The EU bird protection regime

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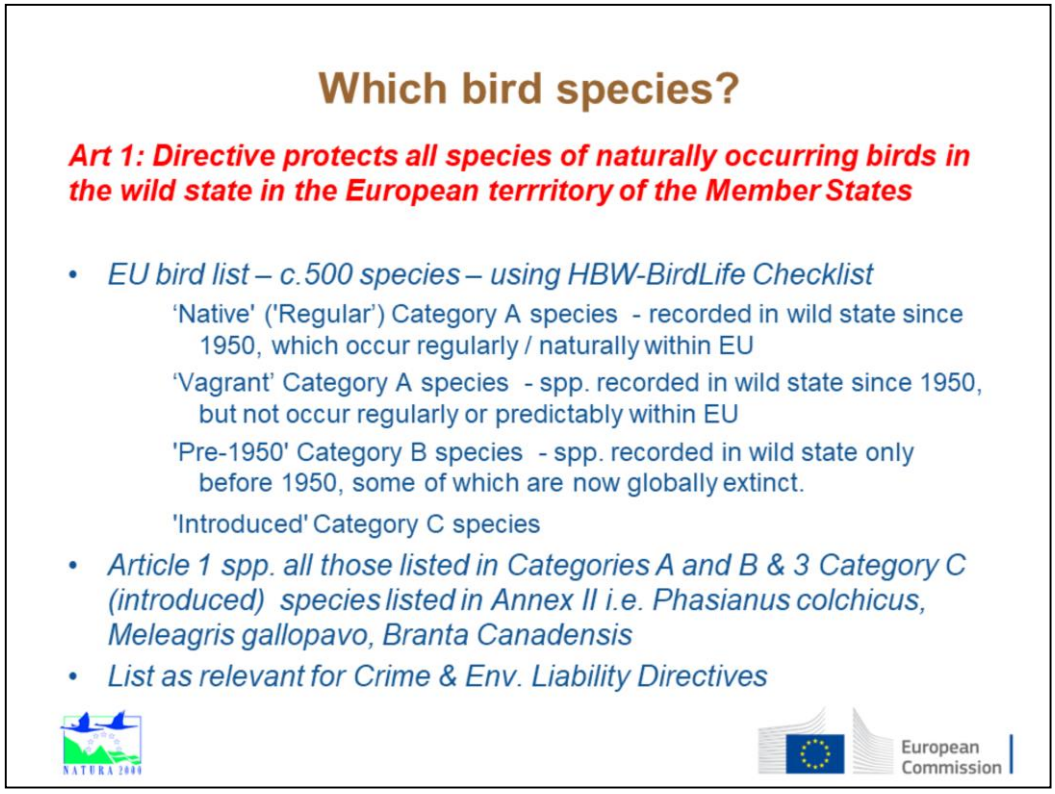


The EU's rich diversity of over 500 wild bird species has been facing severe threats for a long time. Urban sprawl and transport networks have fragmented and reduced bird habitats, intensive agriculture, forestry and fisheries and the use of pesticides have diminished their food supplies, and there has been a need to regulate hunting to ensure that it is sustainable and does not damage populations. According to the latest scientific studies, 43% of Europe's bird species are threatened or facing serious declines and are therefore not in a good conservation status.

Already back in the 1970s, Europe's leaders saw the need for a comprehensive system for bird protection at the European level in recognition that birds migrate freely across borders and are a valuable part of our shared natural heritage. The result was the Birds Directive, which was adopted on 2 April 1979.

Under the Birds Directive, all naturally occurring wild birds species are protected throughout the European territory of the Member States.

The list of protected birds from August 2015, which has been agreed with the Member States, takes into account the recent enlargements of the EU, natural changes to the distribution of species, and taxonomic improvements. For the first time, it also provides an indication as to which species are considered to

be migratory species. The previous list dates back to 1999.

As well as the Birds Directive, this list shall also be used for the implementation of the Directive 2008/99/EC on the protection of the environment through criminal law and the Directive 20014/35/EC on environmental liability with regards to the prevention and remedying of environmental damage.

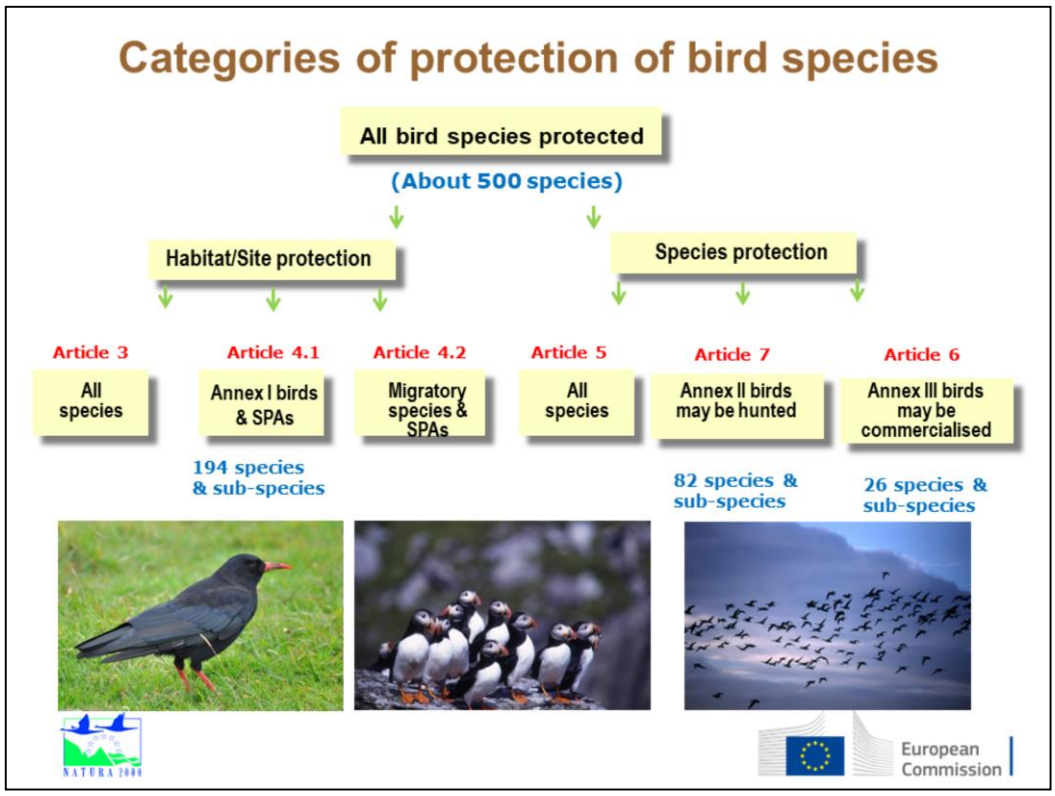
In November 2014, at the 11th Conference of the Parties to the Convention on the Conservation of Migratory Species of Wild Animals (CMS COP 11), a resolution was adopted to use the Handbook of the Birds of the World (HBW) and BirdLife International Illustrated Checklist of the Birds of the World as the standard reference for bird taxonomy and nomenclature for non-passerine species. This same reference is used for the updated EU bird list, CMS and the IUCN Red List. Information from Volume 2 (passerines) of the HBW-BirdLife Checklist,published in late 2016, is being used to update the EU list.

