

Evidence Gathering Questionnaire for the Fitness Check of the Nature Directives

**Evidence provided by
NABU (BirdLife Partner in Germany)
focal point of nature conservation NGOs of Germany**

RESPONSE NGOs GERMANY Evaluation study to support the Fitness Check of the BHD

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QUESTIONNAIRE

A. General Information

Please answer ALL questions in this table

	Answer
Organisation:	NABU (BirdLife Partner in Germany) - coordinator of German conservation NGOs for the Fitness Check
Date:	31 March 2015
Country (and, if applicable, region) represented:	Germany
Organisation(s) represented:	<ul style="list-style-type: none"> - BUND, including regional branches (member of EEB and Friends of the Earth Europe) - NABU, including regional branches (BirdLife Germany) - WWF Germany - with further input from consulted other conservation NGOs and individual experts from federal and regional (Länder) level
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Languages spoken fluently by contact person:	German, English
Language for the interview if it is not possible to conduct it in English	German, English
Type of organisations you represent: EU authority or agency / Member State authority or agency / business or industry / educational or scientific institute / nature conservation charity / recreation / individual expert / other (please specify).	nature conservation charity
Sector represented: environment / water / agriculture / forestry / fisheries / transport / energy / extractive industry / industry / housing and other buildings / recreation & tourism / science & education / other	environment

(please specify)	
<p>Additional comments:</p>	<p>This answer is submitted on behalf of the three largest environmental NGOs of Germany, including with input from their representatives at the German Länder level, including also input from a wide range of other experts who were involved by us in the evidence gathering. If you would like to get in touch with any expert, please refer to the focal point (Konstantin.Kreiser@NABU.de) first.</p> <p>On request we can send any document/evidence or further information at any time.</p> <p>You can find the full list of used references at the end of the document.</p> <p>This version is an update of the version sent on 20 March 2015. It is now fully translated into English, and contains additional evidence (we provide one version in "tracked changes").</p> <p>We also attach a zip file with documents that are not publicly available but referenced in the document.</p> <p>By end of April we might submit further evidence.</p> <p>We agree to the publication of our final answers after the end of April.</p>

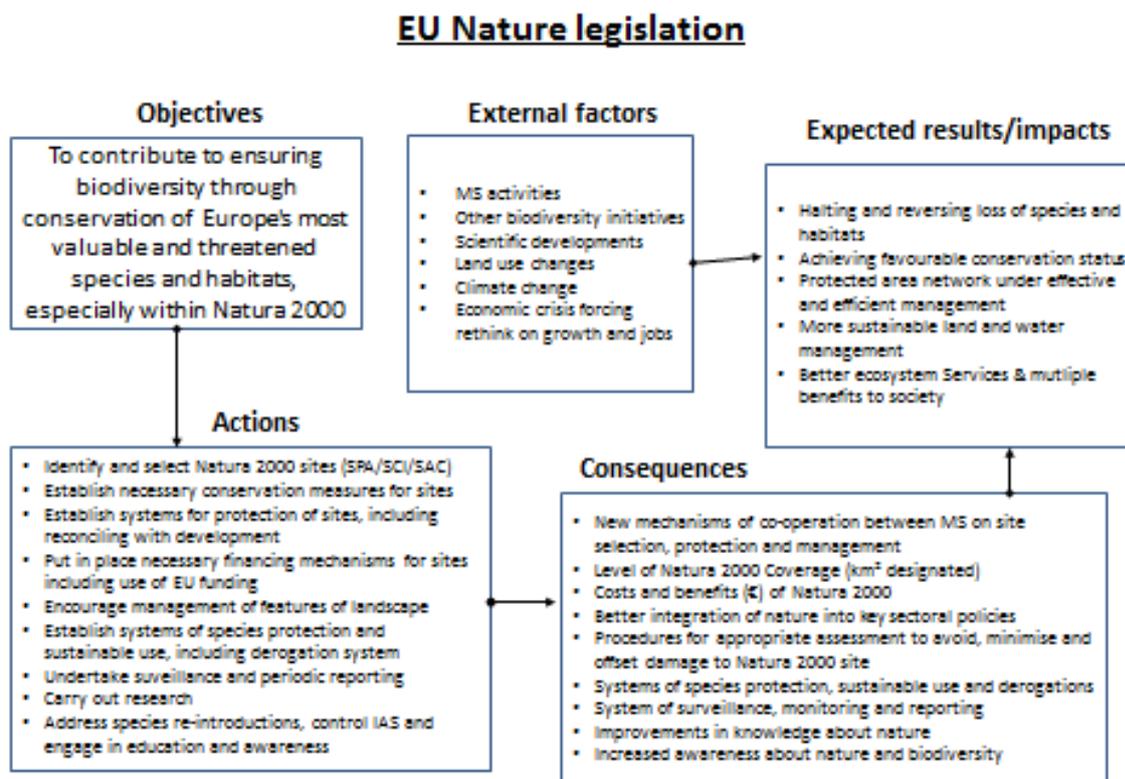
B. EVALUATION / FITNESS CHECK questions

Please answer all questions that are relevant to you and for which you can provide informed insights from direct experience and/or supporting evidence.

We would kindly ask that you keep your answers as succinct as possible. They should summarise in **no more than 2 pages** any evidence relevant to a given question. More complete/detailed information, if any, should be provided in the form of references and/or web links. Definitions, explanations and examples are provided under each question to assist you in answering them.

When answering the questions, please note that the Fitness Check intends to examine the performance of the Nature Directives in relation to their stated objectives, taking into account expected results, impacts and external factors. The figure below presents the intervention logic as included in the mandate. For ease of reference, a table presenting the objectives of the Directives, differentiating between different types of objectives (strategic, specific, operational), is included in Annex I to this document.

The questions are structured around the five evaluation criteria addressed in the mandate: effectiveness = S, efficiency = Y, coherence = C, relevance = R, and EU added value = AV.



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Effectiveness

This section focuses on assessing the extent to which the objectives of the Birds Directive and Habitats Directive have been met, and any significant factors which may have contributed to or inhibited progress towards meeting those objectives. By 'objectives', we refer not only to the strategic objectives, but also to other specific or operational objectives required under other articles of both Directives (as set out in Annex I to this questionnaire).

'Factors contributing to or inhibiting progress' can relate to the Nature Directives themselves (e.g. the clarity of definitions) or be external factors such as lack of political will, resource limitations, lack of cooperation of other actors, lack of scientific knowledge, or other external factors (e.g. see those listed in the above intervention logic).

We are particularly keen to learn of evidence that is not included in the Member State implementation reports.

S.1.1 What progress have Member States made over time towards achieving the objectives set out in the Directives and related policy documents?

Please provide evidence on what progress has or is being made towards the achievement of the objectives set out in Annex I that are of relevance to you. Please address separately the objectives of the Birds Directive and the Habitats Directive, and specify which objective(s) you are referring to, with references to the corresponding Articles. If possible quantify the progress that is being made.

Answer:

The EU Nature Directives have brought massive progress to nature conservation in Germany and form the basis for most efforts undertaken for biodiversity at the local, Länder and national level.

While implementation progress has been quicker for some, and slower for other specific objectives of the Directives, the overall picture is positive. Recent data on the state of species and habitats (BMUB & BfN, 2014) show significant examples of effectiveness, there is a growing number of best-practice regarding implementation resulting in steadily increasing acceptance by stakeholders and the public. As will be shown in various answers in this questionnaire the Directives can be regarded as effective, efficient, relevant, coherent tools that could not be replaced by any national policy or legislation.

There is still a long way to go to achieve the strategic objectives set out in the Directives in Germany, but it is clear that this is not related to the Directives themselves. Instead the reasons are

- 1) slow or insufficient implementation and enforcement efforts (mainly at the level of the Länder)
- 2) a lack of committed personal and financial resources and competences (from EU to local level)
- 3) other policy sectors undermining the objectives of sustainable development, biodiversity protection and thus also of the Nature Directives

For a general overview on progress of Germany related to biodiversity and implementation of the EU Nature Directives see (BirdLife Europe 2012a; NABU 2012b; BUND & NABU 2014)

Art. 2 Birds and Habitats Directives:

Assessing the progress achieved in Germany towards the strategic objectives of the Directives (achieving favourable conservation status and reaching adequate levels of bird populations) shows **the Directives are delivering where properly implemented:**

- **Habitats Directive:** 25% of species and 28% of habitats currently are in favourable conservation status, with a slight majority of species & habitats showing a stable or positive trend (54% & 58%), 21% & 31% are decreasing (25% & 10% unknown). Compared to previous

assessments the number of species in unfavourable status has largely remained stable, while more habitat types doing worse than previously (BMUB & BfN, 2014).

- **Birds Directive:** Approximately a third of bird species in Germany are each decreasing, increasing or stable. The share of breeding birds with population decreases in the past 12 years is higher than in the past 25 years, meaning that there is increasing pressure on bird populations. (BMUB & BfN, 2014; Sudfeldt et al., 2013)

Looking more closely at the data the following patterns can be observed:

- **Species recovery is happening largely, if not mainly, due to the legal framework provided by the Birds and Habitats Directives.**

There is evidence of the effectiveness of SPA's for the protection of birds on Annex I of the Birds Directive in the EU, as these species fare better than the average of bird species, both in German and at EU level. (Sudfeldt et al., 2013; Donald et al., 2008). An upcoming study based on the latest data gathered for Art.12 (Birds Directive) reporting and more extensive analysis confirms these conclusions. It is currently in press and will be provided as soon as it is published.

A 2013 study on species recovery in Europe (Deinet et al., 2013) identifies commonalities in the measures that have led to recovery: the active boosting and reintroducing of species and the reduction of persecution, hunting and poisoning. In Germany the analysis for Elk, Wolf, White-tailed Eagle, Common Crane, Beaver, Black Stork and Otter is relevant. The authors clearly state that a stable legal framework for species protection (regulating the protection of species and sites & hunting) has been key in the recovery of the analysed species (e.g. Art. 5-9 BD and 12-16HD). All species presented in the report are specifically targeted by the Birds and Habitats Directive. Importantly, the authors also stress that the EU Natura 2000 network recognises species' spatial needs at a relevant scale.

- **A large part of declining species and habitats in Germany are dependent on active management and sustainable land use**, in particular grassland habitats, inland dunes and heathland. This points both at massive implementation failures (e.g. complaint of NABU, 2014a) as well as the great impact of the Common Agricultural Policy (CAP) whose recent reform is unlikely to be supportive for biodiversity conservation (PE'ER et al., 2014). The decline of several meadow breeding bird species (long-term decreasing population trends between 20 and 100%) in Germany is an example of how Germany has not yet taken requisite measures to achieve Art.2 of the Birds Directive. This applies to general population levels and also to maintaining and preserving habitats, implementing special conservation measures and avoiding deterioration of habitats in SPAs (NABU, 2014b).
- Another important part of declining (bird) species are **long distance migrants**, reasons are suspected in habitat conditions along migration routes and in wintering areas, as well as persecution and the combination with habitat loss in the EU, again often due to CAP impacts, e.g. as regards Turtle Dove (*Streptopelia turtur*). Joint EU level action for these within and outside the EU is paramount for these.

Art. 3 & 4 Birds Directive, Art. 4 & 5 Habitats Directive: Site designation

The **designation of Natura 2000 sites** in -line with Art.4 of the Birds Directive and Art.4 & 5 of the Habitats Directive- has been very slow in Germany, and was only completed after several infringement procedures until 2006. Now it is widely accepted as being completed, overall. In 2012, 11% of the terrestrial area was designated as SPA and 9% as SCI (in total below 15% when taking into account overlap), which is below the EU average in terms of coverage (20%) and site size. (see www.bfn.de/0316_gebiete.html; BirdLife Europe, 2012a; NABU, 2012).

The designation of two SPAs (2005) and eight SCIs (2007) jointly covering about one third of the German Exclusive Economic Zone (EEZ) in the North and Baltic Seas clearly demonstrates that the EC

Birds and Habitats Directives are fit for purpose to protect key offshore marine features such as reefs, submerged sandbanks, harbour porpoises and seabirds. Notably, certain human uses such as offshore wind installations were concentrated and licensed in areas outside these marine Natura 2000 sites from the beginning, as part of maritime regional planning (see www.offshore-windenergie.net/en/politics/legislation-and-responsibilities/maritime-regional-planning).

There is still too little action undertaken **outside of SPAs according to Art.3** of the Birds Directive. Nevertheless there are significant successes to be noted for a number of bird species, thanks to specific species action plans and Natura 2000 designation. e.g. Black Stork, White-tailed Eagle, Peregrine Falcon, Little Owl.

Case study : LIFE project – Saving the Bittern (Bavaria/Bayern)

The LIFE project attempted to save the highly endangered Bittern from extinction in Bavaria. To protect the largely isolated Bittern population, measures for reed development in fishing ponds were implemented. It can be expected in the long-term that these measures will provide the impetus for recolonization of potential Bittern habitats beyond the project area. Upon completion, various other projects were initiated and implemented.

<http://www.stmuv.bayern.de/umwelt/naturschutz/foerderung/life/rohr.htm>
<http://www.lbv.de/unsere-arbeit/life-natur-projekte/life-rohrdommel.html>

Case study : LIFE project – River restoration for the Green Clubtail dragonfly (Bavaria/Bayern)

The LIFE project, “Green Clubtail” created river stretches for a more natural dynamic and therefore for biodiversity. The core occurrence of the species in the central Franconian lowland is supported in a way that the species in the region is conserved in a favourable conservation status. The LIFE project was co-financed by Naturschutzfonds Bayern. Involved parties are in particular Central Franconia’s government and the Water Management Authorities in Ansbach and Nürnberg who will take over the continued care of the water stretches after end of the project.

<http://www.lbv.de/unsere-arbeit/life-natur-projekte/life-projekt-keiljungfer/life-nature-green-clubtail.html>

Case study : LIFE project - Preserving and restoring Petrifying springs with tufa formation (Bavaria/Bayern)

In the framework of the LIFE project, targeted optimization measures for the preservation and restoration of 54 petrifying springs with tufa formation were developed in collaboration with land owners, various authorities, communities, and associations. Two years after measures were implemented, data collection on structure, vegetation, fauna, condition, and development of the tufa formation showed positive results.

<http://www.kalktuffquellen.de/>

According to the German Federal Ministry of Environment only 22.2% of SPAs are covered with management plans. As regards protection and management of SCIs/SACs an **infringement procedure has been opened against Germany on 27.2.2015 by the European Commission**, due to large scale insufficiencies in implementing Art.4(4) and 6(1) in many German Länder. It can be assumed that swift and substantial compliance with the Commission’s demands would boost the status of the qualifying species and habitats, and others, significantly until the next reporting period.

Art. 6 Habitats Directive (applicable in part to SPAs)

Art. 6 of the Habitats Directive is at the core of the protection framework provided by the Natura 2000 Network. Progress in implementing this article in Germany overall has been slow and incomplete, but there is a growing number of examples of effective and efficient implementation.

Art.6 also offers the main tool to make sure that the Directives objectives are taken into account when planning public resources and in the course of developing plans and projects. However, especially in the first years of implementation this often did not happen automatically. Public scrutiny, NGO intervention and Commission action on the proper implementation of this article has been crucial.

Here are a few examples of the current issues with the implementation of this article:

Art. 6.1: Natura 2000 site protection and management plans

- See above, infringement procedure against Germany. There are still many **missing management plans** on land, but at sea there is not a single one yet
- Although Germany was a forerunner in the initial designation of **marine Natura 2000** sites (covering almost 45% of German EEZ), progress has stagnated: SAC designation is delayed, in the 10 marine sites that were designated in 2007 no management plans have been developed, no protection measures are developed or enforced. This has had an impact on the status of many protected marine species and habitats (DNR et al., 2015) (some examples are listed in the summary p.2-3).
- There is a risk that the infringement procedure might lead to a development of many **low quality management plans**, which would mean very limited progress for achieving the objectives of the Directives and a wasted opportunity. There are already now examples of insufficient quality of plans:
- The guidelines for the **development of Natura 2000 management plans in Mecklenburg-Vorpommern** propose that the status of the species should be assessed solely on the grounds of habitat quality and availability (modelled). Actual on the ground verification of these assumptions is not included to a significant extent. Also actual use of the site (including illegal activities that could be deteriorating the habitat quality and availability of the sites) is only taken into account in a later phase, i.e. does not account for the evaluation of the conservation status of the protected species. (MLUV MV, 2012)
- It must be noted that the **absence of clear conservation objectives as well as the lack of definitions of favourable conservation status** in the case of many species and habitats is a severe problem for the assessment of the impacts of plans and projects on Natura 2000 sites. Progress here will solve many of real or perceived problems of developers.
- Despite the overall delays and insufficiencies, there are cases that show that **Natura 2000 site protection and management planning** can work very well
- The **EU-LIFE project for grouse management in the Black Forest, Baden-Württemberg**, shows how the involvement of stakeholders in management planning and informed management can increase efficiency: thanks to the LIFE project, it could be demonstrated that not 100% of the SPA had to be optimal habitat for grouse; 30–45% would be enough. The project demonstrated that the appropriate resources could leverage dialogue, awareness and sharing of good practice which in turn could generate a win-win situation for tourism and education, species protection and sustainable forestry. (EC, 2015a)

Case Study : Designation of non-intervention zones in Natura 2000 forests (Hessen)

Summary: 78% of non-intervention forestry core areas (as defined in the German Biodiversity Strategy) are situated in Natura 2000 forests. On 15.570 ha (of a total of 139.134 ha) of State owned Natura 2000 Forests, the forestry use has been stopped.

Qualitative Improvement of forest Habitats Directive areas through designation of areas to preserve natural processes (Prozessschutzflächen): In identifying non-use forests in terms of the national biodiversity strategy, areas within Natura 2000 sites were selected in particular to upgrade them. 78% of these so-called “core areas” are now in Natura 2000 sites.

There are 80.660 hectares of Natura 2000 areas in Hessen's state forest; forestry use was terminated at 13480 hectares so that the natural forest has a chance to develop. In Hessen's state forest, there are 90172 hectares of EU-bird reserves; forestry use was terminated to 11360 hectares. In sum (with overlap), forestry use in the state forest was halted on 15570 hectares within Natura 2000 area of 139.134 hectares.

(Chapter 5.1 in http://www.hessen-forst.de/download.php?file=uploads/service/download/nachhaltigkeitsbericht/hf-nachhaltigkeitsbericht_2013.pdf)

Art. 6.2 avoiding deterioration in Natura 2000 sites & Art. 6.3 appropriate impact assessment:

- There are a number of examples for **significant shortcomings in implementation** of these provisions, that form the core of Natura 2000. However, overall progress can be noted that lessons are learned from Court cases, infringement procedures or experienced planning

delays, which leads to improved planning practice over time. A systematic problem is the official or unofficial exclusion of activities having a significant impact on Natura 2000, in the areas of agriculture, water management or tourism, as well as the negligence of cumulative impacts.

- A blatant example of insufficient implementation of Art.6.2 is the **large scale destruction and deterioration of protected habitats (species-rich grassland) in Natura 2000 sites** (showing both negative trend & poor conservation status), while regional and federal governments remain inactive. NABU has submitted a complaint to the European Commission on this (NABU, 2014a).
- An analysis of the implementation of obligations under Art. 6.1 – 3 in two German cases (Construction and operation of River Ems flood barrage & Borgfelder Wümmewiesen) shows that the largest implementation gaps could be found with the **upfront exclusion of certain activities from complying with Art.6.2 and being subject to Art.6.3**. In addition, **cumulative impacts** were also not taken into account. (Milieu Ltd., 2009)
- This issue is also clearly reflected in the concrete case of a decree in Mecklenburg-Vorpommern, a federal state in which many Natura 2000 sites lie in coastal areas or near lakes, **excluding recreational watersports from being regarded as 'projects'** subject to appropriate assessment (MLUV MV, 2005).
- Even if planning and permitting processes still suffer from a lack of quality and therefore are subject to legal cases and delays, there is a lot of evidence that the Directives can protect the species and habitats of Community Interest.

Case Study : EU priority species and habitats saved as part of the A20 Highway construction (Schleswig-Holstein)

Summary: The route of the A20 in this region was planned along one Natura 2000 site and directly through another. The Federal Administrative Court stopped this plan on the grounds that alternative routes had not sufficiently been taken in account and that, due to the inadequate monitoring of bat migration, it could not be established in how far this route would have a significant impact on the conservation objectives of the site. Therefore several priority habitats and especially the biggest bat population of bats in Germany could be saved from destruction.

New construction of the Federal Highway A 20 from Weede to Wittenborn: The adverse effects on important bat populations and the largest bat colony in Germany (more than 20.000 overwintering animals), as well other priority habitats (e.g 7220*, petrifying spring with tufa; 9180*; ravine and slope forests *Tilio-Acerion* and 91E0* Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior*) could be prevented thanks to the Habitats Directive. Planning of the federal highway A 20 bypass from Bad Segeberg, Schleswig-Holstein included the route passing extremely close to the Habitats Directive site "Segeberger Kalkberghöhle" (DE 2027-302) and directly through the Habitats Directive site "Travetal" (DE 2127-391). The Federal Administrative Court stopped these plans with an explicit reference to the impact on the FFH sites. Among other things, the point was made that alternate routes with less impact on the Habitats Directive sites were insufficiently explored. Added to this was that in addition to the direct impact on the Habitats Directive sites, the route could intersect the bat's migration. Here, the Court objected to the unprofessional implementation of the bat monitoring since it could not be determined if the plans were compatible with the conservation goals of the Habitats Directive site "Segeberger Kalkhöhle". In this example, the Habitats Directive clearly made an important contribution to the protection of important habitats and species since there would be no recourse in Germany's conservation laws against these plans without this EU protection regime.

Source: BUND- Schleswig-Holstein.

Art. 6.4 derogation: alternatives, IROPI and compensation:

Germany is the EU Member State with the highest amount of official derogations to Art.6.3, by invoking implementation of Art.6.4 and requesting the opinion of the European Commission. Nevertheless there is a very low percentage of plans or projects that are changed or even prevented due to the Nature Directives (see answer to question Y.7). In order to each full effectiveness of the Directives, these provisions have to be enforced much more strictly by German authorities and the European Commission. That way it can be assumed many more plans and projects can be designed in a way that meets both expectations of investors and the objectives of the Nature Directives.

- A study suggests that **neither Germany, nor the European Commission fully stick to EC implementation guidelines of Art.6.4 appropriately**. A 2009 study examining Member States' reasoning for justifying the application of Art. 6.4 of the Habitats Directive in the light of the

European Court of Justice rulings comes to the conclusion that “*probably not one of the cases submitted would have been accepted by the Court*”. The general conclusion on the 11 cases is that there is hardly one which completely lives up to the requirements of Article 6(4) of the Habitats Directive and the Commission’s own guidance documents.”

