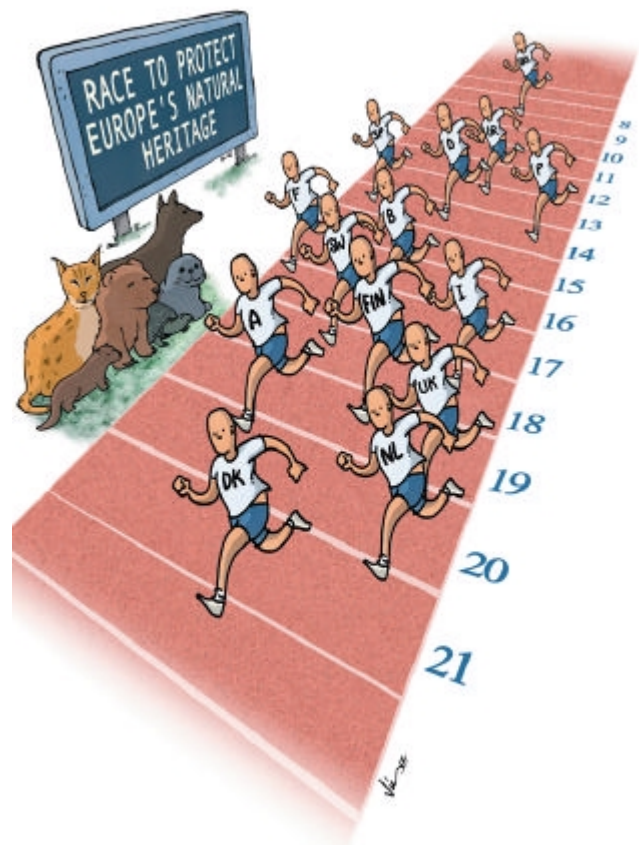




# A Race to Protect Europe's Natural Heritage

**European snapshot report on  
the status of implementation of  
the Habitats Directive**

**WWF European Policy Office  
June 2001**



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## 1. EXECUTIVE SUMMARY

After getting off to a slow start, the race to implement the EU Habitats Directive has begun in earnest. Although the legal deadlines have so far been missed by most if not all Member States, there are signs that many are now picking up speed.

According to the timetable set by Article 17 of the Habitats Directive, Member States are required to submit, every six years, national reports to the Commission on the implementation of measures taken under the Directive. The first set of national reports is expected in September 2001.

WWF has been very active in the implementation of the Habitats Directive across the Union, having engaged in the Natura 2000 process at local, national and European level. In 2000, WWF's Spaces and Species team decided to build on its experience by making an assessment of the status of implementation of the Directive. The aim was to produce an objective assessment of each Member States' progress as at mid-2001– and in so doing provide a Community-wide 'snapshot' of how effective implementation has been to date. Progress is presented as a 30-kilometre race to save Europe's most threatened species and habitats.

The assessment tells us that there is still a long way to go as many Member States cannot be said to have even reached the half-way mark<sup>2</sup> in a race that started in 1992. Even the 'front runner', Denmark, is just over two thirds of the way through the race.

- The first hurdle – bringing national laws into line with the Directive – was supposed to be completed in 1994 and yet this very first step is clearly incomplete in most Member States. **Particular weaknesses exist in relation to provisions for site management (Article 6) with nearly all Member States apparently having failed to fully transpose this Article.** Further weaknesses relate to provisions on the protection of species throughout their natural range (Article 12-16). However, new laws are in some cases being developed or adopted, to support the Directive. **In France, following considerable initial problems and delays, a new law may soon be formally adopted to implement the Directive, while a full set of site management plans (document d'objectif) are under development, to be completed by 2004.** A new law is also being drafted in the Netherlands in order to transpose provisions of Article 6 of the Directive.
- **Legal cases are outstanding against nearly all Member States for inadequate or incomplete transposition or infringement of the Directive.** Cases relate to the provisions on the protection of Natura 2000 sites or the fact that inadequate lists of proposed Natura 2000 sites have been presented by the Member States, despite the Directive's 1995 deadline having passed. Cases also concern the failure to protect species such as the Mediterranean sea turtle or the great hamster, outside the Natura 2000 network.
- Work on protecting species beyond Natura 2000 sites is believed to be at a particularly elementary stage. **Only four Member States are considered as having the requisite systems in place to protect and monitor species.** Even where there is good legal protection, enforcement and monitoring is often considered to be weak. There is also a question about derogating from the protection offered to species, with shortcomings noted in Finland and Greece, for example.

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<sup>2</sup> According to the scoring system used in this report

- In relation to the Natura 2000 network, few if any Member States have completed their site selection process and sent complete lists to the Commission. **Additional delays have been introduced to the process with the further postponement of a second round of biogeographical seminars.** The issue of overall coherence of the Natura 2000 network continues to be problematic. **Marine sites overall are also considered significantly under-represented,** notably in Greece, Italy and the UK, **with negative consequences for marine species.** In many Member States economic interests are considered to influence the proposed lists of sites, despite a European Court of Justice ruling to the contrary.
- In the meantime, the **areas to be included in Natura 2000 are not getting the protection they need,** despite the serious delays to the process. In the UK, once sites are on the list sent to the Commission, they are given the same level of protection in the planning system as if they were fully designated. WWF believes that other Member States should make similar policy commitments.
- Despite this gloomy picture, **since 1999 significant numbers of new sites have been added to the lists** of Austria, Belgium, Finland, France, Spain and the UK. Decisions on additional sites are awaited in several other Member States.
- Additional research and monitoring of Europe's habitats and species is needed to support progress, however. Research and/or **monitoring is reported to be limited** in many countries, including in Belgium, Greece, Italy, Portugal and Sweden. **Several LIFE projects are providing an input into monitoring and research,** but these projects are limited to a few Member States.
- There are also inadequate information and awareness raising efforts to highlight the importance and potential social, environmental and economic benefits of the Habitats Directive. **In a number of Member States, very little effort has been made to provide information to stakeholders,** e.g. in the Netherlands, Ireland, Greece and Portugal. Economic interests are often a dissenting voice in Member States, influencing the selection of proposed Natura 2000 sites, despite a contrary ruling of the European Court of Justice.

Ultimately, successful implementation of the Directive is dependent upon a coherent and strategic approach across the Community. Not only are there serious national and regional variations in the approach adopted to implementation, but **there is often also a fundamental failure to ensure that other sectors, notably industry, agriculture and fisheries, contribute to the Directive's objectives rather than undermining them.** Incorporating the Habitats Directive's requirements within sectoral and land-use planning legislation is all too often overlooked in the Member States.

