

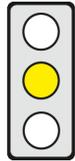
BIODIVERSITY STRATEGY 2030

cepPolicyBrief with [cepBackground](#)

KEY ISSUES

Objective of the Communication: The Commission lays out its programme of future legislative and non-legislative initiatives for the protection or restoration of biodiversity.

Affected parties: companies of the industrial, agricultural and the fisheries sectors



Pro: (1) As nature thrives better in protected areas of land and sea, enlarging them can be an effective instrument for stopping biodiversity loss.

(2) EU-wide criteria for classifying protected areas can create a comparable level of protection of biodiversity across all Member States.

Contra: (1) The protection of biodiversity needs to be balanced with economic and social needs.

(2) An exact determination of the “economic value” of biodiversity and the “true costs” of biodiversity loss is impossible.

The most important passages in the text are indicated by a line in the margin.

CONTENT

Title

Communication COM(2020) 380 of 20 May 2020: EU Biodiversity Strategy for 2030

Brief Summary

► Background: Biodiversity and Biodiversity Loss

- The European Green Deal maps a new, sustainable and inclusive growth strategy to boost the economy and improve people’s health and quality of life [p. 2]. It covers nine different policy areas, including
 - “Climate action” [see [cepPolicyBrief 03/2020](#)];
 - “Biodiversity” [this [cepPolicyBrief](#)];
 - “From Farm to Fork” [[cepPolicyBrief](#) to follow].
- “Biodiversity” means the variety and extent of animal and plant species, including their genes and habitats, and of entire ecosystems [p. 2; UN Convention on Biological Diversity (CBD), Art. 2].
 - Citizens and companies rely on the variety and extent
 - of species, e.g. for food production by agriculture and fishing;
 - of genes, e.g. for the development of new types of medicine and new species of crops;
 - of “ecosystem services”, e.g. the regulation of floods by coastal wetlands or the pollination of crops by insects.
 - Biodiversity and its ecosystem services (“natural capital”) provide “direct economic benefits” [p. 1]. Over 50% of the global GDP depends on biodiversity and ecosystem services.
- The ongoing “loss of biodiversity” [p. 2]
 - manifests itself in the endangerment or extinction of species and the degradation or destruction of ecosystems;
 - is caused by changes in land and sea use, overexploitation, climate change, pollution, and invasive alien species;
 - decreases the yields of crop and fish and increases economic costs caused by natural disasters.

► Objectives

- The Biodiversity Strategy 2030
 - lays out the Commission’s programme of future legislative and non-legislative initiatives for the protection or restoration of biodiversity as part of its European Green Deal [COM(2019) 640; see [cepAdhoc](#)];
 - aims to ensure that “Europe’s biodiversity will be on the path of recovery by 2030” [p. 3].
- The Commission wants to “improve” EU legislation addressing biodiversity, e.g. the Fauna-Flora-Habitat (FFH) Directive [92/43/EEC], the Birds Directive [2009/147/EC], the Water Framework Directive [2000/60/EC], the Floods Directive [2007/60/EC] and the Marine Strategy Framework Directive [2008/56/EC].
 - EU legislation stipulates that in “protected areas” designated by the Member States an ecologically “favourable conservation status” of biodiversity must be maintained (“protected”) or regained (“restored”) by the restriction or prohibition of ecologically harmful activities and restoration measures such as afforestation.
 - The Commission criticises that protection has been “incomplete”, restoration “small-scale”, and implementation and enforcement “insufficient” [p. 3].
- The Commission wants the EU to “lead the world by example” to promote the adoption of a “post-2020 global framework” against biodiversity loss by the parties to the UN Convention on Biological Diversity (CBD) [p. 2].

