

**COMPOSITE EUROPEAN COMMISSION REPORT ON  
DEROGATIONS IN 2007-2008 ACCORDING TO  
ARTICLE 16 OF DIRECTIVE 92/43/EEC ON THE  
CONSERVATION  
OF NATURAL HABITATS AND OF WILD FAUNA AND  
FLORA (THE HABITATS DIRECTIVE)**

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## **Introduction**

According to Article 16.1 of the Habitats Directive (92/43/EEC), the Member States (MS) may derogate from the protection provisions of the Directive (Articles 12, 13, 14 and 15). Derogations may be issued provided that there is no other satisfactory alternative and that they are not detrimental to the maintenance of the species populations at a favourable conservation status in their natural range.

Member States shall (ref Art. 16.2) forward to the Commission every two years a report in accordance with the format established by the Committee on the derogations applied under Art. 16.1.

This composite report provides an analysis of the Member States biennial reports covering the period 200-2008 giving an assessment of the conformity of these derogations with the protection measures of the Habitats Directive.

The report is based on the national reports submitted to the EC Commission from 24 of the EU Member States. Cyprus, Greece and France did not send any report to the EC.

## 1 Methodology

Twenty-four national reports on derogations issued 2007 and 2008, according to art.16 of the Habitats Directive, have been assessed. All derogations have been systematically scrutinised looking for high numbers of licenses, species, country specific reasons or methods, allowed activities. The evaluation has been carried out in different steps:

*a) checking of the completeness of the national reports submitted*

A formal check of the reports has been carried out in order to verify the use of the official 'model of report according to Art. 16.2' provided to MS by the EC and whether all the needed information was provided.

*b) checking of the number of derogations and of licenses issued*

The control has been carried out to evaluate how often each MS has used prerogative. Also the historical trend of the derogations issued has been taken into consideration.

When a national report did not include information on the number of licenses issued per derogation, it was assumed that only 1 license is covered by each derogation (i.e. 1 derogation = 1 license).

*c) checking of the reasons for which the derogations have been issued*

Derogations under art. 16.2 of the Habitats Directive can be granted only for specific reasons, listed in table 1 and, more in detail, in annex A. The consistency with provisions of the Habitats Directive has been verified.

Derogations issued for scientific research and educational purposes and to protect wild flora and fauna and natural habitats were *a priori* considered as compatible with the Directive since they usually do not affect the conservation status of the species population. Only in very few cases, when the derogation included killing of individuals, they were analysed in more detail.

**Table 1.** Main standardised codes for derogation reasons

Code	Reasons reported in art. 16.1 of the Habitats Directive
40	(a) in the interest of protecting wild fauna and flora and conserving natural habitats
30	(b) to prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property
10	(c) in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment
50	(d) for the purpose of research and education, of repopulating and re-introducing these species and for the breeding operations necessary for these purposes, including the artificial propagation of plants
60	(e) to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species listed in Annex IV in limited numbers specified by the competent national authorities.

*d) checking of the alternative solutions*

Derogation may be granted provided that no alternative solutions exist. When the national report did not provide this information, it was assumed that no alternative solutions existed.

e) *checking activities and methods permitted*

Derogations can allow only some specific activities and methods, respectively listed in tables 2 and 3 and, more in detail, in annex B.

Derogations allowing impacting activities, such as killing of individuals, destruction of breeding sites or resting places, were analysed in more detail in order to establish the eventual impact on the conservation status of the species concerned.

**Table 2.** *Main standardised codes for authorized activities.*

Code	Main permitted activity
20	Deliberate capture in the wild
30	Deliberate killing in the wild
80	Deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration
100	Deliberate destruction or taking of eggs from the wild
120	Deterioration or destruction of breeding sites or resting places
50	Keeping (in captivity)
130	Transport
110	Marketing
140	Deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the wild.

**Table 3.** *Standardised codes for methods.*

Codes	Method
BTH <sup>1</sup>	Firearms
BTH	Traps
BTH	Nets
BTH	By hand
HSD <sup>2</sup>	Methods complying with Conservation of Seals Act 1970 (UK)
HSD	Hand-held Tools
HSD	Bottle and pitfall traps
HSD	Hand and noose
HSD	Live traps (not using blind/mutilated animals and decoys)
HSD	Seed collection
HSD	Translocation of eggs by hand
HSD	Surveying
HSD	Photography

f) *checking the species and the number of individuals affected*

All the species affected by derogations have been analysed in order to establish the eventual impact on their conservation status.

Where significant areas of concern were identified, risking that the species conservation status might be put into question, for instance exceptionally large number of derogations for one particular species, detailed analysis of the dimension of the population, of its numerical trend and of the area of distribution at national and EU level has been carried out. For this analysis, recognised sources of

<sup>1</sup> BTH means that the activity can be used for derogations under the Birds and Habitats Directives.

<sup>2</sup> HSD means that the activity can only be used under the Habitats Directive.

information (IUCN database, Member State population assessments and action plans, scientific publications) have been used. Derogations on species for which a MS has been already warned have been examined with greater detail.

In some cases there is an ambiguity on whether the data provided relate to the number of individuals actually taken, or to the maximum numbers allowed for taking. In these cases, it was assumed that data referred to individuals actually taken.

## 2 Overview of derogations across the EU

A comparison of derogations across the EU has been made in order to draw an overall picture of the derogations granted. However, this overview should be considered very cautiously and be interpreted in close connection with the analysis of the individual MS reports as often special national conditions strongly affect the overall picture and/or information on specific issues is not provided precisely.

The Member States' reports are very variable both in terms of the accessibility of the reports (format, language and readability) and the quality of the data provided. For example, the official standard 'Model of report according to Art. 16.2' is not always used, the different standard codes for "reasons", "activity" and "method" are in some cases not applied but explained in sentences of varying precision and often information on the number of individuals affected is missing. Only 15 out of 23 MS have presented their own report using the Habides system, which was facultative in this biennial (from 2009-2010 it will be obligatory).

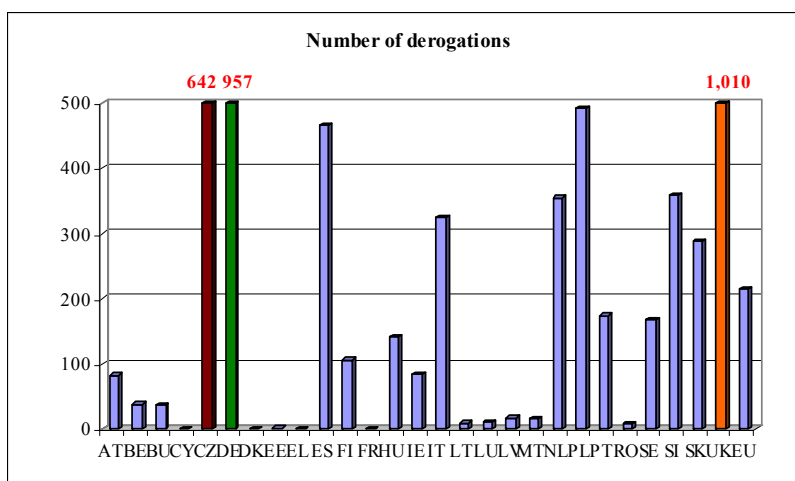
In a number of cases data provided on the species are too generic to allow for a sound assessment of the derogation. For instance, it is not uncommon that a single derogation covers several species and in some cases even a whole taxonomic group vaguely defined as e.g. "reptiles", or "plants", or "*Coleoptera*". In other cases the species are not indicated using the Latin name but with trivial national names. Finally some derogations concern species that are not covered by the Directive or even alien species.

Notwithstanding the points raised above none of the Member States' derogations are in apparent conflict with the species protection measures of the Habitats Directive.

In total 5.790 derogations were issued by Member States authorities within the biennial period, an average of 214 derogations per Member State.

The distribution of the derogations issued by the Member States is shown in Chart 1. As evident their number varies considerably, from two derogations granted in Estonia to several hundreds in others, such as Germany and Poland. With 1.010 derogations the United Kingdom is the country that issued the highest number of derogations in the biennial.

**Chart 1.** Number of derogations issued by each MS in 2007-2008.

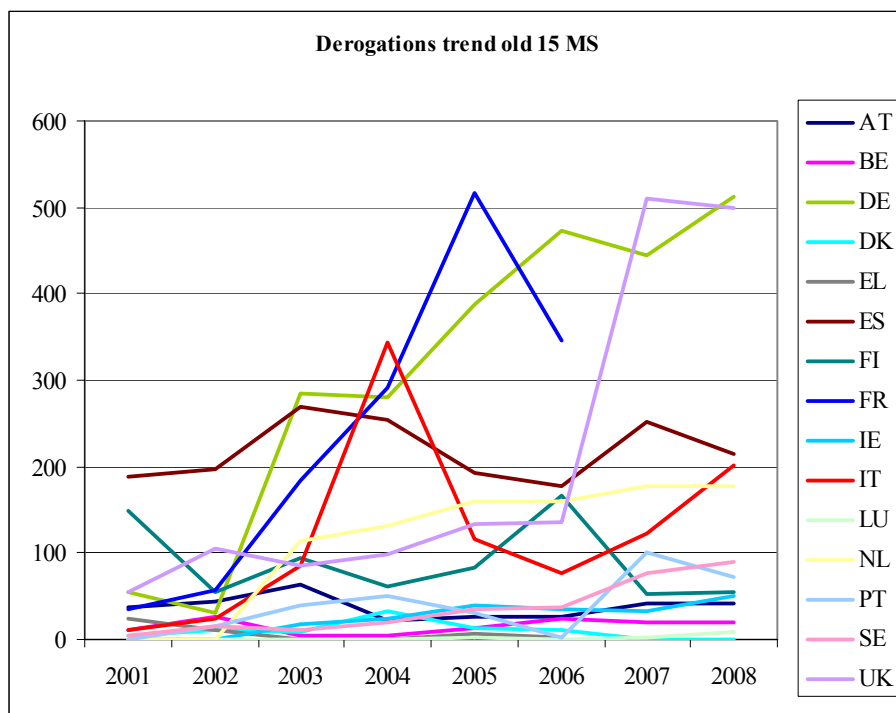


Cyprus, Greece and France did not send any report to the EC.

The number of derogations granted by MS from 2001 to 2008 varies considerably (Charts 2 and 3). Austria, Belgium, Estonia, Ireland and Latvia issued almost the same number of derogations, while other countries show very different numbers. Germany, Sweden and the Netherlands significantly increased the number of derogations: from the initial 50 derogations issued in 2001, to almost 500 in 2008 in the case of Germany, from 5 to 90 for Sweden and from 0 to more than 170 in the case of the Netherlands. Also Finland shows an increasing trend until 2006, when granted 166 derogations, and then decreased this number to 52 and 54 derogations granted in 2007 and in 2008 respectively. Italy and Spain show a mirror trend: while the number of derogations in Italy decreases from 2002 to 2005 and then re-increases, the number of derogations in Spain increases during the same years and then decreases. In both countries the number of derogations increased in this biennial.

In 2007-2008, the UK significantly increased the number of derogations of four times and the Portugal five times in comparison with the previous biennial.

