



Wildlife and
Countryside



Joint Links Fitness Check Evidence Submission 25/03/2015

Annex III: BirdLife Comparative Study on the use of Article 6(4) in the EU Member States in respect of SACs and SPAs

Part 1: Article 6(4) Compensation Cases under the Habitats Directive 2008 – 2012 (May 2014)

1 Background

This study was undertaken by Pip Goodwin of the RSPB on behalf of the BirdLife (BL) Birds and Habitats Directive Task Force and focuses on the use of the compensation provisions of Article 6(4) of the habitats directive across the Member States.

Note that the additional analysis presented below focussed on Habitats Directive (i.e. Special Area for Conservation (SAC)) cases, as at the time of its completion the majority of Member State Article 17 reports were available, but the findings from the comparable Article 12 reports of the Birds Directive for the period 2008-2012 were still in the process of being published on the Commission website. A subsequent analysis was undertaken once these Article 12 reports were available, and the results of that additional analysis are also presented below.

Methodology

In summer 2013 a spreadsheet was circulated to BL contacts in each of the Member States seeking information about the use of Article 6(4) for projects and plans. We aimed to obtain detail about the Natura 2000 sites affected, the justifications given for the use of this provision (no alternatives, imperative reasons of overriding public interest (IROPI)) and the compensation package agreed.

The covering email sought additional general information about the use of Article 6(4) at the national level: how many cases have been subjected to the tests since the Habitats Directive came into force, how many cases were consented as a result, whether an opinion was requested from the European Commission and whether these involved a priority habitat or species (i.e. those marked with an ‘*’ on Annexes I and II of the Habitats Directive).

Initial findings from this exercise were reported to the November meeting of the Task Force.

Meanwhile the Commission has been publishing Member States’ Article 17 reports on implementation of the Habitats Directive for the period 2007-2012. All Member States except Greece have submitted their reports although a few of these are still not publicly available. As part of the reporting exercise, Member States were asked to list plans or projects where compensation under Article 6(4) was needed and to note which Natura site(s) were affected.

This basic information was used to fill out the Task Force spreadsheets which were then re-sent to Task Force members with the hope of gaining more detail.

It was decided that the comparative study should initially concentrate on cases drawn from this latest reporting round. The findings from the comparable Article 12 reports of the Birds Directive for the period 2008-2012 are excluded as these are still in the process of being published on the Commission website.

The final stage has been to study the findings, albeit incomplete, in order to draw out some conclusions.

2 Key findings

Total number of plans/projects

The total number of cases reported to date under the Habitats Directive for 2007-2012 is only 68¹. In the previous reporting round (2001-2006) the total was more than double, at 146, and this was at a time when EU membership was lower². In the current round, eleven Member States reported no Article 6(4) cases at all, and of the 12 which did, two Member States (Italy and the UK) accounted for almost half of the total number. In the case of Italy, which had a total of 15 projects in its submission, it seems likely that this is an understatement of the number of projects which ought to have been through the Article 6(4) procedure as many significant developments have gone ahead without being listed in the Article 17 report. Three states have not made their Article 17 reports public (France, Germany, Netherlands) and Greece has yet to submit a report to the Commission.

Transport, energy and flood defence were the main sectors affected by Article 6(4). Most transport projects involved roads (15 out of 20) whilst the energy sector was predominantly wind farms (6 out of 11). Most of the flood defence cases were accounted for by the UK's flood plans (9 of the 14).

Data received from the Task Force showed that during this six year period, only 1 project failed to satisfy the Article 6(4) tests³. This is almost certainly lower than the actual figure as this data is extremely hard to obtain, but it would be very useful to have a clearer picture.

Projects versus Plans

Very few of these cases relate to plans (11 out of a total of 68), with the notable exception of the UK, where 9 of the 14 cases reported were compensation for plans rather than projects. The UK was taken to the European Court in 2005⁴ for its failure to apply Article 6(3) and (4) to plans and as a result has included several shoreline management plans and flood risk management strategies in its latest report.