All bird species mentioned in this list have been grouped according to four different categories, as follows:

- ‘Native' ('Regular’) Category A species - those recorded in an apparently wild state since 1950, which occur regularly and naturally within the EU.
- ‘Vagrant’ Category A species - those species recorded in an apparently wild state since 1950, but which do not occur regularly or predictably within the EU.
- 'Pre-1950' Category B species - those species recorded in an apparently wild state only before 1950, some of which are now globally extinct.
- 'Introduced' Category C species - those released or escaped species which have established a self-supporting breeding population.

Species covered by Article 1 of the Birds Directive comprise all those listed in Categories A and B (both native (regular) and vagrant), as well as the three Category C (introduced) species that are listed on Annex II of the Birds Directive, i.e. Phasianus colchicus, Meleagris gallopavo and Branta canadensis.

The listing of a species in the 'migratory column' under Category A (column P) does not automatically imply an obligation to classify SPAs for a species. The identification and delimitation of SPAs must be based exclusively on scientific criteria (ornithological criteria).



Under the Birds Directive, all wild birds occurring in Europe are protected throughout their natural range within the EU. Article 4 of the Directive requires that key habitats are designated as Special Protection Areas under the Natura 2000 Network for 194 particularly threatened species and sub-species listed in Annex I of the Directive, and other regularly occurring migratory birds. Articles 5-9 lay down measures to be taken to protect all species covered by the Directive and the conditions under which derogations may be permitted.

Species protection under the Birds Directive

The approximately 500 wild bird species naturally occurring in the European Union are protected in various ways:

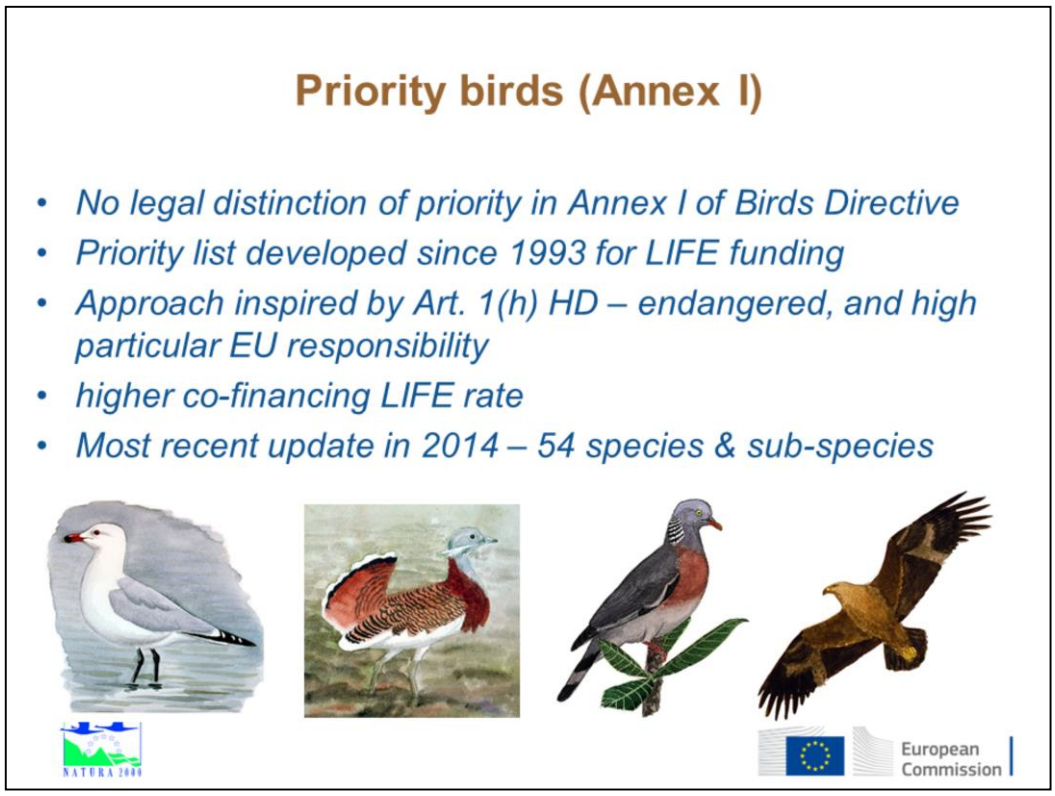
Annex 1: 194 species and sub-species are particularly threatened. Member States must designate Special Protection Areas (SPAs) for their survival and all migratory bird species in accordance with Article 4 of the Birds Directive and Article 6(2)-(4) of the Habitats Directive.

