



30.11.2018

NOTICE TO MEMBERS

Subject: Petition No 1039/2017 by Jürgen Meuth (German) on the designation of the German natural park Arnsberger Wald as a Special Protection Area (SPA) under the Natura 2000 framework

1. Summary of petition

The petition calls for the establishment of a Special Protection Area (SPA) under the Birds Directive in the nature park Arnsberger Wald and the designation of the entire territory of the park as part of the Natura 2000 network. The petitioner calls upon the German state of North Rhine-Westphalia (NRW) to formalise the SPA designation and to notify the European Commission accordingly. The additional information submitted with the petition contains detailed arguments substantiating the main claims of the petition. In particular, the petitioner specifies the species of birds, which in his assessment qualify for protection under the Birds Directive and emphasises that the scientific requirements for the SPA designation are fulfilled. The petitioner also notes that NRW has designated less than 5% of its territory as SPAs, whereas the EU average within the Natura 2000 network is 12.5%.

2. Admissibility

Declared admissible on 29 January 2018. Information requested from Commission under Rule 216(6).

3. Commission reply, received on 29 June 2018

The Commission's observations

The presence of the bird species black stork in a site does not require automatically the designation of that site as SPA, as the Birds Directive¹ requires the designation of the most suitable, but not all, territories. According to relevant ornithological criteria applied by North

¹ Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds, codifying Directive 79/409/EEC; OJ L 020, 26.1.2010, p.7.

Rhine Westphalia for SPA designation (considering inter alia, the main distribution area of a bird species, the availability of similar habitat hosting the species, and the presence of other nearby SPAs already designated for the species), there is no need to designate additional sites. This applies to *Ciconia nigra* where the nearest SPA “Vogelschutzgebiet Möhnesee” (DE4514-401) is directly adjacent to the “Arnsberger Wald” SCI and the SPA “Vogelschutzgebiet Hellwegbörde” (DE4415-401) which is just 1000 metres away.

The “Arnsberger Wald” is already part of the Natura 2000 network (DE4514-302) as it has been designated since 12/2004 pursuant to the Habitats Directive¹ as a Site of Community Importance (SCI), with a surface of 7.997 ha. The site is therefore protected under the provisions of Article 6 of the Habitats Directive. Furthermore, at national level the site has been designated as a nature park by the national authorities since 1960² and is managed by the regional districts.

All wild bird species naturally occurring in the European territory of the EU Member States, including the black stork as mentioned by the Petitioner, are subject to a strict protection regime according to Article 5 of the Birds Directive. These provisions, combined with the provisions of the Habitats Directive, provide together a mechanism to ensure that any project that might affect the “Arnsberger Wald” is duly evaluated with regard to its effects upon bird species, including *Ciconia nigra* whose hosting habitat is protected within the SCI.

Conclusions

Based on the information submitted by the petitioner and the available public documents, the Commission does not intend to pursue the matter further.

4. REV Commission reply, received on 30 November 2018

The Commission’s observations

The petitioner maintains that the natural park “Arnsberger Wald” should be designated as Natura 2000 Site under the Birds Directive³, but does not provide any new information.

The Commission sees no technical reason to consider that the ornithological criteria applied by North Rhine Westphalia (NRW) for SPA designation were wrongly applied. The monitoring of protected species in NRW is presented to the wide public by the national authorities through the internet. The location of hosting places of *Ciconia nigra* is available through the link hereunder⁴.

Conclusions

Based on the information provided by the petitioner and the publicly available documents, the

¹ Council Directive 92/43/EEC of 21.5.1992 on the conservation of natural habitats and of wild fauna and flora; OJ L 206, 22.7.1992, p.7.

² http://www.naturpark-arnsberger-wald.de/01_naturpark/wir_ueber_uns/wir_ueber_uns.php

³ Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds, codifying Directive 79/409/EEC; OJ L 020, 26.1.2010, p.7.

⁴ <http://artenschutz.naturschutzinformationen.nrw.de/artenschutz/de/arten/gruppe/voegel/rasterkarten/103175>

Commission sees no reason to further pursue this matter. If the petitioner believes that North Rhine Westphalia does not apply correctly regional regulations, he should refer the matter to national Courts.