

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(91) 27 final

Brussels, 8 February 1991

Modified proposal for a

COUNCIL DIRECTIVE

on the conservation of natural and semi-natural habitats
and of wild fauna and flora

(presented by the Commission pursuant to Article 149,
paragraph 3 of the EEC Treaty)

EXPLANATORY MEMORANDUM

1. On September 16, 1988 the Commission presented to the Council a draft Directive on the protection of natural and semi-natural habitats and of wild fauna and flora, as adopted by the Commission on July 26, 1988. The missing annexes were transmitted to the Council on March 14, 1990.

On November 19, 1990 the European Parliament adopted with a large majority 53 amendments to the Commission's proposal.

2. 29 of these amendments are at least partly acceptable to the Commission as far as they include improvements or clarifications of the initial text.
3. To that effect the Commission has decided, in accordance with the third paragraph of the article 149 of the Treaty, to amend the proposal of the initial draft Directive.

Original text

Amended text

Title

Proposal for a Council Directive on the protection of natural and semi-natural habitats and of wild fauna and flora

Proposal for a Council Directive on the conservation of natural and semi-natural habitats and of wild fauna and flora

Article 1

The aim of this Directive is to conserve natural and semi-natural habitats and wild fauna and flora in the European territory of the Member States to which the Treaty applies, including maritime areas under the sovereignty or jurisdiction of the Member States.

The aim of this Directive is to conserve natural and semi-natural habitats and wild fauna and flora at a satisfactory conservation status in the European territory of the Member States to which the Treaty applies, including maritime areas under the sovereignty or jurisdiction of the Member States.

Article 2

Member States shall take the requisite measures to maintain the abundance and diversity of wild flora and fauna at a level which corresponds in particular to ecological, scientific and cultural requirements and the needs of subspecies, varieties, forms and populations at risk locally, while taking account of economic and recreational requirements.

1. Member States shall take the requisite measures to maintain the abundance and diversity of wild flora and fauna at a level which corresponds in particular to ecological, scientific and cultural requirements and the needs of subspecies, varieties, forms and populations at risk locally, while taking account of economic and recreational requirements.

2. Member States shall take appropriate steps to monitor the conservation status of species and habitats mentioned in Article 1 in all the regions of their territories where they occur, taking particular account of :

(a) the need to monitor the status of threatened species and habitats, and

(b) the need to monitor the effectiveness of measures undertaken pursuant to paragraph 1 of the present Article.

Article 3 (ea) (new)

(ea) "conservation status" means :
the sum of the influences acting
on a species that may affect its
long term distribution and
abundance or the sum of
influences acting on a habitat
which may affect its long term
distribution and integrity.

Conservation status will be
taken as "satisfactory" for a
species when :

1. population dynamics data
indicate that the species is
maintaining itself on a long-
term basis as a viable
component of its ecosystems:

2. the range of the species is
neither currently being
reduced, nor is likely to be
reduced on a long term basis:

3. there is, and will be in the
foreseeable future,
sufficient habitat to
maintain the population of
the species on a long term
basis.

The conservation status of a
species will be taken as
"unsatisfactory" if any of the
conditions set out in sub-
paragraphs (1)-(3) is not met.

Conservation status will be taken
as "satisfactory" for a habitat
when :

1. the extent of a habitat is
neither currently being reduced
nor is likely to be reduced on a
long term basis:

2. the habitat is not currently
undergoing degradation, nor is
likely to become degraded on a
long term basis, within the
areas where it currently exists:

3. the distribution and abundance of the habitat is being maintained at a level which is consistent with long term resource management.

The conservation status of a habitat will be taken as "unfavorable" if any of the conditions set out in the subparagraphs (1)-(3) above is not met.

Article 3 (eb) (new)

(eb) "Special Protection Area" means :

Any area notified to the Commission as an area which is important to maintain or achieve a satisfactory conservation status for any threatened species mentioned in Annex I or threatened habitat mentioned in Annex IV.

