000-9000 different plants, there are 1500 endems and 500 species only living on this Iberian peninsula. Iberian islands and in or nearby Africa. Besides that there are 770 vertebrates of which some of them need large habitats, like the Lynx and the Aquilla Adelberti.

The land use of Spain is dominated by Forestry and Agriculture, the last one undergoing a prolonged period of dramatic reorganizations. Issues of importance in the supply of water are associated with the changes in agriculture, managed by 12 Regional Water Boards. Increasingly significant is the tourist industry. Since 1975, tourist developments in NPs, Nature Parks, Nature Areas of National Interest and reserves of Scientific Interest are specifically regulated. Responsibilities for tourism lies with the autonomous Regions and many have passed their own legislation to protect the national environment and to curb some of the excesses of the tourist developments. Even more significant is the threat of desert forming to day for 31, 5% of Spanish territory. This threat (90% danger) turns up in the districts of Valencia, Murcia and the Canarian Islands, followed by the district Andalucía (60% danger). According to the ministry of Environment, this process of desert forming is caused by the policy of the former national government. They let go that irrigation projects for the benefit of forest plantations ended in water supplies for city parks. At this moment the government put €82, 5 million at the disposal to cure the desert forming.

### **3.4.3 Images: political and social opinions regarding Natura 2000**

Being a latecomer in the EU and because of the fact that in the negotiations prior to accession to the EU, environmental issues were not discussed, government has been very busy trying to catch up with the bulk of EU environmental policy. They had to face a sudden incorporation and subsequent implementation of a large number of environmental legislation without any transitional period. The resistance against Natura 2000 adopted three forms: demands for temporary delays in the application of certain standards, pressures for weakening specific targets and requests for financial support for environmental measures (Aguilar Fernández, 1993a). Leaving aside the Spanish insistence on the need to consider the specific southern ecological problems, the country has traditionally considered environmental policy as a second rank issue in Spanish politics. Later on this wait-and-see approach could not be neglected any longer. Spain seems to move from a reactive approach towards a more active one. They adopted a more active role in the EU and tried to overcome the administrative changes, facilitating the coordination between the different politico-administrative levels as well as to upgrade the department responsible for the environment.

The Spanish Ministry of Environment acknowledged that *“the introduction of the BHD indeed was not a political issue at first site. But recently, working groups of ecological specialists and the Ministers of Environment of the Regions, started the designation process. This work became more like a negotiation- and coordination process between regions”*. Although this process did

not have an impact on public awareness as yet, the Dutch delegation visiting Spain in spring 2005, noticed a great involvement with Natura 2000 and despite a not yet smoothly operating administrative organization, the results are perceived as good: *“Spain has a great talent to improvise. There seems to be a transparent, open and clear cooperation between the different governments”*. However that is not what the farmers union Asaja perceives, saying that *“the implementation process of Natura 2000 in Spain is to be characterized as sluggish and sneakingly. Nobody kept an eye on it. Since a short time we are aware of it and do hold off”*. Farmer’s organizations demonstrated at national level against the introduction of Natura 2000, particularly because they did not know anything about the consequences and financing of the implementation process of the BHD. On regional level, conflicts in cases of construction of highways, water dams and so on, stimulated the political discussions and increased the public awareness of environmental policy and nature protection, varying strongly between the regions. In the opinion of the Spanish Bird Life (SEO) *“this laggard role in EU environmental policy is due to the individual Latin culture and 40 years of dictatorship. The environmental NGOs in Spain are relative small and get most power by juridical complaints by the EC”*.

#### 3.4.4 Implementation

*The designation of SPAs and SACs and the acceptance by Brussels*

The first phase of the implementation process of Natura 2000, the designation of sites, can be characterised as a decentralised process that took place from 1996 to 2005. The responsibility for the designation process and the management of sites is given to the autonomous regions. National Government has two tasks, transposing of Habitat Directive into national law and to coordination of the designation process by the regions. Information for the designation process is gathered at national level, but at regional level choices for the specific areas are made however not based on structure of designation criteria. Some designations are still betaken to European jurisdiction e.g. the quagmire of Sanõna, an area in the North Coast Wetlands, designated as SPA.

*Illustration 8. EU and Spanish Regions agreed on the designation of quagmire of Sanõna.*

Regional administration refused to designate this area as SPA, because of plans for highways and urban developments. The ENGOS brought this case however the EU Court of Justice, resulting in the EU assignment to designate after all. And that is what happened. The newly built constructions had to be removed and restoration works are being executed aiming at the improvement of waterquality. These measures have been succesfull, but as to EU law the national government has to pay for this management fault of the region.

The designation process of the Birds- and Habitat Directive areas has been quite different. In case of the Birds directives not any interest group, social group and or even NGO SEO Bird life was asked to involve in this process formally. Farmers organisation awoke too late and then wanted to ‘stop the project’, because of the negative economic consequences to be expected. Later on informal involvement of BirdLife originates from their data utilization. Their IBA list contained 391 areas with a surface of 16 million ha. Because Bird life double role of being interest group, as

well as deliverer of scientific data on birds, this involvement did not look like an open process. A working group, consisting of national and regional experts integrated the regional lists and developed an evaluation.

But despite the NGO SEO bird life lists, this designation process was not smooth at all. In 1999 only 182 sites, 2,5 million ha were designated. The European Commission then started an infringement procedure against Spain on basis of this inconsistency with the IBA list. After that this working group worked harder to speed up the process of negotiations and the discussions at the environmental conferences. The results of this working process, a list of 416 sites for Birds, is worked out on the one hand at the technical level with 10 persons and on the other hand at the political level with several general directors dealing with nature protection. In 2005 most sites would be accepted by the EU Commission (17%).

In contrary to the designation process of the Birds Areas, the designation of the SPAs for Habitats Areas developed quite different. But here also a lot of things went wrong. It appeared that the scientific inventory and analyses of habitats and species and the GIS maps of existing and new protected areas, which have been used in the designation process and were made by the national government, did not match with the ones in Brussels and not even with the ones in the districts. This was due to the fact that they all used different scale sizes and poor data; they did not consult each other and handled different criteria. It concerns 1276 announced areas with a surface of 12 million ha (8%). The total area of Birds and Habitats Areas, which are overlapping is 25% of Spain.

According to a scientist: *“Sometimes it happens that special areas, which do meet the BHD criteria, are not designated. Because of the fact that there was already an aim for building an airport (Ciudad Real), it happened also that certain areas were designated, but did not meet the criteria. The national government is standing without any knowledge. In many districts the social pressure for economic (building) activities is so heavy, that there are negotiations and exchanges with areas, of which the formal area designation was not adjusted. The European Commission of course did not accept this practice and argued that the original area should have been designated earlier”.*

*Illustration 9. Consequences of an uncontrolled decentralised designation process in Spain.*

A steppe area in the neighbourhood of Sória has been designated as a SPA to protect the *Chersophilus duponti* (Leeuwerik). This bird lives only in North Africa and Spain. Farmers in this area were condemned to lay down much of their labour. They could only do their labour in a traditional way, which is not profitable in the current changing economic circumstances. They are not getting any subsidies to compensate that. Extremely rare is the fact that in the surroundings of this special area, an energy saving company got the possibility to build up windmills, although these mills imply a great danger for these birds.

Part of the nature reserve Cornocalles in Andalusía was destroyed by the construction of an highway. The district gave this highway a noble but deceptive name, namely “the ecological way” and for compensation measures they executed ecological research, that appeared not to be of any relevance. Sometimes a botanic garden in or nearby a city is considered as a lawful compensation measure. Which is of course not the case.

The public, the communities and the farmers didn't get the opportunity to have a say. Not anybody thought over the consequences and that means that now everybody is upset and questions what to do. In the beginning of this designation process there was a serious lack of knowledge about the determination of a habitat. University research and the support of LIFE made it possible that in three years time the ministry had a good overview at their disposal. In group conversation with the universities it was said by an environmental law lecturer "*that the discussion about nature conservation in Spain was too much polarized. Too long this discussion was concentrating on the different political viewpoints and formal administrative responsibilities. Negotiations on nature protection should be more practical (what to do) and more open (to all interests, public and private)*".

According to the ministry of environment the execution of the Habitat directives will proceed smoothly in future as a result of the three decision-making conferences (a) a technical conference (b) a conference at DG level in the national committee for nature conservation (*Comission Nacional de Proteccion de la Naturaleza*) and (c) the ministerial confer with the districts (*Conferencia Sectorial*) which takes place each three years. These decisions must be published and execution will thereby be stimulated.

#### *The transposition in national Legislation*

In Spain the Birds Directive is implemented in national law through additives of National law on Nature and the implementation of the Habitat Directive is simply directly borrowed from the Directives. Remarkable is the fact that the Spanish National Nature Conservation Act is only a framework for the regional legislation. Legal obligations can not legally enforce. According to the Madrelenian autonomous regional government there is not yet any movement to transpose national legislation in the regional legislation. In the mean time the EC is curious at the slow moving results and asks the Spanish national government to present the results coming from these decentralisation processes not having passed on European Directives. The regions demonstrated opposition to this appeal of Brussels.

#### *Management plans for the sites*

On the one hand, thirty percent of the old nature reserve sites does already have management plans. National government has been responsible for these developments. The basis and criteria are laid down in the Ley de Conservacion 498. In the management of Natural Park Penalara (Region Madrid) an older reserve of 1930, ambitious projects of restoration are going on and dismantlement of a ski resort is at stake now. Also the restoration of wetlands in the river source area underscore the impression that designation of SCI of Natura 2000 has consequences for the management.

On the other hand there is a lot of speculation about the management plans of new designated Natura 2000 sites in Spain. The regions are assigned to make the BHD obliged management plans for their own sites. Due to not daring to make explicit the consequences of the implementation of the BHD, just only a few guidelines have been developed. Besides that the region knows that management, notably the management of Nature 2000 river valleys sites, will have to take into account the obligations of the Frame Directive Water. Because the management of the river

valleys sites is the responsibility of the ministry of Public Works (*Obras Públicas*) and because this management is organized at national scale and along the river basins, it seems a good idea to start an exercise about management experience between the two responsible ministries and between the Spanish and Dutch experts.

Birdlife Spain believes that there is one management plan in Valencia and two in Extramedura and the regions Navarra seems to be the frontrunner, as it has developed guidelines how to make Natura 2000 proof management plans. Although it is a guide for their own territory, it is for sure that other regions will follow this good example as cooperation and mutual learning between regions is just started. The silence between the regions of Madrid and Catilla-Leon both dealing with the management of mountainous sites, demonstrate however that communication and coordination between regions is not yet the case at all.

It is remarkable that the managers and scientists in the regions consult their information not from the national government but directly from the EU. There has been no involvement of interest groups, social groups and ENGO's. Not any overview of the internal management and external threats of sites is available. Scientists and ENGOs are convinced that management plans, in which the concepts and criteria are worked out further, would be a great help in the practical implementation process of the BHD. At this moment a scientific process starts to make scientific guidelines. On the one hand this will be guidelines on species protection. At strategic level the choice has been made to make plans for 10 species a year. According to university environmental lawyers *"priority is given to the mangement plans for eagles and the lynx. There is a problem with the control management of the population of wolves. Discussion is about cultural norms and values and the compensation of killing cattle. On the other hand a monitoring system will be developed to make guidelines for habitats. However, a survey is very expensive and the question is if a national report will be produced"*.

For the Association of Agricultura, the management plans are clear enough but they do warn for the influence of different sectoral strategies. They themselves do see a lot of chances and opportunities.

*Illustration 10. Chances and opportunities for Association of Agricultura.*

The association does not see chances for the agriculture itself or for the development of new landscapes. They are looking for new sources of income. They have great expectations of the production and development of eco-tourism and countryside development. They have started with these developments already before Natura 2000 was introduced. Tourists like the new olive orchard and natural products, although they don't want to pay to much extra for it. There is no extra income coming from Natura 2000; The association pleads for a combination of EU and Spanish financial incentives. Besides that they will lobby in Brussels by DG environment to allocate a part of the budget especially for nature. ( NGOs – LIFE)

### 3.4.5 Interpretation

The legislative framework, by which each region governs its own affairs, is partly built up from internal 'organic' laws, as much as from external decree and guidelines. It is around these areas that regional differences in interpretation of decree occur. Scientific experts are convinced that *“the EC should give more transparency around the interpretation of art 6 HD and the cases brought to EU Court of Justice. There is a lack of objective criteria and guidelines on the EU level. They suggest that regions and countries with the same kind of cases should work together”*.

Scientists claim that there is no democratic control: *“compensation schemes are published; the EC investigates without consulting NGOs or private parties. They only talk to governments in international relationships. Management plans could make it easier to work out the concepts of significance and the precaution principle. Scientist of EIA can only have a technical discussion”*. But there is a need to communicate with the different sectors, farmers, sand production etc.

According to the Ministry of Environment there probably is a lot of cases which is interesting for interpreting the BHD concepts and criteria. Since 1992, EU funding had a great influence on Spanish infrastructure projects and helped to operationalization the article BHD 6.3 and 6.4. And to certificate the effects studies. There is no departmental or public non-departmental body doing tests or assessments or giving some guidelines. The impression is that not much is known about the external effects of neighbour areas, the features of mobilization and the aerial for certain populations and therefore the concept of 'ecological inter-connection zones' is not yet discussed. Thousands of problems arise due to economic developments of which some are quickscanned here.

*Project on Airports:* Two cases can be mentioned here. In one case near Madrid, there has been a great embarrassment about non protected compensation areas, which was developed to compensate the construction of an airstrip near Barajas. In the other case there has been a great embarrassment and confusion about the status of environmental assessments, not knowing the differences between EIA and Habitat tests. In the neighbourhood of Madrid and Bararjas part of the river course has been designated as SPA. Part of this river course has disappeared under the runway. In this case the overriding public interest and the research of alternatives were undisputed. As a compensation measure the whole river course has been transported elsewhere, including the river valley habitats, which were mentioned in the designation process. It is however rather peculiar that the runway still is a Natura 2000 area, whereas at the compensation area not any preservation measure has been laid down.



*Illustration 11. Embarrassment: environmental EIA and BHD assessments airport Ciudad Real.*

The airport is a private initiative. Ciudad Real, a town in a stair area in the middle of nowhere, would like to attract more tourists. This area is an important region for nature protection of steppe birds (border the area) and for (eco) tourism. There is a lot of private funding involved. The district showed a study, executed by EIA, which proved that there were no significant effects of the airport and that there were no alternatives. The ones who took the initiative thought that this study, a traditional EIA was enough. They were mixing up this EIA with the BHD assessment and stumbled because of that, upon Birdlife who complained at EU level and who brought this sensitive case to the Court of Justice in Luxembourg. A check and search of alternatives will be made. One expects that Airport Ciudad Real will not be realized. In that case the national government as to EU law has to pay for the wrong decisions of the regions.

*Project on Highways:* Several important cases can be reported here, crossing borders of lots of Natura 2000 sites. Nothing is known about the fact if cases are assessed cumulatively. In the case of a highway in Andalusia, Algeciras Alcornocales, an important forest area, the discussion between regional government and scientists did not lead to the development of good alternatives for the operations to be made and the ENGOS did not have the possibility to influence this non creative process. In fact this case is a banal example of 'hush money', instead of taken compensation measures based on the extremely expensive ecological research that had been executed. In the case of the highway Asturias, which had an important impact on the habitat of the brown bear, more creativity came forward. There were solutions found like constructing a tunnel and destroying the old road, which was given back to nature. Compensation measures were part of the process. The case of highway Madrid-Cordoba, which crosses the Sierra Morena, a habitat for the lynx and certain eagles, has lead to extreme hot political discussions. The ENGOS demonstrated opposition, whilst the ministry of transport is searching for alternatives. It is a lesson for the other ministries, now knowing that they have to respect Nature 2000.

*Projects on Marine Waters:* Knowledge of marine waters is not available in Spain. According to the ministry of environment the wish to do research on marine waters is great, but the money for this research is small. An agreement with Bird life (SEO) makes it possible to study the birds in these areas. In two year time this study is expected to be ready. Then after a year some marine water areas could be designated. The aid of the ministry of agriculture Is not yet promised.

*Projects on water supplies:* For the benefit of the water supply of Seville the Melonared Dam has been built in the middle of the habitat of the Aquila Adalberti who feeds himself with rabbits. As a compensation measure, the Spanish ministry bought 2000 ha around this habitat and introduces a rabbit introduction plan. Effect is that at this moment some couples of the Aquila Adalberti are breeding.

*Project related to the Frame Directive on Water:* The policy on water is of national importance. The government allocated the responsibilities for water management not to the regions but to a national authority. This institution is also responsible for the construction of dams and canals. There is a start with green projects. The Water and health project dealing with water purification are grounded by costs and benefits arguments of health experts about the value of nature for health. In the protected

coastal areas lots of conflicts arise, e.g.. between turtle protection, offshore, fishery activities and ports. A habitat of 2000 ha was created as compensation for operations.

*Rural development an urbanization projects:* Project Riet Vell Reserve: Ebro Delta in Catalonia this agri-environmental project started in 1994 with a lot of resistance against the multifunctional rural development of biological rice and birds areas near growing villages. It seems that extension is allowed by Brussels and by the regional authorities; including compensation and information about nature.

*Illustration 12. Succesfull assessments RESOL Pipe Line crossing numbers of Natura 2000 sites.*

From Repsol, an oil refinery in the midlands of Spain, a pipeline had to be constructed to the coast. The budget for this operation was temporarily and contained several millions of Euros. Therefore the developers of this pipeline pushed along. This pipeline crosses several sites and the authorities were very hesitating because the fear of resistance of ENGOs. REPSOL tuned up the discussion about 'overriding public interest'. In the end it seemed not a great problem after all, only at two aspects there were problems related to the values of preserved nature. These problems could easily be solved by mitigating and compensating measures, accepted by all involved stakeholders.

In the group interview with the University of Environmental Law the subject of decentralization was attended. The discussion between the Eci, Spanish National Government and the Autonomous Regional Governments is about the process of decentralization. The EC wants the results from the Spanish National Government, to be more specific about the translation of the BHD into national law and does not want to interfere with Spanish internal affairs. National Governments claims that they do have the task to decentralize (1978) within 25 years. They argue that this process is still an ongoing process and that they are stuck in the middle of it, feeling handing over all political power. The regions claim their own approach. This means, working slowly, case by case. The highway Cantabria Santonia case, mentioned before, is a good example of this.

### 3.4.6 Integration

In 1992 Forestry and Nature are integrated into a new ecosystem approach, but often, nature conservation is treated in a traditional sectoral way. Regional impetus appears in the integration of nature conservation into wider development issues, tourism and rural development. A learning process is going on around several cases of big projects as we have seen. Today, the Ministry of Environment announces to change Spanish legislation and to integrate habitat assessment in the EIA.

*Illustration 13. The Riet Vell Reserve: Integration of Nature Policy in Rural development.*

In the Ebro Delta (Cataluna) Bird Life presents a good case of integration of nature and agriculture into a more sustainable use. This Project started in 1994 with a lot of resistance against the multifunctional rural development. But in the end an agreement between bird life a the local farmers entered into a contract for the production of biological rice as a demonstration of agri-environmental measures. The site is also used for educative and scientific goals [www.seo.org/rietvell/en](http://www.seo.org/rietvell/en)

The question is whether how fast the integration of nature policy and agriculture policy can influence the rural developments. The three farmer organisations in Spain do have different opinions on this. In the conversation with the Dutch delegation, the representative of the union of young farmers (ASAJA) advocates technical modernization. He argues that the financing of compensation for the total surface of protected areas in Spain (25%) is not yet clear. Problems between nature conservationists and young modern farmers, especially round irrigation projects, are to be expected. Even traditional products as wine and olives will need more irrigation. The positive effects of nature reserves on farming and new activities like agro-tourism are not recognised by the farmers.

### 3.4.7 Used policy instruments

Communicative instruments: Recently Birdlife Spain (SEO) and the Union of small farmers (UPA) signed an agreement to cooperate and work on their farms in a Natura 2000 proof way. Besides that the SEO promised to put two economic incentives on the agenda of the Spanish and of the European governments. First of all, the farmers who contribute to the execution and application of Natura 2000 must get some kind of funding and secondly they must feel safe, through the institution of a separate fund for Natura 2000. This because the farmers are afraid, that if Natura 2000 has to be paid out of the Rural Area Funding, nothing would be left for the regular agricultural activities. Asaja, the union of the big and rich farmers is still demonstrating against Natura 2000. The UPA apparently decided to lay down their case.

In Spain there are three financial resources for nature conservation (1) EU money (b) money from national government (c) money from the districts. To support the farmers, the ministry has reckoned that €33/ha Natura 2000 is sufficient to compensate the farmers for compensation as well as for the limitations of a nature- and environmental friendly measures. At this moment only the districts Navarra and Basque Country is paying for Natura 2000. The common opinion is that the EU should finance (part of) the management of nature. For the most involved parties it should be financed from the new fund for Rural development (2007 – 2013). Only the farmers union appeals for an environmental fund as LIFE.

As new member of the EU, Spain is a net receiver of EU money, contrary to Sweden and The Netherlands who are net payer. In the EU Financing Natura 2000 has been a subject of conversation in all the interviews. Since the 90's EU funds are depending on a 'certificate of no effects on nature'. This had a big influence on planning practice, because the planners were anticipating on nature effects. Even in the opinion of environmental lawyers "*the certificated subsidies from regional and national governments to developers and individuals who wish to undertake tourist enterprise has add to the protection of the rural economy; they are seen as having more influence on nature protection than is the case with the legal instruments*".

The farmers in Spain are only qualified to a subsidy for compensation, if they fulfil four conditions (a) the farmers must be younger than 30 years (b) must have a full employment (c) live in a subordinated area (d) be engaged with Natura 2000; thus meaning that not many farmers received a subsidy. New opportunities to get a subsidy are however increasing due to the changes in the European Common Agricultural Policy.

### 3.4.8 Summary

What are the most remarkable and striking events in Spain, looking at the fourfold of image, implementation, interpretation and integration?

1. *Images: political and social opinions regarding Natura 2000*
  - Natura 2000 is not a big issue. Much has been delegated to the regions. NGOs do have a lot of experience with the EU about regional core cases.
  - Public awareness about environmental policy and nature protection is not very great. Farmers organisations awoke in a late stadium. This can mean that future problems with the management are to be expected.
  - EU funding plays a paramount role.
2. *Implementation: Designation-, legislative transposition - and development process of management plans*
  - Strong cooperation between National Government and the Regions accelerated the designation process. The national government made a (scientific) inventory and analyses of habitats and species and a GIS map of existing and new protected areas. The regions made proposals.
  - National law on Nature (1989) gave power to the regions and has only a framework status; European Directives should be implemented by the regions.
  - At this moment, all existing sites are also Natura 2000 sites and do have an obligation to have a management plan. For the new Natura 2000 sites however, there is no formal obligation and no priority to make BHD proof management plans by the regions, who are responsible to develop them.
3. *Interpretation of the key concepts of Natura 2000*
  - Regional differences in interpretation do occur. The regions want their own approach, meaning a case by case learning approach.
  - Some regions (Navarra) have methodological guidances. There has been no involvement of interest groups, social groups or ENGO's. Only the data of ENGOs were used.
  - Just like elsewhere EIA and habitats assessments are obliged in core projects. Nothing is known about the not-core projects. EU funding since 1992 has had a lot of influence on Spain and Spanish infrastructure projects.
4. *Integration of legislation, planning and licensing*
  - Traditional sectoralism is still alive, but the Ministry of Environment wants a change of Spanish legislation to integrate habitat assessment into the EIA.
  - Regional impetus appears also in the integration of nature conservation into wider development issues, tourism and rural development.
  - There is no integration of licensing in Spain.

## 3.5 France

### 3.5.1 Introductory remarks

The desk study showed that France curiously has opted for a contract-based approach, supplemented by regulatory measures under existing protection and management regimes. Under this approach management plans are known as DOCOBs (Documents d'Objectifs) and have allegedly already been developed at a very local level. For each particular site so called *comités de pilotage* are being set up and chaired by department prefects. Experiences with this contractual DOCOB-approach might be of any interest in this investigation. An overall research interest could be analyzing how (or if) France tackled the problem of politization the implementation and interpretation process compared to quango-based models like in the UK and in the Nordic countries.

### 3.5.2 Relevant contextual data of France

Entrance into the EU	Co-founder
Form of government	Parliamentary democracy
Political system	Republic
Governance: interaction between locus (administrative levels) and focus (policymaking: interaction between strategic, tactical and operational administration)	Locus: 4 Focus: COPIL mediates in policy implementation
Population density	60.4 million
Total area not including EEZ	550,000 square kilometres
area of nature (SCI marine)	4,906 square kilometres
area of nature (SCI terrestrial)	42,201 square kilometres
pSCI: SACs / SPAs / MAs	1219/174 /52

France is one of the six EU original member states from early 1950 and one of the largest countries in the European Community with an area of 549 km<sup>2</sup>.

France has a strong agricultural community that is reflected by the proportion of 83% of agricultural land and about 1.5 million people that derive their livelihood directly from working on the land. Also forestry is important (25% of France is wooded and about 13.000.000 hectares of forest are owned mainly by state, communes and roughly 1,5 million private owners.

Geographically and climatically France has a remarkable diversity of landscapes and biodiversity which is illustrated by Atlantic, Central European, Alpine and Mediterranean biographical zones. This diversity is also reflected in agriculture with intensive, large prosperous farms in the north and smaller family-managed mixed holdings in southern regions. In 1990 8.7% of total area of France was designated to protect nature using several protection regimes (National Parks, Nature reserves, Regional Natural parks). The total area that has prime function of nature conservation is rare (compared to the size of France) and several other land-use functions can be found in protected areas as the Regional Natural Parks. Important

land-use functions in rural areas are: agriculture, forestry, water management, hunting, tourism and leisure.

France is a democratic republic with several levels of government. The vertical structure of France Government, from the state to the Commune and the interlinking responsibilities between the ministries makes environmental management in France very complex. At the first the national level, nature conservation is managed by the relatively young Ministry of Ecology and Sustainable Development (MEDD; founded in 1972). Within this ministry the Direction of Nature and Landscapes (DNP) is responsible for Natura 2000. But also the Ministry of Agriculture, Food, Fishery and Countryside (MAAPR) are important as far as the implementation of Natura 2000.

At the second level, 22 elected departments in the regions, representing the government, concentrate on planning, transportation and economic regeneration. The process of regionalization is still progressing in France having been given legal impetus through legislation in 1982 and 1983. Responsibilities and powers are therefore continually being developed and consolidated having consequences for the image and social support for environmental policy (see also 3.6.3 and 3.6.4). In the regions the Minister has its own agents in the Regional Delegation of Environments. At this level the office of DIREN (deconcentrated administration of MEDD) is responsible for the execution of national policies. Also MAAPR has its own administrative office at regional level.

At the third level, the 96 départements are responsible mostly for detailed work and management of roads, town planning and housing development. The minister of Environment is indirectly represented by a Prefect, who takes care of the management of mayor issues at local level. This local level, the fourth governmental level, consists of several thousands councils and communes.

### **3.5.3 Images: political and social opinions regarding Natura 2000**

In a scientific paper, based on a research financed by the ministry of Environment Piere Alphandery and Agnes Fortier, described and analysed in detail the difficulties the ministry had in the commencement of the implementation process of European BHD. The title of this paper 'can a territorial policy be based on science alone?', speaks for itself. The lack of public consultation in the designation process inflamed owners and hunters, who questioned the quality of scientific information used in this process. The excluded groups staged protests and even hunger strikes. But the difficulty of implementing was also due to the inadequacy of the vertical steered governmental environmental administration, who did not have access to operational tools, necessary to implement the central decisions, and due to the fact that the ministerial usual partners kept themselves in the background, do not which to sever links with their field representatives. Moreover, at that time there was no institutional solidarity between the two responsible ministries. The ministry of environment struggling to obtain recognition for its own knows-how in the field. Also the

environmental protection associations kept their distance from a concept they could not support. There has been a shift from perceived blessing in the first phase of implementation to a burden in the second phase.

Some important stakeholder groups, involved in managing the countryside, formulated their criticisms on the identifying work of the regional CSRPN. Based on scientific inventories of species and habitats, the CSRPN coordinated the identification of the sites. A lot of the stakeholder arguments pointed out they were unsatisfied with the ongoing process as expressed by a representative of the Institute for Forestry Development: *Boundaries were set with those involved in nature protection in a completely underhand way, as if they had sought to keep others in the background and not inform them of what was going on.* In fact many comments were based on fear. *Ecologists and the DIREN tried to use force to obtain the right to inspect and intervene in a large section of the territory* (Le Grand 1997 in Alphanféry & Fortier). After political interventions in 1996 the minister of MEDD announced her intention to carry out consulting sessions on the Natura 2000 sites with all the professionals concerned. First, the envisaged establishment a national monitoring committee and then the departmental committees of rural area owners and administrators. These local committees were to make it possible to *undertake real consultation sessions on the sites, the management methods to advocate and resulting boundaries.* She changed the identification process in such a way that it confirmed the notion that the results of the scientific inventory were only indicators subjected to territorial negotiations.

The ‘group of nine’, an alliance of influential players of the agricultural world, seemed satisfied, but the sixteen presidents of the regional CSRPN announced that they were dismayed by the way in which their proposals of eligible sites made in very little time and often with very limited means had been caricatured and sometimes systematically badmouthed by a certain number of pressure groups (cit. Alphanféry & Fortier, 2001).

