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Impact of Natura 2000 Sites on Environmental Licensing

Italian Report

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A. Natura 2000 Sites

1. Country or area

Italy has a surface area of 301,243 square kilometres. It extends from the enormous chain of the Alps down to Sicily, in the heart of the Mediterranean, for over 1000 kilometres.

It is of recent geological formation, with very rich and varied flora and fauna.

2. Number and area of sites

The Natura 2000 Network in Italy includes:

SCI: 2255 sites

SPA: 559 sites

Of a total of 198 habitats in Europe, 129 are found in Italy; of a total of 221 animal species in Europe, 95 species are found in Italy; of a total of 360 plant species in Europe, 83 species are found in Italy.

Italy has three bio-geographical sites:

- 1) the Alpine regions
- 2) the Continental regions
- 3) the Mediterranean regions.

The Natura 2000 Network covers 16.5% of the entire national territory (10% is covered by parks, reserves and wetlands).

Table of SPA and SCI Sites in Italy by Region

Region	SPA	SCI	Natura 2000 Sites: %
Abruzzo	5	62	37.9%
Apulia	16	77	23.8%
Basilicata	17	47	5.5%
Autonomous Province of Bolzano	18	41	19.9%
Calabria	4	179	8.8%
Campania	28	106	28.8%
Emilia Romagna	81	113	10.7%
Friuli Venezia Giulia	7	62	17.3%
Lazio	42	183	16.8%
Liguria	7	62	26.5%
Lombardy	62	175	14.1%
Marche	29	80	14.1%
Molise	25	88	22.6%
Piedmont	37	124	10.7%
Sardinia	15	92	17.7%
Sicily	29	218	21.2%
Tuscany	61	120	12.8%
Autonomous Province of Trento	14	152	24.4%
Umbria	7	99	14.2%
Valle d'Aosta	5	26	23.2%
Veneto	72	97	20.4%

3. Which authority drafted the national Natura 2000 site list?

The Regions are responsible for the "identification" of the areas to insert in the Natura 2000 Network. There are 20 Regions in Italy: the Regions take into account the applications that come from the local authorities - Provinces (about 100), Municipalities (about 1000). Mountain Communities, public bodies managing the National Parks.

The Regions notify the Ministry of the Environment and Protection of the Territory of their proposals and it, in turn, transmits them to the European Commission.

4. How were the sites chosen? Was there a screening of possible sites and field surveys of competing site candidates? Were existing conservation areas designated as sites?

There is no single model for the selection of sites because there are many Regions with different administrative powers.

For a variety of reasons, the Regions have required time to organise themselves:

- a) for a cultural delay on the part of the competent administrations;
- b) for the lack of a specific legislative framework of reference within the sector: in Italy, there are excellent laws on the landscape and on parks but there is no framework law on nature as a whole;
- c) for cuts in European financing specifically dedicated to the Natura 2000 Network.

In an initial phase, the Regions drew up their proposals, starting off from the areas already subject to national laws for their protection (the landscape and parks) and only subsequently took additional areas containing significant habitats into consideration.

Which authorities participated in the screening process? Did NGOs have a say? Was there a public debate on the criteria for choosing sites? Did (or does) the public have access to the biological data, on the basis of which decisions were made?

There was a delay and difficulties in commencing selection procedures but, overall, the situation has improved. Some scientific institutions have played an important role in the procedure. These include: the *Società Botanica Italiana*, *Unione Zoologica Italiana*, *Socità Italiana di Ecologia*, and *Consiglio Nazionale delle Ricerche*. The environmental protection associations have had a more limited role because they are not adequately involved by the Regional public administrations, with the exception of the WWF and LIPU (*Lega Italiana Protezione Uccelli*).

There has been no public debate on the selection criteria. The public has not been involved, although, at the basis of the Laws, there is access to environmental data in the possession of the public administrations.

