



EU CONFERENCE

25 YEARS OF THE BIRDS DIRECTIVE: CHALLENGES FOR 25 COUNTRIES

Context paper for workshop C

SUSTAINABLE LIVING WITH BIRDS:

Sustainable management of bird populations and sites: experiences
with the concept of wise use and the protection regime.

Version: 291004

A. FOCUS AND AIM OF THE WORKSHOP

The Birds Directive provides a framework for the conservation of all wild bird species naturally occurring in the EU. It contains provisions for the protection, management and regulation of bird species and their habitats, including provisions for their wise and sustainable use.

The central question for this workshop is how we can best combine the wise use of biodiversity as well as sustainable management with assuring the conservation requirement of wild bird species and their habitats.

A cross-cutting issue that also will be addressed in this workshop is measures to reinforce communication to the public, awareness-raising and public participation.

More specifically this workshop will aim to address the following key questions:

1. How can we strengthen the effectiveness of the protection regime for bird species and their habitats, while maintaining its proportionality¹?
2. How can we better promote and assure the sustainable use of biodiversity, in particular birds?
3. How can we improve the communication to the public, awareness-raising and public participation?

B. WHAT ARE OUR COMMITMENTS?

**Sustainable management of Europe's natural resources, in particular wild birds and their habitats, including site protection.
A general protection scheme for all species of wild birds
Wise use of biodiversity.**

B.1 Sustainable management, including site protection

The EU biodiversity strategy recognises the need for sustainable management of Europe's natural resources. In the "Message from Malahide" (27 May 2004) the objective to ensure conservation of Europe's most important wildlife habitats and species within a thriving wider environment has been laid down again and has been further elaborated upon. The "Message of Malahide" states among others the following targets:

An appropriate protection status, management and adequate financial support identified and provided to areas of biodiversity importance in parts of the EU not covered by the Habitats and Bird Directives.

Article 6 (avoidance of damage to Natura 2000 sites of the Habitat Directive) fully transposed into national legislation and planning policies,

¹ The principle of proportionality involves ensuring that the laws and their application should not create burdens that are unjustified and unnecessary by reference to the objectives being pursued.

and routinely implemented; where development proposals cannot avoid damage to sites, special effort given to the adequate design and implementation of compensation measures.

Within these broader policy commitments the Birds Directive already in 1979 stated a wide series of provisions, with specific relevance to the sustainable management and wise use of bird populations and their sites. There is the general provision of Article 2 of the directive which states that Member States must take the requisite measures to maintain the population of the all wild bird species covered by the directive at a level that corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic requirements, or to adapt them to that level².

As regards the site protection provisions for Special Protection Areas, the original provisions given in the first sentence of Article 4(4) of the directive have since June 1994 been replaced by Article 7 of the Habitats Directive which applies Article 6(2), (3) and (4) of that directive to SPAs³:

Article 6(2) requires Member States to take appropriate steps to avoid deterioration of the habitats of bird species as well as disturbance of the species in so far as such disturbance could be significant in relation to the objectives of the directive

Article 6(3) provides for a procedure to deal with plans and projects that may significantly effect the sites conservation objectives. This includes the need for an appropriate assessment. The authorities shall agree to the plan or project only having ascertained that it will not adversely affect the integrity of the site and, if appropriate, after having regard to the opinion of the general public

Under Article 6(4) allows for damaging developments to proceed under certain conditions, where there is a lack of alternative solutions, an overriding public interest, including that of a social and economic nature, and where compensatory measures are put in place to offset any loss or damage to the site

As there is not a legally established list of priority species established under the Birds Directive the final provisions of Article 6(4), which provide for additional safeguards for priority species and habitat types under the Habitats Directive, would not appear to apply at present

Whereas the provisions of Article 6(1) of the Habitats Directive, which require pro-active positive conservation measures for sites, do not apply to SPAs, there are analogous provisions under Article 4(1) and 4(2) of the Birds Directive. Management planning for the sites is a key tool to achieve this objective.

² Although the concept of 'favourable conservation status' is not explicitly mentioned in the text of the Directive it is highly relevant to the objectives with regard to conserving wild bird populations

³ As regards the issue of management and sustainable use of NATURA 2000 areas there has been little case law on the application of the provisions of Article 6 of the directive. There is an important case in relation to unsustainable grazing by sheep and its effects on an upland SPA in Ireland as well as on a non-migratory species covered by Article 3 of the directive (Nephin Beg case COM v Ireland). The judgement of the Court has recently been provided in an important case related to how to deal with shellfisheries in the Wadden Sea in accordance with Article 6.