The result of this transition process showed to be a reduced list of Natura 2000 sites that was sent to Brussels. But this list evoked strong reactions of French nature conservation as illustrated by FNE: *This process would have at least indelibly demonstrated a situation that the protectors of nature had been aware of and had condemned for a long time: the profound penury of the administration responsible for protecting nature in our country*” (cit. Alphanféry & Fortier, 2001). Finishing this first phase of the BHD implementation MEDD focused more and more on the second phase of writing the DOCOB’s involving lower government and local authorities and all stakeholder groups involved in using and managing the countryside (farmers, private and state foresters, hunters, fishermen, official and private nature conservation and the scientific MNHN).

Some time later, the members of the ‘group of nine’ notably, do see Natura 2000 more as a profit than as a burden. They are going to believe in the Natura 2000 network, which is presently imbedded in a policy for management of the countryside, assuming that the local people and the authorities might play a crucial role in solving the conflicts of economic and ecological goals. But some of the members of the ‘group nine’ are more content than others. Especially the hunters expressed their fear

that the hunting activities in de Natura 2000 site *'le point de vue des chasseurs'*, might strongly be regulated or even forbidden. But all members of the 'group of nine' welcomed the forthcoming process of writing the DOCOB, the construction of COPIs per site and the information- and education processes. But still some concern remains. First concern is the administration of forms for contracts and the financing of these contracts. Second, the forcing rules of the EC are still seen as a threat for accepting Natura 2000. Third concern is the lack of any relation between the FCS of a site and the national goals for nature conservation and biodiversity. They question mark, is a Natura 2000 sites to considered as a function for mangement of sustainable entities, or to be considered as the management of islands in an ocean of hostile land?

The associations of nature conservation organizations (LPO, FNE) were not so pleased. Their first concern relates the protection of he sites (article 6 of HD), the management of the sites and the evaluation of the HBD. The FNE made the statement: *Car les transmissions actuelles sont encore insuffisantes pour assurer efficacement la conservation fonctionnelle et représentative de tous les habitats et de toutes les espèces relevant de la Directive Habitats, qui sont presents sur le territoire français.* Their second concern relates the contracts and the financing of it. After the transition in designation process, the cooperation between MEDD and FNE got worse. They question mark strongly the sufficiency of the networks density, and ask themselves if the national conservation policy should not be much more than only the formulation of the Natura 2000 concepts.

### 3.5.4 Implementation

The first phase of the implementation process started under the responsibility of MEDD and focused on the identification of the sites and the construction of the list that had to be sent to Brussels. Under the national lead of MEDD scientists were entrusted with drawing up the inventories of habitats and species. Scientists and scientific operations were coordinated by the CNPN (part of the MNHN) at the national level and by DIREN who cooperates with CSRPN at the regional level. The scientists and societies of nature conservationists were strongly involved in the CSRPN but foresters, hunters and fishermen could be involved at the regional level. In order to ensure transparency and to disseminate the information concerning the objectives of the HBD and the scientific work, the regional commissioners organized Natura 2000 conferences with the state departments, socio-professional representatives, nature protection associations and local authorities.

In this way MEDD intended to separate the inventory compiled by scientists and naturalists and the consultation involving other rural area players as stakeholders in the implementation of measures for managing and conserving habitats and species. But it seemed not to be possible to separate the scientific and the social processes in a sufficient way. And already in May 1995 an implementing decree stipulated: *"the departmental commissioner must consult the town mayors concerned in order to gather together their*



*remarks and proposals concerning the boundary project, the measures that could be envisaged and the potential difficulties”.*

On the one side, the representatives of private forests (French National Association of Regional Centres for Forest Property and the National Federation of Unions of Silvicultural Forest Owners), opposite against the inventories and the identification of the sites, feeling confronted with proposal, to list almost a quarter of French forestland as Natura 2000 sites (3.5 million hectares). Their main criticism focused on area size, the possible constraints resulting from the ecological objectives into consideration and the lack of consultation with their representatives with respect to selection of sites and determination of protection measure. Besides that their criticism focused on the lack of reliability of the inventory work illustrated by the involvement of only few real scientists and many nature conservationists in the CSRPNs.

Considering the threats to the production function of the wood-based sector, foresters strove to incite other players in the agricultural world to take action. Soon they received support of hunters who feared the banning of hunting in the future Natura 2000 sites. After the proposal by CNPN of the list with sites that included 1316 sites covering a surface area of 7 million hectares (i.e. 13% of the national territory) in April 1996 a declaration was drafted by the “group of nine”. This group involved representatives from the agricultural, forestry, game and fish-breeding sectors. They reasserted not to be opposed to the BHD but objected to the methods used and the extent of the selected surface areas. They demanded to reduce the number (and area surface) of sites and the allocation of financial resources to compensate for the loss of earnings due to the new management measures. Their opinion was reflected in the “Le Grand report” (1997) that condemned the difficulties of implementing the Habitats Directive and was politically adopted by the then Prime Minister Alain Juppé, who decided to suspend the Directive.

After consulting the European Commission in 1997 the minister of MEDD announced a new start for implementing the BHD. Criticisms of the ‘group of nine’ were honoured: the delimited zones had to obtain general local consensus and lessons had to be learned from the first management plans. The experiment with writing 37 DOCOBs started already in 1995. The need of a negotiation process to develop management plans was confirmed. From now on the new approach for implementing the BHD will be based on the responsibility of and cooperation between all stakeholders and the mutual understanding between nature and people.

*Illustration 14. Implementation strategy BHD: loi au Développement des Territoires Ruraux', DTR.*

Four basic points of the new French implementation strategy of BHD are: (a) nature is important for everyone (b) evaluate nature social, ecological and economical (c) integration of BHD in other policies is important and (d) build a good systems of information and education on the ecology of habitats and species. Further the process coincides with a process of decentralization of the French government. This is illustrated by the law of 2005 regulating the development of the countryside (au 'Développement des Territoires Ruraux', DTR. At the lowest level of government the communes and municipalities are stimulated to cooperate and to associate into formal 'collectivités'.

The process of implementing BHD now aims at (a) finishing the designation of the sites (b) management of the sites by citizens but related to local authorities (c) evaluation of the management. Other projects have to do with: information and guidance, training of people, financing and juridical support.

Another example of broadening the scope of the implementation and social acceptance of the BHD is the parliamentary 'Natura 2000 Charte', in which is stated that part of the EC Rural Development Funds can be used for Natura 2000 (agri-environmental contracts). Also the acceptance by parliament of the law DTR (Développement des Territoires Ruraux) illustrates this decentralization process. TFNB stated before the Senate that: *essential de redonner la main aux collectivités territoriales afin qu'elles s'approprient Natura 2000" qui constitue un formidable outil de mise en valeur des territoires ruraux"* et "*s'est félicité de la mesure d'exonération de la taxe sur le foncier non bâti.*

*The designation of SPAs and SACs and the acceptance by Brussels*

In August 2000, a list of 1028 Natura 2000 sites, was send to Brussels (5.7% of the national territory), but already in 1999 the EC started an appeal against France to the European Court of Justice. France was condemned twice by the Court. At the end of 2000 the National Assembly voted a bill authorizing the government to translate a lot of (delayed) European Directives into French law by order. The order concerning HD was planned for spring 2001.

At the end of 2004 France has 1222 sites (about 4, 3 million hectares and 7, 7% of the national territory) following the HD and 191 sites (about 1.6 million hectares and 2, 98 % of the national territory) following the BD. This list, including some marine sites also, was sent to the Brussels and approved. At a rough estimate, respectively 1300 (8, 5%) and 330 (5, 5%) sites will be approved by Brussels. The barometer is climbing to 10% of the national territory, the EU average being 17%. Marine sites left out, the designation process is assumed to be finished in 2008. Marine sites within the territorial waters are being identified and questions about legal aspects of the designation in non-territorial waters are posed to the European Court of Justice in Luxembourg. This all illustrates France still has not yet finished the designation process of sites. It is insufficient regarding species and habitats in both directives. Especially the designation of sites following the BD demonstrates many insufficiencies. The prefects of the départements are responsible for new proposals of sites or extensions to existing sites. They expect this task will be fulfilled in 2005. Although it is clear that the designation process has not been finished yet, France has

made strong progress since 2000 and started also the cooperation with Belgium and Germany on Natura 2000 sites that cross borders.

#### *The transposition in national legislation*

The most important national legislation is given by the Order of 11<sup>th</sup> May 2001. The Order completes the transposition into French law of the BHD and provides the legal framework for the management of Natura 2000 sites. It has been incorporated by the Environment Code and pursues four aims (a) to give legal standing to Natura 2000 sites so that a statutory or contract-based system of protection can be applied in all cases (b) to give preference to protection through contract-based measures (c) to establish the consultation procedures required to develop management policies for each site (d) to establish a system for assessing programmes and projects that are likely to have a significant effect on sites.

The Decree of 8<sup>th</sup> November 2001 which brings into force the Order that deals with the site designation procedure. In particular it reinforces the crucial role played by the local authorities in designating sites. The Decree of 20<sup>th</sup> December 2001, which specifies the legal framework for consultations sets out contract-based measures and lays down provisions governing impact assessment of programmes and projects. Most laws, decrees and specific regulations are not directly related to the BHD but are developed to the benefit managing the countryside and give insight in the financial funds needed. Money of the agri-environmental schemes can be (partly) used for managing the Natura 2000 sites, but the negotiations between MEDD and MAAPR on this topic at the national level are tough. Relations between both ministries at the lower levels are less complicated”.

#### *Management plans for the sites*

The chairman of the highest national consultation group, the ‘*Comité National Suivi et Concertation*’ is coming from MEDD. His task is to create commitment of all stakeholders at national level and to make social acceptance of BHD happen. It is DIREN (MEDD) who cooperates with DDAF (Agriculture) and with the prefect, to coordinate the writing process of the DOCOBs. This is done at the level of the ‘départements’. Once a year, the prefect, who is responsible for the process, organizes a meeting with all stakeholder groups as a representative of the state. This meeting is obligated by degree. He also installs a steering committee for each site (*Comité de Pilotage, COPIL*). As the chairman of the COPIL, the prefect stressed the importance of involvement of local authorities and citizens (that means the local countryside community) in the beginning of the implementation process. After the passing on of the Decree, the function of chairman of a COPIL can be occupied by other stakeholders, leaving out the sites consisting State forests or land used the ministry of Defence. In those cases it is defined at beforehand, that the ONF or the ministry of Defence will be the chairman.

These local steering committees of the COPIL comprehend up to 80 people. The prefect, who is appointed by the state and many times chooses as chairman, by the local authorities, directs all site involved interest groups: state, local authorities, experts, landowners, farmers, foresters, associations, users etc. The main functions of the COPIL are concerting, negotiating and writing the DOCOB. These responsibilities are worked out.

*Illustration 15. DOCOB: definition and content.*

A DOCOB defines the site management policy (as part of the responsibility of the local authorities) and is approved by the state (the prefect who is also responsible for the legal aspects), a regional scientific committee and the administration authority in partnership with the stakeholders. In a DOCOB the following paragraphs are described (a) site description (b) conservation objectives and targets (c) identification of good practices (not remunerated) (d) prioritized operational measures that are contract based (remunerated) (e) administrative and statutory measures (f) financial costs for measures and monitoring (g) monitoring and evaluation programme.

The prefect, as a representative of the State appoints a technical operator (*l'opérateur*), who leads the steering committee. It turned out that 32% of the the *l'opérateurs* are delegates coming from private organizations being representatives of local or national associations of hunters, fishermen or nature conservation (NGO's). 26% of the *l'opérateurs* are delegates from local authorities (collectivités territoriales: parcs naturels régionaux, syndicats mixtes, communes), 32% are delegates from public agencies (state forestry), 10% is delegated from research institutes or buro's The COPIL management has to result in a management plan, a contract and an assessment procedure.

Starting this year the actors are invited to apply for the role of operator by a public call for tenders. There is a list of criteria for selection. They are paid for the job (but not as the APCA). Until now the writing process of a DOCOBs lasts 2-3 years. The development of a DOCOB values €43,000. In 2004, the experiment of writing a DOCOB in the initial phase of the implementation process resulted in 826 management plans (DOCOBs). 309 are already validated by all parties, 517 are still in progress. Some 540 sites do not yet have a DOCOB management plan. The planning for the near future is aimed at (a) completing this process of writing DOCOB-plans in 2010 (B) a full description of the favourable conservation status for most sites in 2007 and (c) the first evaluation and description of trends in 2013.

France has chosen for a contract-based-management to implement the objectives and execute the DOCOBs. The use of a site and the personal rights to the use a site, are entered into a contract with the state and the local manager. An animator or moderator is attracted to process the mediation to get commitment from stakeholders belonging to their own sector e.g. agriculture, forestry, hunting etc. Therefore they have to translate the DOCOB into their own business and help business partners to fill in all forms. The animator paid either by the state or by their organizations. 40% of the animator are delegated from 40% associates, 35% from the 'collectivités territoriales and 23% from public agencies. The Contracts related to Natura 2000 sites are signed for a minimum of 5 years and are financed by MEDD or MAAPR (agri-environmental schemes). In 2004 132 contracts were signed

financed by MEDD (with an average of €25.000 euro) and 10% of the ‘Contrats Agriculture Durable’ was financed by MAAPR.

*Illustration 16. The six development steps of a DOCOB.*

1. selection of the technical operator, focused on organizations that are well known and accepted in the area.
2. founding of the COPIL and its (thematic) working groups (organizing for instance social studies on important users groups and their specific activities and needs).
3. regional harmonization by the state (DIREN) giving the technical expertise and support so that the contents of the DOCOB can be reached.
4. signing the contracts by the work of moderators/animators (with private persons, their organizations or public bodies).
5. communication (local and regional level).
6. evaluation of the (general) conservation status and the impact assessments carried out for specific projects.

Still a limited number of contracts have been realized. This is due to the fact that the existing budgets are not sufficient, due to bureaucracy and due to the fact that it costs a lot of time, to stimulate and develop trustful relations with contract partners.

### 3.5.5 Interpretation

In France, guidelines dealing with the habitat assessment for projects and plans do exist, notably the ones for ‘*projets d’infrastructures et d’aménagements et carrières*’ are usefull. According the FNE, the question concerning the judgement of existing and already approved activities versus new activities, do not follow the decisions of French court or that of the European Court of Justice. There are also examples of activities which do have a significant effects on protected nature, but these activities were still allowed by the government in and close to the Natura 2000 sites.

*Illustration 17. Assessment of Natura 2000-proof management plans.*

The objectives for Natura 2000 sites in a DOCOB are formulated in a general way and do not express in detail the Favourable Conservation Status (FCS) of that site. So there exist problems to evaluate the Natura 2000-proof management plans. This is expressed by some stakeholders and is illustrated in several DOCOBs for instance of Vallée de l’ Oise, Estuaires et Littoral Picards and Baie des Somme.

At this moment the EC has formulated a decision about the FCS. The MEDD is focussing on the first step of the monitoring process, to find out what is going on at the Natura 2000 sites. In the mean time experts are formulating the ecological values of a site. Adjustment of both kinds of information will take place in separate processes. The FCS is being described in a DOCOB at the local level, missing a frame coming from the national government. There are species favoured in some DOCOBs and threatened at this local level, but these species will be abundant at the national level. MEDD is worrying about the FCS and the up coming evaluation. It possible that the fragile balance between stakeholders in the BHD implementation process at all levels will be disturbed.

### 3.5.6 Integration

There are three types of integration. In France some legal integration is developed by implementing the BHD obligations into other sectoral laws. The law on water management is one of these (important) BHD adjusted laws. Adjustments are related to art 6.3 habitat assessments for projects and plans. The precautionary principle has been implemented in e.g. the *'Charte d'Environnement legislation'*. At local level, the application of the protection regime of article 6.3 and 6.4 will follow the (legal) environmental impact assessment procedure, most of the time.

Integration by planning is not yet the case at the national level, but recently discussions about this have started. Some adjustments have been made through the deliberation between the ministries concerning important projects.

*Illustration 18. Planning integration starting in France with 'le protocole sur l'environnement'.*

An example of existing integration is 'le protocole sur l'environnement' between MEDD and the ministry of Defence in 1995. This is renewed in 2003. It describes a priority action of the ministry in terms of a continuing effort to contribute to the Natura 2000 network, to adjust its activities to the objectives of a site and the mutual formulation of the right management of sites based on the concept of sustainable use.

In France the Natura 2000 network is presented now as an additional valuable aid to spatial planning and enhancement of the natural heritage and development of the local economy. The sites often supports economic activities (farming, forestry and rural tourism) and recreational pursuits (such as hunting, fishing or open-air sports) and are therefore likely to be called upon as a spatial planning tool to promote sustainable use of the environment.

The Natura 2000 system has been incorporated into the new 'public service plan' (schéma de services collectifs) for natural and rural areas, provided for under the 1999 Act on Spatial Planning and Sustainable Territorial Development (LOADDT). The plan aims at consolidating and improving farming, forestry and tourism and to ensure continuity (at the regional level). Further the DOCOB's are seen as a tool for integration at the local level.

Integration by licence does not exist (many activities do not need a license) but is (politically) discussed at this moment. There are some French court decisions on this subject and the status of the DOCOB's that probably can confront important stakeholders groups (forestry, hunters). Further, MEDD has launched several guides for integrated management (and also compensation) concerning more technical activities (e.g. infrastructure).

### 3.5.7 Used policy instruments

The French government uses several instruments to implement the BHD. The most important are: (a) law on nature conservation especially for protected zones and species and on management of the countryside (b) contract based management (c) tax instruments (d) environmental constraints and (e) education and information of all relevant actors and the public.

MEDD distributes very regularly a Natura 2000 newsletter. Compared to the Dutch newsletter it deals with much more topics (e.g. court decisions, meetings of the Habitat Committee, the ongoing process of the site designation, technical discussions on management and management plans etc.). L'Atelier technique des espaces naturels (ATEN, based in Montpellier) plays an important role in the implementation process especially in training people involved in writing a DOCOB. They mediate between government (MEDD and DIREN) and the local/regional people. They educate the technical operators and further, they write guidance's as for example for local people on the actions needed each year for evaluating a DOCOB. In France the information and education of relevant actors and the public is very important and takes place at all levels. Especially the COPIL's are strongly involved in informing the public (what is going on at a site and why and who are involved) and all different stakeholder groups inform their own members.

An important message is coming from the experience in France with their DOCOBs at the local and regional level. For many sites in the region of Picardie, e.g. La Baie de Somme, Vallée de l'Oise, the cooperation and learning takes place. Writing a DOCOB is mentioned as a very positive point by the different actors during the meeting in Amiens. Many solutions to problems encountered by working out a DOCOB (see cadre above) can be mentioned but it is pointed out that they can not be translated easy to other sites or regions. This was illustrated for signing the contracts and communication in a site with about 6000 private landowners compared to a site where grazing takes place on state owned, common and private grounds, nevertheless on both sites it was said: *"we start to know and understand each other and start to learn from each other. An important tools to get commitment on the needed site management are the technical and social fact sheets for specific activities like sheep holding or specific types of hunting (e.g. on ducks) etc. Fact sheets describe who and how an activity will be carried out, what are the effects on nature, what is acceptable and what not"*.

As stated before France has chosen for a contract- based management of the Natura 2000 sites. Contracts are signed for a minimum of 5 years and are financed by MEDD or MAAPR (agri-environmental schemes). In 2004 132 contracts were signed and financed by MEDD (with an average of 25000 euro) and 10% of the 'Contracts Agriculture Durable' (CAD financed by MAAPR) were related to Natura 2000 sites. Both sources of the government amounted in 2003 about three million euros in total. In the contracts 'usual good practices' are formulated that are not remunerated for. France has decided (by the law DTR) related to the 'cross compliance' concept to work out the exemption of the tax for un build area (taxe sur le foncier non bâti) as a new financial measure for the DOCOBs. Still cross

compliance makes communication with stakeholders problematic. The most important financial sources are: (a) the National Fund for Natural Area Management and the European Agricultural Guidance and Guarantee Fund (EAGGF) (b) The European co-funding schemes for projects selected for the LIFE-Nature program (c) Natura 2000 credits budgeted under the French state-region planning contracts (CPER). Through a stronger involvement of local authorities and other local stakeholders in the process of writing a DOCOB and the following management process of the sites, government tries to stimulate their responsibilities for the Natura 2000 sites and their future financing. Also by imbedding the Natura 2000 network in the sustainable management of the countryside government tries to widen the financial (EC) opportunities.

### 3.5.8 Summary

What are the most remarkable and striking events in France, looking at the fourfold Image, Implementation, interpretation and integration?

1. *Images: political and social opinions regarding Natura 2000*
  - Many doubts and uncertainties about the feasibility and goal-achievements of nature protection
  - Shift from blessing in the first phase of implementation (land users etc) to a burden in the second phase (nature organizations & part of governments). High quality information used to communicate and steer at distance by web-site. ATEN engaged in training; mediation between MEDD, DIREN and locals; teach les oprateur technique ; write evaluation guidance's for local ; COPLIS informs the public ; stakeholder groups inform their grassroots
  - Worries about financing Natura 2000; National Fund for Natural Area Mng & EAGGF; EU funding schemes LIFE Programs; Nature 2000 credits budgeted under French State region planning contracts.
2. *Implementation: Designation-, legislative transposition - and development process of management plans*
  - Implementation and planning are going slowly (7%; mean is 17%), but is catches up last years
  - Great expectations about new DOCOB bottom-up approach. There are good examples of (a) peaceful agreements about surroundings (b) involvement of and trust between relevant stakeholders (c) contacts;
  - Contract based management Natura 2000 sites – 5 years financed by MEDD and MAAPR; Le Taxe sur le foncier non bâti (law DRT) is a new financial measure for the DOCOBs. Budgets for compensation reconstructed land use NFNAM ; EAGGF and Natura 2000 credits (CPER)
3. *Interpretation of the key concepts of Natura 2000*
  - Lack of operationalization (sign) at National level; as a consequence great uncertainty about choices of free interpretation at site level.
  - There are inconsistencies between decisions of EU Court of Justice and the French court; the BHD- tests in France are not equal with the impact assessment (EIA)
  - The need to communicate and coordinate is acknowledged
4. *Integration of legislation, planning and or licensing*
  - In France there is no Legal integration; no planning integration and no licensing integration



## 3.6 Hungary

### 3.6.1 Introductory remarks

The desk study showed that Hungary is not only of any importance as being one of the newly accessed member states, but might also be of paramount interest because of the experience in bridging the gap between the national and sub national levels. There are certain similarities in the Hungarian and Dutch Natura 2000 contexts. An initially centralized national approach in designation had to be translated to a decentralized and regional approach in implementation. Also the Hungarian approach in involving and consulting various stakeholders may be of relevance, especially concerning low land and flood plain areas which are common to both countries. An overall research interest would be whether the fact that Hungary had access to cases of good and bad practice in the old EU of 15 member states had a positive effect on the way in which the Natura 2000 process took place and in turn has become an example of good practice itself.

### 3.6.2 Relevant contextual data of Hungary

Entrance into the EU	2004
Form of government	Parliamentary democracy
Political system	Republic
Governance: interaction between locus (administrative levels) and focus (policymaking: interaction between strategic, tactical and operational administration)	Locus: 3 Focus: No, though there is a role for Bird Life in policy implementation
Population density	10.2 million
Total area not including EEZ	93,030 square kilometres
area of nature (SCI marine)	-, ---- square kilometres
area of nature (SCI terrestrial)	13,025 square kilometres
pSCI: SACs / SPAs / Mas	467/55/none

Hungary joined the European Union in 2004. It is a country with over a 10,2 million inhabitants; 34% is working in industry, 7% in agriculture and 58% in services. Tourism plays an important role. The Gross National Product is 107 billion and inhabitants' income is 10.600 euro.

Since 23 October 1989, Hungary is a parliamentary republic, an independent and democratic state, since 2004 led by President Ferenc Mádl. The leader of the Government is the Prime Minister, Mr. Ferenc Gyurcsány. The departments that are responsible for the Natura 2000 processes are the Ministry of Environment and Water (MEW) and the Ministry of Agriculture and Rural Development (MARD). The Hungarian political and administrative system is not so much decentralized, so basically the regional authorities are very closely linked to the national authorities. This second administrative body in Hungary consists of nineteen counties, led by regional municipalities. Budapest represents an individual unit in the country, not belonging to any county.

Hungary is located in Central Europe, in the Carpathian Basin surrounded by the Carpathians, the Alps and the Dinara Mountains. Almost three quarters of the territory of the country is a low plain, one fifth is hilly with the maximum altitude of 400 meters, and approximately 5% of the total territory of the country is mountainous, altitudes varying between 400-1000 meters. The country is separated into two parts by the River Danube, the second largest river in Europe after the Volga and the main watercourse in Central Europe. Of its total length of 2,860 kilometers, 417 kilometers run across Hungary from the Northwest point of the country to the southern border below Mohács.

The second largest river is the Tisza, the Hungarian section of which is 596 kilometers long. The Tisza runs across the Great Plain, meandering on flat land all the way along, and reaches the southern border to finally run into the River Danube in Yugoslavia. Of the 1200 natural and artificial lakes of the country, Lake Balaton is the largest and internationally best known. It is the largest lake in Central Europe and an important destination for domestic and international tourism. Lake Fertő (Neusiedler See) is in the northwest, divided by the Austro-Hungarian border.

Hungary has a land area of 93,030 square kilometers. Together with locally protected reserves ca. 10 % of the country's territory has been protected. 10 national parks (484,883 ha), 36 Protected Landscape Areas (309,817 ha), and 142 Protected Sites (25,927 ha) Nature Reserves and Natural Monuments.

### **3.6.3 Images: political and social opinions regarding Natura 2000**

In the perspective of the Ministry of Environment and Water (MEW) *“the general political view is that the Habitats- and Birds Directive is a burden”*. They received criticism from Ministry of Agriculture, Ministry of Finance, Ministry of Economy and Transport that the designation was exaggerated: *“why did not we just designate the nature protection area, why did not we just designate 17, 5 % of the land surface as the EU15 average was: no more investment no more development can take place in Hungary anymore”*. All types of curses came on the heads of the people in the Ministry of Environment and Water.

From the Ministry of Agriculture and Rural Development (MARD) the point of view, however, was: *“the Habitats- and Birds Directive is also rather a blessing than a burden”*. Taking the structure and context of the agricultural changes and development in Europe into account, there is a need to develop new ways, new alternatives and new roles and functions to agriculture. The best alternatives will be the ones not directly relate to production. There is already certain tendency to strengthen the non-productive functions of agriculture. Natura 2000 seems to be a good tool as well for maintaining farming and for community providing alternatives, a decent income and a main livelihood for farmers producing nature instead of milk, wheat and food: *“from a political viewpoint Natura 2000 is a blessing, a tool or an instrument for achieving these changes. Of course there is a very serious and important condition that these systems or the management rules and the compensation should be equalled. If not, it will be a burden”*. The current nature conservation system is an old fashioned one because it is based on restrictive nature conservation without compensation. That cannot be maintained in

the long run: *“We plead for an active nature protection, involving stakeholders. We will be absolute positive players of the game in case there is money and the necessary financial background to compensation”.*

At regional level, where authorities are very closely linked to the national authorities this image of the HBD seems also a burden. This burden is even more felt because of the closeness to people in the protected areas: *“These lay people do perceive serious conflicts sometimes, but basically their relationship with the regional nature conservation authority is much closer than the relationship with different ministries in Budapest. So they are not necessarily happy, but they just accept the legal environment that the Ministries provide and they try to get out the most of it and to get to find the ‘modus vivendi’ with the other authorities”.*

Not so long ago the private owners and farmers opinion was is that Natura 2000 brought a lot of restrictive regulations. Not knowing what the end would look like, they perceived only the expected negative effects from banning out new or existing activities. But the first spring, after the introduction of Natura 2000, the farmer’s opinions changed. On the one hand some of them realize the beneficial use of Natura 2000. They asked if their land could be incorporated into the Network 2000 because of the advances of international funding options, a few fish farmers notably. Their very good combination of eco-friendly fish farming and eco-tourism provides extra income. Therefore they support the implementation process, while On the other hand others are strongly demonstrating against it. For the industrial sector the real effects of the BHD are not clear enough as yet. They are worried that the implementation will considerably slow down and complicate the development planning process and comprehends environmental assessments.

*Illustration 19. The Cormorant Case. Natura 2000 in Hungary more a burden than a blessing.*

The Cormorant cause huge damages on a fishpond in large flocks. The private sector wrote a complaint to the concerned authority and asked for the possibility of shooting them, if needed. The first response was to disturb them somehow out of their areas, which was impossible in the case of 200-individual Cormorant flocks. Though it took years of discussion with the relevant authorities (usually NP Directorates), but finally it became possible to hand in a form in which was asked for a permit to shoot the cormorants (13/2001 Ministerial decision).

### **3.6.4 Implementation**

*Designation of SPAs and SACs and the acceptance by Brussels*

The implementation of the Natura 2000 Network in Hungary has just started. Since Hungary joined the European Union in 2004, the Authority of Nature Conservation of the Ministry of Environment and Water was responsible to propose sites of community importance and to designate the SPAs. In the group conversation the MEW it was brought forward that the real work in site designation started in 1998 after a four year long period of political negotiations between the European Union and Hungary.

