



The Commission's 'do no significant harm' concept paper

Clearer approach welcome but major loopholes must be closed

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Executive summary

This position paper examines the European Commission's concept paper on the 'do no significant harm' (DNSH) principle under the next EU long-term budget.¹

The concept paper, which forms the basis for the Commission's forthcoming DNSH guidance, brings a welcome unification of the DNSH criteria across EU funds, and provides mostly clear criteria for excluding activities that cause significant harm from EU funding.

It succeeds to a large extent in disentangling DNSH from other EU legal requirements, increasing clarity about the role of DNSH and reducing duplication of assessments. In other words, the activities contained in the list of exclusions and criteria are indeed the type of 'legal but harmful' activities that DNSH should address.

However, the following major loopholes in the application of the DNSH principle still remain:

- Exemptions for projects of 'overriding public interest' – i.e., those that have been proven harmful under EU legislation but have been granted derogations;
- Excessively wide blanket exemptions for 'defence and security';
- Taxonomy-compliant activities are exempt, thus introducing parallel sets of flawed, inconsistent criteria;
- Lower standards for third countries, including accession countries;
- Too few activity types considered as always harmful;
- Unjustified or vague 'carve-out' exceptions from these activities, often resulting in even looser requirements than those under the EU Taxonomy or existing EU funds rules;²
- Many potentially harmful activities will not be subject to DNSH criteria or assessments at all.

These weaknesses seriously undermine the DNSH principle's effectiveness and increase the risk of EU funds causing significant harm. The proposed framework also lacks real 'significant contribution' criteria, meaning that EU funds might support activities that are less ambitious than commercial activities labelled sustainable under the EU Taxonomy.

¹ European Commission, [Commission concept paper on the 'Do No Significant Harm' \(DNSH\) guidance for the Multiannual Financial Framework 2028-2034](#), 15 July 2026.

² WWF European Policy Office, [Commission concept paper on the 'Do No Significant Harm' \(DNSH\) guidance for the EU budget 2028-2034 - Technical assessment of section 2](#), September 2026.

In addition, the concept paper lacks an overview of how DNSH will be applied, monitored and enforced at the national level, and how its transparency will be improved.

We therefore recommend, among other measures:

- revising the Performance Regulation;
- extending the guidance to third countries, or at least EU accession countries;
- deleting the exemption for taxonomy-compliant activities;
- establishing that it is in fact ‘feasible and appropriate’ to apply DNSH to projects of ‘overriding public interest’;
- defining ‘crisis situations’, ‘defence’, and ‘security’ narrowly to minimise the risk of abuse; and
- excluding dual-use activities from the ‘defence’ and ‘security’ definitions, in line with the approach to defence in the Environmental Impact Assessment (EIA) Directive.³

Within the 18 activity types listed in the concept paper, the criteria on fossil fuels, road construction and expansion, waste-related investments, and new artificial barriers disrupting river continuity need to be improved in line with our proposals in sections 4.1.1. to 4.1.4, as well as the other criteria in line with recommendations by WWF.⁴

To reduce the harm caused by omitting activities that are always or potentially harmful, the Commission should incorporate the activities and criteria proposed by WWF: drainage or conversion of peatlands and wetlands; energy generation from food and feed crops and primary woody biomass; construction of new hydropower plants in protected areas or on free-flowing river stretches; the manufacture and sale of PFAS and other very persistent substances; bottom-contact fishing in marine protected areas and additional fishing capacity; and new monoculture plantations of highly flammable species.

In addition, we propose adding the following activities: river regulation; afforestation on wetlands and in natural and semi-natural grassland habitats; wind farms in or impacting Important Bird Areas or other areas designated for the protection of bird species; existing and new nuclear power; data centres; and critical raw materials mining.

To incentivise compliance with EU law more broadly, we also propose excluding companies convicted of environmental violations within the previous five years from receiving EU funds.

³ European Parliament, Council of the European Union, [Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment, amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014, consolidated version](#), 15 May 2014.

⁴ WWF European Policy Office, [Commission concept paper on the ‘Do No Significant Harm’ \(DNSH\) guidance for the EU budget 2028-2034 - Technical assessment of section 2](#).

We support the inclusion of climate adaptation criteria in the guidance, and WWF's recommendation for activities with high water consumption in river basins where the water exploitation index (WEI+) is 40% or higher would be a good start. In addition, we propose requirements on urban tree cover, urban soil sealing, and building on floodplains or in coastal areas at risk of sea level rise.

Finally, the guidance needs to clarify the requirements for assessment, monitoring and enforcement at the national level, including by stipulating that DNSH assessments must be carried out independently; that they must be subject to public consultations and a contact point for complaints; and that DNSH compliance must be a condition in grant agreements. Monitoring committees should be involved in verifying compliance throughout the implementation of measures, and provided with the relevant information to do so.

Only with these changes can the DNSH principle be made fit for purpose in the 2028–2034 EU budget. With the climate and biodiversity in an increasingly perilous state, the stakes have never been higher. We have no time left for mistakes.

1. Introduction

This position paper examines the concept paper published by the European Commission on 15 July 2026 on the 'do no significant harm' (DNSH) guidance for the 2028–2034 Multiannual Financial Framework (MFF).⁵ The concept paper is based on the proposed Performance Regulation,⁶ which is currently being discussed and adopted at EU level, and on the 2024 Financial Regulation.⁷

The point of the DNSH principle is to ensure EU funding supports only truly environmentally sustainable activities, and to prevent EU funding for activities that cause significant harm to any of the six objectives listed in Article 9 of the Taxonomy Regulation.⁸

The existence of DNSH is an acknowledgement that some activities are not prohibited by law but are nevertheless unsustainable in the long term, or may mitigate one kind of environmental harm while creating another.

⁵ European Commission, [Commission concept paper on the 'Do No Significant Harm' \(DNSH\) guidance for the Multiannual Financial Framework 2028-2034](#).

⁶ European Commission, [Proposal for a Regulation of the European Parliament and of the Council establishing a budget expenditure tracking and performance framework and other horizontal rules for the Union programmes and activities](#), 15 July 2025.

⁷ European Parliament, Council of the European Union, [Regulation \(EU, Euratom\) 2024/2509 of the European Parliament and of the Council of 23 September 2024 on the financial rules applicable to the general budget of the Union](#), 26 September 2024.

⁸ Climate change mitigation, climate change adaptation, the sustainable use and protection of water and marine resources, the transition to a circular economy, pollution prevention and control, and the protection and restoration of biodiversity and ecosystems. European Parliament, Council of the European Union, [Regulation \(EU\) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation \(EU\) 2019/2088](#), 22 June 2020.

Such activities need to be regulated across the board – not only within EU funds – and the Commission needs to step up its enforcement of existing EU environmental law. But DNSH can provide a useful complement to help ensure that EU funds are not used for such legal yet harmful activities.