- German cases include A20 motorway (Schleswig-Holstein, Mecklenburg-Vorpommern - *NOTE: these are other sections of the project than the one referred to above in the positive A20 case study*), Mühlenberger Loch (Hamburg), Creation of a New Industrial and Commercial Area at Trupbach (Nordrhein-Westfalen); Extension of a Coal Mine at Haniel (Nordrhein-Westfalen); Enlargement of Baden-Baden Airport (Baden-Württemberg). Here issues are raised concerning public **access to opinion documents, quality of the impact assessment, assessment of alternatives, invoking IROPI and compensation**. (Kraemer, 2009)
- Another study assesses the implementation by the European Commission, as expressed in its opinions, of the **compensation obligation** imbedded in Art.6.4. and in the light of current scientific criteria defining proper compensation for losses of biodiversity. “*The Commission's opinions fare poorly against all these criteria, a common, and important, thread being a lack of transparency. The Commission has never issued a negative opinion on the grounds that the compensation measures were deficient.*” (McGillivray, 2012)

Art. 5-9 Birds Directive

These provisions have been transposed into German legislation and form an important element of the protection framework. As a consequence, overall hunting and trapping of birds has become regulated in a sustainable way. Migratory birds, breeding, resting or wintering in Germany, benefit from the fact that the Birds Directive applies the same rules also in the other 27 Member States. Art.9 provides a reasonable and accepted framework for derogations.

Case Study : Derogations for limited shooting of Cormorants in Natura 2000 (SPA Aischgrund, Bavaria/Bayern)

Summary: The targeted and sensible approach used in carrying out limited shooting of Cormorants within the SPA Aischgrund, enabled a reduction of losses in the Trout ponds from 80% to about 10% without negatively affecting the target species of the SPA. This approach and its implementation was possible thanks to the protection status of the site.

Derogations for limited shooting of Cormorants: In December 2010, the Central Franconian government issued temporally and spatially limited exceptions for shooting cormorants in the bird reserve DE 6331-471 “Aischgrund”. According to general order of the government on April 2009, cormorants could also be shot from September 1 – January 15 in protected areas and according to the referenced exemptions from December 2010, from specifically defined pond dams from January 16 – April 30. Immature coloured juveniles could additionally be shot from May 1 – 31 August. However, prerequisite for shooting the cormorants in protected areas was that some dams, which lead to particularly sensitive habitats, cannot be visited outside the shooting times stated in the general order and therefore no shooting can occur from here. Within the framework of this management, cormorant monitoring, conservation goals, and fishing income was first reviewed due to the SPA status of the pond areas. It was determined that the losses in the carp ponds could sink from over 80% down to 10%; meanwhile, target speices like the purple heron, blue throat, bittern, and gadwall were not negatively influenced. This prudent approach and the project’s success would not have been possible without the protected status of a Natura 2000 site.

Source: LBV /NABU Partner in Bavaria

Art. 12-16 Habitats Directive

As mentioned above (in the context of Art.2) the report by Deinet et al. (2013) shows that especially the species protection measures of the Habitats Directive (Art. 12-16) have been very successful in achieving measurable conservation benefits for the targeted species. Many conservation projects have been triggered thanks to the EU importance assigned to the species, often especially successful when in combination with Natura 2000 and when supported by the LIFE programme.

The return of the Wolf to Germany has been made possible inter alia by the strict protection against hunting - with some enforcement issues still to be resolved. The changes in legislation due to the Habitats Directive can be identified as the main reason for the success in species protection and the first steps towards a good conservation status of the Polish-German population of this species.

Case study : LIFE project – Saving the Greater Horseshoe Bat (Bavaria/Bayern)

Summary: This project was initiated by a conservation organisation and a federal forestry enterprise in partnership with farmers. Many authorities, associations and municipalities were involved and the project was co-financed by the Bavarian nature protection foundation and a nature park.

Saving the Greater Horseshoe Bat: In addition to the conservation organization LBV, the federal forest management of Schmidmühlen carried out the LIFE project Saving the Greater Horseshoe Bat. Numerous authorities, associations, the community Hohenburg, and the US armed forces are also involved. The LIFE project was co-financed by Bayerischer Naturschutzfond and Naturpark Hirschwald. The partnership is ideal for farmers who gained feeding areas for the target species to graze a regional cattle breed. With this project, a very positive contribution to the implementation of Natura 200 is being made with all stakeholders, since in addition to conserving the greater horseshoe bat, a socio-economic benefit will also be achieved.

Source: www.lbv.de/unsere-arbeit/life-natur-projekte/life-projekt-hufeisennase/life-projekt-finanzierung.html

Case Study : The Bat-friendly house project (Hessen)

Summary: The project started in 2006 with important financial support from the region. More than 850 buildings have been designated because they offer a valuable habitat for a variety of bat species. Many species, including endangered ones, have adopted these protected sites.

Bat friendly houses, Hessen: The Habitats Directive contributes to securing the natural habitats and wild animals and plants and conserving biodiversity. In Attachment IV of the Directive, species are listed for whom a strict protection system within their natural distribution zone should be established. All native German bat species are included on this list. To ensure conservation implementation of the Habitats Directive, special efforts were undertaken in German states.

One result of this engagement is the project “Bat friendly houses” in Hessen. NABU Landesverband Hessen developed this project in 2006 with financial support from the state. The project’s goal was and is to protect existing buildings, establish new bat buildings, and to offer conservation advice on bat conservation in buildings. The project’s success can be evidenced in the already 850 identified building that offer valuable habitats for a variety of bat species. In addition to the Pipistrelle, the Mouse Ear or Natterer’s bat, and also endangered species like the Gray Long-ear can be found amongst others in mills, castles, fire departments, churches, schools, city halls, and cloisters. At least seven more species, including even atypical bats in buildings like the Small Noctule, were detected. These results highlight the important contribution of this project and thereby the importance of effective implementation of the Habitats Directive to the successful conservation of biodiversity.

Source: <https://hessen.nabu.de/tiereundpflanzen/aktionenundprojekte/fledermausfreundlicheshaus/17833.html>

Art.12 Birds Directive and Art.17 Habitats Directive: monitoring and reporting

Thanks to the reporting requirements of the Nature Directives, and their over time progressing harmonisation and further improvement the state of knowledge about biodiversity is higher than ever before. Without the reporting efforts much less information would be available for conservation planning and for the assessment of harmful impacts. The recent State of Nature report of Germany, combining national reports under the two Directives (BMUB & BfN, 2014) has been praised by NGOs as excellent publication.

The only major shortcomings to point out are firstly the non-binding nature of the reporting on the state of Natura 2000 sites as compared to the whole country (making it very hard to assess effectiveness of the network also for the Fitness Check) and, as a issue to be solved by German authorities mainly, the low quality assessment of conservation status of forests, see case study from Hessen.

Case Study : Status of Typical species are not taken into account when assessing habitat conservation status of forests (Hessen)

Summary: Common forestry practices and their effect on typical species of the protected habitat type are not taken into account when assessing the quality and conservation status.

Characteristic species are not taken into account when assessing habitats. Forest habitat types are therefore not properly assessed, i.e. purely based on their structure. Both pictures below were assessed as beech forest in “good status” during basic data collection.



Habitat 9110, both evaluated as "good status (B)": Site 4819-301 Kellerwald (left), Site 5415-304 Kreuzberg und Kahlenbergskopf bei Oshausen (right)

This example clearly shows that under the impact of "appropriate forestry" (legally defined term), eventually no forest character might remain in the habitat that would provide the majority of characteristic forest species a chance at survival. And yet the habitat would be classified as being in a good status. The reality of such forestry is far removed from ecologically sustainable "permanent forest", which is actually codified in the silviculture standards (Hessen: Waldbaufibel). The direct consequence is that management plans for forest Natura 2000 types often lack measures to improve the conservation status.

Source: NABU Hessen

Art. 3 Birds Directive, Art. 10 Habitats Directive: Habitats outside Natura 2000 and connectivity

Little progress can be identified with regard to the protection of habitats outside of Natura 2000 sites or the management of landscape features.

- Some initiatives exist, as for example a BUND LIFE communication project for the creation of forest connectivity for Wildcats (EC, 2013b), and Germany is trying to mitigate the fragmentation impact of roads by building green bridges.(Deutscher Bundestag, 2014)
- In 2007 NABU calculated that the cost of building only ten green bridges/year until 2020 (about 130 bridges) in order to implement a 'priority need' connectivity across the country would be 30 million EUR on a total federal budget of 10 billion EURO/year for road infrastructure. (NABU, 2007). Improving connectivity of habitats is one of the initiatives supported by NABU's Partner Volkswagen (<http://vw-nabu.de/aktivitaeten/initiativen/bundeswildwegeplan>).
- HeidelbergCement, in partnership with NABU, is planning and implementing restoration projects relevant to Natura 2000 sites in and around quarries. For example the quarries at the Lengfurt cement plant, Bavaria, "are nearly indispensable for the optimisation of the target habitat types (including typical species) as well as corridors for habitat networking among Natura 2000 sites. If this project succeeds, HeidelbergCement's plant in Lengfurt will double the size of the protected habitats in the nearby Natura 2000 site." (HeidelbergCement & BirdLife International, 2015)
- Even if the German federal law does provide the basis for a legally binding network of 10% of protected areas and other habitats ("Biotopverbund"), and a growing number of Länder are providing special planning for green infrastructure including Natura 2000 sites, no specific approach to guarantee coherence for the Natura 2000 network has been set up. A national green infrastructure strategy is in preparation. (Deutscher Bundestag, 2014)

Art. 8 Habitats Directive - financing

See answer to question C.7!

S.1.2- Is this progress in line with initial expectations?

'Initial expectations' refer to the expectations, positive or negative, held by different stakeholders at the time the legislation transposing the Directives came into force in your country. For example, government reports and plans might provide evidence of intended timetables for the identification and designation of Natura 2000 sites. We are seeking to understand the extent to which progress made to date has met, exceeded, or fallen short of such expectations. If possible, in your answer please address separately each of the objectives referred to in question S1.1 for which you have provided evidence.

Answer:

Environmental NGOs expected the German government at the federal and regional level to fully comply with the Nature Directives from the moment they entered into force. However, as shown in S.1 the Nature Directives were only fully legally implemented in Germany at a very late stage and only after various legal actions by the EC against Germany. Thus the NGO's initial expectations from 1979 and 1992 were not met, as far as the timing is concerned. For a general overview on progress of Germany related to biodiversity and implementation of the EU Nature Directives see (BirdLife Europe 2012a; NABU 2012b; BUND & NABU 2014).

Nevertheless, compared to the situation at the time the Nature Directives came into force significant progress has been achieved, and where it hasn't there is clear evidence that the reasons lie in insufficient implementation at national level. See question S.3 on positive and negative factors.

It should be taken into account that the massive changes following the fall of the Berlin wall in 1989 had a significant impact on nature conservation that has not been foreseen when the Birds Directive was adopted in 1979, but also had not been fully understood when the Habitats Directive was adopted in 1992:

Positive for reaching the aims of the Nature Directives:

- Western Germany and thus the EU "gained" many extremely rich biodiversity areas, when Eastern German Länder acceded the Federal Republic of Germany.
- The collapse of industry and agriculture in Eastern Germany and Central and Eastern Europe led to a (partially temporary) recovery of nature and biodiversity.

Slowing down the achievement of the aims of the Nature Directives:

- The financial costs of German reunification were higher than expected and this indirectly contributed to cuts in public budgets at federal and Länder level, which affected also nature conservation action and delayed implementation.
- It can be assumed that the accession of new Member States to the EU reduced the amount of Community funding received by Germany for nature conservation measures. The LIFE programme, for example, has not been increased in proportion to the area of the EU (the same goes for the EU budget in general).

Species protection

As far as species protection provisions are concerned, expectation have been met, overall. These provisions have been transposed into German legislation relatively quickly and form an important element of the country's nature protection framework. The same can be observed with countries acceding the EU later.

As a consequence hunting and trapping of birds has become widely regulated in a sustainable way. Migratory birds, breeding, resting or wintering in Germany, benefit from the fact that the Birds Directive applies the same rules also in the other 27 Member States. Art.9 of the Birds Directive provides a reasonable and accepted framework for derogations.

Also, endangered mammals like European Wild cat, Wolf, or Beaver has become illegal in Germany under the Federal Hunting Law and the Federal Law for Nature Conservation (BNatschG. chapter 5

§§37-55), and as a consequence are returning in spectacular quantity (Deinet, et al., 2013). Where illegal killing of animals still exists (e.g. on birds of prey or wolves in Germany, as well as of migratory birds in Malta and Cyprus) it can be expected that proper implementation of the Nature Directives, combined with stepped-up enforcement activities (supported by an EU Inspections Directive, see C.8) will be effective. NABU is carrying out an initiative to end illegal killing of raptors, using the Goshawk as Bird of the Year 2015 (see www.nabu.de/tiere-und-pflanzen/aktionen-und-projekte/vogel-des-jahres/habicht/index.html)

Natura 2000 designation

On the one hand, many might have had doubts that Natura 2000 would ever be completed, covering almost a fifth of the EU's land territory. For these expectations have been (more than) met.

On the other hand, following the environmentally progressive political climate of 1992 (when also other international environmental Treaties and processes were started, like the UN CBD), leading to such a progressive Directive, disappointment was high about the quickly disappearing political will of Member States to implement Natura 2000 and the fact that it was mainly ECJ action that made them comply.

In the meantime, after the designation of the Natura 2000 sites and due to the collaboration between nature conservation, state authorities and land owners the situation improved.

Natura 2000 protection

The initial expectations of the environmental NGOs were on the establishment of correct protection provisions and procedures and a full set of implemented management plans. (Schreiber et al. 2008; Niederstadt, 2006).

These expectations were not met due to the lack of resources and political will, also essential procedural requirements were not met (NABU 2010, NABU 2012, BUND&NABU 2014, BMUB 2014). As a result, the European Commission started an Infringement Procedure against Germany in February 2015.

Case studies and examples presented under question S.1 show that effects can be expected across Germany if implementation is improved now.

Monitoring and reporting

Monitoring expectations of the NGOs were high (Sperle 2007), and they pointed out requirements in detail. Gradually improving methodology, a good harmonisation of the procedures of the two Directives, and close cooperation of authorities and civil society have made the Nature Directives' reports to the best source of knowledge on the state of biodiversity in Germany (BfN & BMUB 2014).

Natura 2000 financing

The expectations on finances were not met, as the EU budget as well as Member States domestic sources still have not provided sustainable funding for a self-sufficient, long-term financing of the implementation of Natura 2000 (see NABU 2015 and answers under question C.7). Examples show the wide gap between financial structures for sectors with potential harm to the objectives of the directives and nature conservation.

S.1.3 - When will the main objectives be fully attained?

On the basis of current expectations and trends, please provide evidence that indicates the likely year or range of years that the main objectives will be met. By 'main objectives' we mean the strategic objectives of the Birds Directive (as set out in its Article 2) and the Habitats Directives (in its Article 2), as well as the specific objectives set out in Annex I to this document.

Answer: There is a direct link between the factor of implementation and externally relevant policies. The more these policies, such as agriculture, counteract biodiversity objectives, the more important is a strict implementation of the Nature Directives to achieve at least partly their objectives (see question S.3). Full effectiveness is likely to be only achieved when harmful other policies and subsidies are reformed (see question C.4).

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

By 'contribution towards ensuring biodiversity', we are referring not only to the conservation of the species and habitats specifically addressed by the Directives, but also to biodiversity more broadly defined: i.e. other species and habitats not targeted by the Directives; ecosystems (terrestrial and marine); and genetic diversity, both within and beyond the Natura 2000 network – in line with the EU's 2050 vision and 2020 headline target and the Targets of the EU's Biodiversity Strategy to 2020.

** For an overview of the EU biodiversity Strategy see:*

<http://ec.europa.eu/environment/nature/info/pubs/docs/factsheets/Biod%20Strategy%20FS.pdf>

Answer:

We would like to refer to the responses of BirdLife Europe and EEB here, as this is a question that can entirely be answered from an EU level perspective. If we identify specific evidence from Germany we will provide this as soon as possible.

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

Please summarise evidence of the main factors that have supported or constrained progress towards achieving the objectives of the Nature Directives. As in previous questions, by 'objectives' we mean not only the strategic objectives set out in Articles 2 of both Directives, but also specific and operational objectives, as set out in Annex I to this document. Relevant factors might include, for example, resource limitations, lack of cooperation of other actors, lack of scientific knowledge, or other external factors (e.g. those listed in the above intervention logic).

Answer:

The government's report on the State of Nature in Germany (BMUB & BfN, 2014) presents the current main success factors and pressures on species and habitats in Germany. **Generally speaking, success factors** include the proper implementation of the instruments available through the Birds and Habitats Directives i.e. targeted protection measures including protected area protection and management, habitat restoration and connectivity improvements, regulation of hunting.

At a very general level one can state that **counterproductive sectoral policies**, like the Common Agricultural Policy, or bio-energy subsidies or unsustainable land-planning heavily reduce the chance of achieving the Directives' objectives. In spite of voluntary agri-environment measures the intensification of agriculture is not surprisingly among the main pressures on German biodiversity (40% of protected agricultural habitats are in poor conservation status and have declined even more in the past 6 years). Other activity sectors (and indirectly, conflicting policy areas) are also identified, including fisheries, hydromorphological changes in alluvial floodplains (loss of 2/3 of German floodplains) and land-use and land sealing (74ha/day) in general, causing fragmentation and loss of habitat. (BMUB & BfN, 2014) (see also C4)

There is, however a whole set of factors that can boost or hamper the Directives' implementation that have been experienced or even developed in Germany.

The Human Factor

The following positive examples all demonstrate the utmost importance of the human factor, involvement, communication, active caretaking and monitoring through staff, be it professional or volunteers.

- Many successful projects show that **communication, involvement and awareness** cannot be overestimated. Evidence of this can be found in the case of Grouse protection and sustainable forestry practice in the black forest (EC, 2015a) or communication and education about the importance of habitat connectivity for Wildcats (EC, 2013b).

Case Study : The KUNO initiative (Schleswig-Holstein)

KUNO e.V. (Kulturlandschaft Nachhaltig Organisieren – Organising Cultural landscape in a sustainable way) – example of cooperation and involvement of land users in managing Natura 2000

The local KUNO initiative (KUNO, 2015) in Schleswig-Holstein is a good example of an integrated approach and high involvement of stakeholders resulting in case to case and well-informed adaptive management: The initiative started in 2007 as a local action group to protect meadow-birds on private grasslands (dairy farmers) in Schleswig-Holstein in the Natura 2000 site Eider-Treene-Sorge-Niederung. (6.400 ha.) KUNO prepares the management plans for this site in consultation with its members and local actors. It develops specific nature and species protection measures for the site's care-taking. It organises the 'common protection of meadow-birds' programme and develops measures for the development of nature based tourism.

KUNO initiated a common protection of meadow-birds programme to protect meadow-birds from harmful agricultural practices. It was developed jointly by farmers and conservationists. Farmers who participate get a financial compensation if some meadow species are currently breeding on their land and if they accept to avoid or delay some farming practices. This happens in close cooperation with site caretakers who monitor the breeding sites and agree with the farmers which measures should be taken. Farmers are only tied to these obligations during breeding and on the specific breeding sites. In 2014 92 farmers participated and 416 breeding sites could be secured.

Source: <http://kuno.jimdo.com/>

- Pre-existing or newly established structural factors have a major impact on success, as shown in regions where the **Biostation System** or **Landcare Associations** exist. These represent two especially important contributions of Germany to better implementation of the Directives – (see answers on question Y.5 for more detail on these concepts).
- In order to leverage the aforementioned positive effects and efficiency of communication and involvement through targeted projects, a minimum of resources and capacities need to be made available by the government. Once kick-started with public funds, these structures (e.g. Biostations and Landcare associations) provide the capacity and expertise to develop projects and are even capable of leveraging additional funding and resources. (See also Y.2 for examples)
- The Biostation system in Nordrhein-Westfalen, combined with a systematic approach of management planning and project development (a number of LIFE projects have been developed by the Biostations) seem to have a measurable impact on biodiversity as the following case study shows.

Case Study: The importance of site care taking, management and staff resources - comparing nature data from Nordrhein-Westfalen (NRW), Niedersachsen (NI) and the entire Atlantic Biogeographic Region of Germany

NI and NRW make up almost the entire Atlantic biogeographic region of Germany, plus some areas of Schleswig-Holstein (SH). In NI the conservation status of amphibians and reptiles is worse than in the rest of the German Atlantic biogeographic region. One of the possible reasons is the deficient, or rather absent, **site care-taking** in NI in comparison to the 'Biostation' system in NRW as well as the 'Nature Protection Foundation' in Schleswig-Holstein (SH) which develop and manage many large-scale projects and protection measures. An additional aspect is that in NI **competences for the implementation of the Directives have been fully passed on to the districts** (Landkreis). This increases the opportunities for political and economic influence slowing down and intervening with the implementation.

Conservation Status of Amphibiae and Reptile in Niedersachsen (Lower Sayony) compared to the entire biogeographic region (2011)

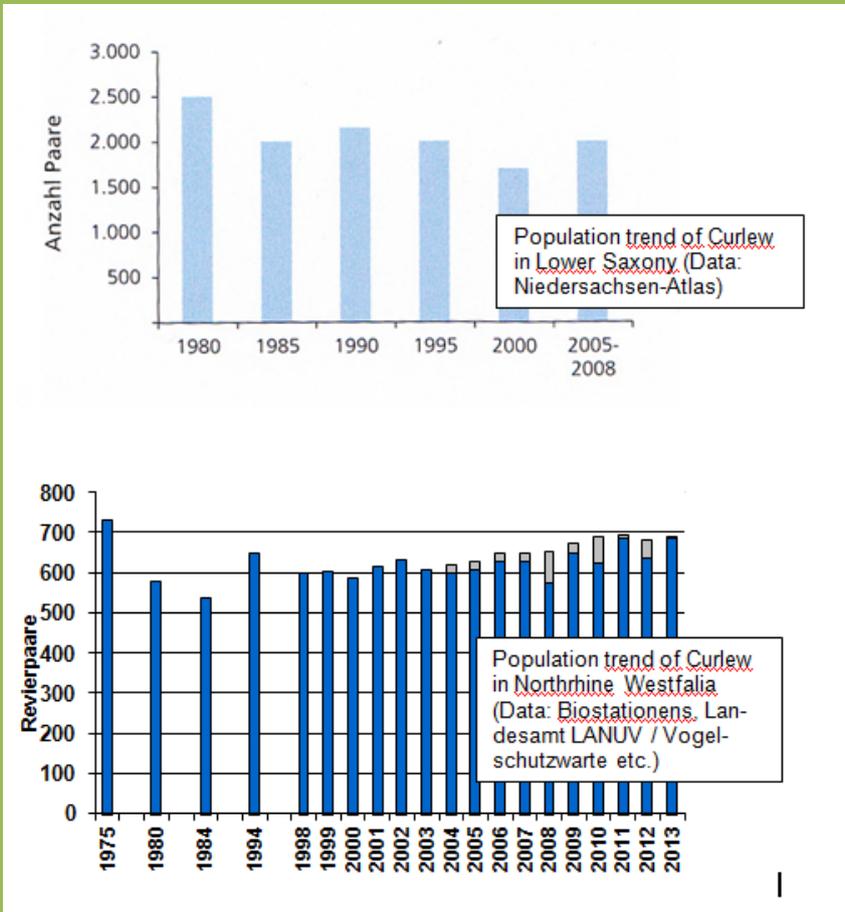
Species (German name)	atlantic region		continental region	
	Germany	Lower Saxony	Germany	Lower Saxony
Kammolch	u	u	u	u
Gelbbauchunke	s		s	u
Rotbauchunke	s	s	s	u
Kreuzkröte	u	s	s	s
Wechselkröte	u	s	s	s
Geburtshelferkröte	u		u	s
Knoblauchkröte	u	s	u	s
Laubfrosch	u	s	u	u
Moorfrosch	u	s	u	u
Springfrosch	g	g	g	
Zauneidechse	u	s	u	s
Schlingnatter	u	s	u	s

Source: Vollzugshinweise für Arten und Lebensraumtypen
http://www.nlwkn.niedersachsen.de/naturschutz/staatliche_vogelschutzwarte/vollzugshinweise_arten_und_lebensraumtypen/vollzugshinweise-fuer-arten-und-lebensraumtypen-46103.html

Analysis: NABU Niedersachsen

Data on the situation of the **Curlew**, a charismatic meadow birds show a very similar picture. The population levels in NI are (still) higher than those NRW, however numbers decrease since the 1980s in the former, and increase in the latter region. In NRW population levels of 1975 have been achieved already. In NRW many Natura 2000 sites have been designated for Curlew, and all sites for meadow birds are subject to an intensive care taker and protection system with many staff involved - normally organised through the Biostations. In NRW population numbers were available for this research immediately, while in NI nobody has a clear picture. Many meadow bird SPAs lack any care taking in NI, partly there are no population figures at all.

