

**COMPOSITE EUROPEAN COMMISSION
REPORT ON DEROGATIONS IN 2005
ACCORDING TO ARTICLE 9
OF DIRECTIVE 79/409/EEC
ON THE CONSERVATION
OF WILD BIRDS**

JUNE 2009

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Introduction

According to Article 9 of the Birds Directive (79/409/EEC), the EU Member States (MS) may derogate from the provisions of Articles 5, 6, 7 and 8. Derogations may be issued provided that there are no other satisfactory solutions.

Every year Member States (ref Art. 9.3) forward to the EU Commission a specific report on the implementation of Art.9.

This composite report provides an analysis of the Member States annual reports covering the year 2005 and an assessment of the conformity of these derogations with the protection measures of the Birds Directive.

The report is based on the national reports submitted to the EC Commission from the 25 EU Member States.

1 Methodology

Twenty-five national reports on derogations issued in 2005, according to Art. 9 of the Birds Directive, have been assessed. All derogations have been systematically scrutinised looking for high numbers of licenses, species, country specific reasons or methods and 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 whether all the needed information, specified in Art. 9.2, 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 this prerogative. The historical trend of the derogations issued has also been taken into consideration.

When a national report does 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 the reasons for which the derogations have been issued

Derogations under art. 9 of the Birds 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 Birds 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. 9.1 of the Birds Directive
10	(a) in the interests of public health and safety
20	(a) in the interests of air safety
30	(a) to prevent serious damage, in particular to crops, livestock, forests, fisheries and water
40	(a) for the protection of flora and fauna
50	(b) for the purposes of research and teaching, of re-population, of reintroduction and for the breeding necessary for these purposes
60	(c) to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers

d) checking of the alternative solutions

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

e) checking activities and methods permitted

Derogations can allow only some activities, specified in arts. 5 and 6.1, listed in table 2 and, more in detail, in annex B.

Derogations allowing impacting activities, such as killing of individuals, destruction of breeding sites 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
10	Sale
20	Deliberate capture by any method
30	Deliberate killing by any method
40	Hunting
50	Keeping
80	Deliberate disturbance of these birds, particularly during the period of breeding and rearing
100	Taking of eggs in the wild and keeping these eggs even if empty
120	Deliberate destruction of, or damage to, birds nests and eggs or removal of birds nests
130	Transport for sale, keeping for sale and the offering for sale of live or dead birds and of any readily recognizable parts or derivatives of such birds

Article 9.2 of the Birds Directive requires a derogation report to specify the means, arrangements or methods authorised for capture or killing. Member States may derogate from the provisions of prohibited methods listed in the Birds Directive (Annex IV) and reported in table 3.

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 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 refer to individuals actually taken.

Table 3. Standardised codes for methods.

Codes	Method
BTH ¹	Firearms
BTH	Traps
BTH	Nets
BTH	By hand
BD ²	Lime
BD	Cages
BD	Snares
BD	Poison and poisoned or anesthetic bait
BD	Pricking of eggs
BD	Decoys
BD	Falconry
BD	Tape recording
BD	Bird calls
BD	Ringing
BD	Scaring devices
BD	Electrical devices capable of killing or stunning
BD	Artificial light sources
BD	Mirrors and other dazzling devices
BD	Devices for illuminating targets
BD	Sighting devices for night shooting comprising an electronic image magnifier or image converter
BD	Explosives
BD	Gassing and smoking out
BD	Semi-automatic or automatic weapons with a magazine capable of holding more than two rounds of ammunition
BD	Aircraft
BD	Motor vehicles in motion
BD	Hooks
BD	Boats driven in excess of five kilometers per hour

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

² BD means that the activity can only be used under the Birds Directive.

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 ease of understanding of the reports (format, language and readability) and the quality of the data provided. For example, an official standard model 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.

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. "Aves", or "passerine", or "crows". In other cases the species are not indicated using the Latin name but with common national names. Finally some derogations concern species that are not covered by the Directive or even alien species.

In total 4.460 derogations were issued at EU level in 2005, an average of 178 derogations per country.

The distribution of the derogations issued by the Member States is shown in Chart 1. As evident their number varies considerably country by country, from less than 10 derogations, as in the case of Cyprus, Estonia, Greece, Ireland, Latvia, Luxemburg, Malta and Slovenia, to several hundreds in others, such as Czech Republic, France, Germany, Italy and Spain. With 1.882 derogations the United Kingdom is the country that issued the highest number of derogations in 2005.

The number of derogations granted by MS from 2001 to 2005 varies considerably (Chart 2). Belgium, Denmark, Greece, Finland, Ireland, Luxemburg, the Netherlands Portugal and Sweden issued almost the same number of derogations, while other countries show very different numbers. Germany and Italy gradually increased the number of derogations during the five years period. Spain follows a similar trend until 2004 and then it decreased significantly the number of derogations issued from 657 to 287. France in 2005 increased ten times the number of derogations: from an average of 26 derogations issued each year until 2004, to 249 derogations in 2005. The United Kingdom shows an increasing trend until 2002, when it granted 716 derogations, then decreased significantly the number of derogations issued to 205 in 2004 and finally re-increased substantially the number of derogations to 1.882. Austria gradually decreased the number of derogations from 2001 to 2005.

Chart 1. Number of derogations issued by each MS in 2005 in comparison with the average of derogations issued at EU level (EU).

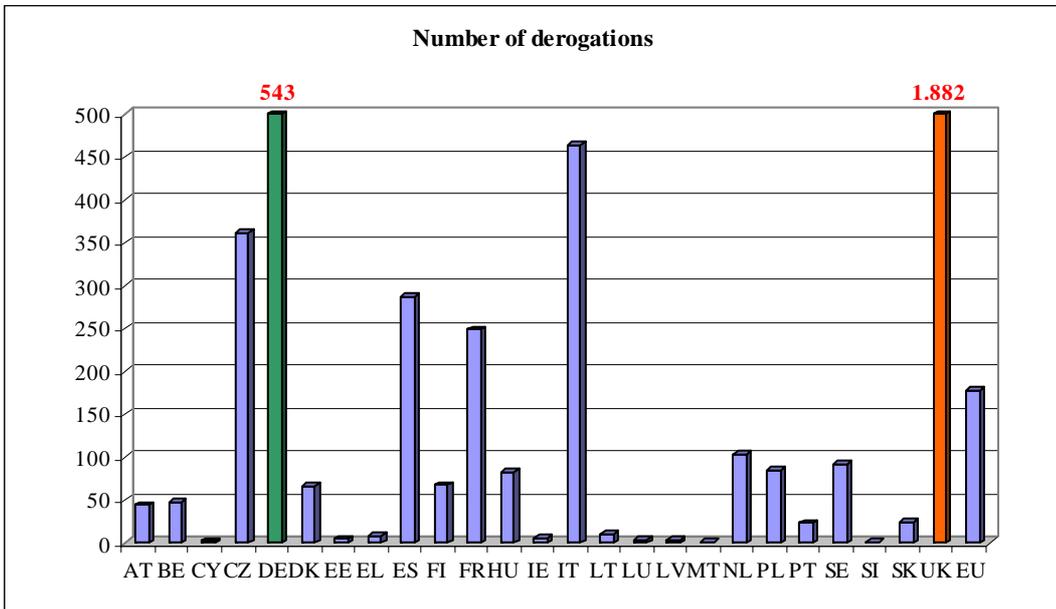
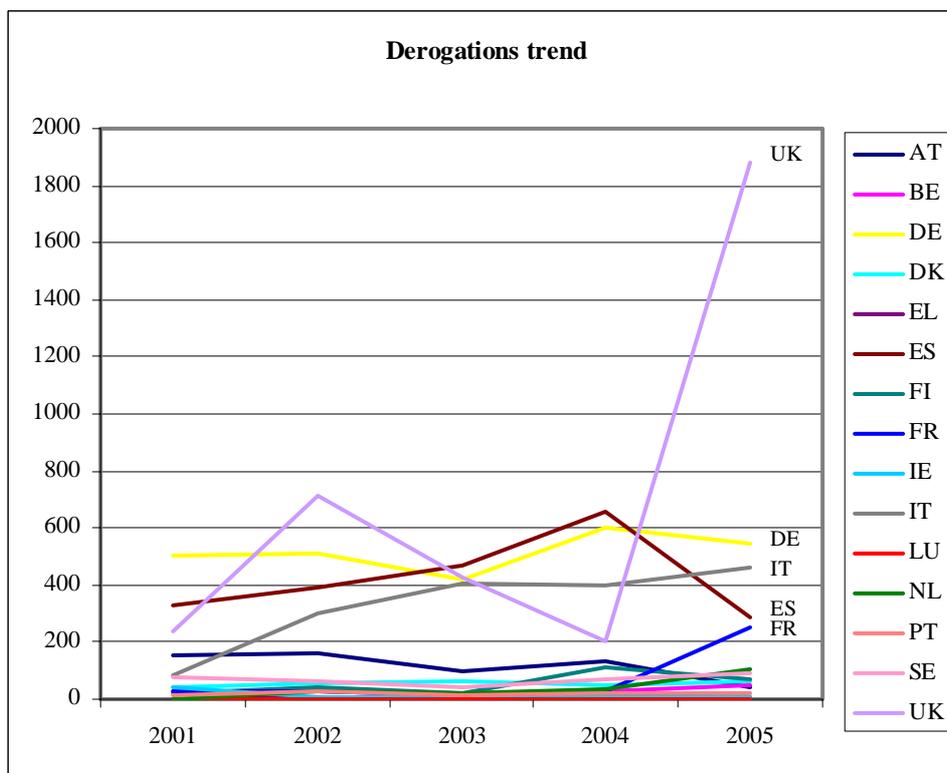


Chart 2. Number of derogations issued by MS during the period 2001-2005.

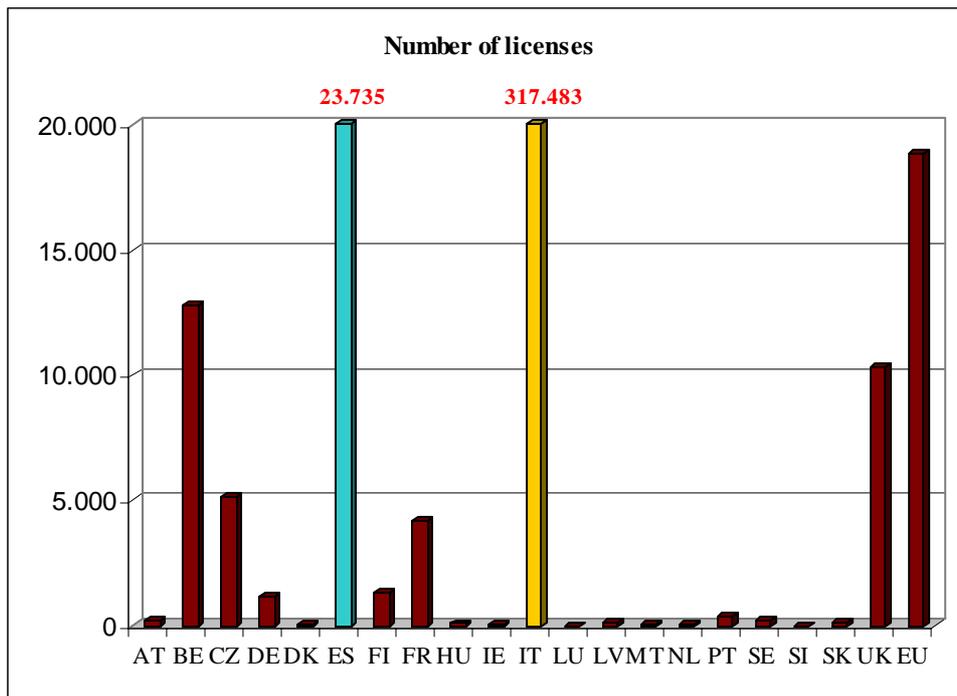


The MS that acceded to the EU in 2004 have not been considered due to the lack of information relative to the 2001-2003 period. No information is available on the Italian 2004 number of derogations, therefore data reported on the derogations are estimation.

