SAC designation, Conservation objectives, - EC notes
DRAFT COMMISSION NOTE ON
THE DESIGNATION OF
SPECIAL AREAS OF CONSERVATION (SACs)

Final draft version of 19 March 2012-03-19

The purpose of this note is to provide guidance to assist Member States in fulfilling the key duty of designation of Special Areas of Conservation under the Habitats Directive. It reflects the views of the Commission Services, having regard to the relevant case law.

1. The purpose of SAC designation

The overall objective of the Habitats Directive is defined in Article 2. It specifies in particular that: *Measures taken pursuant to this Directive shall be designed to maintain and restore, at a favourable conservation status, natural habitats and species of wild fauna and flora of Community interest*.

In order to ensure the restoration or maintenance of natural habitats and species of
• SAC designation is key measure in implementation of the Habitats Directive
• Deadline for achieving this objective (6 years after establishment of SCIs) is increasingly imminent/overdue
• Clarifying the duty of SAC designation has been initial priority of work of Management Group on Natura 2000
• This Commission note updates an earlier note to Habitats Committee (Habs 05 – 10/07)
• It has been finalised in consultation with the Commission’s Legal Service
Definition of SAC in the Habitats Directive
- Art 1 -

".. means a site of Community importance designated by the MS through a statutory, administrative and/or contractual act where the necessary conservation measures are applied for maintenance or restoration, at a favourable status, of the natural habitats and/or the populations of species for which the site is designated."
1. What is purpose of SAC designation?

- SAC designation a key measure to achieving FCS under Habitats Directive
- Article 17 conservation status assessments supports view that protective safeguards of Article 6.2, 6.3 and 6.4 insufficient
- SAC designation triggers requirement to apply positive conservation measures (Article 6.1)
2. What does SAC designation entail?

- Clear legal basis and unquestionable binding force (a legal act)
- Identification and application of necessary conservation measures for the sites
- Need to establish priorities in relation to action for most important/urgent measures (Art 4.4)
3. By when is SAC designation to be achieved?

- Within 6 years of adoption of SCIs at latest
- This means from date at which site was first included in Commission Decision
- Prioritisation in light of importance of sites and of the threats of degradation (Article 4.4 also prioritises conservation action for SACs)
4. What is procedure for SAC designation?

- Directive does not set down procedure – broad discretion of MS under national/regional laws
- MS can introduce new designation procedures, adapt existing ones or underpin designation by other legal act
- Can decide on administrative level (eg national /regional)
- Must have a legal basis but have a choice of legal act (statutory, contractual or administrative)
- Act may relate to one site or multiple sites
- Member State must ensure the unquestionable binding force of the designation
5. What legal provisions must apply to SACs as a result of designation?

- Species/habitats for which SAC designated
- SAC boundaries
- Purpose of designation
- Legal safeguards
- Obligation to apply conservation measures
  - Choice of approaches
  - COM strongly recommends management plans
- Conservation measures normally established/applied from time of designation
6. What type of legal protection regime needs to be established for SACs?

- Contain necessary conservation measures for species/habitats significantly present in site
- Measures sufficiently detailed & substantive to ensure delivery of site conservation objectives & contribution to FCS
- MS decide on measures (e.g., management plans etc.) which should be sufficiently specific, precise and clear to provide legal certainty
- Legal safeguards and consent procedure in place
Art 6.1
Apply conservation measures

SCI
Set conservation objectives

identify & define conservation measures

Six years

Implementation of conservation regime for SAC

SAC

Set conservation objectives

Art 6.2
Prevent deterioration

Art 6.3&4
Authorisation procedure for potentially damaging operations
7. Applicability to SPAs

- SPAs form part of the Natura 2000 network (Art 3.1 HD)
- Article 6(2), (3) and (4) applies to SPAs (Art 7 HD)
- Article 6(1) do not apply to SPAs.
- However, analogous provisions apply to SPA by virtue of Article 4(1) and (2) of the Birds Directive.
- MS have to ensure that the species mentioned in Annex I and migratory Bird species are subject of special conservation measures concerning their habitat in order to ensure their survival and reproduction in their area of distribution. (ECJ case-law on these provisions is already quite extensive).
DRAFT COMMISSION NOTE ON THE SETTING CONSERVATION OBJECTIVES FOR NATURA 2000 SITES

Final draft version of 19 March 2012

The purpose of this note is to provide guidance to assist Member States in setting conservation objective for Natura 2000 sites.

1. What does the Habitats Directive require?

There are several references to the term 'conservation objectives' in the preamble of the Directive as well as an explicit mention of it in Article 6.3. The need for such a concept is also underlined by Articles 4.4 and 6.1 of the Directive and is even relevant in the context of Article 8.2.

