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# Public Consultation Wildlife Legislation Review

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## 1. Introduction

Invasions by non-native species are a major threat to Irish biodiversity. Terrestrial and aquatic habitats are severely negatively affected by invasive plants and animals, resulting in grave damage to conservation interests.

Scientific studies reveal that 85% of Ireland's most valuable EU-protected habitats are currently in an unfavourable condition. Nearly half (46%) are experiencing continued declines, particularly in marine, peatland, grassland, and woodland habitats, with only 2% showing improvement over a 12-year period.<sup>1</sup> Over the past decade, nearly a third of our semi-natural grasslands have been lost, and half of our rivers are in poor ecological health.<sup>2</sup>

Non-native invasive species pose a significant threat to Ireland's fragile ecosystems and are a serious economic burden on Ireland, with annual costs exceeding €261 million (2013 estimate).<sup>3</sup> Multiple studies have shown that these species primarily impact the Irish economy through direct competition with native biota.<sup>4</sup> This competition detrimentally affects Ireland's biodiversity. In addition, Ireland's biodiversity is a vital asset for the tourism industry. Protecting this biodiversity is essential to preserving the economic value of Ireland's natural landscapes as well as the natural value of our ecosystems.

With global biodiversity in decline, Ireland's ecosystems face ever increasing pressure and stress. The government of Ireland, as the guardian and protector of Ireland's natural sites, has the responsibility to take all possible measures to safeguard the island's biodiversity. It is the government's duty to the people of Ireland, deserving to live in a healthy environment, to do everything within their powers to mitigate the damage caused by invasive species.

Cherry Laurel, the subject of this report, is a non-native and highly invasive species. It was introduced to Ireland in 1690.

This evergreen plant has toxic leaves containing cyanide, making it unpalatable to herbivores. It thrives in the nutrient-rich woodland soils, dominating the habitat by overshadowing other plants and preventing their growth. **The NPWS classifies Cherry Laurel as an established Highly Invasive species with a risk of High Impact and links it to the other more well known established Highly Invasive species Rhododendron Ponticum.**<sup>5</sup> Invasive Species Ireland classifies both

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<sup>1</sup> [https://www.npws.ie/sites/default/files/publications/pdf/NPWS\\_2019\\_Vol1\\_Summary\\_Article17.pdf](https://www.npws.ie/sites/default/files/publications/pdf/NPWS_2019_Vol1_Summary_Article17.pdf)

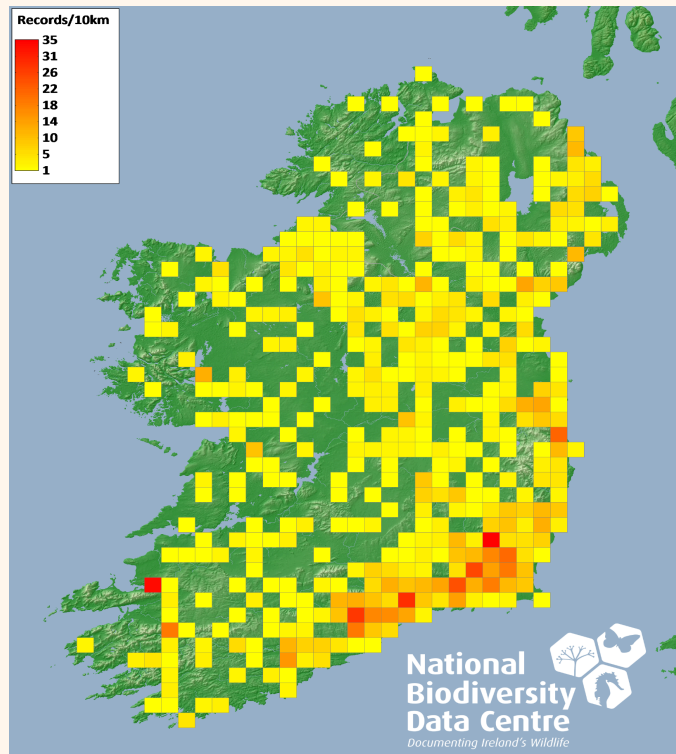
<sup>2</sup> (Martin et al., 2018; EPA, 2021)

<sup>3</sup> [https://invasives.ie/app/uploads/2022/01/NBDC-Trends-Report-2013\\_FINAL1.pdf](https://invasives.ie/app/uploads/2022/01/NBDC-Trends-Report-2013_FINAL1.pdf)

<sup>4</sup> [https://www.npws.ie/sites/default/files/publications/pdf/NPWS\\_2019\\_Vol1\\_Summary\\_Article17.pdf](https://www.npws.ie/sites/default/files/publications/pdf/NPWS_2019_Vol1_Summary_Article17.pdf)

<sup>5</sup> <https://species.biodiversityireland.ie/profile.php?taxonId=28940&taxonDesignationGroupId=25>

Rhododendron Ponticum and Cherry Laurel as extremely invasive plant species.<sup>6</sup> Both Cherry Laurel and Rhododendron Ponticum create dark, sterile environments that inhibit the regeneration of native species and support limited biodiversity.



