



COMMISSION OF THE EUROPEAN COMMUNITIES

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REPORT FROM THE COMMISSION
ON THE APPLICATION OF DIRECTIVE 79/409/EEC ON THE CONSERVATION
OF WILD BIRDS

UPDATE FOR 1993-1995

based on information supplied by the Member States on the application of national
measures adopted pursuant to the Directive

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1. INTRODUCTION

This report has been drawn up on the basis of the information contained in the national reports sent to the Commission by the Member States pursuant to Article 12 of the Directive. It covers the years 1993, 1994 and 1995 for most of the Member States and 1995 alone for Sweden, Finland and Austria.

The report is confined to significant changes as compared with the previous situation (see COM(93)572 final, "Second report on the application of Directive 79/409/EEC on the conservation of wild birds (1981-1991)", and 1992 supplement).

In addition to the Member States' three-yearly reports, account is also taken of information sent by them to the Commission pursuant to Articles 4 and 9 of the Directive.

Directive 79/409/EEC¹, as amended by Directives 81/854/EEC², 85/411/EEC³, 86/122/EEC⁴, 91/244/EEC⁵, 94/24/EC⁶ and the acts relating to the accession of Greece⁷, Spain and Portugal⁸, Austria, Sweden and Finland⁹, establishes a general system of protection for all species of naturally occurring birds in the wild state in the European territory of the Member States that is covered by the Treaty. 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 1 of Directive 79/409/EEC specifies what the Directive applies to. It concerns species of naturally occurring birds in the wild state in the European territory of the Member States (except for Greenland). It applies to 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 see 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. For the period which

¹ OJ L 103, 25.4.1979, p. 1.

² OJ L 319, 7.11.1981, p. 3.

³ OJ L 233, 30.8.1985, p. 33.

⁴ OJ L 100, 16.4.1986, p. 22.

⁵ OJ L 115, 8.5.1991, p. 41.

⁶ OJ L 164, 30.6.1991, p. 9.

⁷ OJ L 291, 19.11.1979, p. 17.

⁸ OJ L 302, 15.11.1985, p. 221.

⁹ OJ L 1, 1.1.1995, p. 125.

concerns us (1993-1995), several Member States have sent their reports in late, the last one having reached the Commission at the end of April 1999.

In no case can the measures taken pursuant to the Directive lead to a 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. CONSERVATION STATUS OF SPECIES (ARTICLES 1 AND 2)

2.1. Objectives of these articles

- Article 1 specifies what the Directive applies to. It concerns species, i.e. whole populations and individuals, whatever their provenance. Excluded are populations of domestic forms easily recognisable as such, even those which have returned to the wild state (e.g. the free populations of feral pigeon), as are species present in the Community only in populations deliberately or accidentally introduced and any individuals found which have clearly escaped from captivity. Also excluded are specimens living in captivity. The list of species of naturally occurring birds in the wild state in the European territory of the Member States is naturally built up by the addition of lists accepted by the avifauna committees of the Member States or, failing that, by the compilers of avifauna listings.
- Article 2 sets the objective of protecting all the bird species covered by the Directive and links this objective both to their ecological needs and to the public's scientific, cultural, recreational and economic requirements. It explicitly provides for a policy of conservation on the one hand and of management and, if necessary, restoration or limitation on the other.

2.2. Bird population trends and status

An update of the status of European bird species was published by BirdLife International in 1994. This is the best scientific information currently available, as has been recognised by the ORNIS Committee, the steering group for the Directive. This study, the result of four years of data collection and analysis, has for the first time made it possible to document the extent of the population decline for all bird species throughout Europe.

The study identifies 514 species of birds regularly observed in Europe. 236 of these have a fairly good conservation status and are widely distributed beyond the frontiers of Europe. Of the 278 others, 83 also have a positive conservation status but their distribution is centred on Europe. Altogether 319 species out of 514 (62%) have a conservation status that is considered to be generally satisfactory. The rest, i.e. 195 species or 38%, have an unsatisfactory status, either because these species are showing a marked decline or because they have a (sometimes very) limited distribution. Almost 25% of species regularly observed in Europe have undergone a substantial decline in numbers over the last 20 years.

Since birds generally cope well with environmental changes it is to be feared that their decline mirrors what is happening to many animal or plant groups: a pronounced deterioration in biodiversity in Europe, both in the distribution and the abundance of species.

The decline in the case of most diminishing bird populations is the result of changes in land use and management techniques. The intensification of agriculture is the main loss factor, or at least one, for 42% of declining species. Another important factor is destroyed and damaged habitats, especially in wetlands. Hunting, capture, killing and sale sometimes have an adverse effect on these threatened species, but this is more usually of a secondary nature.

2.3. Information supplied by the Member States in their three-yearly report

In their three-yearly report to the Commission under Article 12, Member States are not required to inform the Commission on the implementation of these two articles, which lay down general obligations under the Directive. Nevertheless, the three new Member States describe the state of their legislation and Ireland lists the various amendments to the Wildlife Act 1976 which permit the wild birds Directive to be applied at the national level.

3. PRESERVATION OF HABITATS AND NETWORK OF SPECIAL PROTECTION AREAS (ARTICLES 3 AND 4)

3.1. Objectives of these articles

- Article 3 expresses the absolute necessity to preserve or improve bird habitats, a *sine qua non* for achieving the aims of the Directive. It brings in the ideas of sufficient diversity and size of habitats. It provides for an approach based on two lines of action: creating protected and managed areas and taking general steps to ensure favourable development of habitats. Like Article 2, its approach is one not just of conserving habitats but also of restoring them and even creating new ones. The protection of habitats is an obligation based on formal commitments.
- Article 4 is a central element in the Directive. It describes the protective steps to be taken to ensure habitats suitable for a number of particularly vulnerable species listed in Annex I to the Directive and for migratory species. Once again it takes a twin approach, with specific measures taken throughout the territory on the one hand and the establishment of a network of Special Protection Areas (SPAs) on the other. These are areas designated by the Member States sufficient in number and size to guarantee favourable conditions for the species in question throughout their territories.