**Chart 2.** Number of derogations issued by old 15 MS during the period 2001-2008.

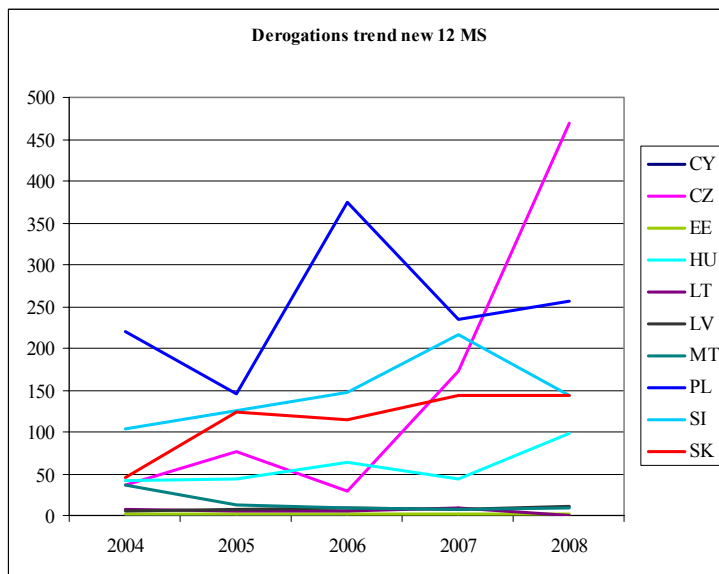


The number of derogations issued in Austria, in the Netherlands and in the United Kingdom is an estimate, as it was not possible to breakdown the derogations per year. Cyprus, Greece and France did not send any report to the EC.

Lithuania from 2004 to 2007 issued an average of 8 derogations per year and in 2008 it did not issued derogations. Slovakia and Slovenia (with a peak in 2007) gradually increased the number of derogations during the five years period. Hungary follows a similar trend but whit higher number of derogations issued per year. Poland shows a wave trend with a peak in 2006.

The Czech Republic has issued a number of derogations (642) six times higher than the previous biennial (106). Malta granted a relatively high number of derogations only in 2004 (36) and afterward it grants an average of 10 derogations per year.

**Chart 3.** Number of derogations issued by new 10 MS during the period 2001-2008.



The number of derogations issued in Slovakia is an estimate, as it was not possible to breakdown the derogations per year. The MS that acceded to the EU in 2007, Bulgaria and Romania, have not been considered in this graphic due to the lack of information relative to the period 2004-2006. Cyprus did not send its report to the EC.

There is a considerable difference between the number of derogations and the number of licenses issued per derogation and sometimes a single derogation covers several licenses. The main difference between the two indicators is evident in the Spanish and British reports, where a single derogation includes up to hundreds of licenses.

According to the data provided by the national reports, about half of derogations are issued “for research and education purposes, of repopulating and re-introducing these species and for the breeding operations necessary for these purposes, including the artificial propagation of plants”. This reason is broadly distributed among the MS. Most of these derogations allow capture of specimens followed by immediate release for species identification, marking/tagging. They usually concern inventories, census or genetic analyses or study on population dynamics to increase the knowledge on species listed in the Habitats Directive and/or to allow the restocking of eroded populations.

Another substantial number of derogations was issued ‘in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment’ (code 10). These derogations mainly affect bats allowing the destruction of resting places in particular in Germany, The Netherlands and Hungary, but are also used in Slovakia to kill the brown bear and to sell *Helix pomatia* (the latter also in Poland).

The derogations issued in the interest of protecting wild fauna and flora and conserving natural habitats (code 40) are particularly used in the United Kingdom. The activities authorized under this reason mainly address the conservation and protection of the derogated species (i.e. keeping and caring for wounded animals in rehabilitation centers, capture and following release to avoid the accidental killing, relocation of individuals).

The derogations connected with the prevention of serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property (code 30) were issued for species with significant impact on different sectors, such as *Castor fiber* on crops and water in Germany and Poland, *Ursus arctos*, *Canis lupus*, *Lynx lynx* and *Felis silvestris* on livestock in Romania.

Almost all derogations granted “to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species listed in Annex IV in limited numbers specified by the competent national authorities” (code 60) have been issued to allow for the selective killing of different species, such as in Sweden the *Lynx lynx* and *Ursus arctos*.

Non-destructive and/or reversible activities such as capture, disturbance, keeping, and transport are broadly applied among the five main reasons for derogation. Killing of specimens is mainly applied to prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property and, in some cases, to justify the annual harvesting quota relative to a species.

Mammals are the most derogated class followed by amphibians. More than half of the derogations concerning mammals affect different species of bats, while the other concern *Lynx lynx*, *Canis lupus*, *Ursus arctos* and *Castor fiber*, etc. Derogations affecting plants and insects are the minority.

### 3 Member State reports

A summary of the analysis of the Member States derogation reports is provided below.

#### 3.1 Austria

The nine Austrian Landers granted a total of 83 derogations.

The greatest part of the derogations (65) have been issued for the purposes of research and education, and in particular to carry out the assessment of population condition of certain species and their conservation status, to monitor species, to carry out genetic and radio telemetry studies, to acquire biometric data, to inventory summer and winter roosts, to create a List of species. The main activities allowed for these purposes are capture, capture for marking or ringing, collection of tissue samples of different animal species and picking and collecting plant species.

14 derogations, all issued in the Province of Styria, have been granted to allow the capture and subsequent release of different species of wild fauna in the interests of their protection, in the context of the environmental impact assessments of infrastructural projects, such as the realization of power stations or the Ennstal road (B 320).

Another 10 derogations were issued to permit accidental killing, temporary use of habitats, damage to breeding sites or resting places, plant destruction and sinking of beaver dam, in the interests of public health and public safety, or for other imperative reasons of overriding public interest, such as building protection, construction of a barrage bridge, construction of residential buildings, rebuilding of the railway station or expansion of the railway line S 80.

Most of the derogations affect several species. In most cases the species concerned is not indicated, but a higher taxonomic level (e.g. *Microchiroptera*, *Odonata*, *Lepidoptera*, *Coleoptera*, amphibians, reptiles, insects, fishes, plants, small mammals, invertebrates), too generic to assess if the species or group of species concerned are covered by the Directive. Some derogations concern species not included in the Directive, such as *Unio pictorum* and *Orobanche arenaria*.

The number of individuals affected is not provided or is “undetermined” in the great part of the derogations. In many cases the number of licences is not indicated; but when it is only few licenses (1 - 7) are issued per derogation.

The report has not been submitted using Habides, nor does it follow the standard format. The different Landers have compiled different derogations forms in different ways. Moreover, different categories are given in words and not by means of standard codes, increasing the risk of misinterpretations.

In conclusion, beyond the points raised above, none of the Austrian derogations seems in apparent conflict with the species protection measures of the Habitats Directive.

### 3.2 Belgium

A total of 39 derogations were issued in the period 2007-2008 (19 in 2007 and 20 in 2008). However, it seems that only the Flemish Government has sent to the EC its derogation report.

The main reason for derogations is for the purpose of research and education (28 derogations). The remaining derogations were granted in the interest of public safety, for other imperative reasons of overriding public interest, including those of an economic nature and for the protection of flora and fauna. One derogation has been issued for the purposes of breeding operations necessary for teaching, restocking and reintroduction of *Cricetus cricetus*.

Only one derogation allows for killing: it concerns an unspecified number of “eggs” of *Bufo calamita*.

Several derogations concern more than one species, and sometimes generic terms are used, such as Soricidae, Mammals, Chiroptera, etc. This does not allow a real assessment of the derogations. The report indicates that “0” licenses have been granted by each of the derogations.

The derogation report has been submitted using the Habides system, however the following fields are missing:

- Number of individuals taken
- In some cases activity allowed
- In some cases dates of validity
- Location
- Number of licenses
- Method used
- Impact on population
- Size of population
- Alternative solutions

In conclusion, none of the derogations granted seem in conflict with the species conservation measures of the Habitats Directive.

### 3.3 Bulgaria

This is the first report for Bulgaria.

A total of 37 derogations were granted (11 in 2007 and 26 in 2008) all by the Ministry of the Environment and Water.

About half of derogations have issued for research purposes. The reasons used in the remaining derogations are to prevent serious damage to livestock, for other imperative reasons of overriding public interest, including those of an economic nature and to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking of certain specimens of the species listed in Annex IV in limited numbers specified by the competent national authorities.

Each derogation covers a period that is often of several months or, in some cases, longer than one year.

In almost all cases one derogation affects just one species with the exception of seven derogations granted for capture, keeping in captivity, ringing or collection of dead specimens of several bat species. One derogation was granted to allow the capture of several amphibian species. Other concerned species are:

- eight derogations (for a total of 18 licences) affected *Rupicapra rupicapra balcanica*; five derogations were granted for the killing of a total of 54 individuals for imperative reasons of overriding public interest, including those of an economic nature” and “to allow, under strictly supervised conditions, the taking of certain specimens of the species listed in Annex IV”.

This corresponds to 2% of the total population (2.436). The report indicates the application of strictly supervised conditions, consisting in granting permits only for licensed hunters, for restricted periods, differentiating between females and males specimens. No alternative solutions were found.

Seven individuals were captured and kept in captivity for the protection of wild fauna, for the purposes of repopulating these species.

- 19 derogations (for at total of 23 licences) affected *Ursus arctos* specimens. Eleven derogations allowed the killing of six individuals. This figure corresponds to 1% of the total population (550). Strictly supervised conditions are indicated (permits allowed only for licensed hunters and restrictions of areas) and no alternative solutions were found.

Eight derogations were granted for the capture, marking with GPS transmitters and transport of 4 individuals.

- one derogation was granted to capture, transport, keep in captivity, mark and remove 248 individuals of *Testudo hermanni* and *Testudo graeca* from the areas subject to construction investment activities. Strictly supervised conditions (as the areas of release and the prohibition of trade) and selective basis (for temporary or permanent keeping) have been foreseen.

- one derogation was granted to allow the capture and transport of seven individuals of *Myotis myotis*.

The report has been submitted using Habides and in quite complete.

In conclusion, none of the Bulgarian derogations is in apparent conflict with the species protection measures of the Habitats Directive.

### **3.4 Cyprus**

Not received.

### **3.5 Czech Republic**

A total of 642 derogations were granted in 2007-2008 (172 in 2007 and 470 in 2008), a figure quite higher compared to the previous biennial report, when 106 derogations were granted.

The reasons most frequently used are:

- In the interests of public health and public safety, or other imperative reasons of overriding public interest: used 386 times, of which 86 in 2007 and 300 in 2008.
- For the purposes of research and education, of repopulating and reintroducing these species and for the breeding operations necessary for these purposes, including the artificial propagation of plants: used in 84 derogations (25 in 2007 and 59 in 2008).
- In interests of protecting wild fauna and flora and conserving natural habitats: used 66 times (27 in 2007 and 39 in 2008). The related activity is almost always the deliberate disturbances together with the capture and/or the deterioration or destruction of breeding sites or resting places and/or the transport in order to transfer the concerned species.
- To prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other type of property: 62 derogations (19 in 2007 and 43 in 2008) were granted under this reason.

