

# SEA, EIA and AA in a national context - differences and relationships.

## General Spatial Plan ex-ante evaluation as an example

Bankia, 06.December.2011



|                                   | <u>EIA</u>                                                                                                                                                                                                                   | <u>SEA</u>                                                                                                                                                               | <u>AA in N2000</u>                                                                                                                                                                                                                                                                                                                                                                |
|-----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Legal context:</b>             | EIA Directive                                                                                                                                                                                                                | SEA Directive                                                                                                                                                            | Habitats Directive                                                                                                                                                                                                                                                                                                                                                                |
| <b>Main goal:</b>                 | Integrating of environmental issues (water and air quality, protection of endangered species and landscapes, etc.) in decision making concerning development projects (roads, nuclear plantations, chemical factories, etc.) | Integrating environmental protection requirements with a view to promote <i>sustainable development</i> in economy sectors such as city planning, forestry, tourism, etc | Integrating biodiversity issues in Natura 2000 sites in decision making concerning as well projects as plans : – no worsening of the Favorable Conservation Status of protected N2000 habitats and species is tolerated.                                                                                                                                                          |
| <b>Objects of assessment:</b>     | development projects under Annex I and II of the EIA Directive                                                                                                                                                               | plans and programs incl. Annex I and II development projects                                                                                                             | -Plans and development projects under Annex I and II of the EIA Directive – <i>the AA procedure/decision is part of the SEA/EIA procedure/decision</i> . Good solution is to have an apart AA report!<br><br><b>-Any other activities</b> (e.g. ploughing of a pasture) which could affect the habitats and species in a N2000 site – subject to individual AA procedure and act. |
| <b><u>Administrative act:</u></b> | Decision on the EIA report                                                                                                                                                                                                   | Statement on the SEA report                                                                                                                                              | Decision on the AA report                                                                                                                                                                                                                                                                                                                                                         |

