



A position paper on the reform of EU regional policy and proposals for the New Structural Fund Regulations for the period 2007-2013

1 Introduction

This paper sets out BirdLife International's views on the new structural fund regulations (2007-2013). BirdLife is a worldwide partnership of organisations working for the conservation of birds and their habitats and, through this, for the diversity of all life. The Partners in BirdLife International are like-minded national conservation organisations. BirdLife International is represented in all EU countries and Accession Countries. The EU and accession partners have experts working on regional development. They work together as the **BirdLife International Regional Policy Task Force** which was set up in 1993. The group promotes sustainable development policies that are sympathetic and beneficial to biodiversity, overall natural resources conservation and a healthy environment for everyone, at a Member State and EU level. In keeping with the EU Sustainable Development Strategy we believe that environmental protection and social cohesion must go hand in hand with economic growth.

Our Partners draw their experience from across the EU, Accession States and Overseas Départements of France (French Guiana, Guadeloupe, Martinique, Réunion). This experience, knowledge and the recommendations that flow from it, have been brought together in previous publications such as:

- 'The structural funds and biodiversity conservation' (1995) and
- 'EU cohesion and the environment: a vision for 2000 and beyond' (1997)

We also prepared an environmental commentary and suggested amendments for the Community proposals for the current structural fund regulations for 2000-2006.

2 Our vision

Following the EU Sustainable Development Strategy and commitments made in Gothenburg in 2001, the European Community and Member States must address economic and social cohesion from **within a sustainable development framework**. Regional policy should, therefore, contribute to the harmonious, **balanced and sustainable** development of the European Union. This means that the new structural

fund regulations must support actions that mutually strengthen the Community's economic growth, social cohesion, **and environmental protection and improvement**. And it is essential that this sustainable development perspective is communicated at all levels, not only through plans, programmes and projects, but also in all structural fund press releases, websites, promotional leaflets and so on.

Taken to its logical conclusion, our vision is of a regional policy that avoids adverse environmental impacts, ensures the full integration of environmental considerations within structural funds programming and uses structural funds to protect and enhance biodiversity. This means:

- employing strict environmental conditions,
- ensuring environmental integration from the point of policy conception, through project delivery, to post project monitoring, and
- having more money to spend on the environment.

3 Summary of views

Future structural fund plans, programmes, priorities and measures must make clear reference to binding environmental commitments. The current structural fund regulations (1260/1999/EC) make sustainable development together with protection and improvement of the environment objectives of the funds, in keeping with the Amsterdam Treaty. This important addition to the regulations has acted as a point of reference for all structural fund programming, but there is room for improvement in the application of the regulations.

The Commission should facilitate environmental integration by issuing SEA guidance for structural fund assistance. The Strategic Environmental Assessment (SEA) Directive 2001/42/EC is due to be implemented in Member States by 21 July 2004. The Directive applies to certain plans and programmes within Member States. This includes those co-financed by EU structural funds, after 2006. It will require the environmental consequences of structural fund plans and programmes, as a whole, to be identified and assessed during preparation and before their adoption. SEA is a tool which can help to integrate environmental requirements into the application of the funds. As best practice we consider that SEA should be applied to all programmes immediately.

The new structural fund regulations must respect existing environmental law (e.g. Birds and Habitats Directives, Water Framework Directive, EIA etc.) and should avoid damage, destruction, deterioration or loss to environmental assets including biodiversity. The Commission has a responsibility to withhold funds where projects prove damaging to the environment. For the exceptional situation of the French Overseas Départements where neither the Birds or the Habitats Directives apply,

internationally important sites for biodiversity, particularly for endemic species and globally threatened species, should be respected.

Environmental authorities should play a key role in making sure that structural fund programmes comply with Community environmental policy and legislation, and improve the environment as far as possible. **The new regulations should clarify the authorities' involvement in the preparation, negotiation and implementation of structural fund programmes**, in order to ensure a high standard of environmental protection and improvement across all Member States.

