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Report of the

**WORKSHOP ON MANAGEMENT ADVICE FOR REDUCING
THE IMPACT OF CORMORANT PREDATION ON FISH
AND FISHERIES**

Pula, Croatia, 8 October 2024



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PREPARATION OF THE DOCUMENT

The workshop on management advice for reducing the impact of cormorant predation on fish and fisheries was convened in hybrid mode by the European Inland Fisheries Advisory Commission (EIFAAC), in Pula, Croatia, on 8 October 2024.

This occasional paper contains abstracts of the presentations made at the workshop and a summary of workshop discussions. This workshop was included in the workplan of the EIFAAC project with the title: “Developing Advice on Sustainable Management Actions on Cormorant Populations”.

The organization of this workshop was financed by the European Maritime, Fisheries and Aquaculture Fund (EMFAF) within its work programme for 2024–2025, under the FAO-European Commission Trust Fund project on ‘Developing Europe-wide management advice to protect vulnerable and endangered fish species from unsustainable predation by cormorants’ (GCP/RER/069/EC).

This document was prepared by Mr Raymon van Anrooy (FAO), Mr Ian Cowx (University of Hull/The Angling Trust) and Mr Niels Jepsen (Technical University of Denmark). Legal advice was provided by Ms Nienke Van Der Burgt, FAO environmental law consultant. The workshop received assistance from Ms Duygu Maktav (FAO). This document was finalized by Ms Maria Eugenia Escobar (FAO). All photographs and figures in this document were provided by the authors.

The EIFAAC Secretariat acknowledges the support received from Ms Piria and Ms Gavrilovic (University of Zagreb, Faculty of Agriculture), who facilitated the organization of this workshop within the EIFAAC international symposium on “Building a sustainable future for inland fisheries and aquaculture in a time of multiple stressors”, held in Pula, Croatia, from 7 to 9 October 2024.

ABSTRACT

The EIFAAC workshop on management advice for reducing the impact of cormorant predation on fish and fisheries was held in hybrid mode in Pula, Croatia, on 8 October 2024. The workshop was attended by 78 participants from 24 countries.

The workshop reported on the use of EU Birds Directive Article 9 derogations, regulations and management measures to reduce the impact of cormorants on fish populations, fisheries and aquaculture in the EIFAAC member countries. A compilation of management advice for reducing the impact of cormorant predation on fish, fisheries and aquaculture was discussed, as well as the outcomes of recent EIFAAC surveys and some potential regional cormorant management measures.

The EIFAAC survey findings showed an increase in cormorant conflicts with recreational fishing and conservation interests, and that many different management measures are applied throughout Europe. Seventy percent of the EIFAAC Members consider that a pan-European management plan for cormorants would be beneficial for inland fisheries and aquaculture.

The workshop participants provided valuable contributions to the management planning process, with a focus on research needs and monitoring the impact of regional management measures. Participants also discussed their challenges to reduce cormorant predation on aquaculture ponds, how cormorants negatively impact EU Water Framework Directive outcomes, and whether cormorants could be placed on Annex II (hunnable species) of the EU Birds Directive. It was agreed that the management plan should be Europe-wide and not limited to the European Union, and that all key stakeholders should be invited to join in the planning and review process of the plan.

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A) INTRODUCTION

1. The workshop on management advice for reducing the impact of cormorant predation on fish and fisheries was held in hybrid mode in Pula, Croatia, on 8 October 2024. The workshop was organized within the EIFAAC international symposium on “Building a sustainable future for inland fisheries and aquaculture in a time of multiple stressors”, which was held in Pula, Croatia, from 7 to 9 October 2024. Workshop invitations were sent out by the EIFAAC secretariat to key stakeholders involved in cormorant - fish interactions in Europe, and via EIFAAC Operational Focal Points in the Member States. Interested stakeholders could register at the workshop [site](#). The workshop was attended by 78 participants from 24 countries. The participants were welcomed by EIFAAC Secretary, Mr Raymon van Anrooy.

2. The workshop was part of the endorsed work programme 2022–2024 of EIFAAC and was an activity of two EIFAAC projects on “Developing Advice on Sustainable Management Actions on Cormorant Populations” (FAO, 2022) and on ‘Developing Europe-wide management advice to protect vulnerable and endangered fish species from unsustainable predation by cormorants’ (GCP/RER/069/EC). The workshop was technically supported by Ian Cowx (University of Hull/The Angling Trust) and Niels Jepsen (Technical University of Denmark).

B) BACKGROUND

3. Since the adoption of the EU Birds Directive (79/409/EEC) in 1979, the very small population of cormorants has grown to over one million birds in Europe. This conservation success has led to increasing conflicts between fishing and aquaculture interests and cormorant protection advocates. The conflicts are EU-wide and are rooted in cormorant predation effects on fish in rivers, aquaculture ponds, lakes and coastal areas. The number of conflicts has increased over the last 30 years and very few have been successfully resolved. In the past the European Union supported conflict mitigating projects (Redcafe, Intercafe, FRAP, CorMan), but despite these efforts there are no indications that the tools developed have led to coherent solutions. Since 2013 no new regional management initiatives have been initiated.

4. Scientific findings largely confirm the observations by commercial fishers, recreational anglers and aquaculturists that too many cormorants have a significant negative impact on fish and fisheries. Scientific evidence indicates that the current level of cormorant predation of fish is negatively impacting aquatic biodiversity. Cormorant predation in rivers is of such high magnitude that it threatens vulnerable fish populations like the grayling (*Thymallus thymallus*). The conflict has now moved from fisheries into the conservation/biodiversity area as well.

5. There is a growing demand for action at the European level regarding cormorant management/regulations, as the migratory nature of cormorants does not make it possible to solve the problems at national level. So far, the EU Member States have interpreted and used the derogations option under article 9 of the Birds Directive differently. Measures (preventive and reactive) used by EU Member States so far to prevent damages and depredation by cormorants have failed as no concerted action has been taken. About half of the EU Members actively use §9 derogations, and the measures under these derogations are diverse, such as killing, harassing, egg oiling and destruction of colonies. Derogations provide only a partial solution that is used in an uncoordinated manner by Member States while cormorants are migratory. Local damage prevention measures and compensation for damages have been found to be insufficient.

6. A more streamlined regional approach to management of cormorant populations and their impact on fish and fisheries resources is needed. The European Parliament has discussed this subject on several occasions and asked the Commission to take action to mitigate the conflicts.

7. EIFAAC is aware of the challenges and issued various advisory notes (EIFAAC [2022](#), [2023](#)) and a resolution [EIFAAC/31/2022/3](#), calling for joint action to prepare a European-wide cormorant management plan to harmonize measures and regulations aiming to reduce the damage to fish stocks in Europe. The migratory nature of cormorants does not make it possible to solve the problems at the national level. The EU DG Mare therefore agreed to support EIFAAC with a project on ‘Developing Europe-wide management advice to protect vulnerable and endangered fish species from unsustainable

predation by cormorants” (GCP/RER/069/EC), financed by the European Maritime, Fisheries and Aquaculture Fund (EMFAF) within its work programme for 2024–2025.

8. This project will, in line with Resolution EIFAAC/31/2022/3 and European Parliament resolutions, contribute to the organization of a European conference to produce management advice for reducing the impact of cormorant predation on fish and fisheries.
9. The Communication of the Commission Strategic Guidelines for a more sustainable and competitive EU aquaculture for the period 2021 to 2030 recognize the management of predators, especially cormorants, as one of the challenges for aquaculture. This concerns freshwater aquaculture, where damage by predators can jeopardize its profitability. Besides continuous concerns raised from the aquaculture producers, the European Parliament and the Council of the European Union have also called upon the European Commission to react, by proposing an EU-wide cormorant management plan (in the EP Resolution and the Council conclusions).
10. The European Commission considers that preventive measures are available to Member States to limit the damage by cormorants to fisheries and aquaculture and does not plan an EU-wide management plan for cormorants. However, the European Commission would like to support the efforts of stakeholders in different Member States to cooperate and produce management advice for reducing the impact of cormorant predation on fish, fisheries and aquaculture.
11. The specific objective of the European Union supported EIFAAC project is to produce management advice for reducing the impact of cormorant predation on fish and fisheries in Europe.

Specifically, the project contributes to the implementation of:

- European Parliament resolution of 4 December 2008 on the adoption of a European Cormorant Management Plan to minimize the increasing impact of cormorants on fish stocks, fishing and aquaculture (2008/2177(INI)).
- European Parliament resolution of 4 October 2022 on striving for a sustainable and competitive EU aquaculture: the way forward (2021/2189(INI)).
- EIFAAC resolution of 24 June 2022 “On measures to support the protection of vulnerable and endangered fish species from unsustainable predation from cormorants” (EIFAAC/31/2022/3).

12. The project is expected to produce the following results before the end of 2025:
 - a) A summary report on the use of Article 9 derogations (Birds Directive), regulations and management measures to reduce the impact of cormorants on fish population, fisheries and aquaculture that are in place in the EIFAAC member countries.
 - b) An overview report on the status of cormorant predation of fish, conflicts, and experiences with management of cormorant populations in EIFAAC member countries.
 - c) A European conference organized to produce management advice for reducing the impact of cormorant predation on fish, fisheries and aquaculture.
 - d) A draft European-wide cormorant management plan; and
 - e) A strengthened network of researchers, managers and other stakeholders on cormorant issues.

13. In addition, the EU Horizon programme finances the [ProtectFish](#) project, which contributes research to inform better management of cormorants to reduce their impact on specific fish stocks that are under threat and need protection. The findings of this project may in the future guide adaptive management actions under the regional management plan.

C) SUMMARY OF THE WORKSHOP

14. Mr Raymon van Anrooy, EIFAAC Secretary, welcomed the participants and started by providing some background to the workshop. He informed the workshop that EIFAAC members have been working on cormorant – fisheries conflicts for decades with mixed success. He introduced the experts Mr Ian Cowx (University of Hull/The Angling Trust) and Mr Niels Jepsen (Technical University of Denmark).

15. The objectives of the workshop were to:

- Report on the use of Article 9 derogations (under the EU Birds Directive), regulations and management measures to reduce the impact of cormorants on fish population, fisheries and aquaculture that are in place in the EIFAAC member countries.
- Present and discuss the outcomes of recent EIFAAC surveys.
- Provide a compilation of management advice for reducing the impact of cormorant predation on fish, fisheries and aquaculture. And
- Discuss potential regional management measures.

16. The workshop agenda that was adopted can be found in Appendix A and the list of participants in Appendix B.

17. Niels Jepsen, senior researcher of the Technical University of Denmark (DTU) presented a provisional **“summary report on the use of Article 9 derogations (Birds Directive), regulations and management measures to reduce the impact of cormorants on fish population, fisheries and aquaculture that are in place in the EIFAAC member countries”**.

18. He started with a summary of the responses received to the EIFAAC 2024 “Survey on the implementation of Resolution EIFAAC/31/2022/3 on Cormorants”, which was carried out in July-August 2024. The 2024 survey was distributed to the EIFAAC Operational Focal Points of its member states and focal points from 26 Member States responded.

19. The questions asked in the survey were the following:

- Is predation by cormorants on fish populations an important problem for coastal and inland fisheries and aquaculture management in your country?
- How would you describe the trend in conflicts involving cormorants with aquaculture, commercial inland fishing, recreational fishing or biodiversity conservation in your country over the period 2022–2024?
- Please provide any reports, scientific papers and popular articles that are available about cormorant abundance and distribution and conflicts with fish, and coastal and inland fisheries and aquaculture in your country.
- Does your country have any management plans or regulations in place for the management of cormorants?
- Who implements the regulations, and have they been used in the past 5 years?
- What are the primary cormorant control measures used in your country?
- Are the current management measures used to reduce the predation by cormorants on fish in your country effective?
- Please provide details of the management measures and reports on outcomes where possible. If measures are not successful, please indicate why.
- Do you believe a pan-European Management Plan to control cormorant numbers would be beneficial for inland fisheries and aquaculture?

20. The results showed that the conflicts involving cormorants are still regarded as important and have not decreased in intensity since the 2022 EIFAAC survey. Twenty-two of 26 responding countries regarded cormorant predation on fish populations as an important or very important problem for coastal, inland fisheries and aquaculture management in their countries. Fifty percent of the respondents judged that conflicts between cormorants and recreational fishing and with biodiversity conservation were increasing. Conflicts between cormorants and commercial fisheries were stable or increasing in the last 3 years according to 15 of the 26 respondents. Nearly sixty percent of the respondents reported that conflicts between cormorants and aquaculture were stable.

