

EDITORIAL

Budget deal hits LIFE+

The run up to Christmas saw ups and downs for the EU's environment budget, LIFE+. While Environment Ministers made positive progress in the details, Heads of State dealt a blow to LIFE+ by failing to allocate it a budget under the EU budget deal. This spells trouble for the EU's target of halting biodiversity decline by 2010.

Good on detail

Early in December, Environment Ministers made constructive changes to a weak LIFE+ proposal. A third pillar was added called LIFE+ Nature and Biodiversity. This should help to fill a gaping hole left by the Commission's plans to axe the EU's successful biodiversity fund, LIFE Nature.

Under this new pillar essential conservation activities will be eligible, such as implementation of Species Action Plans for the most threatened species, the extension of the NATURA 2000 network in the marine environment, monitoring of conservation status and site and species management planning.

Further structure was brought to the Regulation such as more finely defined objectives and closer scrutiny of actions.

Programming introduced

But in a major change to current implementation of EU environment policy,

LIFE+ is likely to be largely distributed through Member States under a programme arrangement. The wisdom of this approach is only likely to be known in several years, when an assessment of environmental gains can be made.

Until now the Commission has successfully administered LIFE Nature projects based on their conservation merits. This meritocratic approach is at risk of being lost under a programming system.

Poor on budget

Later in December, much of the progress made in the regulation was undermined by the EU budget deal. Heads of State failed to allocate a specific budget to LIFE+. This has meant that LIFE+ will in all probability be left with, on average, just over 200 million Euros per year, approximately 40 million of which is likely to remain with the Commission. Divided between 25 Member States, this budget looks slim indeed.

Sustainable development neglected

We have estimated that in order to help co-finance part of Europe's 18,000 NATURA 2000 protected sites, LIFE+ needs more than 1 billion Euros per year. One of the Sustainable Development Strategy's most ambitious targets, to halt the loss of biodiversity by 2010 is unlikely to be met without

this funding.

The regrettable conclusion is that if LIFE+ remains neglected under the EU budget, we are likely to miss the 2010 target, around which nature conservation activities are focussed to a significant degree.

Budget Trialogue

The budget Trialogue, between the European Parliament, Council and Commission, set up to decide the final shape of the EU budget will need to put LIFE+ back on the map. MEPs will need to defend their call to give 9.5 billion Euros to LIFE+. The Austrian Presidency will have to work to find the necessary financing to achieve a major part of the Sustainable Development Strategy, the 2010 biodiversity target. The Commission will need to advocate co-financing for the NATURA 2000 network in which it has a significant stake.

We sincerely hope that after a disappointing Christmas, spring will bring a thaw in attitudes to nature conservation and a decent budget for the LIFE+ Regulation.

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Special points of interest:

- BirdLife position on wind farms
- Avian Flu
- Biomass Action Plan
- European Council



BirdLife position statement on wind farms and birds adopted



By Andy Hay

At the last meeting of the Birds and Habitats Directive Task Force in early December, BirdLife Partners from the European Union adopted a position on wind farms and birds.

Acknowledging the imminent threat of climate change to people and biodiversity the BirdLife Partnership supports the promotion of renewable energy sources, including wind power. In many countries of the EU wind farms are being established in increasing numbers and size, on land as well as in the sea, inshore and off-shore.

However, as evidence shows, wind farms are not without risks for birds and other animals (e.g. bats or marine mammals), depending on their location and way of construction.

In the position statement EU BirdLife Partners summarise the latest scientific evidence for potential negative implications of wind farms on birds (such as collision, disturbance, barriers to movement and habitat loss).

Following this, a list of locations is given where the construction of wind farms should be avoided, including Important Bird Areas, Natura 2000

sites, and other sites identified as important for birds, in particular migration bottlenecks and mountain passes. Furthermore the position asks for environmental impact assessments to be carried out according to relevant EU and national legislation, both for individual projects but also on the level of strategic plans and programmes. This can help to identify the best locations for wind farms at an early stage and to minimise harm to biodiversity. It can also prevent delays and disruption to construction.

Finally, recommendations are given for further research and monitoring, in particular as regards off-shore wind farms and wind farms along flyways of migratory birds.

The BirdLife Secretariat and Partners will now advocate and promote this position at all relevant levels, including in the ongoing working group on wind farms and nature set up by the European Commission. The Commission plans to adopt guidelines on wind energy and nature conservation by the end of 2006.

