



Ministry of the Environment  
of the Czech Republic



# ANALYSIS OF COMPARING THE SYSTEM OF REPORTING ON DEROGATIONS IN UKRAINE IN THE FRAME OF BERN CONVENTION AND HABITATS DIRECTIVE

## REPORT

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# INTRODUCTION

Derogation regimes are an integral part of the European nature conservation system. They allow competent authorities, under clearly defined circumstances, to authorise activities that would otherwise be prohibited under applicable legal obligations. Within the European Union, derogations are laid down in Article 16 of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (Habitats Directive), and in Article 9 of Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (Birds Directive). At the pan-European level, a comparable derogation mechanism is established by Article 9 of the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention).

This report analyses and compares the system of derogations and derogation reporting in Ukraine in the context of the Bern Convention and EU Directives, with the aim of identifying gaps and proposing ways to ensure compliance with the requirements set out in Article 16 of the Habitats Directive, Article 9 of the Birds Directive, and Article 9 of the Bern Convention.

The report is based on an analysis of legislation and policy and combines:

(a) a review of the key legal instruments (the Habitats Directive, the Birds Directive and the Bern Convention); (b) an analysis of interpretative materials referred to in the report, including Commission guidance and a review of relevant case law used to clarify how derogation conditions are to be applied in practice; (c) an overview of the Ukrainian system relating to the taking and use of wild species and natural resources; and (d) examples drawn from the derogation systems of the Czech Republic and Ukraine.

The conclusions and recommendations of the report should be considered in light of several limitations. First, the assessment is primarily normative and documentary in nature: it evaluates the compliance of legislation and procedures on the basis of the materials analysed and does not constitute a comprehensive audit of actual implementation or day-to-day administrative practice across all regions and authorities. Second, the comparative component is based on illustrative examples (used to demonstrate how key reporting areas may be implemented), which facilitate understanding but are not intended to be statistically representative of all possible derogation contexts.

# HABITAT DIRECTIVE

## Article 16

1. Provided that there is no satisfactory alternative and that the derogation is not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range, Member States may derogate from the provisions of [Articles 12, 13, 14](#) and [15 \(a\) i \(b\)](#):
  - a) in the interest of protecting wild fauna and flora and conserving natural habitats;
  - b) to prevent serious damage, in particular to crops, livestock, forests, fisheries and water, and other types of property;
  - c) 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;
  - a) for research and education purposes, for the repopulation and reintroduction of these species and for the breeding operations necessary for these purposes, including the artificial propagation of plants;
  - b) to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species listed in [Annex IV](#), in limited numbers specified by the competent national authorities.
3. Member States shall submit a report to the Commission every two years on the derogations applied pursuant to paragraph 1, in the format established by the Committee. The Commission shall give its opinion on those derogations within 12 months of receipt of the report and shall inform the Committee thereof.
4. The reports shall specify:
  - a) the species concerned and the reasons for the derogation, including the nature of the risk and, where appropriate, reference to alternatives rejected and the scientific data used;
  - b) the means, devices or methods authorised for the capture or killing of animals and the reasons for their use;
  - c) circumstances in which such derogations apply;
  - d) the authority empowered to declare that the required conditions are met and to decide what means, devices or methods may be used, within what limits and by which persons or bodies;
  - e) the supervisory measures used and the results obtained.



## GENERAL PRINCIPLES

Article 16 of the Habitats Directive provides the legal basis for allowing limited exceptions to the strict protection of species listed in Annex IV.

Article 16 permits, under specific conditions, derogations from Articles 12, 13, 14 and 15(a) and (b), which establish:

- the prohibition of all forms of deliberate capture or killing, deliberate disturbance (particularly during breeding, rearing, hibernation and migration), and deliberate destruction or taking of eggs;
- the prohibition of the deterioration or destruction of breeding sites or resting places;
- the prohibition of keeping, transporting, selling or exchanging specimens taken from the wild;
- the requirement to establish a system for monitoring incidental capture and killing of these species and to take measures where this has a significant negative impact;
- the prohibition of deliberate picking, cutting, uprooting or destruction of plants in their natural range;
- the prohibition of keeping or trading in protected plant species;
- measures regulating the taking and use of species listed in Annex V to the Directive. Limited, controlled and sustainable use is permitted, rather than a total prohibition;
- the obligation on Member States to monitor compliance with Articles 12–14 and to report on this monitoring to the European Commission.

In October 2021, the European Commission adopted the Guidance document on the strict protection of animal species of Community interest under the Habitats Directive (the Guidance document)<sup>1</sup>, which provides the Commission’s interpretation and clarification of Articles 12 and 16 of the Directive.

The implementation of Article 16 in national legislation must ensure that derogation provisions are applied by competent authorities. It should be recalled that the Habitats Directive is binding upon Member States as to the result to be achieved, while leaving national authorities discretion as to the form and methods of implementation.

## BRIEF OVERVIEW OF CASE LAW ON THE INTERPRETATION OF ARTICLE 16

When a country accedes to the European Union, it agrees to accept the *acquis* of the Union, or *acquis communautaire*<sup>2</sup>, namely the body of EU law, including the judgments of the Court of Justice of the European Union (the Court of Justice) delivered prior to accession. This means that all previous judgments of the Court of Justice are binding on new Member States from the date of accession, and must be respected as part of

<sup>1</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301

<sup>2</sup> [European Parliament, “Legal Questions of Enlargement \(1\),” Enlargement Briefing, May 19, 1998](#)



EU law. For new Member States, this includes all prior interpretations of EU legislation and principles provided by the Court of Justice, ensuring the uniform application and enforcement of the EU legal framework.

Judgments of the Court of Justice provide authoritative interpretations of EU law that apply consistently across all Member States, including those that acceded at a later stage.

The Court of Justice has delivered important interpretations of Article 16 of the Habitats Directive and Article 9 of the Birds Directive, emphasising the strict and narrow application of derogations: «The transposition of a directive into national law does not necessarily require that its provisions be formally and verbatim incorporated into specific legislation. Depending on the content of the directive, a general legal context may be sufficient to achieve this objective, provided that it genuinely ensures the full application of the directive in a sufficiently clear and precise manner. Administrative provisions which, by their nature, may be altered by the authorities and are not adequately publicised cannot be regarded as proper fulfilment of a Member State’s obligations under the TFEU and the directive»<sup>3</sup>.

## Requirement of legal certainty in transposition

The Court of Justice has consistently stressed that even correct practical application of the Habitats Directive does not remove the requirement to have a clear, precise and binding legal framework in national law. This is illustrated, inter alia, in cases C-46/11 and C-6/04.

In case C-46/11, *European Commission v Poland*, concerning the failure to comply with Article 16(1) of the Habitats Directive governing derogations from the protection of the otter (*Lutra lutra*), the Court of Justice held that “compliance by administrative authorities with the provisions of a directive cannot, in itself, ensure the clarity and precision required to satisfy the principle of legal certainty. Purely administrative practices, which by their nature may be altered at the discretion of the administration and are not adequately publicised, cannot be regarded as fulfilling the obligations incumbent on Member States in the context of transposing a directive”<sup>4</sup>.

The Court of Justice emphasised that, even where national authorities correctly pursue the objectives of a directive, administrative practice alone cannot provide the clarity, precision and legal certainty required by EU law. The implementation of a directive must be binding in nature and not dependent on variable administrative practice<sup>5</sup>.

<sup>3</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p.45

<sup>4</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301

<sup>5</sup> Judgment of the Court (Eighth Chamber) of 15 March 2012, *European Commission v Republic of Poland*, Case C-46/11, (2012/C 133/14)

In Case C-6/04, *European Commission v United Kingdom*, concerning the incorrect implementation of the Habitats Directive, the case related to the United Kingdom's use of broad and general legislative provisions instead of clear and specific rules, as well as the incomplete or inaccurate transposition of a number of key articles, in particular Articles 6, 11, 12, 13, 14, 15 and 16.

The Court of Justice held that “pursuant to the third paragraph of Article 249 EC, a directive is binding, as to the result to be achieved, upon each Member State to which it is addressed, but leaves to the national authorities the choice of form and methods for implementing the directive in national law. However, according to settled case-law, although the transposition of a directive into national law does not necessarily require that the content of the directive be formally and verbatim incorporated into specific legislation and, depending on its content, a general legal context may be sufficient for that purpose, that context must genuinely ensure the full application of the directive in a sufficiently clear and precise manner” (paragraph 21).

“In that regard, it is important in each individual case to determine the nature of the provision laid down by the directive to which the action for failure to fulfil obligations relates, in order to assess the extent of the obligation of transposition incumbent on the Member States” (paragraph 22).

The Court of Justice concluded that the United Kingdom's reliance on general statutory duties was insufficient: the relevant legislation was “so general that it does not ensure implementation of the Habitats Directive with sufficient precision and clarity to fully satisfy the requirements of legal certainty”, and failed to “establish a clear legal framework” capable of guaranteeing full compliance (paragraphs 26–27). Consequently, general provisions could not fill the gaps left by the absence of specific provisions<sup>6</sup>.

## Restrictive interpretation of Article 16

The Court of Justice has characterised Article 16 as an exception to the system of strict protection and has therefore required it to be interpreted restrictively, as demonstrated in cases C-508/04 and C-674/17.

In Case C-508/04, *European Commission v Austria*, concerning the incomplete/incorrect implementation of key parts of the Habitats Directive, in particular the definitions in Article 1, Articles 6(1)–(2), Articles 12–13, Article 16(1) and Article 22(b), the Court of Justice concluded that: “...Article 16 of the Directive, which clearly defines the criteria on the basis of which Member States may provide for derogations from the prohibitions laid down in Articles 12 to 15, is a provision constituting an exception to the system of protection established

<sup>6</sup> Judgment of the Court (Second Chamber) of 20 October 2005, *Commission of the European Communities v United Kingdom of Great Britain and Northern Ireland*, Case C-6/04, (2005/C 315/09).

by the Directive. Consequently, Article 16 must be interpreted restrictively (see *Commission v United Kingdom*, paragraph 111)” (paragraph 110).

“It should be added that, in accordance with Article 16(1) of the Directive, any measures adopted at national level which provide for derogations from the prohibitions laid down by the Directive must be conditional upon the absence of a satisfactory alternative” (paragraph 111).

“The words ‘maintenance ... in a favourable conservation status’ in Article 16(1) of the Directive relate to the situation defined in Article 1(i) of the Directive and include, first, the general factors referred to in the first indent of Article 1(i) and, second, a number of cumulative criteria. As follows from paragraph 59 of *Commission v Austria* (I-3866), it is for the Member States to transpose those concepts into national law with sufficient legal precision” (paragraph 126)<sup>7</sup>.

Thus, this case confirms that derogations under Article 16 are possible only as an exception and only under clearly defined conditions, in particular where there is no satisfactory alternative and where the favourable conservation status of populations is preserved within the meaning of Article 1(i).

In Case C-674/17, the Supreme Administrative Court of Finland (Korkein hallinto-oikeus) referred a request for a preliminary ruling on the interpretation of Article 16(1)(e) of the Habitats Directive. The case arose from an appeal brought by the Finnish Association for Nature Conservation Tapiola against decisions of the Finnish Wildlife Agency (Suomen riistakeskus) granting permits for the hunting of wolves (*Canis lupus*) under a “population management” programme aimed at reducing poaching and increasing local acceptance of wolves.

The Court of Justice stated that “although Article 16(1) of the Habitats Directive allows Member States to derogate from the provisions of Articles 12 to 14 and Article 15(a) and (b), a derogation adopted on that basis, since it allows those Member States to depart from the obligations arising from the system of strict protection of wild species, is subject to the conditions that there is no satisfactory alternative and that the derogation is not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range” (paragraph 28).

“It should be noted that those conditions apply to all the situations provided for in Article 16(1) of that directive” (paragraph 29).

“It should also be noted that Article 16(1) of the Habitats Directive, which precisely and exhaustively defines the circumstances in which Member States may derogate from Articles 12 to 14 and Article 15(a) and (b), constitutes an

<sup>7</sup> Judgment of the Court (Fourth Chamber) of 10 May 2007, *Commission of the European Communities v Republic of Austria*, Case C-508/04, (2007/C 140/03).

exception to the system of protection established by that directive, which must be interpreted restrictively ... and places on the authority adopting the decision the burden of proving that those conditions are met for each derogation” (paragraph 30).

“The Court confirmed that Article 16(1) constitutes a strict exception to the system of protection provided for in Article 12 and must therefore be interpreted restrictively (paragraphs 28–30). Any derogation must satisfy all the cumulative conditions: it must pursue a clearly defined objective, there must be no satisfactory alternative, it must not be detrimental to the maintenance of the species concerned at a favourable conservation status, and it must provide only for limited, selective and strictly controlled taking. The burden of proof lies with the national authority” (paragraph 30).

In paragraph 66, the Court of Justice also reiterated and applied the precautionary principle: “...where, after examining the best available scientific data, uncertainty remains as to whether a derogation from the rules will be detrimental to the conservation or recovery of the populations of endangered species at a favourable conservation status, the Member State must refrain from granting or applying such a derogation”<sup>8</sup>.

Accordingly, this judgment once again emphasises that derogations under Article 16(1) are exceptional measures, subject to restrictive interpretation and applicable only where all cumulative conditions are met, in particular the absence of a satisfactory alternative and the absence of harm to the maintenance of populations at a favourable conservation status. The burden of proving the existence of those conditions in each individual case lies with the competent national authority, and where scientific uncertainty exists as to the effects of a derogation, the State must refrain from granting or applying it.

Note: On 5 June 2025, the Council adopted an [amendment to the Habitats Directive](#) changing the protection status of the wolf from “strictly protected” to “protected”.

The European Commission reinforces this view and states in the Guidance document that the provisions of the directives must be implemented with unquestionable binding force, as well as with the specificity, precision and clarity required to satisfy the requirements of legal certainty<sup>9</sup>.

The document further states that “when transposing Article 16, Member States must adhere to the meaning of the terms and concepts used in the Directive, in order to ensure uniform interpretation and application. This also means that national transposition measures must ensure the full application of the Directive without altering its conditions

<sup>8</sup> Judgment of the Court (Second Chamber) of 10 October 2019, *Luonnonsuojeluyhdistys Tapiola Pohjois-Savo – Kainuu ry v Risto Mustonen and Others*, Case C-674/17, (2019/C 423/02).

<sup>9</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301



and without adding additional conditions or derogations not provided for by the Directive”<sup>10</sup>.

The Guidance document also emphasises that the granting of derogations should be considered only as a measure of last resort. “National authorities responsible for granting derogations should bear in mind that derogations must be interpreted and applied restrictively, in order to avoid undermining the overall objective and the core provisions of the Directive”<sup>11</sup>.

Another important point highlighted in the Guidance document is the cumulative effect of derogations. “The granting of derogation presupposes that the competent national authorities have ensured compliance with all the conditions laid down in Article 16. Member States must also ensure that the cumulative effect of derogations does not lead to outcomes that run counter to the objectives of Article 12 and of the Directive as a whole” . This means that, when considering derogations, it is not sufficient for a national authority to assess each application in isolation; it must ensure that the cumulative effect of individual derogation decisions does not harm the overall favourable conservation status of the species.

## CONDITIONS FOR APPLYING DEROGATIONS UNDER ARTICLE 16

Article 16 establishes three conditions/criteria that must be met before a derogation may be granted:

- 1.** Confirmation of one or more of the reasons listed in Article 16(1)(a)–(d), or, under point (e), authorisation, subject to strict supervision, on a selective basis and to a limited extent, for the taking or keeping of certain specimens of the species listed in Annex IV, in limited numbers specified by the competent national authorities;
- 2.** Absence of a satisfactory alternative; and
- 3.** Guarantee that the derogation is not detrimental to the maintenance of populations at a favourable conservation status.

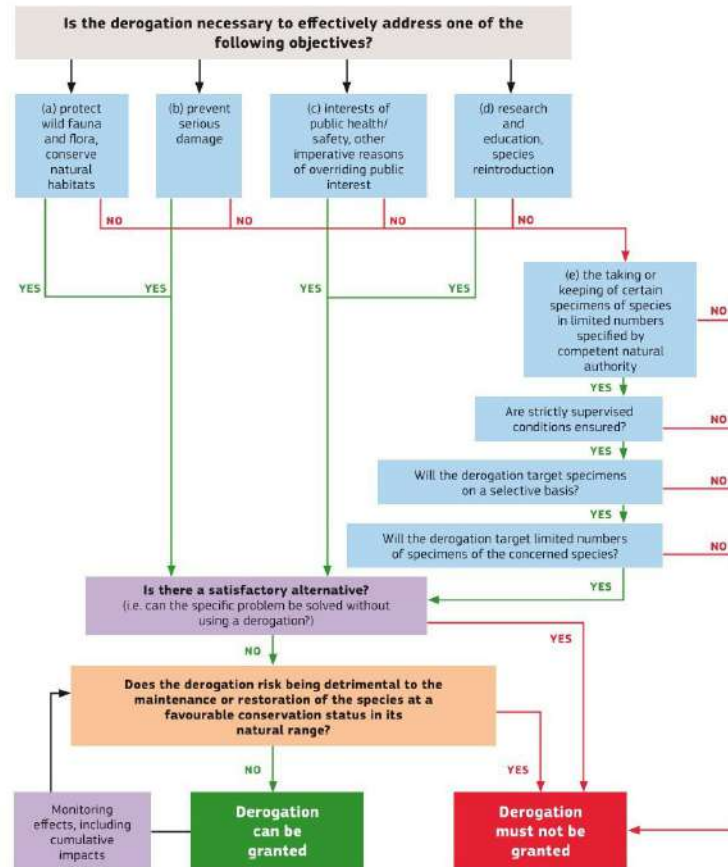
The European Commission has developed a very useful scheme for Article 16(1) to assist national authorities in the process of granting derogations.

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<sup>10</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301

<sup>11</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301

### Flow chart for issuing a derogation under Article 16(1)



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In its Guidance document, the European Commission has provided detailed information on how these criteria should be applied. A brief summary of that document is set out below.

## Test 1: Demonstrating one of the grounds provided for in Article 16(1)(a)–(d), or authorisation, under strict supervision, on a selective basis and to a limited extent, for the taking or keeping of certain specimens of the species listed in Annex IV, in limited numbers specified by the competent national authorities (Article 16(1)(e))

In accordance with criterion 1 of Article 16, national authorities may grant derogations only where they correspond to the specific justifications set out in Article 16(1)(a)–(e), demonstrating that the derogation is necessary for one of the following reasons:

- **the protection of wild fauna and flora and the conservation of natural habitats:** the primary objective is to protect vulnerable species and habitats from species that may have a negative impact on them. For example, a predatory species may

12 European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p. 49

threaten a local endangered species, requiring intervention. In such cases, the national authority must ensure proportionality, meaning that the negative impact of the intervention on protected species must not outweigh the benefits it brings to other species or natural habitats;

- **the prevention of serious damage, in particular to crops, livestock, forests, fisheries, water resources and other types of property:** this allows derogation from the rules in order to protect resources such as crops, livestock, forests or fisheries from serious damage caused by protected species. The European Commission explains that this does not allow actions that merely facilitate agricultural or forestry activities. Instead, derogations must relate to genuinely serious damage, rather than mere business interests. Authorities must provide convincing evidence of a high likelihood of significant damage in order to justify derogations;
- **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 Habitats Directive does not lay down clear guidance on how to interpret overriding public interest, and to date the European Court has not delivered a judgment providing a definitive interpretation of overriding public interest.

However, in its Guidance document, the European Commission has provided some guidance that may be useful when implementing this provision. It explains that not every public interest is sufficient; it must be sufficiently important to outweigh the high value that the Habitats Directive attaches to species conservation. The interest must be genuinely public in nature, benefiting society as a whole rather than the private interests of private or public bodies. In addition, it is suggested that such overriding interests should generally be long-term in nature, as short-term economic or social benefits are unlikely to be sufficient to justify compromising the long-term objective of species protection. Ultimately, the national authority must carry out a careful assessment on a case-by-case basis, weighing the specific public interest against the conservation objectives laid down in the Directive. It must be able to provide clear evidence of how the proposed actions serve that overriding public interest.

In addition, the European Commission notes that: “Derogations for species on grounds of overriding public interests may be necessary for plans or projects affecting Natura 2000 sites, taking into account the requirements of Article 6(3)–(4). Therefore, the preventive, mitigating and compensatory measures provided for in Article 6 should also take into account the species subject to derogations. In order to ensure consistency and streamline procedures, it is also appropriate, where relevant, to streamline the assessment of the derogation conditions (absence of satisfactory alternatives and absence of detrimental effects on species) within the framework of the appropriate assessment, where relevant.”<sup>13</sup>.

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<sup>13</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p. 54

**For research and education purposes, for the repopulation and reintroduction of these species, and for the breeding operations necessary for these purposes, including the artificial propagation of plants.**

Such derogation covers the marking of individual specimens of a species for research purposes and conservation projects. In addition, the research objective must be sufficiently important to outweigh the interests of strict species protection.

**To allow, under strictly controlled conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species listed in Annex IV, in limited numbers specified by the competent national authorities.**

The European Commission notes that “unlike Article 16(1)(a) to (d), Article 16(1)(e) does not define the objective to be pursued when applying this derogation. Nevertheless, when applying Article 16(1)(e), it is still necessary to define an objective, which must be fully justified. That objective must also be consistent with the overall objectives of the Directive”<sup>14</sup>.

The Guidance document also cites a passage from the judgment of the Court of Justice in Case C-674/17 concerning Finnish wolves (*Canis lupus*): “the derogation decision must clearly and precisely define the objectives relied on by the derogation”<sup>15</sup>, meaning that the national authority must clearly identify the objectives, carefully justify them and ensure that no other justifications under Article 16(1)(a)–(d) are relied upon.

Furthermore, in its guidance, the European Commission clearly states that “even if it has been demonstrated that a derogation is based on a legitimate objective that meets the above conditions, it may be granted only if it also satisfies a number of other criteria, namely that it must concern only a limited number of specimens of the species, be applied on a selective basis and to a limited extent, and be carried out under strictly controlled conditions”<sup>16</sup>:

## Limited numbers

This condition is not a fixed figure, but rather a threshold that must be established by national authorities. In Case C-674/17, the Court of Justice clarified that this number depends on the size of the population (number of individuals), its conservation status and its biological characteristics. “Limited numbers” must be determined under the responsibility of the competent national authority on the basis of reliable scientific information on geographical, climatic, ecological and biological data, as well as taking into account reproduction rates and total annual natural mortality, as well as losses due to other causes such as accidents

<sup>14</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p. 56

<sup>15</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p. 56

<sup>16</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p. 57

and other derogations (for example, under Article 16(1)(b)).

The number of animals taken must also be such that it does not create a risk of a significant negative impact on the structure of the population concerned, even if it does not in itself harm the maintenance of the populations of the species concerned at a favourable conservation status in their natural range<sup>17</sup>.

This requirement of “limited numbers” is considered a stricter and additional limitation on top of the general rule that any derogation must not be “detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range”<sup>18</sup>.

## **Under strictly controlled conditions, on a selective basis and to a limited extent**

In Case C-674/17, the Court of Justice adopted a strict interpretation of the concepts of “selective basis” and “limited extent”, as well as the requirement of “strictly controlled conditions”, holding that: “As regards the conditions relating to the selective and limited basis on which certain specimens of species are taken or kept, it should be noted that they require that the derogation concern a number of specimens determined in the narrowest, most specific and most effective manner, having regard to the objective pursued by the derogation in question. In view of the population size of the species concerned, its conservation status and its biological characteristics, it may also be necessary for the derogation to be limited not only to the species concerned or to types or groups of its specimens, but also to individually identified specimens.” In addition, in the same judgment, the Court of Justice clarified the meaning of “under strictly controlled conditions”, stating that “...in particular, those conditions and the manner in which compliance with them is ensured must be capable of guaranteeing that the specimens of the species concerned are taken or kept on a selective basis and in limited numbers. Accordingly, for each derogation based on that provision, the competent national authority must ensure that the conditions laid down therein are satisfied before granting such a derogation and must monitor its subsequent effects. National legislation must ensure that the legality of decisions granting derogations under that provision and the manner in which those decisions are implemented, in particular as regards compliance with the accompanying conditions relating, inter alia, to places, dates, numbers and types of specimens authorised to be taken, are subject to timely and effective control”<sup>19 20</sup> .

<sup>17</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p. 57

<sup>18</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p. 58

<sup>19</sup> Judgment of the Court (Second Chamber) of 10 October 2019, Luonnonsuojeluyhdistys Tapiola Pohjois-Savo – Kainuu ry v Risto Mustonen and Others, Case C-674/17, (2019/C 423/02), para 74

<sup>20</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p.59

## Test 2: Absence of a satisfactory alternative

Test 2 of Article 16, “Absence of a satisfactory alternative”, requires Member States to ensure that no other solutions exist that could address the problem without resorting to a derogation. National authorities must objectively assess all possible alternatives, taking into account environmental, economic and social factors, in order to identify the least harmful option for species protection.

The European Commission identifies three key steps that must be considered: first, defining the specific problem to be addressed; second, identifying all potential alternative solutions; and third, determining whether those alternatives can satisfactorily resolve the problem. Importantly, those alternatives must be compatible with the prohibitions laid down in Article 12. This often involves considering different locations or project designs, or alternative methods and processes. For example, before resorting to lethal control measures, preventive, non-lethal measures such as specialised fencing, livestock guarding dogs or changes in land management should be carefully examined and, where possible, implemented first<sup>21</sup>.

In addition, the European Commission highlights four further important aspects that must be taken into account when carrying out the test:

### 1. Evidence and assessment

National authorities must assess the environmental, social and economic advantages and disadvantages of each alternative, taking into account their effectiveness and potential adverse effects. According to the European Commission, “the final outcome in terms of solving the problem while avoiding or minimising secondary effects must be weighed against the consequences of the derogation, taking into account the overall objective of the Directive”<sup>22</sup>. Arguments must be supported by the best available relevant scientific and technical data.

### 2. Proportionality

If an alternative option can partially mitigate the problem, it should be applied first. As stated by the European Commission, “the assessment of alternative solutions must be balanced against the overall objective of maintaining or restoring the favourable conservation status of species of Community interest (and therefore must take into account the conservation status, the impact of additional incidental or illegal taking of specimens, and the prospects of the population concerned)”<sup>23</sup>.

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<sup>21</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301

<sup>22</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p.61

<sup>23</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p.62

### 3. Economic considerations

Economic costs may be taken into account, but they cannot be the sole reason for rejecting an alternative that would otherwise be satisfactory. High costs are relevant only where they are disproportionate to the scale or nature of the problem.

### 4. Limitation of derogations

If a derogation is granted, its scope must be strictly limited. According to the European Commission, “this means that derogations must be limited in time, space, number of specimens involved, the specific specimens concerned, authorised persons, and so on”<sup>24</sup>.

## Test 3: Impact of the derogation on conservation status

Test 3 of Article 16 focuses on ensuring that any derogation is not detrimental to the conservation status of the species. Conservation status is usually assessed at the biogeographical level within each Member State in accordance with the reporting system provided for in Article 17; however, the impact of a derogation must be analysed at a more local level (for example, a specific population or site), where the effects are more direct. This ensures that any decision is consistent with the overall conservation objectives laid down in the Directive.

The European Commission identifies two key elements of criterion 3:

#### a) Scale of the assessment

The European Commission notes that “the assessment of the impact of a specific derogation should, in most cases, be carried out at a level below the biogeographical region in order to be ecologically meaningful. A useful level may be the (local) population”<sup>25</sup>. The European Commission cites several passages from the judgment in Case C-674/17 (Finnish wolf): “before granting derogations, national authorities must assess the conservation status of the population concerned and the impact that the envisaged derogations may have both at local level and at the level of the territory of the Member State or, where appropriate, at the level of the relevant biogeographical region, where the borders of the Member State extend over several biogeographical regions or where the natural range of the species so requires, and, as far as possible, at transboundary level”<sup>26</sup>. The Court of Justice explained that “the assessment of the impact of a derogation at the level of the territory of the local population is, as a rule, necessary in order to determine its impact on the conservation status of the population concerned on a wider scale. (...) The most direct effects of such a derogation are, as a rule, felt in the area to which it relates. Moreover, the conservation status of a population at national or biogeographical level also depends

<sup>24</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p.63

<sup>25</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p.64

<sup>26</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p.65

on the cumulative impact of various derogations affecting local areas”<sup>27 28</sup>. “Therefore, such a derogation cannot be granted without an assessment of the conservation status of the populations of the species concerned and of the impact which the planned derogation may have on them both at local level and at the level of the territory of that Member State or, where appropriate, at the level of the relevant biogeographical region, where the borders of that Member State extend across several biogeographical regions or where the natural range of the species so requires, and, as far as possible, at transboundary level<sup>29 30</sup>.

## **b) Derogations and impact on conservation status**

In principle, a derogation may be granted if there is no adverse impact of the intervention for which derogation is sought on the current conservation status of the given species and all other conditions are fulfilled, derogation may be granted.

In Case C-342/05, *Commission v Finland*, concerning permits for wolf hunting (*Canis lupus*) under the strict protection regime, the Court of Justice confirmed that derogations are exceptional measures, subject to strict interpretation, and place on the decision-making authority the obligation to demonstrate the existence of the necessary conditions and to issue permits only on the basis of decisions containing clear and sufficient reasoning with reference to the reasons, conditions and requirements laid down in Article 16(1) (paragraph 25).

The Court also found that “...having regard to the criterion laid down in the first subparagraph of Article 1(i) of the Habitats Directive, ... the conservation status of the wolf in Finland was not favourable” (paragraph 27) and that “Article 16(1) of the Directive provides that the maintenance of the populations of the species concerned at a favourable conservation status in their natural range is a necessary precondition for granting the derogations provided for in that article” (paragraph 28).

At the same time, the Court clarified that “...the granting of such derogations nevertheless remains possible in exceptional cases where it is duly established that they do not worsen the unfavourable conservation status of those populations and do not hinder the restoration of a favourable conservation status. (...) the killing of a limited number of individuals may have no effect on the achievement of the objective laid down in Article 16(1) of the Habitats Directive, which is to maintain the population of wolves at a favourable

<sup>27</sup> Judgment of the Court (Second Chamber) of 10 October 2019, *Luonnonsuojeluyhdistys Tapiola Pohjois-Savo – Kainuu ry v Risto Mustonen and Others*, Case C-674/17, (2019/C 423/02), para 59

<sup>28</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p.65

<sup>29</sup> Judgment of the Court (Second Chamber) of 10 October 2019, *Luonnonsuojeluyhdistys Tapiola Pohjois-Savo – Kainuu ry v Risto Mustonen and Others*, Case C-674/17, (2019/C 423/02), para 61.

<sup>30</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p.65

conservation status in their natural range. Such a derogation would therefore be neutral for the species concerned” (paragraph 29)<sup>31</sup>.

However, as can be seen from Case C-342/05, the Court of Justice established a narrow and exceptional possibility for granting a derogation even where the conservation status of a species is unfavourable. This is permissible only where it is demonstrated that the derogation will not worsen the unfavourable status or hinder its recovery. “The killing of a limited number of individuals may have a negligible effect on the achievement of the objective laid down in Article 16(1) of the Habitats Directive, namely the conservation or restoration of the wolf population at a favourable conservation status in its natural range. Thus, such a derogation may be neutral for the species concerned. Accordingly, where the conservation status of the species concerned is unfavourable, a derogation may be granted only if it is justified by exceptional circumstances and only on condition that the conservation status is not worsened and that the restoration of a favourable conservation status is not hindered (neutral impact), and provided that all the other conditions laid down in Article 16 are also fulfilled”<sup>32</sup>.

The European Commission recommends applying a similar approach in cases where the conservation status is unknown: in such situations, a derogation cannot be granted, as its impact cannot be assessed.

In addition, the European Commission states that “a derogation cannot be granted if it has a detrimental effect, at any level, on the conservation status or on the achievement of a favourable conservation status of the species. In other words, if a derogation may have a significant negative impact on the population concerned (or its prospects), or even on a local population within a Member State, the competent authority must not grant it. The final outcome of the derogation must be neutral or positive for the populations of the species concerned”<sup>33</sup>.

The entire assessment must be carried out in accordance with the precautionary principle.

## MONITORING

As stated in the European Commission communication: “The competent national authorities must not only ensure that all the conditions of the derogation scheme are met before granting a derogation, but must also monitor the impact of derogations (and the effectiveness of any compensatory measures) after their implementation.

<sup>31</sup> Judgment of the Court (Second Chamber) of 14 June 2007, *Commission of the European Communities v Republic of Finland*, Case C-342/05, EU:C:2007:341, ECR 2007 I-4713.

<sup>32</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p.66

<sup>33</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p.67

Article 16(3)(e) requires that Member States' reports on derogations specify the 'supervisory measures used and the results obtained'. This means that they must supervise and monitor the implementation of the derogations granted<sup>34</sup>. This includes assessing whether derogations are applied correctly, whether they achieve their stated objectives and whether they do not cause unintended harm to species, as demonstrated by scientific evidence. Monitoring helps to identify any risks or damage, assess the effectiveness of compensatory measures and take corrective action where necessary.

The European Commission also states that: "After derogations have been implemented, national authorities must also monitor the cumulative impact of all derogations granted within the national territory for each species subject to derogations, irrespective of the reasons for which they were granted, and confirm the initial assessment that the derogations are not detrimental to the maintenance of populations of the species at a favourable conservation status. The results of this monitoring should clearly be taken into account when making any future decisions on the granting of derogations."<sup>35</sup>.

In addition, monitoring may be integrated into broader surveillance obligations under Article 11, in particular for species for which derogations are regularly granted or which are in an unfavourable conservation status (and are nevertheless, in exceptional circumstances, subject to derogations). It should also include the monitoring of other factors and contribute to the assessment of the conservation status of species.

## REPORTING

In accordance with Article 16(2) and (3) of the Habitats Directive, Member States must submit a summary country report to the European Commission every two years on the application of derogations. Consultation with the European Commission prior to granting derogations is not mandatory, but "the information must be complete, factual and cover all the details set out in Article 16(3)"<sup>36</sup>.

This includes detailed information on:

- the species concerned;
- the reason for applying the derogation;
- where necessary, references to rejected alternatives and the scientific data used;
- the means, devices or methods used (and the reasons for their use);

<sup>34</sup> European Commission. "Guidance document on the strict protection of animal species of Community interest under the Habitats Directive." Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p.73

<sup>35</sup> European Commission. "Guidance document on the strict protection of animal species of Community interest under the Habitats Directive." Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p.73-74

<sup>36</sup> European Commission. "Guidance document on the strict protection of animal species of Community interest under the Habitats Directive." Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p.74



- the circumstances of time and place;
- the authority granting the derogation;
- the supervisory measures applied and the results obtained.

The report must enable the European Commission to assess compliance with the Directive and, where appropriate, to initiate infringement proceedings against Member States that fail to comply with its requirements.

At present, there is a single on-line reporting system for the Habitats Directive and the Birds Directive, known as HaBiDeS+, which also fulfils reporting obligations under Article 9 of the Bern Convention. It is designed to improve consistency and efficiency at regional, national and European levels (a copy of the reporting forms are attached – Annex 1 and Annex 2).