21. An analysis of the origin of the responses showed that cormorant predation is regarded as a significant problem by most EIFAAC member states, except for Albania, Norway and Kingdom of the Netherlands. The cormorant control measures used are very diverse. In seven countries the only measure used is cormorants scaring, while in two countries only culling is practiced as population management measure. In most countries a combination of management measures is used. When asked whether the

current management measures used to reduce the predation by cormorants on fish are effective in their countries, a majority (14) of respondents reported that the measures taken were insufficient to be effective or were not effective at all. Only 5 respondents judged that the measures taken were partially effective.

22. A large majority (18) of the EIFAAC member states that responded to the survey think that a pan-European management plan to control cormorant numbers would be beneficial for inland fisheries and aquaculture. Two respondents did not believe that such a plan will help to solve the cormorant related problems. The main outcomes of the 2024 EIFAAC Survey can be found in Appendix C.

23. A similar survey was widely shared with “cormorants and fish experts” in July–September 2024.

In total 56 experts responded to this survey, and the answers largely reflected the same trend reported by the EIFAAC Operational Focal Points. All experts answered that predation on fish populations is an important or very important problem for coastal, inland fisheries and aquaculture management in their countries. Most experts also reported an increase in conflicts between cormorants and recreational fisheries (70 percent) and with biodiversity conservation objectives (75 percent). Some 33 percent of the respondents reported a stable number of conflicts between cormorants and aquaculture and 32 percent saw an increase in cormorant-aquaculture conflicts in recent years.

24. According to the experts, the main measures used include scaring (58 percent), culling (47 percent), and oiling (21 percent). Fish shelters and habitat improvements were also reported. The measures reported varied, and no specific trend was visible. Nearly sixty percent of the experts responding to the survey reported that the measures taken were insufficient or had no effect at all. In contrast, another 30 percent of the experts answered that the measures taken were partially effective. Seventy-nine percent of the experts think that a pan-European cormorant management plan would be beneficial for inland fisheries and aquaculture.

25. The main message from the two 2024 EIFAAC surveys is that the predation from cormorants is widely seen as an important problem, and that the number of conflicts with cormorants is still increasing in various sectors. Most European countries have cormorant control measures in place, but they vary much and are overall not seen as very effective in reducing the number of conflicts. There is wide support for a Pan-European cormorant management plan.

26. Niels Jepsen continued by providing insight in the cormorant derogation numbers in the European Union. The analysis of derogations was carried out to determine how the number of reported derogations on cormorants (*Phalacrocorax carbo sinensis*) had developed through time, in EU-Member States (+United Kingdom). This was done by accessing the publicly available information, found on the European Environment Agency’s (EEA) website: [CDR](#), Derogations Reporting (Birds and Habitats Directive) and Biennial Reporting (Bern Convention Article 9).

27. In theory all countries report on derogations regarding birds every year, as they are obliged to do so under article 9 of the Birds Directive. However, in practice not all countries comply, and some countries did not report for several years, or the reports were flawed, and the data cannot be used in any analysis. To get the trend in the number of cormorants derogations, the number of birds that had been reported as affected by derogations were compared for the years 2010, 2015, and 2020. This was done for all EU Member States and the United Kingdom. Of the 27 EU Member States (+United Kingdom), 6 Member States reported zero cormorants affected by derogations in all years, and these countries were therefore not included in the analysis.

28. The reasons given for the derogations were also analyzed. The legal justification for granting the derogations show what reasons were given for regulating the bird. The most common justifications, and the only ones used in relation to cormorants, are:

- To prevent serious damage to crops, livestock, forests, fisheries and water.
- In the interests of public health and safety.
- For the protection of flora and fauna.
- In the interests of air safety.
- For the purposes of researching and education.

29. The vast majority (91 percentage) of permissions were given to prevent serious damage to fisheries.

30. The cormorant related derogations reported in 2020 added-up to the following numbers:

- Number of individuals culled in 2020: 71 000
- Number of eggs oiled or pricked in 2020: 9 000
- Number of nests destroyed/removed in 2020: < 1 000

31. When looking at official reported numbers, relatively few countries reported most of the regulation. Five Member States were culling 70 percentage of the total number of reported birds for which derogation was provided in 2020.

32. The DTU received additional official numbers from Norway and numbers of permitted culls in France and when these numbers were added, we see that the number of birds culled has been increasing from 2010 to 2015 and from 2015 to 2020. The total number of cormorants permitted to be culled was 120 000 in 2020.

33. The number of reported cormorants culled increased from 21 000 in 2010 to 71 000 in 2020. Assuming that reporting has not changed this is a very significant increase. If we assume that the European cormorant population is now approximately 1.5 million birds (Niels Jepsen's estimate), the 120 000 birds culled is less than 10 percentage of the population and likely less than 25 percentage of the annual young production.

34. However, total cormorant mortality is much higher than the 120 000, due to:

- Natural mortality (e.g. old age, accidents).
- Diseases (e.g. birds-flu).
- Unreported regulation.
- Measures taken outside the European Union.
- Natural predators (e.g. White-tailed eagles).

35. In summary, the EU Birds Directive Article 9 derogations are widely used in most countries, but the reporting on culling of cormorants is mainly done by a handful of countries (France, Germany, Hungary, Sweden, Denmark and Czechia). There is a clear tendency of increasing number of regulation measures, which fits well with the trend of increasing conflicts found by the 2024 EIFAAC survey.

36. The presentation was appreciated by the workshop participants, and it triggered intense discussions. The following subjects were raised:

Cormorants - aquaculture conflicts

- Farmed animals are protected under European Union and national level animal welfare regulations. There is pressure on farmers to take care of animal welfare. Cormorants have a negative impact (stress and injuries) on fish being farmed in pond systems in aquaculture and affect therefore the welfare of farmed fish.
- Complaints about damage by geese to crops in agriculture are dealt with much faster and compensation is provided rapidly as losses can be calculated more easily. Damage to and loss of fish in aquaculture because of cormorant predation is more complicated, and a good compensation system seems to be lacking for damage in aquaculture.
- The timeframe is too long between requesting a derogation for scaring/culling of cormorants that damage fish in aquaculture and its eventual approval. It appears that in some European Union countries environmental protection agencies evaluating requests for derogation are not giving priority. Often most damage is already done before approval has been received.
- A dialogue between aquaculture and environment agencies at national level in each of the Member States is needed to find ways to speed up and simplify derogation processes and related reporting. Environmental agencies frequently request to investigate alternatives to culling and/or egg oiling, while such alternatives have already been investigated and found ineffective.

- Pond aquaculture farms are not viable anymore because of cormorant predation. As a consequence, the number of farms is declining in some countries, which has a negative impact on fish production and food security in the European Union.

Cormorants – aquatic biodiversity conflicts

- The implementation of the EU Water Framework Directive (WFD) is negatively impacted by cormorants that predate on fish. When cormorants decimate grazing fish populations, then algae growth increases and oxygen levels in water are reduced. This has significant negative consequences for aquatic biodiversity in inland waters, and nullifies the hard work done and large investments made to restore and improve aquatic biodiversity.
- The aquatic biodiversity conservation work in support of the WFD by recreational and commercial inland fishers is not recognized by the European Union and national governments. Sustainable fisheries resources management in support of the WFD implementation requires measures that reduce cormorant - biodiversity conflicts.
- The WFD and Birds Directive appear to have conflicting objectives, as both directives aim to protect species and biodiversity. A better balance between the objectives is needed.

Cormorant data

- Participants from Poland, Hungary, Sweden and France reported on the increase in cormorant populations in their countries. It was mentioned that data are often available at local level and that data compilation for national and regional level analyses would be needed.
- Derogations information should be passed from local/district level to national level in some countries, as it appears that most information does not reach national level decision makers.
- Cormorant research requires investment and more coordination, particularly on damages and compensation for damages that are caused by cormorants.
- Counting cormorants and cormorant nests with drones has improved the estimation of the size of cormorant populations. Germany and Sweden have good experiences with using drones for counting birds and nests. It appears that the number of birds counted is higher than with traditional methods, as video photography is used.
- The use of Artificial Intelligence (AI) in the counting of birds and nests is something to consider, as it would save much time for researchers.

European management plans

- Geese and swan populations in Europe have also increased significantly in the last decades. The number of conflicts between geese/swans and agriculture increased at the same time. There might be parallels between the cormorant- fish/fisheries/aquaculture conflicts and geese-agriculture conflicts, which could be used for the future management plan.
- It would be useful to find out whether the 2012 International Species Management Plan for the Svalbard Population of the Pink-footed Goose *Anser brachyrhynchus* (UNEP/AEWA, 2012), has been evaluated since, to learn from its implementation. The management plan evaluation was just published and showed that the management plan achieved most of its planned results (Madsen *et al.*, 2024).
- A European cormorant management plan should include good data-collection practices, so that time series can be built, and an analysis can be made. At present, various European Union countries do have cormorant breeding and population data for some years, but with data gaps and inconsistencies in method of counting.
- A monitoring system to keep track of sizes of cormorant populations and the damage they cause should be included in a European management plan.

37. Ian G. Cowx, emeritus professor at the University of Hull, United Kingdom, made a presentation on “**Developing a Europe-wide management plan to protect vulnerable and endangered fish species from unsustainable predation by cormorants**”. A summary is provided here:

38. An overview of the basis of conflicts arising from the continued expansion in numbers of breeding and overwintering great cormorants across Europe over the past 30 years was provided. The large numbers of breeding cormorants in North and Western Europe and concentrations in the Baltic region coupled with widespread distribution across all Europe in winter were highlighted (Figure 1). There are an estimated 222 000 – 267 000 breeding pairs and a wintering population of 602 000–757 000 individuals across Europe, although there has been no European wide assessment since 2013 (EU, 2023). It was also noted there is a potential shift in movements of wintering cormorants to a more southerly direction. Birdlife International (2021) estimates the number of great cormorants at 926 000 birds and increasing.

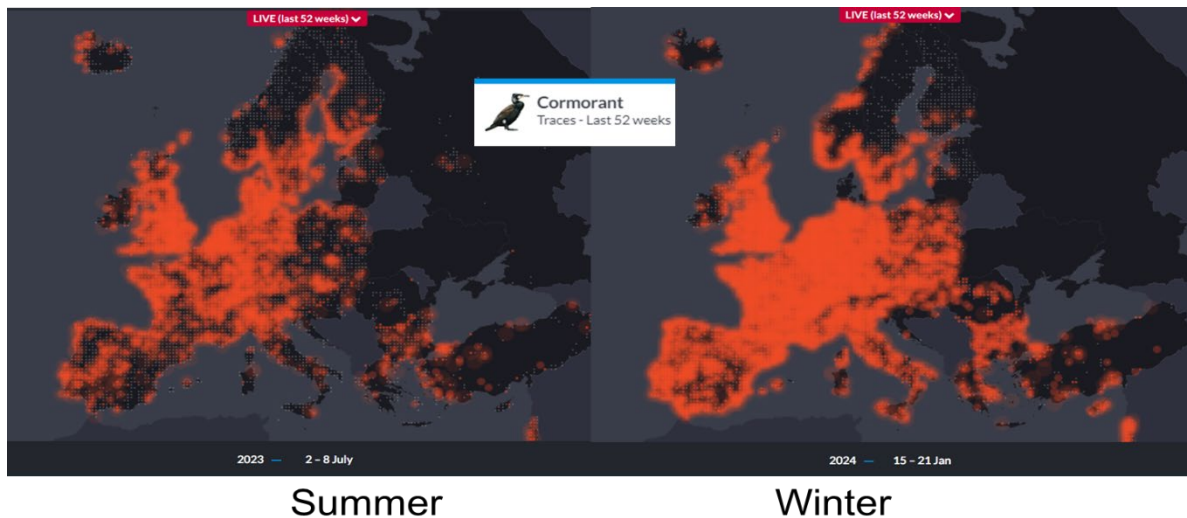


Figure 1. Distribution of summer breeding and overwintering great cormorant Europe (source: <https://eurobirdportal.org/ebp/en/#home/PHACAR/r52weeks>)

39. This dramatic increase in distribution and abundance has created conflict between bird conservation and fisheries and aquaculture, with many wild fish populations now threatened and failing favorable conservation status. Cormorants impact wild fisheries, aquaculture production and the environment through direct predation in inland and coastal waters and fish farms, wounding and scaring of fish, and damaging forestry where they nest and overwinter (Ovegård *et al.*, 2021).

40. The reasons for the increase in cormorant numbers are related to protection and conservation measures throughout much or all of the cormorant's range, reduction in the use of DDT and easy access for cormorants to inland water habitats with high prey availability. In particular, the great cormorant is protected under Article 5 of the EU Birds Directive (not huntable species), and as a result its conservation status has been favorable and secure since the early 1990s. The species is also listed as "Least Concern" in the IUCN Red List.