The Commission has undertaken to ensure the cohesion and suitability of the network set up. Clearly the network does not have to achieve the protection objective by itself. It does, however, have to achieve a part of it which is the larger the more vulnerable the species is to habitat changes and the less external action is therefore to be expected.

During the period in question a fundamental change in the law is to be expected in the area covered by the Directive. The obligations described in the first sentence of Article 4(4) of Directive 79/409/EEC have, according to Article 7 of Council Directive 92/43/EEC, been replaced by those of Article 6(2), (3) and (4) of this Directive since its implementation in June 1994. Article 6(2), (3) and (4) of Directive 92/43/EEC reads as follows:

1. *Member States shall take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of this Directive.*
2. *Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.*
3. *If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of NATURA 2000 is protected. It shall inform the Commission of the compensatory measures adopted.*

Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest.

3.2. Establishment of the network of Special Protection Areas, by Member State

Belgium

- No new area designated in 1993, 1994 or 1995.

Denmark

- No new area designated in 1993, 1994 or 1995.
- Numerous measures have been taken to avoid the deterioration of habitats or prevent significant disturbance.

Germany

- The designation of Special Protection Areas is the responsibility of the Länder.
- During the period in question (1993-1995) no new Special Protection Area was designated.
- Any intended change within the Special Protection Areas is subject to prior approval by the competent authorities.

Greece

- No new Special Protection Area designated during the period in question.

Spain

- During the period in question ten new Special Protection Areas were designated in Spain, covering a total of 144 880 ha. At the end of 1995 there were 149 Special Protection Areas covering some 25 338 km² (2 533 790 ha) in Spain.

France

- Eight new Special Protection Areas were designated during the period in question. Also, seven SPAs which had previously been designated were extended. These designations and extensions gave protection to an additional 46 052 ha. At the end of 1995, 99 SPAs covering an area of 706 992 ha had been designated in France

Ireland

- Ireland conducted a special designation campaign during the period in question. 54 new Special Protection Areas were designated in 1994 and 1995 and 34 additional sites were announced. These SPAs cover more than 150 000 ha. A total of 75 SPAs totalling 157 806 ha had been designated in Ireland at the end of 1995.

Italy

- During the period in question six new Special Protection Areas were designated in Italy, covering a total of 6 000 ha. At the end of 1995 there were 80 SPAs totalling 3 164 km² (316 400 ha) in Italy.

Luxembourg

- From 1993 to 1995 three new Special Protection Areas were designated in Luxembourg, covering 1 272 ha. Six SPAs had been designated at the end of 1995 covering an area of 1 389 ha.

Netherlands

- During the period in question 11 new Special Protection Areas were designated. Together they cover a total area of 22 135 ha.

Austria

- No Special Protection Area was designated during the period in question in Austria (Member State since 1 January 1995).

Portugal

- No new Special Protection Area was designated during the period in question.

Sweden

- No Special Protection Area was designated during the period in question in Sweden (Member State since 1 January 1995). However, in a first decision dated 21 December 1995 the Swedish Government signalled its intention to designate around 80 SPAs.

Finland

- No Special Protection Area was designated during the period in question in Finland (Member State since 1 January 1995). However, survey work started in 1994 and the Finnish Environment Centre was given the task of area selection, scientific direction of the survey work and database management and map production. (The first proposal prepared by the Ministry of the Environment for the NATURA 2000 network on the scale of the whole country was ready in October 1996).

United Kingdom

- 50 new Special Protection Areas were designated between 1993 and 1995 and one SPA was extended. Some of these new SPAs are particularly important, such as the New Forest, Bowland Fells and the Humber and Severn estuaries. By the end of 1995 this brought the number of SPAs in the United Kingdom to 113, covering a total area of more than 365 000 ha.
- Considerable efforts were made in the area of management and designation of new sites of special scientific interest (SSSIs). Environmentally sensitive areas were increased.
- Other plans encouraging the restoration of habitats and more nature-friendly management of the environment also received funding.
- Measures were taken both in and outside the SPAs to limit lead pollution (pollution due to the use of lead shot in hunting and lead weights in fishing).
- Land surveys were carried out during the period in question with the aim of identifying new areas of potential importance for birds which may possibly be included in the network of protection areas.

Conclusion: During the period in question, 148 new Special Protection Areas were designated and the area thus protected increased by nearly 5 719 km², i.e. by more than 8.5% over the previous period.

3.3. Coherence of the Special Protection Areas network

By 31 December 1995 there were 1 247 Special Protection Areas¹⁰ covering 71 679 km², i.e. equivalent to the area of Belgium and the Netherlands combined (but also only 3% of the area of the EU).

Evaluating the coherence of this network requires figures on the population sizes of Annex I species present in the SPAs. The data supplied by the Member States is often far too incomplete for the Commission to be able to evaluate directly the adequacy of the network for its protection requirements, but there are other ways of evaluating this and in particular assessing how far the network achieves its objectives.

As a reminder, Annex I to the Directive contains species with adverse or potentially adverse population dynamics, species which are vulnerable due to intrinsic distribution and population structure characteristics, specialised species and species with precise habitat requirements.

¹⁰ 271 Special Protection Areas, covering a total area of 86 km², were designated in Baden-Württemberg for nature conservation reasons other than their importance for birds.

Most of them have high vulnerability ratings based on distribution data, population dynamics and habitat characteristics.

Action which the Member States agree to take in the SPAs is intended to achieve specific conservation objectives and therefore often varies according to these objectives. Measures range from very demanding ones covering small areas like nature reserves to broad-based integrated measures encompassing very large areas and differing from global environmental action only in their geographical confinement and their imperative nature.