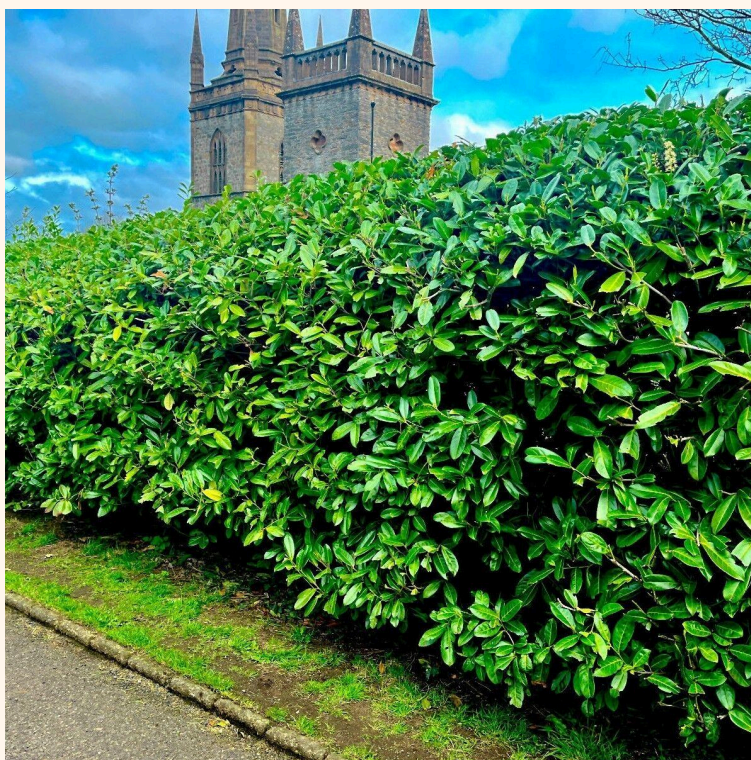
National Biodiversity Data Centre: Scale of Cherry Laurel Infestation (2023)

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<sup>6</sup><https://invasivespeciesireland.com/wp-content/uploads/wp-post-to-pdf-enhanced-cache/1/rhododendron.pdf>



The waxy, green evergreen leaves of a Cherry Laurel (*Prunus laurocerasus*) plant.



A thick wall of Cherry Laurel hedging, Cherry Laurel is commonly utilised across the island as a fast growing, hardy hedging.





A thick wall of invasive Rhododendron visible behind a recently reintroduced White Tailed Sea Eagle.

## 2. A Destructive Invader

Ireland's 4th National Biodiversity Plan specifically calls for a 50% reduction in the spread of alien species by 2030. As part of this plan, a report titled *"Invasive Species in Ireland"* was published.<sup>7</sup> The plan acknowledges Cherry Laurel as an invasive species threatening native ecosystems. While the previous National Biodiversity Action Plan noted Cherry Laurel's invasiveness in artificial environments only, the 4th Plan slightly improves upon this by recognizing its invasiveness in native habitats, specifically lowland woodland pasture. Unfortunately this recognition is still too limited. There is clear evidence that Cherry Laurel invades a wide variety of native habitats. By primarily focusing on artificial habitats and lowland woodland pasture, the 4th National Biodiversity Plan may restrict the scope of its management recommendations for Cherry Laurel, potentially undermining efforts to effectively control this invasive species compared to others.

Along the banks of the Garvoge River in County Sligo, Coillte are working on restoring a rare habitat, an ancient alluvial forest called 'Hazelwood Forest'. Here, the natural inhabitants include birch, willow, alder, ash, oak trees, hazel, bird cherry, and buckthorn. The woodland floor is a vibrant tapestry of reeds, marsh marigold, flag iris, marsh cinquefoil, marsh bedstraw, purple loosestrife, skullcap,

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<sup>7</sup> [4th National Biodiversity Action Plan](#)

meadowsweet, and gipsywort. You can also find Red Listed plant species such as bird's-nest orchid, yellow bird's-nest, and ivy broomrape.<sup>8</sup> This habitat is a haven for wildlife. Red squirrels, pine martens, otters, badgers, kingfishers, sparrowhawks, and woodcock. The woodland streams provide homes for salmon and sea trout.

