



30.11.2018

NOTICE TO MEMBERS

Subject: Petition No 2201/2014 by Eduardo Gutiérrez (Spanish) on the hunting of wild birds in Andalusia

1. Summary of petition

The petitioner calls for a prohibition on the hunting and capture of non-predatory wild birds. The petitioner explains that the hunting of goldfinches, linnets and greenfinches with nets constitutes a violation of Articles 5 to 8 of the Birds Directive (Directive 2009/147/EC), since an exception has been introduced to said Articles, if said birds are captured for the purpose of being trained to sing and forced to compete in songbird contests. There is a possible alternative solution to this exception, as the birds required may be bred in captivity. In view of all the aforesaid, the petitioner requests that the guidelines that allow finches to be taken from the wild be annulled and the national quotas for capturing said birds be revised.

2. Admissibility

Declared admissible on 7 July 2015. Information requested from Commission under Rule 216(6).

3. Commission reply, received on 28 October 2016

The petition

The petition claims that the trapping of finches in the region of Andalusia (Spain), as well as *the Spanish technical guidelines for the adaptation of the extraction of finch species from the natural environment to the provisions of the Birds Directive*, are in breach of the Birds Directive¹ as these finch trapping activities do not fulfil the requirements for applying derogations under Article 9 of the Directive.

¹ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds, OJ L20/7

The Commission's observations

The Directive establishes a general system of protection for all species of wild birds occurring in the territory of the EU, including in particular a basic prohibition of hunting and trapping under Article 5(a). Member States may introduce derogations to these prohibitions only if there is no other satisfactory solution, and provided that all the strict requirements under Article 9 of the Directive are fulfilled.

Following a Commission investigation on the use of derogations for finch trapping in Spain, the Commission concluded that they do not observe the strict conditions of Article 9 (1) of the Directive. Spain has failed to demonstrate the absence of another satisfactory solution as required by the chapeau of Article 9(1). In this regard, Spain's derogation regime does not provide a statement of reasons with regard to the alleged absence of other satisfactory solutions. In addition, Spain has not demonstrated that the authorized activity constitutes "judicious use" under Article 9 (1) (c) of the Directive. Finally, Spain has not demonstrated that the derogation only concerns "small numbers" of birds and that the authorization occurs under "strictly supervised conditions" as required by the same provision of the Directive.

Consequently, on 29 September 2016, the Commission initiated an infringement procedure by sending a Letter of Formal Notice to Spain.

Conclusion

The Commission has launched an infringement procedure against Spain concerning the trapping of finches in Spain, including in the region of Andalusia, and will continue to address this issue in the framework of the infringement procedure, in order to ensure full compliance with the provisions of the Birds Directive.

4. Commission reply (REV), received on 29 June 2018

As explained in its previous communication, the Commission is addressing the issue in the framework of an ongoing infringement procedure concerning the trapping of finches in Spain, including in the region of Andalusia.

Having examined the replies and information provided by the Spanish authorities in the framework of this infringement procedure, the Commission considers that the application of derogation regimes allowing for the trapping of five species of finches in a number of Spanish regions, including in Andalusia, is still not in compliance with the provisions of the Birds Directive. The Commission has therefore issued a Reasoned Opinion on 17 May of 2018, urging Spain to take measures to fully comply with the Birds Directive within two months. In light of the reaction and replies of the Spanish authorities, the Commission may decide on any necessary further next steps in due time.

5. Commission reply (REV II), received on 30 November 2018

In their reply to the Reasoned Opinion issued by the Commission on 17 May of 2018, the Andalusian authorities have informed the Commission that they have put an end to the granting of derogations for the trapping of finches in their region as from 2018.