

European Union Network for the Implementation and Enforcement of Environmental Law

NATURE PROTECTION IN PERMITTING AND INSPECTION OF INDUSTRIAL INSTALLATIONS – IMPLEMENTATION OF ART. 6(3) OF THE HABITATS DIRECTIVE (PHASE 4)

Roadmap for Planning Tool for inspection of Natura 2000 sites

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Introduction to IMPEL

The European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) is an international non-profit association of the environmental authorities of the EU Member States, acceding and candidate countries of the European Union and EEA countries. The association is registered in Belgium and its legal seat is in Brussels, Belgium.

IMPEL was set up in 1992 as an informal Network of European regulators and authorities concerned with the implementation and enforcement of environmental law. The Network's objective is to create the necessary impetus in the European Community to make progress on ensuring a more effective application of environmental legislation. The core of the IMPEL activities concerns awareness raising, capacity building and exchange of information and experiences on implementation, enforcement and international enforcement collaboration as well as promoting and supporting the practicability and enforceability of European environmental legislation.

During the previous years IMPEL has developed into a considerable, widely known organisation, being mentioned in a number of EU legislative and policy documents, e.g. the 7th Environment Action Programme and the Recommendation on Minimum Criteria for Environmental Inspections.

The expertise and experience of the participants within IMPEL make the network uniquely qualified to work on both technical and regulatory aspects of EU environmental legislation.

Information on the IMPEL Network is also available through its website at: <u>www.impel.eu</u>

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Executive Summary

In 2017 the IMPEL project on Nature protection in permitting and inspection of industrial installations – Implementation of Art. 6(3) of the Habitats Directive (phase 4) consisted of two parts:

(1) inspection of non-energy extractive industry (quarries and open cast mining), and

(2) Roadmap for a planning tool concerning inspection of Natura 2000 sites (including the option of using the IRAM-Tool).

This document belongs to the second part of the 2017/19 project. As the development of the planning tool is a complex task the project team proposes a multi-annual approach and has defined work packages for the next years:

1. Development of indicators, decision whether an already existing tool (e.g. IRAM) can be used for the purpose, identification of an eligible IT developer,

2. Development of the tool, test phases, feedback to the developer,

3. Agree final format, user manual, availability of tool and manual via IMPEL communication channels

4. Feedback from users and identification of needs for adjustments.

If it turns out that the IRAM tool can be adjusted for planning inspections of nature protected sites, the timeline may be shorter.

Disclaimer

This report is the result of a project within the IMPEL network. The content does not necessarily represent the view of the national administrations or the Commission.

TABLE OF CONTENTS

1.	INTRODUCTION	5
2.	QUESTIONNAIRE 1	6
2.1	Goals and Content	6
2.2. 1	Results and Analyses	6
3.	QUESTIONNAIRE 2	10
3.1	Goals and Content	10
3.2 R	esults and Analyses	10
4.	CONCLUSIONS AND RECOMMENDATIONS	13
4.1 K	ey Outcomes	14
4.2 F	inal Conclusions	19

1. Introduction

According to 'Recommendation providing for minimum criteria for environmental inspections (RMCEI)' adopted by European Parliament and the Council in 2001 and IMPEL document 'Doing the Right Things' Methodology (period 2006-2009) all inspection activities should be planned in advance and systematic approach to the inspection is recommended. Planning is about defining and explaining as accurately as possible beforehand the work to be done, and so that the work can be performed in an effective, efficient, transparent and accountable way.

In section 2.1 the RMCEI highlights that it does not include criteria for the inspection of Natura 2000 sites and it encourages IMPEL to develop such criteria. Criteria for the inspection of Natura 2000 sites to ensure sufficient contribution to the maintenance of favourable conservation status are various and differ from country to country.