# BIRDS DIRECTIVE

## Article 9

1. Member States may derogate from the provisions of Articles 5 to 8, where there is no other satisfactory solution, for the following reasons:
  - a)
    - in the interests of public health and safety,
    - in the interests of air safety,
    - to prevent serious damage to crops, livestock, forests, fisheries and water,
    - for the protection of flora and fauna;
  - b) for research and teaching purposes, for the repopulation and reintroduction of these species and for the breeding necessary for these purposes;
  - 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.
2. The derogations referred to in paragraph 1 shall specify:
  - a) the species to which the derogation applies;
  - b) the means, arrangements or methods authorised for capture or killing;
  - c) the conditions of risk and the circumstances of time and place under which such derogations may be granted;
  - d) the authority empowered to declare that the required conditions are met and to decide what means, arrangements or methods may be used, within what limits and by whom;
  - e) the controls that will be carried out.
3. Member States shall send the Commission an annual report on the implementation of paragraphs 1 and 2.
4. On the basis of the information available to it, in particular the information supplied pursuant to paragraph 3, the Commission shall at all times ensure that the consequences of the derogations referred to in paragraph 1 are not incompatible with this Directive. The Commission shall take appropriate measures to this end.



## GENERAL PRINCIPLES

Article 9 of Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds establishes a system of derogations allowing Member States to depart from the restrictions laid down in Articles 5 to 8 with regard to wild birds.

Article 9 of the Birds Directive allows, under strict conditions, derogations from Articles 5 to 8, which prohibit:

- deliberate killing or capture of wild birds by any method;
- deliberate destruction or damage of their nests and eggs, or the removal of their nests;
- taking of their eggs in the wild and the keeping of such eggs, even if empty;
- deliberate disturbance of these birds, particularly during the period of breeding and rearing, in so far as such disturbance would be significant having regard to the objectives of this Directive;
- keeping of species of birds the hunting or capture of which is prohibited;
- in respect of all species of birds referred to in Article 1, the sale, transport for sale, keeping for sale and offering for sale of live or dead birds or of any readily recognisable parts or derivatives of such birds.

Hunting of the species listed in [Annex II](#) may be permitted. Member States shall ensure that hunting of these species does not jeopardise conservation efforts in their area of distribution.

Hunting of species to which hunting legislation applies is prohibited during the rearing period and during the various stages of reproduction;

The use of all means, arrangements or methods used for the large-scale or non-selective capture or killing of birds, or which may cause the local disappearance of a species, is prohibited, in particular the use of the methods listed in point (a) of [Annex IV](#).

In 2008, the European Commission published the Guidance document on hunting under the Birds Directive (Guidance document 2), inter alia with a view to clarifying the use of derogations under Article 9. That document states that “derogations are ‘exceptions’ which allow a certain degree of flexibility in the application of the law”<sup>37</sup>.

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<sup>37</sup> European Commission, Guide to Sustainable Hunting under the Birds Directive: Guidance document on hunting under Council Directive 79/409/EEC on the conservation of wild birds (“the Birds Directive”) (2008), p. 41

## BRIEF OVERVIEW OF CASE LAW ON THE INTERPRETATION OF ARTICLE 9

The Court of Justice of the European Union has provided important interpretations of Article 9, emphasising the strict and narrow application of derogations.

### Legal certainty and proper transposition of Article 9

The Court of Justice has consistently emphasised that the prohibitions laid down in the Birds Directive and the conditions for derogations must be enshrined in national law with sufficient precision and clarity. This is clearly illustrated by Case C-159/99.

In Case C-159/99, *European Commission v Italy*, concerning the authorisation of the capture and keeping of *Passer italiae*, *Passer montanus* and *Sturnus vulgaris* as live decoys in breach of Articles 5 and 7 and Annex II of the Birds Directive, the Court of Justice held that

“the provisions of directives must be implemented with unquestionable binding force, and with the specificity, precision and clarity required in order to satisfy the requirements of legal certainty ...” and that “mere administrative practices, which by their nature may be altered at the discretion of the authorities and are not given appropriate publicity, cannot be regarded as constituting proper fulfilment of a Member State’s obligations” (paragraph 32).

The Court further emphasised that even where certain changes had been introduced, the absence of formal amendments to the provisions of national law permitting capture/keeping created ambiguity and rendered compliance with the prohibition uncertain (paragraph 34), that a circular, as an instrument which may be amended at the discretion of the administration, was not sufficient for transposition (paragraph 35), and that, as a result, the Directive had not been transposed with the required “precision, clarity and certainty” (paragraph 36)<sup>38</sup>.

The Court of Justice thus considers that the provisions of the Directive must be implemented with unquestionable binding force and with the specificity, precision and clarity required to satisfy the requirements of legal certainty. This means that national legislation forming the basis for derogations must fully and accurately reflect the provisions of Article 9<sup>39</sup>.

### Restrictive application of derogations

The Court of Justice proceeds on the basis that derogations under Article 9 constitute an exception and are therefore permissible only on the grounds exhaustively listed in Article 9(1) and subject to compliance with the requirements of Article 9(2). The Court has also emphasised in its case law that proof of the absence of any other satisfactory solution is a mandatory precondition for a derogation, and that national rules may not

<sup>38</sup> Judgment of the Court (Sixth Chamber) of 17 May 2001, *Commission of the European Communities v Italian Republic*, Case C-159/99, (2001/C 200/34).

<sup>39</sup> European Commission, *Guide to Sustainable Hunting under the Birds Directive: Guidance document on hunting under Council Directive 79/409/EEC on the conservation of wild birds (“the Birds Directive”)* (2008)

weaken or disregard this condition. These principles are reflected in the judgments in Cases C-339/87, 247/85, C-60/05 and 236/85.

In Case C-339/87, *European Commission v Netherlands*, concerning whether the Dutch hunting regulation system ensured a general system of protection under the Birds Directive and strictly limited derogations, the Court of Justice held that ministerial measures may form part of transposition if they “are of a general nature and are capable of creating rights and obligations” (paragraph 7). However, both the basic law (the *Jachtwet*) and the implementing measures had to comply with the Directive and could not go beyond it (paragraph 8).

The Court further stressed that “...a derogation must be based on at least one of the reasons exhaustively listed in Article 9(1) of the directive and must comply with the criteria laid down in Article 9(2), the purpose of which is to limit derogations to what is strictly necessary and to enable the Commission to exercise supervision over them” (paragraph 15).

The Court also emphasised that “the prohibitions on methods of capture laid down by the Directive must be enshrined in legislative provisions. The fact that a practice incompatible with the Directive is not applied does not relieve the Member State concerned of the obligation to adopt laws or administrative provisions to ensure proper transposition of the provisions of the Directive. In view of the principle of legal certainty, the relevant prohibitions must be reproduced in binding legal provisions” (paragraph 22).

Similarly, “...the criteria which Member States must satisfy in order to qualify for a derogation from the prohibitions laid down by the Directive must be reproduced in specific national provisions, since correct transposition becomes particularly important where management of the common heritage is entrusted to the Member States within their respective territories” (paragraph 28).

The Court further stressed that “...mere administrative practices, which by their nature may be altered at the discretion of the authorities, cannot be regarded as constituting proper fulfilment of the obligation imposed on Member States to which the directive is addressed, within the meaning of Article 189 of the Treaty” (paragraph 29)<sup>40</sup>.

By this judgment, the Court of Justice once again confirmed that derogations from the protection system established by the Birds Directive are permissible only on the basis of clearly defined legal grounds and criteria laid down in Article 9, and that prohibitions and derogation conditions must be expressly laid down in binding provisions and cannot be replaced by practice or by the assumption that prohibited activities are not in fact carried out.

<sup>40</sup> Judgment of the Court of 15 March 1990, *Commission of the European Communities v Kingdom of the Netherlands*, Case C-339/87, EU:C:1990:119.

In Case 247/85, *European Commission v Belgium*, concerning the failure to adopt within the prescribed period all measures necessary to implement the Birds Directive (in particular in relation to the Belgian Hunting Act and Royal Decrees on bird protection), the Court of Justice held that provisions allowing the competent administrative authority to amend the list of species at its discretion created an uncertain and ambiguous legal situation. The Court emphasised that “the general and permanent rules laid down in the decrees do not ensure that the number of birds which may be captured is limited to small numbers, that the period during which capture is permitted does not coincide with the periods during which the Directive provides for special protection of birds (the nesting period and the various stages of reproduction and rearing), or that capture and keeping are restricted to cases where there is no other satisfactory solution, in particular the possibility of breeding the species concerned in captivity. Consequently, the criteria and conditions laid down in Article 9 of the directive are not fully transposed into the relevant rules” (paragraph 41)<sup>41</sup>.

In Case C-60/05, *WWF Italia and Others v Regione Lombardia*, concerning the interpretation of Article 9 of the Birds Directive in a dispute over authorisation to hunt chaffinch (*Fringilla coelebs*) and brambling (*Fringilla montifringilla*) during the 2003/04 season under a derogation scheme, the Court of Justice held that “the criteria on the basis of which Member States may derogate from the prohibitions laid down by the Directive must be set out in national provisions which are sufficiently clear and precise, since correct transposition becomes particularly important where management of the common heritage is entrusted to Member States in respect of their respective territories” (paragraph 24), and that “when exercising their powers to grant derogations pursuant to Article 9 of the Directive, the authorities of the Member States must take account of various criteria relating to geographical, climatic, ecological and biological factors and, in particular, the situation regarding reproduction of the species and the total annual mortality rate from natural causes” (paragraph 25).

Since exceptions must be interpreted strictly, national legislation must not only define the criteria but must also require the authority granting the permit to provide clear and sufficient reasoning with reference to the grounds, conditions and requirements of Article 9(1)–(2), with the burden of proof resting on the authority (paragraph 34).

The Court of Justice further clarified that “...the obligation on Member States to ensure that birds are hunted only in ‘small numbers’, pursuant to Article 9(1) (c) of the Directive, requires that the administrative procedures provided for be organised in such a way that both the decisions of the competent authorities

<sup>41</sup> Judgment of the Court of 8 July 1987, *Commission of the European Communities v Kingdom of Belgium*, Case C-247/85, EU:C:1987:339

granting hunting permits and the manner in which those decisions are applied are subject to effective and timely control” (paragraph 47)<sup>42</sup>.

By this judgment, the Court of Justice confirmed that derogations under Article 9 are permissible only where there are clear and precise national criteria and duly reasoned individual decisions, and that the burden of proof when granting derogations lies with the national authorities, which must clearly and sufficiently justify their decisions<sup>43</sup>

In Case 236/85, *European Commission v Netherlands*, concerning the failure to adopt within the prescribed period all measures necessary to implement the Birds Directive in relation to derogations, trade rules, egg collection/disturbance of nests and prohibited capture methods, the Court of Justice identified several key shortcomings in transposition.

The Court held that although the requirement of the existence or risk of damage or nuisance might correspond to the level of protection provided for by the Directive, the national provision (Article 10 of the *Vogelwet*), unlike Article 9(1) of the Directive, “does not make the granting of permits conditional upon the absence of any other satisfactory solution” (paragraph 13).

The Court also stressed that “...the fact that the list of birds in Articles 9 and 10 of the *Vogelbesluit* is not identical to the list in Annex III to the Directive indicates improper transposition of Article 6(2) and (3) of the directive into Netherlands law” (paragraph 17).

In addition, the Court recalled its settled case law that “mere administrative practices, which by their nature may be altered at the discretion of the authorities and are not given appropriate publicity, cannot be regarded as constituting proper fulfilment of obligations under the Treaty” (paragraph 18)<sup>44</sup>.

This judgment thus underlines that derogations under the Birds Directive must be linked to the mandatory condition of the absence of any other satisfactory solution and must accurately reproduce the lists and requirements of the Directive, and that reliance on administrative practice or incomplete national provisions constitutes improper transposition and a breach of obligations.

<sup>42</sup> Judgment of the Court (Second Chamber) of 8 June 2006, *WWF Italia and Others v Regione Lombardia*, Case C-60/05, (2006/C 178/08)

<sup>43</sup> European Commission, *Guide to Sustainable Hunting under the Birds Directive: Guidance document on hunting under Council Directive 79/409/EEC on the conservation of wild birds (“the Birds Directive”)* (2008), p.43

<sup>44</sup> Judgment of the Court of 13 October 1987, *Commission of the European Communities v Kingdom of the Netherlands*, Case 236/85, EU:C:1987:436.



## CONDITIONS FOR APPLYING DEROGATIONS UNDER ARTICLE 9

The European Commission draws attention to the judgment of the Court of Justice in Case C-118/94, *Associazione Italiana per il WWF and Others v Regione Veneto*, which concerns Article 9 of the Birds Directive and the Italian system for establishing regional hunting calendars. The dispute arose because the hunting calendar of the Regione Veneto for the 1992–93 season allegedly permitted hunting of bird species that were not included in the list of huntable species in Annex II, and the national court essentially asked what Article 9 requires of a Member State when applying derogations.

In that case, the Court of Justice stated that the application of Article 9 is subject to three conditions: “It should also be borne in mind that the Court held that the possibility provided for by Article 9 of derogating from the restrictions on hunting, as well as from other restrictions and prohibitions contained in Articles 5, 6 and 8 of the Directive, is subject to three conditions. First, the Member State must restrict derogations to cases in which there is no other satisfactory solution. Second, the derogation must be based on at least one of the reasons exhaustively listed in Article 9(1)(a), (b) and (c). Third, the derogation must comply with the precise formal conditions laid down in Article 9(2), which are intended to limit derogations to what is strictly necessary and to enable the Commission to exercise supervision over them. Thus, although Article 9 permits wide derogations from the general system of protection, it must be applied properly in order to meet specific requirements and specific situations”<sup>45 46</sup>.

The European Commission notes that “failure to comply with any one of these conditions may result in the invalidity of the derogation. Member State authorities must therefore carefully verify the applicability of all three conditions, regardless of the number and identity of the authorities within their territory responsible for applying this provision”<sup>47</sup>.

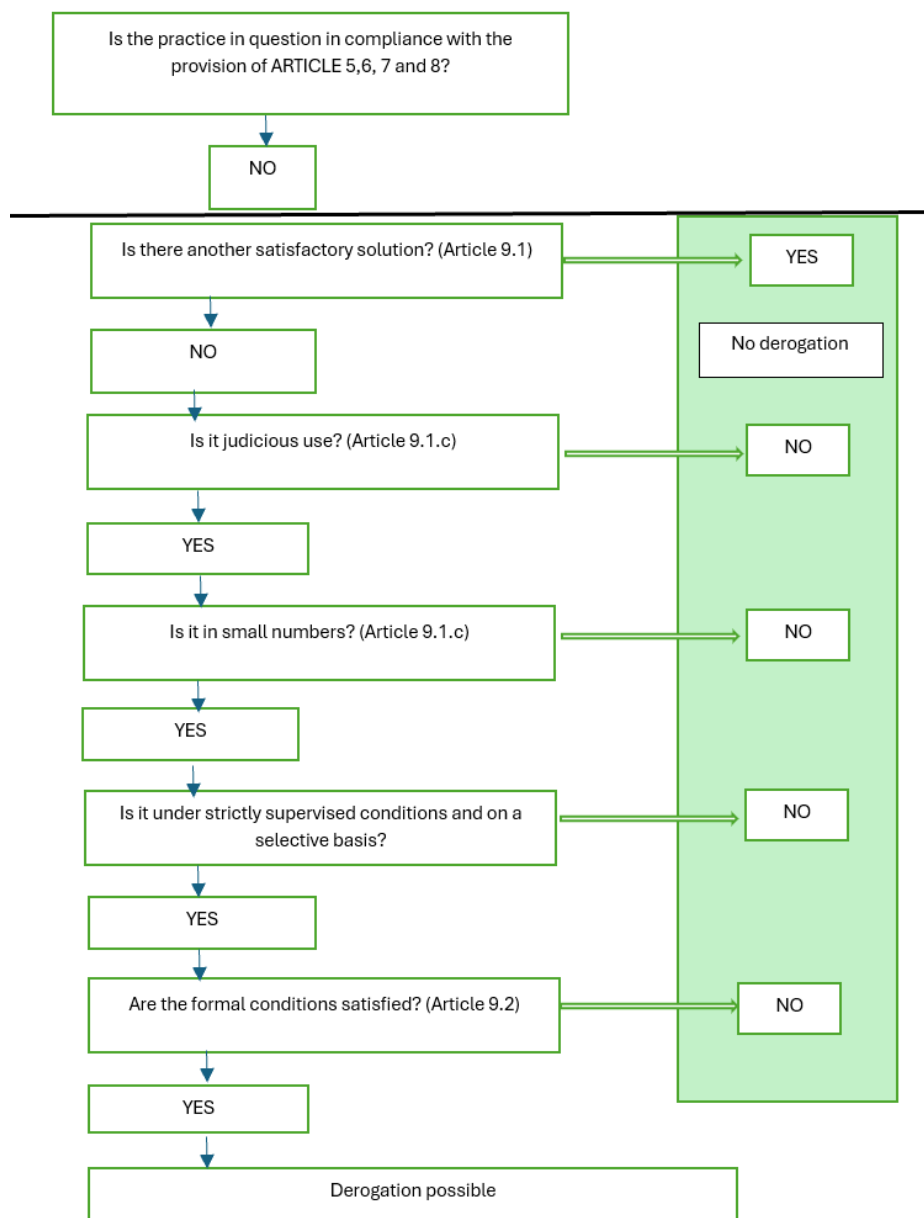
The European Commission has developed a very useful overview (scheme) for Article 9 to assist national authorities in the process of granting derogations.

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<sup>45</sup> Judgment of the Court (Fifth Chamber) of 7 March 1996, *Associazione Italiana per il World Wildlife Fund and Others v Regione Veneto*, Case C-118/94, (1996/C 180/02), para 30

<sup>46</sup> European Commission, *Guide to Sustainable Hunting under the Birds Directive: Guidance document on hunting under Council Directive 79/409/EEC on the conservation of wild birds (“the Birds Directive”)* (2008), p. 44

<sup>47</sup> European Commission, *Guide to Sustainable Hunting under the Birds Directive: Guidance document on hunting under Council Directive 79/409/EEC on the conservation of wild birds (“the Birds Directive”)* (2008), p. 44



## First condition: demonstration of the absence of an “other satisfactory solution”

As stated above in Case C-118/94, “derogations are possible only in cases where there is no other satisfactory solution. This is a general condition which must be satisfied by all derogations”<sup>49</sup>.

The analysis of whether “there is no other satisfactory solution” may be regarded as consisting of three elements and is based on the findings and reasoning in Case C-10/96:

“What is the problem or the specific situation that needs to be resolved? Are there other solutions? If so, would they resolve the problem or the specific situation for which

<sup>48</sup> European Commission, Guide to Sustainable Hunting under the Birds Directive: Guidance document on hunting under Council Directive 79/409/EEC on the conservation of wild birds (“the Birds Directive”) (2008), p 72

<sup>49</sup> European Commission, Guide to Sustainable Hunting under the Birds Directive: Guidance document on hunting under Council Directive 79/409/EEC on the conservation of wild birds (“the Birds Directive”) (2008), p. 45

the derogation is envisaged? Before seeking answers to the second and third questions, it must be clearly established whether the problem or the specific situation falls within the scope of Article 9(1)(a)–(c)”<sup>50</sup>.

Furthermore, the European Commission notes that “the following observations are based on the case-law of the Court of Justice concerning the analogous derogation provision laid down in Article 9 of the Birds Directive and may be applied by analogy to Article 16”<sup>51</sup>.

In Case C-10/96, *LRBPO and AVES v Région Wallonne*, which was referred for a preliminary ruling, two Belgian non-governmental organisations challenged regional orders of the *Région Wallonne* allowing the capture of protected wild birds within quotas for “capture for breeding purposes” and for supply to bird breeders/hobbyists. The Belgian Conseil d’État asked the Court how Articles 5, 9 and 18 of the Directive should be interpreted in that context.

The Court of Justice held that “...a derogation from Article 5(a) of the Directive may be authorised only on condition that there is no other satisfactory solution...” (paragraph 25).

The Court further specified that, even if capture may be authorised, “...the competent authorities of the Member State concerned must set the number of specimens of wild birds which may be captured at a level which is objectively necessary to ensure sufficient genetic diversity of the species bred in captivity, always subject to compliance with the maximum limit of ‘small numbers’ laid down in Article 9(1)(c) of the Directive” (paragraph 26)<sup>52</sup>.

This judgment highlights that a derogation from the prohibitions in Article 5 is possible only under strict compliance with the conditions of Article 9, in particular the absence of alternatives and the setting of an objectively necessary limit within the threshold of “small numbers”.

The European Commission further underlines that, “in analysing the question of other solutions, the Court observed that the activities authorised under the derogation (in that case, the capture of wild birds for recreational purposes) constituted an example of ‘judicious use’ and therefore fell within the exhaustive grounds forming the second condition identified in Case C-118/94 (see point 3.3.2 above), namely that the derogation must be based on at least one of the reasons exhaustively listed in Article 9(1)(a), (b) and (c). This highlights the link between the question of other satisfactory solutions and the grounds for derogation. From a practical point of view, there is no purpose in examining the issue of other solutions if the activities covered by the derogation do not fall within

<sup>50</sup> European Commission, Guide to Sustainable Hunting under the Birds Directive: Guidance document on hunting under Council Directive 79/409/EEC on the conservation of wild birds (“the Birds Directive”) (2008), p. 45

<sup>51</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p.61

<sup>52</sup> Judgment of the Court (Third Chamber) of 12 December 1996, *Ligue royale belge pour la protection des oiseaux ASBL and Société d’études ornithologiques AVES ASBL v Région Wallonne*, Case C-10/96, (EU:C:1996:504).

the scope of Article 9(1)(a) to (c).” The Court held that, in the specific circumstances of the case, there was another solution to the capture of wild birds under a derogation, namely breeding exclusively using specimens kept in captivity<sup>53</sup>.

“If there is another solution, any arguments as to its unsatisfactory nature must be substantial and convincing”<sup>54</sup>.

In this context, it may be concluded that derogations are a “last resort” and are permissible only where no other option meets the objectives of the Directive. Moreover, national authorities must base their conclusions on scientifically and technically verified data. Where another solution exists, the reasons for its inadequacy must be well substantiated and scientifically supported.

In Case C-10/96, the Court confirmed that the number of specimens must be fixed at the minimum level objectively necessary to address the problem, avoiding broad measures that could undermine conservation objectives.

In the Court’s view, the number of specimens covered by the derogation must “... be set at a level which proves to be objectively necessary to resolve those problems, always subject to compliance with the maximum limit of ‘small numbers’ laid down in that provision”<sup>55</sup>.

## **Second condition: justification of the existence of one of the grounds permitted under Article 9(1)(a), (b) or (c)**

For a derogation to be valid under Article 9 of the Birds Directive, it must correspond to one of the specific objectives listed in Article 9(1)(a), (b) or (c). These grounds are exhaustively listed, meaning that a derogation cannot be justified outside these specific objectives. Each provision of Article 9(1) addresses specific scenarios in which a derogation may be justified, focusing on the protection of public interests, the prevention of serious damage to economic resources, or the assurance of judicious use.

According to the European Commission, “these provisions ... apply to all bird species for which there are grounds for applying a derogation”<sup>56</sup>.

Article 9(1)(a): specific grounds for derogations

### **1. In the interests of public health and safety and in the interests of air safety**

Derogations may be granted to protect public health and safety, including air safety, where birds pose a genuine threat to human safety or increase the risk of accidents, such

<sup>53</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p.46

<sup>54</sup> Olivia Crowe, Gary Goggins and Derek McLoughlin, Review of the Derogation Process under Article 9(1)(a) of the EU Birds Directive (Final Report, September 2018), p. 9

<sup>55</sup> Judgment of the Court (Third Chamber) of 12 December 1996, Ligue royale belge pour la protection des oiseaux ASBL and Société d’études ornithologiques AVES ASBL v Région Wallonne, Case C-10/96, (EU:C:1996:504), operative part 2

<sup>56</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p.55

as in the vicinity of airports. Preventive measures often include habitat modification, the use of deterrents, and in some cases controlled removal, for example through falconry. These measures are aimed at preventing bird strikes and other hazards, with priority given to non-lethal measures wherever possible<sup>57 58</sup>.

## **2. To prevent serious damage to crops, livestock, forests, fisheries and water resources**

This provision allows derogations to prevent the likelihood of serious damage to crops, livestock, forests, fisheries and water resources. This ground has several aspects: first, it is clearly linked to economic interests; second, it is preventive in nature, as it addresses a high probability of damage occurring if no action is taken, rather than responding to damage already proven; third, there must be a basis for concluding that, in the absence of measures, the damage would be serious<sup>59</sup>.

Its scope is limited to serious damage and does not cover minor inconvenience. To meet this criterion, national authorities must demonstrate a high likelihood of significant economic loss<sup>60</sup>.

In its judgment in Case C-247/85, *Commission v Belgium*, the Court of Justice stated that “the Directive is not intended to prevent minor damage, but only serious damage, that is, damage exceeding a certain level. It follows that mere inconvenience and the ordinary risks of business cannot constitute legitimate grounds for granting derogations. What constitutes serious damage must be assessed on a case-by-case basis where such a problem arises”<sup>61 62</sup>.

## **3. For the protection of flora and fauna**

This provision of the Birds Directive concerns the protection of flora and fauna that are not specified, but which appear to differ from flora and fauna of economic interest covered by other provisions of Article 9(1)(a). This justification is particularly relevant for the protection of rare or endangered species. “Moreover, in this case, it does not appear necessary to demonstrate the likelihood of serious consequences before applying the derogation”<sup>63</sup>.

<sup>57</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301

<sup>58</sup> Olivia Crowe, Gary Goggins and Derek McLoughlin, *Review of the Derogation Process under Article 9(1)(a) of the EU Birds Directive* (Final Report, September 2018)

<sup>59</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p.56

<sup>60</sup> Olivia Crowe, Gary Goggins and Derek McLoughlin, *Review of the Derogation Process under Article 9(1)(a) of the EU Birds Directive* (Final Report, September 2018)

<sup>61</sup> Judgment of the Court of 8 July 1987, *Commission of the European Communities v Kingdom of Belgium*, Case C-247/85, EU:C:1987:339

<sup>62</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p.51

<sup>63</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p. 57

Under this condition, “each case should be carefully examined and a decision taken on the basis of nature conservation advice. Decisions should be based on the best available scientific information.” The following questions may be addressed:

- does this concern populations of threatened, rare or other populations with an unfavourable conservation status?
- is the ‘flora and fauna’ concerned in a worse conservation status than the species for which the derogation is sought?
- does it concern other important aspects of biodiversity?
- are there reliable scientific data on the long-term impact on the affected population(s)?
- are there no ‘other satisfactory solutions’, and is population control therefore necessary to effectively reduce or prevent ‘ecological damage’?<sup>64</sup>

**Article 9(1)(b): for research and teaching purposes, for the repopulation and reintroduction of these species and for the breeding necessary for these purposes**

Derogations under Article 9(1)(b) are permitted for research, education and efforts aimed at population restoration and reintroduction of bird species. This allows:

- the capture and keeping of birds for scientific research and educational purposes;
- the use of birds for breeding programmes aimed at conservation or reintroduction, particularly where recovery of populations in the wild is limited.

**Article 9(1)(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**

Article 9(1)(c) covers the capture, keeping or other “judicious use” of certain bird species under strict supervision. For this provision to apply:

- judicious use must serve a responsible purpose, respecting population size and without detriment to conservation status;
- small numbers means that derogations should apply only to a small fraction of the population, ideally within 1% of annual mortality, calculated in relation to overall population dynamics and conservation status.

In Case C-60/05, WWF Italia and Others v Regione Lombardia, the Court of Justice explained that “small numbers” mean any taking representing less than 1% of total annual mortality of the population concerned (average value) for species for which hunting is prohibited, and a sample of around 1% for species for which hunting is permitted. The Court noted that these figures are based on the work of the ORNIS Committee for adaptation to technical and scientific progress under the Directive, established pursuant to Article 16 thereof and composed of representatives of the Member States<sup>65</sup>.

<sup>64</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p. 58

<sup>65</sup> Judgment of the Court (Second Chamber) of 8 June 2006, WWF Italia and Others v Regione Lombardia, Case C-60/05, (2006/C 178/08), para 26

“It also follows from the above-mentioned judgments in *Commission v Spain*, paragraph 41, and *Commission v Finland*, paragraph 54, that although those percentages are not legally binding, they may, in view of the scientific value of the work of the ORNIS Committee and in the absence of any scientific evidence to the contrary before the Court, form a basis for assessing whether a derogation granted under Article 9(1)(c) of the Directive complies with that provision” (see, by analogy, on the relevance of scientific data in ornithology, Case C-3/96 *Commission v Netherlands* [1998] ECR I-3031, paragraphs 69 and 70, and Case C-374/98 *Commission v France* [2000] ECR I-10799, paragraph 25)<sup>66</sup>.

- strict supervision and selectivity: Derogations must be carefully controlled and targeted, for example by granting permits to specific persons, in specific locations and for specific periods, ensuring minimal disturbance to other species.

As stated by the Court in Case C-118/94, *Associazione Italiana per il WWF and Others v Regione Veneto*, these formal conditions “are intended to limit derogations from the rules to what is strictly necessary and to enable the European Commission to exercise supervision over them”<sup>67 68</sup>.

### **Third condition: compliance with the precise formal requirements laid down in Article 9(2)**

The third condition for derogations under the Birds Directive requires strict compliance with the formal requirements set out in Article 9(2). These formal requirements are intended to limit derogations to what is strictly necessary and to ensure effective supervision by the European Commission. Compliance with these requirements ensures that derogations are specific, limited and properly controlled, thereby preventing any abuse or excessive application<sup>69</sup>.

## **REPORTING**

The obligations relating to reporting on the use of derogations are set out in Article 9(3) of the Birds Directive. Pursuant to that provision, Member States are required to submit an annual report to the European Commission on the application of Article 9.

Member States are not required to consult the European Commission prior to applying derogations, but they are obliged to notify the Commission of all derogations in their annual derogation reports<sup>70</sup>.

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<sup>66</sup> Judgment of the Court (Second Chamber) of 8 June 2006, *WWF Italia and Others v Regione Lombardia*, Case C-60/05, (2006/C 178/08), para 27

<sup>67</sup> Judgment of the Court (Fifth Chamber) of 7 March 1996, *Associazione Italiana per il World Wildlife Fund and Others v Regione Veneto*, Case C-118/94, (1996/C 180/02), p. 1223

<sup>68</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p. 67

<sup>69</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301

<sup>70</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301



As in the case of Article 16 of the Habitats Directive, Article 9(3) does not specify the exact content of national reports. It is nevertheless clear that the information must be factual and must relate to the details set out in Article 9(1) and (2). The European Commission and the Member States have agreed on an information framework covering the following elements:

- the reasons (Article 9(1)(a)–(c));
- the species concerned;
- in the case of Article 9(1)(c), the number of specimens concerned;
- the means, arrangements or methods authorised for capture or killing;
- the conditions of risk and the circumstances of time and place under which such derogations may be granted;
- the competent authority and the number of permits issued;
- the monitoring measures carried out<sup>71</sup>.

The European Commission also notes that, “in accordance with its obligations under Article 9(2) of the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention), the Commission draws up a biannual report on the application of derogations by the Member States on the basis of national reports, which it submits to the Standing Committee of the Convention”<sup>72</sup>.

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<sup>71</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301

<sup>72</sup> European Commission. “Guidance document on the strict protection of animal species of Community interest under the Habitats Directive.” Commission Notice C(2021) 7301 final, Brussels, October 12, 2021. EUR-Lex, Document C(2021)7301, p. 70-71

# CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE AND NATURAL HABITATS (BERN CONVENTION)

## Article 9

1. Provided that there is no other satisfactory solution and that the derogation will not be detrimental to the survival of the population concerned, each Contracting Party may derogate from the provisions of Articles 4, 5, 6 and 7 and from the prohibition on the use of means referred to in Article 8:
  - for the protection of flora and fauna;
  - to prevent serious damage to crops, livestock, forests, fisheries, water and other forms of property;
  - in the interests of public health and safety, air safety and other overriding public interests;
  - for the purposes of research and education, the re-establishment of populations, the recovery of species and the necessary breeding for these purposes;
  - to permit, under strictly supervised conditions, on a selective basis and to a limited extent, the capture, keeping and other judicious use of certain wild animals and plants in small numbers.
2. The Contracting Parties shall submit to the Standing Committee, every two years, reports on the derogations made from the provisions of the preceding paragraph. These reports shall specify in particular:
  - the populations to which derogations apply or have been applied and, where practicable, the number of individuals of the species concerned;
  - the authorised means of killing or capture;
  - the conditions of risk and the circumstances of time and place under which such derogations were permitted;
  - the authority empowered to declare that these conditions are fulfilled and to decide on the means to be used, their limits and the persons entrusted with carrying them out;
  - the control measures applied.

## GENERAL PRINCIPLES

Article 9 of the Bern Convention provides for an exception (derogation) allowing the Contracting Parties, under strict conditions, to depart from the obligations lay down in Articles 4-8, which concern:

- **Article 4 (Protection of habitats):** requires the Contracting Parties to take appropriate and necessary legislative and administrative measures to ensure the conservation of the habitats of wild flora and fauna species, especially those listed in Appendices I and II, as well as the conservation of endangered natural habitats; to integrate these requirements into planning and development policies; to pay particular attention to key areas for migratory species; and to coordinate efforts in border areas.
- **Article 5 (Protection of species):** requires the Contracting Parties to take appropriate and necessary legislative and administrative measures to ensure the special protection of wild flora species listed in Appendix I. The deliberate picking, collecting, cutting or uprooting of such plants is prohibited. Where necessary, each Contracting Party shall prohibit the possession of, or trade in, such species.
- **Article 6:** with regard to species listed in Appendix II, prohibits all forms of deliberate capture, keeping and killing; the deliberate damage to or destruction of breeding or resting sites; the deliberate disturbance of wild fauna, particularly during the breeding, rearing and hibernation periods, insofar as such disturbance would be significant in relation to the objectives of the Convention; the deliberate destruction or taking of eggs from the wild or their keeping, even if empty; and the possession of, or internal trade in, these animals, alive or dead, including stuffed animals and any readily recognisable part or derivative thereof, where this contributes to the effective implementation of this Article.
- **Article 7:** requires that any exploitation of wild fauna species listed in Appendix III be regulated in order to maintain populations at a level corresponding to ecological, scientific and cultural requirements, taking account of the requirements of Article 2. Measures to be taken include closed seasons and/or other procedures regulating exploitation; where necessary, temporary or local prohibitions on exploitation in order to restore populations to satisfactory levels; and regulation, where appropriate, of the sale, keeping for sale, transport for sale or offering for sale of live or dead wild animals.
- **Article 8:** requires the Parties, with regard to wild fauna species listed in Appendix III, and in cases where derogations under Article 9 are applied to species listed in Appendix II, to prohibit the use of all indiscriminate means of capture or killing and the use of all means capable of causing the local disappearance of, or serious disturbance to, populations of a species, in particular the means listed in Appendix IV.

Like the EU Directives, Article 9 operates as a set of cumulative conditions and applies a principles-based approach, emphasising that any derogation must not jeopardise the survival of the populations concerned.



## CONDITIONS FOR APPLYING DEROGATIONS UNDER ARTICLE 9

Similarly to the Birds and Habitats Directives, under Article 9 of the Bern Convention derogations may be granted only subject to certain conditions:

- a) that there is no other satisfactory solution; and
- b) that the exception will not be detrimental to the survival of the population concerned.

In addition, the reason for the exception must correspond to one of the exhaustively listed objectives set out in Article 9(1).