Environmental NGOs, when they are included in structural fund partnerships, can contribute ideas and expert knowledge to the sustainable development of regions that are lagging behind. **Technical assistance should be made available to environmental NGOs to enable them to build on this capacity.**

The new structural fund regulations must establish strategic goals for environmental improvement. We recommend an environment Objective for the EU25, with a nature conservation remit.

Structural funds should be used to co-finance nature conservation and the enhancement of biodiversity in support of the objectives and targets agreed by the Heads of State, in Gothenburg June 2001. A proportion of the structural fund budget (2007-2013) should be allocated to provide long term financial support for development initiatives which provide tangible environmental and social benefits, for example, for sustainable land management practices or sustainable harvesting of inshore fisheries.

4 *Main comments*

This paper outlines BirdLife's specific views and concerns about the reform of EU regional policy and makes recommendations for the new structural funds regulations.

These concerns relate to *protecting* the environment for the long term and can be addressed through:

- Explicit cross-referencing of environmental commitments in structural funds,
- SEA – a tool for environmental integration,
- Sanctions for non-compliance with the environmental acquis,
- Programme Management
- Programme Monitoring

And *improving* the environment, which can be achieved by:

- Clear strategic goals: establishing a new Objective for the environment for *all* parts of the European Community.
- Securing funding for the proposed environmental Objective

4.1 Protecting the environment

Structural funds must not harm the environment. This is recognised in the current regulations which state that structural funds “shall contribute to the harmonious, balanced and sustainable development of economic activities... [and] the protection and improvement of the environment”. However, there are still cases in which environmentally damaging projects have received structural fund assistance. In order to support environmental and nature conservation objectives *and* economic viability, the Commission could, for example, favour the use of EIB loans and cut the total contribution of Funds where investment in infrastructure is likely to generate a substantial net revenue – thus reducing the likelihood of funding environmentally unsustainable and unprofitable activities. Ways must be found to prevent environmental damage from happening, some of which are outlined below.

Explicit cross-referencing of environmental commitments in structural funds

The integration of environmental concerns (such as, definitions, targets, actions, the environmental acquis) within structural funds begins with the regulations themselves. These must refer to environmental protection and improvement, and to the fund’s contribution to sustainable development, across all articles about plans, guidelines, evaluations, policies and so on. The result must be that integration of environmental concerns is coherent and continuous from the point of policy conception, through project delivery, to post project monitoring. To achieve such results:

- Community support frameworks, single programming documents and operational programmes should include information on the contribution of Priorities and Measures to the environmental situation (which is previously identified in the ex-ante evaluation) covered by relevant plans and programmes.
- As a matter of best practice, the Commission should review the environmental and sustainable development indicators employed by Member States as part of their ex-ante, mid-term and ex-post structural fund evaluations, and issue guidance on the most widely accepted and recognised indicators.
- Plans and programmes should also include information on the Priorities’ and Measures’ compliance with:
 - o structural fund objectives, such as, protection and improvement of the environment and a contribution to sustainable development,
 - o the provisions of the Amsterdam Treaty, especially Articles 2 and 6 on the integration of environmental protection into the definition and implementation of Community policies and actions, and
 - o the Birds and Habitats Directives.

- The environment should also be a vertical priority in community support frameworks, single programming documents and operational programmes; this could take the form of a separate chapter of measures to protect and enhance the environment.

Strategic Environmental Assessment (SEA) – a tool for environmental integration

In future, the SEA Directive will be an important tool to help promote environmental integration. The aim of the Directive is to ensure that the environmental consequences of plans and programmes are identified and assessed during their preparation and before their adoption. SEA will contribute to more transparent planning by involving the public and integrating environmental considerations. This will help to achieve the goal of sustainable development. BirdLife recommends that:

- The new structural fund regulations should confirm the requirement of Member States to undertake SEAs of all structural fund plans and programmes in accordance with the requirements of SEA Directive 2001/42/EC.
- The Commission should issue clear guidance on how to undertake SEA in accordance with the objectives of the SEA Directive (for the above plans and programmes), before the submission of development plans. Technical assistance should also be made available from the current programming period to facilitate preparation and training for the SEA of the next round of plans and programmes, for the public and private sectors.

