

A Race to Protect Europe's Natural Heritage

WWF European Snapshot Report on the Status of Implementation of the Habitats Directive

AUSTRIA

Score: 19/30

I. Legal Aspects of Implementation			Score: 7/9
<i>Transposition: To what extent has the Habitats Directive been transposed into national or regional law?</i>			
Good/complete transposition 3	Some gaps remaining 2	Key/major gaps remaining 1	Failure to transpose 0
<p>Austria faces an infringement procedure due to the deficiencies in transposition of the Directive into relevant Austrian legislation. Due to the competence of Austrian Länder for nature conservation, nine different laws concerning nature conservation, hunting, fisheries, development planning and road construction have to be adopted. Out of these relevant laws, WWF considers four as being in conformity with the Habitats Directive. Major gaps are found in the implementation of Article 6. (For more details consult the WWF Report: "Netz des Lebens – Index III", January 2001.)</p> <p>In the domain of Federal law: forest law; laws concerning water and waterways; Umweltverträglichkeitsprüfung (EIA); laws concerning Federal roads and railways, as well as general administrative law, are particularly at stake. In these areas there is also a considerable lack of integration. Overall, there is a thus a significant lack of harmonisation and co-ordination between Austrian Länder and the Federal Government in terms of the implementation of nature conservation laws.</p>			
<i>Complaints in Progress at the European level: How significant are current Commission complaints in progress against your Member State?</i>			
No outstanding complaints 3	Some complaints not yet dealt with 2	Significant complaints not yet dealt with 1	Decisions of the ECJ not yet dealt with 0
<p>As known to WWF Austria, 13 legal complaints concerning the Directive were instituted against Austria by the European Commission. One of these legal complaints (Ennstal- Weißenbach golf course) may be taken to the European Court of Justice, the final stage of the legal procedure. Austria has received one reasoned opinion from the Commission, concerning a golf course in the Austra/Enns valley, where the government has not done an adequate environmental assessment.</p> <p>In this context, the European Commission proceedings Nr. 99/2174 against Austria concerning the complete implementation of Directive 92/43, were of particular importance. They induced considerable amendments to Austrian laws as defined by the Directive. This pressure exercised by the EU is very important because the national law provides little to no possibility of asserting this implementation.</p> <p>At the moment 9 complaints over the Habitats Directive have been sent to the EC - WWF has sent 7 complaints.</p>			
<i>Member State Response to Complaints: How adequate do you consider your Member State's response to Commission complaints to be?</i>			
Good response at stage of Letter of formal notice 3	Response before case was referral to the ECJ 2	Response only after ECJ case decided 1	No response 0

In most Austrian legal cases, the particular Bundesland meets the Commission deadlines for response to infringement procedures. Obligations under the Habitats Directive are allocated to the Länder. The Austrian opinion therefore depends on the comments delivered by the different Bundesländer and their particular implementing procedures. It should be mentioned that in some Bundesländer complete implementation was not undertaken on the grounds that a word-for-word transposition is not requested by the European Court of Justice.

II. Protecting Habitats and Species	Score: 6/12
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Natura 2000: How adequate is the list of proposed Natura 2000 sites for the protection of habitats and species?

coherent national network	more than 50 % sufficient	less than 50 % sufficient	no list submitted
3	2	1	0

The Austrian Government has transmitted a national list of Natura 2000 sites with 127 proposed Sites of Community Interest. The total land cover is about 11% of Austria. WWF Austria considers that the list of sites is still not adequate.

The Austrian Länder have chosen different strategies to designate the sites. There is **no common Austrian Strategy based on an Austrian scientific process**. Most of the Länder have nominated sites already under national protection. For that reason the Austrian proposed SCIs build no coherent ecological network in many parts of Austria as the results of the biogeographic seminars (alpine, continental) show. There was no co-ordination between the Austrian Länder during the site selection process, so that for example Lower Austria has designated 30% of its territory as Natura 2000 areas and Carinthia 4% of their territory.

