

EU nature directives

András Demeter

Enlargement coordinator

Nature & Biodiversity Unit,
Directorate-General Environment,
European Commission





Legal Instruments for nature

National Legislation

Protected species, protected areas, hunting provisions, ...



European Union



International Conventions

Bern, Bonn, Ramsar, Washington (CITES),
Biological Diversity



EU-nature conservation policy

Two main directives:

- **“Wild Birds Directive”**
(79/409/EEC)

bird species

- **“Habitats Directive”**
(92/43/EEC)

*other animal and plant species,
habitat types*



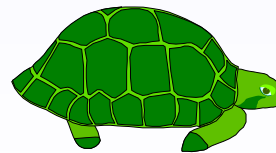
Natura 2000 network

Global aim: Maintain or restore the favourable conservation status of certain species and natural habitat types in their natural range

SPA



SCI



EU CONFERENCE 25 years of the European Birds Directive: Challenges for 25 countries



Birds, our common heritage



Celebrating 25 years of the
European Birds Directive



Birds Directive 79/409/EEC

HISTORICAL CONTEXT

Concepts and issues

- birds are mobile: effective conservation is a trans-frontier problem entailing common responsibilities**
- increased concern about killing of birds , especially in Mediterranean**
- increased threats from many EC economic activities, notably agriculture**



Provides common basis to ensure:

- **protection of all wild bird species in the European territory of the Community**
- **sufficient habitat conservation especially for endangered as well as migratory species**
- **avoidance of pollution and deterioration of habitats or any disturbance of birds in protected areas**
- **outlawing of all means of large scale or non-selective killing of birds**
- **hunting is controlled**



Member States must (1):

- **take special conservation measures concerning the habitat of Annex I species**
- **classify the most suitable territories in number and size as special protection areas (SPAs) for Annex I species**
- **take similar measures for regularly occurring migratory species not listed in Annex I**
- **pay particular attention to the protection of wetlands and particularly to wetlands of international importance.**



Birds Directive Annex I

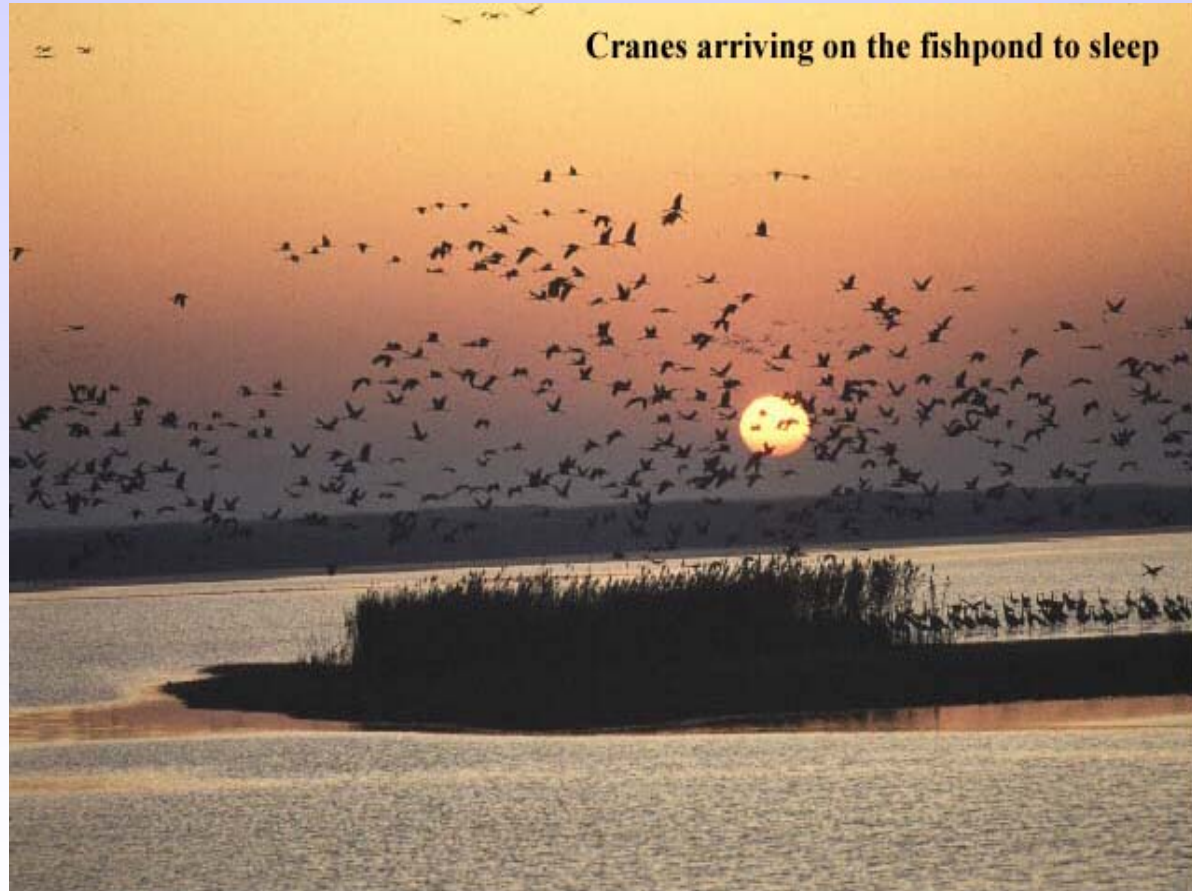
- 181 vulnerable bird species (Annex I)

