



**Submission from the Irish Natura & Hill Farmers Association to
The Joint Oireachtas Committee on Climate Action**

on

EU Nature Restoration Regulation Law

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Introduction

In this submission, we have focused on the EU Nature Restoration Regulation Law as it is a major concern for many of our members that operate on peat soils, and the local communities that depend on the economic activity that these farmers generate. As you will see from this submission, there is a lot of detail to cover in the Nature Restoration Regulation Law, as a result, we haven't included details around the Land Use Review but we are quite happy to discuss this with committee members on Tuesday. Please note we have also included for the committee members our proposals on the EU Biodiversity Strategy which also outlines radical proposals around land use in Ireland up to 2030.

EU Nature Restoration Regulation Law

When seeking solutions to the concerns outlined in this Regulation it is vital that the science detailed is not just accurate but relevant to the land type and country and we must also consider the socio-economic factors relating to the local economies. In assessing the latter, it is vital that we properly assess the potential impact of rural depopulation and the cost of any population displacement from both an economic and environmental viewpoint.

In assessing this Regulation, there appears to be a view that those that farm in a manner that promotes animal welfare through natural living systems; that promotes genuine good environmental practices because the land is so sensitive that it demands careful management; that attracts important resources to marginal communities that circulates and sustains those communities are the communities that are being threatened by Nature Restoration. The farmers and rural communities that live and work in High Nature Value areas should not be the target of this Regulation or sacrificed for the nation's balance sheet.

The lands targeted under this Regulation are already delivering as required under CAP Regulations. Under these Regulations, farmland must comply with Good Agricultural and Environmental Conditions (GAEC). Beyond basic requirements under GAEC there are also Eco-scheme requirements and under the new Agri-environment scheme ACRES, farmers will see the scoring of these lands under a habitat scorecard. In relation to these habitat scorecards, it



is worth noting that under a number of EIPs and the previous Agri-environment scheme REAP similar habitat scorecards were very positive in relation to biodiversity outcomes.

Staying with the CAP Regulation, the new suckler support scheme has very strong elements relating to the delivery of improved environmental outcomes most notably the Carbon Navigator. While on our hills we have the Commonage Framework Plans with specific requirements around minimum and maximum stocking rates.

Beyond CAP there are many farmers operating on these lands that are part of Bord Bia scheme, Origin Green that drives sustainable food production and there are also EU Quality Schemes that have sustainability as their hallmark such as Connemara Hill Lamb.

Everything we have outlined above is positive in terms of food production and land use. But if we go down the road proposed under this Regulation we will undermine the quality and sustainability of food produced from these lands because we are saying the land itself is the problem. This will create enormous reputational damage to the food we produce and we risk all this on science that is very questionable.

Regulation overview

This Regulation is a progression of the EU Biodiversity Strategy and will provide the legal framework for its implementation. The Regulation has set out a clear plan with specific timelines and restoration targets. With regard to the EU Biodiversity Strategy that proposes to double the area of land designated the Irish Natura & Hill Farmers Association position is very clear – ***we will not accept any further designations on our lands.***

In providing a critical analysis of this proposed Regulation and proposals to protect and enhance biodiversity we need to establish why the current model operated through the Natura 2000 network of land designations has failed. In our assessment, this designation model failed in its objectives due to the lack of active engagement with the farmers and landowners. This point was covered in detail in our policy paper on the EU Biodiversity Strategy which has also been included in this submission.

Unfortunately, the process followed in this Regulation is more of the same. There is scant reference to the landowners with no ring-fenced budget or recognition of their property rights. When we assess the budgets (detailed from pages 52 through to 79) we see a gravy train for ecologists, environmentalists, and administrators and we wonder how those in DG ENV that designed this Regulation can't see this and are not embarrassed by it.

Staying with the lack of embarrassment we have also noted the Public Consultation process on page 9. This references an online consultation process conducted between January and April of 2021 that received 111,842 replies of which 97% were in favour of general EU Restoration



targets. This is comparable with results delivered by Vladimir Putin in his sham elections last Autumn and under no circumstances should be used to justify the proposed Regulation.

Assessing the Regulation Detail

The Regulation covers a total of 23 Articles and 78 Recitals. While the recitals provide valuable insight as to how the proposals will be implemented they are not legally enforceable and for this reason, we will focus primarily on the 23 Articles and specifically Articles 3, 4, 9 and 16.

Article 3

This covers the definitions of which 15 are detailed. Of particular interest is Article 3 (3) which defines what restoration means stating *“the process of actively or passively assisting the recovery of an ecosystem towards or to good condition”*

While actively is quite clear, passively is non-interference and this is the model favoured for the delivery of a Strictly Protected Designation as outlined in the EU Biodiversity Strategy. It is important to also recognise that this designation type (which isn't yet in place in Ireland) is to be targeted at carbon-rich soils (peatlands) and will need to cover at least 10% of the EU land base.