Special Protection areas thus notified shall contribute to the network as envisaged in article 6. of this Directive; and the Member States shall be responsible for the precise form of protected status to be applied and the conservation measures to be applied within SPA's in order to maintain or to enhance the conservation status of. In particular, those species and habitats for which the areas are important.

Article 5.1

1. Habitats of the species specified in accordance with Annex I and the types of habitat specified in accordance with Annex IV shall be the subject of special conservation measures in order to ensure the maintenance of the species concerned at a satisfactory level in their area of natural distribution as well as the conservation of the habitats concerned in all the regions where they occur.

1. Habitats of the species specified in accordance with Annex I and the types of habitat specified in accordance with Annex IV shall be the subject of special conservation measures in order to ensure the maintenance or re-establishment of the species concerned at a satisfactory conservation status in their area of natural distribution as well as the conservation of the habitats concerned in all the regions where they occur.

Article 5.3

3. Within, at the latest, eight years after the expiry of the period laid down in Article 27, Member States shall classify as special protection areas territories sufficient in number and size to ensure :

i) the maintenance of the species specified in accordance with Annex I at a satisfactory level in all regions where they occur,

3. Within, at the latest, eight years after the expiry of the period laid down in Article 27, Member States shall classify as special protection areas territories sufficient in number and size to ensure :

i) the maintenance of the species specified in accordance with Annex I at a satisfactory conservation status in all regions where they occur,

Article 12.1 (b)

(b) deliberate disturbance, particularly during the period of breeding, rearing and hibernation, insofar as disturbance would be significant in relation to the objectives of this Directive;

(b) deliberate disturbance, particularly during the period of breeding, rearing, hibernation and migration, insofar as disturbance would be significant in relation to the objectives of this Directive;

Article 12.1 (d)

(d) the keeping and sale of specimens taken from the wild.

(d) the keeping, transport, sale or exchange, or offering for sale or exchange of specimens taken from the wild.

Article 14.2

2. Exploitation, whether commercial or otherwise, of the species specified in accordance with Annex III (a) should only be permitted of species whose population is shown to be stable or increasing and exploitation must be sustainable. Such exploitation shall be subject to a management plan with the aims specified in Annex VIII in order to keep wild populations of those species at a satisfactory level and to avoid causing local disappearance of or serious disturbance to populations.

2. Exploitation, whether commercial or otherwise, of the species specified in accordance with Annex III (a) should only be permitted of species whose population is shown to be stable or increasing and exploitation must be sustainable. Such exploitation shall be subject to a management plan with the aims specified in Annex VIII in order to keep wild populations of those species at a satisfactory conservation status and to avoid causing local disappearance of or serious disturbance to other populations or habitats.

Article 14.5

5. Member States shall, where appropriate, take other measures, in particular :
(a) closed seasons and/or other procedures regulating exploitation;
(b) temporary or local prohibition of exploitation, in order to restore satisfactory population levels;
(c) regulation of the sale, keeping for sale, transporting for sale or offering for sale of specimens.

5. Member States shall, where appropriate, take other measures, in particular :
(a) closed seasons and/or other procedures regulating exploitation;
(b) temporary or local prohibition of exploitation, in order to restore the satisfactory conservation status
(c) regulation of the sale, keeping for sale, transporting for sale or offering for sale of specimens.

Article 16

Member States shall take the requisite measures to ensure that inshore fishing and protection of crops with nets are not detrimental to the conservation of threatened species specified in accordance with Annex II, and, as far as possible, other species of wild fauna and flora.

Member States shall take the requisite measures to ensure that fishing and protection of crops with nets are not detrimental to the conservation of threatened species specified in accordance with Annex II, and, as far as possible, other species of wild fauna and flora.

Article 17.1 (e)

(e) to permit, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain wild animals and plants in small numbers.

(e) to permit, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain wild animals and plants in small and specified numbers.

