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ze streszczeniem w języku polskim

Ochrona lasów w rozporządzeniu o odbudowie zasobów przyrodniczych

**- porównanie propozycji
Komisji Europejskiej,
Rady UE i Parlamentu
Europejskiego**

Forest protection in the Nature
Restoration Law - comparison
of proposals from the European
Commission, the EU Council
and the European Parliament

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Ochrona lasów w rozporządzeniu
o odbudowie zasobów przyrodniczych

Porównanie propozycji Komisji Europejskiej, Rady UE i Parlamentu Europejskiego

Dokument ten zawiera ocenę zakresu ochrony i odtwarzania ekosystemów leśnych zapewnionego na mocy przedstawionej przez Komisję Europejską propozycji Unijnego Rozporządzenia o odtwarzaniu zasobów przyrodniczych i porównania go do ochrony która zapewniona byłaby gdyby wprowadzić zmiany w Rozporządzeniu zaproponowane przez Parlament Europejski i Rady Unii Europejskiej. Opracowanie zawiera rekomendacje w stosunku do toczących się właśnie negocjacji dotyczących Rozporządzenia między Parlamentem Europejskim, Radą Unii Europejskiej i Komisją Europejską. Jego celem jest dostarczenie merytorycznej podstawy do dyskusji, tak aby w ostatecznym kształcie rozporządzenie zapewniło dostateczną ochronę ekosystemów leśnych w Polsce i całej Europie.

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Streszczenie i rekomendacje

1.1 Propozycja Komisji Europejskiej

Najlepszy stopień ochrony i odbudowy ekosystemów leśnych może zapewnić propozycja rozporządzenia przedstawiona przez Komisję Europejską. Dotyczy to zarówno odbudowy i przywracania siedlisk leśnych chronionych na mocy Dyrektywy Siedliskowej, jak i innych ekosystemów leśnych. Propozycja Komisji przewiduje wprowadzenie do 2030 r. środków odbudowy na co najmniej 154 290 km² z Załącznika I¹ (dalej lądowe siedliska Natura 2000), których stan nie jest obecnie dobry lub jest nieznany. Dzięki uznaniu siedlisk o stanie nieznanym za siedliska, których stan nie jest dobry, zapewniono objęcie środkami odbudowy większego obszaru niż we wnioskach Parlamentu i Rady (art. 4 ust. 1 i art. 4 ust. 4). Tekst Komisji jako jedyny

¹ Siedliska z Załącznika I Rozporządzenia o odtwarzaniu zasobów przyrody są tożsame z siedliskami lądowymi chronionymi na mocy Dyrektywy Siedliskowej. Są to najcenniejsze i wymagające szczególnej ochrony siedliska przyrodnicze występujące na obszarze Unii Europejskiej.

zawiera konkretny cel na 2030 r. dla leśnych siedlisk Natura 2000, tj. objęcie co najmniej 58 680 km² tych siedlisk środkami odbudowy (art. 4 ust. 1). Tekst Komisji przewiduje przywrócenie co najmniej 3210 km² lądowych siedlisk Natura 2000 do 2030 r., 6420 km² do 2040 r. i 10700 km² do 2050 r. (w tym odpowiednio 1050, 2100 i 3500 km² siedlisk leśnych) na obszarach, na których już one nie występują (art. 4 ust. 2). Dzięki rygorystycznym przepisom dotyczącym ciągłej poprawie i nie pogarszania stanu obszarów objętych środkami odbudowy propozycja Komisji zapewnia wysoką skuteczność działań wprowadzonych rozporządzeniem (art. 4 ust. 6). W połączeniu z przepisami wymagającymi nie pogarszania stanu wszystkich obszarów objętych lądowymi siedliskami Natura 2000 I, tj. 950 200 km² (art. 4 ust. 7), zapewniłoby to stałą i trwałą tendencję poprawy stanu siedlisk leśnych chronionych na mocy dyrektywy siedliskowej.

Propozycja Komisji Europejskiej przewiduje także obowiązek wprowadzenia środków odbudowy koniecznych do zwiększenia różnorodności biologicznej ekosystemów leśnych nie będących siedliskami Natura 2000. W tym celu określono zestaw wskaźników, których poziom ma się zwiększać,

aż do osiągnięcia satysfakcjonującego poziomu. W propozycji Komisji do wskaźników tych należą: ilość stojącego martwego drewna, ilość leżącego martwego drewna, udział lasów różnowiekowych, łączność ekologiczna lasów, wskaźnik liczebności pospolitych ptaków leśnych, zasoby węgla organicznego. Wprowadzenie tak kompleksowego zestawu wskaźników umożliwiłoby adekwatne monitorowanie stanu różnorodności w ekosystemach leśnych.

1.2 Stanowisko Rady Unii Europejskiej

W porównaniu z tekstem Komisji, wniosek Rady przewiduje ograniczoną, ale nadal znaczącą poprawę ochrony i odbudowy ekosystemów leśnych w Unii Europejskiej. W konsekwencji braku uznania siedlisk o nieznanym stanie za siedliska o niewłaściwym stanie (art. 4(4)), wyznacza ona znacznie mniej ambitne, ale nadal wymierne i konkretne cele w zakresie objęcia lądowych siedlisk Natura 2000 środkami odbudowy, tj. co najmniej 58 680 km² do 2030 roku. W odniesieniu do siedlisk leśnych Natura 2000, stanowisko Rady nie zawiera żadnego konkretnego celu dotyczącego odbudowy do 2030 r. Konkretnie

cele dla wszystkich grup typów siedlisk (w tym leśnych) dopiero na 2040 i 2050 r. (art. 4 ust. 1). Przepisy dotyczące przywracania siedlisk (art. 4 ust. 2) i ciągłej poprawy stanu obszarów objętych środkami odbudowy (art. 4 ust. 6) są identyczne z tekstem Komisji. Przepisy dotyczące nie pogarszania stanu zostały znacznie osłabione. Obejmują one tylko te lądowe siedliska Natura 2000, które są w dobrym stanie i te niezbędne do osiągnięcia celów odbudowy określonych w rozporządzeniu, tj. 487 920 km². W przypadku siedlisk, których stan uległby poprawie w wyniku środków wprowadzonych na mocy rozporządzenia o odbudowie zasobów przyrodniczych, Rada proponuje zobowiązać państwa członkowskie do unikania ich znacznego pogorszenia (a nie jakiegokolwiek pogorszenia, jak w tekście Komisji).