+13 species (EU15+10)

- migratory bird species (esp. wetlands)



Implementing the Birds Directive – nesting and migratory species



Member States must (2):

- **send the Commission all relevant information for co-ordination of SPAs as a coherent whole**
- **with respect to SPAs, take appropriate steps to avoid pollution or deterioration of habitats or any disturbance affecting the birds**
- **outside SPAs, strive to avoid pollution or deterioration of habitats.**

NB. Since June 1994 the protection regime for special protection areas is set out in Article 6 (2), (3) and (4) of the Habitats Directive



SPECIES OF EU INTEREST

BIRDS DIR.

- in danger of extinction
- vulnerable to specific changes in their habitat
- rare because of small populations or restricted local distribution
- needing attention for reasons of the specific nature of their habitat



THE DIRECTIVE PROVISIONS

- **ALL** birds are protected
- **KEY** element is habitat protection (SPA's)
- **MOST** controversial element is hunting:
- **Some species** may be hunted (listed in Annex II-III)
- **General principles** ruling hunting seasons, means and methods
- **Derogations** under certain conditions to allow shooting/capture of protected bird species and/or the use of prohibited means/methods



Structure of the Annexes

- **Annex I** : species requiring special habitat protection
- **Annex II** : species which may be hunted throughout the Community (part 1) or in designated Member States (part 2)
- **Annex III** : species which can be commercialised throughout the Community (part 1) or in designated Member States (part 2)
- **Annex IV** : prohibited hunting/killing methods
- **Annex V** : subjects requiring research



KEY CONCEPTS HUNTING

- species listed for:
 - habitat protection (Annex I)
 - Hunting (Annexes II/1 II/2)
- only selective means and methods authorised
- no hunting during:
 - period of reproduction
 - return to the rearing grounds
- derogations under certain conditions
- when fixing hunting seasons Member States must:
 - assure complete protection



Provisions relating to fixing hunting seasons

- **No dates given in directive**
- **Member States fix dates to ensure that no hunting during:**
 - period of reproduction
 - return to rearing grounds
- **EC Court of Justice ruling (1994) said when fixing closing dates:**
 - assure complete protection
 - avoid confusion & disturbance