The final list was submitted to the Government in 2003. The governmental draft decree of Natura 2000 has circulated between the concerned Ministries of Agriculture, Rural Development, Defense, Economy and Transport and the ministry of Finance. Strong resistance occurred from the Ministry of Finance. They wanted to know to what extent would Natura 2000 alter the economy of the country. The NANC started to complain about the quality of the data based sheets and the applied data of species and habitats.

In between 2003 and 2004 lots of conflicts came by in cases of road planning and agriculture. The MEW argued that it should have been nice to have a more open discussion on the site selection and designation with other stakeholders but the EU Commission told them that the site designation process could be only considered from a scientific point of view and no economic, social or other issues could have been taken into consideration in that stage. In October 2004, the designation process of SPAs was round and the proposed sites of Community Importance were listed in the same governmental decree.

*Illustration 20. Natura 2000 advisory board helps Hungary through designation process.*

Despite the fact that there is not yet a long history, the MEW and Birdlife Hungary are very proud of the involvement of the scientific community in the designation process. There might not have been a Natura 2000 Advisory Board like this in any other countries: the MEW selected a group of 10 best experts of specific taxa in the country in order to assist the species designation to the Annexes of the Habitat Directive.<sup>1</sup> The Advisory Board consisted of not only the experts who had the highest scientific degrees, but also recognized field experts, knowing the range, the population of taxonomic groups like Orthoptera or vascular plants, and so on. This also gave them confidence in making decisions about site selection and compilation of the list of species with national populations and similar technical information.

The strong cooperation among scientific bodies in Hungary then was the main specialty of the Hungarian Natura 2000 site designation process. In an other Phare project, a consortium lead by Öko Rt., and with representatives of the National Park Directorates, local experts, the Institute of Geodesy, Cartography and Remote Sensing (FÖMI), Institute of Ecology and Botany of the Hungarian academy of Sciences (MTA-EBKI), MMTE (BirdLife Hungary) the Royal Society for the Protection of Birds (RSPB) worked closely together on the process and also foreign experts (ADAS, CEEN Consulting) were invited to facilitate the implementation of the Natura process<sup>2</sup>. As a result of this project 1:50 000 scale CORINE Land Cover maps were developed on the basis of satellite-images, CORINE Biotope National Database was updated, proposal for the designation of SPA sites was carried out. Unfortunately with the end of the Phare project no extra funds could be raised for further data collection and research.

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<sup>1</sup> One can read more in the publication series with the titles of “Natura 2000 network”, “Assessment and Evaluation of the Sites of Community Interest” and “Proposed Special Protection Areas in Hungary” (Hungarian books with English summaries).

<sup>2</sup> This Phare project for this expert consultation started in October 2000 and last for 11 months.

The MME followed the designation process of the Natura 2000 sites from the very beginning in 1990 and was held responsible for the designation and monitoring of Important Bird Areas (IBA) in Hungary. They learned from the Dutch court case, treated in European Court of Luxemburg, that the compiled list of European IBAs had to be taken as a marker database and countries could refer to that to prove that the designation process for SPAs was done properly. Meeting the criteria of the Birds Directive holds not to neglect the IBA lists. Before the appearance of the Decree in 2004, they sent their proposals to MEW but they did not receive any response. The MME perceived this as if there was no clear vision at least regarding the key points of preparing the Decree. Questions remained about the level of protection of Natura 2000 sites after the designation. Experts of the National Parks compared the network of ÉTTs (Environmentally Sensible Areas) with the Natura 2000 network and proposed comprehensive regulations on the sites and close cooperation with the farmers.

The Ministry of Environment and Water, mostly lacking capacity, workforce and budgets, but leading the legislation process, did not succeed in a common understanding by the involved Ministries, about the basics of Natura 2000. Therefore clear visions on finance, on legal implementation, the relation of the Natura 2000 areas to the 17 types of the protection categories of areas in Hungary was lacking at the time the draft the Decree was ready. According to MME: *“the process of understanding Natura 2000 would have been eased if a stronger preliminary communication and “showdown” of clear concepts would have been organized”*.

The private sectors were not involved and or consulted in this designation process at all. Most of them knew about the process and they think that it would have been luckier if this process did not happen so fast.

After the Decree was declared the list of sites along with the standard data forms, were sent through the permanent representation of Hungary to the European Commission. The approval by the commission will take place somewhere in mid-2005 in the course of bio-geographical seminars. Hungary represents a whole new bio-geographical region, the Pannonic region. According to the land registry numbers approximately 21% of the country is designated or proposed as Natura 2000 sites. This is about 1 950 000 hectares and it consists of 55 SPAs and 467 pSCIs, altogether 512 Natura 2000 sites. The land registry numbers belongs to the MEPAI (Agricultural Parcel Identification System). The small-scale (1:10.000) maps of this system will be updated each year and will be adjusted by the digital layer of the Natura 2000 sites which is based on satellite-images, describing the exact parameters of the areas. If an area was only partly Natura 2000 site, the land registry number would be divided into sub-numbers according to that. Personal letters will not be sent to the landowners, but the cadastre numbers will be announced in the Magyar Közlöny (the Official Journal of Hungary). If the owners want to sell their land or want to add certain types of activity, this system could facilitate the permission process.

The MEW provides an open period for debate of 90 days to adjust land registry system. The MARD is however worried, because they think the NPDs do not have the proper capacities to answer these requests. The procedure for requests is not fully clear yet. What is for sure is that farmers will ask basically: *“what does it mean for us?”* *“What are the restrictions?”*, *“What will be the compensations?”* If the communication is not efficient, then there will be many appeals.

*Illustration 21. Process and procedures designation process unclear; millions of landowners uncertain of future.*

1. The Decree itself does not regulate the procedure of handling the reactions.

The list of the land registry numbers will be presented in a very thick Magyar Közlöny, which does not say exactly whose land was designated, meaning that everyone will have to look if their land is included or not. But not every landowner buys a Magyar Közlöny automatically, especially not those thick ones that cost thousands of Forints at least. This means that many landowners will not be informed. The ones who will become aware of the fact that their land has been designated can automatically turn to the National Park Directorates or to experts at NGOs asking the meaning of Natura 2000 designation or they can react with criticism if they think that their land does not fulfill the requirements of the Natura 2000 designation. *The period of answering at the NP officially takes 30 days in each case. Taking account the number of landowners that can be a million per national park, that is enormous in itself and if all of them asked information that will be a disaster. Even if ‘only’ one hundred or one thousand land owners ask for explanation at a national park with a 30 day of reaction time from the national parks it takes a long time and huge efforts from the parks. Not to mention if the park has to apply an outside expert (probably for huge expert companies, but not exactly known yet who has this capacity) during the explanation process that elongates the period, too. Not only this process not clarified yet but also the follow-up procedure of the reactions.*

2. The Decree does not state that the list of designated sites can be altered.

It says that the border of the land registered in the MAPRD system can be changed on the basis of the reactions taken for the land registry numbers. Then again the criteria system set up for the Natura 2000 sites which designations receive criticism, must be clarified. E.g. in the Hevesi-plain there are huge areas designated to protect the Otis tarda. If we have to divide the land registry numbers to sub-numbers to lower the size of the designated area Otis tarda could lose its feeding plots if those are not protected. So that should be clarified and communicated first that why is it worth for a farmer to accept their lands’ Natura 2000 designation, e.g. they could get plus support in the agri-environment scheme. It is important that farmers should be aware of the criteria of designations and therefore they would know the benefits of the designation as well, not only the payments and compensations but other things as well, says MME.

One expects a lot of reactions from the industrial sector, the mining sector, the sector for infrastructure and from all kinds of entrepreneurs, mainly after the 90 day period, but before the designation process is ended. These reactions vary. There is a need for detailed information about the tenor of Natura 2000, because this is not yet understood by a lot of involved. The sector of road infrastructure did not understand the Natura 2000 concepts for a long time, not even after the consultations. The road infrastructure engineers and planners are keen on getting thin information on Natura 2000. They say: *“give me all the details on the basis of which I can make plans. Then, when knowing all aspects, we will try to avoid all the conflicts”*. The Ministry of Defense demonstrated about the designation of certain areas, right away. The Mining Authorities provide information about the Natura 2000 network to their own regional representatives and institutions (bányakapitányságok). This information is

based on their own geodigital data and surveys. A representative of the Ministry of Environment and Water said: *“if we had more power we would have advertised it even more, we did everything we could. We kept asking the government for extra staff and that was fulfilled to a very small percent”*. The Ministry of Agriculture and Rural Development is convinced that the farmers will be informed in time through their agro-environment system, website and other ways to spread information.

*Illustration 22. Hungarian government. Caught between achievements and fears.*

The Ministry of Environment and Water wants to inform the concerned people through the website of the MEW, through the local people of the Agricultural Chamber and other representatives of the Hungarian farmers, the so-called Falugazda network about the land registry numbers and the lists of Natura 2000 sites. The Decree says any activity that has been carried out on a Natura 2000 sites can be continued in the future as long as they are in line with the perspectives, with the purpose of Natura 2000 *“We keep telling them that those species existing on the proposed sites are there because of the activity the farmers have been carrying out on the field provided habitat for the species. So the only change would be in certain special practices. Nature conservation does not want to ban their land use because then the species would disappear.”* The other thing concerns the uncertainty about agricultural land use in case the land falls under restriction and in case farmers give up agriculture to use the land for other purposes, *“farmers are not worried that they cannot use their land for agriculture anymore, but clearly there is a high chance that certain types of activities will not be allowed, because concrete buildings and industrial areas are not good habitats for birds, or plants or insects.”* The Ministry of Environment and Water fears that those people will try to persuade the National Park Directorates that those species do not exist on their lands.

The agricultural sector is convinced that the information flow toward the concerned landowners should be done from state budget: *“it is not a liability of any citizens to monitor each website if something happens to us or not at each Ministries. Tomorrow a Decree may appear on water conservation or on air or on soil protection, and one cannot expect that individuals do visit all the websites of ministries for news that affects my everyday life. The Ministry has to organize that people affected by Natura 2000 will become informed individually”*.

*The transposition into National legislation*

The *second* phase in the formal implementation process concerns the transposition in National legislation. In 1998 the EU executed multilateral and bilateral screenings. Hungary could give insight in their current Nature Conservation situation. During these multilateral screening the Commission explained to the Authority of Nature Conservation of the Ministry of Environment and Water what they expected from the new, at time the candidate countries. Later on there were informal discussions, seminars and there was a Phare project. Pre-review seminars were organized with the delegation, chaired by Nick Hanley, in which the sub-commission employees participated. In 2003, in a formal meeting with the European Commission, Hungary had to explain their progress in the Natura 2000 implementation process and had to clarify what plans are to be applied to transpose the Habitats and the Birds Directive. A few months later the Commission came to check. Before the publication of the Decree some exhibitions and farmers forums were held so farmers and others stakeholders still had the chance to react to the list of sites.

In 2004 the Act on Nature Conservation (1996, LIII) was amended allowing the continuation of the legislation process of the Natura 2000 sites. A draft governmental decree containing the measures to regulate the establishment of the network and the list of selected sites was circulated among the concerned ministries, including the ministry of Finance, who signed the Decree 8<sup>th</sup> October 2004. The Decree contains 512 Natura 2000 sites, with an average size of 400 ha (1, 91 million ha; 20, 5% of countries surface). The Natura 2000 Decree appeared in the “Magyar Közlöny”, the official Hungarian bulletin on decrees.<sup>3</sup> 40% of the Natura 2000 sites are nationally protected and 60% of the sites are not. Theses sites are owned by municipalities, state forestry, Ministry of Defense and 17% is private property.

*Illustration 23. Clarification, simplification ownership Natura 2000 sites not in Hungarian Decree.*

There are certain discussions about the simplification of certain types of governmental ownership in Hungary: one interviewee said that there is not any reason why this would affect the Natura 2000 network. *am not aware of all the details, but the discussions is that some should become part of the Kincstári Vagyongynökség, and certain types of land or forest would change the government ownership, but in my view it does not really affect Natura 2000 since neither the Directives nor the Hungarian Decree tells anything about ownership. Basically those sites that are not protected by national law so these about 60 % of the Natura 2000 Network exist because there are certain types of activity, there are plough lands, farming activity, grazing, hay collection, and this ensures that these habitats will exist in the future. If these areas will become government property than the government would have to have the animal stock, the machinery, the staff, the farmers employed to do these activities. This is a lot of extra work; it is a lot of expense I do not see any reason why this should take place if there are owners who are happy to use their land...*

#### *Management plans for the sites*

The draft Natura 2000 legislation does not contain any provisions regarding site management. Birdlife Hungary knows that the NGOs and the ministries are willing to make management plans for Natura 2000 sites. Cooperation is expected from the National Park Directorates who will develop proposals for the introduction of suitable extensive farming methods on the sites. Birdlife itself has already prepared such a plan for the Kardoskút area. At the Budapest Conference of 10-20 May, they will present a proposal, not to make management plans first, but to answer questions like “what kind of management documentation should be prepared?” and “How these documentations should be connected to each other?” and also “who, how and whom should be involved in this?”; “how the implementation should be controlled and documented?”.

*Illustration 24. LIFE project: Conservation and management of 9 SPAs in O'tarda.*

Among other things, this project aims to prepare management plans for 9 SPA's and a predator management plan to reduce predator populations around O. tarda. Furthermore one aims to develop awareness in the target groups and create support for conservation measures to O. tarda, including the creation of Natura 2000 sites covering the whole area important for the species, by an intensive communication programme with targeting farmers, game managers and political decision-makers at local and national level, will increase. A comprehensive monitoring programme will inform about the changes in population parameters, habitats and in number of key predator species.

<sup>3</sup> Please find under Annex 2 in Hungarian.



According to the MEW there is a Decree prescribing the preparation of management plans for the protected areas. There is not any intention to complicate the process for non-protected Natura 2000 sites. Before starting the management plans for those sites, they will wait-and-see for the approval of the Commission. At least many of the EU 15 countries, who started the implementation process in '92, are also just starting to make the management plans for the sites. The MEW is a bit worried about the cooperation between the Ministries needed to make this process a success: *"There are some very good personal contacts at a personal level, but not at the level of decision-makers, higher officers, they are not leery about the entire issue of Natura 2000 and nature conservation"*. The process of breaking down these walls is ongoing. Besides that, at the MARD there is only one unit with three people to take care of rural development. This limited workforce is also engaged in other important issues to deal with; as a consequence the engagement for nature conservation is limited. Unfortunately, this lack of working force on Natura 2000 can also be seen in the MEW.

Birdlife Hungary is aiming to set up a management working group in Hungary with an online internet forum. The Land Stewardship Advisory Service of BI would like to keep regular trainings and to provide guidelines on Natura 2000 for highlighted areas, like forestry, agriculture and water management, environment impact assessments, strategic assessments.

According to Birdlife Hungary, the Natura 2000 working group, consisting of 4 organizations, already decided that they will continue the activities on Natura 2000 communication in the future as well, whether or not the government will lead a communication toward the public or not. Besides that Birdlife wants to participate in the process of the bio-geographical seminars on the Pannonic bio-geographical region and spread information through workshops, conferences and internal trainings providing deep insight for Hungarian central and regional legislation bodies. Birdlife wishes to raise general public awareness and make Natura 2000 areas be popular, but they presume that these activities will not be covered by Hungarian state budget. So for the financial source they will have to rely on EU sources. The working group also aims to report to the Commission on a regular basis on the Hungarian implementation processes. If it needed they would turn to the Hungarian parliament or to the Luxemburg court.

Farmers do not know much about the management plans for the Natura 2000 sites yet. They feel that it will be a question of organization how farmers will be informed about what to do on their area. There must be different management plans for highland regions, lowland regions and for the wetland areas. As they differ so much, farmers have to be consulted each. Up to now there were no steps taken into this direction.

### 3.6.5 Interpretation

Not having sufficient communication about the implementation of Natura give rise at a great uncertainty and diversity in the interpretation of determinations, criteria and legal concepts mentioned in the Directives. According to the Ministry of Environment and Water there are neither special guidelines designed dealing with article 6 HBD and the significance test nor as to the favourable conservation status (species protection) some of the official EU documents are already translated and used in practice, others are not. This has to do with the fact that Hungary is just starting Natura 2000. The major achievement was to catch up the EU 15 member states and to propose the sites by the end of 2004. Probably the EC will either approve this proposal in 2005 or at least evaluate the proposed sites of Community Importance. At this moment the MARD is preparing written guidelines to use by farmers. As soon as the discussions about the management rules and the consequences have finished, these guidelines will be available for farmers. This will be probably in the end of May 2005.

The Advisory Service of Birdlife Hungary is running a project emphasizing on Article 6. Expert's seminars are organized especially for architects, road development, and engineers and paid by the participants themselves. These experts of environment impact assessment procedures are bridging the interpretations and clarifying the BHD topics. They try to explore: 'what does Natura 2000 really mean?', 'how is perceived in planning processes?' what are the consequences when permitting procedures starts? : *"Actually the Dutch are very good in involving environmental experts from the earliest phase of planning, because this helps to understand the concept of Natura 2000 and also eases the planning processes. In general it was satisfying that participants understood what the concept behind Natura 2000 was and to whom they could turn to. The representative of the National Road Development Plan realized that the Natura 2000 should be taken account in the starting phase of any project."* Birdlife looks after three trainings in the field of infrastructure development. Trainings in the fields of agriculture, spatial planning, regional development, constructors and water management will follow. The results of these seminars will be summarized on the website both in English and Hungarian and also written guidelines will be compiled, based on these seminars series and these are especially for architects, road development and engineers.

### 3.6.6 Integration

Although there might be still a quite sectoral EU approach, planning integration might possibly give member states opportunities to integrate nature conservation into environmental and spatial development law. In Hungary there is a governmental background agency working for the MEW, the so-called Chief Directorate for Environment, Nature Protection and Water Management, called '*Országos Környezetvédelmi, Természetvédelmi és Vízügyi Főigazgatóság*'. They do have a unit on nature conservation that gives technical support to the MEW whenever needed. There are also Non-Governmental agencies, like the Ecological Institute in Miskolc. The Head

of this institute is part of the team screening our LIFE projects and most of the time present when the Commission comes to check LIFE projects in Hungary.

According to the MEW the Ecological Network is already included into the OTRT (Országos Területrendezési Terv) and also is part of the 'National Regional Spatial Planning Plan'. As a part of the ecological network, Natura 2000 also becomes part of these plans. *Since this involvement is expressed in a Government Decree of October 2004, one cannot just neglect that such a network exist, so from now on they have to take it into consideration. It is however not yet known if new spatial plans already are accepted.*

At the moment there is no interdepartmental working group set up concerning the implementation of the Nature 2000 network at the MARD. Because it is the early phase of the introduction of Natura 2000 network they do their work in a 'case by case' manner. The current case is to discuss the farm management rules and the basic maintenance compensatory system. There are meetings with a pool of experts approximately every two weeks on the next versions of the proposal or the draft of these rules what they try to finish as soon as possible *we will attempt to incorporate Natura 2000 into the planning process of the new rural development program which is regarding the new EU period between 2007-2013.*

Farmers will have to comply with those rules from 2007 and the compensatory system should also be set up by that time. Meaning that the Natura 2000 issues, both on the maintenance level and extra development level measures and payment systems, will be incorporated into the national rural development plan regarding this new period. Not having information about spatial planning issues, the MARD presumes that there will be certain acts of site selection to the spatial planning and that some kind of cooperation will exist, despite the limited information on those areas.

What the MARD actually misses is a widespread discussion or debate on the issues. But it would be a very sensitive situation if the Ministry of Agriculture would start a national discussion on the implementation and involve different stakeholders, farmers and concerned organization. *"The first step should be taken by the other ministry to open up the system, explain it, and tell about it, anyone who has question can also help the acceptance of the system."* They think that the main stakeholders especially farmers and those who will be on the other end of the line should be involved in this process.

The implementation of the Natura 2000 networks and the reform within the green authorization bodies occurs in the same period. According to birdlife Hungary *this is really a miserable thing and its affects seriously the possibilities to ease the integration of other sectors into the nature conservation. Here it is a unified network of protected areas that needs strong support of governmental bodies, regional authorities, and the public as well. Consequence of the reform would be that the governmental bodies would not know what their tasks would be. E.g. the natural park directorates are going to be separated from the authorities. The decree says that NPDs are the bodies responsible for the implementation, but the NPDs will now not have the needed rights anymore, to act as an authority and that will cause problems.*

The NGOs themselves are trying to get Natura 2000 on the agenda hoping that it will be taken into account in the national planning procedures. They are e.g. involved in the National Development Plan (NDP) and in the National Rural Development Plan (NRDP), the latter is not part of the NDP but it is connected to it. Birdlife is involved in Committees at ministries that deal with agriculture, the Agro- and Rural Development Operative Program (AVOP) for the period of 2004-2006 of EU funds and in planning committees for the period 2007-2013. In the RDP Committee they have reached that farmers will receive extra points in the evaluation, when they apply for financial support for their areas, if their land becomes a Natura 2000 land. In this way farmers will see and get the advantages from Natura 2000 process. Further, the BI is preparing an evaluation report of the so-called TINA plan, an assessment on that how the Natura 2000 will influence the road infrastructure sector.

The private owners, entrepreneurs and sometimes farmers with eco-tourist activities do have a lot of good examples. One of them created in 1988 the first private fish pond, Aranypony Rt., demonstrates that a combination of tourism could go hand in hand with nature friendly fish farming and providing working places for people on the country side.

*Illustration 25. Integrating practice in Europe's pearl Réztszilas Ponds Nature Reserves.*

The nature reserve was established in 1996, and belongs to the Duna-Ipoly National Park in Hungary. The nature reserve falls under the most rigorous Ramsar Convention. By establishing this nature reserve a new perspective was created: it let people live with nature and farming, creating working places on this land. It was important because comparing to e.g. 1985 there was a 35% lower rate of agricultural production in Hungary and the agricultural areas had no more perspective. The basic concept behind the establishment of an area like this has been proven very successful: nearly all of the rare freshwater species occur there and certain species' like the gray-leg goose's population -from which they originally had six individuals- or the otter's increased tenfold comparing to their original population size.

Hungary is proud that its freshwater ponds are in very good state, not contaminated and containing a fantastic diversity of species. The country has a great chance of joining into green tourism, green photographers and bird-watching tourism as well. These can become a leading sector of rural infrastructure development and in the meantime this is able to keep people in the countryside. If one can look around here, they can see a restaurant with local typical cuisine, a laboratory for research, a museum, a conference center and even a wellness center. So people arriving here can meet all beauty of nature and on the other hand they could receive European-level service.

The National Park is carrying out regular monitoring as well as birdwatchers each fortnight. The owner says, "*We think that nature and farming should not only work closely together but they have to live with each other day by day on a long run. It is impossible to do nature conservation against rural people, or without them. And also it is difficult to protect anything with signs and guides of national parks.*" Learning to handle the system however costs a lot in time and money, and also in making compromises between nature conservation and farming, especially at the beginning. The owner says, "*I think it is not 100-110 private entrepreneurs' task to protect, care, feed and grow the precious populations living in these habitats for the whole country without any compensation. Therefore I am saying sadly, that even though Hungarian freshwater habitats are world famous, no one received any compensation for their protection.*"

It is not clear at the moment if the Natura 2000 regulations will be stronger or different than the Ramsar regulations, the national nature protection regulations or the agro-environment regulation.

### 3.6.7 Used Policy instruments

In Hungary not any specific *legal policy instruments* is clarified yet. Up to now Hungary is still ongoing to succeed this difficult part of the implementation process of Natura 2000.

*Illustration 26. Start from the scratch explaining BFD is a legally binding system.*

In Hungary the technical discussion started at the end of 2003, the moment the process became official and the final draft of the government decree was circulated (October 2004). It took 6 months before the Prime Minister signed the final document. The MEW experienced that it was difficult to make the fellow worker aware of the fact that the directives are legally binding. He said: *the Deputy State Secretaries thought that the Directives were only guideline, goals to achieve somehow and that the Directives were not legally binding. To get such an important Decree accepted was very difficult under such circumstances, when you have to start from the scratch in explaining what a directive is.*"

Curious about the situation in Hungary, the Dutch delegation complained about the huge number of court cases regarding Natura 2000 implementation in their own country. In Hungary people can go to court only if Natura 2000 implementation acts against their constitutional right. Conflicts in Hungary are expected with road constructions, mining sector, farmers, industry and also projects and plans affecting Natura 2000 sites, however, since October 2004, such a project has not occurred. As 40% of the Natura 2000 sites had been nationally protected before receiving Natura 2000 designation. Farmers on these areas will not deviate too much from former regulations. Interestingly, architects show interest in Hungary in Natura 2000 process realizing the appearance of a new aspect of spatial planning.

In Hungary there is a strong will to use *communicative policy instruments* and to involve stakeholders in the implementation process but Applying these communicative policy instruments costs lots of time, competent persons and money. The MEW regularly reports to the government that they do have a lack of power, capacity and money to meet these wishes. Not directly for Natura 2000, there is a budget for the communication of environment protection, and basically this is under the umbrella of "Friendly Nature Protection" system (*Barátságos Természetvédelem*). From this budget some funds could be applied.

The MARD also reports the lack of budget for Nature 2000 communication. They are dealing with communication without money, trying to keep forums and workshops with farmers. Talking about the communication on the ESA, there will be a continuation of similar discussion forums and there will be made certain brochures and information packages on the Directives related programs and issues. Some parts are already in press and in a few-weeks time we will have directly available information in the form of leaflets, brochures as well. A general television series is produced, which will be broadcasted probably from June 2005, continued with

specific short films for farmers. Furthermore there will be a spread through DVDs or videos to use as training material. The MARD thinks that a very significant major part missing in the implementation strategy in Hungary is the communication. They would really want to start a joint action but they think it would be strange if they would initiate this. The MARD perceives that the NANC is responsible for that.

Members of the NGO working group on Natura 2000 (National Society of Conservationists, MME/BirdLife Hungary, CEEWEB and WWF-Hungary) were consulted with the national authorities in the communication of Natura 2000 as well. The representatives of the NGO believe that consultations should be focused on the farmers' needs on information on why certain changes have to be made in their land use and what are the consequences of the changes. This could decrease the unreasonable resistance. Farmers have different imaginations. First, their farming practice will not change (this will not be true for all the cases, because there will be lands on which grazing should be guaranteed). Secondly, they are frightened of the restrictions. Third, some farmers will ask proper information and will get involved into the process.

From the private sectors point of view the concerned parties should received appropriate communication and be involved in the preparation of the management plans. They think it would help if Natura 2000 network was divided into manageable regional areas, and then concerned owners were invited to discuss what options they have. They have also heard about the NGO trainings held by the NGOs, but these should be systematic not ad hoc trainings. And than of course held trainings in the regions or sub regions, so that the information can reach everyone. *“Of course it is good thing that NGOs assist the ministry in this process and we need more and more trainings like that. But (a) there should be passive workshops too, because people will have many questions, and then it can also be a good source of information (b) even more essential would be the straight active communication from the Ministry to the landowners itself and (c) written guidelines are needed for each landowner. The level of awareness is quite low in Hungary.”*

The MEW experienced different kinds of learning and used the benefits of potential good teachers, especially from Finland and Spain.

*Illustration 27. Learning strategies between old and new member states.*

Hungary had the chance of learning from the experiences of Natura 2000 site designation and implementation in the EU 15 countries, within the framework of a Phare twinning project starting in April 2000. They worked together with two Pre-Accession Advisors from Finland and Spain for 14 months<sup>4</sup>. The Finnish expert<sup>5</sup> assisted his Hungarian colleagues in communication practice and public negotiations with regards the Natura 2000. “*Although the economic and political situations and the authority system in Finland is different from the one in Hungary, Finland showed us a very good approach on how to communicate with the stakeholder, and of course this approach cannot be simply copied, but learning from it was still very useful.*” Hungary received also assistance in the development of the digital database and experiences of geographic information systems from the Spanish expert. “*Spain has similar nature conservation values as Hungary and from the technical part they were good teachers.*” Apart from the framework of Phare projects or other fix-term funded projects, there are long-term bilateral contacts e.g. with the Netherlands, Austria and Germany of Hungary. “*If we go there or they come here we always take the all opportunities are used to ask them more about specific questions and how they deal with certain issues e.g. financing Natura 2000 or filling in the standard data forms or the ‘dirty’ technical details, but also more general policy issues.*” Also in the framework of the Phare project, trainings were organized for National Park Directorates and a publication on the Natura 2000 network for the public was also issued in 2000.

Birdlife is convinced that Hungary, with quite different types of areas, has some very good and some bad experiences as well in land management, which should be shared with others. One farmer said that he not really knew any good examples from the 15 EU countries. Even their colleagues working on the field from their German twincity working on the fields did not know anything either about the Natura 2000. Birdlife continues that good experiences must be collected and documented, just like in England and The Netherlands. The same must be organized for the national court cases, like in France and Germany, but due to the lack of language knowledge and time this is not yet done. Problem to deal with is the different understanding of the criteria of Natura 2000.

According to the MEW farmers are sometimes not happy if their land has been designated or if they have to change their practice due to the designation. Then compensation will take place. The method for Natura 2000 compensation is not yet developed, but a well-operating compensation system developed for the Environmentally Sensitive Areas can be a good basis. Often *policy makes combination economic instruments* like subsidy, levy and or fiscal measures.

At the moment the financing of Natura 2000 in Hungary is not too bright. Farmers make use of the EU countryside development fund for compensation and an increasing amount of farmers are interested and make use of the short term leasing contract with National Parks. For 2005 and 2006 some 150 million HUF were set aside from state budget for Natura 2000 implementation both inside and outside the protected areas. After 2007 possible financial sources for Natura 2000 LIFE+, LIFE,

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<sup>4</sup> No.: HU 9807-01-02 “Project for “Preparation for Implementing the Habitat Directive in Hungary”, later named “-Habitat Twinning Program”.