In the other Member States plans were rarely mentioned (Belgium - 1, Spain - 1) and one possible reason is that many Member States lack a well developed spatial planning process, hence the lack of Appropriate Assessments of plans coming through the system. However Commission guidance states

¹ Results from France, Germany, Greece and the Netherlands are only partially available, so this figure is an understatement. The Commission's summary report on the Implementation of Article 6(4) for the period 2007-2011 http://ec.europa.eu/environment/nature/knowledge/rep_habitats/docs/analysis%202007-2011_article%206-4.pdf mentions 14 cases from Germany and one in France, but the summary relates to both the Birds and Habitats directives so cannot be used in the comparison above.

² Bulgaria and Romania joined the EU at the beginning of 2007, a further 10 member states joined midway through the period, in 2004.

³ Emmapolder wind farm in the Netherlands

⁴ Case C-6/04

that if the contents of a plan are likely to have a 'very clear and direct' link to significant effects on a Natura site, then Article 6(3), and by extension Article 6(4)) must apply⁵.

The Floods Directive 2007 will require Member States to draw up Flood Risk Management Plans by the end of 2015 so this should have an impact on the next round of Article 17 reporting.

Why are the numbers so small?

- "Significant effect" is defined precisely and prospective developments are kept below the threshold, so avoiding the need for an Appropriate Assessment under Article 6(3) (Netherlands, Italy, Ireland).
- If an Article 6(3) Appropriate Assessment is carried out, ensuring impacts do not have 'an adverse effect on integrity' (Denmark: "cases are solved within the Article 6(3) regime"⁶).
- Malpractice of the article 6(3) Appropriate Assessment process (Cyprus, Italy):
 - Lack of communication between government departments, with the Environment department last to be involved;
 - Environment departments lack political weight to challenge foregone decisions;
 - Poor quality assessments which fail to address Article 6 requirements.
- Use of EIA to avoid the Appropriate Assessment process (Bulgaria, Cyprus, Spain).
- In 2007 the Spanish Government adopted legislation⁷ that which stated that IROPI must be approved by law, by agreement of the Council of Ministry or the equivalent regional government and that this must be reasoned and public. Since this law, the number of projects approved under Article 6(4) has declined dramatically, from 44 cases in the previous reporting period to 4 in the current one, because the obligations require the commitment of high level government bodies that prefer not to engage.
- Compensation is wrongly treated as mitigation so that a project is able to pass the Article 6(3) test (Slovenia). In the European Court a recent Advocate General opinion stated that creation of habitat within a site affected by a motorway in the Netherlands could not be considered as mitigation, even though it would lead to a net increase in this habitat. The uncertainty that the habitat could ever be re-created meant there was an adverse effect on integrity. It could, however, be categorised as compensation under Article 6(4) provided it met the tests⁸
- Over-implementation of the Directives, leading to developments in Natura 2000 being blocked completely. (Hungary: negative experience of being reported to the Commission, lead to an informal rule to block even minor developments in Natura; Wind farms in Bulgaria and the region of Puglia in Italy are effectively banned; in this context, the European Court has stated that Member States are permitted to impose legislation that is stricter than the directive.)
- Development pressure on Natura 2000 is low as the Member State is relatively large and sparsely populated (Sweden)

⁵ Managing Natura 2000 Sites, The Provisions of Article 6 of the Habitats Directive 92/43/CEE, para.4.3.2

⁶ Denmark Article 17 report

⁷ Law 42/2007, del Patrimonio Natural y la Biodiversidad

⁸ Case C-521.12 T.C. Briels & Others v Minister van Infrastructuur en Milieu

- Public opinion opposes human activities in protected areas because nature is much loved and appreciated (Sweden).
- The Member lacks a well developed spatial planning process, hence lack of Appropriate Assessment of plans coming through the system (Ireland, Cyprus).
- Member State fails to inform Commission of all Article 6(4) cases (United Kingdom).
- Economic factors – the downturn has reduced development pressures (Spain).