41. This expansion in the range and abundance of cormorants is in direct contrast to the deteriorating status of stocks of many fish species, which is in part due to cormorants, and seems to represent an imbalance in efforts to conserve and manage different species groups. The deteriorating status of many fish stocks has implications for achieving a Good Ecological Status under the EU Water Framework Directive. Fish species most under threat are migratory species, few of which have designated conservation areas.

42. Measures available to address the impact of piscivorous birds on fish stocks include control of populations through lethal measures and actions such as habitat management, fish stocking and scaring. These actions are regulated by derogation under Article 9 of the EU Birds Directive. Derogations are granted by competent national authorities and require no prior approval of the Commission. Many countries do not apply for derogation. European Union funding is available through the EMFAF to support preventive measures and compensate for losses, especially in fish farms. These actions may be effective locally but appear not to address the problems at a European scale. This raises the prospect for a pan-

European cormorant management plan; one that is supported by fisheries agencies and other stakeholders in most European countries and requested by the European Parliament.

43. The proposed aims of the European cormorant management plan are to balance long-term conservation of cormorant populations with sustainable use and conservation of fish stocks and protection of aquaculture interests. Ultimately the goal is to maintain a balanced ecosystem where both fish and bird populations can thrive.

44. Although in an early formative stage, several components for the proposed plan were presented for discussion.

- *Provision of appropriate evidence, including regular monitoring of cormorant population across Europe to track changes and trends, their impact on ecosystems and interaction between protected species.* Particularly important here are regular population surveys of cormorants to understand their distribution, breeding success, migration and feeding behaviour in both inland and coastal environments. This is required to quantify the ecological, economic and social impacts of cormorants on fisheries and aquaculture in inland and coastal waters and to ensure that cormorant management does not negatively impact other species, including those that are protected under European Union law.
- *Mitigation strategies to reduce cormorant numbers in Europe and to reduce the availability of fish to cormorants are well documented in the EU Cost Action INTERCAFE Cormorant Management Toolbox.* Whilst practical at the local level, these actions do not appear effective at the regional and European levels, and there is need to upscale the measures to achieve a balance between bird and cormorant conservation objectives. This will likely require:
 - coordination of local, national and regional licensing to control cormorant numbers under Article 9;
 - Setting thresholds for fish stocks with high conservation and societal value status that trigger regionally coordinated applications;
 - Specific management of cormorant breeding populations, especially in priority areas; and
 - Establish a financial compensation framework.
- *Establishing a legal framework to ensure management practices comply with the EU Birds Directive (Directive 2009/147/EC) and other relevant environmental and conservation laws will be fundamental to the plan.* This will include coordination to ensure that cormorant management does not compromise protection of key biodiversity areas and conservation of species, especially fish. It will be essential to establish clear criteria for when and where lethal control (such as culling) can be employed, under what conditions permits can be granted, and how this aligns with European Union law.
- *Linked to this there should be detailed investigations about the practicalities of potentially modifying cormorant status under the Birds Directive from Article 5 (non-hunttable) to Article 7 (hunttable species).* It is recognised that this brings with it considerable issues such as offsetting the costs of damages to the hunters, but lessons may be learnt from the proposed amendment of conservation status of the wolf from strictly protected fauna species to protected fauna species under the Bern Convention and the management plan for pink-footed goose.
- *An adaptive management approach is recommended, including monitoring and evaluation of any measures taken. This is fundamental to achieve success in managing cormorant numbers at the local, regional and pan European levels.* This will require:
 - *Regional Approaches:* Develop region-specific strategies that recognise varying levels of cormorant population density, habitat type, and human interventions across Europe.
 - *Dynamic Measures:* Implement adaptive management techniques that allow for adjustments in intervention measures based on new data, research findings, and evolving cormorant and fish population dynamics.
 - *Monitoring and Evaluation:* Establish long-term monitoring to assess the effectiveness of management measures and make necessary adjustments based on monitoring and research findings.

- *Continuing research and innovation in measures to manage cormorant numbers in a social and ecological way are going to be critical for any management plan.* There is a need to:
 - Support research on cormorant behaviour, diet, and migration patterns to inform management decisions.
 - Develop generic guidelines to assess the scale of damage;
 - Research into how cormorant populations respond to regulation attempts - few studies have quantified movements, mortality/survival, immigration and emigration of birds;
 - Undertake research and innovation into and deployment of non-lethal deterrents, such as noise devices, visual scare tactics, or altering fish stocking practices to minimize cormorant predation.
- *Integrating national and regional management interventions into a pan-European framework with key stakeholder involvement, coordinated through a central unit.* Collaboration will be essential between countries and international organisations, especially along migratory “flyways” (overwinter and breeding locations). Linked to this a central coordinating unit will need to be established with a centralised regularly maintained online database to share cormorant population data, fishery impact reports, and best management practices between EU Member States as well as establishing a forum for dialogue and conflict resolution between groups, such as fisheries and bird conservation groups. This raises questions of the legal status and resourcing of the unit.
- There is also a need to *promote transparency and public awareness* through:
 - Awareness Campaigns: Conduct public awareness campaigns to inform the public about the importance of cormorant conservation and the challenges faced by fisheries and aquaculture.
 - Educational Programmes: Develop educational programmes for schools and communities to promote understanding and support for the management plan.

45. Considerable feedback was received from the workshop participants after the presentation, and the key issues raised will be integrated into the first draft of the management plan that will be put out to consultation in early 2025.

46. Observations and comments received from workshop participants included the following:

Cormorant and fish research matters of importance to the management plan development and implementation:

- The EU Water Framework Directive (WFD) implementation is negatively impacted by cormorants. There is a need for a similar conservation status of threatened fish as cormorants have. Careful fish population monitoring is needed to investigate the declines in populations.
- While there is a possibility to obtain compensation for fish mortality in aquaculture that is caused by cormorants, there is not any compensation for injured fish, which often die later, or cannot be sold because of their damage.
- The ice cover of fishponds in the winter season is reducing due to climate change. Cormorants have thus also access to the fish in the winter season. This causes activity by fish in the winter, reduced fitness in the spring, and increased occurrence of infections and diseases in fish. This effect is seen in aquaculture ponds and in open water in Central Europe.
- The easy access of cormorants to aquaculture fish in the winter season maintains a higher population of cormorants. In practice, the cormorants receive supplementary food in aquaculture, increasing their populations further. Cormorants eat what they can get, and fish in aquaculture ponds are an easy target.
- The decline in the number of aquaculture pond farmers in Europe can be partly attributed to cormorants’ predation, as it affects negatively farm profitability and reduces interest in investment in new ponds and farms.
- Evidence of cormorants’ impact on grayling and salmon populations is not just limited to a few countries but is region-wide and has been published in peer reviewed journals. Studies have been done in many countries, which need to be collected and combined.

- Some bird advocates do not accept the evidence of damage by cormorants to fish populations as presented by fish researchers. More awareness raising on the issue is required.
- Population trend data of many fish species is lacking, which hampers the conservation of fish populations.
- Recent data on the increase in cormorant nesting and wintering populations is limited, which causes data gaps, and reduces management actions.

Matters of importance to the management planning process:

- While the European Union considers inland fisheries as a matter of national level, the European Union directives such as the Habitats, Water Framework and Birds directives impact inland fisheries development, management and conservation at national levels in the Member States. Cormorants do not respect borders, which make it impossible to manage the cormorant population at national level.
- The Europe-wide management plan should also consider national laws of non-EU European countries and recognize that predation and damage prevention and mitigation measures may be different.
- The management plan alone will be just a tool, which helps to bring together stakeholders and organize joint measures.
- The management plan should preferably set thresholds for the number of nesting cormorants that can be considered sustainable for the cormorant population while fish populations recover and become sustainable.
- Some data being collected under the EU WFD can be useful for monitoring the success of the management plan in terms of its impact on fish populations.
- Placing cormorants on Annex II (hunnable species) of the EU Birds Directive will likely receive opposition of birds' advocates and of some hunting advocates, as the latter would then (in some countries) become responsible for damage compensation by cormorants in areas under their management.
- Special protected areas (SPAs) will provide challenges to implementation of management plan measures, as it may be impossible to act within these areas and up to 25 km around them.
- The Bern Convention would be an appropriate convention for discussing and agreeing on the future Europe-wide management plan.

47. Raymon van Anrooy presented the preliminary outcomes of a legal options analysis by Nienke van der Burgt (FAO legal advisor). The presentation on “**Removing the Great Cormorant (*Phalacrocorax carbo*) from protected species lists. Is it possible?**”, discussed the cormorant listing on the IUCN Red List and its protection under the EU Birds Directive.

48. On the IUCN Red List, it was mentioned that the list contains 35 types of cormorants, and that *Phalacrocorax carbo* is on the list, while *Phalacrocorax carbo sinensis* is not found on the list. The Great Cormorant is listed as a species of “Least Concern”. A taxon is Least Concern (LC) when it has been evaluated against the Red List criteria and does not qualify for Critically Endangered, Endangered, Vulnerable or Near Threatened. Least Concern implies that the species is not the focus of conservation, because it is plentiful in the wild, and that the species has a low risk of extinction and is considered important for global biodiversity. The geographical scope of the list is global, which means that taxon assessments are done on a global scale. The criteria for listing may be applied at any geographical scale, but assessments within a very limited geographical scale are discouraged. Taxa may be least concern in one region and critically endangered in another region. Assessments on cormorant species are undertaken by the IUCN SSC Cormorant Specialist Group, and the IUCN SSC Red List Authority does the final categorization. Non-IUCN led regional assessments and national Red List assessments will not be considered for inclusion on The IUCN Red List, unless these are also global assessments (e.g., single-country endemics).

49. Movement of taxa between categories on the IUCN Red List is done as follows:

- A taxon may be moved from a category of higher threat to a category of lower threat if none of the criteria of the higher category has been met for five years or more (i.e., if the

taxon has qualified for a lower threat category for at least five years, regardless of when the previous assessment was published).

- If the original classification is found to have been erroneous, the taxon may be transferred to the appropriate category or removed from the threatened categories altogether, without delay. However, in this case, the taxon should be re-evaluated against all the criteria to clarify its status.
- Transfer from categories of lower to higher risk should be made without delay.
- The reason for a transfer between categories must be documented.

50. Not any examples of species that have been removed from the list were found. Downlisting of species/taxa is possible, but the Great Cormorant is already placed in the lowest category – Least Concern. It was concluded that it is not possible to remove the Great Cormorant from the IUCN Red List.

51. Secondly, the EU Birds Directive (2009/147/EC) was discussed. This directive aims to ‘the conservation of all species of naturally occurring birds in the wild state in the European territory of the Member States’. The Directive does so by setting out rules for their ‘protection, management and control’. The Directive covers birds, their eggs, nests and habitats.

52. Neither *Phalacrocorax carbo* nor *Phalacrocorax carbo sinensis* are listed in Annex 1 of the Birds Directive. This means that there is no special protection regime for these species. These cormorants are therefore covered under the general protection regime (in Article 5).

Article 5: Without prejudice to Articles 7 and 9, Member States shall take the requisite measures to establish a general system of protection for all species of birds referred to in Article 1, prohibiting in particular:

- (a) deliberate killing or capture by any method;
- (b) deliberate destruction of, or damage to, their nests and eggs or removal of their nests;
- (c) taking their eggs in the wild and keeping these eggs even if empty;
- (d) deliberate disturbance of these birds particularly during the period of breeding and rearing, in so far as disturbance would be significant having regard to the objectives of this Directive;
- (e) keeping birds of species, the hunting and capture of which is prohibited.

53. Article 9 allows Member States to derogate from the basic prohibitions in Articles 5-8.

Reasons:

- (f) — 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;
- (g) for the purposes of research and teaching, of re-population, of re-introduction and for the breeding necessary for these purposes;
- (h) 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 allows Member States to derogate from the basic prohibitions in Article 5-8 if three conditions are fulfilled:

- There is no other satisfactory solution;
- The derogation is based on one of the reasons listed in Article 9(1); and
- The technical requirements of Article 9(2) are met (e.g. specific authorities designated to approve derogation, controls etc.).

54. Many derogations have been reported for the Great Cormorant by a range of Member States, as shown in the presentation by Niels Jepsen.

55. The Court of Justice of the European Union has many case laws on the use of derogations based on Article 9 of the Birds Directive. These case laws discuss, amongst others, the following subjects:

- Need to cover specific situations.
- Limited to strict necessity.
- Go beyond exemptions for ‘normal use’ by agriculture, forestry and fisheries
- Degree of damage – when is damage serious?
- Satisfactory alternatives available?
- Seasonality.
- Small numbers?

56. Article 7 of the EU Birds Directive allows Member States to hunt for species listed in Annex II.

Article 7

1. Owing to their population level, geographical distribution and reproductive rate throughout the Community, the species listed in Annex II may be hunted under national legislation. Member States shall ensure that the hunting of these species does not jeopardise conservation efforts in their distribution area.

