

Draft Rulebook for appropriate assessment according to Article 6 of the Habitats Directive and suggested changes to the draft Law on Nature protection

Twinning Project MK 13 IPA EN 02 17

Strengthening the capacities for effective implementation of the acquis in the field of
nature protection

Report D 4.2. - 2.

2/28/2019



Funded by the European Union

The Ministry of Environment and Physical Planning, Department of Nature,
Republic of North Macedonia
Metsähallitus (Parks and Wildlife Finland), Finland
The State Service for Protected Areas (SSPA), Lithuania



This project is funded by the European Union
This document has been produced with the financial support of the European Union. Its contents are the sole responsibility of the Twinning Project MK 13 IPA EN 02 17 and do not necessarily reflect the views of the European Union

Table of Content

The aim of the document	3
1. Background and justification for suggestions	4
Notes on the environmental permitting process in Macedonia	4
Suggested concept for appropriate assessment	6
Special remark	8
2. Suggested additions to draft Nature Law	9
Notes on draft Law on Nature Protection	9
Preparation to the future – temporal applicability	12
Draft rulebook	13
Annex I: Flowchart from EC guidance document ‘MANAGING NATURA 2000 SITES The provisions of Article 6 of the ‘Habitats’ Directive 92/43/CEE’	16
Annex II: Example of a text of an opinion given by Finnish competent authority on an Appropriate Assessment...17	
Annex III Example of an administrative process related to an AA	20
Experts involved:	21
Bibliography and further reading	21

The aim of the document

The aim of this document is

- In 1st chapter to present all necessary elements and background information for proper implementation of appropriate assessment according to Article 6 of the Habitats Directive,
- In 2nd chapter to suggest some changes to draft Law on Nature Protection in order to facilitate the administrative process related to appropriate assessments in Macedonia, and
- In 3rd chapter to present a draft text for a rulebook describing the content of the appropriate assessment.
- In Annexes good practice example of an opinion on an appropriate assessment and organograms clarifying the workflow are presented.

N.B. There are situations that are not in the focus of this document, but that are still within the obligations of Habitats Directive Article 6.

The overall protection scheme entails also setting conservation objectives and priorities for Natura 2000 sites [Art. 4(4)] and establishing necessary conservation measures [Art. 6(1)]. This is not covered by this document.

1. Background and justification for suggestions

Transposing appropriate assessment to the Macedonian legislation requires good understanding of the legal environment i.e. the situations where the appropriate assessment (AA) must be drawn up and the role of different actors in the process.

In the Macedonian context, there are three situations that launch a permitting or planning process that can be considered relevant in terms of appropriate assessment:

- 1) For large projects there is Environmental Impact Assessment (EIA) stipulated under Article 77 of the Law on Environment
- 2) For strategies, plans and programmes, including amendments to such strategies, plans and programmes there is Strategic Assessment/Strategic Environmental Assessment stipulated under Article 65 [...] of the Law on Environment
- 3) Projects regulated under Law on Environment and 'special laws' regulating specific projects and media.

In principle, all different types of plans and projects that are not directly connected with or necessary to the management of the site (i.e. Natura 2000) should be subject to AA, with a very low threshold. EU case-law (e.g. <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-127/02>) has set very demanding criteria for authorization of plans and projects after conclusions of an AA. Thus, the threshold for entering the process of the AA should be *very low*.

In case, there is no permitting process stipulated by the legislation, it might still be necessary to launch an AA process. Therefore, it is reasonable to build a legal system that covers all cases that might have a significant negative impact on the site (its conservation values and objectives). However, this might not be feasible with the current resources and capacities of the Macedonian environmental administration (taken into account in chapter 2). Especially, Article 6(2) of the HD that sets a general duty to the MSs to avoid deterioration of Habitats and disturbance of Species. These situations relate e.g. to small projects and other projects that are not object to any existing permitting process. These situations are commented in the document.

Notes on the environmental permitting process in Macedonia

Today, an AA process does not exist in Macedonian legislation. Before the transposition of the AA process to the Macedonian legislation there is need for education and capacity building in the administration.

Due to specific requirements and scope of the AA, it is advisable that there are personnel in the administration who are specialised in the AAs and give the opinions. Their role would ideally also include training and capacity building of personnel involved in permitting processes in state administration, municipalities and of private consultants preparing the AAs.

The administrative process suggested also assumes that one competent authority for the Appropriate Assessments is established/determined. It is suggested that the authorities responsible for relevant special laws ask the opinion from AA specialists/competent authority for the Appropriate Assessments whether the AA is needed. If the answer is positive, the competent authorities for AAs will take charge of the AA process and engage with the project planner until they can conclude whether project or plan will adversely affect the integrity of the site.

For a flexible AA process, it is necessary that the competent authority responsible for the AA is involved during the preparation of the AA. Hence, it can influence the scope and quality of the assessment, and help planning a project that sufficiently mitigates impacts.

This approach would only require a description of the process of AA in the Law on Nature Protection. Other laws would only refer to law on Nature Protection if necessary.