The most frequent activities associated to the different reasons are the deliberate disturbance of the species, particularly during the period of breeding, rearing, hibernation and migration and the deterioration or destruction of breeding sites or resting places. In some instances (11 times), code 70, which is not foreseen in the standardised code for authorized activity, is used as an activity for research purposes.

Sometimes different reasons (up to four) or several activities (up to six) are covered by the same derogation. 16 derogations do not provide the reason for derogating and 23 the permitted activity.

Some derogation were issued for an unlimited period of time or for more than one year, up to 44, while other 164 derogations do not provide the end of the period of validity. Since none of the permissions give information on the number of licenses issued it is assumed that only one license is issued per permission.

One derogation often covers more than one species (up to 33). While this can be justified when the concerned species are similar as belonging to the same class or order (e.g. amphibians, reptiles, bats, etc.), it is not the case when the same derogation covers unrelated species (e.g. plants and animals, vertebrates and invertebrates, reptiles and mammals, or even amphibians, mammals and molluscs), or even species covered by both Habitat and Birds Directives. 14 derogations do not indicate at all the concerned species. Other times the species is generally identified as “specially protected species”, “unspecified plants and animal”, “mammals”, “animals”, etc.

Most of the license derogations concern a usually not stated number of individuals of different species of amphibians (*Bombina bombina*, *Bufo viridis*, *Rana* spp., *Hyla arborea*, *Triturus cristatus*, *Pelobates cuscus*, etc.), reptiles (*Lacerta viridis*, *L. agilis*, *Natrix tessellata*, *Elaphe longissima*, *Podarcis muralis*, *Coronella austriaca*), freshwater crayfishes (*Astacus astacus*, *A. leptodactylus*, *Austropotamobius torrentium*) and bats: 262, 148, 117 and 63 derogations were respectively granted mainly to allow the disturbance and destruction of breeding/resting sites in the interests of public health and public safety, or other imperative reasons of overriding public interest.

Only a small number of derogations involve some mammalian species, mostly allowing for disturbance, capture, stuffing and killing of an unknown number of *Lutra lutra* (57 derogations), disturbance, deterioration or destruction of breeding sites of *Castor fiber* (31 derogations), *Cricetus cricetus* (7 derogations), *Spermophilus citellus* (10 derogations), *Mustela eversmanii* (1 derogation), *Muscardinus avellanarius* (5 derogations) and *Glis glis* (2 derogations). The latter species is not listed in any Annex.

Other concerned species are the following:

- Dragonflies (*Ophiogomphus cecilia*, *Stylurus flavipes*, *Sympecma braueri*, *Leucorrhinia* spp.), Beetles (*Dytiscus latissimus*, *Cerambyx cerdo*, *Rosalia alpina*, *Osmoderma eremita*, *Cucujus cinnaberinus*) and Butterflies (*Maculinea* spp., *Lycaena dispar*, *Parnassius mnemosyne*, *Apatura*, *Proserpinus proserpina*): 53 derogations
- Mussels (*Unio crassus*, *Margaritifera margaritifera*, *Anodonta cygnea*): 30 derogations
- Plants (*Adenophora lilifolia*, *Cerastium alsinifolium*, *Asplenium adulterinum*, *Coleanthus subtilis*, *Gladiolus palustris*): 18 derogations.

Some derogation (7 in 2007 and 16 in 2008) were granted for killing a few species:

- for research and education purposes: *Maculinea* spp. (3 derogations), *Proserpinus proserpina* (2 derogations), *Lutra lutra* (1 derogation);
- in the interests of public health and safety, or for other imperative reasons of overriding public interest: *Astacus astacus* (2 derogations);
- to prevent serious damage: *Unio crassus* (2 derogations);
- not specified reason: *Hyla arborea* (1 derogation and 60 individuals).

The Czech derogation report has not been submitted using the Habides system, but an excel table that does not include many of the fields required: alternative assessed, number of licenses, populations, impact on population, strictly supervised conditions, selective basis and supervisory measures. On the other hand the table includes the fields "Time conditions" and 'Materials' in addition to the requested ones.

More than 608 derogations do not provide the number of licensed individuals (the maximum number of individuals to be taken), and 591 derogations do not indicate the number of individuals actually taken. While it is understandable that the number of individuals involved is not always predictable when derogations are granted to allow works (493 derogations) of construction or reconstruction of roads, buildings, ski centres, works within river beds, ponds, flood control measures, etc., it not clear why the number of individuals actually taken after the execution of the derogations is not provided.

This lack of information, in combination with many other frequently missing data (reason, permitted activity, taking method, species, alternative solutions, controls which have been carried out, population and impact on population) makes it difficult to judge whether there is a risk for the concerned species' conservation status and whether derogations are adequately justified.

In conclusion even though the report is lacking of some of the information needed, none of the Czech derogations would seem to be in apparent conflict with the species protection measures of the Habitats Directive.

### 3.6 Denmark

Only one derogation was granted in the biennial 2007-2008 for the protection of wild fauna and for the purpose of research and education, of repopulating and re-introducing of 13 species of amphibians (*Bufo viridis*, *Hyla arborea*, *Bufo calamita*, *Rana ridibunda*, *Triturus cristatus*, *Rana arvalis*, *Pelobates fuscus*, *Rana dalmatina*, *Bombina bombina*), reptiles (*Lacerta viridis*) and insects (*Dytiscus latissimus*, *Graphoderus bilineatus*, *Aeshna viridis*).

The derogation was issued to allow the capture and keeping in captivity of 690 individuals and the deliberate taking of 15.340 eggs. The individuals/eggs per species is not indicated and, according to the report, the exact actually number taken number is not known.

The report uses the Habides format and provides all requested information.

In conclusion, the report is clear and the Denmark's derogation is not in apparent conflict with the species protection measures.

### **3.7 Estonia**

Only two derogations were issued in the biennial. Both derogations have been granted for killing bears to prevent serious damage to bee farming and to "allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking of certain specimens of the species listed in Annex IV in limited numbers specified by the competent national authorities".

The activity allowed is presumably killing but it is indicated with the number 34, which is not foreseen in the format's standardised code, and the taking method is generically indicated as BTH (meaning that the method can be used for derogations under the Birds and Habitats Directives).

The report specifies that "the determinate sustainable harvest rate was based on annual monitoring data and applied research made by Centre of Forest Protection and Silviculture" and that "date, localization, body measurements, sex, age, generative organs and DNA samples were taken from all individuals shot".

As follow up the Estonian derogations foresee that "damages and carcasses are checked by experts".

40 licenses were granted in 2007 and 48 in 2008.

Based on the information provided, 27 individuals in the year 2007 and 37 in the 2008 have been killed. According to the report the number of individuals killed is lower than the annual harvesting quotas relative to the two years: 40 individuals for 2007 and 48 individuals for 2008. Information from the Bear online information system for Europe shows that the number of bears killed is in line with the average of the previous years (2000-2006). Considering that the Estonian population of the brown bear amounts to around 500-600 individuals the derogations seem not in conflict with the protection of the species.

The Estonian report follows the EU Commission format and provides all requested information. The report for this biennial is identical in almost every field (except for the number of bears killed) to the one provided for the period 2005-2006.

In the field "alternative solution" it is stated that "State compensates damage made by Brown Bear and subsidises the damage prevention", but it is not clear if this solution is effective as alternative to killing.

In conclusion, the Estonian derogations are not in apparent conflict with the indications of the Habitats Directive.

### 3.8 Finland

In Finland 52 derogations were granted in 2007 and 54 in 2008, for a total of 106 derogations, a figure more than half smaller than the previous two years, when 250 derogations were issued.

The Finnish derogations are reported by the Ministry of the Environment when they concern the “Protected species under the Nature Conservation Act”, and by the Ministry of Agriculture and Forestry (MMM), when they concern the “game species and unprotected species under the Hunting Act”.

The Nature Conservation Act protects all species of birds and mammals not specifically listed as ‘game species or unprotected species’ in the Hunting Act. Game animals which are listed in the Annexes of the Habitats Directive are protected under the Hunting Act, which implements the provisions of the Directive. The Hunting Act includes the wolf, the bear, the lynx and the otter among the ‘game species’.

85 derogations (41 in 2007 and 44 in 2008), concern animal and plant species legally protected in Finland under the Nature Conservation Act, while the remaining 21 derogations (11 in 2007 and 10 in 2008) involve the ‘game and unprotected species’.

The great part of the ‘protected species’ derogations (75, of which 35 in 2007 and 40 in 2008) were given “for the purposes of research and education, and of repopulating”. These derogations have authorized:

- capture, capture for keeping in captivity, ringing, deliberate disturbance during the period of breeding or rearing of different species of mussels (18 derogations), butterflies, dragonflies and beetles (13 derogations), amphibians (13 derogations), bats (12 derogations), *Phoca hispida saimensis* (6 derogations) and *Pteromys volans* (2 derogations). The two latter species are both listed as priority species in the Annexes II and IV.
- deliberate picking and collecting of different plant species (11 derogations).

The remaining 10 derogations (6 in 2007 and 4 in 2008) concerning ‘protected species’ were granted “in the interests of public health and safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature”. They allow the “deliberate uprooting and destruction” of plants (5 derogations) and the “destruction of breeding sites or resting places” of *Pteromys volans* (3 derogations), *Rana arvalis* (1 derogation) and different species of bats (1 derogation).

21 derogations (11 in 2007 and 10 in 2008) concern the following ‘game species’: wolf (*Canis lupus*), brown bear (*Ursus arctos*), lynx (*Lynx lynx*) and European otter (*Lutra lutra*).

According to the Habitats directive, the Finnish wolf populations within the reindeer husbandry areas of northern Finland are included in Annex V. Conversely, the Finnish populations of wolf outside the reindeer management areas, together with the brown bear, the lynx and the otter are all listed in Annex IV of the Habitats Directive, and thus they are all strictly protected ‘game species’ throughout the year under the Finnish Hunting Act.

For the protected ‘game species’, the MMM sets the maximum annual harvesting quota on the basis of yearly estimates of the species population densities provided by the Finnish Game and Fisheries Research Institute. The quota represent maximum permissible human-caused mortality.

All derogations related to the ‘game species’ are granted in order to control their populations through the killing activity. A total of 566 individuals (267 in 2007 and 299 in 2008) were killed, a number quite higher compared with the previous biennial, when 399 individuals were killed. In particular:

- 6 derogations and 203 licences (98 in 2007 and 105 in 2008) were issued for allowing the killing of 179 bears (89 in 2007 and 90 in 2008) in the interests of public safety, to prevent serious damage to livestock and to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking of certain specimens of the species listed in Annex IV in limited numbers specified by the competent national authorities;
- 6 derogations and 103 licences (67 in 2007 and 36 in 2008) were issued for allowing the killing of 63 wolves (47 in 2007 and 16 in 2008) in the interests of public safety and to prevent serious damage to livestock;
- 6 derogations and 372 licences (137 in 2007 and 235 in 2008) were issued for allowing the killing of 304 lynxes (119 in 2007 and 185 in 2008) in the interests of public safety, for imperative reasons of overriding public interest, including those of social nature (code 13) and to prevent serious damage to livestock;
- 3 derogations and 115 licences (60 in 2007 and 55 in 2008) were issued for allowing the killing of 20 specimens of otter (12 in 2007 and 8 in 2008) to prevent serious damage to fisheries.

