

FROM **NATURE ALERT** TO **ACTION**

THE HEADLINE FINDINGS OF THE 'FITNESS CHECK' OF THE NATURE DIRECTIVES, THE CHALLENGES IDENTIFIED AND THE STEPS REQUIRED TO ACHIEVE THE EU'S CONSERVATION OBJECTIVES BY 2020



BACKGROUND



The **Birds and Habitats Directives** (the 'Nature Directives') are widely recognised as the cornerstone of EU-wide efforts to halt and reverse the loss of biodiversity. Together, they establish a common legal framework for protecting rare or threatened species and habitats across their natural range within the EU via the designation of a **network of protected sites** and the establishment of a system of **species protection measures**.

In October 2013, the European Commission (the 'Commission') announced that it would be carrying out a 'fitness check' of these Directives as part of its Regulatory Fitness and Performance (REFIT) Programme in order to assess whether they were still 'fit for purpose'.

However, the Mission Letter issued to the newly appointed Environment Commissioner by the new Commission President in September 2014 appeared to pre-empt the findings of such a review, raising concerns that only one outcome could be expected: an "overhaul" and "merging" of these flagship laws and a lowering of the EU's environmental standards.

In 2015 stakeholders from all 28 EU Member States submitted detailed evidence to the 'fitness check', from business, civil society, governments and science. At the same time, over 520,000 citizens across Europe showed their support for these Directives by responding in record numbers to the Commission's public consultation.

Since then, both the European Parliament and the European Council have identified full implementation of the Nature Directives as key to achieving the targets of the EU Biodiversity Strategy to 2020.

The Commission is expected to publish their final conclusions on the 'fitness check' in a 'Staff Working Document' expected in late spring 2016, and to identify next steps in a subsequent Communication later this year.

Throughout the report the key messages are underpinned by quotes from the evidence submitted by stakeholders and governments consulted during the 'fitness check'. Where other sources have been used these are referenced.

ROSEATE TERN

In Europe, the Roseate Tern suffered a massive decline between the early 1970s and mid-1980s, particularly in northwest Europe. By then the population had fallen to less than 600 pairs in the northwest, with a further 1,000 pairs being recorded in the Azores. In 1987, a European Action Plan was drawn up for the species and, having protected all remaining breeding sites as Special Protection Areas (SPAs) under the Birds Directive Natura 2000 network, measures were introduced across all colonies to reduce the number of predators on the islands, designate reserves, and minimise human disturbance. By 2004 the total EU population was estimated at 1,600 pairs. It has since increased to around 2,300–2,800 pairs and is now considered to have once again have a secure population status in the EU.

PHOTO BY GLYN SELLORS



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KEY FINDINGS

The headline draft finding of the 'fitness check' is that the Nature Directives are 'fit for purpose': effective and efficient where properly implemented, essential for achieving EU and international environmental commitments and delivering a range of critical 'value added' benefits to the environment, the economy, and wider society.

2.1 EFFECTIVE WHERE IMPLEMENTED

Where fully and properly implemented, the Nature Directives have effectively reduced pressures on biodiversity, slowed declines and, with time, led to the recovery of many species and habitats. A key component of this success has been the creation of the 'Natura 2000' network of protected areas, as identified by peer-reviewed scientific evidence submitted to the 'fitness check'.



ESPO acknowledges the Birds and Habitats directives to be the cornerstone of European nature conservation legislation with a very significant and positive contribution over time in nature protection in Europe. It is clear that Nature legislation is crucial in order to achieve the EU biodiversity goals and commitments.

European Sea Ports Organisation (ESPO)

The Directives are the cornerstone of the EU Nature legislation and contribute to the long-term survival of Europe's most valuable and threatened species and habitats... They encourage operators to find solutions that combine economic development with environmental protection.

European Aggregates Association (UEPG)



2.2 NOT AN 'UNNECESSARY BURDEN' ON BUSINESS BUT FUNDAMENTAL TO THE SINGLE MARKET

Although there are inevitably costs associated with the implementation of the Nature Directives, these are substantially outweighed by the benefits. These Directives have helped to establish a more level playing field for businesses across the EU in line with the single market, providing legal certainty and preventing a 'race to the bottom' in terms of environmental standards.



In the majority of cases, the administrative burdens of complying with the Nature Directives are proportionate to the level of environmental risk and are necessary in order for the objectives of the Directives to be met.

Department of Energy and Climate Change (DECC), UK

By creating a single set of assessment procedures for biodiversity the Directives created a more level playing field for investors across Europe as they face similar challenges at permitting stage.

The Directives also create greater certainty for investors, as the rules are clear and fairly standardized across Europe.

