Environment and Climate Regional Accession Network ECRAN

Environment and Climate Regional Accession Network (ECRAN)

Report on Regional Workshop on Appropriate Assessment of the Kavadarci Pilot Site (Natura 2000)

16-18 September 2014, Kavadarci

ENVIRONMENT AND CLIMATE REGIONAL NETWORK FOR ACCESSION - ECRAN

WORKSHOP REPORT

Activity 2.7.2A

REPORT ON THE WORKSHOP: APPROPRIATE ASSESSMENT OF KAVADARCI PILOT SITE (NATURA 2000)

16 – 18 September 2014, Kavadarci, former Yugoslav Republic of Macedonia

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LIST OF ABREVIATIONS	
AA	Appropriate Assessment
EIA	Environmental Impact Assessment
EU	European Union
FCS	Favourable Conservation Status
IPA	Instrument for Pre-accession Assistance, EU funding instrument for Pre-accession aid
IROPI	Imperative Reasons of Overriding Public Interests
MS	Member State
PHARE	Poland and Hungary: Assistance for Restructuring their Economies, EU funding instrument for preaccession aid
pSCI	Proposed Site of Community Importance
SAC	Special Area of Conservation
SCI	Site of Community Importance
SDF	Standard Data Form
SEA	Strategic Environmental Assessment
SINP	State Institute for Nature Protection (Croatia)
SPA	Special Protection Area

I. Background/Rationale

The key EU instrument on nature protection across the EU MS is the network of sites dedicated to conservation of birds (SPAs) and to selected fauna, flora and habitat types (SCIs) established pursuant to the EU Nature Directives – Birds Directive (2009/147/EU) and Habitats Directive (92/43/EEC) – named Natura 2000. Once this network has been established, the Member States are obliged to develop management measures for particular sites, to actively apply them, and prevent the sites from any deterioration or even destruction. For the latter purpose, addressing especially implementation of various development plans and projects (but in principle *any* activity likely to put the sites at risk), all EU MS have to put into both legislation and practice so-called Appropriate Assessment (AA) – a procedure aimed at revealing if the activities under scrutiny may be harmless or harmful to Natura 2000 sites.

AA is governed by Art. 6 of the Habitats Directive and almost 40 rulings of the Court of Justice of the EU which are binding for the EU MS, too. Understanding and proper implementation of the AA procedure is rather difficult and belongs to major challenges of the pre-accession process. AA is often envisaged to be carried out within the framework of EIA/SEA. It has many advantages but there are some peculiarities of AA compared to the latter procedures which have always to be respected.

In the ECRAN region, the large proportion of the territory of particular countries is still covered by unspoiled and relatively undisturbed nature; as a consequence, relatively larger proportion of their territories will become part of Natura 2000 network, which may lead to conflicts with various developments. Then, improperly carried out AA may contribute not only to irreversible loss of unique natural assets but also to failure of many (useful) development projects. Therefore, early training on AA may be highly beneficial not only for EU Candidate Countries but also for those that have not acquired that status yet.

The objective of the whole series of sub-regional workshops is to provide ECRAN Beneficiaries with the complete picture of the AA from its very beginning (screening) up to the final decision on the acceptability of the project and to present them also the derogation procedure according to Art. 6(4) of the Habitats Directive applicable to projects needed in public interest overriding the interest on protection of Natura 2000 network. The whole process is divided into three workshops, each of them corresponding to relevant stage of the AA according to the Habitats Directive (screening; main assessment; Art. 6(4) derogation procedure).

This first pilot AA workshop in Tikvesh Strict Nature Reserve targeted the representatives of Albania, Kosovo*[1] and the former Yugoslav Republic of Macedonia. Participants from other ECRAN countries can take part if they are specifically interested in this pilot or for some objective reason cannot participate at the other series of workshops organised on other pilot sites closer to their country of origin.

[1] * This designation is without prejudice to position on status, and is in line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo Declaration of Independence Under UNSCR 1244/99

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What is the "best model" for AA?

As mentioned above, AA is governed by the Habitats Directive – an EU legislative tool which provides a lot of flexibility to EU MS as to the way in which AA can be carried out. Across the current EU, AA is carried out in around 90 different ways (as many countries have decentralised administration systems and approaches of their particular provinces differ considerably). It is impossible to say which of these approaches are "correct" and which "inappropriate": the choice of particular approach always depends on cultural and legislative circumstances and traditions as well as on human capacities, administrative system, but also on the extent and shape of Natura 2000 sites in a given country or province. However, the Habitats Directive and the relevant CJEU rulings provide quite a solid framework for showing what the unavoidable steps are of and qualitative requirements for the AA regardless of national administrative arrangements and legislation. All workshops under the task 2.7.2A will aim at showing all these steps and their specificities in light of the best EU practices, providing also recommendations of countries from the region recently joining the EU.

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II. Objectives of the training

General objectives

To present the objective of Natura 2000 network and how the AA is linked with meeting this objective using the example of a real pilot site (future Natura 2000 site) and pilot project used for demonstration of the Appropriate Assessment (AA).

Specific objectives

- Explanation of the place of AA among Member States´ obligations regarding management of Natura 2000 network;
- To explain the differences and similarities between AA and EIA;
- To demonstrate what kind of data is needed for AA and what administrative procedures are recommended to be newly introduced;
- To explain the purpose of the 1st stage of AA – screening, what forms it may have and what data it requires;
- To conduct real screening exercise for the pilot site and project;
- To show experience of a new EU MS with both AA and screening;
- Outline of the upcoming procedure of the main assessment (= subject of the 2nd workshop).
- An intrinsic part of the workshop is a field excursion showing the situation in the field on the future Natura 2000 site and helping the participants to understand all the circumstances of this pilot AA.

Results/outputs

The expected results are:

- Improved understanding of the objectives of Natura 2000 network and the role of AA as one of its protective tools in its maintenance;
- Familiarization with particular requirements of AA in light of CJEU rulings;
- Understanding the differences from and similarities with EIA;
- Familiarization with the pilot site and pilot project;
- Learning about the 1st stage of AA (screening) and undertaking the screening for the pilot site;
- Sharing experience with a new EU MS relevant for the region with AA implementation.

III. EU policy and legislation covered by the training

Environmental Impact Assessment (EIA) Directive 85/337/EEC has been in force since 1985 and applies to a wide range of public as well as private projects which are defined in Annexes I and II. All projects listed in Annex I are considered as being likely to have significant effects on the environment and require an EIA. For projects listed in Annex II, the national authorities have to decide whether an EIA is needed. This is done by a "screening procedure" which determines the effects of projects on the basis of thresholds/criteria or a case by case examination.

The EIA Directive of 1985 has been amended three times, in 1997, in 2003 and in 2009. The initial Directive of 1985 and its three amendments have been codified by Directive 2011/92/EU of 13 December 2011. Directive 2011/92/EU has been amended in 2014 by Directive 2014/52/EU.

Strategic Environmental Assessment (SEA) Directive 2001/42/EC of the European Parliament and of the Council on the Assessment of the effects on certain plans and programmes on the environment. Plans and

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programmes in the sense of the SEA Directive must be prepared or adopted by an authority (at national, regional or local level) and be required by legislative, regulatory or administrative provisions.

SEA is mandatory for plans/programmes which are prepared for agriculture, forestry, fisheries, energy, industry, transport, waste/ water management, telecommunications, tourism, town & country planning or land use and which set the framework for future development consent of projects listed in the EIA Directive and/or have been determined to require an assessment under the Habitats Directive. For the plans and programmes not included above, the Member States have to carry out a screening procedure to determine whether the plans/programmes are likely to have significant environmental effects. If there are significant effects, SEA is needed. The screening procedure is based on criteria set out in Annex II of the Directive.

