



Nature Directives requirements

Application of Article 6(3)-(4) of the Habitats Directive

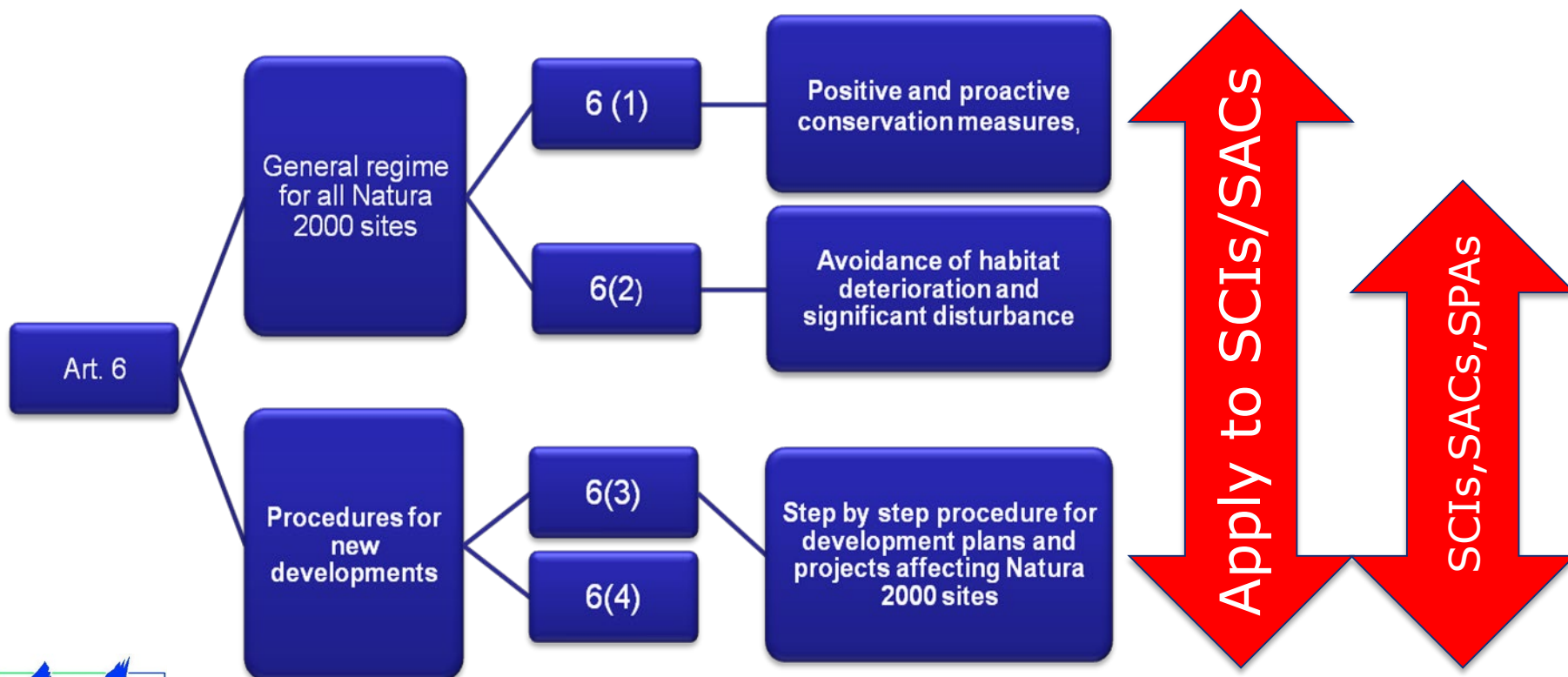
**Workshop EU environmental
legislation requirements and
inland waterway navigation
projectsatform**

16.03.2021



European
Commission

Article 6: protection and management of the Natura 2000 sites



Art. 6(1) HD

*„For special areas of conservation [SACs], Member States shall establish the necessary **conservation measures** involving, if need be, appropriate **management plans** specifically designed for the sites or integrated into other development plans, and appropriate statutory, administrative or contractual measures **which correspond to the ecological requirements** of the natural **habitat types** in Annex I and the **species** in Annex II present on the sites.”*

