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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 27 October 2022: Presidency Steering note

Delegations will find attached a steering note prepared by the Presidency with a view to the meeting of the Working Party Environment on 27 October 2022.



Presidency Steering Note

Working Party on the Environment

27th October 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. Previous WPE meetings in July and September concluded a first reading of the Proposal. The WPE on 11 October 2022, proceeded with a detailed examination of Article 1-5. With a view to the WPE meeting on 27 October, the Presidency puts forward a steering note in order to guide discussions.

The meeting will aim to cover **Articles 6 – 10**, taking into account relevant Annexes.

First, key issues for the discussion and clarification in relation those Articles have been identified by the Presidency based solely on the up-to-now received comments by the Member States. The Member States are invited to comment on these key issues.

In the second part of the steering note, the Presidency identifies possible textual changes in Articles 6 - 10, which are also based on the Member States comments received in previous phases of negotiations. Delegations are invited to comment and, particularly, the Member States that suggested textual changes are encouraged to further explain their proposals.





Articles 6 to 10

Key issues to be discussed

Article 6:

Definitions to be clarified:

- “**urban green areas**” - linkage to Corine Land Cover classes, inclusion of other classes

Key issues to be discussed:

- **insufficient consideration of local and regional conditions when setting targets** (e.g. LAUs with huge green areas versus LAUs with limited green areas; different baseline between MSs), possibility to change the assessed urban units (to use the “urban clusters” falling inside the LAU, instead of the total area of the whole LAU, when defining the baseline for the targets in article 6)
- **questionable contribution of the targets** (increase of greenery) to the biodiversity conservation (no qualitative parameters assessed including connectivity)
- clarification **to which level are targets applicable** (unit (city, town, suburb) versus cumulative national level in a Member State)
- clarification of the **methodology for calculation of tree canopy cover and urban green areas** (including appropriate data from MS)
- clarification of the **reference frame** of 2021 (link to approved projects; reflection of possible changes in LAU demarcations)
- clarification of **the integration of a net gain of urban green space into existing and new buildings and infrastructure development** (monitoring methodology, discrepancies in definitions of Copernicus for ‘artificial surfaces’ and typical UGS categories; possibility to take into account also the management and maintenance of existing UGS)
- **link to the Article 4** of the Proposal
- **importance of policy coherence** (e.g. to avoid conflicts to Repower EU which requires MS to prioritize artificial and built surfaces, such as rooftops, facades, parking areas, brownfields as well as degraded land not usable for agriculture when identifying land areas necessary for the installation of plants for renewable energy production)





Article 7:

Definitions to be added:

- **"free-flowing rivers"** – suggestion: ***"a river or a naturally functioning stretch of a river without barriers to longitudinal and lateral connectivity"***
- **"barriers to lateral and longitudinal connectivity"** – suggestion: ***"an artificial structure that hinders the longitudinal or lateral connectivity of surface waters, including water, sediment, nutrients, matter and organisms"***

Key issues to be discussed:

- **importance of policy coherence** (e.g. to Repower EU-directive – possibility to create new barriers for hydropower plants)
- **necessity of the uniform criteria** for the inventories of barriers to longitudinal and lateral connectivity (7.1)
- clarification **of 25 000 km EU target** (contribution of member states, assessment method)
- consideration **of other measures** (e.g. how / to what extent the construction of a fish pass might contribute to targets set in Art. 7 – possibly complementing the targets with a sub-target for fish passes?)
- clarification of the term **"measures necessary to improve the natural functions of the related floodplains"**

Article 8 – Key issues to be discussed:

- target (trend reversion) might be too **ambitious**
- **data reliability** (e.g. the frequency of three years is being questioned)
- uncertainty about the expression **"satisfactory level"**
- clarification of the **monitoring method** (e.g. the question of the uniformity of the method across MSs, habitats/ecosystems intended to be covered; link to EU Pollinator monitoring scheme)
- **possibility to refer to the necessity of the reduction of the causes** of threat defined in the documents of EU pollinators initiative, including a link to the Directive on the sustainable use of plant protection products 2009/128/CE





Article 9:

Definitions to be added:

- **"high-diversity landscape features"** (Annex IV) – suggestion: ***"elements of permanent natural or semi-natural vegetation present in an agricultural context which in a long-term support biodiversity, do not receive fertilizer or pesticide treatment and are not under productive agricultural use"***
(also possible to specify concrete land uses that fall under definition)
- **"rewetting peatland"** – a possibility to build upon Ramsar Convention's "Global guidelines for peatland rewetting and restoration" or "Supplement to the 2006 IPCC Guidelines for National Greenhouse Gas Inventories: Wetlands" (Chapter I) – suggestion: ***"Deliberate action that aims to bring the water table of a drained peatland back to that of the original, peat-forming peatland. The peatland is rewetted when the mean annual water table is near or at the soil surface."***
- **"organic soil"** – possibility to build upon "Supplement to the 2006 IPCC Guidelines for National Greenhouse Gas Inventories: Wetlands" (Chapter I)

Key issues to be discussed:

- targets might be too **ambitious**
- specification of what is meant by **"restoration measures necessary to enhance biodiversity"** in agricultural ecosystems
- clarification which **agricultural areas are included** (a need for a definition?)
- relation to the **CAP** (harmonization of indicators)
- clarification of the **baseline** for the indicators
- question of the **significance of some indicators in relation to biodiversity of agricultural ecosystems** (added value of butterfly index to pollinators; setting soil carbon as a biodiversity indicator); possibly adding indicator(s) for determining soil status at a later stage, e.g. an indicator focussing on soil biodiversity
- uncertainty about the meaning of **'satisfactory levels'** (no reference values for the indicators named in Article 9 (2))
- uncertainty about proposed **methods** (3 years monitoring intensity, increasing trend)





Article 10 – Key issues to be discussed:

- specification of what is meant by "**restoration measures necessary to enhance biodiversity**" in forest ecosystems and link to the Art. 4
- Clarification of **which "forests" are affected** (e.g. in relation to plantations etc.)
 - a need for a definition ("forests" are defined i.e. in Art. 3(6) of the LULUCF)?
- clarification of **the scale** to which the measures are to be applied (to every theoretical forest hectare or more selectively)
- uncertainty about the meaning of '**satisfactory levels**' and the possibility of differentiating the "satisfactory level" depending on the forest type
- uncertainty about proposed **methods** (3 years monitoring intensity, increasing trend)
- detailed clarification of indicators "**share of forest with uneven-aged structure**" and "**forest connectivity**"

Annex IV:

- possibility of using **other methods** (established at the national level)
- **grassland butterfly index** – an option to establish the national species list in the same way as for farmland birds (Annex V); the relevance of species "considered to be characteristic of European grasslands"
- the condition to **exclude grazing in high-diversity landscape features** (distinction between grazing for productive agricultural use and grazing with respect to biodiversity?)

Annex V:

- possibility of **changes in the list of species** used for the common farmland bird index

Annex VI:

- possibility of using **other methods** (established at the national level)
- **forest connectivity** – the cited source contains methodology for determining Forest Area Density, not forest connectivity (doubt about the suitability of the index to assess forest connectivity)
- share of forests with **uneven-aged structure** - rationale for limiting the indicator to **forests available for wood supply**





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Articles 6 to 10 - Table

Proposed changes to the text based on the MSs comments

The following table covers the Articles 6-10 of the Proposal. It is based on the comments received by Member States until 14th October 2022 i.e. it focuses on those parts of the Proposal for which comments were received.

The **first column** is the original text of the Proposal.

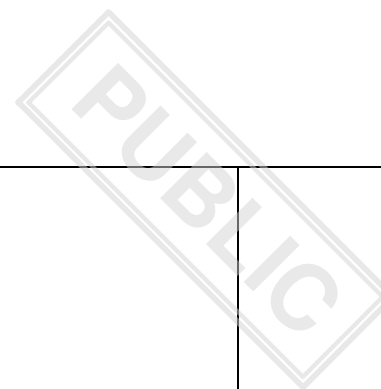
The **second column** contains the text proposal(s) and suggested changes from Member States with the revised, added text underlined and deleted text in ~~striketrough~~.

The **third column** provides PRES comments or views on suggested changes and justification for a decision to accept / decline at this stage.



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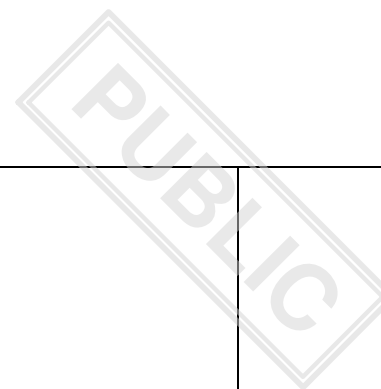
Original Text	Suggested changes in text based on the MSs comments	The PRES comments
<p>Article 6 Restoration of urban ecosystems</p> <p>1. Member States shall ensure that there is no net loss of urban green space, and of urban tree canopy cover by 2030, compared to 2021, in all cities and in towns and suburbs.</p> <p>2. Member States shall ensure that there is an increase in the total national area of urban green space in cities and in towns and suburbs of at least 3 % of the total area of cities and of towns and suburbs in 2021, by 2040, and at least 5 % by 2050. In addition, Member States shall ensure: (a) a minimum of 10 % urban tree canopy cover in all cities</p>	<p>"Member States shall ensure <u>pursue</u> that there is no net loss of urban green space, and of urban tree canopy cover by 2030, compared to 2021, in all cities and in towns and suburbs."</p> <p>"Member States shall ensure <u>pursue</u> that there is an increase in the total national area of urban green space (...)"</p>	<p>NO. The target in the Proposal is clear (ensuring no net loss); possible problematic elements in fulfilment of the target shall be resolved through methodology and possibly reflecting on the Member States specific conditions / datasets, not lowering the ambition to an intention.</p> <p>NO. See above.</p>