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Launch of 'State and Outlook 2005' report by the European Environment Agency

On 29 November, the European Environment Agency (EEA) launched its third State and Outlook report of the European Environment since its creation in 1994.

At the launch, the opening remark of Jacqueline McGlade, Executive Director of the EEA was that 'Environmental policy works'.

The report itself attests to this by reporting how in some areas, like air pollution significant progress has been achieved through environmental pol-

icy and legislation, even though problems remain.

The report includes five main messages, which are that: 1. Prevention works better than cure, 2. Environmental protection and economic growth can go hand in hand, 3. Many environmental problems stem from incorrect pricing, 4. Market tools can provide incentives for the necessary behavioural changes and 5. The cost of inaction can be many times the cost of sensible preventive measures.

The report concludes that climate change, biodiversity loss, deterioration of marine and aquatic ecosystems, air pollution and chemicals remain the main challenges to be addressed urgently and recommends that action such as that described in the main messages is necessary to address these problems.



Change of Director General in DG Environment

On 21 November the Director General of DG Environment changed as part of a general reshuffle of many Director General posts in the European Commission. Catherine Day, who had been Director General since 2002 left to become Secretary General of the Commission, i.e. take up an influential position close to the Commission President.



Mogens Peter Carl - Director General DG Environment

The new Director General in DG Environment is Mogens Peter Carl, a Dane, who comes to DG Environment from DG Trade. Peter Carl has studied in the UK and France, and has an academic background in economics and a strong professional background in trade with no apparent previous experience in environment.

Avian Flu

During the months of November and December there were fewer observations of outbreaks of Avian Flu and in general things were a bit calmer at EU level. The EU concentrated its efforts mostly on preventive measures linked to a possible human pandemic and on the preparation of a pandemic preparedness plan.

There were also moves for better coordination between DGs. On 14 November, DG Environment organized a meeting with scientific experts from most Member States and DG SANCO and DG Research in order to coordinate better actions between

different DGs and the Member States. BirdLife was represented at the meeting by Konstantin Kreiser and Professor Chris Feare, who gave a presentation on the topic.

Professor Feare stressed in particular the lack of evidence for wild birds acting as vectors of the virus, and at the same time the risks originating from movements of poultry and trade of wild birds.

Furthermore, he highlighted emerging evidence linking outbreaks of Avian Flu with the practice of using chicken manure for fertilizing fish ponds in Asia but also in Eastern Europe.

This last issue was highlighted by BirdLife as one which deserves serious attention and investigation. BirdLife continues to monitor Commission action on this issue, and to offer assistance.

Finally, the Standing Committee of Member States on the Food Chain and Animal Health (SCFAH) extended the ban on imports of captive wild birds until 31 January 2006.

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Bird Trade

The EU is the single largest importer of wild birds in the world, receiving an estimated two million birds each year. The trade is a contributory factor in the globally threatened status of some species and is implicated in population declines of others.

EU BirdLife Partners have developed a position on the import of wild caught birds, responding to the current temporary EU ban on Avian Flu grounds. This also responds to "The EU Wild Bird Declaration" signed by, amongst others, the World Parrot Trust. The position was informally adopted at the Task Force meeting in December and will be formally

adopted in January. The position can be summarized as: "To ban the import into the EU of all birds caught in the wild. If trade can be shown to benefit the conservation of the species concerned, exceptions may be considered." The position refers to all bird species and not just to species listed in the annexes of the CITES Convention.

BirdLife Partners based the development of this position on the fact that there is little evidence that the bird trade is sustainable and significant evidence that it results in biodiversity loss and deterioration of the conservation status of important species. In

addition there is little evidence that the bird trade provides incentives for conservation and rarely provides a fair income to the rural poor while being implicated in welfare concerns for traded birds. Notwithstanding any of the above, EU Partners fully support the strong implementation and enforcement of CITES both within the EU and globally.

In a future issue, we will present the position in more detail.

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Missing the fundamental question: the Biomass Action Plan

On December 7th the Commission has published its Biomass Action Plan, a document sketching the EU's strategy for increasing the use of biomass as a source of energy, in electricity and heat production, as well as for transport fuel.

A specific Biofuels communication is expected in the coming months. As the action plan clearly states, one of the main interests in the development of biomass energy is that it is a (albeit partially) renewable source and thus can contribute to tackling climate change.

However, the Commission fails to draw in its Action Plan a clear strategy for ensuring that Bioenergy does deliver a substantial reduction in greenhouse gases.