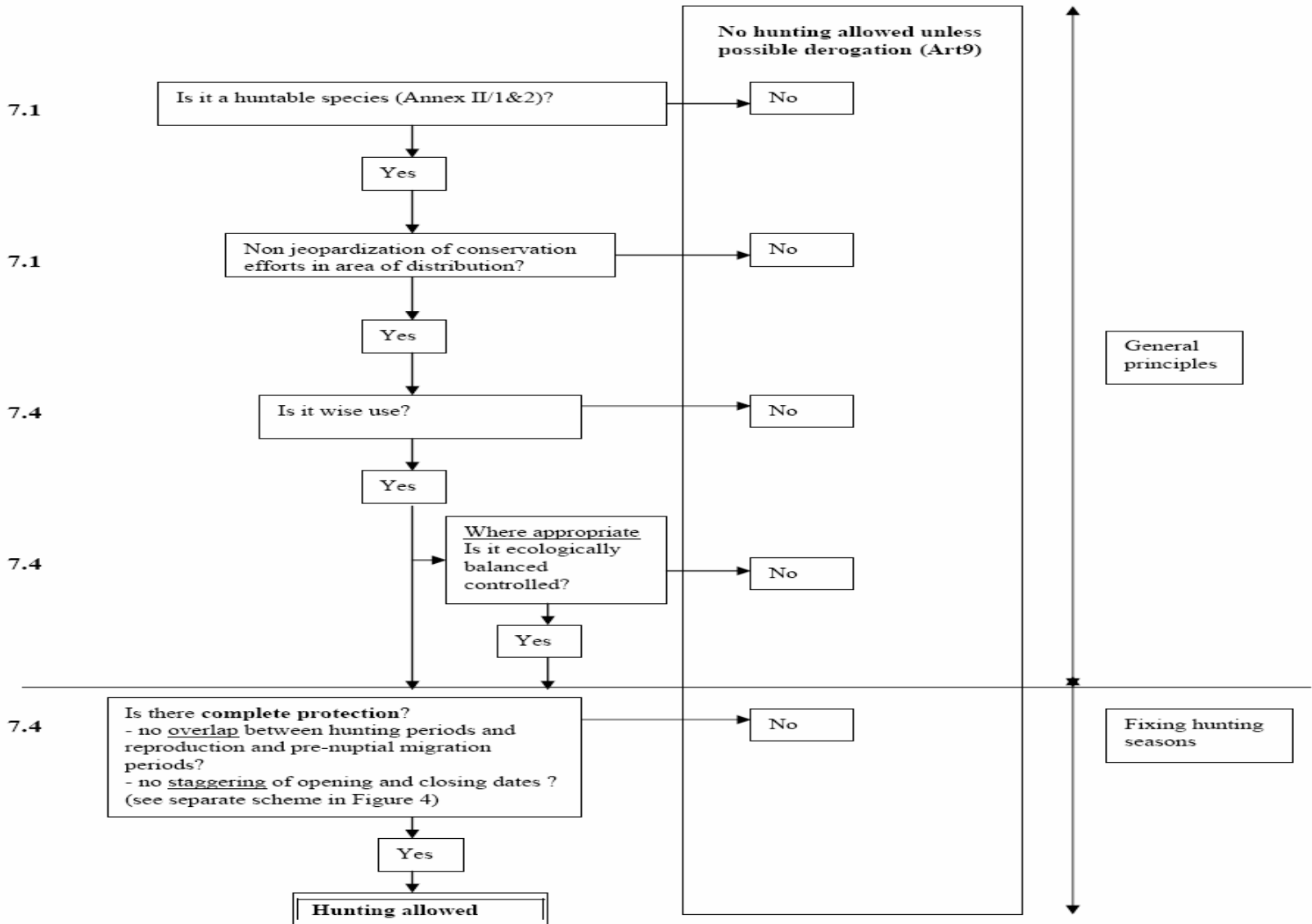


HUNTING ISSUES transposition and/or enforcement

- Opening and closing dates
 - No hunting during period of reproduction
 - No hunting during return to breeding grounds - migratory species
- Spring / Summer hunting
 - No hunting during period of reproduction
- Prohibited methods
 - use of non selective methods
 - e.g. use of lime and nets in ES
- Night hunting
 - high risk of confusion
 - e.g. ducks hunting in FR, PT
- Killing protected birds
 - non huntable species



Birds Directive: Hunting seasons



Sustainable Hunting & Birds Directive

RELEVANCE FOR CANDIDATE COUNTRIES

- **NOW FOCUS ON ADAPTING ANNEXES**
 - identify sites for SPAs
 - determine breeding & migration periods
- **DIRECTIVE APPLIES ON DATE OF ACCESSION**
 - Transpose legislation
 - Designate SPAs & fix hunting seasons
 - Control illegal practices
- **DEVELOPING PLANS**
 - For NATURA 2000 sites with hunting
 - For bird species with unfavourable status
 - Management prescriptions (agri-environ.)
- **STRENGTHEN SCIENCE APPROACH**
 - Monitoring schemes
 - Bag statistics for huntable species