The following changes would/would not be needed in the different situations to cover all different types of projects potentially having significant impact on Natura 2000 sites:

- 1) Possibility to require an AA from a project that is **notified by a municipality** to the MoEPP should be made possible.
 - This might require an amendment to the draft Law on Nature Protection that would widen the scope of the AAs (or simply deleting any reference to EIA and SEA).
- 2) For **projects that fall below the threshold of decree on EIA**, necessary amendments to the legislation should be done so that AA can be required from all necessary projects (connection to the environmental elaborates).
 - Amendments include widening the scope of AAs in Law on Nature Protection and potentially changing the wording in Law on Environment so that the competent authorities ask opinion about the need for an AA from the MoEPP (or simply deleting any reference to EIA and SEA).
- 3) **SEA** process suits well to be combined with an AA. Combined process allows for a preliminary examination, assessment of cumulative impacts and genuine exploration of alternative means of implementation. However, if the strategy, plan or programme requires permits later on, there might be need for another round of assessment based on the more concrete plans. For the sake of not making the processes unnecessarily heavy and considering the uncertainties that many plans at an early stage of the process have (e.g. housing), the precision of an AA can be adjusted.
 - Specific reference to EIA and SEA is unnecessary and could be deleted.
- 4) **EIA** process allows for similar advantages to SEA. It allows for preliminary examination, examination of cumulative impacts and true exploration of alternative means of implementation. It is also typical of the EEA process that the administration engages in the process and influences its outcome.
 - Specific reference to EIA and SEA is unnecessary and could be deleted.
- 5) **Projects** either requiring only a **notification** (based on legislation) to the authority or small projects that **do not need permit or notification** to the authority.
 - Amendments widening the scope of AAs in draft Law on Nature Protection.
- 6) **Impacts of plans or projects that are directly connected with or necessary to the management of the site** are not mandatorily assessed according to the Article 6(3) of the HD. This entails that many of the rulebooks listed below must not be changed at all (Text box 1). However, it is a good practice to add a chapter on 'likelihood of significance of effects' to the documents describing the management of the site. This chapter adds transparency and will ensure that the potential negative impacts have been thought through by the management authority. It also helps the competent authority (approving plan) to conclude whether an AA would be necessary in the specific case. The list of Macedonian legislation related to the management of the sites should be checked one by one, if this aspect is desired to be added.

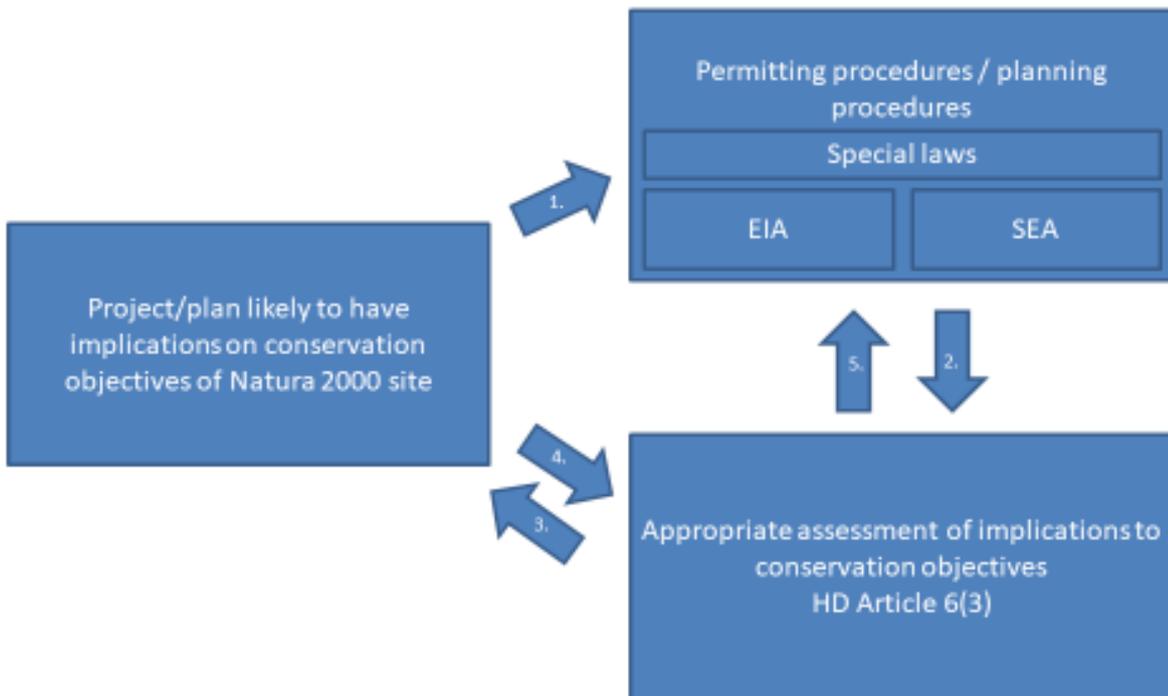
Text box 1: List of rulebooks that are related to measures that are 'directly connected with or necessary to the management of the site'

- Rulebook on the measures and activities for protection of park of nature ("Official Gazette of Republic of Macedonia" no. 126/10);
- Rulebook on the measures and activities for protection of monuments of nature, form and content of the template of the permit for implementation of separate measures and activities for protection and restoration of the monument of nature ("Official Gazette of Republic of Macedonia" no. 126/10);

- Rulebook on the content of the protected areas management plans and nature protection annual programs (“Official Gazette of Republic of Macedonia” no. 26/12);
- Rulebook on the issuance of the permit for performing scientific research in nature (“Official Gazette of Republic of Macedonia” no. 101/09);
- Decree on the strategies, plans and programs, including amendments to such strategies, plans and programs for which the procedure for assessment of their impact on the environment and human health is obligatory (“Official Gazette of Republic of Macedonia” no. 153/07, 45/11);
- Decree on the criteria on the basis of which the decisions are made on whether certain planning documents could have significant impact on the environment and human health (“Official Gazette of Republic of Macedonia” no. 144/07);
- Decree on establishing the projects and the criteria for determining the need for conducting the procedure on environmental impact assessment (“Official Gazette of Republic of Macedonia” no. 74/05, 109/09, 164/12);
- Rulebook on the content of the requirements to be fulfilled by the EIA study for the project (“Official Gazette of Republic of Macedonia” no. 33/06);
- Rulebook on the issuance of the permit for performing scientific research in nature (“Official Gazette of Republic of Macedonia” no. 101/09);
- Rulebook on the content of the protected area (re)valorization study (“Official Gazette of Republic of Macedonia” no. 26/12);