W propozycji Rady liczba wskaźników bioróżnorodności ekosystemów leśnych nie będących siedliskami Natura 2000 których stan należałoby poprawić, została zmniejszona do trzech: ilość stojącego martwego drewna, ilość leżącego martwego drewna i wskaźnik liczebności pospolitych ptaków leśnych. Zamiast tego Rada zaproponowała

wprowadzenie 5 dodatkowych wskaźników, z których państwa członkowskie wybrałyby po 3. Zmniejszenie liczby obowiązkowo monitorowanych wskaźników ograniczyłoby możliwość adekwatnego monitorowania stanu bioróżnorodności w lasach nie będących siedliskami Natura 2000.

1.3 Stanowisko Parlamentu Europejskiego

Stanowisko Parlamentu zawiera najmniej ambitne i bardzo ogólnie zdefiniowane cele w zakresie odbudowy lądowych siedlisk Natura 2000. W art. 4 ust. 1, w przeciwieństwie do wniosków Komisji i Rady, tekst Parlamentu nie określa konkretnych ram czasowych i przestrzennych dla objęcia lądowych siedlisk Natura 2000 (w tym siedlisk leśnych) środkami odbudowy. Zamiast tego wyznacza jedynie bardzo ogólny cel, jakim jest objęcie lądowych siedlisk Natura 2000 środkami odbudowy i dążenie do ich właściwego stanu ochrony. Cele te są dodatkowo ograniczone do lądowych siedlisk Natura 2000 znajdujących się wewnątrz obszarów Natura 2000, pozostawiając znaczną ich część (około 45% obszaru w przypadku siedlisk leśnych) poza zakresem rozporządzenia. Wniosek nie zawiera również

konkretnych celów dotyczących przywrócenia łądowych siedlisk Natura 2000 na obszarach, na których już one nie występują (art. 4 ust. 2), ani przepisów zapewniających stałą poprawę stanu obszarów objętych środkami odbudowy wprowadzonymi na mocy rozporządzenia (art. 4 ust. 6). Klauzule o nie pogarszaniu stanu zapewniają jedynie, że całkowity krajowy obszar siedlisk Natura 2000 w dobrym stanie nie zmniejszy się.

Parlament Europejski poszedł jeszcze dalej w ograniczaniu zakresu ochrony ekosystemów leśnych nie będących siedliskami Natura 2000, proponując ograniczenie liczby obowiązkowych wskaźników leśnej bioróżnorodności tylko do jednego - wskaźnika liczebności pospolitych ptaków leśnych. Jednocześnie Parlament poparł propozycję Rady dotyczącą wprowadzenia zestawu pięciu wskaźników, z których państwa członkowskie wybrałyby trzy. Poleganie tylko na jednym wspólnym wskaźniku - liczebności pospolitych ptaków leśnych, jak zasugerowano w stanowisku PE, nie może dać odpowiedniego obrazu stanu różnorodności biologicznej lasów nie będących siedliskami leśnymi Natura 2000.

1.4 Kluczowe zalecenia mające na celu zapewnienie wysokiego stopnia odbudowy siedlisk leśnych

Artykuł 4(1): Utrzymanie określonych czasowo i przestrzennie celów dla objęcia środkami odbudowy wszystkich grup typów lądowych siedlisk Natura 2000.



Poprzeć tekst Komisji (konkretne cele dla każdej grupy typów siedlisk, w tym lasów).
Tekst Rady do przyjęcia (brak konkretnego celu dla siedlisk leśnych do 2030 r.).



Nie akceptować tekstu Parlamentu (brak konkretnych celów, zakres ograniczony do obszarów Natura 2000).

Artykuł 4(2): Utrzymanie określonych czasowo i przestrzennie celów w zakresie przywrócenia siedlisk lądowych Natura 2000 na obszarach nieobjętych tymi typami siedlisk.



Poprzec tekst Komisji (konkretne cele dla wszystkich typów siedlisk).



Nie akceptować tekstu PE (brak konkretnych celów)

Artykuł 4(4): Utrzymanie przepisu stanowiącego, że obszary, na których siedliska lądowe Natura 2000 są w nieznanym stanie, uznaje się za siedliska, których stan nie jest dobry.



Poprzec tekst Komisji (siedliska o nieznanym stanie uznaje się za siedliska o niewłaściwym stanie, środki odbudowy na co najmniej 154 300 km² do 2030 r.²).



Nie akceptować tekstu Rady ani PE (przepis usunięty, zakres środków odbudowy do 2030 r. co najmniej 51 700 km²)

² Zakładając, że tekst art. 4 ust. 1 KE lub Rady zostanie zachowany.

Artykuł 4(4a): Wprowadzenie obowiązku oceny stanu co najmniej 90% obszarów objętych załącznikiem I w nieznanym stanie do 2030 r. oraz ich całego obszaru do 2040 r.



Przyjąć tekst Rady/Parlamentu (pomoże poprawić stan wiedzy na temat stanu siedlisk)

Artykuł 4 ust. 6: Utrzymanie przepisów dotyczących ciągłej poprawy i niepogarszania stanu obszarów objętych środkami na rzecz odbudowy na mocy rozporządzenia o odbudowie zasobów przyrodniczych.



Poprzec tekst Komisji (ciągła poprawa i niepogarszanie stanu). Tekst Rady do zaakceptowania (siedliska nie powinny ulec znacznemu pogorszeniu)



Nie akceptować tekstu PE (całkowity obszar siedlisk Natura 2000 nie powinien się zmniejszać, tj. 435 900 km²).

Artykuł 4(7): Utrzymanie obowiązku zapewnienia niepogarszania stanu wszystkich obszarów, na których występują siedliska lądowe Natura 2000.



Poprzec tekst Komisji (niepogarszanie stanu na całym obszarze siedlisk z załącznika I, tj. 950 500 km²).



Nie akceptować tekstu PE ani Rady (artykuł usunięty).

Artykuł 10(2): Utrzymać obowiązkowe raportowanie i poprawę stanu jak największej liczby wskaźników bioróżnorodności leśnej. Odrzucenie ograniczenia obowiązkowych wskaźników wyłącznie do wspólnego wskaźnika ptaków leśnych.



Utrzymanie wszystkich wskaźników wymienionych w art. 10, w. tym zaproponowanych przez PE wskaźników dotyczących "różnorodności gatunkowej drzew" i "udziału lasów zdominowanych przez rodzime gatunki drzew".

