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Nature protection: Commission takes legal action against 11 Member States over protected bird areas

The European Commission is taking legal action against 11 Member States for not designating sufficient Special Protected Areas for migratory and vulnerable wild bird species. This violates the EU's directive on the conservation of wild birds. The Commission is taking Austria, Germany and Poland to the European Court of Justice (ECJ) and sending first written warnings to eight other Member States (Cyprus, the Czech Republic, Slovakia, Hungary, Latvia, Lithuania, Malta and Slovenia).

EU Environment Commissioner Stavros Dimas said: "Member States must urgently complete their networks of Special Protection Areas for migratory and vulnerable bird species by designating all areas of European conservation importance for these species. This obligation is critical to meeting the EU target of halting the loss of biodiversity by 2010.

Special protection areas

Under the Birds Directive¹, Member States are obliged to designate all of the most suitable sites as Special Protection Areas (SPAs) to conserve wild bird species. The designation of SPAs must be based on objective, verifiable scientific criteria. To assess whether Member States have complied with their obligation to classify SPAs, the Commission uses the best available ornithological information. Where the necessary scientific information provided by Member States is lacking, national inventories of Important Bird Areas (IBA) compiled by the non-governmental organisation (NGO) Birdlife International, are used. While not legally binding, the IBA inventory is based on internationally-recognised scientific criteria. The Court of Justice has already acknowledged its scientific value, and in cases where no equivalent scientific evidence is available, the IBA inventory is a valid basis of reference in assessing whether Member States have classified a sufficient number and size of territories as SPAs.

Court cases against Austria, Germany and Poland

The Commission is taking Austria, Germany and Poland to the ECJ for failing to designate sufficient Special Protection Areas on their territory.

In Germany, site designations remain insufficient in seven Länder (Baden-Württemberg, Mecklenburg-Western Pomerania, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate, Schleswig-Holstein and Thuringia).

In Poland, some 34 out of 140 IBAs have not been designated as SPAs and 9 designated protection areas only partially correspond to IBAs.

For details of the case against Austria, see separate press release [IP/07/937](#).

¹ Wild Birds Directive (1979/409/EC) on the conservation of wild birds.

First warnings to eight other Member States

The Commission will also send first written warnings to Cyprus, the Czech Republic, Slovakia, Hungary, Latvia, Lithuania, Malta and Slovenia for failing to designate enough SPAs on their territory. The number and/or the size of protected areas selected by these eight Member States are insufficient compared with the list in the IBA inventory.

The Commission considers that Cyprus and Slovakia have major insufficiencies. In Cyprus nine out of 16 IBAs were not designated as SPAs while out of seven of the named protected areas, two were much smaller than the corresponding IBAs. In Slovakia, the IBA inventory had identified 40 areas eligible for special protection. Slovakia did not designate six of these areas as SPAs. Five that have been designated are significantly smaller than the corresponding IBAs.

The cases against Czech Republic, Hungary, Lithuania, Latvia and Malta concern a failure to designate a sufficient number of IBAs as SPAs or for designating them only partially.

Slovenia will receive a warning for minor shortcomings in the designation of SPAs as the boundaries of nine bird areas were significantly reduced without valid scientific justification.

All eight Member States concerned will now be required to scientifically clarify the disparities between their existing SPA networks and the IBA sites that have been totally or partially excluded from such designation.

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.

For current statistics on infringements in general see:

<http://ec.europa.eu/environment/law/index.htm>