An average of 18.872 licenses per country have been granted in 2005³, but this figure includes very significant differences country by country (Chart 3). For instance, Ireland, Luxemburg and Slovenia issued less than 10 licenses, 4 countries issued tens of licenses, Austria, Latvia, Portugal, Sweden and Slovakia issued some hundreds of licenses and another 6 countries issued thousands of licenses. With more than 317.000 licenses Italy is the country that issued the highest number of licenses in 2005.

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. Moreover, some countries do not provide the number of licenses issued per derogation. For instance, Cyprus states “All hunting licence gun holders of 2005-2006”, and Estonia inserts only the name of authorised body, while Greece states that licenses were granted to rehabilitation centres for keeping and caring for of more than 1.000 wounded birds and this activity requires derogations (how many? One for each animal or one for each rehabilitation centre?). Reports from other countries, such as Hungary and Poland seem to indicate, even though never stated clearly, that one license per derogation has been issued. The main difference between the two indicators (Charts 1 and 3) is evident in the Belgian, Czech, Italian, French and Maltese reports, where a single derogation includes up to hundreds or thousands of licenses.

Chart 3. Number of licenses issued by each MS in 2005 in comparison with the average of derogations issued at EU level (EU).



Cyprus, Estonia, Greece, Lithuania and Poland have not been included because no data are reported on licenses issued, but according to the reports it seems that they may amount to thousands for licenses. Data on Hungary are only estimation because the report does not include the number of licenses granted, even though it appears that one license per derogation is allowed.

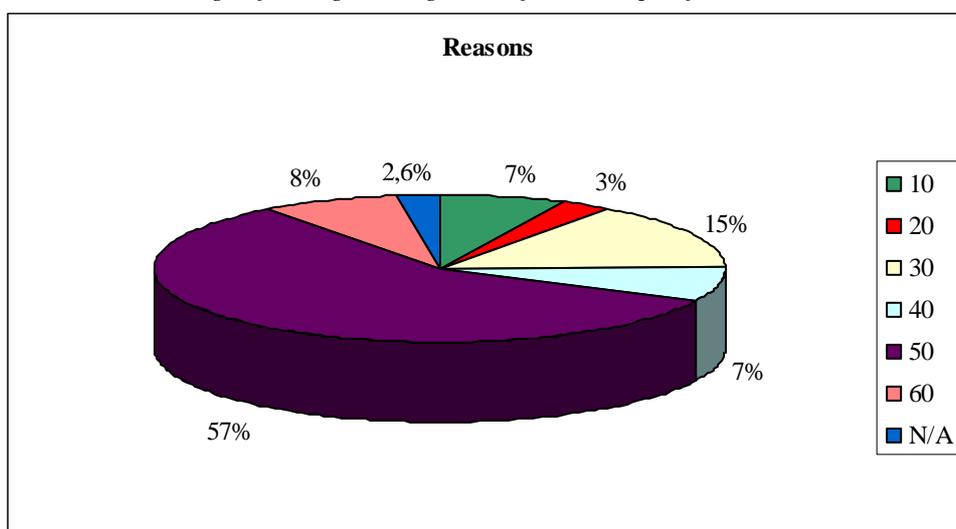
The reasons for derogations in 2005 across the EU are provided in Chart 4.

³ Cyprus, Estonia, Greece, Lithuania and Poland have not been included because no data are reported on licenses issued.

According to the data provided by the national reports, about 57% of all derogations (mainly composed by derogations from UK) are issued “for research and education purposes, of repopulating and re-introducing these species and for the breeding operations necessary for these purposes” (code 50). Most of these derogations concern inventories or study on population dynamics to increase the knowledge on species listed in the Birds Directive. The main activity carried out in the framework of this reason is the ringing of birds. Some Member States provide detailed derogation reports on this issue (i.e. Austria, Luxemburg), while others do not, even though it is obvious that most Member States are having at least some ringing activity every year.

The derogations (15%) connected with the “prevention of serious damage, in particular to crops, livestock, forests, fisheries and water” (code 30) were issued for species with significant impact on different sectors, such as *Phalacrocorax carbo* selectively eliminated by shooting and an undefined number alarmed with gas canon, in order to prevent damages to fish farms in Hungary.

Chart 4. Percentage of derogations granted for each specific reason in 2005.



In some cases more than one reason is included in a single derogation. Here only one reason per derogation has been considered. Germany, France, Greece, Lithuania, the Netherlands and Spain have not been included because no data are available on derogations issued in this year.

Derogations (8%) “to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers” (code 60) have been issued in Belgium to the holders of 16 species of songbirds among which *Fringilla coelebs*.

7% of the total amount of derogations was issued “in the interest of protecting wild fauna and flora” (code 40). In the Czech Republic, for instance, this reason was used for keeping and caring for wounded birds and keeping in captivity.

Another substantial number of derogations (7%) was issued “in the interests of public health and public safety” (code 10), use in particular in Sweden, where 71.210 birds out of a total of 105.564 have been killed for this reason.

Only 3% of derogations has been issued “in the interests of air safety” (code 20), mainly to scare away birds, in particular *Larus* species from the fly fields.

Among the reasons listed above, there are several derogations in a number of Member States which seem issued with the purpose of extending the hunting season, which would be inconsistent with Art 9 according to the European Court of Justice. Finland allowed killing of 21.653 birds under reason 60 to permit spring hunting.

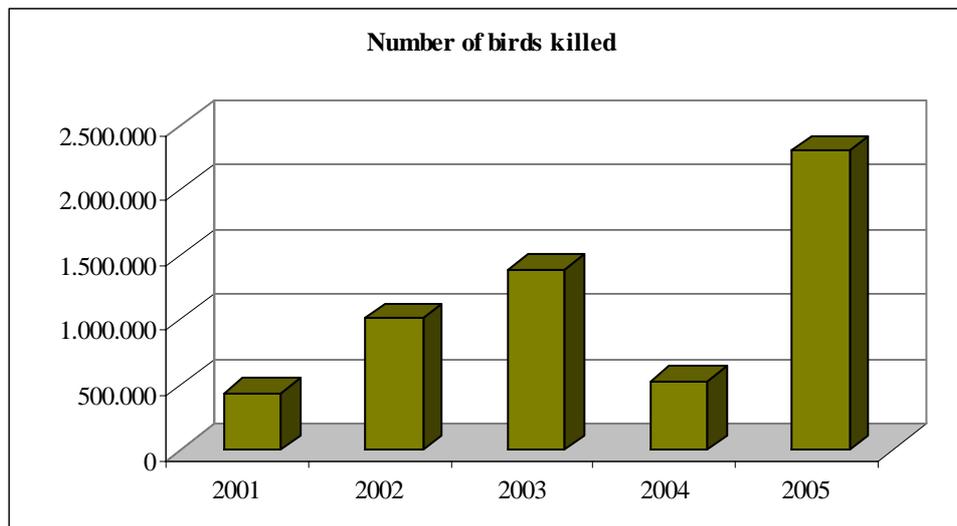
The use of reason 50 (for research and education) is broadly distributed among the MS whereas the use of reason 20 (in the interests of air safety) is more country specific and used in particular in Belgium.

Most of the derogations issued for research and education purposes allow capture of specimens followed by immediate release for species identification and ringing activity. Some MS, such as Lithuania, did not include the permissions for this type of activity in the derogation report. 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 applied mainly to prevent serious damage, in particular to crops, livestock, forests, fisheries and water. The number of birds killed (Chart 5) significantly increases from less than 500.000 in 2001, to more than 2,3 million in 2005. These figures are underestimated due to the lack of information on this issue included in most national reports.

A great part of the derogations granted all over Europe for killing concerns the so called pest species and, in particular, crow species such as *Corvus corone*, *C. frugilegus*, *C. monedula*, *Pica pica* and *Garrulus glandarius*, *Turdus ssp.*, *Sturnus vulgaris*, *Phalacrocorax carbo*, *Larus ridibundus* and *L. argentatus*.

Chart 5. Total number of birds killed all over Europe from 2001 to 2005.



Italy 2004 has not been included because no data are available on derogations issued in these years.

N.B. the figures are underestimated due to lack of information in most of the national reports.

3 Member State reports

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

3.1 Austria

The nine Austrian Länders have granted a total of 44 derogations in 2005.

The reasons to grant derogations most frequently used are research and teaching and to prevent important damages to crops, livestock, forests and water, for which killing and capture of different species have been allowed. Ringing is widespread, in particular in the Niederösterreich and Oberösterreich länders, which provide a detailed list of the species object of ringing and the relative number of individuals. A specific ringing campaign of *Luscinia svecica svecica* has been carried out in Natura 2000 areas.

In some cases the number of licences is not indicated; when it is each derogation grants more than one license. According to the data available more than 219 licenses were issued.

Most of the derogations affect several bird species. According to the data provided a total of 8.213 individuals were killed. In particular:

- for research purposes: *Delichon urbica*, *Circus aeruginosus* and various species of *Sylvia* and *Acrocephalus*
- to prevent damages: *Phalacrocorax carbo*, *Ardea cinerea*, *Columba palumbus*, *Anser anser*, *Accipiter gentilis*, *Corvus corone*, *Pica pica* and *Garrulus glandarius*
- hunting for undefined reason: 90 individuals of *Ardea cinerea*, 40 individuals of *Phalacrocorax carbo* and 35 individuals of *Mergus merganser*

In addition to the capture for research purpose, 494 individuals of *Carduelis carduelis*, *Carduelis spinus*, *Pyrrhula pyrrhula* and *Loxia curvirosta* have been captured for “traditional bird capture”.

Not all the sections of the Austrian report follow the EU Commission format, as the different Länders have compiled different derogations forms in different ways. Moreover, different categories are given in words and not by mean of standard codes, increasing the risk of misinterpretations. However, the report is quite complete, with the exception of those provided by some Länders whose report consists in 2,5 lines.

In conclusion, most of the Austrian derogations are not in apparent conflict with the species protection measures. However, some derogations are subject to further evaluation or legal proceedings (relating to 2 birds of prey: *Accipiter gentilis* and *Buteo buteo*).

3.2 Belgium

A total of 47 derogations were issued in 2005 (about 1/3 of those granted in the previous year), mainly in the interest of air safety, for the protection of flora and fauna and for the purpose of research and education.

Each derogation concerns only one species, with only five exceptions: three derogations concerning two species and three derogations covering all bird species. Often the derogations cover more than one license. For instance, one derogation grants 12.060 licenses to the holders of 16 species of songbirds, among which *Fringilla coelebs*.

The following species were object of derogations:

Annex I: *Fringilla coelebs*, *Buteo buteo*

Annex II/1 *Anas platyrhynchos*, *A. querquedula*, *Branta canadensis*, *Anser anser*, *Columba palumbus*

Annex II/2 which may not be hunted in Belgium *Sturnus vulgaris*, *Larus fuscus*, *Turdus philomelos*, *T. pilaris*, *T. viscivorus*, *Corvus frugilegus*, *C. monedula*

Annex II/2, which may be hunted in Belgium *Corvus corone*, *Pica pica*, *Garrulus glandarius*, *Larus ridibundus*, *L. argentatus*, *Vanellus vanellus*

Not listed in the Birds Directive: *Parus major*, *Tadorna tadorna*, *Falco sparverius*, *F. tinnunculus*, *Anser brachyrhynchus*, *Phalacrocorax carbo*, *Ardea cinerea*, *Tyto alba*, *Motacilla alba*, *Phoenicurus phoenicurus*, *Dendrocops minor*

The most derogated species, which are killed, are *Corvus corone* and *Pica pica*. According to the Flemish report, the two species are subject to “regular suppression” inside the Flemish district, but no information on the number of individuals killed are provided. In the Walloon district 9.021 individuals of *Pica pica* and 4.878 individuals of *Corvus corone* were killed in order to prevent damages to crops. Considering the population sizes of these birds and the reasons provided, it seems that the number of killed individuals should be acceptable.

