

**COMPOSITE EUROPEAN COMMISSION
REPORT ON DEROGATIONS IN 2006
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 European Commission a specific report on the implementation of Art.9.

This composite report provides an analysis of the EU Member States annual reports covering the year 2006 and an assessment of the conformity of the derogations issued with the protection measures of the Birds Directive.

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

1 Methodology

Twenty-five national reports on derogations issued in 2006, 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, 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 of 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

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.

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 referred to individuals actually taken.

2 Overview of derogations across the EU

A comparison of derogations across the EU has been made in order to draw an overall picture of the derogations granted. However, this overview should be 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.

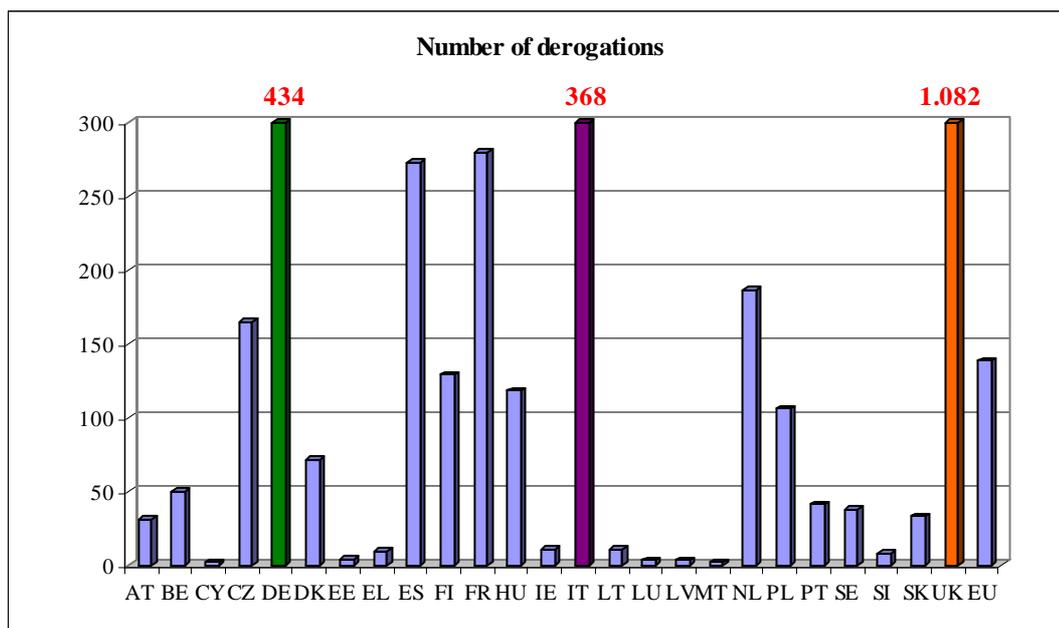
The Member States' reports are very variable both in terms of the ease of understanding of the reports (format, language and readability) and the quality of the data provided. For example, an official standard model is not always used, the different standard codes for "reasons", "activity" and "method" 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 3.460 derogations were issued at EU level in 2006, an average of 138 derogations per country.

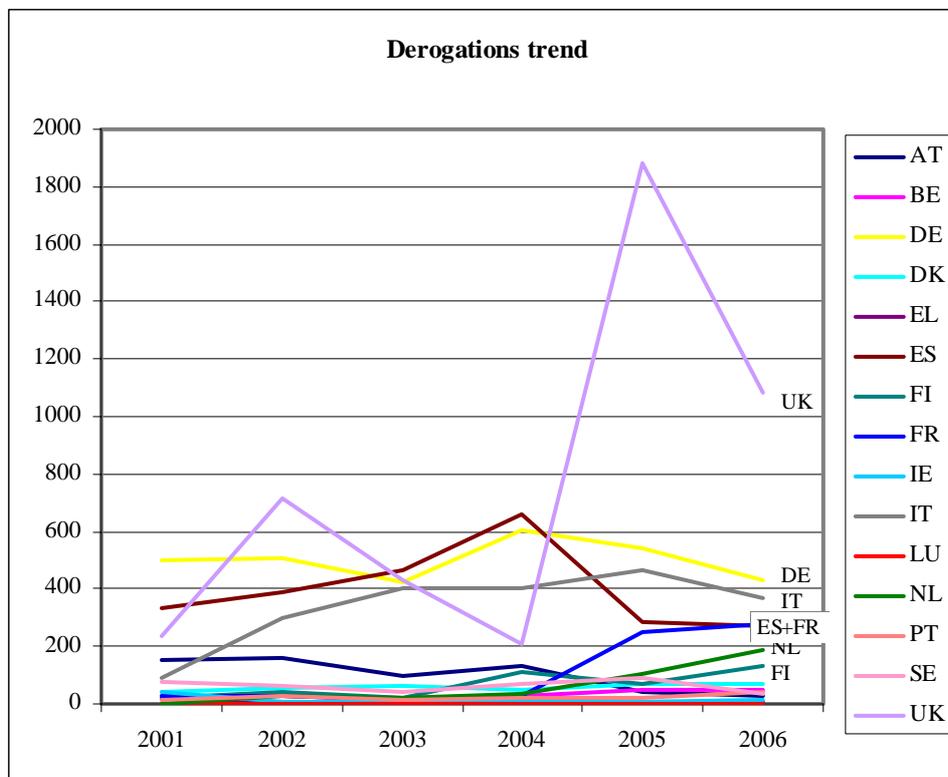
The distribution of the derogations issued by the Member States is shown in Chart 1. As evident their number varies considerably country by country, from less than 10 derogations, as in the case of Cyprus, Estonia, Greece, Ireland, Latvia, Luxemburg and Slovenia, to several hundreds in others, such as France, Germany, Italy and Spain. With 1.082 derogations the United Kingdom is the country that issued the highest number of derogations in 2006, as in 2005.

Chart 1. Number of derogations issued by each MS in 2006 in comparison with the average of derogations issued at EU level (EU).



The number of derogations granted by MS from 2001 to 2006 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 six years period and slightly decrease this number in 2006. Spain follows a similar trend until 2004 and then it decreased significantly the number of derogations issued from 657 to 287 in 2005 and 273 in 2006. France in 2005 and 2006 increased ten times the number of derogations: from an average of 26 derogations issued each year until 2004, to 249 derogations in 2005 and 280 in 2006. 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, re-increased substantially the number of derogations to 1.882 in 2005 and decreased again in 2006 to 1.082. Austria gradually decreased the number of derogations from 2001 to 2006.

Chart 2. Number of derogations issued by MS during the period 2001-2006.



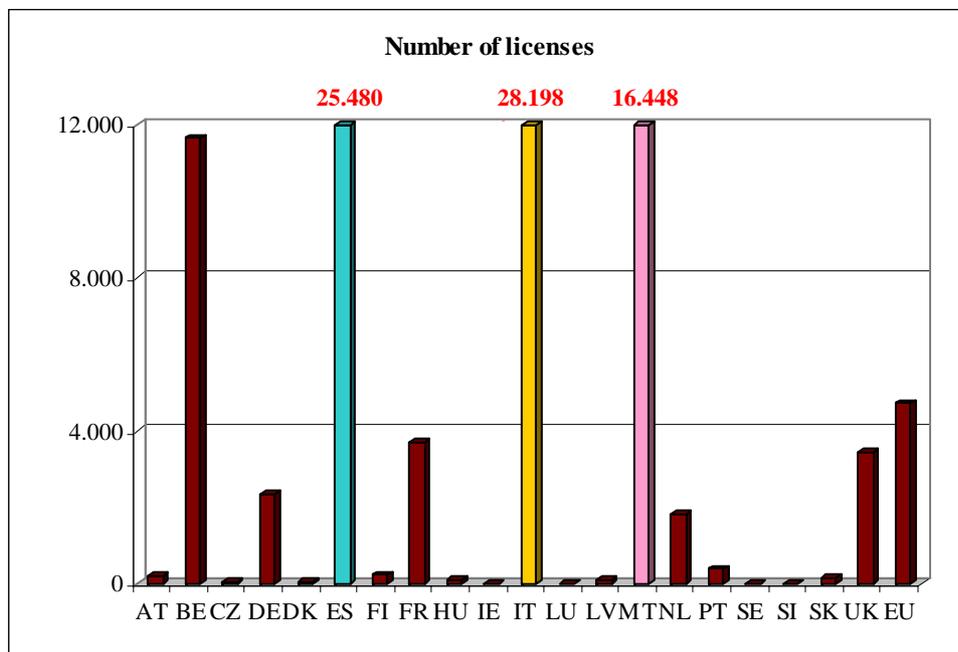
The MS that acceded to the EU in 2004 have not been considered due to the lack of information relative to the 2001-2003 period. No information is available on the Italian 2004 number of derogations, therefore data on the derogations are estimation.

An average of 4.722 licenses per country have been granted in 2006³, a considerable reduction in comparison with the previous year. This figure includes very significant differences country by country (Chart 3). For instance, Ireland, Luxemburg and Slovenia issued less than 10 licenses, 10 countries issued some hundreds of licenses and another 7 countries issued thousands of licenses. With about 28.000 licenses Italy is the country that issued the highest number of licenses in 2006, as in 2005.

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

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”, or 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?). 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, Maltese and Spanish reports, where a single derogation includes up to hundreds or thousands of licenses.