Depending on the source and production path, the use of Biomass and particularly of Biofuels can result in anything from a substantial saving of greenhouse gas emissions to actually

emitting more than by burning fossil fuel.

Only a mechanism that allows for a specific life cycle analysis of greenhouse gas emissions can ensure delivery of results on this aspect.

The plan also ignores the risks posed to biodiversity from the mass production of energy crops, ranging from further intensification of European agriculture to large scale deforestation in tropical countries to make space for oil palm and soya plantations.

The plan fails to suggest any specific environmental safeguards. Biomass can surely play a useful role in helping Europe get over its fossil fuel dependence but the Commission's Action Plan seems more like an attempt to push forward a range of favoured technologies, rather than a clear roadmap for the delivery of environmentally sustainable energy produc-

tion.

We can only hope that the upcoming Biofuels communication will fill the gap and make concrete proposals for ensuring that Biofuels really are the "green fuels" they are supposed to be.

The BirdLife position paper on Bioenergy is downloadable from:

<http://www.birdlifecapcampaign.org/frameset.htm>

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The EU Sustainable Development Strategy: an agenda for change?



by Mike Edwards

The European Commission published its proposals for a revised EU Sustainable Development Strategy (SDS) on 13 December 2005. These proposals build on the stocktaking Communication published by the Commission in February 2005, which sought to assess the progress of the SDS since it was adopted by Europe's leaders in Gothenburg in 2001.

The Commission's proposals of December will be discussed by Ministers

from across Europe during the first half of 2006, with a view to Heads of State and Government agreeing a revised Strategy at the European Summit in June.

But why does BirdLife care?

The SDS is important as it should set the agenda for all future EU policy development, including the revision of the EU's budget in 2008/2009. Moreover, it contains the crucial commitment to halt biodiversity decline by 2010 – which, on the basis of current trends, Europe will fail to meet.

BirdLife looks forward to working with the Austrian Presidency and all the Institutions in favour of a robust and ambitious Strategy, which ensures that all EU policy helps, rather than hinders, the achievement of the EU's nature protection objectives.

At the same time, BirdLife will seek to promote the use of the indicator on farmland bird populations to measure progress towards meeting EU biodiversity commitments.



Tree Sparrow, By Andy Hay

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December Environment Council

The 2 December Environment Council saw environment ministers discuss, amongst other issues, LIFE+ (see editorial), climate impacts of aviation, GMOs, and briefly a ban on the wild bird trade (see also separate article). The main result of the Environment Council was the partial agreement on LIFE+ where Ministers improved the Regulation, adding a new Nature and Biodiversity component. Ministers spent much time finding a satisfactory formula for dividing funds between

the Member States according to population and SCI coverage. The Belgian Minister raised briefly the issue of a permanent ban on imports into the EU of wild birds. This has been raised several times in the environment council over the past eighteen months. Several Ministers expressed support for an extension of the existing ban not only on health grounds (Avian Flu), but also for conservation and animal welfare reasons.

The Environment Commissioner, Stavros Dimas, gave an assurance that the Commission would review this area of policy as a matter of urgency.

The European Council's agreement on the financial perspective: bad news for wildlife

After months of heated debate, Europe's leaders finally adopted an agreement on the EU's seven year budget – the financial perspective 2007-2013. However, the deal spells disaster for wildlife: funds for agri-environmental schemes under the rural development programme (Pillar II of the CAP) have been slashed by up to 40 per cent compared to existing spending and great uncertainty surrounds the future funding of the LIFE+ environment instrument, which should play a major role in financing Natura 2000.

The deal will inevitably fail to halt the dramatic losses of biodiversity that have been witnessed across rural Eu-

rope in recent years – and indeed, BirdLife believes that it will exacerbate wildlife declines.

The Council's agreement now passes to the European Parliament for a Second Reading so that a final inter-institutional agreement can be reached. It is hoped that the Parliament's Second Reading vote will take place in March or April, before which negotiations will take place between the Institutions in order to iron out areas of disagreement.

BirdLife is currently communicating its concerns to MEPs with regard to the deal adopted in the hope that the

budgets for rural development and LIFE+ will be increased. If the European Union is to meet its commitment to halt the loss of biodiversity by 2010, then it is essential that the EU's budget delivers for the environment and wildlife.





European Parliamentary Questions & Answers

The Questions & Answers are set out as follows:

Subject, Question nr., Name & Party asking, date of question, Summary of Question, Commissioner answering, date of answer, Summary of answer.