Other species subject to “regular suppression” are *Sturnus vulgaris* and *Garrulus glandarius*, for the protection of flora and fauna, and *Larus ridibundus* and *L. argentatus*, in the interest of the security of fly fields and in the interest of the public health. For all these species no information on the number of individuals killed are provided and no specific request of permits are needed. Only reporting on the activity to the competent authority is required. For all these species it is not possible to evaluate the impact of the actions on the birds populations.

Six derogations were issued for hunting in the Flemish district to protect flora and fauna, for air safety and for research purposes. They concern Annex II/14 species and birds not listed in the directive.

The derogation report is composed of two different documents: one relative to derogations issued by the Walloon Authority (24) and the second relative to those issued by the Flemish Authority (23). The two documents do not follow the EU format and they are very different in terms of format and information provided. Moreover, both reports do not include the standard codes for reasons, activities and method: this increases the risk of misinterpretations.

Flemish report: the following field are missing:

- Derogation number (only in the case of derogations for hunting)
- Species Latin names
- Specific allowed activity
- Number of derogated individuals
- In most cases number of individuals affected
- In most cases number of licenses granted
- Competent authority
- Licensed authority
- Region concerned (it seems inside all the Flemish district)
- Remarks

Walloon report: the following field are missing:

- Derogation number
- Licensed authority
- Number of derogated individuals
- Region concerned (it seems inside all the Walloon district)
- Remarks

In conclusion the report does not provide all information needed, but according to the information provided, it seems that the derogations granted are not in conflict with the species conservation measures. However, it is not possible to evaluate the impact of the regular suppression of six bird species carried out in the Flemish District in relation to the status of their populations.

3.3 Cyprus

For 2005, as for 2004, only one derogation has been issued concerning two species and covering more than one licence.

The motivations furnished for both derogations are to prevent serious damage to crops and to livestock and for the protection of wild fauna

The activity allowed, in both cases, is hunting (code 40) with firearms, specifying that “the control of the species took place in areas / regions where the highest densities of these species occur”.

The derogated species are *Pica pica* (4.253 individuals hunted) and *Corvus corone* (957 individuals hunted), both listed in Annex II of the Birds Directive and which may be hunted in Cyprus.

While in the report for 2004 the derogation includes licences for 1200-1500 persons, in the 2005 report the license has been granted to “all hunting licence gun holders of 2005-2006” (Birdlife estimates that there are more than 45.000 licensed hunters in 'south' Cyprus). In the field “remarks” the report states that the licenses were “granted to individuals that were holders of a renewed hunting license for the period 2004 – 2005” and that the “hunting of the specific species was not permitted in Wildlife Conservation Areas”. On controls carried out, the report states “the staff of the Game Fund Service exercised regular checks in all areas where hunters were allowed to shoot the specified species”.

To be noted that the derogation's report also specifies the days (from March 27th to April 3rd for the year 2005) in which hunters were allowed to shoot.

The report for 2005 is identical - for number of derogations, species concerned, reasons and activity - to the 2004 report. The only differences between the two reports are that in 2004 the derogation was also given for hunting *Corvus monedula*, in addition to *Pica pica* and *Corvus corone*, and that the number of licences granted was explicitly indicated.

The report does not clear whether alternative solutions were sought to derogations, nor does the report clear the connections between the need to derogate and the activity allowed. Given the lack of the total amounts of licenses granted it is not possible to assess if the motivation for derogation is consistent with the high number of individuals affected. Moreover, the recurrence in hunting the same so-called "pest species" seems to mean that this kind of activity is not effective and durable for the reason stated in the report. In the European Commission's "Guidance document on hunting under Council Directive 79/409/EEC" it is clearly stated, "As always with derogations it is necessary to consider the available solutions. Hunting will not always be an effective solution. Any control method is vulnerable to the removed birds being replaced from elsewhere and shot birds will, after some times, be replaced by other birds".

The report from Cyprus uses the Commission's format, and all the fields requested have been filled.

None of the Cypriot derogations seems in apparent conflict with the species protection measure.

3.4 Czech Republic

A total of 362 derogations were submitted in the year 2005.

The licenses have been granted for a wide range of reasons. The most frequent motivations are:

- for the protection of wild fauna (75 times)
- for the purposes of research and teaching (52 times)
- to prevent serious damage to fisheries and water (58 times)
- in the interest of public health and safety (47 times)

When the reason falls within those listed under the letter (a) of the Art.9.1 (codes 10-40) the permitted activity is mostly "scaring away" (code 80), while when the reason is to prevent serious damage to crops, livestock, forests, fisheries and water the permitted activity is mostly killing (code 30). "Keeping and caring for wounded birds" (code 51) and "keeping in captivity" (code 50) are recurrent activities when the purpose is the protection of wild fauna (reason code 42). Capture and capture for ringing are used when the main purpose is research and teaching.

In some cases, a single derogation covers several reasons and species.

Sometimes several activities are associated to one or more reasons: i.e. killing, keeping in captivity and breeding are the permitted activities for the protection of wild fauna; or, to furnish an other example, falconry and keeping and caring for wounded birds of *Bubo bubo* species are authorized in the interest of air safety, for the protection of wild

fauna and to permit, under strictly supervised conditions and on a selective basis, the keeping of certain birds in small numbers. According to information provided by the Czech Republic, in case of *Bubo bubo* it usually refers to handicapped birds, which are then used for falconry, therefore reasons 20 (capture) and 42 (falconry) partly overlap. In case of derogations concerning more than one species it is usually granted to rehabilitation centres, where even specification of species could be sometimes impossible (the centre is allowed to care for different unspecified species).

The most derogated species are:

- *Phalacrocorax carbo*: 48 derogations, granted in great part for killing and/or scaring away to prevent serious damage to fishery and water;
- *Perdix perdix* (Annex II/1): this species was affected by 47 derogations mostly for the protection of wild fauna and for the purposes of restocking/re-introduction;
- *Accipiter gentilis*: 30 derogations concern this species frequently kept and cared for wounded birds or kept in captivity;
- *Alcedo atthis* (Annex 1): 28 derogations mainly issued for scaring away, in the interests of public health and safety or for the protection of wild fauna and flora.

The report does not use the official reporting format, but a table that does not include some of the requested fields. Moreover, in some cases not all the fields are filled. The remarks section is omitted and information relative to the conditions of risk considered, the circumstances of places under which derogations are granted and the controls carried out, are also missing. Furthermore, the report mistakes the number of licences granted for the number of individuals taken. The table includes the field “No. of license granted, No. of individuals taken” and it is therefore not clear if the number associated to this field refers to the licences or to the individuals. This field is not always filled and so it is not possible to estimate the number of licences covered by each derogation or the number of individuals affected for each species, also because most derogations concern more than one species (sometime up to 45 different species). Furthermore the meaning of some sentences reported in this last field is not clear (i.e. “max 350 ks”, “not restricted”, “deliberate disturbance if more than 10 individuals, shooting if more than 5 individuals”, “due to numerosity of flock”).

In a few cases the species are not identified at all (“N/A), or in a generic way (i.e. “songbirds”, “finches”, “birds”, “birds of pray”, “critically and highly endangered species”). Sometimes the “validity” of the licenses covers an extended period of time (“2005-2015”).

In conclusion important information are missing and/or not clear and therefore the report is difficult to assess. However from the information provided it seems that no derogation are in conflict with the overall objectives of the Birds Directive or the specific conditions under Art.9.

3.5 Denmark

The derogations granted for 2005 are 66, each one is linked to one license issued from January 1st to December 31st.

The activity allowed is almost always (64 times) killing (code 30) with firearms for the control of the so-called “pest species” (reasons listed under Art. 9.1a). In two cases the activity allowed is taking of eggs (code 100) by hand followed with the release (code 60), for the purposes of restocking (code reason 52): the total of eggs collected amounts to 35.161 all belonging to *Phasianus colchicus* (species listed in Annex II/1).

The reasons furnished are:

Art. 9.1a

- in the interest of air safety (code 20): 40 times.
- in the interest of public health and safety (code 10): 11 times.
- to prevent serious damage to crops (code 31): 7 times.
- for the protection of wild fauna (code 42): 3 times.
- to prevent serious damage to fisheries (code 35): 2 times.
- to prevent serious damage to livestock (code 32): 1 time.

Art. 9.1b

- for the purposes of restocking (code 52): 2 times.

The number of individuals killed amounts to 5.845. They belong to the following species:

- *Corvus frugelii* 1914 individuals, not listed in any Annex.
- *Corvus corone* 950 individuals, listed in Annex II/2 and which may be hunted in Denmark.
- *Larus argentatus* 827 individuals, listed in Annex II/2 and which may be hunted in Denmark.
- *Columba palumbus* 634 individuals, listed in Annexes I and II/1.
- *Anas platyrhynchos* 290 individuals, listed in Annex II/1.

The report for 2005 seems to be very similar to the previous one in reasons, activities allowed, methods and species affected.

The derogation report from Denmark does not use the Commission’s format but a table that contains all the fields requested with the exception of the derogation number; in the field remarks it is always written “none” and moreover all information relative to the conditions of risk considered, the circumstances of time and places under which derogations were granted and the controls carried out are missing.

On the base of the information provided, the derogations granted in Denmark do not seem in contradiction with the conservation of the species.

3.6 Estonia

The total number of derogations granted is 4.

The reason for derogation is “to prevent serious damage to crops, livestock, forests, fishery and water” (code 30 and 31) and, in one case, the “protection of wild fauna and flora” (code 40) is also mentioned. The activity allowed is in all cases killing (code 30) and the authorised persons’ category refers always to “hunting societies”.

The total number of killed individuals amounts to 1.114:

Species listed in annex I:

- *Branta leucopsis*: 952 individuals

Species not listed in the annexes:

- *Phalacrocorax carbo*: 101 individuals
- *Ardea cinerea*: 39 individuals
- *Corvus corax*: 22 individuals

The report for 2005 seems to be similar to the previous one in reasons, activity, method and species affected. The number of individuals killed is however more than double.

The report from Estonia uses the Commission’s reporting format and the information provided are complete with the exception of information relative to the derogation number and the remarks. The information provided does not cover the conditions of risk, the circumstances of time and place under which derogations were granted and the controls carried out. Sometimes the period for which the licenses are granted is generically indicated as “outside the breeding season”. The permitted method is “firearms” and, only in one case, it is generally indicated as “BTH”.

On the base of the information provided, the derogations granted in Estonia do not seem in contradiction with the conservation of the species.

3.7 Finland

In Finland 67 derogations were issued in 2005, a number lower than the previous year, when 109 derogations were granted.

The Finnish derogation report is composed of two parts: one by the Ministry of the Environment, is related to the “Protected species under the Nature Conservation Act”, while the other one, by the Ministry of Agriculture and Forestry (MMM), concerns 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. 47 derogations involve the species legally protected in Finland, while the remaining 20 derogations concern the ‘game and unprotected species’.

Most of derogations cover more than one licence (up to 367) and a single species with the exception of two derogations, which concern up to 275 species.

