

**EUROPEAN COMMUNITY /  
COMMUNAUTÉ EUROPÉENNE /  
COMUNIDAD EUROPEA**



## REPORT

### **on the European Community's implementation of the Convention on the conservation of migratory species of wild animals, presented in accordance with Article VI(3) of the Convention (concerning the period January 1999 - December 2001).**

#### **1. GENERAL INFORMATION.**

- Name of contracting party : **European Community**
- Date of report : <Date of adoption>
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#### **2. MEASURES TAKEN TO IMPLEMENT DECISIONS OF THE SIXTH CONFERENCE OF THE PARTIES.**

1. Species added to Appendix I

N.A.

2. Species added to Appendix II.

There have been no recent changes.

As far as relations between the European Commission and the regional agreements concluded under Article IV of the Convention are concerned, priority is now being given to technical cooperation.

For instance, as regards the problem of incidental catches of small cetaceans, the EU Council of Ministers considers that the adoption of conservation measures and plans under the ASCOBANS and ACCOBAMS agreements could significantly contribute to sufficiently lim-

limiting the problem so as not to endanger the survival of the species<sup>1</sup>. This is why the Commission would give particular attention to any proposals put forward for Community action plans concerning these species.

3. Other resolutions.

(a) Concerted actions (Resolution 5.1)

The concerted actions set up by the Third Conference of the Parties are the most appropriate means of carrying out real conservation work. The Community has always been a supporter of these actions, which concern a number of species or groups of species found on its territory.

**Conservation status of the species concerned**

1) *Chlamydotis undulata* (furteventurae)

The Houbara Bustard of the Canary Islands - *Chlamydotis undulata fuertaventurae* - is a subspecies endemic to this archipelago, and is found on the islands of Fuerteventura, Lobos, Lanzarote and Graciosa. The population is estimated at 700–750 birds (300–350 on Fuerteventura and Lobos, and 400 on Lanzarote and Graciosa). The species is protected by Spanish legislation and is classified as an endangered species in the national Red Book. A rehabilitation plan has been underway since 1985.

In Europe, the Houbara Bustard is to be found exclusively in the Canary islands, host to the endemic *fuertaventurae* subspecies, and is provisionally classified as an endangered species. The (sub)species is listed in Annex I of Council Directive 79/409/EEC<sup>2</sup> of 2 April 1979 on the conservation of wild birds. The Maghreb populations are listed in Appendix I of the Bonn Convention.

2) *Numenius tenuirostris*

The slender billed curlew is a species in danger of extinction worldwide. Population levels are extremely low (estimated at probably fewer than 50 individuals) and the number of individuals observed each year continues to fall.

The presumed breeding grounds of *Numenius tenuirostris* are in Siberia. The species migrates through Europe to reach its wintering areas around the Mediterranean. It is certainly one of Europe's least known and rarest species of birds. Despite this relative lack of knowledge, some conservation actions have been successfully undertaken.

The slender billed curlew is listed in Annex I of the Birds Directive.

3) *Oxyura leucocephala*

The white-headed duck is considered an endangered species worldwide. Countings in the wintering areas indicate a rapid and significant decline (approximately 60%) of the species

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<sup>1</sup> Conclusions of the Council of Fisheries Ministers of 26 April 2001 on integrating the environment and sustainable development into the Common Fisheries Policy, PECHE 78 ENV 188.

<sup>2</sup> Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds. *Official Journal No L 103 of 25/04/1979* (Birds).

over the last decade. Because of the rising numbers of the Spanish population, this negative trend should slow down or even be reversed over the next ten years.

The main threat to the survival of the species seems to be the fact that a related introduced species, *Oxyura jamaicensis*, originating in America and able to hybridize with *Oxyura leucocephala*, is making headway.

In Europe, the white-headed duck is classified as an endangered species. It is listed in Annex I of the Birds Directive.

#### 4) *Otis tarda*

The Great Bustard is considered threatened and vulnerable worldwide. It has a wide distribution in the Palearctic region between 35° and 55° N. The nominate species *Otis tarda tarda* breeds from the Iberian peninsula and the North of the Maghreb all the way to Central Siberia.