<sup>5</sup> Mrs. Outi Airaksinen, Erkki Kellomakki Institute, Finland and Mr. Carlos Villalba, Ministry of Nature Conservation, Spain.

Structural Funds, Rural Development Plan could be options, but it is questionable yet in Hungary. Natura 2000 network needs ongoing funds, and the Cohesion Funds and Structural Funds ensure one-off payments rather than continuous ones. Also it would be helpful if LIFE+ fund was extended for nature protection.

The MEW is convinced that on the long run, the financing of Natura 2000 implementation will be a big issue. Due to a lack of communication and policy of the Ministry of Agriculture, there were demonstrations of farmers in Budapest in March 2005, because EU subsidies' payouts were late. The large landowners easily make use of EU subsidies but the small firms do miss the boat.

*Illustration 28. EU funding needed for the survival countryside Hungary.*

Protected areas: 40 % may get some extra funding from the EU, the former LIFE funding, the Structural Fund or some other type of financial support that will boost the activities within protected areas but these sites have been preserved even without EU membership. Unprotected Natura 2000 areas: It will be very important that their form and function should remain as has been so far. Therefore farmers should get support in case their activity is modified or restricted in any way or for their eco-friendly way of working and may not make enough money for a living, so it is very important that they will get the financial support to survive in the countryside.

Birdlife Hungary is working together with the Authority on Nature Conservation to develop a plan that supports a system for the financing of Natura 2000. In this plan three options are worked out: (1) direct compensation: the government pays the farmer because they do ban certain nature unfriendly activities on their land (2) financing 'Good Farming Practice' meeting the Natura 2000 required criteria. This could also involve the unfavorable areas as well. The support is minimal (3) A two-level of financing of regional programs on voluntary basis for the land types meeting the strict FCS criteria for ESAs. On the one hand it is possible that someone steps into the program and accepts the conditions, nevertheless not be compensated. On the other hand if someone does not step into the programs they may be compensated. The resources for this financing program are coming from the national budget, the Common Agricultural Fund and the Structural Fund's. The last one providing the road infrastructure related assessment costs and the co-finance costs.

The Ministry of Agriculture and Rural Development is also convinced that on the long run, the financing of Natura 2000 implementation will be a big issue. At the moment they see two types of financing Natura 2000. First, the LFA-type compensation, in which the farmers lead 'good farming practices' so they would have to keep certain basic rules, than they receive some support for it. The second would be on a voluntarily basis if they were part of the agro-environmental schemes of the future rural development plan from 2007 (approximately covering the implementation of the Natura 2000.) The MARD said: *"It is a rather delicate question and in recent weeks I received some worrying news about it, the reason of the fears is that it becomes a huge areas, we are talking about 1,5 million hectares in Hungary of agricultural land and even if we have a very limited maintenance level good farming practice, it will mean that we have to provide a budget for 1,5 million hectares and the bad news we received recently that the EU would like to have those countries that are not contributing to the EU budget they would like to reduce the contribution level it would*



*mean that basically the scale for possibility for financial perspectives will be reduced from 1,2 % of the GDP to 1,0% of the GDP. This would mean that there would be no extra money available after 2007 compare to the current situation".* This has strong and severe consequences. Thus the future of Natura 2000 is strongly dependent on the situation and the outcome on these debates. Hopefully any organization that is dealing with it, will draw attention to it and have a look and try to influence it in a positive way.

In fact there are many Natura 2000 sites that get financial support under the umbrella of the ESAs or under the umbrella of Less Favorable Areas. The requirements to get this type of support are very similar to the ones prescribed for Natura 2000 sites. So if they fulfill the requirements for ESAs or LFAs they fulfill more or less the requirements for Natura 2000. The 'National Rural Development Plan' (*Nemzeti Vidékfejlesztési Terv*) was signed by the Commission before the Natura 2000 sites were declared and the Ministry of Agriculture and Rural Development said that they could not have included Natura 2000 sites until they were designated. But the change of this accepted plan would take at least half a year, so if the land registry numbers were declared and they could start the process to include the Natura 2000 sites, the earliest they could change the plan is 2006 when the financial period of the plan is just about to expire.

Right now the MEW has a small budget for compensation, for restricting land use. Taking part in the extensive farming methods on a voluntary basis will lead to compensation toward the owners and/or users of the lands. This compensation until 2007 will be guaranteed from the Hungarian Agro-Environmental Funds. The Ministry of Agriculture considers this as one of the most successful parts of the National Agro-Environmental Program and basically it has the same concept what will be used in the Natura 2000 incentive scheme in which farmers should follow certain management rules in order to care about or manage better, the natural environment and biodiversity basically. Getting compensation would cover the income loss and extra costs related to the new kind of management. Almost one-third of the farmers joined to the national schemes of the agri-environment program (EAS). That's really a good basis for Natura 2000 network, because there is experience in such a scheme implementation and farmers are familiar with such kinds of incentives, knowing what it means and what the consequences are. This leads to a better acceptance and a wide uptake of such kind of schemes.

There is no clear agreement on the financing of the Natura 2000 at this moment at an EU scale. It seems that the Commission wants an integrated approach where Natura 2000 area financed from different sources like Cohesion Funds, Structural Funds and especially the EAGGF funds or the follower of the current EAGGF funding.

*Illustration 28. Fear for complexity and changing EU funding.*

The Ministry of Environment and Water believes that to some extent, the integrated financing strategy is a good idea, because Natura 2000 can exist if agricultural activities are going on many sites. But the fear is that certain types of activities are very complex, as it has been shown by LIFE projects: *“They involve land purchase, they involve habitat restoration, they involve one-off investments buying livestock, building interpretation centers, support for farmers, building up a monitoring system, they need to involve a little bit of research, a little bit of PR activity to involve the local community in Natura 2000, so these are so complex and sometime they involve continuous support as well as one-off investments. These types of integrated funds will be able to cover only certain aspects of these types of activities”*. Second: Although there is no limit for funding sometimes one does not need too much money to protect a species. For instance if a specie is very restricted, it occurs only on one site of a couple of hundred hectares. These types of funds usually prefer some plans that cover whole regions or at least 3-4 counties. Applicants have to design these projects according to this approach to protect certain endemic species with very restricted distribution area, so they need to have some kind of umbrella species or umbrella habitats that cover the whole area that can be the base of a more comprehensive project: *“I think this idea is not sensitive enough for species protection programs and certain types of habitat restoration programs. One can worry that the LIFE + will only focus on very special activities and the current LIFE Nature support will cease to exist. I have to mention that it was very useful to get help from NGOs, to use their expertise, to involve them in nature conservation, and if LIFE will not provide funds anymore to NGOs as it has done before, it will be very difficult to get funding, and to get them involved in certain types of project”*s.

### 3.6.8 Summary

What are the most remarkable and striking events in Hungary, looking at the fourfold Image, Implementation, interpretation and integration?

1. *Images: political and social opinions regarding Natura 2000*
  - Quite centralized – Budapest based government.
  - By different involved stakeholders at national and regional level, the HBD is perceived more as a burden than a blessing.
  - In reaction to the circulated draft degree of Natura 2000 a lot of resistance and conflict from stakeholders and other Ministries have risen and probably will rise in future too because the government does have a lack of power, capacity and money to the wishes to communicate.
  - Hungary has learned a lot about communication practice and negotiation strategies with regards to Natura 2000 and good working contacts on the issue of Natura 2000 with Finland (Phare project), Spain (development of a digital database and geo-digital information systems), Austria, Germany and the Netherlands.
2. *Implementation: Designation-, legislative transposition - and development process of management plans*
  - The final list was submitted to the Government in 2003 in a form of a draft Decree on Natura 2000. Hungary is proud of the strong cooperation among scientific bodies in Hungary during the designation process.
  - The transposition in National legislation succeeded in October 2004 It is not known yet if the Natura 2000 regulations were stronger or different then the Ramsar regulation, the National Nature Protection regulation, the Agro-Environment Regulation in Hungary;
  - National legislation does not contain any provisions regarding management sites. NGOs, the ministries and NPD are willing to make management plans for Natura 2000 sites.
3. *Interpretation of the key concepts of Natura 2000*
  - There are no special guidelines designed in Hungary, dealing with article 6 HBD about the significance test. The MARD is preparing written guidelines to provide to farmers. This will be ready probably by the end of May 2005
  - Interpretative data gathered by NGOs; The Land Advisory Service of Birdlife Hungary is running a project now, in which they do have seminars on the implementation of the Habitat Directive, with special emphasis on Article 6. As far as known they will have written guidelines compiled based on these seminars series.
4. *Integration of legislation, planning and or licencing*
  - Traditional sectoralism; no nature conservation agency.
  - There is a reform going on within the green authorization bodies. This effects seriously the possibilities to ease the integration of nature conservation into the other sectors.
  - At the moment there is no interdepartmental working group set up concerning the implementation of the Natura 2000 network or integrate it in legislation. The MARD is attempting to incorporate Natura 2000 into the planning process of the new rural development program which will be for the new EU period between 2007-13.



## 4 Interpretation, conclusions and recommendations

### 4.1 Introduction

The investigation into implementation practices in Europe and in particular of those in the United Kingdom, Sweden, Spain, France and Hungary has provided a varied picture of problems and also of the way in which these countries have dealt with these. Considering the differences in political and administrative cultures and the number of different bodies involved with implementing nature policy, it is no wonder that such diversity can also be seen in how the BHD is implemented and in the opportunities taken by the authorities to comply with the requirements of Brussels. In some countries, effective implementation of the directives is realised by using existing practices and learning as they go along. There are also countries that try to effect the implementation process through institutional and organisational change.

This chapter examines in more detail what the Dutch delegation learned during the five country visits, providing answers to the sixth and seventh research questions. These were as follows: *Analyse the findings on implementation practices in Europe, and provide substantiated recommendations with regard to new possibilities and perspectives for the implementation process of the BHD in the Netherlands.* First of all, there will be a brief description of the situation in the Netherlands. Then conclusions will be drawn from the analysis of learning experiences related to the political and administrative context and actual givens in these countries and to the experiences in solving the issues on image, implementation, interpretation and integration. Finally, based on this recommendations are presented.

### 4.2 The Netherlands: a short impression of the current situation

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Entrance into the EU	Co-founder
Form of government	Parliamentary democracy
Political system	Constitutional monarchy
Governance: interaction between locus (administrative levels) and focus (policymaking: interaction between strategic, tactical and operational administration)	Locus: 3 Focus: Yes, the provinces have more extensive authority and responsibility for policy implementation
Population density	15.8 million
Total area of the Netherlands not including EEZ	41,864 square kilometres
area of nature (SCI marine)	3,553 square kilometres
area of nature (SCI terrestrial)	7,508 square kilometres
pSCI: SACs / SPAs / MAs	141/79 /7

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#### 4.2.1 Introductory remarks

Since the Dutch ministry of Agriculture, Nature and Food Safety initiated and financed this study; we take also a look at the Dutch situation. In the Netherlands not only legislative implementation of the Habitats- and Birds Directives turned out to be a hard and laborious process, but also the interpretation of BHD-terminology and the integration of BHD nature conservation into relevant and adjacent environmental and spatial planning policies did (Kistenkas 2005-1).

#### 4.2.2 Relevant contextual data of the Netherlands

The Kingdom of the Netherlands being a low-lying country, of which nearly half of the land area has been protected against or reclaimed from sea, is perhaps an extreme example of the extent to which man has shaped the landscape. It is also the most densely populated country in Europe. The country has a land area of 34,000 sq km and over 15, 5 million inhabitants (more than 450 people per sq km). These characteristics mean that integration between agriculture and nature conservation is vital and the potential for a serious land crisis resulting from pollution, mismanagement of natural resources or from other activities beyond national boundaries is also made even more acute for the Netherlands, were a large proportion of land is under sea level, where the river Rhine enters the sea, carrying with the pollution from several countries and where the dumping of waste into the North Sea affect a large part the coastline.

Its society is rather pluriform, but nevertheless consensus is traditionally seen as a main principle of governance. This explains perhaps why there has been intensive and increasingly complex State intervention, consultation and participation in the field of landscape and nature. Efforts are put by government, regional and local authorities but also NGOs into protection, management or improvement of these landscapes.

The Netherlands is generally known as a fairly decentralized three tier structured multilevel governance state (central, provincial and local government). Participation and consensus is regarded as more important than autocratic top-down government. This consensus aimed participation of most if not all stakeholders is usually called *poldering* or multi-actor governance (Weggeman & De Jong, 2000; Neven e.a. 2004).

There has been a long tradition of nature conservation. Recognition of the need to care for landscape rose out of the nature conservation movement at the beginning of last century. In the early 90s of last century the National Ecological Network (EHS) was introduced and proposed to be protected by national planning only (*Structuurschema Groene Ruimte*). Provincial authorities had to lay down the precise EHS boundaries, but only when this provincial vision on the EHS became incorporated in intensively on a community level debated local spatial plans, it became binding to the public. This national EHS should be distinguished from the Brussels originated Natura 2000, which is merely a legislation rather than a local planning matter ever

since the new Dutch Nature Conservation Act as amended October 2005 implemented BHD requirements. Nevertheless the Dutch EHS might have been exemplary to the latter Natura 2000 network.

### **4.2.3 Images: political and social opinions regarding Natura 2000**

The Netherlands has been condemned by the European Court of Justice for non-compliance, on several occasions. The rationale for this is that, although the Netherlands has, in many cases, already had legislation in place which met the EC Directives; the formal process of compliance was held up by the length of the internal legislative process. It had been argued (Bennet, 1992) that the Dutch record of implementation of EC Directives is the best in Europe. Bennet argues that many in the Netherlands feel that EC policy is too conservative and it actually holds back the Dutch desire for better protection and development of nature and the environment.

In the above mentioned IBO-report a comparative study was recommended to get ideas and good practices. In Holland both Directives were quite often held responsible for obstructing infrastructural works and EU nature conservation law was said to put the Netherlands on lock. These feelings of infrastructural frustration might perhaps be due to a strict interpretation, gridlocked and slackened implementation or perhaps a lack of integration with spatial planning.

It might be interesting to see how other countries cope with interpretation issues and integration after having implemented the BHD. Perhaps they have written elaborated interpretation guidelines or perhaps they might have developed good practices on environmental integration through a spatial development framework. Consequently a threefold of implementation, interpretation and integration related problems emerge. Of course, some good as well as bad practices could be determined.

### **4.2.4 Implementing Natura 2000**

The implementation of HBD-regulations into domestic legislation was not a smooth process at all. It was a long-lasting and hard process, gridlocked by intensively political discussion notably in The Hague Parliament. The important *habitats test* of Article 6 of the Habitats Directive (the requirements for a habitats assessment) for instance, could only be implemented in the Nature Conservation Act (*Natuurbeschermingswet*) at the beginning of 2005. The habitats test and derogation licensing nowadays is mostly a provincial and hence a subnational region matter (Article 19d). Species protection of both directives was separately implemented into another act of parliament; the Flora and Fauna Act of 2002. Derogation licensing is mainly done by the ministry (Article 75). In 2005 secondary legislation of a Royal Decree brought forward a very complicated elaboration but probably quite workable enhanced implementation of this Article 75 by introducing three kinds of exemption and licensing regimes sometimes governed by departmentally approved conduct rules.

The designation process of Natura 2000 sites however, truly was a Dutch success and welcomed as front running in designating SPAs and SACs in EU Brussels. Also nature conservation law is taken seriously, since several leading cases were brought to national and EU courts and were nationwide discussed and well taken into consideration (Kistenkas and Kuindersma 2004 and 2005). However, quite recently nature conservation policy has been blackened especially by developers as a severe hindrance and obstacle to infrastructural works: Netherlands locks itself (*Nederland op slot*). One could argue whether this is really the case (Broekmeyer *et al.* 2003), but nature conservation image could perhaps be improved by facilitating conduct rules (see textbox) and better public communication.

*Illustration 29. Light version implementation BHD: species licensing and conduct rules.*

As recent as 23 February 2005 national legislation on the BHD was further implemented successfully and improvingly facilitated by a new Royal Decree (AMvB Article 75). Species licensing, up till then also on individual and ordinary species, had become a labor-intensive and in the light of the BHD mostly unnecessary obstacle to developers, foresters, watersheds and many others. In the Royal Decree to simplify legal matters, differentiations were made to (a) ordinary species (b) Annex IV species (and in the Royal Decree annexed species) (c) remaining species. Thus species were divided into three tables. The ordinary species licensing, now in most cases is no longer necessary as there is a general exemption introduced for certain activities (durable management and maintenance)

Hence durable management of for instance everyday agriculture, forestry, maintenance on riverbanks, airports, railroads, motorway shoulders was generally exempted. In case of other activities a license still was needed, but only a FCS-test had to be applied (so called *light test*). To Annex IV species and by the Royal Decree annexed species only exemption occurs when there is a departmentally approved set of *conduct rules*; in Dutch: *gedragscodes*. The forestry branch already adopted such conduct rules. Otherwise licensing has to be tested on the full directive-test of FCS, alternative and limited interests (Article 16 Habitats Directive). To the remaining species there is an exemption in case of departmentally approved conduct rules. Otherwise licensing has to be tested on FCS.

Useful schemes, tables, (future and present) conduct rules are published on the internet ([www.minlnv.nl](http://www.minlnv.nl)). Licensing on line is provided on [www.bethnlvloket.nl](http://www.bethnlvloket.nl). Also a practical and very readable brochure called *Buiten aan het werk? Can be downloaded from the ministerial website*. Thus a major step is set on the implementation process and applicability of the HBD.

*Management plans for the sites:* At his moment the Dutch ministry op AFN making progress in developing a policy document in which the management plans of Natura 2000 and the management plans of the Water Directive are mirrored with the relative importance of habitat en species in the Netherlands and to what extent what area's must contribute to meet the preservation goals.

#### 4.2.5 Interpreting Natura 2000

A kind of constitutional deadlock occurred when the three *trias politica* state powers came to a standstill and did not give any interpretation on as yet unclear BHD criteria like significance and favorable conservation status (FCS). The commercially driven consultancy branch now gives probably one-sidedly biased interpretation. They are



judicially backed since there is nothing else to clutch at. Consequently a standard of 5% population decline (the *5% norm*) became currently the disputed standard for significant effects on Natura 2000 sites (Kistenkas 2005-3).

Nevertheless, in 2004 the ECJ gave as requested by the Dutch supreme administrative court a prejudicial ruling on the habitats test in the Wadden Sea cockle fisheries case (ECJ 7 September 2004, C-127/02). Mechanic cockle fisheries were banned after this ruling and after careful departmentally orchestrated decision making and only a sustainable version of cockle harvesting might be tolerated in future (Neven & Schruijer, 2005).

*Illustration 30. Wadden Sea cockle fisheries.*

The prejudicial decision of the ECJ in the cockle fisheries case might easily be seen as a Dutch token of taking HBD nature conservation seriously. As asked by the Dutch Council of State (ABRS 27 March 2002, M&R 2002, 87) the ECJ ruled on 7 September 2004 (C-127/02) that mechanic cockle fishery on the Wadden Sea had to be considered as a plan or project as stated in Article 6 of the Habitats Directive. An appropriate assessment is required in view of the Wadden Sea's conservation objectives when significant effects are not to be excluded. Only when there is reasonably no scientific doubt on adverse affects authorities could agree to the fisheries. This ultimately resulted in a ban on mechanic cockle harvesting and prudent departmental policymaking on sustainable versions of harvesting. This rather strict ECJ prejudicial explanation of Article 6 was generally welcomed in Dutch law literature and could be helpful for interpretation of the nature conservation *acquis communautaire* throughout the rest of the EU as well.

#### 4.2.6 Integrating Natura 2000

Although there might be still a quite sectoral EU approach, planning integration might possibly give member states opportunities to integrate nature conservation into environmental and spatial development law. According to Balduck and Beaufort (1993) the Dutch have also taken a leading role in integrating nature conservation into other activities, particularly in agriculture. Apparently also the Dutch were aware of the fact that in some northern member states, notably the UK and Denmark, spatial planning tends to be a major integration framework, perhaps in near future even leading to a one-stop integrated licensing system ( ECWM, 2003).

Drafting new planning legislation (*Wet ruimtelijke ordening*), new Dutch planning law, to be discussed in parliament in 2005, broadens the concept of country and town planning also to natural and cultural heritage as well as environmental and water issues, thus breaking with a long and strong sectoral litigation tradition (Kistenkas and Neven 2004, Kistenkas 2005-2). The 2005 alterations to the Nature Conservation Act also connect nature conservation with planning law. Managements plans could be part of spatial planning (Article 19b sub 2 *Natuurbeschermingswet*) and spatial planning effecting Natura 2000 sites should be submitted to ministerial approval (Article 19j). Also integrative budgeting is on its way in the ILG (Countryside Investment Budget) initiative (see textbox). In 2005 a draft on an integrated environmental code was presented (*Wet algemene bepalingen omgevingsrecht*; WABO), introducing one integrated licensing system on basically all environmental matters.

Anticipating on this developments the Dutch Wadden Sea local governments (as they are literally surrounded and sieges by Euro sites) already integrated Natura 2000 as well as species protection into their local planning (Neven en Van Rijn, 2004; Anonymous, 2003) This was mainly due to a process led by the Dutch Ministry of Agriculture, Nature and Food Safety together with the Wageningen research institute Alterra. Further, the already planned huge Wadden Sea locks were also successfully integrated into infrastructural and nature conservation laws, due to strong coordination by the Dutch Ministry of Transport, Public works and Water management (V&W) Apeldoorn e.a., 2003).

*Illustration 31. Integration Natura 2000 into special planning Investment Budget (ILG).*

A huge step towards integration of Natura 2000 into spatial planning and other adjacent environmental policy might be triggered by the Countryside Investment Budget *Investeringsbudget Landelijke Gebied* (ILG), as in 2005 initiated by several Dutch ministries. Countryside management and development is budgeted in an integrative way as € 4, 5 milliard (37 % of the LNV-budget) is given to provincial authorities for maintaining and developing nature, landscape, rural economy and environment. Provincial long term programs, called pMJPs (*Provincial Meerjarenplannen*), have to be made in consensus with all relevant stakeholders. Even an Act of Parliament (WILG) is scheduled to give appropriate legal background to this vast operation. At March 15, 2005 the official ILG kick-off was held in Utrecht and integration expectations are high; see the special ILG Newsletter on [www.ilg.nu](http://www.ilg.nu).

#### **4.2.7 Used policy instruments**

Departmentally approved conduct rules (see textbox) might be seen as a legal instrument regulating species protection and their habitats, but being the result of branch discussion and consensus (for instance forestry, timber traders and NGOs) they also are an example of communicative steering. As stated above the ILG might be able to give proper economic steering on nature conservation as well as countryside development. Management plans could become part of spatial development plans, being legal instruments. In fact the national ecological network (EHS) was initiated as a spatial development issue in SGR (see above). The newly made Nota Ruimte of the Ministry of Housing, Spatial planning and the Environment (The Netherlands, Vrom) recognizes the spatial planning aspects and relevance of nature conservation in general and Natura 2000 in particular.

#### 4.2.8 Summary

What are the most remarkable and striking events in the Netherlands, looking at the fourfold image, implementation, interpretation and integration?

1. *Images: political and social opinions regarding Natura 2000*
  - Transition from central government to regional governance.
  - Nature Conservation is taken seriously. Governments do embrace the BHD, but are struggling now with questions about how tight the practical implementation must be guided.
  - Stakeholder's impression is that there is only few policy freedom for spatial planning in the Netherlands.
2. *Implementation: Designation-, legislative transposition - and development process of management plans*
  - The implementation has been a long lasting and hard process, but more success and front runner at the designation process.
  - Policy documents and management plans Natura 2000 and Water Directives are mirrored with Habitat directives and species policy.
3. *Interpretation of the key concepts of Natura 2000*
  - Not much interpretation on HBD criteria given and FCS still unclear.
  - Consultancy interpretations are likely to be judicially backed (f.i. standard 5% norm for significant effects Natura 2000 sites).
4. *Integration of legislation, planning and or licensing*
  - Integrating Nature conservation Act and spatial planning (transitional from sectoralism to integralism).
  - New proposals like the draft spatial planning Act (WRO), WABO, ILG and Nota Ruimte underlining Nature Conservation as an increasing spatial planning matter.
  - Integrative budgeting ILG.

#### 4.3 Overview of learning experiences

During the five country visits, the Dutch delegation saw how these countries took advantage of these developments and saw how this has affected the way the BHD is applied in practice. This chapter examines what the Dutch delegation learned about the practices in other countries.

##### ***Learning experience 1: Nature in neighbouring countries***

During the five country visits, the Dutch delegation became aware of the fact that, in the countries studied, nature and nature conservation is completely different with regard to scale and character than in the Netherlands. For example, Spain is more than sixteen times larger than the Netherlands and more than 90% of this is made up of forests and farmland. A third of all European Natura 2000 areas are in Spain. Because both the scale and characteristics of nature are vastly different than those of the Netherlands, it is also logical that the character of nature conservation problems is different. In the Netherlands people are concerned about Desmoulin's whorl snail, whose habitat is an area of around 10 square kilometres, while in Spain people worry about the natural habitat of the imperial eagle (*aquila adalberti*) and the bear (*ursus arctos*), the latter living in an area the size of the Netherlands. Information on the characteristics and scale in the countries studied can be found in the main report.

The *observation* can be made that, in the countries studied, the nature and problems associated with this are vastly different. Regardless of the political and administrative context and the way policy is made in these countries, this can only mean that the problem-solving strategies will also be also different.

**Conclusion 1: Increased awareness on the diversity of nature.**

The Dutch government has never before been so aware of how different the scale and characteristics of nature are in the countries studied. Because of this, it is impossible to translate the problem-solving strategies of the policy practices of these countries directly to the Dutch situation. This also applies to the differences in political and administrative culture.

**Recommendation 1a.**

If the Netherlands wants to learn from the experiences with implementation practices in other countries, it will have to view Dutch nature and Dutch nature policy on its own merits and on its merits relative to Natura 2000. In order to learn from other countries' problem-solving strategies, it will be necessary to translate them to the Dutch situation.

***Learning experience 2: Effectiveness of and support for nature policy***

Does state structure follow in accordance with administrative culture or the other way around? Who can say. In any case, they are inextricably bound up together and are formed by dealing with greater or lesser numbers of inhabitants and actual constellations, in this case nature and historically developed relationships in dealing with conflicts between ecology and economy. Are there differences among the similarities in the political and administrative culture and structure of the countries studied and if so, what do these mean for the way in which the implementation processes take place?

In the countries studied, the decentralisation process is not at the same stage of development everywhere and has been expressed in different ways. Decentralisation has to do with a comprehensive concept that expresses transferring tasks and authority to other government bodies in part or in their entirety, which is often referred to as *territorial decentralisation*. The basis for this is that decentralisation increases support for nature policy and makes implementation of policy more effective (TK, 1993). In Spain, for example, responsibility for the implementation process of Natura 2000 has been completely transferred to the regions, to the extent that the national government is no longer involved in this in any way. In the Netherlands, decentralisation has been expressed through delegating to the provinces certain tasks and authority for nature conservation.

In addition to the form of decentralisation already mentioned, in the administrative structure in both the Netherlands and in other countries there is also *functional decentralisation*, in which the functional administration or an independent administrative body no longer has general, unlimited administrative tasks but one special administrative task for a special area of government (Kuindersma en Neven, 2000; Vermeer & Montfort, 2005).

In this kind of structure, for example, an IAB could carry out tasks without hierarchical subordination with respect to the minister. This kind of subordination to the minister is the case in *devolution*, where the functional carrying out of tasks is spread out geographically as well as being part of separate sub-organisations. France is one example of this (COPIIL). In the specific area of nature conservation, *functional decentralisation* can be found in the UK/England (EN) and in Sweden (SEPA). Finally, there is yet another form of functional decentralisation called *social decentralisation*. This has to do with transferring tasks, powers and means to social organisations that are not part of government (Duivendak en Wijnand, 1999). For example, in Hungary it would seem that Bird Life Hungary has been accorded this kind of position.

Table 3. Overview of political and administrative context.

Political and administrative context	United Kingdom	Sweden	Spain	France	Hungary	Netherlands
<b>Political system</b>	Democracy	Democracy	New democracy	Democratic republic	Parliamentary republic	Democracy
<b>Administrative levels</b>	Federal		Federal			
<b>Responsibilities for decentralisation (locus)</b>	3 levels	3 levels Län	4 levels Autonomous regions (17)	4 levels	3 levels	3 levels (provinces)
<b>Functional devolution</b>	JNCC	-	-	DI REN	-	DLG SBB
<b>Functional decentralisation</b>	EN	SEPA	-	-		-
<b>Social decentralisation, not functional administration</b>	-	-	-	Yes	Advisory council Bird Life Hungary	-
<b>Administrative culture for governance (focus)</b>	Yes	No	No	Yes	No	Yes

But often, decentralisation is also assigned a cultural significance. It can also mean that the higher administrative bodies withdraw and are less involved with the lower government bodies. In the Netherlands, the combination of territorial centralisation with an administrative culture that is moving from *taking care of* towards *taking care that* has led to quite a number of administrative quandaries: (a) Whether it should happen, and if so, at what geographic and/or sectoral administrative level or levels should creation of polders take place? (b) To what degree and how should it be institutionalised (or not)? (c) Whether we can operate from the assumption of policies like education, whereby on one hand an interactive approach is used to consult the public and on the other the interaction between policy development and policy implementation guarantees a rise in public support for Natura 2000 (TK, 26200 XI nr 37; TK 26391, nr 3; TK 258887, nr 16; Dekker, 2003) In this context, then, the creation of polders means it is possible to come to a collective agreement with public and/or private parties (Edelenbosch, 2002). This is referred to as multi-actor governance in scientific jargon. However, people are still grappling with the

focus, customising the design of the policymaking process, participation by individual citizens and integrating policy with greater involvement by stakeholders in decision-making (Kleijn en Teisman, 2000; Kalders, e.a., 2004).

