



Position paper of the European Sea Ports Organisation and the European Federation of Inland Ports on the Fitness Check of the Birds and Habitats directives

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ESPO and EFIP fully recognise the crucial contribution of Nature legislation in achieving the EU biodiversity goals and commitments. ESPO and EFIP acknowledge the Birds and Habitats directives to be the cornerstone of European nature conservation legislation with significant and positive contribution over time in nature protection in Europe. The undersigned organisations have had over time a very constructive contribution to the discussion on the implementation of the nature directives.

Back in 2007, ESPO published its Code of Practice on the birds and habitats directives¹ providing guidelines and setting specific recommendations for working with the directives while undertaking port development projects. Furthermore, ESPO and EFIP have been closely cooperating with DG Environment and all involved stakeholders in the development of guidelines for the implementation of the directives in estuaries and coastal waters² and in inland waterways³. This has proven to be a very constructive exercise with a valuable outcome.

ESPO and EFIP further recognize that the directives do not intend to counteract economic growth but want to strike a balance between ecological and economic needs. Through dedicated efforts, ports have learned over time to work with the nature directives and nowadays, ports have developed clever management tools to cope with challenges in an efficient and collaborative way. There are many examples of successful port development projects that achieved both the economic and environmental objectives, as widely recognised by policy makers and stakeholders. Despite the good practice examples, port development projects have overall suffered significantly from increased costs, complex approval procedures and resulting delays that are not always justified by environmental benefits.

Challenges still remain in working with the current directives and European ports are willing to cooperate with all interested parties in tackling those.

- Despite the Nature directives and the EC guidelines for their implementation, there is significant remaining legal uncertainty. It is still common that court rulings dominate the implementation and understanding of the directives without taking into account the guidelines that have been jointly developed by the Commission and the stakeholders. ESPO and EFIP would like to see the guidelines gaining more weight in the decision making process.

¹ http://www.espo.be/images/stories/Publications/codes_of_practice/ESPOCodeofPracticeontheBirdsandHabitatDirectives2006.pdf

² http://ec.europa.eu/transport/modes/maritime/doc/guidance_doc.pdf

³ http://ec.europa.eu/environment/nature/natura2000/management/docs/iwt_en.pdf



- A more holistic Natura 2000 network designation based on more harmonized application of criteria would enhance the coherence of the network. Cases can be identified where one side of the borders between Member States is Natura 2000 designated while that the other side is not. More efficient trans-boundary management would benefit further the ecosystems while also facilitating development projects.
- Although that Member States have designated Natura 2000 sites, the implementation of appropriate management plans is in many cases lacking. The uncertainty over the favourable status of the designated areas represents a challenge for development projects, which are forced to undergo the stringent exemption procedure, even in cases when the impact of the project as such is somewhat negligible.
- Obsolete port facilities, or built-up areas waiting for further development, often attract various species, especially related to pioneer habitats that could then pose a challenge on using the facilities in the future for the purpose that they were developed. ESPO and EFIP call for a rationalisation of the framework so that temporary nature can be developed in these facilities while ensuring that those can still be used in the future for economic activities.
- Innovative concepts, such as the ecosystem or building with nature approaches, that clearly provide added value are often restricted by narrow interpretations of the directives. Integrated planning approaches in or nearby protected areas suffer from a lack of experience with these new models. Courts are also not used to these innovative concepts and tend to fall back to the well-known article 6 procedures, even when Natura 2000 objectives are fully integrated in the plans.

ESPO and EFIP actively contribute to the ongoing Fitness Check of the Birds and Habitats directives. Both organisations participated in the evidence gathering exercise, responded to the online consultation and encourage all their member ports to do so. Overall, ESPO and EFIP feel that the existing challenges in working with the Nature directives relate mainly to their implementation and enforcement and not to their text, spirit and objectives that remain relevant and well-intended. Given the dedicated time and effort by all stakeholders in reaching an understanding regarding the nature directives, ESPO and EFIP stress that any revision of the current framework needs to be thoroughly assessed, and significant added value needs to be demonstrated. The focus of any potential revision should be on maintaining the well intended objectives while simplifying procedures where justified in line with these objectives and enhancing legal certainty.

The **European Sea Ports Organisation (ESPO)** was founded in 1993. It represents the port authorities, port associations and port administrations of the seaports of the 23 maritime Member States of the European Union and Norway. ESPO has also observer members in neighbouring countries to the EU. ESPO ensures that seaports have a clear voice in the European Union. The organisation promotes the common interests of its members throughout Europe and is also engaged in dialogue with European stakeholders in the Port and Maritime sector.

The **European Federation of Inland Ports (EFIP)** brings together more than 200 inland ports and port authorities in 18 countries of the European Union, Switzerland and Ukraine. Since 1994, EFIP has been the voice of the inland ports in Europe. EFIP highlights and promotes the role of inland ports as multi-modal hubs.