Article 17.3 (b)

(b) the means, arrangements or methods authorized for capture or killing;

(b) the means, arrangements or methods authorized for capture or killing and why these form the most satisfactory solution.

Article 20.3

3. Member States and the Commission shall promote multi-disciplinary analysis and evaluation with a view to increasing scientifically-based knowledge to which the measures carried out under this Directive can be anchored. Such information should be made available to the public.

3. Member States and the Commission shall promote multi-disciplinary analysis and evaluation with a view to increasing scientifically-based knowledge to which the measures carried out under this Directive can be anchored. In particular the Commission shall undertake studies to draw up an inventory of sites meeting the criteria listed in Annex V(a) and V(b) and shall keep this inventory up to date. Such information shall be made available to the public.

Article 24.1

1. Member States shall take all necessary measures to ensure the monitoring of the biological communities and the populations of species specified in accordance with Annex I and in the areas classified under Article 5. Member States shall send the Commission the information resulting from monitoring, so that it may take appropriate initiatives with a view to the coordination necessary to ensure the fulfilment of the objectives of this Directive.

1. Member States shall take all necessary measures to ensure the monitoring of the biological communities and the populations of species specified in accordance with Annex I and in the areas classified under Article 5. Member States shall send the Commission the information resulting from monitoring, so that it may take appropriate initiatives with a view to the coordination necessary to ensure the fulfilment of the objectives of this Directive. The Commission shall make the results from monitoring available on request.

Article 25 (b)

(b) ensure that the introduction into the wild of any species which do not occur naturally in the wild state in that region does not prejudice the local fauna and flora or its natural habitats. In this connection they shall consult the Commission.

(b) forbid the introduction into the wild of any species which do not occur naturally in the wild state in that region, unless it is proved that it is necessary and will not prejudice the local fauna and flora or its natural habitats. In this connection they shall consult the Commission.

Article 26

Application of measures taken pursuant to this Directive shall not lead to any deterioration in the present situation as regards the conservation of species and communities of wild fauna and flora referred to in Article 1.

Application of measures taken pursuant to this Directive shall not lead to any deterioration in the present situation as regards the conservation of habitats, species and communities of wild fauna and flora referred to in Article 1.

ANNEX I

Original

Amended

a) ANIMALS
VERTEBRATES

(...)
Phocidae
Monachus monachus
(...)

(...)
Phocidae
Monachus monachus
(...)

b) PLANTS

PTERIDOPHYTA

(...)

DICKSONIACEAE

Culcita macrocarpa C.Presl

(...)

ANGIOSPERMAE

ALISMATACEAE

Caldesia parnassifolia (L.) Parl.

(...)

CAMPANULACEAE

Asyneuma giganteum (Boiss.)

Bornm.

(...)

Trachelium asperuloides Boiss. & Orph.

CARYOPHYLLACEAE

(...)

Herniaria algarvica Chaudri

(...)

COMPOSITAE

(...)

Ligularia sibirica (L.) Cass.

(...)

LABIATAE

(...)

Nepeta dirchya (Boiss.) Heldr. ex Halacsy

(...)

LILIACEAE

(...)

Androcymbium rechingeri Greuter

(...)

ORCHIDACEAE

(...)

Cypripedium calceolus L.

(...)

TYPHACEAE

(...)

Typha shuttleworthii Koch & Sonder

(...)

UMBELLIFERAE

(...)

Apium repens (Jacq.) Lag.

(...)

Thorella verticillatinundata (Thore) Briq.

(...)

LOWER PLANTS

(...)

MACRO-LICHENES

COLLEMATACEAE

Collema dichotomum (With.)

Coppins et Laundon

Leptogium corticola (Taylor) Tuck.

Leptogium juresianum Tavares

LOBARIACEAE

Pseudocyphellaria lacerata Degel.

Pseudocyphellaria norvegica

(Gyelnik) P.W. James

RAMALINACEAE

Ramalina elegans (Bagl. & Car.)