## EIA of development project



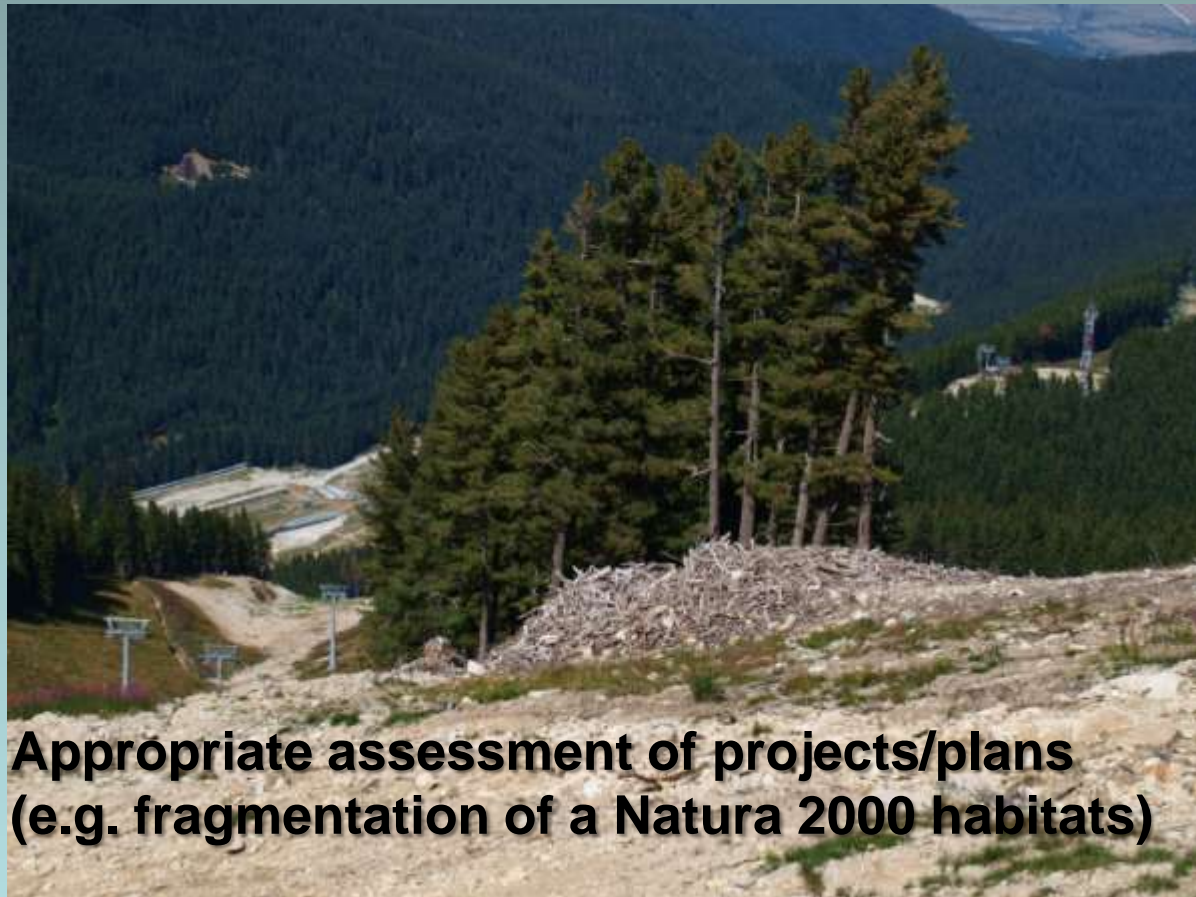
Ски център Банско от Google Earth

SEA of a spatial plan

Тодорин връх (2746 м)







**Appropriate assessment of projects/plans  
(e.g. fragmentation of a Natura 2000 habitats)**

# **EIA - Environmental Impact Assessment**

**Legal context:** EIA Directive

**Objects of EIA:** development projects under Annex I and II of the EIA Directive





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**Administrative act:** Decision on the EIA report.

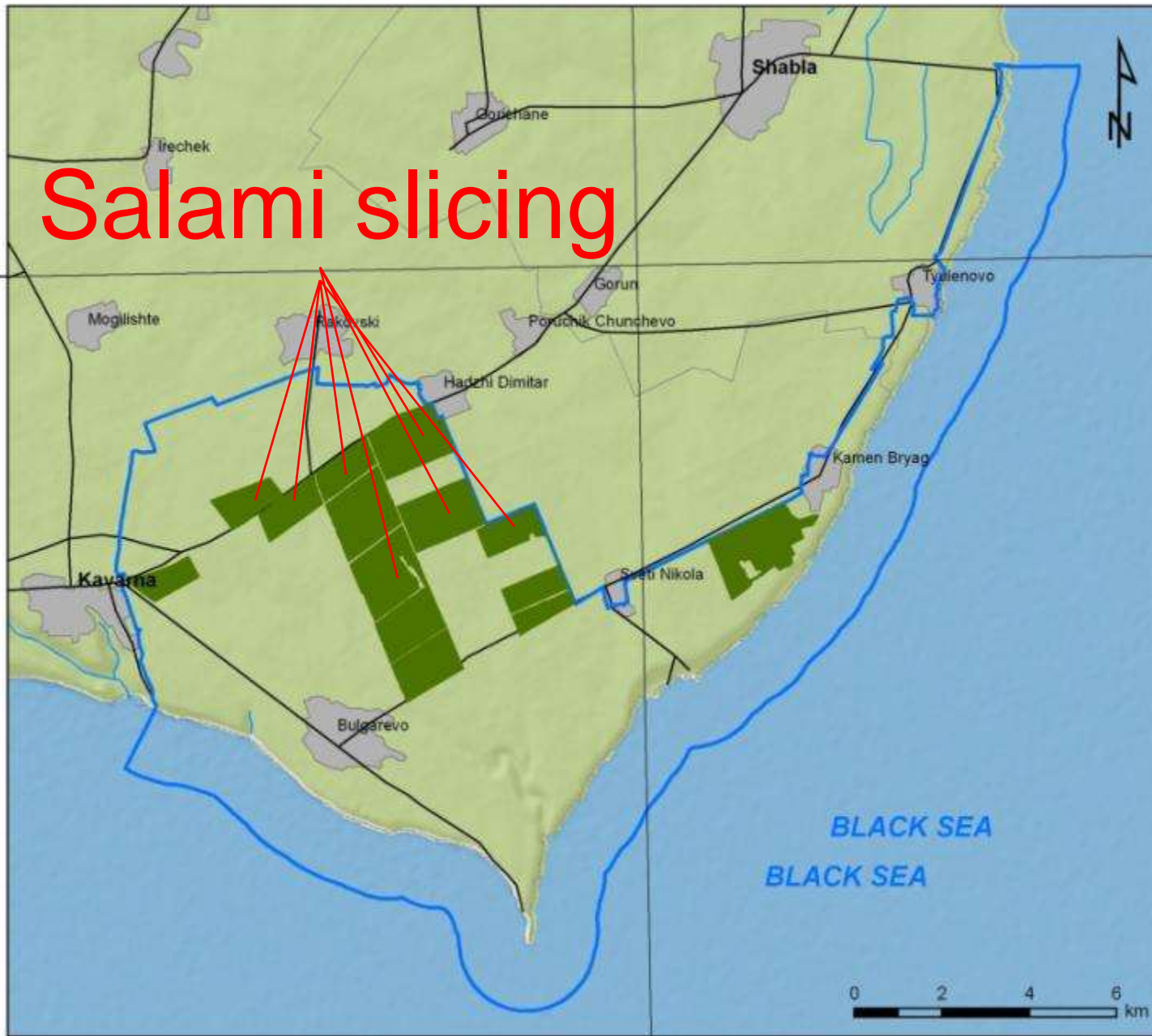
• **Problems:** *no strict requirements to publish an EIA decision on internet (only the dispositive) => impossible to challenge the decision.*