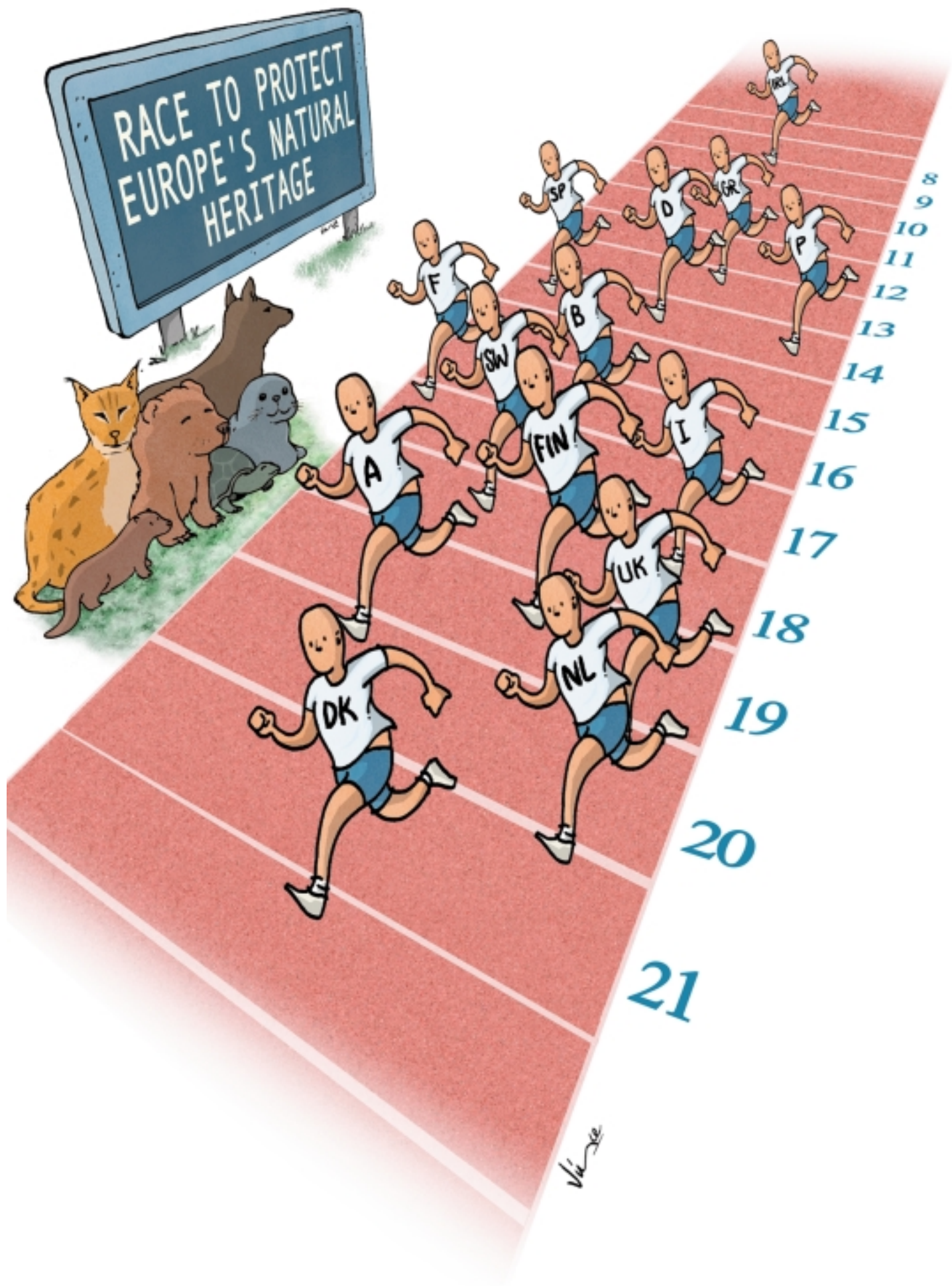
Thanks to pressure from the Commission, national authorities and environmental groups, significant progress on implementation has been made over the past year. However, with some of the biggest challenges still lying ahead, it is more important to closely and continuously monitor implementation, so that gaps can be highlighted and rectified. Member States' reports under Article 17 of the Directive should provide an important tool for monitoring progress and for mapping out challenges ahead. Only when we reach the goal of 'favourable conservation status' for Europe's natural heritage will we be sure that the race has been won.

WWF and partners have presented progress on implementation of the Directive as a race. **The longer it takes to finish the race, the longer habitats and species will remain vulnerable to the pressures generated by modern society.** As recognised by the Commission in its recent Communication on the Biodiversity Action Plans, *‘worldwide, a total of 11,046 species of plants and animals face a high risk of extinction in the near future, in almost all cases as a result of human activity’*<sup>2</sup>. The risk of further species and habitats loss is great in Europe where truly natural, untouched habitats are rare and fragmented and consequently *‘a special cause of concern in many regions of Europe’*<sup>3</sup>. To reduce the risk of further loss, Member States need to give greater political weight to implementing the Habitats Directive. They need to create and manage a coherent European ecological network Natura 2000, protect species throughout their natural range and incorporate the requirements of the Directive in all relevant policy areas. Implementing the Habitats Directive will thus be a major step towards sustainable development.

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<sup>2</sup> Communication from the Commission to the Council and the European Parliament on Biodiversity Action Plans in the areas of Conservation of Natural Resources, Agriculture, Fisheries, and Development and Economic Co-operation, COM 2001/162 final.

<sup>3</sup> Environment in the European Union at the turn of the century, Environmental assessment report no.2, European Environment Agency, Copenhagen, 1999.



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

## A Race to Protect Europe's Natural Heritage

EU Member State*	Legal implementation			Sub-Total (Maximum Score out of 5)		Protecting Habitats and Species			Sub-Total (Maximum Score out of 12)		Putting Plans into Practice			Sub-Total (Maximum Score out of 5)		FINAL SCORE (Maximum Score out of 30)
	Transposition	Complaints	Response			Natura 2000	Species protection	Complementary Measures			Finance	Info and Awareness	Stakeholder Participation			
						List of sites	Management measures									
Austria	2	2	3	7		2	1	1	2	2	2	2	2	6	6	19
Belgium	1	2	2	5		2	1	2	1	6	2	2	1	5	5	16
Denmark	2	3	2	7		2	1	2	2	7	3	2	2	7	7	21
Finland	2	1	2	5		2	1	2	2	7	1	2	3	6	6	18
France	1	1	1	3		2	2	2	1	7	2	2	2	6	6	16
Germany	1	1	1	3		1	1	2	2	6	1	1	2	4	4	13
Greece	1	2	2	5		2	1	1	1	5	1	1	0	2	2	12
Ireland	1	1	0	2		1	1	0	1	3	1	1	1	3	3	8
Italy	2	2	1	5		2	2	1	2	7	2	2	1	5	5	17
Netherlands	2	2	3	7		3	2	2	2	9	1	1	2	4	4	20
Portugal	1	1	2	4		2	1	1	1	5	1	1	2	4	4	13
Spain	2	1	2	5		2	0	1	1	4	2	1	1	4	4	13
Sweden	2	3	2	7		2	1	2	1	6	1	1	2	4	4	17
UK	2	2	2	6		2	1	2	2	7	2	2	2	6	6	19

\* Luxembourg was not included in this study



## 2. INTRODUCTION

Europe has a diverse and spectacular range of species, natural and semi-natural habitats. Much of Europe is also heavily populated and industrialised. Inevitably this places significant pressures on our natural heritage. Virtually all types of ecosystems at the EU level have suffered significant losses during recent decades. More than two-thirds of the existing habitat types are considered endangered and a high percentage of existing species within the EU are at risk of extinction. Sixty-four European endemic plants have already become extinct in the wild and 38 per cent of bird species in the EU face a high risk of extinction in the near future, in almost all cases as a result of human activity<sup>4</sup>. In a race against time, significant efforts are required soon to protect Europe's natural heritage against continuing threats of degradation and destruction.

The threats to wildlife include urbanisation, transport infrastructure, intensification or abandonment of agriculture, aquaculture and overfishing, pollution, land drainage and introduction of non-native species. For example, the European Environment Agency (EEA) estimates that the extent of urban areas is likely to increase by 5-8% between 1990-2010, while new transport infrastructure is expected to claim 12,500 km<sup>2</sup> over the same period<sup>5</sup>. Many of Europe's most important habitats are especially vulnerable to these pressures because they are often already small and fragmented. This inevitably presents a challenge for sedentary or slow moving species which may not be able to move between patches of suitable habitat. A 1999 report<sup>6</sup> from the World Conservation Union (IUCN) estimates that 198 habitat types listed in Annex I of the Directive are threatened by intensification of agricultural activities and 26 are at risk from cessation of traditional activities. When it comes to the marine environment prolonged high fishing pressure by Community vessels and excessive fishing capacity has led to dramatic declines in fish stocks, with some now at high risk of collapse.

The European Community's Council Directive (92/43) on the conservation of natural habitats and of wild fauna and flora – the 'Habitats' Directive - was designed to address the special challenges faced by Europe's habitats and species. The most obvious measure is the creation of a network of Sites of Community Importance (Articles 3 and 4). This Natura 2000 Network also includes Special Protected Areas (SPAs) designed under the EC Bird's Directive. The Habitats Directive puts in place strict procedures which must be observed when considering the potential impact of economic development on Natura 2000 sites (Article 6), and requires Member States to ensure that they are restored to and/or maintained at 'favourable conservation status' (Article 3).

In addition to these site-specific protection measures, the Directive also obliges Member States to improve the 'ecological coherence' of the Natura 2000 network by ensuring that their land use planning policies maintain key features outside protected areas, especially those that function as corridors or stepping stones between sites (Article 10). It establishes a system of protection for fauna and flora species outside protected areas (Articles 12-16) and generally promotes sustainable management of the wider countryside by recognising the role of certain economic, social and cultural activities in biodiversity management. The Directive is consequently recognised as a critical tool for stemming the loss in Europe's biodiversity, but its success depends on Member States implementing the Directive. In short, political support is needed if the Habitats Directive is really to fulfil its potential.

