

EXPERT GROUP ON THE BIRDS AND HABITATS DIRECTIVES

“NADEG”

6th Meeting

3-4 May 2017, Brussels, Centre Borschette

DRAFT MINUTES - OPEN SESSION

Chairman: Micheal O’Briain, Deputy Head of the Nature Unit,
DG Environment

List of participants: see Annex

Documents: <https://circabc.europa.eu/w/browse/85d3cb76-e2df-4686-9a86-c787329c78ad>

Presentations: <https://circabc.europa.eu/w/browse/3eddf0f7-2a36-4f02-96ba-c2909855cc77>

1. ADOPTION OF THE AGENDA, ADOPTION OF THE MINUTES OF THE LAST MEETING

The agenda and minutes of the last meeting were adopted without comments.

2. THE NATURE ACTION PLAN

The Commission gave an overview of the new Nature Action Plan (AP) adopted in April following the Fitness Check Review which was concluded in December 2016 (see presentation on CircaBC).

The following comments and questions were raised:

- There is no mention of the Trans-European Network for Green Infrastructure or pollinators in the AP. The Commission explained that the Action Plan is framed by the current Multiannual Financial Framework (MFF) and cannot take on board issues that are still under discussion. The TEN-GI and pollinators will be dealt with separately.
- Several Member States asked if there were sufficient resources available to implement this ambitious AP in the short time frame and whether a more detailed work programme will be drawn up to help structure the work. The Commission indicated that it will have some additional financial support for the implementation of the AP

and will draw up a detailed work programme. Several of the actions envisaged (e.g. on guidance) are already underway, for instance as regards the update of the Article 6 interpretative guide and methodological guide.

- In reply to a question about the 10% increase in LIFE Nature, it was confirmed that this would come from within the existing financial envelope for LIFE. The €16 million will be transferred from the LIFE Environment budget via a delegated act.
- In response to a question raised on how the new support mechanisms for the Member States will work in practice and when they will take place, the Commission explained that once the needs of the Member States have been identified in dialogue with the Commission, different supporting tools can be targeted to address them, for instance training programmes financed through LIFE or JASPERS, or exchange of experience through the peer to peer mechanism. The issue of bilateral meetings will be discussed in more detail at the forthcoming Nature Directors meeting in June.
- Regarding the update of the Prioritised Action Frameworks (PAFs), some Member States asked that the Commission also strengthen its role in facilitating a better allocation of funds for Natura 2000 under the MFF. The Commission explained that several measures are foreseen in the AP to improve the PAF process and the uptake of EU funds as this was a major point raised by the fitness check.
- Regarding the need for greater private sector involvement, the Commission informed that several projects were underway to address this issue under LIFE and the Natural Capital Financing Facility (NCF). These should inform the process further.
- There is no mention of the restoration agenda in the AP, why? Whilst it is not explicitly mentioned, it is clearly implicit in the delivery of Favourable Conservation Status but the Commission will make this more explicit in future correspondence on the AP.
- A conference on the Action Plan is foreseen for 6 June at the Committee of the Regions. It will be an opportunity to discuss all these issues in greater detail¹.

3. APPROVAL OF THE REPORTING GUIDELINES UNDER ART. 17 (HABITATS DIRECTIVE) AND ART 12 (BIRDS DIRECTIVE)

The EEA summarised the work undertaken to update the reporting guidelines under Article 17 of the Habitats Directive and Article 12 of the Birds Directive (see presentation on CircaBC).

The Commission reminded participants that the purpose of the guidance was to assist Member States in their tasks and to work towards a more comparable set of data across the EU. The guidelines are however not legally binding.