Chart 3. Number of licenses issued by each MS in 2006 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 in this year, but according to the reports it seems that they may amount to thousands for derogation. Data on Hungary are estimation because the reports do not include the number of licenses granted, but it seems that one license per derogation is allowed.

34% of the total amount of derogations (mainly composed by derogations from UK) was issued “in the interest of protecting wild fauna and flora” (code 40), particularly used by the Scottish Natural Heritage to scare away several species of raptors and others and in France to kill 11.032 Great cormorants.

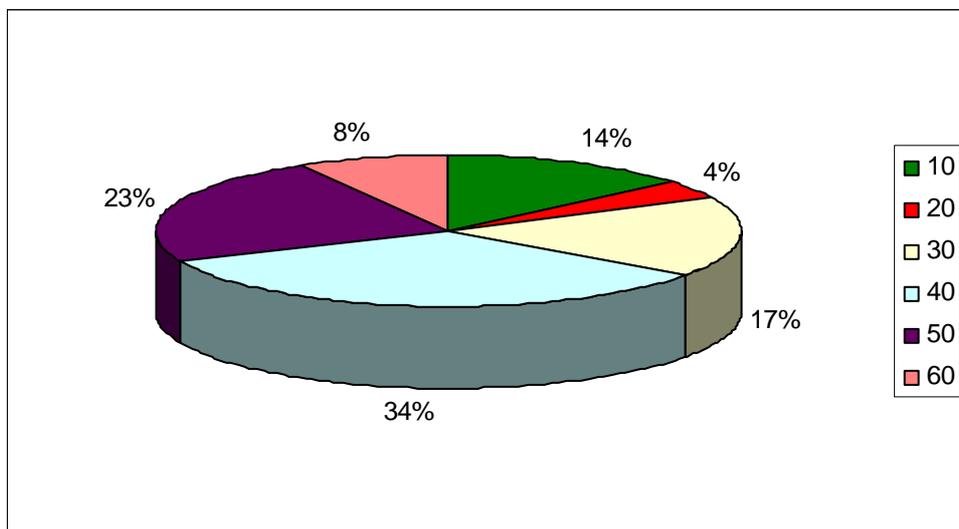
According to the data provided by the national reports, about 23% of all derogations are issued “for research and education purposes, of repopulating and re-introducing these species and for the breeding operations necessary for these purposes” (code 50). Most of these derogations concern inventories 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), while other Member States do

not, even though it is obvious that most Member States are having at least some ringing activity every year.

The derogations (17%) 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.

Another substantial number of derogations (14%) was issued “in the interests of public health and public safety” (code 10). This reason is mainly used by Poland and Germany to destroy birds nests.

Chart 4. Percentage of derogations granted for each specific reason in 2006.



In some cases more than one reason is included in a single derogation. Here only one reason per derogation has been considered. Germany, Czech Republic, France, Greece and Lithuania 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*.

Only 4% 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.

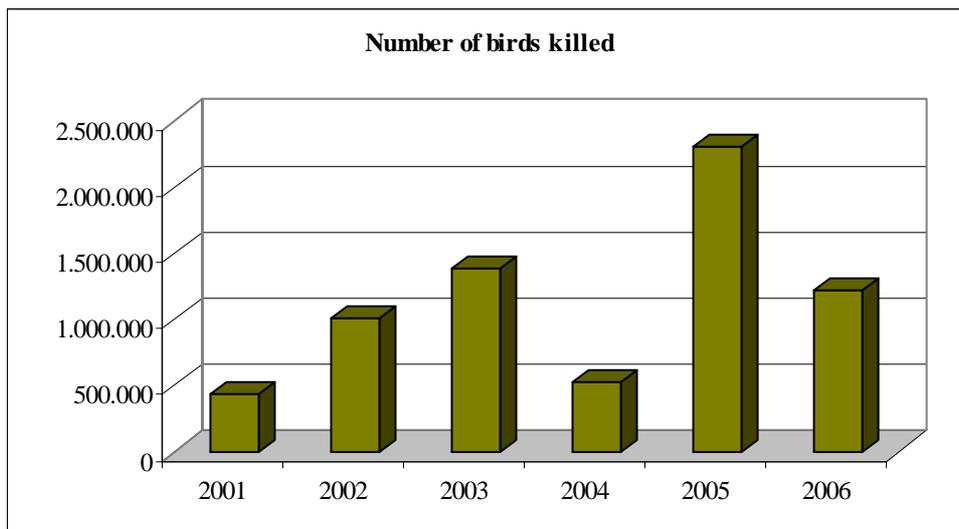
Among the reasons listed above, there are several derogations in a number of Member States, which seems issued with the purpose of extending the hunting season and seem to be inconsistent with Art 9 according to the European Court of Justice. Hungary extended both in 2005 and in 2006 the hunting season for *Pica pica*, *Corvus coreone cornix* and *Garrulus glandarius* in certain hunting districts, to the entire year and, while Malta allowed the spring hunting of *Streptotelia turtur* and *Coturnix coturnix*.

The use of reason 50 (for research and education) is broadly distributed among the MS whereas the use of reason 10 (in the interests of public health and public safety) is more country specific and especially used in Poland, where about 1/3 of the derogations have

been issued for this reason. 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. Germany allows stuffing of birds found dead.

Non-destructive and/or reversible activities such as capture, disturbance, keeping, and transport are broadly applied among the five main reasons for derogation.

Chart 5. Total number of birds killed all over Europe from 2001 to 2006.



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.

Killing of specimens is mainly applied 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 2,3 million in 2005 and then decreases to about 1,2 million in 2006. These figures are underestimated due to the lack of information on this issue included in most of the national reports.

A great part of the derogations granted for killing all over Europe 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*.

3 Member State reports

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

3.1 Austria

In 2006, the nine Austrian Länders have granted a total of 31 derogations.

The reasons to grant derogations most frequently used are to prevent important damages to crops, livestock, forests and water and for the purpose of research and teaching. For these reasons mainly killing and capture of different species have been allowed. Also the ringing activity is widespread.

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 202 licenses were issued.

Most of the derogations affect several bird species. According to the data provided a total of 9.309 individuals were killed. In particular:

- for research purposes: *Delichon urbica* and various species of *Sylvia* and *Acrocephalus*
- to prevent damages: *Phalacrocorax carbo*, *Ardea cinerea*, *Buteo buteo*, *Cygnus olor*, *Streptopelia decaocto*, *Columba palumbus*, *Accipiter gentilis*, *Corvus corone*, *Scolopax rusticola*, *Pica pica* and *Garrulus glandarius*
- hunting for undefined reason: 95 individuals of *Ardea cinerea*, 44 individuals of *Phalacrocorax carbo*, 35 individuals of *Mergus merganser*, 1.854 individuals of *Tetrao tetrix*, 1.304 *Galliformes* and undefined number of *Tetrao urugallus*

In addition to the capture for research purpose, 462 individuals of of the songbirds *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, excepting some Länders, which do not provide all information needed.

In conclusion, most of the Austrian derogations are in apparent conflict with the species protection measures. However:

- It is not possible to evaluate the impact of hunting on the *Tetrao urogallus* Austrian population due to the lack of information on the number of birds killed (this species could also be included in the number of hunted individuals belonging to *Galliformes*);
- 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 50 derogations were issued in 2006 (in line with those granted in the previous year), mainly for the protection of flora and fauna, in the interest of air safety and for the purpose of research and education.

Each derogation concerns only one species, with only few exceptions, which cover all/various bird species. Often the derogations cover more than one license. For instance, one derogation grants more than 10.000 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*, *Branta leucopsis*

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

Annex II/2 which may not be hunted in Belgium *Sturnus vulgaris*, *Larus fuscus*, *Corvus frugilegus*, *C. monedula*, *Haematopus ostralegus*, *Numenius arquata*

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*, *Falco tinnunculus*, *Phalacrocorax carbo*, *Ardea cinerea*, *Tyto alba*, *Accipiter gentilis*

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 14.727 individuals of *Pica pica* and 30.934 individuals of *Corvus corone* were killed in order to prevent damages to crops, livestock, forests, fisheries and water. The number of killed birds is substantially higher in comparison with the previous year.

Other species subject to “regular suppression” are *Anas platyrhynchos*, *Anser anser*, *Branta canadensis*, *Columba palumbus*, *Sturnus vulgaris* and *Garrulus glandarius*, for the protection of flora and fauna, and *Vanellus vanellus*, *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.

The Belgian Federal authorities have granted the Flemish Institute for Nature and Forest (INBO) a derogation for the collection and transport of deceased marine protected bird species in view of scientific research and in the Belgian part of the North Sea, which is under federal jurisprudence

The derogation report is composed of four different documents: one relative to derogations issued by the Walloon Authority (15), one issued by the Brussels Government (2 derogations), the third relative to those issued by the Flemish Authority (32) and the fourth on one derogation issued by the Federal authority. The documents do not follow the EU format and they are very different in terms of format and information provided. Moreover, the reports do not include the standard codes for reasons, activities and method: this increases the risk of misinterpretations.

Flemish and Brussels reports: the following field are missing:

- 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 11 bird species carried out in the Flemish District and in particular of the *Corvus corone* and *Pica pica*, due to lack of information in the Flemish report.

3.3 Cyprus

As for the past year, only one derogation has been issued for 2006; it concerns two species and covers more than one licence.