The Regions have not always properly evaluated the role of local bodies, closer to the territory. Despite these limits on information and participation, the process has begun and the prospects are good because there is, in Italy, an enormous patrimony of widespread biodiversity and cultural sensitivity towards cultural and natural heritage has grown.

5. Which authority decided which sites were to be included in the Natura 2000 network?

It is the Ministry of the Environment and Protection of the Territory which decides, with a Decree, in agreement with each interested Region, on the sites to be transmitted to the European Commission.

6. Appeals against the Natura 2000 national network decision. Which authority decided on the appeals, which parties had legal standing and on what grounds could appeals be lodged?

In general, this is the competence of the TAR (*Tribunali Amministrativi Regionali*) [Regional Administrative Tribunals] in the first instance and of the *Consiglio di Stato* [Council of State] (in the final instance).

The following parties have standing:

- a) private parties (property owners, companies);
- b) public administrations;
- c) NGO's (recognised by the Ministry of the Environment and Protection of the Territory or, on a case by case basis, by the administrative courts).

7. Number and success of appeals

No data is available on this.

B. Conservational Status of Natura 2000 Sites

8. Status of Natura 2000 sites. Do Natura 2000 sites also have the status of nature reserves, national parks or other nature protection areas?

The Natura 2000 sites which are found within parks, reserves and wetlands (national and regional) are well protected legally, because there is an administrative model of consolidated management and control.

The Natura 2000 sites which have been identified outside these areas are protected in a way which varies in accordance with the Regional laws and the practices in different parts of the country. Nevertheless, there is a minimum unitary legal basis: for urgent conservation measures, the Law of 1991 on protected natural areas.

9. Protection of Natura 2000 sites. How has Article 6 of the Habitats Directive been transposed into national law in your country? By special national law implementing the Directive, by other national law, etc. How is the protection of Natura 2000 sites safeguarded? Are there site-specific management plans or other rules of conduct regulating activities within the sites?

The Italian legal system falls into two distinct ambits:

A) Implementation at National Level

A. 1 Specific Legislation

- **Decree of 25 March 2004**

List of SCI for the biogeographical Alpine Region in Italy, pursuant to Directive 92/43/EEC.

- **Decree of the Ministry of the Environment and Protection of the Territory of 25 March 2005**

List of proposed SCIs for the biogeographical Mediterranean Region in Italy, pursuant to Directive 92/43/EEC.

- **Decree of the Ministry of the Environment and Protection of the Territory of 25 March 2005**

List of proposed SCIs for the biogeographical Continental Region in Italy, pursuant to Directive 92/43/EEC.

- **Decree of the President of the Republic No. 357 of 8 September 1997**

Regulations implementing Directive 92/43/EEC regarding the conservation of natural and semi-natural habitats as well as flora and wild fauna.

- **Decree of the President of the Republic No. 120 of 12 March 2003**

Regulations implementing amendments and additions to the Decree of the President of the Republic No. 357 of 8 September 1997 concerning the implementation of Directive 92/43/EEC regarding the conservation of natural and semi-natural habitats as well as flora and wild fauna.

- **Decree of the Ministry of the Environment and Protection of the Territory of 2 September 2002**

Guidelines for the management of the sites of the Natura 2000 Network.

A. 2 Legislation for Indirect but Effective Protection

Protection of Wild Fauna

- **Law No. 221 of 3 October 2002**

Additions to Law No. 157 of 11 February 1992 on the protection of wild fauna and hunting quotas, implementing Art. 9 of Directive 79/409/EEC.

- **Law No. 157 of 11 February 1992**

Rules on the protection of wild homeothermic fauna and hunting quotas.

- **Law No. 150 of 7 February 1992**

Regulations implementing the Convention of Washington on the international trade in animal and plant species in danger of extinction (CITES).

Protection of Natural Areas (Parks, Reserves, Wetlands)

- **Law No. 426 of 9 December 1998**

New interventions in the environmental field.