Please contact us for more information on any of these questions & answers.

Nitrogen-sensitive Natura 2000 areas - E-2463/04 by Dan Jørgensen (PSE) - 05/10/04

Denmark has now finished working out operational definitions of "criteria for favourable protected status" for the species and natural habitat types forming part of the bases for designation of Denmark's Natura 2000 areas, including the tolerance limits for nitrogen-sensitive habitat types. The average airborne nitrogen level in Denmark is typically around 20 kg of nitrogen per hectare per year. This level of pollution will in the long term lead to a permanent devastation of endangered habitats. Some 25 million pigs are produced each year in Denmark, almost five times the country's human population. Production is on the rise, and this contributes to nitrogen emissions. In the light of the above, I should be glad if the Commission would answer the following questions:

1. Is Denmark required under Article 6 of the EC Habitats Directive to take appropriate measures to prevent damage to nitrogen-sensitive habitat types forming part of the designation basis for a Natura 2000 area?

2. Does this obligation also imply, in any given case, a

requirement not to permit new activities, including livestock rearing, which will increase the nitrogen burden on nitrogen-sensitive habitats in Natura 2000 areas, where such habitats form part of the designation basis, and where the tolerance limit has already been exceeded?

3. Do these provisions also imply an obligation to take action against existing activities (cf. judgment of the European Court of Justice against Ireland in case C-117/00)?

4. Where the nitrogen pollution of a particular Natura 2000 area exceeds the tolerance limits for the nitrogen-sensitive habitat or habitats which make up the designation basis, who is responsible for ensuring that the nitrogen level is reduced to below the tolerance limit?

5. Where a Member State exceeds the tolerance limits for nitrogen pollution of nitrogen-sensitive habitats situated in Natura 2000 areas, and if the Member State in question does not take appropriate measures, pursuant to Article 6(2) of the Habitats Directive, to prevent damage to these habitats by putting a stop to the individual source of the pollution, what does the Commission propose (or what is it required) to do in this situation?

Answer by Mr Dimas - 21/12/04

Article 6(2) of the Habitats Directive(1) requires Member States to take appropriate steps to avoid, in

Natura 2000 sites, the deterioration of habitats as well as the disturbance of species for which the sites have been designed. Pollution caused by nitrogen compounds, including from agricultural sources, is the subject of different Community Directives, namely the Nitrates, the National Emission Ceilings and the Integrated Pollution Prevention and Control (IPPC) Directives.

Based on provisions of Article 6(3) of the same Directive, any project that is not directly connected with or necessary to the management of a Natura 2000 site is to be subject to an appropriate impact assessment. In the case of a negative assessment, the project must be appropriately modified, unless the Member State can justify its implementation on the grounds of imperative reasons of overriding public interest. In this case, however, the Member State is required to take compensation measures.

The issue of management of water pollution caused by nitrates from agricultural sources is primarily the subject of requirements under the Nitrates Directive(2). With reference to this Directive, Denmark has fulfilled its obligations by establishing a water monitoring network, by designating the whole country as a nitrate vulnerable zone and by establishing on its whole territory, since 1998, an action programme, which is a set of measures to prevent and reduce nitrate pollution. According to the information provided

to the Commission, from the December 2003 evaluation of the Danish Action Plan on Aquatic Environment II, 1998, 48% reduction of nitrates leaching in the period 1985-2003 was achieved, in line with the objectives of the Plan. The Action Plan on aquatic environment III 2005-2015 set up measures for further 13% reduction of nitrate leaching. Denmark also fulfilled its commitments of reduction by 50% of Nitrogen load to marine waters taken in the framework of the Helcom Convention. In application of the Nitrates Directive, the Danish action programme set limits to the amount of both total and organic Nitrogen applicable to land, which may be expected also to contribute to reducing N-deposition.

The National Emission Ceilings Directive(3) aims, inter alia, to contribute to reducing emissions of nitrogen oxides and ammonia causing acidification and eutrophication. Like other Member States, Denmark has to take care not to exceed their national total emissions of NH₃ as defined in the Directive from 2010 on. This will help to reduce the N-deposition and therefore also contribute to the protection of nitrogen-sensitive habitat types. Further combating acidification and eutrophication is an ongoing issue which will be addressed in the Thematic Strategy on air pollution and the revision of the National Emission Ceilings Directive.