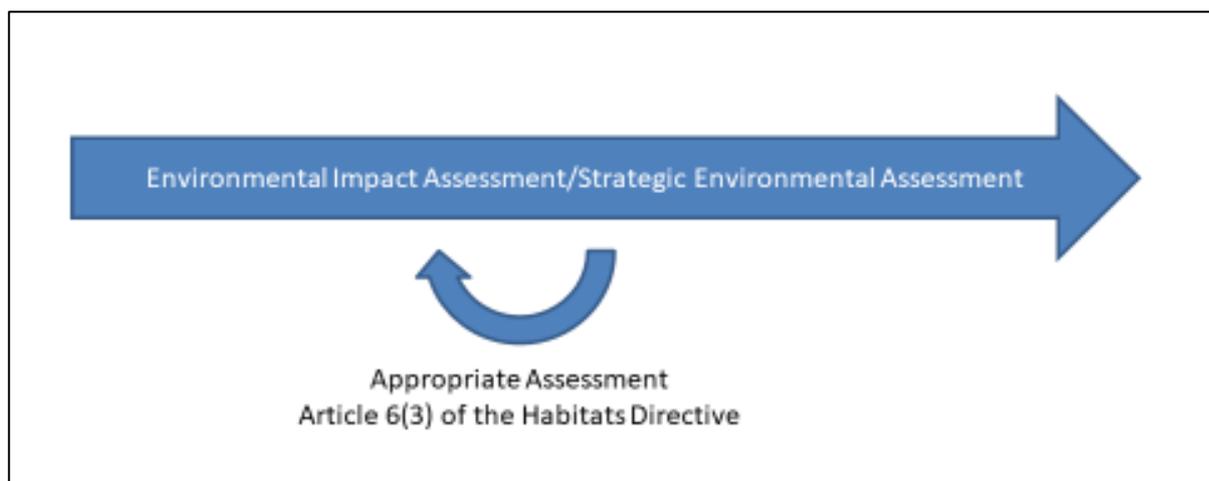
Suggested concept for appropriate assessment

The process of AA in the general context is presented in picture 1. It describes a situation where a project or plan that is likely to have impacts on site enters the process through a competent authority. The random competent authority then asks the opinion from authority responsible for AAs (MoEPP). Due to likely impacts of the project or the plan AA process starts. Impacts are assessed and the project is modified according to findings. Once the assessment is considered appropriate it is sent back to the original authority with the opinion from the responsible authority for AAs. The original permitting authority then makes a decision that takes into account the opinion of the responsible authority for AAs.



Picture 1. Simplified flowchart showing the interaction of the appropriate assessment process with environmental permitting procedures and iterative planning of a project that is considered likely to have implications on conservation objectives of any Natura 2000 site. Numbering of arrows: 1 = Project planner initiates the project; 2 = Competent authority for the concerned Environmental permitting/planning procedure asks for an opinion if the appropriate assessment is needed (screening). If the answer is positive process the process for preparing an appropriate assessment is launched by the Competent authority for the concerned Environmental permitting/planning procedure; 3 & 4 = Necessary correspondence and meetings organised with the project planner and the competent authority responsible for AA; 5 = The competent authority responsible for AA submits its opinion to the Competent authority responsible for the concerned Environmental permitting/planning procedure.

Picture 2 illustrates the interactive process of planning process and AA. In the Macedonian context the loop (AA illustrated in the picture) in permitting process is planned to be done by the accredited experts. Based on the AA the competent authority responsible for appropriate assessments then issues its opinion that will be incorporated in the planning/permitting procedure.



Picture 2. Assessment of likelihood and significance of impacts of a planned project on conservation objectives of the Natura 2000 site i.e. need for an appropriate assessment according to the Article 6(3) of the Habitats Directive.

Special remark

As the specific ecological requirements of species and habitats of Community Interest are in the focus of the AA process, special attention must be paid to the availability of expertise. The preparation of the assessment itself requires ecological expertise, and sometimes civil engineer, but expertise on the substantial issues is required also from the side of the permitting authority as well.

Current staff is knowledgeable but, most probably, too few to handle the amount of cases that will follow once all projects *likely to have significant impacts* must be handled. Recruiting more staff in the existing organisations or establishing a new dedicated organization with sufficient staff resources should be considered.

2. Suggested additions to draft Nature Law

Notes on draft Law on Nature Protection

The first and fourth chapter of the article concerning appropriate assessment in draft Law on Nature Protection Art. 75 cover well the aspects of Chapter 3 of the Article 6 of the Habitats Directive (see Text box 2). However, second and third chapter seem to limit the application of AA to large and certain types of projects, strategies, plans and programmes only. This can prove problematic, as it does not allow a preliminary examination of impacts of a potentially high number of projects. Deleting these paragraphs and replacing them with more general ones would make the legislation simpler and clearer.

Text box 2: *A comparison of texts in Draft law on Nature protection Article 75 (prepared by project 'Strengthening the capacities for implementation of NATURA 2000 - EUROPEAID/136609/IH/SER/MK in February 2017;) and Habitats Directive Article 6(3).*

Draft Law on Nature Protection

Appropriate assessment

Article 75

(1) Any planning document or project not directly connected with or necessary to the management of the proposed or designated European Area and/or European Bird Area but likely to have a significant effect thereon, either individually or in combination with other planning documents or projects, shall be subject to appropriate assessment of its implications for the respective European Area or European Bird Area in view of its conservation objectives.

(2) The appropriate assessment procedure of the planning documents referred to in paragraph (1) of this article shall be conducted in accordance with the procedure prescribed with the provisions of the Law on Environment on assessment of impact of particular strategies, plans and programs on the environment provided the assessment is done in a clearly distinguishable procedural step, carried out by experts in biodiversity conservation, and documented specifically in the final document.