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

The activity allowed, in both cases, is hunting 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, as in the 2005 report, are *Pica pica* (2.111 individuals hunted) and *Corvus corone* (572 individuals hunted), both listed in Annex II of the Birds Directive and which may be hunted in Cyprus. Both figures are lower than the previous year.

As to number of licences granted the report indicates “all hunting licence gun holders of 2005-2006”. In the field “remarks” the report specifies 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 remarks “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 April 15th to April 16th for the year 2006) and hours in which hunters were allowed to shoot.

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. The lack of the total amounts of licenses granted makes it impossible to assess if the motivation for derogation is consistent with the high number of individuals affected.

Moreover, the report is identical to the 2004 and 2005 ones, for number of derogations, species concerned, reasons, authorized persons and activity. This 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 the information provided is complete with the only exception of information relative to the conditions of risk.

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

3.4 Czech Republic

A total of 165 derogations were submitted in the year 2006, a figure smaller than the one in the previous year (362 derogations).

As in 2005 the most frequent reasons are:

- for the protection of wild fauna (48 times)
- for the purposes of research and teaching (38 times)
- to prevent serious damage to fisheries and water (20 times)
- in the interest of public health and safety (14 times)

The reason “for the protection of wild fauna” is often used together with the reason “for the purposes of research and teaching”, both of which are frequently related to the activities of “keeping in captivity” and “breeding”.

Killing and hunting activities are mostly used when the reason falls within those listed under the letter (a) of the Art.9.1 and, in particular, when the main reason is to prevent serious damages.

Sometimes several activities are associated to one or more reasons and concern more than one species: i.e. “capture”, “killing”, “keeping in captivity”, “releasing”, “scaring away”, “breeding”, “taking of eggs” and “transport” are the permitted activities “for the purposes of research and teaching” and “for the protection of wild fauna”. According to information provided by the Czech Republic, these derogations have been granted to rehabilitation centres. Determination of species as “every species of birds except special protected one according to national legislation” refers to province of respective authority, in this case municipal authority is not allowed according to national legislation for granting derogation for special protected species.

The falconry activity is used in 6 derogations, two of which “to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use in small numbers” of *Accipiter gentilis*, and 4 for the protection of wild fauna.

4.158 individuals were killed in 2006. In particular, the most derogated species is *Ardea cinerea*: 10 derogations were granted for killing a total of 101 individuals in order to prevent serious damage to fisheries and water. While the largest number of individuals killed belongs to the species *Sturnus vulgaris*: one derogation was granted for killing 2.969 individuals to prevent serious damage to crops.

The other killed species are:

- *Columba livia*: one derogation, granted for killing 774 individuals in the interests of public health;
- *Phalacrocorax carbo*: 7 derogations, granted for killing 203 individuals to prevent serious damage to fishery and water;
- *Corvus corax*: one derogation, granted for killing 10 individuals for the protection of wild fauna;
- *Vanellus vanellus*, *Larus ridibundus*, *Corvus frugilegus*, *Pica pica* and *Streptotelia decaopto*: one derogation, granted for killing respectively 30, 9, 21, 34 and 7 individuals in the interests of air safety.

The report does not use the official reporting format, but a table that includes the “Time conditions” and “The controls which have been carried out” fields in addition to the requested ones. The information contained in these fields is very useful for the evaluation of the compliance of the derogations granted with the provisions of the Birds directive. Only in a few cases not all the fields are filled, other times the reason is indicated with “?” or it is not indicated at all. In some cases also the concerned species are not indicated or only in a generic way (i.e. “other species”, “unspecified”, “songbirds”, “critically and highly endangered species”). However, apart from these few exceptions and unlike the previous report, the 2006 one is sufficiently accurate and detailed.

In conclusion, the report from Czech Republic is quite complete and none of the derogations granted is in apparent conflict with the bird protection measures.

3.5 Denmark

The derogations granted for 2006 are 72; each one is linked to a license issued from January 1st to December 31st.

The activity allowed is almost always (70 times) killing 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 by hand followed with the release, for the purposes of restocking: the total of eggs collected amounts to 32.491 all belonging to *Phasianus colchicus* (species listed in Annex II/1).

The reasons furnished are:

Art. 9.1a

- in the interest of air safety: 48 times.
- in the interest of public health and safety: 11 times.
- to prevent serious damage to crops: 5 times.
- for the protection of wild fauna: 3 times.
- to prevent serious damage to fisheries: 2 times.
- to prevent serious damage to livestock: 1 time.

Art. 9.1b

- for the purposes of restocking: 2 times.

The number of individuals killed amounts to 5.431. The species most affected are the same of the previous year:

- *Corvus frugelius* 2.331 individuals, not listed in any Annex.
- *Corvus corone* 723 individuals, listed in Annex II/2 which may be hunted in Denmark.
- *Larus argentatus* 652 individuals, listed in Annex II/2 which may be hunted in Denmark.
- *Columba palumbus* 464 individuals, listed in Annexes I and II/1.
- *Anas platyrhynchos* 104 individuals, listed in Annex II/1.

As the report does not clear whether alternative solutions were sought to derogations, nor does it clear the connections between the need to derogate and the activities allowed, therefore the repeated need of killing the same individuals seems to mean that this kind of activity is not effective and durable for the control of the “pest-species”. 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 2006 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 was granted and the controls carried out are missing.

None of the Danish derogations is in apparent conflict with the species protection measure.

3.6 Estonia

The total number of derogations granted is four.

The reason for derogation is always “to prevent serious damage to crops, livestock, forests, fishery and water” and, just in one case, the “protection of wild fauna and flora” is also indicated. The activity allowed is in all cases killing and the authorised persons’ category is always described as “hunting societies”.

The total number of killed individuals amounts to 1.491:

Species listed in annex I:

- *Branta leucopsis* : 919 individuals

Species not listed in the annexes:

- *Phalacrocorax carbo*: 290 individuals
- *Corvus corax*: 244 individuals
- *Ardea cinerea*: 38 individuals

The report for 2006 is identical to the 2005 one in number of derogation, reasons, activity and species affected. The number of individuals killed is however higher.

To be noted that the total *Branta leucopsis* killed individuals (to prevent serious damage to crops) amounts to 2.163 for the years 2004, 2005 and 2006. 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 activities allowed. The European Commission's Guidance document on hunting under Council Directive 79/409/EEC clearly indicates that "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 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 do 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 always generally indicated as "BTH".

None of the Estonian derogations is in apparent conflict with the species protection measure.

3.7 Finland

A total of 129 derogations were issued in 2006, a number quite higher than the previous year, when 67 derogations were granted, but similar to 2004, 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, submitted 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. 116 derogations out of the total of 129, involve the species legally protected in Finland, while the remaining 13 concern the 'game and unprotected species'.

The great part of the 'protected species' derogations are given "in the interests of public health and safety" (63 derogations out of 116) and "for the purposes of research and teaching, of restocking, of re-introduction and for the breeding necessary for these purposes" (48 derogations out of 116).

The killing activity is mainly granted “in the interests of public health” (52 derogations out of 59 derogations) and “to prevent serious damage to crops, livestock, forests, fishery and water concerns” (7 derogations out of 59). The species more frequently killed are *Passer domesticus* (concerned by 26 derogations), *Parus major* (24 derogations) and *Corvus monedula* (4 derogations).

All the derogations related to the ‘game and/or unprotected species’ are granted for killing, with the only exception of one derogation issued for the capture of 380 individuals of *Phasianus colchicus* “for the purposes of research and teaching, of restocking, of re-introduction and for the breeding necessary for these purposes”.

As in past reports (2004-2005), the greater part of the derogation licences by the MMM, were issued for killing “to prevent serious damage to crops etc.” (9 derogations out of 13), often together with the “in the interests of public health and safety” or “for the protection of flora and fauna” reasons. A total of 107.634 individuals were killed in order to control ‘game and unprotected species’.

Only one derogation was given for allowing the killing of 3.076 individuals of *Clangula hyemalis* during the spring (mainly between April and May), under 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”. This figure is lower than the one of the past year when were killed for the same reason 5.761 individuals of *Clangula hyemalis*.

A total of 110.747 individuals were killed in 2006, of which 37 belonging to the ‘protected species’ and 110.710 belonging to the ‘game and unprotected species’. The figure of 37 individuals killed could be partial, as the data related to the number of birds killed are indicated only 5 times out of 59 derogations for killing. Sometimes also the authorized method is not specified.

While in the first section of the report, every derogation covers a single licence and a single species, in the second part of the report every derogation covers more than one licence and only one of the ‘game and unprotected species’.

Both reports include all the requested fields, even though the first part of the report does not follow the Commission’s format, while the second one 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 the exception of the derogation 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”. Only one derogation for killing 3.076 individuals for ‘judicious use’ represents a progress compared to the seven derogations for killing 21.653 individuals in 2005, and the 12 derogations for killing 22.476 individuals in 2004.

