

THE N2K GROUP

European Economic Interest Group

2017-2018 COMPOSITE REPORT ON DEROGATIONS ACCORDING TO ARTICLE 16 OF DIRECTIVE 92/43/EEC ON THE CONSERVATION OF NATURAL HABITATS AND OF WILD FAUNA AND FLORA

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Prepared by:



This report provides a factual analysis of the Member States' biennial reports under Article 16 of the Habitats Directive covering the period 2017-2018.

This document has been prepared for the European Commission by Barbara Calaciura and Daniela Zaghi (Comunità Ambiente) from THE N2K GROUP, under contract N° 070202/2019/815819SER/ENVD3. It does not reflect the views of the European Commission.

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Introduction

According to Article 16.1 of the Habitats Directive (92/43/EEC), the Member States (MS) may derogate from the protection provisions of Articles 12, 13, 14 and 15 the Habitats Directive (92/43/EEC). Derogations may be issued provided that there is no other satisfactory alternative and that they are not detrimental to the maintenance of the species populations at a favourable conservation status in their natural range.

According to Article 16.2, Member States shall forward to the Commission every two years a report in accordance with the format established by the Committee on the derogations applied under Article 16.1. The reports are prepared using the Habides+ tool¹ and are submitted to the EEA's Reportnet² system. These reports may also include the exceptions granted under Article 9 of the Bern Convention³ and fulfil the reporting obligations of Member States under the Bern Convention.

The national reports on derogations are available at the Central Data Repository³ of the Reportnet. The European Commission in cooperation with the Secretariat of the Bern Convention and the European Environment Agency has published an online search interface⁴ that makes the information included in the Member States' reports more easily accessible. The tool consists of three dashboards with appropriate filtering options to display the content of the reports.

This composite report provides an analysis of the Member States' biennial reports covering the period 2017-2018 and an assessment of the conformity of these derogations with the provisions of the Habitats Directive. It is based on the national reports submitted to EEA's Reportnet system by 31/01/2021. Twenty-one⁵ national reports have been assessed. The Commission has analysed these reports and has also sent feedback to each Member State to seek clarifications and address gaps.

All derogations have been systematically analysed and assessed checking:

a) the completeness of the national reports submitted

A formal check of the reports has been carried out in order to verify whether all the needed information according to Article 16.2 was provided.

b) the number of derogations reported

The control has been carried out to evaluate how often each Member State has used this prerogative. In some cases, Member States reported derogations outside the period 2017-2018. Such derogations are not covered in this composite report.

c) the reasons for which the derogations have been issued

The consistency of the reasons used to grant derogations with those allowed by Article 16 of the Habitats Directive has been verified.

d) the alternative solutions

Derogation may be granted provided that no alternative solutions exist. Member States have to declare that there is no other satisfactory alternative to the derogation and, if appropriate, to provide a reference to alternatives rejected.

¹ <https://webforms.eionet.europa.eu/>

² <https://www.eionet.europa.eu/reportnet>

³ <https://cdr.eionet.europa.eu/>

⁴ <https://www.eea.europa.eu/themes/biodiversity/species-protection-and-conservation>

⁵ France, Croatia, Portugal and Slovenia did not submit their reports. The data from the delayed delivery by Ireland and Netherlands were not assessed for this EU overview.

. Cyprus has informed the Commission that no derogations have been issued under Article 16 of the Habitats Directive.

e) *activities and methods permitted*

Derogations can allow only some specific activities, specified in Articles 12.1 and 13.1 and codified in table 2. Derogations allowing activities, such as killing of individuals, destruction of breeding sites or resting places, were analysed in more detail as compared to others, in order to assess the possible impact on the population of the species concerned.

Article 16.3 of the Habitats Directive requires a derogation report to specify the means, devices or methods authorized for the capture or killing of animal species and the reasons for their use. Member States may derogate from the provisions of prohibited methods listed in the Habitats Directive (Annex VI) and reported in table 3 under the code 12-14.

f) *the species and the number of individuals affected*

All the species affected by derogations have been analysed in order to evaluate the eventual impact on their conservation status.

Where significant areas of concern were identified, for instance exceptionally large number of derogations for one particular species, detailed analysis of the dimension of the population, of its numerical trend and of the area of distribution at national and EU level has been carried out. For this analysis, recognised sources of information (i.e. outcomes of the Article17 reporting⁶, Member State population assessments and action plans, scientific publications) have been used.

Derogations may cover more than one activity, for example killing (code 10) and capture (code 20) or deliberate disturbance (code 40). In these cases, when no further information was provided in the “further details” and “comments” fields, it was assumed that the figures referred to the main activity as indicated in the Habides+ manual.

Table 1. Standardised codes for derogation reasons

Code		Reasons in art. 16.1 of the Habitats Directive
11	In the interest of protecting wild fauna and flora and conserving natural habitats	(a) in the interest of protecting wild fauna and flora and conserving natural habitats
31	to prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property	(b) to prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property
41	in the interests of public health and safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment	(c) in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment
51	for the purpose of research and education	(d) for the purpose of research and education, of repopulating and re-introducing these species and for the breeding operations necessary for these purposes, including the artificial propagation of plants
52	for the purposes of repopulating and re-introducing these species and for the breeding operations necessary for these purposes, including the artificial propagation of plants	
60	to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species listed in Annex IV (EU Habitats Directive) in limited numbers specified by the competent national authorities	(e) to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species listed in Annex IV in limited numbers specified by the competent national authorities.

⁶ <https://nature-art17.eionet.europa.eu/article17/?period=5&group=Mammals&country=AT®ion=>

Table 2. Standardised codes for authorized activities

Code	Main permitted activity
10	ANIMALS - deliberate killing of specimens in the wild
20	ANIMALS - deliberate capture of specimens in the wild, with the intention of temporarily or permanently keeping them in captivity
30	ANIMALS - deliberate capture of specimens in the wild, followed by their immediate release in an unharmed state
40	ANIMALS - deliberate disturbance of specimens, particularly during the period of breeding, rearing, hibernation and migration
50	ANIMALS - deliberate destruction or taking of eggs from the wild
60	ANIMALS - deterioration or destruction of breeding sites or resting places
70	ANIMALS - keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild
80	PLANTS - deliberate picking, collecting, cutting, uprooting or destruction of plants in their natural range in the wild
90	PLANTS - keeping, transport and sale or exchange and offering for sale or exchange of specimens of plant species taken in the wild

Table 3. Standardised codes for methods.

Codes	Method
10	a mean, arrangement or method not listed in Annex VI (a) of the EU Habitats Directive or Appendix IV of the Bern Convention / or this question is not relevant for this type of derogation
11	any indiscriminate mean capable of causing local disappearance of, or serious disturbance to, populations of the species, not listed in Annex VI (a) of the EU Habitats Directive or Appendix IV of the Bern Convention
12	Mammals: Blind or mutilated animals used as live decoys, Tape recorders, Electrical and electronic devices capable of killing or stunning, Artificial light sources, Mirrors and other dazzling devices, Devices for illuminating targets, Sighting devices for night shooting comprising an electronic image magnifier or image converter, Explosives, Traps or Nets which are non-selective according to their principle or their conditions of use, Crossbows, Poisons and poisoned or anaesthetic bait, Gassing or smoking out, Semi-automatic or automatic weapons with a magazine capable of holding more than two rounds of ammunition
13	Fish: Explosives, Firearms, Poisons, Anaesthetics, Electricity with Alternating current, artificial light sources
14	Crayfish: Explosives, Poisons

1 Overview of derogations across the EU

This section presents an overview of the derogations reported across the EU. This overview should be interpreted in close connection with the analysis of the individual Member States' reports, as often special national conditions strongly affect the overall picture and/or information on specific issues may be missing.

1.1 Completeness of reports

The Member States have used the Habides+ tool to create their reports. However, the reports are very variable in terms of completeness and quality of the data provided. The dashboards on derogations⁷ published by the European Environment Agency present statistics on the completeness of the information in the national reports on derogations reported for 2017-2018 under the Habitats Directive. The main gaps are those related to number of actually affected individuals and the maximum number of individuals covered by the derogations

Fields providing additional information that could help to understand the use of the codes and the figures provided are not filled in regularly. Only in a few cases, further details are provided on the legal justification, the main activity and the means or methods allowed, the alternatives rejected, the controls carried out and their results. Evidence that the derogations affecting endangered or declining populations are not detrimental to the populations is always missing.

In a number of cases, data provided is too generic to allow for a sound assessment of the derogation. For instance, for almost 68% of derogations the number of individuals/eggs/nests/breeding sites/resting sites actually affected by derogations is not reported. Even when the number of specimens is provided, about 5% of these derogations refers to more than one species or even to a whole taxonomic group vaguely defined as e.g. "mammals", or "all species", or "frog". In all these cases, analysis per species or the assessment of the impact of derogations on the species concerned are not possible.