During the country visits, the Dutch delegation was able to observe that both Sweden and the UK have effective organisations and that this also helps in the implementation of Natura 2000. Both countries have an intermediary depoliticised organisation in between central and decentralised levels of government. The functional decentralisation is characterised in the Anglo-Saxon and Nordic culture by a certain versatility and flexibility. After fulfilling its purpose, it has been shown that this institutional form of decentralisation can be easily adapted or even ended. The advantage of this kind of intermediary organisation is that it is able to build a bridge between policymakers and the policy area and in this way orchestrates policy implementation as an iterative process, which creates support. The disadvantage of this kind of functional decentralisation is that it leads to fewer chances for the administration to weigh up priorities in an integrated way. It also draws on the coherence and transparency of public administration as a whole, it diminishes political control and by so doing, the democratic legitimacy of public administration.

For example, in France, the life cycle of such an institution is usually longer. In what is known as the 'continental culture', mediation and negotiation are a question of gaining trust. This trust creates stable patterns. Again and again, other functional tasks are taken on, and in this way these organisations are able to carry on. As a result, the mediation process and the interaction – facilitated by a COPIL (*Comités de Pilotage*) – becomes less open. Often, however, over time a connection emerges between the informal and the formal consultative circuit on the operational administrative level. Because of their knowledge and information, NGOs and other stakeholders are given substantial roles in decision-making.

The *observation* can be made that, just as in other democratic countries, the Dutch government is aiming for synergy of effective implementation policy and creation of support. In aiming for effective policy, the Netherlands has chosen to decentralise and give a large part of the responsibility for implementing the Nature Conservation Act to the provinces. The question is, how will it work? And *will* it work? Sweden and the United Kingdom have already brought in semi-governmental organisations, and France has chosen for client managers. The question is whether the Netherlands should also consider a similar organisation or a form of client management. Consultations with stakeholders have also been included in the Nature Conservation Act. The question is whether the prospect of these consultations with stakeholders is also enough to create support for this policy in advance.

**Conclusion 2: Intermediary organisations, synergy of policy effectiveness and support.**

In contrast to the other countries studied, Dutch policy practices with regard to nature conservation policy have no intermediary organisation that facilitates and mediates between policymakers and those who implement policy. Intermediary organisations like EN in the UK/England and SEPA in Sweden ultimately seem to lead to a more effective implementation process. In the years to come, it remains to be seen whether the decentralisation of authority for implementation of the Nature Conservation Act by the provinces will lead to a more effective policy process in the Netherlands.

**Recommendation 2a. (De)centralisation and/or (de)politicisation.**

Investigate how to demonstrate the effectiveness and support for the implementation process of Natura 2000.

Investigate whether intermediary organisations like EN and SEPA could also be beneficial and functional in Dutch society.

**Recommendation 2b. Relation managers at provincial or central levels of government?**

Investigate whether, in the Netherlands, it is also possible to introduce the principle of 'relation manager', a position such as that of the *préfet* in France. Look into whether this position should come under the provincial system or the central government.

***Learning experience 3: Image and social support***

An important and also difficult point of discussion on the implementation process of Natura 2000 is the image of the BHD. On one hand, it has to do with political and policy-related attention to the directives. On the other, it has to do with the way in which the conflicts between economy and ecology are discussed publicly in the country concerned. And it has to do with the way in which, during negotiations, partners look for the scope for policymaking still to be found in implementing the directives in practice. Both of these processes influence each other. How can the Dutch government create social support for Natura 2000 policy in a context in which the state increasingly governs from a distance and tests for results and the provinces concentrate on implementing this policy in the region?

Given that research on image is quite complex, for pragmatic reasons those interviewed were asked for their opinions: *In your opinion, is the BHD considered to be a boon or a burden in your country?* Answers to this question have to be seen within the cultural context of the country studied and within the context of the time and the stage of the implementation process in the country concerned. Some countries (like Hungary) have only recently started the official implementation process, after entry into Europe, and in Sweden and Spain attention for the directives was overshadowed by other important matters for a long time.

In the UK and France, for a number of reasons the implementation process of Natura 2000 is receiving a fair amount of political and policy-related attention. For example, the representatives of the large national sector organisations in England are approached personally by EN and the RSPB with information about Natura 2000, regardless of whether there are any cases in the sector concerned. In this way, people work proactively and this is expected to lead to an improved image of the European directives. In addition to goal-oriented communication, in the UK and France there is also a certain governance practice. With regard to the protection of areas, there is an opportunity to use a bottom-up process to be in keeping with an area's characteristics and natural dynamics. This also provides much more scope for the

social dynamics in the areas concerned, including organising consultations among stakeholders if it should continue. In other words, in England people are more flexible in dealing with lack of clarity and uncertainty. They have chosen for a 'learning by doing' strategy. Government means providing a coaching style of leadership, not management. The point of departure is the assumption that acknowledging interdependence will improve the relationship between those concerned and promote cooperation. This will ultimately lead to a society that governs itself and assumes its own responsibility for nature. In other countries as well, the contributions of public and private parties are usually more respected and are considered to be knowledgeable. Examples of this are the case-by-case approach in Spain, the practices of the DOCOBs in France, the Län in Sweden and the Hungarian bottom-up approach applied to the Fish Ponds.

Just like in the UK and France, a considerable amount of attention is also given to the implementation process of Natura 2000 in the Netherlands. However, because of the interaction between a changing administrative system in a small, densely populated country and the government's relationship with the various NGOs, the attention given to the implementation process of Natura 2000 in the Netherlands has a different character.

In one respect, the level of conflict between economic activities and conservation and the lack of information and knowledge on how to deal with this is intensified by an active, distinctly prescriptive attitude by government. Government is caught between governing from a distance and formulating frameworks for implementation, and designing the implementation policy together with those responsible for implementation. The Ministry of LNV's outline memorandum for Natura 2000 indicates the most important steps in this process and shows 'what must be done', and also where there is policymaking scope for further consideration. In contrast to France and the UK, where freedom is given to the stakeholders' process from the bottom up, the Ministry of LNV has chosen for a more indirect form of participation. In the Netherlands, information from the rounds of talks has been elaborated on and processed by specialists and site managers into the 'Document for Natura 2000 Objectives' (*Natura 2000 doelendocument*), which will be used as a framework for implementation.

Still, the relationship between government and nature and environmental organisations, for example, are all too frequently characterised by a traditional attitude and relationship with regard to dealing with uncertainty and gaining insight into unexpressed opinions. Among other things, studies done over the past few years by the Netherlands Environmental Assessment Agency (*Natuurplanbureau*) have shown that this last point, which frequently has not been investigated further, continues to dictate the debate and allows impasses to remain (Neven, 1997). When dealing with uncertainties, there is still too little acknowledgement that people need each other and each other's knowledge. The result of this is that issues including the one involving cockle harvesting is thrashed out in front of a judge and then enlarged upon in the press (Turnhout, 2003). In this way, the suggestion put forward by a Dutch interdepartmental policy study becomes reality: that uncertainty and lack of



clarity about the consequences of the directives are expected to have a negative impact on the image of the BHD. In the long run, it could possibly undermine the Dutch government's proactive, progressive policy.

The *observation* can be made that for the time being, the relationship between government and society in the Netherlands can be assessed exclusively from a technical and situational point of view (Hisschemöller e.a., 1989; Turnhout, 2003; Neven, 2004). However, during this study – and particularly as a result of our experiences in England – we have been able to observe that a positive image of the directives does accompany a more flexible attitude towards directing nature policy and allowing the room for a bottom-up strategy. In this way, everyone's expertise as well as their insecurities are acknowledged, and their interdependence in gathering and communicating knowledge about the directives is respected (Forester, 2003). A similar consultation has been repeatedly proposed to the Dutch government by various scientific advisory bodies in the Netherlands like RMNO (2003) RLG (2003).

The current study did not obtain an accurate idea of how matters stand on the image of the BHD in Europe. One of the respondents in the study said that *the openness expected from the national governments is not shown by Europe itself*. It emerged that neither member states nor those doing the research for this study were given permission to see other countries' requests for counsel to the EU. *In this way, people remain ignorant about complaint procedures*. So, it is not possible to work out how relative the 'resistance' is in the various countries, including the Netherlands.

### **Conclusion 3: Openness and flexibility.**

A positive image of the directives in the countries studied is probably linked to an open and learning policy strategy designed from the bottom up and in which there is a flexible attitude toward dealing with uncertainty and lack of clarity. Consider the regional approaches in France, Spain and Sweden. Natura 2000 results are given the opportunity to develop within a process. In the Netherlands, an open attitude often goes along in an ambivalent fashion with policymaking processes in which the results aimed for have been set in advance to a greater or lesser degree or determined by way of an indirect process of communication. In this, learning has been replaced by negotiation and organising, and people don't get to the heart of stemming the relatively 'negative' image.

In order to ascertain Natura 2000's image in the Netherlands in relative terms, insight is needed into the complaint procedures at European level, and these are not yet transparent. Opportunities to learn from comparable issues in other countries will also be possible if Europe employs more openness with regard to complaint procedures.

### **Recommendation 3a. Letting go and deliberation.**

Improving the image of the implementation process of the BHD will have to be sought in social justification and legitimisation of the choice upon which ideological foundation the nature policy should be implemented. This can be done by entering into deliberations with the parties concerned, in particular at regional level, and by linking together formal and informal processes.

The Dutch central government is moving from a strategy of *taking care of* towards one of *taking care that*. In order to achieve this, it will have to have to dare to let go more. It will have to have to dare to have more faith in the regional governments and in the decentralisation process that has for a large part already begun, in which social parties will also be directly involved.

**Recommendation 3b. Openness on the part of member states also means openness on the part of Europe.**

The Dutch government can take the initiative in asking Europe for more openness, possibly in conjunction with other countries: not only with regard to requests for counsel and complaint procedures, but also with respect to other casuistry that can be learned from.

***Learning experience 4: Creative implementation practices in regional governance***

As was expected, implementation practices have not proved to be as simple as is often assumed in EU regulations. In practice, it is in fact not so much about interpreting and developing the subject matter, but rather about the way in which national governments direct this official process. Is this more or less transparent, and is more or less participation allowed by those involved members of society? Within this practice, then, a wide variety of working methods arise, in which those involved struggle between complying with EU obligations on time and meeting the obligations and demands placed on them by their own governments and societies. So, choices have to be made when dealing with this split between Europe and the regions.

*Designation process for SPAs and SACs:* First, the objectives with regard to designation and registration of SPAs and SACs and acceptance of the list set by Brussels is discussed. Considering the character and size of nature and nature areas in the Netherlands, it can be ascertained that when it comes to designation of areas, the Netherlands still ranks quite high in the end. Right now, nearly all Birds Directive areas have been officially designated. However, these decisions on designation don't comply with the adapted 1998 Nature Conservation Act, because the conservation objectives it contains are not developed in detail. At this time the Habitats Directive areas have not been officially designated, but 'only' registered with the European Commission. While Hungary and Sweden have set up very technocratic processes, should the Netherlands instead listen to what is coming out of the regions and put a great deal of effort into communication and participation? Although the advantage of a technocratic approach is speed, what happens if the landowners take action?

Table 4. Overview of nature conservation in six European countries (source: 2005 Barometer).

Nature and nature conservation	England	Sweden	Spain	France	Hungary	Netherlands
SPAs	255	509	480	174	55	77
pSCI/SACs	610	3903	1382	1219	467	141
MAPs as part of	5	1	20	52	-	7
Total area for Natura 2000/km (terrestrial)	244,820	414,864	504,782	549,192	93,030	41,526
BHD-proof transposition in national law	(1994)	2001	(1989)	2001	(2004)	2005

*Transposition in national legislation:* In addition, countries have been working on how to best translate the European directives into national legislation. Compared to other countries, the Netherlands has here undergone quite a difficult and extensive process. Even though the UK and Spain still lack any BHD-proof legislation, they do have clearly developed frameworks and accountability structures. Also here, France can be seen as a positive exception.

*Management plans:* Finally, work was done on translating national legislation into management plans for the designated areas and developing the conservation objectives as a final stage in the official implementation process. Also here, the image that emerged was varied.

Every country has already drawn up management plans for existing nature conservation areas, most of which have also been included in the list of pSCIs. However, the obligation to describe, in a BHD-proof management plan, the measures that will have to ensure the conservation objectives are achieved is being handled in different ways by the countries studied. Although the Habitats Directive states that specific tests have to be used to determine whether the activities and the conservation objectives are under threat, not every country has included this requirement in its national legislation. Depending on who is responsible for area concerned, in the Netherlands either the Minister of LNV or the province is responsible for drawing up the management plans for Natura 2000 areas. Moreover, the new Nature Conservation Act states that the competent authorities, usually the province, are allowed to take appropriate measures to ensure the conservation objectives are achieved.

In Hungary, Spain, the UK and France, nothing is yet required by law with regard to management plans. For the time being, the responsible department at the Ministry of the Environment and Water in Hungary is taking a wait-and-see attitude and is taking a realistic attitude because they have neither the financial means nor the personnel to communicate this complicated process to the regions. However, the directors of the national parks and Bird Life Hungary are prepared to organise a 'learning process' on the BHD on a voluntary basis. In Spain, the regions have been charged with responsibility for the Natura 2000 management plans. Even though a new management plan is occasionally being written, the Spanish regions are also waiting before making the management plans BHD-proof. In the UK, England has brought in EN as intermediary and mediator between the responsible ministry and the planners in the areas. In Sweden, management plans – which are also required by law – are drawn up by regional governments in collaboration with SEPA. However, they are not used as an *ex ante* habitat test. In France, under the supervision of the department, prefects are installed who together with stakeholders and lower levels of government set out conservation objectives and management measures in five-year contracts.

Table 5. Overview of management of Natura 2000 plans.

Management plans:	United Kingdom	Sweden	Spain	France	Hungary	Netherlands
Development of conservation objectives	Yes, binding monitoring contracts (EN)	Yes	No	Yes, 5-year contracts	No	Yes
Legal obligation to draw up BHD-proof management plan	No	Yes	No	No	No	Yes
	Progress based on quality of landscape plan + taking into account the natural dynamics	Regional governments + SEPA + 14 regional services	The regions; There are already some new management plans	Not officially, but in practice, yes DOCOB COFIL + lower levels of government and PP parties	Cooperation on voluntary basis between NGO and NPD	Provinces + national government
Functions of management plans	Dialogue and support Monitoring of management measures + existing use			Dialogue and support Monitoring of management measures + existing use	Learning and Development of knowledge	Overview + existing and future use <i>Ex ante</i> habitat test, art. 6, HD
Conservation Plans		Instrument for weighing up economic and ecological interests				

It can be *observed* that, along with Sweden, the Netherlands is the only country where management plans are also required by law. Furthermore, in the Netherlands the framework for the management plans is developed within a programme of requirements. This includes what a management plan is required to contain and which requirements have to be met in the establishment process. In order to make the programme of requirements concrete and provide those drawing up management plans with actual guidances, a national guidance is being prepared. LNV is also developing examples for sections of management plans, together with the provinces, site managers and other departments.

The decentralisation process started by the Netherlands and the desire to create an efficient process for drawing up the BHD-proof management plans makes it essential that at least one of the authorised bodies takes the initiative for drawing up a BHD-proof management plan. This authorised body will, however, have to

coordinate and streamline this with all those in charge of and authorised for a Natura 2000 area. At area level, the Netherlands is looking for the balance between 'providing direction' and 'providing space'. The question is whether, in the end, the above-mentioned Dutch management approach will be faster or more effective than the casuistic approach used in France and England. There, making concrete the requirements of BHD-proof management plan are developed as they go along, while at the same time the economic activities are regulated in a flexible way, by way of the management plans.

The advantage of this casuistic approach is that the dialogue on the conservation policy and the conservation objectives is set in motion in a natural way with the bodies concerned, in this way contributing to the creation of support for the conservation policy. Cases in England have shown that, by adhering to the precautionary principle, there are largely no negative effects on Natura 2000. What's more, developing the conservation objectives also lays the foundation for a monitoring system.

**Conclusion 4: Multiple function of management plans.**

The multiple function ascribed to management plans is very different among the countries studied. In contrast with France and England, the Netherlands does not yet recognise that the bottom-up development strategy for management plans has various advantages. This has to do with dialogue and support and the possibility of developing a monitoring system, and is also about having a more flexible connection with what is happening in society.

**Recommendation 4a. Integrated function of management plans.**

It is important to give attention to the possible functions of management plans. In addition to a regulation for existing use, it might also be possible to have a regulation for future use. Investigate the possibilities for this.

**Recommendation 4b. Management and governance of management plans.**

Dialogue promotes support for policy, and this increases the effectiveness of policy implementation. Investigate whether a contract-based approach like the one in France or a casuistic approach like the one in England (and which is also being considered in Spain) would also work in the Dutch situation. In the interest of support and an effective process, this policy strategy should be taken up alongside the Dutch approach.

***Learning experience 5: Case-by-case interpretation***

During the talks and interviews with the respondents in the five countries in the study, the interpretation and explanation of those concepts in the European BHD that are as of yet unclear were discussed. The question is, from where and by whom is this important process of assigning meaning being directed? Does the interpretation gain meaning through political and public debate or will people wait for guidances written by the government, or for other government-related bodies, or will it be left to researchers or jurisprudence?

In all countries, the development of guidances is still in the developmental stage. The image is emerging from the countries studied that we have to rely on actual casuistry for interpretation and operationalisation of concepts in the directives, not just from the Netherlands but also from the other European countries. It is logical there is as of yet no casuistry in Hungary and as a result no special guidances have been drawn

up till now. However, there is a real need for these, particularly among farmers. The Hungarian Ministry of Agriculture and Countryside Development, although not responsible for this, is developing a guidance for farmers. The Hungarian nature organisations have also indicated they are currently collecting data during a series of seminars on the implementation process.

In particular, these seminars are used to debate the assignment of meaning to Article 6 of the BHD. They can also use these data to work on developing the guidance. In decentralised Spain, the interpretation is also given an experimental and regional one. However, not one regional guidance has yet been published. Considering the fact that the central government will ultimately be held accountable for the consequences of applying these regional interpretations, they will be faced with a considerable amount of work if these interpretations have to be coordinated and communicated.

France's DOCOBs cannot yet be seen as detailed guidances. In Sweden, this kind of work on details and coordination is done by SEPA. The role it plays is one of intervention and connection and the first steps have been taken in the direction of guidances for the regions, which contain both technical and legal interpretations. The advantage of an organisational form like SEPA is that it brings all kinds of environmental specialisations under one roof, and also acts on the ministry's behalf towards the regions and advises the ministry on behalf of the regions. Also within the UK and in England, EN plays a strong role as mediator between Defra and the local planning authorities. EN directs the regions quite independently, as it were. Should the negotiations run aground, the process is taken over by a public investigation on behalf of the ministry.

What is the situation in the Netherlands and how are the concepts of the BHD being interpreted? It can be *observed* that in the Netherlands, not only the Ministry of LNV but also other ministries have drawn up a number of guidances for use in interpreting the BHD. However, in most instances, these guidances indicate a more concrete direction with regard to which steps need to be taken and the procedures for the various levels of management of Dutch policy practices and for those initiating new plans and projects. The Dutch transport ministry has even written guidances for managers of projects that have to take Natura 2000 principles into account. These guidances pay little or no attention to actual content and how to interpret the concepts in the directives. And this is not so strange. For example, compelling reasons of great public significance raise a complicated debate about when 'compelling' is also fair and legitimate and with respect to who? And is public interest intended for the short or the long term? But it also has been shown that the norm for significant effects has to be determined again for every case, because for every case, the circumstances of the situation, the nature in question and the network involved is different. So, although parliament may want to comply with the request for clarity, it cannot immediately exact this, and the question is whether this can happen in due time.

The *observation* can be made that, based on the experiences of France and the UK among others, and particularly in England and Sweden, that when operationalising the concepts of the BHD, a casuistic approach can be helpful. These ‘extras’ are the result of two things. First of all, this is because this approach – in addition to scientific, technical and legal expertise – also makes use of the practical knowledge of social organisations and ordinary people. Dialogue with them not only fleshes out the technical interpretation of these concepts, but also gives weight to the various interests that have to be weighed up against each other in today’s pluralistic society. Secondly, the three countries mentioned make use of an intermediary organisation and/or change agent or client manager (Van Thiel e.a., 2001). With their help, the cases are combined and introduced at a higher level.

**Conclusion 5: Case-by-case interpretation.**

No country has as of yet enacted policy regulations for the legal concepts in the habitat test. Like the countries mentioned above, the Netherlands also seems to be convinced that operationalising the concepts of the BHD has to be considered on a case-by-case basis. Nevertheless, there are still two ways to further reduce the lack of clarity and uncertainty about how to steer this in the right direction. In the first place, this can be done by building up casuistry, communicating about this and introducing it at various points in the policymaking process. In the second place, this can also be done by listening to contributions by practical experts as well as representatives from social organisations, both in the cases and when determining the norm and weighing up the interests. In other countries this approach seems to be both acceptable and workable. Also, other countries – Hungary in particular – have asked that example cases be collected and communicated to other countries.

**Recommendation 5a. Take responsibility for building up casuistry.**

Accumulating scientific and practical knowledge necessary to substantiate the meaning assigned to the concepts in the directives, demands that this knowledge is actually collected, put together and communicated. It is recommended to both build up the casuistry on this and introduce it as part of a learning process, as well as to make someone responsible for this. It might be necessary to look into whether this responsibility, or responsible person or persons, can fall under the provincial government.

**Recommendation 5b. Organise an international casuistic approach.**

In the event that the proposed casuistry is collected, it is advisable to exchange this not only with other departments in the Netherlands, but also with the surrounding countries, which have many model cases of their own. The Dutch government would do well to take the initiative – possibly in conjunction with other countries – to request Europe to systematically collect casuistry and, at the appropriate times, to ask for more openness about the knowledge that has been acquired.

***Learning experience 6: Complexity not likely to be caught by one code, one permit or one piece of paper***

The issues regarding policy integration of Natura 2000 play roles with regard to different policy levels on the one hand, and different time periods on the other. At strategic policy level, solutions for questions of integration are sought in including nature legislation in other legislation. This often requires long-term harmonisation, negotiation and development. The document study showed that Sweden was the first country with a general environmental act. During the country visits, however, it emerged that in fact it is still just on paper, and has not yet found its way in a more detailed form to planning and permit levels. But Sweden is not alone in this. Also in Spain, a bill has been announced that will integrate the EIA and the habitat test. In

France, the ministries of the environment and defence have meanwhile drawn up a kind of environmental protocol, and developed a vision along with this to allow this integrated thought to make its way to the planning level. In any case, Natura 2000 has been incorporated into acts for spatial planning and policy development.

In the Netherlands, the complexity of the amount of sectoral legislation has led to poor enforcement and a great deal of frustration among individual citizens. As a result, in 2004 a commission of legal draughtsmen was set up to design a bill for an integrated nature and environmental act. It was assumed that a single integrated nature and environmental law would reflect the reality of the interrelatedness of the problems and at the same time contribute to an effective approach to the problems by clear, well-organised legislation and a unified enforcement organisation. However, in practice, this has turned out to be more unmanageable than had been expected.

Table 6. Integration at strategic, tactical and operational policy level.

Integration of Natura 2000 with other policy	United Kingdom	Sweden	Spain	France	Hungary	Netherlands
<b>Strategic policy level (incl. long-term legislation)</b>	No	General environmental act	Bill for integration of EIA and BHD test	Act for spatial planning and sustainable development LOADDT	No	Draft WABO ( <i>Wet Algemene Bepalingen Omgevingsrecht</i> )
<b>Tactical policy level (incl. middle-range planning)</b>	Integrative policy regulation (PPG9) developed by Defra	Yes	Integration of water and nature policy in management plans	Integration of environmental protocol with defence & DOCOBs	Natura 2000 is incorporated into regional spatial plan	Integration through coordination of management plans between WFD/BHD
<b>Operational policy level (incl. issuing permits)</b>	1,000 cases per year (building activities, agriculture, windmills)	See Sectoral permit system cases	See Sectoral permit system cases	See Sectoral Permit System cases	Integration of nature & agricultural recreation in cases	Proposal for Integrated environmental permit

At tactical policy level, solutions for integration issues are sought in the integration of planning processes. Often a change can be effected within a medium-range period of time. In England, for example, Defra points out to local planning authorities the possibilities for integrating nature conservation policy with environmental policy. To this end, it has drawn up integrative policy regulations, the *Planning Policy Guidance on Nature Conservation* (PPG9). In Spain, integrated planning (including spatial planning) is less urgently needed: there is room enough. Still, there is anyway collaboration at local and regional levels to integrate water and nature policy in the management plans. This is also the case with regard to the DOCOBs in France. The question is, what does the Netherlands want in this respect?



Finally, integration questions can also be answered by integrating the issuance of permits at operational level. It would seem that the Netherlands is the only country using the idea of the ‘one-stop shop’ and *building with a piece of paper*. In the spring of 2005, the Ministry of Housing, Spatial Planning and the Environment (VROM) presented the draft for the WABO (*Wet Algemene Bepalingen Omgevingsrecht*, ‘General Provisions for Environmental Law Act’), which included an integrated environmental permit: one application to one authorised body through one procedure culminating in one decision.

The question is whether the advantages of reducing the administrative burden and serving the client offsets the disadvantages of working with a single piece of paper. The disadvantage, usually put raised by the representatives of nature interests, is that when put in the balance with economic interests, nature interests will get the worst of it, certainly in times when the economy is doing badly. As a result, the need for demonstrating the social interest and in this way also the economic interest of conservation and development becomes even greater.

The *observation* can be made that in some way, all countries are working on integrating Natura 2000 with policy, whether in legislation or in planning or the issuing of permits, but nowhere is the link between the different strategies at various levels or the long or short term view indicated, nor is the body of thought linking the levels mentioned made explicit. It will be clear that issuing integrated permits will not be possible if no integrated law has been developed. It is also clear that dealing with the complexity, the reality of how the problems are related, the proposed effective approach with clear, well-organised legislation and a unified enforcement body cannot dispel the complexity of weighing up matters. This was in any case what Sweden has indicated, and they were the first to experiment with an integrated law.

**Conclusion 6: Beyond integration and complexity.**

Although some countries do indeed have integrated environmental laws, nowhere is there an integrated environmental permit (‘building with one piece of paper’). Only the Netherlands, with the draft for the WABO (*Wet Algemene Bepalingen Omgevingsrecht*, ‘General Provisions for Environmental Law Act’) seems to be aiming for this. In some countries there is a degree of integration at planning level. This would also seem to be more likely for the Netherlands. Integrated legislation cannot do away with the problem of dealing with complexity. It would seem that an integrated environmental permit is either not feasible or very difficult to achieve.

**Recommendation 6a. Made-to-measure integration, synergy of content and process.**

Acknowledge that an intrinsic answer to ‘integration of legislation’ for complex issues is actually a denial of the complex reality. Serving clients effectively requires made-to-measure integration by a synergy of approaches to content and process. In the short term, then, the Netherlands should concentrate on integration at planning level rather than legislation level.

**Recommendation 6b. Building with one piece of paper is as yet illusory.**

Comparative studies have shown that nowhere have integrated environmental permits been shown to be feasible at this time. For now, don’t bet on this kind of permit too strongly.

**Recommendation 6c. Equal contribution of interests.**

Investigate which strategies can be used and who can introduce nature interests on an equal footing with other interests in planning processes.