Test 1: Alternative solutions

- Overall, there was little information about the consideration of alternative solutions as this was not requested in the Article 17 reports to the Commission and few of the task force members were able to provide detail.
- Some ideas about the Commission's approach to the consideration of alternatives can be gained from its opinions on the cases involving priority habitats and/or species⁹. Earlier cases have been criticised for their extremely limited examination of alternatives¹⁰, and this has not improved significantly with recent cases.
- In only one¹¹ of the Commission cases has it concluded that the Member State had not proved the absence of an alternative, despite very few of the opinions containing enough information to make this judgment..
- The obligation to examine alternatives implies that they also make an Appropriate Assessment of the implication of the alternatives unless they can be excluded immediately as being unreasonable¹² For the runway extension at Lübeck-Blankensee airport, the alternative of extending Hamburg airport was considered “impractical, as well as having very high environmental costs” without any mention of an assessment being carried out¹³.
- Commission guidance states that ‘economic criteria cannot be seen as overruling ecological criteria’¹⁴. In the case of the Botniabanan railway in Sweden, there were less damaging alternatives than the proposed route, but they were rejected for economic reasons. Similarly, the location of the Audi plant in Gyor, Hungary, was decided in advance on economic grounds not related to ecology.
- Only since 2011 have Commission opinions included a discussion of the zero option, despite it being explicitly mentioned in its guidance on Article 6¹⁵. The proposal to deepen and widen the River Elbe in Germany¹⁶ discusses the assessment of 6 alternatives plus the zero option. The

⁹ http://ec.europa.eu/environment/nature/natura2000/management/opinion_en.htm

¹⁰ ‘The European Commission’s Opinions under Article 6(4) of the Habitats Directive’, Ludwig Kraemer, Journal of Environmental Law 21:1 (2009) 59-85; http://users.uoa.gr/~gdellis/III/3__Kraemer.pdf

¹¹ Creation of a New Industrial and Commercial Area at Trupbach, (Germany

http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/trupbach_siegen_en.pdf

¹² Case C-239/04, Commission v Portuguese Republic <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-239/04>

¹³ http://ec.europa.eu/environment/nature/natura2000/management/docs/c_2009_3218_en.pdf

¹⁴ Guidance Document on Article 6(4) of the ‘Habitats’ Directive 92/43/EEC 2007/2012, para 1.3.1:

http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/new_guidance_art6_4_en.pdf

¹⁵ Guidance Document on Article 6(4) of the ‘Habitats’ Directive 92/43/EEC 2007/2012, para 1.3.1:

http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/new_guidance_art6_4_en.pdf

¹⁶ [http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/1_EN_ACT_part1_v4\[1\].pdf](http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/1_EN_ACT_part1_v4[1].pdf)

alternatives included use of other ports, changes to design and operating methods and even an amendment of international law.

- UK shoreline planning always includes the zero option, known as “no active intervention”, as part of the process.
- Failure to address the zero option forms part of the 2013 complaint by LIPU and WWF against Italy for non-compliance with Articles 6(3) and (4), together with its inconsistent assessment of alternatives.
- At the Member State level, failure of the alternative solutions test has led to the refusal of consent in a few cases:
 - In the Netherlands the Emmapolder windfarm consent was overturned by a Dutch court on the basis that the Government had failed to consider all the potential alternative solutions available over the longer term. It had limited its consideration of alternative solutions to those available up to the year 2011 in order to reach wind energy targets;
 - Similarly, the Westerschelde Container Terminal case in 2003 failed the alternatives test for not having taken into account alternatives outside the region, or alternative methods which could lead to the same result;
 - In the UK, a proposal to expand the port at Dibden Bay was rejected in 2004 as the assessment of alternatives had not included an assessment of alternative facilities at other ports elsewhere in the south of England. UK guidance on the use of Article 6(4) now requires the consideration of wide ranging alternatives which may deliver the same overall objective¹⁷ and refers to the list of alternatives discussed in the Rive Elbe widening proposal.