- **Framework Law on Protected Areas No. 394 of 6 December 1991**

Protection of the Landscape and Cultural Heritage

- **Consolidated Law Legislative Decree No. 490 of 29 October 1999**

This is a very useful Law because it protects the Alps, the Appenines, rivers, coasts, woods, volcanoes, lakes, areas for public use, etc.

Law on the Protection of the Alps

- **Law No. 403 of 14 October 1999**

This Law ratifies the Convention on the Protection of the Alps of 7 November 1991. It is an effective model of international co-operation on a unitary ecosystem. It consists of 10 Protocols among which that on habitat and protected species.

- Recent Legislative Amendments
- **Legislative Decree No. 152 of 3 April 2006**

Regulations on the environment which include:

- the procedures for Strategic Environmental Assessment (SEA)), for Environmental Impact Assessment (EIA) and for integrated environmental licensing (IPPC);
- the concept of the protection of the soil, the fight against desertification and the protection of water against pollution and the management of water resources;
- regulations on waste management and the cleaning up of contaminated sites;
- regulations on air pollution and the reduction of emissions into the atmosphere;
- regulations on compensation for environmental damage.

- **Delegated Law of the Parliament to the Government No 308 of 15 December 2004**

This reorganises environmental legislation also including the nature sector, but this has not occurred.

B) Implementation at Regional Level

National legislation in force attributes competence to the Regions and Autonomous Provinces for the conservation of habitat and species found in their territory through the management of the Natura 2000 sites proposed by them. (see Table in the answer to Question 2).

If, on the one hand, SPAs already become part of Natura 2000 from the time they are designated, on the other hand, SCIs must await definition of the official lists and the designation of sites by the Ministry of the Environment and Protection of the Territory.

The list of sites presented to the Commission became official under the **Ministerial Decree of 3 April 2000**. A dispute arose between the State and some of the Regions regarding the regime for protection and action taken within a SCI before and after the formal act of being made official. The Ministry of the Environment and Protection of the Territory then issued an important Information Note, addressed to the Regions and Autonomous Provinces aimed at initiating actions to protect Natura 2000 sites activating the appropriate assessment in the face of actions for transformation.

Therefore, the Regions and Autonomous Provinces responded, consistently with the guidelines provided by the Ministry of the Environment and Protection of the

Territory, with wide decision-making powers in the choice of the required conservation measures which imply in the case of necessity specific management plans or management plans in keeping with other development plans. Obviously, these measures must avoid the degradation of the habitats and the disturbance of species within the Natura 2000 sites.

A new procedure for preventive assessment with relates to the effects of plans and projects on habitats and species for which the Natura 2000 sites have been identified is, in fact, appropriate assessment.

Therefore, starting in 1999 and, above all, from 2000, following the Note of the Ministry of the Environment and Protection of the Territory aimed at activating protection measures for the sites through appropriate assessment (also probably stimulated by some decisions of the Italian Constitutional Court and by procedures regarding infringements begun by the European Commission), the Regions and Autonomous Provinces began integrating appropriate assessment in their legislation or transposing that which was set out in Decree of the President of the Republic 357/97 in their licensing procedures and their Environmental Impact Assessment. (EIA).

In practice, however, appropriate assessment seems to be a procedure still in the phase of experimentation and the concrete methods for applying it vary considerably from one place to another. It goes from the simple application of the national regulations to local situations to the insertion of appropriate assessment in the Regional laws regarding Environmental Impact Assessment. (EIA) or the conservation of nature, to the enacting of ad hoc resolutions.

I) An initial type refers directly to the national legislation and the insertion of appropriate assessment in the procedures of the Regional/Provincial EIA

This is, for example, the case of Lazio, Basilicata, Umbria and Lombardia, the first Region to cite appropriate assessment in the glossary of the guidelines relating to the provisions implementing the EIA (Annex A) of Regional Law No. 79 of 3 November 1999, "*Regulations for Environmental Impact Assessment*"

II) Instead of in the Laws on EIA, Tuscany has inserted appropriate assessment in Regional Law No. 56 of 6 April 2000, "Regulations for the Conservation and Protection of Natural and Semi-natural Habitats, Flora and Wild Fauna.