CEE Bankwatch Network has been actively engaged with the use of the DNSH principle for EU funds at EU and national levels ever since it was first introduced for the Recovery and Resilience Facility in 2021. As such, we have observed its strengths and weaknesses and made numerous recommendations for its improvement. This paper uses our experience across both national and EU levels to provide our input on the concept paper, and is intended as a narrative complement to our input on the targeted public consultation on the issue, open until 16 September 2026.⁹

We first provide our general comments before zooming in on issues that remain unaddressed. Finally, the paper provides conclusions and recommendations to ensure even, proportionate, and effective application of the DNSH principle across all EU funds.

WWF's European Policy Office has also recently produced in-depth briefings on the Commission's concept paper – a briefing setting out key observations on the Commission's overall approach,¹⁰ and a full analysis of the 18 exclusions and 'carve-out' (exemptions from exclusion) criteria presented in the concept paper, comparing them to existing legal minimum standards and EU taxonomy criteria.¹¹

Worryingly, WWF finds that 10 of the 18 proposed criteria provide a lower level of environmental protection than the EU Taxonomy and its delegated acts.

Their analysis also proposes six additional exclusions currently absent from the concept paper that the Commission should add, as a minimum, to fill existing gaps.¹²

To avoid duplication, we will therefore keep our comments brief on the points already covered by WWF and set out in detail only the points where we have additional input.

⁹ European Commission, [Targeted public consultation - draft guidance on the application of the 'do no significant harm' principle under the 2028-2034 Multiannual Financial Framework \(MFF\)](#), July 2026.

¹⁰ WWF European Policy Office, [Commission concept paper on the 'Do No Significant Harm' \(DNSH\) guidance for the EU budget 2028-2034 – Briefing](#), September 2026.

¹¹ WWF European Policy Office, [Commission concept paper on the 'Do No Significant Harm' \(DNSH\) guidance for the EU budget 2028-2034 - Technical assessment of section 2](#).

¹² Ibid.

2. Overall comments

The major strengths of the proposed new DNSH concept are:

- its standardisation across different EU funds;
- clearer criteria on exclusion of specific activities which do significant harm to one or more environmental objectives’ and
- its attempt to differentiate between DNSH and other EU law and prevent duplication of assessments.

However, a conceptual weakness of the DNSH principle as currently conceived is the lack of ‘substantial contribution’ criteria. The list of intervention fields considered to contribute to environmental objectives in Annex 1 of the Performance Regulation proposal cannot be considered as constituting such criteria, since the activity titles have been simplified to the point that they are far from science-based and likely to lead to significant greenwashing. For this reason, a group of civil society organisations has proposed the minimum changes needed to Annex 1.¹³

Even with these improvements, it is paradoxical that in order to have an investment labelled ‘sustainable’ under the taxonomy, companies need to follow the ‘significant contribution’ criteria from the Delegated Acts to the Taxonomy Regulation, while EU-funded activities only need to comply with a simplified list. Ultimately, the Commission needs to make clearer what constitutes ‘significant contribution’ in the context of EU funds, and how investments can maximise their added value through use of features like rainwater harvesting, eco-design, or the use of recycled materials.

Even taking DNSH criteria in isolation, with no ‘significant contribution’ criteria, the current concept leaves significant loopholes, grey areas and inconsistencies, which collectively undermine the goal of taking a unified approach across EU funds and preventing funding for ‘legal but harmful’ activities. It also contains no information on how the DNSH assessment performed by EU Member States would look in reality. Below, we provide additional input and recommendations on these issues.

3. Unaddressed loopholes, grey areas and inconsistencies

3.1. Sweeping exemptions and major loopholes undermine ‘whole of EU budget’ claim

The proposed DNSH guidance is supposed to unify the EU’s approach across all its funds, yet the concept paper contains sweeping exemptions and major loopholes which would prevent the DNSH principle achieving its purpose.

¹³ CEE Bankwatch Network, ClientEarth, Climate Action Network Europe, European Environmental Bureau, Health and Environment Alliance, Transport&Environment, WWF European Policy Office, [Performance Regulation: Fixing the details](#), March 2026.

The broadest exemptions are included in the proposed Performance Regulation, whose Article 5(3) stipulates:

‘The guidance referred to in paragraph 1 shall also identify cases where the application of the do no significant harm principle may not be feasible or appropriate, such as crisis situations, including emergencies arising from natural catastrophes, or other reasons of overriding public interest.

In this respect, it shall notably be considered that it is not feasible or appropriate to apply the do no significant harm principle in relation to defence and security activities.’

Although it is reasonable to exclude carefully and narrowly-defined crisis situations, this should be carried out on a case-by-case basis, as in Article 1(3) of the EIA Directive.

The other exemptions are problematic:

3.1.1. ‘Other reasons of overriding public interest’

- Near-certain significant harm – projects with this designation do harm by definition
- Fails to satisfy the criteria of feasibility and appropriateness set out in Article 33(2)(d) of the Financial Regulation
- Contradicts logic of excluding ‘legal but harmful’ projects
- Is the opposite of funding sustainable activities as it privileges harmful ones

The inclusion of the term ‘overriding public interest’ in the proposed Performance Regulation is highly unfortunate, and should preferably be amended during its negotiation and approval. If it is not amended, the Commission must use the discretion provided to it under Article 5, where it is required to identify cases where the application of the DNSH principle may not be feasible or appropriate.

It is entirely feasible and appropriate to apply the DNSH principle to activities of ‘overriding public interest’, and failure to do so would fatally undermine the integrity of the principle.

‘Overriding public interest’ is entrenched in EU environmental law and refers to derogations in the Habitats, Birds and Water Framework Directives for activities that have been found through a dedicated assessment to cause harm to the Directives’ objectives, but which, under a narrowly defined set of conditions, including a lack of alternatives, are permitted to go ahead.

This means that projects of ‘overriding public interest’ are, by definition, those that in-depth assessments have shown will cause significant harm to biodiversity or water resources, because any project that does not cause such harm would not need this label.

For example, the Rastolita hydropower plant in Romania¹⁴ and Mokrice hydropower plant in Slovenia¹⁵ – two extremely controversial projects that would damage Natura 2000 sites while generating a minimal amount of electricity, have both been declared during their permitting processes to be of ‘overriding public interest’. Although both projects have been subject to court challenges for breaching existing EU legislation, if ultimately allowed to go ahead, these are the types of projects that would receive special treatment under the Commission’s current proposals.

The Commission’s concept paper states:

‘Reasons of overriding public interest (ROPI) could be defined based on the relevant provisions regarding ROPI that exist in EU environmental legislation (e.g. Habitats Directive, Birds, Water Framework Directive) where this derogation is typically subject to clear conditions, including compensatory measures. Under these acts, provided these conditions are met, Member States can invoke ROPI to derogate from their related environmental obligations, which would then also imply a derogation from DNSH criteria applicable to the relevant intervention field.’¹⁶

The interpretation that a derogation under the Habitats, Birds or Water Framework Directive ‘implies’ a derogation from DNSH criteria applicable to the relevant field is not justified – these Directives do not assess harm to all six environmental objectives.