### **First condition: absence of another satisfactory solution as a last-resort criterion**

According to Revised Resolution No. 2 (1993) on the scope of application of Articles 8 and 9 of the Bern Convention, “the existence of another satisfactory solution must be assessed taking into account possible alternatives, which in practice depend on the grounds for the derogation, while ensuring that the survival of the population is not threatened. The competent national authority must choose, from among the possible alternatives, the most appropriate one that will have the least negative impact on the species while still addressing the problem. The justification for the choice must be objective and verifiable”<sup>73</sup>.

This means that the requirement of “no other satisfactory solution” functions as a last-resort criterion. A derogation from the requirements of Article 9 should be applied only in cases where the competent authority can demonstrate, on the basis of evidence, that the problem cannot be effectively addressed by any alternative measures that would be less harmful to the species and its population.

As under the Habitats and Birds Directives, “satisfactory” should be understood as an alternative that is capable of achieving the stated objective in practice (and not merely hypothetically), while “least negative impact” reflects a minimisation approach: where several options could work, the authority must choose the option that resolves the problem with the least ecological impact.

The requirement that the justification be “objective and verifiable” implies a documented decision-making process (as far as possible), in which the authority identifies the alternatives considered, explains why each of them is insufficient, and records why the chosen option is the least harmful among the available options.

The Resolution also provides examples of implementation: “...in the case of the first derogation under Article 9(1), ‘for the protection of flora and fauna’, alternatives that cause as little harm as possible to flora and fauna should be considered. In the case of derogations for ‘overriding public interests’, possible solutions may include alternative locations or routes for infrastructure, different project sizes, or alternative activities,

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<sup>73</sup> Bern Convention Standing Committee, Revised Resolution No 2 (1993) on the scope of Articles 8 and 9 of the Bern Convention (T-PVS (2011), p.3

processes or methods. In cases of damage to property, alternative solutions may consist of less intrusive measures, for example electric fencing against predators”<sup>74</sup>.

The revised Resolution further states that “the Standing Committee of the Bern Convention may examine this condition only if the reporting State provides, where appropriate, additional information on the justification”<sup>75</sup>.

## **Second condition: absence of detriment to the survival of the population concerned**

As stated in the Resolution, “...the second condition, according to which ‘the exception will not be detrimental to the survival of the population concerned’, ... must be based on up-to-date data on the status of the population, including its size, distribution, habitat condition and future prospects”<sup>76</sup>.

This condition requires an assessment of viability at the population level. Even where a derogation is justified on the basis of one of the grounds listed in Article 9(1), the competent authority must demonstrate, on the basis of the best available and most up-to-date information, that granting the exception will not increase the risk to the survival of the population concerned.

The “population concerned” must be clearly defined, since the conclusion regarding the absence of harm depends on the spatial scale and structure of the population used for the assessment.

“In the case of a transboundary population, the entire range and all sub-populations must be taken into account when granting a permit. The cumulative effect of several derogations should also be considered, where appropriate”<sup>77</sup>.

The Resolution also emphasises the need for increased caution in cases where populations are not in a “favourable” conservation status. This confirms a more conservative approach where the baseline status is already weak or deteriorating, or where available data are uncertain.

“If the two general conditions referred to in paragraph 6 above are met, exceptions may be allowed:

- i)** for the protection of flora and fauna;
- ii)** to prevent serious damage to crops, livestock, forests, fisheries, water and other forms of property;
- iii)** in the interests of public health and safety, air safety or other overriding public interests;

<sup>74</sup> Bern Convention Standing Committee, Revised Resolution No 2 (1993) on the scope of Articles 8 and 9 of the Bern Convention (T-PVS (2011) 2, p.3-4

<sup>75</sup> Bern Convention Standing Committee, Revised Resolution No 2 (1993) on the scope of Articles 8 and 9 of the Bern Convention (T-PVS (2011) 2, p.4

<sup>76</sup> Bern Convention Standing Committee, Revised Resolution No 2 (1993) on the scope of Articles 8 and 9 of the Bern Convention (T-PVS (2011) 2, p. 4.

<sup>77</sup> Bern Convention Standing Committee, Revised Resolution No 2 (1993) on the scope of Articles 8 and 9 of the Bern Convention (T-PVS (2011) 2, p. 4.

- iv) for the purposes of research and education, population restoration, reintroduction and the necessary breeding;
- v) to permit, under strict supervision, on a selective basis and to a limited extent, the capture, keeping or other judicious use of certain wild animals and plants in small numbers.”<sup>78</sup>.

Unlike the EU Directives, the Bern Convention does not use the concept of “favourable conservation status (FCS)”. Instead, it relies on population-level survival criteria and the non-detriment standard, primarily set out in Article 9. However, in Revised Resolution No. 2, the use of the terms “favourable”/“unfavourable” can be observed, bringing the Convention conceptually closer to the Directives.

Both the Bern Convention and the EU nature Directives establish broadly similar substantive conditions for derogations, including the need for justification, the absence of alternatives and the absence of harm to the species concerned. The main difference lies in enforceability and integration into a binding, science-based monitoring system. EU law embeds these requirements in a legally binding framework combined with mandatory reporting and judicial oversight by the Court of Justice of the European Union, whereas the Bern Convention relies on the discretion of the Parties, periodic reporting and the soft-law mechanisms of the Standing Committee to ensure compliance.

## MONITORING

The Bern Convention does not explicitly formulate a monitoring requirement; rather, it follows from the general logic of the Convention’s provisions. While the Bern Convention does not formally establish an obligation for scientific monitoring, the interpretative practice of the Standing Committee encourages Parties to take into account the impact of derogations on populations. In practice, however, systematic monitoring remains at the discretion of national authorities, and enforcement relies on soft-law mechanisms rather than judicial oversight.

“Neither the Convention nor the EU Directives require competent authorities to monitor the impact of derogations and the effectiveness of any compensatory measures, where applicable, after their implementation”<sup>79</sup>.

“However, the services of the European Commission have strongly supported such an extension, linked to general surveillance obligations, in order to identify any risk to species arising unintentionally from derogations (possibly in combination with other negative factors): ‘It would be reasonable for such surveillance to take into account the effects (including cumulative effects and the effects of compensatory measures) of derogations applied to species for which derogations are regularly granted or which are in an unfavourable conservation status (and nevertheless subject to derogations)’<sup>80 81</sup>.

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<sup>78</sup> Bern Convention Standing Committee, Revised Resolution No 2 (1993) on the scope of Articles 8 and 9 of the Bern Convention (T-PVS (2011), p. 4

<sup>79</sup> Clare Shine, Interpretation of Article 9 of the Bern Convention (Council of Europe, T-PVS/Inf (2010), p. 13

<sup>80</sup> European Commission, Guidance document on the strict protection of animal species of Community interest under the Habitats Directive 92/43/EEC, p. 65

<sup>81</sup> Clare Shine, Interpretation of Article 9 of the Bern Convention (Council of Europe, T-PVS/Inf (2010), p.12

## REPORTING

Reporting under the Bern Convention serves both as a transparency tool and as a compliance mechanism. The frequency and consequences of reporting differ between the Bern Convention and the EU Directives.

The Bern Convention requires biennial reporting to the Standing Committee, including:

- the species concerned;
- the reasons for the derogation;
- the methods used and the conditions applied; and
- the competent authorities involved.

As noted in the interpretation of Article 9, “unlike the Habitats Directive, the Convention does not require Parties to indicate in their reports: the reason for the derogation (which is likely to be included in the ‘conditions of risk’); the alternative solutions considered and the scientific data used to compare them; or the results obtained.” However, in the revised Resolution, the Standing Committee decides that “...reports on derogations should, where necessary, include additional information to help understand the reasons for derogations and to monitor their impact, in particular:

- a) information on the conservation status of the species for which a derogation was made;
- b) justification for a derogation concerning a species in an unfavourable conservation status;
- c) alternative solutions that were considered and compared, together with any available data;
- d) the results of the application of derogations, including cumulative effects and the effects of any compensatory measures taken, where appropriate.”<sup>82</sup>.

In the EU context, reporting is an integral part of the binding derogation system, and failure to comply leads to infringement procedures initiated by the European Commission, which constitutes the most effective “incentive” for Member States.

Due to the reorganisation of the Ministry and staff changes, reporting under the Bern Convention has not been carried out for the last three reporting periods.

Within the framework of this project, on the basis of data obtained from the Ministry of Environmental Protection and Natural Resources and open statistical data on hunting management, as well as data collected by WWF, reports on derogations for species listed in the Red Data Book of Ukraine were completed and submitted on the Bern Convention portal for the relevant periods.

Copies of the reports are attached (Annex 3).

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<sup>82</sup> Bern Convention Standing Committee, Revised Resolution No 2 (1993) on the scope of Articles 8 and 9 of the Bern

## OVERVIEW OF THE SYSTEM IN UKRAINE

Ukraine hosts 243 species covered by the Habitats Directive, of which:

- 168 species occurring in Ukraine are listed in Annex IV, including: amphibians – 12, fish – 2, invertebrates – 57, mammals – 51, reptiles – 15, plants – 31.
- 39 species occurring in Ukraine are listed in Annex V, including: amphibians – 3, fish – 18, invertebrates – 4, mammals – 8, plants – 6.

Ukraine hosts more than 400 species of wild birds<sup>83</sup>. 382 species are covered by the Birds Directive. (Table attached – Annex 4).

Furthermore, 676 species listed under the Bern Convention occur in Ukraine, of which:

- 68 plant species are listed in Appendix I.
- 402 species are listed in Appendix II, including: invertebrates – 29, fish – 2, amphibians – 12, reptiles – 13, birds – 300, mammals – 46.
- 206 species are listed in Appendix III, including: invertebrates – 4, fish – 45, amphibians – 10, reptiles – 8, birds – 109 species, mammals – 30.

Derogation mechanisms become relevant where competent authorities wish to do activities that would otherwise be prohibited for a particular species. Under the Habitats Directive, Article 16 allows, under strict conditions, exceptions to the prohibitions laid down in Articles 12-15, including the strict protection regime for Annex IV species and, where relevant, the provisions on the taking and use of Annex V species.

Under the Birds Directive, the hunting of species listed in Annex II and the marketing of species listed in Annex III may be permitted in accordance with the conditions laid down in the Directive; Article 9 applies only where an exception to the restrictions laid down in Articles 5-8 is sought.

Under the Bern Convention, the level of protection for a species depends on the relevant Appendix (special protection for Appendices I-II; regulated exploitation for Appendix III), and Article 9 allows exceptions under defined conditions.

The presence of these species in Ukraine therefore also raises the question of establishing such a system in Ukraine.

In general, the Ukrainian system for the conservation of animal and plant species and their use is regulated by a number of legal and regulatory acts of different levels of legal force, which together form a system of mutual hierarchical subordination.

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<sup>83</sup> Fesenko H. V., Bokotej A. A. ББК 28.693.35 The Annotated List of the Ukrainian Scientific Names of the Bird Species Belonging to the Fauna of Ukraine (with Characteristics of Status of the Species). — Kyiv—L'viv, 2007. — 111 p.

## **Level 1 – Constitution of Ukraine (Basic Law of Ukraine)**

It has the highest legal force. It proclaims that natural resources located within the territory of Ukraine are objects of the property right of the Ukrainian people, on whose behalf the rights of the owner are exercised by state authorities and local self-government bodies within the limits defined by the Constitution (Article 13). At the same time, every citizen has the right to use natural objects that are the property of the people in accordance with the law (Article 13) and is obliged not to cause harm to nature (Article 66).

## **Level 2 – Laws of Ukraine**

They are adopted on the basis of the Constitution of Ukraine and must comply with it. They define the principles of the use of natural resources and systematically regulate this area of social relations.

## **Level 3 – Resolutions of the Cabinet of Ministers of Ukraine**

They are adopted on the basis of and in implementation of the Constitution and laws of Ukraine.

They ensure the implementation of state policy in the field of nature protection, environmental safety and natural resource use, as well as the exercise of state governance in the field of protection and rational use of flora and fauna and other natural resources.

## **Level 4 – regulatory legal acts of central executive authorities**

They are adopted on the basis of and in implementation of the Constitution and laws of Ukraine and acts of the Cabinet of Ministers of Ukraine. They ensure the formulation and implementation of state policy in the field of environmental protection, environmental safety, rational use, reproduction and protection of natural resources.

# **GENERAL CONDITIONS FOR THE SPECIAL USE OF NATURAL RESOURCES**

## **Law of Ukraine “On Environmental Protection”**

- establishes the basic principles of environmental protection and the use of natural resources;
- defines the powers of state authorities and local self-government bodies in this field of social relations;
- provides that rare and endangered species of fauna and flora that permanently or temporarily occur (grow) under natural conditions within the territory of Ukraine are subject to special protection and are entered in the Red Data Book of Ukraine;

- provides that special use is carried out by granting natural resources into possession, use or lease on the basis of special permits, registered in accordance with the established procedure, for a fee, for the purpose of carrying out production and other activities;
- provides that, under the legislation of Ukraine, citizens are guaranteed the right of general use of natural resources to meet vital needs (aesthetic, health-related, recreational, material, etc.) free of charge, without allocating these resources to specific persons and without issuing relevant permits, except for restrictions provided for by the legislation of Ukraine;
- differentiates natural resources of national and local significance and establishes that wild animals living in a state of natural freedom within the territory of Ukraine belong to natural resources of national significance<sup>84</sup>.

## Principles governing the use of animal and plant species listed in the Red Data Book of Ukraine

At present, Ukraine has 857 plant and fungal species and 687 animal species listed in the Red Data Book of Ukraine, of which 102 are included in Annex IV of the Habitats Directive.

### Law of Ukraine “On the Red Data Book of Ukraine”

- regulates social relations in the field of protection, use and reproduction of rare and endangered species of fauna and flora listed in the Red Data Book of Ukraine;
- defines the list and powers of state authorities responsible for management, regulation and control in this field;
- establishes the basic requirements for the use of objects of the Red Data Book of Ukraine;
- provides that special use (taking, collection) of objects of the Red Data Book of Ukraine is permitted only in exceptional cases and solely for scientific and breeding purposes, including reproduction, reintroduction and breeding under artificially created conditions, as well as for population recovery, on the basis of a permit issued by the central executive authority implementing state policy in the field of environmental protection, on the basis of decisions of the National Commission on the Red Data Book of Ukraine adopted within its competence.

Special use (taking, collection) of objects of the Red Data Book of Ukraine for profit-making purposes is prohibited.

<sup>84</sup> Law of Ukraine “On Environmental Protection” of 25 June 1991 No. 1264-XII.

The procedure for issuing permits and the form of permits for special use (taking, collection) of objects of the Red Data Book of Ukraine are determined by the central executive authority responsible for shaping state policy in the field of environmental protection<sup>85</sup>.

Instruction on the procedure for issuing permits for the taking (collection) of animal and plant species listed in the Red Data Book of Ukraine, approved by Order of the Ministry of Environmental Protection of Ukraine No. 3 of 01.02.1993:

- the objects for which permits are issued are animal and plant species listed in the Red Data Book of Ukraine, their nests, eggs, fruits, seeds, parts or products of these animals and plants (hereinafter – animals and plants listed in the Red Data Book of Ukraine);
- permits are issued only to scientific organisations and other institutions on the basis of petitions (applications).

### **Key stages of the procedure:**

#### **1) submission of a petition:**

- the applicant prepares a detailed petition (application) with comprehensive justification (species, quantity, location, purpose, method of taking, etc.). The petition (application) is accompanied by information on the abundance of the animal or plant species (specified in the application) in the areas of potential taking (collection), which is entered by the Ministry of Environmental Protection (Ministry of Economy) into the database;
- the petition (application) is submitted to the Ministry of Economy and simultaneously to the executive authority of the Autonomous Republic of Crimea for environmental protection, as well as to the regional, Kyiv and Sevastopol city state administrations, at least three months prior to the planned activities;
- If activities are carried out within the territory of the protected areas network, approval from the permanent user of these natural resources is required.

#### **2) consideration of the petition:**

- the executive authority of the Autonomous Republic of Crimea for environmental protection, as well as the regional, Kyiv and Sevastopol city state administrations, submit their conclusions to the Ministry of Economy within seven days;
- the Ministry of Economy considers the petition within one month;

<sup>85</sup> Law of Ukraine “On the Red Data Book of Ukraine” of 7 February 2002 No. 3055-III.

- if necessary, the National Commission on the Red Data Book of Ukraine is involved in the expert assessment

### 3) issuance and registration of the permit:

- in the event of a positive decision, the Ministry of Economy issues the permit;
- the permit is sent to the executive authority of the Autonomous Republic of Crimea for environmental protection, as well as to the regional, Kyiv and Sevastopol city state administrations for registration;
- in the case of a permit for the taking of animals, the permit specifies information on the date of taking, the age of the animal, the reason for selection, the act number, and the signatures of responsible and supervisory officials (an official of the State Environmental Inspectorate), as the taking of animals must be carried out in the presence of responsible officials of the Ministry of Environmental Protection (Ministry of Economy) or the State Environmental Inspectorate;
- with regard to permits for the collection of plants, the permit must specify the name of the plant, the number of specimens or parts, seed weight, the area and purpose of collection, etc.;

The permit also specifies information on the plants actually collected, the date of taking of animals, the age of the animal, the reason for selection, and the signatures of responsible and supervisory officials (an official of the State Environmental Inspectorate).

### 4) reporting:

After the expiry of the permit, the permit together with a report on its use (or non-use), acts on taking/collection and other documents is returned to the Ministry of Economy within one month<sup>86</sup>.

Table 1. Red Data Book of Ukraine

No	Conditions of the Habitats and Birds Directives regarding derogations	Fully compliant	Partially compliant	Not compliant	Not regulated
1	Condition of the absence of a satisfactory alternative			X	
2	Condition of not adversely affecting the maintenance of the favourable conservation status of the populations of the species concerned within their natural range			X	
3	Condition relating to the existence of exceptional circumstances	X			
4.	Existence of an exhaustive list of circumstances:	X			

<sup>86</sup> Order of the Ministry of Environmental Protection of Ukraine No. 3 of 1 February 1993, by which the Instruction on the Procedure for Issuing Permits for the Taking (Collection) of Species of Animals and Plants Listed in the Red Data Book of Ukraine was approved.

No	Conditions of the Habitats and Birds Directives regarding derogations	Fully compliant	Partially compliant	Not compliant	Not regulated
4.1	for the protection of wild fauna and flora and the conservation of natural habitats				X
4.2.	to prevent serious damage, in particular to crops, livestock, forests, fisheries and waters, and other types of property				X
4.3.	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 having beneficial consequences of primary importance for the environment; in the interests of air safety				X
4.4.	for research and education purposes, as well as for the purposes of population restoration, reintroduction and breeding necessary for such purposes, including artificial propagation of plants	X			
4.5.	Existence of a condition allowing selective and limited taking or keeping of certain specimens of the species listed in Annex IV, in limited numbers specified by the competent national authorities	X			
4.6.	Existence of a competent national authority responsible for strict supervision of permits	X*			
5	Existence of a reporting obligation	X**			
6	Presence in reports of information on:				
6.1.	the species subject to the derogation	X			
6.2.	the reasons for the derogation, including the nature of the risk	X			
6.3.	where appropriate, references to rejected alternatives and the scientific data used			X	
6.4.	the means, devices or methods authorised for the capture or killing of animal species	X			
6.5.	the reasons for the use of such means, devices or methods			X	
6.6.	the circumstances under which such derogations are applied	X			
6.7.	the authority responsible for verifying compliance with the required conditions	X*			
6.8.	the monitoring measures used and the results obtained	X*			

\* De jure, monitoring measures should be carried out by the State Environmental Inspectorate, which receives a copy of the permit, together with the Ministry of Economy, which receives reports on the use (or non-use) of the permit and records of capture (collection). In practice, however, such monitoring is not carried out.

\*\* The legislation provides for an obligation to report on issued permits and actually captured/collected specimens; however, in practice, even verification of the submission of such reports is not carried out, let alone analysis of their content.

If the requirements laid down in the Habitats and Birds Directives are analysed and presented in a table, it becomes apparent that Ukrainian legislation and practice in the field of conservation of animal and plant species listed in the Red Data Book of Ukraine are relatively close to EU requirements with regard to such conditions as the identification of *exceptional circumstances and exhaustive grounds* for special use. The Law “On the Red Data Book of Ukraine” indeed provides that the use of such species is permitted

only in exceptional cases and for defined purposes, in particular for *scientific, breeding or reintroduction activities*. Likewise, there are formal requirements concerning the *existence of a competent authority* (the Ministry) and an *obligation to report* on specimens taken or collected.

It should also be noted that the possibility of using species listed in the Red Data Book of Ukraine for scientific, *breeding or reintroduction* purposes may, at first glance, be perceived as ensuring a high level of conservation. However, in practice this leads to the impossibility of legally obtaining permits for the use or translocation of animals and plants, and, as a result, activities are carried out without indicating information on the presence of plant and animal species listed in the Red Data Book of Ukraine on the sites where such activities take place.

At the same time, key elements of the derogation system remain unregulated or are not implemented in practice. In particular, there is no procedure for verifying the *absence of a satisfactory alternative* prior to granting a permit, nor are there criteria for assessing whether the taking poses a risk to the *favourable conservation status* of the species' population. Similarly, there are no clear mechanisms for control or independent monitoring of compliance with permits. The State Environmental Inspectorate has these functions only formally, as actual supervision, verification of reports and analysis of results are practically not carried out.

The reporting system also has significant gaps. Although legislation provides for an obligation to submit reports on the use of permits, there is no control over the timeliness of their submission or analysis of their content. The reports do not contain information on rejected alternatives or scientific justification, as required by the provisions of the Directives.

## **Principles of special use of animals and plants within territories and objects of the Nature Reserve Fund**

### **Law of Ukraine “On the Nature Reserve Fund of Ukraine”**

- establishes the legal framework for the organisation, protection and effective use of the Nature Reserve Fund of Ukraine, as well as for the restoration of its natural complexes and objects, inter alia for the purpose of conserving the gene pool of fauna and flora;
- defines the main types of use of territories and objects of the Nature Reserve Fund, which may be carried out only provided that such activities do not contradict the designated purpose of the territories and objects of the Nature Reserve Fund;
- establishes the following procedure for the special use of natural resources:
  - *within territories and objects of the Nature Reserve Fund of national significance* – carried out within the limits approved by the central executive authority responsible for the formulation and implementation

of state policy in the field of environmental protection, and on the basis of a permit issued by the executive authority of the Autonomous Republic of Crimea for environmental protection, as well as by regional, Kyiv and Sevastopol city state administrations;

- *within territories and objects of the Nature Reserve Fund of local significance* – carried out within the limits approved by the executive authority of the Autonomous Republic of Crimea for environmental protection, regional, Kyiv and Sevastopol city state administrations, and on the basis of a permit issued by local councils in agreement with the executive authority of the Autonomous Republic of Crimea for environmental protection and the relevant regional, Kyiv and Sevastopol city state administrations;
- permits for the special use of natural resources are issued free of charge, on the basis of an application submitted by the natural resource user, agreed with the owner or permanent user of the land plot and the relevant authorities<sup>87</sup>.

**Resolution of the Cabinet of Ministers of Ukraine “On the procedure for issuing permits for the special use of natural resources within territories and objects of the Nature Reserve Fund and for establishing limits for the use of resources of national significance” of 10 August 1992 No. 459**

The Regulation on the procedure for issuing permits for the special use of natural resources within territories and objects of the Nature Reserve Fund establishes the procedure for issuing permits for the special use of natural resources within territories and objects of the Nature Reserve Fund, with the exception of forest and water resources, to enterprises, institutions, organisations and citizens.

In addition, this Regulation defines the list of natural resources for which a permit is issued, including:

1. animals and marine mammals in a state of natural freedom, as well as other objects of fauna classified as natural resources of national significance;
2. natural resources within territories and objects of the Nature Reserve Fund of national significance;
3. animal and plant species listed in the Red Book of Ukraine;
4. natural resources of local significance;
5. natural plant communities listed in the Green Book of Ukraine.

This Regulation provides that permits for the special use of natural resources are issued by regional, Kyiv and Sevastopol city state administrations and by the

<sup>87</sup> Law of Ukraine “On the Nature Reserve Fund of Ukraine” of 16 June 1992 No. 2456-XII

executive authority of the Autonomous Republic of Crimea for environmental protection for:

- non-game animal species;
- natural resources within territories and objects of the Nature Reserve Fund of national significance (except for game species);
- animal and plant species listed in the Red Book of Ukraine;
- natural plant communities listed in the Green Book of Ukraine.

Permits for bears, wild boar, fallow deer, red deer and sika deer, roe deer, elk, mouflon, squirrels, marmots, beavers, coypu, muskrat, pine and stone martens, American mink, polecat, as well as wolves, foxes, stray dogs and cats, hooded crows, magpies and rooks outside the hunting season or in areas prohibited for hunting are issued by the **territorial bodies of the State Forest Resources Agency**.

Permits for wolves, foxes, stray dogs and cats, hooded crows, magpies and rooks, as well as for selective and diagnostic shooting of game animals for veterinary and sanitary examination within territories and objects of the Nature Reserve Fund, are issued by regional, Kyiv and Sevastopol city state administrations and by the executive authority of the Autonomous Republic of Crimea for environmental protection.

Permits for game birds, wild rabbit, brown hare, raccoon dog, wolf and fox, as well as stray dogs and cats, hooded crows, magpies and rooks (during hunting for other game species), are issued by hunting ground users.

Permits for the use of natural resources of local significance are issued by local councils in agreement with regional, Kyiv and Sevastopol city state administrations and the executive authority of the Autonomous Republic of Crimea for environmental protection, and, in the case of permits for the use of fauna resources, also in agreement with the territorial bodies of the **State Forest Resources Agency**.

The Resolution also approves Temporary fee rates for the special use of non-game animal species. It further defines the list of non-game animals (using the terminology of the instruction developed prior to the adoption of this Resolution). It is important to note that this list also includes certain species listed in Annex IV of the Habitats Directive and Annexes II and III of the Birds Directive.

The Resolution further provides that permits for such species are issued by the Ministry of Economy, subject to the submission of an application and a document confirming payment of the fee<sup>88</sup>.

<sup>88</sup> Resolution of the Cabinet of Ministers of Ukraine “On the procedure for issuing permits for the special use of natural resources within territories and objects of the Nature Reserve Fund and for establishing limits on the use of resources of national significance” of 10 August 1992 No. 459.

## **Instruction on the application of the procedure for establishing limits for the use of natural resources within territories and objects of the Nature Reserve Fund of national significance, approved by Order of the Ministry of Environmental Protection of Ukraine of 24 January 2008 No. 27**

This Instruction clearly establishes that limits for the use of natural resources within territories and objects of the Nature Reserve Fund of national significance are approved by the Ministry of Economy.

Key provisions:

The Instruction establishes a clear and extended list of documents to be submitted by an applicant for the approval of a limit, including:

- a draft limit in the prescribed form;
- a justification for the approval of the limit, agreed with the relevant scientific institutions, which must take into account the compliance of the type of use of the natural resource with the purpose, objectives and protection regime of the Nature Reserve Fund;
- a justification of the volumes of use that will not cause damage to protected natural complexes and will not lead to their degradation;
- a cartographic scheme of the areas of use;
- an extract from the decision of the scientific council of the Nature Reserve Fund institution (if such a council exists);
- information on the presence of plant and animal species listed in the Red Data Book of Ukraine, plant communities listed in the Green Data Book of Ukraine, the presence of primeval forests, quasi-primeval forests and natural forests, as well as plant and animal species and natural habitats protected under the **Convention on the Conservation of European Wildlife and Natural Habitats**

Copies of the approved limit are sent to the State Environmental Inspectorate and to the relevant regional, Kyiv or Sevastopol city state administration.

It is also important to note that applicants are required to submit a report on the use of resources to the Ministry of Economy by 1 February of the following year<sup>89</sup>.

<sup>89</sup> Instruction on the application of the procedure for establishing limits on the use of natural resources within territories and objects of the Nature Reserve Fund of national significance, approved by Order of the Ministry of Environmental Protection of Ukraine of 24 January 2008 No. 27 (registered with the Ministry of Justice of Ukraine on 12 February 2008 under No. 117/14808).

Table 2. Nature Reserve Fund (NRF)

No	Conditions of the Habitats and Birds Directives concerning derogations	Fully compliant	Partially compliant	Not compliant	Not regulated
1	Condition of absence of a satisfactory alternative			X	
2	Condition that no harm is caused to the conservation of the favourable conservation status of populations of the species concerned within their natural range		X		
3	Condition of the existence of exceptional circumstances	X			
4	Existence of an exhaustive list of grounds:	X			
4.1	for the protection of wild fauna and flora and the conservation of natural habitats	X			
4.2	to prevent serious damage, in particular to crops, livestock, forests, fisheries and waters, and other forms of property	X			
4.3	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 having beneficial consequences of primary importance for the environment; in the interests of air safety		X		
4.4	for research and educational purposes, as well as for repopulation, reintroduction and breeding necessary for such purposes, including the artificial propagation of plants	X			
4.5	existence of a condition allowing selective and limited taking or keeping of certain specimens of species listed in Annex IV, in limited numbers determined by the competent national authorities	X			
4.6	existence of an authorised national authority to exercise strict supervision over permits	X			
5	Existence of a reporting obligation	X			
6	Availability in reports of information on:				
6.1	the species subject to the derogation	X			
6.2	the reasons for the derogation, including the nature of the risk	X			
6.3	where appropriate, references to rejected alternatives and the scientific data used			X	
6.4	the means, devices or methods authorised for the capture or killing of animal species		X		
6.5	the reasons for the use of such means, devices or methods			X	
6.6	the circumstances under which such derogations are applied	X			
6.7	the authority empowered to verify compliance with the necessary conditions	X			
6.8	the supervisory measures applied and the results obtained	X			

As can be seen from the table and the review of legislation on the Nature Reserve Fund, such legislation formally contains most of the key elements characteristic of the derogation



system provided for by the Habitats and Birds Directives. The conditions under which the use of natural resources or activities within Nature Reserve Fund territories is permitted include the existence of exceptional grounds, a permitting procedure, and a designated competent authority empowered to carry out supervision and control, which formally corresponds to the provisions of the Directives. It is also provided that a permit may be issued only in cases of scientific, educational, conservation or economic expediency, where such activity does not violate the protection regime of the territory and does not harm the conservation of species and habitats. Accordingly, it may be noted that these provisions partially correspond to the requirements concerning the conservation of the favourable conservation status of populations and the need to verify the existence of exceptional circumstances.

At the same time, this system does not ensure compliance with two key principles of the Directives: the mandatory verification of the absence of a satisfactory alternative and the condition that the activity must not adversely affect the favourable conservation status of species. National legislation does not contain a procedure requiring the user to provide evidence of an analysis of alternative solutions (other locations, methods or timing of the activity), except for activities subject to environmental impact assessment.

It should also be noted that within the Nature Reserve Fund there is an established permit and reporting framework for the special use of natural resources within protected areas, with clearly designated competent authorities, headed by the Ministry. However, this mechanism is largely limited to recording the fact that a permit has been granted and to formal reporting, without a substantive analysis of the content of the permit or its impacts on species populations.

## Use of wild animals

The procedure for the use of wild animals is regulated by a number of regulatory legal acts of different legal force.

### Law of Ukraine “On the Fauna”:

- Defines the concept of “wild animals” as chordates, including vertebrates (mammals, birds, reptiles, amphibians, fish and others) and invertebrates (arthropods, molluscs, echinoderms and others), in all their species and population diversity and at all stages of development (embryos, eggs, pupae, etc.), which are in a state of natural freedom, kept in semi-free conditions or in captivity;
- Establishes the basic requirements and principles for the protection, rational use and reproduction of fauna, as well as the types of use of fauna objects;
- Defines the list of state authorities responsible for management and regulation in the field of protection, use and reproduction of fauna, and their powers;

- Defines the concept of “special use of fauna objects”, which is carried out through the removal (taking, harvesting, etc.) of fauna objects from the natural environment:
  - a) In the course of hunting and fisheries management, with the granting of the right to use hunting grounds and fishery water bodies, on the basis of relevant permits and subject to the payment of a fee for the special use of fauna objects;
  - b) For scientific, cultural and educational, educational and aesthetic purposes, for the purpose of fauna reproduction, rescue, and regulation of wild animal populations in the interests of public health protection and prevention of damage to the natural environment, economic and other activities, without charging a fee for the special use of fauna objects;
- Establishes the procedure for the special use of natural resources in the course of hunting and fisheries management, which is carried out by granting enterprises, institutions, organisations and citizens the right to use hunting grounds and fishery water bodies, within the limits of environmental safety standards and limits for the taking of wild animals approved by the central executive authority responsible for the formulation of state policy in the field of environmental protection, on the basis of relevant permits for the use of fauna objects issued by the central executive authority implementing state policy in the field of environmental protection<sup>90</sup>.

## **Principles of special use of game animals, other game animals and non-game animals**

### **Law of Ukraine “On Hunting Management and Hunting”:**

- Regulates relations in the field of hunting management and hunting;
- Defines the following concepts:
  - “game animals” – wild mammals and birds that may be objects of hunting;
  - “taking permit” – a document (licence, shooting card, permit for selective, diagnostic or scientific shooting) granting the right to take (including capture) a wild animal (animals), as well as the right to use (transport, carry, store) hunting products;
  - “shooting quota” – the established number of game animals permitted to be taken by one hunter during a defined hunting period;
- Establishes the procedure for hunting game animals included in the State Hunting Fund:
  - for ungulates and fur-bearing animals – carried out in accordance with limits approved for the hunting season by the central executive authority

<sup>90</sup> Law of Ukraine “On the Animal World” of 13 December 2001 No. 2894-III.

responsible for the formulation of state agricultural policy, in agreement with the central executive authority responsible for the formulation of state policy in the field of environmental protection, upon submission by the central executive authority implementing state policy in the field of forestry and hunting management, on the basis of proposals from hunting ground users agreed with regional, Kyiv and Sevastopol city state administrations;

- for other game animals – regulated by shooting quotas established for the hunting season by the central executive authority responsible for the formulation of state policy in the field of environmental protection, in agreement with the central executive authority responsible for the formulation of state policy in the field of forestry and hunting management, upon submission by the central executive authority implementing state policy in the field of hunting management;
- the taking of game animals is carried out on the basis of a permit – a licence issued by the central executive authority implementing state policy in the field of forestry and hunting management, or a shooting card issued by the hunting ground user;
- on the basis of a permit, shooting (capture) of any game animal species may be carried out for the purposes of selective culling, veterinary and sanitary examination, or population regulation<sup>91</sup>.

### **Resolutions of the Cabinet of Ministers of Ukraine regulating relations in the field of special use of game and non-game animals**

- 1)** *Resolution of 10 August 1992 No. 459 “On the procedure for issuing permits for the special use of natural resources within territories and objects of the Nature Reserve Fund and for establishing limits for the use of resources of national significance”*

This act establishes separate procedures for setting limits for the use of game species and non-game species.

It provides that limits for the use of game species (bear, pine and stone martens, American mink, polecat, beaver, coypu, muskrat, marmot, squirrel) are approved by the Ministry of Environmental Protection (currently the Ministry of Economy, Environment and Agriculture of Ukraine, hereinafter – the Ministry of Economy) upon submission by the State Forest Resources Agency.

The use of other game animals is regulated by shooting quotas established for the hunting season by the Ministry of Environmental Protection (Ministry of Economy) jointly with the State Forest Resources Agency, upon submission by its territorial bodies in the Autonomous Republic of Crimea, regions, and the cities of Kyiv and Sevastopol.

