

# Nordic Cormorant meeting 10-11 February 2021

Via Zoom

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## Day 1, 10.2.2021, NORDIC APPROACHES TO THE REGULATION OF CORMORANTS

### **Legal aspects of Cormorant management: EU law and its implementation, Prof. Antti Belinskij, University of Eastern Finland**

Focus on serious damage of cormorants to fisheries as a ground for granting derogation measures. Presentation is attached.

There are no infringement cases at the court of Justice of the EU based on national derogation measures on birds, there is a high level of national level discretion. The commission's view is that member states can take full use of the possibility and flexibility of derogations, and there is no reason to include cormorants in Annex 2 of the bird directive.

EU law does not prohibit derogation measures on Natura 2000 areas, but they need to be done so that the species for which the area is designated are not disturbed significantly by those measures. The disturbance caused cannot be significant in relation to the objective of the Natura 2000 site.

#### Discussion

In the guidance document France is given as an example of derogations of what is acceptable, where country wide culling of cormorants take place at night roosts, in total up to 30 000-40 000 birds per winter are shot. Antti: By giving France as an example in the guidance document the commission is giving a strong hint that they will not take any action towards France (e.g. take to court of justice).

The role of national courts to interpret the implementation of the law within the national law and legal culture is crucial to each country's actions. EU can get involved later in case of large deviations or appeals.

In Finland we have the main rule and exceptions, which are narrowly interpreted (according to legal culture), narrower than in the EU.

In Denmark, no court cases related to cormorants. The possibility to appeal cormorant derogations decisions in Denmark are very narrow compared to Finland and Sweden, where almost anyone can appeal these decisions. The management plan and collaborative working group in Denmark have also perhaps played a role in alleviating the conflict and to avoid frustration levels that may lead to appeals.

It seems as if Sweden and Finland are now on diverging paths regarding cormorant management and derogation measures allowed.

### **Management and Regulation - themes from the Nordic Countries**

Case example 'clinic': challenges in management & regulation – small presentations of case experiences (e.g. derogation dilemmas) with focus on Nordic EU countries

### **Case from Sweden – Per Risberg, Swedish Environmental Protection Agency (EPA)**

County administrative boards make decisions, number of decisions, total quota and total number of birds killed have increased in the last few years. Since change in legislation 2018 regional courts now process appeals instead of EPA.

Case 1. Lake Roxen. Permit 2020-2025: 1000 birds can be shot per year in April and 15.8-31.12, and 3 500 eggs can be treated /year 1.3-10.5. Reason: protecting fish stocks important for commercial and recreational fisheries. Measures not allowed on protected areas, no lead shots allowed.

Case 2. Stockholm, permit 2020-2021: 1900 birds can be shot within 300 m from fishing gear or fish farms, release place for pike, zander, and trout (+/- 7 days), hunting is allowed in protected areas, where fishing is not allowed (estuaries, spawning grounds), and from August to March overall in the county (Baltic sea) to preserve the perch stocks. Appealed to regional court, which accepted all parts of the permit. There are some restrictions to the permit for protected species and some protected areas.

Case 3. Snöholmen, Trosa. Application to hunt birds to decrease economic damage to business (cafés/tourism) due to the smell from the colony. The application was denied by the Environmental Protection Agency, and later the regional court, hunting not seen as the solution. Applicant is now planning to apply permission to scare or fell trees. Economic damages to recreational and commercial fisheries, not economic damages of other activities are grounds for derogations according to the Bird Directive.

Other case: application for derogations to protect a blackberry species denied as this is not a nationally threatened species.

#### Discussion

More court cases after the changes in legislation 2018 by ornithological association started to appeal more actively (to regional courts). In Finland it is the opposite trend, where it is the applicants that appeal the decisions.

Government should decide during the spring on whether derogation measures can be granted without prior decisions (as suggested by EPA) so that it could potentially become valid in July in time for the hunting season.

### **Case from Finland – Maria Westerman, Centre for Economic development, Transport & the Environment for Southwest Finland (ELY)**

Applications for derogation measured are processed by ELY for Southwest Finland in Turku.

Case: Kustavi-Uusikaupunki fisheries area as applicant for an 80 000-ha water area with important commercial fisheries, 130 professional fishermen using mainly nets and fykes. The application was to shoot 300 birds per year, disturb and prevent breeding to prevent damage to fisheries and fish farms.

