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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on the Environment

Subject:	Nature Restoration Regulation: Working Party Environment meeting on 30 September 2022: Presidency Steering note
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Delegations will find attached a steering note prepared by the Presidency with a view to the meeting of the Working Party Environment on 30 September 2022.



Presidency Steering Note

Working Party on the Environment
30th September 2022

Proposal for a Regulation of the European Parliament and of the Council on Nature Restoration

Introduction

The Presidency proposes to continue the examination of the Proposal for a Regulation on Nature Restoration. Following the WPE meetings on 8 and 16 September, during which Chapter II (Articles 4 – 10) with respective Annexes as well as Chapter V were covered, the Presidency is putting forward this steering note in order to guide discussions during the WPE meeting on 30 September.

The meeting will aim to cover **Chapter III (National Restoration Plans)** and **Chapter IV (Monitoring and Reporting)** as well as **Annex VII** of the Proposal.

Depending on time and progress achieved during the meeting, the Presidency would also like to examine provisions in **Chapter VI (Final Provisions) – Article 22 and 23**.

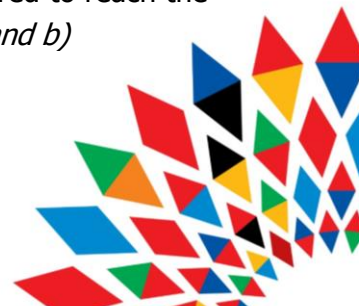
Chapter III – National Restoration Plans

Articles 11, 12

Articles 11 and 12 describe the requirements for Member States' national restoration plans. Restoration measures should be planned strategically so that they are as effective as possible in contributing to the recovery of nature across the EU and to climate change mitigation and adaptation. It is important that Member States prepare their national restoration plans based on the best and most recent scientific evidence available.

Possible points for discussion related to **Article 11** of the Proposal:

- Quantifying the area that needs to be restored to reach the restoration targets set out in Articles 4 and 5 taking the **condition of the habitat types** referred to in Articles 4(1), 4(2), 5(1) and 5(2) and the **quality and quantity of the habitats of the species** referred to in Article 4(3) and Article 5(3) into account – 11(2)
- The **information** that the quantification of the areas that need to be restored to reach the restoration targets set out in Articles 4 and 5 shall be based on – 11(2) a) and b)





- Setting **satisfactory levels for the indicators** referred to in Articles 8(1), 9(2) and 10(2), through an **open and effective process and assessment** based on the latest scientific evidence – 11(3)
- Identifying and mapping **agricultural and forest areas in need of restoration** – 11(4)
- **Identifying synergies** with climate change mitigation, adaptation and disaster prevention, prioritizing restoration measures accordingly – 11(5)
- coordinating the development of national restoration plans with the **designation of the renewables go-to areas** – 11(6)
- elements to be taken into account during the preparation of the Nature Restoration Plans – 11(5) a) b) and c) and 11(7) a) – g)

Related: Chapter II (Restoration Targets and Obligations) of the Proposal; Article 3 and 15 of Regulation (EU) 2018/1999 (the Governance of the Energy Union and Climate Action), Article 3 of Directive 2018/2001/EU (on the promotion of the use of energy from renewable sources), Article 4 (conservation measures) and Article 8 (Prioritized Action Framework) of the Directive 92/43/EEC (Habitats Directive), Directive 2000/60/EC (Water Framework Directive), Directive 2008/56/EC (Marine Strategy Framework Directive), Directive (EU) 2016/2284 (on the reduction of national emissions of certain atmospheric pollutants), Annex VII

Definitions: habitat of a species, good condition, sufficient quality of habitat, sufficient quantity of habitat, renewables go-to area

Possible points for discussion related to **Article 12** of the Proposal:

- A **timeframe** of the National Restoration Plan – 12(1)
- **Elements of the National Restoration Plan:**
 - a) the **quantification of the areas to be restored**;
 - b) a **description of the restoration measures** planned, or put in place and specification of the ones planned or put in place inside the Natura 2000;
 - c) an **indication of the measures** to ensure that restored habitats and habitats of species **do not deteriorate** and
 - d) areas covered by habitats from Annex I and II **do not deteriorate**;
 - e) **Article 7** related obligations;
 - f) **the timing** for putting in place the restoration measures;
 - g) tailored restoration measures in **outermost regions**;
 - h) **monitoring** of the areas subject to restoration, the process for **assessing the effectiveness** of the restoration measures put in place and for revising those measures where needed;





