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**REPORT FROM THE COMMISSION**

**ON THE IMPLEMENTATION OF DIRECTIVE 79/409/EEC ON THE  
CONSERVATION OF WILD BIRDS**

**Part I Composite Report on Overall Progress Achieved  
Update for 1999-2001**

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## **1. INTRODUCTION**

### **1.1. Background to this report**

Council Directive 79/409/EEC on the conservation of wild birds, the so-called 'Birds Directive', adopted in April 1979 was the first EU law designed to focus on the long-term preservation of all wild bird species in the European Union. It identifies 181 endangered species and sub-species for special care. Member States are responsible for designating Special Protection Areas (SPAs), and particularly for the conservation of migratory birds, which are a natural asset shared by all Europeans.

### **1.2. The reporting process established in the Directive**

This report has been drawn up on the basis of the information provided in the national three-year reports by the Member States pursuant to Article 12 of the Directive. It covers implementation efforts over the reporting period 1999 - 2001.

The report is confined to significant changes as compared with the previous situation, as described in the document "Report on the application of Directive 79/409/EEC on the conservation of wild birds: Update for 1996-1998".

### **1.3. Structure of the report**

This report is presented into two parts, Part I providing for EU-15 a summary of progress achieved, particularly in relation to the main aims and provisions of the Directive, which are briefly outlined. Part II contains a summary of national reports of Member States' implementation efforts over the period 1999-2001, as required under Article 12 of the Directive. PART II of the report covering the information supplied by the Member States has been verified by the authorities of the Member States according to article 12 § 2.

## **2. THE BIRDS DIRECTIVE 79/409/EEC**

### **2.1. Aims of the Directive**

The main aim of the Birds Directive<sup>1</sup>, is the long-term conservation of all wild bird species in the European Union. For the EU-15, it identifies a list of 181 endangered species and sub-species for special care (Annex I). Member States are responsible for designating Special Protection Areas (SPAs), and particularly for the conservation of migratory birds, which are a natural asset shared by all Europeans.

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<sup>1</sup> Directive 79/409/EEC (OJ L 103, 25/04/1979) as amended by Directive 81/854/EEC (OJ L 319, 07/11/1981, p. 3), Directive 85/411/EEC (OJ L 233, 30/08/1985, p. 33), Directive 86/122/EEC (OJ L 100, 16/04/1986, p. 22), Directive 91/244/EEC (OJ L 115, 08/05/1991, p. 41), Directive 94/24/EEC (OJ L 164, 30/06/1991, p. 9) and the acts relating to the accession of Greece, Spain, Portugal, Austria, Sweden and Finland (OJ L 302, 15.11.1985, p. 221 & OJ L 291, 19.11.1979, p. 17).

## 2.2. Main provisions of the Directive

The Bird Directive establishes, pursuant to Article 1, a general system of protection for all species of birds naturally occurring in the wild state in the European territory of the Member States that is covered by the Treaty (with the exclusion of Greenland). The purpose of the Directive is to protect and manage these species and to regulate the hunting and capture of such species. It concerns wild birds as well as their eggs, nests and habitats. Article 2 sets the objective of protecting all of these bird species and links this objective with their ecological needs and the scientific, cultural, recreational and economic requirements of the general public.

The Directive focuses on two major themes: the protection of habitats as required by Articles 3 and 4 and hunting, capture, killing and sale as regulated by Articles 5 to 9.

Article 10 seeks to encourage the development of research into the protection of wild birds by the Member States.

Article 11 provides that Member States are to ensure that any introduction of non-native species does not prejudice the local flora and fauna.

Article 12 requires Member States to forward to the Commission a report on the implementation of national provisions introduced under the Directive.

Measures taken pursuant to the Directive must not lead to deterioration in the situation as regards the conservation of species of naturally occurring birds in the wild state in the European territory of the Member States (Article 13) and the Member States may introduce stricter protective measures than those provided for under the Directive (Article 14).

Articles 15 to 19 are procedural Articles providing in particular for the setting up of an advisory committee for adapting the Directive to technical and scientific progress in order to make possible whatever changes are necessary, lay down procedures and fix reporting dates.

### 2.2.1. *Transposition: New national legislation*

<b>Legal requirements</b>	The Member States had to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive by 1981. The texts of the main provisions of national law are to be communicated to the Commission.
<b>EU-15 Summary</b>	There were no major overhauls of legislation during the period, although most Member States report some changes. In many cases, these relate to secondary legislation concerning specific conditions for hunting, impact assessment, and the keeping of birds. Changes to UK legislation strengthened powers of enforcement and penalties for illegal activities.

### 2.2.2. *Protection of habitats (Art. 3): Site designation progress*

<b>Legal requirements</b>	Article 3 and 4 require Member States to preserve, maintain or re-establish a sufficient diversity and area of habitats. In particular, Article 4 specifies that
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<i>2.2.2. Protection of habitats (Art. 3): Site designation progress</i>	
	the most suitable territories in number and size shall be classified as Special Protection Areas (SPAs).
<b>EU-15 Summary</b>	Most Member States have added new SPAs to their national lists, and/or extending the area of existing SPAs. In some cases, significant additions have been made to the SPA suite (eg Italy, Netherlands, Portugal, Spain and Sweden). Only Belgium reports the removal of an area, which was subsequently compensated in other regions. Finland has reduced a number of SPAs in size, however. Consideration is being given to the classification or extension of marine or coastal SPAs, by Belgium and Ireland. The UK concluded a detailed review of SPAs, but the results of that review are not detailed.