(3) The appropriate assessment of the projects referred to in paragraph (1) of this article shall be conducted in accordance with the procedure prescribed with the provisions of the Law on Environment on assessment of impact of particular projects to the environment provided the assessment is done in a clearly distinguishable procedural step, carried out by experts in biodiversity conservation, and documented specifically in the final document.

(4) In the light of the conclusions of the assessment of the implications for the respective European Area or European Bird Area and based on article 76 of this law, the competent authorities according to the Law on Environment shall agree to the planning document or project only after having ascertained that it will not adversely affect the integrity of the respective European Area or European Bird Area concerned.

Habitats Directive

Appropriate assessment

Article 6

[...]

3. Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.

[...]

Chapter 4 is similar to the text of the Habitats directive. However, a clearer formulation that is also used in Finnish Act on Nature Conservation can be used.

In order to ensure proper transposition of the text of the Habitats directive Article 6(2) and make later on easier to refer to the habitats and species for which the areas have been designated it is suggested that the Article 74(1) is modified as shown in Text box 3.

Text box 3: Original draft law on Nature Protection Article 74(1) in normal font. Suggested deletions in strikethrough. Suggested additions in bold.

Article 74 (1)

Deterioration of the **European habitat types and European species for the protection of which the site has been designated** ~~proposed European Areas~~ in accordance with Article 73 of this Law shall be prohibited.

Habitats Directive

Appropriate assessment

Article 6

2. Member States shall take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of this Directive.

Suggested changes to the Draft Law on Nature Protection Article 75 are presented in Text box 6. Suggested changes establish the administrative process and add clarity to the draft law. Suggested changes are based on Finnish Nature Conservation Act with slight text modifications where needed. Full implementation of all obligations arising from Habitats directive Article 6 might need inclusion of the other elements too (in grey). Those obligations relate to situations where a formal permitting procedure is not required.

Suggested Article 75 chapters 3 and 4 are considered necessary although Article 70 requires notification of activities 'expected to produce a report as a result'. Suggested Articles 3 and 4 focus on small projects and measures that are not necessarily producing reports but aim at smaller scale (e.g. extractive) activities in European areas (Natura 2000 sites).

Additional changes are suggested to articles 71 and 73 in the Draft Law on Nature Protection in order to add clarity to the legislation (text box 4). It is important to clearly indicate at every step of the process the species and habitat for the protection of which the sites are selected. This allows for clear and transparent setting of conservation measures and, at a later stage of the designation process, setting conservation priorities and objectives (SAC-designation). It also allows for clear referral to the conservation objectives deterioration of which is prohibited in Article 74(1) and more closely stipulated in Article 75.

Text box 4: Suggested additions (in bold) to the Articles 71 and 73. These additions add the reference to the protected species and habitats already in the phase of notifying bird areas and suggesting other European areas to the Natura 2000 network.

Designation of European Bird Areas

Article 71

(4) Based on scientific analysis, taking into consideration the criteria from paragraph (1), (2), and (3) of this article, the expert body shall propose to the minister the List of important areas for conservation of the bird species from Article 70 paragraph (2) of this Law which, having in mind the number of birds living in the area and its size, shall be proposed as European bird areas. (5) [The Government of the Republic of Macedonia,

upon proposal of the Minister shall adopt the List of important areas for conservation of birds **with the list of species occurring on every site.**]

Designation of European Areas

Article 73

(3) An area on which European habitat types and European species set with the act from article 70 paragraph (2) of this Law are occurring, **and that are selected according to the rules set out by the relevant EU legislation**, shall be proposed as European area.

(4) On the basis of the scientific analysis and criteria set in accordance with paragraph (1), (2) and (3) of this article, the Government of the Republic of Macedonia, upon proposal of the Minister shall adopt a list of proposed European Areas which shall include the name and code of the area, the biogeographic region in which the area is located, **information on species and habitat for protection of which the site has been protected and whether priority species under Annex II or priority habitats under Annex I of the Habitats directive occur on the site**, its precise location (**coordinates of the center of the site**), boundaries (**map**) and surface.

Another suggested addition to the draft law on Nature Protection would be needed to ensure that the conservation objectives of the site remain up-to-date and relevant to the protection of the site as new information is acquired or e.g. area of the habitat types increase due to restoration or management. Updating of the natural scientific information could be added to the end of the Article 71 as suggested in text box 5.

Text box 5: Suggested addition to the Article 71 in order to facilitate updating of the natural scientific information.

6) Changing and updating the natural scientific information related to the European areas and European bird areas (Natura 2000 sites) is done by a decision/degree given by the MoEPP.

Text box 6: Original draft law on Nature Protection Article 75 in normal font. Potential full implementation of the Habitats Directive Article 6 in grey. Suggested deletions in strikethrough. Suggested additions in bold.

1) Any planning document or project not directly connected with or necessary to the management of the proposed or designated European Area and/or European Bird Area but likely to have a significant effect thereon, either individually or in combination with other planning documents or projects, shall be subject to appropriate assessment of its implications for the respective European Area or European Bird Area in view of its conservation objectives.

~~2) The appropriate assessment procedure of the planning documents referred to in paragraph (1) of this article shall be conducted in accordance with the procedure prescribed with the provisions of the Law on Environment on assessment of impact of particular strategies, plans and programs [...]~~

~~(3) The appropriate assessment of the projects referred to in paragraph (1) of this article shall be conducted in accordance with the procedure prescribed with the provisions of the Law on Environment on assessment of impact of particular projects [...]~~

2) The authorizing authority or authority approving the plan shall ensure that the assessment referred to in paragraph 1 is carried out. The Authority must seek the opinion of the competent authority responsible for Appropriate Assessments [e.g. Department of Nature in MoEPP] and authority responsible for the management of the areas referred to in paragraph 1. [If the competent authority itself is the designer or implementer of the project, the Ministry of the Environment will decide which other authority will issue an opinion. The decision of the Ministry of the Environment cannot be appealed separately.]