In the preamble to the Directive it is stated:

"...it is appropriate, in each area designated, to implement the necessary measures having regard to the conservation objectives pursued"
Setting conservation objectives for Natura 2000

Legal context

In the preamble to the Habitats Directive it is stated:

• "..it is appropriate, in each area designated, to implement the necessary measures having regard to the conservation objectives pursued"

• “.. an appropriate assessment must be made of any plan or programme likely to have a significant effect on the conservation objectives of a site which has been designated or is designated in future”
Setting conservation objectives - Legal context

Article 4.4 Habitats Directive:

• “once a site of Community importance has been adopted in accordance with the procedure laid down in paragraph 2, the Member State concerned shall designate that site as a special area of conservation as soon as possible and within six years at most, establishing priorities in the light of the importance of the sites for the maintenance or restoration, at a favourable conservation status, of a natural habitat type in Annex I or a species in Annex II and for the coherence of Natura 2000, and in the light of the threats of degradation or destruction to which those sites are exposed”.
Setting conservation objectives - Legal context

• Article 6.1: "for special areas of conservation, Member States shall establish the necessary conservation measures …which correspond to the ecological requirements of the natural habitat types in Annex I and the species in Annex II present on the sites."

• Article 6.3: "Any plan or project…shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives."
The ultimate conservation objective

The ultimate conservation objective of the Habitats Directive is to ensure that the species and habitat types covered achieve ‘favourable conservation status’ (FCS).
Conservation objectives

• The overall objective of achieving FCS can only be considered at an appropriate level, such as for example the national or the biogeographical level.

• This general objective needs to be translated into site level conservation objectives which define the conservation targets to be achieved within the respective sites in order to optimise their contribution to achieving FCS at the national, biogeographical or European level.
Site level conservation objectives define what constitutes the target status of each species and habitat for which a site has been designated that should be met in the respective site.

Therefore identifying the contribution of a site to the achievement of a FCS for the habitats and species concerned at the national biogeographical level can provide the basis for setting of site level conservation objectives.
Conservation objectives - continued

Member States designate a site as a special area of conservation Member States establishing priorities in the light of the importance of the respective site for the maintenance or restoration, at a favourable conservation status at the national biogeographical level of the habitat types and species of Community interest present on the site and for the coherence of Natura 2000, and in the light of the threats of degradation or destruction to which the site is exposed.

Conservation objectives should reflect these priorities.
Conservation objectives are a set of specified targets to be met at the site level in order to make sure that the site contributes in an optimal way to achieving FCS.

Conservation measures are the actual mechanisms and actions to be put in place to achieve site level conservation objectives. Measures are essentially established at the local/site level, but they can also be designed at the regional or national level, including areas that are not part of the Natura 2000 network.
When are conservation objectives to be established?

It is clear from the text of the Habitats Directive that priorities should be established by the time of SAC designation at the latest.

The conservation objectives reflect these priorities. They are directly linked to the designation and management of the SAC. They constitute a key aspect of the site management.
When are conservation objectives to be established?

Conservation objectives must be available when establishing the necessary conservation measures according to Article 6.1.

When Member States apply Art. 6.3 they must also refer to the site’s conservation objectives.
What elements need to be considered in setting conservation objectives and measures?

Conservation measures must be established for all species and habitat types of both the Habitats and Birds Directives that are significantly present on a site (i.e. all species having a significant population size and density = category A, B or C) and all habitat types having an excellent (A), good (B) or significant (C) representativity)

The information in the Natura 2000 standard data form provides the starting point for this.
When are conservation objectives to be achieved?

The Habitats Directive does not set a date for the attainment of favourable conservation status at the national level. To be credible the conservation measures must be undertaken within as short a time frame as possible, having regard to the urgency and importance of the measures. It is important to set a timeline to review the site level conservation objectives in order to check appropriateness, measurability and implementation.
Setting priorities

**Conservation priorities** are a determination of the most important species/habitats to take action for and/or most important measures to be taken.

**Priority conservation objectives** are the most urgent targets to be achieved at site level or at higher levels in order to make sure that the overall goal of FCS can be achieved.

**Priority conservation measures** are the most urgent actions that need to be taken in order to make sure that conservation objectives can be achieved.

Priorities can be established at different levels (EU, biogeographical level, national, regional, local/site level).
Other relevant issues to consider:

How to take into account economic, social and cultural requirements as required by Article 2.3 of the Habitats Directive

• How to recognise the dynamic nature of sites and of their constituent species and habitat type

• How to define the relative contribution of different sites in achieving FCS at the national or higher level for different species and habitat types
Other relevant issues to consider:

• How to deal with dynamic situations and new development in sites, eg. newly arriving species, disappearance of species from sites – what are the consequences and how can conservation objectives take account of such situations

• How to monitor and review progress towards achievement site level conservation objectives, refining objectives in the light of experience, and the links to monitoring under Article 17 of the Directive.
Take home message:

Natura 2000 is not only obligation of site designation.

There’s clear legal basis and legal requirements for real – and planned - conservation