

## APPROPRIATE ASSESSMENT OF THE IMPACTS OF PLANS IMPLEMENTED IN NATURE ON PROTECTED AREAS IN SLOVENIA AND SCOTLAND

### PRESOJA SPREJEMLJIVOSTI VPLIVOV IZVEDBE PLANOV V NARAVO NA VAROVANA OBMOČJA V SLOVENIJI IN NA ŠKOTSLEM

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#### ABSTRACT

The EU Habitat Directive clearly stipulates an appropriate assessment to be made of any plan or project that could have, on its own or in combination with other plans or projects, a significant effect on Natura 2000 sites. In Slovenia, appropriate assessment is part of strategic environmental assessment. The present article depicts the position of appropriate assessment in Slovenia and Scotland, its legal background and procedure, and presents some experience acquired by both countries during the implementation of the EU Habitat Directive. Legislation in both Slovenia and Scotland stems from the European directives, but their provisions are implemented in view of specific systems in each country. The legal background in Slovenia is also presented in detail.

#### IZVLEČEK

Habitatna direktiva določa ustrezno presojo vsakega načrta ali projekta, ki bi sam ali v povezavi z drugimi načrti ali projekti lahko pomembno vplival na območja Natura 2000. Presoja sprejemljivosti je v Sloveniji del celovite presoje vplivov na okolje. Članek prikazuje mesto presoje sprejemljivosti v Sloveniji in na Škotskem, zakonsko podlago, opisuje postopek in podaja nekaj izkušenj obeh držav pri uresničevanju habitatne direktive. Obe državi izhajata iz določil evropskih direktiv, ki so implementirane glede na specifični sistem v posamezni državi. Podrobneje je predstavljena pravna podlaga v Sloveniji.

### 1. INTRODUCTION – RELATIONS BETWEEN APPROPRIATE ASSESSMENT, ENVIRONMENTAL IMPACT ASSESSMENT AND STRATEGIC ENVIRONMENTAL ASSESSMENT IN SLOVENIA

By joining the EU, Slovenia bound itself to implement the European legislation. One of the obligations was to establish and protect a network of special areas of conservation. The European network of special areas of conservation, which are of great significance for the restoration and maintenance of favourable conservation status of important animal and plant species and their

habitats of European concern, along with special protection areas for birds, is called Natura 2000. Prior to joining the EU, each member state prepared a list of such areas, species and habitats and obliged itself to conserve as well as maintain their favourable conservation status. In Slovenia, the Natura 2000 sites cover 35.5% of its surface area (in Scotland Natura sites cover around 11% of the land area, and there are also extensive marine sites).

One of the significant factors endangering the protected areas, to which special areas of conservation also belong, as part of Natura 2000 sites, is the threat of alterations being made in plans regarding land use and use of natural resources. In order to mitigate such influences in due time, an appropriate assessment of the impacts of plans and various spatial interventions in nature on the protected areas is also made. With the appropriate assessment of the impacts of plans or any pressures exerted on nature, whose implementation could significantly affect the protected areas, the expected influences as well as acceptability of their implementation are assessed in view of the conservation objectives and their contribution to the Natura 2000 network.

The regulations covering the sphere of environmental protection clearly stipulate that for any infringements upon nature that could exert, on the basis of their characteristics or localities, negative impacts on the environment, the environmental impact assessment is made. With it, the long-term impacts of the intended activities on humans, soil, water, air, biodiversity, natural resources, climate, landscape as well as human property and cultural heritage, and their mutual relations, are established, described and assessed (Environmental Protection Act, Ur. l. RS št. 39/06).

When it is established that the environmental impact assessment as per regulations regarding environmental protection or the appropriate assessment as per regulations regarding nature conservation must be made for a certain plan, a strategic environmental assessment in its respect is carried out.