1.4 Podsumowanie zakresu odbudowy siedlisk łądowych zgodnie z propozycjami

	Komisja Europejska	Rada Unii Europejskiej	Parlament Europejski
Zakres odbudowy siedlisk z Załącznika I do 2030 r., art. 4 ust. 1, art. 4 ust. 4 i art. 15 ust. 1	154,290 km ²	51,70 km ²	- brak konkretnego celu - cel ograniczony do "dążenia do osiągnięcia właściwego stanu ochrony" - zakres ograniczony do obszarów Natura 2000
Zakres odbudowy siedlisk leśnych z załącznika I do 2030 r., art. 4 ust. 1	58,680 km ²	brak konkretnego celu	- brak konkretnego celu - zakres ograniczony do obszarów Natura 2000 (ok. 56% powierzchni siedlisk leśnych z załącznika I
Zakres przywrócenia siedlisk z załącznika I do 2030 r., art. 4 ust. 2	3210 km ²	3210 km ²	- brak konkretnego celu
Zakres przywrócenia siedlisk leśnych z załącznika I do 2030 r., art. 4 ust. 2	1050 km ²	1050 km ²	- cel ograniczony do "dążenia do osiągnięcia (...) korzystnego obszaru odniesienia"
Niepogarszanie stanu obszarów, w których osiągnięto dobry stan, art. 4 ust. 7	Tak, obszary, w których osiągnięto dobry stan, nie powinny w ogóle ulec pogorszeniu.	Częściowo, obszary, w których osiągnięto dobry stan, nie powinny ulec znacznemu pogorszeniu.	Częściowe niepogarszanie stanu ograniczone do zapewnienia,
Niepogarszanie stanu obszarów, na których występują siedliska wymienione w Załączniku I	Tak, obowiązuje na całym obszarze, na którym występują siedliska z załącznika I, tj. 950 200 km ² .	Częściowo, obowiązuje na obszarze, na którym występują siedliska z załącznika I, które są w dobrym stanie lub są niezbędne do osiągnięcia celów NRL, tj. 487,920 km ² (stan na 2023) ³	że całkowity krajowy obszar siedlisk z załącznika I w dobrym stanie nie zmniejszy się znacząco w czasie, tj. 435 900 km ² .
Obowiązkowe wskaźniki bioróżnorodności leśnej monitorowane także w lasach nie będących siedliskami Natura 2000, art. 10	- stojące martwe drewno, - leżące martwe drewno, - udział lasów różnowiekowych, - łączność ekologiczna lasów, - wskaźnik liczebności pospolitych ptaków leśnych, - zasoby węgla organicznego.	- wskaźnik liczebności pospolitych ptaków leśnych - stojące martwe drewno, - leżące martwe drewno, (dodatkowo do wyboru 3 z 5 wskaźników)	- wskaźnik liczebności pospolitych ptaków leśnych (dodatkowo do wyboru 3 z 5 wskaźników)

³ Powierzchnia siedlisk z załącznika I w dobrym stanie najprawdopodobniej wzrośnie w wyniku oceny siedlisk, których stan jest obecnie nieznan. Obszar objęty klauzulą niepogarszania stanu do 2040 i 2050 r. wzrośnie wraz z rosnącymi celami w zakresie odbudowy do 2040 i 2050 r. na mocy art.





2.0 Restoration targets for Annex I Habitats under Article 4

2.1 Context

Article 4 of the Nature Restoration Law contains provisions for the restoration and re-establishment of terrestrial, coastal and freshwater ecosystems. It sets goals for improving the condition of the habitats listed in Annex I of the regulation. These are the same terrestrial, freshwater and coastal habitats protected under the Habitats Directive (hereafter Annex I habitats).

There are 950,2 thousands km² of Annex I habitats in the EU. Of this 435,9 thousands km² (46%) are in good condition and 172,4 (18%) not in good condition. The condition of the remaining 341,9 thousands km² (36%) is unknown. Forests are the most widespread group of types of Annex I habitat, covering 357,9 thousands km² and constituting 38% of all the Annex I habitats (Table 2). 162,3 thousands km² (45%) of Annex I forest habitats are in good condition, 79,2 km² (22%) not in good

condition and the condition of the remaining 116,4 thousands km² (33%) is unknown.

Group of habitat types (according to Annex I and II of NRL)	Not in good condition (area km ²) ⁴	Good condition (area km ²)	Unknown (area km ²)	Total (area km ²)	Need for recreation (area km ²) ⁵
Rocky and dune habitats	6700	30000	28500	65200	400
Steppe, heath and scrub habitats	6600	43400	28600	78600	400
Grassland and other pastoral habitats	31200	84200	62100	177500	2400
Forests	79200	162300	116400	357900	3500
Wetlands	27100	63300	84300	174700	3100
Rivers, lakes, alluvial and riparian habitats	21600	53000	22000	96600	900
Total terrestrial, freshwater and coastal habitats (Article 4, Annex I)	172400	436200	341900	950500	10700
Marine habitats (Article 5, Annex II)	34800	36800	168400	240000	900

Table 2: *Habitat condition reported for European habitats.*⁶

⁴ The area covered with particular Annex I habitats may be different than in other sources. Member States report ranges of the area of habitats. Here lower range limits were used.

⁵ These are the minimum areas in need of recreation. Most probably, larger areas will have to be restored to achieve favourable conservation status of all Annex I habitats.

⁶ Biodiversity Information System for Europe. (2023). European habitats need to be restored.

<https://biodiversity.europa.eu/europes-biodiversity/habitats-to-be-restored>

2.2 European Commission proposal

2.2.1 The scope of restoration until 2030

According to the text of Article 4(1) proposed by the European Commission restoration measures “shall be in place on at least 30% of the area of each group of habitat types listed in Annex I that is not in good condition (...) by 2030, on at least 60% by 2040 and on at least 90 % by 2050.”

Article 4(4) in the Commission's proposal states, that “Areas where the habitat types listed in Annex I are in unknown condition shall be considered as not being in good condition”. Under European Commission’s proposal at least⁷ 154,290 km² (30% of the total area of all the Annex I habitats not in good condition + 30% of the area of Annex I habitats in unknown condition) of Annex I habitats should be covered with restoration measures until 2030. All the targets included in Article 4(1) of the Commission's proposal would apply to "each group

⁷ The area covered with habitats protected under Habitats Directive are reported as ranges. Here lower limits of the ranges are used as reference for all the calculations.

of habitat types listed in Annex I." As a consequence the EC's proposal sets a specific (with specific time and space frames) target for restoration of forest habitats already by 2030. Restoration measures would have to cover at least 58.7 thousand km² of Annex I forest habitats until 2030 (30% of the area of all the Annex I forest habitats not in good condition and in unknown condition).

2.2.2 The scope of restoration until 2040 and 2050

At the moment it is hard to even approximately estimate the area which should be covered with restoration measures until 2040 and 2050 under EC's proposal. The specific area to be covered by restoration measures would depend on:

- the condition of what area of habitats currently in unknown condition would be assessed by 2030,
- what area of habitats whose condition is currently unknown would be assessed to be not in good condition,
- what area of habitats currently not in good condition would improve to good condition until the reviews of the national restoration plans.