The opinion referred to in paragraph 2 above shall be issued without delay and no later than six months after the request for opinion has been received by the competent authority [e.g. Department of Nature in MoEPP] [or when the decision referred to in subsection 2 of the Ministry of the Environment has been notified].

If the project is subject to the Environmental Impact Assessment procedure or Strategic Environmental Assessment procedure referred to in Law on Environment, the assessment referred to in paragraph 1 shall be made as appropriate in the assessment procedure. The liaison authority under that law shall include the opinion of the competent authority for appropriate assessment and the authority responsible for the management of the areas referred to in paragraph 1 to the reasoned conclusion related to the Environmental Impact Assessment procedure or Strategic Environmental Assessment procedure.

3) The authority to which a notification, based on a law or a regulation, of a project or plan referred to in paragraph 1 is made, shall take measures within its jurisdiction to suspend the execution of the project or plan until the assessment referred to in paragraph 1 has been completed. The authority must also immediately inform the competent authority responsible for appropriate assessments [e.g. Department of Nature in MoEPP].

4) If a measure is likely to cause impacts prohibited in Article 74(1), the person responsible for the measure shall inform the competent authority responsible for appropriate assessments [e.g. Department of Nature in MoEPP]. The notification does not need to be made if the measure requires the authorization of the authority or the notification referred to in section paragraph 3.

The notification shall be made in writing at least 30 days before the measure is taken. It is considered to have been submitted to the competent authority responsible for appropriate assessments [e.g. Department of Nature in MoEPP] when it arrives. The notification shall contain information on the measure, its implementation and the implications for the conservation objectives of the area. Government decrees/sublaws may provide more detailed provisions on the content of the notification.

5) If a measure notified to the competent authority responsible for appropriate assessments [e.g. Department of Nature in MoEPP] pursuant to paragraphs 3 or 4 causes or threatens to cause impacts prohibited in Article 74(1), the competent authority responsible for appropriate assessments [e.g. Department of Nature in MoEPP] shall, within 30 days of receipt of the notification, prohibit the measure or limit it. Before taking a decision, the competent authority for appropriate assessments [e.g. Department of Nature in MoEPP] must endeavor to negotiate the implementation of the measure with the person responsible for the measure in order to prevent the result prohibited by Article 64a.

4/6) The Authority shall not authorize a project if the assessment and opinion referred to in paragraph 1 demonstrates that the project or plan has a significant adverse effect on the natural values for which the site is [or is planned] to be included in the areas referred to in paragraph 1.

4) In the light of the conclusions of the assessment of the implications for the respective European Area or European Bird Area and based on article 76 of this law, the competent authorities according to the Law on Environment shall agree to the planning document or project only after having ascertained that it will not adversely affect the integrity of the respective European Area or European Bird Area concerned.

Preparation to the future – temporal applicability

A special remark related to the accession process of Macedonia to the EU must be made. There is case law stating how administration should deal with projects processed during the accession process:

'[...] if the application for authorisation was formally lodged before the expiry of the time-limit for transposition of the Directive or before the accession to the EU, the project is not subject to the requirements laid down in Article 6(3) and (4). However, if the application for authorisation was formally lodged after the expiry of the time-limit for transposition of the Directive or after the accession to the EU, the project is subject to the requirements laid down in Article 6(3) and (4).' ([EC 2014](#))

Draft rulebook

RULEBOOK ON THE CONTENTS AND PROCEDURE OF THE APPROPRIATE ASSESSMENT OF THE IMPLICATIONS OF ANY PLAN OR PROJECT NOT DIRECTLY CONNECTED WITH OR NECESSARY TO THE MANAGEMENT OF THE PROPOSED OR DESIGNATED EUROPEAN AREA AND/OR EUROPEAN BIRD AREA

Article 1

This Rulebook prescribes the content of the appropriate assessment under Draft Law on Nature Protection Article 75.

Article 2

The appropriate assessment contains:

1. Description of the plan or project and identification of implications;
2. Description of the conservation values and objectives of the site;
3. Impacts of the plan or project and cumulative impacts;
4. Significance of the impacts;
5. Mitigation measures;
6. Accuracy and credibility of assessment;
7. Information base and expertise; and
8. Monitoring.

Article 3

The 'Description of the plan or project and identification of implications' contains:

1. Exact actions that will be implemented;
2. Location in relation to the proposed or designated European area and/or European bird area;
3. Time of execution and duration of the plan or project;
4. Technical solution, gear and impacts due to them;
5. Delimitation of impacts according to measures and terrain;
6. Changes in the environment, types and amounts of discharges;
7. Other relevant information (maps, distances, weights)
8. Concrete description.

Article 4

The 'Description of the conservation objectives of the site' contains:

1. Conservation objectives of the site
 - conservation values and objectives that are set for the management of the site (e.g. maintaining natural state and ensuring natural development of ecosystems, increasing the amount of certain habitat types, increase species populations or area of species habitat, enhance the quality of species habitat)
2. Species and habitats the site was designated

- Description of habitats and species
 - Conservation objectives set for habitats and species
3. Ecological requirements
- Species and habitats interaction with the local environment
 - Aspects affecting the continued existence of habitats and species

Article 5

The 'Impacts of the plan or project and cumulative impacts' contains;

1. Impacts
 - Biological and ecological impacts to all species and habitats protected for the protection of which the site was designated must be assessed;
 - Direct impacts, indirect impacts, short-/long-term impacts, permanent/temporary impacts, positive/negative impacts;
 - Spatial presentation;
2. Cumulative impacts
 - All impacts that focus on same species or habitat types must be assessed;
 - Similar type of impacts must be assessed;
 - Projects and plans that have been carried out or are approved are included;

Article 6

The 'Significance of the impacts' contains;

1. Assessment of amount and quality of negative impacts;

Article 7¹

The 'Mitigation measures' contains;

1. Means to mitigate and avoid impacts;

Article 8²

The 'Accuracy and credibility of assessment' contains;

1. Description of all uncertainties in the assessment;

Article 9

¹ Not compulsory. The competent authority can advice addition of mitigation measures, especially if they help avoiding impacts. If mitigation measures are condition for the given opinion by the competent authority, the measures should also be included in the final environmental permit.