► **Enlarging Protected Areas**

- By the end of 2030, the Commission wants to enlarge [p. 4]
 - the “protected areas” in the EU of land from 26% to 30% and of the sea from 11% to 30%, and
 - the “strictly protected areas” of “very high biodiversity value” in the EU of land from 3% to 10% and of the sea from 1% to 10%.
- To reach these EU-wide 2030 targets, each Member State [pp. 4–5]
 - will be responsible for designating additional protected areas with “clearly defined” conservation objectives and measures to enlarge either the EU Natura 2000 network under the FFH Directive and the Birds Directive (“Natura 2020 protected areas”) or its own “national protection scheme” (“national protected areas”, NPAs);
 - will “have to do its fair share of the effort”.
- By 2020, the Commission will propose EU-wide criteria for designating additional protected areas, including a definition of “strictly protected areas”, and will strive for an agreement with the Member States by the end of 2021 [p. 5].
- By 2023, the Commission will assess if the Member State have “demonstrated significant progress” in designating additional protected areas [p. 5].
- By 2024, the Commission will assess if the combined efforts of the Member States are sufficient to reach the EU-wide 2030 targets or whether “stronger actions”, including EU legislation, are needed [p. 5].

► **Restoring Land and Sea Ecosystems**

- In 2021, the Commission will propose “legally binding” “EU nature restoration targets” to restore degraded land and sea ecosystems. The Commission’s proposal will be based on an impact assessment which identifies [p. 6]
 - the conditions for meeting these restoration targets;
 - the most effective measures to reach them;
 - an EU-wide methodology “to map, assess and achieve” the “good condition” of ecosystems which enables them to provide ecosystem services such as pollination, water regulation and the prevention of natural disasters.
- The Commission will “request” Member States [pp. 6–7]
 - to implement existing EU legislation within “clear deadlines”;
 - to ensure that by 2030 under the FFH Directive and the Birds Directive
 - 100% of the protected species and habitats show no deterioration in conservation trends and status;
 - 30% of the protected species and habitats currently not in a “favourable conservation status” reach this status or show a “strong positive trend” in its direction.
- By 2020, the Commission will provide guidance in prioritising the protection of species and habitats.
- The Commission will “take action” to achieve by 2030 that
 - at least 25% of the agricultural land in the EU is “organically farmed” [p. 8];
 - the use of chemical pesticides is reduced by 50% in order to stop the decline of farmland birds and insects, especially pollinators [p. 7];
 - “significant progress” is made in identifying contaminated soil and restoring it in order to protect soil fertility and reduce soil erosion [p. 9];
 - at least 25,000 km of rivers are restored to be free-flowing by removing obsolete barriers [p. 12];
 - by-catch of endangered species is reduced to a level that allows the species to recover [p. 11];
 - the number of species endangered by invasive alien species (“IUCN Red List”) is reduced by 50% [p. 14].

► **Economic Incentives**

- To better integrate biodiversity considerations into public and business decision-making, the Commission wants to create more economic incentives [pp. 17–18].
- The Commission wants to encourage Member States to implement tax systems which reflect the environmental costs – including biodiversity loss – of harmful economic activities such as pollution (“internalisation of negative externalities”). National tax systems should be designed to tax negative externalities rather than labour, in order to apply the “user pays” and “polluter pays” principle [Art. 191 TFEU; p. 17].
 - In 2021, the Commission will – building on its previous work [SWD(2019) 305] – develop methods, criteria and standards to measure the economic value of biodiversity and ecosystem services as well as the impact of economic activities on the environment (“environmental footprint”) by “natural capital accounting”.
 - In 2021, the Commission will adopt a delegated act under the Taxonomy Regulation (EU) 2020/852 [see [cepAdhoc](#)], which aims to classify economic activities and to incentivise investments that contribute to the protection of biodiversity.

► **Governance Framework**

- To improve the coordinated implementation of international, EU and national obligations regarding biodiversity, the Commission will “put in place” a “new European biodiversity governance framework” with a “monitoring and review mechanism” and a set of indicators [p. 15].
- In 2023, the Commission will assess the progress made and decide whether a legally binding biodiversity governance framework is needed [p. 15].

Statement on Subsidiarity by the Commission

According to the Commission, the protection and restoration of biodiversity requires “strong partnerships between local, regional, national and European” levels [p. 3].