There are however exceptions - the Dümmer SPA in NI is very well taken care of - with very positive population results.

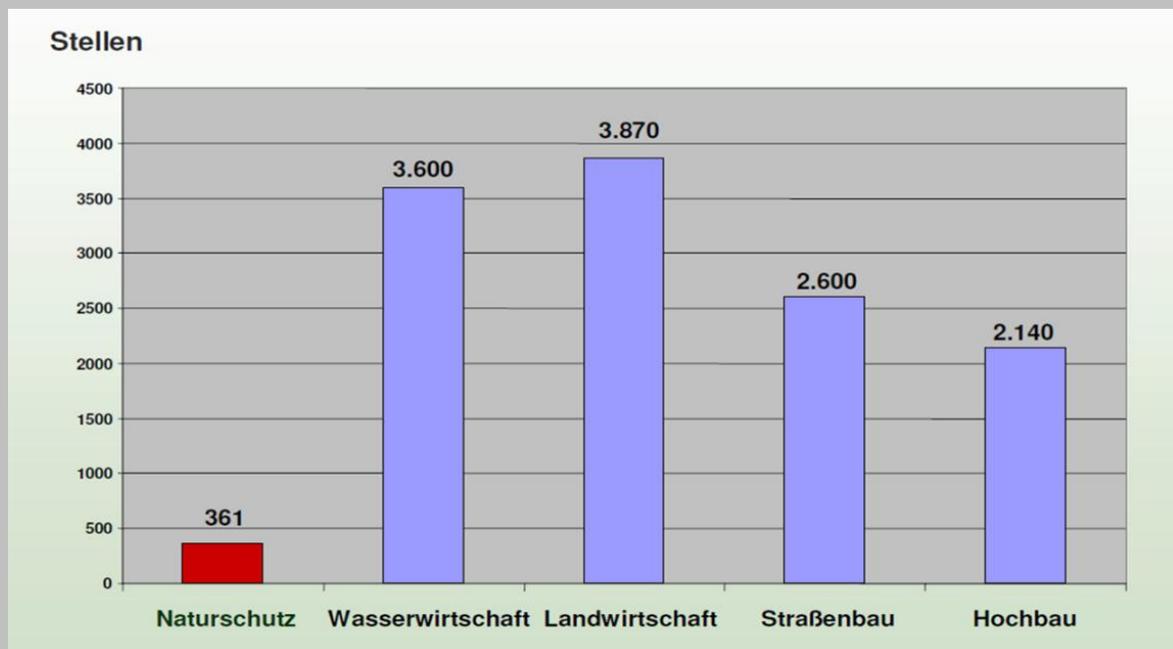


Further evidence on the importance of the "human factor":

- A 2014 study shows that among the success factors for the protection of meadow-birds the number of people in charge, or managing the site to some extent (monitoring, site management, local and regional government, volunteers), expressed in employment equivalent per square km of the site, can be significant when more than 0,1 full time equivalent per 100ha was available. (Hoettker & Leuschner, 2014)
- After a government change, Baden Württemberg has adopted a much more positive approach to nature conservation. In its 2013 Natura 2000 Strategy (Landesregierung BW, 2013) proposes the recruitment of a specific Natura 2000 appointee in every one of the 35 local nature administrations and the establishment of (semi-)independent Landcare Associations (Landschaftserhaltungsverbände – LEV, 2 positions per district) which should carry out the implementation of the management plans. Currently this strategy is being implemented. Naturally, increased capacity, especially on-site, also has a crucial impact on control and enforcement capacity, which in turn increase awareness, understanding and compliance. Effects on these areas are expected in Baden-Württemberg soon, although such changes do not happen overnight.
- Volunteers across Germany provide this man-power without remuneration, and herewith generate an economic value that is not taken into account. This is a very important aspect, that we elaborate more in the answers to question R.4. However it is important to state that it was to a large degree the EU Nature Legislation that triggered many volunteering activities.

On the other hand lack of staff is one of the key factors for implementation problems in Germany.

- There has been a general reduction of nature protection authorities' personnel capacity and resources at the local level since 2000, while at the same time increasing their area of competence on Natura 2000. (Benz et al., 2008)



Staff employed by the State of Bavaria for nature conservation compared to the sectors of water, agriculture, road development and construction (analysis of BUND, 2014 used in a presentation www.burg-lenzen.de/burg_lenzen/upload/3_veranstaltungen/tagungsarchiv_pdf/Vortrag_Wessel_Hoerstermann_2014.pdf).

A lack of communication and involvement of stakeholders has led to many misunderstandings and problems.

- The Natura 2000 designation process has left a bitter aftertaste due to the lack of proactive communication with and involvement of relevant stakeholders (e.g. land owners, nature conservation organisations, industry), sometimes even combined with misinformation (e.g. exaggerated warnings about land use restrictions or even expropriation) resulting in a low general awareness of the legal status and real meaning of Natura 2000 sites and therefore low acceptance and knowledge about the aims and implementation of the Nature Directives in Germany. In some concrete cases, the consequences of the inappropriate implementation of the designation process, combining failure of designation, lack of communication and stakeholder involvement, slow and inadequate administrative reply, are still generating conflicts with stakeholders (BUND NRW, 2014). The time to overcome these misconceptions was lost for implementation, but there are many cases now, where it seems the trend is positive now (see KUNO case study above).
- False claims and interpretations on the implementation of the Nature Directives expressed by certain lobbies have further influenced the attitude of politicians and media. An especially bad case were the claims of the German Chamber of Industry and Commerce in 2006, to which the German nature NGOs answered in detail (BUND & NABU, 2006; Mayr, 2008). This campaign has even influenced normally fact based media, such as the Süddeutsche Zeitung (www.sueddeutsche.de/wissen/wenn-bedrohte-tiere-bremsen-die-baustopper-1.517696) who reported about animals that can stop huge projects, despite of all evidence stressing the fact that hardly any project in Germany is stopped by the Nature Directives (see question Y.7).

The Legal Factor

The role of the European Commission and the ECJ through the complaint mechanism, the infringement procedure and the Pilot process have been key for implementation progress in Germany. These instruments, although own initiative action of authorities would have been preferable, have truly supported and accompanied the implementation of the Directives and are crucial as a last resort and in creating precedents in the legal interpretation of the Nature Directives. As nature conservation is not a very high priority on political agendas, the environment administration is dependent on such pressure from the EU to get the resources allocated that it needs to fulfil the obligations that have been agreed at the political level when the Directives and the Biodiversity Strategy were adopted.

The design of the Habitats Directive, especially Art.6 provides a clear mechanism to insure that nature is also taken into account in the context of 'sustainable development'. In the German legal context this instrument is unique and provides a high degree of protection in comparison to other protection categories. However, as exposed in answer to question S.1.1 there is still a long way towards the systematic and proper implementation of Art.6.

- Natura 2000 site designation in Germany progressed very slowly for many years, only Commission and Court action triggered the necessary dynamic in the administration (e.g. thanks to the allocation of staff resources that were denied by the political leadership before) so that site designation has been largely completed in the meantime.
- Recent evidence from Sachsen-Anhalt shows that 22 fixed term staff positions were created in the public administration in order to develop management plans, in the context of the EC Pilot (and now Infringement) Procedure on SAC designation in Germany.

The Financial Factor

Adequate financing is essential for the implementation of the Nature Directives and other action for biodiversity - both because measures cost (largely public) money, and because acceptance of stakeholders, such as farmers or forest owners very much depends on the possibility to compensate

them for losses in income or to provide incentives for additional action for biodiversity. See answers on question C.7 for more detail.

- There is a great amount of successful LIFE projects that have been carried out in Germany - this programme has proven extremely successful and cost efficient. We assume, however, that the Consultants carrying out this study will analyse the available LIFE database of the European Commission thoroughly. Where appropriate we are adding references to specific LIFE projects in our answers.
- For most of the EU-financing opportunities for the implementation of the Birds and Habitats Directives (including LIFE projects for Natura 2000, species protection and conservation measures, restoration etc.) a share of co-financing is required. In regions where public foundations agree to provide the co-financing share for projects granted by the EU this has greatly played in favour of an effective implementation (this is the case for example in Hessen, Thuringia, Schleswig-Holstein)

Case Study : "Natura 2000 Foundation" for forest Natura 2000 sites (Hessen)

Summary: The Natura 2000 Foundation was established in 2003 with a capital sum of 10 million EUR. It is managed by the region and its objective is to finance the material and conceptual development and maintenance of a coherent Natura 2000 network in forests in Hessen especially via contractual agreements.

Natura 2000 foundation in Hessen: An additional factor to achieve conservation goals was the establishment of "Foundation Natura 2000" whose goal was the development of contractual conservation in Natura 2000 forest areas. The Foundation Natura 2000 was founded in 2003 and has a capital sum of 10 million EUR. The responsibility of the foundation managed by the region is to promote the material and conceptual development and maintenance of a coherent European ecological Natura 2000 network in Hessen's forests, in particular:

- Securing a favourable conservation status of the important habitats and species for conservation
- Support the implementation of the EU Nature Directives
- Support research in the area of nature conservation in forests, in particular with regard to the obligations of the EU Nature Directives

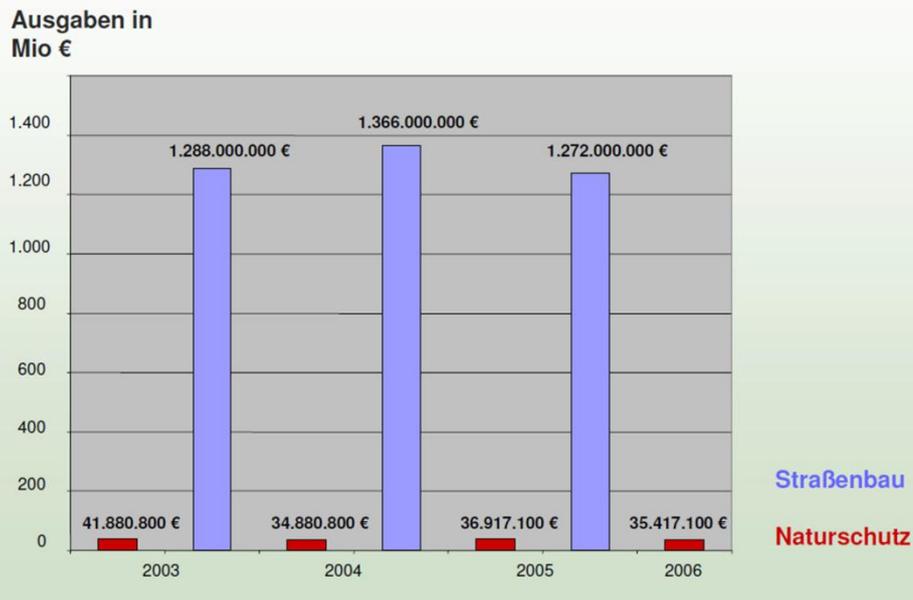
The Foundation shall sustainably work towards balancing the conservation demands with the needs of owners and strengthen the concept of conservation contracts.

Source: Umweltministerium Hessen, 2009 S. 24:

https://umweltministerium.hessen.de/sites/default/files/HMUJELV/stoppt_den_artenverlust_internetversion_komplett.pdf

At the same time, lack of funding is a key problem for implementation (see also C.7)

- In Hessen lack of financing and therefore low incentives that can be offered to land users has been identified as one of the reasons why the uptake of voluntary and contractual agreements for Natura 2000 management is so low in combination with the high administrative burden and the low compensation or payment. (Landesregierung Hessen, 2013)
- This point is stressed as well in the 2014 study by the Federal Nature Protection Agency with regard to the reasons behind the loss of grasslands across Germany. In order to compete with other policy incentives e.g. biogas incentives, payments need to be higher. (Becker et al., 2014)



Comparison between government funding in Bavaria for nature conservation (red) and spending on regional road infrastructure (blue). In 2013 approximately 35 Million EUR were spend on nature conservation in comparison to 113 Million EUR for regional roads (analysis of BUND, 2014 used in a presentation www.burg-lenzen.de/burg_lenzen/upload/3_veranstaltungen/tagungsarchiv_pdf/Vortrag_Wessel_Hoerstermann_2014.pdf).

The Voluntary Approach and its Limits

Voluntary and contractual agreements with users have been one of the main tools in implementing the Birds and Habitats Directives in Germany. As many examples can show, the effectiveness of this tool depends on its design but also on adequate control and enforcement of the agreements. Also a voluntary agreement that works in a certain local context cannot just be copied and implemented somewhere else. The key is a case-to-case adaptation of the rules and requirements, this can be rather resource intensive at first but will be more efficient in the long run (Cf. Y.5). One of the weaknesses of this tool is that most of the time they will only generate benefits during the time of the agreement, especially in the case of land-use, and they normally highly depend on the level of financial incentives compared to alternative options for the land users. Another problem is the dependency on political will, which can change not only when governments change but also when legal pressure from the EU diminishes.

- A 2014 assessment of the financial instruments used throughout Germany for supporting nature protection measures in forests (DFWR, 2014) comes to the conclusion that the long term outcomes after the contractual duration are often not taken into account and monitoring or control of the measures has a rather rare occurrence: this could lead to funds being paid without achieving the targeted objective. Also, the variety of methods used to calculate the value of compensation, funding or contractual agreements across regions could lead to issues in competitiveness.
- In Nordrhein-Westfalen the NABU regional chapter has just submitted a new EU-complaint about the deterioration of the SPA Unterer Niederrhein (Lower Rhine Valley), a site very important for Waders and Geese. The site was already previously the subject of a discussion with the European Commission (in the context of designation), ending with an agreement between the regional administration, NABU and the European Commission on the establishment of voluntary agreement involving the relevant stakeholders seven years ago. This was the condition for the Commission (and NABU) to accept a smaller designated area as SPA. NABU is now pointing out, that the agreement is not fulfilling its purpose and is even being used as a tool to allow less stringent application of appropriate impact assessments for agricultural activities. (NABU NRW, 2015)

- A similar issue is the subject of the ongoing infringement procedure of the Commission on the Hellweg Börde site (also Nordrhein-Westfalen) – the sole focus on voluntary measures such as contracts with landusers does not lead to an improved conservation status of the species or habitats in question.

Case study: Comparing voluntary approaches in two Baltic Sea Natura 2000 sites

In Mecklenburg-Vorpommern an interesting comparison could be made between the voluntary agreement in the Bay of Greifswald and the Bay of Wismar. Stakeholders in the first seem to be generally satisfied with the results of its implementation whereas in Wismar inherent weaknesses to the set-up of this system make its enforcement impossible.

In the first case, the central successful instruments are the constant and long-term monitoring of the pressure by users on the core areas of the site in combination with regular communication with users. This has influenced acceptance for site protection and has kept pressure at a low level. About 90% of the users observed during monitoring respect the navigation rules of the voluntary agreement.

In the latter case the problem is related to the fact that the whole marine area of the Natura 2000 site is subject to the Federal Waterway Act and that therefore all watersport activities (sailing, motorboats, kite-surfing, surfing) are allowed in the site. The voluntary agreement identified ecologically sensitive areas that users (sailing schools, some municipalities etc.) voluntarily commit not to navigate on. Unfortunately many users and some key municipalities do not yet adhere to this agreement, and enforcement is impossible seeing that the legal background (Federal Waterway Act) allows navigation of the whole area without restrictions. It is in the regions' competence to submit a demand to the federal ministry of transport in order to ask for an adaptation to the navigation rules. This has so far not been done and the voluntary agreement is used as evidence by the region that sufficient measures have been put into place to manage the area. The reports by the Ranger of the Bay of Wismar document infringements to the voluntary agreement but also to the legally binding Nature reserve decrees (Naturschutzgebiet) in several reserves within the wider Natura 2000 site. This provides evidence of the general lack of control and enforcement by the local water police (due to lack of awareness and capacity)

Sources: Voluntary agreement Greifswald (www.wwf.de/themen-projekte/projektregionen/ostsee/schutzgebietsbetreuung-greifswalder-bodden/); Voluntary agreement Wismar (<http://www.naturschutz-wismarbucht.de/category/berichte/>)

The Lack of Conservation Objectives

One of the potential core tools provided by the Directives that has been largely ignored until now, also in Germany, is a **working and common definition of favourable conservation status (Habitats Directive) and of adequate population levels (Birds Directive)** as referred to in Art.2. These ultimate conservation objectives at EU level have never been truly quantified for species and habitats targeted by the Directives, despite the fact that the national reports of the government include estimates for Favourable Reference Values. Most importantly, there is currently no common and coherent approach to setting these targets across EU Member States, biogeographic regions or sites.

- Worse, often the only available reference value at site level is the status at the time of designation, meaning that, at most, a status quo with regard to the conservation status at the time of entry into force of the directives is aimed for in management plans, disregarding potential conservation gaps at that time and not respecting the directives' obligation of restoration of suitable habitats (which has been valid from the moment the Directives came into force). (Harthun, 2005)
- A 2012 report on the status of Black-tailed Godwits in Belgium, The Netherlands and Germany shows that all three countries "*have both the instruments and the obligation to conserve Black-tailed Godwits. None of the three countries have formulated clear objectives on the minimum population size that is considered to be a favourable conservation status. None of the countries have a clear strategy on how they want to restore the favourable conservation status of the Black-tailed Godwit. The lack of national-level favourable reference values seriously hampers effective conservation of Black-tailed Godwits. It makes it impossible to formulate an effective conservation strategy and preclude evaluations whether conservation efforts are effective.*" (Kleijn & Lammertsma, 2012)
- The Birds and Habitats Directive Task Force of BirdLife International has adopted a methodological framework for setting such ultimate objectives for bird species. This concept is now tested by BirdLife Partners in various Member States (BirdLife BHDTF, 2013)
- As a consequence of this lacking of objectives at national/biogeographic level it becomes very

difficult to set meaningful objectives at site level. These however, are essential to measure the effect of impacts under the assessments required by Art.6. A good systematic approach to define objectives has been found in Flanders (see NGO response from Belgium).

The Counteracting Sectoral Policies

There is a direct link between the factor of implementation and externally relevant policies. The more these policies, such as agriculture counteract biodiversity objectives, the more important is a strict implementation of the Nature Directives to achieve at least partly their objectives. Full effectiveness is likely to be only achieved when harmful other policies and subsidies are reformed (see question C.4).

- A key example of direct undermining of the implementation of the Directives was the unlawful exemption of sectors such as forestry and agriculture from the requirements of the Habitats Directives sites and species protection provisions. Again, in this case the European Court of Justice played a key role in rectifying the legal situation. (ECJ, 2006)
- There is a problem of general exemptions or nature conservation standards for agriculture in the German legislation. Experts asked by us expressed the view that nature authorities need to get empowered to adapt the principles of the “good agricultural practise” of Art.5.2 Federal Conservation Law for specific cases (e.g. regarding permissions for conversions of grasslands) as well as for potential impacts on Natura 2000 sites happening outside of these.

S.4 – Have the Directives led to any other significant changes both positive and negative?

This question aims to assess whether the implementation of the Nature Directives has brought about any significant environmental, social or economic effects or changes that were not intended or foreseen by the Directive at the time of their approval, and whether these changes were positive, negative or neutral in terms of their contribution towards meeting the objectives of the Directives. Examples of such effects or changes might include the development of a culture of social participation in nature-related decisions as evidenced by Committees for the development of management plans or higher cooperation of departments of different ministries, etc.

Answer:

The Directives have led to significant effects beyond their direct objectives, also in Germany.

Firstly, as regards nature conservation, for example:

- The implementation of a legal protection for certain species and habitats also positively influences non-target species. A recent EEA study shows that “*the abundance of a large number of bird species is higher inside than outside the Natura 2000 network, showing that the Natura 2000 areas designated upon the presence of targeted bird species listed in Annex I of the Birds Directive also harbour a substantial number and population of common bird species.*” (EEA, 2014)
- A general positive side-effect of the Birds and Habitats Directive for research and science is the establishment of the EU-wide monitoring programmes necessary for fulfilling the reporting obligations (Deinet et al., 2013). In Germany a wide range of monitoring activities have been triggered (often with involvement of many volunteers) that reaches far beyond the reporting obligations of the Nature Directives, see also R.4

Secondly there are effects for **wider environmental objectives**, see Y.1, , R.3, C.2, C.3, C.9, as well as wider societal and economic effects, see especially Y.1 and R.3.

Thirdly, the implementation of the Birds and Habitats Directives generated indirect positive effects for environment and sustainable development, mainly in the adoption of an integrated approach to nature protection, as well as in **forging alliances, compromises and cooperation** between various stakeholder groups: land users, industry sectors and the wider public or society at large (via research, education, recreation). Many industry actors have also undertaken partnerships and cooperation activities with nature protection associations in order to proactively increase their compliance and avoid eventual negative effects due to neglecting the legal framework of the directives.