The following table shows the data related to these ‘game species’ in comparison with recent years.

Species	Killed Individuals								Total
	2001	2002	2003	2004	2005	2006	2007	2008	
<i>Ursus arctos</i>	101	95	71	74	72	78	89	90	<b>670</b>
<i>Lynx lynx</i>	58	38	52	67	95	92	119	185	<b>706</b>
<i>Canis lupus</i>	6	11	14	24	26	21	47	16	<b>165</b>
<i>Lutra lutra</i>	12	25	27	7	28	17	12	8	<b>136</b>
<b>Total</b>	<b>177</b>	<b>169</b>	<b>164</b>	<b>172</b>	<b>221</b>	<b>208</b>	<b>267</b>	<b>299</b>	<b>1.677</b>

While the number of otters killed in 2007-2008 (20 individuals) is decreased when compared with the previous two-year periods (the number of otters killed is halved in comparison to 2005-2006), the number of wolves and lynxes killed is progressively increased. These increases are notable: the wolves and the lynxes killed in 2007-2008 are respectively almost quadrupled and more than tripled in respect of 2001-2002. The killed bears show a fluctuating trend: the individuals killed in 2007-2008 (179 bears) are about 20% higher than the periods 2005-2006 (150 bears) and 2003-2004 (145 bears), but 10% lower than 2001-2002 (196 bears).

Despite the slight decline suffered in 2006 when the bear population decreased by 1% compared to the previous year, the bear population size had grown from 810-860 to

920-980 individuals in the period 2005-2008<sup>3</sup>, with an increase of about 14% and an average annual rate of 4,5%. In the same period the number of breeding pairs is increased from 95-100<sup>4</sup> to 130-145.

The number of bears killed in 2008 (90 individuals) is around 9% of the entire population in the same year. Such a percentage is the same as 2005.

The lynx population has grown steadily in recent years and since 2005 it has grown about 72% by 2008, rising from 1.100-1.200 to 1.905-2.060 individuals<sup>1</sup>.

The total number of lynxes killed by the way of derogations in 2008 (185 lynx) corresponds to around 9% of the entire population in the same year. According to Kojola (2003) a sustainable hunt is about 10-13% of the population<sup>5</sup>.

The otter population has increased considerably during the past years and at the end of 2005 Finland's otter population consisted of an estimated 2.500 individuals. According to the Finnish report the number of otters is remained at 2.500 individuals in 2008.

The total of the permitted number of otters killed in 2008 (8 otters) amount to 0,32% of the whole population in the same year.

The growth of the wolf population in Finland shows large fluctuations around the size of 200 individuals, depending on killing. According to the Management Plan for the Wolf in Finland<sup>6</sup>, an overall population of 150-200 wolves corresponds to 20 breeding pairs, which is the minimum viable wolf population (MVP) in Finland (Liberg 2005). However, the guidance document "Assessment, monitoring and reporting under article 17 of the Habitats Directive" states that "*MVP is by definition – and in practice lower – from the population level considered at favourable conservation status*". The guidelines state that an MVP is only "*a proxy for the lowest tolerable population size*" that can be considered. Therefore, an MVP must be regarded as the absolute minimum population size that can be tolerated as a preliminary level for favourable reference population. Moreover, the report does not specify the conditions under which wolves could be hunted, namely a properly ascertained connection with individuals causing significant damage or so-called "troublemaker" individuals.

The number of killed individuals of bear, lynx and otter seems consistent with the growth trend in their populations, while the withdrawal of wolves seems to delay the achievement of a "favourable conservation status" of the population.

Some derogations for killing 'game species' were granted for the entire year. For all game animals, alternative measures (e.g. using of electrical fences, means for disturbance and/or frightening, compensation for damage) were considered not sufficient or not economically feasible. The impact on population is never indicated in the case of "game species".

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<sup>3</sup> Wikman, M. (ed.) 2009. Monitoring game abundance in Finland in 2009. *Riista- ja kalatalous – Selvityksiä 18/2009*. 48 p.

Wikman, M. (ed.) 2008. Monitoring game abundance in Finland in 2007. *Riista- ja kalatalous – Selvityksiä 5/2008*. 36 s.

Wikman, M. (ed.) 2008. Monitoring game abundance in Finland in 2008. *Riista- ja kalatalous – Selvityksiä 18/2008*. 48 p.

<sup>4</sup> Management Plan for the Bear Population in Finland, published in 2007 by the Ministry of Agriculture and Forestry

<sup>5</sup> Ministry of Agriculture and Forestry 1b/2007. Management plan for the lynx population in Finland.

<sup>6</sup> Management Plan for the Wolf Population in Finland, published in 2005 by the Ministry of Agriculture and Forestry

While the derogations related to ‘protected species’ cover a single licence, the derogations concerning ‘game species’ cover more than one licence (up to 127 in 2007 and 214 in 2008).

Data related to the number of individuals affected belonging to the species legally protected in Finland, is given only rarely. The permitted method is never indicated.

In conclusion, based on the provided information and supplementary information regarding population estimates of the ‘game populations’ concerned, none of the Finnish derogations are in apparent conflict with the species protection measure of the Habitats Directive or the specific conditions under Art. 16, with the possible exception of those granted for killing wolf, whose population level would seem to be just enough to prevent extinction (MVP), but not to ensure a favorable conservation status.

### **3.9 France**

Not received.

### **3.10 Germany**

A total of 957 derogations have been issued in the biennial 2007-2008: 444 derogations were issued in 2007 and 513 in 2008, a number in line with the previous period.

The main reasons for derogations are for the purpose of research and education and in the interest of public health and safety. Another main reason used, in particular for *Castor fiber* is for imperative reasons of overriding public interest, including those of economic nature. Other reasons frequently used are the prevention of serious damage and in the interest of protecting wild fauna and flora.

Most of the derogations include single licenses, with a few exception, such as in the case of one 2008 derogation issued by Landratsämter of Oberpfalz which includes 172 licenses. The duration of the licenses is often more than one year, in some cases five or six years. Some derogations allowing the scaring away of *Castor fiber* have been issued permanently.

One derogation was issued to permit the reintroduction of an unspecified number of specimens of *Gladiolus palustris* and another to reintroduce 1.750 individuals of *Astacus astacus*.

Usually each derogation concerns only one species, but several include generic statements such as fishes of Annex II, Microchiroptera. A considerable number of the licenses cannot be linked to any of the Annexes of the Directive due to an insufficient taxonomic specification (e.g. amphibians, reptiles, insects), generic statements as plants and animals or lacking Latin names. Other derogations do not include the name of the animal or plant object of the derogation. Some others are directed at species not listed in the Habitats Directive (i.e. cicadas or ants or) as in the case of the Rheinland-Pfalz authority.

Some of the derogations concern species in Annex IV of the Habitats Directive, such as *Cricetus cricetus*.

Bats are the most affected species both for research purpose and in the interest of public health. In the last case the allowed activity is often the destruction of resting places.

Many derogations concern *Castor fiber* due to the registered expansion of beaver population and related to the increase of conflicts with water supplies, agriculture and forestry. The activities allowed are killing, capture, disturbance and destruction of breeding sites. The capture/killing of *Castor fiber* is used in some cases as a preventive measures in particular in the Bayern Bundesland. A total of 537 individuals has been killed and 164 individuals have been captured. The IUCN redlist considers Eurasian beavers a species of least concern with increasing populations and sufficient protection. Considering the population size of the beaver in Germany (15.000 individuals according to Heidecke *et al.*, 2003, Zahn *et al.*, 2005) and in Europe (about 640.000 individuals), it seems that the number of killed individuals could be acceptable. However, at least in the Bayern Bundesland, it seems that the derogations are not exceptions but they are granted on a regular basis to control the size of the population. But, according to Nolet and Rosell (1998), killing or relocating beavers is at best only a temporary solution to human-beaver conflicts, because other beavers will occupy the vacant territories. According to the two authors, a more sophisticated way to reduce damage is fertility control.

The report does not follow the EU standard model, nor it has been reported through the Habides system. The document includes almost all the obligatory fields but most of the time they have not been filled in. The fact that derogations have not been numbered and that a considerable number of them is hand written does not facilitate the assessment. The most frequent fields left empty are:

- Derogation number
- In many cases reason for derogation
- Allowed method
- Species Latin names
- Number of derogated individuals
- Number of individuals affected
- Period allowed
- Remarks

In conclusion, based on the scarce information provided, none of the German derogations are in apparent conflict with the species protection measures of the Habitats Directive, with the probable exception of the derogations granted for *Castor fiber* (preventive measure and permanent derogations), which seems not coherent with the indications of the Directive.

### 3.11 Greece

Not received.

### 3.12 Hungary

In Hungary a total of 141 derogations were issued in 2007-2008 (42 in 2007, 98 in 2008 and another without date). Each derogation covers only one license.

As in the previous derogation report, most of the derogations (42) were granted in the interests of public health or for other imperative reasons of overriding public interest. These derogations mainly allow the destruction of resting places of *Niclatus noctula* and other Microchiroptera. The second reason most used is for the purpose of research and education (29 derogations) for the most part concerning different species of amphibians, reptiles. Eleven out of these 29 derogations are associated to the killing activity of a total of 374 individuals.

14 derogations were granted to allow the capture and/or keeping in captivity of 3.458 individuals of *Spermophilus citellus* for the purpose of repopulation, while two derogations were issued for the purpose of re-introducing *Castor fiber*.

Another five derogations have authorized the killing of *Mustela putorius* for overriding public interest of economic nature and of *Canis aureus* for the protection of wild fauna. For all these derogations the number of individuals to be killed is never indicated, while the number of localities in which the derogations are sought to be applied is specified. However, it is stated in almost all cases that “there were no actually taken individuals”.

Each derogation covers only one license, but in some cases one derogation includes more than one species. Information about the number of individuals affected is missing in most cases, in particular as regards to bats, and in some cases of bat derogations, the report doesn't indicate the species but only the order.

In conclusion, notwithstanding the missing information mentioned above, none of the Hungarian derogations are in apparent conflict with the species protection measures of the Habitats Directive.

### 3.13 Ireland

84 derogation have been granted in the biennial: 33 derogations in 2007 and 51 in 2008.

The most frequent reason used is for the purpose of research and education (45 derogations), followed by the protection of wild fauna, sometimes associated with the interests of public health and safety.

The deliberate disturbance of species has been allowed by 83 derogations, in some case associated with the deliberate capture in the wild (36 derogations) or deterioration or destruction of breeding sites or resting places (37 derogations). The remaining derogation has been issued for the capture and release of bats. Based on the information provided none of the individuals affected by the derogations has been killed.

One licence per derogation has been granted.