Amendments to Regional Law No. 7 of 23/01/98 - Amendments to Regional Law No. 49 of 11/04/95"

The Region provides in this way a solid legislative instrument for its territorial management for the purpose of conserving nature.

In particular, Article 15 "*Environmental Impact Assessment and Appropriate Assessment*" provides for resort to the EIA for projects referred to Article 5 (1) and (2) of Regional Law No. 79 of 3 November 1998, concerning and have effect on Sites of Regional Importance.

10. Coverage of implementation. Do national acts, plans and other rules implement the Habitats Directive fully? Are there types of enterprises, impacts on nature or licensing procedures where the requirements of the Directive are not altogether taken into account?

See above under the answer to Question No. 9.

11. Assessment of impacts. Which authority decides on whether an assessment is to be made or not? If harmful effects on a Natura 2000 site are probable, which party is responsible for assessing the impacts: Applicant, Environmental authority, Licensing authority, etc? How is the appropriateness of the assessment ascertained? If the applicant is required to assess impacts, does he/she have access to the data that prompted the inclusion of the area into a Natura 2000 site?

How is assessment of impacts caused by projects or plans in combination with other projects or plans safeguarded?

See above the answers to Question No. 9 and 12 as well as the Italian cases set out in the answer to Question 13.

C. Case examples of how possible impacts on Natura 2000 areas are taken into account in the licensing procedure

12. Examples of licensing decisions regarding projects outside or inside Natura 2000 sites, where

- *Assessment of impacts was not deemed necessary*
- *Impacts were assessed but not deemed adversely affect the integrity of the site concerned*
- *Impacts were assessed and deemed significant*

The "non" application of Alternative Assessment:

There are Laws enacted to protect the sites, habitats and species of Community interest: the problem is that they are rarely applied and remembered by the competent authorities.

Art. 5 of DPR 357/97 specifically deals with alternative assessment which involves "identifying and assessing the main effects a project may have on the SCI keeping in mind the objectives for its conservation".

Art. 5 (8) states that "the competent administrations shall adopt all necessary measures for guaranteeing the global coherence of the Natura 2000 Network and shall inform the Ministry of the Environment and Protection of the Territory about them".

Annex G of the same Decree lists the contents which form the essential component of the documented report of the alternative assessment.

Art. 6 (3) of DPR 120/2003 states that "The parties proposing interventions not directly linked to and necessary for the maintenance of the state of proper conservation of the species and habitats found in the site, but which may have significant impact on the site, singly or jointly with other interventions, present for the purposes of alternative assessment a study aimed at identification and assessment according to the guidelines set out in Annex G, the main effects that these interventions may have on the site, keeping in the objectives for its conservation.

Faced with such a wide open legislative framework, the majority of projects and plans present inadequate (like the Bridge over the Messina Strait) or non-existent alternative assessments or environmental impact assessments on SCIs and SPAs.

WWF Italia is currently researching, on a national scale, the plans and projects which directly or indirectly impact or endanger Natura 2000 sites. For the Continental and Mediterranean region, 358 cases of endangered sites have been identified (24 Abruzzo, 11 Apulia, 3 Basilicata, 19 Calabria, 33 Campagna, 12 Emilia Romagna, 34 Lazio, 28 Liguria, 12 Marche, 21 Molise, 53 Sardinia, 40 Sicily, 47 Tuscany, 21 Umbria). It is plausible that the number of these cases may be much greater.

The situation is not much better for the Alpine region. During 2004, WWF Italia received various reports about infringements within the Alpine SCIs or in the areas adjoining them. This is the case of the Parco Nazionale dello Stelvio and of the Pian di Gembro on which specific analyses have been produced and sent to the European Union so it can take the necessary action. In particular, the Pian di Gembro constitutes an interesting precedent as the proposal to create a ski run which would cross the perimeter of a habitat which the European Union has found to be inadequate.