Habitats Directive 92/43/EEC of 21 May 1992 of the European Parliament and of the Council on the conservation of natural habitats and of wild fauna and flora. The Habitats Directive protects around 1200 European species other than birds which are considered to be endangered, vulnerable, rare and/or endemic. Included in the Directive are mammals, reptiles, fish, crustaceans, insects, molluscs, bivalves and plants. The protection provisions for these species are similar to those in the Birds Directive. They are designed to ensure that the species listed in the Habitats Directive reach a favourable conservation status within the EU.

In addition to the species protection, Habitats Directive includes also another "pillar" dealing with site protection. It demands EU MS to establish the Natura 2000 network of sites dedicated to conservation of selected species listed in Annex II and so-called "natural habitat types", more than 200 important habitat types listed in Annex I. This network encompasses also the sites classified according to the Birds Directive. Member States are obliged to establish, manage and protect Natura 2000 sites at their territories. The most important reactive protection tool is the Appropriate Assessment carried out following the requirements of Art. 6(3) and 6(4) of the directive.

Birds Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (this is the codified version of Directive 79/409/EEC as amended) is the EU's oldest piece of nature legislation and one of the most important, creating a comprehensive scheme of protection for all wild bird species naturally occurring in the Union. The Directive provides a framework for the conservation and management of, and human interactions with, wild birds in Europe. It sets broad objectives for a wide range of activities, although the precise legal mechanisms for their achievement are at the discretion of each Member State. The Birds Directive bans activities that directly threaten birds, such as the deliberate killing or capture of birds, the destruction of their nests and taking of their eggs, and associated activities such as trading in live or dead birds, with a few exceptions listed in Annex III. In addition to these provisions, Birds Directive asks Member States to establish and actively manage Special Protection Areas for selected bird species and assemblages; these SPAs become part of the Natura 2000 network. The same protective measures (including AA) apply to these sites like to those established under the Habitats Directive.

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IV. Highlights from the training workshop

Day 1 – 16 September 2014, Kavadarci, fYR of Macedonia

Introduction to the workshop – Petr Roth

The workshop was opened by Mr. Vlatko Trpeski, Head of Nature Protection Department, Ministry of Environment and Physical Planning, Skopje, followed by the introduction to the ECRAN project conducted by Petr Roth, ECRAN expert. ECRAN is strengthening regional cooperation among the EU candidate countries and potential candidates in the fields of environment and climate action and assists their progress in the transposition and implementation of the EU environmental and climate acquis.

ECRAN builds on experience gained and results achieved by the RENA (Regional Environmental Network for Accession), in particular those related to environmental and climate investments, transposition and implementation of environmental and climate law, compliance and enforcement, local and regional initiatives, climate action, water management, waste management, air quality, industrial emissions, nature protection, EIA/SEA, NGO support and public participation.

ECRAN includes an environment component, a climate action component as well as the NGOs Environment Forum. The activities under each component are implemented through a system of Working Groups (WGs).

Nature WG focuses on several topics related to the implementation of the nature legislation: Appropriate Assessments as per Art. 6(3) of the Habitats Directive, training on designation of potential Natura 2000 sites and assessment of readiness for Natura 2000 establishment, raising public awareness on the opportunities and benefits offered by Natura 2000, development of participatory pilot management plan and establishment of a Regional Network of Protected Areas.

Introduction to the Pilot Appropriate Assessment: Pilot Site and Pilot Project – Vlastimil Kostkan

Pilot site: Tikvesh Strict Nature Reserve in former Yugoslav Republic of Macedonia was chosen as Natura 2000 pilot site for AA, as shown on Fig. 1. below.

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Fig. 1

Tikvesh protected area spreads on 11,605 ha. Flora of the protected area is represented by over 420 taxa of vascular plants, from which are:

- 7 species from IUCN World Red List ;
- 2 species from Annex 2 of the Bern Convention;
- 13 Macedonian endemic and sub endemic plant species;
- 2 species from European CORINE List;
- 37 rare plant species.

By 2012, twelve habitat types from Annex I of the Habitats Directive were recognized in the area. Number of fauna species recorded on the territory of the Protected Area Tikvesh amounts to 1,266 species, from which are:

- 3 invertebrate species from Annex IV of the Habitats Directive
- 19 endemic invertebrate species
- 7 amphibian species from Annex IV of the Habitats Directive
- 12 amphibian out of 15 Macedonian species
- 21 reptile species from Annex IV of the Habitats Directive
- 13 mammal species from Annex IV of the Habitats Directive

Also, there are 175 species of birds of which 57 are listed in Annex 1 of the Birds Directive, including globally endangered species:

- Egyptian Vulture (*Neophron percnopterus*);
- Imperial Eagle (*Aquila heliaca*) (VU);
- Lesser Kestrel (*Falco naumanni*) (VU).

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Project: “Ecoresort Kavadarci”

Since within the selected pilot site there are no activities that could put the protected area at risk, ECRAN team together with the beneficiaries agreed to simulate the activities that could potentially put the protected area at risk in order to present the practical part of AA implementation. Practical AA implementation will be presented taking into account the following simulated activities:

a) construction of the hotel with a capacity of 120 beds, conference facilities, catering and other hotel services and additional services concerning outdoor activities in its vicinity (Fig. 2 and 3);

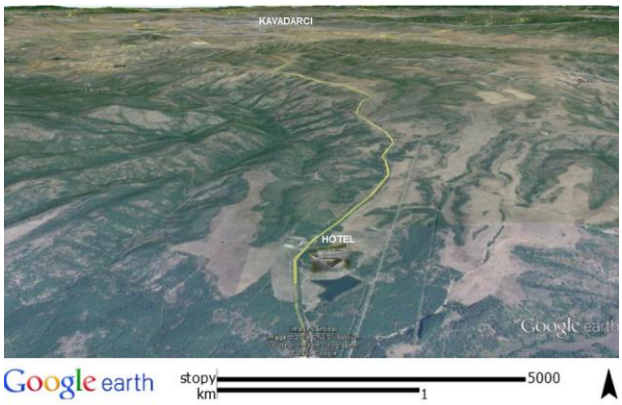

Fig. 2

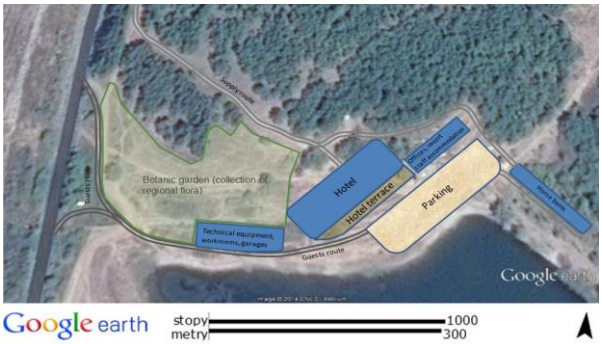

Fig. 3

b) development of facilities enabling access to the protected site Tikvesh aimed at observation of natural assets and experiencing nature (cableway and a network of marked paths) (Fig. 4 and Fig. 5);