Species	Killed individuals		Total
	2005	2006	
<i>Corvus corax</i>	41	36	77
<i>Corvus cornix</i>	22.434	22.437	44.871
<i>Pica pica</i>	5.545	5.646	11.191
<i>Larus argentatus</i>	11.269	13.577	24.846
<i>Larus marinus</i>	1.832	1.665	3.497
<i>Columba livia domestica</i>	833	1.235	2.068
<i>Turdus pilaris</i>	64.863	61.883	126.746
<i>Anser anser</i>	131	56	187
<i>Branta canadensis</i>	9	--	9
<i>Anas platyrhynchos</i>	3	7	10
<i>Tetrao tetrix</i>	30	68	98
<i>Columba palumbus</i>	845	1.024	1869
Total	107.835	107.634	215.469

One final consideration the species affected “in the interests of public health and safety” or “for the protection of flora and fauna” reasons, are the same in 2006 as in 2005 and also the number of individuals killed is similar, as showed by the table above.

3.8 France

In France 280 derogations were issued in 2006, a number similar to 2005 (249 derogations), but much higher than the previous years, when 31 (in 2001), 31 (in 2002), 17 (in 2003) and 26 (in 2004) derogations were granted.

Most of derogations cover only one licence, but in almost half of the derogations (138 derogations) the number of licences issued is not indicated at all and in some other cases each derogation grants a considerably high number of licences (up to 1.195 licences). According to the data available, 3.696 licenses were issued in 2006, a figure which is slightly less than 2005 (4.199 licenses issued), but remarkable elevated in comparison with the past years when 31 (in 2001), 31 (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 licenses have been granted for a wide range of reasons. As the previous report, the most frequent motivations are, in applied order:

- for the protection of wild fauna (76 times)
- for the purposes of research and teaching (60 times)
- to prevent serious damage to fisheries and water (46 times)
- to permit under strictly supervised conditions and on selective basis, other judicious use of certain birds in small numbers (46 times)
- in the interest of air safety (28 times)

The difference in number of derogations from 2005 is mainly due to a larger quantity of derogations granted for scientific reason, which recurred only 26 times in 2005. Whereas the derogations granted for the other reasons show similar numbers.

As with the report of 2005, a very large number of derogations have authorized the killing (157 derogations) and capture (111 derogations) activities. A total of 29.019 individuals were killed, and 542.233 were captured, of which only 28 specimens were captured for scientific reasons, while the remnant 542.205 were caught for “judicious use” by different methods (hunting with traps, nets, snares and lime), mainly with lime (25 out of 62 derogations given for capture).

The most recurrently derogated species are killed:

- *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 60 individuals in the interests of public health, and 3 derogations for killing a total of 469 Herring gulls in the interests of air safety; the remnant 17 derogations do not indicate the number of individuals killed.
- *Phalacrocorax carbo* (not listed in the Birds directive): 118 derogations were issued for killing a total of 28.360 specimens of Great cormorant, of which 17.233 in order “to prevent serious damage to fishery and water” and 11.032 for “the protection of wild fauna”. Comparing these data with the ones of 2005, when 124 derogations were granted for killing a total of 26.609 individuals, in 2006 a reduced number of derogations were granted for allowing the killing of a larger number of cormorants.

46 derogations were granted “to permit under strictly supervised conditions and on selective basis, other judicious use of certain birds in small numbers” during the hunting season. Under this reason, using different methods (hunting with traps, nets, snares and lime) a total of 542.205 individuals were captured, mainly passerine birds listed in Annex II/2 as species which may be hunted in France:

- 505.288⁴ specimens of *Alauda arvensis* (4 derogations)
- 14.759 specimens of *Turdus philomelos* (8 derogations)
- 12.456 specimens of *T. iliacus* (8 derogations)
- 3.539 specimens of *T. merula* (9 derogations)
- 3.391 specimens of *T. pilaris* (8 derogations)
- 1.470 specimens of *Vanellus vanellus* (1 derogation)
- 1.302 specimens of *T. viscivorus* (8 derogations)

The species affected are the same as in 2005 while the total number of individuals captured is slightly less than in 2005, when 549.049 passerine birds were captured.

Species	Captured individuals		Total
	2005	2006	
<i>Alauda arvensis</i>	493.340	505.288	998.628
<i>Turdus philomelos</i>	14.647	14.759	29.406
<i>Turdus iliacus</i>	18.828	12.456	31.284
<i>Turdus merula</i>	4.716	3.539	8.255
<i>Turdus pilaris</i>	15.728	3.391	19.119
<i>Vanellus vanellus</i>	204	1.470	1.674
<i>Turdus viscivorus</i>	1.790	1.302	3.092
Total	549.253	542.205	1.091.458

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.

To note that also in the previous years, a number of derogations were submitted for catching birds mainly passerines (nearly 600.000 in 2004) on lime.

The derogation 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 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 means of standard codes and this increases the risk of misinterpretations.

The validity of some derogation is extended over more than one calendar year (up to 3 years).

In some cases (52 times) only the date for the beginning of the licence validity is provided, without no reference to the end, if there is one. In many other cases (161 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 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: 60 times out of 280 derogations the associated field is left empty. Therefore, the number of 29.019 individuals killed could be partial, as 33 times out of 157 derogations granted for killing, the related data are not available. While it is understandable that the figures for the taking of birds cannot be provided when the validity extends beyond 2006, 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 does not provide all the information needed, none of the French derogations are in apparent conflict with the birds species protection measures of the Birds Directive.

3.9 Germany

A total of 434 derogations were issued in 2006 from different authorising local authorities in Germany. This figure is slightly less than the previous biennial.

168 derogations were issued for the purpose of research and education, mainly (115) to allow stuffing of animals found dead. Another reason frequently used (154 derogations) is in the interest of public health and safety, followed by the prevention of serious damage, in particular to crops and fishery. 27 derogations do not include the reason for their issuing.

A total of 2.366 licences were issued in 2006, about 1.000 more than those issued in 2005. 1.223 licenses aimed at *Phalacrocorax carbo* were allowed through one single derogation. The duration of the licenses is often more than one year, in some cases five or six years. 20 derogations were granted for an unlimited period of time mainly for the destruction of nests of different bird species for an unspecified reason.

The most allowed activity is the destruction of nests (163 derogations), mainly in the interest of public safety. A total of 5.912 nests have been destroyed, of which 2.289 nests of *Passer domesticus* and 1.907 of *Delichon urbica*.

Stuffing of 209 animals found dead for research purposes is the second most allowed activity in order of importance (115 derogations). The most affected species is *Alcedo atthis* with 27 individuals, followed by *Tyto alba* with 25 birds.

Usually one derogation concerns only one species, with few exceptions.

The most derogated species, which is killed, is *Phalacrocorax carbo*, 12.090 (about a half of those killed during the previous year) individuals, which were killed mainly to prevent damages to fishery. The number of derogations is compatible with the registered increase of conflicts with fishery. Considering the population size of the cormorant in Germany and in Europe, the reasons provided and results of a recent study according to which shooting in wintering areas alone is not sufficient to reduce the overabundant cormorant population in Germany, it seems that the number of killed individuals could be acceptable. 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. Shooting is permitted in fish farm areas and on all kinds of water bodies with fishing rights, but it is generally forbidden in protected areas. In some federal states, wildlife authorities may permit single shootings in protected areas. In most regions shooting may be carried out by professional hunters or fishermen holding a hunting licence. In two states, fishermen are allowed to shoot cormorants on their own waters without a license. The rules do not however indicate the annual harvesting quota and/or what is considered as an acceptable dimension of the cormorant population. 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 *Columba palumbus* (1876), *Ardea cinerea* (1.138), *Alauda arvensis* (656) and *Branta leucopsis* (610),

Five derogations were issued to permit, under strictly supervised conditions and on a selective basis, the capture, keeping and use for falconry of 20 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. Moreover, different regions compile different derogations forms in different ways. The most frequent fields left empty are:

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

In four cases reason codes 13 and 14 are reported even though they do not exist within the “standardized code for derogation motive”.

In conclusion, none of the German derogations are in apparent conflict with the species protection measures of the Birds Directive. However, the management of the *Phalacrocorax carbo* should be coordinated at national level.

3.10 Greece

In 2006 a total of 6 derogations were granted for scientific purposes for ringing of *Aegypius monachus* (Annex I) and specimens belonging to the *Charadriiformes* order or for collecting of wild birds, mostly passerines, in order to allow different analysis (DNA, food items, taxonomic, ecologic, etc.).

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 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

118 derogations were issued in 2006, indicating a growing trend in comparison with the previous years (2005 and 2004). The number of species affected by derogations increased, even though the number of individuals was substantially reduced.

Only one species per derogation is reported, with the exception of 5 derogations, which concern two species.