¹ The conference website is

http://ec.europa.eu/environment/nature/legislation/fitness_check/action_plan/conference_en.htm

The following comments were made:

- Several Member States expressed their thanks for the tremendous work done on the reporting process.
- Whilst recognising that the guidelines are not legally binding, some Member States expressed their continued concern over the use of the new 90% indicative threshold for good condition of a habitat under the ‘structure and function’ parameter.
- Denmark requested to explicitly state its position in the minutes: *“Denmark recognized the work done on the elaboration of the new reporting format for the Habitats Directive article 17 reporting. However, the format has to be seen in connection with the explanatory guidelines which in more details defines the application of the reporting format. Denmark opposed the proposal of setting a new threshold on the reporting of structures and functions which includes that the structure and function of habitats should be in a favourable condition in 90 % of the area assessed, before the habitat type can be assessed being at a favourable conservation status. It is a Danish concern that such threshold, integrated in the explanatory guidelines, may in future get the character of a fixed standard and thus may have prejudice for the upcoming national assessments of conservation status. Based on the fact that a reference to the threshold was maintained as a part of the guidelines, Denmark was not able to approve the reporting format and the explanatory guideline.”*
- There is a need to work on better defining the habitat types as there are given varying interpretations by different Member States. This complicates matters especially when two or more Member States share the same habitat. The Commission agreed that this was a problem, but the topic will have to be dealt with outside of the reporting debate, e.g. the biogeographic process.
- There needs to be a separate debate about the role of the Natura 2000 network in achieving the Favourable Conservation Status of listed habitats.

On the issue of the 90% indicative threshold for good condition of a habitat under the ‘structure and function’ parameter, the Commission explained that it was designed to allow more streamlined and comparable results and provide a level playing field. It was however not meant as an obligation. A revised text for the guidelines stressing much more the indicative character of the 90% value and mentioning explicitly that Member States can deviate from this indicative value was prepared and proposed to the group. The alternative text also states that in cases where different thresholds are used, the rationale behind the choice of threshold should be explained in the free text field 10.8 ('Additional information').

In conclusion, the next day the revised text was re-discussed. Denmark stated formally that it could not accept its inclusion (see statement above) and one more Member State wanted the threshold to be deleted. Noting these two objections, the guidelines with the amended text on the 90% threshold were approved. Reference material (like species check-lists and the list of threats, pressures and measures) are still being consulted with Member States' experts and

will be finalised later this year. They will be provided on the reference portals for Art.17² and Art.12³ reporting.

4. DISCUSSION ON THE FUTURE OF THE MARINE EXPERT WORKING GROUP

The Commission initiated a discussion on the future of the Marine Working Group (MEG) in terms of its utility, focus and level of participation, and asked for suggestions of how this could be improved (see presentation on CircaBC).

The following comments were made:

- Several Member States expressed the view that the MEG was still clearly needed, including a yearly meeting, but it would be useful to think of new ways to deal with some of the topics, for instance by focussing on specific issues through dedicated thematic workshops or sub-groups allowing for sufficient discussion of a scientific or technical nature. Side events based on marine regions could also be considered;
- Issues related to the implementation of the Common Fisheries Policy (CFP) fisheries regulations are the key ones to address (e.g. fishery measures for marine Natura 2000, by-catch, seal/fisheries interactions).
- There are often not enough resources in the Member States to attend all meetings and cover all issues, so it may be beneficial to hold back to back meetings with NADEG or to link the MEG more closely with MSFD or DG MARE working groups;
- Meeting documents should be short and strategic, and possibly translated.
- The mandate of the MEG might need to be updated in the light of the Nature Action Plan.

The Commission requested Member States send any additional comments by the end of May.

5. NATURA 2000 AND CULTURE

DG ENV gave an overview of the recent publication showcasing good practice examples of synergies between cultural heritage and Natura 2000 while DG EAC presented the activities underway for the forthcoming European Year of Cultural Heritage in 2018 (see presentations on CircaBC).

Action 14 of the new Action Plan for nature specifically foresees a stronger cooperation between the two sectors over the coming years. Member States are therefore strongly

² http://cdr.eionet.europa.eu/help/habitats_art17

³ http://cdr.eionet.europa.eu/help/birds_art12

encouraged to participate in organising events for the European Year and make contact with the designated national coordinators in their respective countries⁴.