The Iberian peninsula hosts the largest part of the population of *Otis tarda* with approximately 50% of the worldwide total. This population is currently considered stable and stands at some 14 500-15 000 individuals. The declining populations in Germany and Austria only number 130 and 50 to 60 individuals respectively.

Number of birds in EU countries

Germany 130

Austria 50–60

Spain 13 500–14 000

Portugal 1 000

In Europe, the Great Bustard is considered an endangered species. It is listed in Annex I of the Birds Directive.

#### 5) *Monachus monachus*

The Mediterranean monk seal is the most threatened pinniped species in the world, and is currently in critical danger of extinction. Formerly present in the whole of the Mediterranean, the Black Sea and along the Atlantic coast, there are today probably fewer than 400 individuals left.

These individuals survive in the quietest areas of the Mediterranean and on Africa's north-western shores. The largest populations are located in Mauritania/Western Sahara, Greece and Turkey; there are also small numbers in Morocco, Algeria, Libya, the Desertas Islands (Madeira), Croatia and Cyprus.

The species is very sensitive to disturbances. The increased use of motorboats, the extension of fishing, and building on coastlines have all contributed to disturbing the Mediterranean monk seal, which is forced to seek refuge in caves with underwater entrances. These caves protect the seals from disturbances but by using them they are exposing themselves to increased risks of accidents (in particular when the caves collapse).

The species is listed in Annexes II and IV of Council Directive 92/43/EEC<sup>3</sup> of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.

#### 6) *Falco naumanni*

The lesser kestrel is considered vulnerable worldwide. Its breeding numbers are declining rapidly in Western Europe (46% per decade since 1950).

The European and North African population numbers between 10 000 and 17 000 pairs. It is in decline, threatened by the transformation of its habitat and by the reduced availability of prey due to the widespread use of pesticides, including in its wintering areas.

In Europe, the lesser kestrel is considered an endangered species. It is listed in Annex I of the Birds Directive.

#### 7) *Anser erythropus*

The lesser white-fronted goose is considered vulnerable worldwide. The species has undergone a significant decline (estimated at 20-40% of its population in the last decade) in its main breeding areas (Siberia). The small Fennoscandic population dwindled significantly in the middle of the 20th century.

The residual individuals in Fennoscandia are estimated at between 25 and 50 pairs. The causes of this decline are uncertain but probably linked to changes in the habitat in the wintering areas.

In Europe, the lesser white-fronted goose is classified as a vulnerable species. It is listed in Annex I of the Birds Directive.

#### 8) *Acrocephalus paludicola*

The aquatic warbler is considered vulnerable worldwide. The causes of its decline are probably linked to the rapid destruction (estimated at 40% over the last decade) of its breeding habitat due to drainage for agriculture or to peat extraction.

*Acrocephalus paludicola* has a very fragmented distribution. It breeds in specific wetland environments (sedge meadows) in Germany, Belarus, Poland, Hungary, Lithuania, Russia and the Ukraine. In Europe, its numbers are estimated at between 13 250 and 21 000 pairs.

In Europe, the aquatic warbler is considered an endangered species. It is listed in Annex I of the Birds Directive.

#### 9) *Aythya nyroca*

The ferruginous duck is considered "nearly threatened" worldwide.

*Aythya nyroca* nests in Europe, Asia and North Africa. Its wintering grounds overlap with part of its breeding grounds but also extend to the Middle East, western and north-western Africa and South-East Asia. Asia hosts most of the population. In Europe, the current population is

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<sup>3</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora. *Official Journal No L 206 of 22/07/1992* (Habitats).

estimated at between 13 000 and 24 000 pairs; it is falling alarmingly, especially in Eastern Europe (Russia, the Ukraine).

In Europe, *Aythya nyroca* is considered a vulnerable species. It is listed in Annex I of the Birds Directive.

The Community's action plan for *Aythya nyroca* was adopted by the Ornithological Committee<sup>4</sup> in May 1999.

#### 10) *Caretta caretta*.

The loggerhead sea turtle is considered an endangered species worldwide.

The species is widely distributed; it lives on the continental shelf, bays, estuaries and lagoons of the temperate, subtropical and tropical waters of all the oceans of the world, including the Atlantic and the Mediterranean sea. It only breeds on certain beaches. In Europe, *Caretta caretta* breeds only on the beaches of western Greece and in Crete. Elsewhere in the Mediterranean it also breeds in Turkey, Cyprus, Syria, Libya and Tunisia. The Mediterranean breeding individuals number at most several thousand females.