B.2 General Protection scheme for birds

Species protection provisions of the Birds Directive are defined in Article 5 of the Directive⁴. This requires Member States to establish the a general scheme of protection for all species of wild birds, which prohibits in particular:

- Deliberate killing or capture
- Deliberate destruction of, or damage to, their nests and eggs or removal of their nests
- Taking their eggs in the wild and keeping these eggs if empty
- Deliberate disturbance of these birds particularly during the period of rearing, in so far as such disturbances would be significant
- Keeping birds of species the hunting and capture of which is prohibited

Exceptions or derogations to the general scheme of protection are available under the directive as regards limited commercialization of species listed in Annex III provided for under Article 6 of the directive, for hunting of species listed in Annex II in accordance with the provisions of Article 7. Article 8 of the directive also covers means and arrangements (listed in Annex IV) for capture and killing of birds that are prohibited under the directive.

In this respect it is important to state that Natura 2000 sites are not intended as a set of nature reserves where all human activities are to be excluded. This is not a desirable approach nor would it be feasible, as many of the sites will be privately owned lands. In fact, many of the species occurring in SPAs are dependent on certain human activities for their survival (e.g. extensive agriculture). The emphasis must be on ensuring that human activities are sustainable and not damaging to the nature values of the areas.

Article 9 of the directive allows Member States to derogate (i.e. depart) from the basic prohibitions in Article 5, 6, 7 and 8 provided three conditions are fulfilled: there is no other satisfactory solution; one of the reasons listed in 9(1)(a), 9(1)(b), or 9(1)(c) applies; and the technical requirements of Article 9(2) are fulfilled. Article 9 also provides for a system of annual derogation reports from the Member States to the Commission⁵. The limited reasons which may justify a derogation under Article 9 including:

- 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
- To permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers

⁴ As regards species protection provisions of the Birds Directive there is a considerable body of case law in relation to the management of hunting, which is covered in the Commission's guidance document on hunting. There is also case law in relation to commercialization

⁵ On the basis of these annual reports the Commission provides a report on the use of derogations under the Birds Directive to the Convention on the Conservation of European Wildlife and Natural Habitats. This biannual report is provided in fulfilment of Article 9(2) of the Convention.

B.3 Wise use of birds

Wise use provisions of the directive are only stated with respect to hunting. Species listed in Annex II may be hunted under Article 7 of the Directive owing “to their population level, geographical distribution level and reproductive rate throughout the Community”. The Article 7 hunting exception to the Article 5 prohibitions is subject to several conditions set out in Article 7. Member States are required to ensure “that the practice of hunting, including falconry if practised, as carried on in accordance with the national measures in force, complies with the principles of wise use and ecologically balanced control of the species of birds concerned and that this practice is compatible as regards the population of these species, in particular migratory species, with the measures resulting from Article 2.” They are also required to ensure that “the species to which hunting laws apply are not hunted during the rearing season nor during the various stages of reproduction. In the case of migratory species, they shall see in particular that the species to which hunting regulations apply are not hunted during their period of reproduction or during their return to their rearing grounds.”

The agreement on the conservation of African-Eurasian migratory waterbirds (AEWA) focuses especially on the sustainable use of waterbirds as one its primary objectives. For EU Member States this will largely be achieved through the mechanism of the Birds Directive.

What is meant by wise use and sustainable management ?

The reference to ‘wise use’ in article 7 of the Birds Directive appears to correspond with references in other international conventions:

Convention on Biological Diversity (CBD): the use of components of biological diversity in a way and at a rate that does not lead to the long-term decline of biological diversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations.

Ramsar Convention: sustainable utilization of wetlands for the benefit of humankind in a way compatible with the maintenance of the natural properties of the ecosystem.

Wise use is not only about consumptive use. It must recognise that birdwatchers, nature lovers, scientists and society as a whole also have a legitimate right to enjoy or explore wildlife, as long as they exercise this right responsibly. It is generally accepted that the value of environmental resources includes both use values and existence values. The principle of wise use thus should cover the provision of access to and enjoyment of wildlife for non-consumptive users in the countryside, which should be managed in a sustainable way and should also aim to provide economic and other benefits to local communities⁶.

⁶ Recently, IUCN's Policy Statement on Sustainable Use of Wild Living Resources (Annex to Resolution 2.29, Amman, 2000), also concluded that “Both consumptive and non-consumptive use of biological diversity are fundamental to the economies, cultures, and well-being of all nations and peoples.”