The strategic environmental assessment is made for the plan adopted by a competent national or municipal body for the sphere of spatial planning, water management, forest management, fisheries, mining, agriculture, energy production, industry, traffic, waste and wastewater management, drinking water supply, telecommunications and tourism, if such an activity in the environment is stipulated or planned, for which the environmental impact assessment is to be made as per regulations regarding environmental protection and if the appropriate assessment is required for it as per regulations regarding nature conservation or for some other reasons (Ur. l. RS št. 39/06). The purpose of the strategic environment assessment is to establish the congruity of the plan/program with environmental objectives of legislation and strategic documents at a certain level, to assess its impacts on the environment, nature, human health and cultural heritage, as well as to prepare effective measures to mitigate the impacts by including the measures in the plan/program in order to make the impacts acceptable. The outcome of the process of the strategic environment assessment is the environmental report and adapted plan/program. The environmental report is a document, in which the entire process and key conclusions, possible alternatives, impact assessments and mitigation measures are described. At the same time, the procedure of the strategic environmental assessment stimulates inclusion of the public at the time when plans are in the process of their potential acceptance (Nature Conservation Act, Ur. l. RS št. 96/04).

## 2. REGULATIONS DIRECTLY ASSOCIATED WITH APPROPRIATE PLAN ASSESSMENT

### 2.1 EUROPEAN REGULATIONS

#### 1.1.1 Bird Directive

The Bird Directive (79/409/EGS) refers to the conservation of all wild birds naturally occurring in the European territory of member states. It includes protection, management and control over these species and stipulates regulations as to their exploitation.

The EU member states are liable to adopt the necessary measures for the conservation, maintenance or reinstatement of sufficient biodiversity and habitats for birds. Annex I comprises the species that are subject to special measures for the conservation of their habitats in order to provide for the survival and reproduction of these species in their distribution area. With this purpose, the member states are liable to classify especially the areas that are in view of the number and size of species most suitable as **special protection areas** for the conservation of these species by considering various demands as to their protection in geographical areas of the sea and land, where this directive is applied. In connection with these areas, suitable measures must be adopted to avoid pollution or deterioration of the state of habitats or any disturbances that may affect the birds to such an extent that this could have a significant impact on the conservation objectives. Article 7 of the Habitats Directive replaces these measures with the tests of Article 6.3 described in 2.1.2 below.

#### 2.1.2 Habitat Directive

The prime objective of Habitat Directive (92/43/EGS) is to contribute towards ensuring biodiversity through the conservation of natural habitats and naturally occurring plant and animal species in the European territory of member states.

The Habitat Directive, Article 6.3 stipulates that for any plan or project that is not directly associated with the management of the area or not necessary for it, but could have a significant impact on the area in connection with other plans or projects, its effects in view of the conservation objectives in the given area are to be appropriately assessed. With regard to the conclusions made in the assessment of the impacts on the area, the competent state bodies agree with the plan or project only upon ascertaining that it will not be detrimental for the integrity of the area concerned and, if suitable, upon acquiring the opinion of the public on the matter.

### 2.2 SLOVENE REGULATIONS

#### 2.2.1 Nature Conservation Act

Article 101 of the Nature Conservation Act (Ur. l. RS št. 96/04) stipulates that for any plan or change of plan adopted on the basis of the law by a competent national body or competent self-governing local community for the sphere of spatial planning, water management, forest management, hunting, fisheries, mining, agriculture, energy production, industry, transport, waste management, wastewater management, drinking water supply, telecommunications and tourism and that could have a significant effect on a protected area, special area of conservation or potential

special area of conservation by itself or in connection with other plans, an appropriate assessment of its impacts or consequences in view of conservation objectives must be made. Appropriate assessments are not necessary for the plans that are directly associated with or necessary for the protection of these areas.

The procedure of the strategic environmental assessment is carried out in compliance with the provisions of the Environmental Protection Act, unless stipulated otherwise by the act itself.