<sup>91</sup> Law of Ukraine “On Hunting Management and Hunting” of 22 February 2000 No. 1478-III.

Limits for non-game species are also approved by the Ministry of Environmental Protection (Ministry of Economy) upon submission by regional state administrations, on the basis of scientific justifications.

The Ministry of Economy is authorised to issue permits for the use of non-game species in minor quantities without establishing limit<sup>92</sup>.

**2) Resolution of 25 January 1996 No. 123 “On Temporary Fee Rates for the Special Use of Wild Animals (except for game animals, fish stocks, and animal species listed in the Red Book of Ukraine)”**

This Resolution approves Temporary fee rates for the special use of non-game animal species. It also defines the list of non-game animals (using the terminology of the instruction developed prior to the adoption of this Resolution). It is important to note that this list also includes certain species listed in Annex IV of the Habitats Directive and Annexes II and III of the Birds Directive.

The Resolution further provides that permits for such species are issued by the Ministry of Economy upon submission of an application and a document confirming payment of the fee<sup>93</sup>.

**3) Order of the Ministry of Environmental Protection and Nuclear Safety of Ukraine of 26 May 1999 No. 116 “On approval of the Instruction on the application of the procedure for the use of wild animals classified as natural resources of national significance”**

This document details the procedure established by Resolution No. 459. It sets out in detail the steps required to obtain limits for the use of wild animals, separately for game species and non-game species.

It should be noted that the Instruction does not apply to the establishment of limits for the use of wild animals within territories and objects of the Nature Reserve Fund of national significance.

For game species, the simplified procedure may be divided into the following stages:

- 1.** Preparation: hunting ground users prepare draft limits on the basis of population counts.
- 2.** Approval: draft limits are agreed with the territorial bodies of the State Forest Resources Agency and regional state administrations.

<sup>92</sup> Resolution of the Cabinet of Ministers of Ukraine “On the procedure for issuing permits for the special use of natural resources within territories and objects of the Nature Reserve Fund and for establishing limits on the use of resources of national significance” of 10 August 1992 No. 459.

<sup>93</sup> Resolution of the Cabinet of Ministers of Ukraine “On approval of the Temporary procedure for charging fees for the special use of wild animals” of 25 January 1996 No. 123.

3. Submission: the agreed drafts are submitted to the Ministry of Economy through the State Forest Resources Agency.
4. Approval of limits: the Ministry of Economy approves the limits by an order agreed with the State Forest Resources Agency. The order is subject to registration with the Ministry of Justice.
5. Allocation: the approved limits are communicated to natural resource users.

For non-game species, a more simplified procedure applies and may be divided into the following stages:

1. Initiative: an enterprise or an individual (“the applicant”) commissions a scientific institution to prepare a draft limit and a scientific justification.
2. Submission: the materials are submitted to the Ministry of Economy through the regional state administration.
3. Approval: the Deputy Minister approves the limit by affixing the endorsement “APPROVED” to the document within one month.
4. Notification: the Ministry of Economy informs the applicant, the regional state administration and the State Environmental Inspectorate for the purposes of control<sup>94</sup>.

A general problem in the regulation of the use of wildlife objects is the absence of a single comprehensive regulatory act governing the procedure for issuing permits for the special use of wild animals, as well as the existence of multiple terms (wild animals, game animals, other game animals, non-game animals) without a clear definition of which specific species fall under each of these categories. This situation creates a certain degree of legal uncertainty and results in inconsistent application of the legislation and difficulties in monitoring and enforcement.

It should also be noted that, after the registration and official communication of limits for the use of game animals, the current legislation does not provide for a reporting procedure on harvested animal species. This is due to the repeal of Order of the State Statistics Service of Ukraine No. 158 of 8 June 2022 “On Approval of the State Statistical Observation Form No. 2-tp (Hunting) (annual) ‘Report on the Accounting, Harvesting and Breeding of Game Animals’”, which was declared invalid by Order of the State Statistics Service of Ukraine No. 228 of 28 June 2023. At present, the Ministry of Economy, together with the State Forest Resources Agency of Ukraine, is working on the development of Rules for the State Accounting of Game Animals and the volumes of their harvesting.

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<sup>94</sup> Order of the Ministry of Environmental Protection and Nuclear Safety of Ukraine of 26 May 1999 No. 116 “On approval of the Instruction on the application of the procedure for establishing limits on the use of wild animals classified as natural resources of national significance”.

Table 3. Hunting

No	Conditions under the Habitats Directive and the Birds Directive regarding derogations	Fully compliant	Partially compliant	Not compliant	Not regulated
1	Condition of the absence of a satisfactory alternative			X	
2	Condition that no harm is caused to the maintenance of a favourable conservation status of the populations of the species concerned within their natural range		X		
3	Condition concerning the existence of exceptional circumstances		X		
4.	Existence of an exhaustive list of grounds:		X		
4.1	in the interests of the protection of wild fauna and flora and the conservation of natural habitats		X		
4.2	to prevent serious damage, in particular to crops, livestock, forests, fisheries and water, and other types of property		X		
4.3	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 with beneficial consequences of primary importance for the environment; in the interests of air safety		X		
4.4	for research and education purposes, as well as for the purposes of population recovery, reintroduction and breeding necessary for such purposes, including the artificial propagation of plants		X		
4.5	existence of a condition allowing selective and limited taking or keeping of certain specimens of the species listed in Annex IV, in limited numbers specified by the competent national authorities		X		
4.6	existence of a competent national authority responsible for strict supervision of permits		X		
5	Existence of a reporting obligation			X*	
6	Availability of the following information in reports:				
6.1	species to which the derogation applies			X*	
6.2	reasons for the derogation, including the nature of the risk			X*	
6.3	where relevant, references to rejected alternatives and the scientific data used			X*	
6.4	means, devices or methods authorised for the capture or killing of animal species			X*	
6.5	reasons for the use of such means, devices or methods			X*	
6.6	circumstances under which such derogations are applied			X*	
6.7	authority responsible for verifying compliance with the required conditions			X*	
6.8	monitoring measures applied and results obtained			X*	

\*no valid regulatory legal act governing reporting is currently in force

As a conclusion, it should be emphasised that Ukrainian hunting legislation is, overall, the most distant from the logic of derogations embedded in the Habitats Directive and the Birds Directive. The compliance table demonstrates that almost all key conditions forming the basis of derogations lack a clearly articulated nature conservation objective within the hunting framework. The Ukrainian system is built around the concept of the “State Hunting Fund”, hunting seasons, limits and shooting quotas, that is, regular resource use,

whereas the EU Directives are based on the presumption of general species protection and allow only limited hunting and exceptional derogations under strict criteria.

The most significant gap with regard to species protected under the Habitats Directive, the Birds Directive and the Bern Convention concerns the condition of the absence of a satisfactory alternative. In the field of hunting, Ukrainian legislation does not impose any obligation to analyse alternatives, either for ordinary hunting or for situations where hunting or culling is used as a tool to prevent damage. Consequently, there is no requirement to demonstrate that damage to agriculture, forests or infrastructure cannot be prevented by other methods that are less harmful to biodiversity. Likewise, there is no substantive requirement to ensure that the activity does not adversely affect the favourable conservation status of populations.

The element in the Directives relating to the selectivity and limited nature of taking is formally replaced in hunting law by limits and shooting quotas; however, these instruments are not linked to the logic of derogations. They do not differentiate species according to their conservation status under EU law, do not establish stricter requirements for species that should correspond to the Annexes of the Directives (with the exception of species listed in the Red Data Book of Ukraine), and are not integrated with an assessment of favourable conservation status. While the existence of competent authorities (the Ministry of Economy and the State Forest Resources Agency) ensures administrative management of the hunting fund, it does not create a mechanism for strict environmental supervision over “exceptional” decisions, as such decisions are not legally distinguished as a separate category of derogations.

Finally, although a formal reporting obligation exists, the repeal of Order of the State Statistics Service of Ukraine No. 158 of 8 June 2022 means that a structured system of reporting and monitoring is currently absent.

Even in previous years, when this order was in force, it was not possible to obtain high-quality data sufficient for completing reports under the Bern Convention.

## Principles of special use of aquatic biological resources

### Law of Ukraine “On Fisheries, Industrial Fishing and Protection of Aquatic Biological Resources”

- defines the basic principles of activity and state regulation in the field of fisheries, as well as the conservation and sustainable use of aquatic biological resources;
- defines the following terms:
  - “aquatic biological resources (aquatic biological resources)” – a set of aquatic organisms (hydrobionts) whose life is impossible without being in water. Aquatic biological resources include freshwater, marine, anadromous and catadromous fish at all stages of development, cyclostomes, aquatic invertebrates, including molluscs, crustaceans,

worms, echinoderms, sponges, coelenterates, terrestrial invertebrates at the aquatic stage of development, algae and other aquatic plants;

- “limit for the special use of aquatic biological resources” – the volume of harvesting (catch) of specific species (groups of species) of aquatic biological resources in a relevant fishery water body (or its part), established for a calendar year for the purpose of sustainable use and prevention of exceeding the maximum level of depletion of aquatic biological resource stocks that are intensively exploited and/or characterised by an unfavourable status;

- determines the list of state authorities responsible for management and regulation in the field of fisheries and defines their powers;
- establishes that the use of aquatic biological resources occurring in a state of natural freedom is carried out under the regimes of general use and special use, and defines the following concept:

“special use of aquatic biological resources” – carried out through their harvesting (catch) from the natural environment (with the exception of recreational fishing in publicly accessible water bodies within the limits and volumes of free-of-charge catch). Special use includes industrial fishing, research catch, and recreational fishing in publicly accessible water bodies exceeding the established volumes of free-of-charge catch, and is carried out in accordance with the limits for the special use of aquatic biological resources approved by the central executive authority responsible for the formulation of state policy in the field of fisheries and fish processing industry;

- establishes the procedure for issuing permits for the special use of aquatic biological resources for the purposes of industrial fishing and research catch (except for aquatic biological resource species listed in the Red Data Book of Ukraine and aquatic biological resources within the territories and objects of the Nature Reserve Fund). Permits are issued by the central executive authority responsible for implementing state policy in the field of fisheries, in electronic form, free of charge, within two working days from the date of submission of the relevant application by a fisheries operator, following the conclusion of a contract granting the right to special use of aquatic biological resources in fishery water<sup>95</sup>.

### **Resolution of the Cabinet of Ministers of Ukraine of 22 December 2023 No. 1347 “Certain Issues of Special Use of Aquatic Biological Resources”**

This Resolution approves the Procedure for the Special Use of Aquatic Biological Resources.

<sup>95</sup> Law of Ukraine “On Fisheries, Commercial Fishing and Protection of Aquatic Biological Resources” of 8 July 2011 No. 3677-VI.

This Procedure establishes the allocation of limits for the special use of aquatic biological resources, which determine the maximum permissible volume of harvesting (catch) of aquatic biological resources for commercial purposes, based on an assessment of stock status, the impact of natural and anthropogenic factors, and historical catch data, in order to ensure their rational use and recovery, as well as limits for industrial fishing and limits for research catch. The latter are defined as separately allocated volumes (not exceeding 5% of the total limits) granted to scientific institutions for the purpose of conducting research, testing fishing gear or performing other scientific tasks; such limits are established on the basis of specific applications and scientific justifications and are not intended for commercial exploitation.

The Procedure also provides that the establishment of limits is carried out on the basis of scientific and biological justifications developed by scientific institutions under the authority of the State Agency for Fisheries of Ukraine, as well as by scientific institutions under the authority of the National Academy of Sciences of Ukraine or the National Academy of Agrarian Sciences of Ukraine, commissioned by the State Agency for Fisheries of Ukraine on a competitive basis.

Limits, as well as fishery water bodies (or their parts) in which aquatic biological resources may be harvested (caught), are approved by the Ministry of Economy of Ukraine<sup>96</sup>.

Table 4. Fish

No	Conditions under the Habitats Directive and the Birds Directive regarding derogations	Fully compliant	Partially compliant	Not compliant	Not regulated
1	Condition of the absence of a satisfactory alternative			X	
2	Condition that no harm is caused to the maintenance of a favourable conservation status of the populations of the species concerned within their natural range		X		
3	Condition concerning the existence of exceptional circumstances		X		
4.	Existence of an exhaustive list of grounds:		X		
4.1	in the interests of the protection of wild fauna and flora and the conservation of natural habitats			X	
4.2	to prevent serious damage, in particular to crops, livestock, forests, fisheries and water, and other types of property			X	
4.3	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 with beneficial consequences of primary importance for the environment			X	

<sup>96</sup> Resolution of the Cabinet of Ministers of Ukraine “Certain Issues of Special Use of Aquatic Biological Resources” of 22 December 2023 No. 1347.

No	Conditions under the Habitats Directive and the Birds Directive regarding derogations	Fully compliant	Partially compliant	Not compliant	Not regulated
4.4	for research and education purposes, as well as for the purposes of population recovery, reintroduction and breeding necessary for such purposes, including the artificial propagation of plants	X			
4.5	Existence of a condition allowing selective and limited taking or keeping of certain specimens of the species listed in Annex IV, in limited numbers specified by the competent national authorities	X			
4.6	Existence of a competent national authority responsible for strict supervision of permits	X			
5	Existence of a reporting obligation	X			
6	Availability of the following information in reports:				
6.1	species to which the derogation applies	X			
6.2	reasons for the derogation, including the nature of the risk		X		
6.3	where relevant, references to rejected alternatives and the scientific data used			X	
6.4	means, devices or methods authorised for the capture or killing of animal species	X			
6.5	reasons for the use of such means, devices or methods			X	
6.6	circumstances under which such derogations are applied	X			
6.7	authority responsible for verifying compliance with the required conditions	X			
6.8	monitoring measures applied and results obtained	X			

Thus, Ukrainian fisheries legislation formally contains a set of procedural and institutional elements, but it largely fails to cover the nature conservation requirements of the Habitats Directive, the Birds Directive and the Bern Convention. It should be noted that, with regard to the special use of aquatic biological resources, a designated competent authority exists, scientific and biological justifications are developed, limits are established, a reporting obligation is in place, and a minimum set of data to be included in reports is defined. Requirements relating to the existence of a competent authority, reporting, identification of the species subject to special use, authorised means and methods of capture, the circumstances under which a permit is applied, as well as supervisory functions and the recording of control results, appear to be fully or almost fully met. In addition, the law relatively clearly regulates special use for research purposes: the concept of research catch is defined, its volume is limited as a proportion of the overall limit, and a requirement for scientific justification is established.

At the same time, the core conditions of a derogation system are either effectively absent or only indirectly reflected in the legislation.

As in the previous regulatory blocks, fisheries legislation does not contain a requirement to verify the absence of a satisfactory alternative.

The condition relating to the avoidance of harm to the favourable conservation status of populations is assessed as only partially fulfilled, since Ukrainian regulation refers to concepts such as “rational use” and “stocks that are intensively exploited and/

or characterised by an unfavourable status”, but does not provide a legal definition of favourable conservation status or criteria for assessing whether established limits and permits adversely affect that status at the population level within the natural range. A similar situation applies to “exceptional circumstances” and the existence of an exhaustive list of grounds: the system of quotas and limits operates primarily with economic and fisheries-management categories rather than with defined and narrowly framed grounds for derogations, such as the protection of fauna and flora, prevention of serious damage, protection of public health, or overriding public interest. The only segment that corresponds to the list of grounds set out in the Directives concerns scientific and research catches; other potential grounds for derogations are not distinguished in fisheries legislation.

It can also be concluded that reporting in this sector functions primarily as an element of general catch statistics. Reports contain information on species, volumes, fishing gear and certain circumstances of fishing activities, and there is an authority responsible for supervision and recording the results of control. However, there is no requirement to report on the assessment of alternative solutions, the scientific data underpinning the decision to grant a derogation, or other key elements required under the EU derogation framework.

## Principles of special use of objects of the plant world

### Law of Ukraine “On the Plant World”

- establishes that “special use of natural plant resources” is carried out on the basis of a permit by legal entities or individuals to meet their production and scientific needs, as well as for the purpose of generating profit from the sale of such resources or products of their processing;
- establishes a non-exhaustive list of types of special use of natural plant resources, including:
  - collection of medicinal plants;
  - harvesting of timber during final felling;
  - harvesting of resin;
  - harvesting of bark, bast, forest greenery, tree sap, etc.;
  - collection of flowers, berries, fruits, nuts, seeds, mushrooms, forest litter, reeds, etc.;
  - haymaking;
  - grazing of livestock;
- determines that special use of natural plant resources of national significance is carried out on the basis of a permit issued in accordance with a procedure established by the Cabinet of Ministers of Ukraine;

- determines that special use of natural plant resources of local significance is carried out on the basis of a permit issued in accordance with a procedure established by the Verkhovna Rada of the Autonomous Republic of Crimea and by local self-government bodies;
- establishes that landowners on whose land objects of the plant world are located, except for those listed in the Red Data Book of Ukraine and the Green Data Book of Ukraine, as well as land users (including tenants) to whom land plots are granted for their designated purpose (peasant (farm) farming, personal subsidiary farming, collective gardening, vegetable gardening, haymaking, grazing of livestock), do not require a permit for special use of natural plant resources, with the exception of the use of wild vascular plants, bryophytes, algae, lichens and fungi whose species are listed in the Red Data Book of Ukraine, as well as natural plant communities listed in the Green Data Book of Ukraine;
- provides that the form of the permit for special use of natural plant resources is established by the Cabinet of Ministers of Ukraine;
- establishes that permits for the special use of natural plant resources are issued within the limits of their use<sup>97</sup>.

### **Resolution of the Cabinet of Ministers of Ukraine**

As of now, the Procedure referred to in Article 10 of the Law has not been developed.

### **Instruction on the Procedure for Establishing Standards for the Special Use of Natural Plant Resources, approved by Order of the Ministry of Ecology and Natural Resources of Ukraine of 12 February 2002 No. 61**

The only developed document regulating certain aspects of the special use of natural plant resources is the Instruction on the procedure for establishing standards for the special use of natural plant resources, approved by Order of the Ministry of Ecology and Natural Resources of Ukraine of 12 February 2002 No. 61.

This Instruction does not establish a procedure for granting limits as such, but instead provides for the stages of obtaining Standards, which serve as the scientific basis for the approval of limits.

It should be noted that the scope of application of this Instruction does not extend to: special use of natural plant resources within the forest fund and the Nature Reserve Fund of Ukraine; special use of natural plant resources through haymaking and grazing of livestock; special use of natural plant resources of species of vascular plants, bryophytes, algae, lichens and fungi listed in the Red Data Book of Ukraine, as well as plant communities listed in the Green Data Book of Ukraine.

<sup>97</sup> Law of Ukraine “On the Plant World” of 9 April 1999 No. 591-XIV.

The establishment of Standards may be divided into the following stages:

**1. Assessment of the state of natural plant resources (inventory):**

the first stage involves an assessment of the state of natural plant resources (inventory) of raw material plant species, carried out in a specific territory with the determination of biological stock, exploitable stock and the volume of permissible annual use, by competent scientific institutions once every five years.

**2. Standards:**

based on the materials of such assessment, the Ministry of Economy of Ukraine approves Standards for the special use of natural plant resources of local and national significance. These Standards constitute the scientific basis for the preparation of limits for the special use of natural plant resources of national and local significance.

**3. Submission of materials for local-level Standards:**

for the establishment of Standards for the special use of natural plant resources of local significance, regional state administrations and the Kyiv and Sevastopol city state administrations submit draft Standards and resource inventory materials to the Ministry of Economy of Ukraine one year prior to the establishment of the Standards.

In practice, it can be noted that such inventories are carried out to a limited extent, which renders the process of establishing limits non-transparent and insufficiently scientifically substantiated.

The Instruction also provides, in paragraph 11, that limits for the special use of natural plant resources of national and local significance may not be established without Standards approved by the Ministry of Economy of Ukraine.

Compliance with the approved Standards is supervised by the Ministry of Economy of Ukraine and by regional, Kyiv and Sevastopol city state administrations.

No instruction or other regulatory legal act establishing a procedure for granting limits for the special use of natural plant resources of national significance has been approved<sup>98</sup>.

By way of example, reference may be made to the decision of the Zakarpattia Regional Council of 28 May 2015 No. 1262 “On the Procedure for Establishing Limits for the Special Use of Natural Plant Resources of Local Significance in Zakarpattia Region”, as amended on 27 July 2017 by Decision No. 853. This act provides that the relevant Department processes materials on the volumes of use of natural plant resources of local significance and prepares a draft order of

<sup>98</sup> Order of the Ministry of Ecology and Natural Resources of Ukraine of 12 February 2002 No. 61 “On Approval of the Instruction on the Procedure for Establishing Standards for the Special Use of Natural Plant Resources.”

the Head of the Regional State Administration on the establishment of limits for the special use of natural plant resources of local significance for the current year.

The Procedure also provides that local councils submit reports on the use of plant resources in accordance with the approved limits to district state administrations. District state administrations, in turn, submit consolidated materials to the Department of Economic Development and Trade of the Regional State Administration. The Department further consolidates data on the volumes of use of plant resources and communicates this information to the Regional State Administration and the State Environmental Inspectorate in Zakarpattia Region<sup>99</sup>.

Table 5. Plants

No	Conditions under the Habitats Directive and the Birds Directive regarding derogations	Fully compliant	Partially compliant	Not compliant	Not regulated
1	Condition of the absence of a satisfactory alternative			X	
2	Condition that no harm is caused to the maintenance of a favourable conservation status of the populations of the species concerned within their natural range		X		
3	Condition concerning the existence of exceptional circumstances		X		
4	Existence of an exhaustive list of grounds:		X		
4.1	in the interests of the protection of wild fauna and flora and the conservation of natural habitats		X		
4.2	to prevent serious damage, in particular to crops, livestock, forests, fisheries and water, and other types of property		X		
4.3	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 with beneficial consequences of primary importance for the environment		X		
4.4	for research and education purposes, as well as for the purposes of population recovery, reintroduction and breeding necessary for such purposes, including the artificial propagation of plants	X			
4.5	Existence of a condition allowing selective and limited taking or keeping of certain specimens of the species listed in Annex IV, in limited numbers specified by the competent national authorities	?*			
4.5	Existence of a competent national authority responsible for strict supervision of permits	X			
5	Existence of a reporting obligation			X*	
6	Availability of the following information in reports:				
6.1	species to which the derogation applies				
6.2	reasons for the derogation, including the nature of the risk			X*	
6.3	where relevant, references to rejected alternatives and the scientific data used			X*	

<sup>99</sup> Decision of the Zakarpattia Regional Council of 28 May 2015 No. 1262 “On the Procedure for Establishing Limits for the Special Use of Natural Plant Resources of Local Significance in Zakarpattia Region” (as amended by Decision No. 853 of 27 July 2017).

No	Conditions under the Habitats Directive and the Birds Directive regarding derogations	Fully compliant	Partially compliant	Not compliant	Not regulated
6.4	means, devices or methods authorised for the capture or killing of animal species			X*	
6.5	reasons for the use of such means, devices or methods			X*	
6.6	circumstances under which such derogations are applied			X*	
6.7	authority responsible for verifying compliance with the required conditions			X*	
6.8	monitoring measures applied and results obtained			X*	

\* compliant subject to the adoption of a procedure; currently, no regulatory legal act governing permits, limits and related reporting is in force

The above information indicates that Ukrainian legislation on the plant world is only partially aligned with the requirements of the Habitats Directive, the Birds Directive and the Bern Convention. Elements that may be considered relatively close to the requirements of the Directives include the existence of a competent authority vested with powers to issue permits and exercise control, as well as a formal requirement for a scientific basis for establishing standards of use, which are intended to serve as the basis for setting limits. To a certain extent, the scientific foundations of special use — specifically, the conduct of resource inventories, the development of standards and the involvement of scientific institutions in this process — partially correspond to the Directive element of selective and limited taking.

The law also provides for the possibility of special use for scientific, educational or restoration purposes, which to some degree reflects one of the grounds for derogations defined in the Directives. At the same time, the existence of these provisions does not create an actual mechanism for strict exceptional permits, as they operate within the general logic of access to plant resources rather than within a framework of restricting use for the purpose of protecting species or natural habitats.

The main gaps relate to the substantive conditions that constitute the core of the EU derogation regime. First and foremost, the condition requiring verification of the absence of a satisfactory alternative is entirely absent. Likewise, the requirement to ensure that no harm is caused to the favourable conservation status of the populations of the species concerned or of natural habitats remains unregulated. The Law on the Plant World operates with the concepts of “rational use” and “permissible volumes of use”, but does not provide a legal definition of favourable conservation status and does not establish criteria for assessing the impact of use on the status of populations.


Significant shortcomings also concern the procedure for establishing limits. Although, formally, the 2002 Instruction provides for resource inventories, the establishment of standards and the subsequent setting of limits on their basis, there is no regulatory legal act establishing the procedure for approving limits for the special use of plant resources of national significance. This means that, in practice, the system does not function at all.

As regards reporting, the legislation contains only a general obligation to submit information on the use of plant resources, but there is no approved procedure defining the form, content and deadlines for reporting, nor a mandatory list of data that must be included in such reports.

# APPLICATION OF THE DEROGATION SYSTEM IN THE CZECH REPUBLIC AND UKRAINE

In order to understand how the derogation system is applied in practice, a structure has been developed to demonstrate examples of derogations. Based on this structure, a number of examples of derogations in the Czech Republic have been prepared and, for comparison, analogous derogations have been outlined as they would be applied in Ukraine under the legislation currently in force.

## PRACTICAL EXAMPLES

***Bombina variegata*** (yellow-bellied toad), Czech Republic 

1. Existence of a specific administration procedure for granting derogations.

**Yes**

2. Existence of designated competent authorities responsible for granting derogations.

**The authority granting the derogation is Agentura ochrany přírody a krajiny ČR (AOPK ČR - NCA CR), Regional Office of the Beskydy PLA Administration (RP SCHKO Beskydy).**

3. Location of the derogation must be clear.

**The location of the derogation is in the Beskydy Protected Landscape Area, Czech Republic.**

4. Conditions for granting derogations (in line with those set out in the Birds Directive, and the Habitats Directive).

**Article 16 (b) Habitats Directive: to prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property.**

5. Main activity covered by the derogation (from articles 12-15 Habitats directive, Bird Directive).

**Article 12 Habitats Directive: (d) deterioration or destruction of breeding sites or resting places.**

6. Type of activity requiring a derogation.

**Reconstruction of a 700-m section of an existing forest road currently in poor technical condition.**

7. Duration of the derogation and other requirements attached to it (e.g. offset measures).

**The decision includes strictly supervised conditions: work to be done only between 15 September and 15 March, a biological supervisor must be present**

**throughout, and any observations of yellow-bellied toads (and other fauna) must be documented with date, counts, and precise location (preferably in a detailed plan from the construction project documentation) and entered into the national nature-conservation database.**

8. Whether the derogation specifies the number of individuals of species (flora/fauna), their breeding/resting sites, or the extent of habitat concerned.

**The derogation does not specify the number of individuals, but specify the number of breeding sites (2) and resting sites (2).**

9. Requirement to obtain specific permits for capture/temporary capture/relocation in the course of implementing the derogation. If so:

**No**

- a. name of the permit; -
- b. competent authority issuing it; -
- c. timeframe for issuing the permit. -

10. Check and supervision mechanisms for the implementation of the derogation.

**Yes**

11. Reporting obligations on the execution of the derogation

**Yes**

12. Availability and completeness of data for reporting

**Yes**

***Bombina variegata*** (yellow-bellied toad), Ukraine



**Construction of a road across a small pond inhabited by *Bombina variegata* (Appendix II), a rare frog species listed in the Red Book of Ukraine**

**Road construction is not subject to environmental impact assessment (EIA)**

1. Existence of a specific administration procedure for granting derogations:

**No**

2. Existence of designated competent authorities responsible for granting derogations:

**No**

3. Location of the derogation (linked to 2 – competent is the authority based on location of the intervention requiring derogation).

**Forest road located on the territory of the Regional Landscape Park**

4. Conditions for granting derogations (in line with those set out in the Bern Convention, the Birds Directive, and the Habitats Directive. For EU, only the latter two are relevant – if BC requirements are “weaker”, one must use those of Nature Directives).

**In the interests of public health and safety, air safety or other overriding public interests.**

5. Main activity covered by the derogation (from article 12-15 Habitats Directive, Bird Directive, article 4-7 Bern Convention)

**Article 12 Habitats Directive: (d) deterioration or destruction of breeding sites or resting places;**

**Article 6 Bern Convention: (b) the deliberate damage to or destruction of breeding or resting sites.**

6. Type of activity requiring a derogation.

**Reconstruction of the existing forest road**

7. Duration of the derogation and other requirements attached to it (e.g. offset measures).

**Requirements absent.**

8. Whether the derogation specifies the number of individuals of species (flora/fauna), their breeding/resting sites, or the extent of habitat concerned.

**No**

9. Requirement to obtain specific permits for capture/temporary capture/relocation in the course of implementing the derogation.

**Most likely, there is no need to obtain such a permit, since animal relocation measures will not be provided for in the project documentation.**

If so:

- a. name of the permit: **permit for reproduction of the population species listed in the Red Book of Ukraine;**
- b. competent authority issuing it: **Ministry of Economy, Environment and Agriculture of Ukraine;**
- c. timeframe for issuing the permit: **2 months (or more, depending on when the National Commission on the Red Book of Ukraine provides its conclusion).**

***Note:** The problem is that, according to the Law of Ukraine “On the Red Book of Ukraine,” a permit for the special use of frogs can only be issued in exceptional cases for scientific and breeding purposes, including for reproduction, resettlement, and breeding in artificially created conditions and for reproduction of the population. The law does not provide for the issuance of permits for the resettlement of animals due to construction.*

*No permits for the special use of animal species listed in the Red Book of Ukraine were issued in connection with the construction, including because no applications were submitted for them.*

*That is, permission must be obtained for breeding purposes.*

10. Check and supervision mechanisms for the implementation of the derogation.

**No, however, the territorial body of the State Environmental Inspection of Ukraine exercises control over the use of the permit.**

11. Reporting obligations on the execution of the derogation.

**No, however, after the expiration date, the permit, along with a report on its use, is returned to the Ministry.**

12. Availability and completeness of data for reporting.

**No, only data specified in the report on the use of the permit and acts on the extraction of animals.**

**In practice, such permits are not requested and are not issued, and work is carried out without the specified permit.**

**Note about other procedures available (not EIA):** *state building standards DBN V.2.3-4:2015 Motorways. Part I. Design. Part II. include a section entitled «Environmental Protection». Roads and road sections that affect the territories and objects of the Ukrainian nature reserve fund (NRF), the territories of populations and migration routes of wild animals listed in the Red Book of Ukraine belong to the first ecological class of roads (out of three classes).*

*In accordance with industry building standards GBN V.2.3-218-007:2012, when developing design solutions, official information from authorized bodies on plant life, rare species of wild animals listed in the Red Book of Ukraine, as well as industrial and valuable fish species whose habitats or migration routes are located within the right-of-way of the motorway.*

*In the event of expected negative impacts on flora and fauna, environmental protection measures shall be implemented:*

- *at the intersection of wild animal migration routes with motorways with traffic intensity (20-year perspective) of more than 10,000 vehicles/day, it is recommended to install wildlife crossings and fences with a height of 2 m to 2.5 m and a length of at least 0.5 km on both sides of the animal migration route;*
- *prevent even the slightest changes in water flow conditions and ensure a flow velocity within artificial structures that is favorable for the passage of fish and other aquatic living resources by providing sufficiently large openings.*

## Specific example: when the road construction is subject to an environmental impact assessment (EIA)

**Note:** an EIA is conducted if the following types of roads are planned to be built:

- *motorways;*
- *public roads of national and local importance with four or more lanes, or the reconstruction and/or expansion of existing lanes to four or more, provided that they are continuous for 10 kilometers or more;*
- *first category motorways.*

1. Existence of a specific administration procedure for granting derogations.

### No

2. Existence of designated competent authorities responsible for granting derogations.

**No. EIA conducts Ministry of Economy, Environment and Agriculture of Ukraine.**

3. Location of the derogation (linked to 2 – competent is the authority based on location of the intervention requiring derogation).

**Forest road located on the territory of the Regional Landscape Park somewhere.**

4. Conditions for granting derogations (in line with those set out in the Bern Convention, the Birds Directive, and the Habitats Directive. For EU, only the latter two are relevant – if BC requirements are “weaker”, one must use those of Nature Directives).

**The Bern Convention: in the interests of public health and safety, air safety or other overriding public interests.**

**Habitats Directive 16 (b) to prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property.**

5. Main activity covered by the derogation (from article 12-15 Habitats Directive, Birds Directive, article 4-7 Bern Convention):

**The deliberate damage to or destruction of breeding or resting sites (6 (b) Bern Convention).**

**Deliberate deterioration or destruction of breeding sites or resting places (12 (d) Habitat Directive).**

6. Type of activity requiring a derogation.

**Reconstruction of the existing public road.**

7. Duration of the derogation and other requirements attached to it (e.g. measures to eliminate the negative consequences of the derogation).

**For example 2 years. Requirements may be determined based on the results of the EIA in the event of providing a conclusion from the EIA on the admissibility of the planned activity subject to compliance with the environmental conditions for its implementation.**

8. Whether the derogation specifies the number of individuals of species (flora/fauna), their breeding/resting sites, or the extent of habitat concerned.

**The legislation does not require this information. At the same time the EIA Conclusion could include the requirements on record of the animal and their habitat.**

9. Requirement to obtain specific permits for capture/temporary capture/relocation in the course of implementing the derogation.

**If the conclusion of the EIA or project documentation provides for a measure to relocate the frog.**

If so:

- a. name of the permit: **permit for the extraction (collection) of animal and plant species listed in the Red Book of Ukraine;**
- b. competent authority issuing it: **Ministry of Economy, Environment and Agriculture of Ukraine;**
- c. timeframe for issuing the permit: **2 months (or more, depending on when the National Commission on the Red Book of Ukraine provides its conclusion).**

***Note:** The problem is that, according to the Law of Ukraine “On the Red Book of Ukraine,” a permit for the special use of frogs can only be issued in exceptional cases for scientific and breeding purposes, including for reproduction, resettlement, and breeding in artificially created conditions and for reproduction of the population. The law does not provide for the issuance of permits for the resettlement of animals due to construction.*

*No permits for the special use of animal species listed in the Red Book of Ukraine were issued in connection with the construction, including because no applications were submitted for them.*

*That is, permission must be obtained for breeding purposes.*

10. Control mechanisms for the implementation of the derogation.

**Post-project monitoring. The territorial body of the State Environmental Inspection of Ukraine shall exercise control over the use of the permit.**

11. Reporting obligations on the execution of the derogation.

**No. The conclusion of the EIA may establish the obligation to submit a post-project monitoring report; upon expiration, the permit shall be returned to the Ministry of Economy with a report on its use.**

12. Availability and completeness of data for reporting.

**No. However, some data may be collected during post-project monitoring, if this is provided for in the EIA conclusion; data specified in the report on the use of the permit and acts on the capture of animals.**

## **Castor fiber** (Beaver), Czech Republic

1. Existence of a specific administration procedure for granting derogations.

**Yes**

2. Existence of designated competent authorities responsible for granting derogations.

**The authority granting the derogation is the Nature Conservation Agency of the Czech Republic (AOPK ČR), Regional Office of the Český les PLA Administration (RP SCHKO Český les).**

3. Location of the derogation must be clear.

**The location of the derogation is in the Český les Protected Landscape Area, Czech Republic, at parcel no. 272/51 in the cadastral territory of Jindřichova Hora on the Černý Stream**

4. Conditions for granting derogations (in line with those set out in the Birds Directive, and the Habitats Directive).

**Article 16 Habitats Directive: (a) in the interest of protecting wild fauna and flora and conserving natural habitats;**

5. Main activity covered by the derogation (from articles 12-15 Habitats Directive, Bird Directive)

**Article 12 Habitats Directive: (d) deterioration or destruction of breeding sites or resting places.**

6. Type of activity requiring a derogation.

**The main activity authorized is the removal of beaver dams, which had been causing flooding of the habitat of the scarce large blue butterfly (*Phengaris nausithous*), a species of community importance. Flooding would lead to the extinction of the local butterfly population, as the site is managed annually by mowing to preserve its ecological value.**

7. Duration of the derogation and other requirements attached to it (e.g. offset measures).

**The decision includes conditions: dam removal may only take place between 15 March–15 April or 1 August–31 October each year. The applicant must notify the administration at least four days before work starts. An annual report on implementation must be submitted.**

**The derogation is valid until 31 December 2026.**

8. Whether the derogation specifies the number of individuals of species (flora/fauna), their breeding/resting sites, or the extent of habitat concerned.