**Screening phase:**

- Set low thresholds in the law so that more projects are subject to a full EIA
- Cumulative effect is not taken into account (salami slicing) -> infringement procedures;



# Salami slicing



**KALIAKRA**  
Foraging areas of  
wintering geese  
(including Red-Breasted goose  
*Branta ruficollis*)

Sites with presence of  
feeding flocks

Arable Land

### Legend

- IBA (Proposed SPA)
- Roads
- Rivers
- Municipality boundary
- Settlements



## **SEA – Strategic Environmental Assessment**

**Legal context:** SEA Directive

**Objects of SEA:** plans and programs incl. Annex I and II development projects







# Tsarevo Municipality Master Spatial Plan

M 1:100 000



## Legend

-  existing urban areas
-  planned urbanisation
-  natural habitats
-  border of Strandja SPA

Strandja Nature Park  
Strandja SPA/pSCI

Т Р П Ц М

# SEA – Strategic Environmental Assessment

**Legal context:** SEA Directive

**Objects of SEA:** plans and programs incl. Annex I and II development projects

**Administrative act:** Statement on the SEA report.

**-The SEA statement of a plan should be taken into account in a EIA of a subordinate project.**

**-Problems:** *no review procedures provided in the SEA Directive and thus the national law. By giving the administrative act the name “Statement” the Bulgarian MoEW tried to present this act as part of the plans under adoption (not appealable) => impossible to challenge also the SEA decision!*

