

# Proposal for a regulation on nature restoration

NGO analysis - August 2022

Alex Stemmers/Shutterstock

## Introduction

On 22 June 2022, the European Commission presented its proposal for the [new Regulation on nature restoration](#). It aims to contribute to the recovery of biodiverse and resilient nature across the EU's land and sea areas through the restoration of ecosystems, and to contribute to the EU's objectives concerning climate change mitigation and adaptation.

The legal proposal for a Nature Restoration Law is a huge opportunity to bring nature back to Europe, benefiting biodiversity, climate, and people alike. The restoration of ecosystems such as peatlands, forests, and seagrass meadows can help reduce emissions and [sequester millions of tonnes of carbon each year](#). Nature restoration is our best insurance policy for climate adaptation as it will increase our resilience to droughts, floods and other extreme weather events. Consequently, it also contributes to [long-term food security](#). Restoring and preserving nature can also bring many [socio-economic benefits](#) such as sustainable jobs, recreation opportunities, and broader [human health benefits](#). Therefore, nature restoration is undoubtedly one of the best investments we can make. The European Commission's impact assessment concluded that investing in nature restoration adds between €8 to €38 in economic value for each €1 spent. This remarkable finding can be attributed to ecosystem services which play an invaluable role in supporting food security, climate and ecosystem resilience and mitigation, and human health.

The legal proposal is therefore an important milestone to reverse the tide of both biodiversity loss and climate change, with the potential to make a real impact at the scales required if implemented in a timely and well considered manner.

BirdLife, ClientEarth, EEB and WWF call on the European Parliament and the Council of the EU to adopt the proposed nature restoration Regulation without delay and to strengthen it where needed, in line with the main points in this assessment.

# 1. Overarching objective: effective and area-based restoration measures in place on at least 20% of the EU land and sea areas by 2030

## Art. 1

### Good elements of the proposal

✓ As with the EU Climate Law, a robust and clear overarching EU headline target (i.e. to put in place restoration measures on at least 20% of the EU's land and sea areas by 2030) is indispensable to mobilise Member State action at the required scale. It is also welcome that the overarching target encompasses individual, ecosystem-specific targets in the proposed Regulation. A numerical target, referring to the EU's land and sea area, creates the legal certainty that is necessary for speedy and effective implementation. The reference to effective and area-based restoration measures is important to highlight that only the area-based restoration measures mentioned in Art. 4, 5, 7 and 9(4) should be counted towards this objective. As the European Parliament already called for legally binding restoration targets to restore at least 30% of the EU's land and sea areas<sup>1</sup>, the 20% area coverage is a minimum requirement and the ambition level should not be lowered.

### To be improved

! Whilst the overarching objective is set at the EU level, it is crucial that each Member State contributes fairly to it. To ensure Member States can be held accountable for their contribution to the EU-wide overarching objective, information on the aggregated area-based restoration measures should be included in the national restoration plans (Art. 12(2)(a)), which need to be then assessed by the Commission (Art. 14(2)).

! If no definition is provided under Art. 3 on which measures are 'area-based', an explicit reference to Art. 4, 5, 7 and 9(4) should be made in Art. 1(2) to ensure certainty that only area-based targets contribute to the overarching area-based objective.

# 2. Restoration of high quality nature, with time-bound area-based restoration targets

## Art. 4, 5, 7 & 9(4)

### 2.1 Restoration of terrestrial, coastal, freshwater and marine ecosystems - Art. 4,5

#### Good elements of the proposal

✓ The proposal includes time-bound targets for the restoration to high quality nature, based on the habitats for which the EU and its Member States have a particular responsibility (defined by the EU Habitats Directive as 'Annex 1 habitats'). Besides the obligation to restore habitats to good condition, there are also targets for habitat re-establishment and the restoration of habitats of species protected under the Birds and Habitats Directives.

1 [2020/2273\(INI\)](#)

- ✔ The restoration measures need to take into account the need for improved connectivity. The proposal also contains a strong non-deterioration obligation.
- ✔ The marine habitats to be restored go beyond those covered under the Habitats Directive and also the restoration of habitats of species go beyond the species protected under the Birds and Habitats Directives.