The larger the area of habitat currently in unknown condition would be known and assessed to be in good condition, the smaller the area would have to be covered with restoration measures by 2030. Similarly, the larger area of habitats would improve, the smaller the area would have to be covered by restoration measures.

It is important to emphasize that under EC's proposal also in the case of restoration targets for 2040 and 2050, habitats in unknown condition would be considered to be not in good condition.

As a consequence the total area of Annex I habitats covered with restoration measures by 2040 would be most probably higher than in the case of Council's and Parliament's proposals.⁸

2.2.3 Re-establishment of Annex I habitats

In Article 4(2) the Commission proposed to oblige Member States to “put in place the restoration measures that are necessary to re-establish the habitat types listed in Annex I in areas not covered by those habitat types.” on “at least 30 % of the

⁸ In theory under all the proposals “all the ecosystems in need of restoration” should be covered with restoration measures by 2050.

additional overall surface needed to reach the total favourable reference area of each group of habitat types listed in Annex I, as quantified in the national restoration plan referred to in Article 12, by 2030, at least 60 % of that surface by 2040, and 100 % of that surface by 2050”. In practice, this would mean re-establishing at least 3210 km² of Annex I habitats by 2030, 6420 km² by 2040 and 10700 km² by 2050 (including respectively 1050, 2010 and 3500 km² of forest habitats).

2.2.4 Improvement and non-deterioration of Annex I habitats

Article 4(6) as proposed by the European Commission obliges the Member States to ensure “the areas that are subject to restoration measures (...) show a continuous improvement in the condition of the habitat types listed in Annex I until good condition is reached”. Such a provision, by clearly defining the expected results of restoration measures introduced under Article 4(1) would help to ensure their effectiveness and safeguard against taking only illusory or insufficient measures. In conjunction with the non-deterioration clause included in the same Article 4(6), according to

which Member States shall ensure “that areas in which good condition has been reached (...) do not deteriorate” this would ensure a continuous and stable trend of improvement in the condition of the Annex I habitats covered with restoration measures under the Nature Restoration Law.

The Commission's proposal, by obliging member states to ensure that "areas where the habitat types listed in Annex I occur do not deteriorate" covers with protection also those areas that would not be subject to restoration measures under the Nature Restoration Law. As proposed by the Commission, Article 4(7) would protect at least 950.2 thousands km²⁹ and help to ensure that the total area of protected terrestrial, freshwater and coastal habitats (including forests) in good condition would grow steadily.

2.3 Council of the European Union proposal.

2.3.1 The scope of restoration until 2030

According to the text of **Article 4(1)** proposed by the Council restoration measures “shall be in place:

⁹ The total area of Annex I habitats in the EU 27 (the sum of lower limit of ranges reported by the Member States).

- on at least 30 % by 2030 of the total area of all habitat types listed in Annex I that is not in good condition (...)
- on at least 60 % by 2040 and on at least 90 % by 2050 of the area of each group of habitat types listed in Annex I that is not in good condition.”

An important difference from the Commission’s proposal is, that instead of considering habitats whose condition is unknown to be not in good condition (this provision included in Article 4 (4) of the Commission's proposal was deleted in the Council’s text), the Council proposed adding Article 4 (4a), according to which “Member States shall ensure, by 2030 at the latest, that the condition is known for at least 90% of area distributed overall habitat types listed in Annex I.” What is more, the Council proposed to Article 15 (1) on the review of the national restoration plans, by adding a provision according to which “Member States shall review their national restoration plan and, if necessary, revise it and include supplementary measures. (...) In the reviews to be carried out before July 2032 and before July 2042, Member States shall take into account knowledge on the condition of habitat types listed in Annexes I and II gained in accordance with the obligations in Articles 4(4a) and 5(4a). Member States shall publish and communicate

to the Commission their revised national restoration plan.” On this basis, it can be concluded that habitats whose condition is currently unknown and which will undergo mandatory assessment by 2030, would not have to be included in the 2030 target.

Therefore, under Council's proposal at least 51,7 thousands km² (30% of the area of all Annex I habitats not in good condition) should be covered with restoration measures until 2030. The Council's proposal does not imply any specific target for covering forest habitats with restoration measures until 2030. The 2030 target refers there to “the total area of **all habitat types**” no to “the area of **each group of habitat types**”, as in Commission's proposal.

2.3.2 The scope of restoration until 2040 and 2050

At the moment it is not possible to even approximately estimate the area which should be covered with restoration measures until 2040 and 2050. The Council proposes to oblige member states to assess the condition of 90% of the Annex I habitats area that is currently in unknown condition by 2040 and all of it by 2050. As a result the area covered by restoration measures by 2040 and 2050

would most probably be much larger compared to that covered by the measures until 2030.

The specific area covered by restoration measures would depend on what area of habitats whose condition is currently unknown would be assessed to be not in good condition. The higher the proportion of the habitats would be assessed to be not in good condition, the larger the additional area would have to be covered with restoration measures.

It is important to note that in the case of restoration targets for 2040 and 2050, the Council proposes to set targets for each group of habitat types. Therefore, mandatory restoration measures would also have to cover a proportionate area of forest habitats.

2.3.3 Re-establishment of habitats

There are no significant differences between the text of Article 4(2) on the re-establishment of Annex I habitats in areas not covered by those habitat types in the proposals laid down by the Commission and the Council. For the analysis of the scope of re-establishment see section 1.2.3.

2.3.4 Improvement and non-deterioration of Annex I habitats

Since the provisions for ensuring the continued improvement of the condition of the habitat area covered by the restoration measures have not been changed, Article 4(6) in the form proposed by the Council, would ensure the effectiveness of the restoration measures introduced under Article 4(1) (see section 1.2.4).

However, the Council proposed to weaken the EC's text, by stating "that areas in which good condition has been reached (...) do not significantly deteriorate." The effectiveness of this provision will therefore depend on the interpretation in each case of whether deterioration is significant or not. As experience has shown with already functioning regulations, such as those for preventing significant negative impacts on Nature 2000 sites, the concept of non-significant impact can easily be interpreted to enable taking actions that have a high negative environmental impact as well as not taking those that are necessary to reduce this impact. Therefore, as proposed by the Council, Article 4(6)

may have limited effectiveness in securing the sustained good condition of habitat areas that achieve it as a result of restoration measures introduced under the Nature Restoration Law.

