



EUROPEAN COMMISSION

Brussels, 14.9.2011  
C(2011) 6365 final

## COMMISSION OPINION

of 14.9.2011

**delivered upon request of Germany pursuant to Art. 6 (4) Sub Par. 2 of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, concerning the replacement construction of the motorway bridge "Schiersteiner Brücke", the extension of the motorway A 643 from 4 lanes to 6 lanes and the enlargement of the motorway junction, Hesse (Germany)**

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### **I. The legal framework**

Article 6 (3) of directive 92/43/EEC (the 'Habitats Directive') requires that any plan or project not directly connected with or necessary to the management of a Natura 2000 site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, be subject to an appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of its implications for the site and subject to the provisions of paragraph 4, the competent national authorities may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.

According to article 6 (4) of directive 92/43/EEC, a plan or a project may be carried out in spite of a negative assessment of the implications for a Natura 2000 site, in the absence of alternative solutions, if it is justified for imperative reasons of overriding public interest, including those of a social or economic nature. In this case the Member States shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected and it shall inform the Commission of the compensatory measures adopted. Where the site concerned hosts a priority natural habitat type and/or a priority species, and if considerations relating to human health, public safety or beneficial consequences of primary importance for the environment cannot be invoked, the project can be justified, further to an opinion from the Commission, by other imperative reasons of overriding public interest.

### **II. The German request**

On 14 April 2011, the Commission received a letter, together with accompanying technical files, from the German Permanent Representation requesting an opinion of the Commission pursuant to Art. 6 (4) of the Habitats Directive concerning the authorization of the replacement construction of the motorway bridge "Schiersteiner Brücke" and the extension of the motorway A 643 in the section "junction Schierstein and the junction Mainz-Mombach" in Hesse from 4 to 6 lanes.

### **III. The project**

The focus of this project lays on the replacement construction of the motorway bridge "Schiersteiner Brücke" which shows, according to the German Authorities, irreparable damages and needs replacement. The bridge links the city Wiesbaden (Hesse) with Mainz (Rhineland-Palatinate) and crosses an isle in the river Rhine. The isle has been designated as a

Natura 2000 area. Within the framework of building a new bridge Germany additionally plans the extension of the motorway A 643 from 4 to 6 lanes. The motorway A 643 and the above mentioned bridge are of particular importance as being an integral part of the traffic-concept within the densely populated Rhine-Main area.

#### **IV. The site**

Site DE 5915-301 "Rettbergsaue bei Wiesbaden" is a Site of Community Importance (SCI) adopted under the Habitats Directive. This site, situated in the continental bio-geographical region, is an isle in the river Rhine and covers an area of 71,6 hectares. According to its standard data form the site has been established mainly for the conservation of the following habitat types of community interests:

91E0\*, Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior*

91F0 Riparian mixed forests of *Quercus robur*, *Ulmus laevis* and *Ulmus minor*, *Fraxinus excelsior* or *Fraxinus angustifolia*, along the great rivers (*Ulmion minoris*)

3260 Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitricho-Batrachion* vegetation

The site is characterised by structurally diverse, heterogeneous woodland. The most significant habitat type of Community interest in the SCI is the priority habitat type 91E0\*, which covers 10 hectares of this isle.

#### **V. Implications of the project on the site**

The Art. 6 (3) assessment concluded that the construction of the bridge will have a significant impact on the priority habitat type 91E0\* Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* within the Natura 2000 site "Rettbergsaue bei Wiesbaden" (DE 5915-301). A direct use of land will be avoided. However, the site will be affected functionally over an area of 0,19 hectares caused by the construction of the new bridge and the changes of the local micro-climate due to light and rain interception by the bridge. A change of the species composition through nitrogen depositions (selective promotion of nitrophilous species) is not expected.

The above mentioned Natura 2000 sites "91F0 Riparian mixed forests of *Quercus robur*, *Ulmus laevis* und *Ulmus minor*, *Fraxinus excelsior* or *Fraxinus angustifolia*, along the great rivers (*Ulmion minoris*) and 3260 Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitricho-Batrachion* vegetation will not be significantly affected.

As the project will have an adverse affect, in the sense of Art. 6 (3) of the directive, on the integrity of a Natura 2000 site hosting one priority habitat type, the project may only go ahead if it satisfies the requirements set down in Article 6 (4) of the Directive.

#### **VI. Fulfilment of the requirements under Art. 6 (4)**

##### **- Alternative solutions**

Restoration or maintenance of the existing bridge has been considered by the German authorities as to be technically impossible; the zero-option would lead to a closure of the bridge and therefore to an increasing traffic load on the remaining routes. All further assessed

alternative solutions lead to significant effects on Natura 2000-sites including those hosting priority habitats. None of them causes lower impact than the chosen option. Therefore the competent authorities consider that there are no alternatives to the proposed project.

#### **- Imperative reasons of overriding public interest**

The replacement construction of the "Schiersteiner Brücke" between Wiesbaden and Mainz is indispensable, in particular in view of safety aspects. In regard to the load of traffic by 92.800 motor vehicles per 24 hours the extension from four to six lanes is also essential.

#### **- Impact mitigation**

The activities linked to the construction and operation of the motorway section are not likely to significantly affect the site. Comprehensive mitigation measures will be implemented on the basis of the recommendations made after the assessment of such potential implication for the site. In particular measures are being taken to minimise disturbance. The building site facilities and construction site roads are limited to areas outside the habitat type \*91E0 and the duration of the building activities will be as short as possible. The entire construction progress will be controlled. Additionally the fundamentals of the current bridge will partly be removed.

#### **- Compensatory measures**

The planned measures will be situated at a distance of 20 km from the "Schiersteiner Brücke". It is planned to reactivate a former branch of the river Rhine and develop conditions for the recreation of an extensive Alder-Ash Alluvial forest complex of the Habitat type 91E0\* and Riparian mixed forests of the Habitat type 91F0 on an area of 4,39 hectares. This area will then be integrated into the Natura 2000 site DE 6013-301 "Rheinwiesen von Östrich-Winkel and Geisenheim" which will be enlarged by 10,47 hectares. The impacts on the affected area will be therefore fully compensated.

The German authorities confirmed that the compensation measures will take place before the damages occur. These measures will completely reconstruct the coherence for the habitat type 91E0\* within the Natura 2000 network. Long-term process- and habitat monitoring is part of the compensation measures.

### **VII. Opinion of the Commission**

According to the information submitted by the German Authorities, the replacement construction of the "Schiersteiner Brücke" crossing the river Rhine between Wiesbaden and Mainz in Hesse is justified as an essential project of overriding public interest for which there are no viable alternatives. Mitigation measures will be implemented which will limit the negative effects of the construction of the bridge. The project will however have adverse effects on the priority habitat type 91E0\* Alluvial forests. These effects will be compensated for by the creation of equivalent habitats on a total area that will be three times larger than the area that will be affected. These compensation measures will have taken place before the damages occur. The protection of the overall coherence of the Natura 2000 network will therefore be ensured.

**On the basis of the detailed information and explanations provided by the German authorities and taking into account in particular the issues set out in the present document, the Commission is of the opinion that the adverse effects of the replacement**

construction of the "Schiersteiner Brücke" on the Natura 2000 site DE 5915-301 "Rettbergsaue bei Wiesbaden" are justified by imperative reasons of overriding public interest.

**The opinion is subject to the following conditions:**

- The compensatory measures will be implemented and monitored as described in the documents submitted to the Commission by the German authorities.

Done at Brussels, 14.9.2011

*For the Commission*  
*Janez POTOČNIK*  
*Member of the Commission*

