Comments SERE Legal Working Group on the draft regulation for a uniform format for national restoration plans

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General comment:

SERE LWG considers the uniform format as an essential tool for the implementation of the Nature Restoration Law (NRL) and the national restoration plans.

Specific comments:

Scientific underpinning of national restoration plans

The Nature Restoration Law is clear in its obligation to have science-based national restoration plans (article 14, § 1 NRL). For clarity, it would be advisable to mention this explicitly in the format.

Flexibility ('optional' choice in format)

Many fields in the format are 'optional'. This enables flexibility for Member States and can lead to less administrative burden. However, it should be checked if this flexibility is in line with the legal requirements (see for example 3.1. of the format which is optional, whereas in article 14, § 1 of the NRL it is a legal requirement; another example could be 6.3.2.4 on indicative maps required by Art.15(3a)).

National restoration plans in federal Member States

There are only references in the uniform format to 'national' measures, plans (including national CAP strategic plan), etc. although in federal states where nature conservation is a regional competence, all the data and policy instruments will be regional rather than national. There seems to be no place for a more regional approach in restoration plans, leading to concern among regional authorities. For instance, the Walloon administration in Belgium is concerned about this. If the format allows for a regional approach, this would better be mentioned explicitly in the format, in order to provide clarity.

Public participation (section 2.1. format)

The section on public participation and stakeholder engagement is important. The value of the stakeholders in the process should be acknowledged and their expertise should be used maximally. The format should explicitly include the conditions on stakeholder participation that are in mentioned in the NRL: the process needs to be open, transparent, inclusive and effective with early opportunities to participate.

The format addresses stakeholder engagement but lacks clarity on who qualifies as a stakeholder and whether incentives are provided, which is especially relevant given the vague wording in the NRL ('stakeholders affected by…'). A brief mention in the format on balancing stakeholder representation and leveraging positive synergies—particularly with the private sector—would strengthen engagement and prevent dominance by certain interests (such as lobby groups from agro-industry).

It is also essential that draft national restoration plans should be available to the public in an early stage. Final national plans should be easily and publicly accessible.

Contributions to overarching targets (section 3 format)

In order to be able to reach the overarching targets on restoration, it is a requirement that Member States identify how they will contribute to the overarching targets (article 14, § 1 NRL).

In order to be able to assess the contribution of Member States It would be helpful to clarify in the format what counts towards the 20% area-based target. For example what is counted in section 3.2 in the format: e.g. reducing pesticides on a large area (to contribute towards the pollinator decline reversal) in and of itself should not count as an area-based restoration

measure but it seems that no such distinction is made in the format or no guidance is provided what should count for section 3.2. It seems like all area-coverage estimates for all targets would simply be added up?

<u>Financial needs (section 4.3.1. format)</u>

Estimating the financial needs for restoration is a crucial part of the format, since Member States will be required to provide the necessary funding. The information on funding that is provided should be a strong tool to track and seek funding along the implementation phase.

<u>Harmful subsidies (section 4.3.2. format)</u>

Article 15, § 3, v of the NRL requires identifying subsidies which 'negatively affect meeting of the targets and the fulfilment of the obligations'. This is copy-pasted in the format, however without further guidance on phasing them out. Since the restoration obligations are binding, subsidies that contradict them cannot remain indefinitely, implying the necessity of a phaseout down the road. The format could clarify this intent by specifying the need for a long-term transition plan or roadmap.

<u>Interplay with CAP (section 4.2.7. format)</u>

Member States have to give an 'Overview of the interplay with the national common agricultural policy (CAP) strategic plan' (section 4.2.7). This could allow for an integration with CAP funds, but this should be made more explicit. Lack of synergies with the CAP will hamper the ambition level of restoration.

<u>Maps for different ecosystems (part B of the format)</u>

In general the format lacks the obligation for EU-coordinated maps that make the ambition level visible and can help track progress.

More specifically, in several sections of the format, a requirement for maps is missing or is not precise enough:

- In section 6.1.2 of the format (contextual information about habitat types), no map of the existing habitat types on the territory (in good or bad condition) is required. How then will it be possible to assess them and to plan restoration measures ? The same could be asked about existing species habitats (section 6.2.5 format).
- For the 'indicative maps' of areas subject to restoration measures, it is indicated in several subparagraphs (e.g. sections 6.2.2.3; 6.2.4.6; 6.2.5.4.; etc): "Geospatial information, provided as NUTS 3 reference, 10x10 km grids, 1x1 km grids or free polygons". It is unclear what the added value is of such unprecise maps. For the non-deterioration clause, such maps would be impossible to be used for testing plans and projects.
- For marine ecosystems restoration (section 7 format), no map is required.
- For urban ecosystems (section 8 format):

- o The area of national urban green space and tree canopy cover is calculated in km²: this is not very precise (what if the destruction/deterioration extends 'only' on less than 1 km²?)
- o Maps can be replaced by "descriptions" (8.2.1.2 for instance): is this compatible with legal certainty?
- River connectivity (section 9 format): no map is required of the artificial barriers to be removed.

