

Brussels, 28 October 2002

## Commission decides to refer Austria to Court over killing of birds of prey in Lower Austria

***The European Commission has decided to refer Austria to the Court of Justice for allowing the killing of birds of prey in the state of Lower Austria. The Commission considers this practice to be in breach of the Wild Birds Directive, which prohibits the killing of wild birds. While certain exceptions can be granted to the prohibition, strict conditions must be fulfilled. The Commission considers that, in this case, the state of Lower Austria grants derogations for the shooting of birds of prey in far too high a number, and without respecting the strict conditions laid down in the Directive. This practice undermines the conservation of vulnerable wild bird species.***

Commenting on the decisions, Margot Wallström, the Environment Commissioner, said: "I urge Austria to end quickly the unjustified killing of birds of prey in Lower Austria. I appreciate that Austrian law has already been changed to better reflect the requirements of the Wild Birds Directive, but Austria still needs to do more to ensure the protection of birds of prey in Lower Austria."

The decision to refer Austria to the Court follows the investigation of a complaint that, both in its legislation and its practice, the state of Lower Austria was unjustifiably allowing the killing of birds of prey. The birds of prey affected are Buzzard (*Buteo buteo*, "Mäusebussard" and *Buteo lagopus*, "Rauhfußbussard"), Marsh Harriers (*Circus aeruginosus*, "Rohrweihe"), and Goshawks (*Accipiter gentilis*, "Habicht").

Since the investigation began in 2000, Lower Austria has adapted its legislation to bring it into line with the Wild Birds Directive. However, in reality, Lower Austria still grants exemptions for the killing of birds of prey, seeking to justify this on the grounds that such killing is needed to protect smaller wild birds and animals such as the pheasant and the grey partridge. However, while exemptions can be made for the protection of flora and fauna, the Commission questions the use of this justification to allow the killing of natural predators in the high numbers allowed in Lower Austria. In addition, its effectiveness is also questionable, since, for example, the Buzzard would not normally prey on small game. Furthermore, Austria has not demonstrated that there is no other satisfactory solution. This is one of the conditions that must be met before a derogation can be justified.

## **Wild Birds Directive**

The Wild Birds Directive<sup>1</sup> is the European Union's oldest piece of nature conservation legislation. It creates a comprehensive scheme of protection for the EU's wild bird species. There are a number of separate but related components to this scheme. One relates to habitat conservation, and includes a requirement to designate Special Protected Areas (SPAs) for migratory and other vulnerable wild bird species. A second consists of a series of bans imposed on activities that directly threaten birds (such as the deliberate destruction of nests and the taking of eggs) and associated activities such as trading in live or dead birds. A third component establishes rules that limit the number of species that can be hunted and the periods during which they can be hunted (hunting seasons should not include periods of greatest vulnerability – such as the return from migration, reproduction and the raising of young birds). Rules also define certain prohibited methods of hunting (for example, non-selective hunting methods). For the second and third components, derogations are possible provided they meet strict requirements and provided no other satisfactory solution is possible.

For current statistics on infringements in general see:

[http://europa.eu.int/comm/secretariat\\_general/sgb/droit\\_com/index\\_en.htm#infractions](http://europa.eu.int/comm/secretariat_general/sgb/droit_com/index_en.htm#infractions)

---

<sup>1</sup> Council Directive 79/409/EEC on the conservation of wild birds