EU Nature Restoration Law
Stakes from an Atlantic regional perspective

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1. The proposal in brief
1.1. What is the objective of the proposal?

In the observation of important biodiversity loss and degradation of ecosystems in the EU, the European Commission came out with the proposal of a regulation on nature restoration in July 2022, aiming at contributing to long-term and sustained recovery of biodiversity across the EU land and sea areas and to climate mitigation and climate adaptation objectives.

Based on binding targets and obligations which should cover at least 20% of the EU’s land sea areas by 2030, and ultimately all ecosystems in need of restoration by 2050, the proposal would complement existing legislation and therefore strengthen the implementation of the Birds and Habitats Directives, Marine Strategy Framework Directive (MSFD), and the Water Framework Directive by providing clear deadlines, targets, and a broader vision beyond Natura 2000 network.

1.2 What are the targets to achieve?

For both restoration of terrestrial, coastal and freshwater ecosystems, and marine ecosystems, Member States are to draw and implement measures on at least 30% of the area of each group of habitat types listed that are not considered in good condition by 2030, on at least 60% by 2040, and 90% by 2050. Member States are responsible for the determination of the most suitable areas for restoration measures.

Additional article is set for rivers, demanding Member States for the removal of barriers and thus improve connectivity, with a total objective of 25,000km rivers into free-flowing rivers by 2030.

As for agricultural ecosystems, in complement to the expectations on terrestrial, coastal and freshwater ecosystems, Member States are expected to reach percentage targets for organic soils constituting drained peatlands on at least:
- 30 % of such areas by 2030, of which at least a quarter shall be rewetted;

1 Listed in Annexes I and II.
2 Article 3, (4). “’good condition’ means a state where the key characteristics of an ecosystem, namely its physical, chemical, compositional, structural and functional state, and its landscape and seascape characteristics, reflect the high level of ecological integrity, stability and resilience necessary to ensure its long-term maintenance.”
- 50% of such areas by 2040, of which at least half shall be rewetted;
- 70% of such areas by 2050, of which at least half shall be rewetted.³

They should also achieve an increasing trend in a list of indicators⁴ set by the European Commission on grassland butterfly, stock of organic carbon in cropland mineral soils, and share of agriculture land with high-diversity landscape features. Specific targets according to the Farmland Bird Index (FBI) are also set by the European Commission.

In terms of numbered targets for urban ecosystems, Member States shall ensure no net loss of urban green space and urban tree canopy by 2030, but also reach an increase of total national area of urban green space of 3% by 2040, and 5% by 2050, with a minimum of 10% urban tree canopy in all cities, towns and suburbs by 2050.⁵

As for forest ecosystems, Member States are not expected to reach percentage targets for the restoration measures but to achieve an increase trend at national level in indicators set by the European Commission⁶.

The European Commission did not require percentage/index targets for the restoration of pollinator populations. However, Member States are required to reverse the decline by 2030 and set different measures to improve collection of data and monitoring.⁷

1.2 How are EU Member States expected to reach these objectives?

EU Member States are expected to submit National Restoration Plans (NRPs) to the European Commission within two years of the Regulation coming into force, explaining how they will deliver on the targets. They will also be required to report their progress to the European Commission at least every three years and review their plan every ten years.

2. What regions should watch out for?

Consideration of regional realities in the design of the National Restoration Plans (NRPs)

Member States are responsible for the preparation of the NRPs and related preparatory monitoring and research to identify restoration measures. Although the proposal states the importance of optimising the ecological, economic and social functions of ecosystems as well as their contribution to the sustainable development of the relevant regions and communities⁸, no framework for dialogue with regional authorities in the preparation of the plan is secured by the proposal. Among the considerations to be included in the NRPs, synergies with national adaptation strategies or plans are required, with no stated consideration of the existing regional plans. It may be noted that regional authorities are not mentioned in the lists of stakeholders consulted prior to the publication of the proposal, although non-exhaustive.

³ Article 9, (4).
⁴ Annex IV
⁵ Article 6.
⁶ List of indicators available in Annex VI
⁷ Article 8.
⁸ Article 11, (9).
For the Atlantic Arc Regions, this lack of consideration is problematic, in a context where regions have competences and expertise in biodiversity preservation.