Test 2: Imperative Reasons of Overriding Public Interest (IROPI)

- As with alternative solutions, there is a scarcity of information from the Task Force about IROPI and the Commission opinions are similarly limited in their discussion of the IROPI for the sites concerned.
- The sort of projects and plans passing the IROPI test range from those with a clear public interest focus, e.g. flood alleviation on the Danube and electrical infrastructure linking Spain and Morocco, to extremely dubious cases where it is hard to detect overriding public interest, e.g. construction of a parking area for motor homes in Italy.
- Among the cases examined by the Commission, only one project failed the IROPI test, the proposed Trupbach Industrial and Commercial area mentioned above¹⁸. The Commission concluded that the information used to justify the need for additional industrial areas was based on outdated research. Neither was it clear that a single project would be any better at providing employment than adopting a step by step development of several smaller areas and hence it would lack the imperative element.
- One of projects consented by the Commission, the runway extension of Lübeck-Blankensee airport, has recently gone bankrupt which demonstrates the risks of relying on uncertain economic forecasts of passenger numbers to justify a project with long term damaging effects on the environment.

¹⁷ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69622/pb13840-habitats-iropi-guide-20121211.pdf

¹⁸ See footnote 11

- The European Court ruled that in Belgium, a general decree of the Wallonian administration that classified a whole range of projects connected with Charleroi airport as being considered to satisfy the IROPI test could not include the “mere construction of infrastructure designed to accommodate a management centre” for a private company. Moreover, a general decree could not avoid the use of the Article 6(3) procedure¹⁹.
- In Dutch case law on IROPI, interests regarded as acceptable include (regional) employment, harbour extensions for strengthening regional economic infrastructure, projects to provide local and/or regional housing demands and sustainable energy production (wind turbines). However the courts need a convincing argument: a development of only 17 wind turbines was not considered sufficient, nor was a project that only contributed limited additional jobs in an area of low unemployment. The Dutch courts acknowledge and accept the Commission’s views in the Article 6(4) opinions²⁰.
- Of the limited number of Task Force cases where IROPI reasons are available, the justification is usually socio-economic, although with the flood prevention plans and projects the reason is human health and safety.
- In the UK Arcow quarry assessment, the IROPI question involved a simple yes/no answer: there was no detailed arguments to justify the conclusion that there were human health and safety considerations.

Test 3: Compensation measures to ensure protection of the coherence of the Natura 2000 network

With the usual caveat that the detailed information is lacking, some general points can be made:

- Maintaining coherence of the Natura 2000 network:
 - Compensation generally attempts to be like for like, otherwise coherence of the network will be lost. On the other hand, In Italy there are examples of compensating with cycle lanes and planting schemes with non-native species.
 - Compensation ratios varied from less than 1:1 for compensation for the Ems Harbour power plant in the Netherlands (loss of potential breeding and foraging areas for three bird species) to 1:5 in the case of the A830 trunk road and 1:11 for the grassland compensation at Arcow Quarry, both in the UK.
 - Sometimes compensation ratios seem very generous on the surface, but on closer scrutiny the picture is different. The Swedish Bothniaban railway compensated with a total of almost 500ha in 5 nature reserves, but the actual amount of Natura habitat created within this area was 295ha. The ratio of total damage (direct and indirect) to Natura habitat created was roughly 1:2.
 - Higher ratios are used where there are interim losses due to habitat restoration and/or creation not being complete at the time of damage. The replacement and extension of the Schiersteiner Brücke in Germany adopted a compensation ratio of 1:5 to allow for time lag effects.
 - Higher ratios are adopted when there is uncertainty about the outcome of proposed measures or likelihood that the quality of compensation habitat will be lower than the original. Ratios for the restoration of perennial vegetated shingle (habitat 1220) at Dungeness in the UK will be higher than 1:1 if the compensation is shown to be of lower quality.

