

## EDITORIAL

### BirdLife's Global Seabird Programme: Good news for albatrosses

BirdLife International estimates that 100 000 albatrosses are killed in longline fisheries every year. These beautiful ocean wanderers, however, cannot breed fast enough to cope with the rate at which they are being killed and consequently 19 of the 21 species are threatened with extinction.

Over the last few decades their numbers have dramatically declined.

However, there is also good news for these graceful birds: solutions exist and have proved to be beneficial to both birds and fisherman. But first what is the problem?

Longline fishing fleets targeting tuna, swordfish, Patagonian toothfish and other

species operate throughout the world's oceans, including southern latitudes (30-50°) where, according to BirdLife data, the biggest concentrations of albatrosses occur. An estimated one billion hooks are set each year by the world's longline fishing fleets.

This has made the traditional feeding grounds dangerous places to be for all seabirds. The albatrosses are attracted to the fish or seafood on the bait to feed, dive for the bait, become hooked and drown as the line sinks.

As a response to rapidly declining and increasingly-threatened seabird populations, BirdLife International in 1997 established the Global Seabird Programme.

One of the important aspects of the programme is work with Regional Fisheries Management Organisations (RFMOs) which encompasses provision of scientific data and advocating measures to reduce the bycatch of seabirds.

RFMOs are intergovernmental organizations through which countries manage high seas and migratory fish stocks. They also have the duty to conserve species associated or affected by their fisheries, including seabirds, turtles and dolphins.

Of the 19 RFMOs which exist worldwide, five are particularly important in relation to albatross distribution.

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### Special points of interest:

- Finnish Presidency
- Court of Auditors' report



Wandering Albatross - by Felix Heintzenberg



One of them, the Commission for the Conservation of Antarctic Marine Living Resources (CCMLAR), has demonstrated that it is possible for RFMOs to reduce seabird bycatch in its regulated fisheries by over 90%, through the establishment of a comprehensive range of measures to reduce seabird bycatch. Such measures include: the use of streamers behind the vessel to scare the birds, using thawed bait instead of frozen which floats, setting lines directly in a certain depth through a tube, setting lines at night when birds don't fly, etc. All are inexpensive and easy to implement.

However, although steps have been taken by some RFMOs in commitments to reduce the incidental bycatch of seabirds, there is still a lot to be done to bring species such as the Wandering Albatross back from the brink of extinction.

The EU, with its big, globally operating fishing fleet, has an important role to play as a member of four of the key RFMOs for the conservation of albatrosses. The Western and Central Pacific Fisheries Commission (WCPFC), which manages an area that covers 41% of the global distribution of albatrosses, is the RFMO where in particular further action by the EU would make a significant contribution to albatross conservation. BirdLife is hopeful that the EU in the WCPFC meeting in Samoa this December will champion seabird conservation and encourage other members of the WCPFC to adopt the advice on seabird conservation from the WCPFC Scientific Committee as a resolution.

Despite its commitments, since 2001 the Commission has made very little progress, if any, in developing a Com-

munity Plan of Action under the UN Food and Agriculture Organisation's International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries. This would establish a long awaited EU strategy on how to tackle the incidental bycatch of seabirds in EU waters and externally.

BirdLife International holds data on albatrosses and has expertise and experience in developing Plans of Action as well as in developing and implementing mitigation measures to reduce mortality of seabirds in fisheries. We are hopeful, by working with the EU, to make the sea again a safe home for albatrosses and other seabirds.

Further information:

<http://www.savethealbatross.net/>

## The trade in wild birds: Commission saves two million, but ...

The ban on the import of wild birds into the EU has been extended until 31 December this year. The European Commission has now saved an estimated two million birds from being taken from the wild.

BirdLife believes this moratorium should be extended permanently. Only bird trade scientifically shown to have conservation benefits should be allowed into the EU. A similar model to this has been adopted in the US and other progressive countries. The EU is lagging behind.

Opponents of the ban suggest that it would increase smuggling rates. In fact, the opposite seems to be the case as evidence from countries such as Italy suggests that smuggling rates may decline as it is easier to police a ban.

The dilemma is that the current ban is only temporary and based on concerns surrounding the spread of Avian Influenza and does not properly take into account BirdLife's concerns over the significant conservation impact of these large-scale imports.

The Commission does not even know how many birds are imported into the EU, let alone the true ecological impact.