**Only one beaver resting site was affected.**

9. Requirement to obtain specific permits for capture/temporary capture/relocation in the course of implementing the derogation. If so:

**No**

- a. name of the permit: -
- b. competent authority issuing it: -
- c. timeframe for issuing the permit: -

10. Check and supervision mechanisms for the implementation of the derogation.

**Yes**

11. Reporting obligations on the execution of the derogation.

**Yes**

12. Availability and completeness of data for reporting

**Yes**

### ***Castor fiber*** (Beaver), Ukraine



#### **Beaver: removal of beaver dams**

1. Existence of a specific administration procedure for granting derogations.

**No**

2. Existence of designated competent authorities responsible for granting derogations:

**No**

3. Location of the derogation (linked to 2 – competent is the authority based on location of the intervention requiring derogation).

**Protected area (nature reserve fund (NRF) site) in a forest area.**

4. Conditions for granting derogations (in line with those set out in the Bern Convention, the Birds Directive, and the Habitats Directive. For EU, only the latter two are relevant – if BC requirements are “weaker”, you must use those of Nature Directives).

**Article 16 Habitats Directive: (a) in the interest of protecting wild fauna and flora and conserving natural habitats.**

**Article 9 The Bern Convention: for the protection of flora and fauna.**

5. Main activity covered by the derogation (from article 12-15 Habitat Directive, Bird Directive, article 4-7 Bern convention).

**Article 12 Habitats Directive: (d) deterioration or destruction of breeding sites or resting places;**

## **Article 6 Bern Convention: (b) the deliberate damage to or destruction of breeding or resting sites.**

6. Type of activity requiring a derogation.

### **Removal of beaver dams.**

7. Duration of the derogation and other requirements attached to it (e.g. measures to eliminate the negative consequences of the derogation).

### **Depending on the category and zone of the protected area (NRF site), such activity may be prohibited or not prohibited.**

8. Whether the derogation specifies the number of individuals of species (flora/fauna), their breeding/resting sites, or the extent of habitat concerned.

### **Within the protected areas (NRF), this is determined by the limit for the use of natural resources within the relevant NRF site.**

9. Requirement to obtain specific permits for capture/temporary capture/relocation in the course of implementing the derogation. If so:

#### **No**

- a. name of the permit: -
  - b. competent authority issuing it: -
  - c. timeframe for issuing the permit: -
10. Control mechanisms for the implementation of the derogation:

### **No, but the State Environmental Inspectorate of Ukraine monitors compliance with protected areas (NRF) legislation.**

11. Reporting obligations on the execution of the derogation:

#### **No**

12. Availability and completeness of data for reporting:

#### **No.**

**In practice, applications for such limits have not been submitted and such limits have not been approved; at the same time, there is a likelihood that such measures are carried out without obtaining the relevant permits and limits.**

**Notes:** *there is no special permit for derogations in Ukraine.*

*According to Article 3 of the Law of Ukraine "On Fauna," beaver lodges and beaver dams are classified as objects of the animal world. Under Article 17 of this Law, special use of objects of the animal world includes all types of use of the animal world (except for cases of non-commercial recreational and sport fishing free of charge in public water bodies provided by legislation) that are carried out by removing such objects from the natural environment (including taking, harvesting/*

*collecting, and other similar actions). Therefore, the destruction of a beaver dam should be regarded as the special use of an object of the animal world.*

*Within protected areas (NRF territories and sites), the special use of natural resources is carried out within the limits for the use of natural resources within the protected areas (NRF) and on the basis of permits for the special use of natural resources within the protected areas (NRF).*

*At the same time, Article 20 of the Law of Ukraine “On the Protection of Animals from Brutal Treatment” prohibits ploughing up or otherwise damaging or eliminating the natural dwellings of wild animals (burrows, lairs, nests, etc.). Therefore, implementing a derogation for the removal of a beaver dam is impossible.*

### ***Parnassius apollo*** (Apollo Butterfly), Czech Republic



1. Existence of a specific administration procedure for granting derogations.

**Yes**

2. Existence of designated competent authorities responsible for granting derogations.

**The authority granting the derogation is AOPK ČR, Regional Office of the Poodří PLA Administration.**

3. Location of the derogation must be clear.

**The location of the derogation is in the Poodří Protected Landscape Area, Czech Republic, specifically the National Nature Monument Šipka and its buffer zone in Štramberk.**

4. Conditions for granting derogations (in line with those set out in the Birds Directive, and the Habitats Directive).

**Article 16 (d) Habitats Directive: for the purpose of research and education, of repopulating and re-introducing these species and for the breedings operations necessary for these purposes, including the artificial propagation of plants.**

5. Main activity covered by the derogation (from articles 12-15 Habitats directive, Bird Directive)

**Article 12 (a) Habitats Directive: all forms of deliberate capture or killing of specimens of these species in the wild.**

6. Type of activity requiring a derogation.

**The derogation allows short-term capture of male butterflies using a modified mark–recapture method. Individuals are briefly captured, marked with a pen on their hind wings, and released unharmed. This method is minimally invasive and does not negatively affect the species’ conservation status.**

7. Duration of the derogation and other requirements attached to it (e.g. offset measures).

**The derogation was valid from 1 May to 31 December 2021, with results reported until August 2022.**

8. Whether the derogation specifies the number of individuals of species (flora/fauna), their breeding/resting sites, or the extent of habitat concerned.

**No figure could be provided in advance for the number of individuals to be captured, but in practice, 234 males were captured and marked (89 in 2021 and 145 in 2022).**

9. Requirement to obtain specific permits for capture/temporary capture/relocation in the course of implementing the derogation. If so:

**No**

- a. name of the permit: -
- b. competent authority issuing it: -
- c. timeframe for issuing the permit: -

10. Check and supervision mechanisms for the implementation of the derogation.

**Yes**

11. Reporting obligations on the execution of the derogation.

**Yes. The decision requires that all collected data be submitted annually to the PLA administration.**

12. Availability and completeness of data for reporting

**Yes**

***Parnassius apollo*** (Apollo Butterfly), Ukraine



**Apollo butterfly, listed in the Red Book of Ukraine: short-term capture of male butterflies and return to the natural environment with the possibility of recapture.**

1. Existence of a specific administration procedure for granting derogations.

**No**

2. Existence of designated competent authorities responsible for granting derogations.

**No**

3. Location of the derogation (linked to 2 – competent is the authority based on location of the intervention requiring derogation).

**Protected area (NRF site) of national importance.**

4. Conditions for granting derogations (in line with those set out in the Bern Convention, the Birds Directive, and the Habitats Directive. For EU, only the latter

two are relevant – if BC requirements are “weaker”, you must use those of Nature Directives):

**Article 16 (d) Habitats Directive: for the purpose of research and education, of repopulating and re-introducing these species and for the breeding operations necessary for these purposes, including the artificial propagation of plants;**

**Article 9 Bern Convention: for the purposes of research and education, of repopulation, of reintroduction and for the necessary breeding.**

5. Main activity covered by the derogation (from article 12-15 Habitat directive, Bird Directive, article 4-7 Bern convention):

**Article 12 (a) Habitats Directive: all forms of deliberate capture or killing of specimens of these species in the wild;**

**Article 6(a) Bern Convention: all forms of deliberate capture and keeping and deliberate killing.**

6. Type of activity requiring a derogation:

**Short-term capture of male butterflies using a modified tagging method and recapture with return to the wild unharmed.**

7. Duration of the derogation and other requirements attached to it (e.g. measures to eliminate the negative consequences of the derogation):

**Is specified in the permit for the taking (collecting) of animals and plants listed in the Red Book of Ukraine.**

8. Whether the derogation specifies the number of individuals of species (flora/fauna), their breeding/resting sites, or the extent of habitat concerned:

**Is defined in the permit for the taking (harvesting/collecting) of animals and plants listed in the Red Book of Ukraine**

9. Requirement to obtain specific permits for capture/temporary capture/relocation in the course of implementing the derogation. If so:

**Are determined by the Instruction on the Procedure for Issuing Permits for the Taking (Collecting) of Animal and Plant Species Listed in the Red Book of Ukraine.**

- a. name of the permit: **permit for the taking (collecting) of animals and plants listed in the Red Book of Ukraine;**
- b. competent authority issuing it: **Ministry Economy, Environment and Agriculture of Ukraine;**
- c. timeframe for issuing the permit: **2 months or more (depends on when the National Commission on the Red Book of Ukraine issues its conclusion).**
10. Control mechanisms for the implementation of the derogation:  
**No, but the territorial body of the State Environmental Inspectorate of Ukraine**

## monitors the use of the permit.

11. Reporting obligations on the execution of the derogation:

**No, but after the permit expires, it is returned to the Ministry together with a report on its use.**

12. Availability and completeness of data for reporting:

**no, only the data specified in the report on the use of the permit and the acts (documents) documenting the taking of animals.**

### *Microchiroptera* (Bats), Czech Republic

1. Existence of a specific administration procedure for granting derogations.

**Yes**

2. Existence of designated competent authorities responsible for granting derogations.

**The authority granting the derogation is the Regional Authority of the Liberec Region, Department of Environment and Agriculture (Krajský úřad Libereckého kraje, odbor ochrany životního prostředí a zemědělství).**

3. Location of the derogation must be clear.

**The location of the derogation is in Liberec, Czech Republic, at the building of the Liberec Printing House in Kristiánov.**

4. Conditions for granting derogations (in line with those set out in the Birds Directive, and the Habitats Directive).

**Article 16 (c) Habitats 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 specific justification was the demolition of the old printing house to enable the construction of new residential buildings.**

5. Main activity covered by the derogation (from articles 12-15 Habitats directive, Bird Directive)

**Article Habitats Directive 12 (d): deterioration or destruction of breeding sites or resting places.**

6. Type of activity requiring a derogation.

**The activity authorized is the demolition of a technically degraded and uninhabited building, used only by synanthropic bat species.**

7. Duration of the derogation and other requirements attached to it (e.g. offset measures).

**The derogation was valid from 23 January to 31 December 2021.**

**Exemption valid until October 30, 2023.**

**The application of the derogation was subject to strictly supervised conditions, in particular time restrictions to minimize risks for bats. The site was inspected prior to granting the derogation.**

**It was granted on a selective basis, since it applied only to the demolition of buildings. The derogation concerned only a small, limited number of individuals, affecting a local part of the population. Killing of individuals was not permitted, but it could not be completely excluded due to the demolition process.**

8. Whether the derogation specifies the number of individuals of species (flora/fauna), their breeding/resting sites, or the extent of habitat concerned.

**The number of affected individuals could not be determined. One building was demolished, so it can be said that one breeding/resting site was affected.**

9. Requirement to obtain specific permits for capture/temporary capture/relocation in the course of implementing the derogation. If so:

**No, the demolition took place during a period when bats are not present here.**

- a. name of the permit: -
- b. competent authority issuing it: -
- c. timeframe for issuing the permit: -

10. Check and supervision mechanisms for the implementation of the derogation.

**Probably no, check performed before granting an exemption**

11. Reporting obligations on the execution of the derogation.

**Yes**

12. Availability and completeness of data for reporting

**Yes**

### ***Microchiroptera*** (Bats), Ukraine



**Bats (all bat species in Ukraine are listed in the Red Book of Ukraine).**

**Demolition of a building and the construction of a residential house are not subject to environmental impact assessment (EIA).**

1. Existence of a specific administration procedure for granting derogations.

**No**

2. Existence of designated competent authorities responsible for granting derogations:

**No**

3. Location of the derogation (linked to 2 – competent is the authority based on location of the intervention requiring derogation):

### City

4. Conditions for granting derogations (in line with those set out in the Bern Convention, the Birds Directive, and the Habitats Directive. For EU, only the latter two are relevant – if BC requirements are “weaker”, you must use those of Nature Directives):

**Article 16 (c) Habitats 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;**

**Article 9 Bern Convention: in the interests of public health and safety, air safety or other overriding public interests.**

5. Main activity covered by the derogation (from article 12-15 Habitat directive, Bird Directive, article 4-7 Bern convention):

**Article Habitats Directive 12 (d): deterioration or destruction of breeding sites or resting places;**

**Article 6 (b) Bern Convention: the deliberate damage to or destruction of breeding or resting sites.**

6. Type of activity requiring a derogation:

**Demolition of a technically abandoned and uninhabited building that was used only by synanthropic bat species.**

7. Duration of the derogation and other requirements attached to it (e.g. measures to eliminate the negative consequences of the derogation):

**The construction project documentation may provide restrictions in time and other measures to ensure bat-safe demolition of the building**

8. Whether the derogation specifies the number of individuals of species (flora/fauna), their breeding/resting sites, or the extent of habitat concerned:

**Legislation does not require this information. At the same time, the environmental impact assessment materials (OVNS not EIA) must include information on the presence of plant and animal species listed in the Red Book of Ukraine.**

9. Requirement to obtain specific permits for capture/temporary capture/relocation in the course of implementing the derogation. If so:

**Are determined by the Instruction on the Procedure for Issuing Permits for the Taking (Collecting) of Animal and Plant Species Listed in the Red Book of Ukraine, if the construction documentation provides for obtaining such a permit**



- a. name of the permit: **permit for the taking (collecting) of animals and plants listed in the Red Book of Ukraine;**
  - b. competent authority issuing it: **Ministry Economy, Environment and Agriculture of Ukraine.**
  - c. timeframe for issuing the permit: **2 months or more (depending on when the National Commission on the Red Book of Ukraine provides its conclusion).**
10. Control mechanisms for the implementation of the derogation:  
**No, but the territorial body of the State Environmental Inspectorate of Ukraine monitors the use of the permit.**
11. Reporting obligations on the execution of the derogation:  
**No, but after the permit expires, it is returned to the Ministry together with a report on its use**
12. Availability and completeness of data for reporting:  
**No, only the data specified in the report on the use of the permit and the acts (documents) documenting the taking of animals.**

**In practice, applications for such permits are not submitted and such permits are not issued; the works are carried out without the specified permit. The same situation applies in the case of demolition of a building without subsequent construction.**

**Note:** *The construction of residential buildings entails an environmental impact assessment in accordance with DBN A.2.2-1:2021 “Content and structure of environmental impact assessment materials (OVNS not EIA).”*

*These standards provide for the following sections:*

*Assessment of the impacts of the planned activity on the natural environment, which includes the “flora and fauna” component, which in turn includes, among other things: information on the presence of plant and animal objects listed in the Red Book of Ukraine; an assessment of the indirect impact on flora and fauna of technogenic changes in physical and biological factors; an assessment of changes in the composition of plant communities and fauna, species diversity, populations of dominant, valuable, and protected species, their physiological state and productivity; and a justification of measures to ensure the conservation of biodiversity and to prevent the depletion and degradation of plant and animal world objects;*

*Assessment of environmental impacts during construction, which includes measures for the protection of plant and animal objects and plant communities;*

*Conclusion on environmental consequences, which includes quantitative and qualitative indicators for assessing the levels of impact of the planned activity, as well as measures that ensure the activity is carried out in compliance with regulatory standards.*

*The conclusion on the environmental consequences of the activity is signed by the client and the chief project developer/designer.*

*The Law of Ukraine “On the Red Book of Ukraine” does not provide for the issuance of permits for the destruction of the habitats of animal species; it provides only for the removal of the animals themselves for the purpose of population restoration; however, under Article 20 of this Law, persons are liable if they are responsible for:*

*deterioration or destruction of the habitats (growth sites) of animal and plant species listed in the Red Book of Ukraine;*

*unlawful use, including in breach of the requirements of issued permits, of objects of the Red Book of Ukraine, or their destruction.*

### **Demolition of a building and the construction of a residential house are subject to environmental impact assessment (EIA).**

1. Existence of a specific administration procedure for granting derogations.

**No**

2. Existence of designated competent authorities responsible for granting derogations:

**No**

3. Location of the derogation (linked to 2 – competent is the authority based on location of the intervention requiring derogation):

**City**

4. Conditions for granting derogations (in line with those set out in the Bern Convention, the Birds Directive, and the Habitats Directive. For EU, only the latter two are relevant – if BC requirements are “weaker”, you must use those of Nature Directives):

**Article 16 (c) Habitats 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;**

**Article 9 Bern Convention: in the interests of public health and safety, air safety or other overriding public interests.**

5. Main activity covered by the derogation (from article 12-15 Habitat directive, Bird Directive, article 4-7 Bern convention):

**Article Habitats Directive 12 (d): deterioration or destruction of breeding sites or resting places;**

**Article 6 (b) Bern Convention: the deliberate damage to or destruction of breeding or resting sites.**

6. Type of activity requiring a derogation:

**Demolition of a structurally unsound and uninhabited building that was used only by synanthropic bat species.**

7. Duration of the derogation and other requirements attached to it (e.g. measures to eliminate the negative consequences of the derogation):

**Requirements may be determined on the basis of the EIA results if an EIA Conclusion is issued on the admissibility of the planned activity, provided that the environmental conditions for its implementation are complied with.**

8. Whether the derogation specifies the number of individuals of species (flora/fauna), their breeding/resting sites, or the extent of habitat concerned:

**Legislation does not require this information. At the same time, the EIA Conclusion may include requirements concerning information on how many bats the building to be demolished served as a roost/residence for, and how many of them will be displaced.**

9. Requirement to obtain specific permits for capture/temporary capture/relocation in the course of implementing the derogation. If so:

**permit for the taking (collecting) of animals and plants listed in the Red Book of Ukraine;**

a. name of the permit: **permit for the taking (collecting) of animals and plants listed in the Red Book of Ukraine;**

b. competent authority issuing it: **Ministry of Economy, Environment and Agriculture of Ukraine;**

c. timeframe for issuing the permit: **2 months or more (depending on when the National Commission on the Red Book of Ukraine provides its conclusion).**

10. Control mechanisms for the implementation of the derogation:

**No, but the territorial body of the State Environmental Inspectorate of Ukraine monitors the use of the permit, and the State Inspectorate of Architecture and Urban Development of Ukraine exercises control at construction sites.**

11. Reporting obligations on the execution of the derogation:

**No, but after the permit expires, it is returned to the Ministry of Economy together with a report on its use.**

12. Availability and completeness of data for reporting:

**No, only the data specified in the report on the use of the permit and the acts documenting the taking of animals.**

## ***Campanula bohemica*** (Bohemian Bellflower), Czech Republic

1. Existence of a specific administration procedure for granting derogations.

**Yes**

2. Existence of designated competent authorities responsible for granting derogations.

**The authority granting the derogation is the KRNAP Administration (Správa KRNAP).**

3. Location of the derogation must be clear.

**The location of the derogation is in Pec pod Sněžkou, Czech Republic, within the Krkonoše Mountains National Park (KRNAP).**

4. Conditions for granting derogations (in line with those set out in the Birds Directive, and the Habitats Directive).

**Article 16 Habitats 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;**
- **€ to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species listed in Annex IV in limited numbers specified by the competent national authorities.**

5. Main activity covered by the derogation (from articles 12-15 Habitats Directive, Bird Directive)

**Article 13 (a) Habitats Directive: deliberate picking, collecting, cutting, uprooting or destruction of plants in their natural range in the wild**

6. Type of activity requiring a derogation.

**The derogation allows the deliberate uprooting, destruction, or disturbance of *Campanula bohemica* (Bohemian bellflower). The main activity authorized is excavation and turf removal during the construction of electrical service trenches, which directly affects the plant's natural habitat.**

7. Duration of the derogation and other requirements attached to it (e.g. offset measures).

**The derogation was valid from 6 August to 31 December 2022. Validity of the exemption until December 31, 2023**

8. Whether the derogation specifies the number of individuals of species (flora/fauna), their breeding/resting sites, or the extent of habitat concerned.

**The derogation specifies that it does not involve prohibited means or transport**

**modes listed in Annex VI of the Habitats Directive. No fixed figure for the number of individuals could be provided, as it was impossible to estimate in advance.**

9. Requirement to obtain specific permits for capture/temporary capture/relocation in the course of implementing the derogation. If so:

**No**

- a. name of the permit: -
- b. competent authority issuing it: -
- c. timeframe for issuing the permit: -

10. 10. Check and supervision mechanisms for the implementation of the derogation.

**Yes**

11. Reporting obligations on the execution of the derogation.

**Yes**

12. Availability and completeness of data for reporting

**Yes**

***Campanula bohemica*** (Bohemian Bellflower), Ukraine



**Bohemian bellflower (not protected in Ukraine; prepared as if the species were protected under the Bern Convention)**

**Excavation and turf removal where the Bohemian bellflower grows during the construction of trenches for electrical cables are not subject to environmental impact assessment (EIA).**

1. Existence of a specific administration procedure for granting derogations:

**No**

2. Existence of designated competent authorities responsible for granting derogations:

**No**

3. Location of the derogation (linked to 2 – competent is the authority based on location of the intervention requiring derogation):

**National Nature Park**

4. Conditions for granting derogations (in line with those set out in the Bern Convention, the Birds Directive, and the Habitats Directive. For EU, only the latter two are relevant – if BC requirements are “weaker”, you must use those of Nature Directives).

**Article 16 Habitats Directive:**

**(c) 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;**

**(e) to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species listed in Annex IV in limited numbers specified by the competent national authorities.**

**Article 9 Bern Convention: in the interests of public health and safety, air safety or other overriding public interests; to permit, under strictly supervised conditions, on a selective basis and to a limited extent, the taking, keeping or other judicious exploitation of certain wild animals and plants in small numbers.**

5. Main activity covered by the derogation (from article 12-15 Habitat directive, Bird Directive, article 4-7 Bern convention):

**Article 13 (a) Habitats Directive: deliberate picking, collecting, cutting, uprooting or destruction of plants in their natural range in the wild**

**Article 5 Bern Convention: deliberate picking, collecting, cutting or uprooting of such plants shall be prohibited.**

6. Type of activity requiring a derogation:

**Excavation and turf removal during the construction of electric trenches**

7. Duration of the derogation and other requirements attached to it (e.g. measures to eliminate the negative consequences of the derogation):

**None with respect to the species as an object of protection under the Bern Convention; however, under the multifunctional zoning regime of a National Nature Park, such works are prohibited in the strict protection zone and the regulated recreation zone, and are not prohibited in the economic zone and the stationary recreation zone.**

8. Whether the derogation specifies the number of individuals of species (flora/fauna), their breeding/resting sites, or the extent of habitat concerned:

**No**

9. Requirement to obtain specific permits for capture/temporary capture/relocation in the course of implementing the derogation. If so: Absent

- a. name of the permit: -
- b. competent authority issuing it: -
- c. timeframe for issuing the permit: -

10. Control mechanisms for the implementation of the derogation:

**No, however the park's ranger service and the State Environmental Inspectorate monitor compliance with the park regime.**

**11.** Reporting obligations on the execution of the derogation:

**No**

**12.** Availability and completeness of data for reporting:

**No**

**Excavation and turf removal where the Bohemian bellflower grows during the construction of electric trenches are subject to environmental impact assessment (EIA).**

**1.** Existence of a specific administration procedure for granting derogations:

**No**

**2.** Existence of designated competent authorities responsible for granting derogations:

**No**

**3.** Location of the derogation (linked to 2 – competent is the authority based on location of the intervention requiring derogation):

**National Nature Park**

**4.** Conditions for granting derogations (in line with those set out in the Bern Convention, the Birds Directive, and the Habitats Directive. For EU, only the latter two are relevant – if BC requirements are “weaker”, you must use those of Nature Directives):

**Article 16 Habitats Directive:**

- **(c) 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;**
- **(e) to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species listed in Annex IV in limited numbers specified by the competent national authorities.**

**Article 9 Bern Convention:**

- **in the interests of public health and safety, air safety or other overriding public interests;**
- **to permit, under strictly supervised conditions, on a selective basis and to a limited extent, the taking, keeping or other judicious exploitation of certain wild animals and plants in small numbers.**

5. Main activity covered by the derogation (from article 12-15 Habitats Directive, Birds Directive, article 4-7 Bern Convention): Article 5 Bern Convention deliberate picking, collecting, cutting or uprooting of such plants shall be prohibited.

**Article 13 (a) Habitat Directive deliberate picking, collecting, cutting, uprooting or destruction of plants in their natural range in the wild.**

6. Type of activity requiring a derogation.

**Earthworks and turf removal during the construction of trenches for electrical cables.**

7. Duration of the derogation and other requirements attached to it (e.g. measures to eliminate the negative consequences of the derogation):

**Requirements may be determined on the basis of the EIA results if an EIA Conclusion is issued on the admissibility of the planned activity subject to compliance with the environmental conditions for its implementation; requirements regarding the translocation of plants of the species may also be imposed. In addition, under the multifunctional zoning regime of a national nature park, such works are prohibited in the strict protection zone and the regulated recreation zone and are not prohibited in the economic zone and the stationary recreation zone.**

8. Whether the derogation specifies the number of individuals of species (flora/fauna), their breeding/resting sites, or the extent of habitat concerned:

**Legislation does not require this information. At the same time, the EIA Conclusion may include requirements regarding information on how many plants will be dug up or the area they occupy.**

9. Requirement to obtain specific permits for capture/temporary capture/relocation in the course of implementing the derogation. If so:

**No**

- a. name of the permit: -
- b. competent authority issuing it: -
- c. timeframe for issuing the permit: -

10. Control mechanisms for the implementation of the derogation:

**post-project monitoring; oversight of compliance with the park regime by the park's ranger service and the State Environmental Inspectorate.**

11. Reporting obligations on the execution of the derogation:

**The EIA Conclusion may require the submission of a post-project monitoring report.**

12. Availability and completeness of data for reporting:

**No, but certain data may be included in the post-project monitoring report if it is required by the EIA Conclusion.**



# SYSTEM OF DEROGATION IN CZECHIA

## OUTLINE OF THE LEGAL BASIS

The Czech derogation system is set out mainly in Act No. 114/1992 Coll. on Nature and Landscape Protection, with details in the Decree No. 395/1992 Coll. It regulates “exceptions” (the term used by the Czech law, which does not fully express the meaning of “derogation” but understood in the same manner) from strict species protection under both the Habitats Directive and Birds Directive principles.

While the derogations pursuant to EU Nature Directives (both Birds and Habitats) are only required in case of “deliberate” activities, in the Czech Republic this requirements have been much wider: it is obligatory to obtain a derogation for any activity affecting birds and protected animal and plant species (the Czech list is much wider than that of Annex IV HD) regardless if it is deliberate or as a “side-effect” of e.g. any construction activity. This legislation construction was introduced as early as in 1992 and after the accession to the EU it was maintained, just being amended by “species of European significance” (= Annex IV HD species and all bird species) in addition to nationally protected species. Thus, in the Czech Republic, much more derogations are granted every year than in any other EU MS, and the derogation procedure is probably the strongest nature protection tool ever.

The derogation proceedings are independent of EIA, AA, or building authorization, and cannot be replaced by any other document of any authority.

## OVERVIEW OF THE COMPETENT AUTHORITIES GRANTING DEROGATION

Derogations may be granted (i.e., there is no obligation for any authority to grant derogation even if all conditions have been met by the applicant) on the territorial principle: the decision is issued by nature conservation authority in charge of the territory where the activity or project likely to affect protected species is situated. Competencies of such authorities do not overlap so that it is not difficult for the applicant (both legal and physical persons - no difference) to find out which authority is the competent one. Applications for derogations are generally submitted either to the administration of national park, regional nature conservation authority (krajský úřad), regional branch of the Agency, or, in case of birds not specially protected at the national level, to certain category of municipal authorities.

Administrations of National Parks: 4

Large-scale protected areas and nationally important small-scale protected areas — Agency: 14 branches

Protected areas of regional importance and other non-protected parts of the national territory — regional authority: 14

Birds other than specially protected — 205 municipalities with extended powers (ORP).

## PROCESS OF GRANTING DEROGATION (FROM THE APPLICATION TO THE DEROGATION DECISION)

Each applicant submits their application for derogation to the relevant authority listed above. There is no application form prescribed by the law; however, the law details what should be included in the decision by which the derogation is granted, and it is advised that all these items are included in the application — in fact, everything which is required by Art. 9 BD and Art. 16 HD as transposed into the Czech Act on Nature and Landscape Protection (ANLP), including the (estimated) number of individuals or other quantification of individuals/population/habitats of species for which the derogation is requested. The authority starts with the administration procedure prescribed by the Administrative Code (formal requirements) and the ANLP. All potentially affected stakeholders (e.g. land owners, forest enterprises or farmland tenants, etc.) have to be informed on the start of the procedure and asked for their opinion (they are not obliged to deliver any but have such right). In case that participants to the proceedings are NGOs, they must be duly informed on all such opinions and be provided by all information from the file - they have right to ask for additional clarifications, amendments of expert opinions and data, etc.; if the authority finds their requirements justified, or even if the application lacks data needed for the justified decision, the authority suspends the proceedings and sets a period for amending the missing data by the applicant. Such suspension may take even months or years (depending on the information gaps and the time needed for their filling in — if e.g. data from the next vegetation season are needed, suspension may take one year...).

After all required data/information have been gathered, the authority issues a decision by which

- i)** grants derogation with many conditions, including e.g. shift in period of implementation, setting of official ecological supervision paid by the applicant, frequency of checks on-the-spot, frequency and form of reports), or
- ii)** rejects the application for not meeting all conditions required by law — e.g. lack of a proof of alternative solutions or lack of overriding interest; this latter reason may be used even if all other conditions have been met but the authority concludes that the species population in question is that valuable that the interest of nature conservation exceeds the other imperative public interests — it is just a theoretical possibility as applicants know they have to provide proof of that and do their best to meet all the conditions.

In case ii), the applicant has a right to submit an appeal to the higher authority — usually the Ministry of Environment - which either confirms the rejection of granting derogation, or finds the decision faulty, invalidates it and returns it to the authority for a renewal of the process. The authority is then bound by the legal opinion of MoE, and in its new decision, it has to take all its requirements into account.

Even this second decision of MoE can be appealed, and then the applicant, or the NGO participating in the proceeding, may go to the court. The court may either confirm the

decision or invalidate it, and the case returns to the original nature conservation authority for a continuation of the proceeding - and all this may repeat many times. This is one of the weaknesses of this Czech procedure, when the applicant becomes a hostage of NGOs and authorities - some proceedings last longer than 10 years without any final decision... Nevertheless, in most non-problematic cases, the duration of the first step proceedings is several months.

In case of scientific doubts, the authority leading the proceedings may ask the NCA CR for its expert opinion, which is usually provided by experts for specific plant or animal group and/or by regional branches of the Agency that know the situation on-the-spot. Such opinion is free of charge but it may take several months to be delivered.

In general, the applicants do not pay any fees or taxes, the administrative procedure is free of charge, which is “negatively compensated” by the fact that the applicant cannot influence the duration of the procedure, as shown above. Only in the case of court proceedings, those who put the case to the court (usually NGOs) or who lose the case have to cover the court taxes. This year, however, an amendment to the Court Administrative Code was adopted by the Parliament, which says that if the applicant for the derogation wins the court case, he has a right to enforce a claim for both costs of the proceedings and lost profits from the appellant: it might lead to drastic fall in NGO participation in such proceedings, as NGOs cannot risk that they would be obliged to pay the lost profits — which may reach millions - from their budgets.

## **PERMITS AND LICENSES IN DEROGATION PROCESSES (FOR WHAT TYPES OF SPECIES, WHAT IS THE PROCESS TO ISSUE THE PERMIT AND/OR LICENCE, THE COMPETENT AUTHORITY THAT IS ISSUING THEM)**

The derogation decision is a prerequisite for:

- i)** direct implementation of activities for which it is required — e.g. scientific research, relocation of individuals doing harm, relocation of plant and animal populations from the affected sites to new ones, deterring animals causing harm — e.g. starlings in autumn on vineyards, etc.
- ii)** continuation of another administrative proceedings, especially proceedings for location permits or construction permits: such proceedings may start before, but if the species derogation is needed, the proceeding must be suspended until the derogation decision is provided — this is another reason why clever applicants such as big construction companies try to provide the nature conservation authority with all data/information needed for successful outcome of the derogation procedure - they know well that it is better to spend even a few thousand of euro for quality expert before than to have their project delayed by years, which often means millions of euro of financial losses.

Important is that the state (public) administration system is developed and effective, and that all (investors, authorities, NGOs) know about it. Level of corruption is probably pretty low, also because of a system of licensed experts entitled to do biological examination



of the sites to be affected, and independent system of licensed persons for Natura 2000 appropriate assessment — although this is not their main job, they are often hired by investors in advance to tell them all possible risks and gather all data needed for the derogation proceedings. All these data/documents are public, and the licensed persons know that their name will be publicized — transparency is another reason of the success of these licensing systems.

## REPORTING SYSTEM

Each permitted derogation includes a condition for the applicant to report to the nature conservation authority that granted the derogation how the derogation was used (=i.e., if the derogation was utilized fully or partially, for example, the real number of affected/ caught/killed individuals which might be lower than the number allowed by the decision, etc.), usually at the end of each calendar year. Based on these reports, individual nature conservation authorities then compile a report in the Habides system. This report is sent to the Ministry of the Environment by the specified deadline. The Ministry checks the reports from all nature conservation authorities and combines them into a single file, which it sends to the Commission.

Derogations for birds are reported annually, while derogations for other species are reported once in every two years. Some derogations are reported only once (e.g., plans to dredge a pond), but derogations involving the repeated capture or killing of individuals over several consecutive years must be reported every year/every two years for the entire duration of the derogation.

## CONCLUSIONS

Ukrainian legislation governing the use of objects of fauna and flora is fragmented and does not fully correspond to modern European approaches to biodiversity conservation. The core problem lies in the absence of an integrated derogation system that would ensure transparency, scientific justification, the ability to prepare high-quality reports under current conditions, and effective monitoring of the taking of species from the wild, particularly in the context of Ukraine's European integration commitments.

An analysis of reports submitted under the Bern Convention shows that Ukraine mainly collects information on the taking of species listed in the Red Data Book of Ukraine and a limited number of game species, while leaving out a substantial proportion of species included in Annexes II and III of the Birds Directive, Annex VI of the Habitats Directive, and the annexes to the Bern Convention.

An analysis of national legislation in the fields of hunting, fisheries, the protected areas network, and the protection of plant and animal species listed in the Red Data Book of Ukraine reveals a fundamental divergence between the Ukrainian model of “special use of natural resources” and the European derogation system established under Article 9 of the Birds Directive and Article 16 of the Habitats Directive.