Article 4

Article 4 (2) states that *“Member States shall put in place the restoration measures that are necessary to re-establish the habitat types listed in Annex 1 in areas not covered by those habitat types.”*

In public discussion on this Regulation, most of the focus has been on the drained peatlands as detailed in Article 9. However, our hills and upland areas feature very strongly in these restoration targets as detailed here under Annex 1 of the Birds and Habitats Directive which covers wet and dry heathlands and blanket bogs which are dominant on our hills.

In an Irish context, the areas described in Article 4 (1), (2) and (3) are agricultural areas (permanent grassland) and are agricultural eco-systems which can only be dealt with under Article 9.

Article 4 (2) also details the restoration targets with the delivery of full restoration on *“100% of the surface area by 2050.”*

By compelling Member States to put in place the restoration measures on these lands we are developing a law that will not be possible to comply with.



Article 9

This article due to the possibility of a forced rewetting of 300,000ha of drained peatlands has received the majority of discussion relating to the overall proposal. Obviously this is very concerning and similar to Article 4 we could be developing a law that can't be complied with.

Important to also recognise that when defining this under Article 9 (1) they specify that this is *"in addition to the areas that are subject to restoration measures under Article 4 (1), (2) and (3).*

What this means is that while these areas (drained peatlands) are recognised as an agricultural area that could still support agriculture activity as defined under Recital 55 (blueberry and cranberry cultivation and grazing of water buffaloes) the areas under Article 4 (Hill lands) are viewed as existing habitats.

We are of the view that all our lands are agricultural areas and should only be viewed in this context because if they are ever accepted as non-agricultural areas then they will not be in a position to avail of future baseline payments under the CAP.

With regard to suggested agricultural activity as defined under Recital 55 the idea that water buffalo is even suggested as a possibility in Ireland (where this Regulation will have the greatest impact) illustrates how out of touch the creators of this Regulation are.

In relation to the objective of restoring these peatlands through rewetting we have major reservations with regard to the science. The science detailed has been acknowledged to be utterly lacking and the only thing the scientists will stand over is that they are not sure whether rewetting will make the emission worse or better than at the current time. Teagasc and the EPA are detailing that research from other countries are not a good fit with Ireland and that there is so much variety in the reaction of bog to different conditions that the science does not currently exist to make any claim of improved management of carbon emission. The research has to happen first not after the effect. This is not the basis to impose a Regulation that will change the lives, culture and society of Irish people. As citizens of the EU we demand better.

Article 16

This article covers Access to Justice and what is quite shocking is that there is no direct reference to those that own the property.

Under Article 16 (1) there is reference made for a member of the public (that could be a landowner) to *"challenge the substantive or procedural legality of the national restoration plans and any failures to act of the competent authority."* However, to do this they must be deemed to *"have a sufficient interest or that maintain the impairment of a right."*



What is also very concerning is Article 16 (2). Here while Member States will *“determine what constitutes a sufficient interest and impairment of a right.”* There is a free pass for *“non-governmental organisations promoting environmental protection and meeting any requirements under national law shall be deemed to have rights capable of being impaired and their interests shall be deemed sufficient.”*

This is a major concern that could well be abused by environmental NGO's. Currently, we see how these laws are being used to slow and derail critical infrastructural projects and what is proposed here will significantly add to this chaos.

We are also of the opinion that the overall Regulation and this particular article is infringing on property rights and while Commissioner Sinkevicius (DG ENV) has detailed how Member States *“When preparing and adopting their National Restoration Plans (NRP's), Member States would have to respect property rights in accordance with applicable national legislation”* it is vital that clarity is provided on this. Finally, it is worth noting how emotive land is in Ireland and worth considering the social unrest that could come from the implementation of this Regulation.

Conclusion

This Nature Restoration Regulation proposal screams of a supra-national EU policy with little appreciation of the lived experience of the Irish people. The lands targeted here are not vast swathes of countryside devoid of people. They are lived landscapes where people and nature have co-existed in a sensitive balance. These areas are rich in nature, culture and society and the economy of these places are inextricably linked to the land and the land to its people.

With the new proposal on the Nature Restoration Regulation it is hard to understand why the EU appears to be intent on shutting down traditional farming activity on the Highest Nature Value land in the country, whilst paying scant attention to the increasing monocultures that are spreading throughout the remainder of the country that have cleared biodiversity, clean water and nature before it.

While we are very clear on the need to protect and enhance biodiversity this can only be done in partnership with farmers and landowners. We must learn from the mistakes of the past as seen through the implementation of the Natura 2000 land designations. Here farmers were side-lined to the detriment of farmers, their communities and the environment. Forcing a law through that will undermine property rights, destroy rural communities, drive rural depopulation is not the way forward.