- Many of the positive examples and case studies mentioned under S.3 can be used here, such as “Grouse management in the Black forest” (EC, 2015a), “Wildcat connectivity project” (EC, 2013b); “KUNO e.V. Initiative” (KUNO, 2015).
- The Landcare Association Central Black Forest’s (LACBF) activities are also good examples of an integrated landscape approach generating conservation and other benefits for the whole region together with land users. *“As a nonprofit organization the LACBF contributes to and organizes discussions amongst the stakeholder groups. In cooperation they find solutions for a sustainable land use system and measures which can be carried out to conserve the landscape including the Natura 2000 habitats and species. The cooperative way of nature conservation and regional development have proved their success over the years and have built an effective and trustful network amongst stakeholders in the region.”* (www.lev-mittlerer-schwarzwald.de; more detailed information can be provided on request)
- Volkswagen has for example developed a joint strategy with NABU in its wider sector area with regard to the impacts of transportation on habitat connectivity. (Volkswagen & NABU, 2007)
- An alliance of electricity network operators active in the EU has committed to the development of increasing capacity for renewable energies in harmony with existing nature protection laws in the context of the Renewables Grid Initiative. In this context 50Hertz produced a study together with the Erfurt Technical Institute and other partners, co-financed by the EU, called ‘An interdisciplinary approach to an ecological management concept for overhead line corridors for high and very high voltage lines, which can be adapted and applied to the conditions of various European regions’. The concept they developed aims to minimize the impact on landscape and combines aspects of intervention prevention, intervention minimization and ecological compatibility resulting from corridor creation and maintenance. The study includes proposals for site-appropriate sustainable overhead-line corridor management, oriented towards ecological and social objectives. (RGI, 2015)
- Similarly, the FNN (Forum Netztechnik/Netzbetrieb – Grid-operator forum) has developed a guidebook on avoiding collision of birds with high and highest voltage overhead lines, together with stakeholders, operators, producers and relevant authorities. This is the first time that assessment standards have been adopted by all interest groups to improve environmental protection in relation to overhead power lines. In view of the planned network expansion it is important for network operators that common high standards and planning security exist. The joint document shows that a successful energy transition and nature protection are not contradictory and that high environmental standards do not hamper important projects and allow better planning of routes for development. The permitting authorities will be able to take more balanced and faster decisions in every necessary case to case assessment. (FNN, 2014)
- HeidelbergCement has signed a Memorandum of Understanding with regional NABU chapters in Baden-Wuerttemberg, Saarland and Lower Saxony and is implementing various projects in and around its quarries and adjacent Natura 2000 sites. Various projects have

been put into place in this context, combining conservation, research, monitoring and education (www.birdlife.org/europe-and-central-asia/project/partnership-heidelbergcement-projects):

- Sand Martin Protection Programme in the Durmersheim pit
- Habitat management through natural grazing in calcareous grasslands in the quarry and surrounding area of 75 ha.
- Restoring ecological networks by habitat restoration in limestone quarries in Lengfurt
- Whooper swan conservation and research in the Dixförda gravel pits

Efficiency

Efficiency is essentially a comparison between inputs used in a certain activity and produced outputs. The central question asked here is whether the costs involved in the implementation of the EU nature legislation are reasonable and in proportion to the results achieved (benefits). Both 'costs' and 'benefits' can be monetary and/or non-monetary. A typology of the costs and benefits resulting from the implementation of the Directives is given in Annex II to this questionnaire. In your answers, please describe the nature, value and overall significance of the costs and benefits arising from the implementation of the Directive, supported by evidence.

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

Based on the explanation given above, please indicate, supported by evidence, what types of costs and benefits have resulted from the implementation of the Nature Directives. Please provide evidence, quantitative where possible, of costs and benefits, describe their nature (monetary/non-monetary) and value, and who is affected and to what extent. Please distinguish between the costs and benefits arising from the Directives themselves and those arising as a result of other factors. To facilitate analysis of the answers it would be useful if costs and benefits could be addressed separately.

Answer:

Provided data are available and accessible, a great part of **costs** could be calculated in monetary terms (necessary public or private investments of money, time, staff etc.). However the most significant part of the **benefits** cannot be expressed in monetary terms, as the protection of biodiversity is firstly a societal choice based on the intrinsic values of nature, secondly it is following an important principle of sustainability that future generations should have the same options to enjoy and use natural resources and thirdly because many essential ecosystem services and the role of species and habitats therein are not sufficiently understood. Therefore only small parts of the benefits can be expressed in monetary terms, a few examples are given below.

However, based on currently available research and data in Germany, it can be shown that even these small parts of the benefits of Nature Directives' implementation are far higher than the costs. This supports evidence from other countries and EU-level support, including from the European Commission itself (e.g. EC, 2013c).

Costs for implementing Natura 2000

The German PAF (BMUB, 2013) estimates the monetary costs for Natura 2000 at 627 Mio. EUR per year.

Case study: Financial costs necessary to achieve the German biodiversity targets

Rühs & Wüstemann (2015) identify the financial costs necessary to achieve the German biodiversity targets, which includes many habitat types of the Directives. "Based on the National Biodiversity Strategy and the Quality Status Reports of the EU Habitats Directive (BfN 2014), a conservation program was developed containing land use changes for six ecosystem/land use types: forests, arable land, grassland, peatland, wetland and dry habitats. The total financial costs would add up to 3.26 billion EUR per year (396 EUR/ha) including 1.4 billion EUR necessary for restoration and 1.86 billion EUR for maintenance measures. Off the 3.26 billion EUR per year 87.96 m EUR (195 EUR/ha) are necessary for peatland and 64.68 m EUR (365 EUR/ha) for wetland conservation. The yearly costs for arable land and forest conservation would add up to 903.16 m EUR (223 EUR/ha) and 354.84 m EUR (243 EUR/ha) per year. With estimated yearly costs of 1.76 billion EUR (924 EUR/ha) and 89.87 m EUR (454 EUR/ha) especially grassland and dry habitats conservation are highly cost intensive. Comparing the total costs of 3.26 billion EUR with the current spending of 1.3 billion EUR shows that the funding gap for nature conservation in Germany would add up to 1.96 billion EUR per year."

Coherence and compensation costs of infrastructure projects

Art 6 of the Habitats Directive allows exceptions for infrastructure projects due to imperative reasons for overriding public interest. In Germany, such infrastructure projects could be realized in accordance with Art. 6.3., when appropriate compensations (=coherence) measures were

implemented to preserve the coherence of Natura 2000. So far, coherence measures were only required for a limited number of projects. The resulting costs however stood in balance with the achieved benefits for conservation (Bundesregierung 2013). Only in particular cases infrastructure projects have not been realized, which occurred for legal reasons and not because the costs exceeded the benefits. Furthermore, the portion of these costs in the overall cost of an infrastructure project is relatively low (Deutscher Bundestag, 2007, Cf Y.7).

Types of benefits and cost-benefit ratios

In addition to other EU environmental regulations, the Nature Directives also contribute to the protection, preservation, and improvement of natural capital, the basis of economic prosperity, and the quality of life in Germany.

It has been shown in many studies that the Directives and Natura 2000 sites have numerous positive effects for various economic and social objectives and people's well-being and thus produce an overall benefit to society. This benefit can only partially be captured in monetary terms and encompasses many non-monetary benefits and the intrinsic value of nature (TEEB DE, 2012c).

Under the Nature Directives, the protected habitats provide inter alia the following ecosystem services:

- CO₂ storage and climate protection contribution (TEEB DE, 2014)
- Floodplain conservation to reduce costs due to flooding
- Reducing the burden of nitrogen, e.g. Water filtration in floodplains to reduce the costs of drinking water protection
- Reducing soil erosion, e.g. through the conservation of grasslands
- Conservation of species-rich Natura 2000 sites in agricultural landscapes to preserve pollination services
- Conservation of recreational areas with touristic appeal that generate regional economic activity.

Cost-benefit ratio of a habitat conservation programme incl. Natura 2000

Wüstemann et al. (2014) developed a nature conservation programme including necessary activities to implement Natura 2000 and habitat management, which are part of the National Biodiversity Strategy. The cost-benefit ratio would be about 2.8:1, which from an economic point of view would result in a very high efficiency.

Cost-benefit ratio for conservation and restoration of peatland habitats

Numerous studies on the cost-benefit ratio of peatland restoration show that the social benefit is substantial and that costs can be saved, in particular to avoid climate damage (Desert et al., 2014) and the costs of use of drained peatland for biogas plants (Berghofer & Roeder, 2014).

Based on the studies, it can be assumed that preserving the peatland and habitat types of the Directives is economically highly efficient (TEEB DE, 2014)

Cost-benefit ratio for conservation and restoration of grassland habitats

Matzdorf et al. (2010) investigated the costs and benefits of conserving high-nature-value grasslands and calculated a 2:1 minimum ratio. A part of this grassland is under the Habitat Directive's habitat types and is particularly threatened by conversion to cropland. The conservation of grassland is more cost effective than conversion into cropland.

Cost-benefit ratio for conservation and restoration of floodplain habitats

Measures to conserve and restore floodplains, which amongst others could be implemented to improve the coherence of Natura 2000, could achieve a cost-benefit ratio of approximately 1:1 to 3:1

(Grossmann, 2012a; Grossmann, 2012b; Grossmann et al., 2010).

This will inter alia avoid flood damages and increase waters' cleaning powers to achieve the Water Framework Directive's goals. The Directives can stimulate such economically efficient measures.

Cost-benefit ratio for conservation and restoration of forest habitats

The Habitats Directive's habitat types in forests bring diverse monetary and non-monetary services, e.g. carbon storage, for recreational use and the water balance.

Cost-benefit ratio for conservation and restoration of marine habitats

International studies have shown that protected areas improve fishery yields and provide a variety of economic benefits for fisheries, like improved recruiting, recovery of stocks, restoration of a fish stock's natural age structure, higher quality products, etc (Carstensen et al., 2014).

Economic effects of National Parks and other protected areas

The spatial accumulation of Natura 2000 sites has led in recent years to the designation of large protected areas (national parks, biosphere reserves) in regions where in particular the local economy was supported through tourism.

National parks in Germany have a large portion (>90%) of Natura 2000 sites and are strengthening tourism in particular (Job et al, 2005, Job et al, 2009). Annually, approximately 51 million people visit the national parks and generate 2.1 billion Euros in turnover, which correlates to an income equivalent of 69.000 people. These economic effects are therefore mainly attributable to Natura 2000 sites.

Biosphere reserves and other large protected areas also include significant Natura 2000 sites whose positive effects on tourism have been proven (Job et al., 2013).

Case study: Examples for regional economic effects

A BUND study looked at both the economic effects of conservation projects in underdeveloped regions and the value of the projects for regional development, which are located in Natura 2000 sites and include species protected by both Birds and Habitats Directive. Three concluded projects were selected for the study:

- large scale conservation project Lenzener Elbtalaue (2002-2011) (https://www.bfn.de/0203_lenzen+M52087573ab0.html)
- „Experience Green Belt “ in the model region Elbe-Altmark-Wendland (2007-2011) (“Border experiences in the quadripoint country” (2007-2011) https://www.bfn.de/0202_gruenes_band0+M52087573ab0.html)
- „Wildcat Rescue Network“ (2004-2010)

The analysis' focus was the direct economic impact of the three selected conservation project. Based on the proof of funds used, it could be determined which project expenditures were directly invested in the project region, e.g. commissioned companies and income for local craftsmen, small business enterprises or shops.

Several regional branches particularly benefited from the conservation projects. For the dyke relocation, 71% of the regional expenditures were for civil engineering, and for “Green Belt”, 31% was given to gardening and landscaping. The study shows that in particular for the projects Lenzener Elbtalaue and “Experience Green Belt”, a very high proportion of the overall expenditures stayed in the region and created additional income. In the projects “Lenzener Elbtalaue” and „Experience Green Belt”, a large proportion of the expenditures were regional – 66,1% and 58%. Personnel costs of 12,5% and 25% were also counted towards the regional expenditures.

Source: BUND (project evaluation, not published yet)

Additional economic benefits

Many aspects of implementation of the Nature Directives create additional jobs and therefore also purchasing power especially in rural, marginal areas. Examples for this are additional structures for Natura 2000 implementation (Biostations, Landcare Associations, offices of NGOs etc. (cf. Y.5). The site caretaking system is an especially important aspect here, e.g. in Bavaria (Kraus & Schlapp 2013).

Y.2 – Are availability and access to funding a constraint or support?

This question focuses on the proportion of identified funding needs that has been or is being met by EU and Member State funding, respectively, the extent to which the level of available funding affects the implementation of the Directives and enables the achievement of their objectives (as set out in Annex I to this questionnaire), and the extent to which initial funding allocations for nature under EU funding instruments were used as well as any factors which may have favoured or hindered access to and use of funds. In your answer please consider whether funding constraints affect costs or create administrative burdens (eg as a result of limitations on guidance or delays in decision making).

Answer:

The implementation of the Directives are heavily affected by the constant lack of sufficient funding from the EU and Member States. This situation hampered the adequate achievement of the Directives and their objectives from the beginning (cf. C.7).

It is estimated that a minimum of 5.8 billion EUR per year will be needed for EU-27 to manage and restore the Natura 2000 sites. However, only about 10-20 % will be covered by EU funding (EC, 2011b). It is estimated that the overall funding gap of Natura 2000 is more than 50% (NABU, 2015).

In Germany, the funding needs for the establishment, maintenance, and management of Natura 2000 is estimated up to 627 Mill. EUR per year (BMUB, 2013). However, the German PAF (BMUB, 2013) lacks a strategic approach to mobilize EU funding and adequate use of all EU funds. In addition, figures on the overall current expenditure for Natura 2000 from federal and Länder level as well as contributions from NGOs and other sources are not monitored and hence not available. That makes it very difficult to set the right priorities to achieve the objectives of the Directives and to steer priority actions (BUND & NABU, 2013). Rühls & Wüstemann (2015) identify a much higher funding gaps by comparing current spending for nature conservation with the financial costs necessary to achieve the German biodiversity targets, including Natura 2000. Comparing the total costs of 3.26 billion EUR with the current spending of 1.3 billion EUR shows that the funding gap for nature conservation in Germany would add up to 1.96 billion EUR per year.

Overall, it is evident that a significant funding gap exists both on EU and national level (NABU, WWF, et al., 2011). The lack of sufficient funding and human resources are the most significant factors that negatively affect the implementation of the Directives and the timely accomplishment of the objectives. The insufficient amount of payments is reflected in the results of the latest Status Report for the EU Habitats Directive in Germany (BMUB & BfN, 2014), where it is stated that the amount of habitats in unfavourable condition increased, while those in good condition declined.

In Germany, EU co-funding is essential for the implementation of the Nature Directives. NABU has just published an overview of the current situation, the relation of different funds and the problems and possible solutions of the integration approach of EU financing nature conservation. The paper will be available in English language soon (NABU, 2015b) In addition, NABU has published a guide on how to access EU funding, especially from the EAFRD (NABU, 2015b). It follows up on a similar publication from the previous EU budget period 2007-2013, which contains many still relevant examples of innovative and effective EU financing for nature conservation (DVL, 2008)

Funding through Rural Development/EAFRD (in German ELER fund)

The EAFRD (ELER) is the most important source of funding for the implementation of the Nature Directives in Germany.

- **Needs:** Based on detailed calculations, Güthler und Oppermann (in DVL, 2008) estimate the need for conservation management agreements with agriculture is 628 to 960 million EUR per year. This is just one area that is financed by the EAFRD, albeit a very important one for

Germany.

- **Availability:** In the past years, EAFRD (ELER) contributed nationally in Germany with an estimated 270 million EUR to biodiversity conservation (estimate: 16 million EUR in compensation for Natura 2000 and Water Framework Directive, as well as 578 million EUR for agri-environmental measures –approximately 30% biodiversity related; approx.. 93 million EUR for investments in conservation and the water sector). However, one yet unquantifiable part of this money is the direct implementation of Natura 2000 and the EU Nature Directives (NABU, 2015; Freese/DVS, 2015).

In budgetary terms, it seems the level of the previous funding period can be retained in the recently begun period 2014-2020; however, this is probably due to additional mobilization of co-financing from some Länder that are missing elsewhere in nature conservation NABU (2015b) outlines funding opportunities in Germany. Overall more and more Länder seem to leave the EAFRD when it comes to financing of nature conservation (NABU 2015).

Case study: Decrease of Rural Development funding in Hessen

In the last EU financial period (2007-2013) the use of RD funding for Natura 2000 (in German: ELER fund) increased until 2010. Since then there was a negative trend.

Verausgabte VN-Mittel in hessischen NATURA 2000-Gebieten	
Haushaltsjahr	FFH- und Vogelschutzgebiete
2007	Keine Daten verfügbar
2008	2.014.589,29 €
2009	2.227.622,22 €
2010	3.192.156,59 €
2011	2.936.732,98 €
2012	2.738.498,12 €

Bewilligungsbeträge VN in den FFH- und VS-Gebieten Hessens.
Quelle: WI-Bank

Source: Hessisches Ministerium für Umwelt, Klimaschutz, Landwirtschaft und Verbraucherschutz (<http://na-hessen.de/downloads/14n057erhaltenatura2000berichte.pdf>)

Case study: increase of RD (EARDF) funding in Bavaria (Bayern)

Summary: Bavaria has increased its budget for contractual agreements for nature protection schemes with farmers with 1/3, now amounting to 37million EUR. In 2014 about 17.000 farmers had participated to contractual agreement schemes on about 67.000 ha.

Translated Press Release: "The conservation contract program is the core of conservation support in Bavaria" so said the Bavarian Environmental Minister Ulrike Scharf at the end of the application deadline for 2015. "Bavaria's conservation contract program is the premium brand in the collaboration between conservation and agriculture. In this year, more than 18.000 farmers will farm 82.000 hectares in Bavaria following strict conservation standards. This is a new record for the state with which places us in the top group nationally.... With 37 million EUR in total, we are increasing funding for the conservation of species and our native landscape by one third. Consequently, species rich meadows with orchids, gentian, and many butterflies can be secured and the protected area system Natura 2000 is being implemented together with farmers. The conservation contract program stands for farmer's responsibility to nature and the living implementation of Bavaria's Biodiversity Strategy. In 2014, almost 17.000 farmers with 67.000 hectares of land participated in the conservation contract program."

Source: Press Release Bayerisches Staatsministerium für Umwelt und Verbraucherschutz (BSUV, 2015)

Funding provided by LIFE

LIFE offers the most effective and efficient EU funding for the implementation of many aspects of the Nature Directives. Since the start of the LIFE program, more than 300 projects with a volume of over 680 million EUR have been financed in Germany (NABU, WWF, et al., 2011). In the funding period

2007-2013, Germany received approximately 100 million EUR to implement Natura 2000, which equates to approximately 15 million EUR annually. However, with this, only a small portion of the funding needs can be covered.

In the funding period 2014-2020, there is only a slight increase of LIFE funding available, so that Germany's portion is expected to also only increase insignificantly.

As always, the LIFE program is underfinanced to make a significant contribution in meeting the demand gap (cf. C.7).

Funding through Regional Policy/ERDF (in German EFRE)

In the funding period 2007-2013, relatively little ERDF funding could be spent on Natura 2000 because insufficient thematic prioritization in country's' programming occurred (WWF, 2007). Due to this, only 0.2% of the ERDF funds were spent on biodiversity in Germany by the end of 2012 (52 million EUR of 25.5 billion EUR; ECA, 2014).

Therefore, ERDF contributes insignificantly towards the implementation of Natura 2000 in Germany and the achievement of biodiversity goals.

After analyzing the ERDF program in the current funding period 2014-2020, the contribution of the ERDF is expected to continue to decline as biodiversity funding will only be the subject in to very few operational programs (WWF, 2014b).

Funding provided by EMFF (in German EMFF)

In the German Operational Program for the European Maritime and Fisheries Fund (EMFF), 4 million EUR is budgeted in the current 2014-2020 cycle for biodiversity, particularly marine Natura 2000 sites, ecological fishing techniques, and the continuity of streams. This is at least 15% of the Germany's EMFF funds and it can therefore be assumed, that this portion is higher than previous funding periods (ML 2014). Nonetheless, EMFF still only covers less than one percent of the Natura 2000 costs.

Funding provided by ESF (in German ESF)

With ESF funds, maintenance of Natura 2000 sites could be financed in the 2007-2013 period, which was only exercised in Bavaria (Kraus & Schlapp, 2013). In the 2014-2020 period this opportunity no longer exists. ESF therefore no longer contributes to Natura 2000.

Additional funding sources from national to local level

The various other public and private funding sources to co-finance the implementation of the Directives are listed and described in PAF (BMUB, 2013). Overall, not enough evidence is currently available about the amount of expenditure provided by various sources for implementing the Directives in Germany.

Factors which may have favoured access to funding

- Establishment of specific agencies for Natura 2000 implementation (cf Y.5)
- Political support to use the EU funds and to provide cofinancing (BSUV, 2015)
- Providing guidelines, examples, and best cases on how to access and use EU funds (DVL 2008, NABU 2015b)

Factors which have hindered access and use of EU funds (see an overview also in NABU,2015)

- additional bureaucracy of the various EU funds, which causes more efforts to access the financing; many local authorities are not in the position to develop applications due to lack of human resources
- increased complexity of access procedures to use the financing of the various EU funds,
- reduction of capacity and resources at nature conservation authorities on local level since 2000; at the same time local authorities have seen their area of competence extended

especially to implement Natura 2000 and species protection according to the Directives (Benz et al., 2008),

- EARDF (ELER): that the rise of land prices makes voluntary approaches like effective agri-environment schemes through ELER funding more and more costly as they have to compete with more profitable land uses, in particular for biogas production (Becker et al., 2014),
- EARDF (ELER): high requirements for evaluation and inappropriate target setting hampers the access and use of ELER funding for forest conservation (NABU, 2014c),
- EFRE: ceiling of funding to be used for land purchase at 30% of the project costs reduced the possibility to use EFRE funding for Natura 2000,
- LIFE: the application procedure became more and more complex; hence, efforts for preparations in advance to apply for LIFE increased, which reduced the willingness of authorities to participate in the programme.

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

This question seeks to understand the factors that affect the costs of implementing the Directives, whether there is evidence of significant cost differences between Member States, and the causes of these cost differences. In your answer, please describe the cost differences and the reasons for them (e.g. whether they arise from specific needs, circumstances or economic factors), supported by quantitative evidence. Do these differences lead to differences in impact? Please note that Question Y.5, below, focuses on good practices in keeping costs low. For this Question Y.3 we are interested in evidence of overall differences in implementation cost (see typology of costs in Annex II to this questionnaire) along with the reasons for them.

Answer:

We have no knowledge about German studies on cost differences of Member States in implementing the Nature Directives.

In Germany, the Länder governments are responsible for the implementation of the Directives. Cost differences are to be expected due to different regional economic conditions, which could also lead to differences in the Nature Directives' effectiveness (cf. Y.5).

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

Please provide any quantitative evidence you may have demonstrating that the costs of implementing the Directives exceed the benefits. Do the Directives require any measures which give rise to significant costs but which bring about little, or only moderate benefits?. If so, please explain the extent to which any imbalances are caused by the Directives themselves, or by specific approaches to implementation.