Art. 6(3) HD

„Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the **site's conservation objectives.**”

Commission note on setting conservation objectives for Natura 2000 sites

- **all sites need to contribute to the favourable conservation status (FCS);**
- **this general objective has to be translated to SSCOs;**
- **SSCOs should specify targets to be achieved for each of the attributes /parameters of the interest feature which determine its conservation condition on the site.**

https://ec.europa.eu/environment/nature/natura2000/management/docs/commission_note/commission_note2_EN.pdf

Guidelines / recommendations for setting conservation objectives

The conservation objectives should be:

- ***specific*** - relate to a particular interest feature (species or habitat type) and define the condition(s) required to satisfy the CO;
- ***measurable and reportable***;
- ***realistic***;
- ***consistent in approach***;
- ***comprehensive***;
- ***specific whether they aim at "restoring" or "maintaining" the attributes of the feature.***

Example for Ireland

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Conservation objectives for: Slaney River Valley SAC [000781]

1099 River Lamprey *Lampetra fluviatilis*

To restore the favourable conservation condition of River lamprey in the Slaney River Valley SAC, which is defined by the following list of attributes and targets:

Attribute	Measure	Target	Notes
Distribution: extent of anadromy	% of river accessible	Greater than 75% of main stem and major tributaries down to second order accessible from estuary	Artificial barriers can block lampreys' upstream migration, thereby limiting species to lower stretches and restricting access to spawning areas. Barrier modification required to facilitate passage of adult fish within channels (Gargan et al., in press)
Population structure of juveniles	Number of age/size groups	At least three age/size groups of river/brook lamprey present	Attribute and target based on data from Harvey & Cowx (2003). It is impossible to distinguish between brook and river lamprey juveniles in the field, hence they are considered together in this target
Juvenile density in fine sediment	Juveniles/m ²	Mean catchment juvenile density of brook/river lamprey at least 2/m ²	Juveniles burrow in areas of fine sediment in still water. Attribute and target based on data from Harvey & Cowx (2003) who state 10/m ² in optimal conditions and
Extent and distribution of spawning habitat	m ² and occurrence	No decline in extent and distribution of spawning beds	
Availability of juvenile habitat	Number of positive sites in 2nd order channels (and	More than 50% of sample sites positive	



<https://www.npws.ie/protected-sites/conservation-management-planning/conservation-objectives>