In France, regions can manage Regional Nature Reserves, develop regional calls for projects on nature restoration, and implement regional biodiversity strategies co-led with national government (e.g. Néo Terra, Nouvelle Aquitaine). Their Regional Schemes for planning, sustainable development and territorial equality (SRADDET) must include biodiversity restoration. In Spain, autonomous regions may manage national parks, and regions are also in charge of drawing up their own strategies for biodiversity conservation (e.g. Biodiversity Strategy of the Basque Country 2030). In Portugal, regions can be in charge strategic environmental assessment for future plans, programmes or projects and have shared competencies in the supervision of National Ecological Reserves (REN) which areas are object to special preservation. In Ireland, Northern and Western Regional Assembly had conducted the Natura Impact Report to assess progress on the EU Habitats Directive and Birds Directive, which results were aimed to be reflected in the Regional Spatial and Economic Strategy 2020-2032.

- Considering the two-year deadline to submit the NRPs and the lack of power from the European Commission to reject submitted NRPs or set obligations for improvements, dialogue with regional authorities may be strengthened to ensure future implementation of coherent measures with local and regional realities.

- The proposal foresees European Commission’s support to Member States upon request through the Technical Support Instrument, expected to provide tailor-made technical support to design and implement reforms. The technical support involves, for example, strengthening the administrative capacity, harmonising the legislative frameworks, and sharing relevant best practices. Opening the Technical Support Instrument to regional authorities could be beneficial to improve capacity-building, as regions would become implementors of the regulation.

**Governance and use of ERDF**

Among the related policy and funding to support the implementation of the NRPs, the European Commission targets the EU Regional Policy and the use of European Regional Development Fund (ERDF) and Cohesion fund. Moreover, the 2021-2027 period is mentioned for the implementation of the NRPs, where most operational programmes and related objectives have already been submitted.

- Considering the role of regional authorities in the management of ERDF funding, the ambition to use this envelope to fund NRPs measures to be set by Member States may endanger the subsidiarity principle at the core of Cohesion policy. If the ERDF is considered as an instrument to fund the implementation of NRPs, ERDF and Cohesion Policy may, in the worst case, be diverted from initial objectives and “at best” be more complex to use. This point may be a further argument to request smooth coordination with regional authorities in the design of the NRPs.
Co-existence with other EU Policies: risks of deadlocks? Focus on Fisheries and Energy

Through the choice of a regulation, the European Commission intends to give a new impetus to several EU environmental legislations considering lack of deadlines, targets and specific measures as an obstacle for effective results. However, the proposed regulation may also affect other EU policies that are not actively targeted by the proposal, such as the Common Fisheries Policy or recent developments on Energy.

Fisheries

When preparing their national restoration plans, the proposal requests Member States to take the conservation measures adopted under the common fisheries policy (CFP) into account, where applicable. The proposal also demands Member States to seek coherence and complementarities where relevant.

- Setting no targets or specific measures for the CFP and therefore room for flexibility, restoration measures may clash with current fisheries activity (e.g., impact of certain vessels on habitats). Particular attention should be paid to the co-existence with the CFP when drafting the NRPs to avoid complexification of both legislative frameworks and/or a deadlock and thus ineffective implementation. Therefore, knowledge and dialogue with regional authorities, local stakeholders, and professionals of the sea should be highly valued in the design of the NRPs to ensure coherence and acceptance of the future restoration law.

- The proposal also recalls the MSFD Directive, which requires Member States to cooperate bilaterally and within regional and sub-regional cooperation mechanisms, including through regional sea conventions, as well as, where fisheries measures are concerned, in the context of the regional groups established under the common fisheries policy. Effective cooperation at regional and sea-basin level should be ensured, framed, and monitored.

- As part of the EU Biodiversity Strategy 2030, the European Commission will release an Action Plan to conserve fisheries resources and protect marine ecosystems, which will also connect with the Birds, Habitats and MSFD Directives, with measures to be set in all marine protected areas by 2030. In its response to the public consultation on the roadmap, the CPMR already questioned the added value of a new action plan compared to existing legislation, and feared duplication of measures and incapacity for implementation in the short-term. Restoration and protection measures being closely connected, the Nature Restoration Law may pile up on this initiative as well, with risks of duplication and setting further pressures on the sector, and therefore set unachievable targets in the set timeline.

Renewable Energies

In the recent years, the EU has set a speeding focus on the deployment of renewable energies. With the revision of the Renewable Energy directive, the European Commission proposed an increased target for 2030 to 32% (2018), to 40% (2021), to 45% (2022, RepowerEU). Most

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recently in RePowerEU, key actions were foreseen to enable shortened and simplified permitting process, notably through the creation of a “go-to areas\(^{10}\)” for renewables to be put in place by Member States. Moreover, the European Commission also released a dedicated strategy for EU Offshore Renewable Energy, with the aim of encouraging their development, underlining the Atlantic’s high natural potential for both bottom-fixed and floating offshore wind energy and good natural potential for wave and tidal energy.