In Europe, the loggerhead sea turtle is considered an endangered species. It is listed in Annex II and IV of Directive 92/43/EEC.

#### **Actions funded by the Community financial instrument for the environment (LIFE).**

The conservation project LIFE99/NAT/99/RO/006394 for the Satchinez Marshlands in Romania is aimed at the species *Botaurus stellaris*, *Aythya nyroca*, *Crex crex*; it is a major wintering area for ducks and geese, including *Anser erythropus* (Annex I).

Two projects deal with the conservation of *Caretta caretta* over the period covered by the report. The first of these concerns urgent conservation measures on the islands of Lampedusa and Linosa (99/72198). The other project foresees measures to manage the habitats of this species around the Balearic islands, while giving particular attention to incidental catches (00/7303).

Project 99/72588 on the conservation and management of the wetlands of Amvrakikos in Greece also involves *Aythya nyroca*, as well as other species listed in the Appendices to the Convention (*Pelecanus crispus*, *Aquila clanga*, *Numenius tenuirostris* and *Caretta caretta*).

*Oxyura leucocephala* is the subject of a project aimed at drawing up a conservation plan in the Spanish region of Valencia (00/7311).

Actions to increase the presence of *Acrocephalus paludicola* are included in a project on the protection of priority bird species in the Po Valley (00/7161). *Aythya nyroca* is also present in this area.

The Cheimaditida and Zazari wetlands in Greece, managed under project LIFE00NAT/GR/7242, also host *Aythya nyroca* as well as other major species (*Pelecanus crispus*, *Botaurus stellaris*, *Phalacrocorax pygmaeus*, *Ardea purpurea* and *Ixobrychus minutus*).

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<sup>4</sup> Committee set up under Article 16 of the Birds Directive.

Project LIFE00NAT/RO/7171 for the conservation and management of habitats in the Iron Gates Natural Park in Romania focuses particularly on *Falco naumanni*, while highlighting the presence of other important species (*Egretta garzetta*, *Phalacrocorax pygmaeus*, *Ardea purpurea*).

*Falco naumanni* has been the subject of three projects in Spain over the period concerned. Project LIFE99NAT/E/6341 deals with the salt lake complex of Villafáfila and aims to maintain the nesting colonies in the protected area. Project LIFE00NAT/E/7297 deals with the conservation of habitats for the nesting of *Falco naumanni* in Aragón. Project LIFE2000NAT/E/7348 on the management of the Serena site and of the neighbouring mountains, includes *Falco naumanni* in its objectives, as well as *Otis tarda* and *Tetrax tetrax*.

(b) Resolution 6.2 on Incidental Catches

The EU has continued to give particular attention to the problem of incidental catches due to fishing.

- Cetaceans

The EU fishing authorities are aware of the problem and several alleviating measures had already been adopted prior to Resolution UNEP/CMS/6.2.

During the period concerned, the Council adopted a Decision<sup>5</sup> enabling the EU to sign the Agreement on the International Dolphin Conservation Programme, which aims to progressively reduce the number of accidental deaths due to fishing for tuna with purse-seine in the Pacific Ocean. The Council has also approved the provisional application of the Agreement<sup>6</sup>.

Also, the ban on the use of drift nets<sup>7</sup> came into force in January 2002. (see Point 3.3 of the previous report presented at the Fifth Conference of the Parties).

The Scientific Sub-Committee of the Scientific, Technical and Economic Committee for Fisheries (STECF) met in Brussels in December 2001 to examine the suitability of introducing additional measures on incidental catches of small cetaceans.

- Birds

The Community is a contracting party to the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR), and must therefore ensure that the measures adopted are applied to any fishing vessel flying the flag of a Member State. These measures are aimed

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<sup>5</sup> Council Decision 1999/337/EC of 26 April 1999 on the signature by the European Community of the Agreement on the International Dolphin Conservation Programme. *Official Journal No L 132 of 27/05/1999*.

<sup>6</sup> Council Decision 1999/386/EC of 7 June 1999 on the provisional application by the European Community of the Agreement on the International Dolphin Conservation Programme. *Official Journal No L 147 of 12/06/1999*.