2. The species referred to in Annex II, Part A, may be hunted in the geographical sea and land area where this Directive applies.

3. The species referred to in Annex II, Part B, may be hunted only in the Member States in respect of which they are indicated. [...]

57. A question could be whether it is possible to add a species to Annex II. There has been one amendment of Annex II part B. This proposal by the Commission (on the request of certain Member States) was proposed 1991, leading to the entry into force of the Council Directive on amending the Annex II in 1994. Concrete, this resulted in the addition of five species of *Corvidae* (crow-like species) to Annex II/B and the removal of three species of waders from Annex II/B for Italy.

58. The process of Amending Annex II to the Birds Directive follows the same legislative process as the adoption of a new directive. The essential characteristic of this procedure is that both the Council of Ministers as well as the European Parliament have a deciding vote in the legislative proposal, and both institutions may amend a proposal.

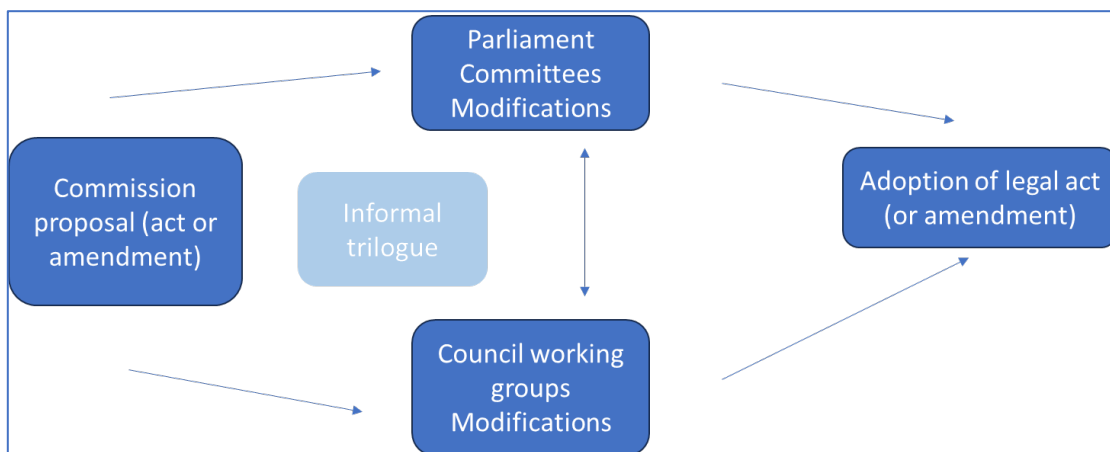


Figure 2: Process for amendment or adoption of a directive. *Source: Author's own elaboration.*

59. The conclusion is that it is possible to amend Annex II of the Birds Directive to add the Great Cormorant. However, to amend Annex II to add the Great Cormorant is a complex and lengthy process. There is a political risk involved, as an amendment could be viewed (by Environmental Non Governmental Organizations NGOs and political groups) as an attempt to weaken the level of birds' protection. Starting an amendment process might lead to a completely new directive as all is on the negotiation table. For species not listed in Annex II, an exception to the prohibitions in Article 5 seems only possible where the requirements of Article 9 of the Directive are fulfilled.

60. Appendix D of this report provides a more detailed preliminary analysis of the above, prepared by Nienke van der Burgt (FAO legal advisor).

61. Following the presentation participants discussed some pros and cons of the application of Birds Directive Article 7 for cormorants and also suggested to investigate the processes for changes under the Bern Convention, learning from the current changes to the protection level of wolves.

62. A representative from the Ministry of Agriculture and Rural Development of Poland informed the participants of the scheduled “Conference on management advice to reduce cormorant predation impacts” in Brussels on 3 June 2025, hosted by the Polish EU Council Presidency, and organized in close collaboration with FAO’s Liaison Office in Brussels and the EIFAAC Secretariat. At the Conference a near final “European Cormorant Management Plan to minimise the increasing impact of cormorants on fish stocks, fishing and aquaculture” will be presented. In-person attendance will be by invitation only, as there is limited space available, but stakeholders will be able to join also online.

D) WORKSHOP CLOSURE

63. Mr Raymon van Anrooy (EIFAAC) thanked the presenters and participants in Pula and online for their valuable contributions to the workshop discussions. He mentioned that the presentations are made available online at the workshop [site](#) and that the workshop report would be published by EIFAAC before the end of 2024.

64. He informed the participants of the plan to share a draft management plan with all stakeholders by the beginning of February 2025 and to have a virtual stakeholder consultation in the last week of February. The announcement will be made on EIFAAC’s new website: <https://www.fao.org/eifaac/>

65. He invited participants to submit additional suggestions for the management plan or the planning process and comments to the EIFAAC Secretariat within two weeks after the workshop and to make also suggestions for key stakeholders to invite to the stakeholder consultation and conference in Brussels.

66. Finally, he expressed appreciation to the EIFAAC Symposium organizers, who had facilitated the organization of the workshop, and to the FAO team that assisted in the organization of the event.

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AGENDA

Workshop on Management Advice for Reducing the Impact of Cormorant Predation on Fish and Fisheries

08.30 – 09.00	Registration of participants
09.00 – 09.15	Opening of the workshop - welcome words on behalf of EIFAAC Introduction of participants Adoption of the agenda
09.15 – 9.20	1. Background and objectives of the workshop (Mr Raymon van Anrooy, FAO)
9.20 – 10.00	2. Draft summary report on the use of Article 9 derogations (Birds Directive), regulations and management measures to reduce the impact of cormorants on fish population, fisheries and aquaculture that are in place in the EIFAAC member countries (Dr Niels Jepsen, Danish Technical University) – including also the outcomes of the 2024 EIFAAC Cormorants survey.
10.00 – 10.30	3. Discussion on the report findings.
10.30 – 10.45	Coffee break
10.45– 11.30	4. Draft compilation of management advice for reducing the impact of cormorant predation on fish, fisheries and aquaculture (Dr Ian Cowx, Angling Trust/ University of Hull) – including an initial assessment of potential regional management measures.
11.30 – 12.15	5. Discussion on the draft assessment of potential regional management measures.
12.15 – 12.45	6. Discussion on the process to remove the Great cormorant (<i>Phalacrocorax carbo</i>) from protected species lists.
12.45 – 13.00	7. Next steps discussion
13.00	Workshop closure

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Italy

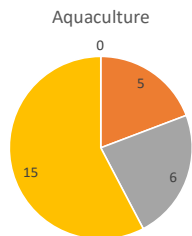
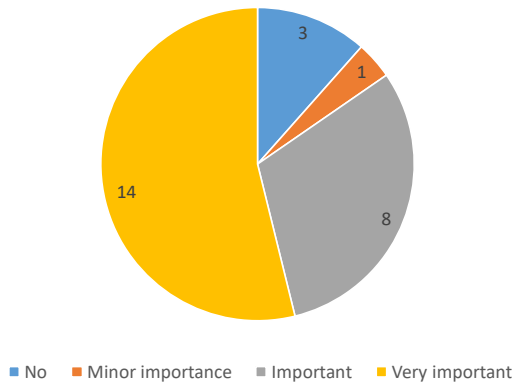
Nienke VAN DER BURGT [online]
Consultant
Food and Agriculture Organization of the
United Nations
Belgium

EIFAAC 2024 SURVEY – EIFAAC OPERATIONAL FOCAL POINTS (26 MEMBER STATES RESPONDED)

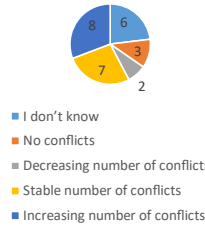
Main figures with survey findings

Is predation by cormorants on fish populations an important problem for coastal, inland fisheries and aquaculture management in your country?

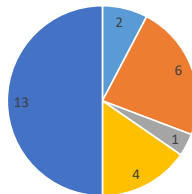
Number of responding countries: 26



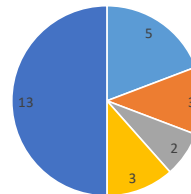
Commercial fisheries



Recreational fisheries

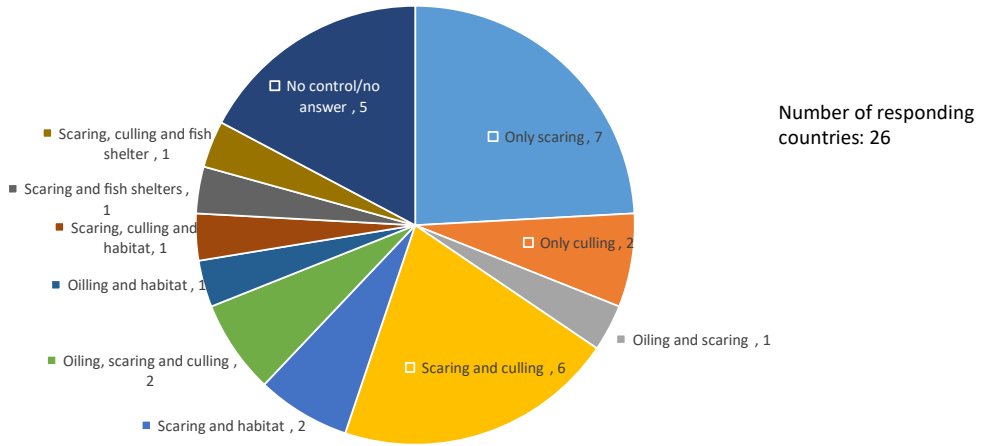


Biodiversity conservation

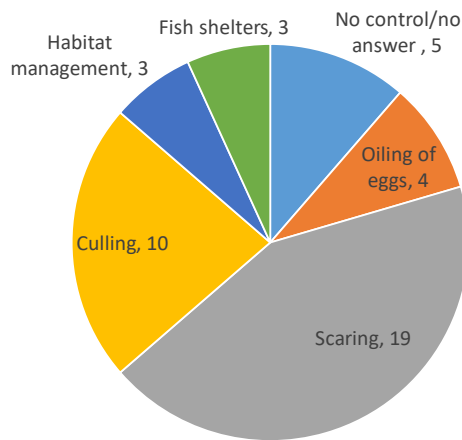


Number of responding countries: 26

What are the primary cormorant control measures used in your country?



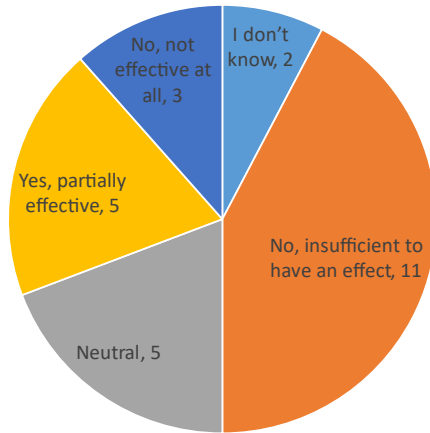
Measures used, broken down to individual measures



Number of responding countries: 26

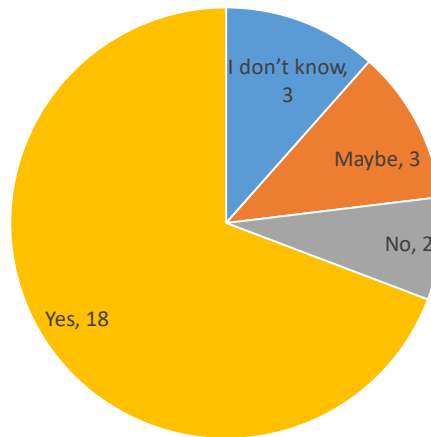
Are the current management measures used to reduce the predation by cormorants on fish in your country effective?

Number of responding countries: 26



Do you believe a pan-European Management Plan to control cormorant numbers would be beneficial for inland fisheries and aquaculture?

Number of responding countries: 26



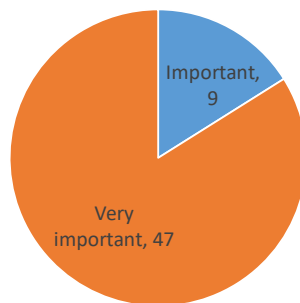
EIFAAC 2024 Survey – Fish and Cormorants Experts (56 Experts responded)

Main figures with survey findings

Responses to the 2024 EIFAAC experts' survey on cormorants predation of fish

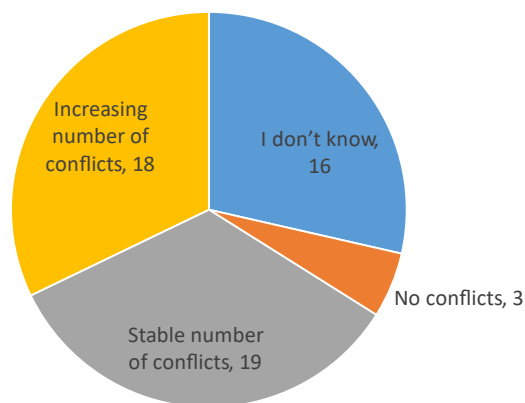
1) Is predation by cormorants on fish populations an important problem for coastal and inland fisheries and aquaculture management in your country?