Furthermore, the non-deterioration clause included in Article 4(7) was also substantially weakened in the Council's proposal. The Council proposed to oblige the Member States, to "endeavour to put in place necessary measures to with the aim to prevent significant deterioration of areas where the habitat types listed in Annex I occur, which are in good condition or are necessary to achieve the restoration targets set out in paragraph 1". The language in which these provisions are phrased ("endeavour to put in place," "with the aim to prevent," "significant deterioration") is very general and, as with Article 4(6), will be too open to interpretation with a high probability of causing problems in the implementation and enforcement of the regulation's provisions. Placing the non-deterioration obligation only on the area of habitats in good condition and those necessary to achieve the restoration targets set out in paragraph 1, will reduce the spatial scope of Article 4(7) by about half (i.e. ca. 487.9 thousand

km² ¹⁰⁾ during the period until 2030, compared to the Commission's proposal. The area of applicability of non-deterioration provisions under Article 4(7) until 2040 and 2050 as proposed by the Council would depend on what area of habitat with currently unknown condition would be assessed as being in good condition.

2.4 European Parliament's proposal.

2.4.1 The scope of restoration:

According to the Article 4(1) as proposed by the European Parliament:

“Member States shall aim to put in place the restoration measures in Natura 2000 sites that are necessary to move towards reaching favourable conservation status of habitat types listed in Annex I which are not in good condition. Such measures shall be put in place on Natura 2000 network area of habitat types listed in Annex I that are not in good condition”.

¹⁰⁾ Sum of Annex I habitat areas and areas obligatorily covered by restoration measures by 2030.

As it stands, Article 4(1) fails to establish, in principle, any binding and spatially and temporally defined target for Annex I habitat restoration. The language in which the goals are formulated is very general ("Member States shall aim to"), and only states the direction of measures ("move towards reaching favourable conservation status"), without setting a specific goal. A major risk is that if the targets are formulated in this way, even symbolic progress toward achieving the favourable conservation status of Annex I habitats will be considered as meeting them.

Moreover, this very generally defined target is limited to Natura 2000 sites, significantly reducing its spatial scope. According to the European Environmental Agency, only 64% of the area of habitats protected under Habitats Directive (Annex I and Annex II habitats under Nature Restoration Law) is covered with Natura 2000 sites¹¹. What is perhaps even more important is that for a significant number of assessments, Annex I habitats are not covered at all or to a very small

¹¹ European Environmental Agency. (2020). *State of nature in the EU. Results from reporting under the nature directives 2013 - 2018*. EEA Report, No 10/2020. [State of nature in the EU — European Environment Agency \(europa.eu\)](https://www.eea.europa.eu/en/state-of-nature)

extent by Natura 2000 sites (Figure 1). Consequently, limiting the restoration targets to Natura 2000 sites only, may result in some habitats locally not being covered at all.

Another effect of limiting the objectives to Natura 2000 sites will be that efforts will be focused on areas that are already, on average, in better state and show better trends of improvement.

According to European Environmental Agency, “higher Natura 2000 coverage is correlated with positive impacts on conservation status for most of the habitat groups”¹². Habitats with high coverage with Natura 2000 (75% or more) are more often assessed to be in good conservation status than habitats with lower coverage (below 75%) (Figure 2). As far as the improvement is concerned “the habitats with more than 75 % coverage by Natura 2000 sites have a higher proportion of improvement (approximately 7 %) than those with less than 35 % coverage (5 %) (...). At the same time, a higher coverage also resulted in less deterioration”¹³ (Figure 3) .

¹² *Ibid.*

¹³ *Ibid.*

Both low coverage with Natura 2000 sites and better conservation status of areas within Natura 2000 sites affect forest habitats to a higher extent than other groups of habitat types. At a median of 56 %, forest habitats are the least covered with Natura 2000 sites among all the habitats protected under Habitats Directive (and Nature Restoration Law). Of all the groups of habitat types, the correlation between high coverage of Natura 2000 sites and good conservation status is most evident for forests (Figures 1 and 2).

Similarly to the Council, the Parliament proposed to add a new Article 4(4a), according to which “Member States shall ensure, by 2030 at the latest, that the condition is known for at least 90% of area distributed overall habitat types listed in Annex I” deleting at the same time from Article 4(4) the provision according to which habitats in unknown condition were to be considered not in good condition. The European Parliament proposed identical amendments to Article 15 as those proposed by the Council, according to which the “Member States shall review their national restoration plan and, if necessary, revise it and include supplementary measures. (...) In the reviews

to be carried out before July 2032 and before July 2042, Member States shall take into account knowledge on the condition of habitat types listed in Annexes I and II gained in accordance with the obligations in Articles 4(4a) and 5(4a). Member States shall publish and communicate to the Commission their revised national restoration plan.” Since the coverage of restoration measures under Article 4(1) in the Parliament's proposal is also to apply to habitats not in good condition, these provisions further limit the spatial scope of the regulation.

2.4.2 Re-establishment of Annex I habitats

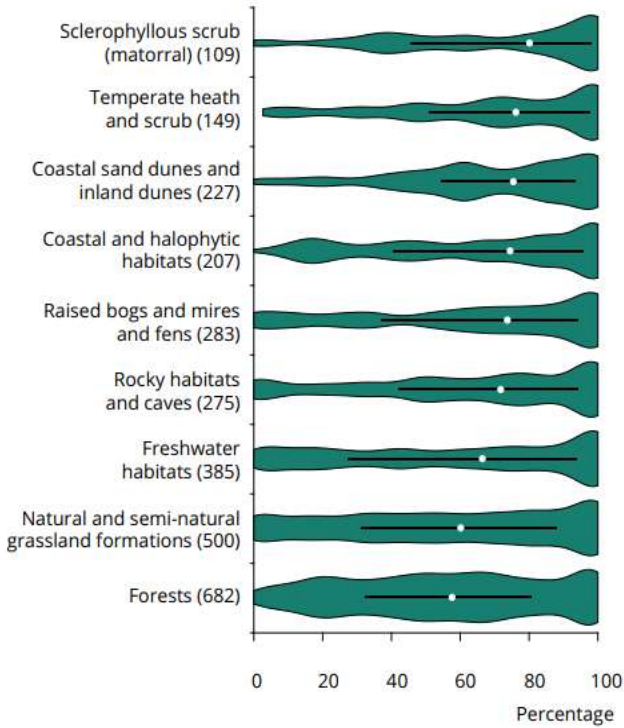
The European Parliament proposed to significantly amend the Commission's text by deleting entirely the spatial and temporal targets for re-establishment of Annex I habitats. Instead the Parliament proposed, to oblige the Member States to “put in place the restoration measures that are necessary to re-establish the habitat types listed in Annex I in areas not covered by those habitat types with the aim to reach their favourable reference area” adding that they should “be in place in areas necessary to ensure fulfilment of the goals

laid down in paragraph 1 of this Article”. As a result, similar to restoration targets, re-establishment targets in the Parliament's proposal would be limited to areas inside Natura 2000 sites.