In addition to these gaps and inaccuracies, there are also inconsistencies in the information provided in the different fields that make the data difficult to interpret and evaluate, and consequently to aggregate. For example, the maximum or the number of the actually affected individuals are reported for derogations for which it is stated that no figure can be provided. Therefore, it is not clear whether such figures are accurate or have been inserted by mistake. In other cases, "0" is provided as maximum quantity. In other instances, the field of the actually affected numbers is left empty, even though it is stated elsewhere that the derogation was not executed. Sometimes inconsistencies are also detected, as an example, between the unit numbers provided and the activity allowed (e.g. the number of nests affected is reported, but the activity is killing of individuals). These inconsistencies do not allow assessing the impact of the derogations which in turn affects the quality of the analysis.

1.2 Number of derogations

In total, 35 263 derogations were reported by Member States for the period 2017-2018. The distribution of the derogations issued by the Member States is shown in Table 4. The number of derogations varies considerably, from eight derogations granted in Greece to thousands in other Member States, such as in Poland and the United Kingdom. With 15 603 derogations the United Kingdom is the country that reported the highest number of derogations in this biennial period.

⁷ <https://www.eea.europa.eu/data-and-maps/dashboards/data-completeness-of-national-reports>

Table 4. Number of derogations reported by each MS in 2017-2018.

MS	Number of derogations		
	0-99	100-999	≥ 1.000
AUSTRIA (AT)		171	
BELGIUM (BE)		419	
BULGARIA (BG)	86		
CZECHIA (CZ)		524	
GERMANY (DE)			2 645
DENMARK (DK)	17		
ESTONIA (EE)	17		
GREECE (EL)	8		
SPAIN (ES)			1 032
FINLAND (FI)			1 002
HUNGARY (HU)		231	
ITALY (IT)		848	
LITHUANIA (LT)	41		
LUXEMBOURG (LU)	68		
LATVIA (LV)	16		
MALTA (MT)	50		
POLAND (PL)			12 081
ROMANIA (RO)	13		
SWEDEN (SE)		326	
SLOVAKIA (SK)	65		
UNITED KINGDOM (UK)			15 603
TOTAL		35 263	

1.3 Reasons used and activities allowed

Table 5. Number of derogations granted under each reason by each of the 21 MS.

MS	Reason code																					TOTAL	
	16.1a										16.1b					16.1c		16.1d					16.1e
	11	11, 31	11, 31, 41	11, 41	11, 41, 51	11, 41, 51, 52, 60	11, 51	11, 51, 52	11, 51, 60	11, 52	31	31, 41	31, 41, 52	31, 51	31, 60	41	41, 51	51	51, 52	51, 60	52		60
AT	8						1		1	4	1				35		105	2		2	11	171	
BE	147			10	1		25	2		78					58		98				-	419	
BG				2			3			-					30	3	32				16	86	
CZ	68	35	9	4			10			80	59				214		43	2			-	524	
DE	151	1	2	14			53			702	86				1 174		440	1		21	-	2 645	
DK	-									-					-		14	2		1	-	17	
EE	-									2					-		15				-	17	
EL	-									-					-		8				-	8	
ES	60					1	18		7	46					118	1	756	1		24		1 032	
FI	116			1			6			118	9	1		2	97	1	168			4	479	1 002	
HU	66									27					65		46			22	5	231	
IT	11	3					17	1	1	7			1		14	4	781	2		6	-	848	
LT	4						3			6					-		27			1	-	41	
LU	62									-					-		6				-	68	
LV							2			-					-		11				3	16	
MT	18									-					-		29				-	50	
PL	1 384	1	3	815			369	30		2 108	7				3 605	4	3 442		6	52	255	12 081	
RO			6							-					1		6				-	13	
SE	25		1				2			190	12				25		63			4	4	326	
SK	1									6	23				8		27				-	65	
UK	281									43					11 543		3 732			4		15 603	
TOTAL	2 402	40	21	846	1	1	509	36	1	9	3 417	197	1	1	2	16 987	13	9 849	10	6	141	773	35 263

Table 5 gives an overview of the reasons used to grant derogations in each Member State, while Table 6 provides the distribution of the derogations according to the main activities allowed under each reason and group of reasons. Derogations are sometimes granted under more than one reason, and the main activity is accompanied by one or more additional activities. For each derogation, only the main activity is considered.

Table 6. Number of derogations granted under each reason/group of reasons per main activity.

Reasons (code)	Number of derogations									Total
	Activities (code)									
	10	20	30	40	50	60	70	80	90	
11	40	303	1 226	534	3	137	25	133	1	2 402
11, 31	1	0	3	2	0	33	0	1	0	40
11, 31, 41	10	0	0	0	0	11	0	0	0	21
11, 41	4	22	241	567	0	12	0	0	0	846
11, 41, 51	0	0	0	0	0	0	1	0	0	1
11, 41, 51, 52, 60	0	0	0	0	0	0	0	0	0	1
11, 51	5	30	385	75	1	1	2	9	1	509
11, 51, 52	0	6	0	0	0	0	0	30	0	36
11, 51, 60	0	1	0	0	0	0	0	0	0	1
11, 52	0	3	5	0	0	0	0	1	0	9
31	1 519	1	100	263	1	1 528	4	1	0	3 417
31, 41	133	0	22	4	1	37	0	0	0	197
31, 41, 52	0	0	1	0	0	0	0	0	0	1
31, 51	0	0	1	0	0	0	0	0	0	1
31, 60	2	0	0	0	0	0	0	0	0	2
41	404	178	4 376	6 919	14	4 721	125	231	19	16 987
41, 51	1	0	6	3	0	0	3	0	0	13
51	242	605	5 261	2 619	24	73	550	422	53	9 849
51, 52	0	6	2	0	1	0	0	1	0	10
51, 60	0	5	0	0	0	0	1	0	0	6
52	4	22	51	3	1	1	28	18	13	141
60	503	161	10	0	0	1	39	57	2	773
Total	2 868	1 343	11 690	10 989	46	6 555	778	904	89	35 263

*No activity is reported

According to the data provided by the national reports, about half of derogations are issued “**in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment**” (reason code 41). These derogations affect mainly bats or amphibians and allow the destruction of resting places. In some cases, they also permit the killing of other species including:

- *Canis lupus* in Finland, Poland, Germany and Sweden;
- *Castor fiber* mainly in Germany, Belgium and Austria;
- *Lynx lynx* in Finland;
- *Ursus arctos* in Bulgaria, Finland and Sweden;

A substantial number of derogations (9 849), corresponding to around 28%, were issued “**for research and education purposes**” (reason code 51). This reason is broadly distributed across the Member States. Most of these derogations allow the capture of specimens followed by immediate release for species identification,

marking/tagging. They usually concern inventories, census or genetic analyses or study of population dynamics to increase the knowledge on species listed in the Habitats Directive and/or to allow the restocking of eroded populations. In Sweden, derogations for research and education purposes have allowed the killing of the harbour seal, *Phoca vitulina*.

Almost 10% of the derogations, corresponding to a total of 3 417 derogations, were issued for the **“prevention of serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property” (reason code 31)**. About half of these derogations (1 519) allowed the killing of the species concerned, such as *Castor fiber* in Germany, Poland, Belgium and Austria, *Ursus arctos* in Estonia, Finland and Sweden, *Lynx lynx* in Finland and Sweden, *Canis lupus* in Spain, Finland, Poland, Lithuania and Sweden, *Lutra lutra* in Finland and Poland, *Gulo gulo* in Finland and Sweden. Another 1 528 derogations allowed the “deterioration or destruction of breeding sites or resting places” (activity code 60) in particular of bats, amphibians and *Castor fiber* (1 360 derogations) in Austria, Belgium, Czech Republic, Germany, Hungary and Poland.

About 7% of the derogations, corresponding to a total of 2 402 derogations, were issued **“in the interest of protecting wild fauna and flora and conserving natural habitats” (reason code 11)** and the activities authorized address in almost 48% of cases the conservation and protection of the species subject to the derogation. For example, these derogations cover the keeping and caring for wounded animals in rehabilitation centres, the capture and following release to avoid the accidental killing, and the relocation of individuals. In Poland, this reason has been used to kill 10 *Bison bonasus* to reduce the suffering of sick individuals and to kill 10 hybrids of the wolf (*Canis lupus*), and in Malta for the transplanting of *Posidonia oceanica* (“deliberate picking, collecting, cutting, uprooting or destruction of plants in their natural range in the wild”, activity code 80). One half of these derogations allowed the “deliberate capture of specimens in the wild, followed by their immediate release in an unharmed state” (activity code 30). Finally, 222 of these derogations were issued also to carry out inventories of protected bats, insect and amphibians, while the rest were issued in areas where construction interventions (roads, buildings, etc.) were carried out.