Respondents: 56

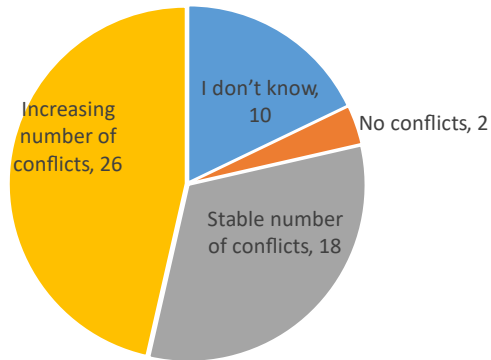


2) How would you describe the trend in conflicts involving cormorants with **aquaculture** in your country over the period 2022-2024.

Respondents: 56

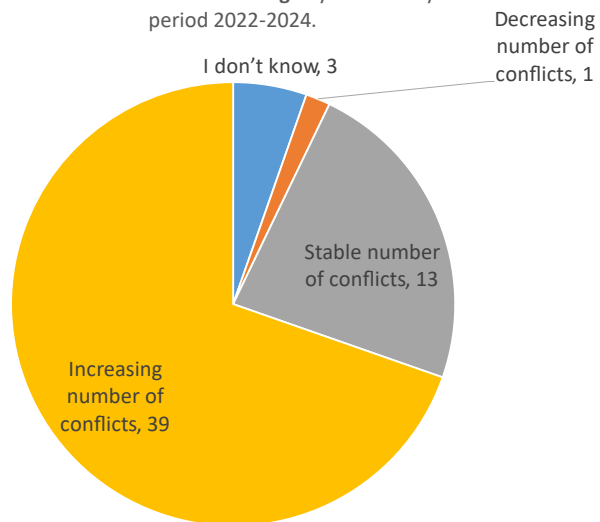


2) How would you describe the trend in conflicts involving cormorants with **Commercial fisheries** in your country over the period 2022-2024.



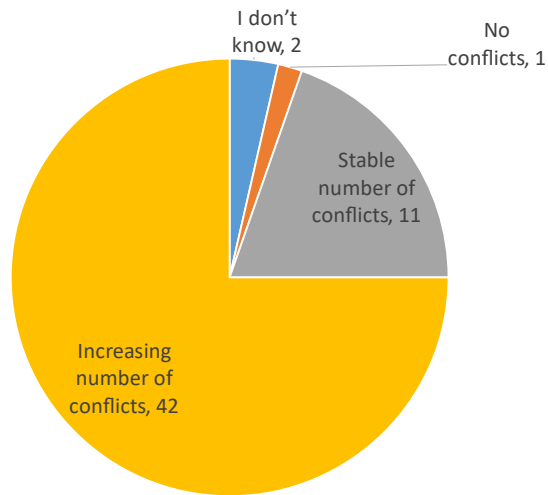
Respondents: 56

2) How would you describe the trend in conflicts involving cormorants with **Recreational fishing** in your country over the period 2022-2024.



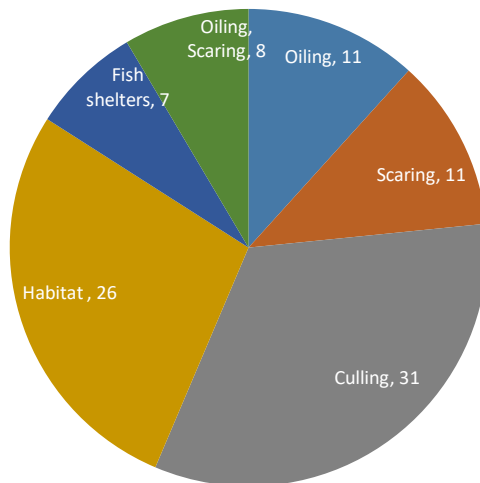
Respondents: 56

2) How would you describe the trend in conflicts involving cormorants with **Biodiversity** in your country over the period 2022-2024.



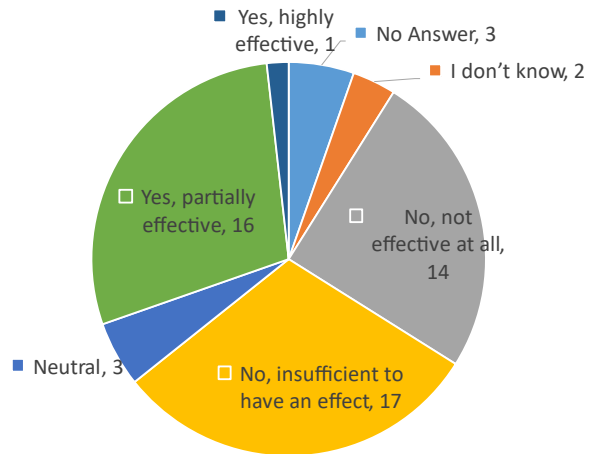
Respondents: 56

6) What are the primary cormorant control measures used in your country?



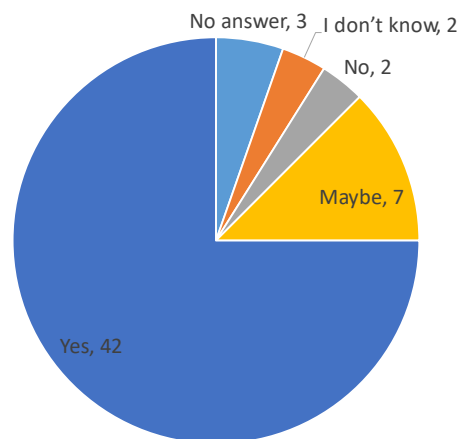
Respondents: 56

7) Are the current management measures used to reduce the predation by cormorants on fish in your country effective?



Answers: 56

9) Do you believe a pan-European Management Plan to control cormorant numbers would be beneficial for inland fisheries and aquaculture?



Respondents: 56

**BACKGROUND DOCUMENT ON THE STATUS OF THE CORMORANT
(*PHALACROCORAX CARBO* AND *PHALACROCORAX CARBO SINENSIS*) IN
RELATION TO THE IUCN RED LIST AND EU BIRDS DIRECTIVE**

1. Part I: IUCN Red List

Q1. Can a species be removed from the IUCN Red List?

What is the process / what are the steps that need to be taken to take a bird off the IUCN list, in other words, from the ‘least concern’ status to ‘no concern/abundant’?

Currently on the IUNC list: 35 types of cormorants.

Phalacrocorax carbo is on the list ¹.

Phalacrocorax carbo sinensis – not identified².

- **What are least-concern species in the IUCN Red List?**

A taxon is **Least Concern (LC)** when it has been evaluated against the Red List criteria and does not qualify for Critically Endangered, Endangered, Vulnerable or Near Threatened³.

Guidelines for the appropriate use of red list data mention that ‘the status of a species may be **different at the global level and at the local level**. In certain situations, a species may be listed as threatened on a national red list even though it is considered Least Concern at the global level on the IUCN Red List of Threatened Species’⁴.

- **Why are species of “Least Concern species” included on the IUCN Red List?**

A least-concern species is a species that has been categorized by the IUCN as evaluated and not being a focus species of conservation because the specific species is still plentiful in the wild. They do not qualify as threatened, near threatened, or (before 2001) conservation dependent⁵.

While “Least Concern species” have a lower risk of extinction, they are **still important in terms of global biodiversity**. Some LC species are undergoing slow declines. It is important to **monitor** these species and to develop appropriate conservation actions to prevent them from becoming threatened in the future. The inclusion of Least Concern species on the Red List allows IUCN to track the changing status of biodiversity⁶.

¹ <https://www.iucnredlist.org/species/22696792/155523636>

² <https://www.iucnredlist.org/search?query=Cormorants&searchType=species>

³ Definition provided by IUCN Red list, available at: <https://www.iucnredlist.org/>

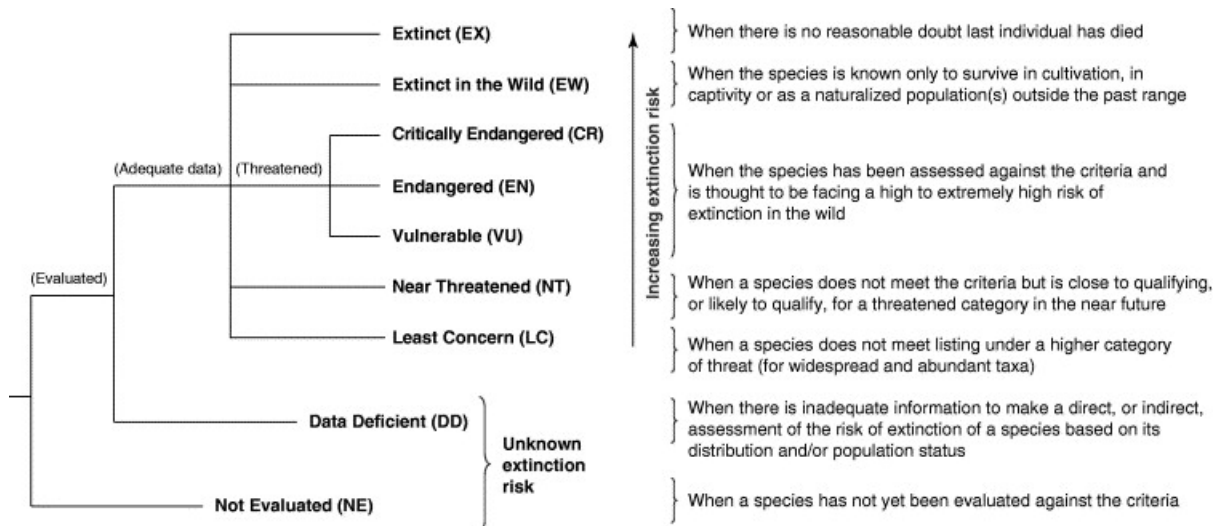
⁴ Guidelines for the appropriate use of red list data, available at:

<https://portals.iucn.org/library/sites/library/files/documents/Rep-2009-007.pdf>. Updated guidelines: IUCN Red List Guidelines for Using the IUCN Red List Categories and Criteria, March 2024.

⁵ <https://animalia.bio/least-concern-lc>

⁶ Available at:

<https://www.iucnredlist.org/about/faqs#Why%20is%20the%20species%20I%20am%20looking%20for%20not%20on%20the%20Red%20List>



Source: IUCN Guidelines (Structure of the Categories)⁷

In explaining the **nature of the categories**, the 2024 IUCN Guidelines clarify that the ‘**category Least Concern**’ is applied to taxa that do not qualify (and are not close to qualifying) as threatened or Near Threatened. It is important to emphasize that "least concern" simply means that, in terms of extinction risk, these species are of lesser concern than species in other threat categories. It does not imply that these species are of no **conservation concern**⁸.

- **What is the geographical scale of application?**

The IUCN criteria are designed for **global taxon assessments**. However, many people are interested in applying them to subsets of global data, especially at regional, national or local levels. For example, the Guidelines mention that ‘taxa classified as **Least Concern globally** might be Critically Endangered within a particular region where numbers are very small or declining, perhaps only because they are at the margins of their global range. Conversely, taxa classified as Vulnerable on the basis of their global declines in numbers or range might, within a particular region where their populations are stable, not even nearly meet the criteria for Vulnerable, i.e. be Least Concern’⁹.

- See in this context e.g. the 2012 guidelines prepared by the **IUCN Species Survival Commission (SSC) Regional Applications Working Group**.¹⁰ It is noted that these guidelines provide downlisting – after regional assessment. The downlisting always covers a transfer from a higher risk to a lower risk category (no cases of removal from the list have been identified).

The 2012 IUCN Guidelines mention in this regard that ‘although the criteria (along with regional guidelines; IUCN 2012a) may be applied at any geographical scale, **application within very restricted geographical areas is strongly discouraged** (IUCN 2012a). In a small region, a wide-ranging taxon will frequently exchange individuals with neighboring regions, leading to unreliable assessments (IUCN 2012a).¹¹ It is also important to note that ‘in any regional or national applications of the criteria, an assessment of taxa endemic to that region or nation will be a global assessment; in these cases great care must be taken to check that a global assessment has not already been undertaken by an IUCN SSC Red List Authority (RLA), and that the **final categorization is agreed with the relevant RLA**; see the regional guidelines for more details (IUCN 2003, 2012a)’.

⁷ <https://portals.iucn.org/library/sites/library/files/documents/RL-2001-001.pdf>

⁸ IUCN Red List Guidelines for Using the IUCN Red List Categories and Criteria, March 2024, p. 10.