Most of derogations (72) affect bat species; 65 of these derogations are relative to “all bats species”. Other species affected are *Lutra lutra*, *Tursiops truncatus*, *Balaenoptera physalus*, *Megaptera novaeangliae* *Bufo calamita*, *Geomalacus maculosus* and *Orcinus orca*.

The report has not been submitted using the Habides system and it doesn't follow the EU Commission format, but an outline that doesn't foresee all the information requested. In particular the information missing is:

- Competent Authority and Authorised Authority
- number of individuals derogated and affected
- region concerned
- period
- alternative solutions
- scientific data used
- follow-up

In conclusion, on the base of the information provided, none of the Irish derogations are in apparent conflict with the species protection measures of the Habitats Directive.

### 3.14 Italy

According to the derogation report from Italy a total of 325 derogations have been granted, 123 in 2007 and 202 in 2008; a number consistent with the previous report. However, it is to be noted that the number of derogation starts from 77, therefore it is possible that 76 derogations are not reported.

Almost all of the derogations were granted for the purposes of research and education, sometimes combined with the purposes of species' re-introduction. A few derogations affecting *Hystrix cristata* were granted to prevent damages to crops, and a few affecting *Ursus arctos* were granted in the interest of public safety or for other imperative reasons of overriding public interest.

The most allowed activity is the capture of animals and picking and cutting of plants. In some cases the capture is combined with deliberate disturbance, transport and/or keeping in captivity. The methods used are nets and/or traps but sometimes they are not indicated. According to the report, no individuals were killed.

The great part of derogations (232) affect numerous species of bats, (various subspecies of *Pipistrellus*, *Myotis* and *Rhinolophus* and also *Plecotus auritus*, *Eptesicus serotinus*, *Barbastella barbastellus* etc), sometimes indicated generically as *Microchiroptera*.

Other derogations (33) affect amphibians (various subspecies of *Hydromantes* and *Rana*, *Triturus carnifex* and *T. italicus*, *Bombina pachypus*, *Salamandra atra* and *Salamandrina terdigitata*) and (27) reptiles (1997 individuals of *Podarcis muralis*, *Testudo Hermannii*, *Phyllodactylus europaeus*, *Coluber viridiflavus* and other species).

Thirteen derogations affect different priority species of plants among which: *Astragalus maritimus*, *Linum muelleri*, *Gentiana lutea*, *Lamyropsis microcephala* and *Ribes sardoum* which has been the only species that has been cut.

The remaining 20 derogations affect mammal species. Five derogations affect 19 *Ursus arctos* and subsp individuals:

- on the basis of a long term plan, 14 individuals of *Ursus arctos marsicanus* were captured and some of them transported for the purposes of research: blood sampling, measurements, marking and radio tagging.

- Two “problematic bears” were captured (one also kept in captivity) in the Trento Province for imperative reasons of overriding public interest. One of those bears was also radio tagged. The derogations specify that “no individual were removed from the wild”.
- Three individuals, one of which “died during the capture activities”, were captured in the Trento Province in the interest of public safety. The two individuals that remained alive were radio tagged and subjected to a blood sampling.

At least three individuals of *\*Canis lupus*, four individuals of *Cervus elaphus corsicanus* and a no specified number of *Lynx lynx* were captured for the purposes of research and education and/or of species’ re-introduction. Finally, two individuals of *Lutra lutra* have been captured and kept in captivity for the purposes of research and education and a not specified number of *\*Rupicapra pyrenaica ornata* has been captured and transported for the purposes of research and education and of species’ re-introduction.

Each derogation grants only one licence. The greater part of the Italian derogations covers the entire year.

Some of the information foreseen by the Habides system has not been provided by the Italian report, such as “Scientific data used”, “Remarks” and “Follow up”. “No possible alternative” and “no evidence of significant impact” are the comments always reported respectively for the “Alternative solutions” and “Impact on population” fields.

In conclusion, based on information provided, none of the Italian derogations is in apparent conflict with the species protection measures of the Habitats Directive.

### 3.15 Latvia

The report from Latvia indicates seven derogations for the year 2007 and eleven for 2008, for a total of 18 derogations in the reporting period.

Ten derogations were granted for research and education purpose, four to protect wild fauna and four to permit, under strictly supervised conditions, on a selective basis and to a limited extent, the taking of certain specimens of the species listed in Annex IV in limited numbers specified by the competent national authorities.

Most of the derogations (three in 2007 and seven in 2008) have been granted for the capture or the taking of eggs of different species of amphibians, insects and reptiles (*Bombina bombina*, *Leucorhina* spp., *Parnassius mnemosyne*, *Lycaena dispar* and *Emys orbicularis*) for the purpose of research and teaching.

Two derogations were granted each year to allow the capture for keeping in captivity to provide veterinary cures in order to protect two species of the family Phocidae: 8 individuals of *Phoca hispida bottnica* and 17 individuals of *Halichoerus grypus*.

Four derogations (two per year) were granted by the State Forest Service for hunting by gun 211 individuals (107 in the year 2007 and 104 in 2008) of *Lynx lynx*. The total number of individuals killed is almost double than the previous biennium when 112 individuals were hunted.

	2005	2006	2007	2008
<b>Number of lynxes killed</b>	74	38	107	104

As indicated in the derogation report, the annual hunting quotas are set by the State Forest Service in accordance with the “National *Lynx lynx* Management Plan (2007)” considering the annual assessment of the lynx population size and distribution range. On the basis of these monitoring data, the Latvian lynx population indicated in the report is of 1.300 individuals.

The data provided in the report seem to be not consistent with those of the national management plan, according to which official total lynx population’s estimate in 2006 is of 1.006 individuals. In addition, according to the plan this figure is overestimated because it “resulted from double-counting (counting the same animals several times in various forestry units). In early 2007, the State Forest Service carried out an extra training for forest guards and game wardens, which resulted in a decreased bias”. However no information is given in the management plan on the official estimate in 2007 or on rate of population growth, even though from the graphic at page 14 (Fig.5 Lynx population dynamics in Latvia) it seems that 2007 population estimate is around 850 individuals. Moreover, expert estimates show that “there are no more than 600 lynx in Latvia at the moment” (National *Lynx lynx* Management Plan, 2007). In conclusion, it is not clear the size of the population of the Latvian lynx on which the annual quota should be calculated: using the different figures for 2007 it ranges from 8% (of 1.300 individuals) to 18% (of 600 individuals). As consequence, the impact of derogations on lynx population could be negligible or significant. Furthermore, the selective basis (sex and age of individuals to be killed) is never indicated in the derogation report.

In conclusion, the report is quite complete and none of the Latvian derogations are in apparent conflict with the species protection measures, with the possible exception of those concerning the lynx.

### **3.16 Lithuania**

The report from Lithuania indicates ten derogations covering only the year 2007. All derogations have been granted for the capture and/or hunting with nets of fish species for the purpose of research and teaching.

Based on the information provided, derogations in 2007 concern the following species:

#### Listed in annexes II and V of the Habitats Directive

- *Salmo salar* (426 individuals) for the purpose of breeding operations necessary for the keeping in captivity
- *Pelecus cultratus* (15 kg)
- *Alosa fallax* (38 kg)
- *Aspius aspius* (7,4 kg)
- *Lampetra fluviatilis* (4 kg)

#### Listed only in annex V of the Habitats Directive

- *Barbus barbus* (0,5 kg)
- *Coregonus peled* (1,2 kg)
- *Coregonus lavaretus holsatus* (504 kg). It seems a quite high quantity.
- *Thymallus thymallus* (4,006 kg)

#### Not listed in the Habitats Directive:

- *Abramis vimba* (82,56 kg)

As reported above, in many cases quantitative data on the individuals taken are provided in kilos and not in number of individuals.

In many cases, each derogation grants more than one licence for a total of 31 licences.

The derogation report is very similar to the previous one (concerning the years 2005 and 2006): reasons, methods and activity allowed are identical but the species indicated in the 2007 report are more numerous than those included in the previous report.

The Lithuanian report has not been submitted using Habides but it follows the EU Commission format and provides all requested information (the fields “remarks” and “alternative solutions” have been filled out, but the answer is simply “no”). The derogations are identical in almost every field.

In conclusion, none of the Lithuanian derogations is in apparent conflict with the species protection measures.

### **3.17 Luxembourg**

A total of eleven derogations were granted in the biennial 2007-2008. All of them have been granted for the purpose of research and teaching.

One derogation has allowed the collecting and keeping in captivity of 38 individuals of the freshwater mussel *Margaritifera margaritifera*, for the purposes of research and education and for the captive breeding operations necessary for the repopulation of the species in order to protect it.

Another derogation has been issued to allow the stuffing for educational purposes of 3 individuals of *Felis silvestris*, *Martes martes* and *Mustela putorius* that have been hit and killed by motor vehicles.

One derogation has permitted the capture for radio-tracking of one individual of *Muscardinus avellanarius*. Other two derogations were issued for allowing radio-tracking and rabies analyses of a total of 387 individuals of different species of bats: *Myotis bechsteini*, *M. daubentonii*, *M. emarginatus*, *M. mystacinus* and *Pipistrellus pipistrellus*.

The other six derogations have granted the capture and subsequent release of individuals of *Castor fiber*, *Podarcis muralis* and different species of amphibians for research and genetic analysis of the species populations.

The report uses the Habides format and provides all requested information. Each derogation covers only one license and concerns more than one species only when they are similar as belonging to the same class or order.

In conclusion, the report is clear and complete and none of the Luxembourg derogations are in apparent conflict with the species protection measures.

### 3.18 Malta

Seventeen derogations have been issued by the Malta Environment & Planning Authority: seven derogations were issued in 2007 and another ten in 2008.

The derogations were granted to research institutes or animal protection organizations (i.e. University of Malta, International Animal Rescue, etc), mostly for the purpose of research and education and in five cases for the protection of wild fauna.

Disturbance, keeping in captivity and caring for wounded animals are the most frequent activities.

Killing has been allowed only in 2007 for *Gibbula nivos*a (24 specimens), a small sea snail listed in Annexes II and IV, and for *Aphanius fasciatus* (maximum 40 individuals, but the real number is not clear), a fish listed in Annex II.

All derogations cover only one licence and only one species, with only few exception in which one derogation covers more than one species.

Only animals were affected by derogations. They belong to: cetacean (i.e. *Delphis delphis*, Annex IV), chiropterans (i.e. *Plecotus austriacus*, *Rhinolophus hipposideros*, *Pipistrellus pumaeus* and *Myotis punicus*), lizards (i.e. *Podarcis filfolensis*, Annex IV), turtles (i.e. *Caretta caretta*, listed in Annex IV and in Annex II as priority species), etc. As in the previous reports, the derogations concerning cetaceans are issued in order to care for stranded animals, and those relating to turtles for rehabilitation and eventual release of injured/weak/accidentally captured specimens.

In the “Covering Note” to the report it is stated that the conservation status of the species concerned is not being affected. According to the note, the derogations were issued after complete analysis of the validated application form, and the applicant is legally bound to submit a final report detailing activities carried out in connection with the derogation issued.

The report from Malta follows the Commission’s format and furnishes all the requested information, even though sometimes not all fields are filled in.

In conclusion, none of the Maltese derogations is in apparent conflict with the species protection measures of the Habitats Directive.