The administration of the Regions of Natura 2000 sites is, in some cases, problematic: for example, in Piedmont the "non" dialogue between Regional Departments has led to work starting and interventions in some SCIs without any alternative assessment. In Lombardy, the SCIs are managed by one Regional Department and the SPAs by another. In Liguria, the Management Plans of the SPAs are financed but the SCIs are not.

See also the Italian cases described in the answer to Question 13.

13. Relevance of Community decisions. What kind of influence has the judicature of the ECJ had on national decisions (e.g. the precautionary principle). Relevance of the Commission guidelines on Managing Natura 2000 sites?

Case: T.A.R. TOSCANA, Florence, Div. II - 30 September 2003, No. 5222 - Luperini & Others v. Tuscany Region, Ministry for Cultural and Natural

Heritage and Another, ENEL S.p.A. in Florence, Province of Siena, Municipality of Sovicille and Others.

Environmental Impact Assessment - SCI - Dir. 92/43 EEC - Appropriate assessment procedure - D.P.R. 357/1997 - Is not required - Whenever the European Union EIA procedure is provided for - Directive 92/43 EEC - D.P.R. 357/1997 - Conflict - Groundless

For the purpose of installing high voltage power lines interfering with a SCI (Directive 92/43 EEC of 21 May 1992), no specific procedure for appropriate assessment is required (Art. 6 (3) Directive 92/43 EEC - an article transposed into the Italian legal order in Decree of the President of the Republic (D.P.R.) No. 357 of 8 September 1997), when the procedure for EIA is already provided for (Art. 5 (3) of Regional Law No. 79 of 3 November 1998 and Art. 15 of Regional Law No. 56 of 6 April 2000), which as an instrument targeted at a finding of admissibility with regard to the direct and indirect effects that specific works will have on the environment, also constitutes the main period for evaluating the interaction of the aforesaid works within a SCI. The protection and conservation of natural resources is, in fact, one of the elements of the EIA, which is ordered in advance in order to assess "the overall direct and indirect, positive and negative, short and long term, permanent and temporary, single and cumulative effects induced on the environment (Art. 3 (1) Regional Law 79/98) and which constitute a fundamental element of the "protection of biological diversity" as well as "the description of the components subject to environmental impact ... with special reference to the population, fauna, and plants", the reason for which the functions of the EIA includes and exhausts every other function provided for by the alternative assessment. There is no conflict between the objectives of Directive 92/43 EEC and Art. 5 (5) of D.P.R. No. 357 of 8 September 1997 which transposed it. Alternative assessment, according to Art. 6 of the Habitats Directive relates to a proper assessment of the effects that works have on a site "keeping in mind the objective of its conservation". What the Community law imposes on the Member States is to provide in their legal orders not so much for the application of a particular procedure in relation to alternative assessment but that this is carried out with a particular content. The Directive regarding, therefore, the content and not the form of assessment, this assessment may be properly carried out within the ambit of an assessment procedure such as the EIA.

Case: Court of Cassation, Div. III - 23 September 2005, No. 3102

The case concerned a preventive sequester of an area used as a quarry within the territory of Ruvo di Puglia, Alta Murgia, identified as a SPA found in the list of the notify the Ministry of the Environment and Protection of the Territory of 3 April 2000.

The Court upheld the sequester, deeming that the area had to be conserved for its landscape value and for this reason intended to be a natural protected area.

The Court declared:

"It should, in conclusion, be remembered that - with regard to the "Birds" Directive 79/409/EEC - Italy has designated, as of January 2002, 341 areas as SPAs.

The list of sites presented to the Commission of the European Union, as has been mentioned, was made official under the Ministerial Decree of 3/4/2000 and the European Court of Justice - in its decision of 13/1/2005 in the Timmermans Case (117/03) upheld the principle according to which with regard to sites suitable for being identified as Sites of Community Interest, included in the national lists sent to the Commission and especially the sites hosting priority natural habitats or priority species, the Member States shall, on the basis of Directive 92/43, adopt proper protection measures with regard to the conservation objective of that Directive, protecting the prevailing ecological interest which such sites have at national level.