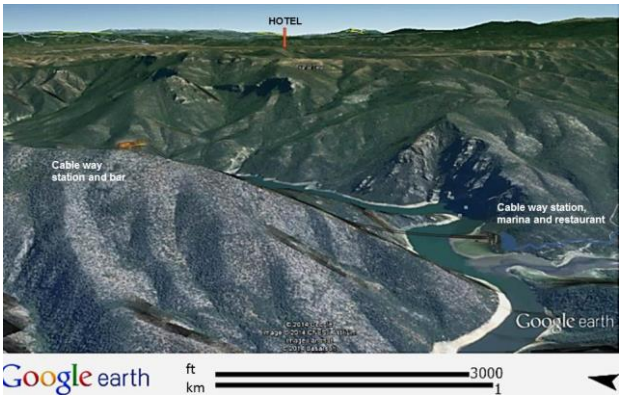

Fig. 4

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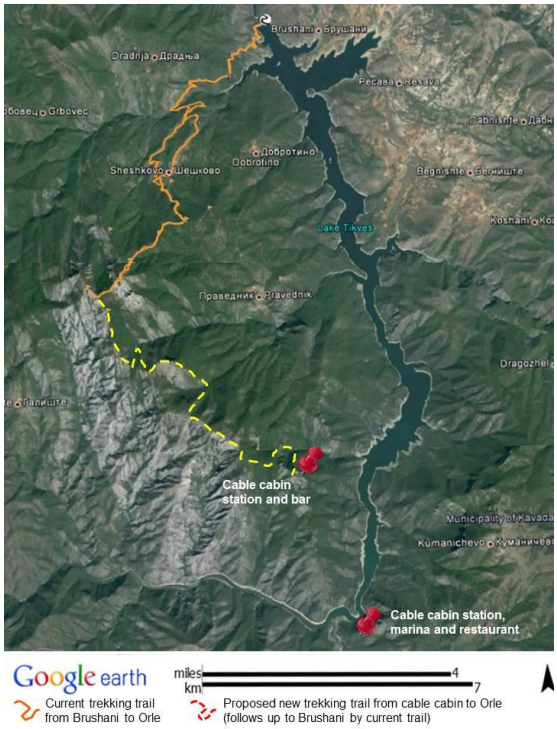

Fig. 5

c) development of infrastructure needed for leisure activities in nature including access to the facilities under b) above (Fig. 6);

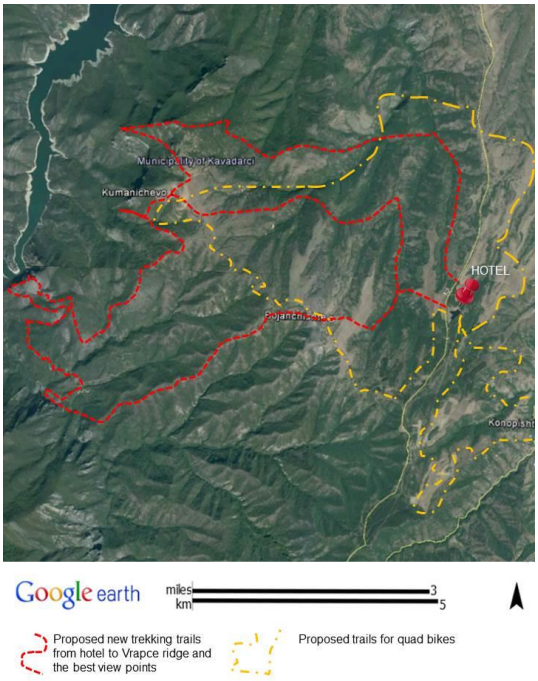

Fig. 6

d) other facilities needed for full utilization of the capacity of the resort (e.g., horse stables and paddocks, ATVs, etc.).

Natura 2000 as an object of Appropriate Assessment – Petr Roth

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Recognition of inefficiency of separated national nature policies occurred worldwide in 1970s, with the famous statement that “nature does not recognize borders”. However, this idea could have been implemented only under certain political conditions. Such conditions only occurred within the European Union covering sufficiently large area to implement transboundary nature protection and conservation.,

Therefore, EU Birds Directive was adopted in 1979 as the first piece of EU legislation in the field of nature protection. All nine the than EU MS had to establish their SPAs. However, since there were no strict rules and instructions, by 2000 there was almost no implementation in the field. In 1992, EU Habitats Directives was adopted (92/43/EEC) introducing an obligation to establish “non-birds” sites (SCIs) across EU 12. Those sites were to create a network, together with SPAs, called Natura 2000. Natura 2000 network sites must always have particular target features comprised of:

- bird species;
- non-bird animal species;
- plant species;
- “natural habitat types”.

These target features listed in the Birds and Habitats Directives were selected according to following criteria:

- Habitat type in danger of disappearance; endangered species;
- Habitat type having a small natural range; vulnerable species;
- Habitat type presenting outstanding examples of typical characteristics of biogeographical region; rare species.
- Endemic species and species requiring particular attention.

According to Article 3(1) of the Habitats Directive, “this network, composed of sites hosting the natural habitat types […] and habitats of the species … shall enable the natural habitat types and the species' habitats concerned to be maintained or, where appropriate, restored at a favourable conservation status in their natural range.“ Overall, Natura 2000 aims at contributing to Favourable Conservation Status (FCS) in the country, but FCS does not refer to individual sites, hence it has nothing in common with Appropriate Assessment which only focuses on particular sites.

Rules of establishment of Natura 2000 were presented, stating that each Natura site must have their target features, and in addition, it should have conservation objectives set. Two terms crucial for Natura 2000 AA are “site integrity” and “ecological coherence of the network”. Site integrity refers to all those factors that contribute to the maintenance of the target features of a site, including structural and functional aspects. Coherence of Natura 2000 Network means that the network comprises all the sites which should be included, according to the criteria in the Directives. Emphasis was put on the difference between integrity and coherence: integrity refers to individual site while coherence refers to the whole Natura 2000 network. This is important due to different requirements of Article 6(3) and 6(4) of the Habitats Directive.

At the end of the preparatory process, before EU accession, each EU MS should have completed coherent Natura 2000 network on its territory. Then, each EU MS has three types of obligations regarding the network - two proactive and one reactive:

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- Proactive obligation No. 1: Establishment of conservation measures and applying them in all sites (Article 6(1));
- Proactive obligation No. 2: Prevention of any deterioration of habitat types and habitats of species, as well as disturbance of species – both man-caused and natural (Article 6(2));
- Reactive obligation: Ensure any plan and project likely to affect Natura 2000 network sites is subject to appropriate assessment of its implications for the site in view of the site's conservation objectives.

The latter obligation is the reason for implementation of this task within the ECRAN Project.

Pilot Project Site Visit

Pilot Site Visit to Tikvesh area was conducted for the participants. Invited local expert Professor Tome Lisičanec provided information on this pilot area. He explained the importance of the protected area, of projects that had been implemented before but without any screening of their impacts, but also several projects that were rejected due to their negative impact on nature.

Day 2 – 17 September 2014, Kavadarci, fYR of Macedonia

Theory of Appropriate Assessment: Petr Roth

Theory of appropriate assessment (AA) was presented having biological assessments as a starting point. Assessments of impacts of plans and projects on natural phenomena are quite common at national level, occurring in various forms and for various purposes, but only two of them are codified by the EU law: Environmental Impact Assessment/ Strategic Environmental Assessment (EIA/SEA – EIA/SEA Directives), and AA (Habitats Directive). Differences between EIA/SEA and AA was clearly presented: EIA/SEA assesses impacts of plans and projects on natural phenomena, resulting in description and taking into account of likely impact, while AA, on the other hand, stands for combination of biological assessment and decision-making process resulting in binding decision on admissibility of plan or project. Thus, AA assessors have much bigger responsibility than EIA/SEA ones, and right execution of AA is very important. Articles 6(3) and 6(4) of the Habitats Directive were presented, stating that Article 6(3) deals with the assessment procedure, while Article 6(4) deals with derogations from that procedure. This workshop has only covered Article 6(3). - However, it must be stated that Article 6 is not the only source of instructions for AA. The other source is one of the types of EU secondary legislation - rulings of the Court of Justice of the European Union. CJ EU rulings interpret the Directives and are legally binding and must be taken into account both during the transposition as well as implementation.