## Glossary of acronyms and abbreviations

### A

Agency	autonomous authority with executive powers basically independent from government
ANC	Authority of Nature Conservation
Annex	List of species and habitats as appendix to directive
APCA	Assemblée Permanente des Chambers d'Agriculture ( <i>France</i> )
ASSI	Area of Special Scientific Interest ( <i>Northern Ireland</i> )

### B

BD	Birds Directive
BHD	Birds-and Habitats Directives
BI	Birdlife International

### C

CAP	Common Agricultural Policy
CCW	Countryside Council of Wales
CEEWEB	Central and Eastern European Working Group for The Enhancement of Biodiversity
CNPN	Comité National du Patrimoine Naturel ( <i>France</i> )
COFIL	Comité de Pilotage ( <i>France</i> )
CORINE	Decision on Information on the State of the Environment, 1995
CSRPN	Comité Scientifique Regional du Patrimoine Naturel ( <i>France</i> )

### D

DDAF	Direction Départementale de l'Agriculture et de Fôrets
DEFRA	Department of Environment Food and Rural Affairs ( <i>UK</i> )
DIREN	Direction Régionale de l'Environnement ( <i>France</i> )
DNP	Direction de la Nature et des Paysages ( <i>France</i> )
DOCOB	Document d'Objectifs ( <i>France</i> )
DRT	Développement des territoires ruraux

### E

EC	European Commission
ECJ	European Court of Justice
E(E)C	European ( <i>Economic</i> ) Community
EHS	Environment and Heritage Service ( <i>UK</i> )
EIA	Environmental Impact Assessment
EN	English Nature, nature conservation agency for England
ENGOS	Environmental Non-Governmental Organisations
ERDF	Economic Regional Development Fund
ESA	Environmentally Sensible Areas ( <i>Hungary</i> )

ESDP	European Spatial Development Perspective
EU	European Union
<b>F</b>	
FCS	Favorable Conservation Status
FNE	France Nature Environnement ( <i>France</i> )
FNL	Fédération Nationale des Chasseurs ( <i>France</i> )
<b>I</b>	
IAB	Independent Administrative Body
IBA	Important Bird Areas ( <i>Hungary</i> )
IBO	Inter departmental policy research ( <i>Interdepartementaal Beleidsonderzoek</i> )
ICAN	International Conservation Action Network
IFAW	International Fund for Animal Welfare
IPS	Dutch interdepartmental policy study
<b>J</b>	
JNCC	Joint Nature Conservation Committee ( <i>UK</i> )
<b>L</b>	
Län	Regional government in Sweden
LFA	Less Favourable Areas
LNV	Landbouw, Natuur en Voedselkwaliteit (See MANF)
LOADDT	Act on spatial planning and sustainable territorial development ( <i>France</i> )
LPO	Ligue de Protection des Oiseaux ( <i>France</i> )
LSAS	Land Stewardship Advisory Service
<b>M</b>	
MAAPR	Ministère de l'Agriculture, de l'Alimentation, de la Pêche et de la Ruralité ( <i>France</i> )
MANF	Ministry of Agriculture, Nature and Food Quality ( <i>The Netherlands; LNV</i> )
MARD	Ministry of Agriculture and Rural Development ( <i>Hungary</i> )
MEPA	Malta Environment and Planning Authority
MEI	Ministry of Economy and Infrastructure ( <i>Hungary</i> )
MEDD	Ministère de l'Ecologie et du Développement Durable ( <i>France</i> )
MEPAI	Agricultural Parcel Identification System (?)
MEW	Ministry of Environment and Water ( <i>Hungary</i> )
MHSE	Ministry of Housing, Spatial planning and the Environment ( <i>The Netherlands, VROM</i> )
MME	Magyar Madártani Egyesület ( <i>Hungarian Society for the Protection of Birds, Hungarian member organization of the Birdlife International</i> )
MNHN	Muséum National d'Histoire Naturelle ( <i>France</i> )

MPTW	Ministry of Transport, Public works and Water management ( <i>The Netherlands, V&amp;W</i> )
<b>N</b>	
Natura 2000	Sites designated under the Birds and Habitat Directives
NNR	National Nature Reserve
NGOs	Non-Governmental Organizations
NPD	National Park Directorates ( <i>Hungary</i> )
<b>P</b>	
PBA	Planning an Building Act
PHARE	European funding programme for research
PPG9	Planning Policy Guidance on Nature Conservation and on Annex IV-species protection
pSCI	Proposed Site of Community Importance ( <i>Habitats Directive</i> )
<b>Q</b>	
Quango	Quasi non-governmental organization
<b>R</b>	
RSPB	Royal Society for the Protection of Birds
<b>S</b>	
SAC	Special Area of Conservation as part of Natura 2000 ( <i>Habitats as well as Birds Directive</i> )
SCI	Site of Community Interest ( <i>Habitats Directive</i> )
SEA	Single European Act
SEO Bird Life	Spanish department of Birdlife international
SEPA	Swedish Environmental Protection Agency
SNH	Scottish Natural Heritage
SPA	Special Protection Area ( <i>Birds Directive</i> )
SSSI	Site of Special Scientific Interest
SEPA	Swedish Environmental Protection Agency
<b>U</b>	
UGB	Umweltgesetzbuch ( <i>Germany</i> )
UK	United Kingdom
<b>W</b>	
WABO	‘General Provisions for Environmental Law Act’ ( <i>Wet Algemene Bepalingen Omgevingsrecht</i> )
WWF	World Wildlife Fund



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## **Annex A Outline of the Birds- and Habitat Directive - Natura 2000**

Directives are by far the most important form of European Community legislation for environmental issues. A directive is set by the European Community to define limits, targets, objectives and standards which must be adhered to by the Member States, but it does not define the precise mechanism of how this must be achieved.

The Directive on conservation of Wild Birds marks a turning point in European environmental legislation, because this piece of legislation dealt specifically with nature conservation and had also a broader focus (i.e. habitats) beyond this initial concern for migratory birds. Prior to this, the Community had concentrated upon pollution control measures, information exchange or amendments to existing mayor policy areas, such as the Common Agricultural Policy.

Natura 2000 is not a world-wide conservation strategy, but is a European Community initiative which seeks to identify a network of nature conservation sites across the member States and beyond. While it is not a global initiative, it does follow the pattern set by many of the foregoing strategies and clearly complements them.

Natura 2000 follows on from the concepts defined within the Birds Directives of 1979 which came into operation in 1981. Here the concept of SPAs (Special Protection Areas) was identified as the most suitable mechanism for protecting the habitats of birds. Following the passing of the Habitat Directive in 1992, the concept of SPAs was extended to encompass a wider range of habitats and semi-natural areas. These areas known as the SACs (special areas of conservation) will be identified by Member States, corresponding to a list of both species and habitats listed in the Directive Annexes. Just like the Wild Birds Directive, the Habitats Directive provides measures to protect conservation sites (Articles 3 to 11) species (Articles 12 to 16). Natura 2000 (Article 3) Annex I lists of the various types of natural habitat of community interest requiring conservation, whilst Annex II lists the species whose habitats require protection measures. The lists designate certain habitats types, species as well as priority types and species. When a site has been adapted as a site of community importance (SCI) the member state must designate it as a special area of conservation as soon as possible and within six years at most (Article 4).

Natura 2000 is having its roots in the Habitat Directives, but it is also paralleled by an initiative from the Dutch Government, entitled Econet (Bennit, 1991) The rationale for the proposals is similar, but more far reaching than Natura 2000, because it seeks not only to identify key conservation sites, but also to link these sites by wildlife corridors, sympathetic forestry and agricultural management and extend them across non- EC countries.

A detailed so called *habitat test* should be applied on plans or projects likely to have a significant effect on such a site (Article 6). An appropriate assessment of its implications for the site in view of the site's conservation objectives has to be made in case of *significancy* and there should be a weighing of alternatives, compensatory

measures and there should be imperative reasons of overriding public interest (so called IROPI) before a plan or project could be carried out. The same goes for birds areas as they are part as well of the Natura 2000 network.

Management plans (Article 6 (1)) specifically designed for the sites could be integrated into other development plans. Here a link with spatial planning integration might be seen. Criteria like significance or IROPI should be interpreted by national or EU courts as well as the governments involved after implementation of both directives. Again the three i's (implementation, integration and interpretation) emerge.

Species protection is centered around the three Article 16 Habitats Directive (corresponding with Article 9 and 13 of the Birds Directive) criteria of favorable conservation status (FCS) in their natural range, alternative test and limitative derogation interests such as, again, imperative reasons of overriding public interests (Article 16 (1) sub c).

Other environmental directives with perhaps some relevance and adjacent to nature conservation are the Water Framework Directive and the Nitrate Directive. They are, however, not within the scope of this study.

## **Annex B Outline of research methodology, reliability and validation**

### *Research approach*

The choice of a research method, especially in the social sciences is always steered by the epistemological assumptions of the researchers. It is therefore desirable to be explicit about assumptions, because they will guide the conceptualization of problem issues, the concrete operationalizations of the research and the state of the conclusions. In the research at hand our assumptions are based on the social constructionist approach (Gergen, 1995; Weick, 1979; Berger and Luckmann, 1967) for framing social research efforts. There are as many perspectives to a problem as there are actors. Actors define the issue by relating their definition to other definitions. There will never be a complete overlap among perspectives, nor a definite understanding. There is a continuously ongoing negotiation relationship among the actors and in that sense the social reality is continuously in-the-making. Allport (1985: 84) stated: *the way a man defines his situations constitutes for him its reality*. Since social constructionism emphasizes the rational qualities and the multiplicities of social realities, we find it an adequate theory to guide qualitative research in a group context.

We choose for a qualitative comparative research approach and a mixed multiple case design which was embedded in the broad research design (part one of this study). The broad research design gives us the possibility to position the data of the case study in a more general perspective and the case design gives us the opportunity to deepen the superficial perspective of the issues which emerged from the desk study. In a multiple case design the research consist of a range of partial researches (cases) of which the results can be integrated through different research cycles (sequential method) and or compared (hierarchic method) This stratification of the multiple case design means that the data are purified and that comparison of the cases will become difficult. General conclusions are not to be expected (Miles and Huberman, 1984).

### *Research strategy and used research methods and instruments*

To find answers on the main research questions of this research we designed a three-step research strategy, in which different research methods and instruments are used.

*First* to get insight in the emerging problems related to the legislative and executive implementation of the BHD of all 25 EU countries we studied relevant *literature* on administration, participation, implementation and nature conservations and relevant *documents* of the last 5 years related to the political discussions, new policy modes and specific cases of BHD in these 25 countries (Albinsky, 1981). Besides that we used the outcomes of recent and relevant comparative EU nature conservation law research (Kistenkas, 2005) and we screened several web-sites. The findings of this orientation study made a selection and motive of six country visits in EU member states possible, for further research.

*Second*, to get insight and learn about alternative policy- administrative - and political solutions, we designed a two to three day visit in six countries in close cooperation with the Dutch Ministry of ANF and the Agricultural Counselor, Royal Dutch Embassy in the six countries. In this in depth study we used the following research and data gathering instruments:

- A group conversation: meeting at the Ministries of Environmental Protection with the responsible governmental employees at national, regional and or local levels, representants of a Nature Policy Research Institute, NGO, Employer federation and a relevant sector, the delegates of different departments from the Netherlands and the researcher/interviewer in case. The participants of these meetings are listed in Annex IV. This group conversation had three functions (a) mutual learning about the application of the HBD (b) selecting relevant themes, which could be worked out further in the interviews (c) checking mutual opinions about the political and policy relevant image of the HBD. (see further under data gathering).
- Private conversations between delegates of both countries.
- Tête-à-tête interviews (1,5-2 ours per interview) held by an independent researchers who is acquainted with Nature policy and administrative cultures; for these interviews and for comparative means, a topic list was produced (Annex IV).
- A Field trip to a BHD relevant project of area. Here new and specific information is gathered and a rich illustration of good and bad practices could be signed up (see appendix).

*Third*: to develop an advice for the Dutch parliament about alternative implementation strategy(s) we will analyze the gathered data and develop some questions containing the hypothetical plausible causal links between the mentioned variables as an outcome of this comparative multiple case study design. A reflection with policy experts and peer review group on the findings and the supposed hypothetical links could generate a new perspective for Dutch policy.

#### *Data gathering*

A studying group context, wherein people meet, talk and work, is probably the most natural method for gathering knowledge about social events and human interaction. Specification of the group forms is important to typify the role of the researcher, the involvement of the group members and the kind of interaction that is going to emerge. Taking these aspects into account is essential in processing the data and in making interpretations. The group conversation – group is not a natural group but a created group especially for this research. The researcher is part of group and therefore is more or less influencing on the group context. We also could speak of group interview for the purpose of exploring the different accounts or voices at the same time on the same phenomena or problem. Individuals are asked to tell their stories concerning the problem highlighted by the researcher. Each story can be aligned to or expand the story of an other participant or can contrast a previous story. The aim is to catch in a condensed way the range of different voices.

The group interview and the individual interviews were tape-recorded and afterwards transcribed. Permission for tape recording was asked from all participants. In an individual interview the private and personal account is at stake. For the interviews we therefore chose representatives from different involved organizations (a) National & regional Policy: (b) Research institutes (c) NGOs (d) Employer federation (e) Relevant sector.

Non governmental organizations (NGOs) refer to the voluntary or 'not-for-profit' sector, sometimes referred to as the third sector to distinguish it from public and private organizations. NGOs have developed to lobby, become active and participate in environmental debate and work, often at an international level.

In conjunction with other NGO sector, environmental organizations will take on several roles, including service providing function-, pressure group-, resource co-ordinating-, self help and networking- and fundraising functions. Their role is increasingly integral to the overall process of change and consequently the numerous agencies have been brought into formal decision-making process. It is evident that some organizations fulfill only one function.

The overall network for European environmental groups is the European Environmental Bureau (EEB), formed in 1974 with EC support and based in Brussels. Several groups and alliances of environmental NGOs, such as ECBH (Euro group for the conservation of Birds and habitats), ICAN (International Conservation Action Network, IFAW (international Fund for Animal Welfare; WWF (World Wide fund for Nature) represents some of the powerful groupings in politics of the EC (Harvey, 1992).

Because of the fact that the implementation process is just started and the countries under research are in a different phase of implementation and because of the differences in political and administrative cultures, the data will be colored by the respondents perspectives, the political atmosphere at the moment and the image of the BHD.

#### *Analyzing strategy & operationalization of concepts*

For analyzing the data of the in depth study of implementation process and the interpretation and integration issues we will use the theoretical approaches for assessments of complex policy implementation processes and administration. For the comparative analysis it is important to consider the three main issues as well as the solutions as an integral fact. So problems of integration will indicate solutions for integration etc. Related to the perceived image of the BHD in each country we may construct some hypothetical questions.

The analyses of the group interviews can take several forms. In this study it was seen in the light of the other data already collected and was obtained by integrating it in to the larger project. It concerns the public character of the stories participants bring in; the group process steers the general outcome of the group interview and makes mutual learning and understanding each other perspectives.

On the basis of this empirical study, it is important to get insight in the national orientation to Nature Conservation and the image of the BHD in the member state at hand. This meaning is of important to understand the integrated management approach of national and or regional policy and the way different policy instruments are brought into action.

In the analytical frame for understanding complex policy implementation processes and administration, three dimensions are being distinguished. In short called the CNP- approach: (1) Content (2) Network and (3) Process (Peterse & Neven, 1997; Ligthart en Neven, 2000). The three main dimensions point to three different kinds of resources and three different policy instruments policy makers needs to manage the implementation process of Natura 2000.

- C The first dimension refers to policy goals as described in the European BH Directives, the National Nature Conservation laws and the regional translations to these goals. To get insight in this content, the ambitions, meaning and perceptions of different involved stakeholders will be examined. Cognitive resources are knowledge and information, visions, ideas, perceived concepts and policy itself; legal policy instruments are also include.
- R The second dimension refers to relational resources like the institutional context; the allocation of responsibility tasks in the relations of power, interest and dependency between actors in the involved policy network. Including the economic- and communicative strategies and the policy instruments of which a great deal is more or less voluntary and without obligation, influencing attitudes and behavior in these policy networks.
- P The third dimension refers to the process resources, which can be called the capability of the involved actors as regard to mutual interaction, joint action and learning (good practices), explicit exploration of procedures and rules of the formal and informal processes; application and use of a combination of policy instruments and the use of the complex and dynamic playing field which exist in the alternative modes of multi level and multi actor governance.

The assumption behind this analytical frame is as follows. Within the involved network of the implementation of the BHD, there are different visions on the implementation process, but to achieve one's aim and ambition one knows and acknowledges mutual dependency (Kickert, 1997. p. 6; Klijn, 1996, p. 46) This means that a new and integrated Nature Conservation not only will be determined by the institutional context of this policy, the (jurisdictional) rules and the policy instruments related to that, but also by the proportion in which the different partners will give in, to this integrality and to unity of policy (Lukassen, 1999, p. 64). *Integration* in this research concerns the tuning in formal legislative integration and the material integration of planning and licensing. This analyses aims at the extent in which the different parties give congruent meaning to integration of nature conservation in a certain case and find useful solutions to conflicting sectoral substitute perspectives. This aim for integration can be view further and seen as a aim to new governance (Healey, 1997 p 243-244). Analyzing governance one looks at the real participation of stakeholders between and within policy levels.

Following Peterse en Neven (1997) the coherence between the three dimensions is of great importance for the quality and effectively of the implementation process of the BHD and aiming for a good *image and social support for the BHD*, governments should also point their steering strategy to these three dimensions (Ligthart en Neven, 2000). Without support of involved actors the policy goals will not be reached. And the other way around it will also be clear that without administrative and/or social support, the policy will fail, even if it is developed with the input of great expertise and the consequence is worked out in detail. Changing in one dimension will provoke changes in the other dimensions. Of course one can imagine the situation in which the policy goals serve a tremendous great national interest. In those cases one can expect that governments will use hierarchical steering concepts in which a free negotiation between stakeholders is not at stake. It seems in case of implementing European Directives inescapable from a viewpoint of codification and modification.

Changes in the content aims and goals will have consequences for involving certain interest groups. Changing the network of actor will create new coalitions between interest groups and have influence in the use of policy instruments, generally specified in (a) legal policy instruments (Van der Doelen, 1993; de Bruijn en Ten Heuvelenhof, 1993 Glasbergen, 1994), (b) economic policy instruments (Vermeulen, 1992; Smits, 1994) and (c) one- and bipartite communicative policy instruments (Van Vliet, 1992; Van der Doelen, 1993; Van de Peppel en Herweijer, 1994).

In the contingent theory about government steering (Smits, 1995) one pleads for a integral use of policy instruments as well. Arguments following the above rational, indicate that policy instruments not only have the influence on the environment and behavioral changes, but also that the environment feature must be determined for the features of the steering strategy and ambitions also. The policy strategy than must be characterized not only by legal, economic and communicative policy instruments but also by hierarchic or consensual policy style (Aalders, 1996; 1987; Arentsen, Klok & Schrama, 1994) and top-down & bottom-up policy freedom (Maarse, 1989 Toonen en Korsten, 1998; Pressman & Wildavsky, 1979).

Legal policy instruments can be seen as reactive instruments to change attitudes and behavior through norms and standards forced by the government. One can think of codifying or modifying instruments. These will be laid down in a 'code of conduct', in regulations, in prohibits and in orders. This balance of power is legalized by stipulating sanctify in case of not keeping to the norms and values.

Communicative policy instruments can be seen as instruments to change attitudes and behavior through information transmission. These instruments are more or less voluntaries and without obligation. Besides that they can be used uni- or multilaterally. In case of a multilateral communication one speaks about consultation of information and having debates and dialogues in case of developing new policy plans etc. To apply these communicative policy instruments costs lots of time, competent persons and money.

Economic policy instruments can be seen as instruments to change attitudes and behavior through financial stimulation. Contrary to the legal policy instruments they do not have coercive stipulations to the required behavior. The alternative choices for the government can be used to stimulate or discourage the dis- or advantages. Economic instruments use a combination of providing a subsidy, levy and or taking fiscal measures.

The findings of each EU member state will therefore be clustered along the lines of the following four issues

- *Issues of the image of the BHR in general.* The complexity of the concept image necessitates to assess the meaning of interviewees about perceiving the HBD as a blessing or a burden.
- *Issues of implementation Natura 2000* National governments implementing the policies in different ways, through direct control or through voluntary agreements with landowners or developers.
- *Issues of interpretation Natura 2000* National governments altering the European guidelines generated at community level and putting different interpretation on community directives.
- *Issues of integration of Natura 2000* National governments delegating the management of the process of implementation to one of a number of organizations or department. A conservation policy implemented under the management of a government Department of Forestry, for example, would have a different emphasis if it was managed through a Department of Agriculture or d a Department of Conservation or indeed a Department of Spatial Panning.
- *Used policy instruments.*

#### *Reliability and validity of this research*

In this research we used different qualitative research methods simultaneously. The application of this principle of triangulation (Denzin, 1978; Segers, 1980, 1983) increases the reliability and validity of observations in this research (Hutjes en van Buuren, 1992).

A combination of the research instruments like interviews and group dialogue with different stakeholders (Cassel and Symon, 1994) increases the warranty for internal validity and concept validity. Iteration and feedback with involved stakeholders and expert peer groups makes exploration and telling the futures possible and the outcomes of research reliability.

Besides a methodically triangulation, qualitative research needs also a theoretical triangulation. Empirical phenomena must be considered from multiple theoretical perspectives. In the analysis strategy these theoretical perspectives have been described and could be anchored in the minds of the involved actors through the research design (Wester, 1985).

Finally we must name the observers triangulation. In this research process we made use of different senior researchers. In the EU Member states Hungary a native speaking researchers was invited to gather data for this research. Researchers are experts in policy analysis, environmental law, sociology, ecology and spatial planning.



## Annex C List of participant's group conversations & interviews

### UK

In the United Kingdom several group interviews took place; each time with one or more English experts and the Dutch delegation.

#### **Dutch delegation**

1. Mr. Martin Lok (*Department of Nature of the Ministry of Agriculture, Nature and Food Quality, the Netherlands*)
2. Mr. Eduard Osieck (*Department of Nature of the Ministry of Agriculture, Nature and Food Quality, the Netherlands*)
3. Mr. Aad van Gelswijk (*Department of Regional Affairs of the Ministry of Agriculture, Nature and Food Quality, the Netherlands*)
4. Mr. Rob van Apeldoorn (*Alterra*)

#### **Group interview 1 Bristol (250405) with Defra**

5. Mr. Trevor Salmon (*Head of Nature 2000 team*)

#### **Group interview 2 Peterborough (260405) with Joint Nature Conservation Committee**

6. Mr. Wyn Jones (*Head of Habitats Advice*)

#### **Group interview 3 Peterborough (260405) with English Nature**

7. Mr. Andy Clements (*Director Protected Areas*)

#### **Group interview 4 Sandy (270405) with RSPB**

8. Mr. Andrew Dodd (*Head of Site Conservation Policy*)
9. Mr. Brian Cleary (*Head of Casework*)
10. Ms. Rosie Sutherland (*Legal adviser*)
11. Ms. Penny Simpson (*External solicitor*)
12. Mr. Graham Alliot (*Head of Investigations*)
13. Ms. Luise Cavender (*Species Policy Officer*)
14. Mr. Eduard Osieck (*Department of Nature of the Ministry of Agriculture, Nature and Food Quality, the Netherlands*)
15. Mr. Rob van Apeldoorn (*Alterra*)

### Sweden (210405 & 220405)

In Sweden several group interviews took place; each time with one or more Swedish experts with the Dutch delegation.

#### **Dutch delegation**

1. Mr Paul Vetter, Ministry of Agriculture, Nature and Food Quality
2. Mr Graham Dusseldorp, Ministry of Agriculture, Nature and Food Quality
3. Mr Wouter van Sambeek, Ministry of Agriculture, Nature and Food Quality
4. Ms Renske Nijland, Royal Netherlands Embassy, Dept. of Agriculture, Nature and Food Quality
5. Mr Rob Schröder, Senior Project Officer/Researcher

#### **Group interview 1 with Uppsala University**

6. Prof. Staffan Westerlund in Environmental law at the Faculty of Law, Gamla Torget 6, Room nr B516, Uppsala

#### **Group interview 2 with SNC (Swedish Nature Conservation)**

7. Mr Klas Hjelm, Head of the Department Nature Conservation
8. Kristoffer Stghäll, Department Nature Conservation

### **Group interview 3 with Ministry of Sustainable Development**

9. Jan Terstad, Ministry of Sustainable Development; division Natural Resources
10. Carl-Frederik Löf, Ministry of Agriculture, Food and Consumer Affairs

### **Group interview 4 with SEPA (Swedish .....)**

11. Ms Helene Lindahl, SEPA
12. Ms Helen Wester,

### **Group interview 5 with the Swedish Railroads**

13. Anders Elan, Representative of Banverket; Swedish Railroads
14. Johan Bergkvist; Ministry of Industry, Employment and Communication

### **Group conversation 6 with The Administration Board**

15. Anders Elan Representative of Banverket; Swedish Railroads
16. Mats Nordin The Administration Board
17. Anna Gustafsson e.a. The Administration Board

## **Spain**

In Spain several group interviews took place; each time with one or more Spanish experts and the Dutch delegation

### **Delegation from the Netherlands**

1. Mr. Wouter van Sambeek (*Ministry of Agriculture, Nature and Food Quality*)
2. Mr. Bas Roels (*Ministry of Agriculture, Nature and Food Quality*)
3. Mr. Paul Vetter (*Ministry of Agriculture, Nature and Food Quality*)
4. Mr. Maaten Platteeuw (*Ministry of Transport, Public Works and Water Management*)
5. Mr. Rob Schröder (*Alterra, University of Wageningen*)
6. Mr. Carlos Heringa (*Netherlands Embassy, Dept. of Agriculture, Nature and Food Quality*)
7. Dr. María L. Sarazá (*Netherlands Embassy, Dept. of Agriculture, Nature and Food Quality*)

### **Group interview 1 with Universidad Autónoma de Madrid**

8. Prof. Francisco Suárez, Universidad Autónoma de Madrid. Departamento de Ecología.

### **Group interview 2 with Ministerio de Medio Ambiente**

9. Mr. Miguel Aymerich, Subdirector General de Vida Silvestre, Ministerio de Medio Ambiente.
10. Mr. Rafael Hidalgo, Jefe de Servicio de Red Natura 2000, Ministerio de Medio Ambiente.

### **Group interview 3 with Regional Government Madrid**

11. Mr. Francisco Sánchez-Herrera, Jefe de Servicio de Espacios Naturales Protegidos, Comunidad Autónoma de Madrid, Consejería de Medio Ambiente y Ordenación del Territorio.
12. Mr. Federico Zamora, Jefe de Sección de Espacios Naturales Singulares, Comunidad Autónoma de Madrid, Consejería de Medio Ambiente y Ordenación del Territorio.

### **Group interview 4 with Bird life International**

13. Mr. Alejandro Sánchez, Director Ejecutivo, Sociedad Española de Ornitología/Bird Life International.
14. Mr. Octavio Infante, Coordinador de Red Natura 2000, Sociedad Española de Ornitología/Bird Life International.

### **Group interview 5 with Universidad Madrid**

15. Prof. Enrique Alonso, Cátedra UNESCO de Territorio y Medio Ambiente, Universidad Rey Juan Carlos. Edificio Departamental I.

**Group interview 6 with with ASAJA** (*Asociación Jóvenes Agricultores*)

16. Mr. Ignacio López, Director del Departamento Internacional. ASAJA (Asociación Jóvenes Agricultores).
17. Mr. José Carlos Caballero, Director del Departamento Técnico. ASAJA (Asociación Jóvenes Agricultores).

**France (020505 - 040505)**

In France several group interviews took place; each time with one or more French experts and the Dutch delegation.

**Delegation from the Netherlands**

1. Martin Lok (*Ministry of Agriculture, Nature and Food Quality*)
2. Mr. Rob van Apeldoorn (*Alterra*)

**Group interview 1 with MEDD**

3. Mr. Jean- Marc Michel (*Director DNP*) (*Introduction of MEDD and Natura 2000*)
4. Mr. Francois Bland (*Director of the Natura 2000 project, DNP*)
5. Mr. Wally Rosell (*Communication and Animation Officer Natura 2000, DNP*)
6. Ms. Madeleine Boucard (*Deputy Head of the DNP-BHN*)
7. Elisabeth Trévin (*DNP-BHN, documents d'objectifs DOCOB*)
8. Damien Goislot (*DNP-BHN, évaluation des incidences*)
9. Mr. Philip Guth (*Ministère de la Défense*)
10. Ms. Claire Boucher (*interpreter*)
11. Ms. Alexandra Feeks (*Technical assistant Dutch Embassy Paris*)

**Group interview 2 (020505) with Natura 2000 stakeholders at National level**

12. Mr. Wally Rosell, chair (*Communication and Animation Officer Natura 2000, DNP*)
13. Mr. Pierre Beaudesson (*Centre Regional de la Propriété Forestière*)
14. Mr. Jean Marie Brézard (*Office National des Forêts*)
15. Ms. Nathalie Galliri (*Assemblée Permanente des Chambres d'Agriculture*)
16. Mr. Regis Hargues (*Fédération Nationale des Chasseurs*)
17. Ms. Estelle Kerbiriou (*Ligue pour la Protection des Oiseaux*)
18. Mr. Philip l'Envee (*France Nature Environnement*)
19. Ms. Claire Boucher (*interpreter*)
20. Ms. Alexandra Feeks (*Technical assistant Dutch Embassy Paris*)

**Group interview 3 (030505) with DIREN Picardie**

21. Mr. Wally Rosell, (*Communication and Animation Officer Natura 2000, DNP*)
22. Mr. Samuel Caron (*DIREN Picardie*)
23. Mr. Thierry Hanocq (*DIREN Picardie*)
24. Mr. Francois Herman (*DIREN Picardie*)
25. Ms. Claire Boucher (*interpreter*)

**Hungary (210305)**

In Hungary there one group interview took place with the Hungarian delegation and the Dutch delegation.

**Dutch delegation**

1. Ms. Carleen Y. Weebers.; MSc, Policymaker, Department of Nature, ANF, the Netherlands.
2. Ms. J. M. Smolders; LL.M., Legal Advisor, ANF, The Netherlands.
3. Mr. Jelle Landstra; Agricultural Counselor, Royal Netherlands Embassy, Hungary

**Group interview 1 with the Hungarian Delegation**

4. Mr. Gábor Magyar; Deputy Head Nature Conservation Unit, Authority/counsellor of Nature Conservation, MEW, Hungary.
5. Mr. András Schmidt; ANC, MEW, Hungary.
6. Dr. Tamás Vajna; Former Head of the Hungarian Chamber of Agriculture; NGO biological farmer organization o.o.
7. Mr. Ferenc Horváth; Researcher, Institute of Ecology and Botany of the Hungarian Academy of Sciences.
8. Mr. Mihály Végh, Head of Office, ECNC Regional Office, Hungary.
9. Agnes Bruszik; Senior Project Officer, European Centre for Nature Conservation, Regional Office for Central Europe, Caucasus and Central Asia; Budapest Hungary.