### **2.2.2 Decree on special protection areas (Natura 2000 areas)**

The Decree on special protection areas Natura 2000 areas (Ur. l. RS št. 49/04, 110/04) stipulates special areas of conservation (Natura 2000 areas) and conservation objectives in these areas as well as conservation guidelines aimed at preserving or reaching favourable conservation status of naturally occurring plant and animal species, their habitats and habitat types, whose conservation is in the interest of the EU, and other rules of management for the conservation of these areas. It also stipulates the potential special areas of conservation and the manner of their protection. It additionally defines that any Natura 2000 site must be subjected to an appropriate assessment of plans, programs, spatial or other acts as well as to an appropriate assessment of spatial activities in nature in cases and in the way as stipulated by nature conservation regulations.

### **2.2.3 Rules on the assessment of acceptability of impacts caused by the execution of plans and activities affecting nature in protected areas**

The Rules on the assessment of acceptability of impacts caused by the execution of plans and activities affecting nature in protected areas (Ur. l. RS št. 130/04, 53/06) stipulate the contents and more detailed methodology of appropriate assessment of the impacts of plans and activities in nature on protected areas, special areas of conservation and potential special areas of conservation, as well as spatial activities in nature that can have a significant impact on these areas, and stipulate quantitative criteria for such assessments. Also stipulated are spatial interventions in nature that cannot be implemented without permission as per Article 104 of the Nature Conservation Act. On the European scale, the regulations are relatively accurate directives that enable uniform implementation of this kind of assessments in Slovenia.

## **2.3 REGULATIONS ASSOCIATED WITH APPROPRIATE ASSESSMENT THROUGH STRATEGIC ENVIRONMENTAL ASSESSMENT**

### **2.3.1 Directive on appropriate assessment of the impacts of certain plans and programs on the environment**

The Directive on appropriate assessment of the impacts of certain plans and programs on the environment (2001/42/ES) is of conceptual and procedural nature, and its stipulations should be included either in the existing procedures in the EU member states or in procedures introduced for this particular purpose. In order to avoid duplicity of assessment, the member states should, whenever suitable, take into consideration the fact that assessment will be carried out at different levels of the hierarchy of plans and programs.

When assessment is stipulated by this directive, the environmental report with suitable information determined in this directive is to be prepared, by which possible major environmental impacts of the implemented plan or program are defined, described and evaluated, as well as other possibilities that pay regard to the objectives and the area where the plan or program will be applied. When obligatory assessment is prescribed by some other legislation as well, such as in Habitat Directive, the EU member states can envisage, in order to avoid assessment duplication, adjusted or joint procedures that fulfil the requirements of suitable legislation in the Community. In Slovenia, the Strategic environmental assessment has thus been developed, with a joint procedure being carried out.

### **2.3.2 Environmental Protection Act**

In order to implement the principles of sustainable development, the Environmental Protection Act (Ur. l. RS št. 39/06) obligates, in the preparation of a plan, program, spatial or other acts (hereinafter referred to as »plan«) whose implementation could have a significant impact on the environment, a strategic environmental assessment to be made, with which impacts on the environment are established and assessed, as well as inclusion of the requirements regarding environment protection, nature conservation, human health protection and cultural heritage in the plan. Furthermore, an approval from the competent ministry as to the acceptability of its implementation for the environment is to be obtained.

### **2.3.3 Decree laying down the content of environmental report and on detailed procedure for the assessment of the effects on certain plans and programmes on the environment**

The Decree laying down the content of environmental report and on detailed procedure for the assessment of the effects on certain plans and programmes on the environment (Ur. l. RS št. 73/05) stipulates, in compliance with Article 5 and Annex I of the Directive 2001/42/ES, more detailed contents and the extent of information that are to be provided by the drafters of certain plans or programs in their report of their intent, obligatory contents of the environmental report and procedural requirements.

### **2.3.4 Decree on categories of projects for which an environmental impact assessment is mandatory**

The Decree on categories of projects for which an environmental impact assessment is mandatory (Ur. l. RS št. 78/06, 72/07) stipulates the types of spatial activities in the environment for which obligatory environmental impact assessment is required, types of infringements upon the environment for which the environmental impact assessment is obligatory above certain extent of the infringement, and types of infringements upon the environment, for which a report comprising only separate analyses or partial project reports is sufficient. For such infringements, a strategic report on the impacts on the environment is prepared. The procedure is combined with appropriate assessment of the effect of plans on protected areas, which is a separate part of the environment report.