Hazelwood's alluvial woodland is an extremely rare habitat type in the country, holding great ecological significance. It is recognized as a Special Area of Conservation (Annex 1 Priority Habitat).<sup>9</sup>

Hazelwood forest is also infected with invasive Rhododendron and Cherry Laurel. Coillte who are undertaking a massive operation to restore the habitat have stated that 'these invasive shrubs cast a dense shade on the understorey, which obliterates the ground flora and prevents natural regeneration of the woodland. Leave it like this for too long, and the woodland will die.'<sup>10</sup>

While it is estimated that the cost of the removal and control of these invasive species has risen, **an initial investment of €500,000.00** was made with a timescale of 2-3 years to tackle the problem. This is bewildering given that **the sale of Cherry Laurel continues unhindered**. On the one hand the government sanctions the sale of the invasive plant while on the other hand, it invests substantial taxpayer money in efforts to remove it. Furthermore, Coillte, a semi-state body, operates under the state-approved 4th National Biodiversity Action Plan, which classifies Cherry Laurel as invasive only in artificial habitats and lowland woodland pasture — This classification overlooks areas like Hazelwood, an ancient alluvial woodland that doesn't fit either category.

Devil's Glen in County Wicklow, home to ancient Sessile Oaks and other native trees, faces a relentless battle against Cherry Laurel and Rhododendron, which have spread throughout the forest and along the Vartry River. Similarly, Massey Wood, another native Irish forest and one of the most popular natural amenities in County Dublin, is being overtaken by Cherry Laurel, yet it lacks a management plan to address the issue.

Cherry Laurel has also infiltrated Killarney National Park, Glenveagh National Park, Nephin National Park, the Wicklow Mountains, and nearly every other wild area on the island, demonstrating its pervasive presence across endangered Irish habitats. Despite the clear evidence of its widespread invasion, the government, through Coillte, spends substantial sums to control infestations in localized areas without addressing the root cause: the ongoing sale of Cherry Laurel in garden centres and nurseries. This contradiction highlights a significant oversight in the government's approach to managing invasive species.

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<sup>8</sup> <https://www.coillte.ie/coillte-nature/ourprojects/restoringhazelwood/>

<sup>9</sup> <https://www.npws.ie/sites/default/files/publications/pdf/IWM146.pdf>

<sup>10</sup> <https://www.coillte.ie/restoring-hazelwood-by-removing-invasive-species/>





**Cherry Laurel thicket casts a dark shadow on the understory preventing growth of native plants.**





Cherry Laurel infestation crowding out a native oak forest in Charleville Forest, Tullamore, County Offaly. The Oak on the left hand side of the photo, estimated to be hundreds of years old, will not be able to propagate without management of the encroaching Cherry Laurel infestation.

Without sufficient government backing and investment, small organizations and charities are left to confront invasive species on their own. One such organization is the Gaelic Woodland Project. **Since July 2022, the Gaelic Woodland Project has been organising a community-based approach to its removal which converts this invasive species into a biofuel.** The charity has developed a method for removing Cherry Laurel infestations from sites. Since Cherry Laurel is classified as a 'shrub' rather than a tree, no felling license is needed for its removal. The Gaelic Woodland Project has created a safe procedure for its extraction, harvesting, and drying for firewood. This methodology is freely shared with communities and groups tackling local infestations, with successful clearances at privately owned estates such as Killyon Manor in County Meath.<sup>11</sup>

Using invasive Cherry Laurel as biofuel aligns with the principles of Just Transition, the circular economy, and integrated management. Ireland needs to adhere to the principles of Just Transition, the circular economy, and integrated management to

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<sup>11</sup> <https://gaelicwoodlandproject.com/about/>



ensure its shift toward a sustainable economy is both effective and fair, while also addressing environmental and social challenges in a holistic way. Using Cherry Laurel as biofuels could support rural communities by creating jobs in areas affected by the peat phase-out while involving locals in managing invasive species. This approach turns a problem into a resource, fitting the circular economy model by repurposing waste into renewable energy. Integrated management is achieved by balancing ecosystem restoration with energy production, addressing biodiversity loss, and supporting climate goals.

Using Cherry Laurel as biofuel could significantly reduce Ireland's growing dependence on imported peat and firewood. Peat imports surged to around 500,000 tonnes in 2022 due to a decline in domestic production following environmental regulations, while firewood imports nearly doubled to over 450,000 cubic meters by 2021 due to increased demand for biomass energy and wood-burning stoves.<sup>12</sup> By harvesting Cherry Laurel, an invasive species, Ireland can manage an environmental threat and create a local, renewable energy source, reducing the need for expensive imports. This approach not only lowers costs and supports local economies but also aligns with sustainability goals by providing a practical alternative to finite and costly imported fuels.



