

DIRITTI COMPARATI

Comparare i diritti fondamentali in Europa

THE NATURE RESTORATION REGULATION: PROSPECTS FOR REVIVING EUROPE'S BIODIVERSITY

Posted on 7 Marzo 2024 by [Morgan Harris](#)

On 27 February 2024, the European Parliament voted to approve the proposed [Nature Restoration Regulation \(NRR\)](#). The vote would ordinarily have been a formality, as a compromise text had already been agreed upon in trilogue negotiations in November 2023. However, the European People's Party (EPP), the largest party in the European Parliament and the party of EU Commission president Ursula Von der Leyen, announced about 24 hours before the vote that they [would vote no](#). This turn-around was disappointing, as the EPP had proclaimed just days earlier that they were the [party of the Green Deal](#). For many observers, it felt like a repeat of a July 2023 vote in which the Parliament agreed to advance the draft NRR to the trilogue stage in the face of fervent opposition and an intense propaganda campaign. The final hurdle for the NRR is adoption by the Council. Ordinarily this step, too, should be a formality, but as the June 2024 European Parliament elections draw near, it seems that the Council's consent [cannot be taken for granted](#).

Assuming that the Council gives its approval to the NRR in April, what will the new law do, and what does it mean for the EU going forward?

Even before the NRR, Member States were bound by EU law to restore

biodiversity. Restoration duties are found in the [Birds Directive 79/409/EEC](#) and the [Habitats Directive 92/43/EEC](#) (HD), which sets out an obligation in Article 6(1) to improve the conservation status of Natura 2000 sites and Annex II species that are in a poor state ([Schoukens](#), 2018). Under Articles 13 and 17 HD, Member States must also report on the status of protected sites and species every six years. These reports give us a detailed picture of the current state of nature in Europe's protected areas ([EEA](#), 2020; [Krämer](#), 2013). That picture, as one might fear, is not good. The 2020 European Environmental Agency report ([EEA](#), 2020) finds that 47% of bird species and 27% of non-bird species are in favourable conservation status. Only 14% of protected habitats are in a good state. Scholars have been calling for full implementation of these existing restoration duties for years (*inter alia*, [Cliquet](#), 2020; [Schoukens](#), 2019). Nonetheless, many of the sources of biodiversity decline in Europe are found chiefly outside of protected areas: [nitrate runoff](#) from fertilizer use and livestock operations, [pesticide use](#), [habitat fragmentation](#) due to land use changes, [climate change](#). Moreover, many key habitats are located outside of Natura 2000 sites. After all, the process that led to the creation of the Special Areas of Conservation (under Article 4 HD) was political by design, based on negotiation and compromise between the MS and the Commission.

At the same time, Member States are also under a duty to restore fresh and coastal waters to good ecological and chemical status under the [Water Framework Directive 2000/60/EC](#) by 2027 ([European Commission](#), 2015). However, only about 40% of European waters currently meet this target ([EEA](#), 2021) for multiple reasons ([Voulvoulis et al](#), 2017), with some categories of waterways—such as estuaries and river deltas ('transitional waters')—almost universally needing restoration. The status of marine waters is likewise poor overall, where it is even known ([EEA](#), 2021, p. 37).

The NRR contains a package of new obligations and governance mechanisms to build on these existing restoration duties. Although Natura 2000 sites should be prioritized in the initial phase (until 2030), the reach of the NRR extends far beyond these.

Specifically, the NRR requires Member States to set in place measures that

are “necessary to improve to good condition areas of habitat types listed in Annex II which are not in good condition.” This legal obligation relies on ecological notions, above all that of the ‘habitat.’ European habitat types have been carefully described in the scientific literature, which has led to the creation of a classification systems of European habitat types, the [European Nature Information System](#) (EUNIS). Each habitat type is described based on its typical characteristics, such as soil type, conditions, prevalent vegetation or keystone species ([Moss](#), 2008). The EUNIS system also includes manmade habitats, as it covers the entire European territory. Each habitat is not uniform: micro-conditions within a habitat can create even smaller ecological niches, where unique species can take hold ([Begon & Townsend](#), 2021). The habitat types are general enough to capture all of these possible variations, while specific enough to group together ecosystems that share key features and structures.

