

Brussels, 12 December 2006

Commission takes legal action against illegal bird hunting

The European Commission has launched legal action against Spain, Italy and Austria over their rules on hunting which are not in line with the EU's Wild Birds Directive. Currently, these Member States allow the hunting of birds to take place with insufficient controls, thereby failing to sufficiently protect the birds species in question. Spain will receive a first warning letter asking it to follow-up a 2004 ruling by the European Court of Justice. Italy will be referred to the Court and Austria will receive a first warning letter.

"The conservation of bird species is a vital part of nature protection in the EU and is crucial to preventing biodiversity loss," said Environment Commissioner Stavros Dimas. "Where it takes place under strict conditions, the sustainable hunting of birds is possible."

Cases against individual Member States

The Commission has sent a first warning letter to **Spain**, following a December 2004 judgement of the Court of Justice (Case C-79/03) condemning the practice of the hunting of birds in the Community of Valencia. The Court found that by allowing hunting by means of a method known as 'parany', Spain was in breach of the Birds Directive. The 'parany' is a device used to capture birds. It consists of limed twigs in a tree to which the hunted birds are lured with decoys. Once the bird comes into contact with the limed twig, it is generally not able to fly away and may be killed by the hunter. Legislation adopted by the Community of Valencia authorising the continued use of 'parany' to hunt was annulled in 2005, but the Commission has reasons to believe that hunting using the method is still tolerated and as such the Spanish authorities have not undertaken adequate measures to comply with the Court judgement.

The Commission has also decided to refer **Italy** to the Court of Justice over infringements of the Birds Directive in the Liguria region. Regional legislation for Liguria adopted in October 2006 authorises the hunting of the starling (*Sturnus sturnus*) without complying with the specific conditions for a derogation required under the Directive. The Commission argues that such a general authorisation leads to too many birds being captured or killed.

Finally, the Commission has sent a first warning letter to **Austria** over legislation in the province of Lower Austria which authorises the hunting of two birds of prey, the goshawk (*Accipiter gentilis*) and the buzzard (*Buteo buteo*) in the period 1 November – 31 January. These bird species may not be hunted according to the Birds Directive. However, if hunting is considered necessary, then the specific conditions required by the Directive must be met. The Commission considers that Lower Austria has not given justified reasons for permitting the birds to be hunted.

Hunting rules at EU level

Hunting is regulated at EU-level by the 1979 Wild Birds Directive¹. This Directive sets out measures for the protection, management and control of all species of naturally occurring birds. Although the Directive contains a general prohibition on the killing of wild birds, it allows certain species to be hunted under certain conditions, provided this is not during the periods of breeding and migration. The Directive does not set fixed hunting periods, as these vary depending on the species and geographical location from region to region. It is for the Member States to fix hunting dates according to scientific knowledge on migration and reproduction periods of the different huntable species.

Exceptionally, Member States may allow the capture or killing of birds covered by the Directive using certain methods or outside of the normal hunting season for a limited number of reasons. However, derogations are only granted where they comply with strict conditions.

The Commission supports sustainable hunting and a ground-breaking agreement on sustainable hunting was signed in 2004 by hunters and bird conservationists at EU-level. For further details see:

http://ec.europa.eu/environment/nature/nature_conservation/focus_wild_birds/sustainable_hunting/index_en.htm

Legal Process

Article 226 of the Treaty gives the Commission powers to take legal action against a Member State that is not respecting its obligations.

If the Commission considers that there may be an infringement of EU law that warrants the opening of an infringement procedure, it addresses a "Letter of Formal Notice" (first written warning) to the Member State concerned, requesting it to submit its observations by a specified date, usually two months.

In the light of the reply or absence of a reply from the Member State concerned, the Commission may decide to address a "Reasoned Opinion" (final written warning) to the Member State. This clearly and definitively sets out the reasons why it considers there to have been an infringement of EU law, and calls upon the Member State to comply within a specified period, usually two months.

If the Member State fails to comply with the Reasoned Opinion, the Commission may decide to bring the case before the Court of Justice. Where the Court of Justice finds that the Treaty has been infringed, the offending Member State is required to take the measures necessary to conform.

Article 228 of the Treaty gives the Commission power to act against a Member State that does not comply with a previous judgement of the European Court of Justice. The article also allows the Commission to ask the Court to impose a financial penalty on the Member State concerned.

More information about EU nature protection policies is available at:

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

For current statistics on infringements in general see:

http://europa.eu.int/comm/secretariat_general/sgb/droit_com/index_en.htm#infractions

¹ Directive 79/409/EEC on the conservation of wild birds;