

Breaking down the ‘do no significant harm’ principle

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The Recovery and Resilience Facility was announced by the European Union in 2020. The aim of the EUR 672.5 billion fund – in addition to supporting post-pandemic economic reconstruction – is to drive forward the economy’s digitalisation and ecological change in Europe. This includes halting biodiversity loss.

However, [our research](#) shows that less than one per cent (!) of the recovery fund has been allocated to biodiversity protection or restoration. Even worse, it is becoming evident that at least ten percent of it – and this is still a conservative estimate – will fund projects that will harm biodiversity.

It is not just that the recovery fund is a historically large sum of money, it is also the first time EU funds have been screened according to the ‘do no significant harm’ (DNSH) principle.

Member States have to make sure the measures included in their Recovery and Resilience Plans are not compromising any of the six environmental objectives stipulated by the Commission, using specific criteria. These are based on the EU taxonomy for sustainable activities which aims to label which type of investments can be considered ‘green’.

Since its appearance in the Recovery and Resilience Facility, this approach is now becoming a model for other policy areas, such as for Cohesion Policy funds, representing an additional EUR 392 billion in EU public funds that will be assessed according to the ‘do no significant harm’ principle.

Premature approval for harmful projects

But what is in principle a positive development, has turned out in reality to be a superficial box-ticking exercise that creates a false impression of environmental safeguards. Although it is not supposed to replace compliance with EU legislation, a malfunctioning screening tool like this can result in a green light being given to EU funding for damaging projects, which are then harder to stop at a later stage. Furthermore, the recovery fund, which is supposed to bring positive change, is at risk of creating the illusion that supported projects are automatically sustainable if they comply with the 'do no significant harm' principle.

A worrying lack of transparency around the development of the National Recovery and Resilience Plans has made it even harder to assess whether projects in the plans properly comply with the 'do no significant harm' criteria. In many cases, neither precise information about what exactly will be financed nor the 'do no significant harm' assessments themselves have been made publicly available in most cases. But our experience based on similar projects indicates a high likelihood they will be damaging to nature.

Case in point: Deforestation in Romania

For years now, a number of EU infringement procedures¹ have been underway against the Romanian government due to illegal logging of Europe's last great primary forests in the Carpathians. Yet with these proceedings still ongoing, Romania has had around EUR 200 million from the European Union approved under the Recovery and Resilience Facility to 'protect the Carpathian forests from extreme weather events'.

Money from the grant will be used, among other things, to build forest roads for easier access. Yet, previous experience has shown that these roads are used to increase illegal logging, leading to deforestation. The Romanian example is, unfortunately, [just one of many that show that the 'do no significant harm' principle does not fulfil its objective](#) of preventing EU funds from financing harmful activities.

How the 'do no significant harm' assessment is done

In February 2021, the European Commission published [a guidance document](#) for Member States on how the 'do no significant harm' principle should be applied for each reform and investment in the recovery plans. However, the criteria often do not go beyond existing legislation.

This in itself is a problem for some sectors like forestry where current EU legislation is not tight enough. But in other cases, measures such as water management projects are simply not described in enough detail in the plans to even know if they will comply with EU law.

In some cases, the institutions which carried out the assessments have indicated that a project will cause 'no significant harm' without having enough information at hand to determine projects' impacts or even their locations.

¹ Background information on infringement procedures opened against Romania on forestry issues: https://ec.europa.eu/commission/presscorner/detail/en/inf_20_202

These institutions often lack the expertise and knowledge to do proper checks – in some cases the assessment is even done by the Ministry of Finance instead of the Ministry for Environment. They often have vested interests in having the project approved, as they are the one who have proposed it. Of further concern is that according to the European Commission's the 'do no significant harm' principle guidance, Member States are invited to – but do not have to – provide any underlying data to the Commission to support their assessments.

Lastly, it is unclear what, if any, processes are in place to ensure the projects fully comply with the principle during their implementation. So far, we fear that the process is just a one-time box-ticking exercise during the assessment of the plans, with no monitoring afterwards, at the most important stage.

Tightening the principle

Fortunately, there is still potential to improve the principle to create a truly strong environmental safeguarding tool. Rather than mainly relying on existing EU environmental legislation, additional, more ambitious requirements and criteria need to be added. Furthermore, the high number of opened infringement procedures shows that the level of compliance with EU environmental law needs to be raised.

How will the 'do no significant harm' principle be used in the future?

The 'do no significant harm' principle applied to the Recovery and Resilience Facility and for Cohesion Policy funds uses a more simplified methodology compared to the EU's sustainable finance taxonomy. Member States must justify and explain how each reform and investment in their recovery plan complies with the six environmental objectives.

This simplified the 'do no significant harm' methodology applied under the Recovery and Resilience Facility (and for upcoming Cohesion Policy funding programmes) will be replaced by a more complex form relying on several delegated acts under the Taxonomy Regulation. At the time of writing, only the first delegated act has entered force (climate change adaptation and climate change mitigation), leaving the remaining four areas to be published by the start of 2023.

However, the taxonomy criteria set out by the Commission have been widely criticised as unscientific greenwashing for some sectors. Many of the criteria proposed by the Technical Expert Group in sectors such as bioenergy and forestry were watered down by the Commission before adoption.

In some sectors they are quite strict, but in many cases, they hardly go beyond EU law – compliance with which is anyway required. This year, debate has intensified due to the inclusion of gas and nuclear in a second climate mitigation act that is currently undergoing scrutiny by the EU Parliament, which threatens to completely undermine the taxonomy's credibility.

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