A total of 129.697 individuals were killed, of which 209 belonging to the ‘protected species’ and 129.488 belonging to the ‘game and unprotected species’. The number of 209 individuals killed could be partial, as the data related to the number of birds affected are not always available.

The great part of the ‘protected species’ is granted “for the purposes of research and teaching, of re-population, of reintroduction and for the breeding necessary for these purposes” (25 derogations) and “to prevent serious damage to crops, livestock, forests, fisheries and water” (13 derogations). The most frequent activity is killing (15 derogations) and capture (14 derogations).

The species most affected is the *Corvus monedula*: 146 individuals were killed in the interests of public health (reason code 11) or to prevent serious damage to crops or to livestock. Other species concerned by the killing activity are *Parus major* and *Dryocopus martius* (Annex I) in the interests of public health, *Corvus corax*, *Corvus frugilegus*, *Passer domesticus* and *Larus canus* to prevent serious damage to crops, livestock, forests, fishery and water.

Only two derogations by the Ministry of the Environment involve more than one species. These derogations were granted for killing with firearms, from mid May until the end of the year, 275 species in the interests of air safety (reason code 20) and 128 species for the purpose of research and teaching (reason code 51). None of these two derogations indicate the number of individuals actually killed, and only the second one specifies the ceiling of individuals, which may be affected (3 specimens/species).

Almost all the derogations related to the ‘game and/or unprotected species’ are granted for killing (activity code 30), which is nearly the only activity allowed. Only one derogation grants the capture of one individual of *Phasianus colchicus*, and another derogation issues one licence out of 15 for the destruction of 14 eggs of *Larus argentatus*.

As the past report (2004), the greater part of the derogation licences by the MMM, were issued ‘to prevent serious damage to crops etc.’, often together with the ‘protection of flora and fauna’ reason. Only one or two licences per derogation, with a total of 11 licences, are issued in the interests of public health and safety, or for the purposes of research and teaching.

Seven derogations were given for allowing, mainly on the Åland islands, the killing of 21.653 individuals of seven species (*Aythya fuligula*, *Somateria mollissima*, *Clangula hyemalis*, *Melanitta fusca*, *Bucephala clangula*, *Mergus serrator* and *M. merganser*) during the spring (mainly between April and May), “to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in a small number” (reason code 60).

The 129.488 individuals killed concern the following ‘game and unprotected species’:

- 41 individuals of *Corvus corax*
- 22.434 individuals of *Corvus cornix*
- 5.545 individuals of *Pica pica*
- 11.269 individuals of *Larus argentatus*
- 1.832 individuals of *Larus marinus*
- 833 individuals of *Columba livia domestica*
- 64.863 individuals of *Turdus pilaris*
- 131 individuals of *Anser anser*

- 9 individuals of *Branta canadensis*
- 3 individuals of *Anas platyrhynchos*
- 30 individuals of *Tetrao tetrix*
- 845 individuals of *Columba palumbus*
- 2.845 individuals of *Aythya fuligula*
- 6.940 individuals of *Somateria mollissima*
- 5.761 individuals of *Clangula hyemalis*
- 1.869 individuals of *Melanitta fusca*
- 1.905 individuals of *Bucephala clangula*
- 1.406 individuals of *Mergus serrator*
- 927 individuals of *Mergus merganser*

Both reports include all the requested fields, even though the Ministry of the Environment report does not follow the Commission's format, while the second of the MMM follows the model of report according to the Habitat Directive.

In conclusion the Finnish report is quite complete and none of the derogations is in apparent conflict with the bird protection measures, with possible exception of the seven derogations given for the reason "to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in a small number". Furthermore, these derogations are similar in reason, activity, region concerned, period and species to 12 derogations given in the previous year.

3.8 France

In France 249 derogations were issued in 2005, a number much higher than the previous years, when 31 (both in 2001 and in 2002), 17 (in 2003) and 26 (in 2004) derogations were granted.

Most of derogations cover only one licence, but in more than half of the derogations (146 derogations) the number of licences issued is not indicated at all and in some other cases each derogation grants a considerable high number of licences (up to 1.257 licences). According to the data available, 4.199 licenses were issued in 2005, a much higher figure in comparison with the past years, when 31 (both in 2001 and in 2002), 73 (in 2003) and 92 (in 2004) licences were issued.

Each derogation concerns a single species and it is granted under a single reason. The most frequent motivations are:

- for the protection of wild fauna (77 times)
- to prevent serious damage to fisheries and water (49 times)
- to permit under strictly supervised conditions and on selective basis, other judicious use of certain birds in small numbers (44 times)
- in the interest of air safety (27 times)
- for the purposes of research and teaching (26 times)

Most of the derogations have authorized killing (167 derogations) and capture (62 derogations) activities.

A total of 27.742 individuals were killed. The most derogated species killed are:

- *Larus argentatus* (listed in Annex II/2 as species which may not be hunted in France): 21 derogations were given for killing an undetermined number of individuals of this species. In particular, one derogation was granted for killing 200 Herring gulls in order “to prevent serious damage to crops, livestock, forests, fishery and water”, and 5 derogations for killing 888 individuals “in the interests of air safety”;
- *Phalacrocorax carbo* (not listed in the Birds directive): 124 derogations were granted for killing a total of 26.609 specimens of Great cormorant of which 16.647 in order “to prevent serious damage to fishery and water” and the remnant 9.962 for “the protection of wild fauna”. This number falls within the annual harvesting quota, which corresponds to 31.408 and 33.784 individuals for 2004-2005 and 2005-2006, respectively. Moreover, the number of birds killed seems consistent with the size of the cormorants wintering population for 2005, which was of 97.977 individuals.

44 derogations were granted “to permit under strictly supervised conditions and on selective basis, other judicious use of certain birds in small numbers” (code 63) during the hunting season. Under this reason were caught by different methods (hunting with traps, nets, snares and, mainly lime – 25 derogations) a total of 549.049 individuals mainly passerine birds listed in Annex II/2 as species which may be hunted in France:

- 493.340⁴ specimens of *Alauda arvensis* (4 derogations)
- 18.828 specimens of *Turdus iliacus* (8 derogations)
- 15.728 specimens of *T. pilaris* (8 derogations)
- 14.647 specimens of *T. philomelos* (8 derogations)
- 4.716 specimens of *T. merula* (7 derogations)
- 1.790 specimens of *T. viscivorus* (8 derogations)
- 204 specimens of *Vanellus vanellus* (1 derogation)

The French report does not follow the EU Commission format, but a tabular form which does not include some of the requested fields (the “region concerned” and the “remarks” are missing), while some of the present fields (i.e. “number of license granted or authorized persons”, “authorized method”, etc.) were often left empty. Moreover, reasons and activities are given in words and not by mean of standard codes and this increases the risk of misinterpretations. The validity of some derogations is extended over more than one calendar year (up to 3 years). In some cases (51 times) only the date for the beginning of the licence validity is stated, without no reference to the end, if there is one. In many other cases (120 derogations) only the number of months (sometimes days) covered by the licence is indicated. Since in these latter cases the dates of beginning and end for implementing the licence is omitted, it is not possible identify whether those periods overlap with the migration/breeding ones.

Information about the number of individuals affected is often missing: 59 times out of 249 derogations the associated field is left empty. Therefore, the number of 27.742 individuals killed could be partial, as 20 times out of 167 derogations granted for killing, the related data are not available.

⁴ According to data provided by the competent French Ministry, the derogations were issued to allow hunting of small quantity of birds through selective methods under strictly supervised conditions.

While it is understandable that the figures for the taking of birds cannot be provided when the validity extends beyond 2005, nevertheless the maximum number that can be affected should be indicated. Moreover, the information provided do not cover the conditions of risk, the circumstances of time and place under which derogations were granted, the controls carried out, how and who used the means, arrangements and methods authorised.

This lack of information, in combination with other missing data (demonstration of the reasons) makes it difficult to judge whether there is a risk for the concerned birds conservation status and whether derogations are adequately justified.

In conclusion, even though the report provides only part of the information needed, none of the French derogations are in apparent conflict with the species protection measures of the Birds Directive.

3.9 Germany

A total of 543 derogations were issued in 2005 from different authorising local authorities in Germany.

242 derogations were issued for the purpose of research and education, in most cases (174) to allow stuffing of animals found dead. Another reason frequently used (124 derogations) is in the interest of public health and safety, followed by the prevention of serious damage, in particular to crops and fisheries. 92 derogations do not include the reason for their issuing.

In most cases derogation grants a single licence, with few exceptions. A total of 1.169 licences were issued in 2005. The duration of the licenses is often more than one year, in some cases five or six years. 27 licenses were granted for an unlimited period of time mainly (24) for research and education purpose (stuffing of animals) and to scare away generic “birds” for the protection of flora and fauna (2) and for the destruction of “birds” nests (number not indicated) for an unspecified reason.

Usually each derogation concerns only one species, with few exceptions, among which there are some derogations covering “all bird” species, or “song birds” or other generic categories of birds, such as “Strigiformes”.

The most derogated species for killing is *Phalacrocorax carbo*, 21.758 individuals killed mainly to prevent damages to fisheries. The number of derogations corresponds to the registered increase of conflicts with this economic sector. Considering the population size of the cormorant in Germany and in Europe and the results of a recent study, according to which shooting in wintering areas is not sufficient to threaten the overabundant cormorant population in Germany, it seems that the number of killed individuals could be acceptable. However, according to the report, specific rules regulate derogations for this species. These rules are available in 9 out of 16 Federal States in Germany and allow shooting the great cormorant outside the breeding season, mainly between August and March. In some regions, young birds may be shot all year around. While shooting is mostly permitted in fish farm areas and on all kinds of water bodies with fishing rights, it is generally forbidden in protected areas. In some federal states, wildlife authorities may permit single shootings in protected areas. In most regions professional hunters or fishermen holding a hunting licence may carry out shooting.

In two states, fishermen are allowed to shoot cormorants on their own waters without this license. Moreover the rules do indicate neither the annual harvesting quota nor what is considered as an acceptable dimension of the cormorant population. Finally, the impact of rules is not evaluated, adjusted or coordinated among the federal states. Damages by cormorants are generally not compensated.

Other derogated species for killing to prevent serious damages are *Corvus frugilegus* (1.037), *Columba palumbus* (931), *Branta leucopsis* (627), *Ardea cinerea* (608), *Larus argentatus* (50), *Corvus corax* (36), *Passer domesticus* (36), *Garrulus glandarius* (24), *Buteo buteo* (18), *Alopechen aegyptiacus* (15) and *Accipiter gentilis* (8).

Five derogations were issued to permit, under strictly supervised conditions and on a selective basis, the capture, keeping and use for falconry of 15 individuals of *Accipiter gentilis*.

The report does not follow the EU standard model. 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 field 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, none of the German derogations are in apparent conflict with the species protection measures of the Birds Directive. The management of the *Phalacrocorax carbo* should be coordinated at national level.

3.10 Greece

In 2005 a total of 4 derogations were granted for scientific purposes for ringing or for collecting of different passerine species or of feather samples of *Calonectris diomedea* (listed in Annex I).

Derogations were also granted to rehabilitation centres for keeping and caring for 1.000-1.500 wounded birds each year, but additional data related to this kind of derogation is missing.

Further derogations were granted for allowing the import of:

- game birds such as *Phasianus colchicus*, *Columba palumbus*, *Coturnix coturnix*, *Streptopelia turtur*, etc., hunted by Greek hunters in foreign countries. Information on the reason under which these import-licences were issued or whether the birds species are imported dead or alive, or whether they are introduced into the wild, is totally missing;

- pet birds for the trade. According to the report, in 2005-2006 a serious decline in the numbers of imported birds due to avian flu problems was noted. Almost 4000 wild birds were imported in Greece, the vast majority being *Carduelis carduelis* and the rest *Emberiza melanocephala*, both from Pakistan.