For each application, authorities order a statement from the Nature research institute (LUKE) on the effects of cormorants. In this case the presence of high number of cormorants in the area can locally impact size of spawning stock according to the statement, but it was also concluded that fish farms can reduce predation from cormorants by raised and more close-knit netting.

Decision: Quota of 300 birds/ year in a restricted area 1.8-31.10 2020-2022. Shooting only near fishing sites, not near two major cormorant colonies (400 m from them). No measures were allowed

on Natura 2000, protected areas, a national park, or fish farms. Only nests without eggs could be destroyed, disturbance allowed, but no sound disturbance during 1.4-31.7.

In 2020: only 16 birds were shot, 150 nets in one colony were destroyed, 9 disturbance visits to islands and colonies were conducted, 4 “scarymen”.

#### Discussion:

For ELY to process an application for measures on Natura 2000 sites, the applicant must evaluate the effect of the measures on protected species on Natura 2000. If the applicant can show that the measures have no effect on the protected species, ELY would grant permits.

If a Natura 2000 area is specifically designated for protecting bird species, Finland sees that it is a higher objective to protect the bird species in the Natura 2000 area than allow derogations there when the area of the fishing area is so broad that the derogations can potentially be applied outside the Natura 2000 area. The damage can be prevented outside the NATURA 2000, although it does depend on the location of the fishermen’s area. Protecting bird species, also other than cormorants, is a higher objective.

Oiling of eggs does not necessarily cause more disturbance than research actions. Principles on decision making differ between the purpose of research and preventing serious damage. In the research permit derogations can be allowed to disturb as much as the research requires. For preventing serious damage, it is only allowed to the level that can be justified, from the point of view that the severe damages can be prevented, and so no other species of bird can be disturbed, these are not contributing to the damage that the cormorants are making.

The legal grounds for permitting cormorant research and preventing damage from cormorants are the same (article 9). Research projects do not relate to the damages caused by cormorants, but what can be achieved with research.

#### **Case from Denmark – Caroline Vestergaard-Mikkelsen, Danish Nature Agency**

The Danish Nature Agency issues regulatory permits based on the national management plan. These measures are taken to prevent damage to fishing gear and fish stocks:

- Egg oiling to limit number of existing colonies.
- Actions to limit successful colonisations of new sites.
- Shooting to scare to limit damage.

Actions in colonies 2020:

Actions were taken in 20 of the 90 colonies in Denmark, egg oiling took place in 13 colonies, in 3 colonies nests are removed, in 5 colonies shooting of adults to scare. In total 3695 nests (11,6 % of all nests) were exposed to management, 86 % of these were oiled. Shooting is allowed in the breeding season to prevent new colonies and to prevent damage to smolt. Shooting is allowed 1 August – 31 March. In hunting season 2017-2018 over 5000 cormorants were shot.

It is possible to get permission on Natura 2000 sites and protected areas, but the applications are more closely looked at.

Case: Ringkøbing fjord (Natura 2000 site), 3 colonies, where egg oiling has been done for several years. The oiling did not impact nesting the following year. Shooting also allowed in Ringkøbing, 832 cormorants shot. Many birds from other colonies have been seen (ring marks) in Ringkøbing fjord.

Data comparison on existing colonies exposed to management versus no management show that when exposed to management, the number of nesting birds decline to 50 % (2<sup>nd</sup> year and 45 % (3-4 yr) of the original colony size, and with no management the size settles at 80 %.

In another colony (Rönland Sandö) where oiling has been taken place, research found that the size of the colony decreased over time.

Oiling has a short-term direct effect on reducing food-demand of adults and reducing young birds, hence fish consumption. Long term effect: breeding numbers may start to decline after several years of intensive oiling, emigration of unsuccessful breeders, lack of new recruits after 2-5 years.

Immigration may increase if food conditions are favourable, as what has happened in Ringköbing fjord.

The success in avoiding successful establishment of new colonies depend on how quickly actions are taken (most efficient if done in the very first years, and early in the season), how intensive actions are (intense and repeated most effective) and availability of alternative breeding sites.

### Discussion

All shooting is done by hunters with hunting license. Hunters are obliged to report number of shot birds. The number reported by hunters tend to be higher than that reported by the permit holder to the authorities.

Main impact of eagles is in the cormorant breeding colonies, in some colonies eagles scare the cormorants and predate on the young, in some colonies immature eagles have been holding out for several weeks year after year, we see that the number of breeding cormorants decline. It depends on the behaviour of the eagles present in the colonies, there are also colonies, where eagles and cormorants breed side by side, where the cormorants habituate to the presence of the eagles.