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<sup>4</sup> Communication from the Commission to the Council and the European Parliament on Biodiversity Action Plans in the areas of Conservation of Natural Resources, Agriculture, Fisheries, and Development and Economic Co-operation, COM 2001/162 final.

<sup>5</sup> Environment in the European Union at the turn of the century, Environmental assessment report no.2, European Environment Agency, Copenhagen, 1999.

<sup>6</sup> IUCN, 1999 Background Study for the development of IUCN policy on agriculture and biodiversity, co-ordinated by Wye College, University of London, P.Nowicki

## **2.1 Reviewing the implementation of the Habitats Directive: WWF's contribution**

According to the timetable set by Article 17 of the Habitats Directive, Member States are required to submit, every six years, national reports to the Commission on the implementation of the measures taken under the Directive. The first set of reports was due by the end of June 2000 although this deadline was postponed by agreement with the European Commission. Member States now have until September 2001 to submit their implementation reports.

WWF has been very active in the implementation of the Habitats Directive across the Union. It has engaged in the Natura 2000 process at national and European level, worked at the local level through initiatives aimed at specific site designation, management and protection and by monitoring the transposition of key provisions of the Directive into national legislation. The unique experience and expertise of WWF staff working on nature conservation in Europe are brought together in the Policy Group of WWF's European Spaces and Species team, which has been campaigning vigorously, since 1997, for full implementation of the Directive.

In 2000, the Policy Group of WWF's Spaces and Species team decided to build on WWF's experience by making an assessment of the implementation of the Directive. The intention was to produce an objective assessment of each Member States' progress as at mid-2001—and in so doing provide a Community-wide 'snapshot' of how effective implementation has been to date. National reports were subsequently elaborated on the basis of questions that sought to evaluate Member States' performance on different aspects of the Habitats Directive. The ultimate aim was to come up with a national score to reflect progress on implementation across Europe and to compare and contrast the findings with those of the official Member States' reports.

## **2.2 Scorecard Methodology**

This report is based on a structured questionnaire that sought to evaluate each Member States' performance on different aspects of the Habitats Directive. The questionnaire called on national participating organisations and partner NGOs to allocate a score in response to ten different aspects of implementation, with progress in each case rated between zero and three. A total score of 30 would thus indicate complete or full implementation. A score of zero, in contrast, would indicate complete failure to implement. The ten questions fall under three main headings, as follows. A full transcript of the questionnaire can be found at the end of this report.

### *Legal Aspects of Implementation*

These questions address matters relating to transposition and compliance with the legal requirements of the Directive. The questions asked were:

- *To what extent has the Habitats Directive been transposed into national or regional law?*
- *How significant are current Commission complaints in progress against your Member State?*
- *How adequate do you consider your Member State's response to Commission complaints to be?*

## *Protecting Habitats and Species*

The Habitats Directive provides for two complementary systems of protection: the establishment of the European ecological network 'Natura 2000' and the protection of species over their natural range. The questions asked were therefore:

- *How adequate is the proposed list of SCIs for the protection of habitats and species? (Articles 4 and 10)?*
- *How does your Member State score on the putting in place of management measures? (Article 6)?*
- *In relation to the protection of species over their natural range, how adequate are measures for the strict protection of species beyond Natura 2000? (Articles 12, 13, 14 and 16)?*
- *Is your Member State giving adequate attention to complementary measures, such as for research, planning and species reintroduction? (Articles 10, 11, 18, 22)?*

## *Putting Plans into Practice*

Effective implementation of the Directive will require additional financial resources and the full support and participation of those affected by the changes, e.g. stakeholders and the general public. The questions asked were:

- *Is your Member State devoting adequate human and financial resources to implementation of the Directive?*
- *Is your Member State doing enough to provide information and raise awareness about Natura 2000 and biodiversity conservation?*
- *Is your Member State doing enough to involve stakeholders and the general public in the Natura 2000 process?*

It is well known that the implementation of the Habitats Directive has been a long and difficult process often producing vigorous debate at the national level. This has already led to important legal interpretation of the Directive at Member State and Community level, which will in turn influence future progress. We felt it important, therefore, to ask respondents to comment on the political will or climate surrounding implementation of the Directive in each Member State.

It should be stressed that this exercise was based on the experience of WWF staff or those of partner organisations, in each of the Member States. It was not, in the strict sense, a 'scientific' exercise, although respondents were also asked to provide some justification for their scores. Nevertheless, it is our firm view that it does provide a clear and concise snapshot on progress on implementation of the Habitats Directive across the EU.

## **2.3 The 'race' concept**

The scoring of performance was not intended to provide a 'final verdict' on each Member State's performance, but instead represents a snapshot of a dynamic process. Each Member State's score, therefore, represents its current position in a 'race' to implement the Directive. The scoring also sought to reflect the overall effectiveness of the measures that are being taken.

Whilst the report demonstrates that some Member States are further ‘ahead’ than others, we accept that there may be good reasons for this. It is true that the Member States have taken different routes to achieve implementation, and these in part reflect particular circumstances. This report tries to draw attention to these challenges, whilst also highlighting cases where Member States have made progress by taking the initiative or by being innovative. WWF and its partners believe that the report will encourage improved implementation of the Directive and disseminate best practice to a wide range of audiences across the current European Union. Furthermore, we hope that it will be of assistance to those Accession Countries which are currently developing their list of Natura 2000 sites prior to joining an enlarged EU.

Whilst the race is presented as a competition between the Member States, the *real* race is to maintain and enhance the most important of European habitats and species. This in turn will facilitate one of the Directive’s principal objectives – **to further *genuinely* sustainable development.**

### 3. SYNTHESIS OF NATIONAL REPORTS

The national reports by each of the WWF national organisations<sup>7</sup> and partner NGOs are set out in the Appendix to this report in the form of national 'scorecards'<sup>8</sup>. In each case, the scorecard includes both numerical scores as well as some commentary on the state of progress. A comparison of the national scores attributed in response to each of the ten questions is provided at the front of this report.

This Section provides a synthesis of the commentaries in the national scorecards, referring back to the question asked and national scores allocated. It is followed by conclusions in Section 4 of the report. A version of the scorecard questionnaire can be found in Section 5.

#### 3.1 Legal Aspects of Implementation

##### 3.1.1 Transposition

<i>To what extent has the Habitats Directive been transposed into national or regional law?</i>													
Good/complete transposition				Some gaps remaining				Key/major gaps remaining				Failure to transpose	
3				2				1				0	
A	B	DK	FIN	F	D	GR	IRL	I	NL	P	E	S	UK
2	1	2	2	1	1	1	1	2	2	1	2	2	2

The Habitats Directive was adopted on 21 May 1992 by 12 Member States (with Austria, Finland and Sweden joining the Union after this date). Full transposition of the Directive into Member State legislation, including all laws, regulations and administrative procedures necessary for compliance, was due within two years (Article 23).

However, as the national scorecards highlight, legal transposition is still not complete. All national reports have identified areas of inadequate, incorrect and/or incomplete transposition of the Directive.

**The most common weaknesses identified relate to the provisions for the management of sites to be included in Natura 2000 (Article 6)** with nearly all Member States apparently having failed to fully transpose this Article. Belgium and Greece, in particular, are named for not transposing paragraphs 3 and 4 of Article 6, failing to ensure adequate assessment of “plans and projects” likely to have a significant effect on protected sites. To a lesser extent, **provisions on the strict protection of species (Article 12)** and the **derogation system (Article 16)** tend also to be inadequately transposed. With respect to Article 12, for instance, Finland has taken a restrictive approach to the prohibition of damaging or destroying breeding and resting places. According to Finnish law only “clearly noticeable” breeding and resting sites are protected. Transposition of Article 16 into Finnish law is also seen to be inadequate. The existing national Hunting Act (01/01/1993), which was adopted before Finland joined the EU, fails to include references to the concept of favourable conservation status and is lenient on defining the conditions for granting a derogation, leaving out words such as “imperative” when referring to “reasons of overriding public interest”.

<sup>7</sup> A-Austria; B-Belgium; DK-Denmark; FIN-Finland; F-France; D-Germany; GR-Greece; IRL-Ireland; I-Italy; NL-Netherlands; P-Portugal; E-Spain; S-Sweden; UK-United Kingdom

<sup>8</sup> This study does not cover Luxembourg.

