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EU nature legislation

Green position ahead of the orientation debate of the Commission college on the follow-up to the Fitness Check of the Birds and Habitats Directives

State of play

The Birds and Habitats Directives form the cornerstones of the **EU's legislative framework on nature conservation** and are making a major contribution to halting the loss of biodiversity and ecosystem services.

The Commission is currently evaluating the Directives to see whether they are 'fit for purpose'. However, the fitness check process has been substantially delayed and the final outcome document has not yet been made publicly available.

In a recent letter of Mr Schultz, president of the European Parliament urged Mr Juncker, president of the European Commission to clarify as soon as possible the position of the Commission on these directives, to conclude of the refit exercise and to publish the report on the results of the fitness check without delay.

European Parliament's position – shared by the majority of EU Member States incl. Germany, Poland, Spain, France, Slovenia, Italy, Croatia, Luxembourg, Romania, Greece, Belgium, Czech Republic, Slovakia, Bulgaria and Hungary – on the fitness check of the nature legislation is firm: a revision of the directive is not needed.

The open public consultation of the fitness check. which generated an unprecedented level of interest and mobilised more than half a million people, also underlined that the EU Nature Directives are fit for purpose and should not be revised. The Commission's own evaluation study to support the Fitness Check also indicate that the Directives – if fully implemented - are effective in protecting the nature, fit for purpose, provide a balanced framework for taking into account the diverse interests of stakeholders while respecting nature conservation objectives. The benefits of implementing the Directives far exceed the costs.

The State of the Nature report clearly shows that the Nature Directives are managing to 'hold the line' across a significant part of Europe's biodiversity and that targeted and appropriately financed efforts produce positive results.

However, as Mr Schultz also highlights, the current inaction over the review of the EU's nature directives is jeopardising the achievement of the EU biodiversity targets.

The Commission's evaluation study clearly states that progress in implementation has been slower than anticipated in the development of site conservation measures, including management plans. Factors that have constrained progress include the impacts of certain incentives and subsidies in other policy sectors, the degree of political support for the Directives, inadequate enforcement, inadequate stakeholder involvement, knowledge limitations, limited expertise and capacity of nature authorities and other actors involved in the implementation as well as inadequate financing.

With regard to the above, any future action needs to focus on the full and effective implementation of the Nature Directives.

Greens ask the European Commission:

- not to revise the Nature Directives.

Any revision would be counterproductive, as it would create legal uncertainty and put any further progress in the state of species and habitats at risk

- to correct implementation and enforcement deficits

The State of Nature report, also used in the refit process makes it clear that EU enforcement action has been instrumental in improving the implementation of the Nature Directives. However, more action is needed to ensure full compliance.

The relevant national or regional authorities in various Member States of the EU are insufficiently equipped and resourced, resulting in huge inspection deficiencies – and continuously growing pressure on the biodiversity and the environment as a whole. The recently launched Environmental Implementation Review with country specific reports may provide a new tool for screening and detection of non-compliance– yet this will not result in the much-needed improvement of environmental inspections.

Thus, the Commission should not only come up with guidelines (as promised for 2018), but to propose a legally binding framework on environmental inspections, which would introduce minimum standards for environmental inspections in the Member States. Besides, more oversight capacities should be granted to the Commission, together with the use of a variety enforcement tools, including its own inspectors to investigate infringement cases.

We also need legally binding provisions in order to improve access to justice. Not only are Member States' practices subject to criticism, the EU itself is in breach of the Aarhus Convention as also flagged by a UN Committee as well as a number of NGOs: the current interpretation of the European Court of Justice is restrictive, blocking access of citizens and NGOs to the courts in cases where better implementation and enforcement is at stake. The Commission should therefore propose an all-embracing Access to Justice Directive.

- to ensure better policy integration

Improved implementation of the Nature Directives is key to counter biodiversity degradation. However, this alone will not lead to achieving the EU 2020 biodiversity targets. Additional, substantial and continuous efforts are needed, as also called for in recent resolutions of European Parliament.

The directives work in conjunction with other EU environmental legislation, mutually affecting each other.

Inter alia, agricultural, energy and climate policies as well as all land use change and infrastructure developments have a huge impact on biodiversity. These policies must be adjusted - all environmentally harmful subsidies must be seized and the policies must be fitted with robust nature conservation and environmental safeguards to ensure that the developments do not undermine ecosystems and their services but rather help improve the status of species and habitats of European importance and the coherence of the Natura 2000 network.

Besides, there is room for improvement regarding the Environmental Liability Directive, too. The recent evaluation of ELD shows that the transposition has not resulted in a common understanding and a level playing field but in a patchwork of liability systems. There is a need to redefine or clarify key concepts such as environmental damage and significance thresholds, and introduce a high-level, harmonised mandatory financial security together with an EU-wide industrial disaster risk-sharing facility to ensure that the polluter pays principle is fully respected.

Large scale ecosystem restoration as well as a green infrastructure projects are also important to stop any further fragmentation and loss of habitat connectivity, Thus, Commission should present its Trans-European Network of Green Infrastructure (TEN-G) Initiative as soon as possible, by 2017 at the latest, as also requested by the European Parliament.

Member States and their authorities need technical assistance and capacity building in all the above mentioned areas.

- to mainstream biodiversity in the EU budget

The Commission should make sure that funding gaps for nature conservation area closed and biodiversity is mainstreamed in the EU budget beyond 2020.

Therefore the next Multiannual Financing Framework should contain biodiversity and nature conservation earmarks in each individual EU funding instrument, with particular attention to those of the common agricultural policy and the cohesion policy. Besides, we need dedicated funding stream to sufficiently cover biodiversity investment needs – this could imply the expansion of the LIFE programme (and the natural capital financing facility).

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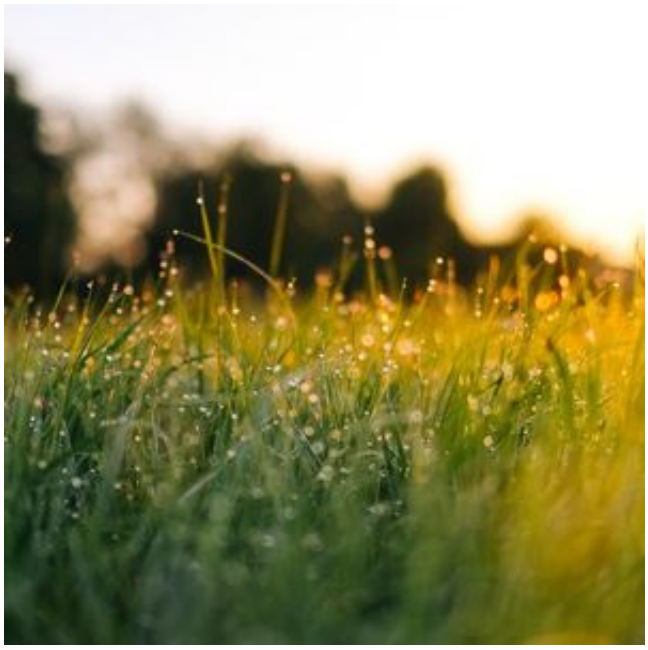
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