Sanctions for non-compliance with the environmental acquis

Another means of ensuring integration of environmental considerations into structural fund plans, programmes and projects is to put in place real and credible sanctions for failure to comply with the environmental acquis, and to enforce those sanctions. The Commission has a key role in delivering sustainable development at a European level, for example, by supporting institutional change, building on experience or facilitating the sharing of information and best practice. It also holds the ultimate responsibility for safeguarding environmental integration within structural funds – for example, in 2000 Commissioners Barnier and Wallström spelt out the linkage between the operation of the structural funds and cohesion fund for 2000-2006 and the implementation of the Birds and Habitats Directives¹. The Commission is responsible for delivering the funding and must ensure that:

- The transposition and full implementation and compliance with Community environmental law (especially the Birds and Habitats Directives) is a pre-requisite for the payment of structural funds to plans and programmes.

¹ Commission press release, 16 March 2000.

- o This means full site designation and Natura 2000 management objectives to be in place (including in new Member States) before the payment of any structural funds to any plans and programmes.
- o The Commission should monitor and review structural funds compliance with EU Directives e.g. EIA and the Birds and Habitats Directives.
- Payments to projects are withheld where such projects (or projects related to them) damage fauna, flora or habitats protected under the Birds and Habitats Directives.
- Payments are withheld if endemic or globally threatened species and their habitats are endangered by a project (see box 1).

Box 1: Environmental protection for the French Départements Outre-Mer

The French overseas départements (French Guiana, Guadeloupe, Martinique, Réunion) are rich in biodiversity, particularly endemic species and globally endangered species **and are unprotected from the potentially damaging effects of structural fund investments**. On the one hand, the départements are part of Europe's economy and qualify for structural funds assistance under Objective 1. On the other hand, these important biogeographical areas are penalised because they lie outside the jurisdiction of the Birds and Habitats Directives – which apply to Member States' *European* territory (including the Azores and the Canaries).

This discrepancy must be taken into account. EU Heads of State made a commitment, in Gothenburg June 2001, to stop the loss of biodiversity by 2010. If this commitment is to be met, the new structural fund regulations must establish strict conditions to protect the European Community's tropical zones.

Programme Management

Without the direct involvement of the environmental authorities and environmental NGOs in the programming, monitoring and evaluation of the funds, the provisions of the new regulations which aim to integrate environmental considerations into the implementation of structural funds will not succeed. Therefore, the new regulations must ensure that for all programmes, including non Objective 1:

- Member States, including the current accession countries, clarify the statutory responsibilities of competent environmental authorities, for example, to ensure compliance with the environmental acquis, with appropriate powers and resources. There should be no conflict of interest.
- Environmental authorities are established as decision-making members (i.e. with voting rights) of both managing authorities and monitoring committees.

- Environmental NGOs are involved in the ex-ante and ex-post evaluations of structural fund programmes, to help prevent the misuse of funds.
- Environmental NGOs are established as consultative members of managing authorities.
- Member States, including the current accession countries, inform the Commission of the arrangements they have made to include environmental authorities in the preparation, financing, monitoring and evaluation of structural fund assistance, at national, regional and local levels.
- A 'Theme Manager' is appointed to liaise with the managing authority and monitoring committee, and to oversee, on a day-to-day basis, the integration of environmental considerations in programme preparation and implementation.
- Managing authorities consist of representatives from across Government departments and ministries, in order to reflect their different sectoral interests and to facilitate communication between them.