Stizenb.

(...)

VERRUCARIACEAE

Catapyrenium psoromoides (Borrer)

R. Sant.

(...)

SPECIES FOR MACARONESIA

PTERIDOPHYTA

(...)

MARSILACEAE

Marsilea azorica Launert

ANGIOSPERMAE

ASCLEPIADACEAE

Caralluma burchardii N.E. Brown

(...)

CAPRIFOLIACEAE

Sambucus palmensis Link

(...)

CONVOLVULACEAE

(...)

Convolvulus massonii A. Dietr.

(...)

ERICACEAE

Erica scoparia L. subsp. azorica
(Hochst.) D.A. Webb

EUPHORBIACEAE

Euphorbia handiensis Burchard
(...)

LABIATAE

Sideritis cystosiphon Svent.
Sideritis discolor (Webb ex de
Noe) Bolle

(...)

LEGUMINOSAE

Anagyris latifolia Brouss. ex
Willd.
Dorycnium spectabile Webb &
Berthel.
Lotus azoricus P.W. Ball
Lotus callis-iridis D. Bramwell
& D.H. Davis
Lotus kunkellii (E. Chueca) D.
Bramwell et al.
Teline salsaoides Arco & Acebes.

LILIACEAE

Androcymbium psammophilum Svent.

MYRICACEAE

Myrica rivas-martinezii Santos.
(...)

PLUMBAGINACEAE

Limonium arborescens (Brouss.)
Kuntze
Limonium dendroides Svent.
Limonium spectabile (Svent.)
Kunkei & Sunding
Limonium sventenii Santos &
Fernandez Galvan

ROSACEAE

Bencomia brachystachya Svent.
(...)

RUTACEAE

Ruta microcarpa Svent.

SCROPHULARIACEAE

(...)
Isoplexis chalcantha Svent. &
O'Shanahan

SELAGINACEAE

Globularia ascanii D. Bramwell &
Kunkei
Globularia sarcophylla Svent.

SOLANACEAE

Solanum lilloi Sinding
(...)

LOWER PLANTS

LICHENES

Hypogymnia madeirensis (Tay.)
D. Hawksw.

ANNEX II

Original

Amended

a) ANIMALS
VERTEBRATES

(...)
CARNIVORA

(...)
Ursidae
All species

Mustelidae
(...)
Mustela putorius

Felidae
Felis silvestris
(...)

(...)
CARNIVORA
(...)
Ursidae
Ursus arctos

Mustelidae
(...)
(Deleted)

Felidae
(Deleted)
(...)

OPHIDIA
Boidae
Eryx jaculus
(...)

INVERTEBRATES

(...)

(...)
ECHINODERMA
ECHINOIDEA
CIDAROIDEA
Centrostephanus longispinus

MOLLUSCS
GASTROPODA
(...)
PROSOBRANCHIA
Patella ferruginea

BIVALVIA
ANISOMYARIA
Lithophaga lithophaga
Pinna nobilis
(...)

ANNEX III

Original

Amended

a) ANIMALS
VERTEBRATES

MAMMALS
CARNIVORA
(...)
Felidae
Felis silvestris

Mustelidae
(...)
Mustela putorius
(...)

INVERTEBRATES

(...)
ARTHROPODA
CRUSTACEA-DECAPODA
(...)
Scyllaridae
Scyllarides latus
(...)

b) PLANTS

(...)

ALGAE
Phymatholithon calcareum
Lithothamnium corallioides
(...)

PHANEROGAMES GYMNOSPERMES

Taxus baccata L.

(...)

(Deleted)

(Deleted)

(...)

ANNEX IV

Original

Amended

End of the first paragraph

... partially updated February 14, 1989.

... partially updated February 14, 1989, where the habitat is listed in CORINE.