² Appropriate assessment must consist of solid narratives and studies; complete, accurate and definitive statements and conclusions that help excluding all scientific doubt about impacts to the site. The facts found out must allow for legal assesment on impacts, to the conservation values of the site, that would deny authorisation of the plan or project. If the assessment does not contain information needed to make that decision, assessment is not done appropriately and the permit cannot be granted or plan approved.

The 'Information base and expertise' contains;

1. Description and list of all information used:

- Field inventories
 - Method, time, route in terrain, log data, verbal descriptions of habitat types, species lists, name of the person who identified difficult species...
- Species/habitat registers used (date)
- Literature used
- Experts and responsibilities

Article 10³

The 'Monitoring' contains.

1. Description of a concrete monitoring plan that ensures comparable and relevant data;

Article 11

This Rulebook shall enter into force on the day following the day of its publication in the "Official Gazette of the Republic of Macedonia"

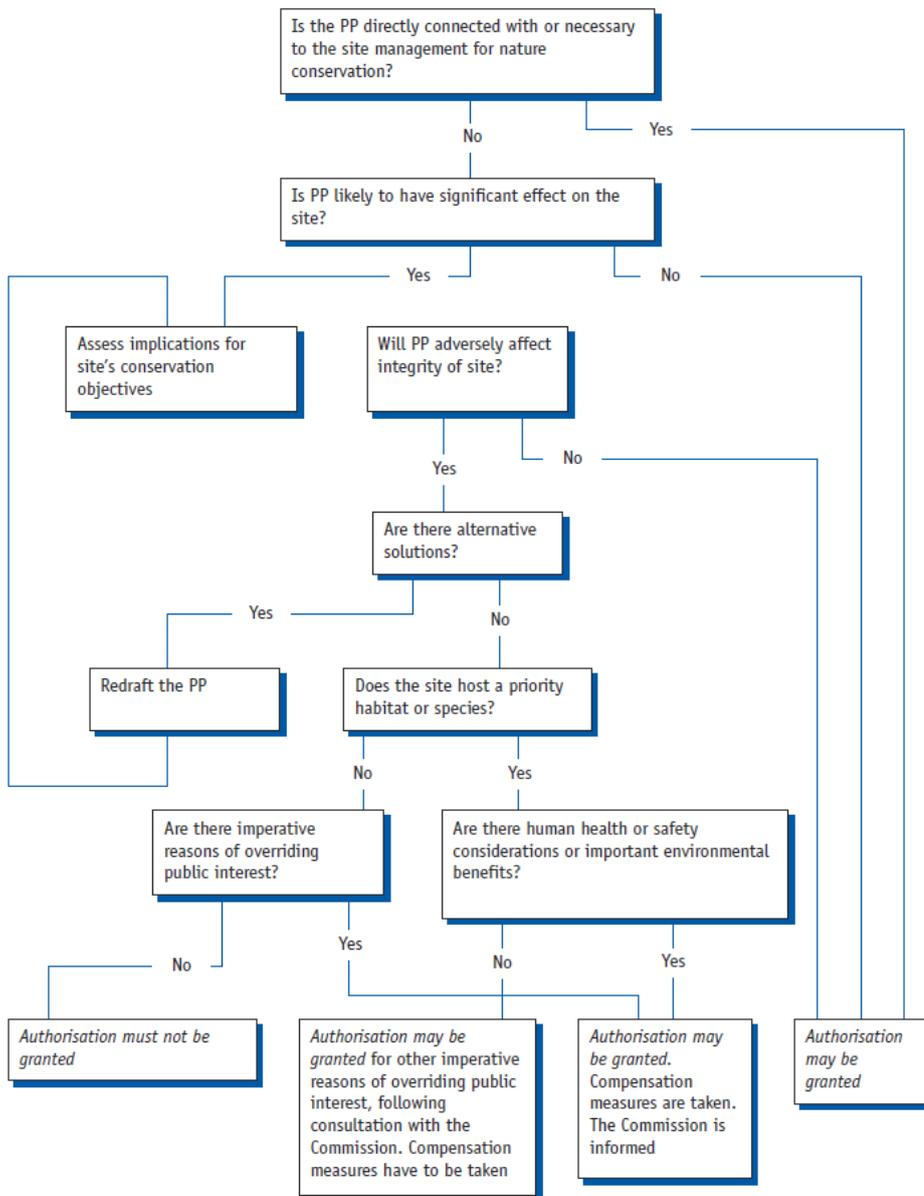
³ Not required, but often elementary to ensure proper implementation of law. Allows also for corrective action, if unintended impacts occur. If mitigation measures are applied, the competent authority should oblige monitoring of mitigation measures.

Annex I: Flowchart from EC guidance document 'MANAGING NATURA 2000 SITES The provisions of Article 6 of the 'Habitats' Directive 92/43/CEE'.

Managing Natura 2000 sites

ANNEX III

CONSIDERATION OF PLANS AND PROJECTS AFFECTING NATURA 2000 SITES



Annex II: Example of a text of an opinion given by Finnish competent authority on an Appropriate Assessment

Opinion according to § 65 of the Nature Conservation Act on Appropriate Assessment made on the construction of a tram bridge and a light traffic bridge across the Vantaa River

The Regional Administrative Agency of Southern Finland has asked the Uusimaa Centre for Economic Development, Transport and the Environment to give opinion according to the § 65 of the Nature Conservation Act on an appropriate assessment, which deals with the effects of the construction of a tram bridge and light traffic bridge across the Vantaa River Natura 2000 area.