Around 2% of all reported derogations are granted under Article 16.1.e, **“to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species listed in Annex IV in limited numbers specified by the competent national authorities” (reason code 60)** About 65% (503 out of 773) of these derogations have allowed the selective killing of different species. In some cases, the derogations allow the hunting of the species, for instance *Rupicapra rupicapra*, in Bulgaria, or *Lynx lynx* in Latvia. *Lynx lynx* and *Ursus arctos* have been killed in Finland in accordance with the Finnish Hunting Law and Statutes, and within the limits of quota issued by the ministry of agriculture and forestry. Another 20% of these derogations (161) include derogations aimed at “deliberate capture of specimens in the wild, with the intention of temporarily or permanently keeping them in captivity” (activity code 20). A total of 148 such derogations concern the cultivation of *Helix pomatia* in Poland, a species listed in annex V of the Habitats Directive. The same species is also covered by 14 derogations for “keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild” (activity code 70) in order to sell the snails in Poland. Under the activity code 70, in 12 derogations Poland addresses also trophy, crafted individuals and leather (one for each derogation) of *Lynx lynx*, *Canis lupus*, *Lutra lutra*, *Bison bonasus* and *Ursus arctos*.

The reason **“for the purposes of repopulating and re-introducing these species and for the breeding operations necessary for these purposes, including the artificial propagation of plants” (reason code 52)** was used in 141 derogations, mainly for the “deliberate capture of specimens in the wild, followed by their immediate release in an unharmed state” (activity code 30). Hungary issued about 10 % of its derogations for this reason in particular to move some colonies of *Spermophilus citellus* to most suitable sites.

Less than 5% of the derogations have been granted under more than one reason. The two reasons most frequently used together are: “in the interest of protecting wild fauna and flora and conserving natural habitats” (reason code 11) and “in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment” (reason code 41). The main activity most frequently covered by this combination of reasons is for the “deliberate disturbance of specimens, particularly during the period of breeding, rearing, hibernation and migration” (activity code 40), corresponding to 67% of the derogations. Poland used these two reasons in 815 derogations (on a total of 846, see table 5). A total 566 of them have been issued for the deliberate disturbance of specimens in areas near roads and railways and three of them have allowed the killing of 19 individuals of *Bison bonasus*. In less than 2% of the derogations, the reason code 11 is also used in conjunction with the reason code 51, “for the purpose of research and education” to increase the knowledge on protected species.

2 The species subject to the derogations

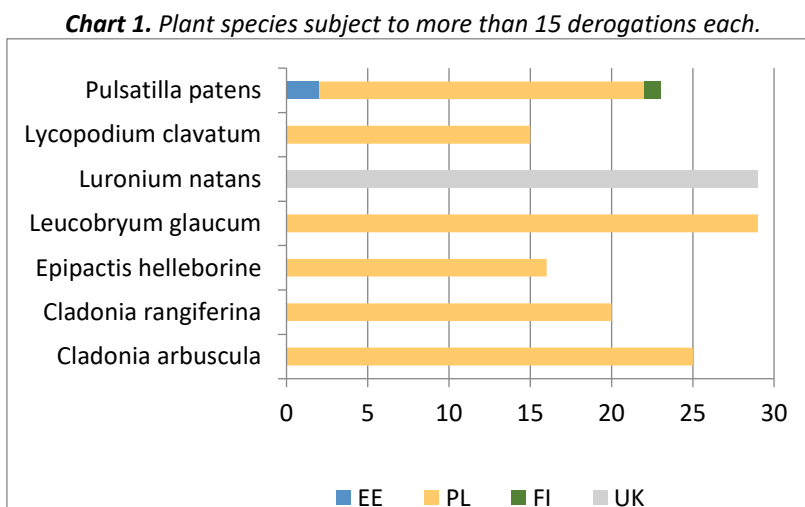
Without taking into consideration the species groups, 644 species have been overall concerned by a total of 35 263 derogations reported in the biennial period: 111 are plant species and 533 are animal species.

Mammals, in particular bats, large carnivores and the beaver, followed by amphibians are the most affected classes. A limited number of derogations concern plants and insects.

2.1 Plants

A total of 995 derogations issued by 17 Member States concern plant species. The name of the species is missing in 242 derogations. In these cases, generic names are reported, such as “plants”, “Bryophyta” and some species are listed in the field “species group”. Rarely the number of specimens covered by the derogation and the number of actually affected specimens are reported.

Chart 1 shows the seven species that have been subject to more than 15 derogations each, and the corresponding number of derogations reported by each Member State. The derogations targeting these species account for almost 16.7% of the reported derogations covering plants and have been issued in four Member States. Poland has reported about 79.6% of all derogations targeting these seven species. The species with the highest number of derogations are *Leucobryum glaucum* and *Luronium natans* targeted by 29 derogations in Poland and UK respectively.



The activity most frequently allowed is the “deliberate picking, collecting, cutting, uprooting or destruction of plants in their natural range in the wild” (activity code 80), mainly “in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment” (55%) and for research purposes (36%) (reason codes 41 and 51, respectively).

Table 7. Number of derogations targeting the plant species subject to more than 15 derogations broken down by reason

Species	Reason code								TOTAL
	11	11, 51	11, 52	31	41	51	52	60	
<i>Cladonia arbuscula</i>	0	0	0	0	23	2	0	0	25
<i>Cladonia rangiferina</i>	0	0	0	0	17	3	0	0	20
<i>Epipactis helleborine</i>	3	0	0	0	11	1	0	1	16
<i>Leucobryum glaucum</i>	0	0	0	0	20	6	0	3	29
<i>Luronium natans</i>	1	1	0	0	0	26	1	0	29
<i>Lycopodium clavatum</i>	0	0	0	0	14	1	0	0	15
<i>Pulsatilla patens</i>	2	1	1	0	1	17	0	0	23
Total	6	2	1	0	86	56	1	4	156

2.2 Animals

A total of 34 268 derogations concern animal species. Chart 2 shows the sixteen species that have been subject to more than 200 derogations each, and the corresponding number of derogations reported by each Member State. These species have been targeted by all Member States which sent their report to the EC. The derogations targeting these species account for almost 40% of all reported derogations. UK has reported about 68% of all derogations targeting these sixteen species. As illustrated in the chart, the species with the highest number of derogations are *Pipistrellus pipistrellus* with 3 266 and *Triturus cristatus* with 3 200 derogations, mostly issued in UK.

Chart 2. Number of derogations per MS for the animal species concerned by more than 200 derogations.