Renewables Grid Initiative (RGI)



KEY FINDINGS

2.3 ESSENTIAL FOR SUSTAINABLE DEVELOPMENT

The Nature Directives represent an innovative and integrated approach to biodiversity conservation. Rather than preventing development, they simply ensure, on a case-by-case basis, that it is undertaken in a way that does not adversely affect sites and species of conservation concern. As such, they make a significant positive contribution to ensuring/facilitating sustainable development, a fundamental objective of the EU.



The Directives are very relevant to achieving sustainable development. They set the necessary legal frame for nature protection in EU, with respect to economic and social development. They are also flexible enough for developing infrastructure.
General Directorate for Environmental Protection, Poland

...the Nature Directives have played a key role in delivering sustainable development.
Department of Energy and Climate Change (DECC), UK



2.4 A KEY ELEMENT OF THE EU'S ENVIRONMENTAL FRAMEWORK

Working in harmony with each other and with other aspects of the EU's environmental legislation and policy framework (e.g. on water quality, environmental impact assessment, and climate change) the Nature Directives play a vital role in helping the EU to deliver on its environmental commitments, including its international commitments under the Convention on Biological Diversity. For example, the network of sites protected under the Directives is already playing an important role in helping species adapt to climate change.



For climate change biodiversity is the insurance to be able to cope with changing climate and ultimately the insurance for the survival of the European people.
**Ministry of Sustainable Development and Infrastructures
 Department of Environment, Luxembourg**

These Directives in combination with others (such as EIA, SEA, Mining Waste, Water Framework Directive) provide legal certainty that nature is included in the land planning phases and strategies are developed accordingly to protect and preserve nature and habitats in combination with various activities such as recreational, economical and/or industrial.
Industrial Minerals Association (IMA Europe)



2.5 DELIVER CONSERVATION BENEFITS BEYOND WHAT COULD HAVE BEEN ACHIEVED WITHOUT THEM

To be effective, a coordinated transboundary approach to biodiversity conservation is essential, particularly for migratory and wide-ranging species such as those in the marine environment. Thanks to the Nature Directives, the standards of protection for habitats and species of European importance have improved, funding for conservation has grown, and there has been a substantial increase in the extent and coherence of protected sites. EU-level action continues to be required given the continuing threats that nature faces.



It would not have been possible for this type of network to emerge in Europe or in France, on such a scale, without a European framework.
**Ministry for Ecology,
 Sustainable Development and Energy, France**



2.6 ENJOY OVERWHELMING SUPPORT FROM EU CITIZENS

The vast majority of EU citizens are seriously concerned by biodiversity loss and support EU-level action to address these declines. However, most consider that not enough is being done by the EU or by national governments to protect the environment. The overwhelming majority believe that greater efforts are required.



At least two thirds of respondents consider that nature protection areas such as Natura 2000 are very important in protecting endangered animals and plants (69%), safeguarding nature's role in providing food, clean air and water (67%) and preventing the destruction of valuable nature areas on land and at sea (66%).
**Special Eurobarometer 436,
 Attitudes of Europeans towards biodiversity**



KEY CHALLENGES

In spite of the successes delivered to date, the recent 'State of Nature in the EU' report made it clear that biodiversity across the EU remains in crisis; many of those species and habitats protected under the Nature Directives are in an unfavourable and/or deteriorating condition. The draft findings of the 'fitness check' suggest that the key challenges that remain are as follows:

3.1 INADEQUATE IMPLEMENTATION

Nature takes time to respond to conservation action. Nevertheless, progress in achieving the objectives of the Directives has been slower than expected, mainly due to delays in: transposing the Directives into national laws, identifying and designating sites (especially in the marine environment), setting clear conservation objectives, and implementing essential site conservation measures. These issues have been exacerbated by key knowledge gaps, failure to raise awareness or disseminate information about the Directives, and a lack of funding (see below).



...many Natura 2000 areas have still no management plans. Besides, the quality of existing management plans is heterogeneous. The conservation targets are often vague.

Asfinag Bau Management (GMBH), Austria



3.2 INSUFFICIENT INVESTMENT

A severe shortage of funding, and to a lesser extent difficulties in accessing those funding streams that are available, have had the biggest negative influence on implementation of the Nature Directives by holding back appropriate management of protected sites. In fact, the funding gap is so large that achievement of the objectives of the Directives will not be possible without a very significant increase in funding.



The lack of adequate funding is one of the reasons for slow implementation and low acceptance of the Directives.