Project description

Construction of a tram bridge and a light traffic bridge over the River Vantaa. The construction is part of the Raide-Jokeri high-speed rail project that runs From Helsinki's Itäkeskus to Keilaniemi, Espoo. The length of the track is about 25 km. The project will dismantle the current bridge across Vantaa River and replace it with a new high-speed railway bridge. Additionally, a new light traffic bridge will be built on the south side of the bridge.

OPINION OF THE ECONOMIC, TRANSPORT AND ENVIRONMENT CENTER

Natura 2000 area information

The Vantaa River (FI0100104) under assessment is included in the Natura 2000 network as a SAC under the Habitats Directive. An area of about 59 kilometers of the main river of Vantaa, from the Vanhankaupunginlahti bay in Helsinki to Nukarinkoski in Nurmijärvi, is designated as Natura 2000 area. The site covers only the water area in the riverbed.

Vantaa River Natura 2000 site has two conservation objectives: species of Annex II of the Habitats Directive - Thick shelled river mussel (*Unio crassus*) and Otter (*Lutra lutra*).

Appropriateness of evaluation

According to the Uusimaa Centre for Economic Development, Transport and the Environment, the project's likely impacts and the impact on the area are properly identified and assessed correctly from the point of view of the natural values that are the basis of the designation of the site. Also interactions with other known projects and plans have been notified, but their assessment has been limited given the large catchment area of the river Vantaa and numerous ongoing projects and plans. However, this does not have significant impact on the reliability of the conclusions.

The Natura standard data form, the Vantaa River Natura area mussel inventory 2004-2007 and Raide-Jokeri project's own mussel inventory from 2017 have been used as starting material for the appropriate assessment. Impacts have been assessed based on expert judgment.

The Uusimaa Centre for Economic Development, Transport and the Environment considers that the Appropriate Assessment has been appropriately prepared. Also the Government's decision of 5.12.2018 on new standard data form has been taken into account in the assessment. Despite the shortcomings in the evaluation of cumulative impacts, the evaluation is based on sufficient evidence and therefore, reliable conclusions on the significance of the effects can be drawn.

Effects on the species on which protection is based

Thick shelled river mussel

In the Vantaa River lives the largest Thick Shelled River Mussel population in Uusimaa region, estimated at approximately 2.86 million individuals in 2007. Based on a shellfish survey conducted in 2017 the abundance of the Thick Shelled River Mussel population is stable in the vicinity of the project site.

The Thick Shelled River Mussel and its habitat are impacted by the project during construction and permanently. Construction threatens to target species with direct mortality, habitat loss and the deterioration of the quality of habitat as result of sedimentation and reducing sight depth.

A study on sulphides in soil was conducted but no actual acid sulphate soils were found. However, based on the total sulphur content of several samples the sulphur content of the soil samples exceeds the acid sulphide soils limit value used. The Appropriate Assessment is based on presumption that the pH value of the drainage water conducted to the Vantaa River stays between 6-9.

Permanent effects on the habitat of the Thick Shelled River Mussel occur because bridge pillars are built in the riverbed. According to the evaluation the pillars cause death of maximum some tens of Thick shelled river mussels. Possible dredging causes a downstream sight depth decrease and increased sedimentation.

However, the greatest impact of the project is caused by setting up temporary bridges during construction in the riverbed. In the area of the temporary bridges the number of Thick shelled river mussel individuals is between 1105-3750 depending on whether detected average or maximum densities is used. It has been estimated that piling the temporary bridges cause mortality, as well as habitat degradation and living condition's slight deterioration due to turbidity. Thick shelled river mussel mortality is estimated at a maximum of 100-400 individual during the construction stage. In addition to mortality, local turbidity, sedimentation and habitat loss is caused by piling of work bridges especially during construction.

According to the Appropriate Assessment, the impacts are temporary and local and they are not considered significant on the scale of the entire Natura site. The project's impacts can be mitigated by moving the Thick shelled river mussels from the construction site.

The Uusimaa Centre for Economic Development, Transport and the Environment considers that the conclusions of the Appropriate Assessment are justified, when mitigation measures are implemented. Significant negative impacts can be avoided by moving Thick shelled river mussels from the work area. Similarly, the construction work must follow a working method that minimizes the turbidity and sedimentation in the river downstream of the project site. Special attention must also be given to treat sulfur-rich soils so that acidic waters are not the lead to the Vantaa River.

Otter

The Otter population in the River Vantaa has been estimated in the standard data form to be roughly 1-5 individuals. The closest known Otter habitat is by Vanhankaupunginkoski just under two kilometres downstream from the bridge. Otters are moving widely along the Vantaa River, most probably also by the project site. According to the assessment, construction forms temporary obstacles to-moving of the otter. After completion of construction work the current situation will be resumed. Negative impacts on the otter have been estimated to be small. The Uusimaa Centre for Economic Development, Transport and the Environment considers the assessment justified.

Cumulative impacts

In the appropriate assessment, cumulative impacts have only been identified with the new housing according to the new land use master plan of Helsinki. According to the assessment, additional construction is likely to increase diffuse loading to the Vantaa River through increasing amount of urban runoff waters. However, the cumulative impacts together with the project are not assessed to be significant.

The Uusimaa Centre for Economic Development, Transport and the Environment considers the assessment of cumulative impacts to be insufficient taking into account numerous already implemented and pending projects and plans in the vast catchment area of Vantaa River. However, taking into account the magnitude and temporary nature of the project's impacts, the Uusimaa Centre for Economic Development, Transport and the Environment sees, that cumulative impacts do not sum up to significantly weakening impact.