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* (38), *Sturnus vulgaris* (13), *Corvus frugilegus* (7), *Larus cachinnans* (2), *Anser fabalis* (1), *A. albifrons* (1), *Ardea cinerea* (1), *Corvus corax* (1), *Anser anser* (1) and *Grus grus* (1) under a strict control of guards from 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:

- 31 *Phalacrocorax carbo*
- 176 *Anser fabalis* (Annex II/1)
- 127 *A. albifrons* (Annex II/2), which may be hunted (H) in Hungary
- 0 *Ardea cinerea*, *Corvus corax*, *Delichon urbica*
- Undefined number of individuals of *Grus grus* (Annex I), *Corvus frugilegus* (Annex II/2, H), *Larus cachinnans* (Annex II/2, H), *Passer domesticus* and *Anser anser* (Annex II/1) were scared away, using various methods.
- *Remiz pendulinus* an undefined number of individuals were taken for research and education purposes.
- 253 *Sturnus vulgaris* (Annex II/2, H) were killed after the failure of the alarm methods used during the previous years to prevent damages to crops.
- 1 nest of *Ciconia ciconia* was relocated in the interest of public safety and health.
- 3.310 *Pica pica* (Annex II/2, H), substantially less than those killed in 2005, all allowed through one derogation granted to different bodies, between February 1 and August 1, for hunting purpose. Only the use of firearms was allowed.
- 534 *Garrulus glandarius* (Annex II/2, H), about 1/3 of those killed in 2005, 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.
- 1.396 *Corvus corone cornix* (Annex II/2, H), about 1/3 of those killed in 2005, 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.
- Undefined number of *Cygnus olor* (Annex II/2, which may not be hunted in Hungary), were scared away with a carbide cannon.
- 27 *Accipiter gentilis*, were captured for falconry. The derogations give detailed indications on the methods to be used and the characteristics of the successive breeding.
- 8.102 *Scolopax rusticola* (Annex II/1) all allowed with one single 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 crows, *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 is 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 (62 derogations).
- Alternative solutions are not indicated.
- 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.

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

During the year 2006, eleven derogations have been issued.

The only allowed activity for all licences is the deliberate capture in the wild. Therefore none of the individuals affected by derogations has been killed. The permitted activity is often carried out by hand or nets, although sometimes indication about the taking method is not given.

The derogations have been granted for nine species, and three of them (*Parus ater*, *Pyrrhocorax pyrrhocorax*, *Calidris alpina schinzi*) are listed in the Annex I of the Birds Directive.

Each derogation refers 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 which can be affected is not stated before granting a derogation but it is reported on the basis of the licensee's declarations.

The report is accompanied by a Declaration ("Declaration under regulation 3(1)(a) of the European Communities (Wildlife Act 1976) (Amendment)") and an annexed file with a list of the so called "pest species" which fall within the reasons under Art. 9.1(a) (threat to public health or serious damage to crops, livestock or fauna). To be noted that in the cover letter is reported that "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 itself includes only derogations for the purposes of research and teaching and the species concerned are different from those listed in the schedule annexed to the Declaration.

The report from Ireland includes derogations relative to both 2005 and 2006. Therefore the format followed for the 2006 derogation report is the same of the previous year: it does not use the EU Commission format, but a form that does not include all the information required, i.e. 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). The national licensing authority is indicated only in the cover letter.

None of the Irish derogations is in apparent conflict with the species protection measure.

3.13 Italy

The number of derogations for 2006 is 368.

The motivations furnished are, in the interest of public health and safety, to permit under strictly supervised conditions and on a selective basis the capture, keeping or other judicious use of certain birds in small numbers, and for the purpose of research and teaching.

Permitted activities are mainly capture and killing followed by hunting, releasing and taking of eggs. Sometimes activity related to code 131 is mentioned, which is not foreseen in the standard code for permitted activity.

Often one derogation includes more than one authorization. In the Umbria region, for example, two derogations were granted, each of which has authorised 2.000 licences (for the *Passer domesticus* and for *Sturnus vulgaris*) and one derogation has authorised 12.050 licences (for *Sturnus vulgaris*). In Lombardy, two derogations were granted, each of which has authorised 1.368 licences (for the *Corvus corone* and for the *Columba livia*) and one derogation has authorised 1.384 licences (for *Pica pica*).

The number of individuals killed represents almost the total of the derogations granted (632.700/678.897).

Region	Killed individuals	Captured individuals	Total
Lombardia	160.804	25.467	186.271
Veneto	142.153	14.165	156.318
Emilia Romagna	112.104	5.731	117.835
Marche	91.055	426	91.481
Toscana	73.627	341	73.968
Piemonte	24.378	0	24.378
Liguria	10.952	0	10.952
Friuli Venezia Giulia	8.737	0	8.737
Umbria	8.200	0	8.200
Molise	683	0	683
Puglia	4	0	4
Trentino Alto Adige	3	0	3
Sicilia	0	67	67
Total	632.700	46.197	678.897

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.

The protocol signed by the regional administration and the National Wild Fauna Institute (INFS) is the procedure established in Italy to determine each year, on the basis of verified scientific data, the maximum amount of species that can be taken, on a national and regional level, for derogations under art.9.1c.

Even though the report does sometimes mention the "basis of selection" when dealing with "small quantities", when mentioning derogations under art.9.1c the report states that arrangements are made without taking account of the protocol or that, as in the case of Emilia-Romagna, the region has decided not to stipulate a protocol at all. For example, 41.801 individuals of the *Turdus* genus of four different species were captured: *T. pilaris*, *T. philomelus*, *T. merula*, *T. iliacus*: almost all the captures, most of which for "judicious use", were granted without a protocol and in all these cases it is not said on what basis the number of individuals to be captured was determined.

However, it would appear that derogations granted under the art. 9.1a in 2006 take more into account the opinion of INFS, than in the previous year, even though it is not obligatory. For the derogations foreseen by multi-annual plans it is often indicated that they are to take into account the opinion of INFS on the number, means and times for killing or capture.

Some of the species for which derogations have been granted are not listed in the annexes (among these *Fringilla montifringilla* 13.097 individuals killed, *Phalacrocorax carbo* 282 individuals killed, *Passer domesticus* 904 individuals killed). Moreover, under art. 9.1c, 100.403 individuals not listed in Annex II/1, nor in Annex II/2, were hunted and killed.

The most derogated species are:

Annex I species:

- *Fringilla coelebs*, 86.445 individuals killed.

Annex II/1:

- *Columba livia*, 144.824 individuals killed.

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

- *Sturnus vulgaris*, 315.599 individuals killed.
- *Streptopelia decaocto*, 4.497 individuals killed.

Annex II/2 species that can be hunted in Italy:

- *Corvus corone*, 43.500 individuals killed.
- *Pica pica*, 23.200 individuals killed.

In all above cases the number of individuals killed is smaller than the preceding year, with the exception of *Corvus corone* and *Pica pica*.

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 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 activities allowed.

The report does not clear how and who used the means, arrangements and methods authorised. Only in exceptional cases there is a reference to the specific person authorised to hunt, furnishing general categories (all those who have a pass, or that request it etc). All data collected come from the numbers indicated by the hunter in his personal pass. Without an effective control it is difficult to know whether the number of individuals killed corresponds to reality. Moreover not all the passes were delivered and often regions have furnished an indicative total figure, based on a “projection” of the actual passes granted. This has been noticed in particular for Tuscany and in the Veneto region, and for the killing of *Sturnus vulgaris*.

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. For this issue, from April 2006 Italy is under infringements procedure. 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

The derogation report for the year 2006 was submitted together with the 2005 one. Both follow the official format and both report only 3 derogations, similar in species affected, regions concerned, period granted, reason and related activity.

Two derogations were granted for the protection of wild fauna keeping and caring for wounded birds delivered to the Riga National Zoo; the first concerns ten specimens of storks *Ciconia ciconia* (Annex I), while the second one concerns one individual *Grus grus* (Annex I).

The third derogation concerns 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 102 licences that are granted from 20/04/2006 to 10/05/2006 for 66 males (in the past year the hunting licences were 114 and the individuals killed were 57). According to the “Remarks” field, “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 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. The Commission is investigating this case.

The report information furnished is complete, except for the authorized persons, the conditions of risk and the controls carried out. Moreover, in all cases the permitted methods are indicated with the alphabetic code which does not specify which method (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).

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

3.15 Lithuania

As in the previous year, eleven derogations were granted in Lithuania. The derogations are similar to the ones of the 2005 also in species concerned, reasons and activities permitted. According to the introduction to the report, licences issued for capture of birds for later release are not listed in the document.

All derogations were issued to allow hunting. Ten of these were issued for hunting a total of 59 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*, *Corvus* sp., etc.) in the interest of public health and safety.

The remaining derogation has been granted for hunting 1.782 individuals of Great Cormorant (*Phalacrocorax carbo*) in order to prevent serious damage to crops, livestock, forests, fishery and water. This number is lower than the previous year. 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 1999 and 2001 was of 2.500-3.000 pairs. Recent studies estimates the population to have increased to around 3.700 pairs in 2006⁵.

In Lithuania single permits issued by the Ministry of Environment for cormorants shooting, are used as a population management tool for cormorant damage control in the inland fisheries pond farms, in order to reduce the conflict between cormorants and fisheries⁶. Data from the Lithuanian reports of recent years (2004 and 2005) show that one derogation for cormorants killing is granted every year. Considering that the population is grown despite the number of individuals yearly killed, and that the magnitude of the population growth is more than 80% (Birdlife), it seems that the number of killed individuals in 2006 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.

⁵ Review and discussion on draft contributions for the HELCOM BIO report - Chapter 4, Birds. Christof Herrmann, Germany. 2008

⁶ Reducing the conflict between cormorants and fisheries on a pan-European scale. Summary & National Overviews. Edited by: D N Carss & M Marzano (2005)

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

For 2006 only three derogations have been issued, in three different cities, concerning the disturbance of just one species: the *Corvus frugilegus*, listed in Annex II of the Birds Directive and which may not be hunted in Luxembourg.

As in the previous year, none of the individuals derogated have been killed.

For all the derogations granted the activity allowed is the deliberate destruction of 587 empty nests in the interests of public health and safety. The method used is always generically indicated as BTH, which means that the activity can be used for derogations under the Birds and the Habitats Directives.