Case: Council of State, Div. VI - 14 February 2006, No. 783 - Municipality of Altamura v. Associazione Verdi Ambientali

This decision is important because it orders the adoption of strict measures for environment protection also in the face of delay in procedures for adopting the sites: the applicable legislation is that on national parks. It should be noted that the prohibition against hunting stems in Italy from the Resolution of the Committee for Protected Areas of 2 December 1996 also for SCIs and SPAs under Law 394/91.

JUDGMENT OF THE EUROPEAN COURT OF JUSTICE (First Chamber), Commission of the European Communities v. Italian Republic, in Case C-87/02 of 10 June 2004

"The Commission had been informed, in the context of a question put by a Member of the European Parliament, that the purpose of the project was to construct a stretch of express relief road 10.50 metres wide, comprising four viaducts and four tunnels. The road, which would cross an area close to residences some metres from the historic centre of the commune of Teramo in Abruzzo (Italy), would affect the bed of the Tordino river, the subject of the environmental improvement project known as 'Fiume Tordino medio corso', financed by the Community. That area was proposed by the Italian Republic as a site of Community importance under the procedure intended to set up the European ecological network known as 'Natura 2000', within the meaning of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora."

The Court found that the Italian Republic had failed to fulfil its obligations under Article 4(2) of Directive 85/337/EEC of 27 June 1985.

To summarise, the decisions of the ECJ are mandatory and of immediate application in Italy.

On 20 March 2003, the European Court of Justice declared that, by failing to classify as special protection areas the most suitable territories, in number

and size, for the protection of those species mentioned in the "Wild Birds" Directive and of the other migratory species which regularly occur in Italy, and by

failing to send to the Commission all necessary information relevant to most of the said areas classified by it, the Italian Republic has failed to fulfil its obligations under that Directive. Despite considerable progress in the designation of sites and in communicating the relative data, the network still presented some serious shortcomings. Lombardy and Sardinia were the Regions with the greatest problems: 25 Important Bird Areas were completely without protection in Lombardy and 16 in Sardinia. Because the Italian authorities have still not solved these problems, the Commission sent a warning notice inviting Italy to comply with the decision of the Court. Failure to do so could lead to heavy pecuniary sanctions.

The Commission also formulated a reasoned opinion against Italy following an investigation made after the presentation of a complaint regarding a project for widening a skiing zone situated in Moso in Passiria (Province of Bolzano). The area in question constituted an important SCI under the "Habitats" Directive and a SPA under the "Wild Birds" Directive. According to the assessment carried out, the project could have had a negative impact on the site. The Commission has already sent the Italian authorities a warning letter for breach of the "Habitats" and the "Wild Birds" Directives, but it has as yet received any answer.

Finally, the Commission also formulated a reasoned opinion against Italy following an investigation made after the presentation of a complaint regarding the drawing of water from the Trasimeno Lake (Umbria) for agricultural uses and human consumption. The Trasimeno Lake is a special protection area, where the regulations regarding the protection of natural habitats also apply. As a result of continual drainage, the level of the water fell, a situation which, in turn, led to the deterioration of the habitats, threatening the species which live in the lake and in its immediate neighbourhood. The Italian authorities have taken some measures, including, in particular, a plan for the Trasimeno Lake aimed at remedying and protecting the ecosystem of the lake and its banks. These actions have resulted in slowing down the fall in the water level, but the Italian authorities have not provided any information about the time required for adopting further corrective measures nor about the funding of other measures to deal with the present situation.

Moreover, Italy is currently involved in 14 procedures for the failure to fulfil its obligations in relation to the Natura 2000 network.

The European Court of Justice has already found that Italy has failed to fulfil its obligations on two occasions for not protecting SCIs ("Habitat" Directive) and SPAs ("Birds" Directive).