### 3. PRESENTATION OF THE PROCEDURE REGARDING THE APPROPRIATE ASSESSMENT OF PLANS IN SLOVENIA

The procedure regarding the appropriate assessment of the impacts of plans or spatial activities in nature is carried out at several levels, where the appropriate assessment at a preceding level is a basis for the ensuing procedure at the next level. There are four appropriate assessment levels. The contents of separate assessment levels and the corresponding decisions in administrative procedures of appropriate assessments are:

- At the **1st assessment level**, the expected effects of a certain plan or spatial activity in nature are established, as well as their significance, considering that they could have a significant impact on the protected areas. With a decree, plans and spatial activities in nature, for which appropriate assessments must be made, are also stipulated.
- At the **2nd assessment level**, the expected effects of a certain plan or spatial intervention in nature are established and their acceptability assessed, which includes a possible assessment of other similar solutions and, in case expected detrimental impacts are established, an assessment of suitable mitigating measures. In the end, the resolution is made to confirm the plan.
- At the **3rd assessment level**, the existence of alternative solutions to reach the objectives of a plan or spatial intervention in nature is established and their suitability assessed.
- At the **4th assessment level**, the existence of compensatory measures is established and their suitability assessed. On the basis of the results gained at the 3rd and 4th assessment levels, a decree is issued in which a decision is made as to the imperative reasons of public interest over-riding the interests of nature conservation (Ur. l. RS št. 73/05, Ur. l. RS št. 130/04, 53/06).

During the 2004-2006 period, 1st assessment level was implemented for more than half of the plans and programs (Kolar Planinšič, 2007 and 2006). In Slovenia, no procedure as to the imperative reasons of over-riding public interest has been carried out so far.

#### 3.1 INCLUSION OF THE INSTITUTE OF THE REPUBLIC OF SLOVENIA FOR NATURE CONSERVATION IN THE APPROPRIATE PLAN ASSESSMENT

##### 3.1.1 First level

With its professional opinion, the Institute of the RS for Nature Conservation participates at all levels of the appropriate plan assessment. As an assistance in the preparation of its expert opinion, internal instructions have been drafted (Klemenčič, 2006). At the 1st assessment level, the Institute establishes whether the plan under consideration could have a significant impact on the protected areas, either on its own or in correlation with other plans. It assesses the effects of the plan and its potential spatial activity on the protected areas' conservation objectives, as well as on their integrity and interconnectedness. In its expert opinion it then presents the set forth point of view regarding the introduction of the appropriate plan assessment procedure. The judgment is given on the basis of the stipulations and professional criteria, stipulated in the Rules on the assessment (Ur. l. RS št. 130/04, 53/06), such as the share or size class of a permanent or temporary loss of habitat for a certain species or habitat type, changes in special structures, use and natural processes, which are necessary

for a long-term conservation of a species or habitat type, changes in the key abiotic factors, water regime, size class of the reduced population, habitat or breeding success, etc.

### 3.1.2 Second level

At the second level of the appropriate plan assessment, the Institute checks the environmental report and its revision, and gives its opinion on the environmental report and judgment as to the acceptability of the plan. The groundwork for the preparation of this opinion consists of a draft of the plan, the environmental report and its revision, which are provided by the plan drafter. With the new Spatial planning act (Ur. l. RS št. 33/07), the spatial plan revision has been abolished. The Institute authenticates the congruity and adequacy of the environment report and its revision with the stipulation given in the Rules on the assessment (Ur. l. RS št. 130/04, 53/06) and the Environmental report decree (Ur. l. RS št. 73/05). If they are not congruent and suitable, the managing body decides on what supplements should be made. Otherwise the Institute studies the impacts stated in the environment report on the species and the proposed mitigation measures and gives its own opinion on the acceptability of the impacts of the plan. It also checks whether the directions given in its nature conservation guidelines have been taken into consideration in the draft of the plan.