The 1 247 areas designated form part of the Important Bird Areas in Europe. A complete survey of these areas has been prepared with the financial support of the European Commission and published in 1989 (Grimmet R.F.A. and T.A. Jones, 1989: Important Bird Areas in Europe). Some Member States have since added to this survey.

An analysis of how far each country has designated areas of importance to bird conservation has shown that at the end of the period in question only five countries had designated more than half of the IBAs within their territory. Major efforts were still needed in most Member States.

4. HUNTING, CAPTURE, KILLING AND SALE (ARTICLES 5, 6, 7, 8 & 9)
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4.1. Objectives of these articles

- Article 5 establishes a general system of protection save where specific provisions are made. It prohibits killing or capturing birds, destroying or damaging their nests and eggs, taking eggs, disturbing birds, and keeping species the hunting of which is prohibited by Article 7 or the capture of which is prohibited by Article 9.
- Generally speaking, to prevent commercial interests from exerting a possible harmful pressure on exploitation levels it is necessary to impose a general sales ban and to restrict all derogation to those species whose biological status so permits. Certain species (see Annex III to the Directive) may, however, be sold provided that certain limits are respected. Article 6 therefore prohibits the 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.
- Article 7 authorises hunting, including falconry. It limits hunting to the species listed in annex II, selected solely on the basis of biological criteria: population level, geographical distribution and reproductive rate. It requires that hunting must not jeopardise conservation efforts elsewhere in the distribution area and that it must comply with the principles of "wise use" and "ecologically balanced control", compatible with the requirements of Article 2.
- Article 8 prohibits the use of all means of large-scale or non-selective capture or killing of birds.
- Article 9 provides for the possibility of derogation from the articles on hunting, capture, killing and sale, for three types of reason:

1. The birds are assumed to have caused a particular problem or a particular kind of damage. This is only applicable "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, and for the protection of flora and fauna". An exception may therefore be made "where there is no other satisfactory solution" (Article 9(1)(a)).
2. For the purposes of research, teaching, repopulation or reintroduction, but always under strict supervision and where there is no other satisfactory solution (Article 9(1)(b)).
3. "... under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers" may be permitted. "Judicious" means that such use must be conducive to the general objectives of the Directive (Article 9(1)(c)).
4. There can be no exemption either from the formal requirements laid down by the Directive for maintaining bird populations at levels corresponding to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements (Article 2), or from the requirements to maintain habitats and to avoid pollution (Articles 3 and 4).

Strict conditions are set for the granting of these derogations, including that there must be no satisfactory alternative and there must always be strict supervision. In the case of the third reason there is also the limitation to "small numbers". This is of course a relative concept and, when the derogation concerns hunting, capture, killing or sale, is best expressed by a comparison between the losses due to these activities and the annual death rate of the populations concerned by the derogation. A derogation involving a loss amounting to less than 1% of the annual death rate for these populations may be considered mathematically as affecting a "small number", since its impact is less than the uncertainty attached to the reproduction and mortality rates. In this case the loss is also "small" by comparison with the typical figures for hunting operations, which is compatible with dealing with hunting by means of a general provision (Article 7) of the Directive and capture, killing and sale by means of a derogation.

4.2. New legislation introduced during the period concerned, major amendments to existing legislation

Article 5: General system of protection for all species of birds covered by the Directive

Important changes to the general system of protection for bird species which have entered into force during the three years covered are presented Member State by Member State, and where appropriate region by region.

Belgium

No change in the Flemish Region.

One new decree was issued in the Brussels Region. This decree protects all bird species.

The Walloon Region brought itself into line with Directive 79/409/EEC.

Denmark

Law 209 of 6 May 1993 concerning hunting and the management of hunting resources entered into force in April 1994.

Germany

No change to the general system of protection. In 1994 an "amendment" to the Bundesartenschutzverordnung (Protection of Species Order) resulted in the addition of a number of species from Annex I to Directive 79/409/EEC to the list of species considered to be under threat of extinction in Germany.

Greece

No change to the general system of protection. Some changes made to the list of species which can be hunted. Details of these are given in the next section.

Spain

No change to the general system of protection during the period in question. Law 4/89 of 27 March 1989 and Royal Decree 439/1990 of 30 March 1990 continue to be the texts establishing the general system of protection in Spain. During the period concerned certain autonomous regions (Aragon, Castile-Leon, Extremadura, Murcia, Navarre) promulgated regional implementing decrees setting out, amongst other things, regional lists of threatened species and regional plans for their conservation and restoration.

France

No change to the general system of protection during the period in question.

Ireland

No change to the general system of protection during the period in question.

Italy

No change to the general system of protection during the period in question. Law 157 of 1992 remains the key document with regard to wildlife protection and hunting.

Luxembourg

The report reviews the status of the legislation. The Law of 2 April 1993 amends and supplements Luxembourg legislation on hunting. These changes affect amongst other things the conditions and modalities of awarding hunting rights and the possibility for environmental associations to take legal action.

Netherlands

During the period in question the following amendments were made to the law:

- the amendments made necessary to the Laws on Hunting and Birds of 1936 by the implementation of the birds Directive entered into force in 1993;
- the use of lead shot in hunting was banned.

Austria

Austria acceded to the European Union on 1 January 1995. In Austria the obligations arising out of Directive 79/409/EEC are the responsibility of the Provinces.

Vienna

The following legislation concerning Directive 79/409/EEC was valid in the Province of Vienna in 1995:

1. the Nature Protection and Management Law of 19 October 1984 (Wiener Naturschutzgesetz 1984) (LGBI. 6/1985);
2. the Wild Plant and Animal Protection Order of 12 February 1985 (Erste Wiener Naturschutzverordnung) (LGBI. 7/1985);
3. the Regulation of Hunting Law (Wiener Jagdgesetz) (LGBI. 6/1948);
4. the Season Closing Dates for Huntible Species Order (LGBI. 26/1975).