**Difference between woodland floor in a Cherry Laurel infestation (right) and in a healthy forest (left)**

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<sup>12</sup> <https://www.agriland.ie/farming-news/over-390000t-of-peat-exported-in-2022-minister/>



**Biofuel from Cherry Laurel**

Despite these efforts, the Gaelic Woodland Project is a small, volunteer-run initiative and should not bear this responsibility alone. The need for significant legislative change and heightened public awareness is crucial to achieve real and measurable ecological impact. The government must fulfil its role. Effective governance is crucial for preventing the sale of invasive species. According to the United Nations good governance is defined by several key characteristics including participation, consensus, accountability, transparency and responsiveness.

In the context of managing invasive species like Cherry Laurel, robust governance systems must be responsive to both current and future societal needs. This involves demonstrating accountability and adaptability to changing social and ecological conditions. Effective governance should incorporate participatory mechanisms, involving local communities and indigenous peoples in policy development.

**Garden centres selling invasive species are the epicentre of the problem.**

Nurseries and garden centres should either voluntarily take action or be compelled by legislation to do so. The legislative tools to do so already exist, however they remain inactive due to inaction on the part of the government for over a decade.



### 3. Non-enactment of Regulation 50

The European Communities (Birds and Natural Habitats) Regulations (SI 477/2011) (the “2011 Regulations”) were introduced to transpose two key EU directives into Irish law: the Birds Directive (2009/147/EC) and the Habitats Directive (92/43/EEC). These directives aim to protect biodiversity by ensuring the conservation of wild birds, natural habitats, and species of flora and fauna within the EU. Ireland had previously attempted to implement these directives through legislation such as the Wildlife Act 1976 and regulations such as the European Communities (Natural Habitats) Regulations, 1997. However, two rulings by the Court of Justice of the European Union (CJEU) found that these measures were insufficient, leading to the enactment of the 2011 Regulations to address these deficiencies and consolidate previous environmental regulations.<sup>13</sup>

The 2011 Regulations were intended to enhance the protection of designated areas, safeguard species, and outline measures to maintain healthy ecosystems. Specifically, Regulations 49 and 50 were meant to implement Article 22(b) of the Habitats Directive. This Article mandates that Member States regulate the deliberate introduction of non-native species to prevent harm to natural habitats and native wildlife.

Regulation 49 of the 2011 Regulations prohibits the introduction and spread of certain invasive species. It requires individuals to refrain from planting, dispersing, or causing the growth of listed invasive species without a licence. Additionally, it allows for the destruction of species deemed a threat to the environment under the regulations.

**Regulation 50 of the 2011 Regulations prohibits a person from having in their possession any listed invasive species for the purposes of sale, breeding, reproduction, or propagation without a licence.** It also prohibits offering for sale, transportation, distribution, introduction, or release of listed species without a licence. This includes animals, plants, and specific materials like soil from areas infested with Japanese knotweed.

While Regulation 49 was enacted on the 21st of September 2011, crucially, **Regulation 50 is not currently in effect as it has not yet been enacted.** Unusually for a statutory instrument, this particular section was not enacted with the rest of the regulation. Regulation 74 of the 2011 Regulations stipulates that

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<sup>13</sup> Commission of the European Communities v Ireland (Case C-418/04) “The Birds Case” and Commission of the European Communities v Ireland (Case C-183/05)

Regulation 50 will not come into effect until the Minister gives public notice of its commencement.

The Minister has not yet given such public notice. Thirteen years have passed since the legislation came into effect and the section most critical for protecting the island from invasive species remains inactive. This failure undermines the objectives of the 2011 Regulations, as they cannot be adequately enforced without this fundamental component. **The failure to enact Regulation 50 has led to the importation of numerous invasive species and diseases causing untold destruction to Ireland's biodiversity.** It is long overdue for the Minister to enact this legislation.

In response to ongoing concerns about invasive species, the European Union passed further legislation combating invasive species in 2014, EU Regulation 1143/2014 (the "EU Regulation on Invasive Alien Species"). This regulation was designed to prevent, manage, and mitigate the introduction and spread of invasive alien species across the EU. It includes a list of invasive species of 'Union concern,' which are species that pose significant risks across multiple Member States and therefore require coordinated action. Of the 37 species on the 'Union list', 9 are already found on this island including the Grey squirrel, Muntjac deer, Chinese mitten crab, Red-eared terrapin/slider, Ruddy duck, Curly waterweed, American skunk cabbage, Floating pennywort (Northern Ireland) and Parrot's feather.