The European Cement Association (CEMBUREAU)



3.3 AGRICULTURAL POLICIES

Land used for agriculture covers more than two-thirds of the EU's land surface, and unsustainable agricultural practices have been identified as the main driver of EU biodiversity loss (according to the 'State of Nature in the EU' report, those species and habitats related to agricultural ecosystems are doing worse than those related to other terrestrial and freshwater ecosystems, and the majority remain in unfavourable condition). The Common Agricultural Policy (CAP) has an essential role to play in addressing these declines, both within and outside the Natura 2000 network. However, despite the fact that 40% of the EU Budget is spent on agriculture, most of this money is poorly targeted and is not linked to the delivery of environmental benefits.



Under the CAP 2014-2020 new Pillar 1 greening requirements are not expected to benefit biodiversity while Pillar 2 funding for RDPs remains a fraction of the Pillar 1.

International Federation of Organic Agriculture Movements (IFOAM)



APPENINE BEECH FOREST

The Italian Apennines were once covered in large tracts of ancient beech forests with Silver Fir, *Abies alba*, European Yew, *Taxus baccata*, and European Holly, *Ilex aquifolium*. However, changes in forest practices, combined with the introduction of exotic tree species and livestock grazing, has led to their radical decline over the last 50 years. Having designated most of the remaining areas as Natura 2000 in the 1990s, the Italian authorities subsequently set about restoring what was left. Today, after years of targeted conservation effort, what is left of these habitat types has been assessed as having a favourable conservation status.

PHOTO BY K. STUCHELOVA/SHUTTERSTOCK



EURASIAN CRANE (GRUS GRUS)

The Eurasian Crane, *Grus grus*, has an extensive range stretching from Northern Europe to the far east of Russia. Its European breeding population underwent a major decline up until the 1980s, largely as a result of habitat loss and degradation due to the drainage of wetlands and the expansion of agriculture. However, thanks to the protection of over 2,800 important staging, roosting and wintering sites for the species under Natura 2000, the West European population has since undergone a large increase, from around 45,000 individuals in 1985 to around 300,000 in 2012.

PHOTO BY ONDREJ PROSICKY/SHUTTERSTOCK

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NEXT STEPS

The evidence presented above shows clearly that the Nature Directives are 'fit for purpose', but that problems with implementation, investment, and policy integration are holding back progress towards the achievement of their objectives.

BirdLife International, and its supporters across all 28 Member States, agree that the considerable legal and policy uncertainty that would arise from any proposed revision of the Nature Directives would undermine progress toward achieving the 2020 biodiversity targets and needlessly put at risk the stable regulatory framework that businesses and investors value and support.

A package of measures focussed on consistent transposition, implementation and enforcement of the Nature Directives, addressing priority data gaps, developing and sharing best practice and good guidance, and addressing the lack of resource and expertise within Member State governments and their nature conservation agencies would deliver better outcomes for both businesses and biodiversity. It is increasingly clear that urgent action to reform those EU policies and subsidies that are driving biodiversity loss is also essential.

Based on the evidence presented in November, we believe that the following measures are needed if the EU's biodiversity targets and the objectives of the Nature Directives are to be achieved.

4.1 BETTER IMPLEMENTATION

Inadequate and incomplete implementation of the Nature Directives has been identified by the 'fitness check' as a major barrier to achieving their objectives. The following actions are urgently needed:

Improving the evidence base and completing the network

A lack of evidence in key areas (e.g. regarding the status and distribution of protected species) is a barrier to effective implementation of the Directives and a major cause of regulatory uncertainty and investor risk; for example, it has held back progress in the identification and designation of Natura 2000 sites in the marine environment and made it hard to properly assess the potential impacts of proposed developments. Action to improve the evidence base and to complete the Natura 2000 network would deliver major benefits both for nature and for business.



Effectiveness of the Directives is hugely influenced by the availability of data, data sharing and sharing experience. It is also imperative that comprehensive monitoring is in place to enable greater understanding. Monitoring is key to successful future implementation of the Directives.

Department for Environment Food and Rural Affairs (DEFRA), UK



Providing a framework for better decision-making

Improving the knowledge base should also help Member States to develop a robust definition of favourable conservation status (FCS) for the species and habitats protected under the Directives and therefore clear conservation objectives and site management mechanisms. This is key to improving the effective and efficient implementation of basic species and habitat protection measures, in particular by making it easier to assess the impacts of proposed developments on protected species and sites. This needs to be complemented by action to develop and disseminate clearer and more consistent guidance at both Member State and EU levels, and to address the serious lack of capacity and/or expertise within many national nature conservation authorities (and other relevant authorities at Member State and EU levels) for implementing and enforcing the law. In this context, the European Commission has a particularly important role to play, as it is ultimately responsible for ensuring Member State compliance with the requirements set out in the Directives, including the promotion of education and general information on nature conservation.