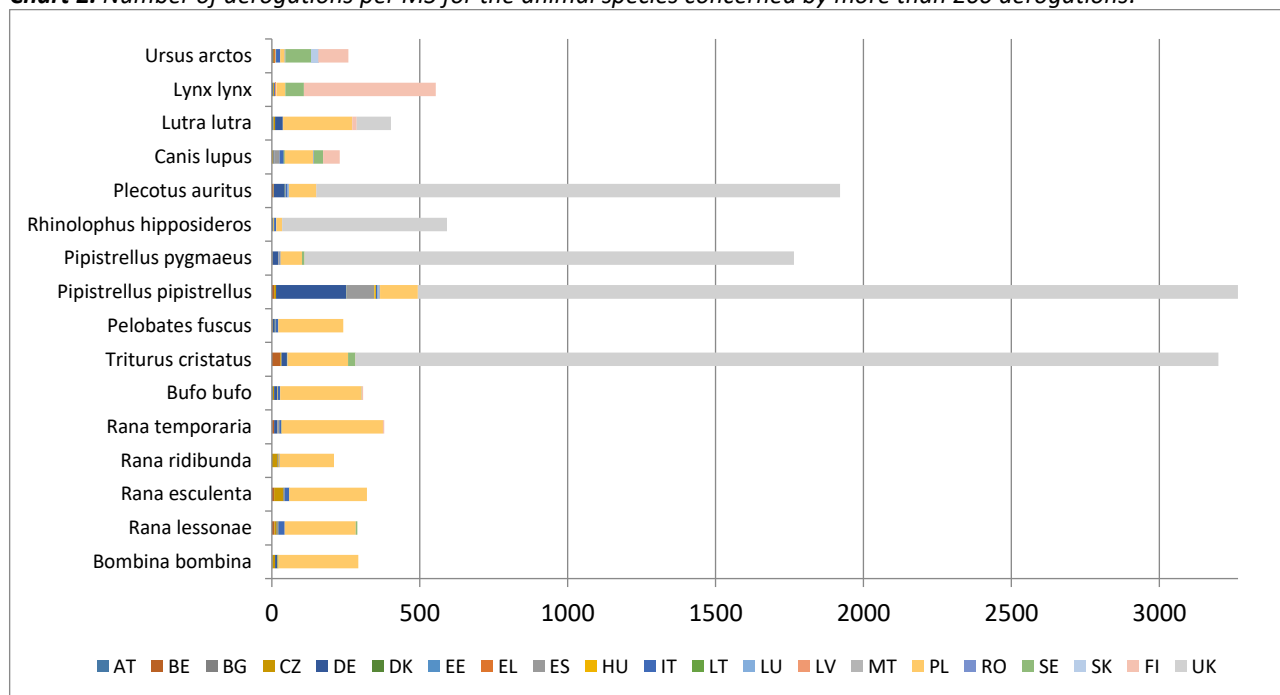
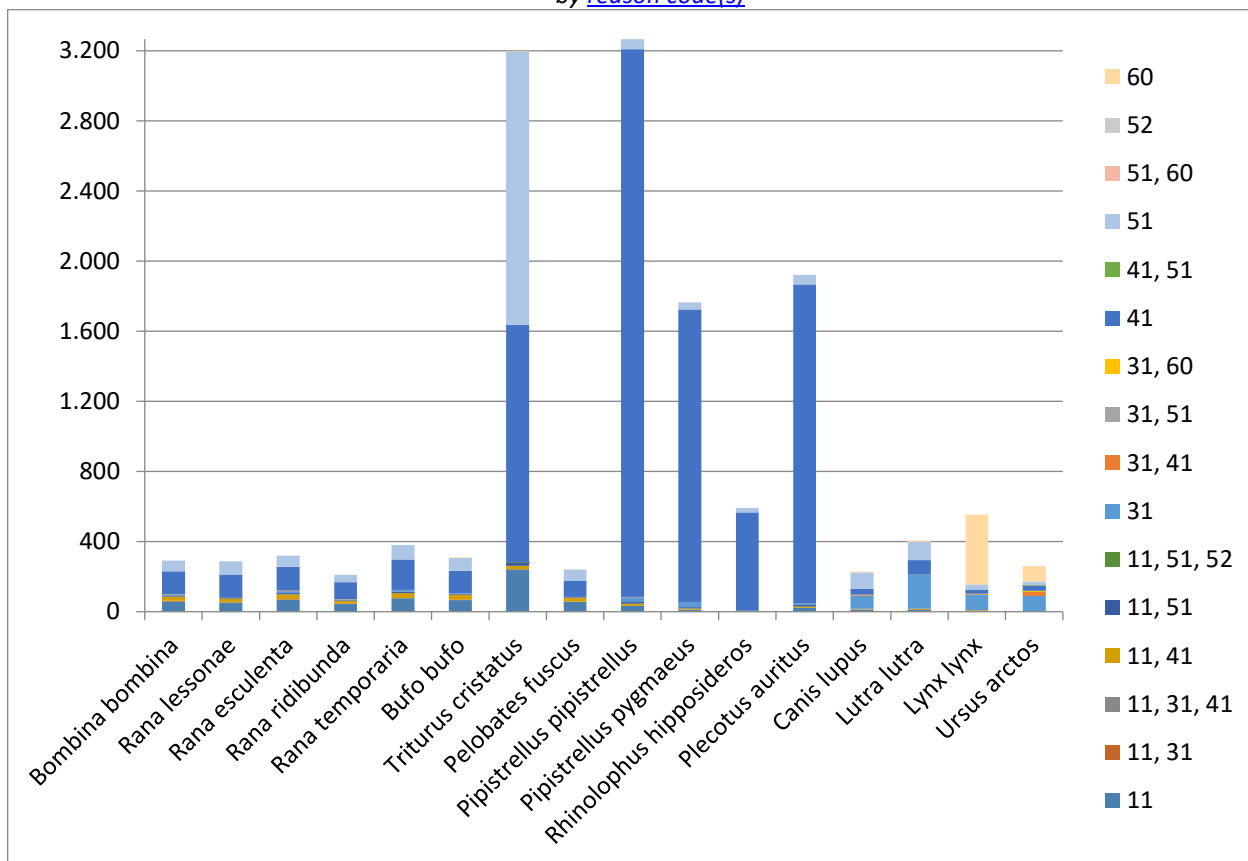


Chart 3 presents the distribution of the derogations according to the reason(s) used, while Table 8 shows the distribution of the derogations according to the main activity that they have allowed for the same species.

Chart 3. Number of derogations targeting the animal species concerned by more than 200 derogations broken down by [reason code\(s\)](#)



About 84% of the derogations affecting these sixteen species have been granted under the reason codes 41 (67%), “in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment”, and 51 (17%), “for research and education purposes”. They have mainly allowed:

- The deliberate disturbance of specimens - activity code 40 - was allowed for 45% of derogations, largely affecting *Pipistrellus pipistrellus* (about 33%). The reason code 41 “in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment” was used for about 32% of these derogations.
- The deliberate capture of specimens in the wild, followed by their immediate release in an unharmed state - activity code 30 - was allowed for 24% of these derogations, largely affecting *Triturus cristatus* (about 68%). The reason code 41 “in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment” was used for about 35% of these derogations.

Table 8. Number of derogations targeting the animal species concerned by more than 200 derogations broken down by main activity allowed

Species	Number of derogations							Total
	Main activity(code)							
	10	20	30	40	50	60	70	
<i>Bombina bombina</i>	0	14	138	90	3	44	3	292
<i>Rana lessonae</i>	3	20	141	78	2	43	2	289
<i>Rana esculenta</i>	2	17	152	88	0	59	3	321
<i>Rana ridibunda</i>	0	13	99	61	0	36	1	210
<i>Rana temporaria</i>	1	26	185	100	1	62	5	380
<i>Bufo bufo</i>	0	26	155	86	1	34	6	308
<i>Triturus cristatus</i>	4	35	2 195	836	1	117	12	3 200
<i>Pelobates fuscus</i>	1	11	132	75	0	19	3	241
<i>Pipistrellus pipistrellus</i>	3	11	65	2 100	0	1 079	8	3 266
<i>Pipistrellus pygmaeus</i>	0	2	40	982	0	738	3	1 765
<i>Rhinolophus hipposideros</i>	0	0	26	355	0	211	0	592
<i>Plecotus auritus</i>	1	4	52	1 397	0	460	7	1 921
<i>Canis lupus</i>	113	14	18	23	0	1	60	229
<i>Lutra lutra</i>	169	5	5	108	0	77	39	403
<i>Lynx lynx</i>	510	2	12	15	0	3	12	554
<i>Ursus arctos</i>	219	5	21	8	0	0	6	259
Total	1 026	205	3 433	6 402	8	2 983	169	14 230

2.2a The species concerned by the deliberate killing activity

A total 2 872 out of 35 263 derogations have allowed killing corresponding to about 8% of all reported derogations. Derogations for killing were reported in all Member States analysed except Denmark. A total of 23 481 individuals belonging to 115 different species of all taxa have been killed, 17 149 of which belong to the thirteen species listed in Table 9. The total number of individuals killed is underestimated as almost 2% of these derogations do not report the number of individuals actually affected. Moreover, 3 099 individuals have been actually killed under derogations covering more than one species, without specifying the specimens affected for each of the species involved, or whole taxonomic groups (molluscs, insects, mammals, lepidoptera, etc.).

In general, mammals, and in particular bats and large carnivores, are the species most frequently subject to deliberate killing. Large carnivores are covered separately in section 2.2b.

60% of these individuals were killed “in the interest of public health and safety or for other imperative reason of overriding public interest” (reason code 41). The two most affected species are *Lacerta agilis* (annex IV) and *Hirudo medicinalis* (annex V and protected under the Bern Convention), respectively in Germany and Poland. According to the Polish report, *Hirudo medicinalis* is used for medical purposes. No information is provided for the two amphibians (*Pelobates fuscus* and *Epidalea calamita*) killed for this reason.

Another 35% of these individuals were killed “to prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property” (reason code 31). In this case, most derogations targeted the beaver, *Castor fiber*, and in particular in Germany and Poland.

Almost 5% of derogations, all issued in Austria, allowed killing “for research and teaching purposes” (reason code 51). More specifically, they have permitted the killing of 507 individuals of *Rutilus frisii meidingeri* and

148 individuals of *Plecotus macrobullaris*. These activities have been carried out for mandatory monitoring (Article 11 of the Habitats Directive) and for mapping the Natura 2000 area of Schwemm, in the case of *Plecotus macrobullaris*.

Table 9. Number of individuals killed per reason (or group of reasons) for the species most frequently affected by deliberate killing

Species	MS	Killed in MS	Reason code									Total of individuals killed in the EU
			11	11, 31, 41	11,51	31	31,41	31, 60	41	51	60	
<i>Lacerta agilis</i>	DE	5 873							5 863	10		5 873
<i>Hirundo medicinalis</i>	PL	1 800							1 800			1 800
<i>Rutilus frisii meidingeri</i>	AT	507								507		507
<i>Plecotus macrobullaris</i>	AT	200								148		148
<i>Pelobates fuscus</i>	DE	200							200			200
<i>Epidalea (Bufo) calamita</i>	DE	220							220			220
<i>Castor fiber</i>	AT	267				2			265			5 212
	BE	22	4			6			12			
	CZ	15				3			12			
	DE	2 928	4			2 102	507		315			
	FI	2				2						
	HU	11				11						
	PL	1 957			11	1 940	2				4	
<i>Lutra lutra</i>	AT	31							20	11		495
	FI	17				17						
	PL	447				447						
<i>Rupicapra rupicapra balcanica</i>	BG	92									92	92
LARGE CARNIVORES												
<i>Ursus arctos</i>	EE	113				113						1 383
	FI	578				2		155	8		413	
	RO	111		111								
	SE	542				273	182		87			
	SK	39				1	38					
<i>Lynx lynx</i>	FI	596				8			20		568	1 034
	LV	284									284	
	SE	154				123	31					
<i>Canis lupus</i>	DE	1							1			164
	ES	67				67						
	FI	29				20	1		8			
	LT	3	1			2						
	PL	13	8			3			2			
	RO	3		3								
<i>Gulo gulo</i>	SE	48				27	14		7			21
	SE	12				12						
	FI	9				8		1				

Figures are underestimated since in about 2% of derogations information on the number of individuals actually killed is missing.