The EU Regulation on Invasive Alien Species did not only deal with invasive species that affected the European Union as a whole. Article 12(1) of the EU Regulation on Invasive Alien Species allows Member States to compile their own national lists of invasive species of 'Member State concern.' This provision enables Member States to use the same regulatory tools designed for Union concern species to address invasive species that are particularly problematic within their own territories.

Despite the introduction of the EU Regulation on Invasive Alien Species, Ireland has struggled with its implementation. In January 2019, the European Commission issued a formal notice to Ireland for failing to adopt and notify the necessary rules on penalties for breaches of the regulation. This led to the issuance of a reasoned opinion in November 2019, urging Ireland to comply.<sup>14</sup> However, Ireland continued to fall short of its obligations, and **in December 2023, nearly a decade after the regulation was enacted, the European Commission referred Ireland to the Court of Justice of the European Union** for its failure to adequately implement the EU Regulation on Invasive Alien Species.<sup>15</sup>

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<sup>14</sup> <https://www.irishlegal.com/articles/ireland-facing-eu-action-over-biodiversity-law-failings>

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[https://ireland.representation.ec.europa.eu/news-and-events/news/nature-commission-refers-ireland-court-justice-failing-adopt-and-notify-penalties-invasive-alien-2023-12-21\\_en](https://ireland.representation.ec.europa.eu/news-and-events/news/nature-commission-refers-ireland-court-justice-failing-adopt-and-notify-penalties-invasive-alien-2023-12-21_en)



## Why has Ireland failed to enact Article 50?

The reported failure to enact Regulation 50 of the 2011 Regulations, allegedly due to "concerns regarding free trade,"<sup>16</sup> is legally unfounded. The government is purportedly apprehensive that banning the sale of invasive species might be seen as a barrier to free trade within the EU's internal market, thus contravening the Treaty on the Functioning of the European Union (TFEU) principles regarding the free movement of goods. However, this concern is not supported by EU law, which allows for derogations from the free movement of goods when necessary for legitimate purposes, including environmental protection. In fact, EU law has allowed for derogations based on biodiversity grounds for over 26 years.

The European Union has legislated in its foundational treaties that the policies of the Union shall aim at attaining a high level of environmental protection, pursuant to Article 3(3) TEU, Article 191(2) TFEU, and Article 37 EUCFR.<sup>17</sup> Article 114(3) of the TFEU lays down a similar obligation with respect to measures related to the establishment and the functioning of the internal market.<sup>18</sup> This principle "no longer concerns protection alone but also an 'improvement of the quality of the environment'".<sup>19</sup> De Sadeleer claims that "EU institutions are therefore expected to adopt a more interventionist than conservative stance. In other words, they are not only required to avoid degradation of the environment, but must also seek to improve its quality".<sup>20</sup> In the *ADBHU* or *Waste Oil* case, the Court of Justice found in 1985 that protection of the environment is one of the EU's essential objectives.<sup>21</sup> In interpreting the Birds Directive the CJEU has held "that 'ecological, scientific and cultural requirements' take precedence over 'economic and recreational requirements', the latter playing only an ancillary role".<sup>22</sup>

Langlet and Mahmoudi note that "EU legal acts that have environmental protection as their legal basis allow, on certain conditions, the Member States to take more

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<sup>16</sup> Seeds of Doom

<sup>17</sup> Nicolas De Sadeleer, *EU Environmental Law and the Internal Market* (2014) <<http://ci.nii.ac.jp/ncid/BB14950133>> at page 45.

<sup>18</sup> *Ibid* at page 45.

<sup>19</sup> *Ibid* at page 45.

<sup>20</sup> *Ibid* at page 45.

<sup>21</sup> David Langlet and Said Mahmoudi, *EU Environmental Law and Policy* (2016) <<https://doi.org/10.1093/acprof:oso/9780198753926.001.0001>> at page 78.

<sup>22</sup> Nicolas De Sadeleer, *EU Environmental Law and the Internal Market* (2014) <<http://ci.nii.ac.jp/ncid/BB14950133>> at page 46. Case C-247/85 *Commission v Belgium* [1987] ECR 3029; and Case C-262/85 *Commission v Italy* [1987] ECR 3073

protective action at the domestic level”.<sup>23</sup> This additional protective action is itself anticipated by the EU Regulation on Invasive Alien Species which supports measures being taken to prevent the spread of invasive species of Member State concern as long as they are “compatible with the TFEU”.<sup>24</sup> Additionally, the precautionary principle, a cornerstone of EU environmental policy, supports the implementation of preventative measures to protect the environment, when scientific certainty about the extent of the risk is lacking. Sadeleer notes that in *Tatar v Romania*, the European Court of Human Rights stressed that the precautionary principle could be seen as a basis for the obligation to attain a high level of environmental protection.<sup>25</sup> In the *Waddenzee* case, the CJEU interpreted the Habitats Directive in light of this principle, allowing for environmental protection measures in the face of uncertain risks.<sup>26</sup> In the case of Cherry Laurel and other invasive species in Ireland, the risk to biodiversity is well-documented and not subject to significant scientific doubt rendering inaction even more egregious.