The report does not follow the Commission's format, but a rather generic descriptive approach. It is hard to interpret because important information is missing (i.e. number of derogations, reasons, activities, methods, species, number of individuals, etc.), while data furnished are generic and could be misinterpreted. Moreover, a part from the derogations for scientific research, the year concerned is never specified, and thus it is not possible to make a separate evaluation for each year (the report includes without distinctions derogations issued in 2005 and in 2006).

In conclusion based on the scarce information provided, none of the Greek derogations are in apparent conflict with the species protection measures of the Birds Directive.

3.11 Hungary

83 derogations were issued in 2005, in line with the previous year.

Most of derogations were issued to prevent serious damage to crops, livestock, fish farms and water in case of substantial economic damage. These derogations allow in particular killing or scaring away *Phalacrocorax carbo* (47), *Anser fabalis* (8), *A. albifrons* (8), *Sturnus vulgaris* (4), *Corvus frugilegus* (3), *Larus cachinnans* (2) and *Ardea cinerea* (1) under a strict control of guards of the hunting authority.

In several derogations, the number of individuals taken is "0" or "undefined". Therefore, according to the data provided, the number of individuals object of derogations were:

- 1.903 *Phalacrocorax carbo* selectively eliminated by shooting and an undefined number alarmed with gas canon, in order to prevent damages to fish farms, as the species cause substantial economic losses.
- 247 *Anser fabalis* (Annex II/1)
- 187 *A. albifrons* (Annex II/2), which may be hunted (H) in Hungary
- 206 *Sturnus vulgaris* (Annex II/2, H)
- 0 *Corvus frugilegus* (Annex II/2, H)
- 425 *Larus cachinnans* (Annex II/2, H)
- 0 *Ardea cinerea*
- 5.930 *Pica pica* (Annex II/2, H), all allowed through one derogation granted to different bodies, between March 1 and July 1, for hunting purpose. Only the use of firearms was allowed.
- 1.826 *Garrulus glandarius* (Annex II/2, H), all allowed through one derogation granted to different bodies, between March 1 and August 1, for hunting purpose. Only the use of firearms was allowed.
- 3.472 *Corvus corone cornix* (Annex II/2, H), all allowed through one derogation granted to different bodies, between March 1 and July 1, for hunting purpose. Only the use of firearms was allowed.
- 2 *Cygnus olor* (Annex II/2, which may not be hunted in Hungary), were captured with the aim of carrying out breeding activity with education purpose and another 56 were killed to protect flora and fauna.
- 10 *Accipiter gentilis*, in one derogation to prevent damages to a pheasant farming.

- Undefined number of *Passer domesticus*: 3 derogations issued in the interest of public health.
- 8.986 *Scolopax rusticola* (Annex II/1), all allowed through one derogation from March 1 to April 10, allowing for the hunting with firearms. The derogation was granted according to the Hungarian hunting law, during the breeding period of this species. For this reason the European Commission has conducted an infringement procedure.

As regards the three crow species, *Pica pica*, *Garrulus glandarius* and *Corvus corone cornix*, it is to be noted that derogations allowed their hunting during spring, which corresponds to their breeding period and, for *Garrulus glandarius* and *Corvus corone cornix*, also with the prenuptial migration period. The report does not indicate whether hunting doesn't exceed more than 1% of the yearly death of that species. However, considering the population sizes of these birds, it seems that the number of hunted individuals could be acceptable.

The Hungarian report follows a format similar to the one of the EU Commission, and the following inconsistencies are present:

- different categories, such as the reason for derogation and the authorised activity, are given in words and not by means of standard codes. This increases the risk of misinterpretations.
- Information about the number of individuals affected is missing in most cases.
- The number of licenses granted is not indicated. According to information provided by Hungary, each derogation refers to one license, except in the case of species which may be hunted (*Corvus cornix*, *Garrulus glandarius*, *Pica pica*, *Anser fabalis* and *Anser albifrons*). In these cases, the columns titled "Vadászatra jogosultak száma" (number of licensees) in the corvids, and "Vadászterületek száma" (number of hunting districts) in the goose species refer to the number of licenses.
- Alternative solutions are not indicated.
- The Follow up is not always indicated.

Except for the derogations relating to *Scolopax rusticola*, none of the other Hungarian derogations are in apparent conflict with the species protection measures.

3.12 Ireland

The report from Ireland includes derogations relative to 2005 and 2006. During the year 2005, only 6 derogations have been issued.

The report is accompanied by a Declaration ("Declaration under regulation 3(1)(a) of the European Communities (Wildlife Act 1976) (Amendment)") and an annexed form with a list of the so-called "pest species" which can be affected by derogations, for the reasons under Art. 9.1(a) (threat to public health or serious damage to crops, livestock or fauna). According to the cover letter "the great majority of cases in which derogations are issued, relate to scientific study and monitoring activities and to a much lesser degree for the purposes of air safety" but the report concerns derogations granted only for the purposes of research and teaching (code 51) and the species concerned are different from those listed in the form annexed to the Declaration.

The only activity allowed by the licences granted is the deliberate capture in the wild (code 20), which implies that none of the individuals affected by derogations have been killed. When indications on the taking method are given (not in all cases) they often refer to capture by hands or nets.

The derogations have been granted for eight species, and three of them (*Cygnus cygnus*, *Falco columbarius*, *Falco peregrinus*) are listed in Annex I of the Birds Directive.

Each derogation is referred to one licence, but some licences concern more than one species. Information relative to the number of individuals affected is missing in all cases. In the cover letter it is stated, “a condition of derogation licences issued is that the licensee shall report on the number of birds affected by activities authorised under the licence”. One can deduce that the number of individuals to be affected by the license is not decided before granting a derogation, but it is just reported on the basis of the licensee’s declarations.

The report does not use the EU Commission format, but a format that does not include all the information required. Information concerning methods, regions, period, date and remarks (and therefore the circumstances of time and place in which the derogations are granted and the controls carried out) are missing. The national licensing authority is indicated only in the cover letter.

None of the Irish derogations are in apparent conflict with the species protection measures.

3.13 Italy

The number of derogations in 2005 amounts to 465.

The motivations more frequently used are:

- to permit under strictly supervised conditions and on a selective basis the capture, keeping or other judicious use of certain birds in small numbers (197 times)
 - to prevent serious damage to crops, livestock, forest, fisheries and water (155 times)
- Sometimes code 64 is used as a motivation, which is not foreseen in the standard code for derogations reasons.

The more frequent activities allowed are capture (238), killing (166) and hunting (154).

Region	Killed individuals	Captured individuals	Total
Veneto	883.744	22.579	906.323
Lombardia	313.951	36.937	350.888
Emilia Romagna	209.177	9132	218.309
Toscana	168.504	2.339	170.843
Marche	116.712	335	117.047
Umbria	116.470	0	116.470
Liguria	91.309	0	91.309
Piemonte	11.816	0	11.816
Friuli Venezia Giulia	7.622	0	7.622
Val D' Aosta	1.105	0	1.105
Abruzzo	636	0	636
Molise	499	0	499
Trentino Alto Adige	4	227	231
Sicilia	0	14	14
Total	1.921.549	71.563	1.993.112

Most of the individuals derogated were killed: 1.921.549 on a total of 1.993.112. However, the report does not clear how and who used the means, arrangements and methods authorised. All data collected come from the numbers indicated by the hunters in their personal pass. Without an effective control it is difficult to know whether the number of individuals killed corresponds to reality.

All the derogations granted by the Veneto region to authorise hunting to prevent serious damages do not specify whether alternative solutions were verified, nor if there was any control. As the derogations mention the maximum number of individuals that can be shot by each hunter, one can assume that the real motivation for the derogation was instead letter (c) "to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers."

Under art 9.1c, 977.753 individuals, not included in Annex II of species that may be hunted in Italy, were hunted and killed. Among them there are *Fringilla montifringilla* (189.351 individuals), *Phalacrocorax carbo* (3.929 individuals) and *Passer domesticus* (107.458 individuals).

According to the Commission's Guidelines - Guidance document on hunting under Council Directive 79/409/EEC on the Conservation of wild birds -, when a derogation is authorised under art. 9.1c, the condition of "small quantities" can be satisfied when any taking is around 1% of the annual mortality of species. Furthermore, the principle of "strictly supervised conditions and selective basis" implies that any use of this type of derogation must involve clear authorisations that must be related to particular individuals, places, times and quantities. For many derogations under art. 9.1c the Italian report includes a remark stating that the Italian Institute for Wild Fauna (INFS) - the competent scientific institute which indicates the conservation status for each species and defines annually the "maximum number that can be taken", on the base of 1% of the mortality rate surveyed for each species in each region - was not able to furnish an opinion on the number of individuals that can be taken. The report does not clear on which basis the number of individuals authorised to be taken was calculated.

In Italy there is a protocol regulating number of individuals that can be taken. The protocol signed by the regional administrations and the INFS is the procedure established to determine each year, on the basis of verified scientific data, the maximum amount of species that may be taken, on a national and regional level, for derogations under art.9.1c. When mentioning derogations under art.9.1c the report states that arrangements are made without taking into account the protocol or that, as in the case of Emilia-Romagna, the region has decided not to stipulate a protocol at all.

Often derogations include more than one license. In Lombardy, for example, 16 derogations were granted, each of which authorised 16.000 licences; in Tuscany one single derogation included 39.000 licences.

The most derogated species are:

Annex I species:

- *Fringilla coelebs*, 874.050 individuals have been hunted and killed with firearms:
 - 569.708 in Veneto, 117.707 in Lombardy and 50.683 in Liguria under art. 9.1c (to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers);
 - 103.001 individuals in Tuscany, to prevent serious damage to crops

Annex II /2 species that may not be hunted in Italy:

- *Sturnus vulgaris*: 549.670 individuals have been killed:
 - 416.639 individuals hunted to prevent serious damage to crops, livestock, forests, fishery and water. To be noted one derogation granted in Tuscany for 10.000 licences to hunt 61.870 individuals;
 - 64.084 hunted with firearms to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers;
 - 68.947 individuals killed to prevent serious damage to crops, livestock, forests, fishery and water.
- *Streptopelia decaocto*: 37.410 individuals.

Species of II/2 that may be hunted in Italy:

- *Corvus corone*: 36.590 individuals.
- *Pica pica*: 18.055 individuals.

The report from Italy does not cover the conditions of risk, the circumstances of time and place under which derogations were granted and the controls carried out.

The Italian derogations are not in apparent conflict with the species conservation measures, with the exception of derogations issued for hunting several species of birds in different Italian Regions. The derogations granted under Art.9 seem to be used to grant an almost permanent hunting season, which is not in line with the Birds Directive provisions.

3.14 Latvia

A total of 3 derogations were granted in 2005, similar to the previous year in species affected, reason and related activity.

Two derogations were granted for the protection of wild fauna (code reason 42); the first concerning five specimens of *Ciconia ciconia* (Annex I), the second one concerning one individual of *Aegolius funereus* (not listed in the Annexes).

In both cases the permitted activity was keeping and caring for wounded birds (code activity 51) delivered to the Riga National Zoo.

The third derogation was granted for hunting *Tetrao urogallus* to permit, under strictly supervised conditions and on a selective basis, other judicious use of certain birds in small numbers. This last derogation covers 114 licences (in the preceding year the hunting licences were 75), granted from 20/04/2005 to 10/05/2005 for hunting 57 males. In the “Remarks” field it is stated “single use permit is based on annual census data issued for each bird harvest in concrete leks. Harvest is in accordance with Species Management Plan.”