## Annex D List of participants field trip

### UK (270405) to SSSI Orton Pit Peterborough

1. Mr. Jim Gammie (*Deputy Area Manager, EN*)
2. Mr. Brian Armstrong (*Wildlife Officer, Peterborough City Council*)
3. Mr. Daniel Piec (*Site Manager, Hampton Nature Reserve*)
4. Ms. Jacqui Ward-Dyer (*Chief Executive, Froglife*)
5. Mr. Julian Howard (*Publicity Officer, Froglife*)
6. Mr. Aad van Gelswijk (*Department of Regional Affairs of the Ministry of Agriculture, Nature and Food Quality, the Netherlands*)
7. Mr. Martin Lok (*Department of Nature of the Ministry of ANF, the Netherlands*)
8. Mr. Eduard Osieck (*Department of Nature of the Ministry of ANF, the Netherlands*)
9. Mr. Rob van Apeldoorn (*Alterra*)

### Sweden (220405) to Brodsviken Park

1. Mr Paul Vetter, Ministry of Agriculture, Nature and Food Quality.
2. Mr Graham Dusseldorp, Ministry of Agriculture, Nature and Food Quality.
3. Mr Wouter van Sambeek, Ministry of Agriculture, Nature and Food Quality.
4. Ms Renske Nijland, Royal Netherlands Embassy, Dept. of Agriculture, Nature and Food Quality.
5. Prof. Staffan Westerlund in Environmental law at the Faculty of Law, Gamla Torget 6, Room nr B516, Uppsala.
6. Mr Rob Schröder, Senior Project Officer/Researcher.
7. Mats Nordin, Representatives of the County Administration Board.
8. Anna Gustafsson, Representative of the County Administration Board.
9. Mats Nordin, The Administration Board.
10. Anna Gustafsson The Administration Board.

### Spain (200505) to Parque Natural de Peñalara

1. Mr. Juan Antonio Vielva, Director-Conservador del Parque Natural de Peñalara, Comunidad Autónoma de Madrid, Consejería de Medio Ambiente y Ordenación del Territorio.
2. Mr. Wouter van Sambeek (*Ministry of Agriculture, Nature and Food Quality*)
3. Mr. Bas Roels (*Ministry of Agriculture, Nature and Food Quality*)
4. Mr. Paul Vetter (*Ministry of Agriculture, Nature and Food Quality*)
5. Mr. Maaten Platteeuw (*Ministry of Transport, Public Works and Water Management*)
6. Mr. Rob Schröder (*Alterra, University of Wageningen*)

### France (030505) to Picardie - Natura 2000 stakeholders

1. Mr. Wally Rosell, (Communication and Animation Officer Natura 2000, DNP)
2. Mr. Samuel Caron (DIREN Picardie)
3. Mr. Thierry Hanocq (DIREN Picardie)
4. Mr. Francois Hermant (DIREN Picardie)
5. Ms. Aurélie Veret (Syndicat inter- communal SMACOPI)
6. Mr. Claude Bouteiller (Fédération départementale des chasseurs Somme)
7. Mr. Thierry Lemaire (Conservatoire Regional des Espaces Naturels)
8. Mr. Emmanuel Dutertre (Chambre d'agriculture de Somme)
9. Ms. Claire Boucher (interpreter)
10. Martin Lok (Ministry of Agriculture, Nature and Food Quality).
11. Mr. Rob van Apeldoorn (Alterra)

### **Hungary (220305) to Kiskunság National Park**

1. Vajda Zoltan Kiskunság National Park.
2. Agnes Bruszik; MSc, Senior Project Officer, European Centre for Nature Conservation, Regional Office for Central Europe, Caucasus and Central Asia; Budapest Hungary.
3. Ms. J. M Anneke Smolders; LL.M., Legal Advisor, ANF, The Netherlands.
4. Ms. Carleen. Y. Weebers; MSc, Policymaker, Department of Nature, ANF, the Netherlands.
5. Mr. András Schmidt; ANC, MEW, Hungary.
6. Kőváriné Dr. Bartha Ágnes; Chamber of Agriculture in the morning.

## **Annex E List of interviewees/individual interviews**

### **UK**

Only group interviews

### **Sweden**

Only group interviews

### **Spain**

Only group interviews

### **France (Paris 040505)**

1. Ms. Isabelle Combroux (Paris 040505)  
(Maître de Conférence, Muséum National d'Histoire Naturelle) The National Natural History Museum is involved in the implementation of Natura 2000 starting with the phase of the designation of sites. It is coordinating the collection of data on habitats and species and building the national data base. It is also responsible to develop monitoring methods to evaluate the management of the sites. Collaborators of the museum have written the habitats and species management guidelines (Cahiers d'habitats et d'Espèces).
2. Mr. Doug Evans (Paris 040505)  
(Centre Thématique Européen pour la Protection de la Nature et la Biodiversité, Agence Européenne de l'Environnement) The European Topic Centre is not directly involved in the implementation of Natura 2000 in the member states. It is the scientific and technical assistant of the EC and has an observer position in the Habitat Committee.

### **Hungary**

1. Dr. Gábor Magyar NANC (230305)  
Head of the Natura 2000 Unit, which is part of the Department of Nature Conservation, which is a part of the Nature Protection Bureau belonging to the Ministry of Environment and Water.
2. Mr. Ferenc Lévai (farmer which land will also be a Natura 2000 site)  
He leads a Ramsar site fishpond of 1500 ha with all eco-touristic activities and so many other things. He received the Great Cross from the president of Hungary for his eco-farming activities this year, which is a very high appreciation in Hungary.
3. Mr. Zsolt Szilvácsku (ZsSz)  
Representative of the Birdlife Hungary (NGO) Head of the Land Stewardship Advisory Service of the Hungarian Society of Birds (MME). The MME has basically followed the designation process of the Natura 2000 sites from the very beginning, from 1990. To be more precise the MME, as the Hungarian member organization of the Birdlife International (BI), has been responsible for the designation and monitoring of Important Bird Areas (IBA) in Hungary.
4. Mr. Ferenc Tar. Ministry of Agriculture and Rural Development, Hungary  
Head of the Department for Agro-environment within the Ministry of Agriculture and Rural Development. Responsible for the Natura 2000 network related activities and discussions at the Ministry. Followed the events related to Natura 2000 network from the very beginning. His Ministry has not been the main responsible for the process.





## Annex F Interview topics United Kingdom

<b>Interview scheme</b>	<p>The objective of the case analyses in this study is to obtain <b>more practical information</b> on the implementation of the Habitat directive and the Bird Directive in these countries. The idea is that through this more detailed information the readers can get a better picture of how the people in these countries deal with these directives. Possibly this will have the effect that other countries get interested in the specific implementation forms in other countries and perhaps can learn of these experiences.</p>
<b>Interview checklist</b>	<p>Some questions formulated below on the <b>three central issues Implementation, Integration and Interpretation</b> are already answered by collecting written materials, but in the interview one has to check by <b>asking to specific examples</b> of alternative solutions to the 3 – P's problems by asking questions in general; <b>what are the Strong /Weak Opportunities &amp; Threats and why, how and when??</b> The description of a good practice and/or a pilot will give a rich illustration tot the analyses to be made.</p>
<b>Introduction</b>	<p><b>Introduction:</b></p> <p>Due to the quite centralizing effect of an agency, the level of research can only be nationally focused. NGOs and governmental organizations are supposedly merged into and represented through the quango, in casu <i>English Nature</i>. The quango in charge on the species protection field is English Nature as their task is species derogation licensing (so called LOL: licensing on-line; see already exhaustively <a href="http://www.english-nature.org.uk/licensing">www.english-nature.org.uk/licensing</a>), advising, monitoring and Alterra-like research. It is a DEFRA-agency, so this Bristol based ministry might also be consulted since DEFRA still seems to have powers as to legislation and integration into spatial planning. Does DEFRA planning policy guidance on habitats protection (such as DEFRA PPG 9, already gathered by one of the researchers) and the DEFRA circular 2/2002 (guidance for local planning authorities on European protected species and changes in licensing procedures) really work?</p> <ul style="list-style-type: none"> <li>○ Check the data in this introduction; ask for new information, examples and explaining arguments for this status quo.</li> </ul>

<p><b>Interest of UK for Dutch research</b></p>	<p>Further investigation and questioning to the English practice of nature conservation quango's might teach us lessons as to interpretation, implementation as well to integration matters. It should be noted that thus necessarily the research focuses strongly on the quite interesting organizational structure, which indeed differs greatly from the traditional continental and Dutch scenario's of delegating executive or perhaps even (quasi)legislative powers. We want to read and learn whether quango's indeed do integrate, give expert interpretation guidances or contributes to a more successful implementation process. We also want to know the disadvantages of a quango oriented administration. What is for instance the remaining role of local planning authorities and other stakeholders?</p>
<p><b>Interview Questions:</b></p> <p><b>Implementation Issues</b></p>	<p>The executive implementation process might be much easier when this process is coordinated and elaborated by an expert quango instead of gridlocked by politicians. Quango's are said to be an helpful <i>depolitization factor</i> in these matters, since such an expert agency is not directly connected with likely gridlocking political platforms (in Dutch: 'overheid op afstand'). Further enquiries of UK-documents, annual reports or perhaps interviews might sort out whether this is really true.</p> <p><b>Legislative implementation in domestic law</b></p> <ul style="list-style-type: none"> <li>○ Are the Habitats- and Birds Directives already completely implemented into domestic law?</li> <li>○ Are all Natura 2000 sites designated?</li> <li>○ How was/is participation of public and private stakeholders being organized after the designation phase and what problems did/do occur?</li> <li>○ What are the discussions about the legislative process between National State level and the EU?</li> <li>○ Could you mention some leading cases?</li> </ul> <p><b>Material implementation by agencies?</b></p> <ul style="list-style-type: none"> <li>○ What happened in politics, government/administration and society after the designation phase of the N2000-sites?</li> <li>○ How are NGO's, interest stakeholder groups and business (like developers) involved in the implementation process nowadays and what was/is their response (co-operation, resistance etc.)</li> <li>○ What are the biggest problems now during the second phase of the implementation and how are they handled?</li> <li>○ Do you have a complete picture of the conservation status of the Natura 2000 sites?</li> <li>○ How do you decide which management is necessary to achieve a favourable conservation status? What legal possibilities exist to enforce management prescriptions? What financial agreements (national or EU) are in place?</li> <li>○ Looking back, can you give us some examples of things that went particularly good in the implementation of HBD in your country? (good practices, ask why this is considered to be a success, practical examples)</li> </ul>

	<ul style="list-style-type: none"> <li>○ What are the most important lessons learned (what are the do's and don'ts in a process like this)?</li> <li>○ What are the experiences of working with bufferzones in and around sites?</li> </ul>
<p><b>Integration- issues</b></p>	<p>The English organizational structure on nature conservation appears completely different compared to the Dutch or perhaps even the overall continental approach. Instead of traditional governmental bodies like local, district or departmental administration, executive nature conservation powers have been delegated to independent expert authorities widely known as <i>quango's</i>. When executive powers are brought together in just one authority also the integration process might get boosted for there is only one (or perhaps just a few) agency empowered. In Holland the integration of environmental policy regrettably has been a hard, up till now rather unsuccessful and laborious process (Kistenkas and Neven in <i>Openbaar bestuur</i> 2004). Perhaps we could learn from the British approach. Then, at least a mainly legal document analysis seems necessary.</p> <p><b>Integration of habitat assesment in other policies such as spatial planning</b></p> <ul style="list-style-type: none"> <li>○ Is there any integration of nature conservation and N200 management plans into other sectoral law or policy (e.g. spatial planning law, policies and local planning permissions or other sectoral planning procedures e.g. water, forestry, agriculture)?</li> </ul> <p><b>Integration in licensing</b> Sectoral (nature) licences/Integrated licenses/Derogation in licensing</p> <ul style="list-style-type: none"> <li>○ Is there any agency (agencies) in the UK contributing to integration of nature conservation into other sectoral planning policies (e.g. environmental, agricultural, water policies)</li> <li>○ How does the agency (or perhaps a subagency) organize and facilitate participation?</li> <li>○ What are the possible disadvantages of a public agency based nature conservation?</li> <li>○ Does the traditional sectoral approach of Brussels directives match with the domestic legislation in the UK?</li> </ul>
<p><b>Interpretation- issues</b></p>	<p>Unclearly defined legal terminology (such as FCS, significancy) is pointed out in the IBO-report (see pages 29, 32 and 34) as being a major problem in present Dutch nature conservation. There also emerged uncertainty as to the legal possibility of zoning and listing. Hence especially ecologically related legal interpretation has been a problem. In a quango, however, legal and ecological expertise is brought together possibly in order to facilitate such interpretation efforts. Unlike in Britain, Netherlands legislative and executive implementation has been slackened in traditional political debate and in traditional procedures. The new Nature Conservation legislation draft was heavily debated and got gridlocked in parliament. It is still a draft now (as it is presently August 2004 at this very moment). Hence also quasi-legislation and legal guidance was not readily made.</p>

	<p><b>Interpretation of habitat assessment (art 6 HD) in practical guidelines</b></p> <ul style="list-style-type: none"> <li>○ Are there any guidelines as to the significance test of Article 6 Habitats Directive (HD)? (If so, could you please send me a copy as well?)</li> <li>○ Are there any other guidelines to the other criteria of Article 6 HD (for instance compensation, immanent reasons of overriding public interest, alternatives)?</li> <li>○ Are there any guidelines as to the <i>favourable conservation status</i> (species protection)?</li> <li>○ Are there any N2000 management plans (as required by Article 6 HD) been made? To what extent and what is the legal status of these plans. How does this function in practice. What is your idea about that? (give examples)</li> </ul> <p><b>Discussions on interpretation in the UK</b></p> <ul style="list-style-type: none"> <li>○ <i>What are the most important <b>existing activities</b> in the Natura 2000 sites (e.g. forestry, agriculture, fishery, recreation) and what is the problem for the conservation objectives of the Natura 2000 sites?</i></li> <li>○ How do the different governments deal with this? What other actors are involved and how?</li> <li>○ Ask for specifics on what parties are involved in examples of how it works? Ask for examples.</li> <li>○ Can you estimate how many new plans or projects in the Natura 2000 sites exist in your country? For instance: give an indication of how many times a year or how many permits are given [OPM: hier vragen we erg veel; kunnen we dat zelf beantwoorden?]</li> <li>○ What is the nature of these plans or projects (road development, agriculture .....)?</li> <li>○ Do already examples of plans/projects outside the Natura 2000 area exist that significantly affect the FCS of the sites? If yes then ask: What kind of activities? How is dealt with these activities? Are buffering zones installed or is this in discussion? If yes: For what kind of activities are these buffering zones installed and how do they function?</li> <li>○ What is the procedure with a plan or project that significantly affects the FCS of a Natura 2000 site. What happens? Who does what? (give example)</li> </ul>
<p><b>Image-Issues</b></p>	<ul style="list-style-type: none"> <li>○ What is the general political view as regards the Habitats- and Birds Directive in your country: blessing or burden?</li> <li>○ Is there a difference in appreciation of the directives between national and regional authorities?</li> <li>○ How do you deal politically with conflicts between nature and other interests?</li> <li>○ What kind of co-operation exists in your country between different Ministries and/or agency's in this respect?</li> </ul>
<p><b>Examples – pilots - cases</b></p>	<p>Give information on a leading case in which national discussions were held ( e.g. plan or a new activity near or within an existing nature site;</p>

	Plan of a blocked activity/or legal case by habitat assessment; Difficult management plan of a nature site (internal activities)
<b>Interview Questions about Information</b>	Ask for relevant detailed guidelines and or public documents – sites etc.
<b>Impression of the the Dutch deskstudy</b>	What is your opinion of the preliminary results of this study?
<b>Specific interview questions for NGO's</b>	<ul style="list-style-type: none"> <li>○ What role (participation) do NGO's play in the implementation process of Nature 2000 ?- example?</li> <li>○ In what way and by what means (e.g. cooperation, lawsuits) do they influence (resistance) this process? Are they effective in cooperation or resistance? Give examples</li> <li>○ What do the NGO's expect of the effectiveness of the implementation strategy in France - why</li> <li>○ What is your opinion on the preliminary results of the Dutch document study? Why?</li> </ul>
<b>VIII Specific interview questions for research</b>	<ul style="list-style-type: none"> <li>○ What is the role (participation) of researchers in the process of designation of Nature 2000 sites; Management plans etc.- describe please</li> <li>○ What are the main discussions about the interpretation of the directives (social - legal - ecological –political) – examples</li> <li>○ What do involved research institutes expect of the effectiveness of the implementation strategy in France– why?</li> <li>○ What is your opinion on the preliminary results of the Dutch document study? Why?</li> </ul>
<b>IX Specific interview questions for employers' federation or other economic sector/stakeholder group (agriculture, forestry etc.)</b>	<ul style="list-style-type: none"> <li>○ What is the role (participation) of the employers' federations (or other sectoral stakeholder group) in the implementation process ? example?</li> <li>○ What kind of political discussions do employers' federations have with the government about the implementation in National law and about integration of the directives in regional (or other) planning procedures?</li> <li>○ What do involved employers/stakeholder groups expect of the effectiveness of the implementation strategy in the UK – why?</li> <li>○ What is your opinion on the preliminary results of the Dutch document study? Why?</li> </ul>



## Annex G Interview topics Sweden

<b>Interview scheme</b>	The objective of the case analyses in this study is to obtain <b>more practical information</b> on the implementation of the Habitat directive and the Bird Directive in these countries. The idea is that through this more detailed information the readers can get a better picture of how the people in these countries deal with these directives. Possibly this will have the effect that other countries get interested in the specific implementation forms in other countries and perhaps can learn of these experiences.
<b>Interview checklist</b>	Some questions formulated below on the <b>three central issues Implementation, Integration and Interpretation</b> are already answered by collecting written materials, but in the interview one has to check by <b>asking to specific examples</b> of alternative solutions to the 3 – P's problems by asking questions in general; <b>what are the Strength &amp; Weaknesses; Opportunities &amp; Threats</b> and <b>why, how and when??</b>
<b>Introduction</b>	<p><b>Introduction:</b> The first phase of implementing the Natura 2000 Network in Sweden has been finished in 1999 by implementing the EU nature directives in a national integrated legislation on nature, environment and watermanagement (Miljöbalken 1999). [Including designation of nature sites ??] The legislation has been done by the ministry of [??]</p> <p>Now in Sweden the implementation is worked on by the specific Swedish Environmental Protection Agency, (SEPA) that seems to stand far away from the legislative ministry and the political debate [and controll by the parliament?]. SEPA is an 30 years old agency with several professional subagencies, with high academic competences. This independent agency seems te be an amalgam of NGO, academic and government (executive and judicial) aspects. SEPA is making guidances on: (a) requirements for special Natura 2000 EIA and (b) management measures and plans of nature sites.</p> <ul style="list-style-type: none"> <li>○ Check the data in this introduction; ask for new information, examples and explaining arguments for this status quo.</li> </ul>
<b>Interest of Sweden for Dutch research</b>	<p>An overall research interest would be to analyze how Sweden tackled the problem of depolitization the implementation compared to other implementation models.</p> <p>There are differences in the Swedish and Dutch situations implementing N2000: Sweden has a fully integrated legislation on environment, whereas Holland has chosen a sectoral legislation. For the practical and executive implementation Sweden (as the UK) has established an independent agency, which seems to strengthen a quick and non-conflicting process of regional site protection and management.</p>

<p><b>Interview Questions:</b></p> <p><b>Implementation Issues</b></p>	<p>Sweden has finished the legislative implementation and works on the material implementation. Very interesting is the experience with an independent agency. Unlike most other European countries, Sweden seem not to be bothered by constitutional separation of public powers (tria politica = executive, control, judicial).</p> <p><b>Legislative implementation in domestic law</b></p> <ul style="list-style-type: none"> <li>○ Are there discussions about the legislative process between Sweden and the EU?</li> <li>○ Could you mention some leading cases?</li> </ul> <p><b>Material implementation by agencies</b></p> <ul style="list-style-type: none"> <li>○ What happened in politics, government/administration and society <u>after</u> the designation phase of the N2000-sites?</li> <li>○ How are NGO's, interest stakeholder groups and business (like developers) involved in the implementation process by SEPA nowadays? What was/is their response (co-operation, resistance etc.)</li> <li>○ How independent is the agency SEPA? What kind of parliament control? Can a person or a NGO go to a court of appeal because of a SEPA regulation-guidance?</li> <li>○ Which government is responsible for material implementation</li> <li>○ What are the biggest problems now during the second phase of the implementation and how are they handled?</li> <li>○ Looking back, can you give us some examples of things that went particularly good in the implementation of HBD in your country? (good practices, ask why this is considered to be a success, practical examples)</li> <li>○ What are the most important lessons learned (what are the do's and don'ts in a process like this)?</li> </ul>
<p><b>Integration- issues</b></p>	<p>Sweden is the first state in the EU with a fully integrated environmental legislation. It is instructive to compare Sweden with other member states how they solve integration problems. Is the integrated environment codex (looking back) a recommendable way to implement EU directives? Do they match?</p> <p>How far goes the integration in Sweden? How is environment integrated in spatial planning and in sectoral planning?</p> <p><b>Integrated legislation and EU sectoral approach</b></p> <ul style="list-style-type: none"> <li>○ Which matching problems between the EU sectoral approach and the integrated legislation did occur? How were they solved</li> <li>○ What are discussions between Sweden and Brussels on this topic?</li> <li>○ What are the strong sides of integrated regulation? (examples?)</li> <li>○ Does it lead to (or is it beneficial to) one integrative environmental licensing system (like f.i. the local planning permission in England)?</li> <li>○ What are weaknesses? (examples?)</li> </ul>



	<p><b>Integration of habitat assessment in spatial planning</b></p> <ul style="list-style-type: none"> <li>○ Is there any integration of nature conservation and N200 management plans into spatial planning law, policies and local planning permissions?</li> <li>○ Other sectoral planning procedures e.g. water, forestry, agriculture)?</li> </ul> <p><b>Integration in licensing</b> Sectoral (nature) licences/Integrated licenses/Derogation in licensing</p> <ul style="list-style-type: none"> <li>○ Is there any agency (agencies) in Sweden contributing to integration of nature conservation into other sectoral planning policies (e.g. spatial planning, agricultural, water policies)</li> <li>○ How is integration (formal) structured? Does the agency (or perhaps a subagency) organize and facilitate participation?</li> <li>○ What are the possible disadvantages of a public agency based nature conservation?</li> </ul>
<p><b>Interpretation- issues</b></p>	<p>Interpretation problems especially ecological related legal interpretation has been a problem in many countries. To solve this problem innovative ideas, mutual understanding and best practices can be helpful. In Sweden several guidances have been writtten by SEPA. During the process of writing a guidance the interpretation problem plays a role. However, it is unclear if and how the interpretation problem has been solved in these documents. And if guidelines exist, how they have been used.</p> <p><b>Interpretation of habitat assessment (art 6 HD) in practical guidelines</b></p> <ul style="list-style-type: none"> <li>○ Does the guideline on Natura 2000 EIA reflect on the <i>significancy</i> test of Article 6 Habitats Directive (HD)? (If so, could you please give / send me a copy as well?)</li> <li>○ Does the guideline on managementplans reflect on the <i>other criterions</i> of Article 6 HD (for instance compensation, immanent reasons of overriding public interest, alternatives)? (If so, could you please give / send me a copy as well?)</li> <li>○ [NB special interest in Se??]</li> <li>○ Are there any guidelines as to the <i>favourable conservation status</i> (species protection)?</li> <li>○ Are there any N2000 <i>management plans</i> (as required by Article 6 HD) been made? To what extend and what is the legal status of these plans?</li> <li>○ How does a management plan function in practice. What is your idea about that? (give examples)</li> </ul> <p><b>Discussions on interpretation in Sweden?</b></p> <ul style="list-style-type: none"> <li>○ <i>What are the most important existing activities in the Natura 2000 sites (e.g. forestry, agriculture, fishery, hunting, recreation) and what is the problem for the conservation objectives of the Natura 2000 sites?</i></li> <li>○ How do the different governments deal with this? What other actors are involved and how?</li> </ul>

	<ul style="list-style-type: none"> <li>○ Ask for specifics on what parties are involved in examples of how it works? Ask for examples.</li> <li>○ Can you estimate how many <i>new plans or projects</i> in the Natura 2000 sites exist in your country? (For instance: give an indication of how many times a year or how many permits are given.)</li> <li>○ What is the nature of these plans or projects (road development, agriculture, forestry, recreation)?</li> <li>○ Do already examples of <i>plans/projects outside</i> the Natura 2000 area exist that significantly affect the FCS of the sites? If yes then ask: What kind of activities? How is dealt with these activities? Are buffering zones installed or is this in discussion? If yes: For what kind of activities are these buffering zones installed and how do they function?</li> <li>○ What is the <i>procedure</i> with a plan or project that significantly affects the FCS of a Natura 2000 site. What happens? Who does what? (give example)</li> </ul>
<b>Examples – pilots - cases</b>	Give information on a <i>leading case</i> in which national discussions were held (e.g. plan or a new activity near or within an existing nature site; Plan of a blocked activity/or legal case by habitat assessment; Difficult management plan of a nature site (internal activities)
<b>Interview Questions about Information</b>	Ask for relevant detailed guidelines and or public documents – sites etc.
<b>Impression of the the Dutch deskstudy</b>	What is your opinion of the preliminary results of this study?
<b>Specific interview questions for NGO's</b>	<ul style="list-style-type: none"> <li>○ What role (participation) do NGO's play in the implementation process of Nature 2000 ?- example?</li> <li>○ In what way and by what means (e.g. cooperation, lawsuits) do they influence (resistance) this process? Are they effective in cooperation or resistance? Give examples.</li> <li>○ What do the NGO's expect of the effectiveness of the implementation strategy in Sweden - why</li> <li>○ What is your opinion on the preliminary results of the Dutch document study? Why?</li> </ul>
<b>Specific interview questions for research</b>	<ul style="list-style-type: none"> <li>○ What is the role (participation) of researchers in the process of designation of Nature 2000 sites; Management plans etc.</li> <li>○ What are the main discussions about the interpretation of the directives (social - legal - ecological –political) – examples.</li> <li>○ What do involved research institutes expect of the effectiveness of the implementation strategy in Sweden– why?</li> <li>○ What is your opinion on the preliminary results of the Dutch document study? Why?</li> </ul>

<p><b>Specific interview questions for employers' federation or other economic sector/stakeholder group (agriculture, forestry etc.)</b></p>	<ul style="list-style-type: none"> <li>○ What is the role (participation) of the employers' federations (or other sectoral stakeholder group) in the implementation process? example?</li> <li>○ What kind of political discussions do employers' federations have with the government about the implementation in National law and about integration of the directives in regional (or other) planning procedures?</li> <li>○ What do involved employers/stakeholder groups expect of the effectiveness of the implementation strategy in Sweden – why? What is your opinion on the preliminary results of the Dutch document study? Why?</li> </ul>
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## Annex H Interview topics Spain

<b>Interview scheme</b>	The objective of the case analysis in this study is to obtain <b>more practical information</b> on the implementation of the Habitat Directive and the Bird Directive in these countries. The idea is that through this more detailed information a better description can be given of how people in these countries deal with both directives. Possibly this will have the effect that other countries get interested in the specific way of implementing both directives in other countries and perhaps can learn of their experiences.
<b>Interview checklist</b>	Some questions formulated below on the <b>three central issues Implementation, Integration and Interpretation</b> are already studied by collecting written materials, but in the interview this has to be checked and updated by <b>asking to specific examples</b> of alternative solutions to the 3 – P's problems. Questions in general deal with <b>the Strong /Weak Opportunities &amp; Threats</b> and <b>why, how and when of problems and solutions</b> . The description of a good practice and/or a pilot will give a detailed illustration to the analyses to be made.
<b>Introduction</b>	<p>Since the coordination and integration is related to the national administration and the autonomous communities the research focuses on these levels. All information on the importance and organization of the coordination can be collected using governmental organizations (administration, research) and NGO's involved in the implementation process. The role of the autonomous communities and other stakeholders in the implementation process can be analyzed and illustrated by collecting additional information.</p> <ul style="list-style-type: none"> <li>○ Check the data in this introduction; ask for new information, examples and explaining arguments for this status quo</li> </ul>
<b>Interest of Spain for Dutch research</b>	Documents on Spain indicate the importance of a strong coordination of the implementation and integration at national and regional levels. The structure of this organization, the way it works and its advantages and disadvantages can be instructive for the Dutch situation. Also the influence of the coordination on the executive implementation at the local level of the sites is of interest. Besides the influence of several guidelines on an integrated way of planning is unclear. It is instructive to analyse how guidelines contribute to a smooth implementation, integration and interpretation process.
<b>Implementation Issues</b>	<p>The strong coordination of the administration at the national and lower levels (autonomous communities) seems to have influenced the executive implementation process at the beginning in a positive way. Positive effects are also expected on further implementation referred to, for example site management with the help of European funds. However, documents differ in their expectations. The relative importance of the coordination are questioned at the local level of the sites and the subordinate role of several stakeholders are stressed.</p> <p><b>Legislative implementation in domestic law</b></p> <ul style="list-style-type: none"> <li>○ Are the Habitats- and Birds Directives already completely implemented into domestic law?</li> <li>○ Are all Natura 2000 sites designated?</li> </ul>