The overall picture is that there are another 6 opinions close to finding that Italy has not fulfilled its obligations added to the 14 procedures already mentioned. To these, about 140-150 applications and 57 active complaints, for a total of

approximately 230 cases which, in various ways, involve the non application of Community Directives on the conservation of nature.

Faced with so many cases the Ministry of the Environment and Protection of the Territory is undermanned from a technical point of view.

In the judgment of 20 March 2003 in Case C-143/02: Commission of the European Communities v Italian Republic, the Italian Republic "in adopting a measure transposing Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, which:

- excludes from the scope of the rules on the assessment of the implications for the environment projects other than those listed in the Italian legislation implementing directives on environmental impact assessment that are likely to have a significant effect on sites of Community importance,
- fails to impose upon the competent authorities of the Member State any obligation to take appropriate steps in respect of special protection areas to avoid the deterioration of natural habitats and of the habitats of species or disturbance of the species for which the areas were designated, in so far as such disturbance could be significant in relation to the objectives of Directive 92/43,
- fails to provide that the conservation measures referred to in Article 6(2) of that Directive apply to the sites referred to in Article 5(1) of that Directive, the Italian Republic has failed to fulfil its obligations under Articles 5, 6 and 7 of that Directive".

In the judgment of 20 March 2003 in Case C-378/01, Commission of the European Communities v Italian Republic, the Republic of Italy, "by failing to classify as special protection areas the most suitable territories, in number and size, for the protection of those species mentioned in Annex I to Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds, as subsequently amended, and of the other migratory species which regularly occur in Italy, and by failing to send to the Commission all necessary information relevant to most of the said areas classified by it, the Italian Republic has failed to fulfil its obligations under Article 4(1) to (3) of that Directive".

Whilst Italy replied to the former judgment by inviting the Regions to the failure to comply with the obligations relating to alternative assessment (for example, the Region of Sardinia has set up a special office), Italy's response to the latter decision was to publish the list of SPAs under the Ministerial Decree of 25 March 2005 entitled "List of SPAs Classified under Directive 79/409/EEC". Despite the publication of this list, some Regions are doing their utmost for the updating of the final list of SPAs. It can be said that there is still work to be done.

14. Examples of licensing decisions concerning exemptions from the protection (Article 6 paragraph 4)

- *Which authority decides on exemptions and which authority on appeals?*
- *Have exemptions been applied for and have they been granted?*
- *Grounds for refuting and allowing an exemption (alternative solutions, imperative reasons of overriding public interest, opinions of the Commission)*
- *In case an exemption has been granted, how has the incurred loss to protected values of nature been recompensed? How has the Commission reacted?*

No data is available on this.

15. Conclusions

The following elements within Italy in relation to the Natura 2000 system are negative:

- a) the procedures relating to information that interests Italy are not adapting to the legal and administrative system;
- b) some technical-cultural delay in the process of implementation;
- c) little attention to marine sites;
- d) some deficit in the adoption of management plans;
- e) little commitment in the sector of information and social participation;
- f) little attention to the protection of nests and eggs and a tradition of allowing hunting for a period which is still too long or as an exemption (Art. 9 Birds Directive);
- g) little knowledge of the material by Judges, except for some noteworthy exceptions;
- h) the lack of a final clarification of Regional competence with respect to the States.

The following elements within Italy in relation to the Natura 2000 system are positive:

- a) the publication of the lists of SPAs for the Alpine, Continental and Mediterranean areas;
- b) the continual increase in SPAs in various Regions;
- c) the publication by the Ministry of the Environment and Protection of the Territory of Guidelines on how to draw up Management Plans to assist the Regions;
- d) increase in scientific interest and in the participation of NGOs;
- e) the use of available Community funds;

- f) the establishing of a political and institutional approach to local co-operation (rather than bureaucratic) between the States and the Regions, like that which occurred for parks and the landscape.