As regards applicability of AA, there are two scenarios:

- for Special Protection Areas according to Birds Directive (SPA) which should be classified by the date of accession, AA is applicable immediately after such a classification;
- for sites proposed and designated pursuant to the Habitats Directive - proposed Sites of Community Importance (pSCI), Sites of Community Importance (SCI), and Special Areas of Conservation (SAC) – the applicability differs. For these types of sites, timing of which is presented on Fig. 7, the following rules apply:

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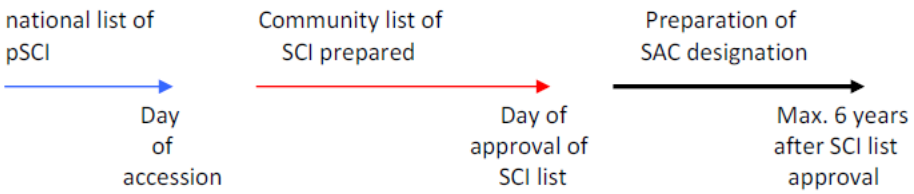


Fig. 7

a) pSCIs before accession (blue period): AA is not applicable;

b) pSCIs between accession and approval of the Community list by the EC (red period): only the first part of AA, i.e., Art. 6(3) is applicable; any plan/project must not adversely affect "ecological characteristics of a site"; derogation procedure of Art. 6(4) is not allowed to be applied;

c) once the Community list of SCI has been approved, during the period of their designation as SAC (black period) and beyond, AA is compulsory

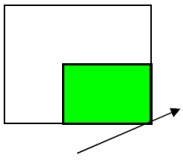
Interpretation of the wording of Art. 6(3):

Sentence No 1 of Article 6(3) states that "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."

However, the Article does not necessarily refer to management plans as a whole. An example of management plans for National Parks in the Czech Republic was mentioned. Each of the management plans contain a management section as well as a section on felling trees for income in the buffer zone. The latter part of the management plan does not serve to "site management" in the meaning of "conservation management" and, therefore, should be subject to AA.

Further on, each word and phrase of the Article 6(3) was in details explained to the participants.

AA refers to "site conservation objectives" and its outcome differ based on these objectives: two situations were presented for identical site and identical project but with different conservation objectives, as shown on Figs. 8 and 9.



Site A, habitat XY

Conservation objective: just maintenance (Art. 6(2))

AA: new road destroying 0.01 % of the habitat XY

Conclusion: impact not significant, road can go on

Fig. 8

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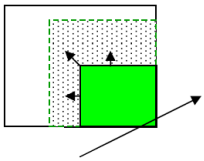

Site B, habitat XY

Conservation objective: increase by 75 % by 2019

AA: new road destroying 0.01 % of today´s habitat XY which is expected to expand = conservation objective jeopardized (decrease instead of increase)

Conclusion: impact significant, **road must stop**

Fig. 9

Sentence No 2 of Article 6(3) states that "in the light of conclusions of the assessment of the implications for the site and subject to the provision 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."

As well as in the previous case, the sentence was interpreted in detail. Here it is important to remember that plan/project must not be permitted if any scientific doubt remains that it will adversely affect the site integrity, and also that opinion of the public is not obligatory.

Conclusion is that site integrity of all Natura 2000 sites should remain intact in long-term, meaning prevention of any impact from:

- abandonment of land or unsuitable management (Art. 6(1)
- unintentional man-made impacts as well as natural impacts (e.g., succession) (Art. 6(2))
- unintentional man-made impacts from plans and projects (Art. 6(3).

From the wording of Articles 6(3) and 6(4), four stages of AA can be derived:

- Art. 6(3)
  - I. Screening: question "Is there a likelihood of significant effect on a site"? If yes, then→
  - II. Main assessment: question "Is the significant effect on site integrity of particular sites likely"? If yes, plan/project must be stopped.
- Art. 6(4) (when plans/projects stopped due to significant impacts)
  - III. Assessment of alternative solutions: if they exist, plan/project must not be implemented; if not:
  - IV. Test of Imperative Reasons of Overriding Public Interests (IROPI) test and compensatory measures.

This workshop deals with stage I only; the remaining stages will be the topic of the subsequent workshop, planned to be delivered in 2015.

Appropriate Assessment from Practical Perspective – Petr Roth and Vlastimil Kostkan

AA and EIA/SEA (Petr Roth)

Both AA and EIA/SEA are biological assessments. Objects of EIA/SEA assessment are listed in Annex I and II of the EIA Directive – these are particular types of project – and assessment of their impacts has to be taken into account only while AA presents combination of an environmental assessment and a decision–making process. If AA and EIA/SEA processes are merged it must be ensured that conclusion of AA within EIA/SEA is made binding.

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Scope of AA and scope of EIA/SEA Directives were presented. Scope of AA differs from the latter one because it refers to *any* plan and project likely to have a significant effect on a particular site. On the other hand, EIA Directive relates only to projects defined in Annexes I and II of the Directive, and similarly SEA Directive have exactly defined fields of plans and programmes to which it has to apply.

What was very important for the participants to familiarise with, was the interrelation between EIA/SEA and AA. First, there is direct interrelation in the SEA Directive: plans and programmes determined to require AA must be subject to full SEA. It is not true in the opposite direction: if SEA is needed, AA is not necessarily obligatory unless the given plan/programme is not likely to affect Natura 2000 sites.

As regards the EIA Directive, no such causal interrelationship exists: it only says that Natura 2000 should be taken into account during the assessment.

However, generally it is advisable to merge EIA/SEA and AA processes due to saving time capacities and resources (common administration of both processes). Ideal solution is to merge AA and EIA/SEA in all cases where EIA or SEA re binding, and to establish separate AA procedure for plans and projects not subjected to EIA/SEA, but it must be ensured that the rules and conditions of AA are identical in both procedures and that the outcome of AA is always binding within the outcomes of the "leading" EIA/SEA procedures.

Who is to carry out AA? (Vlastimil Kostkan)

A person responsible for preparation of AA study can be a person with specific education, professional experience, and/or member of professional bodies. In some EU MS, special licence is necessary for AA. Advantages and disadvantages of different approaches to the responsibility for AA preparation were presented, regarding education, experience and special licences. For example, professional experience can be a guarantee for right conclusions, but on the other hand, there is a possibility for making stereotypes.

Persons and bodies that can be responsible for preparation of AA are the following:

- Commercial consultation companies
    - Licensed;
    - Non-licensed;
- Physical persons
    - Licensed;
    - Non-licensed;
- Scientists or scientific institutions;
- State/public authorities;
- Special agencies.

For each type of person and/or body that conducts preparation for AA, there are pros and cons. For example, freelance experts are flexible, usually specialized for particular type of assessment, but freelancer tends to do everything, and can be overpaid.

Overview of "clients", i.e those who are financing the development of AA has been presented: they are either developer or state/local authority. If developer is a big company, usually the resources available for this task are higher. Also, outcome of AA study can easily be checked by state authority. However, if the developer is small company, then financial resources for AA study are limited and sometimes even insufficient. If state or public authority pays for the study, there is no need for a state audit, and also there

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is an independence of developer. However, public authorities usually have limited resources, and there is always a possibility of political influence and pressure.

All three state (public) administration levels can carry out the Appropriate Assessment process, central, regional and local level. At the central level, there is usually better methodological supervision and coordination, as well as coherence in decision-making, but there is also a possibility of impact of political changes, and also familiarity with the sites in question is lacking. Regarding regional level, political influence is also an issue, but there is a better familiarity with the sites and coordination on regional level is better possible. Familiarity with the site(s) is even better on a local level, but in this case, there is a difficult access to information on cumulative impacts due to poor coordination among municipalities.