Similarly, Greek law fails to put in place a monitoring system for granting derogations according to Article 16. Further weaknesses exist in the transposition of Articles 3 and 4 which relate to the development of Natura 2000 and Member State proposals for lists of sites, respectively (see also Section 2.1). Thirteen issues of insufficiencies have been identified in the Portuguese legislation transposing the Habitats Directive.

Some national scorecards raise particular concerns with respect to **land-use planning legislation**. Austria, Greece, Italy and Sweden have not delivered satisfactory integration of the Directive into recent land-use planning legislation. In Austria, for instance, the requirements of the Directive have not been integrated into federal law on water, forestry and transport. Furthermore, enforcement of legislation remains problematic, notably in Greece.

Whilst it is not possible to make a detailed comparison of Member States' progress in transposition, the general impression is that there are still serious gaps in the transposition of fundamental provisions for the protection of the Sites of Community Importance (Natura 2000) and inconsistencies in related sectoral legislation such as forestry, water or land-use planning legislation. Those countries considered to show poor or particularly slow transposition of the Directive include Belgium (notably in relation to the Walloon region), France (although the government has prepared new legislation to provide the legal basis for Natura 2000), Germany, Greece, Ireland and Portugal. The European Court of Justice has issued a ruling against France for infringement of Article 6 (Case C-256/98), and Germany and Greece for incomplete transposition of the Directive (Case C83-97 and Case C329-96, respectively). In the Netherlands, further to Commission action and a national court ruling, a new law is being drafted to transpose provisions of Article 6.

### 3.1.2 Complaints in Progress at the European level

<i>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

A	B	DK	FIN	F	D	GR	IRL	I	NL	P	E	S	UK
2	2	3	1	1	1	2	1	2	2	1	1	3	2

On the basis of Article 226 of the EC Treaty, the Commission can undertake legal proceedings against any Member State failing to comply with the Habitats Directive or any other Community legislation. Any individual or organisation can also complain to the Commission, if it considers that a Member State is failing to apply the Directive. If there are considered to be reasonable grounds for the complaint the Commission will start investigating the case and may eventually start legal proceedings against the Member State. The first stage of legal proceedings consists of a Letter of Formal Notice and Member States have two months to respond to such a letter. If no or no satisfactory response is forthcoming, the Commission can then issue a Reasoned Opinion, which is the second stage in the legal process. If the case still remains unresolved, the matter is then referred to the European Court of Justice (ECJ) for consideration and judgement - the third stage in proceedings.

Only the Commission will be aware of all the complaints against Member States regarding the Habitats Directive. The volume of complaints itself may reflect the degree of implementation failure, but it is also a reflection of the level of awareness of the Habitats Directive among NGOs and the general public. Thus, there may be relatively numerous complaints against one Member State even though implementation is more advanced than in others. Nevertheless, the existence of Letters of Formal Notice and Reasoned Opinions does highlight implementation 'problems' in the Member States.

Letters of Formal Notice and Reasoned Opinions have been sent to nearly all Member States regarding inadequate and/or incomplete implementation of the Habitats Directive. **Many of the cases relate to inadequate measures for the protection of Natura 2000 sites** (Article 6). National reports find that ten countries - Austria, Belgium, France, Germany, Greece, the Netherlands, Portugal, Spain, Sweden and the UK - have received at least one Letter of Formal Notice or Reasoned Opinion in relation to Article 6.

Others Letters of Formal Notice and Reasoned Opinions relate to **inadequate lists of proposed Natura 2000 sites** (Article 4). Portugal, Greece, Belgium, Italy, France, Ireland and Germany have all been the subject of such cases, and some have now been referred to the ECJ. The cases against Ireland (C-67/99), France (C-220/99) and Germany (C-71/99) are reaching the final stages, with possible court judgements expected in 2001. In some instances, the failure to submit comprehensive lists has been met by the threat of restricting Community Structural Fund support unless a complete list of sites is forwarded within a given time period. This approach, taken by the Commission to ensure absolute coherence between European regional policy and Community environmental legislation, was endorsed by a European Parliament report on the implementation of the Directive in December 2000<sup>9</sup>. The threat to withhold funds is generally seen to have been an effective tool leading countries to submit fuller lists.

Proceedings are also ongoing against countries, which are believed to have **failed to adequately establish a system of strict protection of species, in line with Articles 12 and 13 of the Directive**. These articles essentially call on Member States to ensure that species listed in Annex IV are protected throughout their range, whether they are within Natura 2000 or not. In October 1999, an application was made to the European Court of Justice (ECJ) for Greece's failure to fully protect the Mediterranean sea turtle (*Caretta caretta*). Germany received a Reasoned Opinion over its failures to protect one of three important habitats of the common European hamster (*Cricetus cricetus*) from industrial and agricultural pressures; The Commission also sent a Reasoned Opinion to the UK in relation to Article 12 and 16, relating to the strict protection of great crested newt (*Triturus cristatus*) in particular.

Additionally, there have been a number of important and related rulings on the Birds Directive (79/409), such as the case against the Netherlands (C-3/96) whose classification of Special Areas of Conservation was considered to fall short of the Directive's requirements in both the number and size of designated areas. In 2000 the Commission also issued a Reasoned Opinion against Portugal concerning the approval to build an express road within the natural reserve of Paul de Arzila, without having first undertaken an environmental impact assessment of the project.

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<sup>9</sup> European Parliament, 2000 Report on the implementation of Directive 92/43/EEC on habitats (2000/2111(INI)). Number: A5-0387/2000. Committee on the Environment, Public Health and Consumer Policy.

### 3.1.3 Member State responses to complaints

<i>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

A	B	DK	FIN	F	D	GR	IRL	I	NL	P	E	S	UK
3	2	2	2	1	1	2	0	1	3	2	2	2	2

Member States have two months to respond to Letters of Formal Notice or Reasoned Opinions from the Commission. Most governments appear to reply to complaints within this time frame, but some Member States, for instance Ireland and France, have been reported to be slow. In addition, not all responses to action taken by the Commission are satisfactory. **Indeed, some Member States appear to delay the already slow complaint procedure by providing relatively weak arguments to defend their positions.** Spain, France and Greece have been criticised for taking this approach.

Nevertheless, some Member States have responded positively to concerns by the Commission, notably over inadequate site designation, and have made substantial improvements as a consequence. For example, France proposed a new legislation for the establishment of Natura 2000 and Portugal has published a new decree law transposing the Directive, following a number of complaints over the last several years.

The threat of Structural and Rural Development Funds being withheld for failure to provide complete lists of Natura 2000 sites to be has apparently also spurred the Member States on.

## 3.2 Protecting Habitats and Species

### 3.2.1 Adequacy of national proposals for Natura 2000

<i>How adequate is the proposed list of SCIs for the protection of habitats and species?</i>			
coherent national network 3	more than 50 % sufficient 2	Less than 50 % sufficient 1	no list submitted 0

A	B	DK	FIN	F	D	GR	IRL	I	NL	P	E	S	UK
2	2	2	2	2	1	2	1	2	3	2	2	2	2

The Habitats Directive seeks to establish a coherent European ecological network called Natura 2000. This network will be composed of Special Areas of Conservation (SACs) designated under the Habitats Directive (92/43) and Special Protection Areas (SPAs) designated under the Birds Directive (79/409). SACs are to be designated following a three-stage procedure. During the first stage, Member States have to send a list of proposed Sites of Community Interest to the Commission (Article 4.1). The list should contain sites hosting the various types of habitats and wild species (listed in Annexes I and II of the Directive), selected on the basis of scientific criteria in order to ensure favourable conservation status for habitat types and species (Annex III of the Directive).



This list is to be sent to the Commission within three years, i.e. by May 1995. The list of proposed sites should be accompanied by information for each site, including a map, name, location, extent of coverage and relevant scientific data. The Commission is then to establish a draft list of Sites of Community Interest, with a final list to be established within six years, by May 1998. Member States shall designate these sites as SACs as soon as possible, and within six years at most.

Although the deadline for submitting national lists of sites has passed, few if any Member States have completed their site selection process and sent a full list of proposed sites to the Commission. Only Portugal and Spain have completed their lists for the Macaronesian region. According to the national reports of Ireland and Germany, the adequacy of their national lists is considered to be less than 50% sufficient. All other countries have proposed lists more than 50% sufficient. The Netherlands' proposal is considered sufficient and coherent provided that the proposals, made after an extensive evaluation of the first list, are in fact adopted by the government.