The guidance needs to make clear that activities of ‘overriding public interest’ have already been found to do significant harm and that application of the DNSH principle to such projects is indeed feasible and appropriate.

Failure to apply the DNSH principle to activities of ‘overriding public interest’ would result in the perverse situation that activities already proven harmful would be allowed to go ahead without even a DNSH assessment, while other, less damaging ones would still require an assessment.

Activities of ‘overriding public interest’ must also be excluded from EU funding. Failure to do so would privilege the most damaging activities, contradict the logic of excluding ‘legal but harmful’ projects, undo decades of improvements in the sustainability of EU funding, and fuel Euro-scepticism among affected communities without bringing substantial gains.

¹⁴ See e.g. CEE Bankwatch Network, [Rastolita: Major destruction for minimal energy, January 2025](#), and Columbia Law School, [Declic and Bankwatch Romania v. Răstolița Hydropower Project](#), 2024, updated 2025.

¹⁵ CEE Bankwatch Network, [The damage from Slovenia’s Mokrice dam won’t stop at the Croatian border](#), 28 May 2026.

¹⁶ European Commission, [Commission concept paper on the ‘Do No Significant Harm’ \(DNSH\) guidance for the Multiannual Financial Framework 2028-2034](#), 5–6.

3.1.2. 'Defence and security'

- Overly wide exemption
- May include non-defence projects causing significant harm
- Inconsistency with EIA Directive approach

The wording in Article 5 of the proposed Performance Regulation on exempting 'defence and security' activities from DNSH is more decisive than that on 'overriding public interest', declaring that it is not feasible or appropriate to apply the DNSH principle in relation to such activities. However, this has little basis in reality, and takes an approach that is inconsistent with Article 1(3) of the EIA Directive.

The EIA Directive only allows Member States to decide on a case-by-case basis not to apply its provisions to projects, or parts of projects, that have defence or response to civil emergencies as their sole purpose, if they deem that applying it would adversely affect those purposes.

The provision should be reformulated in the Regulation before adoption to:

- delete the overly broad term 'security', which can mean almost anything;¹⁷
- align with the EIA Directive by requiring a case-by-case decision on exemptions;
- allow exemptions only for activities with defence or response to civil emergencies as their sole purpose; and
- require the exempting authority to demonstrate how applying the DNSH principle would adversely affect those purposes.

If the Performance Regulation is adopted with the current wording, however, the Commission needs to interpret 'defence and security' as narrowly as possible in the guidance, to restrict the exemption from applying the DNSH principle only to activities where it is really not feasible or appropriate. For example, if a country not at war is building a weapons factory or military base, there is no reason to circumvent the DNSH principle.

¹⁷ For example, in 2022, Romania's Supreme Council for National Defence (CSAT) issued a decision that included the completion of nine old, controversial hydropower projects with significant impacts on Natura 2000 sites on the grounds of 'security'. Adi Mosoianu, [DOCUMENT CSAT a declarat 10 proiecte ale Hidroelectrica drept vitale pentru securitatea națională. Scutire de la evaluarea de mediu și de la interdicția de reducere a fondului forestier](#), Profit, 23 November 2023. Some of the projects had already been found illegal under national court decisions. Final court decisions have been reached for Livezeni-Bumbești and Surduc-Siriu, but neither has been demolished; instead, both have since received approval for new EIAs.

Though the concept paper includes dual-use activities, the logic of the EIA Directive should be applied, in order to avoid creating contradictions and additional loopholes, and restrict exemptions to activities with defence as their sole purpose. The concept paper states:

‘ ... dual-use (civilian and military) activities that cannot be linked to an intervention field for defence and security would be exempted from the DNSH principle if they are intended to be used for a military or defence purpose. This purpose should be present from the beginning of the programming and be credible and demonstrable. The guidance would provide adequate safeguards and concrete examples of how this purpose could be demonstrated (e.g. road infrastructure should comply with the technical requirements for military mobility enshrined in EU legislation and be part of the EU military mobility network).¹⁸

Previous versions of the EIA Directive already allowed for an exemption to be made in cases of safeguarding defence. In 1999, the Court of Justice of the European Union ruled that Article 1(4), as it was then, was to be interpreted as meaning that dual-use projects such as an airport that may simultaneously serve both civil and military purposes, but whose main use is commercial, falls within the scope of the Directive.¹⁹

In 2014, the amended EIA Directive clarified that exemptions must have defence or response to civil emergencies as their sole purpose.²⁰ This was done in order to ‘avoid problems of interpretation (projects of mixed character remain within the scope of the Directive) and ensure harmonised implementation of the exemption’.²¹

The Commission needs to make use of what has already been learnt with the EIA Directive and exclude dual-use projects from DNSH exemptions.

3.2 Taxonomy-aligned activities

- Creates inconsistencies between different criteria
- Creates fossil fuel loophole
- Difficult or impossible to prove *ex ante*

¹⁸ European Commission, [Commission concept paper on the ‘Do No Significant Harm’ \(DNSH\) guidance for the Multiannual Financial Framework 2028-2034](#), 5.

¹⁹ Court of Justice of the European Union (Sixth Chamber), [World Wildlife Fund \(WWF\) and Others v Autonome Provinz Bozen and Others, Case C-435/97](#), paragraphs 65–67, 16 September 1999.

²⁰ European Parliament, Council of the European Union, [Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment](#), 25 April 2014.

²¹ European Commission, [Commission Notice, Guidance document regarding application of exemptions under the Environmental Impact Assessment Directive \(Directive 2011/92/EU of the European Parliament and of the Council, as amended by Directive 2014/52/EU\) – Articles 1\(3\), 2\(4\) and 2\(5\)](#), 14 November 2019.

In an effort to avoid duplication and administrative burdens, footnote 11 of the concept paper states that ‘an activity that complies with the technical screening criteria for substantial contribution and do no significant harm under an EU Taxonomy delegated act would be considered compliant with the do no significant harm principle under the next MFF.’

This runs counter to the goal of simplification, as it introduces a second set of criteria that, in several cases, differ from those proposed in the concept paper. Where the concept paper’s criteria are weaker than the taxonomy criteria, they should be tightened. Where they are stronger, however, they should remain so, with no loopholes for companies claiming alignment with the EU Taxonomy.

When the taxonomy was developed, we hoped it could be used for EU funds. In reality, however, many of its criteria are too weak to be credible – notably those covering fossil fuels, under which gas power plants can, under certain circumstances, qualify as a ‘transitional’ activity – as well as the criteria covering nuclear, bioenergy, forestry and other sectors.²² In particular, allowing taxonomy alignment for gas to count as DNSH would create a significant loophole regarding the proposed fossil fuel exclusion and carve-out criteria, which are already too weak (see below).