- EU initiatives to encourage energy diversification through renewables, notably via the creation of go-to-areas, may clash with the ambition to expand restoration areas at the same time. Designation of areas should be coordinated, and the European Commission may need to ensure that reaching both targets on Energy and Restoration is realistic and achievable within the set timeframes.

### 3. EU Institutional steps

#### European Council
EU environment ministers held a policy debate on the proposed regulation at the Environment Council on 20 December 2022, focusing the discussion on the issues of ambition and the non-deterioration principle.

Among the four EU Atlantic countries, shared concerns were raised:
- **The 2-year timeframe for NRPs submission.** Issues were raised on the lack of data, allocation of human and financial resources. *(Ireland, Portugal, Spain)*
- **Ensuring coherence with other EU Policies,** with highlights on energy (creation of go-to areas, simplification, permitting vs. biodiversity protection). Concerns were raised by Spain on the potential of the regulation to slow down green transition. *(Portugal, Spain)*
- **Funding restoration.** Concerns were raised about the financial resources required to implement the regulation. Ireland suggested the European Commission to produce a paper on the identification of EU funding. *(Ireland, Spain)*
- **Recognition of the diversity across Member States,** which may cause more efforts from countries with bigger biodiversity *(Ireland, Spain)*.

More specifically, Spain addressed marine ecosystems, which complexity may require a different approach. Ireland raised concerns about the impact of the regulation on urban planning and accommodation challenges in the country. France expressed full support to the regulation with no concerns raised.

For now, work is currently ongoing at working party level.

#### European Parliament

- **MEP César Luena (Spain, S&D) has been appointed as rapporteur for ENVI.**

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\(^{10}\) Renewables go-to area’ means a specific location, whether on land or sea, which has been designated by a Member State as particularly suitable for the installation of plants for the production of energy from renewable sources, other than biomass combustion plants (COM/2022/230 final). Fast track permitting and planning time would be reduced in these areas.
Among the messages of the draft report, published on 6 December 2022, MEP César Luena (S&D, Spain) proposes to increase the EU overarching restoration objective from at least 20% to 30% of the EU’s land and seas by 2030, in line with European Parliament’s resolution on the EU biodiversity strategy for 2030. He also suggests setting higher targets for the restoration of terrestrial, coastal, freshwater and marine ecosystems, for urban ecosystems, and for the rewetting of drained peatlands in agricultural use. He calls for rules on derogations to be clarified, and new provisions introduced regarding public information and participation in the national restoration plans. He stresses the importance of an inclusive debate at national and regional level, as biodiversity conservations requires the increased participation of those implementing measures.

MEP César Luena’s draft report was first presented at ENVI Committee on January 12, 2023.

- **MEP Caroline Roose (France, ALE) has been appointed as rapporteur of associated committee PECH.**

Among the messages of the draft report, MEP Caroline Roose proposes amendments for higher targets for marine ecosystems, with distinction between passive and active restoration. The report encourages the use of passive restoration for marine ecosystem, with active restoration measures as a complement. She calls for an enlargement of the list of marine species’ habitat with inclusion of more endangered species but also commercial species’ habitats, namely the European hake, Atlantic cod, and European eel. She also demands more transparency, with draft and evaluation of the NRPs made available to the public. She stresses the necessity for common work between Member States, suggesting additional joint recommendations along the NRPs. Synergies with marine spatial plans and mentions of marine protected areas objectives are also underlined.

MEP Caroline Roose’s draft report was first presented at PECH Committee on November 30, 2022. On January 24, 2023, amendments tabled were discussed in committee in the view of a compromise text. Among the main ones addressed:

- Rejection of the whole proposal (MEPs Herbst, Mato, José Millan Mon, Ruissen)
- Rejection of the non-deterioration principle (MEPs Huitema, Bilbao Barandica, Christensen, Ruissen)
- Rejection of objectives to 2050 (MEPs Millan Mon, Mato, Conte, Casanova, Tardino, Grant, Herbst)
- Questioning of the choice of a regulation instead of a directive (MEPs Millan Mon, Mato Van Dalen)
- Further evaluation of the socio-economic impacts. (MEPs Conte, Casanova, Jamet, Tardino, Grant, Millan Mon, Mato)
- Compensatory measures for sectors impacted by loss of income. (MEPs Millan Mon, Mato)

- **MEP Anne Sander (France, PPE) has been appointed as rapporteur of associated committee AGRI.**