The government's misguided concerns regarding free trade stem from Article 34 TFEU. While Article 34 TFEU generally prohibits quantitative restrictions on imports and measures having equivalent effect, including potentially banning the importation of invasive species like Cherry Laurel, there are exceptions to this rule. Article 36 TFEU allows Member States to implement trade-restrictive measures justified on several grounds, including the protection of health and life of humans, animals, or plants. The Member State must demonstrate that the measure is necessary to achieve one or more of these objectives and is proportionate.<sup>27</sup>

The derogation most relevant to this legislation is the right to prohibit or restrict imports or exports in order to protect the health and life of humans, animals, or plants. In the *Blumhme* case,<sup>28</sup> known as the Danish Bees case, the CJEU upheld national measures aimed at preserving biodiversity, specifically an indigenous animal population. The Danish Bees Case involved a prohibition on keeping any bee species other than the Læsø brown bee on Læsø Island. This restriction was implemented to conserve a unique subspecies of bee native to the island, aiming to protect biodiversity and ensure the health of this specific subspecies. The Court ruled that the national measures, aimed at protecting biological diversity, could be justified under Article 36 TFEU, even if the population in question is not at immediate

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<sup>23</sup> David Langlet and Said Mahmoudi, EU Environmental Law and Policy (2016) <<https://doi.org/10.1093/acprof:oso/9780198753926.001.0001>> at page 69

<sup>24</sup> Article 12(2) of EU Regulation 1143/2014

<sup>25</sup> Nicolas De Sadeleer, EU Environmental Law and the Internal Market (2014) <<http://ci.nii.ac.jp/ncid/BB14950133>> at page 45.

<sup>26</sup> David Langlet and Said Mahmoudi, EU Environmental Law and Policy (2016) <<https://doi.org/10.1093/acprof:oso/9780198753926.001.0001>>. at page 42

<sup>27</sup> Ibid at page 77.

<sup>28</sup> Case C-67/97 Blumhme [1998] ECR I-8033.



risk of extinction.<sup>29</sup> Robust scientific evidence, highlighting the unique genetic traits of the Læsø brown bee and the risks of hybridization with non-native species, supported the need for these protective measures. Langlet and Mahmoudi state that it is thus clear from the Danish Bees case that “Article 36 covers not only measures for the protection of specific individuals, for example against contagious diseases, or even those protecting a species against extinction, but also measures aimed at protecting biological diversity and its components in a broad sense.”<sup>30</sup> This case set a precedent for biodiversity protection initiatives within the EU, showing that targeted legal and conservation measures can be used to protect specific species and subspecies, even if it involves limiting free movement of goods within the EU.<sup>31</sup>

The government cannot hide behind the argument of breaching article 34 TFEU when case-law has firmly established that Member States may use the protection of biodiversity as a lawful derogation from the principle of free trade. The enactment of Regulation 50 would clearly fall within the approved legislative framework for derogation, having its aim as the protection of local ecosystems, biodiversity, and native species. The measure is necessary as scientific evidence and expert reports indicate that the invasive plant species outcompetes native plants, leading to a decline in native biodiversity. It is also proportionate, as the benefits of the ban outweigh the economic considerations involved.

**By enacting Regulation 50, Ireland would not only comply with its EU obligations but also demonstrate its commitment to safeguarding its natural habitats and species.** Failing to do so could result in further legal actions from the European Commission and exacerbate the already significant challenges in managing invasive species and protecting Ireland's biodiversity.

The prolonged delay in enacting the key provision of the 2011 Regulations, which transposes an EU Directive on habitat protection, has greatly exacerbated the challenges Ireland faces in effectively managing invasive species. This provision, which has remained unenacted for over a decade, highlights a recurring issue with Ireland's commitment to the timely and effective implementation of EU directives.