The CITES regime that oversees imports of the birds into the EU does not go far enough to match EU environment standards. Scientific information for CITES-listed birds is severely lacking and even when serious concerns are voiced for some species, such as the African grey parrot, CITES has done too little too late.

BirdLife is disappointed by the lack of progress from the Commission regarding a proper study of the costs and benefits of the trade which Commissioner Dimas promised the Environment Ministers last December.

MEPs from the major political groups have shown support for BirdLife's position. The Federation of Veterinarians of Europe (FVE) has also expressed its concerns over the appalling animal welfare associated with this trade and are calling for a moratorium alongside BirdLife and numerous other NGOs.

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## Changes in the European Division

Changes in the European Division haven't stopped this year.

On 13<sup>th</sup> August, **Szabolcs Nagy** left the organisation after more than seven years. Szabolcs had been European Conservation Manager since 1999 and before that had worked for many years for MME/BirdLife in Hungary.

Szabolcs had contributed to BirdLife's work with his extensive experience on issues like Species Action Plans, IBAs and setting up caretaker networks for IBAs and his departure

leaves a big gap in BirdLife. However, recruitment is already under way and we hope to have someone in post as soon as possible. Szabolcs is now working for Wetlands International.

Our **Agriculture Task Force** has elected a **new coordinator** in September with **Harry Huyton** succeeding to Giovanna Pisano who has just left the RSPB (BirdLife Partner in the UK) to join the UK Environment Agency. Giovanna has been following CAP reform and Rural Development

issues at EU level for the past nine years, bar for a period spent in DG Agri, so we will miss her great experience and insight. Harry is stepping in with all the enthusiasm and skill he has already shown in his work, over the last two years on agriculture issues ranging from the reform of the sugar sector to biofuels.



## Court of Auditors' Report: Environmental mainstreaming in EC development cooperation does not work



The EU provides more than half of the world's official development assistance, amounting to € 34.3 billion in 2004, of which € 6.9 billion is directly administered by the European Commission. The importance of environmental sustainability and need for integration of environmental issues into Community aid policies has been repeatedly recognized at the highest political level and in many fora. However, the latest special report from the European Court of Auditors published in July 2006 reveals that the

commitments are not being supported by practice.

The audit examined whether the Commission has a comprehensive strategy for addressing the environmental aspects of its development cooperation and whether it has adequate management requirements to implement the strategy. The auditors also examined how far environmental issues have been effectively integrated into the Commission's development programmes and what the results were of any environment projects.

The Court findings identified numerous shortcomings on institutional, implementation and project management levels. These range from delays in establishment of a Help Desk and delays in preparation of an environmental integration manual, to flaws in the monitoring and evaluation systems.

The report comes just at the right time: the new EU development policy is starting to be implemented and the Country and Regional Strategy Papers for 2007-2011 are being drafted. Following the Court of Auditors recommendations the European Commission has a unique chance to make EC development aid effective and work better for both people and environment.

The full Court of Auditors report (78 pages) is available at:

[http://www.eca.europa.eu/audit\\_reports/special\\_reports/docs/2006/rs06\\_06en.pdf](http://www.eca.europa.eu/audit_reports/special_reports/docs/2006/rs06_06en.pdf)

A useful summary by FERN can be found at: [http://www.fern.org/media/documents/document\\_3750\\_3751.pdf](http://www.fern.org/media/documents/document_3750_3751.pdf)



Annual joint meeting of the European Court of Auditors and the European Commission



## Approaching the Finnish of 2006...

Finland took over the Presidency of the EU in July, after Austria's successful six months in office. The Finns hope to make progress on several issues of interest to BirdLife, most notably: the Biodiversity Communication, LIFE+, the European Marine Strategy and reform of the Common Agricultural Policy (CAP). In the area of climate change, the Finns will lead the EU delegation to the Nairobi Conference of Parties, which will take forward crucial negotiations on the Kyoto process post-2012.

What does BirdLife hope that the Finnish Presidency will achieve?

As regards the Biodiversity Communication, the Finns should work towards Environment Council adoption of the Commission's roadmap for halting biodiversity loss by 2010. The proposal to involve other Council formations in discussions on the Communication, particularly the Agriculture and Fisheries Council, should be strongly supported.

The Presidency should also strive for a successful Second Reading agreement with the Parliament on the LIFE+ Regulation, which will determine how the EU's environment budget, totalling EUR 1.9 billion, will be spent over the period 2007-2013. Of crucial importance to BirdLife are proposals to ring-fence a significant proportion of the budget for nature and biodiversity, supported by both Council and Parliament, which must be enhanced and clarified during Second Reading negotiations.