2.4.3 Improvement and non-deterioration of Annex I habitats

The Parliament proposed to completely abandon the provision of Article 4(6) stating that the areas covered by restoration measures under the Nature Restoration Law should show continuous improvement in their condition. This means giving up the mechanism, which, by focusing not only on the measures but also on the results, would help to ensure the effectiveness of the measures implemented under the regulation (see section 1.2.4). The Parliament introduced further significant changes in Article 4 (6), proposing to oblige the Member States to “endeavour to ensure that the total national area in good condition (...) referred to in paragraphs 1, 2 and 3 does not significantly decrease over time.” Instead of obliging Member States to ensure that the areas that have reached good condition do not deteriorate

(as in the Commission's and Council's proposals), the Parliament proposes provisions aimed at ensuring there is no decrease in the total area of habitats in good condition. This formulation allows for the deterioration of certain sites as long as the improvement in the condition of other sites takes place over equal or larger area. Moreover, contrary to the Commission's and Council's proposals, it does not guarantee an increasing trend in the total area of habitats in good condition but is merely settling for maintaining the same area (ca. 435,900 km²).

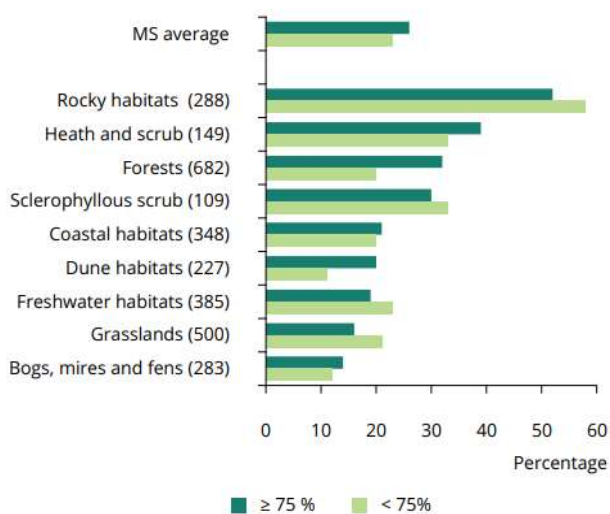


Note: The number of reports are indicated in parentheses. The total number of reports is 2 970.

Source: Article 17 Member States' reports and assessments.

Figure 1: Coverage of Annex I and Annex II (under Nature Restoration Law) habitats with Natura 2000 sites. The thickness of the tube corresponds to the number of assessments reported for the degree of coverage. The white point is the median indicating the 'middle' value in the list of numbers and the black line indicates the area containing 50 % of the data points (25th to 75th quantile)¹⁴.

¹⁴ *Ibid*



Note: The number of assessments per group is indicated in parentheses. The total number of assessments is 2 970.

Source: Article 17 Member States' reports and assessments.

Figure 2: Percentage of habitats protected under Habitats Directive with $\geq 75\%$ and $< 75\%$ of their area covered by Natura 2000 with good conservation status¹⁵

¹⁵ *Ibid.*

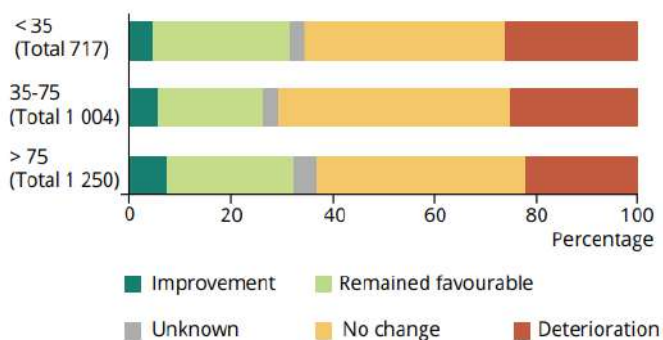


Figure 3: Changes in conservation status and trends for Annex I habitats within different Natura 2000 coverage classes¹⁶

¹⁶ *Ibid.*

3.0 Restoration of forest ecosystems under Article 10

3.1 Context

Article 10 of the Nature Restoration Law contains provisions for the restoration of forest ecosystems in addition to those set forth in Article 4 of the Regulation (i.e., relating to Annex I forest habitats).

Forests cover approximately 1,59 mln km² across all the Member States of the European Union. Approximately 357,9 thousands km² (22,5%) are Annex I forest habitats protected under the Habitats Directive and Article 4 of Nature Restoration Law. This means that the vast majority (ca. 77,5%) of the forest area in the EU is not covered neither with protection under Habitats Directive nor restoration targets under Article 4 of Nature Restoration Law. This fact highlights the importance of strong provisions which would assure improvement of the condition of non Annex I forests in the EU. Article 10 of the Nature Restoration Law addresses the condition

of precisely these 77% of otherwise unprotected forest ecosystems.

3.2 Comparison of EC, Council and EP proposals.

In the original proposal put forward by the European Commission, Article 10 contained a set of six indicators. Member States were to be obliged to "an increasing trend at national level of each of the following indicators in forest ecosystems (...) until the satisfactory levels identified in accordance with Article 11(3) are reached." The indicators included standing dead wood, lying dead wood, proportion of uneven-aged forests, forest connectivity, rate of common forest birds, and organic carbon stocks.

In the Council's proposal, the number of indicators whose state would be mandatory to improve was reduced to three. Only the indicators for standing deadwood, lying deadwood and common forest birds index were left. Instead, the Council proposed the introduction of 5 additional indicators, from which Member States would select 3 each. These three indicators would be required to show an increasing trend until the satisfactory levels

identified in accordance with Article 11(3) were reached. The set of additional indicators proposed by the Council includes share of forests with uneven-aged structure, forest connectivity, stock of organic carbon, share of forests dominated by native tree species, tree species diversity.

The European Parliament has gone even further in limiting the scope of protection for forest ecosystems under Article 10 of the Nature Restoration Law, proposing to limit the mandatory indicators to just one - the common forest birds index, while favouring the Council's proposal to introduce a set of indicators from which Member States would select three to show an increasing trend.

3.3 Assessment of the Parliament's Proposal

According to the European Parliament's proposal, the common forest birds index would be the only indicator that would obligatorily have to show an increasing trend (Figure 4). Data from the PanEuropean Common Bird Monitoring Scheme cited by the European Environment Agency indicate that the value of this index for European

Union member states taken together has been rising steadily since 2009. Consequently, it is justified to expect that the already observed increasing trend of this indicator will be treated as a fulfilment of Article 10 obligations and consequently Member States will not have sufficient incentive to introduce additional restoration measures that will actually further improve the condition of forest ecosystems not protected under Article 4.