Legal action state of play

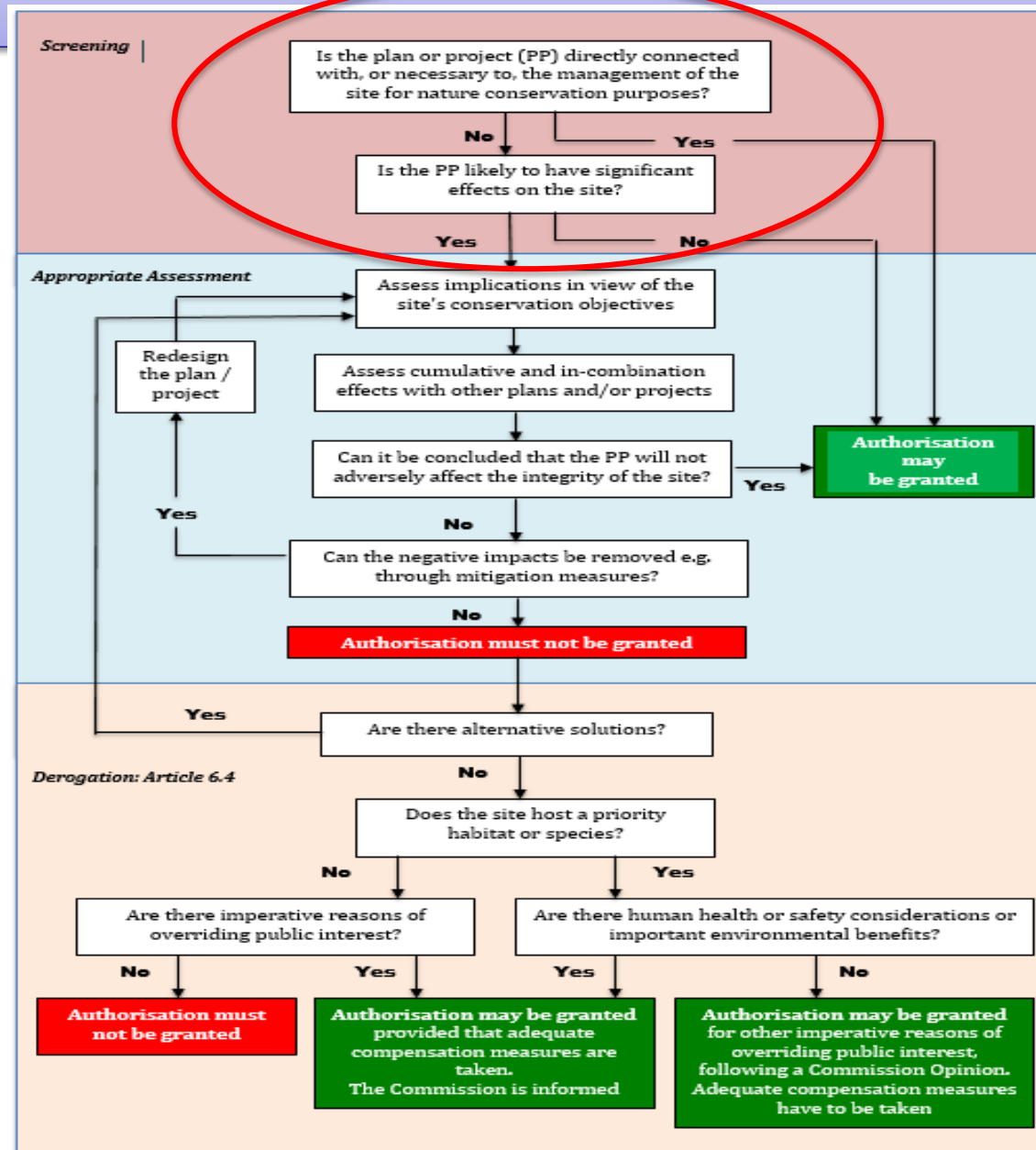
- ***PT, EL - judgement of the CJEU***
- ***IE – decision to refer to CJEU***
- ***DE, RO – reasoned opinion***
- ***IT, ES – additional LFN***
- ***BE, BG, LT, LV, RO and SK – letter of formal notice***
- ***AT, CY, CZ, DK, EE, FI, FR, HU, MT, NL, PL, SE, SI – pilot***
- ***HR – no action (6 year deadline not yet expired)***



Non-legal action state of play

- ***Bilateral dialogues with the MS – one of the actions under Action Plan for Nature***
- ***Letter sent in May 2020 to all MS (nature authorities and EU funds managing authorities)***
- ***Discussions with REGIO and JASPERS about enforcement (major projects)***