### To be improved

- ! The ambition level of the targets is too low and the bulk of restoration action is postponed to 2040 and even 2050, which is not in line with the urgency of tackling both the nature and climate crises. The percentage targets for the different milestones in Art. 4 and 5 should therefore be increased significantly and the timeline to reach 100% (and not only 90% as mentioned in the proposal), brought forward.
- ! The establishment of a non-deterioration obligation is positive, but it should be clarified that the restored areas must be added to the protected area network via legislation, an administrative act or contractual means to ensure long-term non-deterioration. In addition, safeguards are needed to ensure that the exemption justifications for the non-fulfillment of the continuous improvement and non-deterioration obligations are not misused.
- ! The marine restoration targets are at risk of being unimplementable and empty in practice, because their restoration measures are dependent on the ineffective procedures of the Common Fisheries Policy for managing destructive fishing impacts. A safeguard mechanism should be added to ensure that Member States' failure to reach an agreement for a joint recommendation does not undermine the implementation of effective restoration targets. Such a mechanism could, among others, set a time limit to the joint recommendations process and/or empower the Commission to break the Member States' deadlock, if no timely agreement has been reached.


## 2.2 Restoration of the natural connectivity of rivers and natural functions of the related floodplains – Art. 7

### Good elements of the proposal

- ✔ It is positive and important that the legal proposal contains a separate Article on river restoration, obliging Member States to make an inventory of barriers to the longitudinal and lateral connectivity of rivers and remove those barriers, and to restore the natural functions of the related floodplains.


### To be improved

- ! The proposal should contain quantified and time-bound targets to remove barriers. Member States should be required to restore 15% of river length (178,000 km across the EU) into free-flowing rivers by 2030 through barrier removal and the restoration of the related floodplains.
- ! The current text to address primarily obsolete barriers reduces the scope of the provision and should be deleted. Instead, the prioritisation of barriers should be made at national or river basin level via a case by case assessment, taking into consideration the specific purpose of the barrier and the ecological benefits of removal, as well as the need to ensure connectivity between marine and freshwater ecosystems.


 References to the possibility of using exemptions under the Water Framework Directive (WFD) and the Trans-European Transport Network (TEN-T) Regulation should be deleted to avoid the abusive use of derogations. Instead, the text should only recall the main purpose of the WFD, which is to bring the vast majority of EU water bodies to good status by 2027.

## 2.3 Restoration of peatlands under agricultural use – Art. 9(4)

### Good elements of the proposal

 The proposal contains quantified, time-bound targets for the restoration of peatlands under agricultural use. This is very important as drained peatlands account for 5% of total EU greenhouse gas emissions. The climate dimension of nature restoration has been a key element from the very start of the commitment to propose legally binding restoration targets. Already in the EU's Biodiversity Strategy for 2030, the Commission indicated that the law should particularly cover ecosystems with 'the most potential to capture and store carbon and to prevent and reduce the impact of natural disasters.' Peatlands must therefore be a core element of the Nature Restoration Law.


### To be improved

 The proposal for the restoration of drained peatlands should be expanded to include other land uses beyond only agricultural use, such as forestry. There must be a clear obligation to restore all degraded peatlands regardless of current land use and clarification that all drained peatlands should be rewetted, as this is needed to effectively restore peatlands. In addition, the restoration targets for peatlands should be increased overall in relation to both timeframes and area.


## 3. Indicator-based restoration targets for the restoration of pollinators, agricultural and forest ecosystems

Art. 8, 9 & 10

### Good elements of the proposal

 The commitment from the Biodiversity Strategy to reverse the decline of pollinators by 2030 has been made legally binding. There are legal obligations to enhance and restore biodiversity in agricultural and forest ecosystems additional to Art. 4 measures, via indicator-based restoration targets. Member States should increase the trend of indicators like the grassland butterfly index, the common forest bird index, the organic carbon stock in cropland and forest soils, the share of forests with uneven age structure and forest connectivity, among others. Restoration measures should also be put in place to ensure that the common farmland bird index at national level reaches quantified levels.

### To be improved

 For most of the indicator-based targets (Art. 9(2) and Art. 10) there are no quantified, time-bound objectives defined. Member States only need to achieve an increasing trend at national level and can define their own satisfactory level to be achieved. A clear framework and guidance on the minimum requirements for Member States to define these satisfactory levels is needed

and should be adopted in a timely manner under Art. 17(9). For example, the obligation to increase the share of agricultural land with high-diversity landscape features should explicitly refer to the 2030 objective of the Biodiversity Strategy to cover at least 10% of the EU's agricultural area (with a breakdown at regional level) within the article. Only referring to it in the assessment of the national restoration plans (Art. 14(2)) is not sufficient to ensure the proper achievement of this key target for agricultural ecosystems.