Annex 2: 82 bird species can be hunted under national legislation in accordance with Article 7. However, the hunting periods are limited and hunting is forbidden when birds are at their most vulnerable: during their return migration to nesting areas, reproduction and the raising of their chicks.

Annex 3: 26 species and sub-species may be subject to commercialization in accordance with Article 6 of the Directive.

Annex 4: in relation to hunting, capture and killing of protected species the directive prohibilts all forms of non-selective and large scale killing of birds, especially the methods listed in this Annex.

Annex 5: the directive promotes research to underpin the protection, management and use of all species of birds covered by the Directive, which are listed in this annex.



Annex I Bird species considered as "Priority for funding under LIFE"

Unlike the Habitats Directive, the Birds Directive does not distinguish between priority and non priority species. Nevertheless, for the purposes of LIFE funding, the Ornis Committee has adopted a list of bird species listed in Annex I of the Directive which are considered as priority for funding under the LIFE programme. This list includes all globally threatened species that regularly occur in the European Union.

Under the current LIFE+ programme, projects that focus on practical conservation measures for any of these bird species can benefit from a higher EU co-funding rate, up to 75 %.

The diference between the Habitats Directive and the Birds Directive is that the Habitats Directive has a list of species that require the designation of SACs but of that list it also has a sub-list with prioritise species which are the most endangered. The Birds directive doesn't have a legal list of priority birds, but there was a reference list developed in 1993 of the most endangered species which has been used ever since for the purpose of funding.

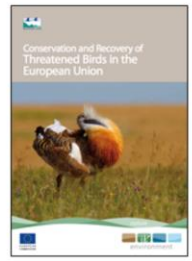
Since 1993, the European Commission has supported the development and implementation of the following Action Plans for the most threatened bird species of Annex I of the Birds Directive, including globally threatened species that occur in Europe. These plans, which have been prepared by BirdLife International, are the result of an extensive process of consultation and consensus building involving scientific experts, government agencies and representatives of non-governmental organizations throughout Europe. The plans provide a valuable tool to help Member States focus limited resources on ensuring that actions taken for endangered species are based on sound science and are targeted at the most critical measures aimed at recovery of these species. As each of the species covered by the plans are considered as priority for funding under the LIFE programme they help ensure that potential applicants for funding focus on actions that are recognized as the most important and urgent for these species.

The EU has been supporting the development of Species Action Plans for priority birds since 1993 and, more recently, Management Plans for huntable species. So far about 56 such plans have been approved by the European Commission for threatened species and subspecies listed in Annex I of the Birds Directive (http://ec.europa.eu/environment/nature/conservation/wildbirds/action_plans/index_en.htm). The plans are not legally binding, nor do they engage Member States beyond their existing legal commitments under the Birds Directive, but

they do serve as useful management tools in deciding which actions to take to ensure the conservation of the species and where to set priorities.

Species Action Plans have been most effective where their actions have been used to guide implementation through a combination of: • targeted species recovery projects (such as the EU LIFE co-financed projects); • integration and implementation across sectors (CAP rural development measures, fisheries).

Evaluating implementation of SAPs



COM support for 2004 & 2010 reviews of SAPs by BirdLife

- Best implementation for spp. well covered by protected areas or localized in few places
- Weaker for dispersed spp. requiring tackling large-scale land- use pressures

Current trends	Trends before SAP: Decreasing	Stable	Increasing
Increasing	Azores Bullfinch, EN Zino's Petrel, EN Eastern Imperial Eagle, VU Spanish Imperial Eagle, VU Lesser Kestrel, VU	Blue Chaffinch, NT Dalmatian Pelican, VU Bearded Vulture, LC	Cinereous Vulture, NT
Stable	Aquatic Warbler, VU Marbled Teal, VU Bonelli's Eagle, LC Red-footed Falcon, NT	Eleonora's Falcon, LC Fea's Petrel, NT Lesser Spotted Eagle, LC Madeira Laurel Pigeon, NT Red Kite, NT	Audouin's Gull, NT
Decreasing	Balearic Shearwater, CR European Roller, NT Dupont's Lark, NT Egyptian Vulture, EN	Little Bustard, VU	

Figure 6. Comparison of the population trends change, as an indicator of the Action Plan impact. It can be deduced that the status of species in the top and middle cells has improved, at least partly because of implementation of Action Plans. *Species in blue font have only recently adopted SAPs whose implementation is still limited.*

NATURA 2000

European Commission

The progress in implementing the Species Action Plans has been regularly reviewed by BirdLife under contract to the European Commission.

Through the 2004 and 2010 Review of implementation of plans.

Under a contract with the European Commission BirdLife International in collaboration with FACE carried out a study to take stock of the experience of preparation and implementation of Species Action Plans for Annex I bird species and Management plans for Annex II huntable species and make proposals for improvements of the process towards more effective implementation.

ARTICLE 7/ IMPLEMENTATION OF HUNTING PROVISIONS

- *Birds Directive provides common rules for hunting*
- *Controversy, especially regarding fixing hunting seasons*
- *1994 ECJ ruling (Case C-435/92) required 'complete protection' during pre-nuptial migration and reproduction periods*
- *Subsequent proposed modification of directive unsuccessful*
- *Other problems relating to NATURA 2000 and hunting*
- *Recognise need for scientific data and better guidance*
- *New dialogue launched with Member States, FACE & BirdLife in 2001*
- *Sustainable Hunting Initiative*

European Commission

One of the most controversial provisions of the Birds Directive is Article 7 relating to the management of hunting. According to Preamble (10) and Article 7, in connection with Annex II of the Birds Directive, hunting is recognized as a legitimate activity. It is an activity that provides significant social, cultural, economic and environmental benefits in different regions of the European Union.