- i) an indication of the provisions for **ensuring the continuous, long-term and sustained effects** of the restoration measures;
 - j) the estimated **co-benefits for climate change mitigation** as well as wider **socio-economic benefits** of restoration measures;
 - k) a dedicated **climate, disaster risk and energy section**;
 - l) the estimated **financing needs** for the implementation of the restoration measures;
 - m) an indication of the **subsidies which negatively affect** the achievement of the targets and the fulfilment of the obligations set out in the Proposal;
 - n) a summary of the **process for preparing and establishing the national restoration plan**;
 - o) a dedicated section indicating how **observations from the Commission** on the draft national restoration plan have been taken into account – 12(2)
- including the conservation measures that a Member State intends to adopt under the **common fisheries policy** in the National Restoration Plan – 12(3)
 - Commission implementing acts to establish a uniform format for the national restoration plans – 12(4)

Related: Chapter II (Restoration Targets and Obligations); Article 7 (Restoration of the natural connectivity of rivers and natural functions of the related floodplains), Article 11 (preparatory work), Article 14 (observations from the Commission on the draft national restoration plan referred to in Article 14(4) and (5) (taking into account of the Commission observations in relation to the Nature Restoration Plan), Article 21(2) (examination procedure for the adoption of the implementing acts – ref. to Article 5 of Regulation (EU) No 182/2011) of the Proposal; Directive 92/43/EEC (Habitats Directive), Regulation (EU) No 1380/2013 (on the Common Fisheries Policy)

Definitions: none

Articles 13, 14, 15

Articles 13, 14 and 15 specify that Member States must submit their national restoration plans to the Commission for assessment and that they will have to respond to the Commission's observations before adopting the plans. A process for review and regular revision of the national restoration plans is also described.

Possible points for discussion related to **Article 13** of the Proposal:

- **Submitting the draft Nature Restoration Plan 2 years** after the date of entry of the Proposal into force – 13(1)

Related: none

Definitions: none





Possible points for discussion related to **Article 14** of the Proposal:

- The **criteria for the Commission for assessing the Nature Restoration Plans** (Article 12, adequacy for meeting the targets and obligations set out in Articles 4 to 10, the Union's overarching objectives referred to in Article 1, the specific objectives referred to in Article 7(1) to restore at least 25 000 km of rivers into free-flowing rivers in the Union by 2030 and the 2030 objective of covering at least 10% of the Union's agricultural area with high-diversity landscape features) – 14(2)
- **Taking due account** of any of the Commission observations and **finalising, publishing and submitting** the National Restoration Plan within six months from the date of receipt of observations from the Commission – 14(5) and 14(6)

Related: Article 1 (the Union's overarching objectives), Article 7(1) (restoring at least 25 000 km of rivers into free-flowing rivers in the Union by 2030), Article 12 (Content of the national restoration plans), Chapter II (Restoration Targets and Obligations) of the Proposal

Definitions: none

Possible points for discussion related to **Article 15** of the Proposal:

- The process of **review** of the National Restoration Plans at least once **every 10 years** – 15(1)





- A **revision** of the National Restoration Plan and **inclusion of supplementary measures** as a result of measures not being sufficient to comply with the targets and obligations set out in Articles 4 to 10, based on the monitoring in accordance with Article 17 – 15(2)
- The **authority of the Commission for requesting an updated draft national restoration plan with supplementary measures** after considering that the progress made by a Member State is insufficient to comply with the targets and obligations set out in Articles 4 to 10; six months to publish and submit new plan – 15(3)

Related: Chapter II (Restoration Targets and Obligations), Article 17 (Monitoring) of the Proposal

Definitions: none

Article 16

Article 16 specifies the access to justice for public in relation to the Nature Restoration Plan.

Possible points for discussion related to **Article 16** of the Proposal:

- ensuring that members of the public that have a **sufficient interest** or that maintain the impairment of a right, have **access to a review procedure** before a court of law, or an independent and impartial body established by law – 16(1)
- a right to **challenge the substantive or procedural legality of the national restoration plans and any failures to act of the competent authorities, regardless of the role** played during the process of National Restoration Plan preparation and establishment – 16(1)
- a margin of discretion for the Member States to **determine what constitutes a sufficient interest and impairment of a right**, consistently with the objective of providing the public with wide access to justice – 16(2)
- any **non-governmental organisation promoting environmental protection** and meeting any requirements under national law shall be deemed to have rights capable of being impaired and their interest shall be deemed sufficient – 16(2)
- **fair, equitable, timely and free of charge or not prohibitively expensive review procedures** of Nature Restoration Plan providing for adequate and effective remedies, including injunctive relief where necessary with practical information made available to the public on access to the administrative and judicial review procedures – 16(3) and 16(4)





Related: Article 11 (Preparation of the national restoration plans), Article 12 (Content of the national restoration plans) of the Proposal

Definitions: none

Chapter IV – Monitoring and Reporting

Articles 17 and 18

Articles 17 and 18 lays down monitoring and reporting duties and related issues.