Lower Austria

Directive 79/409/EEC is implemented in Lower Austria by:

1. the Nature Protection in Lower Austria Law (LGBI. 5500);
2. the Wild Plant and Animal Protection Order (LGBI. 5500/2);
3. the Lower Austria Hunting Law (LGBI. 6500) and implementing Orders (LGBI. 6500/1).

Burgenland

In Burgenland the legislation valid in 1995 comprised:

1. the General Nature Conservation Order of 11 March 1992 covering the preservation of habitats important to wild plants and animals and the conservation of plant and animal species (LGBI. 24/1992);
2. the Burgenland Nature Conservation and Countryside Protection Law of 15 November 1990 (LGBI. 27/1991);
3. the Law of 27 October 1993 amending the Law of 15 November 1990 (LGBI. 1/1994).

Upper Austria

In Upper Austria the legislation valid in 1995 comprised:

1. the Upper Austrian Nature Conservation and Countryside Protection Law (LGBI. 37/1995);

2. the Implementing Order of the Government of Upper Austria of 11 December 1995 in conformity with the Nature Conservation and Countryside Protection Law (LGBL. 110/1995);
3. the Season Closing Dates for Hunttable Species Order of the Government of Upper Austria of 7 May 1990 (LGBL. 30/1990).

Styria

In Styria the implementation of Directive 79/409/EEC required amendment of the legislation. In June 1995 a new Styrian Nature Conservation Law appeared taking into account the requirements of the birds Directive and of Directive 92/43/EEC.

Carinthia

In Carinthia the legislation has been brought into line with Directive 79/409/EEC by:

1. the Decree (LGBL. 87/1995) implementing the Carinthian Nature Protection Law (LGBL. 54/1986);
2. the Animal Protection Order (LGBL. 3/1989);
3. the amendment LGBL. 108/1996 to the 1978 Hunting Law.

Salzburg

In 1995 the legislation connected with nature conservation in Salzburg Province was as follows:

1. the Salzburg Nature Conservation Law (LGBL. 1/1993 and LGBL. 65/1994);
2. the Plant Species Protection Order (LGBL. 46/1994);
3. the Animal Species Protection Order (LGBL. 12/1980, brought up to date by LGBL. 55/1981 and 10/1989);
4. the Hunting Law (LGBL. 100/1993);
5. the Hunting Season Closing Dates Order (LGBL. 33/1987).

Tyrol

In the Tyrol the following legislation was in force in 1995:

1. the Tyrol Nature Conservation Law of 18 March 1991 (LGBL. 29/1991);
2. the Tyrol Nature Conservation Order of 22 April 1975 covering the protection of wild plants and non-game animals (LGBL. 29/1975);
3. the Tyrol Hunting Law (LGBL. 60/1983) with its amendments (LGBL. 68/1983) and the implementing Orders (LGBL. 19/1995) with their amendments (LGBL. 30/1996).

Vorarlberg

The following legislation was in force in Vorarlberg in 1995:

1. the Vorarlberg Nature Conservation Law of 26 August 1969 (LGBI. 36/1969), as amended on 18 May 1988 by the Law (LGBI. 23/1988);
2. the Vorarlberg Wild Plant and Non-Game Animal Conservation Order (10/1979), as amended by Order LGBI. 41/1988);
3. the Vorarlberg Countryside Protection Order (LGBI. 1/1982), as amended by Order LGBI. 22/1988).

Portugal

Decree-Law No 224/1993 transposes the amendments to Annex I (see 91/244/EEC) to the birds Directive into national law. The transpositions necessary following amendment of Annex II (see 94/24/EEC) to the birds Directive are in preparation.

Sweden

Sweden joined the European Union on 1 January 1995. Work to prepare Swedish legislation to meet the environmental requirements of Community law had been started some years previously.

As regards the provisions of Directive 79/409/EEC, the Swedish authorities consider that they have already to a large extent been implemented in Swedish law by existing statutory provisions. Work to supplement the legislation taking into account the bird protection Directive began in 1994. The following are the most important Swedish provisions in this area:

- Nature Protection Law and Nature Protection Decree;
- Hunting Law and Hunting Decree;
- Farmland Cultivation Law;
- Forest Protection Law;
- Natural Resources Management Law;
- Nature Protection Administration Decree, containing provisions on hunting (SNFS 1994:3);
- Animal and Plant (Protected Species) Measures Law.

Finland

Finland became a member of the European Union on 1 January 1995, from which date the provisions of the birds Directive 79/409/EEC and of Directive 94/24/EEC amending Annex II to Directive 79/409/EEC became mandatory. The birds Directive 79/409/EEC served as a basis for the preparation of Finnish legislation even before Finland actually joined.

On 1 January 1995 the Nature Protection Law (Finnish Law Gazette 71/23), as amended and partially revised on numerous occasions, was in force. The task of the working party on this Law, set up by the Ministry of the Environment on 17 March 1993, was to prepare a proposal for a full revision of the Nature Protection Law. Since at that time no final decision had been made on Finland's accession to the European Union, the working party's mandate was to consider the obligations arising out of possible accession under Finnish nature conservation law. On 29 December 1994 the working party delivered its report containing a proposal for a law to implement Directive 79/409/EEC on the conservation of wild birds.

United Kingdom

No new legislation introduced during the period in question.

At European Union level it should be mentioned that the Agreement on the Conservation of African-Eurasian Migratory Waterbirds (AEWA) was prepared during the period in question. This Agreement falls under the Bonn Convention and was initialled in June 1995 by 53 countries in the distribution area of migratory waterbirds, including the countries of the European Union and the Community.

4.3. Changes in the hunting regimes of the Member States, concerning the number of species hunted, the season opening and closing dates and exclusion zones

Not all of the species are concerned by all of the provisions of Article 5 of the Directive. By virtue of their population level, geographical distribution and population dynamics throughout the Community, 24 species (Annex II/1) may be hunted in accordance with the legislation of the Member States. 56 other species (Annex II/2) may be hunted only in certain countries. However, none of these species may be hunted during the various stages of reproduction. In the case of migratory species this prohibition also includes the period when the birds are returning to their rearing grounds.