Answer:

The question is very difficult to answer, because the terms „significant costs“ or „little / moderate benefits“ are unclear. Currently we see no evidence that would show that costs are out of proportion with the benefits.

In general, the state authorities in Germany who are responsible for implementing the provisions of the Directives must work and decide according to the principle of commensurability according to Art. 5 (4) EU Treaty and similar German legislation. Given that principle any costs out of proportion with

the benefits are not common practice.

Art. 6 of the Habitats Directive allows the implementation of infrastructure projects despite significant negative effects on the conservation objectives of a Natura 2000 site, if there are "imperative reasons of overriding public interest and if appropriate compensation (=coherence) measures are undertaken. So far, such coherence measures were only required for a very limited number of projects. The related costs of these measures were in balance with the achieved conservation outcomes (Deutscher Bundestag, 2007; cf. Y.7).

Only in particular cases infrastructure projects could not be realized, which occurred for legal reasons and not because the costs exceeded the benefits (Deutscher Bundestag, 2007; cf. Y.7).

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

Here we are looking for examples of where the objectives of the Directives are being met more cost-effectively in some Member States or regions than others, and the reasons for these differences. It is important to understand whether they are due to particular practices (rather than, for example, differences in needs, circumstances or economic factors) that have kept costs relatively low. We would welcome examples of differences in practices between Member States in implementing the requirements of the Directives, including initiatives designed to achieve cost-effective implementation, and evidence of whether these initiatives or practices have reduced costs in certain Member States or regions.

Answer:

In Germany cost-effective implementation of the Directives has been achieved through a range of activities, in particular through the following initiatives, practices and structures, which are also recognized as success factors for efficient implementation of the Directives to achieve the objectives (cf. S.3 and S.4). Practices differ among regions, because of the federal administrative structure of Germany.

Establishment of specific agencies for cooperative implementation

The Nature Directives have led to the development of institutions and structures in several Länder in which conservation authorities collaborate with agriculture, forestry, hunting, municipalities and NGOs to implement the Nature Directives and Natura 2000, to avoid conflicts early, to generate additional funding, and to conduct public relations. Such institutions are not established in all Länder, however. Although an annual initial investment is required, these institutions have proven to be an important structure for cost-effectiveness and promoting acceptance in the implementation of the Nature Directives.

Case study : Biostations (Nordrhein-Westfalen, NRW)

In Nordrhein-Westfalen (NRW) since the 1990s, 40 biological stations have been working as decentralized institutions of conservation with approximately 200 employees primarily in site maintenance (www.biostationen-nrw.com). On behalf of the NRW government and the counties they manage approximately 2/3 of all Habitats Directive sites and almost all of the EU bird SPAs in NRW. This network of Biostations is unique in Germany, as far as its way of operation and density is concerned, and a very important model for **effective and practical caretaking of Natura 2000 sites**.

In the regions, the Biostations are an **interface between conservation authorities, nature users, and volunteer conservationists**. They register and map flora and fauna in the Natura 2000 sites, organize nature conservation friendly land use, maintain intensive contact to the users, advise on contractual conservation agreements, prepare and implement management plans, and inform the public. Often, they also take on the practical implementation of habitat management. Additionally, every year an update is undertaken on the assessment of the condition of managed Habitats Directive sites as outlined in the Biological Stations' work program.

In 2012, 8 new LIFE projects were approved in Germany, 5 of which in NRW, and 4 of these were submitted and implemented directly by Biostations. The LIFE projects were mostly focussed on Natura 2000 sites, and in some cases on Habitats Directive species (i.e. Spadefoot) outside of Natura 2000. Altogether, 26 LIFE projects have been implemented in NRW so far, of these 15 under management of the Biostations, and in an additional six projects the stations have been involved in implementing the

projects.

NRW and its counties are financing the Biostations annually with 10 million EUR. An additional 4 million EUR are acquired from other sources: LIFE, EAFRD, ERDF, federal programs, foundations, sponsors, donations, etc. In addition to the permanent staff of about 200 (year 2014), 70-100 interns annually work in the stations. A further 800 volunteers approximately work annually circa 40.000 hours (x 15 EUR = 600.000 EUR value).

Source: Biologische Station Soest

Case study : Landcare Associations (Landschaftspflegeverbände)

The German Association for Landcare (DVL) is the 20 year old umbrella organization of 155 Landcare Associations (LCA) in Germany (www.landschaftspflegeverband.de). These regional non-governmental associations **link nature conservation groups with local farmers and local communities**. The often opposing interest groups work together in LCAs voluntarily to care for the cultural landscape and traditional farming systems which have created Germany's landscape for centuries. The cultivation of land has led to diverse landscapes with mountain-meadows, poor soil pastures, hedgerows and orchards. By pooling interests and local forces LCAs implement integrated and sustainable land management practices in many rural areas in Germany to protect the adopted flora and fauna and to support sustainable development.

Local Landcare coordinators in LCAs develop projects for specific landscape types including scientific measures, financial calculations and the **implementation of agri-environment schemes**. They apply for available funds on the state-level and supervise the implementation of activities, mostly done by local farmers, as well as monitor the project outcome. The basis for successful projects is the close cooperation with farmers, local communities, conservation groups and government authorities. All LCAs in Germany work together with 20 000 farmers, half of Germany's communities and have a turnover of 20 Mio EUR/year for practical projects on the ground. Project coordinators also include the combination of traditional knowledge and new scientific results to foster farming practices which improve a sustainable income to farmers and conserve the diverse mosaic of landscapes including its services.

DVL also provided manuals and guidelines on Natura 2000 implementation.

Source: Deutscher Verband für Landschaftspflege (DVL) e.V.

Coordinated implementation and management planning

To minimize costs the responsible administrations developed methodologies to coordinate planning procedures to achieve synergies. Examples are

- Implementation of the HD and the WFD and joint management planning See relevantz evidence under question C.2
- Research and development project to developing and testing a harmonized proceeding and concrete guidelines for the trans-sectoral and cross-border implementation of the Water Framework Directive, Habitats Directive and Birds Directive. (BfN, 2010)
- see more examples under answer to question C.2

Cooperation of state authorities and NGOs

The implementation of the Directives is very cost-effective for the responsible state authorities because of the overwhelming voluntary engagement on all levels to support the Directives implementation. In particular, private engagement is essential and indispensable for the achievement of the Directives' implementation. Many volunteers of scientific associations or local groups of NGOs collect and provide relevant data for site designation, management plans and monitoring conservation status. See on this subject also answers to question R.4

- For the year 2010 NABU (BirdLife Partner NGO in Germany) registered 37.000 volunteers with 3.024.000 hours. At that time NABU had 445.000 members in all Länder (DNR, 2012). In 2014 NABU has 540.000 members and supporters with 2000 groups (www.nabu.de/wir-ueber-uns/transparenz/jahresbericht). NABU's Federal Office estimates that about 150.000 volunteers' hours each year are devoted to designation and caretaking of protected areas, which sums up to a monetary value equivalent to 2,250,000 EUR.
- For the year 2010 BUND (Friends of the Earth Germany) registered 34.000 volunteers who

worked in total 2.768.274 hours. 77% of this time was related to practical conservation measures. (DNR, 2012)

BUND reports 4.5 million hours of volunteer work in the period 2010-2012 with relevance to Natura 2000 implementation.

- More than 6.000 volunteers support the monitoring of birds, which is inter alia the basis for reporting according to the provisions of the Birds Directive (Sudfeldt et al. 2012).
- Many local groups are engaged in caretaking of Natura 2000 sites, such as in Bavaria (Kraus & Schlapp, 2013).

According to the PAF (BMUB, 2013) the monetary value of the voluntary activities covers **the same magnitude like the funding provided by state** authorities, foundations and others.

Additional evidence on cost-effectiveness

- Cost-effectiveness of agro-environmental schemes (Hoettker & Leuschner, 2014)

See also C.2; possibly more examples will be provided.

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

This question seeks to gather evidence on the impacts of non-implementation of the Birds and Habitats Directives, and its associated costs, whilst assuming that some measures would be taken to conserve nature. Taking into account current national measures that do not arise directly from obligations under the Directives, please describe and, if possible, quantify, with supporting evidence, the potential impacts and associated costs of non-implementation of the Directives, for instance on: habitats and species of Community interest and wider biodiversity; ecosystem services (eg in relation to carbon sequestration, areas for recreation); and economic and social costs (eg jobs and health).

Answer:

If the Nature Directives were not implemented in Germany, all benefits listed in Answer Y.1 (and also in Section AV) would be lost - and many more. To nevertheless achieve these benefits, in particular ecosystem services, significant additional costs would arise for the responsible authorities in Germany. It is assumed that the costs of non-implementation lie in the range of the missed benefits from ecosystem services, which have arisen through the Directives in the meantime. However, more in-depth calculations on this are not available to us.

Furthermore, without the Nature Directives it can be assumed that protected areas – including Natura 2000 sites – in Germany would only account for 4% rather than 15%. Many of the species and habitat types protected by the Directives would have not any protection status. This particularly affects the habitat types of Community Interest in the biogeographical regions. It cannot be expected that the habitat types of Community Interest would be adequately protected, without the Directives, thus all benefits for nature and society would be lost. As Germany plays a central role in two biogeographic regions a lack of implementing the Directives would lead to massive costs also in neighbouring countries.

All in all, it is very efficient for Germany to maintain the Directives because they have a high cost-benefit ratio.

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

This question seeks to gather evidence of any unnecessary burden arising from the administrative requirements of the Directives for different stakeholders (MS authorities, businesses, landowners, non-

governmental organisations, citizens). Administrative burdens are the costs to businesses and citizens of complying with information obligations resulting from legislation, and relate to information which would not be collected in the absence of the legislation. Some administrative burdens are necessary if the objectives of the legislation are to be met effectively. Unnecessary burdens are those which can be reduced without affecting the objectives. Quantitative evidence may include typical requirements in terms of human resource inputs, financial costs (such as fees and wages), delays for development and other decision-making processes, and other measures of unnecessary or disproportionate burden the administrative costs in terms of effort and time, and other inputs required, financial costs, delays and other measures of unnecessary or disproportionate burden.

Answer:

The administration and authorities responsible for the implementing of the provisions of the Nature Directives must work and decide according to the principle of commensurability. Given that principle putting „unnecessary“ burdens on development authorities, business, landowners or private citizens are not common practice. However, if different stakeholders feel disadvantaged by administrative decisions they may take the case to court.

There is no evidence to us that the Directives itself have caused or are causing unnecessary administrative burden. Any unexpected administrative work occurred seems to be linked to specific implementation practices, such as the delay of implementation due to the lack of political decisions to organize a timely implementation process according to the timeframe given in the Directives or insufficient, inappropriate planning processes of development projects and ignoring the provisions of the Directives. This could be avoided if adequate policy decisions, appropriate practices and timely processes are applied.

Compliance costs for administration, business, and citizens

Regarding any administrative burden measurement of the Nature Directives it has to be distinguished between burden of the EU legal regulation and the accompanied German legal provisions on stakeholders such as business, citizens, and implementing authorities of the German federal administration system, such as federal level ministries, Länder ministries, counties, and municipalities. Generally, evidence is lacking on measuring burden of the Nature Directives, because the magnitude of costs is low compared to other administrative costs. Some evidence is available of administrative burden of specific environmental legislation on business at EU level (EC, 2012 and HLG, 2014). However, the Nature Directives are not mentioned at all due to their minor importance on EU level for reducing costs in a significant magnitude.

According to the 2014 annual report of the German National Regulatory Control Council (NRCC) compliance costs for implementing the Nature Directives have not even been mentioned (NRCC 2014):

Overall, given the current evidence the burden of the Nature Directives on the German **administration** is estimated to be far below 1% of the total administration burden costs. The study on the scope and trend of the environmental administration in Germany over the last decade from 2007 shows that the total expenses for environment and nature conservation is about 0.3% of the total expenses of the state authorities. The compliance costs in the administration have been significantly reduced in the environment field by 22% from 1996 to 2003, and in particular in the nature conservation field by 34% from 1994 to 2001, mainly due to the reduction of staff in nature conservation units on Länder and county/municipality level (SRU 2007, cf. S.3).

The compliance costs for public infrastructure projects are presented below.

In terms of **business sectors** administrative burden may mainly occur to certain business sectors that are directly affected by the legal provisions, such as mining or gravel pits. This business sector holds a share of 0.06% of the entire German business companies (Statistisches Bundesamt 2014). The majority of the business sectors are not or only marginally affected by the Nature Directives. In general, there is a lot of evidence how proper and timely planning (both by administration and

business/developers) can significantly reduce costs (cf S.3 and Y.5)

Furthermore, there is a huge voluntary engagement of citizens and members of nature conservation NGOs to support implementation of the Directives which saves compliance cost significantly (cf. Y.5 and R.4).

On the contrary, the benefits the Nature Directives are providing to the German economy and society outweigh the burden administration and business costs by far (cf Y.1 on cost benefit ratios).

Measurement of administrative burden of environment legislation in general

In Germany, the measurement of administrative burden is carried out with the Standard Cost Model (SCM) methodology and covers various fields of policy and regulation. Nature conservation regulation is currently not included in the measurement. The field of environmental regulation plays a crucial role in the „Better Regulation“ debate within the EU about reducing administrative burden (Gebauer, 2008, EC, 2012, HLG, 2014).

„Environmental regulation is often named first when stakeholders complain about obstacles to an industry-friendly and competitive regulatory framework. At the same time all the measurement that have actually been carried out point to the opposite....No administrative burden measurement carried out up to now has shown environmental legislation to be among the very costly and burdensome fields of regulation. Laws on taxes and customs, company law, labour and health care rules have turned out to be of much higher importance for a national economy“ (Gebauer, 2008).

In Germany, environmental legislation accounts for less than 2.5% of the total administrative burden costs in the SCM measurement. In the political discussion the calls for cuts in the environmental (and nature conservation) legislation „as a locational disadvantage and obstacle to competitiveness and economic growth are standard“ (Gebauer, 2008).

Given these facts environmentalists regard the attempt of „Better Regulation“ as threat to environmental protection standards (WWF, EEB, BirdLife 2013).

Administrative burden and infrastructure planning

Public financed infrastructure projects are one of the most affected sectors by the provisions of the Nature Directives. However, the costs to comply with the Directives are relatively low compared to the overall costs of the development. In many cases nature benefited from compensation measures due to the provisions of the Directive and thus the Directives proved to be ‚fit for purpose‘. In some cases the EU nature regulation achieved cost savings through improved planning.

Case study: Costs of nature conservation in federal infrastructure projects:

Summary: Between 2002 and 2007 in the whole of Germany only four infrastructure projects with federal level involvement required conservation measures with costs of more than 500.000 EUR or 5% of the investments.

Answer to a parliamentary request of an MP (Deutscher Bundestag) of 18. Dec. 2007 - own translation:

Answer/Introduction: It is roughly estimated that in general 2-5 % of investment costs alone are spent for necessary legal conservation measures. Since the measures are usually multi-functional, information regarding the measures for individual protected goods, such as individuals of animal or plant species, cannot be made. A discussion on single conservation measures for individual species would not justify the holistic scope of environmental and landscape protection.

Q8. For which current or finished infrastructure projects after 2002 in which the government was part of the planning and/or implementation, more than 500.000 EUR or 5% of the investments were spent primarily for the protection of an individual plant or animal species?

Q9. Which projects in particular?

Q10. Which plant or animal species were involved and what was the targeted benefit?

Q11. How high were each of the additional costs for the actions taken and the proportion of the overall project cost?

Answer:

Due to the connection between questions 8 -11, they were answered together. Four cases of federal highways in the specified time period for which more than 500.000 EUR or 5% of investment costs were spent for the protection of individual of plant or animal species are known to the federal government due to an inquiry regarding the federal state's administration:

- B194 Bypass Loitz in Mecklenburg-Vorpommern: Lesser spotted eagle

- B 8 Bypass Biebelried in Bavaria: Hamster
- B 11 Regen – Schweinhütt (three strip expansion) in Bavaria: Otter
- B 533 Bypass Schwarzach in Bavaria: White Stork, Meadow breeding birds

The safeguards referred to were required to ensure the legal protection of these European wide protected species. Without these, the approval of the projects would not have been possible. The benefit obtained through these measures is the long-term safeguarding of Europe's natural heritage.

Source: Deutscher Bundestag (2007) <http://dipbt.bundestag.de/doc/btd/16/076/1607608.pdf>

Case study: Road planning Werra-Querung (Thuringia): Many costs and time could have been saved if the Nature Directives had been taken into account at an earlier stage

Summary: During the planning process of the Werra crossing (construction of B62) expert advice and positions of nature protection NGOs and authorities as well as the legal framework of the Directives were ignored by the Planning administration. Although a compromise solution had been developed since 1994. When in 2015, after various attempts to avoid the legal obligations for nature protection (e.g. delay in designation of protected sites, influencing the borders of designated sites, lack of buffer zones), the planning administration recognised the 1994 compromise as the best solution, in the meantime the costs of implementing this solution had risen and the planning had lost many years. A proper respect and implementation of the legal framework and cooperation with nature protection authorities from the start would have been much more efficient.

Road planning Werra-Querung: During the planning process of Werra-Querung / Thuringia (B62 OU Bad Salzungen, 5.BA), all technical recommendations and positions from conservation organizations and authorities, as well as legal requirements of the Directives, were ignored for a long time. Although a compromise solution was developed for the ecologically highly sensitive area (grassland flood plain of national significance for species and habitat protection) already in 1994, the planning authority (Department of Roads, South east Thuringia, Regional Planning Consortium South West Thuringia) gave the lowest priority to conservation concerns from 1998-2001. Conservation authorities delayed the already planned designation of protected areas from 1990. In 2001, the planning approval process for a finished design that intersected the area in the most sensitive spot with a dam was supposed to have been introduced. Shortly before the inauguration of the project, Werra-Aue was included in the IBA list. Since at that point, Thuringia had markedly not fulfilled its obligation to designate EU bird SPAs (9 sites with 1.5% of land cover), the IBA list served as a de facto bird reserve. Thuringia also had not fulfilled its obligation at that point to register Habitats Directive sites (172 sites with 8.3% land cover). Thuringia's registration process took until 2007 for bird reserves and 2004 for Habitats Directive sites. Both protected area types were identified and registered for Werra-Aue in the area of the road planning. During the selection and demarcation of sites, unnamed but clearly recognizable economic criteria were taken into consideration, including crossing the river Werra. Here, the demarcation was made along a new route even though habitats and species occur along both sides of the protected area boundary. Due to this as well as the non-consideration of a new road's buffer zone eventually led to the planning approval process for Variant 1a to be interrupted and ultimately completely halted for insufficient approval viability in 2009. In 2010, a new variation (1c) was developed in collaboration with NABU Thuringia that is markedly different from 1994's route and construction method (large viaduct). In comparison to 1994, the projected construction costs have however risen drastically since now one recently developed gravel lake must be crossed for approximately 400 meters with a deep underwater foundation. In February 2015, the planning approval process was inaugurated. Time and costs could have been saved if the EU Directives had been taken into consideration in a timely fashion.

Source: NABU Thüringen (Thuringia)

Case study: A49 motorway (Hessen)

Adapting planning for the protection of Crested Newt saves 50 Million EUR

Summary: In a letter from the former Federal Environment Minister to the Regional Minister of Economy in Hessen, the Minister states that certain road construction projects are clear evidence that an early involvement of nature protection in project planning has avoided and minimised impacts on nature and on the landscape and offered an efficient solution. The compatibility with Natura 2000 was ensured and, according to the Ministry of Economy, the construction costs were also substantially reduced. The regions can contribute to reducing conflicts during construction projects in the middle and long run while proactively improving the conservation status of species.

Conservationist managed to achieve a bypass of the Herrenwald forest area to protect 10.000 Crested Newts, which also saved 50 million EUR. In addition, an additional highway became possible for better connection of the region. The at that time Federal Environmental Minister Norbert Röttgen wrote to Hessen's Minister of Economy Dieter Posch, "The projects BAB 14, BAB 20 (BAB 22 old) and BAB 39 are prove that early integration of conservation in project planning can avoid, minimize, and efficiently solve impacts on nature and landscapes. In Hessen, through an adapted line management of A 49 near Stadtallendorf, not only compliance with the Habitats Directive was established, but also, according to your Ministry, construction costs have decreased considerably and an additional motorway connection was made possible ... The German Länder can, through active and strategic improvement of the species state of conservation, contribute to the avoidance of mid- to long-term conflicts in construction projects. (BMU letter of 6.9.2010)

On the same example: Protocol Hessen State Parliament, 18th election period 50th session, 24 June 2010, Speech from U. Hammann S. 3439: "Alternative road position to ensure conservation concerns do not necessarily mean an increase in price I

remember one particular case: the A 49. Here, the Crested Newt saved the state approximately 50 million EUR because of an alternate route. In Crested Newt currency: 5.000 Crested Newts saved the state 50 million EUR, which works out to 10.000 EUR per Crested Newt... If we are going to talk about costs, that I would like to request that you also criticize the environmentally harmful subsidies since these cost the Treasury 48 billion EUR alone in 2008 according to the subsidies report. In comparison, the amounts just mentioned are quite small. "

Source: NABU Hessen

- Due to the existence of a Habitats Directive site, the planning scope was changed early on and the planned length of a street tunnel was increased to minimize the negative impact on the Habitats Directive site in the regional planning procedure for the project "new construction of B 19 between Etterwinden and Wutha-Farnoda" in Thuringia. Consequently, the planning was finally secured and additional costs were avoided.
- [More examples on infrastructure planning are available and can be provided (cf. BUND u NABU 2006; Mayr 2008)]

Administrative burden and energy policy

Case study: Changes to the Nature Directives would delay Europe's energy transition

..."[the Renewables Grid Initiative] RGI urges the environmental protection measures provided by the existing Habitats and Birds Directives not to be diminished, but rather to secure the harmonized implementation of these directives at national level and to streamline the procedures to properly develop the electricity grids throughout Europe. Sound and clear legislation for nature and climate protection is essential for timely deployment, access to capital markets and for public support. Any change that creates uncertainty and delays is likely to prove counter-productive for Europe's energy transition and the related grid development."...

Source: Open letter to Jean-Claude Juncker, 29. Sept. 2014 (<http://renewables-grid.eu/publications/rqi-position-papers/open-letter.html>)

Administrative burden and SMEs

- The „Results of the public consultation on the TOP10 most burdensome legislative acts for SMEs“ launched by the Commission in 2012 showed that the Habitat Directive (92/43/EC) is not recognized as a burdensome legislation in Germany (http://ec.europa.eu/enterprise/policies/sme/files/smes/top10report-final_en.pdf).