### 3.1.3 Third and fourth levels

When the impacts of the plan on nature are not acceptable and no such mitigation measures can be envisaged for them that would provide for favourable conservation status of species in the Natura 2000 area, the third and fourth assessment levels are implemented upon the plan drafter's proposal.

The third and fourth levels of the appropriate plan assessment are included in the procedure of the imperative reasons of over-riding public interest. Here we are dealing with other legally stipulated public interest over-riding public interest of nature conservation.

The subject of the third appropriate assessment level is the availability of alternative solutions of reaching the plan's objectives without detrimental impacts on protected areas, whereas the subject of the fourth appropriate assessment level is the availability and possible stipulation of suitable compensatory measures, if established that there are no alternative solutions at hand.

The Institute's opinion includes an estimate as to the availability of possible alternative ways of reaching the plan's objectives and an assessment of the suitability and feasibility of the proposed compensatory measures as well as citing of potential criteria and conditions for the plan's implementation in the part referring to the levelling measures.

## 3.2 SPATIAL ACTIVITIES

Although the article puts an emphasis on the assessments of plans, let us also have a quick look at the appropriate assessments of the impacts of spatial activities on nature and protected areas. Spatial activities are assessed within the framework of nature-conservancy or environmental consent, permit for a spatial intervention in nature and permits stipulated by other regulations. The procedure is led by the Environmental Agency of the Republic of Slovenia, while the assessment of spatial activity, if given a nature-conservancy consent, is made by the Institute; in case of the environmental-protection consent, a report on the impacts on the environment is made, which is

also examined by the Institute, and an expert opinion given by it. The spatial activity impacts are assessed according to the methodology for the preparation of report with five classes (Ur. l. RS št. 130/04, 53/06). If necessary, suitable mitigating measures are stated to reduce or avoid detrimental impacts of spatial activity on protected areas. If assessment of the impact does not fall into class D or E (substantial or destructive impacts), the impacts of spatial activity on the conservation objectives of protected areas and their integrity are not detrimental.

### 3.3 EXPERIENCE WITH APPROPRIATE ASSESSMENT IN SLOVENIA

The beginnings of the procedures concerning the acceptability of plans in Slovenia stem from the Rules on the assessment of acceptability of impacts caused by the execution of plans and activities affecting nature in protected areas adopted in December 2004. The Institute participates in the procedure with its expert opinion at all assessment levels. An analysis of these opinions has shown that appropriate assessment is necessary in a little less than a third of plans, whose drafters informed the ministry of their intentions. The probability that the plan will have significant impacts on protected areas further depends on the degree of hierarchy of the plan or the size of the area covered by the plan (ZRSVN archive).

The Municipal spatial development strategy stipulates directives for the development of an activity in space and its use, with the plans of settling pattern, public municipal infrastructure and landscape stipulated in it (Ur. l. RS 110/02, 8/03). Municipal spatial order stipulates, in compliance with its strategy and rules of the Spatial order of Slovenia, the areas of target land-use, the conditions and measures for spatial planning as well as preparation of the municipal location plans and conditions for the preparation of projects as per regulations of the Construction Act (Ur. l. RS št. 102/04).

At the level of the municipal spatial development strategy or the municipal spatial order we have, in most cases, too few data on individual spatial interventions and activities scheduled within the plan's framework. The impacts of target land-use are assessed. In our opinion, the appropriate plan assessment is necessary in most cases, if there are protected areas in the area of the plan or in the area of its distant influence. As far as these very plans are concerned, the precaution principle is often applied, as envisaged by the Rules on assessment (Ur. l. RS št. 130/04, 53/06) in the 2nd paragraph of Article 3, which stipulates that in case of doubt, public nature conservation interest over-rides developmental and other public interests. Doubt is expressed in cases when decisions at various assessment levels cannot be made upon an objective conclusion endorsed with proofs.

Detailed plan of national importance is planned in a greater detail. With it, location conditions concerning the preparation of projects for the acquisition of construction permits and stipulation of spatial measures are specified. In most of the cases under consideration, the national location plans concerned infrastructural facilities, such as motorways, pipelines, cable lines, and similar. Such plans embrace a large area and can cross several protected areas. As rough spatial activities in nature are mostly at stake, a conclusion has been reached more often than not that plans could have significant negative impacts on nature and its special features, which were the reason why it was specified as a protected area.