These differences are both conceptual and procedural in nature. The key distinctions are as follows:

The European derogation system allows the taking of species only in exceptional, clearly defined cases in which commercial objectives are not a priority. By contrast, the Ukrainian model of “special use” (with the exception of Red Data Book species) is largely oriented towards meeting human needs, including economic activities, and explicitly foresees the possibility of generating profit.

Ukrainian legislation does not fully incorporate two fundamental preconditions that are mandatory for granting derogations under the Directives:

- 1.** The principle of absence of a satisfactory alternative: in Ukraine, an applicant is not required to demonstrate that taking a species from the wild is the only possible satisfactory solution.
- 2.** Proof of absence of harm: there is no clear requirement to demonstrate that the planned taking will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status.

In addition, Ukraine lacks a single, centralised system for collecting and analysing information on permits issued, approved quotas and the actual volumes of taking of all animal and plant species. Such fragmentation makes it impossible to carry out a cumulative assessment of impacts on populations, which is critical for the preparation of high-quality reporting under the Bern Convention and, in the future, for reporting on the implementation of the Habitats and Birds Directives.



By contrast, in the Czech Republic all relevant information is entered into appropriate databases at various levels at the stage of permit issuance, and reports are generated automatically. In Ukraine, information is stored in electronic document management systems and/or in paper form. In the event of the reorganisation or liquidation of the relevant ministry—which occurs quite frequently – these systems are changed, and virtually all information is lost, together with access to the document management systems of the former ministry.

# RECOMMENDATIONS

The existing system of special use of natural resources in Ukraine requires fundamental reform in order to bring it into line with European biodiversity conservation standards.

A key step should be the removal of species protected under the Birds and Habitats Directives into a separate legal framework. This implies abolishing the “special use” regime for such species and instead developing a transparent derogation mechanism that complies with the three-step and two-step tests laid down in Article 9 of the Birds Directive, Article 16 of the Habitats Directive, and Article 9 of the Bern Convention.

The Ukrainian system for the protection of plant and animal species listed in the Red Book of Ukraine, as established by the Law of Ukraine “On the Red Book of Ukraine” and the relevant Instruction, is in essence already a derogation-based system. It establishes a general strict prohibition on use and allows for exceptions (derogations) under certain conditions. The problem, however, is that these exceptions — in terms of types of use, conditions, criteria, and procedures — do not fully correspond to the requirements of the EU Directives.

It is important to note that, under this approach, two separate mechanisms for the protection of animal and plant species would operate in Ukraine: one for species listed in the Red Book of Ukraine, and another for species protected under the Bern Convention and, following accession to the EU, also for species listed in Annex IV of the Habitats Directive and Annexes II and III of the Birds Directive.

According to the Joint Note of the Secretariat of the Bern Convention and the European Commission’s Directorate-General for Environment on reporting under Article 9 of the Bern Convention, endorsed by the Standing Committee at its 38th meeting, EU Member States fulfil their derogation reporting obligations by submitting a single report that simultaneously covers the requirements of Article 9 of the Convention and Articles 12 and 16 of the Habitats and Birds Directives. Once such a report is uploaded to the Central Data Repository of the European Environment Agency, the Secretariat of the Bern Convention automatically gains access to the relevant data, and EU Member States are not required to prepare a [separate report for the Bern Convention](#).

Three options are proposed for implementing the derogation requirements of the Birds and Habitats Directives and the Bern Convention, each of which предусматриває a clear separation between the procedure applicable to species listed in the annexes to the Birds and Habitats Directives and the Bern Convention, and the current Red Book of Ukraine model.

## Option 1

The derogation mechanism is incorporated into the Law of Ukraine “On the Red Book of Ukraine”, while species covered by the Directives and the Convention are approved by orders of the Ministry of Economy.

Under this option, the Red Book mechanism becomes a single “entry point” for obtaining permits, with the competent authority maintaining a public register and annual reporting.

### **Strengths:**

- a single system applicable to all species;
- relatively straightforward standardisation in line with the three-step / two-step tests;
- submission of derogation applications through a single channel;
- a single register of permits and a unified system of reporting and monitoring.

### **Weaknesses:**

- dilution of the scientific concept of the Red Book of Ukraine as a list of the most valuable and rarest species;
- the need for substantial revision of Article 19 to meet the requirements of the Birds and Habitats Directives;
- overburdening of the National Commission on the Red Book of Ukraine with cases atypical for its mandate;
- high demand for methodological updates and training.

### **To implement this option, it is necessary to:**

#### **1. Amend the Law on the Red Book of Ukraine by:**

expanding the grounds for derogations; explicitly establishing the absence of satisfactory alternatives and the requirement of no deterioration of favourable conservation status; defining the competent authority and the limits of the powers of the National Commission (scientific advisory function); introducing mandatory post-project monitoring; and by regulating, with regard to permits for the taking (collection) of animal and plant species listed in the Red Book of Ukraine:

- the requirement to obtain a permit and the types of permits;
- the permitting authority authorised to issue such permits;
- whether permits are issued free of charge or subject to a fee (including re-issuance and termination);
- the time limits for issuing a permit or refusing to issue one;
- an exhaustive list of grounds for refusal, re-issuance, or termination of a permit;
- the validity period of a permit or the possibility of unlimited validity;
- the list of documents and requirements to be submitted by an economic operator in order to obtain a permit.

#### **2. Accordingly update the Instruction on the procedure for issuing permits, including the introduction of a unified electronic application form with dedicated fields for “alternatives” and “assessment of impacts on conservation status”, as well as a standard decision template with spatial, temporal, and quantitative parameters.**

### 3. Introduce amendments to other regulatory legal acts:

the Laws of Ukraine “On the Fauna”; “On the Flora”; “On the Nature Reserve Fund of Ukraine”; legislation on hunting/fishing; animal protection; EIA/SEA; construction procedures and State Building Codes (DBN).

### 4. Establish a unified permit register, conduct training and capacity-building on the application of the new procedures, and undertake related measures.

## Option 2

The lists of species protected by the Directives and the Bern Convention are established in the annexes to the Laws “On the Fauna” and “On the Flora”, and the derogation mechanism itself is set out in those same laws.

#### Strengths:

- a high level of legal certainty, with clear lists and conditions for derogations established in law;
- a clear separation between the permit system for Red Book species and that applicable to species protected under the Bern Convention and the Directives;
- a distinct and dedicated procedure for obtaining derogation permits.

#### Weaknesses:

- a substantial volume of legislative amendments and cross-sectoral coordination (nature conservation, hunting, fishing, permitting procedures, IT systems);
- potentially slow updating of species lists due to the need to amend legislation;
- the need for transitional provisions and training of a large number of staff at all levels.

#### To implement this option, it is necessary to:

1. Amend the Laws “On Fauna” and “On Flora” by adding annexes with species lists and setting out the derogation procedure.
2. Introduce corresponding amendments to legislation on the Nature Reserve Fund, hunting and fishing, EIA/SEA, construction and building codes; provide institutional training and adopt transitional provisions; eliminate duplication with the “special use” regime and establish the priority of derogation rules.
3. Adopt other necessary secondary legislation facilitating implementation, including standard application and decision forms, monitoring protocols, and reporting formats.

## Option 3

The derogation mechanism is incorporated into the Laws “On Fauna” and “On Flora”, while the species lists themselves are approved by orders of the authorised ministry.



### **Strengths:**

- a high level of legal certainty, with derogation conditions established in law;
- flexibility and operational efficiency in updating species lists through ministerial orders;
- a clear separation between the permit system for the Red Data Book species and that applicable to species protected under the Bern Convention and EU Directives.

### **Weaknesses:**

- a substantial volume of legislative amendments and cross-sectoral coordination (protected areas network, hunting, fishing, permitting procedures, IT systems);
- the need for transitional provisions and training of a large number of staff at all levels.

### **To implement this option, it is necessary to:**

- 1.** Amend the Laws of Ukraine “On Fauna” and “On Flora” in order to fully and clearly regulate the derogation mechanism at national level (grounds, conditions, procedures for application and control). Provide for the delegation of powers to the authorised body to approve and update species lists through secondary legislation (ministerial orders), and to establish legally defined grounds and mandatory timeframes for updating such lists following amendments to the relevant annexes to the EU Directives. This would allow updates to be carried out within reasonable timeframes. In addition, establish requirements for mandatory scientific assessment and a short public consultation prior to the adoption or revision of such lists.
- 2.** Introduce corresponding amendments to legislation on the Protected areas network, hunting and fishing, EIA/SEA, construction and building codes; provide institutional training and adopt transitional provisions.
- 3.** Approve ministerial orders establishing the species lists.
- 4.** Adopt other secondary acts (application and decision forms, user instructions for the register, methodological guidance) without altering the substantive and procedural rules already laid down in law.
- 5.** Establish a unified register for derogation-related information, or a system for collecting such data into a single resource, conduct training, and adopt transitional provisions to ensure continuity of procedures.

# SCENARIOS

As noted above, it is important for Ukraine to establish an institutional structure capable of professionally and transparently examining each individual derogation case.

To this end, three possible models for the institutional implementation of the derogation system are proposed below.

However, as previously stated, this cannot be achieved without introducing amendments to legislation and separating the derogation procedure into a distinct mechanism, different from the mechanisms of special use of natural resources, and not subject to the legislation regulating special use of natural resources.

Only under these preconditions can a derogation system be established.

## Scenario 1: Decentralised model based on existing structures (modified status quo)

**Essence of the model:** Powers for examining and granting derogation permits are assigned to existing authorities – the Ministry and Regional State Administrations (RSAs).

**Ministry:** Examines derogation requests concerning the most valuable species and territories protected at international level under the Bern Convention. The Ministry independently assesses compliance with EU criteria.

**RSAs:** Examine derogation requests concerning less vulnerable species and territories of local significance. RSAs are responsible for collecting the data necessary for reporting and monitoring.

Caveat: A clear division of powers by species and territories will be required.

### Advantages of this approach:

- Does not require the establishment of new institutions or significant budgetary expenditure at the initial stage;
- Appears to be the simplest implementation pathway, although only on paper.

### Disadvantages and risks:

- As noted in the report on the institutional framework, the Ministry is already overburdened with responsibilities and lacks sufficient resources for high-quality expert assessment of each request, which will lead to a formalistic approach;
- RSAs often have a very limited number of wildlife conservation specialists (in some cases 0.5 full-time equivalent) and do not possess the necessary scientific expertise to assess impacts on populations;
- Decisions at local level may be taken under pressure from local business interests rather than on the basis of scientific data;



- Each region will interpret the rules differently, which will not contribute to a unified approach and practice; this model will only exacerbate fragmentation and inconsistency;
- Difficulties in collecting unified information suitable for reporting (this model requires a technical solution enabling the collection of data necessary for reporting).

## **Scenario 2: Centralised expert model (establishment of an Agency without regional branches)**

**Essence of the model:** A new central executive body – a State Agency – is established and becomes the single expert centre for derogation matters.

### **Division of powers:**

- Ministry: formulates state policy, develops legislation and general rules on derogations, but does not examine individual applications.
- State Agency: acts as the single authority receiving all derogation requests. The Agency must employ biologists, ecologists, and lawyers who carry out a professional scientific assessment of each request for compliance with EU criteria. On the basis of this assessment, the State Agency adopts decisions to grant or refuse derogations (in the form of permits).

### **Advantages:**

- Concentration of experts in one institution ensures a professional and scientifically sound approach;
- Decisions are taken according to uniform standards across the country, eliminating “regional specificities”;
- Reduced risk of local business influence;
- All derogation-related data are collected in a single system, facilitating reporting processes.

Thus, the Ministry formulates policy, while the Agency implements it, in line with general principles of public administration.

### **Disadvantages and risks:**

- The central authority may fail to take sufficient account of local specificities and may lack adequate field data for decision-making;
- All requests nationwide will be submitted to the Agency acting as a “single window”, which may result in delays in case processing.

## Scenario 3: Integrated multi-level model (Agency with regional branches) – Recommended

**Essence of the model:** A State Agency is established with a central office and a network of regional branches.

### Division of powers:

**Ministry:** As in the previous scenario, is responsible exclusively for policy formulation.

### Central office of the State Agency:

1. Develops methodology and instructions for examining derogation requests;
2. Examines the most complex cases and cases involving multiple regions (for example, affecting several regions or having nationwide relevance);
3. Maintains a single national register of granted permits;
4. Carries out monitoring and prepares reports for the EU.

### Regional branches of the State Agency:

1. Act as local centres for submitting derogation requests;
2. Examine most standard requests using the methodology developed by the central office;
3. Collect field data and conduct consultations with local protected area administrations, scientists, and the public.

### Advantages:

This scenario ensures that decisions are simultaneously scientifically sound, consistent, and reflective of regional specificities. At the same time, the Agency ensures uniformity in the application of the rules.

Most issues are resolved at regional level, which reduces the burden on the central office and accelerates procedures.

Such a multi-level system (ministry–agency–regional offices) operates in other EU countries (for example, the Czech Republic).

### Disadvantages and risks:

Establishment and maintenance of a network of regional branches requires the greatest budgetary and human resources;

A reform of this scale requires strong political will;

As in other scenarios, there is a need to establish a unified register and a clear procedure to minimise corruption risks.

( / )

**Eionet****European Environment Information and Observation Network****European Environment Agency**

## HABIDES+ reporting tool

English (en) ▼

derogations from species protection requirements under the EU Habitats Directive (and/or equivalent provisions for species - other than bird species - under the Bern Convention)

## Edit Habitats Directive derogation report

derogation reference	<input type="text"/>	
user derogation reference	<input type="text"/>	
user identity	<input type="text"/>	

species covered by the derogation	<input type="checkbox"/>	"species" or "species group" is mandatory
species group covered by the derogation	<input type="checkbox"/>	"species" or "species group" is mandatory
"sensitive" derogation not to be published?	<input type="checkbox"/>	

derogation valid from (date)	<input type="checkbox"/>	mandatory
derogation valid to (date)	<input type="checkbox"/>	mandatory

authority granting the derogation	<input type="checkbox"/>	mandatory
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country	<input type="text"/>	
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region(s)	<input type="checkbox"/> 	mandatory
location		

legal justification for granting the derogation		mandatory
further details on the legal justification		

<p>If the derogation is granted on the basis of Article 16.1.e of the EU Habitats Directive (or the equivalent provision under Art. 9.1 last sentence of the Bern Convention), provide evidence that the following requirements are fulfilled:</p>		
the application of the derogation is subject to "strictly supervised conditions"	<input type="checkbox"/>	
the application of the derogation occurs on a "selective basis"	<input type="checkbox"/>	
the derogation only applies to a "small, limited number" of individuals	<input type="checkbox"/>	

--

main activity covered by the derogation

- ANIMALS - deliberate killing of specimens in the wild
- ANIMALS - deliberate capture of specimens in the wild, with the intention of temporarily or permanently keeping them in captivity
- ANIMALS - deliberate capture of specimens in the wild, followed by their immediate release in an unharmed state
- ANIMALS - deliberate disturbance of specimens, particularly during the period of breeding, rearing, hibernation and migration
- ANIMALS - deliberate destruction or taking of eggs from the wild

mandatory

HABIDES+

- ANIMALS - deterioration or destruction of breeding sites or resting places
- ANIMALS - keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild
- PLANTS - deliberate picking, collecting, cutting, uprooting or destruction of plants in their natural range in the wild
- PLANTS - keeping, transport and sale or exchange and offering for sale or exchange of specimens of plant species taken in the wild

further details on the main activities covered by the derogation



mean, arrangement or method covered by the derogation

- a mean, arrangement or method not listed in Annex VI (a) of the EU Habitats Directive or Appendix IV of the Bern Convention / or this question is not relevant for this type of derogation
- any indiscriminate mean capable of causing local disappearance of, or serious disturbance to, populations of the species, not listed in Annex VI (a) of the EU Habitats Directive or Appendix IV of the Bern Convention

mandatory

- Mammals:  
Blind or mutilated animals used as live decoys,  
Tape recorders,  
Electrical and electronic devices capable of killing or stunning,  
Artificial light sources,  
Mirrors and other dazzling devices,  
Devices for illuminating targets,  
Sighting devices for night shooting comprising an electronic image magnifier or image converter,  
Explosives,  
Traps or Nets which are non-selective according to their principle or their conditions of use,  
Crossbows,  
Poisons and poisoned or anaesthetic bait, Gassing or smoking out, Semi-automatic or automatic weapons with a magazine capable of holding more than two rounds of ammunition

	<input type="radio"/> Fish: Explosives, Firearms, Poisons, Anaesthetics, Electricity with Alternating current, artificial light sources  <input type="radio"/> Crayfish: Explosives, Poisons	
further details on the prohibited means, arrangements or methods covered by the derogation	<input type="text"/>	

modes of transport covered by the derogation	<input type="radio"/> a mode of transport not listed in Annex VI (b) of the EU Habitats Directive or Annex IV of the Bern Convention / or this question is not relevant for this type of derogation  <input type="radio"/> aircraft <input type="radio"/> moving motor vehicles	mandatory
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<b>maximum number of individuals, eggs, nests, breeding sites, resting sites covered by the derogation, during the period covered by the derogation report</b>		
individuals	<input type="text"/>	*
eggs	<input type="text"/>	*
nests	<input type="text"/>	*

<p>maximum number of individuals, eggs, nests, breeding sites, resting sites <b>covered by the derogation, during the period covered by the derogation report</b></p>		
breeding sites	<input type="text"/>	*
resting sites	<input type="text"/>	*
others (unit)	<input type="text"/>	*
no figure can be provided	<input type="checkbox"/>	*
	one of the above fields should obligatorily be filled in	
justification, in case no figure can be provided for the maximum number of individuals, eggs, nests, breeding sites, resting sites covered/actually affected by the derogation	<input type="text"/>	

<p>number of individuals, eggs, nests, breeding sites, resting sites <b>covered/actually affected as a result of the derogation, during the period covered by the derogation report</b></p>		
individuals	<input type="text"/>	*
eggs	<input type="text"/>	*
nests	<input type="text"/>	*
breeding sites	<input type="text"/>	*
resting sites	<input type="text"/>	*
others (unit)	<input type="text"/>	*
no figure can be provided	<input type="checkbox"/>	*
	one of the above fields should obligatorily be filled in	

number of individuals, eggs, nests, breeding sites, resting sites **covered/actually affected as a result of the derogation, during the period covered by the derogation report**

justification, in case no figure can be provided for the maximum number of individuals, eggs, nests, breeding sites, resting sites covered/actually affected by the derogation

by ticking this box, the authority declares that all measures (including supervisory measures) have been taken to ensure that this derogation is fully compliant with the legal requirements under the Bern Convention

At least one of the two alternatives should be ticked (it is possible to tick both)

by ticking this box the authority declares that all measures (including supervisory measures) have been taken to ensure that this derogation is fully compliant with the legal requirements under the EU Habitats Directive

At least one of the two alternatives should be ticked (it is possible to tick both)

if the population affected by the derogation is endangered /declining/in unfavorable conservation status, provide evidence that the derogation is not detrimental to the population

by ticking this box the authority declares that there is no other satisfactory alternative to the derogation

mandatory

if appropriate, provide a reference to alternatives rejected

controls carried out and results obtained by the controls

comments and notes

( / )

**Eionet****European Environment Information and Observation Network****European Environment Agency**

## HABIDES+ reporting tool

English (en) ▼

derogations from species protection requirements under the EU Birds Directive (and/or equivalent provisions for bird species under the Bern Convention)

## Edit Birds Directive derogation report

derogation reference	<input type="text"/>	
user derogation reference	<input type="text"/>	
user identity	<input type="text"/>	

species covered by the derogation	<input type="text"/>	*
species group covered by the derogation	<input type="text"/>	*
this derogation covers all species of birds	<input type="checkbox"/>	*
	one of the above three fields should be filled in	
"sensitive" derogation not to be published?	<input type="checkbox"/>	

derogation valid from (date)	<input type="text"/>	mandatory
derogation valid to (date)	<input type="text"/>	mandatory

authority granting the derogation	<input type="text"/>	mandatory
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country	<input type="text"/>	
region(s)	<input type="checkbox"/> <input type="text"/>	mandatory
location	<input type="text"/>	

why is this derogation necessary?	<input type="text"/>	mandatory
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legal justification for granting the derogation	<input type="text"/>	mandatory
further details on the legal justification	<input type="text"/>	

if the derogation is granted on the legal basis of Article 9.1.c of the EU Birds Directive (or on the legal basis of the equivalent provision under Art. 9.1 last sentence of the Bern Convention), provide evidence that the following requirements are fulfilled:

the application of the derogation is subject to "strictly supervised conditions"	<input type="checkbox"/>	
the application of the derogation occurs on a "selective basis"	<input type="checkbox"/>	
the derogation only applies to a "small, limited number" of individuals	<input type="checkbox"/>	

<input type="text"/>
----------------------

main activity covered by the derogation

- deliberate killing by any method
- deliberate capture by any method, with the intention of temporarily or permanently keeping the captured specimens in captivity
- deliberate capture by any method, followed by their immediate release of the captures specimens in an unharmed state
- deliberate destruction of, or damage to, their nests or eggs or removal of their nests / or deliberate destruction of resting sites
- taking their eggs in the wild and keeping these eggs even if empty

mandatory

- deliberate disturbance, particularly during the period of breeding and rearing, in so far as disturbance would be significant with regard to the objectives of the Directive
- keeping (alive or dead specimens of) birds of species the hunting and capture of which is prohibited
- sale, transport for sale, keeping for sale and/or offering for sale of live or dead birds and/or of any readily recognisable parts or derivatives of such birds

further details on the main activities covered by the derogation



mean, arrangement or method covered by the derogation

- a selective mean, arrangement or method not listed in Annex IV (a) of the EU Birds Directive or Appendix IV of the Bern Convention / or this question is not relevant for this type of derogation
- a non-selective mean, arrangement or method not listed in Annex IV (a) of the EU Birds Directive or Appendix IV of the Bern Convention

mandatory

- any of the following:  
Snares,  
Limes,  
Hooks, Live birds used as decoys which are blind or mutilated,  
Tape recorders,  
Electrical devices capable of killing and stunning,  
Artificial light sources,  
Mirrors and other dazzling devices,  
Devices for illuminating targets,  
Sighting devices for night shooting comprising an electronic image magnifier or image converter,  
Explosives,  
Nets, Traps,  
Poison and bait, Semi-automatic or automatic weapons with a magazine capable of holding more than two rounds of ammunition

further details on the prohibited means, arrangements or methods covered by the derogation

modes of transport covered by the derogation

- a mode of transport not listed in Annex IV (b) of the EU Birds Directive or Annex IV of the Bern Convention / or this question is not relevant for this type of derogation
- aircraft
- motor vehicles
- boats driven at a speed over 5 km/h on freshwater or coastal waters
- motor-boats driven at a speed over 18 km/h on the open sea

mandatory

maximum number of individuals, eggs, nests, breeding sites, resting sites **covered by the derogation, during the period covered by the derogation report**

individuals

\*

eggs

\*

nests

\*

breeding sites

\*

<p>maximum number of individuals, eggs, nests, breeding sites, resting sites <b>covered by the derogation, during the period covered by the derogation report</b></p>		
resting sites	<input type="text"/>	*
others (unit)	<input type="text"/>	*
no figure can be provided	<input type="checkbox"/>	*
	one of the above fields should obligatorily be filled in	
justification, in case no figure can be provided for the maximum number of individuals, eggs, nests, breeding sites, resting sites covered/actually affected by the derogation	<input type="text"/>	

<p>number of individuals, eggs, nests, breeding sites, resting sites <b>covered/actually affected as a result of the derogation, during the period covered by the derogation report</b></p>		
individuals	<input type="text"/>	*
eggs	<input type="text"/>	*
nests	<input type="text"/>	*
breeding sites	<input type="text"/>	*
resting sites	<input type="text"/>	*
others (unit)	<input type="text"/>	*
no figure can be provided	<input type="checkbox"/>	*
	one of the above fields should obligatorily be filled in	
justification, in case no figure can be provided for the maximum number of individuals, eggs, nests, breeding sites, resting sites covered/actually affected by the derogation	<input type="text"/>	

by ticking this box, the authority declares that all measures (including supervisory measures) have been taken to ensure that this derogation is fully compliant with the legal requirements under the Bern Convention	<input type="checkbox"/>	At least one of the two alternatives should be ticked (it is possible to tick both)
by ticking this box the authority declares that all measures (including supervisory measures) have been taken to ensure that this derogation is fully compliant with the legal requirements under the EU Birds Directive	<input type="checkbox"/>	At least one of the two alternatives should be ticked (it is possible to tick both)
if the population affected by the derogation is endangered /declining/in unfavorable conservation status, provide evidence that the derogation is not detrimental to the population	<input type="checkbox"/>	
by ticking this box the authority declares that there is no other satisfactory alternative to the derogation	<input type="checkbox"/>	mandatory
if appropriate, provide a reference to alternatives rejected	<input type="checkbox"/>	

controls carried out and results obtained by the controls
<input type="text"/>

comments and notes
<input type="text"/>



## **BERN**

### **Biennial Report 2021-2022**

Article 9 to the Bern Convention permits exceptions from the obligations accepted by Contracting Parties in pursuance of Articles 4 to 8. The possibility of derogating from the mentioned articles of the Convention is subject to two very clearly defined general conditions, and some non cumulative specific reasons, listed exhaustively in Article 9.

The two general conditions that must be met are:

- a. that there is no other satisfactory solution; and
- b. that the exception will not be detrimental to the survival of the population concerned.

These two conditions are mandatory and cumulative.

The specific reasons for which the exceptions may be granted are the following:

- i. for the protection of flora and fauna;
- ii. to prevent serious damage to crops, livestock, forests, fisheries, water and other forms of property;
- iii. in the interests of public health and safety, air safety or other overriding public interests (please, specify);
- iv. for the purposes of research and education, of repopulation, of reintroduction and for the necessary breeding;
- v. to permit, under strictly supervised conditions, on a selective basis and to a limited extent, the taking, keeping or other judicious exploitation of certain wild animals and plants in small numbers
- vi. falconry (falconry is dealt with separately)

These specific reasons are mandatory and non cumulative.

According to Article 9§2, Contracting Parties shall report every two years to the Standing Committee on the exceptions made. The reports must specify:

- a. the populations which are or have been subject to the exceptions and, when practical, the number of specimens involved;
- b. the means authorised for the killing or capture;
- c. the conditions of risk and the circumstances of time and place under which such exceptions were granted;
- d. the authority empowered to declare that these conditions have been fulfilled, and to take decisions in respect of the means that may be used, their limits and the persons instructed to carry them out;
- e. the controls involved.



# EXCEPTIONS CONCERNING STRICTLY PROTECTED FAUNA SPECIES (ART. 6 - APPENDIX II)

Article 6 of the Convention prohibits the following:

- a) all forms of deliberate capture and keeping and deliberate killing;
- b) the deliberate damage to or destruction of breeding or resting sites;
- c) the deliberate disturbance of wild fauna, particularly during the period of breeding, rearing and hibernation, insofar as disturbance would be significant in relation to the objectives of this Convention;
- d) the deliberate destruction or taking of eggs from the wild or keeping these eggs even if empty;
- e) the possession of and internal trade in these animals, alive or dead, including stuffed animals and any readily recognisable part or derivative thereof, (where this would contribute to the effectiveness of the provisions of this article).

## Vertebrates

### BIRDS > CHARADRIIFORMES

#### Scolopacidae

#### Gallinago media

#### Confirmation of a derogation of this species

Please confirm that a derogation for this species has occurred in the country

There is a derogation concerning this species

No. of specimens involved (when practical)

>>> 10

Authorised action (art. 6, a. to f.)

all forms of deliberate capture and keeping and deliberate killing;

No. of licences

>>> 2

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 11.05.2021-30.06.2021, Kamin-Kashirskyi and Kovelskyi districts including in the territory of the Pripyat-Stokhid NPP, Volyn province; Varash and Sarny districts including in the territory of the Rivne Nature Reserve, Rivne province.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

#### Additional details

Where appropriate, please add a text providing information on:

Comments/notes

>>> Bird ringing and satellite transmitter deployment for the study of migration.

Where appropriate: indiscriminate means of capture and killing

10. Nets

### MAMMALS > CHIROPTERA

#### Vespertilionidae

#### All species of Microchiroptera except Pipistrellus pipistrellus (Eptesicus serotinus)

## Confirmation of a derogation of this species

Please confirm that a derogation for this species has occurred in the country

There is a derogation concerning this species

No. of specimens involved (when practical)

>>> 5

Authorised action (art. 6, a. to f.)

all forms of deliberate capture and keeping and deliberate killing;

No. of licences

>>> 2

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 04.11.2021-30.09.2023, Varasky and Sarnensky districts, including on the territory of the Rivne Nature Reserve, Rivne province; Korostensky District, including on the territory of the Drevlyansky Nature Reserve, Zhytomyr province.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

## Additional details

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Strictly protected fauna species.

Comments/notes

>>> 2 licenses for the capture of 5 (3+2) individuals for specification of Chiroptera species composition and radio/satellite transmitter deployment. After the research, the live individuals were released back into the wild.

Where appropriate: indiscriminate means of capture and killing

10. Nets

## All species of Microchiroptera except *Pipistrellus pipistrellus* (*Barbastella barbastellus*)

### Confirmation of a derogation of this species

Please confirm that a derogation for this species has occurred in the country

There is a derogation concerning this species

No. of specimens involved (when practical)

>>> 5

Authorised action (art. 6, a. to f.)

all forms of deliberate capture and keeping and deliberate killing;

No. of licences

>>> 2

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted  
>>> 04.11.2021-30.09.2023, Varasky and Sarnensky districts, including on the territory of the Rivne Nature Reserve, Rivne province; Korostensky District, including on the territory of the Drevlyansky Nature Reserve, Zhytomyr province.

The authority empowered to declare that the conditions have been fulfilled  
>>> State Ecological Inspection.

The controls involved  
>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species  
>>> Strictly protected fauna species.

Comments/notes

>>> 2 licenses for the capture of 5 (3+2) individuals for specification of Chiroptera species composition and radio/satellite transmitter deployment. After the research, the live individuals were released back into the wild.

Where appropriate: indiscriminate means of capture and killing

10. Nets

### **All species of Microchiroptera except Pipistrellus pipistrellus (Eptesicus nilssonii)**

#### **Confirmation of a derogation of this species**

Please confirm that a derogation for this species has occurred in the country

There is a derogation concerning this species

No. of specimens involved (when practical)

>>> 5

Authorised action (art. 6, a. to f.)

all forms of deliberate capture and keeping and deliberate killing;

No. of licences

>>> 2

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted  
>>> 04.11.2021-30.09.2023, Varasky and Sarnensky districts, including on the territory of the Rivne Nature Reserve, Rivne province; Korostensky District, including on the territory of the Drevlyansky Nature Reserve, Zhytomyr province.

The authority empowered to declare that the conditions have been fulfilled  
>>> State Ecological Inspection.

The controls involved  
>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species  
>>> Strictly protected fauna species.

#### Comments/notes

>>> 2 licenses for the capture of 5 (3+2) individuals for specification of Chiroptera species composition and radio/satellite transmitter deployment. After the research, the live individuals were released back into the wild.

Where appropriate: indiscriminate means of capture and killing

10. Nets

### **All species of Microchiroptera except Pipistrellus pipistrellus (Myotis daubentonii)**

#### **Confirmation of a derogation of this species**

Please confirm that a derogation for this species has occurred in the country

There is a derogation concerning this species

No. of specimens involved (when practical)

>>> 5

Authorised action (art. 6, a. to f.)

all forms of deliberate capture and keeping and deliberate killing;

No. of licences

>>> 2

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 04.11.2021-30.09.2023, Varasky and Sarnensky districts, including on the territory of the Rivne Nature Reserve, Rivne province; Korostensky District, including on the territory of the Drevlyansky Nature Reserve, Zhytomyr province.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

#### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Strictly protected fauna species.

#### Comments/notes

>>> 2 licenses for the capture of 5 (3+2) individuals for specification of Chiroptera species composition and radio/satellite transmitter deployment. After the research, the live individuals were released back into the wild.

Where appropriate: indiscriminate means of capture and killing

10. Nets

### **All species of Microchiroptera except Pipistrellus pipistrellus (Myotis mystacinus)**

#### **Confirmation of a derogation of this species**

Please confirm that a derogation for this species has occurred in the country

There is a derogation concerning this species

No. of specimens involved (when practical)

>>> 5

Authorised action (art. 6, a. to f.)

all forms of deliberate capture and keeping and deliberate killing;

No. of licences

>>> 2

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 04.11.2021-30.09.2023, Varasky and Sarnensky districts, including on the territory of the Rivne Nature Reserve, Rivne province; Korostensky District, including on the territory of the Drevlyansky Nature Reserve, Zhytomyr province.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Strictly protected fauna species.

Comments/notes

>>> 2 licenses for the capture of 5 (3+2) individuals for specification of Chiroptera species composition and radio/satellite transmitter deployment. After the research, the live individuals were released back into the wild.

Where appropriate: indiscriminate means of capture and killing

10. Nets

### **All species of Microchiroptera except Pipistrellus pipistrellus (Myotis nattereri)**

#### **Confirmation of a derogation of this species**

Please confirm that a derogation for this species has occurred in the country

There is a derogation concerning this species

No. of specimens involved (when practical)

>>> 5

Authorised action (art. 6, a. to f.)

all forms of deliberate capture and keeping and deliberate killing;

No. of licences

>>> 2

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 04.11.2021-30.09.2023, Varasky and Sarnensky districts, including on the territory of the Rivne Nature Reserve, Rivne province; Korostensky District, including on the territory of the Drevlyansky Nature Reserve, Zhytomyr province.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Strictly protected fauna species.

Comments/notes

>>> 2 licenses for the capture of 5 (3+2) individuals for specification of Chiroptera species composition and radio/satellite transmitter deployment. After the research, the live individuals were released back into the wild.

Where appropriate: indiscriminate means of capture and killing

10. Nets

### **All species of Microchiroptera except Pipistrellus pipistrellus (Nyctalus lasiopterus)**

#### **Confirmation of a derogation of this species**

Please confirm that a derogation for this species has occurred in the country

There is a derogation concerning this species

No. of specimens involved (when practical)

>>> 5

Authorised action (art. 6, a. to f.)

all forms of deliberate capture and keeping and deliberate killing;

No. of licences

>>> 2

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 04.11.2021-30.09.2023, Varasky and Sarnensky districts, including on the territory of the Rivne Nature Reserve, Rivne province; Korostensky District, including on the territory of the Drevlyansky Nature Reserve, Zhytomyr province.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Strictly protected fauna species.

Comments/notes

>>> 2 licenses for the capture of 5 (3+2) individuals for specification of Chiroptera species composition and radio/satellite transmitter deployment. After the research, the live individuals were released back into the wild.

Where appropriate: indiscriminate means of capture and killing

10. Nets

### **All species of Microchiroptera except Pipistrellus pipistrellus (Nyctalus leisleri)**

## Confirmation of a derogation of this species

Please confirm that a derogation for this species has occurred in the country

There is a derogation concerning this species

No. of specimens involved (when practical)

>>> 5

Authorised action (art. 6, a. to f.)

all forms of deliberate capture and keeping and deliberate killing;

No. of licences

>>> 2

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 04.11.2021-30.09.2023, Varasky and Sarnensky districts, including on the territory of the Rivne Nature Reserve, Rivne province; Korostensky District, including on the territory of the Drevlyansky Nature Reserve, Zhytomyr province.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

## Additional details

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Strictly protected fauna species.