<sup>7</sup> Council Regulation (EC) No 1239/98 of 8 June 1998 amending Regulation (EC) No 894/97 laying down certain technical measures for the conservation of fishery resources. *Official Journal No L 171 of 17/06/1998*.

in particular at reducing the incidental catches of seabirds due to the use of fishing apparatus, and they were renewed in 1998<sup>8</sup>.

### **3. OTHER CHANGES IN THE APPLICATION OF THE CONVENTION.**

#### **3.1. Changes relating to legislation.**

##### **Judgement of the Court of Justice of the European Communities of 30 January 2002 on the protection of species in Case C-103/00<sup>9</sup>.**

The objectives of the Convention are being attained in the European Union through the implementation of the relevant provisions of Directive 79/409/EEC on the conservation of wild birds, and of Directive 92/43/EEC on the conservation of natural habitats and of flora and fauna.

The protection of species is one of the pillars of the policy for nature protection and biodiversity set out in these Directives. The ensuing obligations are basically in coherence with the provisions of the Convention, and any progress towards better implementing these obligations will therefore contribute to fulfilling the conservation objectives for migratory species in EU Member States.

The role of the European Court of Justice is very important because it has ultimate responsibility for the interpretation of the concepts and provisions of EU law, a necessary requisite in the case of disputes between Member States and the Commission.

In this case, *Caretta caretta* is listed in Appendices I and II of the Convention. It is also listed in Annex IV of the Habitats Directive, which means the species enjoys a status of strict protection. EU Member States are therefore under the obligation to establish and implement an effective system for protecting the species so as to prohibit, inter alia, any form of capture or intentional disturbance during its breeding period and any activity which might bring about the deterioration or destruction of its breeding sites and resting places.

From the above, it would appear that a system of strict protection for an animal species of Community interest consists in a set of coherent and coordinated measures, preventive in nature, to be applied on the ground, aimed at maintaining the species in the long term or restoring its population in the type of natural habitat to which it belongs. This presupposes the existence of a large enough natural habitat for the species under consideration.

The area where *Caretta caretta* has not been sufficiently protected is a vital breeding region, perhaps even the most important in the Mediterranean.

The judgement refers exclusively to Article 12(1)(b) and (d) of the Directive, and to the breeding sites and not to the resting places.

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<sup>8</sup> Council Regulation (EC) No 2479/98 of 12 November 1998 amending Regulation (EC) No 66/98 laying down certain conservation and control measures applicable to fishing activities in the Antarctic. *Official Journal No L 309 of 19/11/1998*.

<sup>9</sup> JUDGEMENT OF THE COURT (Sixth Chamber) of 30 January 2002. "Failure by a Member State to fulfil its obligations - Directive 92/43/EEC - Conservation of natural habitats and of wild fauna and flora - Protection of species." Case C-103/00.

The Court focused on three points: the identification of a large enough habitat for the species, the need to prohibit any activity which might disturb the species and deteriorate/destroy its breeding sites, and the existence of specific provisions for setting up a strict protection framework, such as the one described above.

This judgement is the Court's first decision concerning Article 12 of Directive 92/43/EEC. The lessons learnt from this case are very useful and will be able to be applied in similar cases in the future. We now have to wait for this case-law to be confirmed and developed, in particular as concerns the definition of the terms "intention" and "breeding sites and resting places", mentioned in Article 12 the Directive, which are very important in the case of migratory species.

### **3.2. Measures for the protection of species in Appendices I and II.**

#### **Adoption of the List of Protected Sites in the Macaronesian region.**

Although there have been no changes in basic EU legislation on the protection of migratory species, it should be pointed out that a major event has taken place, namely the Commission's adoption of the first list of special conservation sites<sup>10</sup> pursuant to Article 4 of the Habitats Directive. These are protected sites in the Azores, Madeira and the Canary islands, which together form the Macaronesian biogeographical region.

The sites in question, some of which host migratory species, are henceforth officially included in the network of especially protected EU sites, the Natura 2000 network. The list of sites was established on the basis of proposals made in the national lists prepared by Spain and Portugal. It includes a total of 208 individual sites with an area of 3 487 square kilometres of land and 1 848 square kilometres of marine areas. This represents 34% of the total land area of the islands.