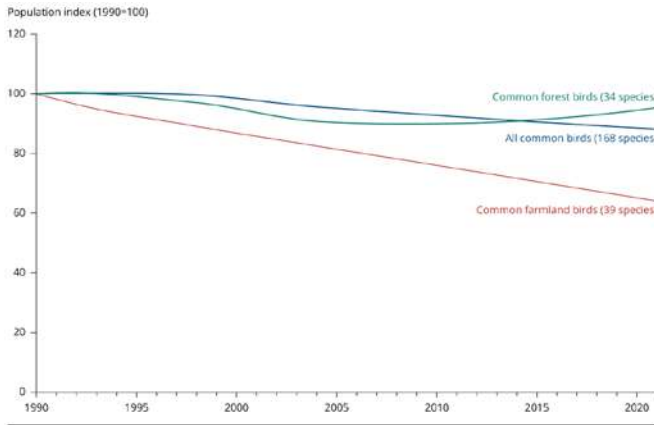


Figure 4: Common bird index in the EU, 1990-2021¹⁷

¹⁷European Environmental Agency, <https://www.eea.europa.eu/ims/common-bird-index-in-europe>

4.0 Comparison of key articles discussed in the briefing as proposed

Article 4 (1)

Commission	Council	Parliament
<p>Member States shall put in place the restoration measures that are necessary to improve to good condition areas of habitat types listed in Annex I which are not in good condition. Such measures shall be in place on at least 30 % of the area of each group of habitat types listed in Annex I that is not in good condition, as quantified in the national restoration plan referred to in Article 12, by 2030, on at least 60 % by 2040, and on at least 90 % by 2050.</p>	<p>Member States shall put in place the restoration measures that are necessary to improve to good condition areas of habitat types listed in Annex I which are not in good condition. Such measures shall be in place: on at least 30 % of the area of each group of habitat types listed in Annex I that is not in good condition, as quantified in the national restoration plan referred to in Article 12, by 2030, on at least 60 % by 2040, and on at least 90 % by 2050.</p> <p>(a) on at least 30 % by 2030 of the total area of all habitat types listed in Annex I that is not in good condition, as quantified in the national restoration plan referred to in Article 12;</p> <p>(b) on at least 60 % by 2040 and on at least 90 % by 2050 of the area of each group of habitat types listed in Annex I that is not in good condition, as quantified in the national restoration plan referred to in Article 12.</p>	<p>Member States shall aim to put in place the restoration measures in Natura 2000 sites that are necessary to move towards reaching favourable conservation status of habitat types listed in Annex I which are not in good condition. Such measures shall be put in place on Natura 2000 network area of habitat types listed in Annex I that are not in good condition, as quantified in the national restoration plan referred to in Article 12.</p> <p>[Am. 21].</p>

Article 4 (2)

Commission	Council	Parliament
<p>Member States shall put in place the restoration measures that are necessary to re-establish the habitat types listed in Annex I in areas not covered by those habitat types. Such measures shall be in place on areas representing at least 30 % of the additional overall surface needed to reach the total favourable reference area of each group of habitat types listed in Annex I, as quantified in the national restoration plan referred to in Article 12, by 2030, at least 60 % of that surface by 2040, and 100 % of that surface by 2050.</p>	<p>Member States shall put in place the restoration measures that are necessary to re-establish the habitat types listed in Annex I in areas not covered by those habitat types with the aim to reach their favourable reference area. Such measures shall be in place on areas representing at least 30 % of the additional overall surface needed to reach the total favourable reference area of each group of habitat types listed in Annex I, as quantified in the national restoration plan referred to in Article 12, by 2030, at least 60 % of that surface by 2040, and 100 % of that surface by 2050.</p>	<p>Member States shall put in place the restoration measures that are necessary to re-establish the habitat types listed in Annex I in areas not covered by those habitat types with the aim to reach their favourable reference area. Such measures shall be in place in areas necessary to ensure fulfilment of the goals laid down in paragraph 1 of this Article</p> <p>[Am. 99]</p>

Article 4 (4)

Commission	Council	Parliament
<p>The determination of the most suitable areas for restoration measures in accordance with paragraphs 1, 2 and 3 of this Article shall be based on the best available knowledge and the latest scientific evidence of the condition of the habitat types listed in Annex I, measured by the structure and functions which are necessary for their long-term maintenance including their typical species, as referred to in Article 1(e) of Directive 92/43/EEC, and of the quality and quantity of the habitats of the species referred to in paragraph 3 of this Article.</p> <p>Areas where the habitat types listed in Annex I are in unknown condition shall be considered as not being in good condition.</p>	<p>The determination of the most suitable areas for restoration measures in accordance with paragraphs 1, 2 and 3 of this Article shall be based on the best available knowledge and the latest scientific evidence of the condition of the habitat types listed in Annex I, measured by the structure and functions which are necessary for their long-term maintenance including their typical species, as referred to in Article 1(e) of Directive 92/43/EEC, and of the quality and quantity of the habitats of the species referred to in paragraph 3 of this Article, making use of information reported under Article 17 of Directive 92/43/EEC and Article 12 of Directive 2009/147/EC, and where appropriate taking into account the diversity of situations in various regions as referred to in Article 11(9a).</p> <p>Areas where the habitat types listed in Annex I are in unknown condition shall be considered as not being in good condition.</p>	<p>The determination of the most suitable areas for restoration measures in accordance with paragraphs 1, 2 and 3 of this Article shall be based on the best available knowledge and the latest scientific evidence of the condition of the habitat types listed in Annex I, measured by the structure and functions which are necessary for their long-term maintenance including their typical species, as referred to in Article 1(e) of Directive 92/43/EEC, and of the quality and quantity of the habitats of the species referred to in paragraph 3 of this Article, making use of information reported under Article 17 of Directive 92/43/EEC and Article 12 of Directive 2009/147/EC, and where appropriate taking into account the diversity of situations in various regions as referred to in Article 11(9a).</p>

Article 4 (4a)

Commission	Council	Parliament
-	<p>Member States shall ensure, by 2030 at the latest, that the condition is known for at least 90% of area distributed overall habitat types listed in Annex I. The condition of all areas of habitat types listed in Annex I shall be known by 2040.</p>	<p>Member States shall ensure, by 2030 at the latest, that the condition is known for at least 90% of area distributed overall habitat types listed in Annex I. The condition of all areas of habitat types listed in Annex I shall be known by 2040.</p>

Article 4 (6)