<i>2.2.3. Protection of habitats (Art. 3 &amp; 4): Measures taken in SPAs</i>	
<b>Legal requirements</b>	Article 3 expresses the necessity to preserve, maintain or recover bird habitats of a sufficient diversity and area. It provides for an approach based on two lines of action: i) creating protected and managed areas, and ii) re-establishing and improving habitats. Article 4 describes the protective steps to be taken to ensure that habitats are suitable for a number of vulnerable species listed in Annex I and for migratory species. Like Article 3 it relies on measures taken throughout the territory as well as in the network of protected areas.
<b>EU-15 Summary</b>	LIFE projects have played a role in some Member States, most obviously Finland. Measures include agri-environment and management schemes (Germany, Spain, Finland, Netherlands, UK), and land acquisition (Portugal). Management plans are in place in many Member States (Italy, Portugal), although not comprehensively (Netherlands). Finland alone emphasises the role of restoration plans.

<i>2.2.4. Protection of habitats (Art. 3 &amp; 4): Measures taken outside SPAs</i>	
<b>Legal requirements</b>	Article 3 expresses the necessity to preserve, maintain or recover bird habitats of a sufficient diversity and area. It provides for an approach based on two lines of action: i) creating protected and managed areas, and ii) re-establishing and improving habitats. Article 4 describes the protective steps to be taken to ensure that habitats are suitable for a number of vulnerable species listed in Annex I and for migratory species. Like Article 3 it relies on measures taken throughout the territory as well as in SPAs.
<b>EU-15 Summary</b>	Most countries refer to the use of contractual and agri-environment measures (Belgium, Austria, Germany, Ireland, Italy, Netherlands, Portugal, Spain, Sweden, UK). These and other initiatives are targeted at the management and restoration of various habitats eg meadows, moorland, grassland, heathland,

<i>2.2.4. Protection of habitats (Art. 3 &amp; 4): Measures taken outside SPAs</i>	
	oakwoods, wetlands, native woodlands. Landscape features are also targeted in some cases. Land purchase is used in some cases, notably for bog.
<i>2.2.5. General system of protection for birds (Art. 5)</i>	
<b>Legal requirements</b>	Article 5 establishes a general system of protection by prohibiting the deliberate killing or capture of birds, the deliberate destruction or damage of nests and eggs, the taking and keeping of eggs, the deliberate disturbance of birds particularly during the period of breeding and rearing of young, and the keeping of specimen of species which are not allowed to be hunted.
<b>EU-15 Summary</b>	In Austria, Finland, Italy, Netherlands, Spain, Sweden and the UK species management plans or strategies are in place, but in most cases just for a very limited number of species. The UK report refers to the most action plans - 26, and also details other conservation efforts aimed at 6 species. Spain has established management strategies for just two species but has set up a number of working groups to address species and related issues. In several countries (Belgium, Denmark, France, Germany, Ireland and Sweden), legislation has been reinforced, in order to extend the level of protection offered against intentional capture, disturbance, destruction and collection of eggs, etc. In Ireland, licences are now required for additional activities which should limit the risk of disturbance. LIFE projects are only mentioned in the case of the UK and Portugal.
<i>2.2.6. The authorisation of sales, transport and keeping of birds (Art. 6)</i>	
<b>Legal requirements</b>	Article 6 prohibits the sale, transport for sale and keeping for sale of live or dead birds or any parts of birds of the species covered by the Directive, including those which may be hunted or captured, other than those listed in Annex III (1). Should the Member State wish to authorise such activities for species listed in Annex III (2), making provisions for certain restrictions and provided the bird has been legally killed, it has to consult the Commission first.
<b>EU-15 Summary</b>	The UK report details the level of inspections and of successful prosecutions for illegally keeping birds. Apart from this, only Ireland, Italy, Belgium and Austria report on the issue of sales and keeping of birds.
<i>2.2.7. The exploitation of species (Art. 7): Hunting</i>	
<b>Legal requirements</b>	Article 7 authorises hunting, including falconry, limiting exploitation to species listed in Annex II. Hunting should be carried out in compliance with the national measures in force and with the principles of wise use and ecologically balanced control of species of birds. Hunting must further not jeopardise conservation measures elsewhere (compatible with Art. 2), and is

<i>2.2.7. The exploitation of species (Art. 7): Hunting</i>	
	to be restricted during critical periods of the species' lifecycle (eg period of reproduction).
<b>EU-15 Summary</b>	Some changes have been introduced to national or regional hunting legislation (Denmark, France, Finland, Greece, Portugal, Spain, Sweden, the UK - Scotland). In several cases (eg Belgium - Flemish Region, Italy, Ireland, Greece), hunting is regulated on an annual basis, although it is not self-evident on what basis these permits are issued and whether they fully respect the Directive.