Possible points for discussion related to **Article 17** of the Proposal:

- the **extent** and **scope** of proposed monitoring – 17(1)
- **assessing the condition and trend in condition** of the habitat types and the **quality and the trend in quality** of the habitats of the species referred to in Articles 4 and 5 in the areas subject to restoration measures **as soon as restoration measures are put in place** – 17(1) a) and 17(2)
- a **start of monitoring** for other than the monitoring in accordance with paragraph 1 (the area of urban green space and tree canopy cover in cities and towns and suburbs; the indicators and index from Annexes IV, V and VI; the abundance and diversity of pollinator species) – 17(3) and 17(4)
- the **frequency of monitoring** - at least every three years, and, where possible, every year / for grassland butterfly index, common forest bird index and pollinator species every year – 17(5)
- The **monitoring of the area and condition of the areas covered by the habitat types** and of **the area and the quality of the habitat of the species** across Member States territory at least every six years **in coordination** with the reporting cycle under Article 17 of the Habitats Directive – 17(5)
- ensuring that selected indicators for agricultural ecosystems and for forest ecosystems are **monitored in a manner consistent with the monitoring required under Regulations (EU) 2018/841 and (EU) 2018/1999** – 17(6)
- **making the data generated by the monitoring public** in accordance with Directive 2007/2/EC of the European Parliament and of the Council and in accordance with the monitoring frequencies – 17(7)
- technological conditions for **monitoring systems** – 17(8)
- The **authority of the Commission to adopt implementing acts** for specifying methods for monitoring of the indicators in agricultural and forest ecosystem as well





as for developing a framework for setting the satisfactory levels for indicators in relation to pollinator populations and agricultural and forest ecosystems – 17(9)

Related: Chapter II (Restoration Targets and Obligations), Article 21(2) (examination procedure for the adoption of the implementing acts – ref. to Article 5 of Regulation (EU) No 182/2011), Annexes IV, V and VI of the Proposal; Regulation (EU) 2018/841 (on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry in the 2030 climate and energy framework), Regulation (EU) 2018/1999 (on the Governance of the Energy Union and Climate Action), Directive 2007/2/EC (INSPIRE)

Definitions: good condition, sufficient quality of habitat

Possible points for discussion related to **Article 18** of the Proposal:

- **electronically reporting** the area subject to restoration measures referred to in Articles 4 to 10 and the barriers referred to in Article 7 that have been removed, **on an annual basis** starting from the date of entry of the Proposal into force – 18(1)
- **electronically reporting** defined data and information **at least every three years** – the timeframe and the extent – 18(2)
- submitting the **first reports in June 2031**, covering the period up to 2030 – 18(2)
- the **authority of the Commission to adopt implementing acts** to establish the format, structure and detailed arrangements for the presentation of the reporting information – 18(3)
- The obligation of the Commission to **report to the European Parliament and to the Council** every three years on the implementation of this Regulation from 2029 – 18(6)
- ensuring that the **monitoring information is adequate and up-to-date and that it is available to the public** in accordance with Directives 2003/4/EC of the European Parliament and of the Council, Directive 2007/2/EC and (EU) 2019/1024 of the Parliament and of the Council – 18(7)

Related: Chapter II (Restoration Targets and Obligations), Article 21(2) (examination procedure for the adoption of the implementing acts – ref. to Article 5 of Regulation (EU) No 182/2011) of the Proposal; Directive 2003/4/EC (on public access to environmental information), Directive 2007/2/EC (INSPIRE), Directive (EU) 2019/1024 (on open data and the re-use of public sector information)

Definitions: none

Chapter VI – Final Provisions

Articles 22, 23





Article 22 provides for a review of the regulation by 31 December 2035, **Article 23** provides for the entry into force and application of the regulation on the twentieth day following that of its publication in the Official Journal of the European Union.

Annex VII

Annex VII provides a list of examples of restoration measures which Member States shall make use of when preparing the national restoration plans, depending on specific national and local conditions, and the latest scientific evidence.

Possible points for discussion related to **Annex VII** of the Proposal:

- **Completeness** of the list (examples to be added?)
- **Adequacy and usefulness** of proposed examples