A first round of scientific seminars for the five biogeographic regions was organised by the Commission between 1997 and 2000 to evaluate the national lists of proposed sites. During these seminars, important insufficiencies were identified. Under pressure from the Commission, significant numbers of new sites have been added to the lists of Finland, France, Austria, Belgium, Sweden and the UK. Decisions on additional sites are awaited in several other Member States. However, **new delays in the process have led to the postponement of a second round of seminars assessing the revised lists**. Three seminars, due to take place in spring 2001, have been postponed because Member States have failed to provide the Commission with the necessary data.

Even where there has been progress on the lists of proposed sites, **the issue of coherence of national lists continues to be problematic. In the case of Austria, the national list is considered to be a collection of sites proposed by the Länder rather than a more strategic list of Austrian sites**. In addition, these lists of sites are made up of little more than areas already protected under national law. Sites can also be too isolated or small to represent a coherent network, such as seen in the case of Belgium.

Under the Directive, Member States are to encourage **the management of landscape features**, such as hedges, riverbanks, ponds and small woodlands, which are essential for migration and dispersal of individuals (Article 10). The aim of Article 10 is to improve the ecological coherence of the Natura 2000 network. **An absence of buffer areas, corridors or stepping stones compounds problems and is noted for Finland, Spain and parts of Belgium, Sweden, the UK and Italy**. For Spain, the lack in the coherence of sites is particularly noted for marine species such as bottlenose dolphin and sea turtle. In Greece, the quality and coherence of the national list is seen to be largely accidental since it was based on bibliographical research only. Overall, the result is still a lack of general coherence and inadequate representation of habitats and species of Community importance.

While coverage of Natura 2000 in Europe is to be over 13% of the territory<sup>10</sup>, at national level some lists still present significant shortcomings for particular regions within the countries. In the Walloon region of Belgium, sites comprise only 1.3% of the region's territory, while 7% of the Flanders region is proposed. In some regions of Finland and Germany, the proposed sites cover between only 2 and 4 % of the total area in rural states with large natural and semi-natural areas. **Marine sites generally are considered significantly under-represented, notably in Greece and Italy, with negative consequences for marine species**.

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<sup>10</sup> Natura 2000, European Commission DG Env Nature Newsletter, Issue 14, April 2001

In the UK, there is concern that the sites proposed for the harbour porpoise (*Phocoena phocoena*) are not sufficient, a problem that is thought to be common to other Member States whose coastal waters support this species. Belgium, on the other hand, has proposed 17,000 hectares of marine sites, representing 5% of the territorial waters.

In many cases **economic reasons are felt to influence the development of lists of proposed sites, despite the recent ruling of the European Court of Justice in the Bristol Ports Authority case (C-371/98)**. This is true in Germany, particularly for areas along planned motorways such as the A20 in northern Germany and many large woods under private ownership. In Greece, areas were also kept off the list due to development plans or ongoing projects. Examples include Milos Island (mining project), Schinias coastal wetland (2004 Olympic site construction) and Rethymno, Crete (tourist development). Other countries such as Austria and France also report similar cases.

### 3.2.2 Adequacy of management measures

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

A	B	DK	FIN	F	D	GR	IRL	I	NL	P	E	S	UK
1	1	1	1	2	1	1	1	2	2	1	0	1	1

The provisions of the Habitats Directive require that Member States establish the necessary conservation measures in order to maintain or restore the natural habitat types and species at a favourable conservation status (Article 6(1)). Member States must take steps to avoid the deterioration of habitats and significant disturbance of species for which the areas have been designated (Article 6(2)). Projects and plans not directly related to the management of sites but likely to have a significant effect on sites must be subject to an ‘appropriate assessment’ and permitted only if the project will not adversely affect the integrity of the site. If there is a negative assessment but there are no alternative solutions, such projects should only be permitted for ‘imperative reasons of overriding public interest’ (Article 6(3), 6(4)). Where sites host priority species or habitat types, the test is even stricter. Member States must establish the necessary conservation measures for the Natura 2000 sites, possibly including management plans, as well as statutory, administrative and contractual measures.

Due to delays in finalising national lists of proposed sites, the Commission was not able to adopt the final list of Sites of Community Importance by June 1998 as required under the Directive. The Commission however, rightly argues that the Member States' authorities must ensure that sites are not allowed to deteriorate, and consequently have to commence adopting the necessary conservation measures. And yet, Member States are generally only in the very preliminary stages of developing management plans for proposed sites; very few of these are being implemented and enforced. Management measures for proposed sites in most cases are therefore considered inadequate. **National strategies for implementing management plans are generally lacking, as are legal obligations, at the national level, to develop such plans. The financial resources that are available to implement management measures are also considered inadequate (See Section 3.1).**

**In several cases, the only management plans that exist were developed prior to adoption of the Directive and are consequently ill-suited to meeting the Directive's requirements.** In other cases, management plans have not or only partially been developed. In Sweden, Spain and Portugal, no sites are reported to have management plans and in Austria, Belgium, Greece and Italy, few if any plans exist. **Even where management plans do exist, various problems have been identified with respect to their implementation.** For example, **the legal status of plans may not be clear or local authorities may be unwilling to exercise their authority** to ensure they are properly implemented.

Despite this gloomy picture, some progress has and is being made, for example in the UK and France. **In France, each site is now required to have a dedicated management plan ("document d'objectif"),** which is to incorporate planning for associated human and financial resources. It is expected that around 200 sites per year may receive dedicated management plans. By 2004 all proposed sites in France should be accompanied by management plans, meeting the 2004 deadline given by the Directive to establish Natura 2000. In the UK, while there is no over-arching obligation to produce management plans for Natura 2000 sites, those bodies involved in the use or regulation of marine sites *"may establish"* management schemes *"so as to secure in relation to that site compliance with the requirements of the Habitats Directive."* This process is now underway and **has fostered important working relationships between a wide range of statutory bodies, commercial concerns and local interest groups.** In addition, **pilot projects,** often funded by the Community financial instrument LIFE-Nature, have also been run in several States to support the development of management plans, e.g. Finland, Belgium, Italy, the UK and Germany. Pilot projects will need an element of political will from national governments to be implemented on a larger scale, however.

Little to no effort has been reported regarding the assessment of the impact of management measures, with the exception of **Finland where a quite advanced system of monitoring and assessment is being put in place. In Denmark there is also an on-going process for developing monitoring systems.**

Article 6.3 of the Directive requires that any plan or project likely to have an impact on a Natura site shall be subject to an *'appropriate assessment of its implications in view of the site's conservation objectives'*. **Clear strategies and procedures for conducting environmental assessments of plans and projects in and near sites are reported to be lacking or inadequate in several countries.** In Austria, the experience of the few environmental assessments that have taken place show that national guidelines are needed to ensure that all Länder follow the same consistent procedures and methodology (e.g. Weißenbach golf course case). Assessment procedures in Germany also vary between different Länder and even at county (*Kreis*) level. Many of these do not, according to the national report, provide adequate assessments of the impacts on sites, particularly impacts from non-site based activities. In Ireland, it is felt that staff shortages hamper enforcement of the monitoring and protection of sites. This results in the constant deterioration of raised bogs, one of Ireland's priority habitat types. There is a list of 'notifiable actions' but many are not enforced adequately. For example, turf cutting is believed to take place on almost all raised bog sites without any consequences.

### 3.2.3 Protecting species over their natural range

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

A	B	DK	FIN	F	D	GR	IRL	I	NL	P	E	S	UK
1	2	2	2	2	2	1	0	1	2	1	1	2	2

Member States are obliged in application of Article 12 to establish a system of strict protection for animal species listed in Annex IV (a) to the Directive. Member States are to prohibit the deliberate capture or killing, deliberate disturbance particularly during the period of breeding, rearing, hibernation and migration, deliberate destruction or taking of eggs and the deterioration or destruction of breeding sites or resting places. Member States are also to prohibit the keeping, transport and sale or exchange of wild specimens. A system to monitor the incidental capture and killing of species listed in Annex IV (a) is to be established and further research or conservation measures taken to ensure that incidental capture and killing does not have a negative impact on the species. Similar measures are also to be established for plant species listed in Annex IV (b) of the Directive. Under certain specified conditions, and as long as this is not detrimental to the maintenance of populations of species concerned, Member States can derogate from these provisions (Article 16). Reports on derogations are to be submitted to the Commission every two years, and the Commission is to give its opinion on these derogations within 12 months.

