

Mr Nicola **NOTARO**

Head of Unit, Nature Unit, DG Environment

Avenue de Beaulieu 5 / Beaulieulaan 5

1160 Bruxelles / Brussel

Brussels, 17 February 2017
Our Ref. Doc 10965/JJ/SL

Dear Mr Notaro,

Birdlife International and CEMBUREAU, the European cement association, welcome the decision taken by the European Commission to tackle national implementation of the Birds and Habitats Directives. Based on the feedback we have received from our experts on the ground, we believe that the following should be considered in the development of an action plan to improve the implementation of these two important Directives:

Planning for both biodiversity and business: When evaluating access to land it is clear that the species and habitats mentioned in the Birds and Habitats Directives must be fully protected. Nevertheless, where it can be demonstrated that biodiversity and economic activity can go hand-in-hand, Member States should ensure the flexibility inherent in the Directives is implemented at Member State level so that business is not hampered unnecessarily. Here we draw attention to the guidance produced by the Commission, entitled ‘Non-energy mineral extraction and Natura 2000’, which forms a useful basis for such an evaluation. Furthermore, Member States should be encouraged to speed up the development of their strategic action plans for protected areas and to ensure these plans cover biodiversity conservation, economic development and social wellbeing. Whilst it is important to protect biodiversity, sustainable economic activities also need to be considered given their contribution to social wellbeing through the provision of growth and jobs.

Monitoring, enforcement, and communication: We encourage the Commission to strengthen its monitoring and enforcement of the Directives at Member State level in terms of implementation. In this regard, and as mentioned above, several useful tools have already been produced at EU level (eg. guidance documents). Here, we believe more should be done to communicate the existence of such documents and for improving the user-friendliness of their content by providing, for example, summaries covering the key elements. Furthermore, joint roadshows which bring together authorities, NGOs and industry could potentially be organized at national/regional/local level whereby horizontal and specific issues of implementation can be clarified. Furthermore, we would encourage the Commission to promote the sharing of knowledge and best practice in implementation between sectors and Member States and to establish an impartial and working forum for better implementation of the legislation involving the most relevant specialists. Clearly, there is a need for a new way of engaging and involving stakeholders in promoting, understanding and applying these guidance documents for them to be effective. In the long run, such action would also save time.

Equal treatment: When implementing the Directives at Member State level, it is essential that the principles of equal treatment are applied in terms of sectors and countries:

- Sectors: it is important to ensure that all sectors which have an impact on nature (including industry, farming and forestry) have to meet the same requirements, in order to ensure a level playing field for businesses. As such, Member States should be discouraged from excluding specific sectors from meeting certain obligations arising from the Directives.
- Countries: By ensuring that all Member States apply the Directives in a uniform way, this will ensure a level playing field between operators based in different Member states.

Species action plans: The status of certain species can vary from one region to another across Europe. For example, whilst the great crested newt is rare in some parts of Europe, it is more abundant in the United Kingdom. It may therefore prove useful to develop evidence-based regional/national 'Species Action Plans' which would practically define 'favourable conservation status' and inform planning and management practice, thus ensuring an informed and proportionate approach to the conservation of the species and populations. Such plans should take a meta-population approach and aim at conserving the species population, genetic viability, ecological functionality and range. They should not aim at protecting every individual, except where this is necessary to maintain or secure favourable conservation status.

Establishing a clear definition for what is a 'favourable conservation status': In order to achieve the objectives of the Birds and Habitats Directives it is important to first agree on what it is exactly that we want to achieve. There is currently too much variation in the methodologies used by Member States in defining favourable conservation status, and many Member States do not provide sufficient details on the values they attribute to it. There is also a need to harmonize values for species that have a large ranges or depend on multiple Member States for different stages in their life cycle. Conservation status is a key element in the implementation of the Directives, for example when it comes to derogations for species under Article 16 of the Habitats Directive or for species of wild birds under Article 9 of the Birds Directive. We encourage the European Commission to provide guidance to Member States on how to identify favourable reference values and to ensure that Member States set these values at an ambitious but realistic level, in line with the scientific and ecological requirements.

Funding: One of the main issues affecting nature across Europe is the lack of adequate funding to enhance and maintain biodiversity conservation. As such, more needs to be done by the European Union and Member States to encourage public and private funding for nature. In addition, the way in which funding is allocated should also be enhanced in order to make the best use of the funds available, ensure funding is distributed across all Member States and to promote investment in, for example, restoration and rehabilitation in favour of nature conservation. Finally, we believe that more needs to be done to recognise the solution offered by sectors like the cement industry, particularly for areas which, although designated as Natura 2000, are degraded and no longer of a high biodiversity value. By allowing a temporary activity in that area, such as extraction, the sector will gradually invest in restoring the area and implement plans enabling the development of an area of a high biodiversity value. As such, these sectors should be seen as a partial solution to the funding issue.

We would like to thank you in advance for taking into consideration these points in the development of the Action Plan, and we remain at your disposal in the event of any queries.

With best regards,

Jessica Johnson
Communications Director
CEMBUREAU
Rue d'Arlon 55
BE - 1040 Brussels
Tel: + 32 2 234 10 45

Ariel Brunner
Senior Head of Policy, Europe and Central Asia
Stichting BirdLife Europe | BirdLife International
Avenue de la Toison d'Or 67 (2nd floor)
BE-1060 Brussels
Tel : +32 2 238 50 92

Copy: Michael **O'Briain**, Deputy Head of Unit, Nature Unit, DG Environment

For more information about CEMBUREAU, the European Cement Association, please visit:

www.cembureau.eu

For more information about Birdlife Europe, please visit: <http://www.birdlife.org/europe-and-central-asia>