Commission	Council	Parliament
<p>Member States shall ensure that the areas that are subject to restoration measures in accordance with paragraphs 1, 2 and 3 show a continuous improvement in the condition of the habitat types listed in Annex I until good condition is reached, and a continuous improvement of the quality of the habitats of the species referred to in paragraph 3, until the sufficient quality of those habitats is reached. Member States shall ensure that areas in which good condition has been reached, and in which the sufficient quality of the habitats of the species has been reached, do not deteriorate.</p>	<p>Member States shall ensure that the areas that are subject to restoration measures in accordance with paragraphs 1, 2 and 3 show a continuous improvement in the condition of the habitat types listed in Annex I until good condition is reached, and a continuous improvement of the quality of the habitats of the species referred to in paragraph 3, until the sufficient quality of those habitats is reached. Member States shall ensure that areas in which good condition has been reached, and in which the sufficient quality of the habitats of the species has been reached, do not significantly deteriorate.</p>	<p>Member States shall endeavour to ensure that the total national area in good condition and the total amount of area with a sufficient quality of the habitats of the species referred to in paragraphs 1, 2 and 3 does not significantly decrease over time.</p> <p>[Am. 100]</p>

Article 4 (7)

Commission	Council	Parliament
<p>Member States shall ensure that areas where the habitat types listed in Annex I occur do not deteriorate.</p>	<p>Member States shall, no later than by the date of publication of their national restoration plans in accordance with Article 14(6), endeavour to put in place necessary measures ensure that areas where the habitat types listed in Annex I occur with the aim to prevent significant deterioration of areas where the habitat types listed in Annex I occur, which are in good condition or are necessary to achieve the restoration targets set out in paragraph 1 do not deteriorate.</p>	<p>deleted entirely</p>

Article 10 (1,2 and 2a)

Commission	Council	Parliament
<p>Member States shall put in place the restoration measures necessary to enhance biodiversity of forest ecosystems, in addition to the areas that are subject to restoration measures pursuant to Article 4(1), (2) and (3). Member States shall achieve an increasing trend at national level of each of the following indicators in forest ecosystems, as further set out in Annex VI, measured in the period from the date of entry into force of this Regulation until 31 December 2030, and every three years thereafter, until the satisfactory levels identified in accordance with Article 11(3) are reached:</p> <p>(a) standing deadwood; (b) lying deadwood; (c) share of forests with uneven-aged structure; (d) forest connectivity; (e) common forest bird index; (f) stock of organic carbon.</p>	<p>Member States shall put in place the restoration measures necessary to enhance biodiversity of forest ecosystems, in addition to the areas that are subject to restoration measures pursuant to Article 4(1), (2) and (3). Member States shall achieve an increasing trend at national level of each of the following indicators in forest ecosystems, as further set out in Annex VI, measured in the period from the date of entry into force of this Regulation until 31 December 2030, and every three six years thereafter, until the satisfactory levels identified in accordance with Article 11(3) are reached:</p> <p>a) standing deadwood; b) lying deadwood; c) share of forests with uneven-aged structure; d) forest connectivity; (e) common forest bird index; f) stock of organic carbon.</p> <p>Member States shall achieve an increasing trend at national level of three of the following indicators in forest ecosystems, as further set out in Annex VI, chosen on the basis of their ability to demonstrate the enhancement of biodiversity of forest ecosystems within the Member State concerned.</p> <p>The trend shall be measured in the period from the date of entry into force of this Regulation until 31 December 2030, and every six years thereafter, until the satisfactory levels identified in accordance with Article 11(3) are reached:</p> <p>(a) share of forests with uneven-aged structure; (b) forest connectivity; (c) stock of organic carbon; (d) share of forests dominated by native tree species; (e) tree species diversity</p>	<p>Member States shall put in place the restoration measures necessary to enhance biodiversity of forest ecosystems, in addition to the areas that are subject to restoration measures pursuant to Article 4(1), (2) and (3). Member States shall achieve an increasing trend at national level of each of the following indicators in forest ecosystems, as further set out in Annex VI, measured in the period from the date of entry into force of this Regulation until 31 December 2030, and every six years thereafter, until the satisfactory levels identified in accordance with Article 11(3) are reached:</p> <p>a) standing deadwood; b) lying deadwood; (c) share of forests with uneven-aged structure; d) forest connectivity; (e) common forest bird index; (f) stock of organic carbon.</p> <p>Member States shall achieve an increasing trend at national level of three of the following indicators in forest ecosystems, as further set out in Annex VI, chosen on the basis of their ability to demonstrate the enhancement of biodiversity of forest ecosystems within the Member State concerned.</p> <p>The trend shall be measured in the period from the date of entry into force of this Regulation until 31 December 2030, and every six years thereafter, until the satisfactory levels identified in accordance with Article 11(3) are reached:</p> <p>(a) share of forests with uneven-aged structure; (b) forest connectivity; (c) stock of organic carbon; (d) share of forests dominated by native tree species; (e) tree species diversity.</p>

Article 15 (1)

Commission	Council	Parliament
<p>Member States shall review their national restoration plan at least once every 10 years, in accordance with Articles 11 and 12, taking into account progress made in the implementation of the plans, the best available scientific evidence as well as available knowledge of changes or expected changes in environmental conditions due to climate change.</p>	<p>Member States shall review and revise their national restoration plan and include supplementary measures before July 2032 and before July 2042. At least once every 10 years thereafter, Member States shall review their national restoration plan and, if necessary, revise it and include supplementary measures., The reviews shall be carried out in accordance with Articles 11 and 12, taking into account progress made in the implementation of the plans, the best available scientific evidence as well as available knowledge of changes or expected changes in environmental conditions due to climate change. In the reviews to be carried out before July 2032 and before July 2042, Member States shall take into account knowledge on the condition of habitat types listed in Annexes I and II gained in accordance with the obligations in Articles 4(4a) and 5(4a).</p> <p>Member States shall publish and communicate to the Commission their revised national restoration plan.</p>	<p>Member States shall review and revise their national restoration plan and include supplementary measures before July 2032 and before July 2042. At least once every 10 years thereafter, Member States shall review their national restoration plan and, if necessary, revise it and include supplementary measures. The reviews shall be carried out in accordance with Articles 11 and 12, taking into account progress made in the implementation of the plans, the best available scientific evidence as well as available knowledge of changes or expected changes in environmental conditions due to climate change. In the reviews to be carried out before July 2032 and before July 2042, Member States shall take into account knowledge on the condition of habitat types listed in Annexes I and II gained in accordance with the obligations in Articles 4(4a) and 5(4a).</p> <p>Member States shall publish and communicate to the Commission their revised national restoration plan.</p>





Ochrona lasów w rozporządzeniu o odbudowie zasobów przyrodniczych

Dla: Pracownia na rzecz Wszystkich Istot

Data: Wrzesień 2023

Skład: Oliwia Thomas

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