The European Commission may view this ongoing non-compliance as yet another example of Ireland's continuing failure to fully adopt and enforce crucial EU legislation. This could result in further legal actions, including additional referrals to the CJEU. Such developments would underscore the persistent shortcomings in Ireland's approach to environmental regulation, particularly concerning the management and prevention of invasive species. Continued inaction not only risks

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<sup>29</sup> David Langlet and Said Mahmoudi, EU Environmental Law and Policy (2016) <<https://doi.org/10.1093/acprof:oso/9780198753926.001.0001>>. at page 81. See also the

<sup>30</sup> Ibid at page 81

<sup>31</sup> See also Case C-131/93 German Crayfish [1994] ECR I-3303 and Case C-249/07 Commission of the European Communities v Kingdom of the Netherlands.

further legal repercussions but also undermines the broader objectives of EU environmental policy, which prioritises the protection of biodiversity and the effective management of natural habitats.

#### 4. A notable absentee from the Third Schedule

The Third schedule of the European Communities (Birds and Natural Habitats) Regulations (SI 477/2011) lists the plants and animals which are subject to restrictions under Regulations 49 and 50.

**Notably, Cherry Laurel, an extremely invasive plant, is absent from the Third Schedule.**

Despite the fact that Cherry Laurel is recognized as an invasive species by the National Biodiversity Data Centre (NBDC) and the NPWS, it has not been added to the schedule. As of the 22<sup>nd</sup> of April 2022, the NPWS has “no intention” of updating the Third Schedule and have claimed that there is a “*lack of funding for a National Risk Assessment*”.<sup>32</sup>

The Irish Citizens' Assembly on Biodiversity Loss, convened in 2022, identified Cherry Laurel as a major issue during their discussions. They acknowledged Cherry Laurel as an invasive species that endangers Ireland's native biodiversity. The Assembly underscored the need for stronger management and control measures to combat the spread of Cherry Laurel, which threatens to outcompete native plants and disrupt local ecosystems.<sup>33</sup> The commitment to managing and eradicating Cherry Laurel is evident from both the Assembly's recommendations and the classification of Cherry Laurel as highly invasive from the National Parks and Wildlife Service (NPWS).

On the 14<sup>th</sup> of May 2024 the NPWS confirmed the practical effects of this situation. They confirmed that while an invasive plant might fall under the regulatory purview of the 2011 Regulations, the specific provisions concerning commercial activities, as outlined in Regulation 50, have not been put into effect.<sup>34</sup> **Therefore, at present, the commercial sale of invasive species listed in Part 3 of the Schedule (those**

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<sup>32</sup> Email dated 22nd April 2022 NPWS to the Gaelic Woodland Project

<sup>33</sup> <https://citizensassembly.ie/report-of-the-citizens-assembly-on-biodiversity-loss-report-launches/>

<sup>34</sup> Email dated 14<sup>th</sup> May 2024 NPWS to Oisín Ó Néill

**which are restricted by the Habitats Directive) is not prohibited under the current regulatory framework.**

The failure to implement Regulation 50 and the omission of Cherry Laurel from the Third Schedule have allowed the unchecked sale of this highly invasive species across the island at low prices and without any warnings. As a result, **gardeners remain unaware that they are planting a highly invasive species**, which has now become a widely popular choice for hedging throughout the island.

John Caffery, professor and invasive species specialist with INVAS Biosecurity Ireland said Cherry Laurel should “absolutely” be included as an invasive species in the legislation which means the plant shouldn’t be sold.<sup>35</sup>

Cherry Laurel is widely planted in both public and private developments across Ireland. New housing developments continue to use Cherry Laurel as a cost-effective, fast-growing evergreen hedging solution. County councils sanction the mass planting of Cherry Laurel in estates.

In Munster alone, over 100 hectares of Cherry Laurel farms cater to the European Flower Bouquet Market. A Teagasc, state agency, fact sheet which touts the benefits of extensive Cherry Laurel cultivation, fails to mention the invasive risks associated with Cherry Laurel.<sup>36</sup>

Numerous nurseries mass-produce Cherry Laurel, including Nonesohardy in County Wicklow, Hylands Nursery in Gorey, Fermoy Woodland Nursery, and Carragh Nursery in County Kildare, all selling the plant in bulk without warnings about its invasiveness. These nurseries are just a few examples; garden centers across the island offer Cherry Laurel cheaply and without any caution.

The consequences of this mass cultivation and unrestricted sale are dire for Ireland’s biodiversity.

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<https://www.thetimes.com/article/should-ireland-ban-the-sale-of-cherry-laurel-in-garden-centres-l3xnbnd9>

<sup>36</sup> <https://www.teagasc.ie/media/website/publications/2013/LaurelFactsheet.pdf>



## COMMON LAUREL (CHERRY LAUREL)

A fast growing hardy and reliable evergreen hedge. The large glossy leaves of *Prunus laurocerasus* Rotundifolia are favourite for Irish gardens and it is its speed of growth and its reliability that make this Laurel a perfect choice for hedging and cover to many gardens.