The habitat types subject to restoration are listed in Annex I of the NRR, which parallels Annex I HD. Extensive maps of where these habitat types are currently found exist throughout the EU, and new geospatial data methods are being developed to offer even more accurate habitat mapping, including in Italy ([Vallecillo et al](#), 2022; [Capotorti et al](#), 2023; [De Fioravante et al](#), 2023). This gives us a good picture of where restoration needs to happen.

However, some protected biodiversity is in poor condition due to fragmentation ([EEA](#), 2016). Species and ecosystems need a large enough range—a “favourable reference area”—to ensure sufficient genetic variation and increase their resilience to shocks like extreme weather or fires. Thus, the NRR also requires states to “re-establish in areas not covered by those habitat types with the aim to reach their favourable reference area.” Ecologists have also already been working on mapping where re-establishment is possible and helpful (see, among many, [Damholdt Bergin et al](#), 2023; [Hengl et al](#), 2018).

Each restoration project must set its target. This objective should be based on many factors, of which historic data is only one: equally important are projected future conditions, what outcomes are reasonably achievable ([Gann et al](#), 2019, p. s12; [Nelson et al](#), 2024), and the input of

local communities ([Jácome-Flores et al, 2023](#)). This means that restoration can aim to improve the condition of a site to a state that provides both ecological and economic or social benefits, such as creating urban green corridors open to recreational use (example, see [Gobster, 2012](#)). These projects, too, fall under the scope of the NRR. Thus, the term ‘restoration’ can be misleading: these efforts are not focused on recreating an idyllic, pristine past, but revitalizing nature for the twenty-first century and beyond.

Under the NRR, restoration measures must be in place on 30% of the designated habitat types and those necessary to address habitat fragmentation by 2030. The duty will increase to 90-100% by 2050. Moreover, once restoration begins on a site, Member States must not allow it to deteriorate significantly. However, there are flexibility mechanisms to account for different situations in the Member States, and derogations in certain cases. This includes the possibility for Member States to restore a smaller percentage of certain common habitat types, to derogate from restoration obligations for lands dedicated to renewable energy generation, and to pause restoration affecting agricultural lands in case the Union’s food security is threatened.

Besides restoring habitats, the NRR also includes obligations to halt the decline of pollinator populations, restore drained wetlands (organic soils) and marine environments, show increasing trends in certain indicators of biodiversity in agricultural lands and in forested areas, preserve and increase urban greenspace and tree cover, and remove obsolete dams, channels and levees.

Even if it was a struggle to reach a compromise on the NRR, it is important to keep in mind that the real challenge will be ensuring that it is swiftly, fully and fairly implemented. The regulation—which as such is directly applicable—will require Member State to prepare a Nature Restoration Plan within two years, setting out how they will fulfil their duties. Planning and programming instruments like this are frequently used in EU environmental directives and regulations, where specific interventions are tailored over time in view of a broader objective ([Braaksmá, 2023](#)). Yet the governance of nature restoration will present special challenges. For one,

Article 19 NRR requires Member States to take into account a long list of environmental plans and programmes in developing their National Restoration Plan, including river basin management plans, Natura 2000 conservation and management plans, and national climate and energy plans, many of which are devolved to subnational authorities, but there is no reciprocal duty for them to take the restoration plan into account. It is up to each Member State to clarify the relationship among planning measures and competent authorities.

Restoration interventions can also come into conflict with land use restrictions, such as those protecting landscapes, archaeological and cultural goods, water use rights, even unexploded war ordinances. Priorities must be clearly established or restoration projects may be unduly slowed or even blocked.

Moreover, the success of restoration interventions depends on other factors. There needs to be a pool of ecologists who are well-trained in restoration theory and practice. They must then have access to the resources they need: not just funding or financing ([Van Raalte & Ranger, 2023](#)), but possibly others, such as legal assistance, skilled project managers, appropriate materials such as seeds and saplings, even adequate protection from sabotage by persons opposed to restoration ([Cortina-Segarra et al, 2022](#); [Stoffers et al, 2024](#)). Working now to identify the most appropriate normative, social, cultural and economic context for nature restoration in each Member State can prepare the ground for European biodiversity, and thus European society ([EEA, 2023](#)), to flourish in the long term.