On a practical note, as WWF has already noted in its briefing, taxonomy compliance can often not be confirmed at the programming stage, leading to confusion about which set of standards applies. The guidance should therefore establish a single set of criteria.

3.3 Lower standards for third countries

- Risks causing significant harm
- Reliance on international financial institution standards conflates EIA and DNSH
- Misses opportunity to integrate accession countries

Although Global Europe will be one of the smaller EU funds in the new long-term budget, its potential to cause harm is very high due to weak environmental governance in many third countries. Our experience in the Western Balkans, Caucasus and Central Asia clearly shows that rules governing activities in third countries must be clear and stringent, with as few nuances as possible. Activities that can be carried out in the EU with minimal harm can have much more damaging impacts when carried out elsewhere.

For example, the Western Balkan countries have not legally protected most of their high-biodiversity areas, lack strong spatial planning mechanisms, treat public consultations largely as a formality, and rarely apply or enforce mitigation measures.

Hydropower plants and mining projects have already caused a massive public outcry, and a similar process is now emerging around solar and wind farms in some regions, such as Herzegovina. In this context, proper

²² WWF, ECOS, Chemsec et al., [Independent Science-Based Taxonomy](#), 2024.

application of EU law is needed, along with clear, simple DNSH criteria based on a highly precautionary approach.

A pertinent example involving EU-funded infrastructure is the Greece–North Macedonia gas pipeline, supported by the EU’s Western Balkans Investment Framework (WBIF), the European Investment Bank (EIB) and the European Bank for Reconstruction and Development (EBRD). The pipeline, which is currently under construction, risks either becoming a stranded asset or causing significant harm to climate mitigation. This impact was not identified through the EIA process because the EIA only considered the pipeline in isolation and did not assess the impacts of the gas being burned for energy.²³

The Corridor Vc motorway in Bosnia and Herzegovina, which has received almost EUR 4.4 billion in loans and grants from the WBIF, EIB and EBRD, is an example of how poor governance is causing not only environmental damage and unnecessary harm to communities, but also resulting in project delays.²⁴

There is no real track record of applying DNSH in the Western Balkans, but the term is starting to become a buzzword without real meaning in the region, so it is high time to define it properly.

Under the Reform and Growth Facility for the Western Balkans, adherence to the DNSH principle is required, but governments have received no guidance on how to apply it in their Reform Agendas. Unsurprisingly, the DNSH sections of the Agendas are therefore weak.

The Commission’s concept paper suggests that its approach to DNSH in third countries risks being both weak and conceptually contradictory. It proposes to include a targeted set of DNSH criteria inspired by existing practices from key multilateral financial institutions and implementing partners. However, the EBRD and EIB’s environmental and social policies do not include DNSH criteria or assessments.

Rather, they rely mainly on EIAs. But the purpose of an EIA is not to screen out harmful projects based on the six environmental objectives from the taxonomy; it is to assess their impacts in depth, and to identify ways to avoid, mitigate or manage them where possible.

That a project is able to pass an EIA procedure does not mean it does no significant harm; it means that the harm has been assessed. If an EIA has been carried out for a project proposed for EU funding, it can certainly help in assessing DNSH compliance. However, the purpose, speed and depth of the two procedures differ, and they must not be conflated. The Commission itself recognises this distinction within the EU, and point 2.3 of the Recovery and Resilience Facility DNSH guidance clarifies it further.²⁵

²³ Eko-vest and CEE Bankwatch Network, [NGOs request investigation into EBRD loan for North Macedonia mega gas pipeline](#), 25 March 2024.

²⁴ CEE Bankwatch Network, [Corridor Vc in Bosnia and Herzegovina: The public cost of weak governance](#), September 2026.

²⁵ European Commission, [Commission notice: Technical guidance on the application of ‘do no significant harm’ under the Recovery and Resilience Facility Regulation](#), 11 October 2023.

The Commission has taken a step forward in its concept paper by separating DNSH from substantive legal requirements in the EU. It must do the same for third countries.

At the very least, accession countries must be subject to the full set of DNSH criteria applicable in the EU, particularly considering these criteria are now being simplified. There is no reason why countries pursuing EU accession should not be able to apply the new, simplified guidance.

4. DNSH criteria from the concept paper

4.1. Comments on the Commission's criteria

The concept paper's description of the 'List of activities that could be considered to do significant harm to one or several environmental objectives, unless they satisfy the targeted 'carve-out' criteria set out in the list...' is rather confusing. Only at a later webinar presenting the paper did it become clear that these activities are considered to do significant harm and are thus excluded from financing. This needs to be clearer in the guidelines themselves.

As WWF has already carried out an in-depth analysis of the activities and criteria, finding that ten of the 18 proposed criteria provide a lower level of environmental protection than the EU Taxonomy and its delegated acts and seven of the 18 criteria weaken standards already applying under the 2021-2027 EU budget,²⁶ we will not add a full analysis here, but specific comments on certain activities.

We very much welcome the criteria on deep sea mining and desalination plants in their current form. The other criteria are welcome but need adjustments to avoid significant harm and/or inadvertently excluding investments which are needed.

4.1.1. Fossil fuels

We welcome the general exclusion of fossil fuels, but this must be without exceptions beyond back-up for emergencies. The EU must finally send a clear and unambiguous message that its funds are not to be used for fossil fuels.

As mentioned above, footnote 11 undermines this by allowing taxonomy compliance to circumvent DNSH compliance. Under some circumstances and in some countries, this would allow support for gas power plants. The DNSH guidance should not include a taxonomy clause, but should present a single list of criteria.

In the criteria on the mining, extraction or production of fossil fuels, and the transport, transmission, distribution and storage of fossil fuels, WWF has already noted that point (d) on low-carbon fuels is much

²⁶WWF European Policy Office, [Commission concept paper on the 'Do No Significant Harm' \(DNSH\) guidance for the EU budget 2028-2034 - Technical assessment of section 2.](#)

too wide and must exclude fossil-based variants, while point (f) on transport infrastructure and assets creates a major loophole. We propose deleting the latter completely.

In addition, ‘repurposing of energy infrastructure to enable the exclusive use, storage or transport of pure hydrogen without the need for any further adaptation works, as defined in the TEN-E Regulation’ must at least be restricted to renewable hydrogen. However, to genuinely do no significant harm, hydrogen should also be used close to the site of production, produced using additional renewable electricity that is not needed for other purposes, and used only for activities where direct use of electricity is not feasible.

The criteria on the generation of electricity, heat or cold from fossil fuels also contain too many loopholes and unclear formulations.

Point (a), which allows ‘generation of electricity, heat and cold for efficient district heating or cooling systems (...), provided that EU funding does not support generation assets based on fossil fuels’, is not sufficiently clear about what it actually does allow. Does it allow only distribution, or does it cover other activities as well?