The hunting derogation for recreational purposes is issued during the spring breeding season. *Tetrao urogallus* is a species which may be hunted in Latvia and, according to the National Hunting Law, the hunting season is in spring, from April 10 to May 10, when it is possible taking the rooster of capercaillie during its mating season. By tradition, the shooting is at dawn, with the hunter sneaking up on the prey when the bird is clucking. As derogations are exceptions, which allow activities normally prohibited, it is not clear, lacking further information, why a derogation is needed in the period that hunting is allowed. Moreover the principle of “selectivity” connected with the reason of Art. 9.1(c) under which this derogation is granted, is fulfilled by the statement “limited *Tetrao urogallus* male hunting”, but the generic reference to the method does not permit an appraisal of its selectivity and the conditions of risk (i.e. is it creating disturbance to other individuals of the same species and/or different species?).

The report follows the official format. Information furnished is complete, except for the authorized persons, the conditions of risk and the controls carried out, which are not specified. Moreover, in all cases the permitted methods are indicated with the alphabetic code which does not specify which method (ie firearms, traps, net etc), but indicates only if the activity can be used for derogations from provisions of prohibited methods under the Birds and Habitat directives (code BTH) or only under Birds Directive (code BD).

None of the Latvian derogations are in apparent conflict with the species protection measures.

3.15 Lithuania

11 derogations were granted in 2005 and each derogation covers only one species. According to the introduction, licences issued for capture of birds for later release are not listed in the report.

All derogations were issued to allow hunting. 10 of them were issued for hunting a total of 71 specimens of different species listed in Annex II of the Directive, most of them belonging to the so-called ‘pest species’ (*Anas querquedula*, *A. penelope*, *Anser fabalis*, *A. albifrons*, *Larus ridibundus*, etc.) in the interest of public health and safety.

The remaining derogation has been granted for hunting 2.596 individuals of *Phalacrocorax carbo* (Great cormorant) in order to prevent serious damage to crops, livestock, forests, fishery and water. The serious economic and ecological damages to fishery caused by the increasing numbers of *Phalacrocorax carbo* constitute a common problem in all the European breeding range of the species.

Birdlife classifies the species as secure at EU level, since the European population of the great Cormorant is over 310.000 breeding pairs and an overall trend in large increase, with a total winter population size of approximately 420.000 individuals. Therefore it seems that the Lithuania derogation has no significant impact at EU level. According to Birdlife, the breeding population size of *Phalacrocorax carbo* in Lithuania between the 1999 and 2001, was of 2.500-3.000 breeding pairs, of which about the half (2.596 individuals) has been killed in 2005. Considering that in Lithuania the cormorant population has been increasing with a magnitude more than 80%, it seems that the number of killed individuals could be acceptable. However, the report gives no indication on the absence of other available satisfactory solutions (i.e. non-lethal anti-predation measures have either been tried and found to be ineffective at the site, or are impractical), nor demonstration of the need to regulate ‘damage-causing’ *Phalacrocorax carbo* (i.e. the extent of the damage in absence of action, the strong likelihood that the damage will take place in the absence of action), nor details on the location where the damage occurs.

The report does not use the official reporting format, but a table that does not include some of the requested fields, while it includes an additional “Impact on population” column. The missing fields are:

- Derogation number
- Region concerned
- Period for which licenses are granted
- Remarks

The “No. of licenses” field always reports “general permission under certain conditions”, but no indication on such conditions is given. The national licensing authority is indicated only in the introductory paragraph to be the Ministry of Environment of the Republic of Lithuania.

In conclusion, in absence of further information, none of the Lithuanian derogations are in apparent conflict with the species protection measures of the Birds Directive.

3.16 Luxembourg

Only 3 derogations have been issued in 2005, concerning the disturbance of one species: *Corvus frugilegus*, listed in Annex II of the Birds Directive and which may not be hunted in Luxembourg.

The activity allowed for the three derogations is the deliberate destruction (code 120) of 528 empty nests in the interests of public health and safety (code 10). The method used is always generically indicated as BTH, activity that can be used for derogations under the Birds and the Habitats Directives.

As in the 2004 report, the one for 2005, contains a detailed description of the ringing activity carried out in Luxembourg, even though no derogations have been issued for this activity. 27.998 individuals of different species were ringed, a figure constantly increasing in the last few years.

Some of the most ringed species, all not listed in the Birds Directive's annexes, are:

- *Hirundo rustica*, 7.614 individuals;
- *Acrocephalus scirpaceus*, 4.676 individuals;
- *Sylvia atricapilla*, 2.649 individuals;
- *Erithacus rubecula*, 2.066 individuals;
- *Parus caeruleus*, 1.316 individuals;
- *Prunella modularis*, 916 individuals.

The report from Luxembourg uses the Commission's format, and all the fields requested have been filled with the only exception of "remarks".

In conclusions, based on the information provided by the report from Luxembourg, none of the derogations granted is in conflict with the provisions of the Birds Directive.

3.17 Malta

Only one derogation has been issued for granting 16 licenses for the capture for ringing of 14.420 individuals belonging to "all species of wild birds occurring in the Maltese islands". The number of individuals concerned for each species is listed in a specific annex. However it seems that most of the species listed in the report's annex were not captured, as the field in the form is left empty.

The methods allowed for the capture are "nets" and/or "bird calls". The motivation furnished for the activity mentioned is for "the purpose of research and teaching" (code 51) and the period is generally indicated as the whole year.

The remarks' field is filled out but it does not indicate the conditions of risk considered, the circumstances of time and places under which derogations may be granted and the controls carried out. It is only limited to a statement that the Birds Directive foresees a derogations regime ("this activity has been permitted by derogating from Articles 5(a), 5(d), 8(1) in connection with Annex IV (a) of the Council Directive 79/409/EEC on the Conservation of Wild Birds").

The following most derogated species are not listed in the Birds directive annexes:

- *Erithacus rubecula* 2760 individuals
- *Passer hispaniolensis* 1442 individuals
- *Sylvia borin* 1384 individuals
- *Hirundo rustica* 1339 individuals
- *Phylloscopus collybita* 713 individuals
- *Phylloscopus sibilatrix* 589 individuals
- *Sylvia atricapilla* 553 individuals
- *Sylvia melanocephala* 513 individuals.

Based on the provided information none of the individuals affected by a derogation has been killed.

The report from Malta uses the Commission's format and none of the derogations is in conflict with the species conservation measures.

3.18 Netherlands

The 11 Provinces and the Dutch Ministry for Nature issued a total of 103 derogations. The great part of these was issued to prevent important damages to crops (70) and to wild flora and fauna (12).

Only 5 derogations have been issued for research purposes. But it is not clear whether they are linked to the ringing activity described in the introduction to the report (in the Netherlands about 220.000 birds are rung each year by approx. 420 ringers, with a specific license granted each year).

Often more than one species per derogation are reported. Moreover, the great part of derogations does not include the number of licenses granted and in some cases several derogations allow licenses for more than one year (up to 5 years).

Species	Nr. of birds killed	Data on population
Game species		
<i>Columba palumbus</i>	553.758	ca 460.000 breeding pairs, stable; as stopover about 3-4 million birds in autumn
<i>Anas platyrhynchos</i>	229.748	ca 440.000 breeding pairs, stable
<i>Phasianus colchichus</i>	36.406	slightly declining population (from 1993, not released more), but the last 5 years stable
Exotic and wild species		
<i>Alopochen aegyptiacus</i>	30.000	more than 5.000 breeding pairs, last year about 30.000, rising
<i>Wild geese</i>	2.703	stable average of recent years, last spring
<i>Wild pigeons</i>	20.962	stable average of recent years
<i>Branta canadensis</i>	2.200	3.000 breeding pairs, last year about 15.000, increasing
Other waterfowl species		
<i>Anser anser</i>	42.135	ca. 8.500 breeding pairs, over 250.000 animals in autumn, increasing
<i>Cygnus olor</i>	3.148	ca 6.000 breeding pairs, over 30.000 wintering, increasing
<i>Anser albifrons</i>	33.011	no breeding pairs, more than 600.000 wintering, increasing
<i>Fulica atra</i>	3.847	ca 170.000 breeding pairs, ca 250.000 wintering, stable
<i>Anas penelope</i>	6.905	no breeding pairs, ca 800.000 wintering, increasing
Other crow species		
<i>Corvus corone</i>	196.000	ca 85.000 breeding pairs, stable
<i>Pica pica</i>	900	ca 51.000 breeding pairs, stable
<i>Corvus monedula</i>	150.000	ca 200.000 breeding pairs, stable
<i>Garrulus glandarius</i>	140	ca 64.000 breeding pairs, stable
<i>Corvus frugilegus</i>	5.770	ca 55.000 breeding pairs, increasing
TOTAL	1.317.633	

According to the Ministry, killing of birds in the Netherlands is allowed for various reasons related to hunting and management/damage control. 74 derogations allow killing of different bird species, but the derogations do not report the number of individuals killed.

However, the derogation report includes in the introductory section a table (see above), indicating the total number of birds killed in the Netherlands in 2005, which amounts to 1.317.633 individuals. According to the report the figures are an estimate because, on average, data were available only relatively to two-thirds of the total area subject to hunting.

From the analysis of the data provided in the table in the previous page, the number of birds killed does not seem sustainable at national level for *Columba palumbus*, *Anas platyrhynchos*, *Anser anser*, *Corvus corone* and *Corvus monedula*. However, Birdlife classifies all these species as secure at EU level, since the European population of the wood pigeon is of about 9 million of breeding pairs, of the mallard is 3.3 million and 7 million the two crows. Therefore it seems that there is no impact at EU level. The number of breeding pairs of *Anser anser* in Europe is of about 120.000 and the winter population is of about 390.000 individuals, of which about 1/10 has been killed in the Netherlands. The species is increasing in Europe, but declining in Russia. It is to be noted that the Russian population migrates to the North Sea for wintering, therefore an impact on this population due to an excessive hunting in the Netherlands cannot be excluded.

According to the introduction to the report, annually approx. 5.000 - 6.000 wildfowl, 1.000 - 1.500 birds of prey, 12.000 songbirds and 15.000 remaining birds are caught, cured and released in 150 specific relief asylums. Birds that cannot be recovered are killed. These are however not included in the total furnished in the table above. According to the Dutch Ministry no specific derogations were granted for these.

The Dutch report follows a format similar to the one of the EU Commission to which two fields are added: impact on population and reference documentation. However, most of the fields are empty; in particular:

- Number of individuals allowed and taken (these fields are not inserted in the derogations format)
- Period of licenses
- Number of licenses
- Impact on the population (in many cases)
- Alternative solutions
- Follow up
- Remarks
- Permitted activity (in some cases)
- Permitted method (in some cases)

Moreover, different categories, such as the reason for derogation and the authorised activity, are given in words and not by means of standard codes and the species are indicated in Dutch. This increases the risk of misinterpretations.

In conclusion the report does not provide all information needed. Moreover, from the table included in the introduction to the derogation report on birds killed for various reasons, it emerges a possible impact on national populations of *Columba palumbus*, *Anas platyrhynchos*, *Anser anser*, *Corvus corone* and *Corvus monedula*.

3.19 Poland

In 2005 a total number of 85 derogations were issued in Poland. This figure is slightly less than the one of the previous year (93).

Derogations are based on the following motivations:

- to prevent serious damage to crops, livestock, forests, fishery and water: used 28 times
- for the purposes of research and teaching, of restocking, of re-introduction and for the breeding necessary for these purposes: used 25 times

Derogations are sometimes granted for more than one period in the year, other times they cover more than one species (up to 21), or the species is generically indicated as “birds”.