### 3.19 Netherlands

The Dutch report indicates a number of 354 derogations issued for the years 2007 and 2008.

The derogations were granted mostly in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment. A few derogations affecting amphibians were granted to protect wild flora, fauna or natural habitats or also to prevent damages to crops and forests.

The most allowed activity is the deterioration or destruction of breeding sites or resting places of animals and picking and/or collecting of plants, in many cases combined with capture and transport. The three activities appearing together may indicate that the

individuals were captured before the destruction of the breeding/resting sites and transported to other locations.

According to the report, no individuals were killed. In a few derogations affecting *Bufo calamita*, an undetermined number of individuals were captured to be kept in captivity.

Most derogations (314) affect numerous species of bats, (*Pipistrellus pipistrellus*, *P. nathusii*, *Plecotus auritus*, *P. austriacus*, *Eptesicus serotinus*, *Nyctalus noctula*, *Myotis daubentonii*, *M. dasycneme*, *M. mystacinus*, *M. nattereri*), amphibians (*Bufo calamita*, *Rana arvalis*, *Rana lessonae*, *Pelobates fuscus*, *Hyla arborea*, *Triturus cristatus*, *Triturus carnifex*) and reptiles (*Coronella austriaca*, *Lacerta agilis*, *Podarcis muralis*) often mixed together in the same derogation.

The remaining 38 derogations affect two rodent species (*Castor fiber* and *Microtus oeconomus arenicola*), some species of insect (*Graphoderus bilineatus*, *Aeshna viridis* and *Stylurus flavipes*), two derogations affect an undetermined number of *Phocoena phocoena* individuals and two affect different plant species: the orchidaceous *Liparis loeselii* and the *Luronium natans*, an aquatic species. Two derogations affect *Anisus vorticulus*, a mollusc not listed in the Habitat Directive's annexes.

One license per derogation has been issued. Moreover, a large part of derogations reported cover a multi annual period.

The Dutch report follows the EU Commission format. However, the following sections have been left empty:

- Number of individuals affected.
- Method used.
- Alternative solutions.
- Supervised conditions and selective basis.
- Scientific data used and supervisory measures.
- Remark.

The impact on population is always indicated as "none".

The current report is very similar to the previous one (covering the years 2005-2006) in every aspect (reasons and activities allowed, species affected and information provided).

In conclusion, notwithstanding the inconsistencies listed above, based on information provided, none of the Dutch derogations is in apparent conflict with the species protection measures of the Habitats Directive.

### 3.20 Poland

In Poland 492 derogations were granted in the biennial (235 in 2007 and 257 in 2008).

Derogations were mainly granted to prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property (205). They relate to *Castor fiber* (only one relates to *Lutra lutra* and two relate to *Canis lupus*). Other main reasons were in the interest of public health and safety (67), concerning for the most part *Castor fiber*, or for other imperative reasons of overriding public interest, including those of social or economic nature (81), largely relating to *Helix pomatia*. All these reasons are often used together (22). Other main reasons were for the purpose of

research and education or of repopulating and reintroducing of several species (96). The rest of the derogations (18) were issued in the interest of protecting wild fauna (*Emys orbicularis*, *Osmoderma eremita*, *Bison bonasus* and different amphibians) and flora (*Ligularia sibirica*, *Liparis loeselii*).

The most derogated species is *Castor fiber*, concerned by 305 derogations. The number of derogations seems compatible with the registered expansion of beaver population and the increase of conflicts with water supplies, agriculture and forestry. The activities allowed were capture or killing of a total of 519 individuals, disturbance and destruction of 285 resting sites and 98 dams, mainly to prevent serious damage and/or in the interests of public safety. The IUCN redlist considers Eurasian beavers a species of least concern with increasing populations and sufficient protection. Considering the population size of the beaver in Poland (30.000 – 40.000 individuals according to the Polish report on art.17 of the Habitats Directive) and in Europe (about 640.000 individuals), the number of killed individuals could be acceptable. However, it seems that the derogations are not exceptions but they are granted on a regular basis to control the size of the population. But, according to Nolet and Rosell (1998), killing or relocating beavers is at best only a temporary solution to human-beaver conflicts, because other beavers will occupy the vacant territories. According to the two authors, a more sophisticated way to reduce damage is fertility control.

Other derogations allowing the killing are related to:

- 2 individuals of *Canis lupus*, in order to prevent serious damage to livestock (2 derogations);
- 86 individuals of *Bison bonasus* (listed in Annex II as priority species), for the protection of wild fauna and for the purposes of researching and education (10 derogations).

72 derogations are aimed at the regulation of the commercialisation of 464.569 individuals and c.853 tons of *Helix pomatia*, an Annex V mollusc, and other 2 derogations allowed the marketing of 40 m<sup>3</sup> of *Leucobryum glaucum*, an Annex V moss.

Some derogations include more than one species and more than one activity (for example capture and killing), making it impossible to determine the number of individuals involved for each species and the number of individuals concerned by each activity.

Number of licenses covered by derogations ranges from 1 to 78 and it is never indicated in more than 100 derogations, but mostly one licence per derogation has been granted.

In conclusion, the Polish report includes all the information required and none of the derogations seems in contrast with species conservation.

### **3.21 Portugal**

101 derogations have been issued in the year 2007 and 73 in the 2008, for a total of 174 derogations. This figure is five times the number of derogations granted in the period 2005-2006.

150 derogations have been granted for the purpose of research and education, 14 for the protection of wild fauna, 9 for other imperative reasons of overriding public interest,

including those of beneficial consequences of primary importance for the environment and one for the protection of flora and fauna.

The nine derogations issued in 2008 for other imperative reasons are related to the capture and release of amphibians for the realization of the temporary exhibition dedicated to the amphibians of Portugal, held as part of the EAZA campaign “Amphibian Ark Campaign - Year of the Frog 2008”. They concern the following species listed in Annex IV of the Habitats Directive: *Discoglossus galganoi* (also listed in Annex II), *Triturus marmoratus*, *Hyla arborea*, *Hyla meridionalis*, *Rana iberica*, *Alytes cisternasii*, *Pelobates cultripes*, *Bufo calamita* and *Chioglossa lusitanica*.

The most allowed activity (139 derogations) is capture followed in most cases by release. Other activities in order of number of derogations are transport, disturbance and deliberate collecting of plants (listed in Annex II: *Armeria rouyana* - priority species, *A. pseudoarmeria*, *Centaurea vicentina*, *Cistus palhinhae*; and *Angelica pachycarpa* – not listed in the Habitats Directive) in the wild. According to the report, no individuals were killed.

A great part of derogation concerns amphibians and bats, but also marine species, such as *Caretta caretta*, *Tursiops truncatus*, *Delphinus delphis*, etc. are included.

One or more licenses (up to 24) are granted for each derogation, for a total of 267 licenses. This is a significant increase in comparison with the previous biennial, when 64 licenses were granted.

The report follows the EU Commission format, but it has not been submitted using Habides and part of the requested information is missing:

- only half of derogations includes the number of affected individuals
- information on alternative solution is always missing
- 140 derogations do not include the description of follow up

In conclusion, none of the Portuguese derogations are in apparent conflict with the species protection measures of the Habitats Directive.

### **3.22 Romania**

This is the first report for Romania.

According to the derogation report, a total of 8 derogations have been granted, four in 2007 and four in 2008.

Each derogation has been granted for the following reasons: in the interests of protecting wild fauna and flora; to prevent serious damage, in particular to crops, livestock, forests, fisheries and water; and in the interests of public health and public safety.

The four derogations granted in 2007 are almost identical to those granted in 2008. They allow the killing of four carnivores: *Ursus arctos*, *Canis lupus*, *Lynx lynx* and *Felis silvestris*. According to the report, the derogations have no impact on the populations of the four species.

Species	Individuals killed		Population (nr. of individuals)	
	2007	2008	2007	2008
<b>Brown bear</b>	204	276	7.480	7.757
<b>Wolf</b>	143	169	4.415	4.581
<b>Lynx</b>	22	28	2.158	2.260
<b>Wild cat</b>	71	86	9.380	9.717

Before the accession to the European Union, the four species were hunted according to a yearly revised quota. After the accession and since 2007, only problematic individuals may be hunted on the base on a file record of the problems created.

#### *Brown bear*

From 2000 to 2005, an average of 234 bears per year was killed. Even if only problematic bears may be hunted since 2007, the number of bears killed remains quite the same as in the previous years (see table above). Comparing the numbers one can assume that derogations are not exceptional, but are used to continue the hunting of the bear.

However, according to the Management and action plan for the bear in Romania (2005), the annual growth in Romania is 10 - 15% of the population. The approval of a limited harvesting quota for brown bear is needed, according to the plan, in order to control the level of damages caused by the species. The management goals are to maintain the existing bear population on a stable trend and to contribute to better structure. The harvesting quota is planned according to the minimum size of this annual growth, to the estimated population size, to the structure of the population and to the structure of the harvest done in the last years. The annual quota approved was between 2% to 8% of the total estimated number of bears.

The percentage of bears killed in the period 2007-2008 in respect to the national population indicated in the derogation report is 2,7 in 2007 and 3,5 in 2008. This indicates that no impact on the population is to be expected.

#### *Wolf, Lynx and Wild cat*

The number of individuals killed in the period 2007-2008 is in line or less than those killed during the previous years to control the national populations of the three species, which are in good conservation status. Therefore, it is presumable that these derogations do not affect their conservation status. However, it seems that derogations are not exceptional, but are used to continue the control of the carnivores population through hunting.

Two licenses are issued per derogation. Information on the alternative assessed is missing.

In conclusion, none of the Romanian derogations are in apparent conflict with the species protection measures of the Habitats Directive. However, the use of derogations as method to allow hunting of the four species listed above should be monitored.

### **3.23 Slovenia**

According to the derogation report, it seems that a total of 359 derogations have been issued, 216 in 2007 and 143 in 2008.

332 derogations have been issued for the purposes of research and education. The objects of these derogations are different species of amphibians, insects (in particular butterflies), bats and two plants (*Ruscus aculeatus* and *Primula carniolica*). Of the remaining derogations 17 have been issued in the interest of public safety, 7 to prevent serious damage to livestock (all directed at the wolf), 1 for the protection of wild fauna and 2 to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking of certain specimens of the species listed in Annex IV (brown bear) in limited numbers.

28 derogations are relative to killing 162 (85 in 2007 and 77 in 2008) *Ursus arctos*. They were issued in the interests of public safety and to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking of certain specimens of the species listed in Annex IV in limited numbers specified by the competent national authorities. These last two derogations (one issued in 2007 granting killing of 100 individuals and the other issued in 2008 granting killing of 75 bears) represent the Slovenian solution for approving the annual hunting quota. No alternative solutions are stated nor the selectivity of the method or the requested supervised conditions described. According to the derogation report, the Slovenian population of Brown bear is of about 500 individuals. The authorization for a withdrawal of 20% in 2007 and 15% in 2008 (without considering the number of road casualties - for example, in 2005, 40 bears were killed - meaning that the overall human-induced mortality rate of bears in Slovenia could be even higher) could not be sustainable since the species is long-lived with a slow reproductive cycle, and therefore could not withstand such high levels of mortality.