Point (c), on the generation of electricity with low-carbon fuels, should be deleted because its fossil fuel aspect refers to gas with carbon capture and storage (CCS). CCS is energy-intensive and remains commercially and technically unproven despite decades of development, with a high project failure rate.²⁷ Storage rates have also fallen short of what was promised, and there is no guarantee that the carbon captured will not leak out at a later stage. It makes no sense at all to apply CCS for electricity generation when more economical and less harmful sources are available.

4.1.2. Construction and expansion of roads

An excessive proportion of EU funds has been spent on road construction and expansion, both within the EU and beyond, helping to cement dependence on low-occupancy individual passenger vehicles and road freight while railway systems have declined across central and eastern Europe and the Western Balkans.

Although EU funds have supported high-speed rail in western Europe and urban public transport in central and eastern Europe, we have seen huge imbalances in the Western Balkans. As mentioned above, the EU and European public banks have provided EUR 4.4 billion for the Corridor Vc motorway in Bosnia and Herzegovina, yet the region has only one remaining cross-border rail service. Zagreb in Croatia is also no longer connected by rail to either Bosnia and Herzegovina or Serbia.

Irrespective of the gradual increase in electric vehicles, much more has to be done to save energy and reduce land use by promoting public transport and active mobility. Electric cars and vans are necessary, but their manufacture, as well as battery production, also has significant environmental impacts. Reducing

²⁷ Institute for Energy Economics and Financial Analysis, [Carbon Capture and Storage](#), undated.

the overall number of vehicles on the roads is therefore essential. Building new roads or expanding existing ones has repeatedly been shown to do the opposite by inducing new demand.²⁸

The proposed DNSH criteria for road construction and expansion therefore need to be significantly strengthened, as the current requirement for flanking measures, such as appropriate capacity for electric vehicle charging and ‘another measure promoting clean mobility’, is insufficient and risks encouraging tokenism and greenwashing.

Road construction and expansion simply should not be supported by EU funds unless the infrastructure is dedicated solely to public transport or active mobility.

We also share WWF’s concern about the <2-kilometre and forest or agricultural road carve-outs. We would delete both carve-outs altogether, as even very short sections of new roads and forest tracks can cause significant damage.

‘Road safety’ must also be carefully defined, as road builders in south-eastern Europe very often claim road safety motivations without proving that no alternatives are available.

4.1.3. Waste-related investments

We welcome the exclusion of support for waste incineration plants, but the carve-outs need to be adjusted to avoid significant harm.

Specifically, carve-out (b) on carbon capture for storage or use should be deleted for the reasons explained above under fossil fuels, while carve-out (c) on recycling of materials from incineration ashes should be limited to existing plants.

The current reference to ‘heat recovery’ is also inappropriate, as heat recovery is already a legal requirement for incineration under Article 50(5) of the Industrial Emissions Directive. Including it as an exception could allow EU support for investments in incineration infrastructure that provide no added value because heat recovery is already required under EU law. The exception should instead be limited to genuine excess waste heat, as already defined by the Commission.²⁹

For landfills, we support the general exclusion, while noting that EU-compliant landfills may still require support outside the EU.³⁰ However, the emphasis must always be on preventing waste rather than simply

²⁸ See, for example, Rand Europe, [Latest evidence on induced travel demand: An evidence review](#), UK Department of Transport, 2018.

²⁹ European Commission, [Communication from the Commission, Guidance on heating and cooling aspects in Articles 15a, 22a, 23 and 24 of Directive \(EU\) 2018/2001 on the promotion of the use of energy from renewable sources as amended by Directive \(EU\) 2023/2413](#), 15 April 2025.

³⁰ This falls outside the scope of the current concept for the guidance, but, as mentioned above, we believe that at least EU accession countries should be subject to the same guidance, if not all countries, since it is extremely simplified.

accommodating it. Landfills should therefore never be funded without accompanying prevention, reuse and recycling measures worth at least as much as the landfill investment.

Regarding the capture and utilisation of landfill gas, public financing should be permitted only under the following conditions:

- It is accompanied by targets and measures to promote composting and prevent organic waste from ending up in landfills or incinerators.
- The relevant project introduces separate collection and ends the practice of sending organic waste to the landfill in question, or to its successor if the landfill is being closed.
- Social impacts on waste collectors, where applicable, are addressed through thorough and meaningful consultations.

We welcome the criterion on mechanical biological treatment (MBT), while supporting WWF's recommendation that the exclusion be limited to the production or preparation of combustion fuels from waste. MBT plants could be supported in some cases, but only if they are part of a coherent plan that convincingly demonstrates how the relevant authority will meet EU waste prevention and recycling targets.

4.1.4. New artificial barriers disrupting river continuity

The exclusion of 'new artificial barriers which disrupt river continuity in free-flowing river stretches as mapped under relevant legislation (...)' is necessary, but in reality it includes only a very small proportion of rivers in the EU and needs to be widened. Free-flowing rivers are already in short supply, and those mapped under the Nature Restoration Regulation are even more limited.

The exclusion should include all 'new artificial barriers which disrupt river continuity in free-flowing river stretches, karst landscapes and protected areas'.

Free-flowing river stretches can be identified through, for example, river basin management plans (RBMPs), rather than relying solely on mapping under the Nature Restoration Regulation. Including protected areas and karst terrain would also recognise that hydropower plants can have wider impacts than river fragmentation alone.

Construction of hydropower plants in karst terrain has particularly significant and unpredictable impacts on underground water flows and unique river ecosystems. Yet not all such sites are legally protected or classified as free-flowing rivers.³¹

³¹ See, for example, Tanja Roje-Bonacci, Ognjen Bonacci, [The possible negative consequences of underground dam and reservoir construction and operation in coastal karst areas: an example of the hydro-electric power plant \(HEPP\) Ombla near Dubrovnik \(Croatia\)](#), Natural Hazards and Earth System Sciences, 13, 2041–2052, 15 August 2013.

The carve-out for projects that are part of investments on the Trans-European Transport Network should be removed. The EU must find ways to ensure that Trans-European Transport Network (TEN-T) projects comply with the DNSH principle, not the other way round.

4.2. Additional criteria needed

The excessively narrow scope of the proposed DNSH assessment is problematic, considering numerous other activities also cause significant harm to the six taxonomy objectives. Exempting some activities that are always low-impact from DNSH assessments and criteria makes sense, but the current set of criteria, even considered in combination with EU environmental law, does not provide reasonable certainty that significant harm will be avoided.

Moreover, Annex 1 in the Commission's proposed Performance Regulation³² suggested that some activities which we argue cause significant harm would even be counted as contributing to environmental and climate spending under the Rio Markers tracking system. This would greatly undermine the EU's climate and environmental credentials. As mentioned above, a group of civil society organisations has proposed amendments to Annex 1,³³ but it is not yet known what the final list of intervention fields will contain.