¹⁹ Case C-182/10 Solvay and others:

<http://curia.europa.eu/juris/document/document.jsf?text=&docid=119510&pageIndex=0&doclang=en&mode=doc&dir=&occ=first&part=1&cid=950676>

²⁰ <http://www-user.uni-bremen.de/~avosetta/netherlandsresp2010.pdf>

- Ratios may differentiate between direct and indirect impacts: The Münchhausen, Wetter and Lahntal bypass in Germany will cause damage to priority habitat 91E0 (Alluvial forests) and the Commission accepted compensation at a ratio of 1:3.3 for direct impacts and 1:2 for indirect impacts. On the Humber estuary (UK) the ratio is 1:1 for coastal squeeze and temporary disturbance, but 1:3 for permanent losses to flood defence schemes.
 - Most cases provided compensation either within or close to the damaged site. However, the compensation area for the Schiersteiner Brücke in Germany was 20km away as due to problems with ownership and land use, finding a suitable closer location was difficult.
 - With regard to timing, several cases *stated* that the compensation would be in place before the damage occurred (eg most of the German road cases which were subject to Commission opinions), but with many projects this is not feasible, particularly as Commission guidance states that the *result* of compensation should be effective at the time the damage occurs on the site concerned²¹. With the exception of some of the UK's Shoreline Management Plans (e.g. Humber Flood Risk Management Strategy), which by definition are focussed on future events, it is hard to find any example of functioning compensation prior to damage.
- Technical feasibility:
 - Stabilisation works at Arcow Quarry in the UK led to the loss of an area of 0.77ha which contained limestone pavement (a priority habitat), together with related habitats. The compensation package provided for 8.5ha of grassland outside the SAC to be appropriately managed. The grassland contains 0.38ha of surface limestone which the assessment states is "broadly comparable" to the limestone pavement being lost. However, this is not the same habitat as limestone pavement and it is unlikely to be designated as such if the SAC is extended to include this area.
 - Several projects will damage "old" woods (habitats 9190, 91A0), e.g. the A470 Trunk Road in Wales and the A830 Trunk Road in Scotland in the UK. Compensation measures for the extension of Lübeck-Blankensee airport include "conversion of 4ha of coniferous forest into the habitat type 9190 Old acidophilus oak woods..." but it is hard to see how such a wood can be re-created within any realistic timeframe.
 - Other habitats whose destruction cannot be meaningfully compensated: 7220* Petrifying springs with tufa formation and 7110* Active raised bogs.
 - Monitoring of compensation is becoming established in some Member States (Netherlands, Sweden, UK), and in a few cases this monitoring is publicly available (Sweden, UK). Since 2011 Commission opinions have included a condition that detailed reports on the implementation and monitoring of compensation measures must be published on the internet and results of the monitoring may lead to changes to project design or to additional compensation measures.
 - What has worked? – It was not possible to find much evidence of success. Below are a few examples, mostly from the UK:
 - A830 in Scotland – restoration of oak woodland adjacent to the Glen Beasdale SAC as compensation for habitat loss due to the road upgrade. Plans to designate as SAC once regeneration is secure enough.
 - Medmerry managed retreat – creation of new intertidal habitats as compensation for loss of saltmarsh and mudflat predicted in the North Solent Shoreline Management Plan
 - Bothniabanan railway in Sweden created large areas of replacement habitat.