In Part 2 of the 2017 IMPEL project on Nature protection in permitting and inspection of industrial installations – Implementation of Art. 6(3) of the Habitats Directive (phase 4), the group explored the current status of providing inspections at Natura 2000 sites in participating countries – whether they have any existing tools for planning inspections, the nature of any existing tools and if not, whether member states would find developing an IMPEL IT tool for planning inspections of Natura 2000 sites useful.

For this purpose the group prepared two questionnaires, the first focussed on any existing arrangements for providing inspections at Natura 2000 sites in participating countries, and the second focussed on the interest/need for an IT tool which would enable the determination of inspection frequency at Natura 2000 sites.

2. Questionnaire 1

2.1 Goals and Content

Questionnaire 1 (Q1) focussed on existing arrangements for carrying out inspections in Natura 2000 sites, which sector of authorities were responsible for undertaking inspections, whether they use any IT tools to prioritise these inspections, and the criteria for prioritising them.

Q1 contained following questions:

- 1. Does your country inspect Natura 2000 sites? If yes, how often do such inspections occur?
- 2. Please name and provide details on the authorities who undertake the inspections described in (1) above (Please describe their main competences Nature Conservation authority, Inspectorate for environment and/or nature conservation or others etc.)
- 3. Do you prioritise inspections for your Natura 2000 sites? If yes, what support tool do you use to prioritise them?
 - Information Technology (IT) Tool
 - Database
 - Guidance
 - Work Programme
 - Personal experience
 - Other? Please explain.
 - 4. What criteria/information do you use to prioritise these inspections? (For example feature sensitivity for species or habitats, industrial pressures close to habitats, presence of IED/SEVESO installations, number of reports, etc.)
 - 5. What are the main aspects considered when you inspect a specific Natura 2000 site in relation to installations of quarries and open cast mining (for example dust, noise, water quality, status of protected habitats/species nearby, etc.)? Please explain.

2.2. Results and Analyses

Organisation Portrait and Question 2

Q1 was completed by 9 countries (8 member states and 1 candidate country). Inspection in Natura 2000 sites occurs in 78 % of participating countries organised on a national, and in 22 % of cases, on regional level. The tasks of authorities undertaking inspections at Natura 2000 sites vary - in most cases they

cover supervising, together with permitting and/or inspection (56 %), inspection only (22%) and supervising only (22%).

	COUNTRY	Level	Authority	Tasks	
1.	PORTUGAL	national	inspection General Inspection for	supervising	
				permitting/inspection	
			Environment and Spatial		
			Planning		
2.	ROMANIA	national	inspection	supervising	
			The National		
			Environmental Guard	permitting/inspection	
1.	MACEDONIA	national	inspection	supervising	
			State Environmental		
			Inspectorate		
2.	LATVIA	national	permitting/inspection	supervising	
			Nature Conservation		
			Agency	permitting/inspection	
3.	POLAND	national	permitting	supervising	
			General Directorate for		
			Environmental Protection		
4.	CROATIA	national	inspection inspection		
			Nature protection		
			supervision		
5.	ITALY	regional	permitting/inspection	supervising	
			Ministry for the		
			environment, Land and permitting/inspectio		
			Sea		
			Inspections are conducted		
			by Regional Departments		
6.	SPAIN –	regional	permitting/inspection supervising		
	GALICIA		Nature Conservation		
			Agency	permitting/inspection	
7.	SLOVENIA	national	inspection	inspection	
			Inspectorate of the RS for		
			the Environment and		
			Spatial Planning		

Table 1: Organisation Portrait – level and tasks of authorities which undertake the inspection in Natura 2000 sites.







Graph 2: Tasks of authorities which undertake the inspection in Natura 2000 sites.

The field of work for all participants was nature conservation. 89 % of participating countries provide the inspection in Natura 2000 sites and 44 % of participants ensure the inspection of Non Energy Extractive Installations in Natura 2000 sites.

	Number of	%
Field of work	countries	
Nature conservation	9	100
Permitting	1	11
Inspection	6	66
Permitting and inspection	2	22
Inspection of NEEI	4	44
Inspection of Natura 2000 sites	8	89
	Number of	%
Professional background	countries	
Nature conservation	8	89
NEE Installation specialist	1	11

Table 2: Organisation Portrait – field of work and professional background.