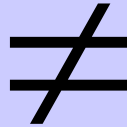


DEROGATIONS

- to articles of the Dir.
- AFTER accession
- a National decision (EC informed)
- a RIGHT
- do NOT influence other Member States

BIRDS DIRECTIVE

Amendment = an EU agreed change to an annex : addition, geographical exemption or (rarely) deletion or upgrading



Derogation = a national decision to derogate from (not to apply) a provision, under the specific terms of art. 9 Bird dir.



Birds Directive

LEGAL JUDGEMENTS OF COURT OF JUSTICE

**Over 20 judgements have been made relating to
Birds Directive**

**Four major judgements concerning habitat
protection**



1. 'Leybucht' judgement (Case C-57/89 Commission v Germany)

Significant pollution, deterioration or disturbance affecting designated SPAs can only be justified under exceptional circumstances such as overriding human health and safety reasons

2. 'Santoña' judgement (Case C-355/90: Commission v Kingdom of Spain)

Designation of SPAs responds to certain ornithological criteria determined by the directive. Protection regime not only applied to classified SPAs but also to sites that should have been classified as SPAs.



3. 'Lappel Bank' judgement (Case C-44/95)

A Member State is not entitled to take into account economic requirements when classifying SPAs or in determining the boundaries of such SPAs

4. 'Insufficient SPA classification' judgement (Case C-3/96: Commission v Netherlands)

Member States must classify as SPAs all the most suitable territories that have been identified using ornithological criteria, a duty that cannot be substituted by other measures



Aland Judgement C-344/03

- Concerning spring hunting of 4 duck species
- possibility of hunting in spring if
 - 'no alternative solutions'
 - 'small quantities'
 - importance of scientific evidence in this regard



Setting up Natura 2000

Birds Directive

- 1)** Member States classify (CC: by accession)
- 2)** Commission takes coordinating role

Reference list: Important Bird Areas (IBAs) based on international criteria



What is current state of play ?

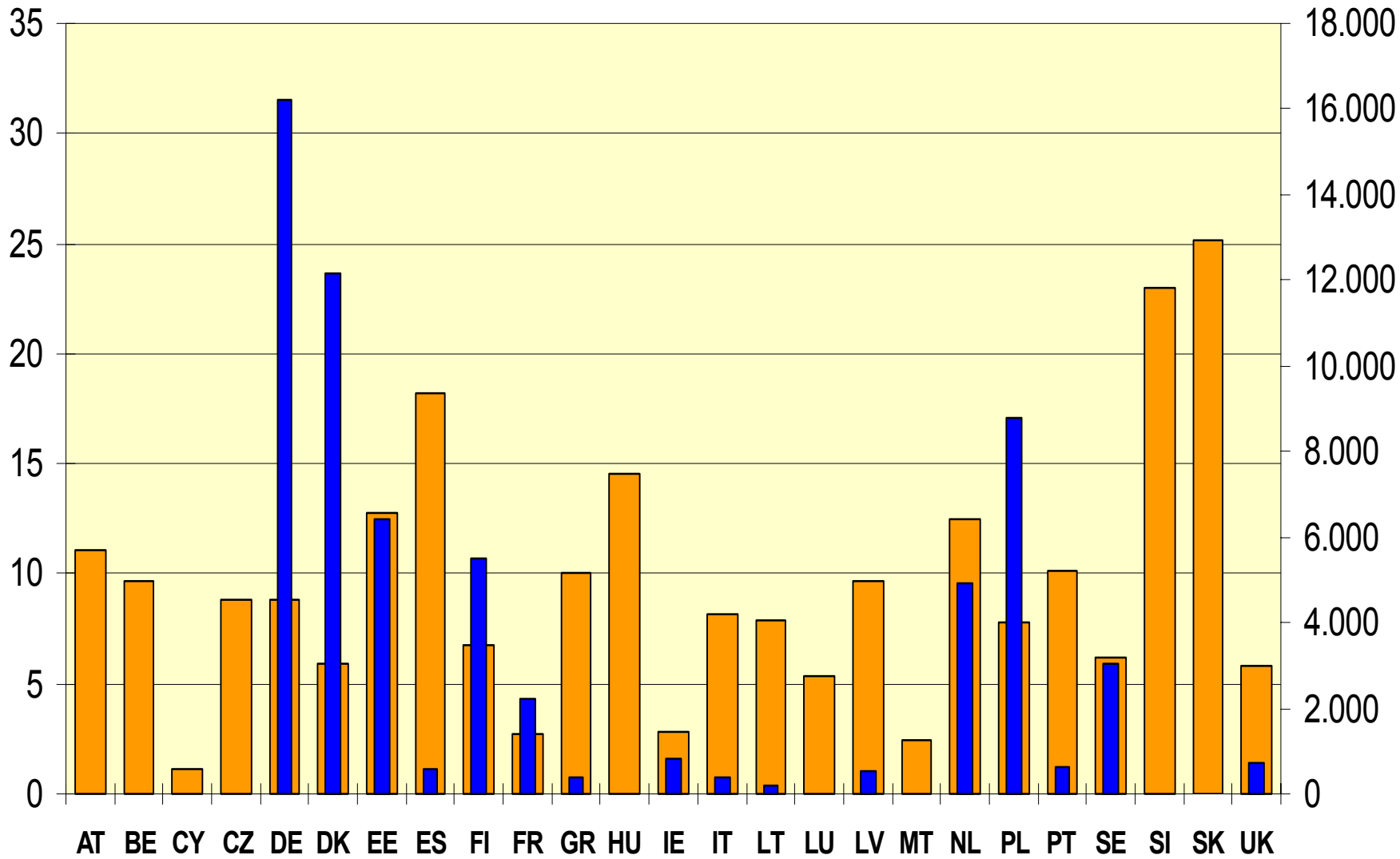
For Birds Directive ~ 8 % of EU territory