Comments/notes

>>> 2 licenses for the capture of 5 (3+2) individuals for specification of Chiroptera species composition and radio/satellite transmitter deployment. After the research, the live individuals were released back into the wild.

Where appropriate: indiscriminate means of capture and killing

10. Nets

## All species of Microchiroptera except *Pipistrellus pipistrellus* (*Nyctalus noctula*)

### Confirmation of a derogation of this species

Please confirm that a derogation for this species has occurred in the country

There is a derogation concerning this species

No. of specimens involved (when practical)

>>> 15

Authorised action (art. 6, a. to f.)

all forms of deliberate capture and keeping and deliberate killing;

No. of licences

>>> 2

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted  
>>> 04.11.2021-30.09.2023, Varasky and Sarnensky districts, including on the territory of the Rivne Nature Reserve, Rivne province; Korostensky District, including on the territory of the Drevlyansky Nature Reserve, Zhytomyr province.

The authority empowered to declare that the conditions have been fulfilled  
>>> State Ecological Inspection.

The controls involved  
>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species  
>>> Strictly protected fauna species.

Comments/notes  
>>> 2 licenses for the capture of 15 (9+6) individuals for specification of Chiroptera species composition and radio/satellite transmitter deployment. After the research, the live individuals were released back into the wild.

Where appropriate: indiscriminate means of capture and killing  
 10. Nets

### **All species of Microchiroptera except Pipistrellus pipistrellus (Pipistrellus nathusii)**

#### **Confirmation of a derogation of this species**

Please confirm that a derogation for this species has occurred in the country  
 There is a derogation concerning this species

No. of specimens involved (when practical)  
>>> 5

Authorised action (art. 6, a. to f.)  
 all forms of deliberate capture and keeping and deliberate killing;

No. of licences  
>>> 2

Reasons for issuing of licences (art. 9, i. to v.)  
 iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population  
>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted  
>>> 04.11.2021-30.09.2023, Varasky and Sarnensky districts, including on the territory of the Rivne Nature Reserve, Rivne province; Korostensky District, including on the territory of the Drevlyansky Nature Reserve, Zhytomyr province.

The authority empowered to declare that the conditions have been fulfilled  
>>> State Ecological Inspection.

The controls involved  
>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species  
>>> Strictly protected fauna species.

Comments/notes

>>> 2 licenses for the capture of 5 (3+2) individuals for specification of Chiroptera species composition and radio/satellite transmitter deployment. After the research, the live individuals were released back into the wild.

Where appropriate: indiscriminate means of capture and killing

10. Nets

## **All species of Microchiroptera except Pipistrellus pipistrellus (Pipistrellus pygmaeus)**

### **Confirmation of a derogation of this species**

Please confirm that a derogation for this species has occurred in the country

There is a derogation concerning this species

No. of specimens involved (when practical)

>>> 10

Authorised action (art. 6, a. to f.)

all forms of deliberate capture and keeping and deliberate killing;

No. of licences

>>> 2

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 04.11.2021-30.09.2023, Varasky and Sarnensky districts, including on the territory of the Rivne Nature Reserve, Rivne province; Korostensky District, including on the territory of the Drevlyansky Nature Reserve, Zhytomyr province.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Strictly protected fauna species.

Comments/notes

>>> 2 licenses for the capture of 10 (7+3) individuals for specification of Chiroptera species composition and radio/satellite transmitter deployment. After the research, the live individuals were released back into the wild.

Where appropriate: indiscriminate means of capture and killing

10. Nets

## **All species of Microchiroptera except Pipistrellus pipistrellus (Plecotus auritus)**

### **Confirmation of a derogation of this species**

Please confirm that a derogation for this species has occurred in the country

There is a derogation concerning this species

No. of specimens involved (when practical)

>>> 5

Authorised action (art. 6, a. to f.)

all forms of deliberate capture and keeping and deliberate killing;

No. of licences

>>> 2

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 04.11.2021-30.09.2023, Varasky and Sarnensky districts, including on the territory of the Rivne Nature Reserve, Rivne province; Korostensky District, including on the territory of the Drevlyansky Nature Reserve, Zhytomyr province.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Strictly protected fauna species.

Comments/notes

>>> 2 licenses for the capture of 5 (3+2) individuals for specification of Chiroptera species composition and radio/satellite transmitter deployment. After the research, the live individuals were released back into the wild.

Where appropriate: indiscriminate means of capture and killing

10. Nets

## **MAMMALS > CARNIVORA**

### **Ursidae**

#### **All species of Ursidae (Ursus arctos)**

#### **Confirmation of a derogation of this species**

Please confirm that a derogation for this species has occurred in the country

There is a derogation concerning this species

No. of specimens involved (when practical)

>>> 0

Authorised action (art. 6, a. to f.)

the possession of and internal trade in these animals, alive or dead, including stuffed animals and any readily recognisable part or derivative thereof, where this would contribute to the effectiveness of the provisions of this article.

No. of licences

>>> 8

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 05.07.2021-30.11.2021, Chernobyl radiation-ecological biosphere reserve, Kyiv province - 1 license, 70 fur samples and 35 feces samples.

30.09.2021-30.11.2021, Drohobyt'skyi, Sambir'skyi, Stryiskyi districts of Lviv province including in the territory of the NPP Skolivski Beskydy and NPP Boykivshchyna;

Uzhgorod district of Transcarpathian province including on the territory of the Uzhanskyi NPP; Bolehivsky and Vyhodsky forestry enterprises of Kalusky district, Ivano-Frankivsk province - 3 licenses, 100+60+50 fur samples and 50+15+25 feces samples. 19.04.2022-30.11.2022, Uzhanskyi NPP, "Synevyr" NPP, Carpathian Biosphere Reserve and forest farms of Transcarpathian province; NPP "Vyzhnytskyi", NPP "Cheremosky" and forest farms of the Chernivtsi province; NPP Skolivski Beskydy, Lviv province; Karpatsky NPP, Gorgany Nature Reserve, NPP "Verkhovynskyi", NPP "Hutsulshchyna", NPP ""Synihora"" and forest farms of Ivano-Frankivsk province - 4 licenses, 15+10+10+15 fur samples and 4x25 feces samples.

The authority empowered to declare that the conditions have been fulfilled  
>>> State Ecological Inspection.

The controls involved  
>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species  
>>> In extinction RDBU.

Comments/notes  
>>> Collection of 330 fur samples and 225 feces samples for ecological and genetic research.

Where appropriate: indiscriminate means of capture and killing  
 other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify  
>>> No means of capture or killing were used.

## **MAMMALS > CETACEA**

### **Delphinidae**

#### **Delphinus delphis ponticus**

#### **Confirmation of a derogation of this species**

Please confirm that a derogation for this species has occurred in the country  
 There is a derogation concerning this species

No. of specimens involved (when practical)  
>>> 0

Authorised action (art. 6, a. to f.)  
 the possession of and internal trade in these animals, alive or dead, including stuffed animals and any readily recognisable part or derivative thereof, where this would contribute to the effectiveness of the provisions of this article.

No. of licences  
>>> 5

Reasons for issuing of licences (art. 9, i. to v.)  
 iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population  
>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted  
>>> 01.10.2021-15.02.2024, coast of the Azov and Black seas, Odesa, Zaporizhzhia, Mykolaiv, Donetsk, Kherson province including the territory of the Priazovsky NPP, the Danube Biosphere Reserve, the "Tuzlivski Lymani" NPP, the "Meotida" NPP, the "Biloberezhya Svyatoslav" NPP, the Black Sea Biosphere Reserve, the "Dzharylgatsky" NPP.

The authority empowered to declare that the conditions have been fulfilled  
>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Strictly protected fauna species.

Comments/notes

>>> Permit for the collection of tissue and organ samples from up to 250 (50 per one license) deceased individuals for research purposes.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> No means of capture or killing were used.

### **Tursiops truncatus ponticus**

#### **Confirmation of a derogation of this species**

Please confirm that a derogation for this species has occurred in the country

There is a derogation concerning this species

No. of specimens involved (when practical)

>>> 0

Authorised action (art. 6, a. to f.)

the possession of and internal trade in these animals, alive or dead, including stuffed animals and any readily recognisable part or derivative thereof, where this would contribute to the effectiveness of the provisions of this article.

No. of licences

>>> 5

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 01.10.2021-15.02.2024, coast of the Azov and Black seas, Odesa, Zaporizhzhia, Mykolaiv, Donetsk, Kherson province including the territory of the Priazovsky NPP, the Danube Biosphere Reserve, the "Tuzlivski Lymani" NPP, the "Meotida" NPP, the "Biloberezhya Svyatoslav" NPP, the Black Sea Biosphere Reserve, the "Dzharylgatsky" NPP.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Strictly protected fauna species.

Comments/notes

>>> Permit for the collection of tissue and organ samples from up to 250 (50 per one license) deceased individuals for research purposes.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> No means of capture or killing were used.

## **Phocoenidae**

### **Phocoena phocoena**

#### **Confirmation of a derogation of this species**

Please confirm that a derogation for this species has occurred in the country

There is a derogation concerning this species

No. of specimens involved (when practical)

>>> 0

Authorised action (art. 6, a. to f.)

the possession of and internal trade in these animals, alive or dead, including stuffed animals and any readily recognisable part or derivative thereof, where this would contribute to the effectiveness of the provisions of this article.

No. of licences

>>> 5

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 01.10.2021-15.02.2024, coast of the Azov and Black seas, Odesa, Zaporizhzhia, Mykolaiv, Donetsk, Kherson province including the territory of the Priazovsky NPP, the Danube Biosphere Reserve, the "Tuzlivski Lymani" NPP, the "Meotida" NPP, the "Biloberezhya Svyatoslav" NPP, the Black Sea Biosphere Reserve, the "Dzharylgatsky" NPP.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

#### **Additional details**

Where appropriate, please add a text providing information on:

Comments/notes

>>> Permit for the collection of tissue and organ samples from up to 500 (100 per one license) deceased individuals for research purposes.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> No means of capture or killing were used.

## **EXCEPTIONS CONCERNING PROTECTED FAUNA SPECIES (ART. 7 APPENDIX III)**

According to article 7 of the Convention, any exploitation of wild fauna specified in Appendix III shall be regulated in order to keep the populations out of danger.

Measures to be taken shall include:

- i. closed seasons and/or other procedures regulating the exploitation;
- ii. the temporary or local prohibition of exploitation, as appropriate, in order to restore satisfactory population levels;
- iii. the regulation as appropriate of sale, keeping for sale, transport for sale or offering for sale of live and dead wild animals.

Exceptions to species listed in Appendix III concern the use of means of capture and killing specified in Appendix IV.

### **Vertebrates**

#### **MAMMALS > CHIROPTERA**

##### **Vespertilionidae**

##### **Pipistrellus pipistrellus**

##### **Confirmation of a derogation of this species**

##### **Please confirm that a derogation for this species has occurred in the country**

There is a derogation concerning this species

No. of individuals involved (when practical)

>>> 5

Exception made

>>> 2 licenses for the capture of 5 (3+2) individuals for specification of Chiroptera species composition and radio/satellite transmitter deployment. After the research, the live individuals were released back into the wild.

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 04.11.2021-30.09.2023, Varasky and Sarnensky districts, including on the territory of the Rivne Nature Reserve, Rivne province; Korostensky District, including on the territory of the Drevlyansky Nature Reserve, Zhytomyr province.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

##### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Protected fauna species.

Where appropriate: indiscriminate means of capture and killing

10. Nets

#### **MAMMALS > CARNIVORA**

##### **Felidae**

##### **Lynx lynx**

## Confirmation of a derogation of this species

### Please confirm that a derogation for this species has occurred in the country

There is a derogation concerning this species

No. of individuals involved (when practical)

>>> 2

Exception made

>>> Two adult individuals were captured for GPS collar deployment and then released back into the wild.

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 19.04.2022-31.12.2023, Rivnenskyi Nature Reserve, Rivne province, Carpathian Biosphere Reserve, Transcarpathian province, Carpathian NPP, Gorgany Nature Reserve, Verkhovynskyi NPP, Ivano-Frankivsk province, Skolivski Beskydy NPP, Lviv province.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

## Additional details

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Protected fauna species.

Where appropriate: indiscriminate means of capture and killing

12. Poison and poisoned or anaesthetic bait

## MAMMALS > ARTIODACTYLA

### Bovidae

#### Bison bonasus

## Confirmation of a derogation of this species

### Please confirm that a derogation for this species has occurred in the country

There is a derogation concerning this species

No. of individuals involved (when practical)

>>> 4

Exception made

>>> Catching 1 adult male and 3 adult female for repopulation and reintroduction into Beremytske Nature Park, Chernihiv province.

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 08.02.2021-31.03.2022, Konotop hunting unit, Sumy state forestry, Sumy province.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

**Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Protected fauna species.

Where appropriate: indiscriminate means of capture and killing

12. Poison and poisoned or anaesthetic bait



## **BERN**

### **Biennial Report 2019-2020**

Article 9 to the Bern Convention permits exceptions from the obligations accepted by Contracting Parties in pursuance of Articles 4 to 8. The possibility of derogating from the mentioned articles of the Convention is subject to two very clearly defined general conditions, and some non cumulative specific reasons, listed exhaustively in Article 9.

The two general conditions that must be met are:

- a. that there is no other satisfactory solution; and
- b. that the exception will not be detrimental to the survival of the population concerned.

These two conditions are mandatory and cumulative.

The specific reasons for which the exceptions may be granted are the following:

- i. for the protection of flora and fauna;
- ii. to prevent serious damage to crops, livestock, forests, fisheries, water and other forms of property;
- iii. in the interests of public health and safety, air safety or other overriding public interests (please, specify);
- iv. for the purposes of research and education, of repopulation, of reintroduction and for the necessary breeding;
- v. to permit, under strictly supervised conditions, on a selective basis and to a limited extent, the taking, keeping or other judicious exploitation of certain wild animals and plants in small numbers
- vi. falconry (falconry is dealt with separately)

These specific reasons are mandatory and non cumulative.

According to Article 9§2, Contracting Parties shall report every two years to the Standing Committee on the exceptions made. The reports must specify:

- a. the populations which are or have been subject to the exceptions and, when practical, the number of specimens involved;
- b. the means authorised for the killing or capture;
- c. the conditions of risk and the circumstances of time and place under which such exceptions were granted;
- d. the authority empowered to declare that these conditions have been fulfilled, and to take decisions in respect of the means that may be used, their limits and the persons instructed to carry them out;
- e. the controls involved.



# EXCEPTIONS CONCERNING STRICTLY PROTECTED FAUNA SPECIES (ART. 6 - APPENDIX II)

Article 6 of the Convention prohibits the following:

- a) all forms of deliberate capture and keeping and deliberate killing;
- b) the deliberate damage to or destruction of breeding or resting sites;
- c) the deliberate disturbance of wild fauna, particularly during the period of breeding, rearing and hibernation, insofar as disturbance would be significant in relation to the objectives of this Convention;
- d) the deliberate destruction or taking of eggs from the wild or keeping these eggs even if empty;
- e) the possession of and internal trade in these animals, alive or dead, including stuffed animals and any readily recognisable part or derivative thereof, (where this would contribute to the effectiveness of the provisions of this article).

## Vertebrates

### FISHES > ESOCIFORMES

#### Umbridae

#### *Umbra krameri*

#### Confirmation of a derogation of this species

Please confirm that a derogation for this species has occurred in the country

There is a derogation concerning this species

No. of specimens involved (when practical)

>>> 300

Authorised action (art. 6, a. to f.)

all forms of deliberate capture and keeping and deliberate killing;

No. of licences

>>> 6

Reasons for issuing of licences (art. 9, i. to v.)

i.: protection of flora /fauna

Impact on population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 29.01.2019-31.12.2019, Prut river with all tributaries, Ivano-Frankivsk province - 1 license, 50 individuals, reasons for issuing is i.: protection of flora /fauna.

26.04.2019 - 31.12.2019, Dnister river with all tributaries, Ivano-Frankivsk province, Lviv province - 2 licenses, 2x50 individuals, reasons for issuing is i.: protection of flora /fauna.

01.05.2019 - 31.12.2019, Seret river with all tributaries, Dnister river with all tributaries, Ternopil province - 1 license, 50 individuals, reasons for issuing is iv.: for research / education / repopulation / reintroduction / necessary breeding.

21.09.2020-31.12.2020, Dnister river with all tributaries, Lviv province, Ivano-Frankivsk province - 2 licenses, 2x50 individuals, reasons for issuing is iv.: for research / education / repopulation / reintroduction / necessary breeding.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

#### Additional details

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Strictly protected fauna species.

Comments/notes

>>> 3 permits (licenses) for the capture of 150 individuals for research on the impact of hydroelectric power plant construction on small river ecosystems and the development of methods to mitigate this impact.  
3 permits (licenses) for the capture of 150 individuals for research on current populations status of protected fish species listed in the Red Book of Ukraine.  
After the research, the live individuals were released back into the wild.

Where appropriate: indiscriminate means of capture and killing

10. Nets

## **AMPHIBIANS > ANURA**

### **Bombinatoridae**

#### **Bombina variegata**

#### **Confirmation of a derogation of this species**

Please confirm that a derogation for this species has occurred in the country

There is a derogation concerning this species

No. of specimens involved (when practical)

>>> 10

Authorised action (art. 6, a. to f.)

all forms of deliberate capture and keeping and deliberate killing;

No. of licences

>>> 1

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 12.04.2019 - 31.10.2019, public land between the villages of Verkhovyna and Bystrets, Ivano-Frankivsk province.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

#### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Strictly protected fauna species.

Comments/notes

>>> License for keeping of 5 males and 5 females, captive breeding and the reintroduction of their offspring.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> No means of capture or killing were used.

### **Bufo calama**

#### **Bufo calamita (Epidalea calamita)**

#### **Confirmation of a derogation of this species**

Please confirm that a derogation for this species has occurred in the country

There is a derogation concerning this species

No. of specimens involved (when practical)

>>> 10

Authorised action (art. 6, a. to f.)

all forms of deliberate capture and keeping and deliberate killing;

No. of licences

>>> 1

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 17.07.2020-31.10.2021, Volyn province.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Strictly protected fauna species.

Comments/notes

>>> License for keeping of 10 adult individuals in Kyiv Zoo, captive breeding and the reintroduction of their offspring.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> No means of capture or killing were used.

## **MAMMALS > RODENTIA**

### **Sciuridae**

#### **Citellus citellus (Spermophilus citellus)**

#### **Confirmation of a derogation of this species**

Please confirm that a derogation for this species has occurred in the country

There is a derogation concerning this species

No. of specimens involved (when practical)

>>> 10

Authorised action (art. 6, a. to f.)

all forms of deliberate capture and keeping and deliberate killing;

No. of licences

>>> 1

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted  
>>> 11.04.2019 - 31.07 2019, public land of the Kelmenets district between the villages of Babyn and Lenkivtsi, near the village of Oselivka and near the village of Anadoly of the Khotyn district, Chernivtsi province.

The authority empowered to declare that the conditions have been fulfilled  
>>> State Ecological Inspection.

The controls involved  
>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species  
>>> Strictly protected fauna species.

Comments/notes  
>>> Permit for keeping and captive breeding of 5 males and 5 females in Kyiv Zoo for reintroduction of their offspring.

Where appropriate: indiscriminate means of capture and killing  
 other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify  
>>> No means of capture or killing were used.

## **Muridae**

### **Cricetus cricetus**

### **Confirmation of a derogation of this species**

Please confirm that a derogation for this species has occurred in the country  
 There is a derogation concerning this species

No. of specimens involved (when practical)  
>>> 10

Authorised action (art. 6, a. to f.)  
 all forms of deliberate capture and keeping and deliberate killing;

No. of licences  
>>> 1

Reasons for issuing of licences (art. 9, i. to v.)  
 iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population  
>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted  
>>> 11.04.2019 - 31.08.2019, public land of Kitsman district, Chernivtsi province.

The authority empowered to declare that the conditions have been fulfilled  
>>> State Ecological Inspection.

The controls involved  
>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species  
>>> Strictly protected fauna species.

#### Comments/notes

>>> Permit for keeping and captive breeding of 5 males and 5 females in Kyiv Zoo for reintroduction of their offspring.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> No means of capture or killing were used.

## **MAMMALS > CARNIVORA**

### **Ursidae**

#### **All species of Ursidae (Ursus arctos)**

#### **Confirmation of a derogation of this species**

Please confirm that a derogation for this species has occurred in the country

There is a derogation concerning this species

No. of specimens involved (when practical)

>>> 0

Authorised action (art. 6, a. to f.)

the possession of and internal trade in these animals, alive or dead, including stuffed animals and any readily recognisable part or derivative thereof, where this would contribute to the effectiveness of the provisions of this article.

No. of licences

>>> 3

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 17.10.2019-30.11.2019, Carpathian NPP, Gorgany Nature Reserve, NPP "Verkhovynskyi", NPP "Skolivski Beskydy", Uzhanskyi NPP, NPP Synevyr, Carpathian Biosphere Reserve, Transcarpathian province, Lviv province, Ivano-Frankivsk province

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> In extinction RDBU.

Comments/notes

>>> Collection of 100 samples (33-34 per license) of feces and fur for genetic research.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> No means of capture or killing were used.

### **Canidae**

#### **Canis lupus**

## Confirmation of a derogation of this species

Please confirm that a derogation for this species has occurred in the country

There is a derogation concerning this species

No. of specimens involved (when practical)

>>> 1500

Authorised action (art. 6, a. to f.)

all forms of deliberate capture and keeping and deliberate killing;

Reasons for issuing of licences (art. 9, i. to v.)

ii.: prevention of serious damage to crops, livestock, forests, fisheries, water and other forms of property

Impact on population

>>> No risk to population.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> Ukraine joined to Bern Convention with amendments concerning selective regulation of number of *Canis lupus*.

The capture carried out in compliance with national environmental legislation.

700 individuals were removed in 2019 and 800 individuals were removed in 2020.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing

14. Semi-automatic or automatic weapons with a magazine capable of holding more than two rounds of ammunition

## MAMMALS > CETACEA

### Delphinidae

#### *Delphinus delphis ponticus*

## Confirmation of a derogation of this species

Please confirm that a derogation for this species has occurred in the country

There is a derogation concerning this species

No. of specimens involved (when practical)

>>> 0

Authorised action (art. 6, a. to f.)

the possession of and internal trade in these animals, alive or dead, including stuffed animals and any readily recognisable part or derivative thereof, where this would contribute to the effectiveness of the provisions of this article.

No. of licences

>>> 1

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 18.06.2019 - 31.12.2021, coast of the Black sea, Odesa province.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Strictly protected fauna species.

Comments/notes

>>> Permit for the collection of tissue and organ samples from up to 100 deceased individuals for research purposes and the establishment of a marine mammal tissue bank.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> No means of capture or killing were used.

### **Tursiops truncatus ponticus**

#### **Confirmation of a derogation of this species**

Please confirm that a derogation for this species has occurred in the country

There is a derogation concerning this species

No. of specimens involved (when practical)

>>> 0

Authorised action (art. 6, a. to f.)

the possession of and internal trade in these animals, alive or dead, including stuffed animals and any readily recognisable part or derivative thereof, where this would contribute to the effectiveness of the provisions of this article.

No. of licences

>>> 1

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 18.06.2019 - 31.12.2021, coast of the Black sea, Odesa province

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Strictly protected fauna species.

Comments/notes

>>> Permit for the collection of tissue and organ samples from up to 100 deceased individuals for research purposes and the establishment of a marine mammal tissue bank.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> No means of capture or killing were used.

## **Phocoenidae**

### **Phocoena phocoena**

#### **Confirmation of a derogation of this species**

Please confirm that a derogation for this species has occurred in the country

There is a derogation concerning this species

No. of specimens involved (when practical)

>>> 0

Authorised action (art. 6, a. to f.)

the possession of and internal trade in these animals, alive or dead, including stuffed animals and any readily recognisable part or derivative thereof, where this would contribute to the effectiveness of the provisions of this article.

No. of licences

>>> 1

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 18.06.2019 - 31.12.2021, coast of the Black sea, Odesa province

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

#### **Additional details**

Where appropriate, please add a text providing information on:

Comments/notes

>>> Permit for the collection of tissue and organ samples from up to 100 deceased individuals for research purposes and the establishment of a marine mammal tissue bank.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> No means of capture or killing were used.

## **EXCEPTIONS CONCERNING PROTECTED FAUNA SPECIES (ART. 7 APPENDIX III)**

According to article 7 of the Convention, any exploitation of wild fauna specified in Appendix III shall be regulated in order to keep the populations out of danger.

Measures to be taken shall include:

- i. closed seasons and/or other procedures regulating the exploitation;
- ii. the temporary or local prohibition of exploitation, as appropriate, in order to restore satisfactory population levels;
- iii. the regulation as appropriate of sale, keeping for sale, transport for sale or offering for sale of live and dead wild animals.

Exceptions to species listed in Appendix III concern the use of means of capture and killing specified in Appendix IV.

### **Vertebrates**

#### **FISHES > PETROMYZONIFORMES**

##### **Petromyzonidae**

##### **Eudontomyzon mariae**

#### **Confirmation of a derogation of this species**

##### **Please confirm that a derogation for this species has occurred in the country**

There is a derogation concerning this species

No. of individuals involved (when practical)

>>> 200

Exception made

>>> 3 permits (licenses) for the capture of 110 individuals for research on the impact of hydroelectric power plant construction on small river ecosystems and the development of methods to mitigate this impact.  
3 permits (licenses) for the capture of 90 individuals for research on current populations status of protected fish species listed in the Red Book of Ukraine.  
After the research, the live individuals were released back into the wild.

Reasons for issuing of licences (art. 9, i. to v.)

i.: protection of flora /fauna

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 29.01.2019-31.12.2019, Prut river with all tributaries, Ivano-Frankivsk province - 1 license, 50 individuals, reasons for issuing is i.: protection of flora /fauna.  
26.04.2019 - 31.12.2019, Dnister river with all tributaries, Lviv province, Ivano-Frankivsk province - 2 licenses, 2x30 individuals, reasons for issuing is i.: protection of flora /fauna.  
01.05.2019 - 31.12.2019, Seret river with all tributaries, tributaries of the Dnister river, Ternopil province - 1 license, 30 individuals, reasons for issuing is iv.: for research / education / repopulation / reintroduction / necessary breeding.  
21.09.2020-31.12.2020, Dnister river with all tributaries, Lviv province, Ivano-Frankivsk province 2 licenses, 2x30 individuals, reasons for issuing is iv.: for research / education / repopulation / reintroduction / necessary breeding.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

#### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Protected fauna species.

Where appropriate: indiscriminate means of capture and killing

10. Nets

## **FISHES > SALMONIFORMES**

### **Salmonidae**

#### **Hucho hucho**

#### **Confirmation of a derogation of this species**

**Please confirm that a derogation for this species has occurred in the country**

There is a derogation concerning this species

No. of individuals involved (when practical)

>>> 150

Exception made

>>> 2 permits (licenses) for the capture of 100 individuals for research on the impact of hydroelectric power plant construction on small river ecosystems and the development of methods to mitigate this impact.  
1 permit (license) for the capture of 50 individuals for research on current populations status of protected fish species listed in the Red Book of Ukraine.  
After the research, the live individuals were released back into the wild.

Reasons for issuing of licences (art. 9, i. to v.)

i.: protection of flora /fauna

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 29.01.2019-31.12.2019, Prut river with all tributaries, Ivano-Frankivsk province, Tysa river with all tributaries, Transcarpathian province - 2 licenses, 2x50 individuals, reasons for issuing is i.: protection of flora /fauna.

25.09.2020-31.12.2020, Tysa river with all tributaries, Transcarpathian province - 1 license, 50 individuals, reasons for issuing is iv.: for research / education / repopulation / reintroduction / necessary breeding.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

#### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Protected fauna species.

Where appropriate: indiscriminate means of capture and killing

10. Nets

#### **Thymallus thymallus**

#### **Confirmation of a derogation of this species**

**Please confirm that a derogation for this species has occurred in the country**

There is a derogation concerning this species

No. of individuals involved (when practical)

>>> 350

Exception made

>>> 3 permits (licenses) for the capture of 150 individuals for research on the impact of hydroelectric power plant construction on small river ecosystems and the development of methods to mitigate this impact.  
4 permits (licenses) for the capture of 200 individuals for research on current populations status of protected fish species listed in the Red Book of Ukraine.

After the research, the live individuals were released back into the wild.

Reasons for issuing of licences (art. 9, i. to v.)

i.: protection of flora /fauna

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 29.01.2019-31.12.2019, Tysa river with all tributaries, Transcarpathian province - 1 license, 50 individuals, reasons for issuing is i.: protection of flora /fauna.

26.04.2019 - 31.12.2019, Dnister river with all tributaries, Lviv province, Ivano-Frankivsk province - 2 licenses, 2x50 individuals, reasons for issuing is i.: protection of flora /fauna.

01.05.2019 - 31.12.2019, Seret river with all tributaries, Dnister river with all tributaries, Ternopil province - 1 license, 50 individuals, reasons for issuing is iv.: for research / education / repopulation / reintroduction / necessary breeding.

21.09.2020-31.12.2020, Dnister river with all tributaries, Lviv province, Ivano-Frankivsk province, Tysa river with all tributaries, Transcarpathian province - 3 licenses, 3x50 individuals, reasons for issuing is iv.: for research / education / repopulation / reintroduction / necessary breeding.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Protected fauna species.

Where appropriate: indiscriminate means of capture and killing

10. Nets

## **FISHES > CYPRINIFORMES**

### **Cyprinidae**

#### **Gobio kessleri (Romanogobio kesslerii)**

#### **Confirmation of a derogation of this species**

**Please confirm that a derogation for this species has occurred in the country**

There is a derogation concerning this species

No. of individuals involved (when practical)

>>> 650

Exception made

>>> 5 permits (licenses) for the capture of 400 individuals for research on the impact of hydroelectric power plant construction on small river ecosystems and the development of methods to mitigate this impact.

4 permits (licenses) for the capture of 250 individuals for research on current populations status of protected fish species listed in the Red Book of Ukraine.

After the research, the live individuals were released back into the wild.

Reasons for issuing of licences (art. 9, i. to v.)

i.: protection of flora /fauna

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 29.01.2019-31.12.2019, Prut river with all tributaries, Ivano-Frankivsk province, Western Bug river with all tributaries, Volyn province, Lviv province - 2 licenses, 100 and 50 individuals, reasons for issuing is i.: protection of flora /fauna

26.04.2019 - 31.12.2019, Dnister river with all tributaries, Lviv province, Ivano-Frankivsk province - 3 licenses, 2x100 and 50 individuals, reasons for issuing is i.: protection of flora /fauna

01.05.2019 - 31.12.2019, Seret river with all tributaries, Dnister river with all tributaries, Ternopil province - 1 license, 100 individuals, reasons for issuing is iv.: for research / education / repopulation / reintroduction / necessary breeding

21.09.2020-31.12.2020, Dnister river with all tributaries, Lviv province, Ivano-Frankivsk province, Western Bug river with all tributaries, Volyn province - 3 licenses, 3x50 individuals, reasons for issuing is iv.: for research / education / repopulation / reintroduction / necessary breeding

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Vulnerable RDBU.

Where appropriate: indiscriminate means of capture and killing

10. Nets

### **Leuciscus souffia**

#### **Confirmation of a derogation of this species**

**Please confirm that a derogation for this species has occurred in the country**

There is a derogation concerning this species

No. of individuals involved (when practical)

>>> 300

Exception made

>>> 1 permit (license) for the capture of 200 individuals for research on the impact of hydroelectric power plant construction on small river ecosystems and the development of methods to mitigate this impact.

1 permit (license) for the capture of 100 individuals for research on current populations status of protected fish species listed in the Red Book of Ukraine.

After the research, the live individuals were released back into the wild.

Reasons for issuing of licences (art. 9, i. to v.)

i.: protection of flora /fauna

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions where granted

>>> 29.01.2019-31.12.2019, Tysa river with all tributaries, Transcarpathian province - 1 license, 200 individuals, reasons for issuing is i.: protection of flora /fauna.

25.09.2020-31.12.2020, Tysa river with all tributaries, Transcarpathian province - 1 license, 100 individuals, reasons for issuing is iv.: for research / education / repopulation / reintroduction / necessary breeding.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Vulnerable RDBU.

Where appropriate: indiscriminate means of capture and killing

10. Nets

## **Gobio uranoscopus (Romanogobio uranoscopus)**

### **Confirmation of a derogation of this species**

**Please confirm that a derogation for this species has occurred in the country**

There is a derogation concerning this species

No. of individuals involved (when practical)

>>> 100

Exception made

>>> 1 permit (license) for the capture of 50 individuals for research on the impact of hydroelectric power plant construction on small river ecosystems and the development of methods to mitigate this impact.

1 permits (license) for the capture of 50 individuals for research on current populations status of protected fish species listed in the Red Book of Ukraine.

After the research, the live individuals were released back into the wild.

Reasons for issuing of licences (art. 9, i. to v.)

i.: protection of flora /fauna

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions where granted

>>> 29.01.2019-31.12.2019, Tysa river with all tributaries, Transcarpathian province - 1 license, 50 individuals, reasons for issuing is i.: protection of flora /fauna.

25.09.2020-31.12.2020, Tysa river with all tributaries, Transcarpathian province - 1 license, 50 individuals, reasons for issuing is iv.: for research / education / repopulation / reintroduction / necessary breeding.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Protected fauna species.

Where appropriate: indiscriminate means of capture and killing

10. Nets

## **FISHES > PERCIFORMES**

### **Percidae**

## **Gymnocephalus schraetzer (Gymnocephalus schraetser)**

### **Confirmation of a derogation of this species**

**Please confirm that a derogation for this species has occurred in the country**

There is a derogation concerning this species

No. of individuals involved (when practical)

>>> 150

Exception made

>>> 2 permits (licenses) for the capture of 110 individuals for research on the impact of hydroelectric power plant construction on small river ecosystems and the development of methods to mitigate this impact.

1 permit (license) for the capture of 90 individuals for research on current populations status of protected fish species listed in the Red Book of Ukraine.

After the research, the live individuals were released back into the wild.

Reasons for issuing of licences (art. 9, i. to v.)

i.: protection of flora /fauna

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 29.01.2019-31.12.2019, Prut river with all tributaries, Ivano-Frankivsk province, Tysa river with all tributaries, Transcarpathian province - 2 licenses, 2x50 individuals, reasons for issuing is i.: protection of flora /fauna.

25.09.2020-31.12.2020, Tysa river with all tributaries, Transcarpathian province - 1 license, 50 individuals, reasons for issuing is iv.: for research / education / repopulation / reintroduction / necessary breeding.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Vulnerable RDBU.

Where appropriate: indiscriminate means of capture and killing

10. Nets

### **Stizostedion volgense (Sander volgensis)**

#### **Confirmation of a derogation of this species**

**Please confirm that a derogation for this species has occurred in the country**

There is a derogation concerning this species

No. of individuals involved (when practical)

>>> 150

Exception made

>>> 2 permits (licenses) for the capture of 100 individuals for research on the impact of hydroelectric power plant construction on small river ecosystems and the development of methods to mitigate this impact.

1 permit (license) for the capture of 50 individuals for research on current populations status of protected fish species listed in the Red Book of Ukraine.

After the research, the live individuals were released back into the wild.

Reasons for issuing of licences (art. 9, i. to v.)

i.: protection of flora /fauna

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 26.04.2019 - 31.12.2019, Dnister river with all tributaries, Ivano-Frankivsk province, Lviv province - 2 licenses, 2x50 individuals, reasons for issuing is i.: protection of flora /fauna.