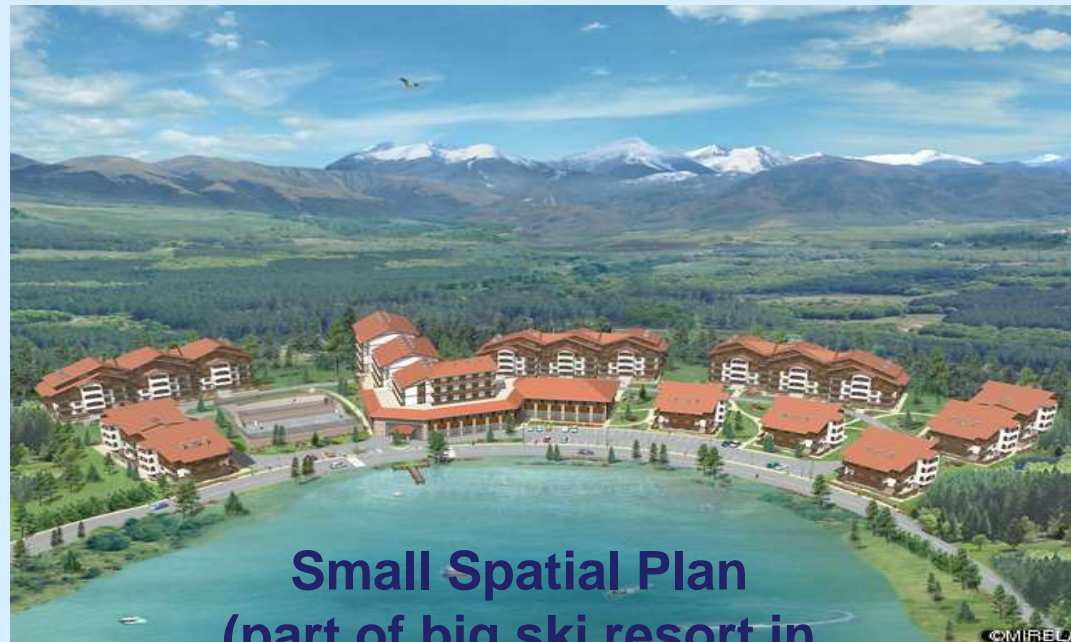


# SEA – Strategic Environmental Assessment

## Screening phase:

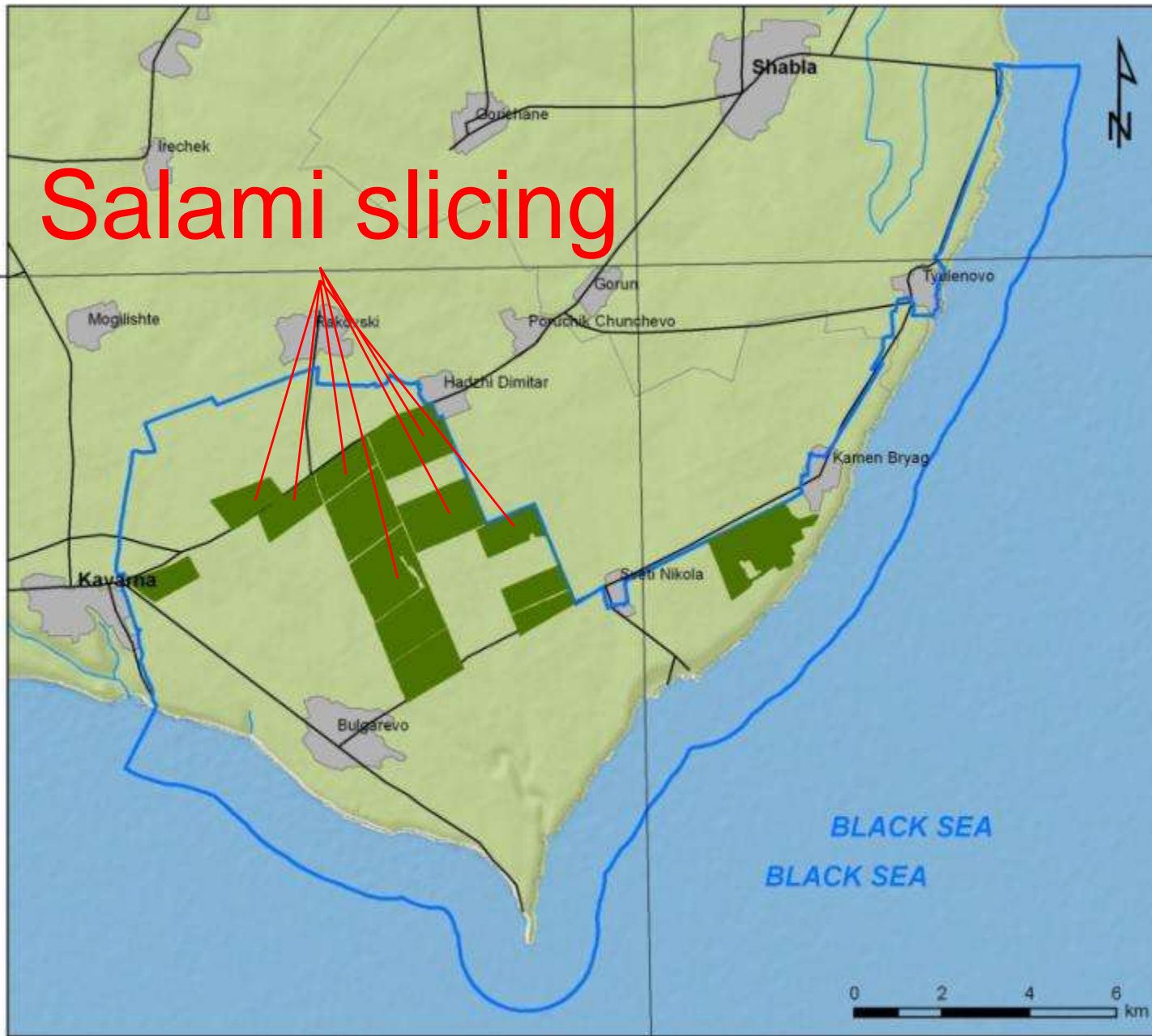
-Development projects needing full EIA assessment could be presented as small spatial plans which are screened out under the SEA procedure (small plans have no “strategic” impact)!