In any case, the concept paper makes clear that, unless activities are listed as excluded activities or carve-outs, they will not even be subject to a DNSH assessment. Therefore, some harmful activities risk not only receiving funding without a DNSH assessment, but also being counted as environmentally positive spending.

Some of these are double-edged activities, such as forest management, which can have beneficial or harmful impacts. However, their effects tend to be incremental, and forestry activities rarely require EIAs. It is therefore difficult to summarise such activities in broad terms, as the concept paper does for other activities. Nevertheless, it is unacceptable that such activities would not be subject to a DNSH assessment at all. Several other activities raise similar issues – they may not need to be excluded altogether, but without clear DNSH criteria, they can still cause significant harm

We generally support WWF's proposals for additional criteria as a bare minimum to prevent the most egregious harm from EU-supported activities:

- Drainage or conversion of peatlands and wetlands (...)
- Energy generation from food and feed crops and from primary woody biomass (...) – However, we would go beyond the minimum legal standards set by the Renewable Energy Directive and exclude

³² European Commission, [Proposal for a Regulation of the European Parliament and of the Council establishing a budget expenditure tracking and performance framework and other horizontal rules for the Union programmes and activities](#), 15 July 2025.

³³ CEE Bankwatch Network, ClientEarth, Climate Action Network Europe, European Environmental Bureau, Health and Environment Alliance, Transport&Environment, WWF European Policy Office, [Performance Regulation: Fixing the details](#).

all support for primary woody biomass, allowing only secondary biomass for district heating, and only as a back-up option.

- Construction of new hydropower plants in protected areas or on free-flowing river stretches (already covered under barriers, above)
- Manufacture and placing on the market of PFAS and other very persistent substances (...)
- Bottom-contact fishing in marine protected areas and investments increasing fishing capacity (...)
- New monoculture plantations of highly flammable species (...)
- Activities with high water consumption in river basins where the water exploitation index (WEI+) is 40% or higher.

We also propose the following additional activities and, where possible, criteria:

4.2.1. River regulation

Only 39.6% of assessed EU surface waters reached good or high ecological status in 2021, while hydromorphological changes affected 57% of water bodies. These changes are associated with activities such as drainage and irrigation, hydropower, flood protection, navigation and water supply.³⁴ The European Environment Agency also specifically identifies dams, weirs, river channelling and dredging as pressures affecting freshwater habitats and fish.³⁵

River regulation involving new or expanded channelling, straightening, embankment or dredging of natural watercourses should be considered DNSH non-compliant where such interventions risk causing deterioration to the ecological status of the affected water body, preventing the achievement of good status, or causing significant damage to riverine and riparian ecosystems.

Potential carve-outs:

- Nature-based flood and climate adaptation measures that restore or maintain natural river and floodplain functions and do not cause deterioration of water-body status;
- Maintenance or safety works on existing infrastructure, provided these do not result in additional hydromorphological deterioration or expand the regulated river section;
- Measures necessary to achieve the environmental objectives of the Water Framework Directive, Nature Restoration Regulation, Habitats Directive or Birds Directive.

³⁴ European Environment Agency, [Ecological status of surface waters in Europe](#), 2 September 2025. EEA Indicator WAT008, data covering 2016–2021.

³⁵ European Environment Agency, [Human Interventions in the Hydrological Cycle | 4. Overview of Category A Interventions: River, Lake and Estuary Regulation](#), 14 July 1997.

4.2.2. Afforestation on wetlands, as well as natural and semi-natural grassland habitats

According to the Commission's Guidelines on Biodiversity-Friendly Afforestation, Reforestation and Tree Planting, open wetlands should not be afforested, as they have high climate mitigation potential and/or biodiversity value and provide ecosystem services that can be negatively affected by afforestation.³⁶ A carve-out should be made for afforestation aimed at restoring degraded or deforested alluvial woodlands.

Many protected grasslands are naturally or semi-naturally open ecosystems whose characteristic biodiversity depends on maintaining open conditions. This is particularly important for grassland habitat types protected under the Habitats Directive, many of which are already in an unfavourable conservation condition and require restoration and expansion rather than further loss. Yet these areas are often afforested because the financial gains from afforestation can outweigh the land compensation available for habitat maintenance. Afforestation of such grasslands can therefore directly conflict with EU biodiversity objectives, even when promoted as a climate mitigation measure.

Afforestation of protected and biodiversity-rich grasslands listed in Annex I of the Habitats directive should be considered *a priori* DNSH-non-compliant, except for the following carve-outs:

- Tree planting that forms part of the conservation or restoration management of the grassland habitat itself, where compatible with maintaining or achieving its favourable conservation status. This includes restoration of historically occurring landscape features, such as individual native trees, hedgerows, wood pastures or other woody landscape features, where these are characteristic of the habitat and do not result in conversion or degradation of the grassland;
- Measures specifically required under an approved Natura 2000 management plan or other statutory nature conservation or restoration measure for the site;
- Agroforestry or other low-density tree planting, but only where it is demonstrably compatible with the ecological characteristics and conservation objectives of the grassland and does not lead to habitat loss or deterioration.

4.2.3. Wind farms in or impacting Important Bird Areas or other areas designated for the protection of bird species

Wind farms located outside, and not impacting, such areas should be eligible for a carve-out if they fulfil the following conditions:

³⁶ European Commission, [Guidelines on Biodiversity-Friendly Afforestation, Reforestation and Tree Planting](#), March 2023.

- The turbines are sited away from the core areas of threatened species, in line with best international practice;
- The project does not have a significant impact on bat populations through collision, habitat disturbance, or ultrasound emissions. Where wind turbines are sited in areas of significant bat activity, curtailment takes place during nights with low wind speeds, when energy production is minimal and the risk of bat collisions is highest, in line with the recommendations of the 2025 IUCN World Conservation Congress.³⁷
- Post-commissioning monitoring programmes are carried out in line with best practice to ensure that there are no negative impacts on communities or wildlife. Where such impacts arise, permit obligations must be in place to ensure that the necessary changes to the project are made;
- The project uses state-of-the-art equipment to minimise bird and bat collisions (shutdown on demand), noise, vibration and electric and magnetic fields. Old or used installations should not receive public funding;
- Offshore wind projects comply with marine strategies and take account of declared and potential marine protected areas.

4.2.4. Existing or new nuclear power

Nuclear power causes significant harm by generating radioactive waste for which no satisfactory long-term solution has yet been found. It requires uranium mining, which can damage human health, air, water and soil.

Nuclear power has a number of other major disadvantages, rendering it a distraction that risks slowing the energy transition. For instance, nuclear power plants are vulnerable to drought when sited by rivers, as seen across Europe this summer.