Only species not listed in the Birds directive have been derogated for killing. They are:
Phalacrocorax carbo: destruction of 400 eggs and 220 nests, killing of 1.797 specimens
Ardea cinerea: 20 individuals were killed to prevent serious damage.
Hirundo rustica: 30 nests were destroyed in the interests of public health and safety.

Out of the total of 85 derogations, 31 concern *Phalacrocorax carbo*. Of these, 26 have resulted in death (23 for killing, 1 for destruction of nests, 2 for destruction of eggs), while the remaining 5 have produced disturbance and scaring away. The amount of the individuals killed to prevent serious damage is 1.427, which represents around the 5% of the Polish population (the breeding population size in Poland amounts to 12.500 pairs) and the 0,3% of the European winter population size (more than 420.000 individuals). The *Phalacrocorax carbo* population has increased during 1990–2000 and the actual trend shows an increase in Poland and in the rest of Europe. In particular, the mean annual growth rate in Poland is in the order of 14%. The serious economic and ecological damages to fishery caused by this increasing numbers of *Phalacrocorax carbo* constitute a common problem in all the European breeding range of the species. The report gives no indication about the absence of other available satisfactory solutions (i.e. non-lethal anti-predation measures have either been tried and found to be ineffective at the site, or are impractical), nor demonstration of the need to regulate ‘damage-causing’ *Phalacrocorax carbo* (i.e. the extent of the damage in absence of action, the strong likelihood that the damage will take place in the absence of action), nor details on the location where the damage occurs. In absence of further information, none of such derogations seem to jeopardize the actual status of conservation of this species in Poland.

The report does not follow the European Commission’s format, but is structured as a table, which includes a “Follow-up” column in addition to all the requested fields. Although the “Follow-up” section furnishes further useful information, the “Remarks” one is always left blank. Moreover, instead of providing the number of licences, the report furnishes information on the institute, organization or private person authorized to execute the derogations. Therefore the number of licences granted is never specified, as also the conditions of risk and the circumstances of time and place under which derogations have been granted.

The Region concerned is indicated with a number code and the permitted methods are designated with an alphabetic code which does not specify which method has been used (i.e. firearms, traps, net etc), but indicates only if the activity can be used for derogations from provisions of prohibited methods under the Birds and Habitat directives (code BTH) or only under Birds Directive (code BD). Sometimes the species concerned is reported in Polish without indicating the scientific name. In some instances, the code reason 100 is used and in other cases the sentence “Destruction of eggs” is used, both of which do not have any correspondence with the “standardised code for derogation reasons”.

None of the Polish derogations is in apparent conflict with the species conservation measures.

3.20 Portugal

The total number of derogations for 2005 amounts to 23, a figure much lower than the previous year (in 2004 the derogations granted were 469).

The motivations furnished are:

- to prevent serious damage to crops (12 times). This is the most frequent motivation furnished, as in 2004.
- for the purpose of research and teaching, of restocking, of re-introduction and for the breeding necessary for these purposes (8 times). Every derogated species for this reason are listed in annex I of the Birds Directive.
- in the interests of public health and safety (3 times).

None of the individuals concerned have been killed. The activities allowed are capture, deliberate disturbance and deliberate destruction of nests.

Code 31 always corresponds to the deliberate disturbance and scaring away of birds listed in annex II/2 of the Birds Directive, particularly during the period of breeding and rearing (code 80) and to the “firearms”, “gas machines” or “visual and sounds effects” methods.

Code 10 always corresponds to the deliberate destruction of nests (code 120) and to the “by hand” method.

Code 50 and 51 always corresponds to the capture activity (code 20) and to the “by hand” or “traps” methods.

Every time that the permitted activity is the deliberate disturbance or destruction of nests, the reports stated that the information related to the number of individuals affected is “not applicable”. While it is understandable why this type of information is missing in the case of the deliberate disturbance or destruction of nests, this is not understandable in cases that involve capture. The number of individuals affected is indicated in six cases of capture on a total of 8 licences for capture granted.

The derogated species are:

Annex I

- *Calonectris diomedea* (100 individuals captured by hands for the purpose of research and teaching)
- *Tetrax tetrax* (69 individuals captured by hands for the purpose of research and teaching)
- *Otis tarda* (25 individuals captured by hands for the purpose of research and teaching)
- *Cicoria nigra* (8 individuals captured by hands for the purpose of research and teaching)
- *Hieraaetus fasciatus* (6 individuals captured by hands for the purpose of research and teaching)
- *Falco naumanni* (number unspecified of individuals captured by hands for the purpose of research and teaching)
- *Ciconia ciconia* (destruction of nests)

Annex II/2

- *Larus cachinnans* (scared away)
- *Corvus corone* (scared away)
- *Garrulus glandarius* (scared away)
- *Pica pica* (scared away)
- *Turdus merula* (scared away)

Species not listed in the annexes

- *Buteo buteo* (destruction of nests)
- *Cyanopica cyana* (scared away)
- *Delichon urbica* (destruction of nests)
- *Merops apiaster* (scared away)
- *Oriolus oriolus* (scared away)
- *Passer domesticus* (scared away)
- *Phalacrocorax carbo* (scared away)
- *Serinus serinus* (50 individuals captured by traps for the purpose of research and teaching)
- *Sturnus unicolor* (captured)

In one case, the “species concerned” is indicated generically as belonging to the genus *Sylvia*.

Often one derogation includes more than one authorization: the number varies from 1 to 135. However it is always lower than 11 licenses in the cases of capture.

The report from Portugal does not use the Commission’s format, and the information provided cover only few of the requested fields. Information such as the Licensing Authorities, the conditions of risk and the circumstances of time and place under which derogations may be granted (such as regions concerned and periods for which licence is granted) and controls carried out are totally missing.

None of the Portuguese derogations are in conflict with the species protection measures.

3.21 Slovakia

In Slovakia 24 derogations were granted in 2005, compared to 18 derogations in the year 2004.

Most derogations were given for “research and teaching”, by birds ringing (11 derogations), sometimes together with the “protection of wild fauna” reason (7 derogations).

In general, one derogation covers more than one licence (up to 47) and their total amount is 139, but this field is not always filled.

Rarely derogations concern more than one species (only one derogation covers up to 6 species). In some cases the species concerned are not identified at all (“N/A), or they are identified in a generic way (i.e. “aves in general”, “migrating birds in general” or “raptor and owl species”).

The number of individuals taken is always “0” (22 derogations), except for two derogations that have authorized the killing of a total of 1.305 individuals:

- one derogation was granted for one month (from 1st June 2005 to 2nd July 2005) for the killing by firearms of 22 individuals of *Anas platyrhynchos* in large water bodies of the whole country, “in the interests of public health and safety” (reason code 10), in order to monitor the Avian Influenza of water birds;
- one derogation was granted from March 16th 2005 to April 30th 2005 allowing for the hunting with firearms of 1.283 individuals of *Scolopax rusticola* in the whole country “to permit, under strictly supervised conditions and on selective basis, other judicious use of certain birds in small numbers” (reason code 63). What is not clear from the report why a derogation to hunt was granted during the breeding period of this species, which according to Birdlife is a declining species.

The report follows the Commission’s format and, with few exceptions, all the requested fields are filled, but information relative to the conditions of risk considered, the circumstances of places under which derogations are granted and the controls carried out, are missing.

In conclusion the report indicates that none of the derogations are in apparent conflict with the species protection measures, with the possible exception of the *Scolopax rusticola*.

3.22 Slovenia

Only one derogation has been issued in Slovenia in 2005. The derogation grants one license for the killing (code 30) with firearms of 18 *Phalacrocorax carbo* individuals for the protection of wild fauna (code 42).

The derogation was granted from September 2005 to March 2006, thus excluding the period in which the disturbance would be significant.

The report uses the Commission's format and the information provided are complete. The conditions of risk and the circumstances of time and place under which a derogation has been granted and the controls carried out are listed in the remarks section: the section reports in detail the arrangements and methods authorised, how they have been used, the maximum amounts of individuals which can be affected, the limits of derogation's application (occurrence of higher numbers of wintering water birds other than cormorants etc) and the selective basis. A report to be submitted by the authorised persons two months after the end of the period concerned, specifying results obtained, suggestions and conclusions on eventual important findings is also foreseen.

The report furthermore, indicates the authority empowered to carry out the controls to guarantee that all the required conditions have been observed, but not the number of authorised persons.

To be noted that the report submitted for 2005 affects the same species for the same reason than the 2004 derogation's report. There is however a substantial reduction in the number of licences (1 instead of 210) and in the number of individuals killed (18 instead of 169). Furthermore, the 2005 report includes information on some fields which were missing in the 2004 report and also provides the additional information mentioned above.

The Slovenian derogation is not in conflict with the species protection measures.

3.23 Spain

A total of 287 derogations were submitted in the year 2005, a figure smaller than the ones in the previous years (657 derogations in the 2004 and 466 in the 2003). As stated in the introduction, the Spanish report was prepared on the basis of information provided by all the "autonomous regions", except the Region of "Murcia". The Autonomous City of "Melilla" and the "Cabildo Insular de Tenerife" reported that during the year 2005 they have not authorized any derogations.

The most frequent reasons mentioned to derogate are:

- for the purpose of research and teaching (169 times); for the most part the activity connected with this reason is the capture for ringing for scientific purposes and the "Remarks" and "Follow-up" sections explain that these derogations are required within the frameworks of projects and plans for research by biological stations, experimental stations, the Sociedad Española de Ornitología (SEO / BirdLife), universities or other research institutes.
- for the protection of wild fauna (25 times); the activities authorized under this reason are addressed to the conservation and protection of the derogated species (i.e. keeping and caring for wounded birds in rehabilitation centers, ringing, capture and following release to avoid the accidental killing of young birds by harvesters and other agricultural machineries) or, on the contrary, to control the populations of the derogated species "to reduce the predation of other species" and "to avoid damage to nesting of big or small game birds". In these last cases the allowed activities are killing and destruction of nests of so-called "pest species" (i.e. *Pica pica*, *Corvus monedula*, *Corvus corone*, *Sturnus unicolor*, etc.).
- to prevent serious damage to crops (22 times); in this case the activities are killing, hunting and scaring away of "pest species" (i.e. *Columba* spp., *Sturnus* spp., *Corvidae*, mallards, etc.).

The derogations concerning the pest-species do not show that the killing is an effective solution for the control of these species. On the contrary it is stated: in spite of this measure, the species maintains great populations. This could mean the need to reiterate the killing activity, which therefore would seem not to be effective and durable for the control of these species.

13 derogations were granted for the purposes of restocking, re-introducing, breeding of 1.452 individuals of several species (i.e. *Falco Naumanni*, *Fulica cristata*, *Porphyrio porphyrio*, and many other species sometimes not identified).