Article 7 provides an explicit basis for hunting under the Directive. By reference to Annex II it lists the species that may be hunted throughout the EU (listed in Annex II part 1) and those that may be hunted within specified Member States (listed in Annex II part 2). It also sets out the principles to be respected with regard to hunting, including with regard to the fixing of hunting seasons.

Article 7 allows for the hunting of certain species of bird. Due to their population level, geographical distribution and reproductive rate throughout the EU, hunting of these species is considered to constitute acceptable exploitation.

Article 7(4) of the Directive lays down a number of key principles relating to the fixing of hunting seasons, the objective of which is to ensure that hunting does not take place during the most vulnerable periods of the annual cycle of

huntable species.

For sedentary species it requires that they are not hunted during their rearing season or during the various stages of reproduction. In the case of migratory species it requires that they are not hunted during their period of reproduction or during their return to their rearing grounds.

The Court has stated that 'the second and third sentences of Article 7(4) of the Directive are designed to secure a complete system of protection in the periods during which the survival of wild birds is particularly under threat. Consequently, protection against hunting activities cannot be confined to the majority of birds of a given species, as determined by average reproductive cycles and migratory movements. It would be incompatible with the objectives of the directive if, in situations characterized by prolonged dependence of the fledglings on the parents and early migration, part of the population of a given species should fall outside the protection laid down." (cf. C-157/89 (14).)

Accordingly,

"[…] the closing date for the hunting of migratory birds […] must be fixed in accordance with a method which guarantees complete protection of those species during the period of pre-mating migration and that, as a result, methods whose object or effect is to allow a certain percentage of the birds to escape such protection do not comply with Article 7 (4) of the Birds Directive". (cf. C-435/92 (13).)

To ensure the correct implementation of the Directive as regards hunting, the Commission has sought to foster greater dialogue and cooperation with different interest groups and, with their collaboration.

In 2001, the Commission launched an EU 'Sustainable Hunting Initiative' in order to help improve the understanding of the legal and technical aspects of the Directive's provisions on hunting and to develop a programme of scientific, conservation and awareness raising measures to promote sustainable hunting in accordance with the Directive.

In 2004, the key partners of the Sustainable Hunting Initiative – BirdLife International and FACE (the Federation of Associations for Hunting and Conservation of the EU) – reached an agreement on ten points which will enable hunting to continue within a well-regulated framework, whilst fully respecting the provisions of the Directive. The agreement was signed at a high profile event on the 12th October 2004 and marks the beginning of the end of more than a decade of emotive conflict.

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AGREEMENT between BirdLife International and FACE on Directive 79/409/EEC

As part of the European Commission's Sustainable Hunting Initiative (SHI), and following a number of meetings, FACE (the Federation of Associations for Hunting and Conservation of the EU) and BirdLife International reached the following Agreement:

1) Both organisations recognize that the Birds Directive is an appropriate legal instrument for the conservation of both wild birds (including huntable species listed in Annex II of the Birds Directive) and their habitats at a favourable conservation status at EU level. Both organisations agree that the priority is to make the Directive work along the lines indicated in the Guidance Document on Hunting under Council Directive 79/409/EEC on the Conservation of Wild Birds.

2) As a result of Point 1, neither organisation has the intention of taking or supporting initiatives aimed at amending the text of the Birds Directive. In the longer term, the two organisations do not rule out the possibility of a consolidation of the existing EU legal instruments for wildlife conservation, respecting their fundamental principles and without weakening the current provisions of the Birds Directive.

3) Both organisations acknowledge the historic and continuing significance of the compromises embedded in the Birds Directive in regard to hunting, and that such compromises form the basis for jointly promoting strategic conservation priorities such as working towards the target of halting biodiversity decline by 2010, the protection of sites and CAP reform.

4) Both organisations support the establishment of the NATURA 2000 Network and recognize the importance of effective habitat protection and active management for biodiversity conservation. Both organisations stress that in principle NATURA 2000 designation is not incompatible with hunting. They acknowledge that properly managed hunting inside NATURA 2000 sites can continue or take place so long as it is compatible with the site's conservation objectives. In this respect, they refer to the relevant Chapter 1.5 "Conservation of Habitats" of the Guidance Document.

5) Both organisations agree that it is desirable to reach local, regional or national agreements on bird hunting practices, to establish constructive dialogue between local stakeholders, and to achieve a rational assessment of effects and of measures to be taken. National Partners or Members of both organisations are free to work towards achieving more ambitious targets for biodiversity, sustainable hunting and bird conservation.

6) Both organisations are of the opinion that rational assessment of effects and measures, including those to be adopted in legislation and other rules on hunting, must be based on the best available and reliable data, especially for