Given the generally wide distribution of species outside of the Natura 2000 network, compliance with this part of the Directive is essential to achieving and maintaining the favourable conservation status of species.

**Only four Member States (Denmark, France, Netherlands and Sweden) are seen to have in place most of the measures regarding the protection and monitoring of species.** Finland, despite having a reasonably well-organised monitoring scheme, shows gaps in the protection system for species such as large carnivores, particularly outside Natura 2000 areas. Austria, Greece, Ireland, Italy and Portugal show major insufficiencies in the legislation protecting species. In Austria, legislation of the different Länder is not coherent, and there are also inconsistencies between hunting laws and environmental legislation at Länder level. **Even in those countries offering relatively good legal measures for species protection, enforcement and monitoring remains weak.** In Denmark, however, studies on the status of relevant species are expected to provide good baseline data for future monitoring and assessment.

**Arrangements in relation to derogations to Article 12 are also not satisfactory,** with particular shortcomings noted in the case of Greece, Sweden and the UK. In the UK, a Reasoned Opinion from the Commission has reflected the Commission's concern over the procedures and conditions attached to the granting of licences which permit the development of sites supporting strictly protected species such as the great crested newt (*Triturus cristatus*).

### 3.2.4 Complementary measures

<p><i>Is your Member State giving adequate attention to complementary measures, such as for research, planning and species reintroduction?</i></p> <p style="text-align: right;"><i>(Article 10, 11, 18 and 22)</i></p>			
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

A	B	DK	FIN	F	D	GR	IRL	I	NL	P	E	S	UK
2	1	2	2	1	2	1	1	2	2	1	1	1	2

Under the Habitats Directive, **Member States are to encourage the necessary research and scientific work in support of the Directive**, including surveillance of the conservation status of habitats and species, and work necessary to support site selection and the management of landscape features (Article 18). **However, research and/or monitoring is reported as being limited in many Member States, including in Belgium, Greece, Italy, Portugal and Sweden.** In Austria and the UK, two LIFE projects will generally form the basis for a monitoring system. Various LIFE projects are also contributing to monitoring and research in Finland. In Germany and France quite a lot of research is undertaken on the Natura 2000 network, nonetheless there is **apparently little application of the findings of research to practical implementation**. This could soon change in France, with systematic development of management plans and funding available at regional level to finance inventory research.

**The integration of relevant conservation measures into sectoral policies is widely accepted to be critical to the success of the Habitats Directive.** This is addressed by Article 6 as well as Article 10 of the Directive, relating to land-use planning and development policies, respectively. The issue of ‘integration’ is more widely covered in the Commission’s recent Communication on Biodiversity Action Plans, which states: *‘It is ... of paramount importance to integrate biodiversity needs into the development and implementation of relevant sectoral policies’*<sup>11</sup>. The importance of integration is also clearly recognised in Article 6 of the EC Treaty.

Policies and measures to integrate Habitats Directive requirements within sectoral policies are in many cases lacking (Belgium, Portugal and Greece). However, in the Flanders region of Belgium measures for sectoral integration are under preparation, and in Sweden integration of biodiversity issues are considered to be acceptable, but do not directly link with the Habitats Directive. In the UK, the integration of the Directive into other sectors has met with mixed success, raising difficult issues with respect to transport infrastructure. However, likely reviews of agri-environment support could produce significant benefits. Land-use planning is another area where weaknesses are identified.

<sup>11</sup> Communication from the Commission to the Council and the European Parliament on Biodiversity Action Plans in the areas of Conservation of Natural Resources, Agriculture, Fisheries, and Development and Economic Co-operation, COM 2001/162 final.

### 3.3 Putting Plans into Practice

In order to put into practice conservation measures and management plans, adequate funding and full stakeholder involvement (including the support of the general public) is essential. This section assesses progress with respect to the availability of financial and human resources for attainment of the objectives of the Directive, as well as efforts made to engage stakeholders and the general public.

#### 3.3.1 Finance

<i>Is your Member State devoting adequate human and financial resources to implementation of the Directive?</i>			
Significant additional resources dedicated to implementation of the Directive	Some additional resources dedicated	Very few additional resources dedicated	No additional resources dedicated
3	2	1	0

A	B	DK	FIN	F	D	GR	IRL	I	NL	P	E	S	UK
2	2	3	1	2	1	1	1	2	1	1	2	1	2

The implementation of the Habitats Directive, both within Natura 2000 and the wider countryside will require additional financial and human resources. The particular financial burden imposed by the management of the Natura 2000 network is recognised in the Directive itself (Article 8) and **Member States are asked to send to the Commission estimates of funding likely to be needed for them to meet their obligations in this area. The Commission will then potentially be in a position to part-fund certain conservation measures** for priority habitats and species.

**In practice few if any Member States have submitted this information to the Commission.** In only two Member States, according to the national reports, was any evaluation conducted of the costs of implementing the Directive (Belgium and Finland). While in the Flanders region of Belgium it appears that a large enough budget will be made available for Natura 2000, in the Walloon region and in Finland very few additional funds are being made available. **In England, a Regulatory Impact Assessment will be undertaken to examine the costs associated with implementing the Natura 2000 network.**

Overall, it appears that very few additional resources have been diverted to support implementation of the Natura 2000 network, with implications for the speed and effectiveness of the site selection, designation and management processes. **Generally resources have been siphoned off from existing budgets in the environment ministries.** In some cases these budgets are already over-stretched and human resources are few. The **lack of human resources** is also problematic in many Member States and is believed to be associated with the fact that the Habitats Directive is not a high political priority. Also, there is generally **poor information and understanding about the implications of the Directive.**

### *Use of national funds*

In some Member States, the initial development of Natura 2000 has mostly been done through land purchase and offering compensation. An exception is France, where a more systematic approach to site management has been initiated, with a budget, management plan and site manager allocated to each site. In the Flanders region of Belgium funds have been used to support land purchase by NGOs, manure restrictions and projects linked to community based nature development plans within Natura 2000 areas.

Overall, few figures are available on the amount of national funding made available for implementation of the Directive, but the overall impression is that funds are inadequate, often posing a major problem for implementation.

### *Use of Community funds*

LIFE-Nature III is currently the dedicated Community level financial instrument for implementation of the Habitats and Birds Directives. LIFE Nature supports incentive and demonstration projects for generally 50%, or exceptionally 75%, of the total cost of the project. In most countries, LIFE projects have been the key in instigating consultation, monitoring and other activities, in some cases providing the sole source of funding for such activities. While in most Member States there is scope for more use of LIFE funds for Natura 2000, in several countries, LIFE projects already are playing a prominent role. In the UK LIFE has supported much valuable work on developing management plans for marine SACs.

Other potential sources of Community level funding include the Structural Funds, the Cohesion Fund, LEADER and the Rural Development Regulation. **In Austria and Sweden, agri-environment schemes have played a large role in implementing Natura 2000, whilst in other countries, such as Portugal, little has been made of the agriculture/nature conservation link.** In general, agricultural funding measures are targeted at the maintenance of semi-natural habitats that are believed to make up approximately 15% of all habitats identified under the Directive.

**In Spain, it is expected that in the region of EUR 4 million will be allocated to nature conservation from the Structural Funds.** In Greece, some minimal funding is secured for implementation of the Directive through the Environment Operational Programme under the Structural Funds.

**It appears to be the case that many Member States are not taking enough advantage of the funding opportunities available at European level. The extent to which funding at the EU level is tapped has depended upon the efforts and success of individual NGOs and local organisations.** The down side of this approach is that in some countries this has resulted in an inconsistent approach to management of the network of sites. As new countries join the EU, a shift in the allocation of EU budgets is to be anticipated; this will also concern LIFE-Nature. Member States have to look further into using budgets available under other policies, such as the Common Agriculture Policy and Common Fisheries Policies. The process of environmental integration should support this trend.

### 3.3.2 Information and Awareness Raising

<i>Is your Member State 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

A	B	DK	FIN	F	D	GR	IRL	I	NL	P	E	S	UK
2	2	2	2	2	1	1	1	2	1	1	1	1	2

Generally, the consensus is that, while there exist some good examples of information activities and events, not enough is being done in the Member States to raise awareness of the Habitats Directive and Natura 2000. Public understanding of the Directive remains poor and many misunderstandings have arisen leading to various conflicts at local level. Overall, information activities need to be better targeted and more detailed, focusing on practical issues while time as encouraging more general public support.