The report also contains a detailed description of the ringing activity carried out in Luxembourg: as reported, 27.317 individuals of different species were ringed in 2006, a figure a few lower compared with the previous year.

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

- *Acrocephalus scirpaceus*, 7.308 individuals;
- *Hirundo rustica*, 5.033 individuals;
- *Sylvia atricapilla*, 2.789 individuals;
- *Erithacus rubecula*, 1.976 individuals;
- *Acrocephalus palustris*, 1.879 individuals;
- *Phylloscopus collybita*, 1.123 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 apparent conflict with the provisions of the Birds Directive.

3.17 Malta

The report from Malta uses the Commission's format in issuing just two derogation: one for the capture for ringing individuals belonging to "all species of wild birds occurring in the Maltese islands"; one for the hunting of several individuals of *Coturnix coturnix* and *Streptopelia turtur*.

As the reports of past years (2004 and 2005), each derogation covers more than one license and the second derogation grants thousands of licenses (16.430).

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 stated 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").

With regards to the first derogation, it concerns 18 licences for capture for ringing with "nets" and/or "bird calls" methods. Single licenses cover more species and the number of individuals ringed for each species is listed in a specific annex. The motivation furnished for the activity mentioned is "the purpose of research and teaching" and the period is generally indicated as the whole year.

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

- *Erithacus rubecula* 2567 individuals
- *Sylvia borin* 1545 individuals
- *Passer hispaniolensis* 1384 individuals
- *Phylloscopus collybita* 1118 individuals
- *Phylloscopus sibilatrix* 1015 individuals
- *Sylvia communis* 711 individuals
- *Sylvia atricapilla* 645 individuals
- *Sylvia melanocephala* 447 individuals.
- *Hirundo rustica* 339 individuals

The second derogation is subject to legal proceedings.

3.18 Netherlands

The 11 Provinces and the Dutch Ministry of Agriculture, Nature conservation and Food quality issued a total of 187 derogations. Part of them has been issued during the previous year but they are still valid in 2006 since they cover a multi annual period.

The great part of these was issued to prevent important damages to crops (97) and to wild flora and fauna (47). 17 derogations have been issued for research purposes.

98 derogations allow killing of different bird species and another 30 their hunting with guns. However, the derogations do not report the number of individuals killed, with very few exceptions relative only to three Provinces.

Often more than one species and more than one license per derogation are reported. Moreover, several derogations allow licenses for more than one year.

The most derogated species is *Anser anser* affected by 55 derogations. Other frequent species are *Anas Penelope*, *A. platyrhynchos*, *Sturnus vulgaris*, *Corvus frugilegus* and *Larus argentatus*. The only species which may be hunted in the Netherlands, object of derogations, are *Pica pica*, *Garrulus glandarius*, *Corvus monedula* and *Anser albifrons*.

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)
- Number of licenses
- Impact on the population (in very few cases no impact or “possible” impact is reported)
- 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. Therefore it is not possible to evaluate the impact of derogations on the conservation status of the species.

3.19 Poland

The total amount of derogations granted in 2006 is 106, as compared with 85 in 2005 and 93 in 2004. (It is to note that other two birds derogations were been included in the 2006 Habitat derogation report).

The main reasons under which derogations are granted are:

- “in the interests of public health and safety”: used for 41 derogations of a total of 106;
- “to prevent serious damage to crops, livestock, forests, fishery and water”: used 32 times. The code reason 34 in particular, “to prevent serious damage”, is applied to 28 derogations;
- “for the purposes of research and teaching, of restocking, of re-introduction and for breeding necessary for these purposes”: used for 30 derogations, 27 of which “for the purposes of research and teaching” reason.

The most frequent authorized activities are scaring away, killing and destruction of nests. Destructive control measures were allowed for almost half of the derogations, and measures for birds disturbance for the rest of licenses.

The most affected species are the Great Cormorant (*Phalacrocorax carbo*), affected by 32 derogations, and some species belonging to the *Corvidae* family (*Corvus frugilegus*, *Corvus corax* and *Corvus monedula*), for a total of 15 derogations.

In particular:

- *Phalacrocorax carbo* (not listed in the Annexes of the Birds directive):
 - 1.903 individuals were killed in order to prevent serious damage (19 derogations), and 120 individuals for the purposes of research and teaching (2 derogations). A further derogation was granted for taking of 200 eggs from 220 nests and replacing them with false eggs for the purpose of limiting the breeding success of the species.
 - 6 derogations were issued for scaring away Cormorants to prevent serious damage.
- *Corvus frugilegus* (listed on Annex II/2 and which may not be hunted in Poland): 757 nests were destroyed in the interests of public health and/or safety. However the number of nests is not always indicated and thus this figure is not complete.
- *Corvus corax* (not listed in the Annexes): 14 individuals were killed to prevent serious damage to livestock and an other one individual for the purpose of research and teaching.

In addition to the derogations listed above, further ones were granted for killing or destroying nests of *Phalacrocorax carbo* (4 derogations) and of *Corvus frugilegus* (2 derogations), but they were not executed.

The report is more detailed than the 2005 one, often referring in the “Remarks” section whether the activity was realized, whether the method produced positive effects, the actual number of individuals affected, limitation imposed to the licensed activity (i.e. “limited to 98% breeding success). The “N. of individuals” column gives further useful information too, specifying, for example, the particular circumstances of place or time (i.e. “birds preying on the dumping ground”, “breeding colony”, “zone of protection”, “nests from 3 trees”), even though it is not always filled up. Unlike past reports, where the “Remarks” column was present but empty, this year this field was filled up for the most part of the derogations. However, the Region concerned is always designated with an alphanumeric code. In some cases the number of individuals is generically indicated as “several thousand” and where a derogation involves more than one species, it does not clear to which one the number of individuals refers. Moreover the use of “destruction of nests” as authorized method associated to the “scaring away” activity is not clear, as the “destruction of nests” is an activity and not a method; finally the “destruction of nests” is a destructive measure, as opposed to “scaring away”.

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

3.20 Portugal

The total number of derogations for 2006 amounts to 41, almost double of the previous report (2005).

The motivations furnished are: for the purpose of research and teaching, of restocking, of re-introduction and for the breeding necessary for these purposes, to prevent serious damage to crops and in the interests of public health and safety.

As in the previous year, none of the individuals concerned have been killed. The activities allowed are capture, deliberate disturbance or deliberate destruction of nests.

The prevention of serious damage to crops almost always corresponds to the deliberate disturbance and scaring away of birds, particularly during the period of breeding and rearing and also corresponds to the “firearms and gas machines” methods.

The interests of public health and safety almost always corresponds to the deliberate destruction of nests and to the “by hand” or firearms and gas machines method.

The purpose of research and teaching, of restocking, of re-introduction and for the breeding necessary for these purposes always corresponds to the capture activity and the “by hand” or “traps” methods. The number of individuals affected is indicated in 20 cases of capture on a total of 24 licences for capture granted. The total number of individuals captured, when provided, amounts to 499.

Whenever the permitted activity is deliberate disturbance or destruction of nests, 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 derogated species are:

Annex I species:

- *Aegypius monachus* (1 individual captured by traps for the purpose of research and teaching)
- *Calonectris diomedea* (100 individuals captured by hand for the purpose of research and teaching)
- *Ciconia ciconia* (87 licences for destruction of nests)
- *Cicoria nigra* (12 individuals captured by hand for the purpose of research and teaching)
- *Circaetus gallicus* (1 individual captured by hand for the purpose of research and teaching)
- *Falco naumanni* (number unspecified of individuals captured by hand for the purpose of research and teaching)
- *Gyps fulvus* (27 individuals captured by hand for the purpose of research and teaching)
- *Hieraaetus fasciatus* (26 individuals captured by hand for the purpose of research and teaching)
- *Hieraaetus pennatus* (3 individuals captured by hand for the purpose of research and teaching)
- *Oceanodroma castro* (200 individuals captured by traps for the purpose of research and teaching)
- *Tetrax tetrax* (112 individuals captured by traps for the purpose of research and teaching)

Annex II species:

- *Anas platyrhynchos* (scared away)
- *Corvus corone* (1 individual captured by hand for the purpose of research and teaching; others scared away)
- *Garrulus glandarius* (scared away)
- *Larus cachinnans* (3 individuals captured by hand for the purpose of research and teaching; others scared away or affected by destruction of nests)
- *Pica pica* (scared away)
- *Turdus merula* (scared away)

Species not listed in the annexes:

- *Accipiter gentiles* (4 individuals captured by hand for the purpose of research and teaching)
- *Accipiter nisus* (1 individual captured by hand for the purpose of research and teaching)
- *Bubulcus ibis* (scared away)
- *Carduelis carduelis* (1 individual captured by traps for the purpose of research and teaching)
- *Carduelis spinus* (1 individual captured by traps for the purpose of research and teaching)
- *Cyanopica cyana* (scared away)
- *Delichon urbica* (destruction of nests)
- *Falco tinnunculus* (1 individual captured by traps for the purpose of research and teaching)
- *Fringilla coelebs* (1 individual captured by traps for the purpose of research and teaching)
- *Merops apiaster* (scared away)
- *Oriolus oriolus* (scared away)
- *Passer domesticus* (scared away)
- *Phalacrocorax carbo* (1 individual captured by traps for the purpose of research and teaching)
- *Serinus serinus* (2 licenses for the capture by traps for the purpose of research and teaching)
- *Strix aluco* (1 individual captured by hand for the purpose of research and teaching)
- *Sturnus unicolor* (scared away)
- *Tyto alba* (2 individuals captured by hand for the purpose of research and teaching)

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 133. But it is always lower than 10 licenses in the cases of capture.