The draft European Marine Strategy Directive, which will be debated at the October Environment Council, must be significantly improved in order to provide robust protection for Europe's seas and marine wildlife. The most pressing challenge is to define "Good Environmental Status" - the primary objective of the Directive - on which some degree of consensus is starting to emerge between member states and MEPs.

In the area of agriculture, the Presidency should promote a wide-ranging debate on the objectives and priorities of the CAP at the Informal Agriculture Council. The debate should focus on reforming the CAP to deliver public benefits - such as nature conservation - in return for payments from the public purse. New initiatives on biomass and biofuels must be taken forward in a way that guarantees biodiversity protection and real reductions in greenhouse gas emissions.

BirdLife looks forward to working with the Finnish administration to ensure that the Presidency is a success for Europe and a success for the environment.

To download a copy of BirdLife's Greening Europe for the Finnish Presidency, visit:  
[http://www.birdlife.org/eu/eu\\_presidencies.html](http://www.birdlife.org/eu/eu_presidencies.html)

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## European Parliamentary Questions & Answers

The Questions & Answers are set out as follows:

Subject, Question nr., Name & Party asking, date of question, Summary of Question, Commissioner answering, date of answer, Summary of answer.

Please contact us for more information on any of these questions & answers.

### Avian influenza crisis, sustainability of hunting in Europe and potential threat to the conservation of populations of wild birds - P-1599/06 - by Véronique Mathieu (PPE-DE) - 11 April 2006

In the context of the current avian influenza situation, European hunters are wondering about the likely impact of certain preventive measures on shooting (use of live decoy birds, raising and releasing of game, destination of birds regulated in connection with hunting and their consumption within infected areas and outside those areas).

The need for the Commission to take appropriate measures at the right level in order to avoid negative socio-economic consequences in Europe is evident. However, from a scientific point of view, a number of questions remain outstanding, in particular the role played by wild birds in the epidemic.

This uncertainty makes monitoring on the ground vitally important. The role played in this by the community of European hunters is a key one, and

shooting activities enable continuous monitoring. Can the Commission confirm that at present it does not intend to place restrictions on shooting, from the opening of the season? If areas infected with avian influenza are widened, could it specify what measures would be taken vis-à-vis shooting?

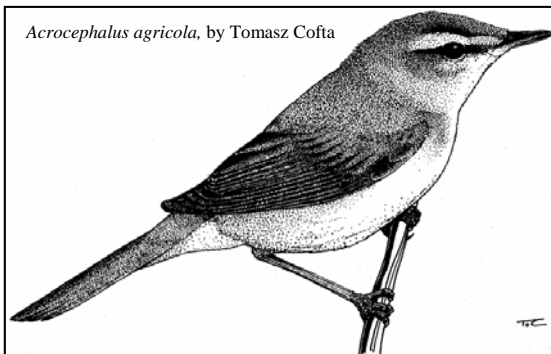
With regard to wild birds, Directive 79/409/EEC(1) on their conservation states that the various means, devices or methods of large-scale or non-selective capture or killing and hunting with certain forms of transport — mostly affecting migratory species — must be banned because of the excessive pressure which they exert or may exert on the numbers of the species concerned. Can the Commission confirm that it does not intend to implement a derogation to the directive and destroy wild birds?

### Answer by Mr Kyprianou - 30 May 2006 - P-1599/06

The Commission recognises the positive role that hunters and other interest groups can play in the surveillance for avian influenza as part of national programmes for sampling of wild birds, as well as in alerting the competent authorities of any unusual cases of mortality of wild birds. Hunting must at all times be carried out in accordance with the requirements of Council

Di-

*Acrocephalus agricola*, by Tomasz Cofta



Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds.

However, there is also a need to take account of the fact that, through their activity, hunters could be a factor in spreading this disease and, because they come into close contact with wild birds, they may be at greater risk themselves if these birds are infected with the avian influenza virus.

The Commission has therefore introduced several biosecurity measures that have implications for hunting. In high risk areas, which are defined by the Member States, the use of live decoys is at present banned for hunting in order to reduce the risk of spreading the infection, even though the use of such birds for the purpose of virological sampling is allowed. In areas where outbreaks of avian influenza among wild birds have occurred, hunting is prohibited in the protection zones (3 kilometre (km) radius) and surveillance zones (10 km radius). These restriction zones are established by the Member States in the fra-

mework of Commission Decision 2006/115/EC.