Managing authorities must ensure that structural funds are not used to finance projects which will damage the environment. Project applications must be screened and where necessary assessed for their environmental impact (including the cumulative impacts from several projects or sections of projects), before projects are approved and funds released. The new regulations must require that:

- All applications for structural funds are accompanied by sufficient environmental information (e.g. on the characteristics, location and potential impacts of the projects) to enable the managing authority to determine whether projects are likely to have significant effects on the environment and/or, in the case of Natura 2000 sites, if an appropriate assessment (under Article 6.3 of the Habitats Directive) is necessary.
- Where the managing authority determines that a project is likely to have significant effects on the environment, a full environmental impact assessment (EIA) is carried out and submitted to the managing authority, before the project can be approved.
- Where the managing authority determines that a project is likely to affect a Natura 2000 site, an appropriate assessment is carried out and submitted to the managing authority, before the project can be approved.
- Managing authorities take into account the information provided by the EIA and/or the appropriate assessment when deciding whether or not to support a project – and do not finance projects which will damage the environment.
- Where an EIA or appropriate assessment proposes mitigation measures to avoid, reduce and/or offset environmental damage, managing authorities must approach DG Environment for confirmation that they are satisfied with the proposed measures, before projects are approved.

Programme Monitoring

BirdLife believes it is essential that environmental partners (NGOs and environmental authorities) are fully represented, alongside their social and economic partners, in monitoring the implementation of regional policy through the structural funds. The new regulations must ensure that:

- The Commission consults European-level organisations representing environmental partners or environmental authorities, alongside the social partners, about the structural funds policy of the Community.
- Environmental NGOs and environmental authorities are included on monitoring committees (and sub-committees e.g. for each Priority) and have voting rights alongside social and economic Partners.
- In order to enable environmental NGOs to get involved in the structural funds process alongside social and economic partners, technical assistance is made available for:
 - o core funding purposes,
 - o building capacity,
 - o participation in consultation processes,
 - o supporting representatives in committees, and
 - o training for representatives in committees.
- Support is given for public access to information on structural funds within Member States, in accordance with Commission Regulations 1159/2000/EC regarding Member States' information and publicity measures concerning structural funds assistance, and 1049/2001/EC regarding public access to European Parliament, Council and Commission documents.
- Earmark twenty five percent of the performance reserve at the mid-term review to reward excellent environmental performance, such as, contribution to the objectives of the EU Sustainable Development Strategy of halting biodiversity decline by 2010.

4.2 Improving the environment

The previous sections have dealt with ways in which the structural funds can more effectively protect the environment. However, structural funds should also help to improve the environment and, in particular, to support nature conservation (see box 2).

Currently it is extremely difficult to utilise the funds for nature conservation purposes, and it seems likely that, without significant reform, these difficulties will persist in future.

Reform of the structural funds must be based on clear strategic goals and the achievement of practical outcomes in order to deliver tangible environmental improvement across a broad spectrum of projects, from 'hard' environmental

infrastructure projects (e.g. new technologies), to nature conservation and protection of European natural heritage. This could be achieved by establishing an Objective for the environment and the allocation of funding dedicated to that Objective.

Box 2: Benefits of funding nature conservation

We believe that structural funds should be used to co-finance nature conservation and the enhancement of biodiversity. A healthy environment is *essential* to the health and well-being of people and benefits their economy. It supports sustainable development by:

Directly or indirectly creating jobs or enabling sustainable economic use. Maintenance of and access to high quality environments supports jobs, for example, directly in environmental management activities, and indirectly through green tourism and branding of locally distinct products.

Improving people's perceptions of an area. A healthy ecosystem contributes to quality of life through amenity and health values. It attracts people and businesses into an area, for example, by appealing to particular lifestyle choices or providing a high quality business environment.

Reducing costs to businesses and communities which benefit from ecosystem services. The sensitive management of our natural environment can provide societal benefits beyond nature conservation, for example, the protection of natural floodplains can reduce the economic and social costs of flooding, improve water quality and sustain groundwater resources.

Fostering conditions for more sustainable development through best practice and showing that sustainable development works.