Question 1: Does your country inspect Natura 2000 sites? If yes, how often do such inspections occur?

Only one of the nine participating countries does not provide the inspection in Natura 2000 sites. Inspection occurs regularly in seven countries, and the frequency of site visits depends on inspection work programme, complaints, accidents, incidents, activities amongst other parameters.

Question 3: Do you prioritise inspections for your Natura 2000 sites? If yes, what support tool do you use to prioritise them?

78% of participants prioritise inspections in Natura 2000 sites by using a variety of supporting tools. Information technology (IT) tools, databases, work programmes and personal experience are used by 44 % of participants, guidance is used by 22 % of participants and other (checklist) by 11 % of participants.

	Information Technology (IT) Tool	Database	Guidance	Work Programme	Personal experience
Portugal	х	х			
Romania	х	х			
Macedonia					
Latvia			х	х	x
Croatia	x	х		х	x
Italy			х		
Poland					
Spain - Galicia		х		х	х
Slovenia	х	х		х	х
Σ	4	4	2	4	4
%	44	44	22	44	44

Table 3: Tools used for prioritising inspections in Natura 2000 sites.

Question 4: What criteria/information do you use to prioritise these inspections? (For example feature sensitivity for species or habitats, industrial pressures close to habitats. presence of IED/SEVESO installations, number of reports, etc.)

Criteria for prioritising inspections in Natura 2000 sites are various and numerous:

- feature sensitivity for species/habitats, depends on the specific nature of the site, also in terms of threats
- evaluation of the support actions carried out by the public entities corresponding to the regulation, planning, monitoring, evaluation, inspection, supervision and surveillance of classified natural values
- evaluation of the intervention and actions of public entities associated to the socio-economic activities developed in the protected areas (including Natura 2000 sites), such as forestry, mining, agriculture, livestock, hunting or fishing, among others
- evaluation of active conservation actions triggered by public entities directed to the management of species, habitats, ecosystems and protected geosites

- management plans
- number of reports
- data from Nature Protection Institute
- personal experiences of the inspectors
- pressures inside or close to habitats and species with special attention to priority habitats

Question 5: What are the main aspects considered when you inspect a specific Natura 2000 site in relation to installations of quarries and open cast mining (for example dust, noise, water quality, status of protected habitats/species nearby, etc.)? Please explain.

The main aspects considered when inspecting Natura 2000 sites in relation to quarries and open cast mining indicated by participating countries could be divided into <u>environmental aspects</u>: air emissions, dust, noise, water quality, waste management, the size of the operation, previous environmental incidents (if any), compliance with the environmental permit (from the beginning of the project) and <u>nature protection aspects</u>: status of protected habitats/species and status of protected habitats/species nearby).

3. Questionnaire 2

3.1 Goals and Content

Questionnaire 2 (Q2) was focussed on interest/need for an IT tool for planning in Natura 2000 site.

Q2 contained following questions:

- 1. Is there a need for the tool? In short please explain why do you think there is such need (no such tool yet, for systematic approach to work, for transparency ...)
- 2. What are the benefits and challenges of developing it?
- 3. Would a tool help achieve aims at N2K's site inspection visits and how would it make a difference to the way in which we work currently?
- 4. How the benefits of the tool may outweigh development costs in the long term?
- 5. Does already existing tool IRAM meet our needs?

3.2 Results and Analyses

Organisation Portrait

Ouestionnaire 2 was completed by 6 countries.