In the chart bellow, detailed plans of national importance, strategies and spatial orders of municipalities are joined together in a group of "big plans".

At lower hierarchy levels of the plan or plans, which cover a small area (local detailed plans, construction and settlement plans), spatial interventions and activities as well as their localities are defined in a greater detail and enable a more correct assessment of the plans' impacts on nature. As

far as these plans are concerned, we have often concluded that an assessment would not be necessary or that the need for assessment could be explained in a greater detail with concrete impacts on individual species, habitat types or protected areas. In the chart below, such plans are presented as “small plans”.

In most cases as far as plans for use of natural resources are concerned, we were dealing with forest management plans, i.e. use of natural resources plans, prepared for a forest management unit for the period of ten years. Considering that the legislation covering the forestry sector, too, tends towards sustainable use of natural resources and forest protection, a conclusion has been reached in the majority of cases that the implementation of the plan would have no negative impacts on nature conservation objectives of the protected areas. However, the spatial interventions that could have a significant impact and could be a subject of assessment (particularly forest roads) have not been yet stipulated at this level of forest management planning. They are stipulated only at the level of forest cultivation plan and are assessed in the procedure concerning the acceptability of spatial activity in nature within the framework of the nature-conservancy consent. For these plans, no appropriate assessment had to be made.

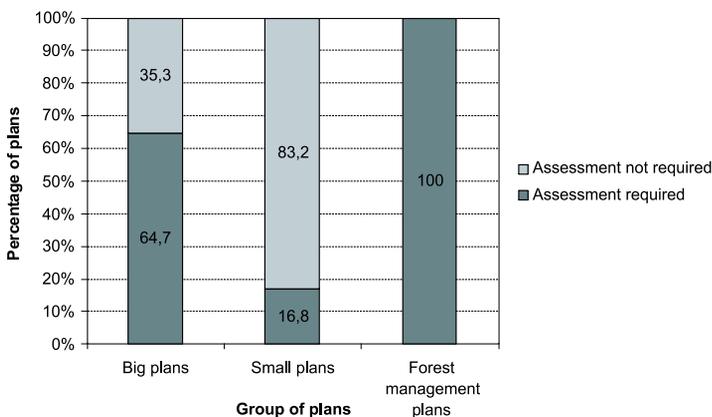


Chart 1: Institute's opinion about the need for II. level of assessment

*Graf 1: Mnenje Zavoda o potrebi uvedbe II. stopnje presoje*

#### 4. APPROACH TO APPROPRIATE ASSESSMENT, ENVIRONMENTAL IMPACT ASSESSMENT AND STRATEGIC ENVIRONMENTAL ASSESSMENT OF PLANS IN SCOTLAND

The Environmental Impact Assessment Directive (85/337) came into force in Scotland in 1988. The appropriate assessment of plans and projects required by the Habitat Directive is made into Scots law by the Conservation Regulations (1994). An appropriate assessment can be achieved as part of an Environmental Impact Assessment as long as this aspect is clearly identified and the proper tests applied. Plans and projects, which fall outside the environmental impact assessment, will still require appropriate assessment if likely to have a significant effect on a Natura site. Strategic Environmental Assessment has been implemented in Scotland since 2005. The information collected as part of a Strategic Environmental Assessment can provide the necessary information for

an appropriate assessment, or it can be a separate process. To facilitate assessments, guidance has been prepared on Strategic Environmental Assessment (Scottish Executive, 2006), on environmental impact assessment (Scottish Natural Heritage, 2005) and appropriate assessment (Scottish Executive 2006).