<p>and in towns and suburbs by 2050; and (b) a net gain of urban green space that is integrated into existing and new buildings and infrastructure developments, including through renovations and renewals, in all cities and in towns and suburbs.</p>		
<p>Article 7 Restoration of the natural connectivity of rivers and natural functions of the related floodplains</p> <p>1. Member States shall make an inventory of barriers to longitudinal and lateral connectivity of surface waters and identify the barriers that need to be removed to contribute to the achievement of the restoration targets set out in Article 4 of this Regulation and of the objective of restoring at least 25 000 km of rivers into free-flowing rivers in the Union by 2030, without prejudice to Directive 2000/60/EC, in particular Articles 4(3), 4(5) and</p>	<p>„Member States shall make <u>a plan to removing an inventory</u> of barriers to longitudinal and lateral connectivity of surface waters. <u>The plan should contain the goals for the intervention, the identification of the watersheds whose intervention is a priority and the respective action plan, as well as the respective</u> and identify the barriers that need to be removed to contributeion to the achievement of the restoration targets set out in Article 4 of this Regulation.....“</p>	<p>NO. This would imply an obligation to elaborate separate plan in relation to the fulfilment of goals set in Art. 7. If the proposal aims to specify the subject matter of the National Restoration Plan, it should be reflected in the Art. 12 (Content of the national restoration plans), Art. 12.2 (e) more specifically.</p> <p>In terms of the substance it is not clear to what extent the suggestion also covers an actual obligation to remove barriers since the goal is to make a plan, not to identify such barriers for their removal. More</p>



<p>4(7) thereof, and Regulation 1315/2013, in particular Article 15 thereof.</p> <p>2. Member States shall remove the barriers to longitudinal and lateral connectivity of surface waters identified under paragraph 1 of this Article, in accordance with the plan for their removal referred to in Article 12(2), point (f). When removing barriers, Member States shall primarily address obsolete barriers, which are those that are no longer needed for renewable energy generation, inland navigation, water supply or other uses.</p>	<p>".....Member States shall primarily address obsolete barriers, which are those that are no longer needed for renewable energy generation, inland navigation, water supply, <u>flood protection</u> or other uses."</p>	<p>clarification on the aim is needed, also concerning the "goal for the intervention".</p> <p>YES. Flood protection is a useful attribution to the article (even though they might be already covered by "other uses"). The functionality of barrier in relation to the flood protection could be emphasised as this might be an important element whilst assessing if obsolete or not.</p>
<p>Article 9 Restoration of agricultural ecosystems</p> <p>3. Member States shall put in place restoration measures to ensure that the common farmland bird index at national level based on the species specified in Annex V, indexed on</p>		



<p>... [OP please insert the date = the first day of the month following 12 months after the date of entry into force of this Regulation] = 100, reaches the following levels:</p> <p>(a) 110 by 2030, 120 by 2040 and 130 by 2050, for Member States listed in Annex V with historically more depleted populations of farmland birds;</p> <p>(b) 105 by 2030, 110 by 2040 and 115 by 2050, for Member States listed in Annex IV with historically less depleted populations of farmland birds.</p>	<p>(b) 105 by 2030, 110 by 2040 and 115 by 2050, for Member States listed in Annex IV <u>Annex V</u> with historically less depleted populations of farmland birds.</p>	<p>OK. Annex reference corrected.</p>
<p>Article 10 Restoration of forest ecosystems</p> <p>1. Member States shall put in place the restoration measures necessary to enhance biodiversity of forest ecosystems, in addition to the areas that are subject to restoration measures pursuant to Article 4(1), (2) and (3).</p>	<p>3. The non-fulfilment of the obligations set out in paragraphs 1 and 2 is justified if caused by:</p> <p><u>(a) force majeure;</u></p> <p><u>(b) extreme events;</u></p> <p><u>(c) insect gradations or other biotic factors affecting forest stability;</u></p> <p><u>(d) unavoidable habitat transformations which are directly caused by climate change; or</u></p>	<p>More discussion needed.</p> <p>PRES view: Derogation regimes in Art. 4(8) and 5(8) are justified since they are bound to "areas" that are subject to restoration measures / of occurrence of habitat types. Therefore this could be assessed on a local level.</p>



<p>2. Member States shall achieve an increasing trend at national level of each of the following indicators in forest ecosystems, as further set out in Annex VI, measured in the period from the date of entry into force of this Regulation until 31 December 2030, and every three years thereafter, until the satisfactory levels identified in accordance with Article 11(3) are reached:</p> <ul style="list-style-type: none"> (a) standing deadwood; (b) lying deadwood; (c) share of forests with uneven-aged structure; (d) forest connectivity; (e) common forest bird index; (f) stock of organic carbon. 	<p><u>(e) a project which will not have a negative impact on the environment.</u></p>	<p>However some of the aspects of suggested change do not fit the national scale at which the indicators are to be assessed (force majeure with a nation-wide impact / project with an impact on the forest ecosystem of a whole country).</p> <p>It is also questionable from the PRES point of view whether the Art. 10 indicators could be negatively affected by proposed events or pressures.</p> <p>Adding a derogation regime (or justification of non-compliance) would – in order to maintain certain level of coherence within the Proposal – have to be added to all indicator-based Articles (also 8, 9, possibly 6).</p> <p>Adding grounds for derogation might result in weakening the targets set in the Proposal.</p>
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