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The European Natura 2000 network with its over 27,500 sites is the greatest nature conservation network in the world. Due to the Habitats Directive 92/43/EEC all projects and plans within or in the vicinity of a Natura 2000 site must be previously assessed of their implications for the site's conservation objectives. The European Court of Justice (ECJ) maximised the effectiveness of the assessment by a stringent legal interpretation. So a project or plan has to be rejected by the competent authorities if significant impacts on the integrity of a Natura 2000 site cannot be excluded without remaining reasonable scientific doubts. A derogating approval is only possible under strict conditions. However, numerous questions that are relevant in practice have so far only been considered by national courts. This issue features a comprehensive review of the relevant case-law of the German Federal Administrative Court (BVerwG), that has thoroughly dealt with the Natura 2000 regime in a long series of judgments.

The author – a long standing specialist in European and German nature conservation law – analyses the scope, the procedural steps and the requirements of the appropriate assessment and the derogation procedure and comments on the interpretations and practical solutions found by the courts. The first article will explain the main steps and demands of the appropriate assessment. Questions on the scope of the terms “project” and “plan” as well as on determining significant impacts will be discussed in more detail in the second and third article. The fourth article explores the requirements for an approval for derogation.

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BY
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