The Integrated IPPC Directive(4) lays down measures designed to prevent or to



reduce emissions in the air, water and land. This Directive covers, inter alia, installations for the intensive rearing of pigs with more than 2000 places for production of pigs (over 30 kilograms (kg)) or 750 places for sows. Existing enterprises and farming activities have to comply with the provisions of the Directive by October 2007, while the Directive has been applicable to new installations since October 1999. In application of this Directive, Denmark has to make the operation of each installation subject to a permit containing emission limit values for pollutants likely to be emitted in significant quantities. Such emission limit values have to be based on the best available techniques taking into account the technical characteristics of the installation, its geographical location and the local environmental conditions.

The obligations set out by all the above-mentioned Directives add to the obligations stemming from the implementation of Articles 6 (2) and 6(3) of the Habitats Directive, which require the Member States to take appropriate steps to avoid, within the Natura 2000 sites, the deterioration of habitats as well as the disturbance of species for which the areas have been designed.

The Commission has the duty of ensuring proper implementation of Community law by Member States. If there is evidence of non-compliance, the Commission will investigate and take the necessary steps to ensure compliance with the obligations set out in the above-mentioned Directives.

Enlargement of the military base in the Natura 2000 site of La Maddalena, Sardinia - follow-up to written question E-3157/03

On 30 September 2003, the Italian Defence Minister authorised the enlargement of the US military nuclear submarine base (project USA No 080-02/0625 MCON P.995 "Improvements to the infrastructure of the US Navy's logistical naval support area (NSA)" at S.Stefano) in the Sardinian archipelago of La Maddalena, which is on the list of sites of Community importance (code ITB000008, surface area 13 240 ha).

Under the project buildings covering 52 000 m² will be constructed, as will a new 180-metre dock at Santo Stefano that will consist of an underwater structure 100 metres long and 10 metres wide to which more naval vessels could be moored. There are also plans for a number of other construction works (residential centres, service buildings, sports centres and warehouses) at other sites on La Maddalena island.

The existing base for which enlargement authorisation was requested is located within the La Maddalena National Park, but neither the environmental implications assessment under the Habitats Directive 92/43/EEC(1) nor the environmental impact assessment under Directive 97/11/EC(2) have been carried out.

The base in question is not part of Italy's national defence system and its enlargement is not therefore a work in the public interest.

According to the answer to question E-3157/03(3) (10 December 2003) given by Mrs Wallström on behalf of the Commission, the work should at least have been preceded by the compulsory environmental impact assessment procedure.

Is the Commission aware of this situation?

Will it take the appropriate measures in response to this non-application of Directives 97/11/EC, 85/337/EEC (4) and 92/43/EEC?

Answer by Mr Dimas - 26/01/05

According to Directive 85/337/EEC(1) on the assessment of the effects of certain public and private projects on the environment, after amendments by Directive 97/11/EC(2), Member States are obliged to ensure that, before consent is given, projects likely to have significant effects on the environment by virtue, inter alia, of their nature, size or location are made subject to a requirement for development consent and an assessment with regard to their effects. Projects covered by the Directive are identified in the Annexes to the Directive.

The project for the enlargement of a military base at La Maddalena, Sardinia, mentioned by the Honourable Member, does not fall into any of the categories of the Annexes to the Directive. Therefore, Directive 85/337/EEC as amended cannot apply to this specific case.

Article 6, paragraph 3 of Directive 92/43/EEC(3) on the conservation of natural habitats and of wild fauna and flora, provides that "any

plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives." The above-mentioned provision applies to SAC (Special Areas of Conservation) and to SCI (Sites of Community Importance) under Directive 92/43/EEC. As regards pSCI (proposed Sites of Community Importance), Member States have an obligation to take protective measures that are appropriate, from the point of view of the Directive's conservation objective, for the purpose of safeguarding the relevant ecological interest which those sites have, at national level.

The above-mentioned project could affect the pSCI Arcipelago La Maddalena (ITB010008). Therefore, the Commission sent a letter to Italy requesting information on the application of Directive 92/43/EEC to this specific project. The file is under assessment. Should the Commission conclude that Community law is being breached in this specific case, it will not hesitate, as the Guardian of the Treaty, to take all necessary measures, including infringement procedures under Article 226 of the Treaty, to ensure compliance with relevant Community law.



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Further information on specific topics

The Briefing is not large enough to contain the text of all the source materials used to compile it. If you would like further information on specific topics reported in the Brussels Briefing, please contact us - details above.