Geographical scoping of AA (Vlastimil Kostkan)

For the scope of AA it is important to decide which Natura 2000 sites can be affected by the plan/project. For this, responding to following questions is necessary:

- Is the project inside or outside a N2K site?
- Has the project any linked activities? Where?
- How is designed the infrastructure of the project?
- How is organized logistics relating to project preparation and operation?
- Are there any other projects not directly linked to assessed project which may have cumulative impacts?

It was also stated that project with likely significant effect could be situated far away – up to even hundreds of kilometres from the site, as well as abroad in which case trans-boundary assessment will be necessary.

Data needed for AA (Vlastimil Kostkan)

For AA preparation it is necessary to use reliable and “fresh” biological data concerning:

- habitats
- species

If there is a need for biological research to fill the gaps in data it should focus on target features and any other species and/or habitats which could probably influence target features (e.g. feeding sources, predators, competitors, alien species…).

For AA performance it is necessary to use the data on possible impacts of the project:

- during construction
- during operation
- during dismantling (at temporary constructions)
- data concerning other projects likely to affect assessed site(s) (cumulative effects).

Appropriate Assessment should be carried out on the base of field research during (at least) one season. For most habitats and species it means spring and summer. Some species (lynx, wolf, otter, beaver, wintering and migrating birds) have specific demands for timing of research for autumn, winter or early spring as well.

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There is good experience with databases maintained by state nature conservancy agencies gathering data on habitats and species in long-term. This data, if gathered systematically (including historical records from literature or local organisations) could show trends like ecological succession or long-term changes in population densities.

However, any database cannot substitute field research and recent field data. Similarly, Standard Data Form cannot provide data needed for AA because SDF describes the status of a Natura 2000 site only at the time of its designation and does not contain quantitative characteristics of target features which are indispensable for.the AA.

Direct and indirect effects, cumulative effects of projects and plans (Vlastimil Kostkan)

Direct effects of a project could be:

- Reduction of area of habitats, plant populations or animal territories (e.g., destruction of fishponds with rare species);
- Direct effects on some part of animal life cycle (e.g. migratory birds);
- Killing of individual animals (e.g. wind parks);
- Destruction of habitats or any of their components (e.g. wetland habitats);
- Pollution

Indirect effects of a project could be:

- Change of content of key nutrients of plants/habitats;
- Limitation of food source or changes in the food chain;
- No critical reduction of population size, but the population is fragmented (transportation across the sites);
- Project lies outside Natura 2000 site but causes increase in traffic within the site;
- Invasion of alien species;
- Change of traditional land use (farming, forestry, fishery…) within the site.

Cumulative effects of a project could be:

- Two or more different projects with subtreshold effects could cause significant effect
    - Projects implemented at the same time;
    - Projects implemented item-by-item („salami slice method“);
- Target features are under a stress already before project implementation starts.

In order to reveal cumulative effects, it is necessary to record all recent projects prepared within a Nature 2000 site and is neighbourhood, as well as record all projects assessed in the context of Natura 2000 site.

Experience of a new EU MS – Neven Trenc, State Institute for Nature Protection, Croatia

In Croatia, Nature Protection Act from 2003 introduced main provisions of ecological network and appropriate assessment. EU nature directives were fully transposed in 2013. Regarding Environmental Protection Acts, in 2007 a linkage was passed for AA and in 2013, EU environmental and nature directives fully transposed. In 2005, a basis was set for Nature protection by-laws, that were passed in 2007, 2009, 2013 and 2014 (in 2007 rulebook on acceptability of project for nature by-law was passed, and in 2014, rulebook on conservation goals and basic measures for conservation of birds in the area of ecological network).

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Ecological network of Croatia and its history was presented: it was established in 2007 and in 2013 it changed into Natura 2000 composed of pSCIs and SPAs.

	% land RH	% coastal sea RH	% total area RH	Number of Natura 2000 sites
pSCI	28,38	15,44	23,73	742
SPA	30,23	3,28	20,54	38
Natura 2000	36,67	16,39	29,38	780

Fig. 10

As usual, every beginning is difficult. Advantage of Croatia was that it had started with AA long before their accession, in 2008, which provided them with the opportunity to develop the AA process, tune it and remove its mistakes. When Croatia entered EU in 2013, there was no need for any new start – data, procedure, as well as capacities and legislative background were already in place.

Croatian model was presented, divided into three parts representing administrative, public and private/ scientific sectors. Administrative sector includes Ministry of Environment and Nature Protection and other country administrations with tasks to prepare legislation, write decisions and implement legal procedures. Public sector includes State Institute for Nature Protection (its AA section comprises of five biologists and one geologist) whose job is to review assessments, collect data and provide expert work in relation to legislation. Private/ scientific role gathers private companies that perform the assessment or scientific institutions with the aim to prepare AA and conduct field research and data collection.

Relevant data on Natura 2000 sites in Croatia, including related data on species and habitats as well as maps can be found on http://natura2000.dzzp.hr/natura. Also, habitat map of Croatia is available through a web application - CRO habitats public map viewer on www.crohabitats.hr.

SINP has benefitted from the following EU projects regarding Natura 200 in Croatia:

- Phare 2000 Natura in Croatia ;

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- UNDP Coast 2010 project manual for AA;
- IPA SEA Croatia project 2013;
- TAIEX study visits to MS.

Over the last several years, there have been more and more AA requests. For instance, in 2012, 317 studies were screened out, and 30 AA were conducted. As per type of development, the majority of AA conducted (35%) is done for windmills. Graphically, it can be seen on Fig. 11. In 2014, 500 screening documents are expected.

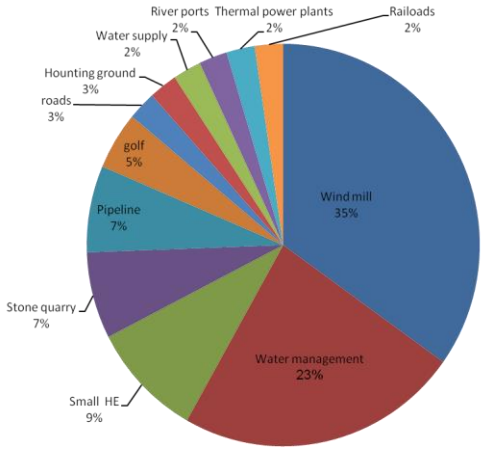

Fig. 11

The Articles 6(3) and 6(4) of the Directive has to be properly understood. Directive is complex and needs to be read carefully and discussed – erroneous „absurd" interpretations that spread at the beginning may cause confusion within the business sector. Also, it is important to include various scientist, since they have excellent knowledge of many species, presenting a good basis for many types of assessment. One of the greatest challenges that Croatia has faced has been development of public access to quality data, and also regulation of data ownership.

Since assessment of this type is a biological assessment, the core of people performing the assessment is biologists and ecologists. However, other professions are also important, including geologists, engineers, foresters, etc. More external experts for species and habitats have to be hired. Each assessment is reviewed by SINP, thus state takes responsibility for the quality of the assessment.

If public sector and biological community do not have enthusiasm to implement Nature Directives properly, formal and superficial approach may lead to closed circle of mistakes. Assessments should be simple and short as possible while achieving the needed quality.

Appropriate Assessment Stage I: Screening – Theoretical Basis – Petr Roth and Vlastimil Kostkan

Article 6 of the Directive was mentioned again, putting emphasis on the sentence where projects are sought "likely to have a significant effect on the site". The first question to be asked is: "which sites could be influenced by the given project?" Several possibilities were given as an answer, such as:

- sites directly impacted by land take;
- sites directly impacted by emissions, including noise, water and air pollution, etc.;

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- sites indirectly impacted, including transport of pollutants, underground waterlevel change, noise, cutting of migration routes, disturbance by humans, etc.

