

Natura 2000 Site areas: “Legislative framework and case-law”

European directive 92/43 “for the preservation of the natural habitats and the wild fauna and flora”

- Annexes I, II, IV and V: types of natural habitats and species of fauna and flora protected
- Creation of a site including the protected areas under the name “Natura 2000”
- Adopted in Greece by the Common ministerial decision 14849/853/2008

Natura 2000 site: a) Special Preservation Zones (Directive 92/43)

b) Special Protection Zones for the birds (Directive
79/409)

Objectives: effective protection of the species and habitats under threat

Preservation of the biodiversity and protection of the natural environment



Data collected by the European Commission in 2009:

21.695 Sites of Community Importance and 5.210 Zones of Special Protection for the birds.

Art. 6 of directive 92/43:

- Control of the possible consequences of the economic development on the Natura 2000 sites
- The State – members assure the restoration and/or their maintenance in a “satisfying situation”
- Improvement of the “ecological cohesion”

Law 3937/2011 (Administration Plan for the protection and maintenance of Natura 2000 sites)

- Specification of the necessary operative measures
- Specialization of the preconditions and the limitations on the practice of activities and works
- Determination of the guidance and the priorities for the realization of works and actions

National Administration Authorities

- Administration entities for one or more areas, operating as Legal Entities of private law, under the supervision of the Ministry of Environment
- Assignment to existing public services
- Creation of special coordination services in the Decentralized Administration and
- Assignment to non-profit Legal Entities of public or private law through an administration contract

August 26 2014: The 15year National Strategy and the 5year Action Plan for the Biodiversity were approved

- Containment of the biodiversity loss and the degradation of the ecosystems in Greece until 2026, restoration
- Promotion of the biodiversity as national asset
- Intensifying the contribution of Greece to the prevention of the biodiversity loss worldwide

Activities permitted in Natura 2000 Site

- Forests: forest interventions in areas where plant and animal species under extinction live
- Agriculture – Farming: promotion of traditional methods
- Tourism: promotion of a combatible development of mild activities of leisure and tourism
- Fishing – Aquaculture: protection of the fishing sources in Mediterranean sea and the sustainable use of the species, maritime units of aquaculture only if they do not lead to the deterioration of overland and undersea types of habitats
- Hunting: prohibited only in cases of disturbance of the species

Article 6 - Works or plans in Natura areas

Due assessment of the work or plans for their effects on a Natura 2000 area

- Positive conclusions (the works will not impair the integrity of the particular area). Approval
- Negative conclusions: application of the principle of prevention. Procedures of article 6 par. 4 apply or
- Rejection of the plan/work

Negative conclusions of the assessment of the effects

Exceptional implementation of the work/plan for imperative reasons of public interest, including the reasons of social or economic character

Compensatory measures necessary, for the protection of the total cohesion of Natura 2000 and communication to the Commission

The case – law of the Court of Justice of the European Union

- A state – member cannot exempt in general and systematically from the obligation of assessment of effects on Natura 2000 areas, categories of plans or works, depending on the sector of the activity or the establishment of a system of declarations.
- Character of Due Assessment: detailed analysis satisfying the targets of maintenance of the particular area, especially regarding the protection of the natural habitats and the species of priority.
- Imperative reasons of public interest which allow the exceptional implementation of the work/plan in a Natura 2000 area do not coincide with the narrow economical reasons.

The case – law of the Greek Council of State

- Equation of the special procedure of the directive for the habitats with that procedure of another directive, regarding the approval of environmental terms of a work.
- Due Assessment is considered as an individual element of the completeness and the quality of the Environmental Effects Study and not as a level of the special procedure of art. 6 par. 3 of the Directive for the habitats.
- Judgment 1422/2013: acknowledges finally the particularity of the procedure set in art. 6 of the directive for Natura 2000 areas.

Conclusions

- Only the 17% of the habitats and species and the 11% of the ecosystems of high importance, protected by the law, are in a satisfying condition.
- **Reasons**: Due Assessment has not been used as it should.
 - Use of very technical terms which cannot be defined sufficiently
 - Unstable regulatory framework
 - Unlimited economic growth
- **Solution suggested**: better information of the legislator, administration, citizens and courts regarding the better incorporation of the scientific knowledge in the procedure of the decision –taking.