New nuclear power is too slow to tackle the climate emergency. New nuclear power plants are consistently subject to significant delays and cost overruns and cannot meaningfully contribute to reducing carbon emissions within the relevant time frame. Whereas greenhouse gas emissions must be drastically cut by 2030 to limit global temperature rise to 1.5°C, any new nuclear plants announced today would not be connected to the grid until well past this deadline. New nuclear power plants can also be up to nearly four times as expensive as wind power.³⁸

³⁷ International Union for the Conservation of Nature, [Motion 044 Preventing population impacts of wind-energy facilities on bats, IUCN World Conservation Congress, 2025](#).

³⁸ Mycle Schneider, Antony Froggatt et al., [World Nuclear Industry Status Report](#), 29 December 2023.

Nuclear power is still dangerous. As well as the impacts of uranium mining and nuclear waste, nuclear power plants can be used as military targets and increase the risk of nuclear weapons proliferation. The climate crisis also increases the risks associated with nuclear power, as more frequent heatwaves, droughts, storms, and flooding all pose significant threats to the plants themselves and to the systems designed to prevent nuclear accidents.

Nuclear safety, decommissioning and closure should in general be financed by the nuclear energy companies and their insurers. However, public funding may be necessary for decommissioning and site clean-ups in legacy cases. For decommissioning funds, safeguards are also needed to ensure that these funds finance only sustainable energy projects.

‘Safety upgrade’ projects can cover an extremely broad range of activities and therefore need to be assessed case by case to establish: (i) whether the intervention could be financed by the nuclear company itself; and (ii) whether it contributes to extending the lifetime of the plant(s) in question. If either is the case, the intervention must not be financed with EU funds.

We therefore propose the following exclusion criterion:

Existing or new nuclear power plants, except:

- Decommissioning of nuclear infrastructure and rehabilitation of sites, where the competent national authority has confirmed that either (i) no entity or undertaking has been identified as legally required to conduct the decommissioning and rehabilitation under applicable EU and national law, or (ii) the identified polluter cannot be held legally liable for financing the decommissioning and rehabilitation;
- Safety upgrades that do not contribute to extending the lifetime of the plant.

4.2.5. Data centres

While some growth in data centres is to be expected in the coming years, their energy and water consumption is likely to cause significant harm to the objectives on climate mitigation³⁹ and sustainable use and protection of water resources,⁴⁰ while also threatening the resilience of electricity systems.⁴¹ Since data centres are not specifically listed in the annexes to the EIA Directive, their impacts are often not properly assessed.

³⁹ Beyond Fossil Fuels, [System overload: How new data centres could throw Europe’s energy transition off course](#), February 2025.

⁴⁰ EurEau, [EU data centre growth must not put local drinking water supplies at risk](#), June 2026.

⁴¹ United Nations Economic Commission for Europe, [Datacentres threaten electricity system resilience, warns UNECE, calling for strategic policy integration](#), 8 September 2026.

While we do not have in-depth expertise to suggest specific criteria for this sector, and do not support the use of EU funds for such a profitable commercial sector, if EU funding is provided, it is unthinkable to do so without at least a DNSH assessment and criteria setting high standards for additionality in water and energy efficiency. Although the Commission has moved to regulate the sector, the results remain uncertain and cannot yet be relied upon.

4.2.6. Critical raw materials mining

Mining of critical raw materials is another highly profitable commercial activity that should not be supported with EU grant funding.

However, it is likely to benefit from increased EU public funding in the coming years, based on the argument that it contributes to climate mitigation through the use of these materials in renewable energy and other relevant technologies. If so, such funding must fulfil stringent DNSH criteria.

These criteria should confirm the guaranteed use of the mined materials for taxonomy objectives, examine the use of non-extractive alternatives, and stipulate no harm to the biodiversity, water and climate mitigation (related to energy usage) objectives. The Platform on Sustainable Finance has put forward criteria for lithium, nickel and copper,⁴² which include compliance with EU law and several additional requirements. A group of civil society organisations has provided feedback on these criteria, which could help to improve them further.⁴³

4.2.7. Companies convicted of environmental breaches

To support compliance with EU law more broadly than just through directly financed projects, we also recommend excluding companies convicted of violations of environmental legislation within the previous five years from receiving EU funds. This would represent a powerful incentive.

5. Climate adaptation criteria

We support the inclusion of climate adaptation DNSH criteria in the new guidance. In our opinion, the following criteria proposed by WWF are good examples of climate adaptation criteria, although they could also relate to biodiversity and water, respectively:

- New monoculture plantations of highly flammable species (...)
- Activities with high water consumption in river basins where the WEI+ is 40% or higher.

⁴² EU Platform on Sustainable Finance, [Advancing Sustainable Finance: Technical Criteria for New Activities & First Review of the Climate Delegated Act](#), March 2025.

⁴³ WWF European Policy Office et al., [Recommendations on Criteria and Future Development of the EU Taxonomy](#), 2025.

We also propose the following:

- Activities reducing urban tree cover. Any activity requiring tree felling in urban areas should be accompanied by effective measures to increase overall tree cover, based on local species likely to be resilient to a changing climate;
- Activities increasing soil sealing in urban areas. Any such activity should be accompanied by measures to reduce soil sealing elsewhere in the same urban area;
- Construction on floodplains or in coastal areas at risk of sea level rise.

6. What will the assessment actually look like?

A major weakness of the concept paper is that it provides little indication of how DNSH assessment, enforcement and monitoring will work in practice. The guidance needs to provide greater clarity on implementation at the national level, while avoiding duplication with existing permitting processes.

The Commission is trying to assist Member States by specifying excluded activities and carve-outs and reducing the number of assessments needed. However, it remains unclear whether managing authorities will still be expected to assess planned measures against all six environmental objectives, ensure that project selection criteria take them into account, or merely prove whether an activity complies with the exclusions or carve-outs set out in the guidance.

If the latter, the whole discussion about doing significant harm and how this can be avoided will likely be diverted into a rather technical verification about what an activity is or is not. This risks missing opportunities and will likely remove incentives to include positive environmental features into measures throughout the programming and selection process. The guidance therefore needs to clearly explain how the Commission envisages this assessment and its purpose.

A clear reference to Article 17 of the Taxonomy Regulation is also needed, preferably in the Performance Regulation, to better define ‘significant harm’, or at least in the guidance. The Social Climate Fund Regulation sets a good example of such a reference.⁴⁴

Our observations of applying DNSH since 2021 highlights several issues that should also be included in the guidance:

First, self-assessment does not work well, as no applicant proposing a measure will admit that it will cause significant harm. Assessment must therefore be carried out independently, either by the public authority or by experts engaged by the public authority, to increase their quality and integrity.

⁴⁴ European Parliament, Council of the European Union, [Regulation \(EU\) 2023/955 of the European Parliament and of the Council of 10 May 2023 establishing a Social Climate Fund and amending Regulation \(EU\) 2021/1060](#), 16 May 2023.