Monitoring

Effects on water quality shall be monitored according to the opinion given by the Uusimaa Centre for Economic Development, Transport and the Environment on 20.12.2018. In order to detect the impacts on Thick shelled river mussel during the construction work, continuous monitoring of turbidity with turbidity meters is elementary. In addition, the effects on Thick shelled river mussel population and its habitats must be monitored downstream the construction site annually for the duration of the construction work.

Conclusion

Based on the appropriate assessment and the underlying studies, the Uusimaa Centre for Economic Development, Transport and the Environment considers that building of a tram bridge and a light traffic bridge across the Vantaa River alone, or together with other projects and plans, does not have a significant negative impact on the conservation objectives, for protection of which, the Natura 2000 area of the Vantaa River has been designated, when mitigation measures presented in the assessment are implemented. Mitigation measures and monitoring should be subject to conditions of the permit.

The case has been resolved by Chief Inspector Kirsi Hellas and presented by the lead expert Ilpo Huolman. The marking for electronic approval is at the end of the document.

For information

Ministry of the Environment, Environmental Department

Metsähallitus, Coastal Nature Services

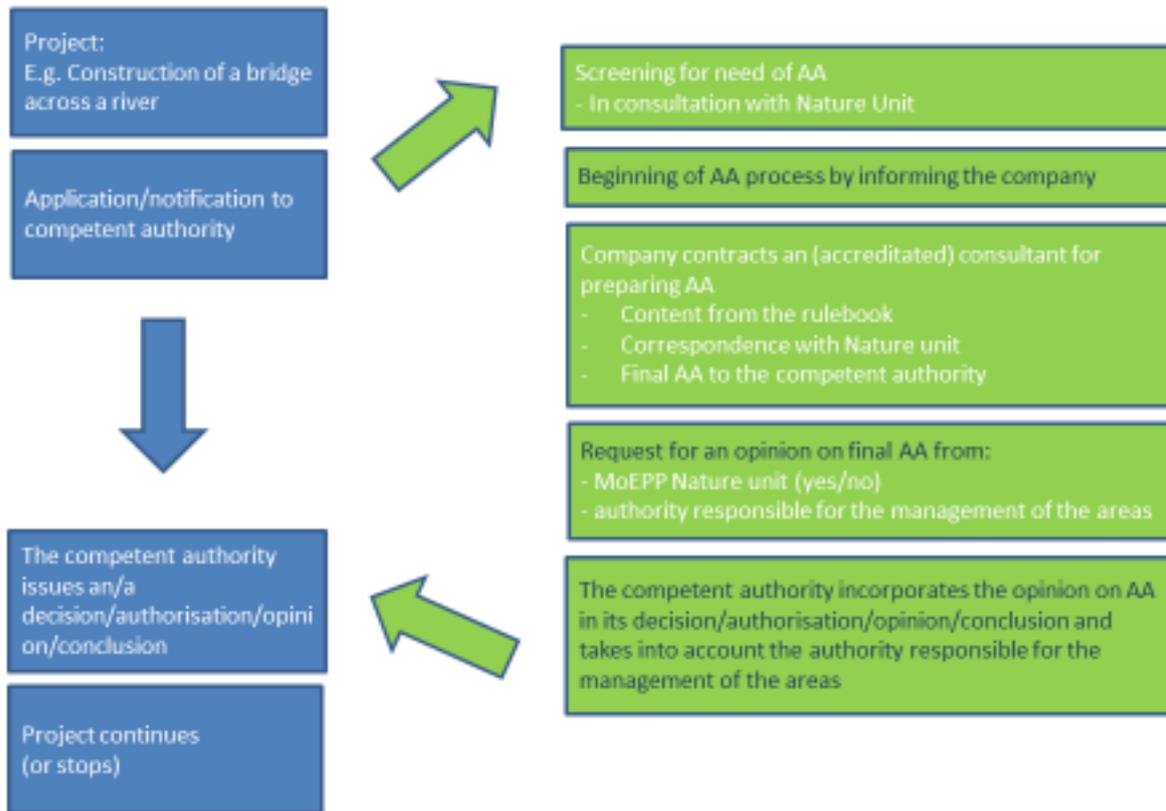
Finnish Environment Institute

The City of Helsinki

Uusimaa Regional Council

Annex III Example of an administrative process related to an AA

Example of a process related to the AA



Experts involved:

Sasho Apostolov e-mail: s.apostolov@moepp.gov.mk
Biljana Petkoska e-mail: b.petkoska@moepp.gov.mk
Dejana Todorovska e-mail: d.todorovska@moepp.gov.mk
Vlatko Trpeski e-mail: trpeski@yahoo.com
Sasko Jordanov e-mail: sasko.jordanov@gmail.com
Alexandar Nastov e-mail: anastov@gmail.com
Nebi Rexhebi e-mail: n.rexhebi@moepp.gov.mk
Olli Ojala e-mail: olli.ojala@environment.fi

Bibliography and further reading

EC (2000). MANAGING NATURA 2000 SITES. The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC.

EC (2007). Guidance document on Article 6(4) of the 'Habitats Directive' 92/43/EEC. CLARIFICATION OF THE CONCEPTS OF: ALTERNATIVE SOLUTIONS, IMPERATIVE REASONS OF OVERRIDING PUBLIC INTEREST, COMPENSATORY MEASURES, OVERALL COHERENCE, OPINION OF THE COMMISSION.

EC (2014). Article 6 of the Habitats Directive - Rulings of the European Court of Justice.

EC (2019). NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES EUROPEAN COMMISSION Managing Natura 2000 sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC (2019/C 33/01) [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019XC0125\(07\)&qid=1548924227008&from=FI](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019XC0125(07)&qid=1548924227008&from=FI)