Policy Context

The EU and its Member States are parties to the UN Convention on Biological Diversity (CBD). In 2006, the Commission published its programme of initiatives for “Halting the Loss of Biodiversity by 2010” [COM(2006) 216]. This programme was followed in 2011 by the “EU Biodiversity Strategy 2020” [COM(2011) 244] which was included in the 7th EU Environment Action Programme (2013–2020) [COM(2012) 710, see [cepPolicyBrief 05/2013](#)]. In 2015, the Commission published its “Mid-Term Review of the EU Biodiversity Strategy to 2020” [COM(2015) 478].

Options for Influencing the Political Process

Directorates General: DG Environment (leading)
 Committees of the European Parliament: Environment (leading), Rapporteur: N.N.

ASSESSMENT

Economic Assessment

Biodiversity loss is classified as one of the biggest threats for humanity in the next decade [World Economic Forum (2020), Global Risk Report 2020, p. 7]. According to the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services, approx. 77% of all habitats and 60% of all species in the EU are in an unfavourable or deteriorating condition; for example, 37% of all species of freshwater fish are threatened by extinction [Regional Assessment Report on Biodiversity and Ecosystem Services for Europe and Central Asia (2018), pp. 6 and 288]. Since human life depends existentially on an intact natural environment and its non-substitutable ecosystem services, the protection of biodiversity is vital for citizens. However, without property rights to the various interdependent elements of ecosystems, the costs of negative externalities of economic activities are borne by the general public. This creates incentives for the over-exploitation of natural resources exceeding their natural regeneration capacity.

Due to the lack of property rights, market mechanisms alone cannot always ensure the protection of biodiversity. Therefore, regulatory measures – such as the prohibition of ecologically harmful activities in protected areas – **can be justified. However**, given that financial resources are scarce **such measures should be** both effective and **cost-efficient. As nature thrives better in protected areas, enlarging them can be an effective instrument for stopping biodiversity loss. However**, as land and sea areas are scarce, conflicts between biodiversity protection on the one hand and other potential uses – e.g. agriculture, fishery, industry or infrastructure – on the other hand are prone to arise. Therefore, when designating protected areas, **the protection of biodiversity needs to be balanced with economic and social needs.** If economic or social uses are of overriding public interest and a balanced solution with biodiversity concerns is not possible within the area in question, compensatory measures – such as additional afforestation at a site close by as compensation for deforestation – might be a viable second best solution for the overall conservation of biodiversity. As the features of the natural environment vary considerably between the various geographical and climatic regions of the EU, **EU-wide criteria for classifying protected areas can create a comparable level of protection of biodiversity across all Member States.** For this purpose, a clear EU-wide definition of “strictly protected areas” – which the Commission wants to propose by the end of 2020 – is appropriate.

Legally binding restoration targets can ensure the enforcement of the requirements throughout the Member States. However, they can also lead to high economic or social costs if, e.g., in protected areas different industrial activities or tourism are prohibited. The planned impact assessment before deciding on new legally binding EU nature restoration targets is an indispensable precondition for a profound determination of the most effective and efficient measures.

The insufficient implementation and enforcement of the existing EU biodiversity legislation in some Member States restricts its effectiveness and leads to competitive distortions in the internal market as companies are subject to different environmental requirements throughout the EU. The Commission therefore rightfully announces the implementation of deadlines to ensure the enforcement of the existing EU legislation.

As crop yields highly depend on intact ecosystems, the conservation of biodiversity is also in the interest of farmers. However, reaching the 2030 targets of at least 25% of the agricultural land to be farmed in a more environmentally-friendly way (“organic farming”) and of a reduction in pesticides by 50% should not simply be prescribed. The share of “organically farmed” products must grow through the increasing demand of consumers and not the other way around by determining the supply. Furthermore, the Commission must define its vague concept of “organic farming” more precisely. **The increase in organic farming and the reduction of pesticides should be evaluated by scientific studies rather than by determining arbitrary targets.** These studies should examine the environmental and economic effects of both measures, including an assessment of both the benefits for biodiversity and the risks for a potential reduction of crop yields.