#### 4.1 APPROACH TO APPROPRIATE ASSESSMENT OF STRATEGIC AND LOCAL LAND USE PLANS

The main types of land use plans are Structure and Local plans produced by Local Authorities and the two National Parks. The Structure plan is the upper tier of these, covering each local Authority Area the largest of which, Highland, is approximately the size of Slovenia, while the urban council areas are much smaller. It could be compared to Slovenian spatial plans. The Local plans cover specific geographic areas within each structure plan in more detail. Any specific proposals stemming from these plans, e.g. housing, water provision, industry, would constitute a project. Other main types of plan are for sectoral land uses, such as renewable energy, transport or forestry and these are broadly dealt with in the same manner.

Each of these plans and projects are subject to Strategic Environmental Assessment and public consultation, and SNH is a statutory consultee for each (excluding certain small projects by agreement) and would also normally provide input to help with compilation. Major plans are finally approved by the Scottish Executive and they will seek Scottish Natural heritage advice on any implications for the Bird and Habitat Directives. Where any statutory body approving a project is not minded to accept Scottish Natural Heritage advice, they must also refer the case to the Scottish Executive.

#### 4.2 EXPERIENCE WITH APPROPRIATE ASSESSMENT IN SCOTLAND

In line with EC guidance on the application of Article 6 of the Habitat Directive ((92/43/EGS), broad policies are not considered plans, but for any plans that have a spatial dimension and capacity to affect a Natura site, assessment is required.

The approach taken is based on a successive level of appraisal, but broadly following the same approach:

For high level plans, the proposals contained will be sifted to identify any components likely to have a significant effect on any Natura site. Where there is a clear problem with any significant effect, such that it is unlikely that adverse effect on Natura site integrity can be avoided, it is recommended that options for removing the proposal, or seeking alternatives are considered at this stage. For most proposals which are likely to have a significant effect, this will depend on location and design details that will not be available at this stage, but initial appraisal can in many cases identify that proposals are capable of being progressed without adversely affecting the integrity of any Natura site. The plan can thus be approved as it stands, provided that:

- Issues to be addressed at a more detailed level are identified.
- The plan has a binding safeguarding policy to ensure that proposals within it will be authorised, but only subject to the need to ascertain by further assessment that they will not adversely affect the integrity of any Natura site.

At the more detailed Local plan level, the process is repeated although the level of detail available will be greater, as will the level of assessment. In approving the plan, similar levels of safeguard will be required to ensure that again no specific proposal can be implemented, unless the integrity of Natura sites is assured.

The final stage is that of the individual project. If likely to have a significant effect, this will require appropriate assessment. Unless it can be ascertained at this stage that the project will not adversely affect the integrity of any Natura site, it must be refused, unless the exceptions of imperative reasons of over-riding public interest and no alternatives apply and compensatory measures are taken (Slovenia levels 3 and 4). At the end of June 2007 only one project in Scotland (a key road upgrade) had reached this level 4.

For land use plans of the type described in Section 1, it was the United Kingdom Government's position that since none of these could be implemented in the UK without the resulting projects being subject to Appropriate Assessment, the plans themselves could not have a significant effect on any Natura site. This position was challenged by the European Commission, and in part of a European Court of Justice ruling in October 2005 this position was considered not to be compliant with the Habitat Directive (Case C-6/04, 2005). As a result from 2006, the relevant land use plans are now also covered by Appropriate Assessment.

Since appropriate assessment of plans only dates from 2006, the numbers involved are not large (c 25 at 30 June 07), though steadily increasing. Of the plans which have been prepared, over 95% have required an appropriate assessment, but none so far has reached the stages where imperative reasons of over-riding public interest need to be applied (Slovenian stages 3 and 4). In contrast, projects have been assessed since 1994 and numbers involved are much greater, running to several thousands per annum. These are handled by each sectoral competent authority, and there is no central register which lists the proportions falling into each stage.

#### 4.3 COMPARISON OF THE PROPORTION OF PLANS THAT REQUIRE ASSESSMENT IN SCOTLAND AND SLOVENIA

Of the plans which have been prepared, over 95% have required an appropriate assessment in Scotland and only about 27% in Slovenia. The difference is because the plans in Scotland are all medium-large scale, which would be equivalent of Slovenian big plans as mentioned above and so almost every one has effects on some Natura 2000 sites.