COASTAL AND HALOPHITIC HABITATS

(...)
Sea cliffs and their vegetation
(biotopes 17.2 et 17.3)

(...)
Shingle beaches (17) and cliffs (18)
17.2 Annual vegetation of drift
lines

17.3 Perennial vegetation of
shingle banks

(...)
18.21 Atlantic coasts
(...)

(...)
18.21 Atlantic coasts (including
Baltic coasts)
(...)

FRESHWATER HABITATS

(...)
22.12 Oligo-mesotrophic waters in
Central Europe and round the
Alps with amphibious
vegetation : Littorella and
Isoetes (22.31) and annual
vegetation on exposed banks
(Nanocyperetalia) (22.32)

(...)
22.12 Oligo-mesotrophic waters in
Central Europe and round the
Alps with amphibious
vegetation : Littorella and
Isoetes (22.31) and annual
vegetation on exposed banks
(Nanocyperetalia) (22.32)
Subtype : lowland unpolluted
mesotrophic lakes

22.12 Hard oligo-mesotrophic
waters
22.44 Benthic vegetation
with Chara formations in
relation to 53.3 and 53.32

22.12 Hard oligo-mesotrophic
waters
22.44 Benthic vegetation
with Chara formations in
relation to 53.3 and 53.32

(...)

22.13 Naturally eutrophic lakes

22.14 Dystrophic lakes

(...)

TEMPERATE HEATH AND SCRUB

- | | |
|-------|---|
| (...) | (...) |
| | <u>31.225 British heaths</u> |
| | <u>31.235 Armorican, Cotentin and western English heaths</u> |
| | <u>31.238 Anglo-Norman heaths</u> |
| | <u>31.24 Ibero-Atlantic heaths</u>
<u>(Erica-Ulex, Cistus, Halimium)</u> |
| | (...) |

NATURAL AND SEMI-NATURAL GRASSLAND FORMATIONS

- | | |
|--|---|
| (...) | (...) |
| 34.3 On calcareous substrates (Festuco-Brometea) (sites of remarkable orchids) 34.34, 34.35, and 34.36 | 34.3 On calcareous substrates (Festuco-Brometea) (sites of remarkable orchids) <u>34.33</u> , 34.34, 34.35, and 34.36 |
| (...) | (...) |

RAISED BOGS AND MIRES AND FENS

- | | |
|--|---|
| (...) | (...) |
| 51.12 Transitional types (Erico-Sphagnion) | 51.12 Transitional types (Erico-Sphagnion) |
| (...) | <u>54.5 Transition mires (Caricion lasiocarpae)</u> |
| | (...) |

ROCKY HABITATS AND CAVES

- | | |
|---|---|
| (...) | (...) |
| 62.4 Bare calcareous rocks (Ireland, Great-Britain) | 62.4 Bare calcareous rocks (Ireland, Great-Britain, <u>France</u>) |
| (...) | (...) |

WOODLANDS

(Sub)natural woodland vegetation comprising indigenous and spontaneous species forming forests of tall trees, with typical undergrowth, and meeting the following criteria :

- rare and residual in their potential area
- Containing endemic or threatened species
- Important for reasons of protection

(...)

41.53 Old oak woods with holly and Blechnum in the British Isles

(...)

44.17 Salix alba and Populus alba galleries

44.44 Po valley pedunculate oak woods and Polygonatum (sole example)

42.18 Abies cephalonica plantations (Greece)

(Sub)natural woodland vegetation comprising indigenous and spontaneous species forming forests of tall trees, with typical undergrowth.

(...)

41.53 Old oak woods with holly and Blechnum in the British Isles

42.51 Caledonian forests

(...)

41.9 Chestnut woods

42.A1 Cypress woods of Crete (Cupressus sempervirens)

44.17 Salix alba and Populus alba galleries

44.4 Mixed oak-elm-ash forests of great rivers

44.7. Oriental plane woods (all subtypes)

44.8 Southern riparian galleries

(...)