Easy to grow in any moist but well drained soil in sun or partial shade it has a low maintenance requirement. It is a hardy shrub able to tolerate temperatures down to as low as minus 20 centigrade.

Hedging Spacings: 18" (45cm) for hedges up to 6ft. Space 2ft (60cm) apart for hedges 6ft +

€6.95

In stock

QUANTITY

1

ADD TO BASKET

### 5. Two-Fold Approach: Enact Regulation 50 and Add Cherry Laurel to the Third Schedule

Given the ongoing biodiversity crisis, Ireland must meet both international and domestic obligations to tackle invasive species. As the steward of its natural environments, the Irish Government needs to take proactive measures to prevent the entry and spread of invasive species, this is crucial for maintaining the ecological integrity and biodiversity of its landscapes.

Cherry Laurel (*Prunus laurocerasus*), while not currently listed on the Third Schedule, should be urgently included.

Banning the sale of Cherry Laurel is essential to prevent further ecological damage. Existing containment and control measures have proven inadequate in managing its spread and impact. The ecological benefits of restricting Cherry Laurel outweigh the potential economic impacts on trade. Protecting native biodiversity and maintaining ecosystem stability are critical priorities. Such a restriction is proportionate, as it targets the specific threat posed by Cherry Laurel without significantly hindering trade in other goods.

By enacting Regulation 50 and including Cherry Laurel on the Third Schedule, Ireland would align its national legislation with EU requirements. This would help address any potential infringement issues with the European Commission regarding non-compliance with the Habitats Directive. Cherry Laurel, now officially recognized

as invasive, would be subject to stricter controls and management measures to prevent its spread and mitigate its impact on native biodiversity. With Cherry Laurel under control, ecosystems can begin to recover and regain their natural balance. This would support efforts to preserve and enhance Ireland's natural habitats and biodiversity. Banning the sale of Cherry Laurel could affect nurseries and garden centres that currently sell the plant. However, the restriction would be justified by the need to protect biodiversity and could be managed by providing alternative options for consumers and businesses.

**Successful implementation could improve Ireland's standing with the EU and address any criticism regarding its approach to managing invasive species.** It would also align with broader EU goals for conservation and sustainable development. Successful implementation would set a legal precedent for handling other invasive species in Ireland. It would strengthen the legal framework for managing biological invasions and protecting natural habitats.

The news that the National Biodiversity Data Centre is setting up a dedicated unit for invasive species is a positive development.<sup>37</sup> However, **without the decisive action of banning the sale of Cherry Laurel in garden centers and nurseries and including it on the Third Schedule of the Habitats Directive, these efforts may seem like progress in the right direction but fall short having a real impact.**

To effectively combat invasive species, on-the-ground units and task forces dedicated to managing invasives on public lands and national parks are crucial. Collaboration with organizations like the Gaelic Woodland Project, which has developed methods for removing Cherry Laurel, should be encouraged. Sharing expertise and resources can enhance these efforts.

The ACRES (Agri-Climate Rural Environment Scheme) Scheme could play a significant role by incorporating provisions for invasive species removal. Potential provisions include:

- Requiring farmers to identify and map areas infested with invasive species, including Cherry Laurel.
- Providing training and tools for accurate identification and mapping.
- Offering financial incentives for the removal of invasive species and funding for necessary equipment, such as saws and herbicides.
- Subsidizing professional removal services if needed.
- Mandating regular reporting on removal activities and land condition post-removal.
- Supporting the restoration of native vegetation by supplying plants and seeds to replace removed Cherry Laurel.

By integrating these measures, the ACRES Scheme can address the issue of Cherry Laurel and other invasive species, fostering healthier ecosystems and more

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<https://www.agriland.ie/farming-news/national-biodiversity-data-centre-establishing-invasive-species-unit/>

sustainable agricultural practices. Additionally, securing further funding for initiatives like the Gaelic Woodland Project will support these efforts further.

**The prohibition of selling invasive species, such as Cherry Laurel, through its inclusion in the Third Schedule of the Habitats Directive is essential. However, this measure alone will not suffice; it must be accompanied by the enactment of Regulation 50 or new legislation that enforces the objectives set out in Regulation 50 to effectively ban its sale.**

We call on the Irish government to update the legislation taking our submission into account.

*END.*

**Oisín Ó Néill**

*Solicitor*

*Legal and Policy department*

Gaelic Woodland Project (Registered Charity n. 20206178)

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With thanks for help from the Gaelic Woodland Project and Fiachra Ó Cochláin.