C. PROGRESS AND EXPERIENCES

Implementation of the protection scheme has improved over time, while gaining experience over the years.

Protections and wise use provisions of the Birds Directive have required adaptations in human practices and approaches.

Existing derogation-possibilities could be better understood and used where justified and not damaging to overall nature protection objectives.

Good communications and a balanced decision-making, taking into account both ecological and socio-economic objectives are keys to a successful implementation.

The “sustainable hunting initiative” is a promising new approach based upon a constructive dialogue, which can help to realize wise use of biodiversity.

C.1 Implementation of protection schemes has improved over time

The regulatory regime of the Directive as regards species protection, hunting and site-protection was not easy to implement. This is inevitable in the context of a law dealing with a public good, the environment, which requires protection against potential negative impacts due to socio-economic activities, especially where there is sometimes a perception that traditional ways of life should not be constrained by regulation.

In light of the above it is not surprising that there have been problems. The protection regimes of NATURA 2000 sites as well as the general protection of bird species and the management of hunting under the Birds Directive have proven to be the more controversial elements of application of the Birds Directive. The main sources of infringements under the Directive have related to issues of regulating hunting (especially hunting periods under the directive) and regarding the protection and management of Special Protection Areas (SPAs), especially in the context of potentially damaging developments.

The first step in implementing the Birds Directive is the transposition of the protection regime in national regulations. Member States must report such measures to the European Commission. There is no easy source of information in this respect⁷. This is due to the fact that the competence and role of the nature

⁷ The main sources of information formally provided to the Commission in relation to transposition of the directive are contained in the triennial reports of Member States required under Article 12 of the directive. So far the Commission has published four composite reports covering the periods of 1979-80, 1981-1992 (COM(93)572 final) 1993-1995 (COM(2000) 180 final) and 1996-1998 (COM(2002) 146 final). The Commission has also produced a six year report in accordance with Article 17 of the Habitats Directive, which also contains relevant information, especially in the context of site protection (COM (2003) 845 final).

There are also the reports that have been prepared on the basis of the annual derogation reports provided by Member States pursuant to Article 9 of the directive. To facilitate information flow a derogation information system was developed by the Joint Nature Conservation Committee in the late 1990's. However, due to technical difficulties this is not being used in all Member States and is not up to date.

Other information in relation to the protection regime will come from complaints to the European Commission in relation to poor transposition and application of the provisions of the directives. Generally these reveal that whereas the issue of transposition of the relevant provisions appears to be in order there are frequent issues of bad application of the protection provisions in some Member States.

authorities varies considerably from one Member State to another. The situation is complicated by the fact that implementation of many provisions of the directive (e.g. setting of hunting seasons) is carried out at regional level in several countries with federal structures (e.g. Germany, Austria).

The implementation of the protection regime have been yielding profit from experiences with the Environmental Impact Assessments (EIA) and assessments made in accordance with Article 6 of the Habitats Directive, which applies to all SPAs.

The lack of easily available information on the practical implementation of the Directive, on the occurrence of species throughout Europe and on the specific conservation objectives of SPAs has not always made it easy for regional authorities and economic sectors to comply with the Directive's obligations. In response to this the Commission has already provided interpretative and methodological guidance on the provisions of Article 6 of the Habitats Directive⁸ as well as on the hunting provisions of the Birds Directive⁹ Also some Member States have provided specific national guidance on the protection regime, in order to better support adequate implementation within the specific national context.

However, in most Member States implementation of the protection scheme has improved over time, due to improving information for and a better understanding and acceptance of the objectives of the Directive by decision-makers. The overall picture of the development of bird populations in Europe supports the assumption that the establishment of a SPA-network and its protection regime as well as the general scheme of protection of the Directive over the past 25 years have been effective for most of the protected birds. The positive trends of the Pink-footed Goose in Flanders, Greenland White-fronted Geese, and the flamingo's in Spain support this position.

In some Member States there is also information collected on issues of enforcement (eg prosecutions arising from illegal persecution of birds etc) but this is not available for most Member States, nor is it possible to determine the success of such measures.