The report from Portugal does not use the Commission’s format, and the information provided covers only few of the requested fields, as it did in the 2005 report. Information relative to the Licensing Authorities, the conditions of risk and the circumstances of time and place under which derogations were granted (such as regions concerned and periods for which licence is granted) and controls carried out are totally missing.

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

3.21 Slovakia

In Slovakia 33 derogations were granted in 2006, showing a growing trend compared to 18 derogations in 2004 and 24 in 2005.

Most derogations were given for “research and teaching”, by birds ringing (21 derogations), sometimes together with the “protection of wild fauna” reason (8 derogations). Rarely one derogation concerns 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”).

Six derogations were granted in the interests of public health and safety, authorizing the capture or, more frequently, the destruction of nests “on theatre entrance hall”, “on flats”, “mining area” or in urban parks. The species concerned by this kind of derogations are *Hirundo rustica*, *Merops apiaster*, *Riparia riparia*, *Delichon urbica* and *Corvus frugilegus*. None of these species is listed in any Annex to the Birds Directive, with the exception of *Corvus frugilegus*, which is listed in Annex II/2 as species which may be hunted in Slovakia.

Only one derogation was issued for allowing the killing, together with the scaring away and the destruction of nests of “aves in general, especially *Turdus vulgaris*, *Turdus pilaris*, *Corvus corone*, *Corvus frugilegus*, *Delichon urbica* and *Hirundo rustica*”, in the interests of air safety in the Military Airport Base.

One derogation was granted for scaring away and an other for hunting individuals of *Phalacrocorax carbo* in order to prevent serious damage to fisheries and water bodies. In this instance, hunting serves a non-recreational objective (to prevent damage), but the report should indicate the location where the damage occurs, demonstrate 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), the need to regulate ‘damage-causing’ Cormorants (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).

In general, one derogation covers more than one licence (up to 47). The total amount of licenses issued is 141, but this field is not always filled.

The number of individuals taken is always “0” with the only exception for one derogation that authorized the release of 4 individuals of *Aquila chrysaetos* for the purposes of re-introduction, as activity set out within the “rescues plan for Golden Eagle in Beskydy (Czech Republic)”.

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. Moreover, even if the actual number of individuals affected is provided (as “0”), the maximum amount which can be affected should be also indicated.

In conclusion the report is easily comprehensible and indicates that none of the derogations is in apparent conflict with the overall objectives of the Birds Directive or the specific conditions under Art.9.

3.22 Slovenia

According to the derogation report a total of 15 derogations have been granted in 2006. The report concerns the derogations issued in the year 2005 and executed in 2006.

As specified in the report's introduction, in the Republic of Slovenia the derogations under the Article 9 were applied to 369 species out of the 375 species of wild birds that have been recorded and are currently recognised naturally occurring in the territory of the Republic of Slovenia. The remaining 6 species are subjected to the Article 7 (species that may be hunted) and managed in accordance with the Game and Hunting Act. One can deduce that in Slovenia the species which may be hunted under national legislation are not subjected to derogation regime.

The motivations furnished for derogations are mainly for the purpose of research and teaching and in the interests of air safety.

"The protection of wild fauna" always corresponds to deliberate killing and to the "firearms" method.

Reasons codes 11 and 12 ("in the interests of public health and safety") always correspond to deliberate disturbance by scaring devices or the deliberate destruction of nests and to the "by hand" method.

Reason code 20 ("in the interests of air safety") always corresponds to the deliberate capture and to the "traps" or "falconry" methods.

Reasons code 51 (for the purpose of research and teaching) always corresponds to the "keeping and caring for wounded birds" and to the "keeping in captivity" activities, and to the "by hand" or "by nets", or even by "stuffing" activity.

The derogated species are:

Annex I species:

- *Ciconia ciconia*: 1 nest destructed by hand in the interests of public health and safety and 2 wounded individuals kept and cared and kept in captivity for the purpose of research and teaching
- *Aquila chrysaetos*: 1 wounded individual kept and cared and kept in captivity for the purpose of research and teaching
- *Bubo bubo*: 1 individual stuffed for the purpose of research and teaching

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

- *Larus ridibundus*: captured with traps or falconry in the interests of air safety
- *Vanellus vanellus*: captured with traps or falconry in the interests of air safety
- *Larus cachinnans*: 2 wounded individuals kept and cared and kept in captivity for the purpose of research and teaching
- *Tetrao tetrix*: 1 individual stuffed for the purpose of research and teaching

Species not listed in the annexes:

- *Phalacrocorax carbo*: 10 individuals killed
- *Ardea cinerea*: captured with traps or falconry in the interests of air safety
- *Buteo buteo*: captured with traps or falconry in the interests of air safety
- *Ardea cinerea*: disturbed by scaring device in the interests of public health and safety and 1 wounded individual kept and cared and kept in captivity for the purpose of research and teaching
- *Corvus corax*: 1 wounded individual kept and cared and kept in captivity for the purpose of research and teaching

The only individuals that have been killed are 10 specimens of *Phalacrocorax carbo*, one specimen of *Bubo bubo* and one of *Tetrao tetrix*. The total number of individuals captured is not available as the 2007 data are still missing. Only one nest has been destroyed and seven wounded individuals have been cared for and kept in captivity.

One derogation sometimes concerns more than one species (up to 5).

As in the previous year, the 2006 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 derogations have been granted and the controls carried out are listed in the remarks section. This last field includes many details about the arrangements and methods authorised, how, where and when they have been used, the maximum amounts of individuals, which can be affected, the precautions to minimise the risk of disturbance to species that are not the subject of derogations. A report to be submitted by the authorised persons after the end of the period concerned, specifying time, place, means that were used for the activity allowed, etc is also foreseen. The report furthermore, indicates the specific persons that are authorised by each derogation and the authority empowered to carry out the controls to guarantee that all the required conditions have been observed.

None of the Slovenian derogations is in apparent conflict with the species protection measures.

3.23 Spain

The derogations granted in the 2006 are 273 and thus much less than in the previous years (657 in the 2004 and 466 in the 2003). As stated in the introduction, the report has been built on the basis of the information submitted by the "autonomous regions", with the exception of the Region of "Murcia".

The reason for derogation is furnished 228 times. A very large number of derogations were granted for the purpose of research and teaching which is used 148 times, sometimes together with the protection of wild fauna or flora reasons. For the most part the research and education motive is related to the capture for ringing activity. When the purposes are research and teaching, or restocking or re-introduction, the "Remarks" and "Follow-up" sections explain that these derogations are required within the frameworks of projects and plan for research implemented by biological stations, experimental stations, Sociedad Española de Ornitología (SEO / BirdLife), universities or other research institutes.

12 derogations were granted for the purposes of re-introduction of *Milvus migrans* (6 specimens), *M. milvus* (7), *Falco tinnunculus* (4), *Gyps fulvus* (3), *Strix aluco* (4), *Larus cachinnans* (15), *Caprimulgus ruficollis* (4), *Alcedo atthis* (1), *Carduelis carduelis* (7), *C. cannabina* (3), *Aegypius monachus* (4), *Tetrax tetrax* (12 eggs), and many other species sometimes not identified.

4 derogations were granted for the purposes of breeding necessary for the research, restocking and re-introduction of *Hieraaetus fasciatus* (5 individuals), *Oxyura leucocephala* (10), *Aquila adalberti* and *Falco naumanni* (606 individuals).

A total of 22 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. Of these:

- 4 have authorized the falconry: for a total of 73 specimens of several species of birds of prey kept in captivity for the falconry activity;
- 18 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, of several specimens of passerine songbirds, reported below.
 - *Serinus serinus*: 5.044 specimens
 - *Serinus canarius*, evaluated as “Least Concern” by BirdLife International: 74 specimens
 - *Carduelis chloris*: 3.744 specimens
 - *Carduelis carduelis*: 18.301 specimens
 - *Carduelis cannabina*, recently evaluated as “Declining” by BirdLife International: 20.931 specimens
 - *Carduelis spinus*: 11 specimens
 - *Fringilla coelebs*: 6 specimens
 - *Carduelis citrinella*: 2 specimens
 - *Bucanetes githagineus*: 2 specimens
 - *Pyrrhula pyrrhula*: 1 specimens

To this numbers it is needed to add further:

- 152.018 individuals of *Carduelis carduelis*, *Carduelis cannabina*, *Carduelis chloris*;
- 7.156 specimens of *Carduelis carduelis*, *Carduelis cannabina*, *Carduelis chloris* and *Serinus serinus*;
- 120.820 specimens of *Carduelis carduelis*, *Carduelis cannabina*, *Carduelis chloris* and *Fringilla coelebs*.

Therefore the total amount of individuals of the *Fringillidae* family affected is 328.110. However this figure remains partial, as the data related to the number of birds/licences are not always available. With the only exception of *Bucanetes githagineus*, which is listed in the Annex I, the other passerine birds are not listed in any Annex to the Birds Directive.