Less than 1% of individuals were killed “to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking of certain specimens of the species listed in Annex IV in limited numbers specified by the competent national authorities” (reason code 60), mainly *Rupicapra rupicapra balcanica* in Bulgaria.

The killing of *Castor fiber* seems to take place mainly to prevent damage (reason code 30). The derogations for killing the beaver have increased during the past years together with the expansion of the beaver populations in north-east Europe and the related increase of conflicts with water supplies, agriculture and forestry.

Lutra lutra has been killed mainly in Poland (447 otters) and, in fewer numbers, in Austria (31) and Finland (17). The Polish otter populations have increased considerably during the past years, probably due to the increased habitat plasticity of the species and its ability to survive also in suboptimal conditions⁸. This has led to an increase in the conflict with anglers in rivers and streams as well as with fish farmers and the consequent need to control the species, also in Finland and Austria. According to the national report, in Austria, 11 otters have been killed as part of the otter management project for research purposes.

2.2b Large carnivores

Large carnivores are quite often targeted by derogations that allow killing, as shown in table 9. Among them, the species *Ursus arctos* and *Lynx lynx* are most frequently subject to such derogations.

Ursus arctos:

More than 40% of total number of bears killed have been shot in Finland, 72% of which “to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking of certain specimens of the species listed in Annex IV in limited numbers specified by the competent national authorities” (reason code 60) on the base of quotas annually set by the Ministry of Agriculture and Forestry. Two derogations, allowing killing of 155 bears, have been issued also “to prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property” (reason code 31) and 8 bears were killed because they were considered potentially dangerous for people.

In Sweden, 218 and 324 bears were killed, respectively in 2017 and in 2018, “to prevent serious damage” (reason code 31) to reindeer herds and “in the interests of public health and safety, or for other imperative reasons of overriding public interest” (reason code 41). A total of 87 derogations were issued using the two reasons.

Based on the information provided, 53 individuals in 2017 and 60 in 2018 have been killed in Estonia by shooting “to prevent serious damage” (reason code 31), while 88 and 23 in Romania for three different reasons: “In the interest of protecting wild fauna and flora and conserving natural habitats”, “to prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property” and “in the interests of public health and safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment” (reason codes 11, 31 and 41).

38 bears were killed in the Slovak Republic, 21 in 2017 and 17 in 2018, “to prevent serious damage” and “in the interests of public health and safety, or for other imperative reasons of overriding public interest” (reason codes 31 and 41).

Lynx lynx:

The greatest number of *Lynx lynx* is killed in Finland (more than 50%) followed by Latvia (about 27%) mainly “to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species listed in Annex IV in limited numbers specified by the competent national authorities” (reason code 60).

⁸ Romanowski J., Brzeziński M., Żmihorski M. 2013. Habitat correlates of the Eurasian otter *Lutra lutra* recolonizing Central Poland. Acta Theriol 58:149-155.

The remaining 23% of lynxes were killed in Sweden where most of the derogations were aimed at specific individuals that had caused serious damage to the reindeer herds or to prevent attacks to domestic animals.

Canis lupus:

The wolf has been killed mostly in Spain and Sweden followed by Finland, mainly to prevent serious damages. In Spain most of the wolves (62 out of 67) were killed in the Cantabria region (35 in the year 2017 and 27 in the year 2018) .

Gulo gulo

A small number of individuals were killed to prevent damages during the period 2017-2018. The population size is around 600-700 individuals in Sweden and around 200-250 in Finland.

Killing is the main activity affecting large carnivores; however, they are also subject to the other activities as shown in Table 10. About 90% of derogations that allow “keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild” (activity code 70) have been issued for “research and education purpose” (reason code 51) and concern the following species: *Canis lupus*, *Felis silvestris*, *Lynx lynx* and *Ursus arctos* in different Member States.

The “deliberate capture of specimens in the wild, followed by their immediate release in an unharmed state” (activity code 30) has been used in Finland and in Italy for research and education purposes respectively on *Canis lupus* and *Ursus arctos*. Spain allowed this activity and the “deliberate capture of specimens in the wild, with the intention of temporarily or permanently keeping them in captivity” (activity code 20) for “the purposes of repopulating and re-introducing these species and for the breeding operations necessary for these purposes” (reason code 52) in relation to the Iberian lynx, *Lynx pardinus*.

Table 10. Large carnivores: number of individuals affected by activities different from killing per species in each MS

Species	MS	Activities (code)				
		20	30	40	60	70
<i>Alopex lagopus</i>	SE		x			
<i>Canis aureus</i>	IT		0			
<i>Canis lupus</i>	BE					1
	CZ		x		x	2
	DE					2
	ES	3	x	x		x
	FI		16			
	IT		1			
	PL	12	x	3		36
	SE			0		
<i>Felis silvestris</i>	DE		x			9
	ES		x			
	IT		x			
	PL		3			1
	UK			7		
<i>Lynx lynx</i>	AT		0			
	CZ		1		x	
	FI		6			
	IT		x			
	PL	1	x	x		21
<i>Lynx pardinus</i>	ES	11	36			
<i>Ursus arctos</i>	BG		3			
	CZ					1
	EL		x			
	ES	1	x			
	FI		0	1		
	HU	1				
	IT		16			
	PL	1	1	3		3
SE		x	1			

Figures are underestimated due to lack of information in about half of derogations concerning activities different from killing

X = derogations issued but not data provided on the number of actually affected specimens

0 = derogation actually affecting 0 specimens

3 Member State reports

The Member States' reports are analysed systematically. On the basis of this analysis, the Commission sent feedback to the Member States and sought clarifications regarding gaps or other issues identified during the analysis. A summary of this analysis is provided below.

3.1 Austria

Austria has submitted two derogations report files because the Lander of Burgenland (AT11) e Steiermark (AT22) have used the old format for derogation report for creating their report. Only the file in the Habides+ format has been analysed.

In 2017-2018, Austria reported a total of 171 derogations: 95 in 2017 and 76 in 2018. The following table shows the number of derogations reported per reason (or group of reasons) and the corresponding main activities allowed.

Reasons (code)	Number of derogations									Total
	Activities (code)									
	10	20	30	40	50	60	70	80	90	
11			8							8
11, 51		1						1		1
11, 51, 60			1							1
11, 52		1						1		1
31	1		2			1				4
31, 41						1				1
41	5		19	4	1	6				35
51	18	4	49	2	3		4	25		105
51, 52		1			1			1		2
52			1				1			2
60			9					2		11
Total	24	7	89	6	5	8	4	28		171

The report includes derogations both under the Habitats (171) and the Birds (32) Directives and is not filled in sufficiently. The lack of information does not allow assessing whether derogations are properly applied or whether they may have any negative impact on the concerned species:

- 155 out of 171 derogations do not report the maximum number of individuals/eggs/breeding sites etc. covered and 92 derogations do not report the number of individuals/eggs/breeding sites etc. actually affected. The alternatives rejected are reported only for a few derogations.
- 2 derogations issued to “to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species listed in Annex IV (EU Habitats Directive) in limited numbers” (reason code 60), are relative to *Gentiana lutea*, which is listed in the Annex V of the Habitats Directive and therefore it is not subject to this reason.

3.2 Belgium

Belgium reported a total of 419 derogations: 198 in 2017 and 221 in 2018.

The following table shows the number of derogations per reason (or group of reasons) and the corresponding main activities allowed.

Reasons (code)	Number of derogations									Total
	Activities (code)									
	10	20	30	40	50	60	70	80	90	
11	1	12	131			2		1		147
11, 41			4			6				10
11, 41, 51							1			1
11, 51		2	23							25
11, 51, 52		2								2
31	2		1			75				78
41	5			4		49				58
51		10	78	2			8			98
Total	8	26	237	6		132	9	1		419

From the available information, none of the derogations seems to be in conflict with Article 16.

3.3 Bulgaria

Bulgaria reported a total of 86 derogations: 58 in 2017 and 28 in 2018.

The following table shows the number of derogations issued per reason (or group of reasons) and the corresponding main activities allowed.