Public opinion is actively stirred up against Natura 2000 and often because of conflicts that are completely out of context. Some Länder tried to reduce their Natura 2000 areas due to strong opposition by land user organisations. Another major problem is that territorial orders are not useful because neither the project managers nor the authorities respect this territorial protection. The concerned persons and the nature conservation organisations do not dispose of any legal options to take action against infringements on the Directive. This results in many illegal activities in Natura 2000 areas (compare treaty violation proceedings Nr. 98/4440).

Austria has experienced **difficulties identifying and delineating site boundaries**.

In some areas economic considerations have been used in the selection of sites. Especially in designating the sites “Die Schwemm”, “Schütt - Grasceltizen”, Welschen Halten” and “Lauteracher Ried”. In other cases as in the Länder Lower Austria and Upper Austria due to pressure of land user organisations and economic lobbies the sites have been reduced.

Natura 2000: How does your Member State score on the putting in place of management measures?
(Article 6)

All of the above measures have been adequately addressed	Some of the measures have been adequately addressed	Very few measures are being addressed or are in place	Measures are non-existent
3	2	1	0

Article 6 is under heated discussion in Austria. Some areas (less than 10% of Austrian sites) have management plans taking Natura 2000 fully into account. Most of the governments of the Länder are developing plans at the moment. A global Austrian strategy for setting conservation measures (management plans, legal implications, action plans) is lacking. In Austria, a few environmental impact assessments have taken place, but it is difficult to make a good environmental impact assessment without global Austrian guidelines. That is why the methods and the results of these few assessments are very different and sometimes insufficient.

For example Tyrol is arguing, that in the case of the golf course affecting the wetlands of “Die Schwemm” the government will undertake the impact assessment after the permit for the golf course is granted. Another problem is the ambiguity over the legal quality of the management plans. Should they be enacted in the form of notification or decree or should they be without obligation and therefore subject to permanent amendment? The question of who is to inspect the plans also remains unaddressed.

Protection of species beyond Natura 2000: How adequate are non-site based measures for the protection of species?

(Article 12, 13,14 and 16)

All of the requirements have been adequately addressed 3	Some of the of the requirements have been adequately addressed 2	Very few of the requirements are being addressed or are in place 1	Efforts to address the requirements are non-existent 0
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There are significant gaps with respect to this issue. Species like *ursus arctos*, *lynx lynx*, *canis lupus*, *lutra lutra* and species of raptors are part of the hunting law but are not even mentioned in the environmental laws of some Provinces. **The problem partly arises from the fact that different provincial laws are not well co-ordinated and that there exist a lot of competing individual interests.**

In some Austrian regions the use of poison to reduce the fox population poses a threat for all animals (including those listed in the Habitats and Birds Directives). Last year three dead sea eagles were found, but no one is sure how many other animals were killed.

Complementary measures: Is your Member State giving adequate attention to complementary measures, such as for research, planning and species reintroduction?

(Articles 10,11,18 and 22)

Good effort to implement complementary measures 3	Mixed effort to implement complementary measures 2	Poor effort to implement complementary measures 1	No effort to implement complementary measures 0
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A steering group was established for the development of a project to monitor the conservation status of habitats and species. The head of this group is the Federal Environmental Agency (Umweltbundesamt) and members are scientists and representatives of all provinces. Two LIFE projects underpin these working groups - one in Germany and one in Great Britain. These two studies should form the basis for an Austrian monitoring system.

To our knowledge the only monitoring which has been undertaken until now is the data pool for the standardised database. This is the only comparable monitoring which has been undertaken in all the Länder. However, this is not considered to be sufficient. **Greater control and monitoring of species is required to meet the Directive’s objectives. Only some species like the brown bear are under continual monitoring.** The central government, in co-ordination with Austrian regions, should develop guidelines and reporting requirements in order to realise a comprehensive reporting system, according to EC requirements.

