

## **GERMANY**

### **Commission proposal on Nature Restoration**

#### **Article 4**

##### **Article 4 in relation to the definitions in Article 3**

- Does the “highest level of condition attainable and to its favourable reference area” (Article 3 (3)) refer to the favourable reference range of a habitat type?
- Is the “reference area” the natural range of the habitat type?
- Do “satisfactory levels” of a species population correspond to the favourable reference population of a species under the Habitats Directive?
- Does “[it] is composed of the area of the habitat type” (Article 3 (5)) mean the CURRENT area of the habitat type?

##### **Article 4 (1) and (2)**

- What exactly is meant by “group of habitat types”? Do the implementation targets for the measures relate to the six main groups listed in Annex I (groups 1-6 wetlands etc.) or to the individual subgroups (e.g. coastal and salt habitats)?
- Does Article 4 (2) refer to the favourable reference area of the Habitats Directive?

##### **Article 4 (4)**

- The German text translates “area” as “Gebiete”. This should be “Fläche”.

##### **Article 4 (8)**

- In Article 4 (8) (c) (and Article 5 (8) (c)), does the Commission assume that this involves a review which is undertaken in any event if projects are approved?
- Can it be ensured that the proposed legislation avoids adverse impacts on the long-term integrity of coastal and flood protection and allows the goals of Directive 2007/60/EU on the assessment and management of flood risks to be achieved?

##### **Article 4 (10) (in relation to Article 4 (1))**

- What is the relationship between the target area of at least 90% set out in Article 4 (10) (also considering the minimum target area of 90% by 2050 laid down in Article 4 (1)) and Article 4 (8) and (9)? Is it not conceivable that the 90% target cannot be achieved due to the causes named in Article 4 (8) and (9), in particular the cause set out under (b)?

- How do Article 4 of the proposal and the implementation of the EU Water Framework Directive affect one another?
  - In this context, there are overlaps with regard to bodies of water (WFD term), at least in relation to freshwater ecosystems, but also transitional waters and coastal waters.
  - Recital (59) refers to synergies with relevant EU provisions, and recitals (45) and (67) also have connections to the Water Framework Directive, although they do not explicitly mention them.
  - Recitals are not legally binding.
  - The Regulation should contain clear criteria to ensure that nature conservation and water body protection are coordinated at operational level and there is no duplication of work.

### **Article 5**

- Are there plans to harmonise the reporting obligation under the Regulation with other marine reporting requirements, as is the case for the Habitats Directive, Birds Directive and Marine Strategy Framework Directive?
- Are there plans to include indicators for umbrella and keystone species for marine habitats in the proposed regulation as well, since status assessments of typical species for EUNIS habitat types have not yet been established?

### **Article 5 (1) and (2)**

- Why does the legislative proposal not include important reef habitats in the Baltic Sea for the habitat type Reefs (1170) under the Habitats Directive?
- Is it envisaged that EUNIS Level 6 will be considered for the Baltic Sea, since salinity in the Baltic Sea has a major influence on biotope distribution and species composition of the communities that is best reflected at EUNIS level 6?

### **Article 5 (3)**

- Why does the list of marine species in the current version of Annex III include 11 species that have never before occurred in Europe?
- What criteria were used to compile Annex III?

### **Article 5 (4)**

- How should the area-specific typical species be determined? This is necessary for prompt implementation for the marine habitat types newly submitted under the EUNIS classification of 2022.

- Why is the status assessment focussed solely on typical species and not on the species-related indicators developed under the MSFD?

### **Article 7**

- We welcome the clear link to the EU Water Framework Directive drawn in Article 7 (1).
  - Uniform criteria for the inventories of barriers to longitudinal and lateral connectivity referred to in Article 7 (1) must be laid down at an early stage. Moreover, exact definitions of what these barriers are, in particular lateral barriers, are still lacking. Why does the proposal envisage member state inventories but no joint inventory at EU level?
  - Article 7 (2) prioritises removal of obsolete barriers. What about non-obsolete barriers? Does this mean that other measures for improving longitudinal and lateral connectivity cannot also be considered? While, strictly speaking, this would not result in “free flowing” rivers, it would establish a certain degree of connectivity, as is also the case in the implementation of the EU Water Framework Directive.
  - Article 7 (2), last sentence should expressly name flood protection.
  - Does Article 7 (3) only relate to lateral connectivity?
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Council of the European Union  
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**LIMITE**

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## **CONTRIBUTION**

From:	General Secretariat of the Council
To:	Working Party on the Environment
N° prev. doc.:	WK 11714 2022 INIT
Subject:	Nature Restoration Regulation - Comments from a delegation (Articles 4-7)

Following the call for comments (WK 11714/22) and the exchange at the WPE meeting on 8 September 2022, delegations will find attached comments by DE on Articles 4-7 of the Nature Restoration Regulation.