STEP 1 - Screening

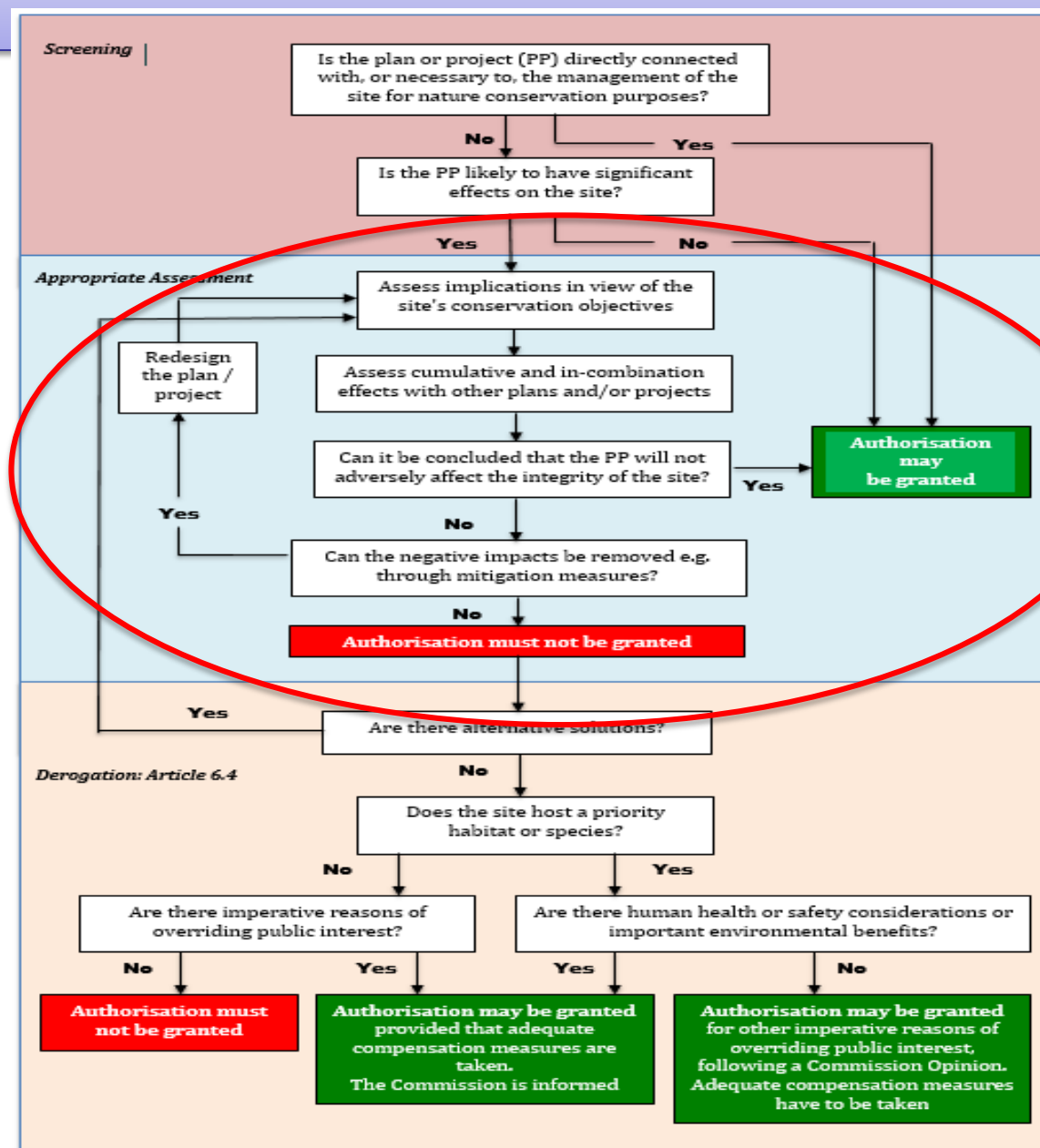


Determining likelihood of significant effect in the context of SSCOs

- **Certainty v. likelihood;**
- **Precautionary principle – if in doubt, do the AA;**
- **Spatial scope (plan and project inside and outside Natura 2000 sites);**
- **Significant effect – no arbitrary (quantitative) definition → case by case approach;**
- **Related to specific features and ecological conditions of the protected site (link with SSCOs);**
- **Mitigation measures should not be considered.**