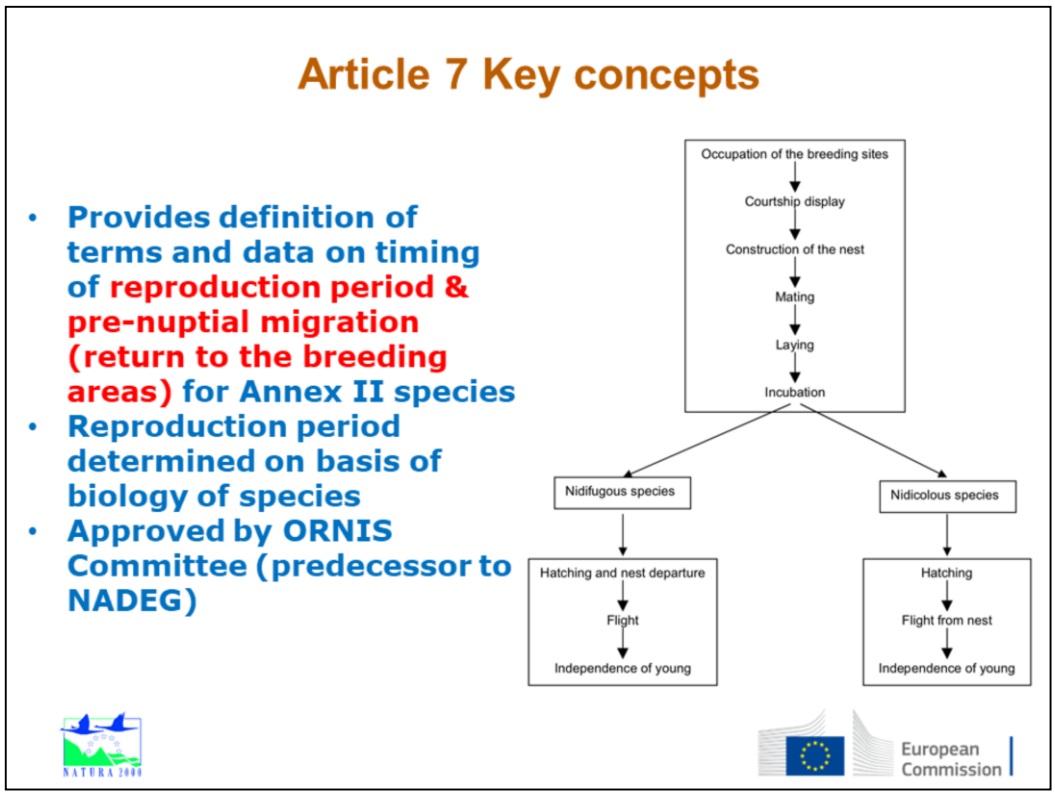
bird populations and hunting activity. The collection of hunting bag statistics, along with their scientific interpretation and proper use, is necessary.

7) Both organisations call upon the Commission and the Member States to develop, adopt and implement Management Plans for Annex II-species considered to be in an unfavourable conservation status.

8) Both organisations call upon the competent authorities to take appropriate initiatives to ensure the respect of all bird conservation legislation, in particular through proper enforcement but also by education and awareness raising initiatives. They offer their assistance in this respect.

9) Both organisations ask for the phasing out of the use of lead shot for hunting in wetlands throughout the EU as soon as possible, and in any case by the year 2009 at the latest. They also underline the risks resulting from the release into the wild of non-indigenous bird species or subspecies.

10) It is further agreed by both organisations to establish a regular bilateral dialogue of consensus seeking, and to that end to meet at least twice a year, plus each time they consider such meeting as useful or necessary to address a specific topic. They will further exchange information, publications, etc. and promote this agreement among their national Partners or Members as well as collaborate with other relevant organisations and bodies (such as Wetlands International, IUCN, CIC, ELO, etc.).



The need for this information arose from a Court of Justice judgement in 1994. The Court concluded that the closing date for the hunting of migratory birds and waterfowl must be fixed in accordance with a method that guarantees complete protection of those species during the period of pre-nuptial migration.

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Although the Court only examined the question of fixing closing dates for hunting of migratory species, a matter related to the start of the prenuptial migration, ist interpretation (namely the requirement of ‘complete protection’), is also relevant to the fixing of opening dates, a matter related to the end of the period of reproduction.

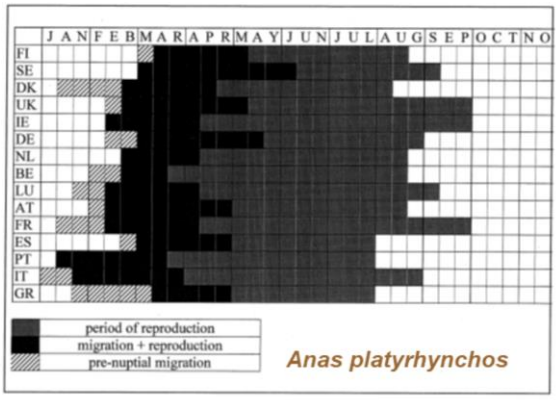
The exercise to develop a “Key Concept” report was initiated by the Birds Directive’s ORNIS Committee (Committee for the adaptation to technical and scientific progress, comprised of official representatives of the competent authorities in the Member States and chaired by the European Commission) in November 1998. Both the Committee and the Commission recognised the need to have a clear interpretation of key concepts of Article 7(4) in the light of the 1994 Court of Justice's ruling, and how to apply them to the bird species of Annex II.

The report therefore aimed to summarise scientific information on the period of prenuptial migration and reproduction of each Annex II species for each Member State where that species occurs. As a basis for data compilation a

general scheme for ‘period of reproduction’, including the different possible stages was developed. The sequence and importance of the different elements of this scheme vary in relation to the biology of different species.

ARTICLE 7 KEY CONCEPTS DATA

- *data for all Annex II species at a national level*
- *presented in 10 day periods*
- *first published in 2001, updated in 2009 & 2014 to include Croatia*
- *Being updated under Nature Action Plan*



European Commission

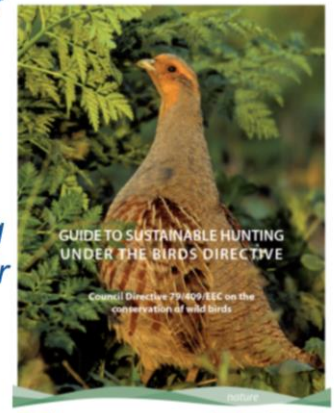
A review of the best available information on the period of prenuptial migration and reproduction of each huntable species for each Member State where that species occurs was first carried out in 2001 and approved by the ORNIS Committee; it provides definitions for both the 'period of reproduction' and 'return to the breeding areas'.
http://ec.europa.eu/environment/nature/conservation/wildbirds/hunting/key_concepts_en.htm

The document was updated to integrate data from new Member States and fill in missing data. Although quite comprehensive, it is currently being reviewed and updated to take into account of the most recent data in all Member States and to remove discrepancies between Member States.