 Table 4: Organisation Portrait – Participating countries and level of authorities

COUNTRY	Level	Authority

1.	PORTUGAL	national	inspection	
			General Inspection for Agriculture, Sea,	
			Environment and Spatial Planning	
2.	ENGLAND	national	permitting	
			Environmental Agency	
3.	LATVIA	national	permitting/inspection	
			Nature Conservation Agency	
4.	CROATIA	national	inspection	
			Nature protection supervision	
5.	SPAIN –	regional	permitting/inspection	
	GALICIA		Nature Conservation Agency	
6.	SLOVENIA	national	inspection	
			Inspectorate of the RS for the	
			Environment and Spatial Planning	

Question 1: Is there a need for the tool? In short please explain why you think there is such need (no such tool yet, for systematic approach to work, for transparency ...)

All participating countries agree that there is a need for developing an IT tool for planning inspection in Natura 2000 sites. The approach to the inspection of protected areas is fundamentally different from the inspection of installations, and there may be multiple pressures present in the Natura 2000 sites. In some countries (Slovenia, Croatia) over 36% of their national territory is designated as Natura 2000 sites and it is very important to inspect them effectively. With such a tool it would be possible to evaluate the potential risks to the Natura 2000 sites, taking into account species, habitats located inside the territories, possible negative impacts from forestry, agriculture, building, and pollution sources etc.

An IT tool for prioritising the Natura 2000 sites inspection should:

- establish an action protocol that serves as a reference for all authorities for planning and execution of inspections in Natura 2000 sites in all member states
- establish effective and systematic approaches to targeting inspection of conservation objectives and/or pressures
- increase the quality of inspection
- maximize resources where they are most important
- evaluate possible cumulative effects to Natura 2000 sites
- be able to define an annual inspection plan.

Question 2: What are the benefits and challenges of developing it?

Benefits:

 more effective way to spend human & financial resources to conserve and protect species and habitats

- standardising a European risk criteria for nature inspection planning
- unified approach in EU member states for nature inspection planning
- providing a more transparent and efficient approach to inspection in Natura 2000 sites
- long term development of a database of trends across Natura 2000 sites and its use as a database of evidence when trying to justify work programmes
- focussing on most endangered sites (eliminating threats in the most sensitive sites)
- achieving better and faster results by coordinated inspection, particularly where sites cross country borders
- uniform criteria for inspection
- a practical tool that allows to carry out inspections in Natura 2000 sites according with "Doing The Right Things (DTRT)" document

Challenges:

- selecting the most suitable and appropriate criteria which should be SMART (specific, measurable, actual/appropriate, realistic, terminated/targeted)
- ensuring the tool is simple enough to be used in all member states including language translation and ensuring correct key messages are put across and understood
- integration with existing tools such as IMEPL-ESIX, IRAM and possible TAIEX-EIR P2P where necessary

Question 3: Would a tool help achieve aims at Natura 2000 sites inspection visits and how would it make a difference to the way in which we work currently?

Current inspection plans across member states are developed different ways, by using different approaches and different criteria. A common tool would enable a systematic approach to inspecting Natura 2000 sites to ensure that those most at risk of damage are prioritised and managed so as to meet conservation objectives. Therefore we believe the tool would help Natura 2000 sites meet their objectives by prioritising the frequency of visits to incorporate inspection, relevant management options and interventions. This would ensure the objectives are met or at least worked towards.

In Portugal the current "risk analysis" model takes into account the complaints registered in IGAMAOT, public rumour arising from news reports in the media, and the requests of the Ministry or other public entities, especially courts, other sectorial inspectorates, police authorities and supervisory bodies.

In Slovenia prioritising Natura 2000 site inspections is based on different aspects such as using a database from the Natura 2000 programme, which provides the explicit list of more than 350 Natura 2000 sites in which inspections are chosen as an effective measure to stop the decline of the Natura 2000 status and/or to improve the status. Further to this there is an internally developed IT tool (OIS) for creating a list of installations/ sites which should be inspected in the current year - but it is not specifically designed for Natura 2000 sites. Data is also gathered from the Nature Protection Institute and personal experiences of the inspectors.

In Croatia current inspection in Natura 2000 sites is designed around incidents and complaints.