There is no difference between direct and indirect impacts: important is if the effect is likely significant, nothing more.

Another question to be asked is if the-combination effect applies. Here, the rule “first come first serve” applies – particular projects with sub-threshold (insignificant) effects can be granted permission by the moment when the recent one exceeds the threshold of significance – then it must be stopped.

Natura 2000 sites may also have other target features than those listed in the Directives; if so, AA can apply to them, too, in the same manner as those from the directives, but this must be explicitly anchored in national law; if this is not the case then AA applies only to “Natura” target features.

When thinking about screening conclusion, prediction of the future main assessment must not harm the sites while it can harm the investor since this harm is negligible compared to the risk of site destruction.

The screening conclusion can only have two outcomes:

- In case of absolute certainty that project can not affect an Natura 2000 site: “Project XX cannot affect any Natura 2000 site”;

- In case of doubt, lack of data, or clear impact: “Impact of project YY on any Natura 2000 site cannot be excluded and therefore the main assessment is needed”.

We must never neglect the responsibility of screening-makers, since underestimating of likely impact may lead to site destruction, and its overestimating to “killing” of often large infrastructural projects.

Screening can be very simple, very complicated, or appropriate.

General objective of screening is:

- To record all potentially harmful projects in the country;
- To enable investors and other authorities to get access to data on cumulations.

It is important to mention that screening must be anchored in legislation as to procedure, authorities in charge, and form of the outcome. But as usual, that is not enough. It is recommended to have manual for the whole AA at national level, since it will be tailored to fit national legislation, use national terminology and represent an ancillary tool for both authorities and investors. On the other hand, there are general EU guidelines at the Commission´s webpage.

Some countries use screening templates, such as Austria and Germany. The template has a form easy to fill in, it automatically records and storages all the data and procedures and applicants can see the likely result in advance. But the template also has some disadvantages. One of them is that there is no form that can fully cover all life situations, and officials using the forms tend to stop using their own brains.

Second part of the presentations was devoted to the screening approach. One of the first issues was data necessary for screening. Data must be reliable and concern assessed project, as well as data concerning other projects likely to affect assessed sites (cumulative effects). It is necessary to have actual data on the status of target features (habitats and species); older data can be relevant, too in a manner to show trends of target features likely to be affected. Appropriate data is best to take from focused field research and from local biologists, but data from publications and databases must not be neglected, too.

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Screening data can be both essential and non-essential. Essential data includes area of habitats, density of populations and ecological relations of target features, while non-essential data are represented e.g. by the comprehensive information about biodiversity, information about species from Red lists, endemic species and protected species on a national level. Non-essential data are of little use for both screening and the subsequent main assessment.

Role of database was shown by Mr. Kostkan at an example of Snezka Mountain in the Czech Republic, and the river otter as representative of animal target features.

Screening exercises I and II – Vlastimil Kostkan

In the Czech Republic, Protected Landscape Area Poodří includes wetland and fishpond area with floodplain meadows and forests along the, remaining parts of non-regulated Odra River. This PLA is both SPA and SCI. For the SPA, there have been 400 species recorded. SCI is famous for its habitat types - alluvial forests that spread on almost 390 ha.

A project description was presented that served as a training exercise for the participants. The project was a reconstruction of an old military base for an airport for civil and cargo transportation. With the new project, there will be one new runway, 13,000 m2 of new storage capacity, increased frequency of landings, and eight-km-long motorway crossing the SPA/SCI,. The participants were given adequate time to consult and present their view of the likelihood of an impact on Natura 2000 sites – screening conclusion and its justification. Basic map showing the situation can be seen on Fig. 12 :

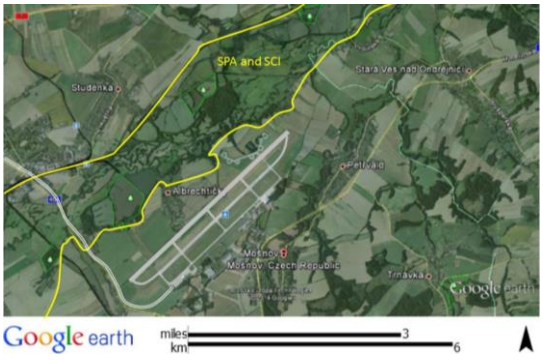

Fig. 12

Another example was provided for the exercise; in this case it was SPA/SCI Protected Landscape Area Beskydy, and SCI Olse, both in the Czech Republic. Beskydy with more than 1,200 km^2 is the second largest SCI in Czech Republic, while the area of SCI Olse is 1.69 km^2. These areas, together with the planned route of the project – motorway, can be seen on the following map :

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Fig. 13

Main target features of the area were large carnivores (wolf, bear, lynx). Participants discussed likelihood of impact of the given project especially on these target features.

Day 3 – 18 November 2014, Kavadarci, fYR of Macedonia

Screening - example of Croatia – Neven Trenc

Screening is not directly mentioned in Article 6, but it is rather hidden behind the words "appropriate", it is a part of appropriate assessment. However, practical purpose is essential - to make implementation of the project possible, to reduce procedure expenses and to also speed up the procedure. The procedure was not brand new - in Croatia, measures and conditions of nature protection had to be issued to any activity that may have negative impact in relations to target features even before.

In Croatia, from the overall number of projects, only a limited number needed screening, and out of those, only a small number needed the real main assessment.

So far, selection for screening has been quite successful though there is more demands from some counties and less from other. But even small activities to be implemented in nature are sent to screening if there is a likely impact. However, some problems still can occur, for example with small projects. Small projects generally have only a direct impact.

Projects that avoid going for a screening get no opinion from nature protection authorities and cannot go further in the permitting process. In addition, some national bodies require screening opinion as an obligatory document for processing the project applications for EU funds. In such cases, even if the proponent may correctly assume that certain project may not have an impact, his application would be rejected since there were no screening conducted.

Problem of screening is that it is not allowed (according to the Directive) to ask for fulfilling conditions in this stage. Thus, instead of prescribing measures (sometimes very simple like different timing of project), responsible authority has to ask the person in charge to amend the specific project with information when the project will be carried out and then resubmit it to let it screened out.

There is always risk in of underestimation in the screening procedure. Mistakes that have been made in screening may occur in unlikely projects, e.g. ecological agriculture project may impact the nearby lake, etc.

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Involvement of central expert institution like SINP that has a team that sets standards for screening and carries out screening is an advantage.

Pilot screening – Vlastimil Kostkan

At the very end of the workshop, all participants together were asked to respond the question: “Is the Tikvesh pilot project likely to significantly affect the Tikvesh site”? Based on all the information presented during the duration of the workshop, the final answer was unanimous “yes”. Therefore, the pilot project will continue with Main Assessment undertaken by V. Kostkan in the field in spring 2015 and the second AA workshop aimed at theory of main AA, presentation of the field results of the main assessment, and explanation of the provisions of Art. 6(4) of the Habitats Directive. Tentative timing will be either late spring or, more probably, early autumn 2015.