This slide is showing an example of article 7 key concept data as developed for the mallard (Anas platyrhynchos).

GUIDELINES ON SUSTAINABLE HUNTING

- *2004 guide provides better clarification of hunting requirements, within the existing legal framework and case law.*
- *based on scientific principles and data & faithful to the overall aims of directive.*
- *looks at the timing of recreational hunting & identifies possibilities and limitations for flexibility in fixing hunting seasons*
- *Updated in 2007 in light of important judgements of ECJ relevant to hunting (Cases C-79/03, C-344/03, C-135/04, C-60/05)*



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European Commission

The requirements of Council Directive 2009/147/EC on the conservation of wild birds with respect to the management of hunting have been the subject of controversy in different Member States. The Commission has therefore identified the need to provide clear guidance on how Member States should be reflecting the principles laid down in the Directive in their national measures for regulating hunting.

This initiative started with the compilation, in association with the ORNIS Committee (comprised of national delegates from Member States) and key stakeholder groups, of best available information on reproduction and pre-nuptial migration periods for huntable species. The result of this evaluation, 'Key concepts of Article 7(4) of the Birds Directive, is available on DG Environments web site.

Building on this common understanding this present guidance document on hunting aims to provide clarity on the different requirements and provisions of the Birds Directive relating to the practice of hunting.

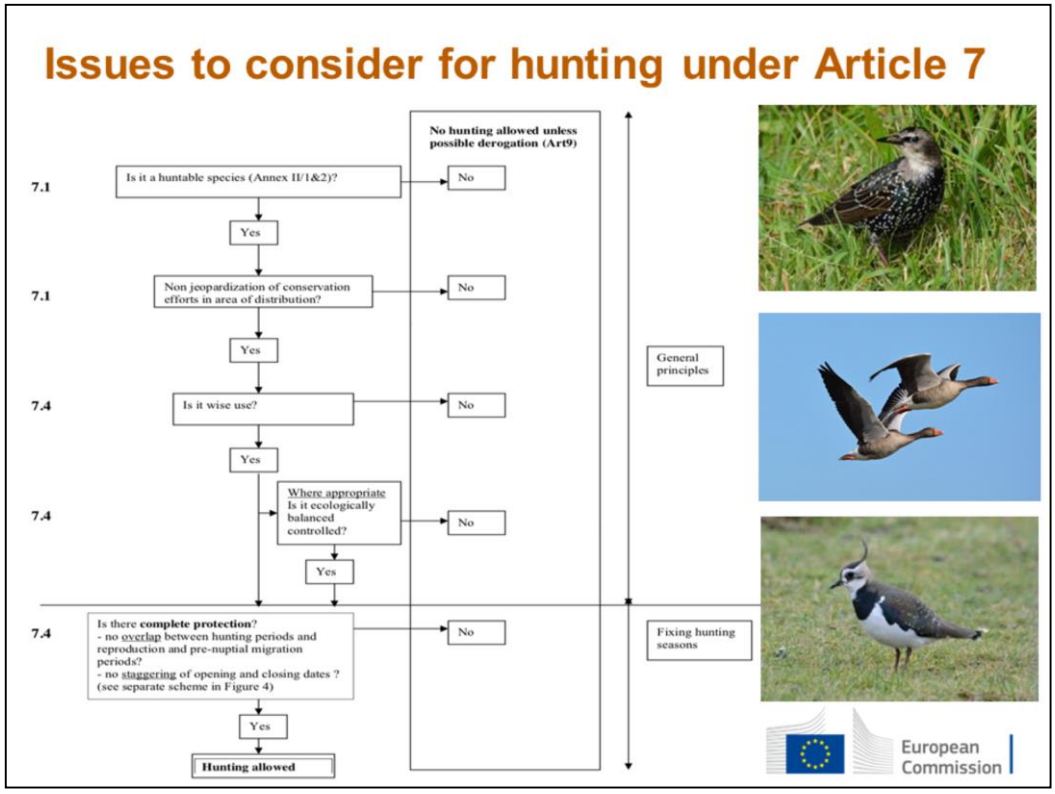
It has been prepared through a constructive dialogue involving Member States and key stakeholders. A working group was established to assist the Commission in this exercise (involving Federation of Associations for Hunting and Conservation of the EU - FACE, BirdLife International and experts nominated by six Member States).

The guide is intended to be bound by and faithful to the text of the Directive and the wider principles underpinning Community environmental law. It is not

legislative in character (not making new rules but providing guidance on the application of those that exist). As such this document reflects only the views of the Commission services and is not of a binding nature.

It should be stressed that it rests with the EU Court of Justice to provide definitive interpretation of a Directive. Therefore, the guidance provided will need to evolve in line with any emerging jurisprudence on this subject.

In light of important judgements of the Court of Justice relevant to hunting under the Birds Directive (Cases C-79/03, C-344/03, C-135/04, C-60/05) the guide has been updated. There will be a need for future updates to fully reflect the latest jurisprudence on the subject.



- Application of Article 7 of Birds Directive, which is the legal basis for MS to open the hunting seasons for two categories of the species – listed in Annex II/1&2.
- There is no obligation to open the hunting season, it's the decision of a MS.
- It's governed by a number of principles, but the overriding one is that Hunting can not jeopardize conservation efforts in the area of distribution.
- There are number of other key principles set out in Article 7(4), not only in terms of the system of complete protection, but also as principle of wise use (= sustainable use).
- Article 7(4) of the Directive lays down a number of key principles relating to the fixing of hunting seasons, the objective of which is to ensure that hunting does not take place during the most vulnerable periods of the annual cycle of huntable species. For sedentary species it requires that they are not hunted during their rearing season or during the various stages of reproduction. In the case of migratory species it requires that they be not hunted during their period of reproduction or during their return to their rearing grounds. The Court has stated that 'the second and third sentences of Article 7(4) of the Directive are designed to secure a complete system of protection in the periods during which the survival of wild birds is particularly under threat. Consequently, protection against hunting activities cannot be confined to the majority of birds of a given species, as

determined by average reproductive cycles and migratory movements."