Reasons (code)	Number of derogations									Total
	Activities (code)									
	10	20	30	40	50	60	70	80	90	
11, 41			2							2
11, 51			1				2			3
41	5	2					23			30
41, 51							3			3
51	2	4	12				12	2		32
60	16									16
Total	23	6	15				40	2		86

For the reported period, sixteen derogations were granted under 16.1.e, i.e. “to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species listed in Annex IV (EU Habitats Directive) in limited numbers specified by the competent national authorities” (reason code 60). These derogations allowed the deliberate killing of *Rupicapra rupicapra balcanica* (Balkan chamois, listed in Annex II and IV of the Habitats Directive) by shooting.

For the reported period:

- 50 individuals were licensed and 44 were killed in 2017.
- 57 individuals were licensed and 48 were killed in 2018.

The number of individuals allowed to be hunted (50 in 2017 and 57 in 2018) corresponds to about 3% of the Bulgarian population. According to the national assessments of the conservation status for the period 2013-2018⁹, the species *Rupicapra rupicapra balcanica* (Balkan chamois) in Bulgaria has 'Unfavourable-Inadequate' Conservation Status in the Continental biogeographical region and "Favourable" in the Alpine biogeographical region. The species is also reported as Endangered in the Bulgarian Red Data Book¹⁰. Furthermore, comparing population data with those reported for the period 2007-2012, the national chamois population has decreased by more than 60% (from about 2 400 to about 1 500 individuals).

3.4 Croatia

Croatia has not submitted a report.

3.5 Cyprus

Cyprus has informed the Commission that no derogations have been granted under the Habitats Directive.

3.6 Czechia

Czechia reported a total of 524 derogations: 324 in 2017 and 200 in 2018.

The following table shows the number of derogations issued per reason (or group of reasons) and the corresponding main activities allowed.

Reasons (code)	Number of derogations									Total
	Main activity (code)									
	10	20	30	40	50	60	70	80	90	
11	1	3	5	14		42	1	2		68
11, 31				2		32		1		35
11, 31, 41						9				9
11, 41			2	1		1				4
11, 51		2	8							10
31	2		31	1		46				80
31, 41	1		20	4		34				59
41	1		49	11	1	152				214
51	6	7	21	1			8			43
51, 52			2							2
Total	11	12	138	34	1	316	9	3		524

The report is partially incomplete. The inconsistencies in filling in certain fields and the lack of information make it difficult to assess whether there is a potential impact on the concerned species and whether the derogations comply with the provisions of Article 16 of the Directive.

- about 28% of the derogations cover more than one species or too large or generic groups of animals or plants (e.g. all Annex IV species, "especially protected species", Insects, mammals, etc.) to make an assessment possible;

⁹ <https://nature-art17.eionet.europa.eu/article17/reports2012/species/summary/?period=5&group=Mammals&subject=Rupicapra+rupicapra+balcanica®ion=>

¹⁰ Bulgarian Academy of Sciences & Ministry of Environment and Water, 2015. Sofia
<http://e-ecodb.bas.bg/rdb/en>
<http://e-ecodb.bas.bg/rdb/en/vol2/Rurupica.html>

- in 23% cases, a single derogation covers more than one legal justification (up to three);
- the numbers of actually taken individuals/nests/breeding sites etc are missing for 56% of the derogations reported and the maximum numbers for 40%, of the derogations. Some justification for not providing the figures is furnished.
- in some cases it is stated that no figure can be provided for the maximum number of individuals/eggs/nests/sites, but the figures are provided. The same applies to the actually affected numbers of some derogations. Therefore, it is not clear whether such figures are correct or have been inserted by mistake.
- references to alternatives rejected are provided in only 20% of derogations and controls carried out and their results are indicated in only 8% of reported derogations.
- according to the fields for the period covered, all derogations cover at most until December 2020, but for more than 40% of the derogations it is stated in the comments field that they cover further years, up to 2035.

3.7 Denmark

Denmark reported a total of 17 derogations: 6 in 2017 and 11 in 2018.

The following table shows the number of derogations issued per reason (or group of reasons) and the corresponding main activities allowed.

Reasons (code)	Number of derogations									Total
	Activities (code)									
	10	20	30	40	50	60	70	80	90	
51		12	1		1					14
51, 52		2								2
52		1								1
Total		15	1		1					17

From the available information, none of the derogations seems to be in conflict with Article 16.

3.8 Estonia

Estonia reported 17 derogations: 6 in 2017 and 11 in 2018.

The following table shows the number of derogations issued per reason (or group of reasons) and the corresponding main activities allowed.

Reasons (code)	Number of derogations									Total
	Activities (code)									
	10	20	30	40	50	60	70	80	90	
31	2									2
51	4							11		15
Total	6							11		17

Two derogations permitted the killing of *Ursus arctos* (listed in Annex IV of the Habitats Directive) to prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property (reason code 31 - Article 16.1.b). A total of 53 bears have been killed in 2017 and 60 in 2018. The Estonian population of bears, according to the assessments of conservation status of species and habitats under

Article 17 of the Habitats Directive¹¹, amounts to about 650-700 bears. The number of bears killed corresponds about to 8% and 9% of the population.

3.9 Finland

Finland has reported 1 002 derogations: 460 in 2017 and 542 in 2018.

The following table shows the number of derogations issued per reason (or group of reasons) and the corresponding main activities allowed.

Reasons (code)	Number of derogations									Total
	Activities (code)									
	10	20	30	40	50	60	70	80	90	
11		11	22	6			7	69	1	116
11, 41			1							1
11, 51	1	1	3					1		6
31	114			4						118
31, 41	9									9
31, 41, 52			1							1
31, 60	2									2
41	73		2	1		16		5		97
41, 51	1									1
51	8	24	59	24			8	45		168
52			1				2	1		4
60	479									479
Total	687	36	89	35		16	17	121	1	1 002

A total of 598 derogations¹² permitted the killing of *Ursus arctos*, *Lynx lynx* (Annex IV), and *Canis lupus* (Annexes IV-V¹³). The majority of derogations for *Ursus arctos* and *Lynx lynx* were issued to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking of certain specimens of the species listed in Annex IV in limited numbers - Art.16.1.e (reason code 60). Some derogations have permitted the killing of *Ursus arctos*, *Lynx lynx* and *Canis lupus* to prevent serious damages, in particular to crops, livestock, forests, fisheries and water and other types of property (reason code 31), and in the interests of public health and safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment (reason code 41).

More specifically:

- *Lynx lynx*: 396 lynxes have been killed during 2017 and 200 2018. The Finnish population of lynx, according to the assessments of conservation status of species and habitats under Article 17 of the Habitats Directive, amounts to about 1 865 - 1 990 individuals¹⁴. The number of lynxes killed in the two years is equal to around 16% and 8% of the entire population
- *Ursus arctos*: a total of 235 and 343 bears have been killed during 2017 and 2018 respectively. The Finnish population of bears, according to the assessments of conservation status of species and habitats under Article 17 of the Habitats Directive, counts about 1 630 - 1 860 bears³. The number of bears killed is equal to around 13% and 19% of the entire population.

¹¹ <https://nature-art17.eionet.europa.eu/article17/reports2012/species/report/?period=5&group=Mammals&country=EE®ion=>

¹² The report also includes derogations starting from 2019, which have not been considered in this assessment.

¹³ The Finnish wolf populations within the reindeer husbandry areas of northern Finland are included in Annex V. Conversely, the Finnish populations of wolf outside the reindeer management areas are all listed in Annex IV of the Habitats Directive

¹⁴ <https://nature-art17.eionet.europa.eu/article17/reports2012/species/report/?period=5&group=Mammals&country=FI®ion=>

- *Canis lupus*: a total of 8 and 21 wolves have been killed during 2017 and 2018 respectively. According to the assessments of conservation status of species and habitats under Article 17 of the Habitats Directive, the Finnish wolf population for the period 2013-2018 amounts to 165-190 individuals, and has an Unfavourable- Inadequate (U1) conservation status³. According to the “Guidelines for Population Level Management Plans for Large Carnivores” the minimum viable wolf population (MVP), which is the absolute minimum population size that can be tolerated as a preliminary level for favourable reference population, is 25 breeding pairs which means an overall population of about 250 wolves¹⁵. The percentage of killed wolves corresponds to about 8% and 10% during 2017 and 2018 respectively.

Furthermore, according to the report, derogations granted for killing bears and lynxes under Art. 16.1.e (reason 60) are issued to control the populations based to the relevant national management plans and the “derogations are applied only to limited number of individuals based on the principle of sustainable use of animals. Quota is set annually based on the monitoring reports issued by the Natural Resources Institute Finland”. Under these derogations, 165 bears in 2017 and 248 in 2018 and 388 lynxes in 2017 and 180 in 2018 have been licensed to be hunted under Art. 16.1.e, which correspond to about 9% and 14% (bear), 15% and 7% (lynx) of the respective populations.

3.10 France

France has not submitted a report.