⁹ IUCN Red List Guidelines for Using the IUCN Red List Categories and Criteria, March 2024, p. 7.

¹⁰ Guidelines for application of the IUCN Red List Criteria at regional and national levels (version 4.0), IUCN 2012, available at: <https://portals.iucn.org/library/node/10336>.

¹¹ IUCN Red List Guidelines for Using the IUCN Red List Categories and Criteria, March 2024, p. 8.

- **How often is the IUCN Red List of Threatened Species updated?**

The IUCN Red List of Threatened Species is updated a few times per year¹².

- See the Planned Red List Updates, which are available at:
<https://www.iucnredlist.org/assessment/updates>

- **What are the reasons for change of category?**

	Reasons for change of category
Non-genuine reasons	New information has become available since the last assessment (e.g., more recent data are available on population sizes, threatening processes, rates of decline or recovery, etc.).
	There has been a taxonomic revision resulting in the species no longer being the same concept as it was before (e.g., it is now split into several species, each with smaller ranges, population sizes, etc.; or it has been merged with other species so the range, population size, etc. are now larger than they were previously).
	An error has been discovered in the previous assessment (e.g., the wrong information was used; the IUCN Red List Categories and Criteria were applied incorrectly; etc.).
	The previous assessment used an older version of the IUCN Red List Categories and Criteria and the reassessment uses the current criteria which have slightly different thresholds.
Genuine reasons	The main threats are no longer present, or conservation measures (e.g., reintroduction, habitat protection or restoration, legal protection, harvest management, etc.) have successfully improved the status of the species enough to downlist it to a lower category of threat.
	The main threats have continued unabated, have increased, or new threats have developed causing the status of the species to deteriorate enough to move it into a higher category of threat.

Source: <https://www.iucnredlist.org/assessment/reasons-changing-category>

- A more detailed framework on the transfer of categories is included in the **2024 Red List Guidelines**¹³.

Each time the IUCN Red List is updated, a list of species that have changed category is provided along with the **reasons for these changes**¹⁴.

¹²<https://www.iucnredlist.org/about/faqs#:~:text=The%20IUCN%20Red%20List%20relies,indigenous%20knowledge%20and%20citizen%20science.>

¹³ IUCN Red List Guidelines for Using the IUCN Red List Categories and Criteria, March 2024, p. 12-14.

¹⁴ <https://www.iucnredlist.org/assessment/reasons-changing-category>

- **What are the rules on transfers between categories?**

The 2024 Red List Guidelines list the following rules that govern the movement of taxa **between categories**¹⁵:

- a) A taxon may be moved from a category of higher threat to a category of lower threat if and when none of the criteria of the higher category has been met for five years or more (i.e., if the taxon has qualified for a lower threat category for at least five years, regardless of when the previous assessment was published)¹⁶.
- b) If the original classification is found to have been erroneous, the taxon may be transferred to the appropriate category or removed from the threatened categories altogether, without delay. However, in this case, the taxon should be re-evaluated against all the criteria to clarify its status.
- c) Transfer from categories of lower to higher risk should be made without delay.
- d) The reason for a transfer between categories must be documented as one of the following.

- **Are there examples where species were removed from the Red List?**

There are several examples of species that have been downlisted (e.g. Chinese Crested Ibis, Mauritius Kestrel, Hawaiian Goose, White Rhino, and Short-tailed Albatross¹⁷), however no examples have been identified of species that have been taken off / removed from the list.

Another article mentions that ‘Species are never removed from the Red List (unlike some national or regional lists), but they are sometimes moved down following reassessments, which take place regularly’.¹⁸ Noted that this is in line with the explanation of the meaning of LC in the IUCN Red List Guidelines, namely that LC species still require conservation measures, even though not threatened.

- **How is the process of downlisting?**

‘Downlisting isn’t carried out lightly, however, taking place only when experts are confident that doing so will not reverse the progress that prompted the category move in the first place. Not only must a new Red List assessment take place, but there’s a minimum five-year pause built into the downlisting process to ensure that progress is genuine.’¹⁹

- **What are the effects of downlisting?**

‘Downlisting is simply an update on the current threat level a species is facing. It’s not necessarily an indication that conservation efforts can be curtailed.’²⁰

- **What assessments are accepted for the IUCN Red List?**

The IUCN Red List accepts global-level assessments for species. Non-IUCN led regional assessments and national Red List assessments will not be considered for inclusion on the IUCN Red List, unless these are also global assessments (e.g., single-country endemics).²¹

IUCN also has a Cormorant group: IUCN SSC Cormorant Specialist Group²².

¹⁵ IUCN Red List Guidelines for Using the IUCN Red List Categories and Criteria, March 2024, p. 12.

¹⁶ Thus, the 5-year period commences when the data show that the taxon no longer meets the criteria for the category in which it is currently listed; this is not necessarily the date of the previous assessment. If it is not possible to identify the year in which the taxon qualified for the lower threat category, then the current assessment year is used as the start of the 5-year period. However, if the taxon is being moved from EW as a result of the establishment of a re-introduced population, this period must be five years or until viable offspring are produced, whichever is the longer.

¹⁷ <https://springbrooknaturecenter.org/DocumentCenter/View/749/Species-Extinction-05-2007-PDF?bidId=>

¹⁸ <https://www.discoverwildlife.com/people/the-iucn-red-list-what-it-is-how-it-works> . Examples from downlisting provided in this article: ‘A species might be ‘downlisted’ in response to successful conservation efforts, as happened in 2021, when four commercially fished species of tuna each moved down a category because their populations had been showing signs of recovery, thanks to better enforcement of international fishing quotas’.

¹⁹ <https://www.discoverwildlife.com/people/the-iucn-red-list-what-it-is-how-it-works>

²⁰ <https://www.discoverwildlife.com/people/the-iucn-red-list-what-it-is-how-it-works>

²¹ <https://www.iucnredlist.org/assessment/process>

²² <https://iucn.org/our-union/commissions/group/iucn-ssc-cormorant-specialist-group>

- **‘Recent’ developments**

May 2022: The European Parliament (EP) (Committee on Fisheries) Public hearing on Cormorant problematic affecting the EU fisheries and aquaculture²³.

September 2022: Open letter from e.g. **IUCN Cormorant research group** to the members of the EP²⁴, in which they share that ‘paragraph 56 of the report [requesting for a management plan] wrongly suggests that the situation regarding the European Great Cormorant population has not changed during the last decades and that no scientific progress has been made recently regarding the fisheries-cormorant conflict’.

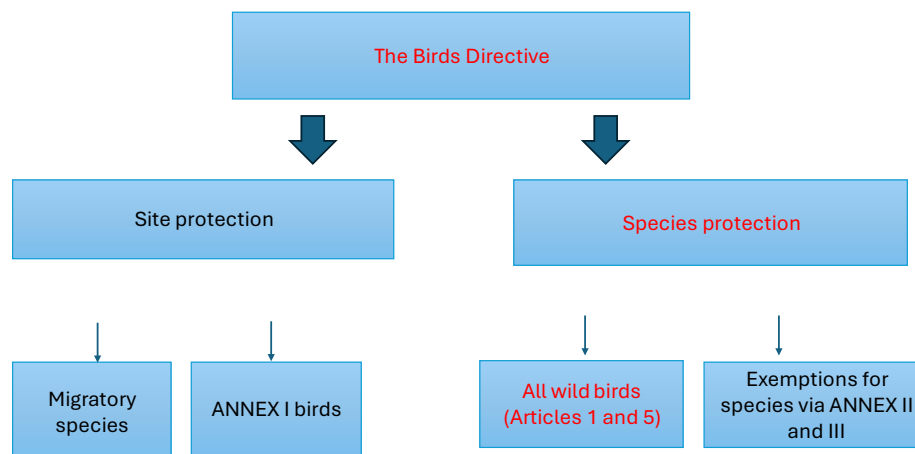
2. PART II: Application of the EU Birds Directive to *Phalacrocorax carbo* and *Phalacrocorax carbo sinensis*

Q1: How does the protection regime of the EU Birds Directive work?

- **Application of the Birds Directive**

In short, the Birds Directive (BD) aims to ‘the conservation of all species of naturally occurring birds in the wild state in the European territory of the Member States’.²⁵ The Directive does so by setting out rules for their ‘protection, management and control’.²⁶ The Directive covers birds, their eggs, nests and habitats²⁷.

The BD sets out a **general protection regime** for all species of wild birds in the European Union, as well as **special measures** for certain species (listed in Annex I and migratory species):



Source: Presentation by the EU DG Environment (2017), available at: <https://slideplayer.com/slide/15238228/>.
See also EU Nature Protection Legislation, available at: https://www.era-comm.eu/EU_Nature_Protection_Legislation/stand_alone/part_1/part_1_5.html

²³ Presentations available at: <https://www.europarl.europa.eu/committees/en/public-hearing-on-cormorant-problematic-/product-details/20220503CHE10123>

²⁴ Open letter to the EP (September 2022), available at: https://www.birdlife.org/wp-content/uploads/2022/09/Open_Letter_MEP_Cormorant_Research_Group.pdf

²⁵ Article 1(1) of the Birds Directive

²⁶ Article 1(1) of the Birds Directive

²⁷ Article 1(2) of the Birds Directive

- **‘Phalacrocorax carbo’ and ‘Phalacrocorax carbo sinensis’ and the Birds Directive**

Species listed in **Annex I** are subject to special conservation measures concerning their habitat to ensure their survival and reproduction in their area of distribution (Art. 4 Birds Directive). The ‘*Phalacrocorax carbo*’ and ‘*Phalacrocorax carbo sinensis*’ are **not listed in Annex I** to the Birds Directive²⁸. This means the special protection regime does not apply to these species, however, they do fall under the **general protection regime** provided by the BD.

This general protection regime can be found in **Article 5** (with prejudice to Articles 7 and 9) setting out the required measures to be taken by the Member States: *Article 5*:

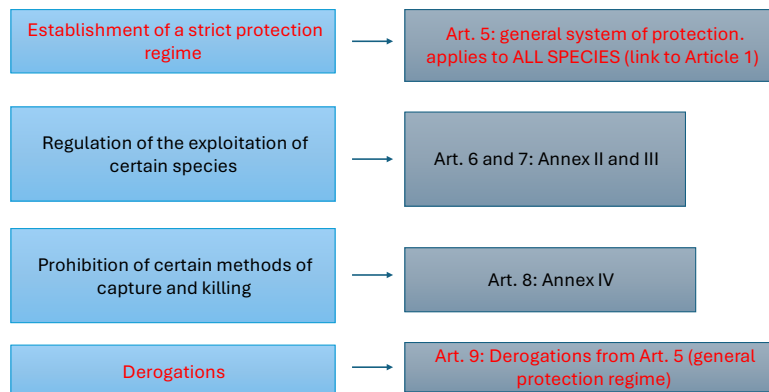
Without prejudice to Articles 7 and 9, Member States shall take the requisite measures to establish a general system of protection for all species of birds referred to in Article 1, prohibiting in particular:

- (a) deliberate killing or capture by any method;
- (b) deliberate destruction of, or damage to, their nests and eggs or removal of their nests;
- (c) taking their eggs in the wild and keeping these eggs even if empty;
- (d) deliberate disturbance of these birds particularly during the period of breeding and rearing, in so far as disturbance would be significant having regard to the objectives of this Directive;
- (e) (e) keeping birds of species the hunting and capture of which is prohibited.

Noted that Article 7 applies to species listed under Annex II to the Directive (species that may be hunted under national legislation). Annex II does not list the ‘*Phalacrocorax carbo*’ and ‘*Phalacrocorax carbo sinensis*’ and therefore does not apply in this case.

Exceptions in the protection measures for the ‘*Phalacrocorax carbo*’ and ‘*Phalacrocorax carbo sinensis*’ (as set out under Article 5) are only possible where the **requirements of Article 9** are fulfilled.

Protection regime under the Birds Directive



Source: Based on a presentation by the EU DG Environment (2017), available at: <https://slideplayer.com/slide/15238228/>

²⁸ See conformation in EP Resolution (2008) under (F): “whereas the sub-species **Phalacrocorax carbo sinensis** ("continental cormorant") was deleted from the list of bird species to which special conservation measures in terms of habitat apply as far back as 1997 (Annex I to the Wild Birds Directive), since it had attained a favorable conservation status by 1995 at the latest, whilst the sub-species **Phalacrocorax carbo carbo** ("Atlantic cormorant"), which had never been endangered, was never included on that list at all”. Available at: https://www.europarl.europa.eu/doceo/document/TA-6-2008-0583_EN.html?redirect

Q2: How can the derogations of Article 9 be used?

