



Natura 2000 Networking Programme
on behalf of the European Commission



Natura 2000 Networking Programme managed in
partnership by project partners EUROPARC Federation,
Eurosites and European Landowners Organization (ELO)

Theme: Conflict resolution

The importance of conflict resolution to managing Natura 2000

The Natura 2000 network of sites is supported by a robust and proven regulatory framework. The Directives prescribe an approach to decision-making about activities which affect the integrity of the protected habitats and species. Other sectors working with environmental assets can find this regulation restrictive, disproportionate, unreasonable and, ultimately, an obstacle to progress which has to be overcome. Environmental regulation is too often presented and perceived as an imposition. There is case law demonstrating that in terms of the European Convention of Human Rights, protected site legislation can be interpreted as a 'control of use'. Decisions about the selection and designation of protected areas are open to challenge.

With experience gathered to date, and at the time of intended review of the Habitats & Birds Directives, it is important that those working for the benefit of the Natura 2000 network of protected areas make every effort to build positive political will in Governments and key economic sectors. There are benefits to be had by working with the grain of a clear regulatory framework, and these benefits need to be explicit to economic interests, Governments and communities. By using a range of tools to address the interaction of others with protected areas, it should be possible to work positively towards shared solutions which benefit both the environment and other sectors. Visible successes would generate cross-sector support for the regulatory framework and, consequently, engage effort and finance to the benefit of the protected areas themselves.

Potential conflicts between the environment and other sectors and interests can be resolved in a variety of ways, and the Natura 2000 ambassador and manager will most effectively achieve goals by having conflict resolution tools available, and adopting a positive and constructive approach.

Approaches to conflict resolution

There are four main approaches to consider:

1. Positive and constructive approach in the first place
 2. Effective dispute resolution
 3. Mediation
 4. Stakeholder dialogue
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1. Conflict often arises because of late engagement between protected area professionals, land-owners and proponents of potentially damaging activities in those protected areas. Late engagement brings surprises, confrontation and an adversarial approach. A number of factors should help shape a more constructive approach:
 - Earliest possible engagement
 - Listen and understand what is important to proponents
 - Put yourselves in their shoes
 - Share knowledge
 - Agree a way forward

Natura professionals should develop mutually supportive and constructive relationships with land managers, public bodies and communities. They should provide real clarity of objectives in managing the Natura 2000 site, and clarity about constraints imposed by the regulatory framework. It is the context of these positive relationships, which enable contentious issues to be resolved without

recourse to conflict. The benefits of this approach are that effort and finance are made to work for a positive outcome, instead of funding a costly and time-consuming adversarial approach.

Further information: *Sites of Special Scientific Interest: encouraging positive partnerships* Code of Guidance. Department for Environment, Food & Rural Affairs, 2003 www.defra.gov.uk

2. Effective Dispute Resolution avoids the inflexibility which accompanies litigation or arbitration. A number of specific approaches, including mediation (see below) focus on enabling parties to achieve a better or similar result while minimising direct and indirect costs. The other main approaches are:
 - Adjudication
 - Conciliation
 - Expert determination
 - Independent intervention

Adjudication is an approach making use of a 3rd party neutral contracted to make a summary, binding decision without recourse to the Law. Conciliation is similar to mediation (see below) except that the mediator is active in putting forward the terms of the settlement. When a case is determined by a 3rd party expert there is no right of appeal and all parties agree to be bound by the decision. With independent intervention the neutral 3rd party (or parties) play a much more active role in facilitating, for example negotiations, discussions, consensus-building, relationships and problem-solving.

The benefits of all effective dispute resolution techniques are that they are speedy, cost-effective and confidential. The parties retain control, there is usually a forward-looking commercial focus, and language and procedure are more acceptable to business than in a formal litigation.

Effective Dispute Resolution cannot be used when Legal or Commercial precedent needs to be established.

Further information: Centre for Effective Dispute Resolution www.cedr.co.uk

3. Mediation is one of the approaches to dispute resolution which is increasing in popularity for use in environmental cases where conflict has arisen. It aims to replace confrontation with principled negotiation. A 3rd party neutral actively assists the disputing parties to work towards a negotiated agreement. The disputing parties stay in control, and the approach is flexible, with nothing imposed, and the option for either party to withdraw at any time. It avoids unwelcome publicity, and is therefore almost risk-free. The majority of settlements are reached at, or shortly after, mediation making this a speedy process.

Further information: In Place of Strife www.mediate.co.uk

4. Successful management of ecosystems within the Natura 2000 network of sites requires complex, integrated thinking and cooperative implementation. Often this will only be achieved when there is genuine dialogue between organisations, stakeholders, relevant experts and interested communities and individuals. Stakeholder dialogue and participation aims for all involved to be better informed and better understood. The process enables those affected by decisions to have a real say in decision-making, at an early stage to influence the outcome. There is a focus on cooperative, creative problem-solving.

Further information: www.dialoguematters.co.uk
Natura 2000, Conflict Management & Resolution. Eurosite workshop draft report, 2-5 April 2003, Parc Interregional du Marais Poitevin, France.

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The opinion expressed in this document are those of the authors and do not necessarily reflect the views of the European Commission