At the European Union level it became necessary to adapt Annex II (see Directive 94/24/EEC¹¹) to the birds Directive. Certain corvids, gulls and terns and the starling have been added to Annex II/2.

Following the amendments introduced by Directive 94/24/EC amending Directive 79/409/EEC, consolidated Annexes II/1 and II/2 to the Directive appeared as follows at the end of the period in question:

Table 1. Annexe II.1 as amended

Species	BE	DK	DE	GR	ES	FR	IE	IT	LU	NL	AT	PT	SE	FI	UK
Anser fabalis	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Anser anser	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Branta canadensis	*	*	*			*	*			*			*	*	*
Anas penelope	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Anas strepera	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Anas crecca	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Anas platyrhynchos	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Anas acuta	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Anas querquedula	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Anas clypeata	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Aythya ferina	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*

¹¹ OJ L 164, 30.6.1994, p. 9.

Aythya fuligula	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Lagopus l. scoticus							*								*
Lagopus mutus			*		*	*		*			*		*	*	*
Alectoris graeca			*	*		*		*			*				
Alectoris rufa					*	*		*				*			*
Perdix perdix	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Phasianus colchicus	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Fulica atra	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Lymnocyptes minimus	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Gallinago gallinago	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Scolopax rusticola	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Columba livia ⁽¹⁾			*	*	*	*	*	*			*	*			*
Columba palumbus	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*

(1) The populations considered here are the wild populations of the species *Columba livia* and not populations derived from domestic pigeons

* The species is found in the Member State and may be hunted there pursuant to Article 7(3)


 Species for which there is a hunting season in the Member State at the end of the period in question


Table 2. *Annexe II.2 as amended*

Species	BE	DK	DE	GR	ES	FR	IE	IT	LU	NL	AT	PT	SE	FI	UK
Cygnus olor			*								*				
Anser brachyrhynchus	*	*					*								*
Anser albifrons	*	*	*	*		*	*			*			*		*
Branta bernicla		*	*												
Netta rufina					*	*									
Aythya marila	*	*	*	*		*	*			*					*
Somateria mollissima		*				*	*						*	*	
Clangula hyemalis		*				*	*						*	*	*
Melanitta nigra		*	*			*	*						*	*	*
Melanitta fusca		*	*			*	*						*	*	*
Bucephala clangula		*		*		*	*				*		*	*	*
Mergus serrator		*					*						*	*	
Mergus merganser		*					*						*	*	
Bonasa bonasia						*					*		*	*	
Lagopus l. lagopus													*	*	
Tetrao tetrix	*		*M			*M		*			*		*	*	*
Tetrao urogallus			*M			*M		*			*		*	*	*
Alectoris barbara					*			*							
Alectoris chukar				*											
Coturnix coturnix				*	*	*		*			*	*			
Meleagris gallopavo			*								*				
Rallus aquaticus						*		*							
Gallinula chloropus	*			*		*		*				*			*
Haematopus ostralegus		*				*									
Pluvialis apricaria	*	*		*		*	*	*		*		*			*
Pluvialis squatarola		*				*									*
Vanellus vanellus	*	*		*	*	*	*	*							
Calidris canutus		*				*									
Philomachus pugnax						*		*							
Limosa limosa		*				*									
Limosa lapponica		*				*									*
Numenius phaeopus		*				*									*

Numenius arquata		*				*	*								*
Tringa erythropus		*				*									
Tringa totanus		*				*		*							*
Tringa nebularia		*				*									
Larus ridibundus	*	*	*		*						*		*		
Larus cachinnans					*										
Larus canus		*	*										*	*	
Larus fuscus		*	*		*										
Larus argentatus	*	*	*		*								*	*	
Larus marinus		*	*										*	*	
Columba oenas				*	*	*						*			
Streptopelia decaocto		*	*			*					*				
Streptopelia turtur				*	*	*		*			*	*			
Alauda arvensis				*		*		*							
Turdus merula				*		*		*				*	*		
Turdus pilaris				*	*	*		*			*	*	*	*	
Turdus philomelos				*	*	*		*				*			
Turdus iliacus				*	*	*		*				*			
Turdus viscivorus				*	*	*						*			
Sturnus vulgaris				*	*	*						*			
Garrulus glandarius	*	*	*			*		*	*	*		*	*		*
Pica pica	*	*	*	*	*	*		*	*	*		*	*	*	*
Corvus monedula				*	*					*			*	*	*
Corvus frugilegus						*							*		*
Corvus corone	*	*	*	*	*	*		*	*	*		*	*	*	*

* In accordance with Article 7(3) Member States may authorise hunting of these species

*M Males only

 Species for which there is a hunting season in the Member State at the end of the period in question

Article 6: Authorisation of marketing activities in respect of the species mentioned in Annex III/2, part 2

The required conditions are still met in all of the Member States and there has been no amendment of the law during the period in question. In the United Kingdom the control rules were examined in 1993 and 1994 and it was concluded that the control objectives (protecting wild species and upholding the rights of persons legally trading in dead birds) would be achieved more effectively by a system of generalised licensing. In Sweden, article 1 of the Law (SFS 1994:1818) contains a provision enabling the Government to issue the necessary orders, but these were not issued until after the period in question. In Finland the native game species in Annex III to the Directive may be marketed, with the exception of Anser albifrons, Aythya marila, Melanitta nigra, Pluvialis apricaria, Lymnocyptes minimus and Gallinago gallinago.

Article 7: Taking, means of hunting and methods of capture

The substantial changes in the list of huntable bird species and in the hunting seasons which entered into force during the three years covered are present Member State by Member State, and for the new Member States the state of legislation is shown.

Belgium

No major change compared with the previous period.

Denmark

No information on this point in the report.

Germany

No change compared with the previous period.