Among the main messages of the draft report, MEP Anne Sander strengthens mentions about food security and maintenance of the productivity of these areas, with highlights on their socio-economic importance. She underlines the need to involve stakeholders, notably foresters and farmers in the creation of the NRPs, and also proposes a local impact study involving local authorities and stakeholders about rivers. In terms of targets, less coverage is foreseen by her

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11 In the report, passive restoration is defined as restoring an ecosystem by removing sources of disturbance, therefore allowing natural processes to occur undisturbed from human pressures in an ecosystem and allowing the long-term natural recovery towards or to good condition, where active restoration would implement measures.
proposal for forest ecosystems, and targets on the rewetted areas are divided by two (15% by 2030, 25% by 2040, 35% by 2050). She also proposes a mention on ensuring adequate funding available to fund these measures, and recalled the European Parliament call to assess progress in achieving conservation status for species at the level of biogeographical regions and/or EU-wide populations for livestock farming and large carnivores in Europe.

The draft report was first presented at AGRI Committee on January 30, 2023.

**European Committee of the Regions**

Roby Biwer, Member of Bettembourg Municipal Council (Luxembourg, PES) has prepared a draft report. Among his messages, he calls for inclusion of LRAs and managing authorities in the drafting process of NRPs, adequate and earmarked financial resources for restoration, and capacity building support through the Technical Support System. Final discussion and approval are foreseen for the CoR plenary session of 8-9 February 2023.

**Conclusion - Nature Restoration Law: an impression of legislative accumulation?**

Although the European Commission aims at complementing existing policies with bidding targets, deadlines and measures, this new addition to the overall EU environmental policy and latest strategies released may be felt as an extra legislative and administrative burden setting additional pressures within short timeframes.

Laying down high ambitions for restoration, **clarity on the coherence between all environmental policies** and expectations will be needed so as to avoid duplication of legislation. This will also allow future implementors of the regulation, such as regional authorities, to be fully aware of the ins and outs of the regulation and resources which will be required on their end. Moreover, the European Commission may also formulate the **consistency and coherence with other EU policies beyond the ones targeted** by the proposal, so as to avoid freezing the developments and targets of one or another legislation in the worst-case scenario.

In order to draw the most accurate measures for the regulation, **National Restoration Plans should be designed in close cooperation with regional and local authorities and civil society.** Regional authorities have existing competencies and are already committed to biodiversity protection and restoration, which should be considered when drafting the plans. Dialogue with public authorities and civil society may also contribute to the acceptance of the future law. However, the 2-year deadline for the submission of the NRPs may not allow sufficient time and resources for proper consultation and data collection, and funding resources for implementation will still need to be better identified to match the expectations and safeguard the governance and initial objectives of EU programmes such as ERDF.

The European Commission justified the choice of a regulation as a mean to set binding targets, deadlines, and measures to respond to under-performance of pre-existing legislations. However, their performance may have been affected by other factors than a lack of common bidding legal force. In the Evaluation of the EU Biodiversity Strategy 2020 and Follow-Up, negative outcomes have been identified on related legislations, such as negative impacts on economic activities due to over-restriction\(^\text{12}\), conflicts between biodiversity-related measures

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\(^{12}\) Expressed by Economic actors active in Natura 2000 sites.
in farmlands and farm income, and overall, **the expression of unconsidered socio-economic impacts**. In light of these conclusions, **deeper reflection on improving existing legislation may be prioritised before risking to rush additional legislation.**

**Questions to AAC members**

1) Do you think the Nature Restauration law will lead to concrete socio-economic impacts on the coastal communities? If so, could you quote some examples?

2) Are you aware of possible sensitive marine areas and habitats within your territorial waters where fishing or renewable energy production activities (or other maritime activities) are currently taking place?

3) Is your region already aware of the cartography of the sensible maritime habitats identified by the European Commission and have you already crossed these areas with the data on maritime economic activities?

4) Do you feel an accumulation and/or lack of comprehensive articulation of EU legislations? How would you assess the strengths and weaknesses of current EU policies and tools (the EU biodiversity strategy, the Marine Strategy Framework Directive, the Common Fisheries Policy, etc.)?

5) Could you tell us something on the political commitment and action of your region on this specific policy area?

6) Do you think regional authorities should be involved in the preparation of the National Restoration Plans, in the consideration of the use of ERDF funding and their competences in the matter?

7) Looking at the implementation phase, how regions should be involved and what would be the main administrative and funding barriers to fully implement future provisions of the Nature Restoration Law?