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ANNEX I – Evaluation

Workshop - participant Evaluation

Question		N°. Responses	Yes	No	Partially	Do not know
1. Was the workshop carried out according to the agenda		11	6 (54)%	2 (18)%	3 (27)%	N/A
2. Was the programme well structured?		11	7 (63)%	2 (18)%	2 (18)%	N/A
3. Were the key issues related to the topics addressed?		11	9 (81)%	2 (18)%	0 (0)%	N/A
4. Did the workshop enable you to improve your knowledge?		11	8 (72)%	2 (18)%	1 (9)%	N/A
5. Was enough time allowed for questions and discussions?		11	9 (81)%	1 (9)%	1 (9)%	N/A
6. How do you assess the quality of the speakers?	**Speaker/Expert**	**N°. Responses**	**Excellent**	**Good**	**Satisfactory**	**Poor**
	Mr Kostkan	10	4 (40)%	3 (30)%	2 (20)%	1 (10)%
	Mr Roth	11	7 (63)%	2 (18)%	2 (18)%	0 (0)%
	Mr Trenc	11	3 (27)%	6 (54)%	2 (18)%	0 (0)%
Question		**N°. Responses**	**Yes**	**No**	**Partially**	**Do not know**
7. Do you expect any follow-up based on the results of the workshop (new legislation, new administrative approach, etc.)?		11	8 (72)%	3 (27)%	N/A	N/A
8. Do you think that further TAIEX assistance is needed (workshop, expert mission, study visit, assessment mission) on the topic of this workshop?		8	8 (100)%	0 (0)%	N/A	N/A
9. Were you satisfied with the logistical arrangements, if applicable?						
	Conference venue	11	3 (27)%	1 (9)%	7 (63)%	0 (0)%
	Interpretation	11	6 (54)%	2 (18)%	3 (27)%	0 (0)%

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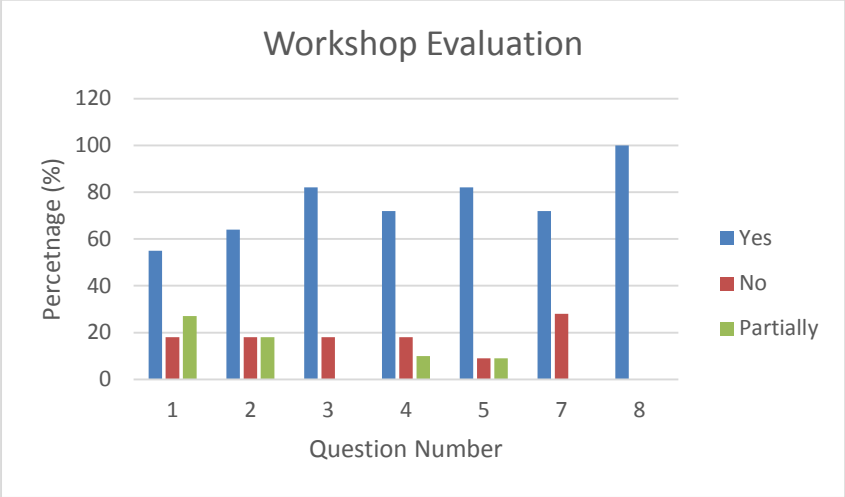
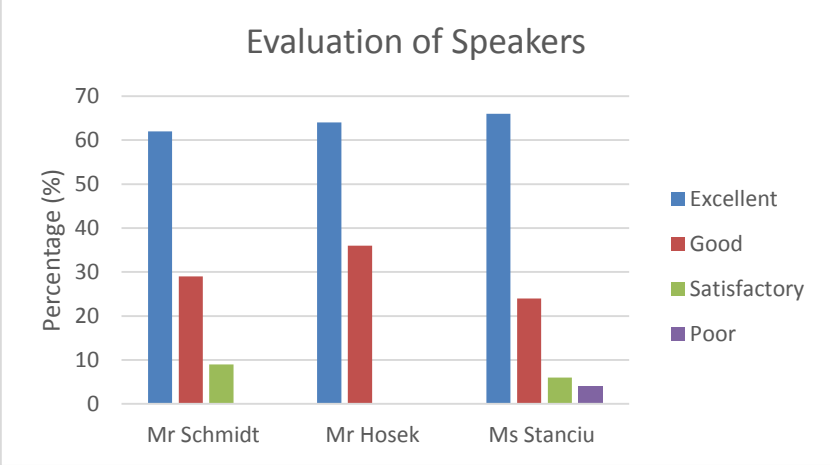
	Hotel	11	2 (18)%	4 (36)%	5 (45)%	0 (0)%

Comments:

- Not official time organized by the Organizer to meet our colleagues from Macedonia and Albania. Very poor management of the organizer for the whole workshop;
- Hotel accommodation and meals were not satisfactory;
- No cover hotel dinner for representative from Macedonia!!!





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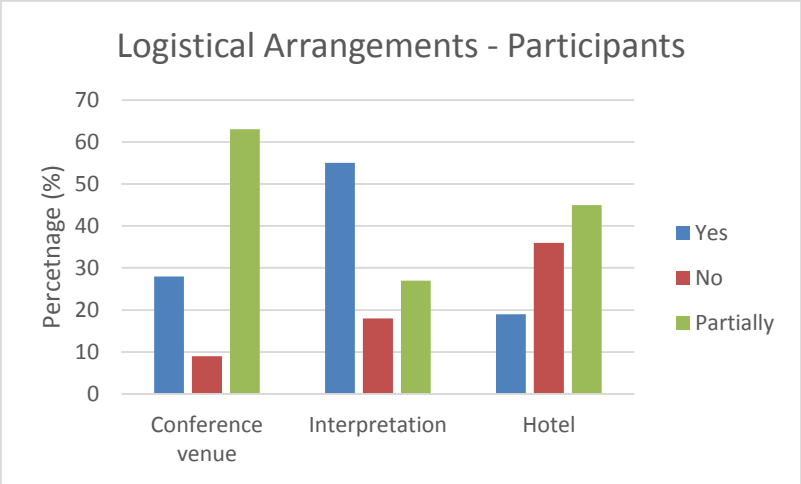

Workshop - speaker Evaluation

Question	N°. Responses	Yes	No	Partially	Do not know
1. Did you receive all the information necessary for the preparation of your contribution?	4	3 (75)%	0 (0)%	1 (25)%	N/A
2. Has the overall aim of the workshop been achieved?	4	3 (75)%	0 (0)%	1 (25)%	N/A
3. Was the agenda well structured?	4	3 (75)%	0 (0)%	1 (25)%	N/A
4. Were the participants present throughout the scheduled workshop?	4	0 (0)%	0 (0)%	4 (100)%	N/A
5. Was the beneficiary represented by the appropriate participants?	4	3 (75)%	0 (0)%	1 (25)%	N/A
6. Did the participants actively take part in the discussions?	4	2 (50)%	0 (0)%	2 (50)%	N/A
7. Do you expect that the beneficiary will undertake follow-up based on the results of the workshop (new legislation, new administrative approach etc.)	4	2 (50)%	0 (0)%	N/A	2 (50)%
8. Do you think that the beneficiary needs further TAIEX assistance (workshop, expert mission, study visit, assessment mission) on the topic of this workshop?	4	4 (100)%	0 (0)%	N/A	N/A