<i>2.2.8. Prohibited means (Art. 8)</i>	
<b>Legal requirements</b>	All means of large-scale or non-selective capture or killing of birds is prohibited.
<b>EU-15 Summary</b>	Most Member States report on the legal situation as regards permitted methods of capture or killing, with some simply referring to the legal text without specifying its content. None of the countries indicate whether there are problems with practical implementation of the legislation.

<i>2.2.9. Derogations (Art. 9)</i>	
<b>Legal requirements</b>	Article 9 provides for the possibility of derogation from the Articles on exploitation where there is no other satisfactory solution. Derogations are possible i) in the interest of public health and safety, in the interest of air safety, to prevent serious damage to crops, livestock, forests, fisheries and water, and for the protection of flora and fauna; ii) for the purpose of research and teaching, of re-population, of re-introduction and for the breeding necessary for these purposes; iii) to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers. The Member States have to provide certain information to the Commission and send a yearly report on the implementation of this Article. On the basis of this information the Commission has to ensure that the consequences of these derogations are not incompatible with the Directive.
<b>EU-15 Summary</b>	Derogations are given for a range of reasons, including avoidance of crop damage, disease control, air safety, negative impacts from non-native species, education and science. In Finland 121 derogations have been given, mainly for research and teaching. One stork was also captured, and kept in a zoo (Finland). The cormorant is mentioned in some national reports (Austria, France and Ireland). The most immediately notable derogations concern 7 species in Italy, affecting 80,000 birds. Only Sweden refers to the need for

<i>2.2.9. Derogations (Art. 9)</i>	
	derogations to be compatible with favourable conservation status.

<i>2.2.10. Other supporting measures and provisions: research (Art. 10)</i>	
<b>Legal requirements</b>	Article 10 requires Member States to carry out research work for the protection, management and exploitation of bird populations. Priorities for this are established in Annex V of the Directive.
<b>EU-15 Summary</b>	The list of research projects is long and varied. Most frequently listed are breeding bird censuses, waterbird counts, bird ringing schemes, research considering habitat requirements/choice, bird distribution and inventories, and research considering monitoring and management programmes.

<i>2.2.11. Introduction of non-native species (Art 11)</i>	
<b>Legal requirements</b>	Under Article 11, the Member States have to consult the Commission on any introduction of species of birds which do not occur naturally in the wild state. The introduction can only go ahead if it does not prejudice the local flora and fauna.
<b>EU-15 Summary</b>	No new introductions are reported. The Ruddy duck features most frequently in national reports, as a non-native species (Ireland, Spain, Sweden and UK). In Spain, control measures appear to have been effective with no hybrids sighted for over a year; in Sweden and Ireland hunting is a means of controlling numbers; in the UK, a limited control trial is underway to establish whether it is feasible to eradicate the species entirely. A number of other species are causing some concern, notably geese in the UK and Ireland. Monitoring schemes are in place for non-native species in Italy (110 non-native species) and the UK (introduced species with small breeding populations; non-native, non-breeding waterfowl and hybrids).

<i>2.2.12. Public awareness and capacity building</i>	
<b>Legal requirements</b>	None
<b>EU-15 Summary</b>	Birds Atlas, teaching and training materials, leaflets, conferences, help desks, national reference documents, etc.

### 3. CONCLUSIONS

The purpose of this report is to support the assessment of the Community's progress in implementing the Birds Directive, with information from the Member States on the implementation of the national provisions taken under the Directive. This, in conjunction with information on the status and trends of bird populations and their habitats, and associated pressures, impacts and socio-economic drivers, has contributed to an assessment of the effectiveness of the Directive<sup>2</sup>.

Today, over 3,000 SPAs have been classified, covering nearly 8% of EU terrestrial territory as well as an additional significant marine area of over 2.7 million hectare, although, only four countries (Belgium, Denmark, Luxembourg and the Netherlands) have largely completed their contribution to the SPA network. Also, the percentage of national territory designated as SPAs varies widely from less than 2 % in France to over 15 % in Spain. The protection and conservation management of these sites, especially wetlands, combined with the development of species action plans, has resulted in that the populations of some severely threatened species are recovering. But action varies from country to country, and some important sites are still not protected.

There is still some controversy and confrontation over the compatibility of some Member States' hunting regimes and practices with the Directive. In some countries, notably France, Spain and Italy, conflicts are longstanding, and this situation has been accompanied by extensive litigation on the subject. The controversy surrounding hunting has demanded an improved and mutual understanding of the provisions of the Directive at several levels and greater dialogue with those engaged in hunting.

In conclusion, accelerated efforts are needed for the Directive to fulfil its objective of maintaining Europe's wild bird species, and to ensure that the Directive makes a proper contribution to the EU's objective of halting the loss of biodiversity by 2010, as agreed at the Göteborg European Council and set out in the Sixth Environment Action Programme (Decision 1600/2002).

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<sup>2</sup> "25 years of the Birds Directive: Challenges for 25 countries", DG Environment report, October 2004