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

This question seeks to establish the extent to which adequate, up-to-date and reliable information required to implement the Directives efficiently is available, such as information related to the identification, designation, management and protection of Natura 2000 sites, the choice of conservation measures, the management and restoration of habitats, the ecological requirements of species and the sustainable hunting/use of species, permitting procedures, etc. Please indicate key gaps in available knowledge relating to your country and, if relevant, at biogeographical and EU levels. If possible, please provide evidence that inadequacies in the knowledge base have contributed to the costs and burdens identified in previous questions.

Answer:

The Directives have led to a massive improvement in knowledge about biodiversity in Germany from national to local level (BMUB & BfN, 2014). Overall, there is sufficient knowledge and information available to accelerate implementation of conservation requirements of the Directives,. However, efficiency of implementation could be boosted if certain knowledge gaps were closed.

Current information basis

Overall, sufficient information is available for the identification, designation, management and

protection of Natura 2000 sites as well as the choice of conservation measures, the management and restoration of habitats. The German Federal Agency for Nature Conservation (BfN) holds a database on literature about many relevant aspects for appropriate implementation of the Directives' provisions (www.bfn.de). In addition the authorities of the Länder developed and provide guidelines for adequate application of the Nature Directives. Information for planning authorities, local administration, and consultants is also available online, such as manuals, reports, environmental impact assessment guidelines etc. (<http://ffh-vp-info.de/>).

To monitor habitats and species concepts have been developed and applied on national and regional level (Sachteleben & Behrens 2010; Wahl et al. 2011).

Knowledge to adequately apply the Directives is constantly updated and enhanced through research projects, target oriented seminars of academies, and additional guidelines. Voluntary NGO activities contribute to a large degree to improve the knowledge base of species and habitats in a very cost-efficient way.

Information gaps

However, still some information gaps remain: For example

- In many Natura 2000 sites protected habitats are not mapped and monitored appropriately, which hampers the proper evaluation of conservation status. This is e.g. necessary to apply for agri-environment schemes for species-rich grasslands and to check cross-compliance (NABU 2014a).
- An improved knowledge base of the financial expenditures and needs for Natura 2000 is needed, in particular at the Länder level (BMUB, 2013; see also C.7).
- Area specific information on impact mitigation procedures and corresponding permits are generally difficult to access, which complicates the detection of cumulative effects.
- The insufficient and not yet agreed definition of “favourable conservation status” for many species and habitats, as well as lacking conservation goals in many Natura 2000 sites increase time and expenditure in planning and approval processes.

Relevance

Relevance concerns the extent to which the objectives of the nature Directives are consistent with the needs of species and habitats of EU conservation concern. The question of relevance relates to whether the objectives of the legislation are still necessary and appropriate; whether action at EU level is still necessary in light of the challenges identified and whether the objectives and requirements set out in the EU nature legislation are still valid.

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

By 'key problem', we mean the main pressures and threats that species and habitats face, which are significantly widespread in terms of their incidence (geographic extent) and/or magnitude/severity. Do the Nature Directives respond adequately to these problems? Are the specific and operational objectives of the Directives suitable in light of the key problems identified? Please justify your answers with evidence.

Answer:

Yes, **the Nature Directives do address the main threats to habitats and species in Germany**, in so far as these can be addressed through dedicated biodiversity legislation, rather than through reforming policies responsible for the key drivers of biodiversity loss such as agriculture, spatial planning, energy or fisheries policies. Also, it is clear that the Nature Directives have to be complemented by a sound set of other environmental legislation related to specific ecosystem components (water, marine, air, soil etc.) as well as related to impacts (EIA, SEA, ELD etc.).

The national reports of Germany under the Birds and Habitats Directives (BMUB & BfN, 2014) present the main threats to biodiversity in Germany: loss, degradation and fragmentation of habitats, diffuse pollution and eutrophication, fisheries bycatch, illegal killing and disturbance of animals, and, increasingly climate change and invasive alien species.

As the **strategic objectives** of Nature Directives aim at protection and recovery of species and habitats in a very comprehensive way, they are entirely adequate to address these key problems, which are largely the same as in the times when the Directives were adopted, with the notable exception of climate change.

As far as **climate change** is concerned, there is solid evidence that the Nature Directives are playing a crucial role in allowing biodiversity to adapt to a changing climate (Thomas et.al, 2012; Dodd et al., 2010). In Germany a lot of research and debate has taken place on the topic of climate change and nature conservation, e.g. at international conference of the German Agency for Nature Conservation (www.bfn.de/fileadmin/MDB/documents/service/Skript_367.pdf) and through a research project of, inter alia, the Potsdam Institute for Climate Impact Research“ titled "Protected Areas in Germany under Global Change - Risks and Policy" Options." (www.pik-potsdam.de/services/infodesk/protected-areas/index_html/view?set_language=en). A key message from these discussions is always that it is possible and necessary to use the Natura 2000 network as a tool to help biodiversity adapt to climate change. In terms of the potential of the Nature Directives to deliver, in addition, to the mitigation of greenhouse gas emissions and to adaptation of society and economy to climate change - see answers under questions Y.1

The **specific objectives** of the Directives, centred around protection and restoration of habitats, site and species protection are exactly the tools that are required today and there is solid evidence that they are effective.

- The species protection provisions of the Nature Directives are a key factor for the return of important species to Germany, such as many birds or prey and carnivore mammals that had

been partly extinct by hunting. In combination with the establishment of the Natura 2000 network they are able to celebrate spectacular comebacks (Deinet et al., 2013; BMUB & BfN, 2014).

- The way how especially Art.6 of the Habitats Directive provides an approach to achieve conservation objectives under consideration of social and economic interests has made Natura 2000 sites to "laboratories of sustainable development" long before this term got well known in the public.

The key challenges biodiversity faces today in Germany is a **lack of adequate implementation** of the Nature Directives (see question S.3) and the failure to properly **integrate nature conservation concerns into other policies** (see question C.4). The latter aspect is outside of the influence of the Directives.

- Especially relevant is here the **agricultural sector** who leads to intensification, abandonment, degradation and diffuse pollution of important habitats. The dramatic loss of grasslands (Becker et al., 2014; Höttker & Leuschner, 2014, NABU, 2014a) and meadow birds (BMUB & BfN, 2014; NABU, 2014b) is a problem that the Directives can address only partly, as it is driven by regulation and subsidy policies outside their scope. However, there is evidence that Natura 2000 even supports non-target species, e.g. farmland birds and butterflies - or at least slows down their agriculture policy related decline (EEA, 2014)
- Despite promising changes made to the **Common Fisheries Policy** at political level, many problems persist in the marine areas. Although Germany has a very good coverage of Natura 2000 site in the North and Baltic Seas, management plans are lacking (DNR et al., 2015). A specific problem is here the fact that Germany cannot decide on management measures in marine Natura 2000 sites without agreement of other EU fishing nations.
- Some further problems originate from other environmental legislation that are either **insufficiently implemented** (Water Framework, Marine Strategy Framework and Nitrates Directive, see question C.2), not ambitious enough (Emission Ceilings Directive, see question C.2) or missing altogether (e.g. on Environmental Inspections or Soil, see question C.8).

Further evidence from Germany:

- see all further evidence for effectiveness of the Directives under section S
- see further factors standing in the way of effective implementation especially under questions S.3, C.2, C.4 and C.8

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

With this question, we are seeking to examine the implications of technical and scientific progress regarding the habitats and species that the Directive focus on. Please summarise, and provide any evidence you may have that indicates that the annexes listing habitats and species in both Nature Directives are, or are not, sufficiently updated to respond to technical and scientific progress.

Answer:

Summary: A revision of the Annexes to the Nature Directives would very likely be counterproductive for achieving the strategic aims of the Directives in Germany and for meeting the internationally agreed 2020 biodiversity targets. Adding or deleting species or habitats to/from the Annexes would delay implementation, jeopardize recently achieved legal certainty, increase administrative burden and divert scarce human and financial resources away from urgently required full implementation of the Directives. (Maes et al., 2013)

The European Commission has just opened an horizontal infringement procedure against Germany

because of lacking protection and management of Natura 2000 sites (SACs) - it would be a massive obstacle to resolve this case, if the list of qualifying species for the sites would be rediscussed at EU level, the work on management plans and conservation objectives that just started to accelerate would be hampered and even the sites themselves would not be certain in their existence any more.

Full answer:

The principles of nature conservation embodied by the Directives and the science underpinning them **are still fully relevant today**. Both the Birds Directive and Habitats Directive are driven by the ecological requirements of the species and habitats concerned and both build in flexibility to deal with changing environmental circumstances such as climate change.

The Birds and Habitats Directive give the possibility but do not contain an obligation of adapting the annexes to technical and scientific progress. However, any annex change must support and not weaken the overarching strategic objectives of the Directives. These are to contribute to ensuring biodiversity through conservation of Europe's most valuable and threatened habitats and species, maintaining at or restoring to an adequate/favourable level all wild bird species and species of Community Interest, no matter if listed on one or several of the Annexes of the Habitats Directive.

The decision whether an update of the Annexes is appropriate should therefore be guided by a thorough analysis of risks and benefits of such an update for all biodiversity collectively, and not only for individual species or habitats.

These risks include delays to and uncertainty around implementation (diverting effort and resources away from much-needed full implementation and placing a burden of uncertainty on business).

While there are potential arguments for review of the annexes, in our view the costs of doing so would not justify the benefits. For example:

1) Annex I (Birds Directive) or Annex I, II (Habitats Directive)

- Natura 2000, on land almost complete and by now the largest network of protected areas in the world, **has proven to be effective to deliver for target species** (Donald et al., 2007) **but as well for other species** (EEA, 2014) (umbrella effect) - **if properly implemented**. So many of the problems of non listed species or habitats could be addressed by better implementation of the Nature Directives in general, while changes to the network would distract attention from the need to focus on full implementation for the benefit of target and non-target species alike.
Natura 2000 supports also non-listed species in adapting to climate change, as it provides a coherent network of sites that provides space for climate induced range shifts of species. (Dodd et al., 2010; Huntley et al., 2007) Adaptive management of sites can and should allow new species to find refuge from changing climatic conditions, including species that are not listed on the Annexes of the Directives.
- At a time when the Natura 2000 network is just about to move fully from designation into management, and where most sites are still lacking proper protection, conservation objectives, management plans and monitoring (e.g. Germany is subject to an infringement procedures on SAC designation), the costs to biodiversity delivery of changes to the annexes would far outweigh any potential benefits. In a densely populated and highly fragmented landscape, as is the case in most of the EU, the current Natura 2000 network secures more or less the last (semi-)natural areas of the continent - essential for many, not only listed, species - in particular under the threat of climate change.
- As things stand there is no evidence-led process for identifying at Member State level which species in favourable or improving conservation status are not *conservation dependent*, and not at risk of rapidly declining back into unfavourable status were they to be de-listed. Many management dependent habitats and related species are definitely dependent on active

conservation and protection, especially in agricultural landscapes.

- Regular changes to the annexes of the Directives, whether to add or remove species/habitats, would cause legal uncertainty about site boundaries and restrictions for developers for years, higher administrative burden and divert scarce resources from action for the established site network - with a questionable benefit, given there are alternative options (see below). Electricity grid operators (<http://renewables-grid.eu/publications/rgi-position-papers/open-letter.html>), the cement industry (www.cembureau.be/newsroom/cembureau-birdlife-call-no-changes-rules-protect-european-nature) and others have spoken out against changes to the Nature Directives including annexes, as this would threaten planning certainty for their operations.

2) Annex IV, V (Habitats Directive) or Annex II (Birds Directive)

- Changing these annexes of the Directives could lead to massive political conflicts among stakeholder groups that just have begun to accept the political compromise that has been found in the last years (see especially documents of the EU Sustainable Hunting Initiative and the agreement between BirdLife and FACE, http://ec.europa.eu/environment/nature/conservation/wildbirds/hunting/index_en.htm). Such re-emerging conflicts would not only prolong the time until effective action can be taken, but it would undermine the acceptance of EU conservation legislation in general. Enforcement and implementation would suffer rather than benefit.

3.) Annex IV, V (Habitats Directive) or Annex II (Birds Directive)

- The Directives already provide sufficient possibilities to address risks caused by improving status of "conflict" species at local level for human health, infrastructure, crops or other damage by way of derogations, allowing, as a last resort also the killing of protected species (Art.9 Birds Directive, Art.16 Habitats Directive). This is a much more targeted way to address potential problems, based on sound science and facts, compared to indiscriminate hunting.
- In the case of Cormorant the European Hunters Association FACE rejected the listing of the species on Annex II, because private hunters do not see their role in managing problem species, and because in a number of Member States they would have to bear responsibility for damage caused by those. BirdLife and FACE issued a joint statement in 2008 opposing any listing of Cormorant in Annex II of the Birds Directive (www.europarl.europa.eu/RegData/etudes/note/join/2013/495845/IPOL-PECH_NT%282013%29495845_EN.pdf - page 32)
- The European hunters organisation FACE has stressed that it opposes changes to the Birds Directive: "*FACE stands firm on its commitment taken with BirdLife International, not to support initiatives aimed at amending the text of the Birds Directive, believing that such initiatives would only weaken the current provisions of the Directive, which is not in the interest of either party*" (FACE conference conclusions of 23 Sept 2014; www.face.eu/about-us/resources/news/hunters-call-on-the-eu-for-more-recognition-of-their-environmental-role). This includes Annex II. This annex must be seen rather as political compromise, than as a reflection of up to date science. Any opening of this annexe would massively undermine acceptance of the Directives, cause conflicts that slow down implementation efforts and thus jeopardize the achievement of the strategic objectives of the Directives.

From the above it gets clear that the negative impact of a change to the annexes far outweigh any potential benefits in terms of better protection of species or resolution of social or economic conflicts. However, that is not to say that other measures for habitats and species may be required, and conservation NGOs stand ready to cooperate on these:

- Develop targeted EU wide or multi-country action plans for any taxa that require particular extra attention (e.g. freshwater molluscs, other invertebrates), including specific conservation

projects, additional hunting restrictions, additional protected areas and monitoring efforts above the level required by the Nature Directives;

- Mobilise targeted funding for threatened species conservation: the EU LIFE Programme allows funding for Red List species not covered by the Nature Directive Annexes. Member States are free to allocate additional resources on these species (or habitats);
- Maximising co-benefits of the Water Framework Directive, Marine Strategy Framework Directive, air quality legislation and other environmental legislation for Red listed species; Improving the ecological status of all waters, as required under the WFD, would for example yield high benefits to all freshwater biodiversity including potentially endangered mussels and macro-invertebrates.

Make use of measures under Target 2-5 of the EU's Biodiversity Strategy, e.g. establishment of Green Infrastructure and ecosystem restoration, integrate biodiversity concerns into agriculture, forestry and fisheries policy and tackle invasive alien species.

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

This question seeks to examine the extent to which the Directives support or hinder sustainable development, which is about ensuring that the needs of the present generation are met without compromising the ability of future generations to meet their own needs. It requires ensuring a balance between economic development, social development and environmental protection. . In your answer, please provide evidence of the impacts that implementation of the Directives has had in relation to these three 'pillars' of sustainable development.

Answer: The Nature Directives are a corner stone for achieving sustainable development in Germany. In general they have introduced an approach of reconciling the three pillars of sustainable development long before the term got commonly used. Natura 2000 sites, through their system of considering social and economic concerns when achieving conservation objectives (Art.6 Habitats Directive), have the potential to become true "laboratories of sustainable development".

Environmental Protection Pillar:

- The Directives are the key framework for halting the loss of biodiversity in Germany, which is one of the major environmental challenges of our times (see evidence listed under section S)
- The Sustainable Development Strategy of Germany includes, as one of 21 key indicators, the state of biodiversity reflected by the state of 51 bird species. The target value for this indicator is set at a level equivalent to swift implementation of EU and national conservation legislation. (Statistisches Bundesamt, 2014)

Social Development Pillar:

- The Nature Directives have led to a wide range of co-benefits in the areas of employment, education and health - in particular in rural areas of Germany that are marginalised and subject to population loss (see Y.5).

Economic Development Pillar:

- The Nature Directives have many positive effects for the economy and the society regarding cost-benefit ratios and cost saving potential, (see questions S.4 and Y.1)
- The Nature Directives do not put unproportionate burden on business (see Y.1, 4 and 7)
- Over time, the implementation of the Nature Directives stimulated new approaches for conflict resolution (Boller et al., 2013), better cooperation among stakeholders (DVL, 2008, Pröbstl & Prutsch, 2009), and more efficient planning procedures (cf Y.5 and Y.7).

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

The aim of this question is to understand the extent to which citizens value the objectives and intended impact of the EU nature legislation. To this end, we would like to obtain information and evidence on the extent to which nature protection is a priority for citizens (e.g. in your country), including in comparison with other priorities; for example whether citizens (e.g. in your country) support the establishment and/or expansion of protected areas, the extent to which they access/use them or; the extent to which citizens are involved in any aspect of the implementation of the Directives (e.g. participation in the development of management plans of protected areas or decisions concerning the permitting of projects which have an impact on protected areas).

Please note that the Birds and Habitats Directives may be relevant to citizens even if they do not actually know of their existence or the existence of the Natura 2000 network.

Answer:

In Germany there is, in general, a high level of awareness about nature and biodiversity concerns. This is regularly documented in governmental studies (BMUB & BFN, 2014). In the most recent one 86% of respondents stated that nature conservation is very important, 63% would like to defend nature against economic interests, while only 6% claim that nature must not stand in the way of economic development. Overall, regular Eurobarometer studies at EU level confirm this also in other Member States and at EU level.

The very high and still increasing number of members, supporters and volunteers of German nature conservation NGOs confirms this. Here some examples:

- NABU: more than 540,000 members and supporters, more than 2000 local and regional groups, budget of 21 Million EUR (www.nabu.de/wir-ueber-uns/transparenz/jahresbericht/index.html)
- Deutscher Naturschutzring: environmental umbrella organisation of 96 Germany NGOs, comprising more than five million individual members (www.dnr.de; see also Natur und Landschaft – Zeitschrift für Naturschutz und Landschaftspflege – Sonderausgabe 2014 -89. Jahrgang – Naturschutzarbeit in Deutschland – S. 57)
- The Facebook Page of NABU focusing on Wolf protection alone so far received almost 90,000 "likes" (<https://de-de.facebook.com/WillkommenWolf>)
- At the last "winter garden birdwatch" citizen science event of NABU "Stunde der Wintervögel" 77.000 citizens actively participated by submitting 2 million bird observation on a single weekend (www.nabu.de/tiere-und-pflanzen/aktionen-und-projekte/stunde-der-wintervoegel)
- The NGO BUND reports 4.5 million hours of volunteer work in the period 2010-2012 with relevance to Natura 2000 implementation; The NABU Federal Office reports a yearly amount of 105.000 to 170.000 volunteer hours for designation and caretaking of protected areas.

NABU volunteer hours for site designation and caretaking (Source: NABU Federal Office, 2015)

NABU-Engagementbefragung Ausweisung und Betreuung von Schutzgebieten	2005	2006	2007	2008	2009	2010	2011	2012	2013
	137.205	141.093	171.146	167.519	171.822	155.421	106.765	164.100	122.799

Case study: Natura 2000 commitments of volunteers

Summary: About 3000 citizens volunteer in National Nature Landscapes (often including Natura 2000 sites) yearly. This shows the quality of these citizens valuation of nature. Natura 2000 management planning improves the opportunities for actively involving volunteers in the management of the sites.

"Volunteers in Parks": The approximately 3.000 citizens who are annually involved as "Volunteers in Parks" in the national Natural Landscapes are also partially active in sites where the Habitats and Bird Directives apply. That volunteers are willing to spend their time to improve the ecologically value of these areas demonstrates their appreciation of these designated areas. The Habitats Directive sites' and bird reserves' management plans make it easier for volunteer managers to find activities in the sites that volunteers can engage in. In this respect, the volunteers benefit from a clear communication of offered activities in the Natura 2000 sites.

Source: Europarc Deutschland; <http://www.ehrensache-natur.de/>

Case study: Junior-Ranger-Programme of Europarc

Summary: The Junior-Ranger Programme is organised in 40 National Nature landscapes. In Germany about 100 local Junior-Ranger groups provide about 1500 children per year who are involved in nature protection. The education and recreation activities provide competences for sustainable living and generate an emotional link with the protected sites.

Junior-Ranger-Programme: With their public relations, education, and youth work, large protected areas bring society in contact with nature. Nationwide opportunities, like for example the Junior Ranger Program, encourage the targeted group to actively participate. This includes the transnational protection of endangered wild native plant and animal species and their natural habitats.

The opportunities speak to children in a creative and fun way and provide a meaningful free time activity. They are equipped with the necessary skills for a sustainable lifestyle and develop a strong emotional connection to the protected areas. They become advocates for the protected areas and the underlying policies, like e.g. the Habitats Directive.

With their own projects, the Junior Rangers are involved with the protection of endangered wild native animal and plant species and their natural habitats. As "seal ambassadors", Junior Rangers supported the return of the gray seal in the biosphere reserve Southeast Rügen. They help the reserve supervisors with monitoring and inform the public through their own information stands on the current distribution and abundance of the seals.

The Junior Ranger Program exists in around 40 national Natural Landscapes. This includes almost all national parks, biosphere reserves and a variety of nature parks. In Germany, over 100 Junior Ranger local groups engage approximately 1.500 children annually in conservation.

Source: Europarc Deutschland

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

The aim of this question is to obtain information and evidence on questions such as: whether citizens submit complaints or petitions to the EU requesting its involvement on cases regarding nature protection, whether citizens expect the EU to become more involved in promoting nature protection, or whether nature protection should be left to each individual Member State; whether citizens expect the EU to introduce laws on nature protection to be applied in all Member States equally or whether the EU should limit itself to coordinating Member States' initiatives; whether the EU should focus on laying down rules, or whether the EU should more actively promote their monitoring and enforcement in Member States.

Answer:

There is high trust and expectations of German citizens into the EU related to nature protection. A key indicator for this is the high number of nature related complaints that is sent from individuals and civil society organisations to the European Commission. NGOs have very strong indications that there is a great appreciation of the role of "Brussels" to protect species, sites and habitats in Germany - thanks to the EU Nature Directives.

In addition, national nature NGOs are often contacted by citizens returning from holidays in another EU Member State and asked to inform the European Commission about observed potentially illegally caused environmental damage.

German citizens furthermore expect that the EU Treaty is complied with, including the provision that states environmental protection as a key topic for the European Union.

EU importance of species and habitats leads to awareness, proud and additional conservation action

- a local newspaper from Waldeck-Frankenberg in Hesse reports about species the county has special European responsibility (www.nabu-waldeck-frankenberg.de/index.php/pressespiegel.html?month=201404&file=tl_files/fM_k0002/Presse_spiegel/2014/2014-04-03%20HNA%20Verantwortungsarten%20im%20Landkreis.pdf)

Case study: EU Directives bring important species into the spotlight (Herford District, Nordrhein-Westfalen)

Summary: Thanks to the Directives some species obtained more specific attention and were the object of targeted and successful conservation measures (Crested Newt, Spined loach, Common Spadefoot). This was the case for many species and habitats that benefited from increased conservation efforts since the Nature Directives came into force. The directives have also helped the area of nature protection to be treated less arbitrarily.