The following remarks were made:

- One Member State announced that its NGOs had recently completed a comprehensive study on nature protection and culture in relation to cultural heritage sites which could be of interest to others⁵.
- Several Member States welcomed the case study compilation and considered it provided useful food for thought, but stressed the need to make clear that Natura 2000 sites are bound by legal constraints and that nature conservation has to have primacy within these sites. The challenge will be to find the right balance between creating synergies whilst also protecting the sites.
- On the other hand, there is also sometimes a common misperception that Natura 2000 infringes local cultures and customs. In this respect, it could be interesting to develop EU guidance on Article 2.3 of the Habitats Directive.
- Agri-environmental schemes have been used in some countries to combine cultural and natural heritage initiatives, this is a useful way to provide more scope for creating synergies.

Member States have until the end of May to provide comments of a purely factual nature on the case study compilation after which it will be uploaded on the Commission website⁶.

6. PRESENTATION OF THE SPECIES ACTION PLAN ON BATS

The Commission presented the final draft of the European Multispecies Action Plan for bats which has been elaborated in close collaboration with Eurobats.

Several Member States expressed their overall support for the document but indicated that they still had specific comments which they will send in in writing. For instance, three levels of priority are mentioned in the AP yet only two have actions, the Nordic perspective seemed to be missing in terms of actions, some deadlines had already passed, and some of the comments previously submitted had not been addressed.

The significant loss of insect biomass was also raised as a major issue which could be further addressed in the action plan.

The Commission pointed out that this was a voluntary document and not legally binding. Final comments are requested by 15 May after which it is proposed to be adopted /endorsed by written procedure.

⁴ List uploaded as annex on CircaBC

⁵ https://www.bund.net/fileadmin/user_upload_bund/publikationen/naturschutz/naturschutz_natura_2000_welterbe.pdf

⁶ http://ec.europa.eu/environment/nature/natura2000/management/links_natural_cultural_heritage_en.htm

7. DEVELOPMENTS UNDER THE BIOGEOGRAPHIC PROCESS

The Commission gave a summary of recent progress with the biogeographic process and outlined its intentions to refocus the initiative under the new Action Plan (see presentation on CircaBC). It reminded the participants that a 2nd Alpine seminar is foreseen 21-23 June 2017 in Padova/Italy and a 2nd Mediterranean seminar is foreseen 14-16 November 2017 in Cyprus. The ETC is working on an update of the priority habitats for each region but the discussion will not focus on the habitats this time but rather on generic issues such as monitoring, management, setting of conservation objectives etc...

10. DISCUSSION OF THE DRAFT TURTLE DOVE ACTION PLAN

A presentation (available on CircaBC) was made by the Ian Fischer, LIFE EuroSAP project on the development of a European Turtle Dove International Action Plan, stressing that the situation with this species was truly alarming. Without immediate action the species could disappear from Europe.

The Commission reminded about Member States' obligations on the habitat requirements for the Turtle Dove, the importance of Article 7 of the Birds Directive and the needs to address the autumn hunting and make sure it is sustainable. This is not the first action plan for this species. All relevant Member States were strongly encouraged to be involved in developing the Action Plan in order to ensure that the plan focuses on priority actions and to start implementing them.

The following comments were made:

- The Action Plan must be applied across the Iberian Peninsula in particular and urgent steps must be taken to improve the species habitat quality;
- There is a need to prioritise and focus on the most urgent actions. Actions for Member States need to be clear. In total 99 actions are listed in the draft plan;
- It is not clear how adaptive harvest plans can be supported institutionally by Member States; are these relevant only for the western flyway or also for the Central/Eastern ones? Ian Fisher replied that the western flyway has much better data available, which is why it is being used to test the principles before applying them to other flyways;
- Possibilities for similar kind of process like in AEWA on adaptive hunting management was proposed to be explored;
- A strong focus needs to be given on changing agricultural practices, the Commission should facilitate the discussions with DG AGRI and help improve the enforcement of cross compliance rules;
- In the eradication of illegal killing of birds, to focus on existing tools under Tunis Action Plan and the Intergovernmental Task Force on Illegal Killing, Taking and Trade of Migratory Birds in the Mediterranean (MIKT);

- A disclaimer ('action plan not legally binding...') like in Bats' action plan was requested to be added to action plans for birds;
- A dedicated monitoring group should be established as soon as possible;
- The issue of lead poisoning should also be addressed including outside wetlands. The Commission informed that the European Chemicals Agency will assess this as well.
- Malta outlined the initiatives it had undertaken recently to address the decline of the species in their country. These included the imposition of a moratorium on spring hunting, national quotas in autumn and real time migration pattern monitoring.