The Commission continues to keep the avian influenza situation in the Community under continuous review and is ready to adapt the measures undertaken in the light of any evolution in the spread of the virus as well as new knowledge and experience gained in disease prevention and control.

Any application for a derogation to destroy wild birds must be in accordance with the rules set out in Article 9 of Council Directive 79/409/EEC. The Commission considers that any indiscriminate killing of wild birds, as a precautionary measure to prevent the spread of avian influenza, is neither advisable nor justifiable and could actually aggravate the situation by resulting in the dispersal of potentially infected birds. Therefore, the Commission, on the basis of current understanding of the virus, does not believe that preventative measures involving the hunting or culling of wild birds meet the conditions set



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out in Article 9 for use of derogations under the directive.

### **Birds and Habitats Directives: ruling declaring licences for planting imported mussels in the Eastern Scheldt (Netherlands) to be invalid - E-1598/06 - 12 April 2006 - by Jan Mulder (ALDE)**

On 22 March 2006 the Netherlands Council of State ruled that appeals brought by Vogelbescherming Nederland (Netherlands Bird Protection Association), the Zeeuwse Milieufederatie (Zeeland Environmental Federation) and Faunabescherming (Fauna Protection Foundation) against licences granted for planting mussels from the Republic of Ireland and the United Kingdom in the area of the Eastern Scheldt designated as a Natura 2000 area were well founded, and declared the licences invalid. The Netherlands Minister for Agriculture, Nature and Food Quality had granted the licences to Zeeland fisheries businesses. The Council of State ruled that the Minister should have carried out an 'appropriate assessment' of the implications for the site on the basis of Article 6(3) of the Habitats Directive before taking a decision on the applications for licences.

The NGOs are concerned that non native plant or animal species could unintentionally be introduced

into the Eastern Scheldt and could harm the area's natural heritage. The planting of Irish mussels and oysters has been going on for at least 40 years, and there is no scientific evidence that it is harmful.

1. Does the Commission consider that it was the intention of the Birds and Habitats Directives that, where areas are designated as Natura 2000 areas, notwithstanding other undertakings given, scientific evidence must now be provided that existing activities have no harmful effects, entailing high costs for the industry concerned since, when applying for licences, it must now demonstrate that planting imported mussels is not harmful? If not, why not?

Shellfish farmers in other Member States such as Germany and France farming in areas that also have 'Natura 2000' status are not required to carry out an appropriate assessment and are permitted to import and plant mussels. Moreover, in France, Italy and Spain shellfish farming is not regarded as having a significant effect on conservation objectives and a special licence is therefore not required. It is only in the Netherlands that this prohibition applies, based on the way in which the European Habitats Directive is being interpreted.

2. Does the Commission agree that the way in which the Habitats Directive is being interpreted is

a source of legal inequality between the Member States? If so, what measures does the Commission intend to take to rectify this? If not, why not?

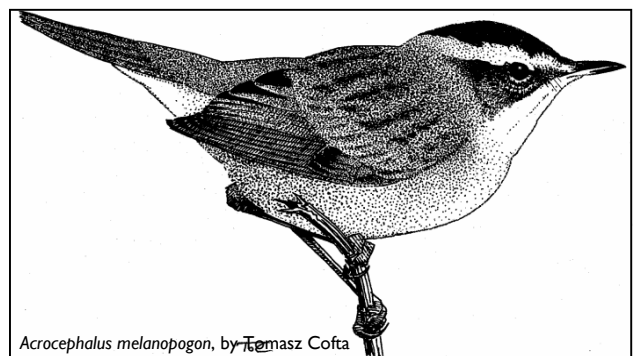
3. Does the Commission consider that it is still possible, in accordance with the Habitats Directive, to grant licences for planting imported mussels and oysters? If so, why? If not, why not?

### **Answer by Mr Dimas - 19 June 2006 - E-1598/06**

1. The main aim of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora is to ensure biodiversity through the conservation of natural habitats and of wild fauna and flora. Article 6(3) and (4) of the directive set out a series of procedural and substantive safeguards governing plans and projects likely to have a significant effect on a Natura 2000 site in order to prevent activities which are likely to damage the environment from being authorised without prior assessment of their impact

on the environment. The Eastern Scheldt ('Oosterschelde') has been designated as a special protection area under Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds and as a site of Community importance under Directive 92/43/EEC.