⁸ Managing Natura 2000 sites. The provisions of Article 6 of the 'Habitats Directive 92/43/EEC'. European Communities. 2000 ISBN 92-828-9048-1. Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC. European Commission. 2001. ISBN 92-828-1818-7

⁹ Guidance document on hunting under Council Directive 79/409/EEC on the conservation of wild birds.
http://europa.eu.int/comm/environment/nature/nature_conservation/focus_wild_birds/sustainable_hunting/index_en.htm

Case study from Denmark: An assessment of the effectiveness of SPAs for birds

It is not easy to answer the question whether we have an effective protection regime of special protection areas in place in the different Member States. The only national assessment of the benefits to birds of the SPA network to date has been for Denmark¹⁰. The SPA protection regime has clearly prevented the destruction and degradation of important wild bird habitats, especially wetlands. However, the lack of an overview on the effectiveness of management of different SPAs does not allow a basis for generally determining the overall benefits of the sites. Therefore, there is at present insufficient information from the Member States on the impacts and benefits of the directive on sustainable use and management. Need to consider ways in which we can improve the.

Case study from the United Kingdom: A collaborative partnership for the sustainable use of Scottish uplands

Scotland's Moorland Forum¹¹ was established by Scottish Natural Heritage in March 2002. It consists of 22 member organisations and five observer organisations, all of which have signed up to a *Statement of Intent*¹² setting out clear objectives and targets for moorland conservation and management in Scotland. The Forum seeks a sustainable future for moorland through collaborative work. The Forum strives to sustain and enhance the extent, diversity and range of habitats, species and enterprises encompassing moorland. The Forum wants to engender a greater awareness of these valuable habitats, to halt and reverse the loss of heather cover, and to find ways of enriching the overall interest of Scotland's moorland, not least its natural heritage. Almost a quarter of Scotland's heather cover has been lost since the 1940s. The restoration of moorland habitats and related species is a high priority for management action. The Forum brings together statutory organisations involved in land-use planning in the uplands, with NGOs representing many different stakeholders, including those concerned with hunting. Through joint working, the partnership has been successful in raising the profile of moorland conservation and has produced guidance on key moorland management issues¹³. It has also been a valuable mechanism to seek to reduce conflicts between different interests in the uplands.

C.2 Protections and wise use provisions required adaptations of human activities

It has proven to be a great challenge to solve potential conflicts between the socio-economic developments of the EU and its commitment to protect nature and biodiversity. When located in or near to sensitive areas transportation developments can result in loss and damage to habitats as well as fragmentation of migration/dispersal routes of species. Likewise, in some cases energy and communication infrastructures can cause damage to bird habitats, act as obstacles to birds on migration routes, cause disturbance and lower the capacity of areas to support birds or even lead to significant mortalities of birds. The rapid expansion of wind farms on land and water in recent years has potential to lead to significant conflicts with bird conservation interests.

Not in all situations protection of nature could be combined with socio-economic developments and choices had to be made in favour of biodiversity. It is clear that the protection regime for birds and their habitats have required adaptations in human practices and approaches towards dealing with potentially damaging developments in and around the sites. This has led to considerable tension with

¹⁰ Birds of Danish SPAs - trends in occurrence. Miljø og Energiministeriet. Skov- og Naturstyrelsen. 1999. ISBN 87-7279-200-0.

¹¹ www.moorlandforum.org.uk

¹² www.moorlandforum.org.uk/documents/statement-of-intent.pdf

¹³ <http://www.moorlandforum.org.uk/documents.php>

sectors (e.g. Ports industry), which previously operated under less constraining regulatory regimes.

Case study from Germany: policy with regard to bird electrocution

The risk of birds to electrocution is widely recognized. Birds sitting on power poles and/or conducting cables are killing if they cause short circuits. In particular “bad engineering” practiced on medium-voltage power pole constructions has resulted in an enormous risk for numerous medium sized and large birds which use power poles as perching, roosting, and even nesting sites. Many species of large birds suffer heavy losses to electrocution, some species even being threatened with extinction as a result. Storks, raptors, owls, ravens, pigeons, doves, terns are affected. The continued use of “killer poles” is neither acceptable nor justifiable. According to current knowledge and experience, it is possible to reduce the risk of electrocution significantly, within the acceptable costs for the electric utility companies.

The Federal Parliament of Germany decided therefore in Germany to amend the Federal Nature Conservation Act. It reads as follows:

“To protect bird species, all newly constructed power poles and technical components of medium-voltage powerlines shall be designed in such a way that birds are protected from electrocution. On existing power poles and technical components of medium-voltage powerlines that pose a high risk to birds, the necessary measures to protect birds against electrocution shall be implemented within a period of ten years. The first and second sentences above shall not apply to the overhead powerlines of the railways.”