- The stage that is used to identify the start and end of the period of reproduction for each Annex II species has been determined in relation to their biology. On the basis of this and the available information from different Member States the pre-nuptial and reproduction periods have been determined for each species. It is recognised that there are likely to be differences in quality of the data for species across the EU and that there will be a need to regularly update this review, taking into account new and better data as it becomes available. Apart from this regular review it will also be necessary to account for any changes in migration or timing of breeding that may result from climate change effects, and to account for changes in timing as a result of other environmental pressures.
- According to the consistent case-law of the Court " national authorities are not empowered by the Directive to fix closing dates for the hunting season which vary according to the species of bird, unless the Member State concerned can adduce evidence, based on scientific and technical data relevant to each individual case, that staggering the closing dates for hunting does not impede the complete protection of the species of bird liable to be affected by such staggering".
- On condition that "complete protection of the species" is guaranteed, the Court has also held that "the fixing of closing dates, which vary between the different parts of the territory of a Member State, is compatible with the Directive". In cases C-435/92 and C-38/99, the Court recognised two difficulties with the staggering of closing dates, which are also relevant to opening dates: disturbance of other species and the risk of confusion.
- RISK OF CONFUSION: This phenomenon depends on a series of factors, including in particular the similarity between huntable species for which there is an open hunting season, and those for which the hunting season has ended or has still to commence, the conditions under which hunting is taking place and hunter proficiency. In case C-435/92 the Court noted that, with regard to the risk that certain species for which hunting has already been closed will be subject to indirect depletion owing to confusion with the species for which hunting is still open, it must be emphasised that the third sentence of Article 7(4) of the directive is specifically intended to prevent those species from being exposed to the risk of depletion due to hunting during the period of pre-mating migration, requiring the Member States to take all necessary measures to prevent any hunting during that period. If staggering of hunting dates is to be allowed the opening and closing dates must be fixed for each group of 'look-alike' species in a way that ensures that there are not overlaps with non-permissible periods under the directive.
- RISK OF DISTURBANCE: This phenomenon will depend, inter alia, on the type of hunting, its intensity, frequency and duration, the species concerned and the habitats used, as well as on the availability of alternative refuge areas. In case C-435/92 the Court noted that hunting activity can lead to

disturbance of wildlife and that it may affect the conservation status of the species concerned, independently of the extent to which it depletes numbers. The Court stated that the consequences of such activity are ‘particularly serious for groups of birds, which, during the season of migration and wintering, tend to gather together in flocks and rest in areas which are often very confined or even enclosed. Disturbances caused by hunting force these animals to devote most of their energy to moving to other spots and to fleeing, to the detriment of time spent feeding and resting for the purpose of migration. These disturbances are reported to have an adverse impact on the level of energy of each individual and the mortality rate of all the populations concerned. The effects of disruption caused by hunting birds of other species are particularly significant for those species whose return migration takes place earlier’.

- To ensure that this is consistent with the principle of complete protection, as interpreted by the Court of Justice, Member States must be able to demonstrate at the relevant geographic level at which staggering is intended to be applied that there are non-significant risks of confusion and disturbance.

Article 6 Birds Directive regulating the restrictions on the sale and keeping of wild birds.

Illegal activities such as illegal killing, trapping or trade of birds still occur in the EU. While not being, as a general rule, the most significant threat to birds, illegal killing, trapping or trade of birds can have a very negative impact on bird populations in some specific situations (specific species or regions) and represent therefore one of the threats preventing attainment of the objectives of the Birds Directive and of the first target of the EU Biodiversity Strategy, which aims to achieve a measurable improvement in the status of species of EU conservation concern.

Although law enforcement of bird protection regulations is primarily the responsibility of Member States, this issue has an international dimension which justifies EU action. Further to Recommendation n° 155 (2011) of the Standing Committee of the Bern Convention on the illegal killing, trapping and trade of wild birds, adopted on 02 December 2011, and Recommendation n° 164 (2013) on the implementation of the Tunis Action Plan 2013-2020 for the eradication of illegal killing, trapping and trade of wild birds of 10 December 2013, and consultations with Member States and stakeholders, the Commission has developed a Roadmap aimed at combating illegal killing, trapping and trade of birds. The Roadmap consists of a set of targeted actions to be carried out by Member States, stakeholders, and the Commission.

DEROGATIONS: FLEXIBILITY IN SPECIES PROTECTION

- *Very significant difference in Member State use of derogations*
- *In most Member States the majority of the derogation licences are issued for*
  - **the reason of preventing serious damage to crops, livestock, etc.**
  - **for the protection of flora and fauna by deliberate killing of birds or destruction of eggs.**
  - **research and education, mainly issued for the ringing of birds.**
- *reporting by Member States generally good, but important information frequently missing*
- *web based derogation system HaBiDeS+ developed*

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European Commission

Article 9 of Birds Directive states that:

1. Member states may derogate from the provisions of Articles 5, 6, 7 and 8, where there is no other satisfactory solution , for the following reasons :

(a) - in the interests of public health and safety, - in the interests of air safety, - to prevent serious damage to crops , livestock , forests , fisheries and water, - for the protection of flora and fauna;

(b) for the purposes of research and teaching , of re-population , of re-introduction and for the breeding necessary for these purposes;

(c) to permit, under strictly supervised conditions and on a selective basis , the capture , keeping or other judicious use of certain birds in small numbers.

2. The derogations must specify: - the species which are subject to the derogations, - the means, arrangements or methods authorized for capture or killing, - the conditions of risk and the circumstances of time and place under which such derogations may be granted, - the authority empowered to declare that the required conditions obtain and to decide what means, arrangements or methods may be used, within what limits and by whom, - the controls which will be carried out.