In Latvia, inspection prioritisation uses personal experience, pressure from society, and politics for developing our inspection plan - but it isn't based on SMART criteria with clear background and basic information.

Question 4: How the benefits of the tool may outweigh development costs in the long term?

The tool should simplify the work of inspectors and make it more transparent and effective, which should eventually reflect as a better conservation status of Natura 2000 sites. Entering data into the software will ensure the information remain in the system and are easily available. Instead of a large number of randomly selected controls across the EU scope of countries, the tool will focus on most important and most vulnerable sites. In the long term this will reduce costs and increase efficiency – saving vital money and resources to Natura 2000 sites which are most in need of help.

Expense for the tools development should be kept to a minimum in the first instance, however, the reprioritising of sensitive Natura 2000 sites for inspection will outweigh the development costs by reducing the use of resource in areas where it isn't required. The benefits may outweigh costs more in countries where Natura 2000 sites are exceptionally large or frequent, by reducing the locations that need to be visited and the time spent visiting them.

Question 5: Does already existing tool IRAM meet our needs?

All participating countries agree that IRAM tool covers specific inspection targets, namely that of operators, and not specific geographical areas. IRAM is not designed for nature protection.

However, 66% of participants (PT, SI, LV, ES-GAL) believed that IRAM could be adjusted to meet the objectives of Natura 2000 sites, so the challenge would be to integrate further modules/criteria into it and create a flexible approach to nature protection over the longer term.

4. Conclusions and Recommendations

Phase 2 of the 2017 project was intended to create a roadmap of the project groups' intentions to develop a Natura 2000 site inspection planning tool which would allow member states to undertake inspections at a consistent frequency, and based upon a multitude of parameters which would prioritise where most focus was required.

Feedback gained from the 2017 Phase 2 questionnaires (Sections 2 and 3 of this report) indicate that a planning tool for Natura 2000 sites would be welcomed across many member states. The feedback indicates that member states would find the tool a useful way of creating a consistent approach to managing the inspection of Natura 2000 sites whilst ensuring all possible parameters are considered in terms of prioritising inspection frequencies.

The phase 2 roadmap was intended to have several key outcomes:

a) Agreement - Whether a tool for managing Natura 2000 site inspections is viable.

- b) **Define aim** formulate a working aim and realistic timeframe for development of the tool.
- c) **Recommendations** Identify key recommendations to take forward at set timescales to meet project completion.

The following sections attempt to address each of the above points.

4.1 Key Outcomes

4.1 Key Outcomes

a) Agreement - Whether a tool for managing Natura 2000 site inspections across the EU is viable.

Discussion held at the first project meeting centred on a basic 'high level' schematic of the type of information the group felt may be needed within the tool. Figures 1 and 2 below provide this schematic approach and examples of the key areas discussed.

Figures 1 & 2: Roadmap schematic and examples covered under each topic.





Questionnaires sent out after the workshop (Q2) used the above key areas to focus the attention of member state feedback on what they would like to see from the tool including an outline of the key benefits and challenges associated with the tool so that the group could draw a conclusion on the viability of developing the tool idea further, given complexity of the topic, resource and funding constraints.

Benefits listed included transparency, consistency, simplified approaches which would maximise resources into key areas of concern and the ability to develop a library of Natura 2000 site based evidence over the long term which could be used for many reasons such as enforcement evidence, long term trends in improvement or decline, and best practice. In short, a management tool which would also double as a style of library of long term Natura 2000 site data.

Challenges noted included the ability to incorporate parameters to suit all EU countries with limited resource and funding constraints, and to make the tool simple to use given the many widespread parameters required by various different member states. The ability to integrate new modules over time

and the resource needed to adjust IRAM to meet the needs of the new tool were also at the forefront of member state concerns.

Overall, the feedback obtained during Phase 2 of the project indicates that there is support for the development of a Natura 2000 planning tool for inspections.

b) Define aim – formulate a working aim and realistic timeframe for development of the tool.