The Crested Newt (*Triturus cristatus*) and Spined loach (*Cobitis taenia*) are two species that only came into focus for conservation efforts after they were included in the Annex of the Habitats Directive. In Herford (NRW), the designation of a Habitats Directive site exclusively for the Spined Loach only succeeded through targeted monitoring in advance of the Habitats Directive site identification. Independent observations, i.e. for the Crested Newt, in individual biological station's work and management plans was ensured and financed based on the Crested Newt's status as a Habitats Directive Annex species. The increased investigations led to practical measures and active conservation efforts as well as the installation of additional waters. More examples of this are the Spadefoot (*Pelobates fuscus*) and the Helmet Damselfly (*Coenagrion mercuriale*), for whom successfully conservation measures could be implemented in the past years due to the Habitats Directive.

Altogether, it must be said that a number of species and habitats came more into focus for conservation efforts due to both of the EU conservation policies. They were previously ignored. Nature conservation priorities were shaped more strategically thanks to the EU Nature Directives.

Source: Biostations Nordrhein-Westfalen

Business expects high EU standards

A letter from three national associations of small and medium sized enterprises in Germany, Austria and France to Commission President Juncker in October 2014 stressed the high expectation of SMEs the importance of an ambitious EU legislation on environment and nature conservation, as this gave fair rules in the internal market and a competitive advantage especially to the innovative and efficient companies (www.unternehmensgruen.org/wp-content/uploads/2014/11/brief_Juncker_102014-ENG.pdf). Similar statements have been made by electricity grid operations and the cement industry (www.cembureau.be/newsroom/cembureau-birdlife-call-no-changes-rules-protect-european-nature); see also section AV.

Case study: Renewables Grid Initiative

...“RGI urges the environmental protection measures provided by the existing Habitats and Birds Directives not to be diminished, but rather to secure the harmonized implementation of these directives at national level and to streamline the procedures to properly develop the electricity grids throughout Europe. Sound and clear legislation for nature and climate protection is essential for timely deployment, access to capital markets and for public support. Any change that creates uncertainty and delays is likely to prove counter-productive for Europe's energy transition and the related grid development.”...

Source: Open letter to Jean-Claude Juncker, 29. Sept. 2014 (<http://renewables-grid.eu/publications/rqi-position-papers/open-letter.html>)

Coherence

Evaluating the coherence of legislation, policies and strategies means assessing if they are logical and consistent, internally (i.e. within a single Directive), with each other (i.e. between both Directives), and with other policies and legislation. Here we are looking for evidence regarding how far and in what ways the Directives are complementary and whether there are significant contradictions or conflicts that stand in the way of their effective implementation or which prevent the achievement of their objectives.

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

This question focuses on coherence between objectives within each Directive, and/or between objectives of the Birds and Habitats Directives. It covers not only the strategic objectives but also the specific and operational objectives set out in Annex I to this document. Based on experience in your country/region/sector, please provide evidence of any inconsistencies between the objectives that negatively impact on the implementation of the Directives.

Answer:

In the course of preparing these answers German environment NGOs have interviewed many experts on this question, and nobody expressed any implementation problem arising from the fact that there are two Directives, instead of one.

At national level both Directives are used in a coherent manner, objectives are equivalent or complementary, instruments coherent (e.g. Art.6 Habitats Directive applies also for all Special Protection Areas of the Birds Directive). Reporting procedures are largely harmonized and have been applied accordingly in Germany without problems (BMUB & BfN, 2014). The concept of Favourable Conservation Status of the Habitats Directive is used, in practice, also for the interpretation of Art.2 of the Birds Directive. BirdLife International has developed a methodological framework how to define the Favourable Conservation Status for birds (BirdLife BHDTF, 2013), that will be tested for several bird species in Germany.

Differences in the procedures of Natura 2000 designation were not problematic at the time, now they are not relevant any more anyway as designation is largely completed in Germany.

Merging the Directives not required

German NGOs fail to see any benefit of merging the two Directives, neither for reaching their strategic objectives of the biodiversity objectives of the EU, nor for implementation practice or administrative requirements for public and private bodies involved. If the two Directives were merged under the assumption of not lowering any protection standard, the result would have to be either a rather complicated Directive or a Directive with significantly higher protection standards. The latter might be desirable in theory, however the time, costs and efforts of adoption, transposition and implementation of new legislation would far outweigh the benefits, especially compared to the option of swiftly implementing, enforcing and financing the two Directives as they are and to benefit from the fact that authorities, business, land users and conservationists have adapted to them over decades of practice. See also answer to question R.2 with regard to the Annexes of the Directives, as well as statements from the business sector, including many German SMEs (www.unternehmensgruen.org/wp-content/uploads/2014/11/brief_Juncker_102014-ENG.pdf), electricity grid operators (<http://renewables-grid.eu/publications/rgi-position-papers/open-letter.html>) and the cement industry (www.cembureau.be/newsroom/cembureau-birdlife-call-no-changes-rules-protect-european-nature), each including important German companies. The European hunters federation FACE stated: "FACE stands firm on its commitment taken with BirdLife

International, not to support initiatives aimed at amending the text of the Birds Directive, believing that such initiatives would only weaken the current provisions of the Directive, which is not in the interest of either party" (FACE conference conclusions of 23 Sept 2014, www.face.eu/about-us/resources/news/hunters-call-on-the-eu-for-more-recognition-of-their-environmental-role)

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

This question is similar to the previous question, but focuses on the extent to which the EU Nature Directives are coherent with and integrated into other EU environment legislation, and the extent to which they are mutually supportive. EU environment legislation of particular relevance to nature conservation includes the following:

- *Strategic environmental assessment of policy plans and programmes 2001/42/EC Directive (SEA)*
- *Environmental impact assessment of projects 85/337/EC Directive as codified by Directive 2011/92/EU (EIA)*
- *Water Framework Directive 2000/60/EC, (WFD)*
- *Marine Strategy Framework Directive 2008/56/EC (MSFD)*
- *Floods Directive 2007/60/EC (FD)*
- *National Emission Ceilings Directive 2001/81/EC (NECD)*
- *Environmental Liability Directive 2004/35/EC (ELD).*

This question considers how the main provisions and measures set out in these instruments interact with the EU nature legislation, including whether there are potential gaps or inconsistencies between these instruments and the EU nature legislation, for example whether the current permitting procedures are working in a coherent way or whether they are acting as barriers to achieve the EU Nature Directive's objectives; whether the assessments required under the different pieces of EU legislation, in particular under the EIA, are aligned or whether there are differences which result in additional administrative burden; whether any identified gaps and inconsistencies are due to the texts of the Directives or due to implementation in your/a Member State.

Answer:

After having consulted many experts from all parts of Germany, no significant problems were identified related to the interaction between the Nature Directives and the mentioned other pieces of environmental legislation. Instead several examples of good implementation practice could be found that show how an efficient and complementary implementation can look like. At the same time there is still significant room for improvement as regards implementation of both the Nature Directives and the Directives mentioned above. The more progress can be achieved there, the easier will be the interplay between these pieces of legislation.

Finally, NGOs are convinced that effectiveness and efficiency of the Nature Directives could be significantly boosted if the EU adopted ambitious binding standards on environmental inspections and enforcement as well as a Soil Framework Directive (see also question C.8). In the case of emission ceilings more ambitious standards are needed to properly support the objectives of the Nature Directives.

Strategic environmental assessment of policy plans and programmes 2001/42/EC Directive (SEA)

Environmental impact assessment of projects 85/337/EC Directive as codified by Directive 2011/92/EU (EIA)

It depends largely on the national level how the integration of these Directives with the permission procedures of the Habitats Directive is realized. In Germany a high degree of integration has been achieved that does not cause any significant problems. The application of the three tools is systematically harmonized in the German system, so they can effectively complement each other -

this relates to objectives, legal procedures, competent authorities and information management.

Especially the SEA Directive provides a very important instrument to avoid harmful impact on biodiversity at an early stage, in line with the requirement of Art.6 Habitats Directives to assess not only projects but also plans.

Water Framework Directive 2000/60/EC (WFD)

The Nature Directives and the WFD are very well complementing each other and can support each others' objectives very effectively. The good status of water bodies is often supported by the objectives of adjacent or overlapping Natura 2000 sites.

- **The claim Natura 2000 would not allow the protection of dynamic river ecosystems has no substance.** The relevant species and habitat types depend on the dynamic of the river, e.g. Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (priority habitat type 91E0*) depend on regular recreation of humid immature soils. Therefore Natura 2000 does not block river restoration, on the contrary it provides many synergies with the aims of the WFD and FD.
- **European Commission guidance** makes it clear that the WFD does not change what Member States must achieve for the BHD, but it provides a joint framework for the implementation of measures needed by both WFD and BHD in water-dependent Natura 2000 sites. (<http://ec.europa.eu/environment/nature/natura2000/managedocsnt//FAQ-WFD%20final.pdf>) The guidance also points out that, according to WFD Article 4.1.(c) the WFD objective of good status may need to be complemented by additional objectives in order to ensure that conservation objectives for protected areas are achieved. Art. 4.2. WFD says that "*where more than one of the objectives ... relates to a given body of water, the most stringent shall apply*".
- The **Fitness Check of the WFD found that legal coherence** between the Birds and Habitats Directives and the Water framework Directive is clear, "*although the interaction on the ground needs interpreting on a case by case basis by the Member States.*" (<http://ec.europa.eu/environment/water/blueprint/pdf/SWD-2012-393.pdf>). The "**Blueprint to safeguard Europe's Water Resources**" (<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52012DC0673&from=EN>), which aims to tackle the obstacles which hamper action to safeguard Europe's water resources, points out that achieving widespread improvement in aquatic ecosystems will contribute positively to the EU Biodiversity Strategy goal of halting the loss of biodiversity and the degradation of ecosystem services in the EU by 2020, and restoring them in so far as feasible.
- In Germany there is a wide range of positive experience on this, supporting these findings
 - BFN (2010) demonstrates a concrete example of implementing Natura 2000 and WFD at the border rivers between Germany and Austria, Inn and Salzach.
 - Janauer et al. (2015), conclude from their study that "*In the end, considerably more synergies than conflicts are identified between the objectives of WFD, HD and BD. Whenever conflicts should arise these Directives prevent derogating from their requirements by cross-references. Therefore, firm and timely coordination between water and nature conservation authorities is necessary.*"
 - Stratmann & Albrecht (2015) look at how improvements to the River Basin Management Plans (RBMPs) could benefit Natura 2000 sites in the climate change context in Germany. The evidence they provide show that there is room for better cooperation between these areas in order to exploit synergies. They show that in the RBMPs there is great variety between some of the Federal States of Germany in terms of the choice of WFD relevant Natura 2000 sites intended to conserve habitats and species directly dependent on water. Also, they found out that as the terms

'water services' and 'water uses' are very narrowly interpreted in Germany, numerous impacts on species and habitats are not considered from an economic perspective (e.g. by hydroelectric power, flood defences). For these reasons, the environmental impacts and costs regarding Natura 2000 are not included in the RBMP economic analysis sufficiently.

- A detailed new scientific paper (Werk, 2015) assesses "Prospects and Requirements for a Common Approach of the Water Industry and Nature Conservation with the Renaturation of Surface Waters" and comes to the conclusion that "*the Natura 2000 territorial protection with the impact study [...does not] represent unsurmountable hurdles for a surface water renaturation*"
- See also a (German language) presentation of the Environmental Agency of Brandenburg on practical synergies between WFR and the Nature Directives (http://www.wrrl-info.de/docs/vortrag_sem19_koehler.pdf)

Case study: Lower Havel river restoration (Brandenburg, Sachsen Anhalt)

Summary: The NABU Lower Havel restoration project is a good example of achieving synergies between the objectives of the Birds and Habitats Directives and the Water Framework Directives. This is the largest river restoration project in Central Europe. It is being carried out since 2005 with federal support and support of two regions. By 2021, 90 km of river of the Lower Havel, within Natura 2000, will be restored together with its floodplains and characteristic species and habitats.

The lower Havel is one of Central Europe's most significant wetland. For decades, it was straightened, dyked, and drained. Branches were separated and their banks were fortified with stones. Slowly, the habitat for countless species disappeared. And yet, an animal and plant world remained that is unique to Central Europe, with approximately 1.000 endangered and protected species.

In 2005, NABU took over the project management for the largest river restoration project in Central Europe – the NABU Havel project. With support from the federal government and two states, 90 kilometres along the Lower Havel will have their original vibrancy back by 2021. The banks will be freed of the stone fortifications. Bank constructions and dykes will be removed, and old branches will be reconnected to the River. We will secure valuable floodplains and wetlands along the Havel and will plant new meadows on 90 hectares. The original flora will thereby have again sufficient soil and humidity. The floodplains will be regularly flooded again. And with the return of flora, fauna will also return.

The project is within a Natura 2000 site and helps achieve the EU's Habitats, Bird, and Water Framework Directives.

Source: NABU Federal Office (<https://www.nabu.de/natur-und-landschaft/fluesse/untere-havel/>)

Case study: Implementation of Natura 2000 and the Water Framework Directive at the river Wümme, District Verden (Niedersachsen)

Summary: This is a large-scale nature protection project, benefiting both a Natura 2000 site and the objectives of the WFD, to increase the groundwater level extensively, and to increase the space and time allowed for flooding in order to move towards the natural flooding dynamics.

The Wumme is one of Niedersachsen's most significant lowland rivers for conservation. In addition to the river itself, there are humid forests, dunes, and degenerated upland moors of special significance for the Habitats Directive site. The Wumme lowland is an important habitat for e.g. otters, lampreys, and the Green Cubtail.

In this area, a large conservation project was implemented. The project's goal was and is to conserve the ecological value of the site and to significantly improve it. The completed management and development planning included goals to increase the flat water table, temporally and spatially expand flooding, and to adapt natural flood events to the dynamics amongst others. The water network was concentrated through the new installation of still and flowing waters, and the delta was at least partially restored.

The former extensive agricultural use was reintroduced to conserve and develop the wet grassland. Along the flowing waters emerged a mosaic of alder swamps, willow thickets, reeds, sedge fens in which otter, Black stork, Bluethroat, warblers and perhaps at a later date Cranes could find suitable habitat. A big advantage of this project was that a large amount of land could be bought.

Source: https://www.landkreis-verden.de/portal/seiten/naturschutzgrossprojekt-fischerhuder-wuemmeniederung-901000204-20600.html?s_sprache=de&rubrik=901000021

Marine Strategy Framework Directive 2008/56/EC (MSFD)

The Marine Strategy Framework Directive is very much coherent with EU nature legislation. The MSFD specifically states (Recital 6) that establishing special protected areas and special areas of conservation contributes to achieving good environmental status of EU seas – the main objective of the MSFD. Therefore the MSFD states that monitoring programmes established by Member States to monitor the achievement of GES needs to be compatible with the monitoring that is already laid down by EU nature directives (Article 11 of the MSFD). Furthermore, Programmes of measures established by Member States to adhere to the MSFD and contribute to coherent and representative networks of marine protected areas should include spatial protection measures such as SPAs and SACs (Article 13 of the MSFD).

German NGOs (DNR et al., 2015) give a lot of explanations about synergies between the Directives in the background paper on their Court complaint related to the protection of German marine Natura 2000 sites (www.nabu.de/imperia/md/content/nabude/meeresschutz/150127-nabu-hintergrund-zur_verbaendeklage-meeresschutzgebiete.pdf).

Floods Directive 2007/60/EC (FD)

There are many examples in Germany how flood protection by relocation of dikes can go hand in hand with the implementation of the Birds and Habitats Directives. Often the projects themselves can create the habitat required as compensation measure, through the hydrological dynamic it creates. However, it would be important that the implementation of the FD would take the Nature Directives much more into account in Germany, so more focus can be put on ecosystem based flood protection.

- The two biggest projects of relocating dykes at the river Elbe took/take place within Natura 2000 sites („Lenzener Elbtalau“, 420 ha gained space for flood waters; http://www.naturschutzgrossprojekt-lenzen.de/projekt/p_set.html) and „Mittlere Elbe“ (<http://www.deich-loedderitz.info/>). In both areas plans can proceed as they contributed to achieving conservation and flood protection objectives at the same time.
- An environmental impact and Habitats Directive assessment was conducted as part of the project, "Dyke relocation Fridolfing" at the Salzach River (Bavaria). Both studies concluded that the project's overall ecological approach is positive. Here an excerpt: "*The habitat loss due to the planned dykes will be more than offset by the qualitative habitat upgrades (riparian forests, backwaters, and wetlands) due to the significant improvement of the floodplain dynamic as planned in the project.*" For these reasons, the project's compensatory measures were relatively low. (www.wwa-ts.bayern.de/hochwasser/hochwasserschutzprojekte/deichrueckverlegung_fridolfing/index.htm)

National Emission Ceilings Directive 2001/81/EC (NECD)

While the aims of the NECD very much support the objectives of the Nature Directives, i.e. the reduction of diffuse pollution on Natura 2000 sites and elsewhere, thus addressing a key factor of biodiversity loss in Germany, the actual emission ceilings are by far not ambitious enough to meet the objectives of the Nature Directives and the "critical loads" of the habitat types. The proposals of the European Commission for a revision of these ceilings would not be sufficient to comply with the critical loads in all sites. A specific study on this issue has been published by the German Ministry of Transport (BMVBS, 2014).

Environmental Liability Directive 2004/35/EC (ELD)

The ELD has proven to be an important support and added value for the Nature Directives, as it increased the pressure on concerned stakeholders to find early solutions and agreements to avoid harm to biodiversity. In many cases Court cases have been avoided as a consequence.

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

This question is linked to the previous questions as it addresses the extent to which the objectives of the Nature Directives have been integrated into or supported by the objectives of other relevant EU environment policies. However, this question focuses more on policy implementation. The other EU legislation and policies targeted in this question are the same as those referred to under question C.2, as well as climate change policy. When answering this question, please note that the scope of integration refers to the integration from the EU Nature Directives to other policies as well as to the extent in which the objectives of these other policies are supported by the implementation of the Nature Directives.

Answer:

As outlined above there is a high degree of coherence and many synergies in legislation and policy for the various environmental objectives. As policy and implementation is sometimes hard to separate, please refer to the case studies listed in the previous question.

Case study: Climate change, flood protection and preservation of peatland in Natura 2000 sites

Summary: Peatlandrich Regions have summarised the synergies (flood protection, climate protection and biodiversity protection) and successes of peatland protection (<http://www.nlwkn.niedersachsen.de/download/74068>). Thanks to many projects the status of some habitat types has increased within some Natura 2000 sites.

10% of German Peatlands can be found in Bavaria and many of the well conserved peatlands are protected within Natura 2000 sites. In 2008 the Bavarian Government launched its Climate Programme, which includes 8,8Million EUR 2008-2011 and 2.5Million EUR 2011-2014 for the protection of peatlands.

Approximately 45 million tonnes of CO₂ equivalent per year escape drained peatlands nationally (=5% all greenhouse gases and also 30% of the land use sector's emissions (so outside the energy and economic sectors) on only 8% of agricultural lands. The peatland-rich Länder have summarized the synergies and consequences in a very good brochure (<http://www.nlwkn.niedersachsen.de/download/74068>).

Numerous projects have been started and implemented that have certainly improved the status of EU protected habitat types like "active raised bogs" (7110) or alkaline fens (7230) or also many peatland species in many Natura 2000 sites.

Since 2003 in **Bavaria**, the technical basis for an inter-disciplinary and inter-departmental peatland protection was developed for Bavaria through the Bavarian Environmental Agency. This approach was further developed into a peatland protection program. Bavaria is very peatland-rich (4% of land cover was originally peatlands / 10% of Germany's peatlands are in Bavaria) and a significant amount (at least of the near-natural) of peatlands are included in the Natura 2000 network. Conservation and forestry authorities and landscape management associations are responsible for the practical implementation of the peatland protection.

In 2008, the Bavarian state government created the Climate Program Bavaria KLIP 2020. It includes special funds for peatland protection (2008-2011: 8,8 million EUR, 2011-2014 each 2,5 million EUR/year). The impact of peatland protection on climate change is also being scientifically monitored to quantitatively demonstrate the effect on greenhouse gas reductions. There are many synergies between climate change, Natura 2000 protection, and flood protection.

Source: <http://www.lfu.bayern.de/natur/moorschutz/index.htm>

C.4 – To what extent do the Nature Directives complement or interact with other EU sectoral policies affecting land and water use at EU and Member State level (e.g. agriculture, regional and cohesion, energy, transport, research, etc.)?

In this question we are aiming at gathering evidence on whether the provisions of EU nature legislation are sufficiently taken into account and integrated in EU sectoral policies, particularly in agriculture, rural development and forestry, fisheries and aquaculture, cohesion or regional development, energy, raw materials, transport or research policies. It also addresses whether those policies support and act consistently alongside EU nature legislation objectives Please provide specific examples which show how the Nature Directives are coherent with, or conflict with, relevant sectoral legislation or policies. Please be as precise as possible in your answers, e.g. pointing to specific articles of the legislation and how they support or contradict requirements or objectives of other legislation or policies, stating what are main reasons or factors for the lack of consistency and whether there are national mechanisms in place to monitor coherence.

Answer:

Several sectoral EU policies have massive implications for effectiveness and efficiency of the EU Nature Directives at all levels. In the following we will try to give evidence on the most relevant areas. We are very likely to submit further evidence in the coming weeks for this section.

Agriculture Policy (CAP)

For a general assessment on how the CAP interacts with the Nature Directives more generally, we would like to refer to the responses provided by BirdLife Europe, EEB and WWF European Policy Office. To save time and space we focus here on evidence from Germany, only. At the same time other agriculture related references can be found in other sections of this questionnaire.

- German national reports show that agriculture is a massive problem for many of the declining species and habitats, or those already in unfavourable conservation status. Several bird species dependent on farmland (arable, grassland) are in steep declines in Germany. (BMUB & BFN, 2014). The loss of grasslands and the decline of species dependent on such habitats is a particular grave concern in Germany (Höttker & Leuschner, 2014, NABU 2014a & 2014b)
Reforming the CAP radically is essential for meeting an important part of the EU Nature Directives' objectives.
- The issue of insufficient financing of nature conservation on the one hand (see Y.2 and C.7 with regard to the German EARDF fund) and subsidies harmful to biodiversity (PE'ER, 2014) on the other is very much related to the CAP, also in Germany.
- The approach to deal with voluntary commitments of farmers based on incentives and contracts has a long tradition in Germany. However there are severe limits to the concept, (see "voluntary approach and its limits" under question S.3.).
- Positive examples how concerns of farming and nature conservation can be integrated:
 - See KUNO case study under question S.3; see "Rhön" example in EC (2015b)
 - There are many examples how targeted effective Agri-Environment Measures and other instruments can be used (DVL 2008; EC, 2015b; NABU 2013)
 - NABU project on Lapwing conservation together with the German Farmers Union (www.nabu.de/natur-und-landschaft/landnutzung/landwirtschaft/lebensraum-acker-und-gruenland/16969.html)

Regional Policy

Regional Policy can be used both beneficial and very counter-productively with regard to the implementation of the Nature Directives. As far as potential funding of nature conservation from the Regional Policy is concerned, see questions Y.2 and C.7. As far as potential harm is concerned we will aim at providing evidence in the coming weeks.