With regard to the 2030 target of reducing the use of chemical pesticides by 50%, the Commission missed to specify the relevant base. It is not clear if the reduction refers to the overall usage in the entire EU or in each Member State, and which year serves as a reference point. Furthermore, the Commission does not indicate any alternative to using pesticides.

The Commission mainly concentrates on regulatory measures, but it rightly also considers applying economic incentives. These should take the form of market-based instruments like pricing ecologically harmful activities, e.g. by taxation or by issuing tradeable certificates granting a right allowing such activities to a predefined extent. **Market-based instruments trigger a discovery process in which a price will be attributed to ecosystem services** which are currently free of charge. In contrast to restricting or prohibiting ecologically harmful activities directly by law, market-based instruments give the market actors indirect economic incentives for a desired behaviour, leaving to them the choice between various options. This ensures achievement of the target at minimum cost. **The taxation of environmentally harmful activities**, as endeavoured by the Commission, is principally an appropriate instrument to achieve the given objectives in an **effective and cost-efficient** way. However, this is only the case **if the tax rate is chosen properly**. If it is too high, it creates an unnecessary burden for companies. If it is too low, the objective may be missed.

Measuring the economic value of biodiversity – and thereby the “true costs” of biodiversity loss – through natural capital accounting is **another possibility to set economic incentives for reducing biodiversity loss**. However, **an exact determination of the “economic value” of biodiversity and the “true costs” of biodiversity loss is impossible** since some values of nature cannot be expressed in monetary terms and since there is a considerable degree of discretion in determining the costs.

Legal Assessment

Legislative Competence of the EU

The EU can adopt measures for “preserving, protecting and improving” the environment [Art. 192 TFEU]. With regard to the potential introduction of EU-wide rules on taxation, it must be clarified whether such harmonisation is necessary to ensure the establishment and the functioning of the internal market and to avoid distortion of competition [Art. 113 TFEU]. Furthermore, unanimous consent of all Member States in the Council is needed [Art. 113 TFEU].

Subsidiarity

The Commission’s sweeping claim that the protection and restoration of biodiversity requires “strong partnerships between local, regional, national and European” levels [p. 3] does for itself not generally justify EU action. However, given the complexity of ecosystems with their multiple interdependent elements and the transboundary nature of many causes of biodiversity loss – e.g. air and water pollution, climate change, invasive alien species – the planned EU measures are in line with the principle of subsidiarity [Art. 5 (3) TEU].

Compatibility with EU Law in other Respects

The Commission’s plan for proposing “legally binding” EU nature restoration targets for degraded land and sea ecosystems leaves open, whether such targets would be “legally binding” either on the EU level or for each Member State. Only in the latter case, however, the Commission would have the legal power to enforce such targets by an infringement procedure before the European Court of Justice [Art. 258 TFEU]. Therefore, the legal character of such targets needs to be clearly defined by the Commission in a future proposal for a legislative act in this respect.

Summary of the Assessment

Due to the lack of property rights, market mechanisms alone cannot always ensure the protection of biodiversity. Therefore, regulatory measures can be justified. However, such measures should be cost-efficient. As nature thrives better in protected areas, enlarging them can be an effective instrument for stopping biodiversity loss. However, the protection of biodiversity needs to be balanced with economic and social needs. EU-wide criteria for classifying protected areas can create a comparable level of protection of biodiversity across all Member States. The increase in organic farming and the reduction of pesticides should be evaluated by scientific studies rather than by determining arbitrary targets. Market-based instruments trigger a discovery process in which a price will be attributed to ecosystem services. The taxation of environmentally harmful activities is effective and cost-efficient if the tax rate is chosen properly. Measuring the economic value of biodiversity is another possibility to set economic incentives for reducing biodiversity loss. However, an exact determination of the “economic value” of biodiversity and the “true costs” of biodiversity loss is impossible.