

Nature Conservation in Europe: Approaches and Lessons

Annex 2. The Nature Directives Fitness Check

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Under its commitment to Better Regulation, the European Commission launched in 2014 a comprehensive evaluation of the Nature Directives, called a 'Fitness Check'.¹ Specifically, this assessed the Nature Directives' effectiveness, efficiency, relevance, policy coherence and EU added value, based on a major review of evidence from Member State reporting information, published literature and consultations with national authorities, stakeholders and the wider public (through an online survey). The reason why the Commission chose to carry this out is uncertain and subject to some speculation. The official Commission view is that it was an appropriate time to carry it out, and that there were some concerns that the Nature Directives were not achieving their objectives – so this was a genuine attempt to improve the situation. However, there was also widespread rumours shortly before the announcement that a number of Member States were unhappy with the Directives and thought that they were constraining economic growth. This concern was further heightened amongst NGOs by the mandate letter² from President Juncker to Karmenu Vella (Environment, Maritime Affairs and Fisheries Commissioner), because a focal action was to assess the potential for merging the Birds and Habitats Directives into a more modern piece of legislation. This seemed to pre-empt the results of the Fitness Check, which was ongoing at the time.

Such concerns stimulated the public consultation, and led to twelve campaigns that aimed to encourage and guide responses amongst their targeted audience. The largest and most effective of the campaigns was the nature NGOs' Nature Alert campaign, which promoted a largely positive view of the Directives (but raised concerns over implementation). The Aktionsbündnis Forum Natur campaign, which represented agriculture, forestry, hunting and fishing interests, was also influential, and promoted a more critical view of the Directives. As a result of the campaigns (and the use of social media etc), the consultation generated an unprecedented level of interest with 552 472 replies being submitted (although many only responded to part of the questionnaire). To date, this is by far the largest response received by the Commission to an on-line consultation. In terms of the overall responses, the majority were very supportive of the need for the Nature Directives, their main objectives and measures; but it is very difficult to draw objective conclusions from the exercise due to the clearly significant but unmeasurable influence of the campaigns. Nevertheless, with its sheer number of responses, the conservation community had provided a very clear warning to politicians and decision makers that any proposed opening up of the legislation, with the potential weakening of the Directives, as a result of the Fitness Check would result in a major public outcry. It is also important to note that a number of non-conservation stakeholder groups (e.g. some hunting organisations, and industries) were against changes to the Directives, due the disruption and uncertainty it would cause.

The supporting evaluation study for the Fitness Check, by Milieu, IEEP and ICF (2016), was completed in March 2016, but it and the Commission's official Communication was not released until December 2016 (European Commission, 2016). The reason for this delay is uncertain, but it is widely believed that it was because the evaluation study and the Commission's draft communication were considered by some high-level officials to be too positive, and not in accordance with President Juncker's instruction to revise the Directives. However, in the end, the published Communication closely reflected the findings of the evaluation study and did not call for the Nature Directives to be opened up for legislative changes.

The evaluation study and Commission concluded that, as part of broader EU biodiversity policy, the Nature Directives are fit for purpose, are effective where properly implemented and are making

¹ https://ec.europa.eu/environment/nature/legislation/fitness_check/docs/Mandate%20for%20Nature%20Legislation.pdf

² https://ec.europa.eu/archives/juncker-commission/docs/vella_en.pdf

progress towards achieving their objectives, especially in relation to the general protection of most species and the establishment of the Natura 2000 network on land. Despite the slow progress and other problems with implementation, important evidence of the benefits of the Birds Directive has come from scientific studies of bird population trends in Europe, which have showed that the Directive has had a measurable positive impact on its targeted species (Donald *et al.*, 2007, Sanderson *et al.*, 2015).

However, much more needed to be done, and progress had been particularly insufficient with the identification and designation of marine Natura 2000 sites, the establishment of appropriate conservation measures on Natura 2000 sites and actions to improve connectivity amongst Natura 2000 sites and maintain species and habitats in the wider environment. To achieve their objectives and realise their full potential a substantial improvement in the implementation of the Nature Directives was required. In particular, the following were identified by Milieu, IEEP and ICF (2016) in the supporting study as the main factors affecting implementation:

- First and foremost, the availability of public funding. While the Nature Directives undoubtedly increased the availability of EU funding, there is strong evidence that this is insufficient and/or difficult to access, both with regard to maintenance measures needed to avoid deterioration, and for restoration or other measures aimed at improving the status of species or habitats.
- The degree of political support for the Directives through its effects on funding and key implementation decisions, such as the ambitions of the Natura 2000 network.
- Uncertainty regarding the implications of some legislative provisions, which has led to numerous delays in implementation and conflicts with stakeholders (although such problems have become much less common).
- Awareness of the implications of the Nature Directives for, and among, landowners and local communities.
- Levels of stakeholder cooperation (e.g. partnerships between nature authorities and nature conservation organisations and engagement with businesses).
- The level of ecological knowledge, such as the distribution of EU protected species and habitats and their ecological requirements.
- The use of management plans and whether they are developed according to best practice principles.
- The degree to which national and regional conservation objectives have been developed, as their absence frequently constrained strategic and site-level management planning.
- The existence of payments that encourage damaging agricultural, forestry and fishery practices, making it difficult to secure appropriate management agreements with landowners.
- The degree of integration with spatial planning and impact assessment procedures.
- Levels of expertise, capacity and standards in environmental authorities.
- Levels of enforcement of protection measures (and penalties), e.g. in relation to hunting and pollution incidents.

As a follow up to the Fitness Check, the Commission developed an *EU Action Plan for Nature, People and the Economy* (European Commission, 2017a), to improve the implementation of the Directives, their coherence with socio-economic objectives and engagement with national, regional and local authorities, stakeholders and citizens. The plan contained 15 actions under the following four priority areas:

- Priority A: Improving guidance and knowledge and ensuring better coherence with broader socioeconomic objectives.
- Priority B: Building political ownership and strengthening compliance.
- Priority C: Strengthening investment in Natura 2000 and improving synergies with EU funding instruments.
- Priority D: Better communication and outreach, engaging citizens, stakeholders and communities.

The actions, further described in a separate Staff Working Document (European Commission, 2017b), included commitments for more than 100 sub-actions for Member States, the Commission, the Committee of the Regions, and other stakeholders, depending on the activity.

References

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