Other 6 derogations were granted for allowing the capture of several species.

24 derogations were granted for allowing the killing, mostly to prevent serious damage to crops, livestock, forests, fishery and water caused by the following species: *Turdus philomelos* (a total minor of 150.000 individuals), *Pica pica* (more than 10.000), *Sturnus unicolor* (around 8.000), *Sturnus vulgaris*, *Columba palumbus*, *Passer domesticus*, *Streptopelia turtur*, *S. decaocto*, *Corvus corone*, *Anas platyrhynchos*, and others.

As in 2005 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.

Other derogations were granted for killing for the protection of wild fauna, but it does not specify the species affected (it is stated “diverse”), neither the number of individuals killed.

18 derogations were granted for allowing the scaring away activity, generally under the reason to prevent serious damage to crops, livestock, forests, fishery and water. Around half of these derogations authorize also the killing activity. The number of individuals concerned by this kind of activity is almost always missing. Some of the species most affected by scaring away are *Bubulcus ibis*, *Grus grus*, *Sturnus unicolor*, *Pica pica*, *Phalacrocorax carbo*, *Corvus corax*, *Merops apiaster*, *Columba palumbus*, etc.

Further 10 derogations were issued for allowing hunting and falconry:

- the hunting of: 293 individuals of *Garrulus glandarius* and indefinite numbers of *Columba livia* and *Sterna hirundo* to prevent serious damage to crops; 1.230 individuals of *Pica pica* and *Corvus corone* for the protection of wild fauna,
- the falconry of: an undetermined number of individuals of *Larus cachinans* in the interests of air safety; an undetermined number of individuals of *Pica pica* and *Columba livia* in order to train hunting birds for several reasons (protection of wild fauna, in the interests of public health and safety, in the interests of air safety and to prevent damage to crops, livestock, forests, fishery and water).

A total amount of 189.480 individuals is stated as killed, but this figure could be only a small part of the actual number of the individuals affected, because half of the derogations granted for killing does not provide this information. The very large number of derogations that allow the killing, mainly the ones granting the killing of 150.000 individuals of *Turdus philomelos* or the killing and destroying of 14.900 individuals and nests of *Pica pica*, *Corvus corone*, *Corvus monedula*, are completely lacking in every information. Only few of these derogations furnish, and in an sporadic way, significant information as the conditions of risk (“risk of affecting other protected species”), the specific conditions of time for carrying out the activity (“during the germination of the sunflower and the maturation of the wheat and the vetch”), the probability and entity of the damage (“the damage is previously verified”), a description of means, arrangements and methods used (“cages trap of Larsen type with alive decoy”), the persons or category of persons authorized to use them and the controls carried out (“communication of the results subsequent to the action”). However, also the more detailed derogations 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”, that could mean the need to reiterate the killing activity which therefore could not be effective and durable for the control of these species.

In general one derogation covers more than one license (up to 12.263), which in total are 25.480. In many cases a table, which lists each single person authorized is annexed to the derogations. The autonomous region of “Castilla y León”, as 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 “birds”, “birds of prey”, “*Passeriformes* and not *Passeriformes*”, “all the species included in the 79/409/CEE Directive”, “not known”, “several”.

In almost the half of the derogations the number of individuals concerned is indicated as “undetermined” (112 times of 276 derogations), other times as “0” (21 times), other times as “without limit” (4 times) or “data not available” and other times is not reported at all (13 times).

The report follows the Commission’s format, which contains all the requested fields, and in addition also the “Follow-up” section, which often is left empty.

In one occasion it is reported the reason code 37 (“training of birds of prey near the airport”) and the activity code 102 (probably confused with 100 “taking of eggs in the wild”) which do not exist within the “standardized code for permitted activity”.

Sometimes the reason code 10 is confused with the reason code 10 under the Art. 16.1 of the Habitat Directive: “in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment”.

The level of detail in reporting differs from Region to Region. Some Region, for example the Principality of “Asturias”, specifies the concrete localization, the particular conditions and the selective basis for carrying out the activity (i.e. “the chickens of the species in which structure of the nest can be seen seriously damaged by the manipulation”), the limitations imposed to it (“birds in nests are never ringed”), the persons authorized and the controls carried out (“the authorized persons must take a registry of days, incidences and captures that will be delivered at the conclusion of the campaign”). The period for which licenses were granted is often indicated in a non-specific way (i.e. “every Sunday”, “spring”, “hunting season”, “all year round”, etc.).

The report seems to fall in the same lacks of the 2004 report. It is complex and hard to interpret because important information is often missing (i.e. number of individuals, species), while many data furnished are generic and misinterpretable, and others more are not useful for the evaluation (i.e. name and surname of each thousands persons authorized). As more than half of the granted derogations does not provide the number of individuals affected, it is not clear how many individuals were actually concerned. Frequently derogations are granted for several species and it is not possible to know how many individuals, where indicated, of each species the derogations actually cover. Moreover, when the permitted activities are more than one, it is not clear to which one the number of individuals is referred (i.e. capture and killing, or killing and scaring away, or moreover, ringing, releasing and killing).

On the basis of the lacking information provided it is not possible to estimate whether there is a risk for the affected bird populations and whether derogations are adequately justified.

3.24 Sweden

In 2006 a total of 24 derogations were granted, about 1/3 of those issued in the year 2004 (92 derogations).

The reasons furnished for granting derogations are:

- in the interest of public health and safety (10 times);
- to prevent serious damage to crops (6 times);
- for the purposes of research and teaching (8 times).

The permitted activities are killing, capture, capture for keeping in captivity, taking of eggs and ringing. The killing activity is the most frequent used and it is always authorized when the reasons are the interest of public health and safety or to prevent serious damage to crops. Under these reasons 15 derogations have been granted for killing with firearms all year round a quite high number (77.000 individuals) of so-called 'pest species':

- 50.000 specimens in the interest of public health and safety, of which:
 - 2.000 individuals of *Larus marinus*
 - 4.000 individuals of *Larus argentatus*
 - 10.000 individuals of *Corvus corone*
 - 10.000 individuals of *Corvus frugilegus*
 - 8.000 individuals of *Pica pica*
 - 5.000 individuals of *Passer domesticus*
 - 5.000 individuals of *Passer montanus*
 - 4.000 individuals of *Larus canus*
 - 2.000 individuals of *Larus ridibundus*

- 27.000 specimens to prevent serious damage to crops, of which:
 - 4.000 individuals of *Branta canadensis*
 - 10.000 individuals of *Columba palumbus*
 - 10.000 individuals of *Corvus monedula*
 - 500 individuals of *Turdus merula*
 - 500 individuals of *Sturnus vulgaris*
 - 2.000 individuals of *Anser anser*

Sometimes derogation concerns more than one species and affects a rather large number of individuals. For example, one license was granted for a total of 890 individuals belonging to eight different species, for the purposes of research and teaching: *Lagopus mutus*, *Lagopus lagopus*, *Tetrao urogallus*, *Tetrao tetrix*, *Anser anser*, *Anser fabalis*, *Branta leucopsis* and *Anas platyrhynchos*. With regard to this derogation, in the activity field it is reported "killing and capture", but the number of individuals licensed is reported in the field "killed". This increases the risk of misinterpretations. To be noted that this derogation covers a period of time long more than three years, as the license was granted for 39 months.

Most of derogations cover only one licence.

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 conditions of risk, the circumstances of time and place under which derogations are granted, neither the controls carried out.

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

3.25 United Kingdom

According to the report a total of 1.082 derogations have been granted in 2006.

The motivations most used for derogations are:

- for the protection of flora and fauna (801 times);
- for the purpose of research and teaching (103 times);
- to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use certain birds in small numbers (50 times).

The protection of flora and fauna almost always corresponds to the disturbance of nests and to the “by hand” method.

The most derogated species are:

Annex I species:

- *Branta leucopsis*: 951 individuals killed and 734 eggs pricked in the interest of public health or to prevent serious damage to crops;

Annex II/1 species:

- *Columba livia*: 9.312 individuals killed in the interest of public health;
- *Anas platyrhynchos*: 348 individuals killed and 2.263 eggs pricked in the interest of public health and safety, to prevent serious damage to crops, and to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers;
- *Anser anser*: 1.591 individuals killed and 4.979 eggs pricked mostly to prevent serious damage to crops or in the interest of public health and safety;

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

- *Sturnus vulgaris*: 1.059 individuals killed in the interest of public health or to prevent serious damage to crops;
- *Larus ridibundus*: 43.861 eggs taken by hand to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use certain birds in small number;

Annex II/2 which may be hunted in UK:

- *Anser brachyrhynchos*: 309 individuals killed to prevent serious damage to crops;

Species not listed in the Birds Directive:

- *Phalacrocorax carbo*: 1.570 individuals killed to prevent serious damage
- *Sula bassana*: 2.000 individuals killed to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use certain birds in small numbers.

As in the previous year, for most of the derogations granted (964 on a total of 1.082), the number of individuals concerned is not reported.

The derogation report uses a form that does not include all the information required: derogation N°, regions concerned, date and remarks are missing and, consequently, the conditions of risk and the circumstances of time and place under which derogations have been granted and the controls carried out are never specified.

In conclusion, even though the information provided is incomplete, none of the derogations granted seem to be in conflict with the provisions of the Birds Directive.

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