A total of 26 derogations were issued to permit, under strictly supervised conditions and on a selective basis, the capture, the keeping, or other judicious use of certain birds in small numbers (Art. 9.1c). Of these derogations:

- 7 have authorized the falconry or the keeping in captivity or the capture for keeping in captivity of 130 specimens of several species of birds of prey;
- One has authorized the killing of a not stated number of individuals of *Alectoris rufa* in order to control the male population.
- One has authorized by a decree (Orden Foral) 879/2005, the hunting with firearms of 1.467 individuals of *Columba palumbus* in the province of Vizcaya, from 13 February until 27 March, which corresponds to their return journey period. The Remarks section specifies the “strictly supervised conditions and selective basis” required by the Art. 9.1c: the hunting quota per day and per hunter is of 4 individuals; the one for the entire season is of 2.000 individuals; hunters can hunt only from fixed positions marked in authorized lines, and occupied by a maximum of two hunters; the licenses are nominal and non-transferable and include the identity of the hunter, the days, the line and the position; hunters have to submit a daily diary of the quota hunted. What is not clear from the report is why a derogation to hunt was granted during a period in which the directive aims to provide particular protection, since the woodpigeon can be hunted during the hunting season.
- 17 have allowed the capture, the capture by hunting with nets, the capture for keeping in captivity, the keeping in captivity, the breeding and the marketing, in order to develop canary breeding and to guarantee the feasibility of recreational activities such as traditional training in singing and participation in competitions of the following passerine songbirds: *Carduelis carduelis* (16 derogations), *C. cannabina* (14 derogations), *C. chloris* (13), *Serinus serinus* (8), *S. canaries* (3), *Fringilla coelebs* (2). One of these derogations had issued 13.360 licenses to aviculturists to catch 172.018 *Carduelis carduelis*, *C. cannabina* and *C. chloris* by “arbolillo”, a method that implies the use of the lime. The total amount of individuals belonging to the *Fringillidae* family affected by these activities is 302.266. However this figure remains partial, as the data related to the number of birds are not always available.

36 derogations were granted in 2005 for killing 35.104 individuals of several species. This figure could be only a small part of the actual number of the individuals affected, since many derogations granted for killing do not provide this information. In particular, the most derogated species is *Pica pica*: 11 derogations were granted for killing a total of 26.449 individuals in order to prevent serious damage to crops and to nesting of game birds. According to the Spanish document, a report on damages is compulsory by those who received a license.

The other killed species are:

- *Sturnus unicolor*: 6 derogations, granted for killing 3.896 specimens to prevent serious damage to crops;
- *Columba palumbus*: 4 derogations, granted for killing 3.667 individuals to prevent serious damage to crops or to permit, under strictly supervised conditions and on selective basis, its hunting.

One derogation is granted in order to eradicate the common Indian myna (*Acridotheres tristis*), an exotic species, for the protection of wild flora and fauna. *Acridotheres tristis* has its native range in Asia and India, while in Europe, it is an alien species included in the “Global Invasive Species Database” as established and invasive in Spain. As this bird species does not occur naturally in the wild in the European territory, it is not covered by the system of protection set out in the Birds Directive. Therefore its killing does not fall within the derogation regime.

In general one derogation covers more than one license (up to 13.360), which in total are 23.723, a number lower than the 2004 year (67.357 licenses). In some case a table, which lists each single person authorized is annexed to the derogations. The autonomous region of “Castilla y León”, to give an example, includes a tabular relation with regions, species, periods and authorized persons (name and surname).

One derogation often involves more than one species. In some of these cases the number of individuals is given altogether and not for species. Sometimes the species is not identified, reporting the family (i.e. “*Anatidae*”, “*Corvidae*”, “*Rapaces*”) or the number of species or the generic sentences “wild birds”, “Birds not catalogued and of special interest”, “*Passeriformes* and not *Passeriformes*”, “several”. The period for which licenses were granted is often indicated in a non-specific way (i.e. “undefined”, “6 months”, “closed season”, “all year round”, “outside the reproductive season”, etc.).

The report follows the Commission’s format and the “Follow-up” section, which however often is left empty. In two occasions it is reported the reason code 37 (“problems on golf courses” and “training of birds of prey near the airport”) which do not exist within the “standardized code for derogation motive”.

As several derogations do not provide the number of individuals affected, it is not clear how many individuals were actually concerned. Moreover, when the permitted activities are more than one, it is not clear to which one the number of individuals is referred (i.e. killing and destruction of nests, capture and killing, or killing and scaring away, or moreover, ringing and killing).

In conclusion, none of the derogations are in apparent conflict with the species protection measures, with the possible exception of the one allowing the hunting of woodpigeon (*Columba palumbus*) in the province of Vizcaya, which seems to have been issued with the purpose of extending the hunting season, and thus would be inconsistent with Art 9.

In June 2006 the Commission decided to launch infringement proceedings against Spain for breach of the Birds Directive in allowing hunting in spring of wood pigeon in the province of Vizcaya, as they return to their breeding grounds. This case was brought by the Commission following a judgment of the Court of Justice on 9 June 2005 (Case C-135/04) against Spain for spring hunting of the same species in the neighbouring province of Guipúzcoa concerning the same hunting periods. The Commission considers that the same situation applies in Vizcaya, as an alternative satisfactory solutions to spring hunting exists, i.e. the possibility to hunt in autumn.

3.24 Sweden

A total of 92 derogations were granted in 2005, more than the previous year, when 68 derogations were issued. Often one derogation covers more than one licences and more than one species.

Half of the derogations were issued for killing different species to prevent serious damage to crops, livestock, forests, fishery, water (and other type of property) and in the interest of public health and safety. Other permitted activities are capture, capture for keeping in captivity, taking of eggs, destruction of breeding sites and nests, ringing.

Several derogations have been granted for killing with firearms all year round a relatively high number of birds (105.564 individuals), the major part of which belonging to the so-called 'pest species'. To be noted, however, that the total figure could be very different from the actual number of individuals killed as often the number of licences has not been indicated. Sometimes the report states that "Number licensed noted as "0" because licence is not limited; number actual killed is an estimation" and some other times the number of individuals is not indicated at all.

An estimate of individuals affected by derogations follows:

- 71.210 estimated specimens in the interest of public health and safety (reason codes 10 and 11), of which:
 - 1) 30.000 individuals of *Columba livia*
 - 2) 10.000 individuals of *Corvus corone*
 - 3) 10.000 individuals of *Corvus frugilegus*
 - 4) 8.000 individuals of *Pica pica*
 - 5) 5.000 individuals of *Passer domesticus*
 - 6) 5.000 individuals of *Passer montanus*
 - 7) 4.010 individuals of *Larus argentatus*
 - 8) 4.000 individuals of *Larus canus*
 - 9) 2.000 individuals of *Larus marinus*
 - 10) 2.000 individuals of *Larus ridibundus*
 - 11) 150 individuals of *Anas platyrhynchos*
 - 12) 20 individuals of *Delichon urbica*
 - 13) 15 individuals of *Branta leucopsis* and 15 of *Phalacrocorax carbo*
 - 14) undefined number of *Anser anser*

- 34.320 estimated specimens to prevent serious damage (reason codes 30-35), of which:
 - 1) 10.000 individuals of *Columba palumbus*
 - 2) 10.000 individuals of *Corvus monedula*
 - 3) 4.000 individuals of *Branta canadensis*
 - 4) 2.000 individuals of *Corvus corax*
 - 5) 2.000 individuals of *Anser anser*
 - 6) 1.110 individuals of *Anas fabalis*
 - 7) 1.000 individuals of *Turdus pilaris*
 - 8) 500 individuals of *Turdus merula*
 - 9) 500 individuals of *Sturnus vulgaris*
 - 10) 295 individuals and 1.512 eggs of *Phalacrocorax carbo*
 - 11) one licence for 140 individuals of *Larus argentatus*, 75 of *Larus marinus*, 60 of *Larus ridibundus*, 820 of *Larus canus*, 120 of *Passer domesticus*, 110 of *Corvus corone*, 240 of *Corvus monedula*, 350 of *Pica pica*, 1000 of "City pigeons"

- 12) undefined number of *Phalacrocorax carbo*, *Dendrocops major*, *Accipiter gentiles*, *Phasianus colchicus* etc
- 26 individuals of *Phylloscopus trochilus* for the purposes of research and teaching
- undefined number of specimens in the interests of air safety
 - 1) one licence for an undefined number of individuals belonging to all species in Annex I of the Hunting Ordinance
 - 2) three licences for an undefined number of individuals belonging to all species of *Larus* genus and for *Corvus corax*
 - 3) one licence for an undefined number of *Haliaeetus albicilla*
 - 4) one licence for an undefined number of *Tetrao tetrix*, *Vanellus vanellus*, *Corvus* genus and *Larus* genus
 - 5) 8 individuals of *Branta leucopsis*
- undefined number of specimens belonging to different species for the protection of wild flora and fauna and to permit, under strictly supervised conditions and on a selective basis, other judicious use of certain birds in small numbers

A great part of derogations cover a period longer than one year.

The report does not use the Commission's format, but a database form, which follows a clear and easy tabular structure. Reason and activity are given in words and not by mean of standard codes. The report includes all the requested information, even though no data are provided in relation to the Region concerned and the conditions of risk, the circumstances of time and place under which derogations are granted, the controls carried out.

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

It has to be reminded that Sweden authorities permitted shooting of cormorants and rooks (*Corvus frugilegus*) and the destruction of their eggs during the rearing season. As a consequence, in 2005 the EC sent a final warning to Sweden, stating that alternative solutions were available.

3.25 United Kingdom

A total of 1.882 derogations have been granted in the whole UK. This number is considerably higher than the previous report (2004), when 205 derogations were issued.

The derogations were granted mainly for the purposes of research and teaching. The other reasons for derogations, in order of frequency, are:

- in the interests of air safety: used 13 times;
- in the interests of public health and safety: 2 times;
- to permit, under strictly supervised conditions and on a selective basis, the judicious use of certain birds in small numbers: this motivation is used 9 times for allowing falconry, sale and human consumption as 'judicious uses'.

According to the introduction, the validity of some derogation is extended over more than one calendar year and certain figures for the taking of birds are not available.

Each derogation concerns only one species, and often covers more than one license (up to 30).

The activity allowed is in most cases the deliberate disturbance of the birds by hand or by using scaring device during their period of nesting to examine the nests for research and teaching. Another permitted activity is the taking, damaging and destruction of nests or eggs. One derogation, to give an example, was granted to issue 15 licences for taking, damaging or destroying 1.505 eggs (1.142 of which were actually taken) of *Larus canus* (Annex II/2, which may be not hunted in the UK) in the interests of public health and safety.

The most derogated species for killing are:

Annex II/2 which may NOT be hunted in UK:

- *Larus canus*: a total of 1.309 eggs and 72 nests were destroyed in the interests of air safety and in the interests of public health and safety; plus 50 eggs were taken for human consumption;
- *Larus ridibundus*: 240 eggs and 80 nests were destroyed and 5 individuals were killed in the interests of public health and safety;

Species not listed in the Annexes:

- *Sula bassana*: 1.468 individuals killed in order to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use certain birds in small number.

The derogation report submitted by the United Kingdom is composed of two different documents: the derogation report for 2005 and an additional information from Scotland. The report uses a table that provides some further information (the report refers to the Reporting body and makes a distinction between the licensed number of birds/nests/eggs to be taken and the actual number of birds/nests/eggs taken), while it covers few of the requested fields (derogation N°, licensing authority, region concerned, remarks, and therefore the circumstances of place and time and the controls carried out, are missing). Moreover, reasons and activities are given in words and not by mean of standard codes and this increases the risk of misinterpretations.

On the base of the information provided none of the UK derogations is in apparent conflict with the protection of the species.

ANNEX A

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

Code	Reason
10	in the interests of public health and safety
11	in the interests of public health
12	in the interests of public safety
20	in the interests of air safety
30	to prevent serious damage to crops, livestock, forests, fishery and water
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
40	for the protection of flora and fauna
41	for the protection of wild flora
42	for the protection of wild fauna
50	for the purposes of research and teaching, of restocking, of re-introduction and for the breeding necessary for these purposes
51	for the purposes of research and teaching
52	for the purposes of restocking
53	for the purposes of re-introduction
54	for the purposes of breeding necessary for activities 51, 52, 53
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
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 relating 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
40	Hunting
41	Falconry
50	Keeping in captivity
51	Keeping and caring for wounded birds
60	Releasing
70	Stuffing
80	Scaring away
90	Breeding
100	Taking of eggs
110	Marketing
120	Destruction of nests
130	Transport