Alignment with other legislation (Habitats Directive…) (section 6 & 7 format)

It is problematic that the format allows automatic text filling with planning and reporting material of Member States as part of the Habitats Directive, Water Framework Directive etc., without the possibility for the EU, scientists or NGOs to evaluate if they are science-based and sufficient. Although an alignment between existing legislation and the NRL is laudable, there are differences. For example: good condition needed at site level, is different from reaching favourable conservation status at MS level.

The automatic use of article 17 Habitats Directive for establishing the favourable reference area, is problematic as the definitions of favourable reference area in the NRL and Favourable reference value in the Habitats Directive are different. There are also significant data gaps on favourable reference value.

Section 6.1.2. (and others sections using article 17 Habitats Directive data) should not allow 2013-2018 reporting data as this contradicts 'taking the latest scientific evidence into account' as required by article 14, § 1 NRL. Article 17 HD reporting is due on 31 July 2025 which leaves sufficient time for the more recent data to be used for the 1 September 2026 deadline for draft national restoration plans. Using the 2013-2018 data would also allow for a larger proportion of habitats still counting as in 'unknown' condition (assuming that knowledge gaps tend to decrease) which would in turn mean a lower area coverage for the 2030 target.

Non-deterioration measures (section 6.4 and 7.4 format)

For both terrestrial and marine habitats, the draft format merely requires information on the 'approach' to the non-deterioration measures even though Art.15 § 3 (f) and (h) NRL require an 'indication of the measures'. Art.15 NRL therefore requires specific measures, or at least an indication thereof, rather than simply the 'approach' which suggest a much more general overview. Given the needed specificity of the required measures to prevent deterioration in the different habitat types and sites, only obtaining information on the 'approach' will be insufficient to assess the adequacy of the measures.

In addition, section 6.4.1 combines the two obligations of Art.4 § 11 into one. However, as there are significant differences between Art.4 § 11 first sentence (continuous improvement of areas subject to restoration measures) and Art.4 § 11 second sentence (non-deterioration once good condition is reached), they should be treated separately in the NRP. Art 4 § 11 first

sentence will apply from the moment an area is subject to restoration measures (i.e. already between now and 2030 for some areas), whereas Art. 4 § 11 second sentence will only apply once good condition is reached (i.e. significantly later in many instances). Treating them together will likely lead to confusion and not enable an adequate assessment of the compliance with the two separate obligations. This equally applies to section 7.4.1 for marine habitats.

Further, Art.4 § 12 NRL requires Member States to endeavour to put in place necessary measures 'by the date of publication of their national restoration plans'. Therefore, this requires Member States, at the very least, to make a serious effort to put measures in place prior to the adoption of the NRP. Section 6.4.2. should therefore not merely require the 'approach to preventing significant deterioration' but should provide an indication of the measures that have been put in place already. Where no measures were taken or they did not reach the required aim, Member States should be required to provide a justification to enable an assessment whether this effort-based obligation has been complied with. This equally applies to section 7.4.2 for marine habitats.

Response to observations from the Commission (additional information I, format)

The indication how Commission observations on the national restoration plans have been taken into account seems rather weak. It suggests that Member States could simply write very general remarks in the additional information box, rather than responding article by article to the comments. It seems important for civil society to see in more detail how Member States took the Commission considerations into account and potentially failed to improve their national restoration plans despite comments from the Commission. Either the currently optional field specific considerations should become mandatory or at least there should be explanations how for each article the observations have been taken into account (with a higher character limit) to enable a better oversight.

Coordination of restoration measures for transboundary ecosystems

Some ecosystems (e.g., rivers, forests, wetlands) span multiple Member States. The uniform format doesn't require information on the coordination of restoration measures between neighbouring countries. Fostering synergies between national restoration plans for transboundary ecosystems is however required in article 14, § 17 of the NRL.

This absence could also be at odds with article 15, §3, p of the NRL which requires Member States to assess the effectiveness of restoration measures. For ecosystems which extend across national borders, the effectiveness of restoration measures cannot be evaluated in isolation. Since Recital (65) emphasizes cross-border restoration, Article 15 can be interpreted in light of this.

In light of the above, it would be advisable to include a section on a cross-border assessment of restoration success, including for transboundary ecosystems.

<u>Urban ecosystems (Technical background note. Draft typology of measures)</u>

The restoration measures for urban ecosystems in the typology focus primarily on new urban areas. The biggest challenges, however, will be with greening existing urban areas. It is there where the climate change impacts (especially heat island effect) are the worst and climate change adaptation measures are needed the most. There is only one measure on existing build up areas and one measure on greening of existing transport routes (page 11 of draft typology). A measure that could be added here is: "Greening or increasing biodiversity value of existing private and public gardens, parks, and other non-build up private and public areas, such as parking lots and other paved areas."

<u>Agricultural ecosystems (Technical background note. Draft typology of measures)</u>

Carbon sequestration in soils is not mentioned. This can be added under the current measure 'Adapt soil management practices in agriculture'.