Ten derogations are relative to granting licenses for killing 18 wolves in 2007 and 10 in 2008 (plus 15 wolves to be captured). A total of 10 *Canis lupus* (7 in 2007 and 3 in 2008) have been actually killed. The derogations were issued to prevent serious damage to livestock and for the protection of wild fauna. Considering that the Slovenian population of wolf consists of 70 individuals, the authorization for a withdrawal of 25% in 2007 and 10% in 2008 could compromise the conservation status of the species.

Only one license is issued per derogation with very few exceptions.

The report has been submitted using Habides, but some fields are empty. In particular: location, alternative solution, selectivity of the method and strictly supervised conditions (only the responsible public bodies are indicated).

In conclusion, none of the Slovenian derogations seems in conflict with the species protection measures of the Habitats Directive, with the possible exception of the derogations for killing *Ursus arctos* and *Canis lupus*.

### **3.24 Slovakia**

The Slovak Republic issued 288 derogations in the two years, most of which covering a multi annual period.

138 derogations have been issued for the purposes of research and education, sometimes combined with purposes of repopulating, re-introducing or breeding several animal and plant species or also in the interest of public health and public safety. These derogations allow for capture and/or disturbance of animals and picking and/or collecting of plants.

Only a few individuals were killed to allow the taking of samples. In many cases, a maximum number of specimens allowed to be captured, killed or disturbed is indicated.

A few derogations were issued for the protection of wild flora and fauna or in the interests of public health and safety allowing the capture, disturbance and/or destruction of resting places affecting individuals of *Castor fiber* and *Spermophilus citellus*. One derogation allows for the capture, killing and transport of 400 kg of *Helix pomatia* for imperative reasons of overriding public interest, including those of economic nature.

The remaining 145 derogations (87 in 2007 and 58 in 2008) were issued for the killing of *Ursus arctos* individuals in the interest of public health and safety. Out of these only 56 individuals were actually killed (25 in 2007 and 31 in 2008). No alternative solutions to killing are stated. The zoologist of the State Nature Conservancy of the Slovak Republic controlled all conditions of the derogations directly at the hunting place. Considering that 1) the brown bear is a all year protected game species, 2) that it is legally hunted in Slovakia on specific permission of the Ministry of the Environment and Ministry of Agriculture, 3) that the number of individuals killed each year is in line with the previous periods and that the activity has been carried out in controlled conditions and 4) that the national population is estimated in about 700 individuals, it seems that the individuals killed (representing 8% of the total population) are compatible with the species conservation.

In general only one or a few licenses are issued per derogation. The number of individuals affected is only rarely stated and in a considerable number of the derogations species related information is provided at a too generic taxonomic level (e.g. *Coleoptera*, *Lepidoptera*, or *Reptiles* and *Amphibians*), or using generic terms, such as “protected animals”, to assess if the species or group of species concerned are covered by the Directive. Some derogations concern species not included in the Directive, such as *Dryomys nitedula*, *Eudontomyzon danfordi*, *Sabanejewia balcanica*, *Ostericum palustre*, *Artemisia eriantha*.

Slovak report has been submitted using Habides. However, the following inconsistencies are present:

- Information about the number of individuals affected is missing in most cases.
- The species is indicated with generic terms.
- Scientific data used are almost never indicated.
- Remark section is empty in many cases.

Moreover, in the cover letter, it is stated that the information “could be incomplete due to the impossibility of check the completeness of derogations”.

In conclusion, notwithstanding the points above, based on information provided, none of the Slovak derogations is in apparent conflict with the species protection measures of the Habitats Directive.

### 3.25 Spain

A total of 465 derogations were issued in the biennial: 251 in the year 2007 and 214 in 2008.

353 derogations were granted for the purpose of research and education and 23 for repopulating or reintroducing different species of plants (*Echium gentianoides*, *Atractylis arbuscula*, *Dracaena draco*, *Limonium arborescens*, *Sideroxylon marmulano*,

*Solanum lidii*, *Isoplexis chalcantha*, *Sambucus palmensis*, *Sideritis discolor*, etc.) and animals (*Hyla meridionalis*, *Felis silvestris*, *Genetta genetta*, *Lacerta viridis*, *Martes martes*, *Mauremys leprosa*, *Mustela lutreola*, *M. putorius*, *Testudo graeca*, *T. hermanni*, *Pinna nobilis*, etc.).

The most allowed activity concerning plants is the deliberate picking and collecting plants in their natural range in the wild; while for animals the main activity is the capture in the wild. Killing has been allowed both for research purposes mainly addressed at insects and aquatic invertebrates and to prevent damages of forests. In this last case an unspecified number of individuals of *Castor fiber* has been killed (two derogations). No derogations for hunting have been issued. In this biennial the number of derogations granted for killing or hunting substantially decreased in comparison with the previous years.

Apparently one individual of *Balaenoptera borealis* has been taken from the wild to expose its skeleton in a public square on the coast of Tenerife (Municipio de Silos) for education purpose. This seems not coherent with the conservation indications of the Habitats Directive.

Several derogations affect more than one species, up to ten. In many cases the species concerned is not indicated, but a higher taxonomic level (e.g. Chiroptera, Odonata, Lepidoptera, Coleoptera, phanerogame, algae, lichens, micromammals, benthic invertebrates, endangered flora, vegetation of transitional waters), too generic to assess if the Directive covers the species or group of species concerned. Part of the derogations have been issued for species not included in the directive, such as *Pleurodeles waltl*, *Eptesicus serotinus*, *Lacerta lepida*, *Pipistrellus pipistrellus*, *Mustela nivalis*,

The two derogations, one for each year, for the capture and killing of 3 specimens of *Canis lupus* have been granted to prevent serious damage to livestock in Avila, located at the south of the Duero river, where hunting of the wolf is not allowed by the agreements on the application in Spain of the Habitats Directive. To be noted that the permitted activity was only the capture, but in the field method it is stated "capture and killing".

Two derogations have been issued for marketing of different plants (two of which, *Limonium arborescens* and *Solanum lidii*, identified as priority species) for repopulating and reintroducing.

2.828 licenses have been issued in the biennial. Each derogation grants more than one license, up to 131.

The report has been submitted using Habides but the information is only partially furnished:

- the alternative solutions and the scientific data used are rarely mentioned,
- the species are several times generically indicated with the genus or the order (or even as "fauna" or "flora"),
- the number of individuals affected is missing in most cases
- remarks and follow up are not always filled. When they are filled often the field comments includes the individuals actually taken
- sometimes activity codes are wrongly used, as for instance when codes specific to plants are indicated for animals. Moreover 47 derogations allow activities with a code, "FT", not foreseen in the official codification and not with a univocal meaning.

In conclusion the report does not provide all information needed but none of the Spanish derogations are in apparent conflict with the species protection measures of the Habitats Directive.

### 3.26 Sweden

167 derogations (77 in 2007 and 90 in 2008) were granted in Sweden, one of which concerning “Breeding birds of not-specified species”. The number of derogations has increased substantially in comparison with the previous years.

The great part of derogations was granted to prevent serious damages to livestock, fisheries, water and other types of property (66 derogations: 19 in 2007 and 47 in 2006) and for the purpose of research and education and of repopulating the concerned species (62 derogations: 39 in 2007 and 23 in 2008). Another 14 derogations (8 in 2007 and 6 in 2008) were given in the interest of protecting wild fauna and flora and conserving natural habitat. A small number (6 derogations: 4 in 2007 and 2 in 2008) were issued to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking of certain specimens of the species listed in Annex IV in limited numbers (reason code 61) specified by the competent national authorities.

Most derogations issued for the purposes of research and for protecting wild fauna and flora are related to capture, capture for taking in captivity, deliberate taking or destruction of eggs, collection of eggs, larvae, seeds and tubers of different species of bats, amphibians, reptiles, insects and plants. The number of individuals affected is often not indicated.

Four derogations (two per year and per species) have been granted in the Örebro County to allow the capture and the destruction of breeding sites and resting places of local populations of *Triturus cristatus* and *Rana arvalis* for other imperative reasons of overriding public interest, including those of economic nature. 793 individuals of *Triturus cristatus* and 292 of *Rana arvalis* were captured and moved in other sites and feedback reports inform about the results of the transfer.

Almost all derogations granted in the interests of public safety, to prevent serious damages and to allow the taking of certain specimens of the species listed in Annex IV, have allowed killing. A total of 71 derogations (21 in 2007 and 50 in 2008) were granted for killing brown bears (*Ursus arctos*), lynxes (*Lynx lynx*), wolves (*Canis lupus*) and wolverines (*Gulo gulo*). In particular:

- 23 derogations (8 in 2007 and 15 in 2008) were issued for allowing the killing of 400 bears. Of these, 366 individuals were shot under the reason code 61.
- 28 derogations (9 in 2007 and 19 in 2008) were issued for allowing the killing of 115 lynxes. 86 individuals were shot under the reason code 61.
- 10 derogations (2 in 2007 and 8 in 2008) were issued for allowing the killing of 10 wolves;
- 10 derogations (1 in 2007 and 9 in 2008) were issued for allowing the killing of 8 wolverines (all in 2008).

The following table shows the data related to individuals killed in comparison with recent years.

Species	Killed Individuals								Total
	2001	2002	2003	2004	2005	2006	2007	2008	
<i>Ursus arctos</i>	57	62	75	98	115	132	180	220	<b>939</b>
<i>Lynx lynx</i>	117	90	69	27	14	54	86	29	<b>486</b>
<i>Canis lupus</i>	-	1	2	-	1	2	2	8	<b>16</b>
<i>Gulo gulo</i>	-	-	-	-	1	2	-	8	<b>11</b>

The number of bears killed has progressively increased when compared with the previous two-year periods (in particular, the bears killed in 2007-2008 are almost double in comparison to 2005-2006), while the number of lynxes killed shows a re-increasing trend after a steady decline until 2005-2006. The wolves and wolverines killed are also increasing (the individuals killed in 2007-2008 are around three times higher than 2005-2006), although the numbers remain relatively low.

The Swedish Parliament has established specific targets relating to the size of the predator populations (expressed as the number of reproductions, i.e. number of females producing young each year), in order to ensure the long-term survival of Sweden's large carnivores (brown bear, lynx, wolf and wolverine).

The minimum viable population was estimated for both the brown bear and lynx population:

- *Ursus arctos* (Annex IV): the MVP for the brown bear was set in 2001 at 100 reproductions, which represents approximately 1.000 individuals.

Researchers estimated the Swedish brown bear population to about 2.600 bears in 2007<sup>7</sup> and to 3.298 individuals in 2008 (Kindberg J., 2010)<sup>8</sup>, with a yearly growth of 4.5% during the period 1998 to 2007.

The minimum population goal of 100 yearly reproductions was supplemented by a parliament decision in 2008 stating that the population should be maintained at about current levels at the national scale, but allowed to increase or decrease at local scales, based on the local situation regarding conflicts, e.g. livestock depredation (including semi-domestic reindeer, *Rangifer tarandus*), competition for game and problematic individuals (J. Kindberg, 2010).