- 4,000 sites = 356,646 km²
- (35.6 million ha)



SPAs database - December 2005

■ % Terrestrial (1)
■ Marine Area (km²)



Modifications of the annexes of the Birds Directive

- Birds Directive, Annex I: 13 new species
- Annex II : indications for huntable species





Kék vércse (*Falco vespertinus*)

foto: Kármán Balázs

2 of the 13 new bird species in Annex I of the BD proposed by CZ, HU, PL, SK, BG



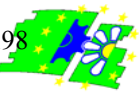
Amending Annex I

- Justification : species for which effective protection requires the classification of Special Protection Areas (art. 4.1)
- State : 193 species, latin
- Geographical restrictions : NO, but sub-species
- Possible derogations : NO
- **Suggestions / enlargement**
 - only latin names, by scientific order
 - adding of species not present in EUR15 (except by agreement Member State involved for a species present)
 - avoid sub-species



Amending Annex II

- Justification : species huntable in the Union (II/1) or in certain Member States (II/2) (art. 7.1)
- State : 24 + 57 species,
- Geographical restrictions : YES, positive and listed for the huntable species of annex II/2
- Possible derogations : YES (art. 9)
- **Suggestions / enlargement :**
 - addition of species not present in EUR15 (Annex II/1 and II/2)
 - addition of positive exemptions for national hunting (Annex II/2)
 - avoid sub species



Amending Annex III

- Justification : species authorised to be sold in the Union or in certain Member States (art. 6)
- State : 7 + 19 species
- Geographical restrictions : YES, positive and not listed for the species of annex III/2. Agreement of the Commission required beforehand.
- Possible derogations : YES (art. 9)
- **Suggestions/enlargement :**
 - addition of species not present in EUR15 (Annex III/1 and Annex III/2)
 - requests for Commission agreement for positive exemptions Annex III/2



Amending Annex IV

Justification: forbidden means and methods of hunting/catch (art. 8.1); forbidden means of transport for hunting/catch (art. 8.2)

- Geographical restrictions : NO, except 1 exception for SE/FI
- Possible derogations : YES (art. 9)
- **Suggestions/enlargement :**
a priori, no modification (use derogations)



**Thank you for your
attention!**

**More information at
homepage:**

<http://europa.eu.int/comm/environment/nature/home.htm>