STEP 2 – Appropriate assessment



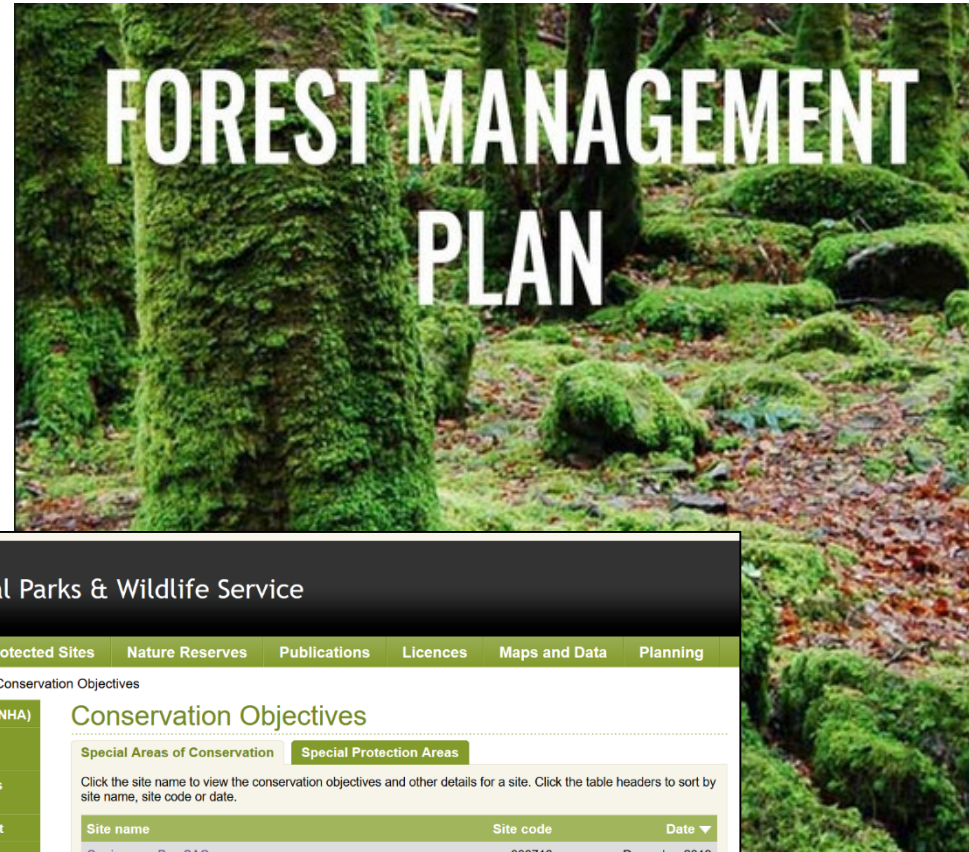



Appropriate assessment elements in view of the COs

- **1. Gathering *information on the project* and on the *Natura 2000 site* concerned (scoping).**
- **2. Assessing the *implications* of the plan or project in view of *the site's conservation objectives*.**
- **3. Determining whether the plan or project can have adverse effects on the *integrity of the site*.**
- **4. Considering *mitigation measures* (including their monitoring).**

Sources of information about the site (including SSCOs)

European
Commission



 National Parks & Wildlife Service

[National Parks](#) [Protected Sites](#) [Nature Reserves](#) [Publications](#) [Licences](#) [Maps and Data](#) [Planning](#)

[Home](#) > [Protected Sites](#) > Conservation Objectives

Conservation Objectives

[Special Areas of Conservation](#) [Special Protection Areas](#)

Click the site name to view the conservation objectives and other details for a site. Click the table headers to sort by site name, site code or date.

Site name	Site code	Date ▼
Carrigower Bog SAC	000716	December 2019
Blackstairs Mountains SAC	000770	November 2019
Bellacorick Iron Flush SAC	000466	November 2019
Cloonoe and Inchiquin Loughs, Uragh Wood SAC	001342	November 2019
Moorcorha Lough SAC	001536	October 2019
Lough Eske and Ardnamona Wood SAC	000163	September 2019
Meenaguse Scragh SAC	001880	September 2019
Blackwater River (Kerry) SAC	002173	September 2019
Leannan River SAC	002176	August 2019



Appropriate assessment

- Identifying impacts (field studies may be necessary)
- Direct and indirect impacts
- Life-time of the project
- Modest impacts multiplied = significant impact

Plans and projects to be considered:

- ❖ Completed, or
- ❖ approved but uncompleted, or
- ❖ actually proposed.