The reintroduction of non-native species is normally undertaken by hunting interests (as in the case of the Ibex in Lower Austria) or on behalf of the fishing industry.

III. Putting Plans into Practice			Score: 6/9
Finance: <i>Is your government devoting adequate human and financial resources to implementation of the Directive?</i>			
Significant additional resources dedicated to implementation of the Directive 3	Some additional resources dedicated 2	Very few additional resources dedicated 1	No additional resources dedicated 0
<p>There is a lack of human resources for implementation of Natura 2000, in both national government and regional services. Austria accesses several EU level sources of potential financing for Natura 2000. These include LIFE, INTERREG and LEADER. National sources of finance include the budgets of the environmental authorities of the Provinces and of the Ministry for Agriculture, Forestry, Environment and Water, detailed in the Annex below. Another is ÖPUL, an agri-environmental measure.</p>			
Information and Awareness Raising: <i>Is your government doing enough to provide information and raise awareness about Natura 2000 and biodiversity conservation?</i>			
Good information and awareness raising activities 3	Some good activities 2	Few information and awareness raising activities 1	No information and awareness raising activities 0
<p>Some Länder provide good information about Natura 2000 and the Habitats Directive. Most of them use the Internet, brochures and active media work to inform the public. Some of the Austrian Länder organise information events in the Natura 2000 areas and regions. The Ministry of Environment regularly organises a “Natura 2000 – Platform”, which is open for scientists, NGOs, interest groups, land user organisations and the involved authorities from the Länder.</p> <p>The departments responsible for the sites are committed to informing the landowners about obligations and prohibitions. However, in only a few Natura 2000 sites have such information requirements been upheld (this depends on the Länder in charge).</p>			
Stakeholder Participation: <i>Is your government doing enough to involve stakeholders and the general public in the Natura 2000 process?</i>			
Significant amount of effort to consult stakeholders + public 3	Good efforts to consult stakeholders + public 2	Limited efforts of consult stakeholders + public 1	No consultations with stakeholders + public 0
<p>In Austria the involvement of NGOs, land user and other interest groups in the site selection process and the elaboration of management plans is quite good, but varies from Bundesland to Bundesland. In terms of legal transposition and integration of plans/programmes the environmental NGOs are more or less excluded from the process.</p>			
IV. Political Will			
<i>In your opinion, has there been a change in political will or momentum in your Member State around implementation of the Directive? Describe the current political climate surrounding the Directive if you can.</i>			

The level of political will depends on the particular Bundesland. While some of the Länder attach enough importance to the Natura 2000 process and make serious efforts to implement the Habitats Directive, the Minister of Environment is not taking sufficient actions to harmonise the Austrian process in implementing Natura 2000 (site designation, legislation transposition, integration policies).

V. Conclusions and Recommendations

Key points for the Austrian Natura 2000 exercise are (WWF recommendations to implement Natura 2000 in Austria – 10 steps):

1. To provide an information network on different levels in Austria
2. To finish the site selection process in Austria
3. To involve stakeholders
4. To define the conservation objectives and indicators for each site
5. To elaborate management plans
6. To establish a monitoring system
7. To transpose the Habitats Directive into Austrian law
8. To implement Article 6 of the Habitats Directive
9. To analyse the cost/benefits of Natura 2000
10. To develop secure funding packages

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Annex

Funds available in Austria (budgets of the Länder)

Länder	Total Budget (ATS Mio)	LIFE-Budget In ATS (Mio) (Total Project Budgets)
V	10,671	7,18
T	70,045	0
S	54,048	22,6
OÖ	59,4	57,16
NÖ	54,0	466,4
W	18,19	18,27
B	47,8	8,87
ST	32,32	22,89
K	30,9	93,33

In addition there are about ATS 600 million/year (equivalent to EURO 43.6 million) available for nature conservation measures in the framework of the Austrian Implementation Regulation of the Rural Development Funds.