²¹ Para 1.5.6

3 Conclusions and recommendations

- As it is being implemented at the moment, Article 6(4) is not placing an enormous burden on developers: it has not been used at all in almost half of all Member States and only rarely in many others.
 - Several of these states are in the former Eastern bloc and there are various conclusions that can be reached about why this is the case. It is possible that the NGO sector is not yet sufficiently developed to challenge poor decisions. In some Member States, e.g. the Netherlands and Italy, compensation has had to be fought for in the courts. The former Eastern bloc states may also have less transparency about decisions relating to the environment. Finally, much of the land on which Natura 2000 sites are situated is publicly owned so that governments are able to keep tighter control on development.
 - There are suggestions that the Article 6(3) Appropriate Assessment stage is being unlawfully manipulated to prevent the need for compensation in several Member States, notably Italy, but also Bulgaria, Cyprus, Slovenia and Spain.
 - In some states the Article 6(3) process is being used appropriately, to ensure plans and projects do not have an adverse effect on Natura 2000 sites and therefore do not need to use the compensation provisions of Article 6(4).
- To reach a meaningful conclusion about whether Article 6(4) is protecting the network, it is necessary to have answers to the following:
 - Are plans and projects causing damage to Natura 2000 sites without compensation?
 - Are plans and projects being permitted, but with inadequate compensation?
 - Are plans and projects being permitted and the compensation is sufficient to maintain the coherence of the Natura network?

Across the EU, a positive answer can be given to all of these, but with the patchy information for most Member States, it is impossible to reach detailed conclusions. The suspicion remains that Article 6(4) is being underused as the number of cases is implausibly low.

- The reasons for the lack of data are as follows:
 - Task Force responses have been limited.
 - Some Article 17 reports remain locked several months after the deadline for submission passed (France, Germany, and the Netherlands).
 - The Article 17 report format requires only the most basic information about Article 6(4) and answering the question about the impact of a project is optional.
 - Commission opinions on cases involving priority habitats and species lack enough detail for the reader to reach meaningful conclusions. The communication between the Commission and the Member State concerned is not publicly available.

Part 2: Article 6(4) Compensation cases under the Birds Directive 2008 – 2012 (March 2015)

Member States submitted implementation reports for the period 2008-2012 to the European Commission under Article 12 of the Birds Directive. The deadline for these reports was 31 December 2013 and all Member States, apart from Greece, have now submitted their reports. As with the reports under the Habitats Directive, some of these have been password protected (FR and NL are still locked).

Updated spreadsheets were sent to the relevant BL Birds and Habitats Task Force member for feedback and more detail, where available. Responses have been received from Austria, France, Hungary, and the Netherlands. Responses have not been received from Belgium, Germany and Italy.

The other Member States had Birds Directive cases that were identical to the Habitats Directive cases submitted during 2013 so the spreadsheets did not need updating.

A total of 59 compensation cases have been reported for the period, an average of fewer than 12 cases per annum. The UK (14 projects and plans), Germany (12) and Italy (9) make up almost two thirds of all compensation cases for the period.

The following 13 Member States had Article 6(4) cases under the Birds Directive:

Austria, Belgium, France, Germany, Hungary, Italy, Netherlands, Poland, Portugal, Romania, Spain, Sweden, United Kingdom.

This list is substantially the same as for the Habitats Directive, minus Lithuania and Luxembourg. A total of 14²² Member States reported no compensation cases during the 4 year period.

Article 6(4) Sectors											
	Energy	Flood Defence	Housing	Military	Mineral Extraction	Planning	Port	Transport	Other	Total	
Austria		1						1	1	3	
Belgium							2			2	
France								2		2	
Germany	2	2		1		3		3	1	12	
Hungary		1								1	
Italy	2	1			2				4	9	
Netherlands	1							1		2	
Poland								4		4	
Portugal	2							1		3	
Romania								3		3	
Spain	1					1			1	3	
Sweden								1		1	
United Kingdom						12	1		1	14	
Totals	8	5	0	1	2	16	3	16	8	59	

The conclusions from the Article 12 data are similar to those from the reports on the Habitats Directive:

- Article 6(4) is used infrequently across the EU Member States;
- half of all Member States are not reporting any Article 6(4) compensation cases;
- the same 3 Member States (DE, IT, UK) account for a large proportion;
- planning and transport account for most cases;
- overall, only the UK included a significant number of plans;
- it is difficult to extract detailed information;
- the limited available information shows that usually compensation is not in place before a development occurs, that monitoring, if done, is frequently not publicly available and that it is extremely rare for a compensation site to have been designated as Natura.

²² Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, Ireland, Latvia, Lithuania, Luxembourg, Malta, Slovakia and Slovenia. This figure also includes Greece, which has not submitted an Article 12 Report to the Commission and excludes Croatia which only joined the EU in 2013.

Country comments

Austria: A total of 3 cases were reported to the Commission, all from 2008, but the BL correspondent believes that only one of these is actually a Birds Directive case. The case in question concerned the building of a bypass which would affect several breeding pairs of Stone curlew in an area which holds the species' most important breeding populations. Compensation involved the creation and management of new habitat, mostly in quarries, and there is a monitoring of the compensation. The other two SPA cases involved flood defence works on a section of the Salzach River and extension of an electrical transformer station and associated cabling.

Belgium: The 2 cases (2009, 2010) were identical to the Habitats Directive cases and both involved Antwerp port infrastructure. Compensation was in the form of wetland creation and nesting areas for gull populations, with an overall ratio of almost 5:1.

France: France submitted 2 compensation cases (2009, 2010), both involving railway infrastructure. One of the projects, due to its linear nature, impacted on 3 different SPAs. Both projects were justified for social and economic reasons and the alternatives considered did not include the 'do nothing' option. The projects were expected to lead to direct and indirect habitat loss and the compensation, which would be delivered after the loss, involved habitat creation at ratios varying from 1:1 to 5:1. Monitoring of compensation was included and targets have been partially met. It is not clear whether the monitoring results are publicly available, but it is the intention that compensation sites will eventually be designated as Natura.

Germany: Germany submitted a list of 12 compensation cases, although one of these dated back to 2006 and is therefore outside of the reporting period (2008-2012). We lack detailed information on any of these cases, but they are spread geographically and across a number of sectors.

Hungary: The single case was the same as one of the Habitats Directives cases and concerned flood defence on the Danube. There is no detailed information.

Italy: The 9 Italian cases were concentrated in the northern half of the country (4 in the region of Marche and 3 in Piemonte) and involved a variety of economic sectors. Detailed information is lacking.

Netherlands: There were 2 compensation cases submitted by the Dutch: one was the Eemshaven Power Station, which was also a Habitats Directive case, and the other was the construction of a road bridge over the River Waal at Nijmegen. Both cases involved the provision of compensatory habitat for the indirect loss of foraging and breeding areas for a range of bird species.

Poland: Three of the four Polish compensation cases were identical with the Habitat Directive ones and all four involved transport projects. There is no detailed information.

Portugal: Portugal submitted a list of 3 projects requiring compensation, but one of these, the high speed rail link between Madrid and Lisbon, was abandoned for economic reasons. The Malhanito wind farm, which was constructed close to the Caldeirão SPA, did not provide compensation measures as there was considered to be no obligation to provide compensation for the effects on the movements of Bonelli's eagles as the project was situated outside of Natura.

Romania: The 3 road projects submitted by Romania are identical to the Habitats Directive cases and there is no detailed information.

Spain: The 3 projects are identical to the Habitat Directive ones and there is no detailed information.

Sweden: The Botniabanan railway case is the same project as submitted in the Habitats Directive reports and is an example of successfully completed compensation.

United Kingdom: Only 2 of the UK's 14 compensation cases are projects, the remainder are shoreline management plans and flood risk management strategies. The 2 projects are the Port of Bristol development, which has been consented but has yet to be implemented, and the RSPB's coastal change (managed realignment) project which provided compensation for breeding avocet. Both of these projects envisaged delivery of compensation prior to damage occurring and monitoring of compensation; in both cases compensation delivery has proceeded in advance of loss. In the case of shoreline management plans and flood risk management strategies, there is a variation in the amount of detail available. For some coastal areas habitat losses have not been quantified, whilst others have calculated the amount of compensation needed but standards of detail concerning the delivery of compensation vary, and details are not always easy to find.