Clear strategic goals: establishing a new Objective for the environment

The reform of the structural funds, and especially the probable redefinition of Objective 2², offers an ideal opportunity to create an entirely new environmental Objective that would support, inter alia, environmental integration and nature conservation, and thus to contribute to sustainable development in urban and rural areas and the least favoured regions or islands. BirdLife International recommends that the new regulations should:

² It has been suggested that the criteria for defining the regions which are lagging behind most (Objective 1) will remain same at 75% or less EU average GDP per capita measured at the NUTs II geographical level.

- Establish a cross-cutting Environment Objective (or Thematic Priority) with a nature conservation remit. The new environmental Objective would not be territorially limited but would apply across the EU 25. Such an Objective would:
 - o support environmental integration through, for example, the implementation of the Water Framework Directive and help deliver conservation objectives through the Birds and Habitats Directives.
 - o help to protect Europe's natural heritage by, for example, supporting the sustainable development of Natura 2000 designated areas,
 - o address the protection of biodiversity in the tropical zones of the European Community.
- Create a link between the environment Objective proposed above or the Community Initiatives (perhaps Interreg, see box 3) and 6th Environmental Action Programme thematic strategies, for example, the marine environment.
- Contribute to achieving the full implementation of the EU Sustainable Development Strategy and the EU Biodiversity Strategy.

Box 3: Community initiatives

The Interreg community initiative promotes cross-border, trans-national and inter-regional co-operation and balanced development of EU territories. Experience has shown that it has been very positive for sustainable development and for Natura 2000. BirdLife International fully endorses the continuation of Interreg, with an expanded budget and simplified application procedures.

Securing funding for the proposed environmental Objective

In the next programming period the distribution of structural (Objective 1) and cohesion funds will be substantially changed, to bridge the economic and social disparities between the new and existing Member States. Together with the tropical zones of the European Community, the accession countries are home to some of the richest biodiversity in Europe and it is essential that this richness is identified as an economic, social and environmental asset and fully protected. Meeting the challenge of enlargement, funding for the environment will need to be adaptable to a wide range of environmental situations (in the EU 15 and Accession Member States) and needs (from hard to 'soft' environmental projects), and must be compatible with other structural fund spending, for example, through Objective 1. Funding for the environment must be available across the EU 25, be easily accessible and simple to administer.

To achieve this goal, funding must be earmarked to support the proposed environmental Objective. BirdLife recommends that the new regulations:

- Earmark 25% of the total structural funds budget, for environmental projects conducted under the new environmental Objective. Of this:
 - o Half (12.5%) should satisfy a broad range of environmental projects e.g. new environmental technologies, which fall outside environmental projects eligible for cohesion funds;
 - o Half (12.5%) should be for projects that are dedicated to nature conservation or which meet nature conservation objectives.
- Ensure that EU regions of high biodiversity value, including the tropical zone, are eligible for receiving structural funds support for nature conservation, and that regional development plans which are sympathetic to such areas' environmental and biodiversity values.

Where structural funds assistance, such as Objective 1, overlaps with Natura 2000 designation, the new regulations must:

- Make structural fund programmes' (single programming documents and community support frameworks) conformity with Natura 2000 management objectives a criterion for enhanced rates of grant.

5 Conclusions

Structural funds are used to finance socio-economic development programmes aimed at reducing disparities between regions. This purpose must be widened so that regional policy contributes to the harmonious, **balanced and sustainable** development of the European Union. In order to achieve this vision, the new structural fund regulations must support actions that mutually strengthen the Community's economic growth, social cohesion, **and environmental protection and improvement**. The new structural fund regulations must ensure tighter compliance with the existing environmental acquis and should fully implement the SEA Directive. These requirements should be facilitated by setting minimum standards for the involvement of environmental authorities in the management and monitoring of funds.

BirdLife International believes that Structural funds should also co-finance nature conservation and the enhancement of biodiversity in (new and old) Member States. This will enhance, as well as protect the environment, and help to achieve sustainable development throughout our Community.

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BirdLife International is a global partnership of conservation organisations, working in more than 100 countries worldwide. The BirdLife partnership strives to conserve birds, habitats and global biodiversity, working with people towards sustainability in the use of natural resources.