The number of brown bears shot in 2007 and 2008, corresponds to around the 7% of the entire population in the respective years. This quota coincides with the one estimated as sustainable by the Scandinavian Brown Bear Research Project (SBBRP), according to which the maximum sustainable quota in Swedish brown bears would be about 7% of the estimated population. Therefore no impacts of derogation is to be expected.

- *Lynx lynx* (Annexes II and IV): the MVP was estimated in 2001 at 300 reproductions, which represents around 1.500 individuals.

The winter 2006/2007 census recorded 246 reproductions in Sweden, representing a total population of about 1300-1500 lynxes<sup>9</sup>, while in the winter of 2008/2009 there were about 285 family groups of lynx which is close to the Swedish Government's goal of at least 300 family groups<sup>10</sup>. Inventories during the 2009/2010 season

<sup>7</sup> SEPA. Survey provides answers. 2007. [http://www.swedishepa.se/en/In-English/Menu/Nature-conservation\\_and\\_wildlife\\_management/The-large-predators/Survey-provides/](http://www.swedishepa.se/en/In-English/Menu/Nature-conservation_and_wildlife_management/The-large-predators/Survey-provides/)

<sup>8</sup> Jonas Kindberg, 2010. Monitoring and Management of the Swedish Brown Bear (*Ursus arctos*) Population. Doctoral Thesis, Swedish University of Agricultural Sciences Umeå

<sup>9</sup> Statens offentliga utredningar (SOU), 2007. Rovdjuren och deras förvaltning. Betänkande av Utredningen om de stora rovdjuren.

<sup>10</sup> "The Lynx Project" website. [http://vilt.ekol.slu.se/ShowPage.cfm?OrgenhetSida\\_ID=10016](http://vilt.ekol.slu.se/ShowPage.cfm?OrgenhetSida_ID=10016)

estimated a total of 206 reproductions<sup>11</sup>, a figure considerably lower than the 285 reproductions of the previous season and lower than the MVP target. This reduction could be linked to an excessive withdrawal of individuals in 2007-2008, which was around one and a half times greater than the previous two-year 2005-2006.

For both bears and lynxes killed under reason 61, no indication is provided on the selectivity of methods or the requirements for individuals to be killed (males or females, young or adults, etc.), while the strictly supervised conditions (hunting quota and area) and the supervisory measures (shot reporting, exams of shot animals) are indicated. The alternative solutions are not indicated or are considered not available.

As numbers of the wolf and wolverine species are low and their long-term survival in Sweden is not assured, Parliament has set interim objectives:

- *Canis lupus* (priority species listed in the Annexes II and IV): the interim objective is to obtain 20 reproductions, which correspond to approximately 200 animals. In the winter of 2006/2007 the Swedish wolf population was estimated of 98-121 individuals<sup>12</sup>. Census data in the winter 2008/09 gave a population estimate of 166-185 individuals and the number of reproductions was esteemed at 23. In December 2008 the Swedish Environmental Protection Agency (SEPA) confirmed that the interim objective of 20 reproductions had been reached<sup>13</sup>. These data show that derogations had none impact on the wolf population.
- *Gulo gulo* (priority species listed in the Annex II): the interim objective is to achieve 90 reproductions, representing 575 animals. In 2007 there were almost 500 wolverines and 78 reproductions<sup>14</sup>. In December 2008, the SEPA reported that the milestone of 90 wolverine reproductions per year was estimated to have been reached<sup>15</sup>. These data show that derogations had none impact on the wolverine population.

Usually one derogation covers only one species, with only few exceptions concerning similar species (i.e. bats, reptiles, amphibians, etc). The number of licenses issued per derogation is generally one or two, with only some exceptions concerning the bear and covering up to 6 licenses.

In conclusion, based on the provided and supplementary information regarding population estimates of specifically *Lynx lynx*, *Ursus arctos*, *Canis lupus* and *Gulo gulo*, none of the Swedish derogations would seem to be in apparent conflict with the species protection measures of the Habitats Directive, with the possible exception of those granted for killing lynxes, whose population level was reduced below the MVP and thus could not ensure the favorable conservation status of the Swedish lynx population.

### 3.27 United Kingdom

1.010 derogations were issued in the biennial. This number represent a significant increase in comparison with the previous periods reported in the table below.

<sup>11</sup> "Rovdjurscentret. De5stora" website. <http://www.de5stora.com/omrovdjuren/lodjur/utbredning/>

<sup>12</sup> SKANDULV - The Scandinavian wolf project. [http://skandulv.nina.no/skandulv%20new/Nyheter/news\\_in\\_english.htm](http://skandulv.nina.no/skandulv%20new/Nyheter/news_in_english.htm)

<sup>13</sup> En ny rovdjursförvaltning, Maj 2009, Informationsblad om Proposition 2008/09:210.

<sup>14</sup> Statens offentliga utredningar (SOU), 2007. Rovdjuren och deras förvaltning. Betänkande av Utredningen om de stora rovdjuren.

<sup>15</sup> En ny rovdjursförvaltning, Maj 2009, Informationsblad om Proposition 2008/09:210.

	2001-2002	2003-2004	2005-2006	2007-2008
<b>N° of derogations</b>	159	185	269	1.010

They were issued for the main reasons listed below in order of number of derogations:

- in the interests of protecting wild fauna and flora and conserving natural habitats (667),
- for the purpose of research and education (154) and
- in the interests of public health and public safety (128),
- for other imperative reasons overriding public interests (45)
- to prevent serious damage, in particular to crops, livestock, forests, fisheries, and water and other types of property (16).

Activities allowed relative to animals are deliberate disturbance of species, deliberate capture in the wild, deterioration or destruction of breeding sites or resting places, transport, destruction of habitat. According to the report no individuals have been killed. Uprooting, collecting seeds and picking of leaves have been allowed relatively to plants.

Natural England issued derogations affecting more than one species, mostly for bats. According to the report the number of animals licensed to be affected is artificially inflated. "However this is a total number of e.g. bats that could be affected; the reality is that the number actually affected is much lower." Other derogations do not indicate the species but generically the class or the order, in particular those regarding bats. The Scottish Natural Heritage issued derogations affecting "any European protected species". According to the note annexed to the report these derogations could have affected *Rhinolophidae*, *Vespertilionidae*, *Maculinea arion*, *Felis silvestris*, *Cetacea*, *Muscardinus avellanarius*, *Lacerta agilis*, *Triturus cristatus*, *Lutra lutra*, *Coronella austriaca*, *Acipenser sturio*, *Bufo calamita*, *Caretta caretta*, *Chelonia mydas*, *Lepidochelys kempii*, *Eretmochelys imbricata* and *Dermochelys coriacea*, among animals, and *Rumex rupestris*, *Trichomanes speciosum*, *Gentianella anglica*, *Cypripedium calceolus*, *Apium repens*, *Najas flexilis*, *Liparis loeselii*, *Luronium natans* and *Saxifraga hirculus*, among plants. These licences are issued for "e.g. to Museums and Police Wildlife Crime Officers who need permission to handle all European Protected Species".

More than one license was issued per derogations (up to 1.042) for a total of 16.985 licences. The number of licenses is more than four times that of the 2005-2006 reporting period (3.342). As in the previous biennial, most of them concern bats in Annex IV. The duration of licences vary significantly, in particular great crested newt licences commonly have a duration period exceeding two years and in some cases will be extended to three or more additional years.

The UK report doesn't follow the EU Commission format, nor it has been submitted using Habides, but an outline (table) that does not include all the information required. Missing information are:

- derogation number
- year
- region concerned
- alternative solutions
- number of individuals licensed (in most cases)
- number of individuals actually taken
- scientific data used

- follow-up
- Authorised Authority and Competent Authority: only reporting body is indicated but it is not clear whether it is the Authorised Authority or the Competent Authority

In conclusion, the report does not include all the information needed, but on the base of the data furnished none of the derogations is in apparent conflict with the species protection measures of the Habitats Directive.

## ANNEX A

Detailed table relative to the standardised codes for derogation motive (reason).

Code	Reason
10	in the interests of public health and safety, or for other imperative reasons of overriding public interest, including those of social or economic nature and beneficial consequences of primary importance for the environment (Art.16.1 c)
11	in the interests of public health
12	in the interests of public safety
13	for other imperative reasons of overriding public interest, including those of social nature
14	for other imperative reasons of overriding public interest, including those of economic nature
15	for other imperative reasons of overriding public interest, including those of beneficial consequences of primary importance for the environment
20	in the interests of air safety
30	to prevent serious damage to crops, livestock, forests, fishery and water and other types of property (Art.16.1 b)
31	to prevent serious damage to crops
32	to prevent serious damage to livestock
33	to prevent serious damage to forests
34	to prevent serious damage to fishery
35	to prevent serious damage to water
36	to prevent serious damage to agricultural stock-breeding
37	to prevent serious damage to other types of property
40	for the protection of flora and fauna and conserving (Art.16.1 a)
41	for the protection of wild flora
42	for the protection of wild fauna
43	conservation/protection of the natural habitats
50	for the purposes of research and teaching, of restocking, of re-introduction and for the breeding necessary for these purposes, including the artificial propagation of plants (Art.16.1 d)
51	for the purposes of research and teaching
52	for the purposes of repopulation
53	for the purposes of re-introduction
54	for the purposes of breeding necessary for activities 51, 52, 53, including the artificial propagation of plants
60	to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers (Art.16.1 d)
61	to permit, under strictly supervised conditions and on a selective basis, the capture of certain birds in small numbers
62	to permit, under strictly supervised conditions and on a selective basis, the keeping of certain birds in small numbers
63	to permit, under strictly supervised conditions and on a selective basis, other judicious use of certain birds in small numbers

## ANNEX B

Detailed table relative to the standardised codes for authorized activity.

Code	Activity
20	Capture
21	Capture for decoy use
22	Capture (ringing)
23	Capture /hunting with nets
24	Capture/hunting with snares
25	Capture/hunting with lime
26	Capture for keeping in captivity
30	Killing
31	Poisoned baits
50	Keeping (in captivity)
51	Keeping and caring for wounded birds
80	Deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration (Art.12.1 b)
81	Deliberate disturbance during the period breeding
82	Deliberate disturbance during the period rearing
83	Deliberate disturbance during the period hibernation
84	Deliberate disturbance during the migration period
100	Deliberate destruction or taking of eggs (Art.12.1 c)
101	Deliberate destruction of eggs from the wild
102	Deliberate taking of eggs from the wild
110	Marketing
111	Sale
112	Exchange
113	Offering for sale
114	Offering for exchange
120	Deterioration or destruction of breeding sites or resting places (Art.12.1 d)
121	Deterioration of breeding sites
122	Deterioration of resting places
123	Destruction of breeding sites
124	Destruction of resting places
130	Transport
140	Deliberate picking, collecting, cutting, uprooting or destruction of such plants (Art.13.1 a)
141	Deliberate picking in the wild
142	Deliberate collecting in the wild
143	Deliberate cutting in the wild
144	Deliberate uprooting in the wild
145	Deliberate destruction in the wild