Greece

Every year, usually in July, the Ministry of Agriculture publishes the "Annual Hunting Rules", which lay down the hunting seasons at the national level. In 1993 all species of geese (*Anser* spp. and *Branta* spp.) were taken out of the list of huntable species in Greece. This meant in effect the removal of *Anser fabalis* and *Anser albifrons* from the list, the other species of geese regularly observed in Greece already being protected.

In 1994 the main change concerned the reduction in the hunting season, closing on 28 February and not on 10 March as before. Also in 1994 the duck *Anas strepera* was taken off the list of huntable species. Four species were added to the list (*Pica pica*, *Corvus monedula*, *C. Corone* and *Sturnus vulgaris*) following the amendment of Annex II (see Directive 94/24/EEC) of the birds Directive.

Spain

No major change at Member State level compared with the previous period.

France

Two substantial changes during the period in question:

- The procedure for implementing Directive 79/409/EEC in France is based on a staggering of season closing dates during the month of February. After this procedure had been disputed on a number of occasions a bill was placed before the French Parliament on 15 July 1994 (Law No 94/591).
- Following the amendment of Annex II to Directive 79/409/EEC by Directive 94/24/EEC, Article R. 227-27 of the rural code was repealed in 1994. The species *Sturnus vulgaris*, *Pica pica*, *Corvus frugilegus*, *Corvus corone* and *Garrulus glandarius* which were the subject of this article are now considered to be huntable species and as such are covered by the decrees on hunting.

Ireland

No change compared with the previous period.

Italy

No major change compared with the previous period.

Luxembourg

No change compared with the previous period.

Netherlands

No change compared with the previous period.

Austria

Austria joined the European Union on 1 January 1995. The state of legislation, in particular as regards hunting practice, is shown in point 4.2 above.

Portugal

Decree-Law No 224/1993 of 18 June amends the list of species contained in the list of huntable species and thereby transposes into national law the amendments made to Directive 79/409/EEC by Directive 91/244/EEC.

Sweden

Sweden acceded to the European Union on 1 January 1995. The National Hunting Order lays down the periods during which hunting is authorised in the different regions of the country. As regards birds a distinction is made between "general hunting" and "protected hunting". The periods during which general hunting is permitted are shown in Annex 1 to the Order. The periods for protected hunting, intended to prevent damage caused by game, are set out in Annex 4. As a consequence of Sweden's accession to the EU, Annex 1 to Article ... of the Hunting Order has been amended as follows: summer hunting of *Scolopax rusticola* is now banned and its opening put back to 21 August; the opening of hunting of *Columba palumbus* is postponed from 1 August to 1 September; *Corvus Corone*, *Corvus monedula* and *Pica pica*, which could previously be hunted all the year round can now be hunted only between 1 August and 15 April; the opening of the hunting season for *Corvus frugilegus* is postponed from 10 May to 1 August; the general hunting season for *Phalacrocorax carbo* and *Corvus corax* has been abolished.

Finland

Finland joined the European Union on 1 January 1995. The new Finnish Hunting Law (Finnish Law Gazette 615/93) entered into force on 1 August 1993 and in preparing it account was taken of the birds Directive.

Of the species listed in Annex II/1 to Directive 79/409/EEC, *Alectoris graeca* and *Alectoris rufa* do not exist in Finland, *Anas strepera*, *Lymnocyptes minimus* and *Gallinago gallinago* are protected in Finland.

United Kingdom

No major change compared with the previous period.

A survey has been carried out to measure the impact which implementation of the Commission's proposed amendment to Article 7 of the Directive might have had. This amendment sought to allow the hunting season to be extended (by putting back the closing date). The JNCC and the DOE have shown before an ad hoc Committee of the House of

Lords that this proposal might have had harmful effects on the British populations of some migratory bird species. The report of the House of Lords Committee repeats the conservation arguments and recommends that the Community proposal be withdrawn.

September 1995 marks the start of the Government initiative to ban the use of lead shot for hunting in all wetlands for September 1997.

Article 8: State of legislation as regards Annex IV to the Directive

On the whole the Member States have adopted the necessary measures, often ahead of the Directive's entry into force. No major changes have been mentioned in the Member States' reports. It should, however, be noted that the provisions of Article 8 were formally brought into the German legislation in July 1994.

4.4. Major derogations from the system of protection which have appeared during the period in question, or which have disappeared or been amended (Article 9)

An annual compilation of the reports delivered by the Member States under Article 9 has been put together for the three years concerned.

Table 3. Number of derogations per Member State

	1993	1994	1995
BE (Belgium)	21	20	19
DK (Denmark)	12	12	17
DE (Germany)	99	118	169
GR (Greece)	4	4	4
ES (Spain)	51	58	72
FR (France)	39	34	33
IE (Ireland)	18	22	23
IT (Italy)	5	25	33
LU (Luxembourg)	4	0	0
NL (Netherlands)	29	31	27
AT (Austria)	*	*	7
PT (Portugal)	7	7	17
SE (Sweden)	*	*	32
FI (Finland)	*	*	4
UK (United Kingdom)	13	13	13

* All the Member States sent their reports to the Commission on an annual basis. Austria, Sweden and Finland became Member States in 1995.

Efforts have been made to simplify and standardise the procedure for communicating the derogations provided for in Directive 79/409/EEC. An information system has been developed, with a financial contribution from the Commission, by the JNCC Support Unit¹². This collection and display system has a database containing all the derogations sent to the European Commission by the Member States.

¹² The Joint Nature Conservation Committee is the reference body for the birds Directive in the United Kingdom.