Integrity of the site:

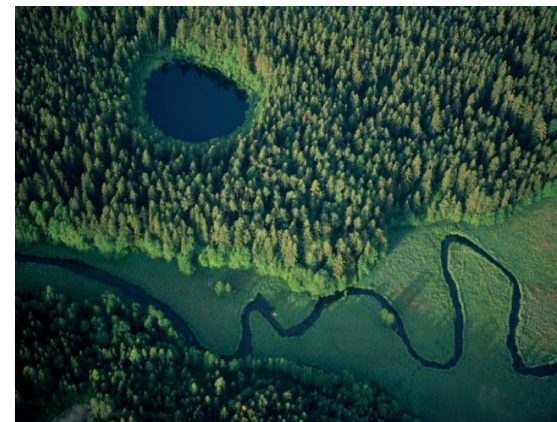
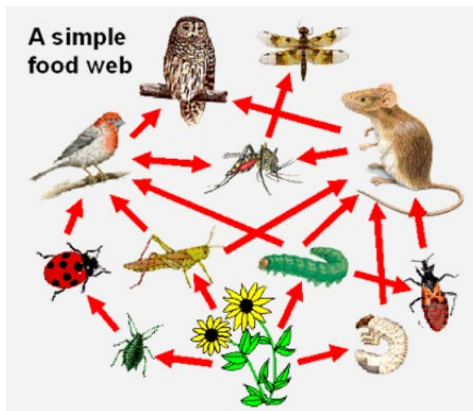
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Ecological