With regard to power lines of the railways the German Society for Nature Conservation (Nabu) and the German railway company “Deutsche Bahn AG” agreed, that newly constructed power lines will be constructed in a manner which avoid harm to bird¹⁴.

Further reading:

German Society for Nature Conservation (NABU) and Birdlife International, 2003. Protecting Birds from Powerlines: a practical guide on the risks to birds from electricity transmission facilities and how to minimize any such adverse effects. T-PVS/Inf (2003); presented to the Standing Committee of the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention).

As spare-time tends to become longer (could perhaps be disputed by many EU officials), our standard of living higher and our need for challenges grow, we tend to spend more and more time in nature, encouraged by different tourists interests. Unfortunately, many areas that are used by large numbers of birds are also attractive to human beings. Several of the out-door activities coincide in time with the breeding or rearing period of the birds.

¹⁴ According to Germany “it would be helpful if the procedures under directive 2001/16/EC to harmonize technical aspects of European railway systems could be used for an agreement on safe standards. A draft for the relevant TSI “Energy” has not been produced so far. The European Commission has assured that the electrocution issue will be taken into account appropriately once the preparation starts”.

Case study from Sweden: Reconciling recreational activities with the protection requirement

According to Article 5 of the Birds Directive, Member states should prohibit deliberate disturbance of birds, particularly during the period of breeding and rearing, as long as this disturbance does not violate the purpose of the directive. The concept of *deliberate* can be interpreted in different ways, but must consider activities that a person undertakes, knowing that such an activity might cause disturbance, but without any deliberate intention to cause disturbance.

The Article states that Member states should establish a general system of protection that prevents such disturbing activities. Therefore it seems that Member states are expected to introduce not only restrictions linked to specific sites, but something more comprehensive. It would be interesting to learn from Member states how they interpret this paragraph and what kind of general system that is implemented.

This issue needs further attention because if practised in the wrong place or during the wrong period, a wide variety of leisure activities such as waterskiing, jetskii, paragliding, hanggliding, mountaineering and speedboating. They all have in common that the habitats are all there when the activities have stopped. This may be a reason why the long-term effect of such activities has been ignored. Many of them are practised along shallow waters, frequently used by large numbers of birds, and is based on the use of different types of engines.

As decisions to restrict the use of vessels such as jet skis, may affect the operation of the single market they must also be in line with EU rules on the single market

C.3 Use of derogation possibilities

The Commission has considered the issue of derogations within the framework of allowing for limited hunting outside the normal period defined by Article 7(4) of the directive, and following interpretation of the Court of Justice¹⁵. This emphasises that any use of derogations must be fully in accordance with the three major conditions that apply to them (see section B.3). Derogations may therefore have a potential role to play where Member States need to allow for certain measures which are not foreseen under the general scheme of protection of the directive. For example they are applied to control Cormorants in areas where this species can cause serious damage to fisheries interests, allegedly arising from the large increase and expansion of this population in Europe. However, in the absence of co-ordinated measures to regulate populations of such species the derogation may have limited effectiveness.

As regards the application of the protection regime under Article 5 there is continued basis for potential conflict in relation to issues of sustainable use and management. However, there is a need for proportionality in relation to the application of these provisions (need to further consider issues here in relation to problems experienced by Dutch interpretation of strict protection, etc...). Further guidance on the species protection provisions, including that relating to the use of derogations, may help clarify some of these outstanding.

The role of good and reliable scientific information and systems of monitoring to underpin the use of derogations is essential. For several species (e.g. magpies),

¹⁵ See section 3 of the Guidance document on hunting

which are perceived to cause serious damage to songbird populations, the scientific evidence may not always support such claims (link to workshop 1).

The system of derogations under the Birds Directive may however be less flexible than that defined under Article 16 of the Habitats Directive, especially as regards the possibility that the latter offers in relation to allow for considerations regarding “imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment (in Article 16(1) c) of HD) ”. However, the extent to which this is constraining in practice is not fully clear.

C.4 Communication and a balanced decision-making as keys to success

As mentioned before, it has at times proven difficult to find a balance between (economic) objectives of some operators and the long-term protection of bird species, especially in cases where regional authorities saw the protection of birds and Natura 2000 sites as a constraint on economic development.

In some cases a lack of communication between the nature protection community and the socio-economic community did not promote joint solutions to combine different objectives. On the contrary, a lack of communication has known to lead to mistrust, disagreements and lack of mutual recognition of each other’s positions. Also the proportionality of the protection regime in some cases has been proven difficult to achieve. Due to the sometimes-existing lack of information, some authorities have pursued a very strict interpretation of the Directives provisions.