#### *Information campaigns*

**Almost all the Member States have now produced websites with information on Natura 2000.** These show at the minimum the proposed sites, while others provide details on species of flora and fauna and give a background to the Directive. Ideally, the websites should be easily accessible with links to a database of information regarding the sites, management structures, any evaluations, environmental assessments, etc. However, this is not often the case, with some sites being extremely user-unfriendly.

**In a number of Member States very little effort has been made to provide information, e.g. in the Netherlands, Ireland, Greece and Portugal.** In addition, there are cases, where the provision of information, from some quarters, has suffered from a predominately negative tone – focusing publicity on the potential economic threats posed by implementation of the Directive, rather than its opportunities. This has happened in Germany and France at regional and local level. In France this is attributed in large part on a lack of understanding of the implications of the Directive, stemming from the insufficient information provided by the government.

#### *National/Local Fora*

**In several countries, including France, Austria and Italy, Natura 2000 events were held at the local, regional and national level.** In most of the German *Länder*, local authorities have been quite active in providing public information and generating discussion of designated areas. In some cases, good publications have also been produced (e.g. Baden-Württemberg or Thüringen). In Austria, the Ministry of the Environment regularly holds a ‘Natura 2000 – Platform’ for local authorities, stakeholders and the general public. In other Member States, for example in Spain and Belgium, awareness raising activities have mostly been carried out by NGOs.



### 3.3.3 Stakeholder Participation

Is your Member State doing enough to involve stakeholders and the general public in the Natura 2000 process?			
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

A	B	DK	FIN	F	D	GR	IRL	I	NL	P	E	S	UK
2	1	2	3	2	2	0	1	1	2	2	1	2	2

The importance of stakeholder participation in the development and implementation of policies in general is now recognised by the 1998 Aarhus Convention to which the European Community and the Member States intend to accede. **Stakeholder participation is seen to be equally critical to the success of the Habitats Directive, including Natura 2000 and measures applicable beyond Natura 2000.**

**Member States' performance in involving stakeholders has varied through the different phases of implementation.** In Austria, for example, involvement of NGOs and stakeholders was generally good on site selection, whilst on legal transposition issues and integration of measures within plans and programmes, NGOs were more or less excluded. Nevertheless, **the overall trend has been for Member States to improve consultation exercises in the second round of implementation.** This, however, has been a consequence of NGOs successfully stimulating relating government action (for example in Italy and Finland). Also, the involvement of NGOs in the biogeographical seminars has almost certainly been important here. **However, there are still several Member States, including Ireland, whose performance in involving stakeholders is considered to be very poor.**

#### *Consultations in the development of management plans*

Consultations in the development of management plans have taken different forms. In France, much effort has been undertaken to work with stakeholders at site level, with 200 sites planned for individual consultations each year. In Germany, consultation with landowners and other stakeholders in Natura 2000 areas was usually fairly good, as was the case in the UK. In the UK, involvement of stakeholders in drawing up management plans was widened, however, more so in marine sites than in terrestrial sites. In some cases governments conducted good consultations with some stakeholders, but effectively excluded the general public (e.g. Sweden), which resulted in conflicts of interest further down the line.

**In other countries there are currently very limited efforts to involve landowners, economic interest groups and the general public, e.g. in Italy, Ireland and Greece.** In Greece, local people are often unaware of the fact that they live in Natura 2000 areas. This lack of awareness is now causing friction between some stakeholders, e.g. in Portugal and Greece.

### **3.4 An Improved Political Climate?**

The political climate surrounding the Habitats Directive, and nature conservation more generally, may vary over time, as political parties change and as familiarity with the Directive grows. In general, enthusiasm for the Directive differs depending on the level of government and the department or Ministry concerned. Overall, many Member States seemed initially very reluctant to implement the Directive, but there is evidence of some and sometimes even substantial progress, over the last year.

The Habitats Directive is clearly gaining in political importance, attributable to a combination of factors. These are likely to include legal pressure exerted on the Member States by the Commission and increased awareness in the European Parliament, with the adoption of a resolution on the implementation of the Directive in December 2000. Discussions within the biogeographical seminars are widely seen as having been beneficial. The seminars have also provided a platform for NGOs to participate in discussions, and from which to call on national ministries and governments to improve their proposed sites for Natura 2000. Some countries have also cited LIFE-projects as having had a significant influence on political progress with the Directive.

However, it would be misleading to suggest that political will was sufficiently high to support full implementation of the Directive throughout Europe. In some Member States, the Habitats Directive remains a low priority for a range of reasons. In Greece, Italy and Portugal, for example, the lack of information and awareness of the Directive within government is exacerbated by a lack of capacity in terms of staff and resources. In other countries, welcome progress over the past year is at a risk of grinding to a halt, with Member States in part unwilling to add additional sites to their list. Also, in countries where political support for the Directive may currently be generally good, this is often threatened by a change in political leadership, a sway in public opinion or the influence of powerful economic interests.

#### 4. CONCLUSIONS

Over the last two years there has been some progress in implementation of the Habitats Directive stemming from pressure exerted by the Commission and environmental NGOs as well as efforts of environmental authorities. Decisions by the European Court of Justice, and the Commission's insistence of a link between implementation and the payment of Structural Funds to the Member States have been important developments. WWF's Shadow List Initiative has helped to sharpen focus on the challenge and to increase the number and quality of proposed Natura 2000 sites.

Nonetheless, as this report has highlighted, there is still a long way to go before the implementation 'race' is finished.

- The first hurdle, bringing national laws in line with the Directive, is still very much incomplete, with particular problems noted in the development of the Natura 2000 network, provisions for site management, and provisions for species protection. The number of legal proceedings outstanding against Member States is testament to this situation. **A more ambitious and strategic approach is needed to address current weaknesses such as the fragmentation and inconsistency of national and regional legislation.**
- There is also a lack of integration of the Habitats Directive requirements into related sectoral legislation and land use planning procedures. This is worsened by the absence, in many cases, of environmental impact assessment procedures. **WWF calls on Member States to develop and apply environmental assessment procedures to plans or projects that are likely to affect the integrity of sites, and therefore also the integrity of the whole Natura 2000 network.**
- **Member States are called upon to make the considerable improvements needed to meet the Natura 2000 challenge before it is too late.** Improvements are particularly needed in relation to marine sites which are all too often under-represented in the national lists. Overall, the rate of implementation remains slow and seriously behind schedule.
- Additional delays have been added to the process by postponement of the second round of biogeographical seminars required to complete the lists of candidate sites. **WWF and its partners call on the European Commission to continue linking implementation of the Habitats Directive with regional aid programmes.** In particular, the Commission should continue to make access to EU Structural and Regional Development Funds conditional upon the satisfactory establishment of Natura 2000.
- Major challenges also remain in the process of devising appropriate management measures for sites. **WWF and its partners challenge Member States to develop and implement specific management plans for the Natura 2000 network. The Commission, for its part, should take the lead in encouraging the production of guidelines on the management and monitoring of sites.**
- Insufficient attention continues to be paid to the development of measures outside the Natura 2000 network. These are of critical importance, particularly for species that range over wide areas and that are consequently poorly served by a site based protection. **It is essential that Member States place much more emphasis on the species aspects of the Directive, by stepping up monitoring and research and, critically, by introducing the necessary protection measures.**

- While the list of Natura 2000 sites remains incomplete, species are not being given the necessary protection, with Member States being too lenient in allowing derogations to the strict protection system. This is clearly undermining the objective behind the Natura 2000 network.
- To complete the implementation process, **a higher level of political will is now required in many Member States.** As part of a renewed effort, **governments should invest more in communicating with and involving stakeholders, dispelling misplaced fears about the implications of the Directive and increasing public understanding and support for the Directive's sustainable development objectives.** Member States also need to give greater emphasis to the role of certain economic, social and cultural activities in biodiversity management.
- Most governments have not yet made sufficient use of funding that is available from existing sources and the need for any specific additional budget remains unclear. **WWF and its partners call on the Commission to encourage Member States to submit estimates of the costs of meeting their obligations under the Directive.** At the same time, greater recourse needs to be made to funding opportunities, including at EU level, and budgets available to support other policies, such as agriculture and fisheries.