Article 9 allows Member States to derogate (in other words, *to suspend under certain circumstances*) from the basic prohibitions in Articles 5-8:

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 the purposes of research and teaching, of re-population, of re-introduction 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 **must specify**:
 - (a) the species which are subject to the derogations;
 - (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 obtain and to decide what means, arrangements or methods may be used, within what limits and by whom;
 - (e) the controls which will be carried out.
3. Each year the Member States shall send a **report to the Commission** on the implementation of paragraphs 1 and 2.
4. On the basis of the information available to it, and in particular the information communicated to it 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. It shall take appropriate steps to this end.

In short, **Article 9** allows Member States to derogate from the basic prohibitions in Article 5-8 if three conditions are fulfilled:

- There is no other satisfactory solution;
- The derogation is based on one of the reasons listed in Article 9(1); and
- The technical requirements of Article 9(2) are met (e.g. specific authorities designated to approve derogation, controls etc.).

Conditions	Meaning (based on EU guidance doc: ²⁹)
There is no other satisfactory solution	<p>Essential that relevant authority proves that there is “no other satisfactory solution”.</p> <ul style="list-style-type: none"> • Are there other solutions (not prohibited by Articles 5,6,7, and 8)? • If so, will these resolve the specific problem for which derogation is sought? <p>Reference made to the INTERCAFE’s project (on methods to alleviate damage by Great Cormorants)³⁰</p>
Reason for derogation (Art. 9(1) BD)	<p>In the case of serious damage to fisheries (9(1)(a))³¹:</p> <ul style="list-style-type: none"> • The general concept of 'serious damage' caused by cormorant populations is relative and, as such, should be evaluated on a case-by-case basis, where, and when, a conflict occurs. • It is not possible to provide any fixed, standardised thresholds in terms of population numbers, proportions or rates of fish stock removed, that could serve as a reference to assess the occurrence of ‘serious damage’. <p>As a general rule, 'serious damage' is accepted to occur where:</p> <ul style="list-style-type: none"> • Significant numbers of cormorants are actively foraging at a site; • the population structure and combination of fish species present at the site indicate that the foraging birds preying on fish stocks are the most likely cause of reduced fish catches, or injuries to fish, leading to verifiable situation of 'serious damage' to the fishery; and • other factors are not likely to be responsible for serious damage to the fish stocks worth protecting at the site. <p>All the above three conditions have to be met at the same time.</p>
Technical requirements	Established in Article 9(2), e.g. control carried out.

- **Application of derogations Art. 9**

Member States are not required to consult the Commission before applying derogations. Applying the derogations, is an internal matter of the Member States. However, and as a minimal tool for coordination and as a feedback mechanism, they are obliged to **submit an annual report** on all derogations issued under Article 9 to the European Commission (Article 9(3) BD).

- **Reporting obligation for Member States to report on the use of derogations (Art. 9(3) BD)**

Article 9(3) of the BD requires the Member States to send a report to the Commission on the implementation of Article 9, paragraphs 1 and 2 each year.

²⁹ Final draft 25 September 2012, Great Cormorant Applying derogations under Article 9 of the Birds Directive 2009/147/EC. Guidance document.

³⁰ INTERCAFE: Interdisciplinary Initiative to Reduce Pan-European Cormorant-Fisheries Conflicts, available at: <https://www.ceh.ac.uk/our-science/projects/intercafe>

³¹ Final draft 25 September 2012, Great Cormorant Applying derogations under Article 9 of the Birds Directive 2009/147/EC. Guidance document.

- The overview tables with the ‘state of play’ of the derogation report submissions (submitted by the member States) can be found in **CIRCABC**³² under the relevant folders of the Reporting group under the Nature Directives. These overview tables are updated on a yearly basis³³.

The Biennial Report (2021-2022) by the European Union, provides an overview of the **national reports on derogations issued under Article 9** of the Birds Directive. It follows that 6 Member States (HR, CY, EL, PT, RO, SI) have not submitted their 2021 report, while 15 Member States (AT, BE, BU, HR, CY, CZ, EE, DE, EL, IT, NL, PL, PT, RO and SI) have not submitted their 2022 report.

- The report includes an overview of the Birds Directive reports for 2021 and 2022 (hyperlink to Eionet provided)³⁴. The reports are accessible and it can be checked for each Member State (that submitted the report under the BD) whether derogations were applied for the *Phalacrocorax carbo* and *Phalacrocorax carbo sinensis* and on which grounds.
- Note: these (national) reports can be checked to list key grounds that Member States have listed for use of derogations for cormorants.

- **Studies on use of derogations under Article 9 of the Birds Directive**

A **2013** report of the **European Commission**³⁵ provided **guidelines** for the use of Article 9 on derogations.

A **Birdlife study (2020)**³⁶ looked at derogations reported between 2009 and 2017, under the HABIDES reporting tool (established to facilitate Member State reporting obligations). The report mentions that one species stands out, namely the great Cormorant (*Phalacrocorax carbo*), which is not a huntable species (Annex II of the BD). According to the report, interpolation of numbers results in an estimated 353 636 to 437 927 birds killed between 2009 and 2017, compared to a breeding population of 223 000 to 259 000 pairs or wintering population of 384 000 to 503 000³⁷.

A **birdlife report (2020)** on the **derogations from the protection of birds**, Under the Birds Directive, the Bern Convention and the African-Eurasian Waterbird Agreement³⁸. This study looked at the derogations for the Great Cormorant in detail (Member States information available in the report).

- See the Annex to the report on the number of great cormorants.

A **report by the Committee on Fisheries (May 2022)** on the derogations for cormorants in the European Union’s countries³⁹, concludes that ‘the data available on the website of the European Commission do not permit a conclusive assessment on the effectiveness and efficacy of management measures over the years’.

³² CIRCABC, available at: <https://circabc.europa.eu/ui/group/173a90fc-40bf-492d-a3a9-df99c4aa8807/library/c2fe7bc6-847b-45ed-9271-437fa4458b8b>

³³ Biennial report (2021-2022) by the European Union to the Standing Committee of the Convention on the conservation of European wildlife and natural habitats, available at: <https://rm.coe.int/biennial-report-eu-list-2021-2022/1680ad34ef>

³⁴ Eionet. As example, a link is included to the Report by Hungary (2021 report), available at: <https://cdr.eionet.europa.eu/hu/eu/habides/envyyqxig/overview>

³⁵ European Union (2013), Great Cormorant, Applying derogations under Article 9 of the Birds Directive 2009/147/EC.

³⁶ Birdlife International (2020), License to kill. How EU Member States abuse their power to grant licenses to kill millions of birds, available at: <https://www.birdlife.org/wp-content/uploads/2022/04/summary-report-eu-derogations-protection-birds-directive-bern-convention.pdf>.

³⁷ Ibid.

³⁸ Available at: <https://www.birdlife.org/wp-content/uploads/2022/04/report-eu-derogations-protection-birds-directive-bern-convention.pdf>

³⁹ Committee on Fisheries Derogations for Cormorant (*Phalacrocorax* spp.) in the European Union’s countries Technical Background Note prepared by the PECH Secretariat in view of the PECH Committee Hearing on 11/5/22, available at: https://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/PECH/DV/2022/05-11/TechnNoteonCormorants_EN.pdf

- **Member states reporting on the implementation of the BD (obligation under Article 12 BD)**

While Member States report to the Commission on a **yearly** basis on the use of derogations under **Article 9** (legal basis: Article 9(3) BD), Member States are also required report to the Commission **every six years on the implementation of the measures taken under this Directive** and the main impacts of these measures. This reporting obligation finds its basis in Article 12 of the BD.

The **Article 12 web tool** provides access to EU assessments and Member States' data compiled as part of the Habitats Directive - Article 12 reporting process. The EU assessments have been carried out in EU 27 for the period 2008–2012 and in EU28 for the period 2013–2018.

- Article 12 webtool is available at: <https://nature-art12.eionet.europa.eu/article12/summary>
- E.g. Overview of “the population and trends of the *Phalacrocorax carbo* at the EU and Member States’ for the period 2013–2018, available at: https://nature-art12.eionet.europa.eu/article12/summary?period=3&subject=Phalacrocorax+carbo&reported_name=

This overview shows national differences in status.

- **Review of the Court of Justice of the European Union (ECJ) case laws on the use of Article 9 derogations**

Several judgements of the ECJ have further specified the requirements for Member States to establish a derogation based on Article 9 of the BD.

The classifications used in the table below are taken from the 2022 Birdlife report. Additional references to the actual case are added. This table is not exhaustive.

Clarifications (taken from Birdlife report ⁴⁰)	Case	References (taken from case law)
Derogation must cover specific situations: degradations should be limited in time and space	Case 247/85. ⁴¹ Confirmed in C-252/85. ⁴²	34. Furthermore, the derogations do not comply with the criteria and conditions of Article 9 (2) in so far as they mention neither the circumstances of time and place in which they may be granted nor the controls which will be carried out. Consequently, it must be stated that owing to their generality, the derogations exceed the limits set by Article 9 of the Directive.
Derogations should be limited to what is strictly necessary	C-262/85. ⁴³	7. The Derogations must comply with the precise formal conditions set out in Article 9(2), which are intended to limit derogations to what is strictly necessary and to enable the Commission to supervise them.
A general exemption derogation for the 'normal' use of land for agriculture, forestry and fishery is not in line with the Birds Directive	C 412/85. ⁴⁴	Summary: A member state which, in the law transposing directive 79/409/EEC concerning the conservation of wild birds, provides that the general prohibitions laid down in Article 5 of the directive on the deliberate killing or capture of the species of birds referred to in article 1 of the directive and on the deliberate destruction of, or damage to, their nests and eggs and the deliberate disturbance of those birds, in so far as their disturbance would be significant having regard to the objectives of the directive, do not apply where the acts concerned take place in the course of the normal use of the land for agricultural, forestry or fishing purposes or in the context of the exploitation of the products obtained from such activities, has not correctly transposed the directive. By so doing, it is authorizing derogations which do not meet the requirements laid down in this regard in article 9 of the directive.
Derogations for the damage to crops, livestock, forests, fisheries and water can only be granted for 'serious damage', meaning that a certain degree of damage is required before Article 9.1.a can be used.	C-247/85. ⁴⁵	56. In this regard it must be noted that the aim of this provision of the Directive is not to prevent the threat of minor damage. the fact that a certain degree of damage is required for this derogation from the general system of protection accords with the degree of protection sought by the directive.

⁴⁰ <https://www.birdlife.org/wp-content/uploads/2022/04/report-eu-derogations-protection-birds-directive-bern-convention.pdf>

⁴¹ Case 247/85, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61985CJ0247>

⁴² C-252/85, available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A61985CJ0252>

⁴³ C-262/85, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61985CJ0262>

⁴⁴ Case 412/85, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61985CJ0412>

⁴⁵ Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61985CJ0247>

Also, the concept of **satisfactory alternatives** under Article 9.1(c) of the BD has been the subject of several rulings by the ECJ.

Clarifications (taken from Birdlife report ⁴⁶)	Cases	References (taken from case law)
Hunting can fall within considerate use under Article 9.1.c	C-118/94. ⁴⁷	<p>17. The question referred asks the Court essentially to clarify the conditions under which Article 9 authorizes Member States to derogate from the general prohibition on hunting protected species laid down in Articles 5 and 7 of the directive.</p> <p>[...]</p> <p>26. In the light of the foregoing, the answer to the question must be that Article 9 of the directive is to be interpreted as meaning that it authorizes the Member States to derogate from the general prohibition on hunting protected species laid down by Articles 5 and 7 of the directive only by measures which refer in sufficient detail to the factors mentioned in Article 9(1) and (2).</p>
If the species is present during the normal period in sufficient numbers to be hunted, derogations to extend the hunting season are not possible.	C-182/02. ⁴⁸	<p>Article 9 of Directive 79/409 must be interpreted as allowing hunting to be authorised pursuant to Article 9(1)(c) where:</p> <p>—</p> <p>there is no other satisfactory solution. That condition would not be met, inter alia, if the sole purpose of the derogation authorising hunting were to extend the hunting periods for certain species of birds in territories which they already frequent during the hunting periods fixed in accordance with Article 7 of Directive 79/409 [...]</p>
Derogations for hunting species not listed on Annex II.	C-118/94. ⁴⁹	<p>25. Consequently, national legislation which authorizes the hunting of certain species of birds not included in the list in Annex II to the directive without, however, listing the criteria for derogation or clearly and specifically obliging the regions to take account of those criteria and to apply them, does not satisfy the conditions to which the derogations provided for by Article 9 of the directive are subject.</p>
Derogations under Art. 9.1(c) should be subject to strictly	C-557/15 ⁵⁰	<p>92. The trapping of birds such as that at issue in these proceedings, that activity can be permitted, pursuant to Article 9(1)(c) of Directive 2009/147, only if it is, in particular, carried out under strictly supervised conditions (see, to that effect, judgment of 16 October</p>