There is increasing recognition of a need for a constructive dialogue with different user groups and those concerned with sustainable development, especially in the context of NATURA 2000. Good examples exist, where a constructive dialogue between socio-economic sectors and nature protectors have lead to mutual beneficial solutions. (Recent examples to be considered such as the Port of Rotterdam, Wind Farm, Roads industries, angler groups etc.).

However, it should always be recognised that whereas the objective to promote a balance between economic objectives and nature protection commitments should be pursued where possible, there will be cases where primacy has to be given to decisions that favour nature, especially in relation to Natura 2000 areas.

Another issue is management planning, which provides a key tool to reconcile the different potentially conflicting uses and the conservation objectives of Natura 2000 sites. This has been demonstrated in Denmark, UK etc for the management of hunting in SPAs. It equally provides for addressing other sustainable use activities such as tourism, farming and forestry. The question is how to make management planning an effective tool at EU level for species and site protection? Management plans are increasingly seen as an essential tool to facilitate the achievement of the legally defined objectives of both nature

directives and organisations such as Eurosite are actively promoting the sharing of good practice in relation to management of protected areas (see box on species action plans), although there is no explicit legal obligation to develop management plans under the Birds Directive, either for sites or for species. This has also been acknowledged by the Message of Malahide, which sets a target that all sites should have management objectives agreed and instigated by 2010. Consideration needs to be given as to how to make this operational for the SPA network.

However, management planning is not a sufficient tool for addressing new developments and activities that would be considered as plans or projects within the framework of Article 6(3) of the Habitats Directive. In those cases there is a need for separate instruments, e.g. environmental impact assessments and others.

Experiences with species management plans

The experience of developing and implementing international action plans for threatened species of Annex I has demonstrated the value of this approach – in clearly defining the conservation actions that are needed in Member States, in identifying the key priorities for financial support under the LIFE Nature fund etc¹⁷. The lessons learned from this approach show the need to have clear and measurable targets in the plans, a strong commitment of the different parties to their delivery and monitoring/reporting systems to measure their success and update them. LIFE funding proved to be a major driver in the implementation of the species action plans for the most threatened species of Europe. The conservation status of 11 of 23 species has improved and of a further 4 the conservation status was maintained since the adoption of their action plans in 1995. In the meantime, the status of 6 species has further deteriorated.

The preparation of EU action plans for huntable species, while equally important, has been less successful to date. No plan has yet been formally agreed. There have been difficulties in data compilation/assessments and a lack of agreement on the priority actions to be taken. There is an urgent need to make these plans operational and to ensure that there are proper international co-ordination structures in place.

C.5 The “sustainable hunting initiative”: a promising new approach

With respect to the exploitation of birds, the issue of hunting has been the subject of a lot of discussion in recent years. Among other things the lack of good information on hunting practices in the early years of implementation has probably contributed to a climate of mistrust in relation to the impact of hunting. Successive legal cases, where there were clear issues of non-compliance in some Member States, have also contributed to this polarisation.

However, the Birds Directive fully recognises the legitimacy of hunting. It promotes the concept of wise use and good management of bird populations. Nevertheless for a large part of the past 25 years there has been a lot of the controversy regarding hunting in some Member States. A great deal of time and energy got lost on this issue. This is unfortunate, as many bird populations continue to decline, mainly from loss and degradation of their habitats.

¹⁷ To incorporate output from the review of species action plans being prepared by BirdLife International at present

In the mean while there is increasing evidence that well managed and monitoring hunting in accordance with the Birds Directive provides benefits for both birds and hunters¹⁸. Studies on other human activities in and around NATURA 2000 sites is generally lacking although a growing number of case studies under LIFE Nature projects show the potential for sustainable practices such as eco-tourism, etc¹⁹. The increased opportunities for support for environmentally friendly farming practices in NATURA 2000 should also provide benefits for local communities ..

It was in this context that the Commission launched a “sustainable hunting initiative” in 2001 in partnership with the two main representative bodies for hunters and bird protection societies (FACE and BirdLife) as well as the Member States. This aims to promote constructive dialogue and collaboration on promoting sustainable hunting under the directive. A series of measures have been agreed as a basis for this dialogue²¹, which primarily aim to:

- Provide better clarity about the hunting provisions of the directive through the preparation of the guidance document on hunting²²,
- Deliver a series of scientific, conservation and management, as well as education and awareness measures on sustainable hunting with the intention of eventual agreement on a ‘charter on sustainable hunting’ under the Birds Directive²³.