01.05.2019 - 31.12.2019, Seret river with all tributaries, Dnister river with all tributaries, Ternopil province - 1 license, 30 individuals, reasons for issuing is iv.: for research / education / repopulation / reintroduction / necessary breeding.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species  
>>> In extinction RDBU.

Where appropriate: indiscriminate means of capture and killing  
 10. Nets

## Zingel streber

### Confirmation of a derogation of this species

**Please confirm that a derogation for this species has occurred in the country**

There is a derogation concerning this species

No. of individuals involved (when practical)  
>>> 400

#### Exception made

>>> 4 permits (licenses) for the capture of 200 individuals for research on the impact of hydroelectric power plant construction on small river ecosystems and the development of methods to mitigate this impact.  
4 permits (licenses) for the capture of 200 individuals for research on current populations status of protected fish species listed in the Red Book of Ukraine.  
After the research, the live individuals were released back into the wild.

Reasons for issuing of licences (art. 9, i. to v.)

i.: protection of flora /fauna

Impact on the population  
>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions where granted  
>>> 29.01.2019-31.12.2019, Prut river with all tributaries, Ivano-Frankivsk province, Tysa river with all tributaries, Trasncarpathian province - 2 licenses, 2x50 individuals, reasons for issuing is i.: protection of flora /fauna.  
26.04.2019 - 31.12.2019, Dnister river with all tributaries, Lviv province, Ivano-Frankivsk province - 2 licenses, 2x50 individuals, reasons for issuing is i.: protection of flora /fauna.  
01.05.2019 - 31.12.2019, Seret river with all tributaries, Dnister river with all tributaries, Ternopil province - 1 license, 50 individuals, reasons for issuing is iv.: for research / education / repopulation / reintroduction / necessary breeding.  
21.09.2020-31.12.2020, Dnister river with all tributaries, Lviv province, Ivano-Frankivsk province, Tysa river with all tributaries, Trasncarpathian province - 3 licenses, 3x50 individuals, reasons for issuing is iv.: for research / education / repopulation / reintroduction / necessary breeding.

The authority empowered to declare that the conditions have been fulfilled  
>>> State Ecological Inspection.

The controls involved  
>>> Regular inspection and reporting.

### Additional details

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species  
>>> Protected fauna species.

Where appropriate: indiscriminate means of capture and killing  
 10. Nets

## Zingel zingel

### Confirmation of a derogation of this species

**Please confirm that a derogation for this species has occurred in the country**

There is a derogation concerning this species

No. of individuals involved (when practical)  
>>> 400

#### Exception made

>>> 4 permits (licenses) for the capture of 200 individuals for research on the impact of hydroelectric power plant construction on small river ecosystems and the development of methods to mitigate this impact.  
4 permits (licenses) for the capture of 200 individuals for research on current populations status of protected fish species listed in the Red Book of Ukraine.  
After the research, the live individuals were released back into the wild.

#### Reasons for issuing of licences (art. 9, i. to v.)

i.: protection of flora /fauna

#### Impact on the population

>>> No impact.

#### Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 29.01.2019-31.12.2019, Prut river with all tributaries, Ivano-Frankivsk province, Tysa river with all tributaries, Transcarpathian province - 2 licenses, 2x50 individuals, reasons for issuing is i.: protection of flora /fauna.

26.04.2019 - 31.12.2019, Dnister river with all tributaries, Lviv province, Ivano-Frankivsk province - 2 licenses, 2x50 individuals, reasons for issuing is i.: protection of flora /fauna.

01.05.2019 - 31.12.2019, Seret river with all tributaries, Dnister river with all tributaries, Ternopil province - 1 license, 50 individuals, reasons for issuing is iv.: for research / education / repopulation / reintroduction / necessary breeding.

21.09.2020-31.12.2020, Dnister river with all tributaries, Lviv province - 1 license, 50 individuals, reasons for issuing is iv.: for research / education / repopulation / reintroduction / necessary breeding.

25.09.2020-31.12.2020, Dnister river with all tributaries, Ivano-Frankivsk province - 1 license, 50 individuals, reasons for issuing is iv.: for research / education / repopulation / reintroduction / necessary breeding.

25.09.2020-31.12.2020, Tysa river with all tributaries, Transcarpathian province - 1 license, 50 individuals, reasons for issuing is iv.: for research / education / repopulation / reintroduction / necessary breeding.

#### The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

#### The controls involved

>>> Regular inspection and reporting.

#### **Additional details**

Where appropriate, please add a text providing information on:

#### Information on the conservation status of the derogated species

>>> Protected fauna species.

Where appropriate: indiscriminate means of capture and killing

10. Nets

#### **BIRDS > PODICIPEDIFORMES**

#### **Podicipedidae**

#### **All species of Birds not included in Appendix II (Podiceps cristatus)**

#### **Confirmation of a derogation of this species**

#### **Please confirm that a derogation for this species has occurred in the country**

There is a derogation concerning this species

No. of individuals involved (when practical)

>>> 30000

#### Exception made

>>> Common hunting species.

#### Reasons for issuing of licences (art. 9, i. to v.)

iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

#### Please specify

>>> Sustainable use of biodiversity.

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 15800 individuals were hunted in 2019, and 14200 more in 2020, in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> Hunting firearms.

## **BIRDS > GRUIFORMES**

### **Rallidae**

#### **All species of Birds not included in Appendix II (*Fulica atra*)**

##### **Confirmation of a derogation of this species**

###### **Please confirm that a derogation for this species has occurred in the country**

There is a derogation concerning this species

No. of individuals involved (when practical)

>>> 653500

Exception made

>>> Common hunting species.

Reasons for issuing of licences (art. 9, i. to v.)

iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify

>>> Sustainable use of biodiversity.

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 332500 individuals were hunted in 2019, and 321000 more in 2020, in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> Hunting firearms.

#### **All species of Birds not included in Appendix II (*Gallinula chloropus*)**

##### **Confirmation of a derogation of this species**

###### **Please confirm that a derogation for this species has occurred in the country**

There is a derogation concerning this species

No. of individuals involved (when practical)

>>> 4800

Exception made

>>> Common hunting species.

Reasons for issuing of licences (art. 9, i. to v.)

iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify

>>> Sustainable use of biodiversity.

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 2800 individuals were hunted in 2019, and 2000 more in 2020, in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> Hunting firearms.

## **BIRDS > GALLIFORMES**

### **Phasianidae**

#### **All species of Birds not included in Appendix II (*Perdix perdix*)**

#### **Confirmation of a derogation of this species**

**Please confirm that a derogation for this species has occurred in the country**

There is a derogation concerning this species

No. of individuals involved (when practical)

>>> 81100

Exception made

>>> Common hunting species.

Reasons for issuing of licences (art. 9, i. to v.)

iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify

>>> Sustainable use of biodiversity.

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 41400 individuals were hunted in 2019, and 39700 more in 2020, in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> Hunting firearms.

## **MAMMALS > LAGOMORPHA**

### **Leporidae**

#### **Lepus europaeus**

#### **Confirmation of a derogation of this species**

**Please confirm that a derogation for this species has occurred in the country**

There is a derogation concerning this species

No. of individuals involved (when practical)

>>> 314,000

Exception made

>>> Common hunting species.

Reasons for issuing of licences (art. 9, i. to v.)

iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify

>>> Sustainable use of biodiversity.

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 158400 individuals were hunted in 2019, and 155600 more in 2020, in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> Hunting firearms.

## **MAMMALS > RODENTIA**

### **Castoridae**

#### **Castor fiber**

#### **Confirmation of a derogation of this species**

**Please confirm that a derogation for this species has occurred in the country**

There is a derogation concerning this species

No. of individuals involved (when practical)

>>> 400

Exception made

>>> Regulation of population size to mitigate damage to trees and engineering structures.

Reasons for issuing of licences (art. 9, i. to v.)

ii.: prevention of serious damage to crops, livestock, forests, fisheries, water and other forms of property

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted  
>>> In 2019, 200 individuals were removed, representing 0.2% of the estimated population of 48 800 individuals.

In 2020, 200 individuals were removed, representing 0.4% of the estimated population of 49 00 individuals.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing

14. Semi-automatic or automatic weapons with a magazine capable of holding more than two rounds of ammunition

## **MAMMALS > CARNIVORA**

### **Mustelidae**

#### **Martes foina**

#### **Confirmation of a derogation of this species**

**Please confirm that a derogation for this species has occurred in the country**

There is a derogation concerning this species

No. of individuals involved (when practical)

>>> 200

Exception made

>>> Common hunting species.

Reasons for issuing of licences (art. 9, i. to v.)

iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify

>>> Sustainable use of biodiversity.

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted  
>>> 100 individuals were hunted in 2019, and 100 more in 2020, in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> Hunting firearms.

#### **Martes martes**

#### **Confirmation of a derogation of this species**

**Please confirm that a derogation for this species has occurred in the country**

There is a derogation concerning this species

No. of individuals involved (when practical)

>>> 400

Exception made

>>> Common hunting species.

Reasons for issuing of licences (art. 9, i. to v.)

iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify

>>> Sustainable use of biodiversity.

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 200 individuals were hunted in 2019, and 200 more in 2020, in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> Hunting firearms.

**MAMMALS > ARTIODACTYLA**

**Bovidae**

**Ovis musimon (Ovis aries)**

**Confirmation of a derogation of this species**

**Please confirm that a derogation for this species has occurred in the country**

There is a derogation concerning this species

No. of individuals involved (when practical)

>>> 112

Exception made

>>> 12 individuals were relocated from hunting grounds to wild. 100 individuals were hunted.

Reasons for issuing of licences (art. 9, i. to v.)

iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify

>>> Sustainable use of biodiversity.

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 100 individuals were hunted in 2019 in hunting grounds across Ukraine (excluding temporarily occupied territories).

12 individuals in 2018 were relocated from hunting grounds across Ukraine to wild.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> This is an adventive species that does not have a conservation status in Ukraine.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> Hunting firearms.

### **Bison bonasus**

#### **Confirmation of a derogation of this species**

**Please confirm that a derogation for this species has occurred in the country**

There is a derogation concerning this species

No. of individuals involved (when practical)

>>> 3

Exception made

>>> 2 permits (licenses) for the capture of 3 individuals from NP Skolivski Beskydy for captive breeding and the reintroduction of their offspring.

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 29.01.2019 - 28.02.2020, NP Skolivski Beskydy, Lviv province; SO Zalisya Residence, Kyiv province (2 individuals); SOE Storozhynets Forestry, Chernivtsi province (1 individual).

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Protected fauna species.

Where appropriate: indiscriminate means of capture and killing

12. Poison and poisoned or anaesthetic bait



## **BERN**

### **Biennial Report 2017-2018**

Article 9 to the Bern Convention permits exceptions from the obligations accepted by Contracting Parties in pursuance of Articles 4 to 8. The possibility of derogating from the mentioned articles of the Convention is subject to two very clearly defined general conditions, and some non cumulative specific reasons, listed exhaustively in Article 9.

The two general conditions that must be met are:

- a. that there is no other satisfactory solution; and
- b. that the exception will not be detrimental to the survival of the population concerned.

These two conditions are mandatory and cumulative.

The specific reasons for which the exceptions may be granted are the following:

- i. for the protection of flora and fauna;
- ii. to prevent serious damage to crops, livestock, forests, fisheries, water and other forms of property;
- iii. in the interests of public health and safety, air safety or other overriding public interests (please, specify);
- iv. for the purposes of research and education, of repopulation, of reintroduction and for the necessary breeding;
- v. to permit, under strictly supervised conditions, on a selective basis and to a limited extent, the taking, keeping or other judicious exploitation of certain wild animals and plants in small numbers
- vi. falconry (falconry is dealt with separately)

These specific reasons are mandatory and non cumulative.

According to Article 9§2, Contracting Parties shall report every two years to the Standing Committee on the exceptions made. The reports must specify:

- a. the populations which are or have been subject to the exceptions and, when practical, the number of specimens involved;
- b. the means authorised for the killing or capture;
- c. the conditions of risk and the circumstances of time and place under which such exceptions were granted;
- d. the authority empowered to declare that these conditions have been fulfilled, and to take decisions in respect of the means that may be used, their limits and the persons instructed to carry them out;
- e. the controls involved.



# **EXCEPTIONS CONCERNING STRICTLY PROTECTED FAUNA SPECIES (ART. 6 - APPENDIX II)**

Article 6 of the Convention prohibits the following:

- a) all forms of deliberate capture and keeping and deliberate killing;
- b) the deliberate damage to or destruction of breeding or resting sites;
- c) the deliberate disturbance of wild fauna, particularly during the period of breeding, rearing and hibernation, insofar as disturbance would be significant in relation to the objectives of this Convention;
- d) the deliberate destruction or taking of eggs from the wild or keeping these eggs even if empty;
- e) the possession of and internal trade in these animals, alive or dead, including stuffed animals and any readily recognisable part or derivative thereof, (where this would contribute to the effectiveness of the provisions of this article).

## **Vertebrates**

### **MAMMALS > CARNIVORA**

#### **Canidae**

##### **Canis lupus**

#### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country

- The species occurs in the country

No. of specimens involved (when practical)

>>> 1949

Authorised action (art. 6, a. to f.)

- all forms of deliberate capture and keeping and deliberate killing;

Reasons for issuing of licences (art. 9, i. to v.)

- ii.: prevention of serious damage to crops, livestock, forests, fisheries, water and other forms of property

Impact on population

>>> No risk to population.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> Ukraine joined to Bern Convention with amendments concerning selective regulation of number of *Canis lupus*.

The capture carried out in compliance with national environmental legislation.

992 individuals were removed in 2017 and 957 individuals were removed in 2020.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing

14. Semi-automatic or automatic weapons with a magazine capable of holding more than two rounds of ammunition

### **MAMMALS > CETACEA**

#### **Delphinidae**

##### **Delphinus delphis**

#### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country

- The species occurs in the country

No. of specimens involved (when practical)

>>> 0

Authorised action (art. 6, a. to f.)

the possession of and internal trade in these animals, alive or dead, including stuffed animals and any readily recognisable part or derivative thereof, where this would contribute to the effectiveness of the provisions of this article.

No. of licences

>>> 1

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 20.11.2017-01.11.2020, coast of the Azov and Black seas, Odesa, Zaporizhzhia, Mykolaiv, Kherson province.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

**Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Strictly protected fauna species.

Comments/notes

>>> Permit for the collection of tissue and organs samples from up to 150 deceased individuals for morphological and genetic research, including determining the cause of death for each individual.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> No means of capture or killing were used.

**Tursiops truncatus ponticus**

**Confirmation of species occurrence**

Please confirm the occurrence of the species in the country

The species occurs in the country

No. of specimens involved (when practical)

>>> 0

Authorised action (art. 6, a. to f.)

the possession of and internal trade in these animals, alive or dead, including stuffed animals and any readily recognisable part or derivative thereof, where this would contribute to the effectiveness of the provisions of this article.

No. of licences

>>> 1

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 20.11.2017-01.11.2020, coast of the Azov and Black seas, Odesa, Zaporizhzhia, Mykolaiv, Kherson province.

The authority empowered to declare that the conditions have been fulfilled  
>>> State Ecological Inspection.

The controls involved  
>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species  
>>> Strictly protected fauna species.

Comments/notes  
>>> Permit for the collection of tissue and organs samples from up to 150 deceased individuals for morphological and genetic research, including determining the cause of death for each individual.

Where appropriate: indiscriminate means of capture and killing  
 other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify  
>>> No means of capture or killing were used.

## **Phocoenidae**

### **Phocoena phocoena**

#### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country  
 The species occurs in the country

No. of specimens involved (when practical)  
>>> 0

Authorised action (art. 6, a. to f.)  
 the possession of and internal trade in these animals, alive or dead, including stuffed animals and any readily recognisable part or derivative thereof, where this would contribute to the effectiveness of the provisions of this article.

No. of licences  
>>> 1

Reasons for issuing of licences (art. 9, i. to v.)  
 iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on population  
>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted  
>>> 20.11.2017-01.11.2020, coast of the Azov and Black seas, Odesa, Zaporizhzhia, Mykolaiv, Kherson province.

The authority empowered to declare that the conditions have been fulfilled  
>>> State Ecological Inspection.

The controls involved  
>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Comments/notes  
>>> Permit for the collection of tissue and organs samples from up to 300 deceased individuals for morphological and genetic research, including determining the cause of death for each individual.

Where appropriate: indiscriminate means of capture and killing  
 other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> No means of capture or killing were used.

## **EXCEPTIONS CONCERNING PROTECTED FAUNA SPECIES (ART. 7 APPENDIX III)**

According to article 7 of the Convention, any exploitation of wild fauna specified in Appendix III shall be regulated in order to keep the populations out of danger.

Measures to be taken shall include:

- i. closed seasons and/or other procedures regulating the exploitation;
- ii. the temporary or local prohibition of exploitation, as appropriate, in order to restore satisfactory population levels;
- iii. the regulation as appropriate of sale, keeping for sale, transport for sale or offering for sale of live and dead wild animals.

Exceptions to species listed in Appendix III concern the use of means of capture and killing specified in Appendix IV.

### **Vertebrates**

#### **FISHES > SALMONIFORMES**

##### **Salmonidae**

##### **Hucho hucho**

#### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country

The species occurs in the country

No. of individuals involved (when practical)

>>> 50

Exception made

>>> Permit for the capture of 50 individuals for research on the impact of small hydroelectric power plant construction on small river ecosystems and the development of methods to mitigate this impact. After the research, the live individuals were released back into the wild.

Reasons for issuing of licences (art. 9, i. to v.)

i.: protection of flora /fauna

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 13.11.2017-31.12.2018, Tysa river with all tributaries, Transcarpathian province.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

#### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Protected fauna species.

Where appropriate: indiscriminate means of capture and killing

10. Nets

##### **Thymallus thymallus**

#### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country

The species occurs in the country

No. of individuals involved (when practical)

>>> 50

Exception made

>>> Permit for the capture of 50 individuals for research on the impact of small hydroelectric power plant construction on small river ecosystems and the development of methods to mitigate this impact. After the research, the live individuals were released back into the wild.

Reasons for issuing of licences (art. 9, i. to v.)

i.: protection of flora /fauna

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 13.11.2017-31.12.2018, Tysa river with all tributaries, Transcarpathian province.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Protected fauna species.

Where appropriate: indiscriminate means of capture and killing

10. Nets

## **FISHES > CYPRINIFORMES**

### **Cyprinidae**

#### **Leuciscus souffia**

#### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country

The species occurs in the country

No. of individuals involved (when practical)

>>> 50

Exception made

>>> Permit for the capture of 50 individuals for research on the impact of small hydroelectric power plant construction on small river ecosystems and the development of methods to mitigate this impact. After the research, the live individuals were released back into the wild.

Reasons for issuing of licences (art. 9, i. to v.)

i.: protection of flora /fauna

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 13.11.2017-31.12.2018, Tysa river with all tributaries, Transcarpathian province.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species  
>>> Vulnerable RDBU.

Where appropriate: indiscriminate means of capture and killing  
 10. Nets

### **Gobio uranoscopus (Romanogobio uranoscopus)**

#### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country  
 The species occurs in the country

No. of individuals involved (when practical)  
>>> 50

#### **Exception made**

>>> Permit for the capture of 50 individuals for research on the impact of small hydroelectric power plant construction on small river ecosystems and the development of methods to mitigate this impact. After the research, the live individuals were released back into the wild.

Reasons for issuing of licences (art. 9, i. to v.)  
 i.: protection of flora /fauna

Impact on the population  
>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted  
>>> 13.11.2017-31.12.2018, Tysa river with all tributaries, Transcarpathian province.

The authority empowered to declare that the conditions have been fulfilled  
>>> State Ecological Inspection.

The controls involved  
>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species  
>>> Protected fauna species.

Where appropriate: indiscriminate means of capture and killing  
 10. Nets

### **FISHES > PERCIFORMES**

#### **Percidae**

### **Gymnocephalus schraetzer (Gymnocephalus schraetzer)**

#### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country  
 The species occurs in the country

No. of individuals involved (when practical)  
>>> 50

#### **Exception made**

>>> Permit for the capture of 50 individuals for research on the impact of small hydroelectric power plant construction on small river ecosystems and the development of methods to mitigate this impact. After the research, the live individuals were released back into the wild.

Reasons for issuing of licences (art. 9, i. to v.)

i.: protection of flora /fauna

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 13.11.2017-31.12.2018, Tysa river with all tributaries, Transcarpathian province.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Vulnerable RDBU.

Where appropriate: indiscriminate means of capture and killing

10. Nets

## **Zingel streber**

### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country

The species occurs in the country

No. of individuals involved (when practical)

>>> 50

Exception made

>>> Permit for the capture of 50 individuals for research on the impact of small hydroelectric power plant construction on small river ecosystems and the development of methods to mitigate this impact. After the research, the live individuals were released back into the wild.

Reasons for issuing of licences (art. 9, i. to v.)

i.: protection of flora /fauna

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 13.11.2017-31.12.2018, Tysa river with all tributaries, Transcarpathian province.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Protected fauna species.

Where appropriate: indiscriminate means of capture and killing

10. Nets

## **Zingel zingel**

### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country

The species occurs in the country

No. of individuals involved (when practical)

>>> 50

Exception made

>>> Permit for the capture of 50 individuals for research on the impact of small hydroelectric power plant construction on small river ecosystems and the development of methods to mitigate this impact. After the research, the live individuals were released back into the wild.

Reasons for issuing of licences (art. 9, i. to v.)

i.: protection of flora /fauna

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 13.11.2017-31.12.2018, Tysa river with all tributaries, Transcarpathian province.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Protected fauna species.

Where appropriate: indiscriminate means of capture and killing

10. Nets

## **BIRDS > ANSERIFORMES**

### **Anatidae**

#### **All species of Birds not included in Appendix II (*Anas penelope*)**

#### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country

The species occurs in the country

No. of individuals involved (when practical)

>>> 2037

Exception made

>>> Common hunting species.

Reasons for issuing of licences (art. 9, i. to v.)

iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify

>>> Sustainable use of biodiversity.

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 2037 individuals were hunted in 2017 in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled  
>>> State Ecological Inspection.

The controls involved  
>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing  
 other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify  
>>> Hunting firearms.

## **All species of Birds not included in Appendix II (*Anas strepera*)**

### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country  
 The species occurs in the country

No. of individuals involved (when practical)  
>>> 1552

Exception made  
>>> Common hunting species.

Reasons for issuing of licences (art. 9, i. to v.)  
 iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify  
>>> Sustainable use of biodiversity.

Impact on the population  
>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted  
>>> 1552 individuals were hunted in 2017 in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled  
>>> State Ecological Inspection.

The controls involved  
>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing  
 other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify  
>>> Hunting firearms.

## **All species of Birds not included in Appendix II (*Anas crecca*)**

### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country  
 The species occurs in the country

No. of individuals involved (when practical)  
>>> 59216

Exception made  
>>> Common hunting species.

Reasons for issuing of licences (art. 9, i. to v.)  
 iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify

>>> Sustainable use of biodiversity.

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted  
>>> 59216 individuals were hunted in 2017 in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> Hunting firearms.

## **All species of Birds not included in Appendix II (*Anas platyrhynchos*)**

### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country

The species occurs in the country

No. of individuals involved (when practical)

>>> 320560

Exception made

>>> Common hunting species.

Reasons for issuing of licences (art. 9, i. to v.)

iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify

>>> Sustainable use of biodiversity.

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted  
>>> 320560 individuals were hunted in 2017 in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> Hunting firearms.

## **All species of Birds not included in Appendix II (*Anas acuta*)**

### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country

The species occurs in the country

No. of individuals involved (when practical)

>>> 2719

Exception made

>>> Common hunting species.

Reasons for issuing of licences (art. 9, i. to v.)

iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify

>>> Sustainable use of biodiversity.

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 2719 individuals were hunted in 2017 in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> Hunting firearms.

## **All species of Birds not included in Appendix II (Anser albifrons)**

### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country

The species occurs in the country

No. of individuals involved (when practical)

>>> 2136

Exception made

>>> Common hunting species.

Reasons for issuing of licences (art. 9, i. to v.)

iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify

>>> Sustainable use of biodiversity.

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 2136 individuals were hunted in 2017 in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify  
>>> Hunting firearms.

## **All species of Birds not included in Appendix II (*Anas querquedula*)**

### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country  
 The species occurs in the country

No. of individuals involved (when practical)  
>>> 81436

Exception made  
>>> Common hunting species.

Reasons for issuing of licences (art. 9, i. to v.)  
 iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify  
>>> Sustainable use of biodiversity.

Impact on the population  
>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted  
>>> 81436 individuals were hunted in 2017 in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled  
>>> State Ecological Inspection.

The controls involved  
>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing  
 other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify  
>>> Hunting firearms.

## **All species of Birds not included in Appendix II (*Anser anser*)**

### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country  
 The species occurs in the country

No. of individuals involved (when practical)  
>>> 8669

Exception made  
>>> Common hunting species.

Reasons for issuing of licences (art. 9, i. to v.)  
 iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify  
>>> Sustainable use of biodiversity.

Impact on the population  
>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted  
>>> 8669 individuals were hunted in 2017 in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled  
>>> State Ecological Inspection.

The controls involved  
>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing  
 other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify  
>>> Hunting firearms.

## **All species of Birds not included in Appendix II (*Anser fabalis*)**

### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country  
 The species occurs in the country

No. of individuals involved (when practical)  
>>> 2868

Exception made  
>>> Common hunting species.

Reasons for issuing of licences (art. 9, i. to v.)  
 iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify  
>>> Sustainable use of biodiversity.

Impact on the population  
>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted  
>>> 2868 individuals were hunted in 2017 in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled  
>>> State Ecological Inspection.

The controls involved  
>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing  
 other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify  
>>> Hunting firearms.

## **All species of Birds not included in Appendix II (*Anas clypeata*)**

### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country  
 The species occurs in the country

No. of individuals involved (when practical)  
>>> 15016

Exception made  
>>> Common hunting species.

Reasons for issuing of licences (art. 9, i. to v.)  
 iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify

>>> Sustainable use of biodiversity.

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted  
>>> 15016 individuals were hunted in 2017 in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> Hunting firearms.

## **All species of Birds not included in Appendix II (*Aythya ferina*)**

### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country

The species occurs in the country

No. of individuals involved (when practical)

>>> 18308

Exception made

>>> Common hunting species.

Reasons for issuing of licences (art. 9, i. to v.)

iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify

>>> Sustainable use of biodiversity.

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted  
>>> 18308 individuals were hunted in 2017 in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> Hunting firearms.

## **BIRDS > PODICIPEDIFORMES**

### **Podicipedidae**

## **All species of Birds not included in Appendix II (*Podiceps cristatus*)**

## Confirmation of species occurrence

Please confirm the occurrence of the species in the country

The species occurs in the country

No. of individuals involved (when practical)

>>> 35164

Exception made

>>> Common hunting species.

Reasons for issuing of licences (art. 9, i. to v.)

iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify

>>> Sustainable use of biodiversity.

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 18473 individuals were hunted in 2017, and 16691 more in 2018, in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> Hunting firearms.

## BIRDS > GRUIFORMES

### Rallidae

#### All species of Birds not included in Appendix II (*Fulica atra*)

## Confirmation of species occurrence

Please confirm the occurrence of the species in the country

The species occurs in the country

No. of individuals involved (when practical)

>>> 685543

Exception made

>>> Common hunting species.

Reasons for issuing of licences (art. 9, i. to v.)

iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify

>>> Sustainable use of biodiversity.

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 340129 individuals were hunted in 2017, and 345414 more in 2018, in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled  
>>> State Ecological Inspection.

The controls involved  
>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing  
 other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify  
>>> Hunting firearms.

## **All species of Birds not included in Appendix II (*Gallinula chloropus*)**

### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country  
 The species occurs in the country

No. of individuals involved (when practical)  
>>> 4,514

Exception made  
>>> Common hunting species.

Reasons for issuing of licences (art. 9, i. to v.)  
 iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify  
>>> Sustainable use of biodiversity.

Impact on the population  
>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted  
>>> 1991 individuals were hunted in 2017, and 2523 more in 2018, in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled  
>>> State Ecological Inspection.

The controls involved  
>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing  
 other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify  
>>> Hunting firearms.

## **BIRDS > GALLIFORMES**

### **Phasianidae**

## **All species of Birds not included in Appendix II (*Tetrao urogallus*)**

### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country  
 The species occurs in the country

No. of individuals involved (when practical)  
>>> 0

Exception made  
>>> 10 eggs were taken from abandoned clutches for captive rearing and reintroduction into the Verkhovynskyi

Nature Protection Park, Ivano-Frankivsk Province.

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 01.04.2018 - 01.07.2018, NPP "Verkhovynskyi", Ivano-Frankivsk province.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

### **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Strictly protected fauna species.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> No means of capture or killing were used.

### **All species of Birds not included in Appendix II (Perdix perdix)**

#### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country

The species occurs in the country

No. of individuals involved (when practical)

>>> 83357

Exception made

>>> Common hunting species.

Reasons for issuing of licences (art. 9, i. to v.)

iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify

>>> Sustainable use of biodiversity.

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 40057 individuals were hunted in 2017, and 43300 more in 2020, in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> Hunting firearms.

## **BIRDS > CHARADRIIFORMES**

### **Scolopacidae**

#### **All species of Birds not included in Appendix II (*Scolopax rusticola*)**

##### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country

The species occurs in the country

No. of individuals involved (when practical)

>>> 10772

Exception made

>>> Common hunting species.

Reasons for issuing of licences (art. 9, i. to v.)

iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify

>>> Sustainable use of biodiversity.

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 10772 individuals were hunted in 2017 in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> Hunting firearms.

#### **All species of Birds not included in Appendix II (*Gallinago gallinago*)**

##### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country

The species occurs in the country

No. of individuals involved (when practical)

>>> 92780

Exception made

>>> Common hunting species.

Reasons for issuing of licences (art. 9, i. to v.)

iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify

>>> Sustainable use of biodiversity.

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 92780 individuals were hunted in 2017, in hunting grounds across Ukraine (excluding temporarily occupied

territories).

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> Hunting firearms.

## **MAMMALS > LAGOMORPHA**

### **Leporidae**

#### **Lepus europaeus**

#### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country

The species occurs in the country

No. of individuals involved (when practical)

>>> 309236

Exception made

>>> Common hunting species.

Reasons for issuing of licences (art. 9, i. to v.)

iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify

>>> Sustainable use of biodiversity.

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 154536 individuals were hunted in 2017, and 154700 more in 2018, in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> Hunting firearms.

## **MAMMALS > RODENTIA**

### **Castoridae**

#### **Castor fiber**

#### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country

The species occurs in the country

No. of individuals involved (when practical)

>>> 325

Exception made

>>> Regulation of population size to mitigate damage to trees and engineering structures.

Reasons for issuing of licences (art. 9, i. to v.)

ii.: prevention of serious damage to crops, livestock, forests, fisheries, water and other forms of property

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> In 2017, 125 individuals were removed, representing 0.2% of the estimated population of 51 290 individuals.

In 2018, 200 individuals were removed, representing 0.4% of the estimated population of 48 600 individuals.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing

14. Semi-automatic or automatic weapons with a magazine capable of holding more than two rounds of ammunition

## **MAMMALS > CARNIVORA**

### **Mustelidae**

#### **Martes foina**

### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country

The species occurs in the country

No. of individuals involved (when practical)

>>> 622

Exception made

>>> Common hunting species.

Reasons for issuing of licences (art. 9, i. to v.)

iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify

>>> Sustainable use of biodiversity.

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 322 individuals were hunted in 2017, and 300 more in 2018, in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> Hunting firearms.

## **Martes martes**

### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country

The species occurs in the country

No. of individuals involved (when practical)

>>> 351

Exception made

>>> Common hunting species.

Reasons for issuing of licences (art. 9, i. to v.)

iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify

>>> Sustainable use of biodiversity.

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 151 individuals were hunted in 2017, and 200 more in 2018, in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing

other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify

>>> Hunting firearms.

## **MAMMALS > ARTIODACTYLA**

### **Cervidae**

#### **All species of Cervidae (Alces alces)**

### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country

The species occurs in the country

No. of individuals involved (when practical)

>>> 157

Exception made

>>> 2 individuals were caught for relocation. 155 individuals were hunted.

Reasons for issuing of licences (art. 9, i. to v.)

iii.: in the interests of public health and safety, air safety or other overriding public interests (which?)

Please specify

>>> Sustainable use of biodiversity.

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 01.06.2018 - 31.08.2018, hunting grounds of "VERSHYNA" LLC, BO "BF "BEREMYTSKE BIOSPHERE" Chernihiv province - 1 individual was relocated, reasons for issuing is i.: protection of flora /fauna.  
12.06.2018 - 30.11.2018, military unit A 1979 of the Ministry of Defense of Ukraine, Zhytomyr province, "Feldman-Ecopark RLP", Kharkiv province - 1 individual was relocated, reasons for issuing is i.: protection of flora /fauna.  
Another 143 individuals were hunted in 2017, and 12 more in 2018, in hunting grounds across Ukraine (excluding temporarily occupied territories).

The authority empowered to declare that the conditions have been fulfilled  
>>> State Ecological Inspection.

The controls involved  
>>> Regular inspection and reporting.

Where appropriate: indiscriminate means of capture and killing  
 other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify  
>>> Hunting firearms.

## **Bovidae**

### **Ovis musimon (Ovis aries)**

#### **Confirmation of species occurrence**

Please confirm the occurrence of the species in the country  
 The species occurs in the country

No. of individuals involved (when practical)  
>>> 274

Exception made  
>>> 172 individuals were relocated from hunting grounds to wild. 102 individuals were hunted.

Reasons for issuing of licences (art. 9, i. to v.)  
 iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on the population  
>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions where granted  
>>> 172 individuals were hunted in 2017 in hunting grounds across Ukraine (excluding temporarily occupied territories).  
2 individuals in 2017 and 100 individuals in 2018 were relocated from hunting grounds across Ukraine to wild.

The authority empowered to declare that the conditions have been fulfilled  
>>> State Ecological Inspection.

The controls involved  
>>> Regular inspection and reporting.

## **Additional details**

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species  
>>> This is an adventive species that does not have a conservation status in Ukraine.

Where appropriate: indiscriminate means of capture and killing  
 other means capable of causing local disappearance of, or serious disturbance to, populations of a species

Please specify  
>>> Hunting firearms.

## **Bison bonasus**

## Confirmation of species occurrence

Please confirm the occurrence of the species in the country

The species occurs in the country

No. of individuals involved (when practical)

>>> 10

Exception made

>>> 10 individuals (2-3 years old) were caught for keeping in semi-free conditions to obtain offspring.

Reasons for issuing of licences (art. 9, i. to v.)

iv.: for research / education / repopulation / reintroduction / necessary breeding

Impact on the population

>>> No impact.

Conditions of risk and the circumstances and the time and place under which exceptions were granted

>>> 12.05.2017-31.12.2020, Khmilnyk hunting unit, Vinnytsia state forestry, Vinnytsia province.

The authority empowered to declare that the conditions have been fulfilled

>>> State Ecological Inspection.

The controls involved

>>> Regular inspection and reporting.

## Additional details

Where appropriate, please add a text providing information on:

Information on the conservation status of the derogated species

>>> Protected fauna species.

Where appropriate: indiscriminate means of capture and killing

12. Poison and poisoned or anaesthetic bait