5. RESEARCH AND ACCOMPANYING MEASURES (ARTICLES 10, 11 (13 AND 14))

5.1. Objectives of these articles

- The protection of wildlife species very often involves management of their habitats. This management assumes a good knowledge of the factors which influence or sometimes determine the presence of a species or group of species in a given habitat. This knowledge, the result of spot observations and methodical research, still very often contains gaps or imperfections. Against such a background the scientific research which forms the basis of purposive management of bird populations and habitats is one of the pillars of the general system of protection of wild birds. There is therefore a need to stimulate its development and coordination between Member States. Article 10 of the Directive requires the Member States to carry out research work for the protection, management and exploitation of bird populations. Annex V to the Directive establishes a list of priorities for this.
- Member States must see that any introduction of bird species which do not occur naturally in the wild state in the European territory of the Member States does not prejudice the local flora and fauna. Member States have to consult the Commission on any introduction project. Article 11 thus protects wild flora and fauna as a whole against unregulated introductions of species of bird that are not native to the European Union.

5.2. Research and necessary work undertaken by the Commission

Encouragement of research and of the work necessary for the protection, management and use of all the species of bird covered by Article 1.

At the Community level, during the period in question and thanks to the financial support of a three-year LIFE Nature project, BirdLife International in partnership with Wetlands International has drawn up action plans for the 23 globally threatened species present in Europe. These plans were published by the Council of Europe in October 1996¹³. The action plans supply information on their status, their ecology, the threats and the conservation measures in progress. They make it possible to define the conservation objectives clearly and to establish a priority action programme for each species. The 23 species concerned are also among the species given priority status in the LIFE Nature financial instrument. 25 projects focusing on actions identified as the most urgent for these species have already received financial support from the LIFE fund and its predecessors (see Table 4).

Table 4. Financial support for the 23 globally threatened bird species in Europe under LIFE¹⁴ and its predecessors ACE and ACNAT¹⁵ (from "Action plans for Europe's globally threatened bird species" in NATURA 2000 Newsletter No 2, December 1996).

Species	Number of projects	EC contribution in euro	Country involved
<i>Acrocephalus paludicola</i>	-	-	-

¹³ Heredia B., L. Rose and M. Painter (Eds.) Globally threatened birds in Europe - Action plans. Council of Europe publications, Strasbourg 1996.

¹⁴ LIFE Nature is the financial instrument supporting the European Union's environmental protection policy.

¹⁵ ACE (Action by the Community relating to the Environment) and ACNAT (Action by the Community relating to Nature Conservation) were the financial instruments which preceded LIFE Nature.

<i>Aegypius monachus</i>	1	135.000	Spain
<i>Anser erythropus</i>	1	400.000	Greece
<i>Aquila adalberti</i>	1	9.157.000	Spain
<i>Aquila heliaca</i>	-	-	-
<i>Branta ruficollis</i>	-	-	-
<i>Chlamydotis undulata</i>	1	170.000	Spain
<i>Columba bollii</i>	3	1.580.000	Spain
<i>Columba junoniae</i>			
<i>Fringilla teydea</i>			
<i>Columba trocaz</i>	2	950.000	Portugal
<i>Crex crex</i>	2	1.182.000	Belgium, France, Ireland, UK
<i>Falco naumanni</i>	-	-	-
<i>Larus audouinii</i>	1	494.000	Greece
<i>Marmaronetta angustirostris</i>	1	300.000	Spain
<i>Numenius tenuirostris</i>	3	494.000	Belgium, Greece, Italy
<i>Otis tarda</i>	5	3.649.000	Portugal, Spain
<i>Oxyura leucocephala</i>	1	20.800	Italy
<i>Pelecanus crispus</i>	1	120.000	Greece
<i>Phalacrocorax pygmaeus</i>	-	-	-
<i>Pterodroma feae</i>	1	800.000	Portugal
<i>Pterodroma madeira</i>			
<i>Pyrhula murina</i>	1	350.000	Portugal

N.B.: Some species will have also benefited from LIFE funds through projects which had other species or habitats as their principal objective.

During the period in question the ORNIS Committee also decided that management plans were a priority for huntable species with a poor conservation status. The first elements for these plans were put together during this period.

5.3. Research and required work undertaken by Member States

Information supplied by Member States is summarised below:

Belgium

- Long-term research continued (ringing especially).
- The research agreement aimed at drawing up recommendations for more rational rearing of bird species subject to trapping in order to improve these species' reproduction in captivity and thereby cut down the numbers of wild specimens captured was extended during the period in question.

Germany

The work and research were being carried out at *Land* level (see Annex 4 to Germany's report), and included:

- conservation and important habitat restoration programmes for Annex I species (e.g. Wadden Sea National Park);
- rescue plans for threatened species (e.g. *Ciconia ciconia*);

- the continuation of longer-term research programmes, such as the ringing of birds.

Greece

- Continuation of long-term research programmes (including ringing and midwinter waterfowl censuses);
- Scientific studies on the ecology and conservation of threatened species such as *Pelecanus crispus* and *P. onocrotalus*, *Falcio eleonora*, *Puffinus yelkouan*, *Calonectris diomedea*.
- Population survey of *Falco naumanni*.
- Emergency measures to protect *Numenius tenuirostris*.

Spain

Numerous bird population studies and monitoring efforts were carried out in Spain between 1993 and 1995, at the level both of the Directorate-General for Nature Conservation and of the autonomous regions:

- study of the impact of influenza on rabbit populations, the main food of numerous bird of prey;
- dispersal of young *Aquila adalberti*;
- dispersal of *Hieraaetus fasciatus*;
- lead poisoning in waterfowl;
- conservation plan for *Gypaetus barbatus*;
- reproduction strategy of *Otis tarda* and *Tetrax tetrax*;
- analysis of the status of *Pterocles sp.* in Spain.