The following table lists the species contained in the Appendices to the Convention which are present in the Natura 2000 protected sites of this biogeographical region.

<b>SPECIES</b>	<b>APPENDIX I</b>	<b>APPENDIX II</b>
Caretta caretta	YES	YES
Chlamydotis undulata	YES	YES
Coturnix coturnix		YES
Falco peregrinus		YES
Glareola pratincola		YES
Platalea leucorodia		YES
Sterna albifrons		YES
Sterna dougallii		YES

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<sup>10</sup> Commission Decision 2002/11/EC of 28 December 2001 adopting the list of sites of Community importance for the Macaronesian biogeographical region, pursuant to Council Directive 92/43/EEC. *Official Journal No L 5 of 9/1/2002.*

<b>SPECIES</b>	<b>APPENDIX I</b>	<b>APPENDIX II</b>
Sterna hirundo		YES
Sterna sandvicensis		YES
Monachus monachus	YES	YES
Tursiops truncatus		YES

### **Natura 2000 ecological network**

As regards the presence of birds from Appendix I of the Convention in the sites proposed by Member States, the following table shows the current status based on the most recent information available (the list is for information purposes and may be amended, as significant changes may have occurred which have not yet been taken into consideration).

<b>Appendix I Species</b>	<b>Number of Sites</b>
Acrocephalus paludicola	14
Anser erythropus	8
Aquila clanga	17
Aquila heliaca	15
Aythya nyroca	87
Branta ruficollis	7
Chlamydotis undulata	1
Falco naumanni	97
Haliaeetus albicilla	51
Larus audouinii	64
Marmaronetta angustirostris	19
Numenius tenuirostris	11
Otis tarda	22
Oxyura leucocephala	32
Pelecanus onocrotalus	13
Polysticta stelleri	9

### **LIFE instrument (1999-2001).**

The LIFE instrument was renewed during the period covered by this report by the adoption of the LIFE III Regulation.<sup>11</sup> This instrument enables the Commission to fund its nature conservation and biodiversity policy, and includes practical measures for migratory species. Over the three years concerned, there have been two decisions of allocation of LIFE funds, in 1999 (LIFE II) and in 2001 (LIFE III).

Several projects funded during this period were aimed at migratory species and their habitats (the projects on species for concerted actions should also be mentioned here).

Project LIFE00NAT/GR/7198 aimed at the conservation and management of the Drana lagoon in the Evros delta is significant as it concerns one of Europe's most important wetland areas, strategically located at the heart of an important migration route for *Anser erythropus*, *Branta ruficollis*, (both listed in Appendix I of the Convention), *Numenius tenuirostris* and *Phalacrocorax pygmaeus*.

*Aquila adalberti* is one of the species that inhabits the National Park at Cabañeros (Spain). Project LIFENAT99/E/6327 includes drawing up measures for managing this species.

### **Community action plans for migratory birds.**

Since 1993, the European Commission has been supporting action plans for species in Annex-I of the Birds Directive, which have priority for the allocation of financial support under LIFE-Nature.

The first set of 23 plans, approved by the Ornithological Committee, was published by the Council of Europe in 1996. The other eight plans, adopted by the Committee in 1999, were published by the Commission in 2001.

Lastly, 19 additional action plans were set up in 1998 and approved in 2001. The Commission is preparing to publish these plans.

To date, 13 species from Appendix I of the Convention have been the subject of Community management plans approved by the Committee. These species are as follows:

- *Acrocephalus paludicola*
- *Anser erythropus*
- *Aquila clanga*
- *Aquila heliaca*
- *Aythya nyroca*
- *Chlamidotys undulata*
- *Falco naumanni*
- *Larus audouinii*
- *Marmaronetta angustirostris*
- *Numenius tenuirostris*

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<sup>11</sup> Regulation (EC) No 1655/2000 of the European Parliament and of the Council of 17 July 2000 concerning the Financial Instrument for the Environment (LIFE). *Official Journal No L 192 of 28/07/2000*.

- *Otis tarda*
- *Oxyura leucocephala*
- *Pelecanus crispus*

As regards the individual species in Appendix II of the Convention, plans for the following species of birds have also been drawn up:

- *Botaurus stellaris*
- *Crex crex*

Finally, it should be noted that the plan for *Sterna dougallii* is in preparation.