	<ul style="list-style-type: none"> <li>○ How was/is participation of public and private stakeholders being organized after the designation phase and what problems did/do occur?</li> <li>○ What are the discussions about the legislative process between National State level and the EU?</li> <li>○ Could you mention some leading cases?</li> </ul> <p><b>Material implementation by agencies</b></p> <ul style="list-style-type: none"> <li>○ What happened in politics, government/administration and society after the designation phase of the N2000-sites?</li> <li>○ How are NGO's, interest stakeholder groups and business (like developers) involved in the implementation process nowadays and what was/is their response (co-operation, resistance etc.)</li> <li>○ What are the biggest problems now during the second phase of the implementation and how are they handled?</li> <li>○ Looking back, can you give us some examples of things that went particularly good in the implementation of HBD in your country? (good practices, ask why this is considered to be a success, practical examples)</li> <li>○ What are the most important lessons learned (what are the do's and don'ts in a process like this)?</li> <li>○ What are the experiences of working with bufferzones in and around sites?</li> </ul>
<p><b>Integration Issues</b></p> <p><b>Integration- issues</b></p>	<p>As stated before the slow start of the implementation was speeded up because of the strong coordination of the involved national and communal authorities by the ministry of Environment. Because of this coordination several guidelines were written to help other planning authorities (e.g. in the field of water supply, agriculture, energy, planning, EIA and infrastructure) to integrate the Natura 2000 obligations into their policies and activities especially when they have to be financed by European funds.</p> <p><b>Integration of habitat assessment in other policies such as patial planning</b></p> <ul style="list-style-type: none"> <li>○ Is there any integration of nature conservation and N200 management plans into other sectoral law or policy (e.g. spatial planning law, policies and local planning permissions or other sectoral planning procedures e.g. water, forestry, agriculture)?</li> </ul> <p><b>Integration in licencing</b> Sectoral (nature) licences/Integrated licenses/Derogation in licencing</p> <ul style="list-style-type: none"> <li>○ Is there any agency (agencies) in Spain contributing to integration of nature conservation into other sectoral planning policies (e.g. environmental, agricultural, water policies)</li> <li>○ How is integration (formal) structured? Does the agency (or perhaps a subagency) organize and facilitate participation?</li> <li>○ What are the possible disadvantages of a public agency based nature conservation?</li> <li>○ Does the traditional sectoral approach of Brussels directives match with the domestic legislation in Spain?</li> </ul>

<p><b>Interpretation-issues</b></p>	<p>The first phase of the implementation in Spain shows a slow start (sentence by the European Court of Justice) like in several other member states. However, the national list of sites was relatively fast composed and agreed nevertheless the national administration was fragmented and all autonomous communities had to be consulted. A main factor that speeded up the whole process was a strong coordination of national and regional administration by the ministry of Environment (responsible for the implementation) in the “ Network of Environmental Authorities” . However, if and how this coordination has influenced interpretation problems in a positive way is unclear.</p> <p><b>Interpretation of habitat assessment (art 6 HD) in practical guidelines</b></p> <ul style="list-style-type: none"> <li>○ Are there any guidelines as to the significancy test of Article 6 Habitats Directive (HD)? (If so, could you please send me a copy as well?)</li> <li>○ Are there any other guidelines to the other criterions of Article 6 HD (for instance compensation, immanent reasons of overriding public interest, alternatives)?</li> <li>○ Are there any guidelines as to the <i>favourable conservation status</i> (species protection)?</li> <li>○ Are there any N2000 management plans (as required by Article 6 HD) been made? To what extend and what is the legal status of these plans. How does this function in practice. What is your idea about that? (give examples)</li> </ul> <p><b>Discussions on interpretation in Spain?</b></p> <ul style="list-style-type: none"> <li>○ <i>What are the most important <b>existing activities</b> in the Natura 2000 sites (e.g. forestry, agriculture, fishery, recreation) and what is the problem for the conservation objectives of the Natura 2000 sites?</i></li> <li>○ How do the different governments deal with this? What other actors are involved and how?</li> <li>○ Ask for specifics on what parties are involved in examples of how it works? Ask for examples.</li> <li>○ Can you estimate how many new plans or projects in the Natura 2000 sites exist in your country? For instance: give an indication of how many times a year or how many permits are given</li> <li>○ What is the nature of these plans or projects (road development, agriculture.....)?</li> <li>○ Do already examples of plans/projects outside the Natura 2000 area exist that significantly affect the FCS of the sites? If yes then ask: What kind of activities? How is dealt with these activities? Are buffering zones installed or is this in discussion? If yes: For what kind of activities are these buffering zones installed and how do they function?</li> <li>○ What is the procedure with a plan or project that significantly affects the FCS of a Natura 2000 site. What happens? Who does what? (give example)</li> </ul>
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<b>Examples – pilots - cases</b>	Ask for information on a leading cases in which national discussions were held ( e.g. plan or a new activity near or within an existing nature site; Plan of a blocked activity/or legal case by habitat assessment; Difficult management plan of a nature site (internal activities)
<b>Interview Questions about Information</b>	Ask for relevant detailed guidelines and or public documents – sites etc.
<b>Impression of the the Dutch deskstudy</b>	What is your opinion of the preliminary results of this study?
<b>Specific interview questions for NGO's</b>	<ul style="list-style-type: none"> <li>○ What role (participation) do NGO's play in the implementation process of Nature 2000 ?- example?</li> <li>○ In what way and by what means (e.g. cooperation, lawsuits) do they influence (resistance) this process? Are they effective in cooperation or resistance? Give examples .</li> <li>○ What do the NGO's expect of the effectiveness of the implementation strategy in Spain - why</li> <li>○ What is your opinion on the preliminary results of the Dutch document study? Why?</li> </ul>
<b>Specific interview questions for research</b>	<ul style="list-style-type: none"> <li>○ What is the role (participation) of researchers in the process of designation of Nature 2000 sites; Management plans etc.</li> <li>○ What are the main discussions about the interpretation of the directives (social - legal - ecological –political) – examples</li> <li>○ What do involved research institutes expect of the effectiveness of the implementation strategy in Spain– why?</li> <li>○ What is your opinion on the preliminary results of the Dutch document study? Why?</li> </ul>
<b>Specific interview questions for employers' federation or other economic sector/stakeholder group (agriculture, forestry etc.)</b>	<ul style="list-style-type: none"> <li>○ What is the role (participation) of the employers' federations (or other sectoral stakeholder group) in the implementation process? example?</li> <li>○ What kind of political discussions do employers' federations have with the government about the implementation in National law and about integration of the directives in regional (or other) planning procedures?</li> <li>○ What do involved employers/stakeholder groups expect of the effectiveness of the implementation strategy in Spain – why? What is your opinion on the preliminary results of the Dutch document study? Why?</li> </ul>



## Annex I Interview topics France

<b>Interview scheme</b>	The objective of the case analyses in this study is to obtain <b>more practical information</b> on the implementation of the Habitat directive and the Bird Directive in these countries. The idea is that through this more detailed information the readers can get a better picture of how the people in these countries deal with these directives. Possibly this will have the effect that other countries get interested in the specific implementation forms in other countries and perhaps can learn of these experiences.
<b>Interview checklist</b>	Some questions formulated below on the <b>three central issues Implementation, Integration and Interpretation</b> are already answered by collecting written materials, but in the interview one has to check by <b>asking to specific examples</b> of alternative solutions to the 3 – P's problems by asking questions in general; <b>what are the Strong /Weak Opportunities &amp; Threats and why, how and when??</b>
<b>Introduction</b>	<p><b>Introduction:</b> The first phase of implementing the Natura 2000 Network in France has been finished in 2000 by identification of sites at the national level. This first phase took a long time and many difficulties were encountered (administrative, scientific and social). The executive implementation process might be much easier when it is coordinated and elaborated by as few as possible authorities. In France this is not the case because of the ministry MEDD (Ministère de l'Ecologie et du Développement Durable), which is responsible for the implementation and the role and importance of MAAPAR (Ministère de l'Agriculture, de l'Alimentation, de la Pêche et des Affaires Rurales) and their decentralized organisation in the regions and departments. It is of interest to get informed how coordination problems have been solved. Now in France the implementation process focuses on writing the management plans or DOCOB's (Document d'Objectives) for all sites. Further, France has opted for a contract-based approach for the implementation and both ministries mentioned play a role in financing these contracts. It is important to hear how different finance sources have been integrated and are related to the DOCOB's. In combination with the question if and how two authorities have coordinated and financed the implementation another question is about the relation between this coordination and the process of composing and writing a DOCOB by the "comités de pilotage" at the very local level of a site. Especially an analysis of this relation between coordination and the DOCOB's is important to answer the question if this way of working causes an effective implementation.</p> <ul style="list-style-type: none"> <li>○ Check the data in this introduction; ask for new information, examples and explaining arguments for this status quo</li> </ul>
<b>Interest of France for Dutch research</b>	An overall research interest would be to analyse how France tackled the problem of depoliticizing the implementation compared to other implementation models as for instance in the UK.
<b>Interview Questions:</b>	There are certain similarities in the France and Dutch situations implementing N2000: an initially centralised national approach to site designation has to be translated to a decentralised and regional

<p><b>Implementation Issues</b></p>	<p>approach in site protection and management. The experience in France in bridging the gap between the national and regional/local levels can be of interest to the Netherlands. Also the French approach in involving and consulting various stakeholders in the process may be of relevance, especially concerning low land and flood plain areas which are common to both countries.</p> <p><b>Legislative implementation in domestic law</b></p> <ul style="list-style-type: none"> <li>○ Are the Habitats- and Birds Directives already completely implemented into domestic law?</li> <li>○ Are all Natura 2000 sites designated?</li> <li>○ How was/is participation of public and private stakeholders being organized after the designation phase and what problems did/do occur?</li> <li>○ What are the discussions about the legislative process between National State level and the EU?</li> <li>○ Could you mention some leading cases?</li> </ul> <p><b>Material implementation by agencies</b></p> <ul style="list-style-type: none"> <li>○ What happened in politics, government/administration and society after the designation phase of the N2000-sites?</li> <li>○ How are NGO's, interest stakeholder groups and business (like developers) involved in the implementation process nowadays and what was/is their response (co-operation, resistance etc.)</li> <li>○ What are the biggest problems now during the second phase of the implementation and how are they handled?</li> <li>○ Looking back, can you give us some examples of things that went particularly good in the implementation of HBD in your country? (good practices, ask why this is considered to be a success, practical examples)</li> <li>○ What are the most important lessons learned (what are the do's and don'ts in a process like this)?</li> <li>○ What are the experiences of working with bufferzones in and around sites?</li> </ul>
<p><b>Integration- issues</b></p>	<p>When both ministeries mentioned play an important role during the implementation process by cooperation and coordination this might have resulted in less sectoral legislation and planning and more integration as seems to be the case in other member states. It is instructive to compare France with other member states (eg United Kingdom, Sweden) how they solve integration problems.</p> <p><b>Integration of habitat assesment in other policies such as spatial planning</b></p> <ul style="list-style-type: none"> <li>○ Is there any integration of nature conservation and N200 management plans into other sectoral law or policy (e.g. spatial planning law, policies and local planning permissions or other sectoral planning procedures e.g. water, forestry, agriculture)?</li> </ul> <p><b>Integration in licensing</b> Sectoral (nature) licences/Integrated licenses/Derogation in licensing</p>

	<ul style="list-style-type: none"> <li>○ Is there any agency (agencies) in France contributing to integration of nature conservation into other sectoral planning policies (e.g. environmental, agricultural, water policies)</li> <li>○ How is integration (formal) structured? Does the agency (or perhaps a subagency) organize and facilitate participation?</li> <li>○ What are the possible disadvantages of a public agency based nature conservation?</li> <li>○ Does the traditional sectoral approach of Brussels directives match with the domestic legislation in France?</li> </ul>
<p><b>Interpretation- issues</b></p>	<p>Interpretation problems especially ecological related legal interpretation has been a problem in many countries. To solve this problem innovative ideas, mutual understanding and best practices can be helpful. In France for several sites management plans or DOCOB's (Document d'Objectives) have been written. During the process of writing a DOCOB the interpretation problem plays a role. However, it is unclear if and how the interpretation problem has been solved in these documents and if guidelines exist and have been used or are prepared.</p> <p>Important interpretation problems exist to topics such as: immanent reasons of overriding public interest, significance, favourable conservation status, alternatives, compensation and monitoring.</p> <p><b>Interpretation of habitat assesment (art 6 HD) in practical guidelines</b></p> <ul style="list-style-type: none"> <li>○ Are there any guidelines as to the significance test of Article 6 Habitats Directive (HD)? (If so, could you please send me a copy as well?)</li> <li>○ Are there any other guidelines to the other criterions of Article 6 HD (for instance compensation, immanent reasons of overriding public interest, alternatives)?</li> <li>○ Are there any guidelines as to the <i>favourable conservation status</i> (species protection)?</li> <li>○ Are there any N2000 management plans (as required by Article 6 HD) been made? To what extend and what is the legal status of these plans. How does this function in practice. What is your idea about that? (give examples)</li> </ul> <p><b>Discussions on interpretation in France?</b></p> <ul style="list-style-type: none"> <li>○ <i>What are the most important <b>existing activities</b> in the Natura 2000 sites (e.g. forestry, agriculture, fisbery, recreation) and what is the problem for the conservation objectives of the Natura 2000 sites?</i></li> <li>○ How do the different governments deal with this? What other actors are involved and how?</li> <li>○ Ask for specifics on what parties are involved in examples of how it works? Ask for examples.</li> <li>○ Can you estimate how many new plans or projects in the Natura 2000 sites exist in your country? For instance: give an indication of how many times a year or how many permits are given.</li> <li>○ What is the nature of these plans or projects (road development, agriculture .....)?</li> </ul>

	<ul style="list-style-type: none"> <li>○ Do already examples of plans/projects outside the Natura 2000 area exist that significantly affect the FCS of the sites? If yes then ask: What kind of activities? How is dealt with these activities? Are buffering zones installed or is this in discussion? If yes: For what kind of activities are these buffering zones installed and how do they function?</li> <li>○ What is the procedure with a plan or project that significantly affects the FCS of a Natura 2000 site. What happens? Who does what? (give example)</li> </ul>
<b>Examples – pilots - cases</b>	Give information on a leading case in which national discussions were held ( e.g. plan or a new activity near or within an existing nature site; Plan of a blocked activity/or legal case by habitat assessment; Difficult management plan of a nature site (internal activities)
<b>Interview Questions about Information</b>	Ask for relevant detailed guidelines and or public documents – sites etc.
<b>Impression of the the Dutch deskstudy</b>	What is your opinion of the preliminary results of this study?
<b>Specific interview questions for NGO's</b>	<ul style="list-style-type: none"> <li>○ What role (participation) do NGO's play in the implementation process of Nature 2000 ?- example?</li> <li>○ In what way and by what means (e.g. cooperation, lawsuits) do they influence (resistance) this process? Are they effective in cooperation or resistance? Give examples .</li> <li>○ What do the NGO's expect of the effectiveness of the implementation strategy in France - why</li> <li>○ What is your opinion on the preliminary results of the Dutch document study? Why?</li> </ul>
<b>Specific interview questions for research</b>	<ul style="list-style-type: none"> <li>○ What is the role (participation) of researchers in the process of designation of Nature 2000 sites; Management plans etc.</li> <li>○ What are the main discussions about the interpretation of the directives (social - legal - ecological –political) – examples</li> <li>○ What do involved research institutes expect of the effectiveness of the implementation strategy in France– why?</li> <li>○ What is your opinion on the preliminary results of the Dutch document study? Why?</li> </ul>
<b>Specific interview questions for employers' federation or other economic sector/stakeholder group (agriculture, forestry etc.)</b>	<ul style="list-style-type: none"> <li>○ What is the role (participation) of the employers' federations (or other sectoral stakeholder group) in the implementation process ? example?</li> <li>○ What kind of political discussions do employers' federations have with the government about the implementation in National law and about integration of the directives in regional (or other) planning procedures?</li> <li>○ What do involved employers/stakeholder groups expect of the effectiveness of the implementation strategy in France – why? What is your opinion on the preliminary results of the Dutch document study? Why?</li> </ul>

## Annex J Interview topics Hungary

<p><b>Interview scheme</b></p>	<p>The objective of the case analyses in this study is to obtain <b>more practical information</b> on the implementation of the Habitat directive and the Bird Directive in these countries. The idea is that through this more detailed information the readers can get a better picture of how the people in these countries deal with these directives. Possibly this will have the effect that other countries get interested in the specific implementation forms in other countries and perhaps can learn of these experiences.</p>
<p><b>Interview checklist</b></p>	<p>Some questions formulated below on the <b>three central issues Implementation, Integration and interpretation</b> are already answered by collecting written materials, but in the interview one has to check by <b>asking to specific examples</b> of alternative solutions to the 3 – P’s problems by asking questions in general; <b>what are the Strong Weak Opportunities &amp; Threats</b> and <b>why, how and when??</b> The description of a good practice and/or a pilot will give a rich illustration tot the analyses to be made.</p>
<p><b>Introduction</b></p>	<p><b>Introduction:</b> The implementation of the Natura 2000 Network in Hungary has just started. The National Park Directorates are planned to prepare the management plans for the Natura 2000 sites, and closely co-operate in the development of proposals for the introduction of suitable extensive farming methods on the sites. Taking part in the extensive farming methods on a voluntary basis will lead to compensation toward the owners and/or users of the lands. This compensation until 2007 will be guaranteed from the Hungarian agro-environmental funds. In 2002 WWF Hungary, CEEWEB, Birdlife Hungary, National Society of Conservationists formed the Hungarian Natura 2000 Working Group, which, among other activities, released during the summer of 2004 a ministerial communication campaign of Natura 2000. In certain countries individual contracts are made with the land owners/farmers but in Hungary at this stage only the system of conditions for these contracts are being developed. With regards to the monitoring of the Natura 2000 sites in Hungary there are no standardized regulations and methods existing yet, but the National Biodiversity Monitoring Program could be an excellent basis.</p> <ul style="list-style-type: none"> <li>o Check the data in this introduction; ask for new information, examples and explaining arguments for this status quo.</li> </ul>
<p><b>Interest of Hungary for Dutch research</b></p>	<p>An overall research interest would be whether the fact that Hungary had access to cases of good and bad practice in the EU15 had a positive effect on the way in which the N2000 process took place, and in turn has become an example of good practice itself.</p> <p>There are certain similarities in the Hungarian and Dutch contexts for the implementation of N2000: an initially centralized national approach in designation has to be translated to a decentralized and regional approach in implementation. The Hungarian experience in bridging the gap between the national and regional levels can be of interest to the Netherlands. Also the Hungarian approach in involving and consulting various stakeholders in the process may be of relevance, especially concerning low land and flood plain areas which are common to both countries.</p>

<p><b>Interview Questions About Implementation Issues</b></p>	<p>The Authority of Nature Conservation of the Ministry of Environment and Water was responsible for the scientific site selection process that officially ended on May 2004. The selection of sites was built on the data collected through the CORINE biotope project, Intensive Botanical Data Collection in Hungary (Phare), National Biodiversity Monitoring Program (since 1997) of The Authority of Nature Conservation of the Ministry of Environment and Water. On the basis of these data the Hungarian National Park Directorates and the Natura 2000 Advisory Committee of Hungary assisted The Authority of Nature Conservation to set up the list of sites. In 2004 the Act on Nature Conservation (1996. LIII) was amended allowing the continuation of the legislation process of the Natura 2000 sites. A governmental decree to be released in autumn 2004 will contain the measures to regulate the establishment of the network and the list of selected sites.</p> <p><b>Legislative implementation in domestic law</b></p> <ul style="list-style-type: none"> <li>○ Is the implementation process completely finished? (meaning: all Natura 2000 sites designated?, list approved by Brussels?; approved list authorized by National Law?)</li> <li>○ How was/is participation of public and private stakeholders being organized and what problems did occur?</li> <li>○ What are the discussions about the legislative process between National State level and the EU?</li> <li>○ Could you mention some leading cases? (e.g. on buffer zones; ecological corridors)</li> </ul> <p><b>Material implementation by agencies</b></p> <p>What we know from the desk study is that the NGO's carry out communication projects supported by the ministry, but that the awareness of Natura 2000 policy is still low. (check)</p> <ul style="list-style-type: none"> <li>○ What happened in politics, governments and society after the introduction of the HBD? Special interest in the financing management plans)</li> <li>○ How were NGO's, interest groups and business (like developers) involved in this process and what was their response (cooperation, resistance etc.)</li> <li>○ What were the biggest problems in their implementation and how are they handled?</li> <li>○ Looking back, can you give us some examples of things that went particularly good in the implementation of HBD in your country? (good practices, ask why this is considered to be a success, practical examples)</li> <li>○ What are the most important lessons learned (what are the do's and don'ts in a process like this)?</li> </ul> <p><b>Financial means for implementation</b></p> <p>According to rough cost estimates for financing of Natura 2000 (based upon Article 8. Working Group report), the establishment and management of the network in Hungary would cost 2 billion HUF (ca.</p>
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	<p>€ 8million) per year. According to the National Conservation Plan ca. € 7 million should be spent for Natura 2000 (monitoring and research, reporting, communications, management) in the first two years. However this amount is not secured and allocated in the state budget yet. All financing options that to date have been planned to contribute to Natura 2000, including the state budget, “Green source” Central Environmental Fund and national Agri-environmental Programme, are in flux following merging of the Central Environmental Fund with the Water Funds as well as general cuts in the state budget, which inevitably will affect support available for nature conservation.</p> <ul style="list-style-type: none"> <li>○ What is your vision on the development of the Financial Perspectives 2007-2013 in relation with Natura 2000?</li> <li>○ Do you expect that the Rural Development Regulation (RDR) and the Structural Funds will have enough opportunities for co-financing Natura 2000?</li> <li>○ What is your opinion on the proposal of the European Commission for the new LIFE+ regulation.</li> <li>○ Do you know if and how the agricultural council is involved in this?</li> </ul>
<p><b>Integration- issues</b></p>	<p>There has been an almost countless number of separate Directives on for instance water quality, pollution and nature. At this moment nature, water and other environment policies seem to be sectoralized and separated quite severely from an overall spatial planning system. Not in any member state a fully integrated system of environmental and nature conservation legislation, planning and licensing is found. Only the rather recent Water Framework Directive (WFD) could be seen as a first sectoral integration directive (water only). All other Directives seem to give way to separate legislative and executive implementation as well as a separate domestic planning and licensing system. The intergovernmental late 90s EU-document ESDP (<i>European Spatial Development Perspective</i>) document suggests that there should be an introduction of integrated strategies for the sustainable management of all environmental factors and the targeted protection of specific EU-areas like Natura 2000 and water . Since there is currently no EU spatial planning policy, three domestic levels of integration could be distinguished in this study: integration of <i>legislation</i> (the Environmental Code like for instance in Sweden and Finland); integration of <i>planning</i> (like in Denmark and England and reputedly also on Malta) and the integration of <i>licensing</i> (which is not to be found yet, but probably on its way in the planning integration countries like England and Denmark).</p> <p><b>integration of planning</b></p> <ul style="list-style-type: none"> <li>○ Is there any integration of nature conservation and N200 management plans into general spatial planning law and local planning permissions?</li> </ul> <p><b>Integration in licensing</b></p> <ul style="list-style-type: none"> <li>○ What agencies in Hungary contributes to integration of nature conservation into other sectoral environmental policies?</li> <li>○ How does the agency (or perhaps a subagency) organize and facilitate participation?</li> <li>○ What are the possible disadvantages of a public agency based nature conservation?</li> </ul>

	<ul style="list-style-type: none"> <li>○ Does the traditional sectoral approach of Brussels directives match with the domestic legislation as in Hungary?</li> </ul>
<p><b>Interview questions about Interpretation-issues</b></p>	<p>Some member states have already made a number of guidelines on nature conservation or produced interpretation circulars, but a more detailed definition of for instance FCS or significancy is not found.</p> <p>Further: under the Article 6 (1) of the HD member states are to “establish the necessary conservation measures” related to the ecological requirements of the site or species for which the site has been designated. The establishment of appropriate Management Plans (MP) can be one of these measures but member states are not obliged to develop MP’s. When they establish a MP this must be related to the ecological requirements and so will be linked to the Favorable Conservation Status (FCS). It turned out that management plans (mp) in old and in new member states do exist, especially for protected sites under existing protection regimes. How they are related to the BHD requirements (compare Article 6) is still unclear because information has not been collected till now.</p> <p><b>Interpretation of habitat assessment (art 6 HD) in practical guidelines</b></p> <ul style="list-style-type: none"> <li>○ Are there any guidelines as to the significancy test of Article 6 Habitats Directive (HD)? (If so, could you please send me a copy as well?)</li> <li>○ Are there any other guidelines to the other criterions of Article 6 HD (for instance compensation, immanent reasons of overriding public interest, alternatives)?</li> <li>○ Are there any guidelines as to the <i>favourable conservation status</i> (species protection)?</li> <li>○ Are there any N2000 management plans (as required by Article 6 HD) been made? To what extend and what is the legal status of these plans. How does this function in practice. What is your idea about that? (give examples)</li> </ul> <p><b>Discussions on interpretation in Hungary?</b></p> <ul style="list-style-type: none"> <li>○ <i>What is the nature of the <b>existing activities</b> in the Natura 2000 sites and what is the problem for the conservation objectives of the Natura 2000 sites?</i></li> <li>○ How do the different governments deal with this? What other actors are involved and how?</li> <li>○ Ask for specifics on what parties are involved on examples of how it works? Ask for examples.</li> <li>○ Can you estimate how many new plans or projects in the Natura 2000 sites exist in your country? f.i. give an indication of how many times a year or how many permits are given</li> <li>○ What is the nature of these plans or projects (road development, agriculture.....)?</li> <li>○ You already have examples of plans/projects outside the Natura 2000 area that significantly affect the FCS of these sites? If yes</li> </ul>



	<p>then ask: What kind of activities? How is dealt with these activities? Are buffering zones installed or is this in discussion? If yes: For what kind of activities are these buffering zones installed and how do they function?</p> <ul style="list-style-type: none"> <li>○ What is the procedure with a plan or project that significantly affects the FCS of a Natura 2000 site. What happens? Who does what? (give example)</li> </ul>
<b>Images – issues</b>	<ul style="list-style-type: none"> <li>○ What is the general political view as regards the Habitats- and Birds Directive in your country: blessing or burden?</li> <li>○ Is there a difference in appreciation of the directives between national and regional authorities?</li> <li>○ How do you deal politically with conflicts between nature and other interests?</li> <li>○ What kind of co-operation exists in your country between different Ministries and/or agency's in this respect?</li> </ul>
<b>Examples – pilots - cases</b>	Tell me more about a leading case on which national discussions were held ( f.i. plan of a new activity near an existing nature site; Plan of a blocked activity by habitat assessment; Difficult management plan of a nature site (internal activities)
<b>Interview Questions about Information</b>	Ask for relevant detailed guidelines and or public documents – sites etc.
<b>Impression the the Dutch deskstudy</b>	What is your opinion on the preliminary results of this study?
<b>Specific interview questions for NGO's</b>	<p>Members of the NGO working group on Natura 2000 (National Society of Conservationists, MME/BirdLife Hungary, CEEWEB and WWF-Hungary) were consulted by the national authorities at an early stage of preparation for Natura 2000. BirdLife Hungary has been closely involved in the creation of the official list of Special Protection Areas (SPA). The governmental decree that will publicize the list of proposed Sites of Community Importance also states that the government must put a map with location. of the site on display at the local government office together with the list of relevant species and habitats. Further distribution of information is carried out by the town clerk according to local procedures. Local residents have the opportunity to express their opinion, which should then be considered by the Conservation Authority, though they are not bound to follow these opinions.</p> <p>To what degree (stakeholder involvement- participation) and by what means (cooperation, collisions) do NGO's have influence (resistance) on the implementation process? How does it work ? examples?</p> <ul style="list-style-type: none"> <li>○ What do the NGO's expect about the effectiveness of the implementation strategy in Hungary – why?</li> <li>○ What is your opinion on the preliminary results of the Dutch document study? Why?</li> </ul>
<b>Specific interview questions for research</b>	<ul style="list-style-type: none"> <li>○ What is the role (participation) of researchers in the process of designation of Nature 2000 sites; Management plans etc.</li> </ul>

	<ul style="list-style-type: none"> <li>○ What are the main discussions about the interpretation of the directives (social - legally - ecologically –politically) – examples</li> <li>○ What do the researchers expect about the effectiveness of the implementation strategy in Hungary – why?</li> <li>○ What is your opinion on the preliminary results of the dutch document study? Why?</li> </ul>
<p><b>Specific interview questions for employers' federation</b></p>	<ul style="list-style-type: none"> <li>○ What is the role (participation) of the employers' federations in the implementation process ? example?</li> <li>○ What kind of political discussions do employers' federations have with the government about the implementation in National law and about integration of the directives in regional planning?</li> <li>○ What do the employers' federation_ expect about the effectiveness of the implementation strategy in Hungary – why</li> <li>○ What is your opinion on the preliminary results of the dutch document study? Why?</li> </ul>