## 4. Implementation: national restoration plans

### Art. 11-16

#### Good elements of the proposal

- ✔ The proposal sets out a comprehensive list of minimum contents for Member States' National Restoration Plans, including amongst others the quantification of the areas to be restored, the estimated financing needs, acknowledgement of harmful subsidies negatively affecting the achievement of the targets and measures to ensure the non-deterioration of restored areas.
- ✔ We further welcome the Commission's assessment of the National Restoration Plans, which - according to the proposal - shall take into account both the Union-wide targets and those specific to the Member States (Art. 14(2)). To ensure that all Member States reach their targets, it is also positive that the Commission can request Member States to update their restoration plans in case of insufficient progress (Art. 15(3)).
- ✔ The proposal contains strong access to justice provisions, allowing for the legal standing of environmental NGOs and a broad subject matter for judicial claims.

#### To be improved

- ! To ensure the full and effective participation of the public in the preparation of National Restoration Plans, Member States should ensure that the public is adequately informed on the outcomes of the different preparatory mapping and identification processes undertaken under Art. 11.
- ! Art. 11(11) also needs to be expanded, including by setting adequate consultation timelines and effectively informing the most relevant public stakeholders, to ensure compliance with Art. 7 of the Aarhus Convention.
- ! The timeline for the finalisation of National Restoration Plans should be shortened to two years overall, so that more time remains for the proper implementation of the plans to meet the 2030 targets.
- ! National Restoration Plans should (under Art. 12(2)(b)) include an explanation on how the restoration measures adopted are additional to those that Member States are already legally required to adopt under the existing environmental acquis (particularly the Birds, Habitats and Water Framework Directives). To ensure the additionality of restoration measures, Member States should therefore be required to take their pre-existing obligations into account under Art. 11(7).

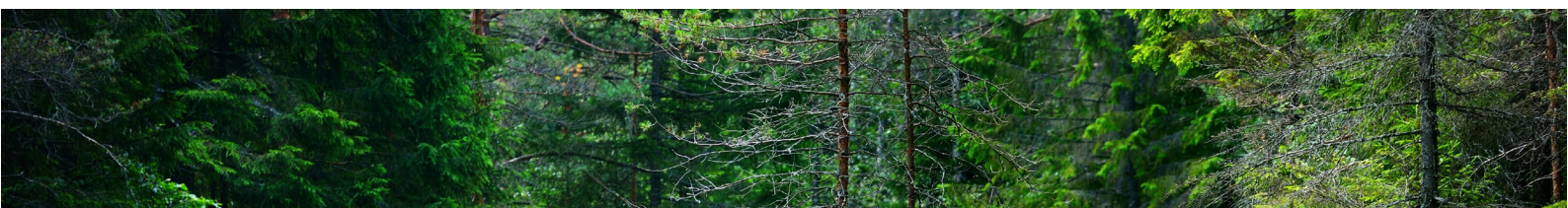
## 5. Financing

### Good elements of the proposal

✔ The obligation to include the estimated financing needs and sources for restoration measures in the National Restoration Plans is important to ensure that the plans are implementable. This will also prompt Member States to assess the budget implications of their own plans. In addition, the requested information on subsidies negatively affecting the achievement of the targets of the Regulation is welcome, as it will provide transparency and clear indications on the phasing-out of harmful subsidies.

### To be improved

! To ensure the seamless and effective implementation of the regulation, the legislative proposal should include an obligation for the Commission to assess existing EU funding support available for nature restoration and explore options to expand these, for example through the establishment of dedicated funding for nature restoration, pursuant to the mid-term review of the Multiannual Financial Framework.



### For further information, please reach out to:

**Sofie Ruysschaert**, Nature Restoration Policy Officer, Birdlife Europe and Central Asia

[sofie.ruysschaert@birdlife.org](mailto:sofie.ruysschaert@birdlife.org)

**Ioannis Agapakis**, Lawyer, Wildlife & Habitats, Client Earth

[iagapakis@clientearth.org](mailto:iagapakis@clientearth.org)

**Laura Hildt**, Policy Officer for Biodiversity, EEB

[laura.hildt@eeb.org](mailto:laura.hildt@eeb.org)

**Sabien Leemans**, Senior Biodiversity Policy Officer, WWF European Policy Office

[sleemans@wwf.eu](mailto:sleemans@wwf.eu)