Commission reminded that the Action plan is not legally binding but the duty of the Birds Directive is captured in the plan. This plan is a key guidance from now on, so Member States should nevertheless make every effort to ensure that the plan is implemented. All Member States should carefully consider hunting issues. In addition, we need to have farmers involved;

Comments on the framework for actions were requested by 5 June (a separate email had been sent on this). A consultation of the draft Action Plan is foreseen after that and the final Action Plan is expected to be published in early 2018.

11. UPDATE ON THE EUROPEAN GOOSE MANAGEMENT PLATFORM

The Commission recalled that the topic conflict species is also part of the Nature Action Plan.

A presentation (available on CircaBC) was made by the AEWA secretariat on the progress made with the establishment of a European Goose Management Platform.

The Commission reminded that Barnacle Goose is listed in Annex I of the Birds Directive and there is no incentive to change the Annexes of Birds Directive. This means the EU has a duty to protect it but the derogation system (especially Article 9.1.a) provides Member States with a sufficient degree of flexibility to address population management issues on a case by case basis. It is important that Member States assess all Article 9 conditions and problems are dealt with at an appropriate scale. The general opening of hunting season is excluded. However, the international action plan can provide co-ordination for the management. Commission also reminded on impact on other species (Article 4 and avoiding disturbance) and that full respect of the Birds Directive is also required for Greylag goose. As management of these two species is a sensitive issue, the management process under the platform needs to be focused and transparent.

Several Member States expressed their strong support for the platform and their willingness to cooperate and coordinate their efforts in line with the recommendations of the forthcoming management plans for the barnacle and greylag goose, but indicated that there was also a lack of financial and human resources to implement the measures required.

The NGOs stressed the importance of ensuring the derogation regime is fully justified and all derogation conditions are met. It should not be used as a means of having an extended hunting season for the species as it could set a dangerous precedence for other species. The

approach taken must be science based. There was also a need to look more closely at the root causes of the population expansion in particular in relation to agricultural practices. Good harvest data is also essential.

12. UPDATE ON IMPEL ACTIVITIES AGAINST ILLEGAL KILLING OF BIRDS

The IMPEL network (EU network for the implementation and enforcement of environmental law) has developed action in the area of nature conservation, including addressing illegal killing of birds. As an output of that action, a presentation was given on the IMPEL-ESIX initiative (Enforcement and Stakeholders Information eXchange) whose objective is to facilitate the exchange of information on enforcement activities to stop the illegal capture and killing of protected birds. The presentation is available on CircaBC.

The Commission pointed out that activities against illegal killing of birds are high on the Commission agenda. It encouraged participants to register to IMPEL-ESIX and make best use of it.

13. WRITTEN INFORMATION POINTS

Most of the written information points were not discussed, only as regards the work on restriction of lead ammunition in wetlands the Commission informed, that the European Chemicals Agency (ECHA) will open its public consultation in June and that it will be open for 6 months. The Commission is currently in consultation with ECHA to agree a timeline for its work on tackling lead outside wetlands.

14. AOB

The Commission briefly presented the state of progress as regards Natura 2000 data flows and the ongoing process of updating of the Standard Data Forms. The Commission also announced that a new study had been launched to identify the drivers of successful implementation under the Birds and Habitats Directives which started in April and will last 12 months.

Concern was expressed over the use of diclophenac which has been authorised by the EMEA for veterinary use. The Commission informed that a risk assessment had been done and the decision taken on the basis of this. If new information has come to light the Member State should immediately inform the Commission.

The next NADEG meeting will be 7-8 November.