France

The actions undertaken consist of:

- studies of population status and movements of threatened species (e.g. *Ciconia negra*, *Ciconia ciconia*, *Phoenicopterus ruber*, *Lanius minor*, *Branta bernicla*, *Crex crex*, *Grus grus*);
- programmes for reintroducing and increasing the populations of birds of prey, especially vultures (*Gypaetus barbatus*, *Gyps fulvus*, *Aegypius monachus* and *Neophron percnopterus*), but also preparation of a project for reproduction in captivity of *Hieraaetus fasciatus*;
- area surveillance programmes for threatened birds of prey in general and monitoring and rescue of broods of *Circus spp.* in agricultural environments;
- habitat management measures for *Grus grus*, *Sterna spp.*, *Crex crex*; establishing an action plan for *Athene noctua*;

- scaring or impact limitation measures for *Phalacrocorax carbo*, *Larus argentatus* in Brittany, *Branta bernicla*;
- censuses of wintering Anatidae and waders. For Anatidae an analysis of the reproduction chronology has also been set up;
- censuses of breeding populations of *Scolopax rusticola* and Alaudidae, Colombidae and Turdidae;
- for various species of Gallinaceous birds (*Alectoris graeca*, *Perdix perdix pyrenaica*) and Tetraonidae (*Tetrao urogallus*, *Tetrao tetrix*, *Bonasa bonasia* and *Lagopus mutus*) action plans to maintain and conserve the populations are under way.

Ireland

Specific measures were carried out in Ireland during the period 1993-1995 concerning:

- the conservation of terns, especially the roseate tern (*Sterna dougallii*) whose numbers in Ireland (616 pairs in 1995) are of international importance;
- setting up an emergency rescue plan for the corncrake (*Crex crex*);
- the control of disturbance factors and improvement of feeding habitats for the white-fronted goose (*Anser albifrons flavirostris*), together with the designation of SPAs in County Wexford and the upholding of the hunting ban, have brought about an increase in the population of this species;
- the grey partridge (*Perdix perdix*) of which there are only two viable cores still existing in Ireland, has been the subject of state-subsidised research. On the basis of this study a national conservation strategy has been developed.

Luxembourg

The actions undertaken consist of:

- ringing operations and surveys (on a voluntary basis: spot surveys of native and migratory species and continuation of field studies for the purpose of revising the Atlas of Breeding Birds, the first version of which dates back to 1984);
- subsidies for land purchase (120 ha bought between 1993 and 1995) and management of reserves;
- drawing up a red list for birds;
- pilot project to protect wetlands: compensation for farmers participating;
- pilot project, action plans and protection programme for threatened species (*Perdix perdix*, *Ciconia nigra*, *Crex crex*).
- measures for the management and protection of habitats (coppices for *Bonasa bonasia* and holes in trees for Picidae and other tree-dwelling species).

Netherlands

- A contribution, chiefly financial, was made to projects for the conservation and management of species in Annex I to the Directive.
- In 1994 a new red list for birds was started.
- The programmes for monitoring populations of breeding and migratory birds and research programmes using ringing of birds continued.

Finland

- A study of the development of all species of birds, including by ringing, has been organised by the National Natural History Museum.
- A threatened species register is kept by the Finnish Environment Centre. Amateur birdwatchers associations are contributing to these programmes. They are also operating about ten birdwatching stations where migration is studied and birds are ringed.
- Surveying of Important Bird Areas began in 1995 in the union of amateur birdwatchers' societies.
- Monitoring of populations of gamebird species and wide-ranging research on their ecology are being carried out by the Hunting Resources Research Institute.
- Programmes monitoring specific threatened species (*Haliaeetus albicilla*, *Falco peregrinus*, *Dendrocopos leucotos* and *Anser erythropus*) are being conducted by several groups, coordinated by the Finnish section of the Worldwide Fund for Nature (WWF).
- The agency responsible for forests is keeping an annual record of the reproductive success of *Aquila chrysaetos*.
- Ecotoxicological studies of wild birds are being carried out by the Veterinary College and the Institute of Veterinary Research.

United Kingdom

The JNCC (Joint Nature Conservation Committee) and the three regional agencies have continued their research projects on the conservation and management of bird populations.

- These projects include long-term monitoring of bird populations (including in particular the Common Bird Census, the Waterways Birds Survey, waterbird counts, monitoring of rare breeding birds, ringing of birds, etc.).
- “The New Atlas of Breeding Birds in Britain and Ireland : 1988-1991” was published in 1993. This uses the same 10 x 10 km grid squares as the 1968-1972 atlas, so that the situations in these two periods can be compared revealing significant changes in numbers and distribution areas between the two periods.
- A seabird population monitoring programme continued throughout the period.
- Numerous other specific studies on ecology and population dynamics and analyses of the conservation needs of the species were also carried out.

5.4. Introduction of bird species which do not occur naturally in the wild state in the European territory of the Member States

Information supplied by Member States is summarised below:

Germany

No non-native bird species were deliberately introduced into Germany between 1993 and 1995.

Greece

No exotic species were deliberately introduced into Greece between 1993 and 1995.

Spain

Various species were introduced for hunting purposes. These were in particular *Phasianus colchicus* and *Coturnix japonica* in numerous regions, but also *Francolinus francolinus*, *Lophoryx californica* and *Colinus virginianus* in the Balearic Islands and *Perdix perdix* (increasing the population) in the Basque Country.

A South American species of parrot, *Myopsitta monachus*, has established itself accidentally without being deliberately introduced. It seems to be posing some problems, especially in the Balearics and Catalonia.

Sweden

No deliberate introductions of exotic species into Sweden during the period are mentioned (1995).

Finland

The law prohibits the introduction either of gamebird species or of protected species without the authorisation of the competent authorities. No such authorisation for the period concerned (1995) is mentioned in the report.

United Kingdom

No exotic species were deliberately introduced into the United Kingdom during the period.

A study of the potential ecological impact of *Branta canadensis* on native flora and fauna has been carried out by the DOE.

A feasibility study of methods to be used for controlling populations of *Oxyura jamaicensis* was financed. This study showed that various means were available for doing this and that the most effective were population controls in the breeding season. The most effective methods were tested at the regional level in 1995.

The need to collect data on exotic species was taken into account and the JNCC is trying to gather such information via the national ornithological bodies. The results of these surveys will make it possible to comply better with Article 11 of the Directive.