Besides hunting also other uses like recreational activities can also potentially lead to significant disturbance (e.g. use of jet skis on wetlands with breeding waterbirds etc.) and need to be regulated accordingly. The new approach to promoting sustainable hunting under the Birds Directive provides a promising model for addressing these issues, in an inclusive way involving bird protection societies, hunters and other interest groups as partners in dialogue.

¹⁸ A comprehensive research programme in Denmark has shown that the careful establishment of hunting free zones can increase at the same time site use by waterfowl and hunting opportunities in the vicinity of such areas

¹⁹ See LIFE for NATURA 2000. 10 years implementing the regulation. European Commission. 2003. ISBN 92-894-4337-5

²⁰ a document outlining the proposed steps to launch the dialogue on sustainable hunting is available on the Commission's web site at http://europa.eu.int/comm/environment/nature/nature_conservation/focus_wild_birds/sustainable_hunting/index_en.htm

²¹ The Commission working with the ORNIS Committee and its SWG has provided guidance on the biological basis for determining reproduction and pre-nuptial migration periods(Key concepts of Article 7(4) of Directive 79/409/EEC. Period of Reproduction and Prenuptial migration of Annex II Bird Species in the EU. September 2001 (document available at http://europa.eu.int/comm/environment/nature/Directive/birdshome_en.htm). Within the framework of the “sustainable hunting initiative” the Commission has requested Member States to provide information on the regime that applies to fixing hunting seasons, including web sites etc. where such information is publicly available.

²² The preparation of a guidance document on hunting and the signing of an Agreement on hunting represents significant steps under this initiative. Details of these are available at http://europa.eu.int/comm/environment/nature/nature_conservation/focus_wild_birds/sustainable_hunting/index_en.htm

Lessons learned from the Sustainable Hunting Initiative

The Sustainable Hunting Initiative was launched in February 2001 by the European Commission. Our organizations, invited to be part of this new initiative, Birdlife International and the Federation of Associations for Hunting and Conservation of the EU (FACE), could at the time be considered arch enemies and had just finished a major confrontation at the European Parliament over a Written Declaration that was asking the Commission to consider an amendment to the 1979 Birds Directive. FACE was supporting such an amendment and Birdlife was entirely opposed. The first meetings and the first years of this initiative were slow in progress, and there was an overwhelming feeling of distrust between the two organisations, mainly as a result of misunderstanding and strong feelings on both sides. In Birdlife International on a number of occasions it was thought this initiative was not going anywhere.

So how did it all happen in the end? Well, firstly the European Commission played an important role because its officials didn't give up. They continued to press and insist on bringing the two organisations together. They also insisted strongly on FACE and Birdlife International having bilateral meetings. We think the real breakthrough happened after we started having bilateral meetings without the Commission, as it helped the two organisations build trust between them and it was only then that the real progress could be made. Trust is indeed essential for achieving respect between the organisations, without which no constructive dialogue can take place. Of course people matter too. The fact that the two directors based in Brussels who did most of the negotiating got along well with each other helped the process for the two organisations.

So to summarise, it's important to have a mediator who doesn't give up, especially in the face of slow process. Bilateral meetings are important and people's personalities matter, too. Old foes can never become new friends overnight but trust helps to build respect that leads to success.

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D. CHALLENGES

How can we further improve the effectiveness of the protection regime for bird species and their habitats while maintaining a balanced approach?

How can we better promote and assure wise use of biodiversity, in particular birds?

How can we strengthen the communication to the public, awareness-raising and public participation?

Future research agenda.

D.1 How to further improve the effectiveness of the protection regime

A major future challenge is the question how to further improve the effectiveness of the protection regime, while maintaining its proportionality. Important questions in this respect are:

How to strengthen our record with respect to realizing a balanced approach between our commitment to nature conservation and socio-economic objectives?

How to make better use of management planning?

On the matter of a balanced approach of nature objectives and socio-economic objectives the major challenge is to improve our learning from good practices. Also for some provisions of the Birds and Habitats Directives the existing European and national guidance documents need to be supplemented. For example with respect to the compensation provisions (Article 6(4) of the Habitats Directive), for which the European Commission already commissioned a project.

Also management planning could be an essential tool to realize a balanced approach. It can be argued that there is a need to develop common approaches with respect to management planning, using information technology, in order to share information and expertise in relation to management planning objectives of the nature directives, to maximise their potential as a tool for nature conservation and for the realization of the overall objectives of the Birds and Habitats Directives.