-Cumulative effect is not taken into account -> infringement procedures;



**Small Spatial Plan  
(part of big ski resort in  
Rila)**

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## SEA – Strategic Environmental Assessment

### **Screening phase:**

- Development projects needing full EIA assessment could be presented as small spatial plans which are screened out under the SEA procedure (small plans have no “strategic” impact)!
- No cumulative effect is taken into account -> infringement procedures;
- Acc. to national law the competent authority may require SEA for projects which have also characteristics of a plan (e.g. golf complex, village complex, etc.)

### **Assessment phase - Problems:**

- SEA report should be published by the investor. In case of private investors the SEA report is hardly accessible – you need police to get a copy!
- The experts are hired by the investor what leads to manipulated SEA reports.***





AA report of a village project in Natura 2000:  
*“The project affects no habitats of Elaphe sp. because the illegal construction damaged it -> the project can be approved.”*



## **AA – Appropriate assessment in Natura 2000**

**Legal context:** Habitats Directive

**Main goal:** Integrating biodiversity issues in Natura 2000 sites in decision making concerning as well projects as plans – no worsening of the Favorable Conservation Status of protected N2000 habitats and species is tolerated.

**Objects of AA (in and outside N2000):**

**-Plans and development projects** under Annex I and II of the EIA Directive – the AA procedure/decision is part of the SEA/EIA procedure/decision. Good solution is to have an apart AA report!

**-Any other activities** (e.g. ploughing of a pasture) which could affect the habitats and species in a N2000 site – subject to individual AA procedure and act.



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-Plans and development projects under Annex I and II of the EIA Directive – *the AA procedure/decision is part of the SEA/EIA procedure/decision*. Good solution is to have an apart AA report!

-**Any other activities** (e.g. ploughing of a pasture) which could affect the habitats and species in a N2000 site – subject to individual AA procedure and act.

**Administrative act:** Decision on the AA report.

-*Should be published on the internet-site of the competent authority!*

**Screening and assessment phases:**

-No cumulative effect is taken in account -> infringement procedures;

-The reference criterion for approving a project is the fact if the project/plan/activity would damage not more than 1 % of a N2000 habitat or species population. **In order to make such an assessment the competent authorities and the experts need a public register with all EIA/SEA/AA decisions!!**



## The evaluation of the General Spatial Plan of Tsarevo Municipality in Strandzha Nature Park

**Legal context:** SEA Directive and Habitats Directive

**Objects of the SEA/AA:** The spatial city plan of the Municipality of Tsarevo, foreseeing mainly urbanization of unique coastal areas in Strandzha Nature Park (Natura 2000 site): village complexes, roads, golf playgrounds, yacht ports, etc.)

### **Assessment phase:**

- SEA report including AA report - published by the Municipality on the internet site.
- Public participation – the statements of numerous organizations and scientist not taken into account.
- The SEA report of low quality (manipulated) – the number of tourists is times higher than the places on the beaches.
- The AA report of low quality (manipulated) – planned urbanization threatens with destruction 25 % (much higher than 1 %) of the habitats of protected N2000 species.









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Т Р П Ц М

## The evaluation of the General Spatial Plan of Tsarevo Municipality in Strandzha Nature Park

**Administrative act:** Statement on the SEA report including AA decision.

**-Problems:** the act was hidden by the MoEW in order to avoid public appeals before the court - expected.

**-The Decision:** requesting the SEA decision officially by means of the Access to public information Act EVERY WEEK! => complaint to the court and the EC

**Infringement procedure of the EC:** based on top scientific facts proving the potential threat for the destruction of 25 % of the habitats of protected N2000 species if the plan is applied => the SEA decision was withdrawn by the MoE.

**Conclusion:** not the SEA legislation but the N2000 legislation is the working mechanism in that case and many others => the N2000 legislation seems to be the most important instrument for nature protection and sustainable development in EU being priority interest of the EC (DG Environment).





**Proposed areas of conservation interest under the Emerald process, West Balkan**

- Areas of conservation
- Capitals