The race to build strong conservation in Europe continues; with greater political will to implement the Habitats Directive and complementary policies identified in the new European Community Biodiversity Action Plans, Europe's natural heritage need not be the loser.

## 5. SCORECARD QUESTIONNAIRE

### Scorecard for Assessment of Member States Performance to Implement the Habitats Directive

#### ELECTRONIC QUESTIONNAIRE

What follows is a set of ten questions relating to various aspects of implementation of the habitats Directive. You are asked to respond to each question by giving an indicator of performance (ranging from 0 to 3). The number you choose can result from a 'gut feeling' about how well or poorly your Member State (MS) is performing in this area. However, you are helped along by prompts in the questionnaire, which will let you know what issues you should be taking into consideration.

However, in order not to lose sight of individual circumstances influencing the scores, you are asked after each question to provide information to illustrate/explain why the score was deserved. Provide as much as you are able with the time you have available for the task. This information will be used in the final summary report to explain why some Member States are 'ahead' of others.

**The questions follow the following three headings:**

- *Legal Aspects of Implementation* – **3 questions on MS performance with respect to transposition and response to European Court of Justice complaints;** Total possible 'points' = 9
- *Protecting Habitats and Species* – **4 questions on MS performance with respect to adequacy of the Natura 2000 network and management and other measures for protection of habitats and species;** Total possible 'points' = 12
- *Putting Plans into Practice* – **3 questions on MS performance with respect to providing additional finance, raising awareness and involving stakeholders and the public.** Total possible 'points' = 9

The sum of these scores will be used to indicate the overall performance of your Member State in implementation of the Directive, with a higher number denoting a better performance. Please do not use 0.5s only whole numbers when scoring. It is important to view the questions as a set, keeping in mind that it is the total score that will be most public rather than individual failures or successes in any of the sub-questions.

#### 1.0 Legal Aspects of Implementation

##### i) Transposition

**QUESTION:** *To what extent has the habitats Directive been transposed into national or regional law?*

When answering, please pay particular attention to the following Articles before providing an overall score for current performance:

- Article 3, 4, 6, 10, 12, 13 and 16

<b>Indicators:</b>	Good/complete transposition	3
	Some gaps remaining	2
	Key/major gaps remaining	1
	Failure to transpose	0

**SCORE:**

**COMMENT:** In as much detail as possible, please illustrate/explain your score below, if suitable referring to the above and any other factors that have contributed to transposition failures or gaps.

**NOTE:** Questions about complaints to the European Court of Justice ECJ have been divided into two questions below – the first is about the number and severity of the complaints and the second about the rapidity and adequacy of Member States responses to these complaints. Please remember to consider the two separately when scoring.

**i) EU Level Complaints in Progress**

**QUESTION:** *How significant are current Commission complaints in progress against your Member State?*

Consider the following before providing an overall score for current performance related to complaints in progress:

- The stage of the complaint in the European Court of Justice (ECJ) procedure, e.g. a Letter of Formal Notice, a Reasoned Opinion, referral to the ECJ or final ECJ decision?
- The number of cases that are in progress
- Whether the case(s) involve critical aspects of the Directive

**Indicators for scoring:**

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

**SCORE:**

**COMMENT:** In as much detail as you are able to provide, please illustrate/explain your score below, if suitable referring to the above and any other factors that have contributed to performance (e.g. the extent to which NGO activity is responsible for the number of complaints).

**i) Member State Response to Complaints**

**QUESTION:** How adequate do you consider your Member State's response to Commission complaints to be?

Consider the following before providing an overall score for current performance on response to Commission complaints (Letter of Formal Notice, Reasoned Opinion, ECJ):

- The stage in the procedure that the Member State dealt with the complaint/court ruling (e.g. at formal letter stage, Reasoned Opinion. Referral to ECJ or after ECJ ruling)
- The adequacy and speed of the response

**Indicators for scoring:**

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

**SCORE:**

**COMMENT:** In as much detail as you are able to provide, please illustrate/explain your score below, if suitable referring to the above and any other factors specific to your Member State:

## 1.0 Protecting Habitats and Species

### i) Natura 2000: Site-based Protection for Habitats and Species

**QUESTION:** How adequate is the proposed list of SCIs for the protection of habitats and species?

In answering, please consider the following:

- Inclusion of "Shadow List" sites in the national lists
- The quality and coherence of the list of sites (e.g. stepping stones, corridors, buffer zones)
- The total area covered (taking into account total area available)
- Have conservation measures for sites been planned/implemented?

**Indicators for scoring:**

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

**SCORE:**



**COMMENT:** In as much detail as you are able to provide, please illustrate/explain your score below, if suitable referring to the above and any other factors specific to your Member State:

**QUESTION:** *How does your Member State score on the putting in place of management measures?*

In answering, please consider the following:

- The extent of conservation measures and plans
- Existence of assessment procedures for evaluating impacts of measures
- Known impacts of measures on conservation status

**Indicators for scoring:**

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

**SCORE:**

**COMMENT:** In as much detail as you are able to provide, please illustrate/explain your score below, if suitable referring to the above and any other factors specific to your Member State:

**i)**

**QUESTION:** *How adequate are non-site based measures for the protection of species?*

When scoring consider the following:

- Strict protection measures for animal and plant species (Annexes IVa and Ivb)
- Measures on takings
- Adequacy of monitoring measures (Article 12.4)
- The MS system for granting derogations (Article 16)

***Indicators for scoring:***

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

**SCORE:**

**COMMENT:** In as much detail as you are able to provide, please illustrate/explain your score below, if suitable referring to the above and any other factors specific to your Member State:

[illegible]

**i)**

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

When providing a score, consider the extent of:

- research efforts
- planning and sectoral integration measures
- other measures, such as for species reintroduction (article 22)

**Indicators for scoring:**

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

**SCORE:**

**COMMENT:** In as much detail as you are able to provide, please illustrate/explain your score below, if suitable referring to the above and any other factors specific to your Member State:

## 1.0 Putting Plans into Practice

### i) Finance

**QUESTION:** *Is your government devoting adequate human and financial resources to implementation of the Directive?*

When answering, consider the following:

- Have there been any evaluations of the cost implications of the Directive? (Article 8)
- Has the government made use of the range of funding opportunities (EU regional funds, rural development funds etc)
- Are national resources committed to the Directive *additional* to what existed before the Directive?

**Indicators for scoring:**

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

<b>SCORE:</b>
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**COMMENT:** In as much detail as you are able to provide, please illustrate/explain your score below, if suitable referring to the above and any other factors specific to your Member State:

--

i) **Information and Awareness Raising**

**QUESTION:** *Is your government doing enough to provide information and raise awareness about Natura 2000 and biodiversity conservation?*

Please consider whether any of the following have been undertaken or exist:

- Official detailed web-sites
- Newsletters, leaflets, brochures, etc
- Information meetings, seminars, etc
- Access to information, eg site maps, databases

**Indicators for scoring:**

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

<b>SCORE:</b>
---------------

**COMMENT:** In as much detail as you are able to provide, please illustrate/explain your score below, if suitable referring to the above and any other factors specific to your Member State:

**i) Stakeholder Participation**

**QUESTION:** *Is your government doing enough to involve stakeholders and the general public in the Natura 2000 process?*

Please consider whether any of the following have been undertaken:

- Consultations with NGOs, landowners, sectoral interests and the general public
- Consultations in the process of developing management plans (if relevant)

**Indicators for scoring:**

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

**SCORE:**

**COMMENT:** In as much detail as you are able to provide, please illustrate/explain your score below, if suitable referring to the above and any other factors specific to your Member State:

**Note:** Answers to the following questions in sections 4.0 and 5.0 will not be used as part of the scoring system, but will feed into the qualitative analysis of the summary report. Feel free to be brief in your responses (or say as much as you like).

### **1.0 Political Will**

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.

### **1.0 Conclusions and Recommendations**

In this section you can make any additional remarks that you did not have the opportunity to make in previous sections. If possible, summarise key points and flag up issues for future action.

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WWF's mission is to stop the degradation of the planet's natural environment and to build a future in which humans live in harmony with nature, by :

- conserving the world's biological diversity
- ensuring that the use of renewable natural resources is sustainable
- promoting the reduction of pollution and wasteful consumption

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