One recent advance in the use of management plans has been the development of a unified international plan format for species action plans. The use of such a format for the nature directives and international conventions should facilitate the task of compilation and reporting by Member States that have duties in different forums.

A specific topic in this respect is the so-called external effects, the consequences of the protection regime for uses outside Natura 2000-sites. For example the consequences for farmers with respect to their ammonia- or nitrate-emissions. Developing a more integrated approach with other environmental directives such as the Nitrates and Water Framework Directives is highly relevant here. More clarifications need to be provided with respect to provisional measures like zoning.

The final challenge with respect to improving the effectiveness of the protection regime is the increasing need for a constructive dialogue with other (socio-economic) sectors than hunting, such as tourism, agriculture, forestry and others. The question is how we can better promote partnerships between different stakeholders concerned about the wise use and sustainable management and conservation of wild birds (which was one of the objectives of the El Teide Declaration).

D.2 How to better promote wise use of biodiversity, in particular birds

A second major future challenge is the question how to better promote the wise use of biodiversity of birds and the sustainable management of their habitats. Important questions in this respect are:

- How to further strengthen wise use practices with respect to hunting?
- How to build on the experiences of the “sustainable hunting initiative” and promote wise use of birds and the sustainable management of their habitats by other economic sectors?

The signing of a Charter on sustainable hunting would represent a major breakthrough with respect to the wise use of birds and the sustainable

management of their habitats. However, it is 'just' the start of a process, not the end. Its application on the European, national and local levels will be one of the great challenges for the next decades.

As regards the benefits of regulated hunting there is a general lack of reliable statistics on hunting (especially in relation to bag statistics) to provide a basis for assessing this and this clearly needs to be improved. The problem is further compounded by the fact that many of the species are shot on their wintering grounds or on migration so the impact to breeding populations is more difficult to directly link to this practice. Some huntable species are considered to have an unfavourable conservation status and are at present the subject of management plans aimed at their recovery.

Sustainable hunting is just one step. There are a lot of other uses, like agriculture, forestry, tourism, which could benefit from a similar approach. Extending the approach of the "sustainable hunting initiative" to other sectors therefore is one of the great challenges for the future.

A final challenge is to take away unnecessary heavy decision-making procedures. It is widely recognised that adaptations of the annexes of the directive, especially Annexes II, III and IV which require co-decision, are cumbersome. Consideration should be given to introducing at some future date a more flexible arrangement for modifying the Annexes of the directives in light of new scientific knowledge.

D.3 How can we strengthen the communication to the public, awareness-raising and public participation?

A key factor of success for Natura 2000 and also general bird conservation policies is the commitment of the public, stakeholders and authorities. Communication and information in relation to objectives and actions as well as on progress towards these objectives is therefore a prerequisite for effective policy implementation.

Possibilities to strengthen public awareness are – among others – dissemination of results through EU and national communication canals, including reporting by Community and national institutions, and through actions under the umbrella of the IUCN Countdown 2010 initiative.

Another possibility is to strengthen the communication at Natura 2000 sites 'on the spot': by more effectively using the Natura 2000 logo and presenting information of the Natura 2000 network and its objectives in information centres and on information panels at SPAs.

However, communication can only be successful if it has two directions and needs to go beyond 'sending a message'. Through constructive dialogue and public participation the public and stakeholders need to be actively engaged in the implementation of the Birds Directive. Especially with regard to the management of SPAs this is important, because without 'commitment on the ground' sustainable management of SPAs will be much tougher to realize. There are in

this respect good chances too, in the coming years, because most Member States will – when the designation process will be urgently completed – face a new step at site level and will start the process of defining conservation objectives and necessary measures.

D.4 Future research agenda

There is a need for further research to support work on the challenges with respect to “sustainable living with birds”. Future agenda objectives are:

Prediction of consequences of new plans and projects on the conservation objectives of bird populations and their habitats.

Improved understanding of the impacts on bird population of different pressures such as land uses, habitat fragmentation, climate change, the introduction of invasive alien species, impact of wind farms and electric power lines.

Establishment of observation systems that provide scientific information systems necessary for an adequate management of hunting, in particular to define migration periods

Improved understanding of the possible impact of sectoral EU policies, such as Common Agricultural Policy, Common Fishery Policy, Transportation, Water Management and Forestry.

This future research agenda will be discussed in workshop D (“improving the knowledge base”), in conjunction with other research-topics for the future.