- structure
- function
- processes

Linked to conservation objectives

Site specific

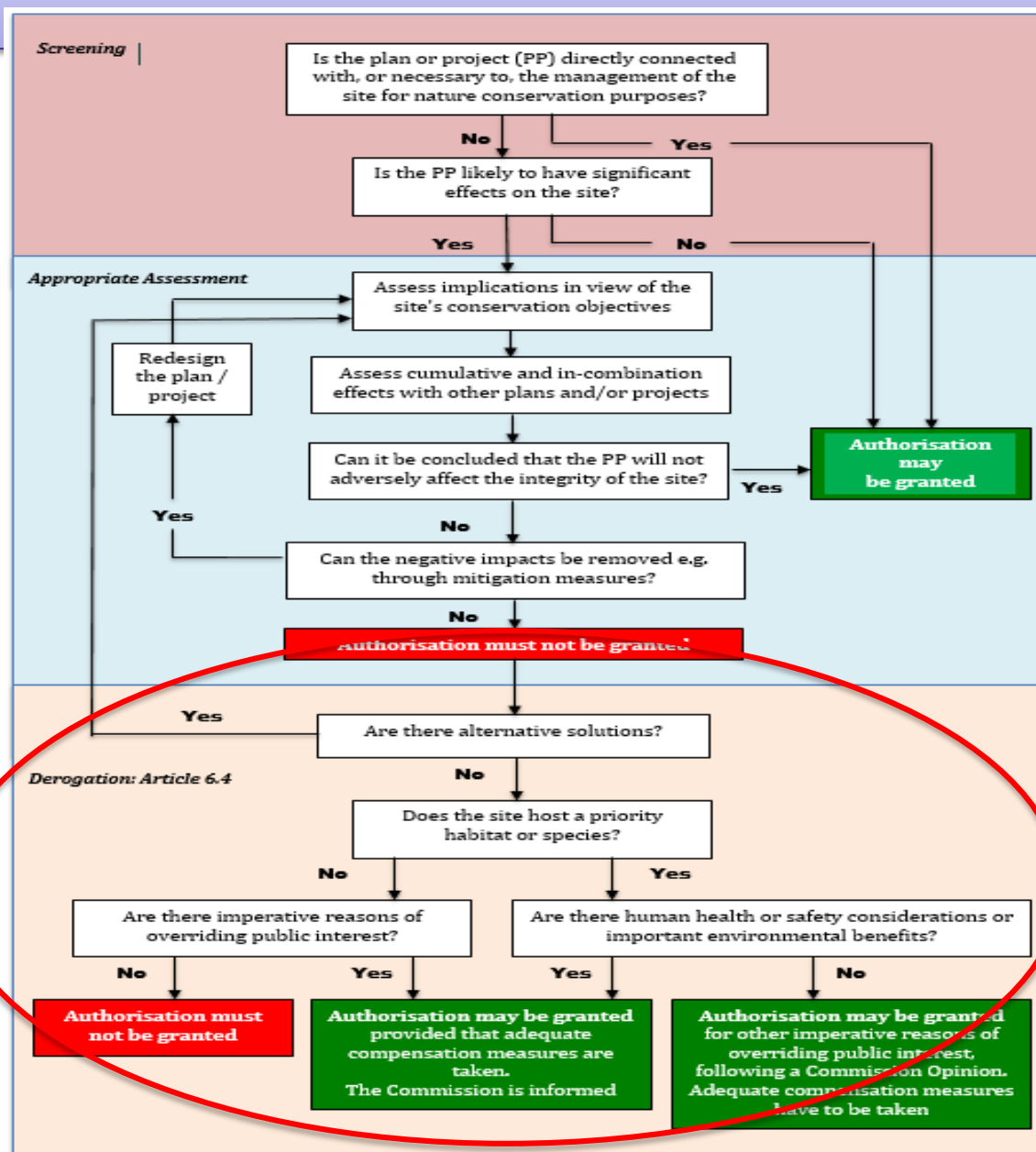


Mitigation measures

- Prevent negative effects or
- Reduce them to non-significant level
- Directly linked to the negative effects
- Must be described in sufficient detail
- Case A2 Motorway in NL (C-521/12)
 - mitigation and compensation not to be confused

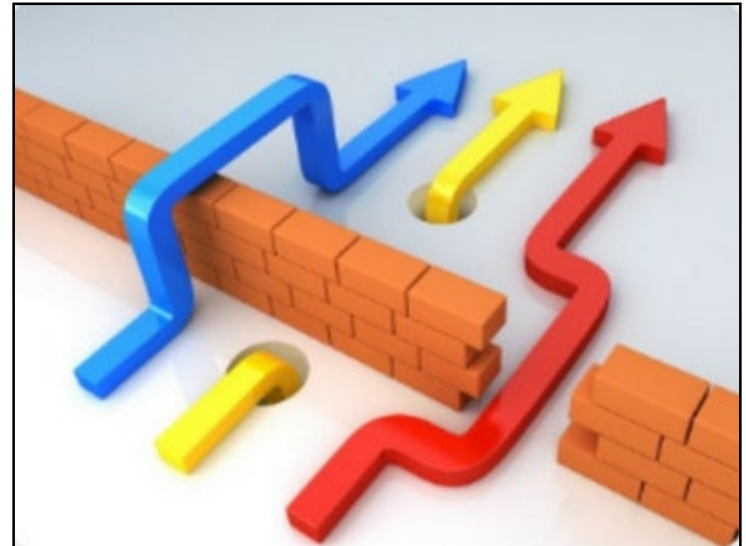


STEP 3 – Derogation



Alternative solutions and SSCOs

- feasible alternatives
- relative performance to Natura 2000 (SSCOs)
- proportionality (costs)
- alternative:
 - locations
 - scales
 - designs



Imperative reasons of overriding public interest

- not defined in the Directive
- human health, public safety and beneficial consequences of primary importance for the environment
- other economic or social reasons



Compensatory measures and SSCOs

- independent of the project
- additional to normal practice
- need to address the impacts
- need to ensure overall coherence of the network
- should be in place before impact



Priority habitats or species

- **justified only if concern**
 - **human health**
 - **public safety**
 - **overriding beneficial consequences for the environment**

- **other reasons subject to**



https://ec.europa.eu/environment/nature/natura2000/management/opinion_en.htm

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For more information, please consult:

http://ec.europa.eu/environment/nature/index_en.htm

<http://ec.europa.eu/environment>