Key to the progression of any project such as this is to ensure that all members of the project group are aware of what the project is working towards. An overarching 'aim' of the project is useful in ensuring that the group continually focus of what is trying to be achieved, and this is then underpinned by recommendations to help achieve the overall aim.

Aim of the project 2018:

The aim is to build a tool to manage frequency of Natura 2000 site visits. The tool will ensure a transparent and consistent approach to prioritisation of Natura 2000 sites for inspection based on agreed criteria. The tool will store data collated through inspections over the long term in order to be used by all member states for the purposes of evidence and long term trends in Natura 2000 sites change.

c) <u>Recommendations - Identify key recommendations to take forward at set timescales to meet</u> project completion.

In order to meet the aim, a series of high level recommendations covering a 4 year period are provided below. These recommendations currently do not have 'in year' timescales attached, however there is a presumption that this work is likely to take a number of years to fulfil, and further discussion of these timescales should be made as the 2018 project progresses in order to meet flexibility demands of IT consultants. If it turns out that the IRAM tool can be adjusted for planning inspections of nature protected sites, the timeline may be shorter. There will also be an opportunity at this point to add further recommendations to the list.

- Take forward the aim as a viable proposal over the next 4 years from 2018 on.
- Provide interim reports at each project year to IMPEL detailing progress and any changes required to the recommendations (for example changes to timescales or funding requirements).
- At the end of the project, provide a final report to IMPEL highlighting an overview of the tool, key successes, failures and lessons learned.
- Project 2018 will:
 - Map out detailed 'asks' (or criteria) of the tool (as detailed in the inputs and outputs detailed in Figures 1 & 2 above),
 - \circ $\;$ Create clear, detailed schematic of the tool and what is required,
 - Determine if IRAM can be amended to be fit for purpose or a new separate tool needs to be created,

- Split up workload (identify tasks for sub working groups),
- o Identify source and level of funding available for development,
- o Shortlist suitable specialists for IT development phase,
- Identify successful developer and have initial conversation about the tool and what is required,
- o Identify any challenges or pitfalls in development as well as identify developer timescales.

Depending on the results of the 2018 projects the next steps will be:

- Project 2019 will:
 - Give go ahead for phase 1 of tool being developed
 - Trial of phase 1 tool by project group and feedback to developer for changes
 - Give go ahead for phase 2 of tool being developed
 - \circ $\;$ Trial of phase 2 tool by project group and key member states
 - Feedback to developer for final changes and go ahead for phase 3 (final) development stage.
- Project 2020 will
 - Agree final format of the tool based on changes in phase 3.
 - Develop user manual to accompany the tool.
 - Roll out tool across member states.
 - Raise profile of the tool roll out through IMPEL communication channels.
- Project 2021 will:
 - o Gather feedback from users and identify and further recommendations for the tool.

These high level recommendations are further supplemented by key work streams as detailed below. Work streams should be led by key individuals within the project group to ensure such large topic areas are suitably managed. The topic areas are clearly linked to each other, and therefore an overarching project manager and co-manager should ensure that all topic areas are suitably linked up where needed and are talking to each other.

- Overall project management & timescales ensuring all work areas are appropriately linked and talking to each other.
- Resources identifying relevant specialist developers.
- Funding identifying source and availability.
- Tool 'asks' defining and ensuring implementation of topic areas that each member state would like to see included in the tool.

An overview of how the work streams and recommendations could work together is shown below in Figure 3.

Figure 3: Schematic indicating how work streams and recommendations could link together.



4.2 Final Conclusions

The project group recommends that the proposal to develop a Natura 2000 site inspection tool to be available for all EU countries be taken forward. The timeline for development of the tool is set out in the key outcomes section above and is expected to take an estimated period of 4 years from 2018 on to complete. The project group plan to provide interim reports of progress, key successes and failures at the end of each project year and will provide a final report at the end of tool development highlighting successes, failures, feedback and lessons learned.