Common Marine and Fisheries Policy (CFP)

The recent reform has brought promising changes to the policy framework and to the potential of the EMFF for nature conservation (on the latter see Y.2 and C.7). However in practice there is not yet much change to be observed.

- A significant problem is the fact that marine Natura 2000 sites cannot be properly managed and protected by the competent national authority, without consulting other Member States through the CFP. In this process, it seems, fisheries interests are dominating massively conservation interests, with the result that the achievement of the Directives objectives is very challenging for the Member State.

- This is exemplified by the case of the Dogger Bank SCI/SAC (BirdLife, 2012c). The lack of a joined-up approach between the three concerned Member States poses real challenges when it comes to agreeing on conservation objectives and common fisheries management measures for the Dogger Bank.
- As in the agriculture sector there are economic interests and lobbies who are trying to slow down Natura 2000 implementation. As a result none of the German marine Natura 2000 sites has a proper management plan in place (see complaint DNR et al. 2015)

Climate and energy policy

We hope to submit substantial evidence in the coming weeks.

Transport policy

We hope to submit substantial evidence in the coming weeks.

Raw materials and resource policy

We hope to submit substantial evidence in the coming weeks.

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

In this question, we are keen to gather evidence on whether agriculture and rural development, fisheries and aquaculture, cohesion or regional development, energy, raw materials, transport and research policies have a positive or negative impact on the achievement of the objectives of nature legislation. Please provide specific examples/cases (including infringement cases or case law), which demonstrate clear conflicts or incoherencies between sectoral policies and EU nature legislation, and/or examples showing how specific policies influence the implementation of the Nature Directives in a positive or negative way, for example in relation to Article 6 of the Habitats Directive (see Annex I to this questionnaire). Where possible, please include evidence of the main factors influencing the positive and negative effects. Please consider in your answer what ex ante and ex post evaluation procedures are applied to ensure that this coherence is implemented or supervised.

Answer:

See answer to question C.4

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

This question seeks to gather evidence of the implications of the EU Nature Directives for economic operators in terms of whether they help ensure a level playing field across the EU (e.g. by introducing common standards and requirements for activities carried out in or around Natura 2000 areas or otherwise depend on natural resources protected under the Directives), predictability and legal certainty (e.g. helping to avoid that developments are blocked due to 'Not In My Backyard' type challenges), or whether they negatively affect the internal market.

Answer:

There is no evidence available to us that the Directives would negatively affect the internal market. Instead, various degrees of implementation have a potential to distort the internal market, therefore more emphasis has to be put on common standards for implementation, inspections and enforcement.

The statements made by important business stakeholders to Commission President Juncker in autumn 2014 illustrate the importance of the Nature Directives for economic operators and reasons

why they should not be amended (see also answer to question R.5):

- ...“[the Renewable Grid Initiative] *urges the environmental protection measures provided by the existing Habitats and Birds Directives not to be diminished, but rather to secure the harmonized implementation of these directives at national level and to streamline the procedures to properly develop the electricity grids throughout Europe. Sound and clear legislation for nature and climate protection is essential for timely deployment, access to capital markets and for public support. Any change that creates uncertainty and delays is likely to prove counter-productive for Europe’s energy transition and the related grid development.*” (<http://www.renewables-grid.eu/publications/rgi-position-papers/open-letter.html>)
- Statement by the European Cement Association (<http://www.cembureau.be/newsroom/cembureau-birdlife-call-no-changes-rules-protect-european-nature>)
- Statement by the German association for green business (http://www.unternehmensgruen.org/wp-content/uploads/2014/11/brief_Juncker_102014-ENG.pdf)

Environmental standards are key for the proper functioning of the single market in purely economic terms as they help set a level playing field across the EU, and prevent any one member state deriving an unfair short-term competitive advantage by destroying its environment. EU environmental standards achieve this by establishing minimum standards for environmental protection that apply across all EU Member States. This also serves to provide certainty for businesses operating across the EU, that the rules applicable to them are the same in all Member States. Businesses that wish to trade within any EU Member State must comply with these rules whether they are based in the EU or outside.

There is a growing body of evidence suggesting that, in the long-run, environmental regulation is good for business by opening up new market opportunities and driving cost-reducing innovation (Rayment & Pirgmaier, 2009).

Research has clearly demonstrated the major role played by Europe’s Natura 2000 network in safeguarding the natural capital upon which Europe’s prosperity and well-being ultimately depends, providing a wide range of important benefits to society and the economy via the flow of ecosystem services. As an EU -wide network, Natura 2000 represents an important shared resource capable of providing multiple benefits to society and to Europe’s economy (EC, 2013c). See also answers under question Y.1.

Environmental standards can also help create new markets for environmental products or services, as well as promoting improved levels of environmental protection globally among countries wishing to trade with the EU. Within a Member State, such standards are also important as they should play a role in preventing environmental damage taking place in one sector (for example agriculture) which, by damaging the natural environment, has a negative impact on another sector (such a tourism). The Europe 2020 Strategy aims to create a smart, sustainable and inclusive European economy. As one of the three pillars of sustainable development, environmental protection is therefore a key element of the current political objectives of the single market.

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

This question builds on question Y.2 on the availability and access to funding, but aims at examining whether Member States have sufficiently identified the funding needs and are availing of EU funding opportunities to meet the requirements of Article 8 of the Habitats Directive. EU co-funding for the Natura 2000 network has been made available by integrating biodiversity goals into various existing EU funds or instruments such as the European Agricultural Fund for Rural Development (EAFRD), European (Maritime and) Fisheries Fund (EFF / EMFF), Structural and Cohesion funds, LIFE and Horizon 2020. In your reply, please distinguish between different sources of funding.

Answer:

The approach to finance the Nature Directives almost exclusively through sectoral EU funds had been supported by conservation NGOs over many years. The NGOs have contributed intensively to attempts to improve quantity, quality and accessibility of EU funding for nature conservation. However, as the last round of programming EU funds for the period 2014-2020 is coming to a close with prospects of only insignificant improvements for funding (in other Member States the trend seems to be clearly negative) NABU has presented a paper suggesting changes to the system of integration (NABU 2015). It seems Art.8 of the Habitats Directive can only be implemented if nature conservation authorities have direct access to the relevant funds, either through a dedicated EU environment fund or through a shared management of the sectoral funds.

The situation of financing the implementation of the Directives has largely been described already under question Y.2. Here we focus on some additional aspects:

- Germany has failed to provide a high quality **Priority Action Framework**. The PAF submitted (BMUB, 2013) lack essential, Länder specific, information about funding baseline, needs, priorities for action and selection of EU funds. The NGOs BUND and NABU have commented in detail on the PAF (letter to the European Commission available on request), and provided this assessment to the European Commission. To our knowledge the European Commission never insisted, however, on an improvement of the document - which was, eventually, not useful for improving the German Operational Programmes.
- NABU has developed a discussion paper (NABU 2015) that summarises the status quo and the challenges of the current integrated approach for EU nature conservation funding in Germany and elsewhere. The paper also proposes two alternative models. The paper is available in German. An English version will be finalised in early April (it will be submitted later).

Core issues found: Too little funds available, nature protection is not a priority, lack of resources undermines voluntary agreements, exaggerated control requirements hamper effectiveness, regions find rural development funding increasingly unattractive for nature protection measures, environmental authorities and organisations are disadvantaged.

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

This question refers to overlaps, gaps and/or inconsistencies in the different EU law/policy instruments regarding nature protection. It therefore depends largely on the results of other questions related to the coherence of the Nature Directives with other EU law and policies. When answering this question you may want to consider whether the identified overlaps, gaps and inconsistencies hamper the achievement of the Directive's objectives (e.g. see Annex I to this questionnaire).

Answer:

There are no gaps or inconsistencies within the Nature Directives themselves that hamper achievement of the objectives. Implementation failures at member state levels have, however, created gaps and inconsistencies that are hampering achievement of the objectives. Implementation failures (not the Directives as such), especially late transposition, low quality impact assessments or lack of consultation of stakeholders can create a significant burden for business.

As far as environmental legislation is concerned (see also question C.2) the major gaps are a Soil Framework Directive and an EU Inspections Regulation or Directive. The latter is urgently needed due to a severe gap in enforcement of EU environmental legislation, including the Nature Directives. Member States should be obliged to fulfil specific standards in monitoring, inspecting and sanctioning potentially illegal activities. At the same time environmental authorities need more competences and resources to enforce legislation. Finally this Directive should also include quality and transparency standards for environmental assessments, such as under Art.6 of the Habitats Directives. International has developed a position paper on the content of such legislation.

- NGOs and other stakeholders are documenting illegal destruction of habitats and other illegal activities within Natura 2000 sites (NABU, 2014a, NABU NRW, 2015; Freiwillige Vereinbarung Wismarbuch, 2013)
- There are any examples of illegal killing of animals (especially birds of prey, but also wolf and others) in Germany. In the last ten years more than 1000 cases of illegally killed birds of prey were documented in Germany (<https://www.nabu.de/news/2014/11/17338.html>), the killing of strictly protected wolves has been repeatedly documented in recent years in Germany (<https://niedersachsen.nabu.de/tiere-und-pflanzen/saeugetiere/wolf/18304.html>)
- There is still wide spread illegal killing of migratory birds (including those breeding in Germany) - so far authorities fail to provide adequate resources for inspections and sanctioning. BirdLife International and the Council of Europe have undertaken several initiatives and studies on this issue (http://www.coe.int/t/dg4/cultureheritage/Nature/Bern/Meeting_072011_en.asp)

Please see answers to question C.4 and C.7 regarding the massive failure of integration of biodiversity into other policies and funds.

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

With this question we seek to collect evidence on ways in which the implementation of measures under the Birds and Habitats Directives that are not explicitly mentioned in the EU Biodiversity Strategy, help to achieve actions and targets of the EU Biodiversity Strategy. For example, restoration of Natura 2000 sites can significantly contribute to helping achieve the goal under Target 2 of the EU Biodiversity Strategy to restore at least 15% of degraded ecosystems.

Answer:

See answer to questions S.2!

At this stage it is however important to stress, that the Nature Directives' implementation and the related subtarget 1 of the EU Biodiversity Strategy are far more than just "one pillar" of the Strategy. Subtarget 1 encompasses most of the results that subtargets 2-5 aim at.

Furthermore implementing the EU Nature Directives will cover most of the three aims of Subtarget 2:

- "15% degraded ecosystem restoration": can be met to a large degree by implementing the Nature Directives, as Natura 2000 covers almost 20% of the EU's territory, and many sites need restoration activities; in addition Nature Directive aim at restoring species/habitats to favourable conservation status across the landscape
- "Green Infrastructure": Articles 3 Birds Directive and Articles 3(3) and 10 Habitats Directives already ask for a green infrastructure

"No net loss" of ecosystems": Article 6 includes an almost perfect system of ensuring this within Natura 2000; Art. 4(4) Birds Directive asks to preserve habitats and avoid pollution also outside SPAs; finally species protection provisions contribute significantly to this aim as well.

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

This question seeks to assess whether and how the EU nature legislation ensures the implementation of obligations arising from international commitments on nature and biodiversity which the EU and/or Member States have subscribed to¹, and whether there are gaps or inconsistencies between the objectives and requirements of the EU nature legislation and those of relevant international commitments, including the way they are applied. For example, the Directives' coherence with international agreements which establish targets relating to nature protection and/or require the establishment of networks of protected areas. Answer:

The Birds and Habitats Directives are the Cornerstone of EU efforts to conserve biological diversity. As such, they are the prime and practically the only instrument to implement key obligations under the Convention on Biological Diversity and the Bern Convention. They also fulfil many other commitments under the Bonn Convention on Migratory Species, the Ramsar Convention on Wetlands, the World Heritage Convention, and also CITES.

In relation to the CBD, the Birds and Habitats Directives implement key obligations under Articles 6, 7, 8, 10, 11, 12, 14, and 20, and under several Programmes of Work. Successive EU reports to the CBD (<http://www.cbd.int/doc/world/eur/eur-nr-02-en.pdf>, <http://www.cbd.int/doc/world/eur/eur-nr-03-en.pdf>, <http://www.cbd.int/doc/world/eur/eur-nr-04-en.pdf>, <http://www.cbd.int/doc/world/eur/eur-nr-05-en.pdf>) confirming that the legal backbone of the EU biodiversity and nature protection legislation is formed by the Birds and Habitats Directives, and that in designating 18% of the EU's terrestrial area as Natura 2000 sites, the EU has gone beyond Aichi target 11 in the terrestrial environment as far as mere site designation is concerned. However it has to be noted that this target also asks for proper protection and management of the sites - a goal the EU has not yet reached for Natura 2000, as infringement or pilote procedures against many Member States demonstrate (e.g. on Germany on SAC designation).

In addition to fulfilling standing obligations under international conventions, the Directives have also helped strengthen commitments made by other contracting parties.

For example, the Habitats Directive has formed the foundation of the agreed European Common Position within the International Whaling Commission which states that;

“Within the Union, Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora lists all cetacean species as species of Union interest and requires Member States to maintain those species in, or restore them to, a favourable conservation status in those parts of their territory to which the Treaty applies. All cetaceans are listed in Annex IV to that Directive. Therefore, all whale species are strictly protected from deliberate disturbance, capture or killing within Union waters.Cetaceans, and therefore whales, are migratory species. Consequently, Union policies and legislation relating to cetaceans will be more effective within Union waters if they are backed by coherent worldwide action”.

EU member states are therefore obligated to take a strong position on the protection of cetaceans at meetings of the parties to the IWC, which both strengthens global conservation commitments made by the EU, and enhances protection of cetaceans within European waters given their migratory nature. Similarly the Birds and Habitats Directive inform the EU position taken within other

¹ e.g. Bern Convention; Convention on Biological Diversity; Convention for the Protection of the World Cultural and Natural Heritage; Ramsar Convention; European landscape Convention; CITES Convention; CMS (Bonn) Convention; International Convention for the protection of Birds; Agreement on the Conservation of African-Eurasian Migratory Waterbirds; Regional Sea Conventions (Baltic, North East Atlantic, Mediterranean and Black Sea).

international conventions such as CMS and CITES.

Monitoring and conservation measures undertaken to fulfil the requirements of the Habitats Directive are coherent with Member States' commitments under international agreements such as the IWC and CMS. They are a central component of Member States' progress reports to international and regional conventions such as the IWC, ASCOBANS and ACCOBAMS and contribute to fulfilling their commitments under these conventions.

By serving as a template for neighbouring countries the directives have supported conservation in the entire Western Palearctic region, further enhancing delivery of the Aichi targets at global scale.

EU Added Value

Evaluating the EU added value means assessing the benefits/changes resulting from implementation of the EU nature legislation, which are additional to those that would have resulted from action taken at regional and/or national level. We therefore wish to establish if EU action (that would have been unlikely to take place otherwise) made a difference and if so in what way? Evidence could be presented both in terms of total changes since the Directives became applicable in a particular Member State, in changes per year, or in terms of trends.

AV.1 - What has been the EU added value of the EU nature legislation?

When responding to this question, you may wish to consider the following issues: What was the state of play or the state of biodiversity in your country at the moment of the adoption of the Directives and/or your country's entry into the EU? To what extent is the current situation due to the EU nature legislation? In answering this question, please consider different objectives/measures set out in the Directives (eg regarding protected areas, species protection, research and knowledge, regulation of hunting, etc, including their transboundary aspects).

Answer:

The answer to this question should be in light of both the political will to address environmental issues of EU interest and the geographical situation of biodiversity distribution in the EU.

It was decided by European Heads of State that environment is an area of shared competence between the EU and its Member States (Article 4 of the EU Treaty). Furthermore, the EU acts only if and insofar as the proposed action cannot be sufficiently achieved by Member States (principle of subsidiarity). Protecting Europe's unique natural heritage has been at the centrepiece of the European integration project since the early days and is therefore an integral part of the European project.

Given the geographical distribution of biodiversity over Europe and across Member States' borders and the agreed objective to protect species and habitats of Community Interest based on a functional concept (starting with birds under the Birds Directive and adapted to other groups of species incl. habitats) the two Nature Directives are, by intention and definition, of added value to conservation measures of Member States. The Directives are based on the concept of national and regional responsibilities for species populations and habitats of Community interest. In particular, this functional approach was visible when new countries joined the European Union and had to adapt their legislation and conservation measures to the biogeographical concept building the fundament of the EU Nature Directives.

Adapting the German nature conservation concept and practice to the additional EU layer of conservation goals and measures resulted in a variety of new initiatives, which would likely not have been established without the Directives. In the meantime most conservation efforts in Germany are directly or indirectly linked to the EU Nature Directives, and public conservation budgets of the Länder are focussed to a large degrees on measures that are needed to fulfilling the legally binding demands of the Directives.

Impact on the legal nature conservation framework

Germany's nature conservation laws at federal and Länder level were mainly created before 1992. The legal framework of the Directives introduced a biogeographic conservation approach, cross-border species protection and habitat conservation in biogeographical regions. It took almost 20 years, many political conflicts and legal cases until transposition of the Directives in national legislation could be regarded mostly complete (see relevant ECJ rulings collected by the German Agency for Nature Conservation, http://bfn.de/0316_veroe_urteile.html; Czybulka, 1996; Gellermann, 2001). This shows that the German authorities would not have introduced such an

innovative and modern concept of nature conservation without being forced by legally binding EU Directives.

Expanded system of protected areas

The Nature Directives led to massive enlargement of size and number of protected areas in Germany. Before the Directives came into force Germany's *strictly protected* areas comprised 2.5% of the land surface, nowadays about 4.3 %. The area of Natura 2000 sites, most of them not strictly protected, in total included 15.4% on land and in the marine area almost 45%. This expansion is a great success due to the Nature Directives and would not have happened without them.

In addition, many species and habitats that have previously not been in the focus for conservation are now included, such as bats, butterflies, amphibians, and fish.

Massive improvement in regulating hunting of migratory birds

In terms of benefits of EU level action triggered by the Nature Directives for Germany, one of the most striking example is the regulation of bird hunting achieved by the Birds Directive. Hunting and trapping of birds was widespread in many parts of Europe, in particular targeting migratory birds, in particular in Southern Europe. In the 1970s a growing public movement, especially in Germany, the Netherlands and the UK demanded international action for the protection of migratory birds. The public and political mobilisation achieved ultimately led to the adoption of the Birds Directive in 1979 (Meyer, 2013), and from that year on to a significant reduction of unsustainable hunting in the respective Member States. In every new accession country it took several years to transpose and implement the Birds Directives' hunting regulation, however in the end a massive progress was achieved, first in legal terms and later, when also illegal hunting was reduced, also on the ground. Currently it can be observed that that illegal hunting and the abuse of the derogation provisions of the Birds Directive's Art.9 (e.g. for spring hunting) in Malta and Cyprus cause massive attention across many parts of Europe, calls for EU action and internal political debates that would not have taken place without EU accession of the countries. See for example campaign pages of NABU, supporting campaigns against illegal hunting in Malta (www.nabu.de/tiere-und-pflanzen/voegel/zugvogelschutz/malta) and UK, and the planned referendum in Malta on spring hunting in April 2015 (<http://electoral.gov.mt/referenda.aspx>).

Without the EU Birds Directive, many bird species breeding in Germany would face a massive threat, in addition to habitat loss, through unregulated hunting on their flyway over EU countries. While hunting of migratory birds is still a big problem outside the EU (e.g. parts of the Balkans and North Africa), the experience of the Birds Directive's implementation has triggered many projects and activities also in third countries, e.g. the "Tunis Action Plan 2013-2020 for the eradication of illegal killing, trapping and trade of wild birds" (Bern Convention Recommendation No 164, 2013).

New framework for biodiversity monitoring

In the 1970s and 1980s the knowledge about the state of habitats and species in Germany was mainly based on a set of „Red Lists“, established in 1971 at the national (ICBP Germany, 1971) and the regional (Berthold et al., 1974) level. After the Nature Directives had been adopted a more geographically coherent approach on the state of nature has been initiated, but still based on updated national red lists (Binot-Hafke et al., 2009); www.bfn.de/0322_veroe.html). With the reporting requirements of Art. 17 of the Habitats Directive and the need to assess conservation status (based on achievement of favourable reference values) rather than threat status (based on extinction risk) a coherent system and framework for standardised biodiversity monitoring was initiated to be established, which comprises high quality field data, in particular for birds (Wahl & Sudfeldt, 2010).

Hence, the Nature Directives gave a strong impetus to establish a modern framework for biodiversity monitoring and assessments in Germany.

Additional financial resources

In order to implement the Nature Directives new financial resources have been mobilized through the LIFE programme and the various EU funds.

Germany's conservation efforts have clearly been supported significantly through these new funding opportunities, which were complemented by additional financing from various sources from national to local level (cf. Y.2).

AV.2 - What would be the likely situation in case of there having been no EU nature legislation?

This question builds on question AV.1. In answering it, please consider the different objectives/measures set out in the Directives (eg. whether there would be a protected network such as that achieved by Natura 2000; whether the criteria used to identify the protected areas would be different, whether funding levels would be similar to current levels in the absence of the Nature Directives; the likelihood that international and regional commitments relating to nature conservation would have been met; the extent to which nature conservation would have been integrated into other policies and legislation, etc).

Answer:

See answer to AV.1

More evidence will be provided later.

AV. 3 - Do the issues addressed by the Directives continue to require action at EU level?

When answering this question the main consideration is to demonstrate with evidence whether or not EU action is still required to tackle the problems addressed by the Directives. Do the identified needs or key problems faced by habitats and species in Europe require action at EU level?

Answer:

Yes, EU action is more than ever required. Although the Nature Directives have not yet been fully implemented, and conservation funding remains inadequate (cf Y.2), there is scientific evidence that EU level intervention through the Birds and Habitats Directives has proven to be effective at reducing the rate of loss of biodiversity (Donald et al, 2007; Deinet et al.; 2013). Still, overall, the State of Europe's and Germany's nature is more critical than ever (BMUB & BfN, 2014).

As long as the strategic goals of the EU are not attained and the objectives of the Directives are not fully met, a continuous effort for the preservation and restoration of Europe's biodiversity is necessary (see S.1.1). This is even more important as most of the threatened habitats and species react only slowly to conservation efforts. It can be seen that birds specifically protected by the Birds Directive since 1979 are already starting to recover (Donald et al, 2007), while for many species and habitats under the Habitats Directive (adopted in 1992) progress is more patchy - especially as in Germany most Natura 2000 sites still lack proper protection and management plans.

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