

The EU Nature Restoration Regulation (NRR): balancing biodiversity and socioeconomic goals demands a tailor-made approach per Member State, legal clarity and a proper impact assessment.

Healthy and productive ecosystems are a prerequisite for a continued green transition in harmony with nature. However, increasing demands for space (such as renewable energy, industry, raw materials, food production, urban- and rural development, infrastructure, housing, recreation) can negatively influence nature and ecosystems. Therefore, nature restoration is important for preserving and enhancing biodiversity, delivering ecosystem services, ensure ecosystem resilience and respond to the ongoing climate challenges.

To achieve nature restoration objectives, nature restoration measures should be cost-effective and targeted where they will have the greatest impact. Due to the high diversity of challenges that Member States face in relation to biodiversity loss, they should be provided with more flexibility and authority to prioritize restoration in their own areas. This should lead to a balance between nature restoration and socioeconomic challenges that allows the restoration of nature and the development of a strong economy.

A careful legal and factual examination of ecological as well as other socioeconomic interests is necessary in order to achieve this goal. However, we do not see this adequately reflected in the proposed NRR. The mandatory legal provisions outlined in the regulation will impede (economic) activities needed to realise important ambitions related to renewable energy, industry, raw materials, infrastructure and housing. Since every Member State faces different challenges when it comes to biodiversity loss, more flexibility must be allowed for Member States to prioritize restoration needs based on national circumstances.

In addition, we need to make sure that the objectives within the Nature Restoration Regulation do not lead to conflicts with ambitions and goals within different EU-legislations such as, the Net Zero Industry Act, Critical Raw Material Act and Renewables Directive.

We are concerned that the regulation risks Europe's competitiveness, growth, self-sufficiency and green transition.

PROPOSALS

In order to create a balanced framework between nature restoration needs and other economic and social benefits the legislation on nature restoration should set overarching objectives. In addition, Member States should be given a larger scope to set priorities, approaches and trade-offs with other socioeconomic interests and objectives, based on their specific national circumstances.

For restoration measures to be successful we propose the following points:

1. **Flexibility:** different characteristics (e.g. population density, climatic conditions, development potential) within Member States must be taken into account when setting restoration targets. Therefore we propose:
 - a. Non-binding, flexible and realistic targets, instead of binding uniform targets at EU level and by focussing on existing legislative obligations (areas covered by Annex I of directive 92/43/EEC – Habitats Directive). In this way specific situations in the Member States can be taken into account.
 - b. Delete targets for areas that are not covered by directive 92/43/EEC (paragraph 2 of art. 4 & 5). Member States should be in a position to determine the right balance in their specific situation between nature restoration and other socioeconomic and strategic interests. The proposed extension of the scope of putting in place restoration measures to areas outside

the scope of the Habitats Directive leads to additional conflicts with other socioeconomic interests.

- c. Maintain and acknowledge existing/voluntary initiatives: in several Member States various forms of nature protection (e.g. temporary nature in Germany, contractual nature conservation in Austria) are carried out voluntarily. This is crucial for the adaptation of restoration measures at local level. The ambitious objectives and strict deadlines can restrain the continuation of these measures.
- d. **Delegation of power to the EU Commission to amend the Annexes:** The annexes with the lists of habitat types and species set out central contents of obligations and prohibitions. It must be, subsidiarily, up to the Member States to determine the important decision-making and steering margins. This is needed in order to provide flexibility to Member States in the implementation, avoid negative social and economic policy consequences and to create legal clarity. This should be reflected in the extent to which the Commission is empowered to adopt delegated acts.
- e. Proportional approach of the non-deterioration principle. We acknowledge that when the status of an area is improved to good condition, the aim should be to maintain the status of that area. However, due to several impacts the quality of the area can decline. This should not lead to disproportional restrictions. In order to provide flexibility and prevent further legalization (which does not allow for a good balance and synergy between nature restoration and socioeconomic challenges) we propose an outcome-based provision and that Member States should take measures **“with the aim to prevent significant deterioration at national level”**.

2. Legal clarity: the proposal contains vague definitions and abstract terminology that leaves a lot of room for interpretation (e.g. ‘good condition’, ‘favourable reference area’, ‘sufficient quality of habitat’, ‘sufficient quantity of habitat’). This makes it difficult to properly examine the impact of the proposal and its legal implications. The following recommendations are intended to provide clarity:

- a. Ensure clear criteria to determine when an area needs to be restored and/or expanded. The proposal as it stand makes it difficult to determine which obligations arise from the Regulation and thus what the practical consequences will be (permitting).
- b. To avoid misunderstandings or misinterpretations, it should be stated in the legal text that existing environmental legislation – e.g. the Habitats Directive - is not affected by the new proposal or contradicts it. Therefore it is advisable to align definitions with directive 92/43/EEC and the existing jurisprudence of the habitats directive (e.g. jurisprudence with article 6).

3. Urban ecosystems: the objective to increase urban green space (article 6) is supported as they provide vital ecosystem services. However, the article does not take into account the different circumstances in various parts of the EU and can be counterproductive for the sustainable development of regions and municipalities. Therefore, we propose the following changes:

- a. Primarily focus on urban areas where the urban green space falls under the minimum level set by the union.
- b. The obligations should not be tied to individual cities. Biodiversity goals should be promoted by focussing on the urban region/cluster as a functional whole.
- c. There should be a greater focus on promoting biodiversity through the quality of green space rather than increasing it by a percentage of the total area of the municipality.

4. Access to justice: article 16 set out the access to justice to members of the public. We acknowledge the democratic value of the access to justice by the public but qualify this article as redundant knowing that as part of the Aarhus Convention, Member States are already required to ensure that the public has access to justice in environmental matters, in accordance with their national legal systems.

- a. Therefore we advocate for the deletion of article 16.

CONCLUSION

The effects and impact of the regulation on different socioeconomic interests and goals must be properly assessed.

We recognize the importance of nature restoration and support the goals to stop biodiversity loss and the degradation of ecosystems. At the same time, the effects and impacts need to be properly assessed. A balanced approach, a higher level of flexibility within the Member States and a clear analysis of different socioeconomic objectives must be carried out to ensure successful nature restoration measures within the EU.



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