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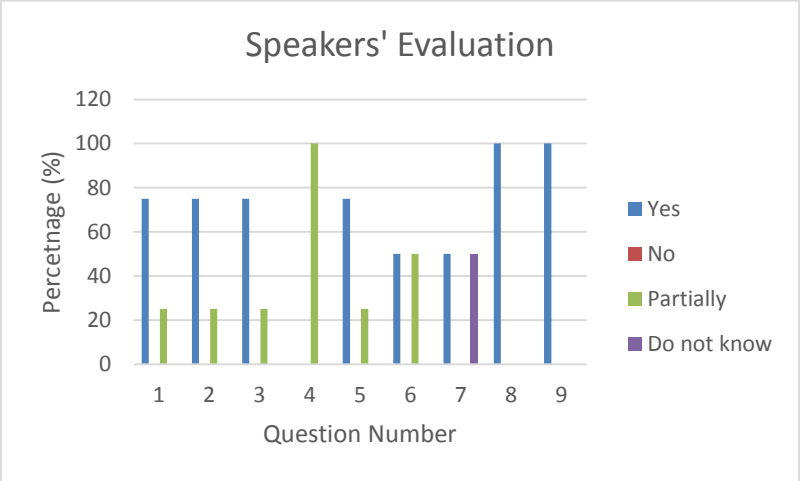
9. Would you be ready to participate in future TAIEX workshops?		4	4 (100)%	0 (0)%	N/A	N/A
10.If applicable, were you satisfied with the logistical arrangements?						
	Conference venue	4	4 (100)%	0 (0)%	0 (0)%	0 (0)%
	Interpretation	4	4 (100)%	0 (0)%	0 (0)%	0 (0)%
	Hotel	4	4 (100)%	0 (0)%	0 (0)%	0 (0)%

Comments:

- Field excursion wasn't prepared with necessary flexibility needed for visit of all sites useful for presentation of pilot project. Exaggerated rules for safety of boat trip made presentation of the pilot site almost impossible. Participants from home country (Macedonia) took place on the part of workshop only. They came late from Skopje first day and left the meeting second day in spite of the participants from Kosovo and Albania, who were active and attentive listeners;
- Site visit was not appropriately conducted;
- Excursion envisaged an intrinsic part of the event was a catastrophe - it was dictated by bus driver who refused to take us at the site needed for pilot project. No one asked us (ECRAN experts) before the event even though we developed the agenda tailored to project conditions.



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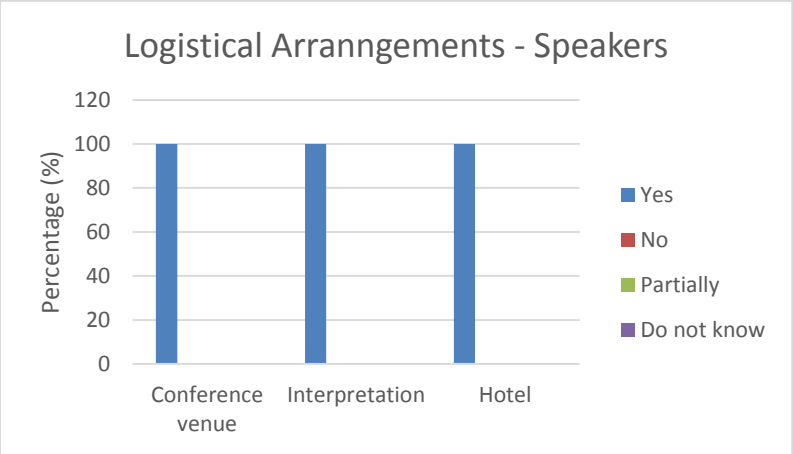

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ANNEX II – Agenda

Day 1: Tuesday September 16, 2014 **Moderators: Petr Roth, Vlatko Trpeski**				
Start	**Finish**	**Topic**	**Speaker**	**Sub topic/Content**
08.30	**09.00**	**Registration**		
09.00	9.30	Welcome, introduction to the workshop	Petr Roth, ECRAN Vlatko Trpeski, Ministry of Environment and Physical Planning, FYR of Macedonia	• Introduction to the workshop • Welcome of the host country
9.30	10.20	Introduction to the pilot AA: pilot site and pilot project	Vlastimil Kostkan, ECRAN	• Introduction to the pilot site and pilot project • Aim and route of the field trip
10.20	***10.30***	***Coffee break***		•
10.30	13.00	Introduction to the topic: Natura 2000 network as an object of Appropriate Assessment (AA)	Petr Roth, ECRAN	• Natura 2000, its objective and place within EU biodiversity policy • Interrelationship between the Nature Directives as regards Natura 2000; Natura 2000 and ecological network • Natura 2000: target features, conservation objectives, site integrity, (ecological) coherence of the network • Obligations referring to N2K: proactive and reactive
13.00	13.30	Q & A	Petr Roth & Vlastimil Kostkan, ECRAN	
13.30	**15.00**	***Lunch***		
15.00	18.00	Bus trip to the pilot project location	Vlastimil Kostkan, ECRAN	• Familiarization with the pilot area • Location of main part of the pilot project
18.00		***End of day I***		

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Day 2: Wednesday September 17, 2014 Moderators: Petr Roth, Vlatko Trpeski				
Start	**Finish**	**Topic**	**Speaker**	**Sub topic/Content**
08.30	**09.00**	**Registration**		
09.00	10.30	Theory of Appropriate Assessment	Petr Roth, ECRAN	• AA: combination of biological assessment and decision-making process • Art. 6 Habitats Directive: obligations regarding Natura 2000 in time, meaning of particular provisions • Role of CJEU judgments • AA: tool to maintain site integrity and network coherence • Analysis of AA process: semantic analysis of the wording of Art. 6(3) Habitats Directive and its legal and factual interpretation, particular "stages" of AA and their objectives
10.30	10.50	***Coffee***		
10.50	12.30	Appropriate Assessment from practical perspective, linkages to and differences from EIA/SEA	Petr Roth & Vlastimil Kostkan, ECRAN	• AA *vs.* EIA/SEA: combination of environmental assessment and decision-making process; "scope" of AA *vs.* scope of EIA/SEA; administrative and procedural view: merging/keeping separate procedures (pros and cons) • Who is to carry out AA? EU approaches, pros and cons • "Scoping" of AA • Data needed for AA (both on project and the sites), difference between data for SDF and data for AA • AA: need for qualitatively new procedures and new or enforced administrative structure (role of AA in the approval of EU-funded projects)
12.30	13.00	Experience of a new EU MS	Neven Trenc, State Institute for Nature Protection, Croatia	• "Bottom-up" view of a representative of the country from the region
13.00	14.30	***Lunch***		
14.30	15.30	AA stage I: Screening – theoretical basis	Petr Roth & Vlastimil Kostkan, ECRAN	• Objective of screening and its unambiguous outcome

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				• Weight of screening conclusion (big investments *versus* priceless and irreparable natural assets) • Indirect and cumulative effects • Data needed for screening • Possible forms of screening • Screening template – pros and cons • Pre-screening
15.30	16.00	***Coffee***		
16.00	17.00	Screening exercise I	All	
17.00	18.00	Q & A	Petr Roth & Vlastimil Kostkan, ECRAN	
18.00		***End of day II***		

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Day 3: Thursday September 18, 2014 Moderators: Petr Roth, Vlatko Trpeski				
Start	**Finish**	**Topic**	**Speaker**	**Sub topic/Content**
08.30	**09.00**	**Registration**		
09.00	09.30	Screening exercise II	All	
09.30	10.00	Experience with screening: example of Croatia	Neven Trenc, State Institute for Nature Protection, Croatia	
10.00	10.20	***Coffee***		
10.20	11.40	Pilot screening	Vlastimil Kostkan, ECRAN	• Data presentation • Screening exercise in groups • Screening conclusion • Summary of needs for upcoming stage II: data, way of cooperation, support, resources
11.40	12.00	Follow-up, organisational matters, end of the workshop	Petr Roth & Vlastimil Kostkan, ECRAN	
12.00	13.00	***Lunch***		

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ANNEX III – Participants

First Name	Family Name	Institution Name	Country	Email
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ANNEX IV – Workshop materials (under separate cover)

Workshop materials including presentations, exercise materials and agenda, can be downloaded from:

http://www.ecranetwork.org/Files/Natura_2000_AA,_Kavadarci,_16-18.09_2014.rar