3.11 Germany

Germany has reported a total of 2 645 derogations : 1 091 in 2017 and 1 554 in 2018.

The following table shows the number of derogations issued per reason (or group of reasons) and the corresponding main activities allowed.

Reasons (code)	Number of derogations									Total
	Activities (code)									
	10	20	30	40	50	60	70	80	90	
11	4	41	76	14	1	13	1	1		151
11, 31						1				1
11, 31, 41						2				2
11, 41	1		10			3				14
11, 51	1	1	51							53
31	494		11	57		140				702
31, 41	86									86
41	283	8	203	12	2	658	6	2		1 174
51	36	43	276	5	1	39	36	4		440
51, 52								1		1
52		7	4	2	1			7		21
Total	905	100	631	90	5	856	43	15		2 645

The report is incomplete and difficult to interpret. The lack of data does not allow assessing the possible impact on the concerned species.

More specifically:

¹⁵ Linnell J., V. Salvatori & L. Boitani, 2008. Guidelines for Population Level Management Plans for Large Carnivores. A Large Carnivore Initiative for Europe report prepared for the European Commission

- 1 731 derogations out of 2 645 do not report the maximum number of individuals, nests, eggs, etc. covered by the derogations and justifications for the missing figures are provided for a small number of these derogations.
- 959 derogations do not include the number of the actually affected number of individuals, nests, eggs, etc. and justifications for the missing figures are provided for a small number of these derogations. In particular, when the activity reported is killing, only 69 out of 905 derogations do report the number of the actually killed individuals.
- 353 derogations do not report the affected species, but only the group of species covered by the derogations.
- 1 496 derogations do not specify the location.
- 758 of the 905 derogations allowing killing do not provide references to the alternatives assessed and rejected and 845 do not provide references on the controls carried out.
- Seven derogations cover a period outside the biennial 2017/2018.
- Five derogations do not report the ending date.

3.12 Greece

Greece has reported eight derogations in the biennial: 3 in 2017 and 5 in 2018.

The following table shows the number of derogations issued per reason (or group of reasons) and the corresponding main activities allowed.

Reasons (code)	Number of derogations									Total
	Activities (code)									
	10	20	30	40	50	60	70	80	90	
51	4	1	2					1		8
Total	4	1	2					1		8

From the available information, none of the derogations seems to be in conflict with Article 16 of the Habitats Directive.

3.13 Hungary

Hungary has reported a total of 231 derogations: 124 in 2017 and 107 in 2018.

The following table shows the number of derogations issued per reason (or group of reasons) and the corresponding main activities allowed.

Reasons (code)	Number of derogations									Total
	Activities (code)									
	10	20	30	40	50	60	70	80	90	
11	12	5	9			34	1	5		66
31	2			23		1		1		27
41		2	3		1	59				65
51	8	25	6				1	6		46
52			18					2	2	22
60							1	4		5
Total	22	32	36	23	1	94	3	18	2	231

From the available information, none of the derogations seems to be in conflict with Article 16 of the Habitats Directive.

3.14 Ireland

Ireland submitted its report with considerable delay and it is not included in the current analysis.

3.15 Italy

Italy has reported a total of 848 derogations: 421 in 2017 and 427 in 2018.

The following table shows the number of derogations issued per reason (or group of reasons) and the corresponding main activities allowed.

Reasons (code)	Number of derogations									Total
	Activities (code)									
	10	20	30	40	50	60	70	80	90	
11		5	5				1		1	11
11, 31			3							3
11, 51		13		4						17
11, 51, 52		1								1
11, 52		1								1
31	2		5							7
31, 51			1							1
41			14							14
41, 51			4							4
51	7	73	685	3	12		1		1	781
51, 52		2								2
52		3	2					1		6
Total	9	98	719	7	12		2	1		848

The report is incomplete. The lack of data does not allow assessing the possible impact on the concerned species and the compliance with the provisions of Article 16 of the Directive:

- About 85% of the derogations (722 out of 848 derogations) do not specify the maximum number of individuals/eggs covered by the derogation.
- About 58% of the derogations (493) do not specify the number of individuals/eggs actually affected.
- References to alternatives rejected, controls carried out and results obtained are always missing.

3.16 Latvia

Latvia has reported eight derogations for each year, i.e. a total of sixteen derogations. The following table shows the number of derogations issued per reason (or group of reasons) and the corresponding main activities allowed.

Reasons (code)	Number of derogations									Total
	Activities (code)									
	10	20	30	40	50	60	70	80	90	
11, 51			2							2
51	4	3	4							11
60	3									3
Total	7	3	6							16

Three derogations were granted to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species listed in Annex IV in limited numbers specified by the competent national authorities (reason code 60). They allowed the hunting of *Lynx lynx* (listed in annex IV of the Habitats Directive) with guns. The maximum number of individuals covered by these derogations was on average 205 for 2017 and 2018, while the number of lynxes actually killed was on average 142 for each year. It is not possible to derive the exact numbers licensed and actually taken in each year since one derogation covers both years. The number of lynxes yearly killed on average each year is around 8% of the lynx population according to the Latvian report under Article 17 for the period 2013-2018 the lynx populations is estimated at 1 633-1 747 individuals¹⁶. However, data on the Latvian population seem overestimated, since the population has more than doubled since the previous period 2007-2012 estimates (600-800 individuals).

Furthermore, hunting takes place from 1st December to 31st March of the following year, and thus overlapping with the breeding and rearing periods, since in December individuals born in spring still depend on the mother and the mating period starts at the end of February.

3.17 Lithuania

Lithuania reported a total of 41 derogations: 22 in 2017 and 19 in 2018.

The following table shows the number of derogations issued per reason (or group of reasons) and the corresponding main activities allowed.

Reasons (code)	Number of derogations									Total
	Activities (code)									
	10	20	30	40	50	60	70	80	90	
11	1	1			1			1		4
11, 51					1	1		1		3
31	6									6
51	1	8	12			1		5		27
52								1		1
Total	8	9	12		2	2		8		41

¹⁶ https://cdr.eionet.europa.eu/Converters/run_conversion?file=lv/eu/art17/envxwalvg/LV_species_reports-20190829-115440.xml&conv=593&source=remote#1361

From the available data, none of the derogations seem to be in conflict with Article 16 of the Habitats Directive.

3.18 Luxembourg

Luxembourg reported a total of 68 derogations: 51 in 2017 and 17 in 2018.

The following table shows the number of derogations issued per reason (or group of reasons) and the corresponding main activities allowed.

Reasons (code)	Number of derogations									Total
	Activities (code)									
	10	20	30	40	50	60	70	80	90	
11	1	2	55	4						62
51			2	4						6
Total	1	2	57	8						68

From the available information, none of the derogations seems to be in conflict with Article 16.

3.19 Malta

Malta has reported 50 derogations: 13 in 2017 and 37 in 2018.

The following table shows the number of derogations issued per reason (or group of reasons) and the corresponding main activities allowed.

Reasons (code)	Number of derogations									Total
	Activities (code)									
	10	20	30	40	50	60	70	80	90	
11		14						4		18
11, 51, 52		3								3
51	1	12	9					5	2	29
Total	1	29	9					9	2	50

From the available information, none of the derogations seems to be in conflict with Article 16 of the Habitats Directive.

3.20 Netherlands

The Netherlands has submitted its report with considerable delay and it is not covered in the current analysis.

3.21 Poland

Poland reported 12 081 derogations: 4 872 in 2017 and 7 209 in 2018.

The following table shows the number of derogations issued per reason (or group of reasons) and the corresponding main activities allowed.

Reasons (code)	Number of derogations									Total
	Activities (code)									
	10	20	30	40	50	60	70	80	90	
11	16	158	694	427		36	12	41		1 384
11, 31	1									1
11, 31, 41	3									3
11, 41	3	22	222	566		2				815
11, 51	2	11	281	71				3	1	369
11, 51, 52								30		30
31	683	1	49	140	1	1 230	4			2 108
31, 41	2		2			3				7
41	22	145	1 017	1 002	4	1 090	95	222	8	3 605
41, 51			2	2						4
51	89	276	1 720	711	6	23	334	232	51	3 442
51, 60		5					1			6
52	4		8				25	5	10	52
60	1	161	1			1	36	53	2	255
Total	826	779	3 996	2 919	11	2 385	507	586	72	12 081

A total of 95 derogations concerning the species *Bison bonasus* (listed in annex II and IV of the Habitats Directive) have allowed:

- The killing of 54 individuals in the interest of protecting wild fauna and flora (the bison itself), for the purposes of repopulating and re-introducing these species and for the breeding operations needed for these purposes and in the interests of public health and safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment
- The keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, of which: 12 individuals and body parts such as skin, skulls, horns, taken from a not quantifiable number of bison. The number of bisons taken from the wild for sale could be underestimated because 30 out of 58 derogations issued for allowing this activity do not report quantitative data.