In the light of the judgment of the Court of Justice in Case C127/02, the planting of imported mussels which constitutes an intervention in the natural surroundings and landscape may qualify as a plan or project in the sense of Article 6(3) of Directive 92/43/EEC. It should be noted that this is not changed by the fact that the activity has been carried on periodically for several years on the site concerned and that a licence has to be obtained for it, each new issuance of which requires an assessment both of the possibility of carrying on that activity and of the site where it may be carried on. It should be stressed however that an appropriate assessment only needs to be done if the activity is likely to have a significant effect on the



*Acrocephalus melanopogon*, by Teomasz Cofa



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site. In addition, it cannot be said that Directive 92/43/EEC generally prohibits all harmful activities in Natura 2000 sites. Article 6(4) sets out the conditions under which a plan or project with negative effects on the site can nevertheless be carried out.

2. The Commission cannot confirm the information mentioned in the question on the situation of shellfish farming in several other Member States, such as France, Germany, Italy and Spain.

Article 6(3) of Directive 92/43/EEC applies to 'any plan or project', indicating that each plan or project must be assessed individually on the basis of the specific circumstances. As indicated, as soon as a plan or project is likely to have significant effects on a Natura 2000 site, an appropriate assessment needs to be carried out. If activities are of such a limited scale that no such effects are likely, they can be carried out without such an appropriate assessment.

In addition, the binding Community-wide interpretation by the Court of Justice of several notions of Articles 6(3) and (4) ('plan or project', the likelihood of significant effects, 'appropriate assessment') facilitates the establishment of a uniform approach by the Member States.

3. If the appropriate assessment that will now

have to be carried out indicates that the planting of imported mussels will not adversely affect the integrity of the site concerned, the activity can be allowed by the authorities. Should there, however, be adverse effects on the site, the activity can only be allowed in accordance with the provisions of Article 6(4) of Directive 92/43/EEC.

The Commission has commissioned a study on the environmental impact of aquaculture in sensitive areas (FISH/2004/15).

When finalised, this study, which inter alia considers shellfish culture in the Netherlands, will contribute to the better understanding and compatibility of aquaculture and nature conservation in sensitive

areas.

**Promotion of the use of biofuels - E-1558/06 - by Henrik Lax (ALDE) - 12 April 2006**

In Directive 2003/30/EC(1) on the promotion of the use of biofuels or other renewable fuels, the EU has set a reference value for how quickly the Union should begin to use them. The target is that 5.75 % of all petrol and diesel for transport should be based

on biofuels or other renewable fuels by the end of 2010.

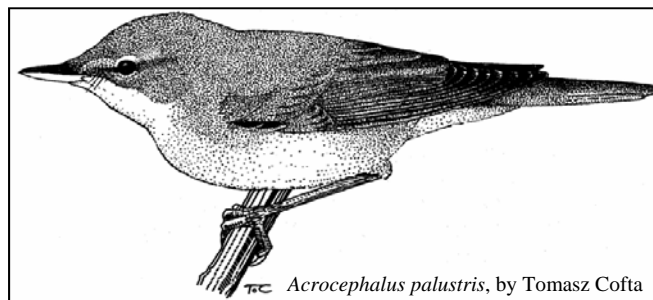
On 10 March 2006, a working party at the Finnish Ministry of Trade and Industry published a plan proposing that use of such fuels should increase to only 3 % by 2010. The minister responsible supported the working party's proposal.

What measures does the Commission intend to take to ensure that all Member States purposefully endeavour to achieve at least the reference value set by the directive on the promotion of the use of biofuels or other renewable fuels?

**Answer by Mr Piebalgs - 20 June 2006 - E-**

will not be achieved, and that there are no good economic or environmental reasons for this, it will consider proposing measures to increase the chance of the reference value being achieved.

These matters are currently the subject of public consultation, in view of the report on the Biofuels Directive. This report should be adopted before the end of the year.



*Acrocephalus palustris*, by Tomasz Cofita

**1558/06**

The Biofuels Directive(1) states that the Commission should report to the Parliament and Council by the end of 2006 on whether the 5.75 % reference value for the share of biofuels will be achieved in 2010. In forming a judgment on this question, the Commission will take into account the objectives that Member States have set. If the Commission concludes that the reference value



By Stefan Benko



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## The Brussels Briefing

The Brussels Briefing is compiled by the EU Policy team of European Division in Brussels.  
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and the European Commission.



### Further information on specific topics

The Briefing is not large enough to contain the text of all the source materials used to compile it. If you would like further information on specific topics reported in the Brussels Briefing, please contact us - details above.