(Deleted)

ANNEX VII

Types of distinct landscape features of outstanding local importance to wildlife

- Valley corridors (springs and exits of underground rivers, streams, reed beds, bodies of water)
- Coastal staging posts (natural inshore reefs, rocky offshore islets, coastal cliffs)
- Bodies of water
- Fallow land and bush
- Wooded farmland (hedgerows, spinneys, field trees)

Typical landscape features of importance to wild flora and fauna

- Ancient trees, groves and orchards
- Hedgerows and other land-dividing plantations
- Treelines
- Grassy terrace slopes
- Scrub patches
- Small woodlands
- Ponds, temporary ponds and waterholes
- Freshwater and brackish ditches
- Humid depressions
- Dry uncultivated hilltops
- Arable field margins
- Stony areas
- Herbaceous layer of orchards and plantations
- Edges of waterways and waterbodies
- Springs and watercourses
- Old tunnels and mineshafts
- Drowned quarries
- Salt pans
- Inshore reefs, including artificial reefs
- Valley corridors

ANNEX VIII(b)

(b) that exploitation will be properly regulated, monitored and annually re-assessed to ensure that the population is remaining stable or increasing;

(b) that exploitation will be properly regulated, monitored and regularly re-assessed to ensure that a satisfactory level of conservation is being maintained;

ANNEX VIII (ca), (cb) (new)

(ca) that exploitation will not have damaging effects on the habitat of the exploited species or on other protected species;

(cb) that hunting regulations are strictly enforced;

COMPETITIVENESS AND EMPLOYMENT IMPACT STATEMENT

I. What is the main reason for introducing the measure ?

The 8 draft annexes aim to complete the proposal for a Council directive on the protection of natural and semi-natural habitats and of wild fauna and flora, for which the Task Force has already given its approval on 3/6/88 (note no. 001625).

II. Features of the businesses in question. In particular:

(a) Are there many SMEs ?

The enterprises concerned will be mainly agricultural ones, since the directive will deal essentially as it appears clearly from annexes IV and VII, with conservation of natural habitats in predominantly rural areas.

(b) Are they concentrated in regions which are :

- (1. eligible for regional aid in the Member States ?
- (
- (ii. eligible under the ERDF ?

The regions most likely to be affected are objectives 1 and 5b regions.

(III. What direct obligations does this measure impose on
(businesses ?
(

(IV. What indirect obligations are local authorities likely
to impose on businesses ?

The direct and indirect obligations will vary according to the type of measures to be taken with a view to ensuring maintenance or reestablishment of a favourable conservation status for species or habitat types specified in annexes I and IV. For agricultural enterprises, this will mean avoiding or reducing to a minimum the use of chemical fertilizers, pesticides and herbicides; for crafts or industries, this will mean avoiding or limiting their pollution emission and waste dumping in the areas concerned.

- V. Are there any special measures in respect of SMEs ? Please specify.

Even though the major part of the industrial fabric in the main areas affected by annexes I, IV and VII are likely to be composed of SMEs, no special measure is foreseen in respect of SMEs.

- VI. What is the likely effect on :

- (a) the competitiveness of businesses ?

The likely effect of direct or indirect obligations following implementation of the directive and its annexes on the competitiveness of business will vary depending on provisions already taken by the SMEs. It is likely to be important in cases where the SMEs are allowed to operate according to norms that are less strict than those set in Community environmental legislation, in particular with regard to emissions in the air and water. The SMEs will also be affected, to a lesser degree, in cases where the principle laid down in the "impact assessment" directive (760/85) foreseeing the definition of compensatory measures with a view to correcting negative effects on the environment of a determined project is applied.

- (b) employment ?

The measures carried out to implement the directive and its annexes could create employment in the following fields :
Agro-tourism, creation and management of natural protected areas, promotion of productive and commercial businesses.

- VII. Have both sides of industry been consulted ?

Please indicate their opinions.

Both sides of industry will be consulted within the framework of the Economic and Social Committee.

In general positive comments (unions, employers).

Nil.

DOCUMENTS

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