

Step-by-step plan: internal netting in projects

At the end of 2024, the case law on internal netting changed. This step-by-step plan – *non-exhaustively* – outlines the steps necessary to successfully apply internal netting in projects.

Step 1: Determine the reference situation and the netting balance

A. Is there an existing nature permit?

Yes: This permit constitutes the reference situation.

Netting balance total = Impact of permitted activities that are (or may be) present (including unused rights).

-> Go to step 2.

No: Go to step B.

B. Is there any other environmental approval that was granted before or on the reference date?

Yes: This approval constitutes the reference situation.

↳ Was any approval granted after the reference date with less environmental impact?

Yes: Use the approval with the least impact.

No: Use the approval on the reference date.

Netting balance total = Impact of permitted activities that are actually present, and activities that – if not in operation on a structural basis – can be resumed without nature approval.

-> Go to step 2.

No: There is no reference situation and thus no netting balance.

Step 3: Initiate participation and decision-making

A. Public participation: Mandatory for appropriate assessments.

-> Draft decision for submission of views available for public inspection for 6 weeks.

B. Decision-making: Decision given after views have been addressed.

Step 2: Make an appropriate assessment

Ensure that the internal netting in the appropriate assessment* meets the following conditions in any event:

- ✓ Ensure that **the benefits** of netting are fixed during the appropriate assessment.
- ✓ Ensure a **'direct correlation'** between the adjustment or withdrawal of the permit for the balance-giving activity and the balance-receiving activity.
- ✓ Guarantee under **public law** and (consequently) de facto that the balance-giving activity will cause no more depositions.
- ✓ Ensure that the balance from the balance-giving activity has not already been included in the appropriate assessment of the Integrated Approach to Nitrogen (*Programma Aanpak Stikstof*, or "**PAS**").
- ✓ Ensure that using the balance is not also (*additionally*) appropriate and necessary for **nature restoration or conservation**.
- ✓ Check the **provincial requirements**, which will apply again to internal netting.

The appropriate assessment must give assurance that a project will not adversely affect the integrity of any N2000 area.

-> Go to step 3.

**In some exceptional cases, no appropriate assessment will be necessary.*

Step 0: Previous netting

- A. Was internal netting applied from 2020 in any (nature or environmental) permit or environment and planning plan or zoning plan and is this decision not yet irrevocable?
→ Make an appropriate assessment.
- B. Was internal netting applied from 2020 via an affirmative refusal or wholly without a decision?
→ Make an appropriate assessment.