However, the significant importance carries the fact that in Slovenia, Institute of RS for Nature Conservation has an overview of all plans in preparation while Scottish Natural Heritage deals only with plans that are already evaluated to have adverse effects by their drafters.

### 5. POVZETEK

V grobem se presoja sprejemljivosti planov na Škotskem in v Sloveniji ne razlikuje bistveno, saj obe državi sledita navodilom Evropske komisije o izvajanju določb Habitatne direktive. Razlike se pojavijo v samih postopkih. Ena od teh razlik je v sektorskem načrtovanju. V Sloveniji je vsak plan, ki bi lahko pomembno vplival na varovana območja ali imel pomembne vplive na okolje, podvržen celoviti presoji vplivov na okolje, katere nosilec je Ministrstvo za okolje in prostor. Ministrstvo vsak primer presodi posebej in vodi evidenco za poročanje.

Na Škotskem je presoja vplivov na okolje, katere del je po potrebi tudi presoja sprejemljivosti, vključena že v samo sektorsko zakonodajo. Sektorji tako že ob pripravi načrta ugotovijo, ali bo zanj potrebna presoja in jo tudi izvedejo. Presojo izvedejo najeti ali zaposleni strokovnjaki, njena kvaliteta in korektnost pa se preverjata z mnenjem škotske organizacije za ohranjanje narave. Preden se načrt sprejme, Scottish Natural Heritage poda svoje mnenje o upoštevanju habitatne direktive v načrtu.

Dotatna razlika je ta, da na Škotskem plan presojujejo na vseh nivojih hierarhije načrtovanja, če je seveda to potrebno. Slovenija se je s takšnim načinom presojanja srečala pred kratkim pri pripravi določenih operativnih programov. Podobno kot na Škotskem so se že na tej stopnji določili splošni omilitveni ukrepi, glavni od njih pa nalaga presojo posameznih projektov, ki se bodo izvajali na podlagi sprejetih operativnih programov.

Čeprav na najvišjih nivojih (v fazi strateškega plana za lokalno skupnost) o planu še ni dovolj podrobnih podatkov, se pokažejo številne prednosti na Škotskem in v Sloveniji:

- predlogi, ki so potencialno problematični za ugodno stanje enega ali več območij Natura, se izločijo, ali pa se poišče primernejše alternative;
- kjer so škodljivi vplivi možni, a bo plan verjetno sprejet v postopku prevlade javne koristi, se lahko to obravnava dovolj zgodaj, da so primerni omilitveni ali izravnalni ukrepi pripravljeni vnaprej in upoštevani pri projektiranju;
- ugotovi se občutljivost območij, na katere bo plan verjetno vplival, in tiste probleme, ki se jih bo obravnavalo bolj podrobno;
- pripravljavci in javnost bodo v zgodnji fazi planiranja seznanjeni z določenimi omejitvami, kar pomeni zgodnjo vgradnjo okoljskih zahtev v proces in zmanjšanje stroškov.

## 6. VOCABULARY

Appropriate assessment – presoja sprejemljivosti

Construction permit – gradbeno dovoljenje

Detailed plan of national importance – državni lokacijski načrt

Distant influence – daljinski vpliv

Environmental protection consent – okoljevarstveno soglasje

Environmental impact assessment – presoja vplivov na okolje

Environmental report – okoljsko poročilo

Environmental Report Revision – revizija okoljskega poročila

Forest management plan – gozdnogospodarski načrt

Forest roads – gozdne prometnice (gozdne ceste in vlake)

Local plan – občinski načrt

Municipal spatial development strategy – strategija prostorskega razvoja občine

Municipal spatial order – prostorski red občine

Nature conservancy consent – naravovarstveno soglasje

Permit for a spatial intervention – dovoljenje za poseg v naravo

Plans, programs, activities – načrti, programi, posegi

Precaution principle – načelo previdnosti

Report on the impacts on the environment – poročilo o vplivih na okolje

Strategic impact assessment – celovita presoja vplivov na okolje

Structure plan – strateški načrt

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