Derogations are ‘exceptions’ which allow for some flexibility in the application of a law. A limited number of activities normally prohibited under the Birds

Directive (Articles 5-8) are permissible by way of such derogations, where particular problems or situations exist or may arise. The possibilities for use of these derogations are constrained. They must be justified in relation to the overall objectives of the Directive and comply with the specific conditions for derogations described in Article 9. Member States do not need to consult the Commission before applying derogations but are obliged to report all derogations to the European Commission in annual derogation reports.

Before a valid derogation can be given under Article 9, the competent national authority needs to consider and properly address several conditions concerning the derogation's prior justification and subsequent application.

INTERNATIONAL COLLABORATION

- *Globally threatened species not limited to EU & under pressure*
- *Strengthen protection along flyways*
- *EC ratification of Bern, CMS and AEWA*
- *Co-operation on SAPs*
- *Build on commitments & share practical experience*

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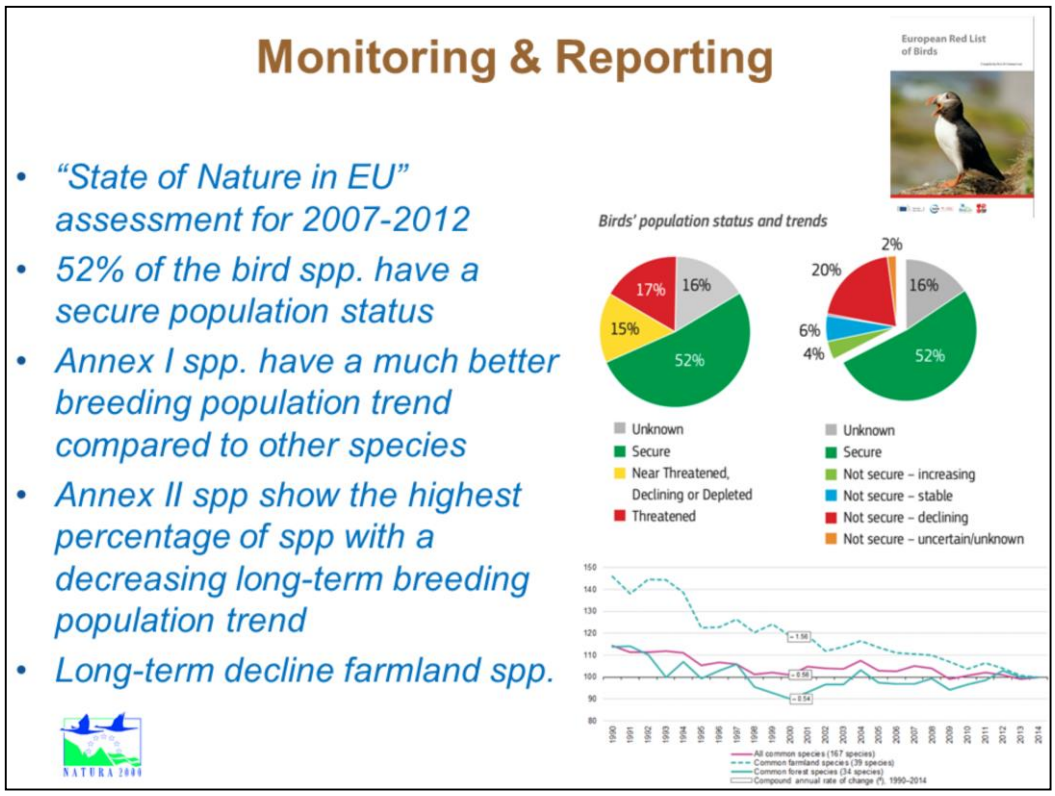
European Commission

Birds are migratory species and therefore a good international collaboration is essential. The EU is a contracting party to the Convention on European wildlife (Bern), the Convention on Migratory Species (CMS) and to the Agreement on the Conservation of African-Eurasian Migratory Waterbirds (AEWA), which provides a framework for international collaboration on the conservation of migratory species whose flyways extend beyond the EU.



Article 12 – National reporting on status and trends of bird species

Article 12 deals with the general reporting obligations of the Member States and Commission. It requires Member States to report about the progress made with the implementation of the Birds Directive.

In 2011, the Commission, in agreement with Member States, has revised the reporting procedure and frequency in order to focus the reporting obligations on data that inform about the status and trends of bird populations, thereby streamlining the reporting under Art.12 of the Birds Directive with the reporting on conservation status under Art.17 of the Habitats Directive.

Article 9 reporting (derogations)

A limited number of activities normally prohibited under the Birds Directive (Articles 5-8) are permissible by way of such derogations, where particular problems or situations exist or may arise. The possibilities for use of these derogations are constrained. They must be justified in relation to the overall objectives of the Directive and comply with the specific conditions for derogations described in Article 9, including there being no other satisfactory solution. Member States do not need to consult the Commission before applying derogations but are obliged to report all derogations to the European Commission in annual derogation reports.

The overall objective of the two nature Directives is to ensure that these species and habitats are maintained or restored to a good status throughout their natural range within the EU. This means more than just halting their further decline or disappearance; the aim is to ensure that they recover sufficiently to enable them to remain healthy over the long term. Every six years, Member States are asked to report back to the European Commission on the conservation status of those species and habitats protected under the EU's Directives that are present on their territory. The Commission then pools all the data together, with the help of the European Environment Agency, in order to see how well they are faring across the EU. The results have been published by the Commission in a report entitled the 'State of Nature in the EU' (May 2015) which is based on a detailed technical report prepared by the European Environment Agency.

For more information, please consult:

http://ec.europa.eu/environment/nature/index_en.htm

http://ec.europa.eu/environment

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