⁴⁶ <https://www.birdlife.org/wp-content/uploads/2022/04/report-eu-derogations-protection-birds-directive-bern-convention.pdf>

⁴⁷ Available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A61994CJ0118>

⁴⁸ Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62002CJ0182>

⁴⁹ Available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A61994CJ0118>

⁵⁰ Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62015CJ0557>

Clarifications (taken from Birdlife report ⁴⁶)	Cases	References (taken from case law)
supervised conditions.		2003, Ligue pour la protection des oiseaux and Others, C-182/02 , EU:C:2003:558 , paragraph 15).
The activities under Article 9.1.c. should be restricted and subject to precise rules	c-252/85. ⁵¹	<p>In determining whether this derogation is compatible with article 9 of the directive it should be noted that, as the court held with regard to the Belgian rules in this field in its judgment of 8 July 1987 in case 247/85 commission v Belgium ((1987)) ecr 3029, the French rules in question do not specify the reasons set out in article 9 (1) or the criteria and conditions referred to in article 9 (2), particularly as regards the circumstances of time and place in which a derogation may be granted . consequently, the French legislation is not in conformity with article 5 (b) and (c) of the directive.</p> <p>[...]</p> <p>It must be observed at the outset that under article 9 of the directive, in particular on the basis of article 9 (1) (c), member states are authorized to provide for derogations from the prohibitions set out in article 8 (1) of the directive.</p> <p>[...]</p> <p>In order to establish whether national legislation complies with the various criteria of Article 9 (1) (c) of the directive it is necessary, as the Court stated in its judgment of 8 July 1987 in Case 262/85 Commission v Italy ((1987)) ecr 3073, to examine whether the legislation guarantees that the derogation is applied on a strictly controlled and selective basis so that the birds in question are captured in only small numbers and in a judicious manner . in this respect, it is apparent from Article 2, in conjunction with the 11th recital of the preamble to the directive, that the criterion of small quantities is not an absolute criterion but rather refers to the maintenance of the level of the total population and to the reproductive situation of the species concerned.</p>
Derogations under Article 9.1.c should be authorised on a selective basis.	C-557/15. ⁵²	82. It is apparent from the Court’s case-law that, where the condition that the trapping of protected species must concern only certain birds in small numbers is not met, the exploitation of birds by trapping for recreational purposes cannot, in any event, be considered judicious within the meaning of Article 9(1)(c) of Directive 2009/147 (see, to that effect, judgments of 16 October 2003, Ligue pour la protection des oiseaux and Others, C-182/02 , EU:C:2003:558 , paragraph 17, and of

⁵¹ Available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A61985CJ0252>

⁵² Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62015CJ0557>

Clarifications (taken from Birdlife report ⁴⁶)	Cases	References (taken from case law)
		<p>8 June 2006, WWF Italy and Others, C-60/05, EU:C:2006:378, paragraph 32).</p> <p>[...]</p> <p>85. the condition laid down in Article 9(1)(c) of Directive 2009/147, according to which the live-capturing of finches can only be permitted if it is carried out on a selective basis, is not met in this instance.</p>
<p>Only the keeping and capture of ‘small numbers’ of certain birds can be authorised under Article 9.1.c</p>	<p>C-60/05.⁵³</p>	<p>1. Article 9(1)(c) [of the Birds Directive] requires the Member States, irrespective of the internal allocation of powers prescribed by the national legal system, upon adoption of measures implementing that provision to ensure that, in all cases of application of the derogation provided for therein and for all the protected species, authorised hunting does not exceed a ceiling consistent with the restriction on that hunting to small numbers imposed by that provision, and that ceiling must be determined on the basis of strict scientific data.</p>
<p>Condition of ‘small numbers’</p>	<p>C-79/03.⁵⁴</p>	<p>36. In that regard, the Second report (of the Commission) on the application of Directive 79/409/EEC on the conservation of wild birds (COM(93) 572 final, 24 November 1993) indicates that, according to the work of the ORNIS committee, ‘small numbers’ should be understood as any sample of less than 1% of the total annual mortality of the population in question (average value) for those species which are not to be hunted and in the order of 1% for those species which may be hunted, and ‘population in question’ is to be understood, with regard to migratory species, as the population of those regions from which come the main contingents passing through the region to which the derogation applies during its period of application. The ORNIS committee is the Committee for the Adaptation to Technical and Scientific Progress, instituted under Article 16 of the directive. It consists of representatives of the Member States and is chaired by a representative of the Commission.</p> <p>[...]</p> <p>41. Although it is true that the criteria of small numbers as defined by the ORNIS committee is not legally binding on the Member States concerned, in this instance it can, by reason of the acknowledged scientific value of that committee’s opinions and the absence before the Court of any element of scientific proof to the contrary, be used by the Court as a basis of reference for assessing whether the derogation granted by the defendant Member.</p>

⁵³ Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62005CJ0060>

⁵⁴ Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62003CJ0079>

Clarifications (taken from Birdlife report ⁴⁶)	Cases	References (taken from case law)
		State under Article 9(1)(c) of the directive fulfils the condition that the capture of the birds in question should be carried out in small numbers (see, to this effect, Case C-3/96 <i>Commission v Netherlands</i> [1998] ECR I-3031, paragraphs 69 and 70).

- **Other sources:**

European Environment Agency: <https://eunis.eea.europa.eu/species/Phalacrocorax%20carbo>

Q3: How can a bird species be added to the huntable species list of Annex II to the EU Birds Directive?

- **ANNEX II to the Birds Directive (and its relation with Article 7 and 9)**

The Birds Directive recognises the legitimacy of hunting wild birds as a form of sustainable use. It therefore allows the hunting of **84 huntable species listed in Annex II**, provided this is done in a sustainable manner that does not jeopardise their survival⁵⁵.

The Commission adopted a Guidance document on ‘Hunting under the Birds Directive’⁵⁶.

Article 7 of the BD: Species listed in Annex II may be hunted under Article 7(1) of the Directive owing “to their population level, geographical distribution level and reproductive rate throughout the Community”. Article 7 differentiates between:

- Annex II/A, listing species that may be hunted in **the geographical sea and land area where the Birds Directive applies**
- Annex II/B, listing species that may only be hunted in the **Member States** for which this is indicated in the Annex.

Article 9 BD: Where a **species is not listed in Annex II**, an exception to the prohibitions in Article 5 is only possible where the **strict requirements of Article 9** are fulfilled⁵⁷.

- **Background on amendments of ANNEX II to the EU Birds Directive**

The Birds Directive (97/409/EEC) was adopted in **1979**. It was **amended in 2009** (Directive 2009/147/EXC) and changes were made to Annex B due to the accession of new Member States⁵⁸.

An amendment to ANNEX II was proposed in 1991⁵⁹ and adopted in 1994⁶⁰. This amendment concerned the substitution of ANNEX II/2 with the ‘new’ annex that was added to the **Council Directive (94/24/EC) amending ANNEX II**⁶¹. This procedure resulted in the addition of five species of Corvidae to Annex II/2 and the removal of three species of waders from Annex II/2 for Italy⁶².

- **Process of Amending ANNEX II to the EU Birds Directive.**

⁵⁵ https://environment.ec.europa.eu/topics/nature-and-biodiversity/birds-directive/sustainable-hunting-under-birds-directive_en

⁵⁶ Available at” https://environment.ec.europa.eu/topics/nature-and-biodiversity/birds-directive/sustainable-hunting-under-birds-directive_en

⁵⁷ https://www.face.eu/sites/default/files/documents/english/aeet_white_paper_eng.pdf

⁵⁸ https://environment.ec.europa.eu/topics/nature-and-biodiversity/birds-directive_en

⁵⁹ <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:51991PC0042>

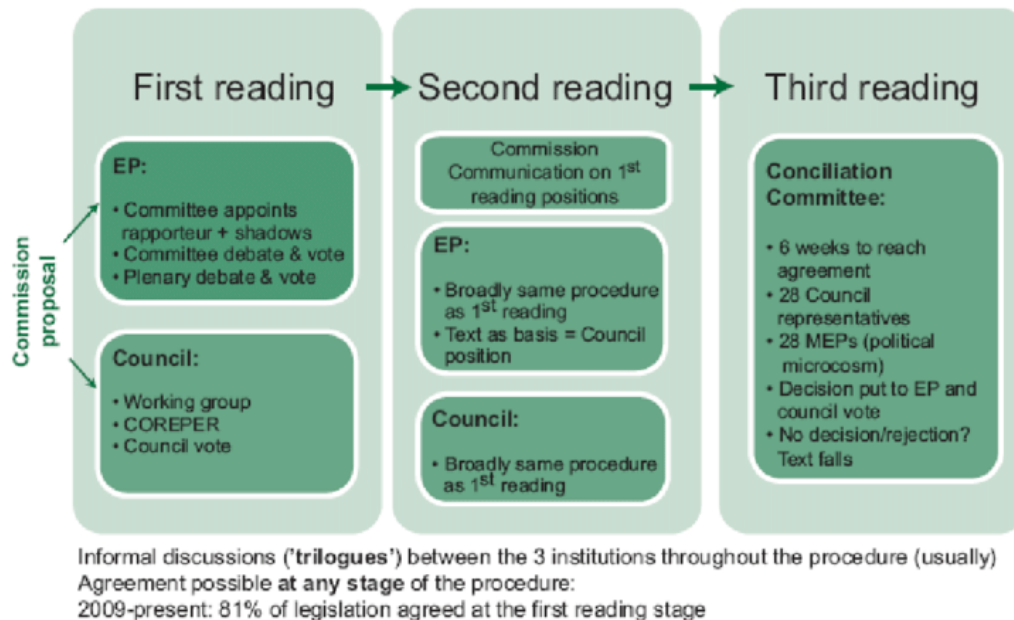
⁶⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31994L0024>

⁶¹ Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31994L0024>

⁶² https://unece.org/DAM/env/pp/compliance/C2007-18/Communication/SupportingDocumentation2006.12.04/EUKommissionenGuidance_birdsdirect_en.pdf

An amendment to an Annex to a directive follows the same legislative process as the adoption of a new directive. The essential characteristic of this procedure is that both the Council of Ministers as well as the European Parliament have a deciding vote in the legislative proposal, and both institutions may amend a proposal⁶³. In short, the procedure will be as follows:

The ordinary legislative procedure



Source: https://www.researchgate.net/figure/The-ordinary-legislative-procedure_fig3_312591218

Amendment of Annex II will be a **complex and lengthy process**, while the outcome is not at all guaranteed upfront. Noted that the European Association for regional Hunting Traditions (AECT) and FACE concluded in their 2016 'White paper on Hunting and Conservation of Wild Birds in the European Union'⁶⁴, that:

- “Seeking to modify the Directive also involves a number of **serious political risks**. Any signal originating from the hunters’ community of being in favor of amending the Directive will indeed be **presented** (by protectionist NGOs, by certain Political Groups in the European Parliament) **as an attempt to weaken the level of protection** of Europe’s wild birds”.
- “Because the legislative process is identical for a minor amendment to the Directive as for the adoption of a completely new Directive (including the role for the European Parliament under the Co-decision procedure), there is a real risk of “opening Pandora’s box” with a final result that may be very unfavorable for hunting (such as the loss of species that may be hunted)”.

⁶³ <https://www.eumonitor.eu/9353000/1/j9vvik7m1c3gyxp/vga3bya9max9#:~:text=Before%20the%20Treaty%20of%20Lisbon,institutions%20may%20amend%20a%20proposal>. See also: <https://www.consilium.europa.eu/en/council-eu/decision-making/ordinary-legislative-procedure/>

⁶⁴ https://www.face.eu/sites/default/files/documents/english/aect_white_paper_eng.pdf

The EIFAAC workshop on management advice for reducing the impact of cormorant predation on fish and fisheries was held in Pula, Croatia, on 8 October 2024. The workshop was attended by 78 participants from 24 countries.

The workshop reported on the use of EU Birds Directive Article 9 derogations, regulations and management measures to reduce the impact of cormorants on fish populations, fisheries and aquaculture in the EIFAAC member states, discussed the outcomes of recent EIFAAC surveys, provided a compilation of management advice for reducing the impact of cormorant predation on fish, fisheries and aquaculture, and discussed some potential regional cormorant management measures.

The EIFAAC survey findings showed an increase in cormorant conflicts with recreational fishing and conservation interests, and that many different management measures are applied throughout Europe.

Seventy percent of the EIFAAC Members consider that a pan-European management plan for cormorants would be beneficial for inland fisheries and aquaculture.

The workshop provided valuable contributions to the management planning process, with a focus on research needs and monitoring the impact of regional management measures. Participants discussed their challenges to reduce cormorant predation on aquaculture ponds, how cormorants negatively impact EU Water Framework Directive outcomes, and whether cormorants could be placed on Annex II (hunnable species) of the EU Birds Directive.



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