The Birds and Habitats Directives work and can achieve their objectives if they are properly implemented.
The European Cement Association (CEMBUREAU)

Transmission system operators need predictable rules and clear indication on which zones are protected and which are not.
Renewables Grid Initiative (RGI)

Already many birdwatchers each year announce they will not be coming back to Cyprus once they find out about the situation with illegal bird trapping.
BirdLife Cyprus



4.2 INCREASED FUNDING

A significant increase in the EU LIFE fund, the only EU funding source dedicated to nature conservation (and equivalent to less than 1% of the EU budget), is a necessary but not sufficient step towards addressing the significant funding gap that currently exists. To really address the funding gap, much more needs to be achieved via the smarter use of existing EU funds, in particular those spent on agriculture and cohesion policy.



The conservation of natural ecosystems like the dune systems along the Danish coasts, the dynamic Wadden Sea, sites with spectacular wildfowl, seal and harbour porpoise populations and other natural areas are fundamental as conditions for developing Danish tourism.
Danish Nature Protection Agency



Greece is rich in biodiversity with around 30% of its terrestrial area included in the Natura 2000 network. As the country relies heavily on tourism (16% of GDP), we realise that nature and especially protected areas, are a major attraction.
Piraeus Bank

Overall the benefits brought by the directives outweigh the costs, but better prioritization is required to target funding towards species and habitats that require most urgent conservation actions.
Federation of Associations for Hunting and Conservation of the EU (FACE)



4.3 TAKING ACTION IN THE WIDER COUNTRYSIDE

A coordinated and consistent policy response to the pressures and threats driving biodiversity declines, both within Natura 2000 sites and across the wider countryside, requires better integration of biodiversity considerations across all relevant areas of EU law and policy (e.g. agriculture). Steps to address this, including fundamental reform of the Common Agricultural Policy to address biodiversity declines in agricultural landscapes, and full implementation of the recent changes to the Common Fisheries Policy, are therefore a prerequisite for tackling the crisis facing nature. At the same time, the proper transposition, implementation and enforcement of key articles in the Directives relating to the ecological coherence of the Natura 2000 network via action in the wider countryside is urgently required.



Without sweeping reform of the CAP, conservation objectives under the Birds and Habitats Directives, particularly in the wider countryside, are unlikely to be met.
Joint LINKs, UK

To conserve biodiversity, it is necessary not only to implement the Birds and Habitats Directive, but also the National Ecological Network and agri-environmental measures.
Dutch ministry for Economic Affairs

Recognises that the 2013 reform of the CAP aims at further integrating biodiversity conservation requirements into Direct Payments and Rural Development measures... Urges the Member States to fully use all the instruments that the CAP offers to effectively contribute to protecting and enhancing biodiversity and ecosystem services and achieve policy coherence and sustainable agriculture.
Council Conclusions on The Mid-Term Review of the EU Biodiversity Strategy to 2020



4.4 EUROPE'S CALL TO ACTION

Both the European Parliament and the European Council have identified full implementation of the Nature Directives as key to achieving the targets of the EU Biodiversity Strategy to 2020. The European Commission's response to this call to action will decide the future of Europe's biodiversity.



***Urges** EU leaders to listen to the half a million citizens who have called for our strong nature protection laws to be upheld and better implemented... **Opposes** a possible revision of the Nature Directives because this would jeopardise the implementation of the Biodiversity Strategy, would bring about a protracted period of legal uncertainty, with the risk that it would result in weakened legislative protection and financing, and would be bad for nature, for people and for business; emphasises, in this connection, that the ongoing refit check of the Nature Directives should focus on improving implementation.*

European Parliament Report on The Mid-Term Review of the EU Biodiversity Strategy (2015/2137(INI))

***Confirms** that the Birds and Habitats Directives are essential components of European nature protection and that their effectiveness depends on consistent implementation and adequate financial resources, as well as on the integration of biodiversity into other sectoral policies and **reiterates** that full implementation of the Birds and Habitats Directives is key to achieving the targets of the Strategy... **Underlines** the importance of maintaining the goals and of not lowering the nature protection standards of the Birds and Habitats Directives in order to achieve the 2020 headline target for biodiversity and of maintaining legal certainty for all stakeholders, including businesses and Member States' authorities.*

Council Conclusions on The Mid-Term Review of the EU Biodiversity Strategy to 2020

...it is possible to have an ambitious environmental policy without compromising an economy's productivity, and conversely, lowering environmental standards does not lead to economic revival.

Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety, Germany





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