Second, transparency and public participation are key to ensuring proper application of the principle and preventing greenwashing. Public disclosure of DNSH assessments and consultations must be mandatory, and a simple mechanism should be established to allow the public to raise concerns both during the assessment process and during implementation.

Although DNSH assessments are usually carried out at the level of measures rather than individual projects, Member States, through their managing authorities, are expected to ensure that projects comply with programme criteria, which in turn must be verified as compliant with DNSH.

Therefore, irrespective of whether it is a formal requirement, the DNSH compliance of projects must be ensured, either by assessing individual projects or by formulating project selection criteria and other funding documents that exclude support for projects that do not comply. This poses a challenge for managing authorities in establishing systems to implement and monitor the DNSH principle, and the guidance should provide clear instructions on how to do so.

As the European Funds for a Modern Economy (FENG) programme has shown in Poland, incorporating DNSH obligations into grant agreements, with subsequent verification through a project environmental compliance analysis form and institutional checklist, as well as on-site checks, can be more effective than relying solely on DNSH compliance as a project selection criterion.⁴⁵

The Commission's guidance should also establish clear monitoring conditions, and monitoring committees should be involved in tracking DNSH compliance. They must be provided with the necessary materials to do so in a timely manner.

7. Conclusions

The Commission's concept paper on the DNSH principle under the next EU long-term budget brings a welcome unification of the criteria across EU funds, and provides mostly clear criteria for excluding activities that cause significant harm from EU funding.

It also succeeds to a large extent in disentangling DNSH from other EU legal requirements, thus increasing clarity about the role of DNSH and reducing duplication of assessments. In other words, the activities contained in the list of exclusions and criteria are indeed the type of 'legal but harmful' activities that DNSH should address.

However, the proposed framework lacks real 'significant contribution' criteria, meaning that EU funds might support activities that are less ambitious than commercial activities labelled sustainable under the EU taxonomy.

⁴⁵ Krzysztof Mrozek, [Implementation of the Do No Significant Harm \(DNSH\) principle in the 2021-2027 Cohesion Policy funds in Poland - analysis and recommendations](#), Polish Green Network, February 2025.

It also contains a wide range of loopholes in the application of the DNSH principle:

- Excessively wide blanket exemptions for ‘defence and security’ under the proposed Performance Regulation, based on the claim that applying DNSH would allegedly not be ‘feasible and appropriate’;
- An exemption for projects of ‘overriding public interest’ – i.e., projects that have been proven harmful under EU legislation but have been granted derogations;
- An exemption for taxonomy-compliant activities, thus introducing parallel sets of flawed and inconsistent criteria;
- Different and less stringent guidance on requirements for third countries, including accession countries;
- Too few activity types considered as always harmful;
- Unjustified or vague ‘carve-out’ exceptions, often resulting in less stringent requirements than those under the taxonomy or existing EU funds rules;
- Many potentially harmful activities will not be subject to DNSH criteria or assessments at all.

These weaknesses seriously undermine the DNSH principle’s effectiveness and the goal of ensuring it covers the whole EU budget. They therefore increase the risk of EU funds causing significant harm.

In addition, the concept paper lacks an overview of how DNSH will be applied, monitored and enforced at the national level, and whether assessments will still be carried out against the six environmental objectives outlined in Article 9 of the Taxonomy Regulation.

Only with the above changes can the DNSH principle be fit for purpose in the 2028–2034 EU budget. With the climate and biodiversity in an increasingly perilous state, the stakes have never been higher, and we have no time left for mistakes.

We therefore provide the following recommendations to address these weaknesses:

8. Recommendations for the Commission’s guidance

Legal framework:

- Revise the proposed Performance Regulation and its annexes in line with civil society proposals, making Annex I closer to a list of ‘significant contribution’ criteria.
- If still possible, delete ‘security’ and ‘other reasons of overriding public interest’ from the exemptions in the Regulation and make clear that the application of DNSH to defence must be assessed case by case rather than being subject to a blanket exemption.

- Add a definition of ‘significant harm’ to the Performance Regulation, referring to Article 17 of the Taxonomy Regulation, or at least include such a definition in the guidance.

Horizontal loopholes:

- Delete the proposed clause allowing taxonomy compliance to exempt an activity from DNSH.
- Establish that it is in fact ‘feasible and appropriate’ to apply DNSH to projects of ‘overriding public interest’.
- Define ‘crisis situations’, ‘defence’, and ‘security’ narrowly in the guidance so that the DNSH exemption applies only where compliance is genuinely infeasible or inappropriate.
- Exclude dual-use activities from the ‘defence’ and ‘security’ definitions, in line with the EIA Directive approach to defence.
- Include third countries, or at least EU accession countries, in the guidance to ensure unified standards.

Loopholes within the activities listed in the guidance:

- Improve the criteria on fossil fuels, road construction and expansion, waste-related investments, and new artificial barriers disrupting river continuity in line with the proposals in sections 4.1.1. to 4.1.4, as well as the other criteria in line with WWF’s analysis.⁴⁶

Loopholes due to missing activities:

- Add the activities and criteria proposed by WWF: drainage or conversion of peatlands and wetlands; energy generation from food and feed crops and from primary woody biomass; construction of new hydropower plants in protected areas or on free-flowing river stretches; manufacture and placing on the market of PFAS and other very persistent substances; bottom-contact fishing in marine protected areas and investments increasing fishing capacity; and new monoculture plantations of highly flammable species.
- In addition, add our proposed activities and criteria on: river regulation; afforestation on wetlands, as well as in natural and semi-natural grassland habitats; wind farms in or impacting Important Bird Areas or other areas designated for the protection of bird species; existing and new nuclear power; data centres; and critical raw materials mining.

⁴⁶WWF European Policy Office, [Commission concept paper on the ‘Do No Significant Harm’ \(DNSH\) guidance for the EU budget 2028-2034 - Technical assessment of section 2.](#)

- To support compliance with EU law more broadly than just through directly financed projects, exclude companies convicted of violations of environmental legislation within the previous five years from receiving EU funds, as this would represent a powerful incentive.

Climate adaptation criteria:

- Include climate adaptation criteria in line with WWF's recommendation for activities with high water consumption in river basins where the WEI+ is 40% or higher, as well as our proposals above on urban tree cover, urban soil sealing and building on floodplains and in coastal areas at risk of sea level rise.

National-level implementation:

- DNSH assessments must be carried out independently, either by a public authority or by experts engaged by the public authority.
- The guidance should clearly stipulate the need for public consultation on DNSH assessments to uphold the integrity and quality of the process.
- Make DNSH compliance a condition of grant agreements.
- The guidance should clearly identify where members of the public can submit complaints or observations on DNSH assessments and implementation.
- The guidance must make clear what the monitoring requirements for DNSH application are once a measure has been approved.
- Monitoring committees should be tasked with checking that DNSH is adhered to throughout the implementation of measures, and provided with the relevant information to do so.