More specifically:

- The bison is a vulnerable species at EU level according to IUCN Red List¹⁷. According to the assessments of conservation status of species and habitats under Article 17 of the Habitats Directive, the EU population has an Unfavourable-Inadequate (U1) conservation status³. The Polish population amounts to about 1.500 individuals, representing nearly 95% of the EU population, and its conservation status is evaluated as Unfavourable-Inadequate (U1)¹⁸. The individuals allowed for killing in 2017-2018 are 134 and those allowed for taking for sale is 263, representing about 26% of the population estimated according to the Art. 17 data.

¹⁷ Olech, W. (IUCN SSC Bison Specialist Group). 2008. *Bison bonasus*. The IUCN Red List of Threatened Species 2008: e.T2814A9484719. <http://dx.doi.org/10.2305/IUCN.UK.2008.RLTS.T2814A9484719.en>. Downloaded on 09 September 2020.

¹⁸ <https://nature-art17.eionet.europa.eu/article17/species/summary/?period=5&group=Mammals&subject=Bison+bonasus®ion=>

The report is incomplete. The lack of information does not allow assessing whether derogations are properly applied or whether they may have any negative impact on the concerned species.

- 154 derogations cover only 2016 and therefore do not fall within the 2017-2018 reporting period. They have been excluded from this assessment
- 63 derogations start from 2019 and have been excluded from this assessment.
- about 15% of the derogations granted have a long validity period (ranging from 3 up to 43 years, as in the case of one derogation aimed at *Lutra lutra* and one at *Castor fiber*), even if most of them are valid until 2019.
- The report never includes the assessed alternatives to killing.
- Several derogations did not specify the number of the actually affected unit.
- Five derogations do not include the addressed species.

3.22 Portugal

Portugal has not submitted a report.

3.23 Romania

A total of 13 derogations have been granted in 2017-2018: 7 in 2017 and 6 in 2018.

The following table shows the number of derogations issued per reason (or group of reasons) and the corresponding main activities allowed.

Reasons (code)	Number of derogations									Total
	Activities (code)									
	10	20	30	40	50	60	70	80	90	
11, 31, 41	6									6
41			1							1
51			6							6
Total	6		7							13

4 derogations permitted the killing of *Ursus arctos* and *Canis lupus* in the interest of protecting wild fauna and flora and conserving natural habitats, to prevent serious damage and in the interests of public health and safety, or for other imperative reasons of overriding public interest (reason codes 11, 31 and 41).

- The reason for the simultaneous use of the three legal justifications is not clarified, and the number of individuals killed under each legal justification is not specified.
- The derogations cover the whole year and the location reported are “hunting grounds”
- The report does not indicate which species of fauna and flora should benefit from killing of bears, wolfs and wildcats.
- No information is provided on other alternatives assessed and on controls carried out.

3.24 Slovenia

Slovenia has not submitted a report.

3.25 Slovakia

Slovakia reported a total of 65 derogations: 43 in 2017 and 22 in 2018.

The following table shows the number of derogations issued per reason (or group of reasons) and the corresponding main activities allowed.

Reasons (code)	Number of derogations									Total
	Activities (code)									
	10	20	30	40	50	60	70	80	90	
11				1						1
31	2			4						6
31, 41	23									23
41				7				1		8
51	1		2	14			1	9		27
Total	26		2	26			1	10		65

From the available information, none of the derogations seems to be in conflict with Article 16.

3.26 Spain

Spain has reported a total of 1 032 derogations: 531 in 2017 and 501 in 2018.

The following table shows the number of derogations issued per reason (or group of reasons) and the corresponding main activities allowed.

Reasons (code)	Number of derogations									Total
	Activities (code)									
	10	20	30	40	50	60	70	80	90	
11	4	36	16	1				3		60
11, 41, 51, 52, 60										1
11,51			14					3		17
11,52		1	5					1		7
31	32		1	13						46
41	2	1	3	5		96			11	118
41,51				1						1
51	39	96	547	23			5	46		756
51,11			1							1
51,52		1								1
52		7	16						1	24
Total	77	142	603	43		96	5	53	12	1 032

*One derogation does not indicate the main activity

Eleven derogations were granted for killing the species *Canis lupus* (Spanish populations south of the Duero are listed in Annex II of the Habitats Directive as priority species, while populations north of the Duero are listed in Annex V) under Art.16.1.b, i.e. “to prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property” (reason code 31). As stated in the report, these exemptions were issued to control the wolf population in order to prevent damage to livestock. These derogations allowed the deliberate killing of the wolf by shooting.

- 369 individuals were licensed (360 in the Atlantic biogeographical region, of which 355 in the Cantabria autonomous community) and 40 were killed (35 in the Atlantic biogeographical region, in Cantabria) in 2017.
- 470 individuals were licensed in the Atlantic region (468 in Cantabria) and 27 were killed (in Cantabria) in 2018.

More specifically:

According to the national assessments of the conservation status for the period 2013-2018¹⁹, the species in Spain has Unfavourable-Inadequate (U1) Conservation Status in the Atlantic and in the Mediterranean biogeographical regions. Spain hosts close to 90% of the total Atlantic population and more than 80% of the surface of its range. In the Atlantic region, 35 wolves were killed in 2017 and 27 in 2018, respectively representing about 8% and 6% of the Atlantic population in Spain.

The report from Spain is incomplete, and difficult to interpret. The lack of information and the data inconsistencies does not allow assessing whether the derogations may have any negative impact on the species concerned and whether derogations are adequately justified or compliant with the provisions of the Habitats Directive.

- The report includes 8 derogations issued under the Birds Directive.
- More than 30% of the derogations cover too large or generic groups of species (e.g. plants, invertebrates, “especies autóctonas”, etc.) to allow an assessment. 12% of these derogations allow killing, but figures on individuals killed, when provided, are not for individual species.
- In 13% of the reported derogations, it is stated that no figure of actually affected individuals/eggs/sites can be provided, even though figures are reported. Therefore, it is not clear whether such figures are accurate or inserted by mistake.
- 68% of the derogations do not provide the maximum number of individuals/eggs/nests/sites covered and more than half of them do not provide justifications for missing figures.
- About 75% of the derogations do not provide the actual number of individuals/eggs/nests/sites affected. Sometimes figures are reported under the field “Justification, in case no figure can be provided”.
- 62% of the derogations allow killing without providing the number of the actually killed individuals.
- References to alternatives taken into consideration or rejected are not reported in 92% of the derogations and controls and their results are missing in about 54% of derogations.

3.27 Sweden

Sweden reported 326 derogations: 175 in 2017 and 151 in 2018.

The following table shows the number of derogations issued per reason (or group of reasons) and the corresponding main activities allowed.

Reasons (code)	Number of derogations									Total
	Activities (code)									
	10	20	30	40	50	60	70	80	90	
11			22	2	1					25
11, 31, 41	1									1
11, 51			2							2
31	177			1		12				190
31, 41	12									12
41	8		2	7		8				25
51	12	7	39		1			4		63
52		2	2							4
60	4									4
Total	214	9	67	10	2	20		4		326

¹⁹ <https://nature-art17.eionet.europa.eu/article17/species/summary/?period=5&group=Mammals&subject=Canis+lupus®ion=>

The report is incomplete on many aspects, which makes it impossible to assess whether there is any potential impact on the concerned species and whether derogations are compliant with the provisions of Article 16 of the Habitats Directive:

- About 39% of the derogations do not provide the number of actually affected individuals/eggs/sites and 31% of these do not provide any justification for the missing numbers.
- Almost 97% of the derogations do not provide reference to alternatives rejected or and about 92% to controls carried out and their results respectively.
- In a limited number of derogations (10 out of 381), the species covered by the derogation is not reported. One of these derogations reports “Birds”.
- The field “If the population affected by the derogation is endangered or declining, provide evidence that the derogation is not detrimental to the population” is completed only in 12 derogations with rather general statements.

Three derogations have allowed the killing of 24 individuals of *Phoca vitulina* (listed in Annexes II-V of the Habitats Directive) for the purpose of research and education (reason code 51). No information is provided about the research requiring the killing of such a number of individuals. Information on the alternatives assessed and rejected are also missing.

To be noted that in the present analysis, no comment is made on the derogations issued to permit the killing/hunting of *Canis lupus* (Annexes II, IV), as they are the subject of an ongoing infringement procedure.

3.28 United Kingdom

The UK has reported a total of 15 603 derogations: 7 243 in 2017 and 8 360 in 2018.

The following table shows the number of derogations issued per reason (or group of reasons) and the corresponding main activities allowed.

Reasons (code)	Number of derogations									Total
	Main activity (code)									
	10	20	30	40	50	60	70	80	90	
11		15	183	65		10	2	6		281
31				20		23				43
41	5	1	3 076	5 868		2 591	1	1		11 543
51	2		1 731	1 830		10	132	27		3 732
52		1		1		1		1		4
Total	7	17	4 990	7 784		2 635	135	35		15 603

From the available information, none of the derogations seems to be in conflict with Article 16 of the Habitats Directive.