The number of oiled eggs has decreased the last few years, which is due to that overall, the colonies where oiling has been taking place have decreased in size, so there is no need to oil as many eggs anymore.

The Nature Agency carries out oiling of eggs on all state own land, most colonies are on state owned land, hence most of the oiling is done by the Agency. For colonies on private property, the Nature Agency have a dialogue with the landowners about egg oiling. If the owner wants to do something about the colony, they can organise the oiling themselves, but under strict supervision by the Nature Agency.

The cost for management of breeding colonies by the Nature Agency (salary, administration etc) is about 12 000 euros/year. Breeding season: 1 500 nests per person from the authorities, visits every second week by one person.

New alliance in Denmark between the largest Nature association and Sport fishing association on how to deal with cormorants. They agreed on many points and issued a position paper. This kind of alliance is new and is important for improving management.

New revised management plan in the process in Denmark to be published this year and coming into effect in July. Instead of a 5-year plan, it will now be perpetual that will be up for revision when something comes up, ie. a more adaptive plan. When a permit for shooting is granted a set number of birds permitted to be shot needs to be stated according to the revised plan.

Despite the extensive measures there is still a lack of good studies on the effect of the actions. What do they fishermen gain from these activities?

Denmark is currently dealing with the EU commissions view on management in general in Denmark. EU commission not interested in management plan, but in the reported numbers of birds shot. They need more information to evaluate the effect of management, they require documentation and background to why you give permission. EU is not funding this documentation (DG environment). It is a general raised finger to lots of different activities.

### **Discussion - Key regulation aspects from the Nordic cases**

Lasse: EU framework on derogation measures for cormorants is flexible. Development of cormorant management on a national level, national counts, and knowledge base.

Interpretation/management is challenging in many countries.

Contradictions on an EU-level: 1: discretion and flexibility, 2. Supervision of species protection/use of derogations. There is some pressure on EC to keep strict interpretation on member states. This is paradoxical, non-adaptive, no revision of bird directive, fitness check shows to the EC that the directives are fit for purpose.

DG Environment has previously said that a revision of the Bird Directive would create a huge amount of workload and political discussion. Bird Directive and Bern Agreement.

Solidarity between countries need as this is a cross-border issue.

### **Day 2, 11.2.2021, BUILDING A SHARED PLATFORM FOR CORMORANT MANAGEMENT**

#### **European Goose Management Platform – lessons learned – Per Risberg, Swedish Environmental Protection Agency**

A part of AEWA- Agreement on the conservation of Africa-Eurasian migratory Waterbirds. Members of AEWA are contracting parties in Europe and Africa and non-party range states in Europe, Asia, North America, and Africa (not members, but involved in some cases). The cases concern 255 species attached to water, and problems with use of lead shots and power lines etc.

The EGMP platform was established in May 2016. Some geese are not included within the platform. 14 participating range states (EU-members and non-EU) and the EU + some observers (stakeholders, e.g Bird life, hunters). Secretariat in Bonn. The group meets annually. They have a shared annual budget of about 500 000 euros. The main aim for the platform is achieve sustainable use and management of goose populations considering stakeholder concerns and legislation. 7 objectives: maintain a satisfactory population level, minimise: agricultural conflicts, risk to public health and air safety, risk to other flora and fauna, costs of goose management, maximise ecosystem goods and services, and provide hunting opportunities.

Organisational structure:

EGMP

→ International working group, IWG (main coordinating and decision-making, composed of representatives of national governments, experts, EU, observers, stakeholders, meets annually)

→ Secretariat at AEWA in Bonn (coordinates overall process, administration),

→ Data Centre in Aarhus (gathers information, assesses population sizes annually, proposes management strategies for IWG) with the help of the

→ International Modelling Consortium (partners: universities and research organ.)

→ 6 task forces (5 goose species: Pink-footed goose, taiga bean goose, greylag goose, Greenland barnacle goose, Russia barnacle goose, and 1 agricultural damages), supports IWG, Data centre, support science, facilitate communication, 3-4 meetings per year. Each task force has management units (MU), which depend on the migrating patterns (1-4 MU per task force)

Joint funding system where each participating country contributes with a sum based partially on the size of the country's goose populations (annual sum vary from 10 000 euros to 68 000 euros between countries. Some countries contribute in other ways due to national restrictions to participate in joint funding. Total annual budget for Secretariat 282 000 euros, and 184 000 euros for Data centre.

#### AEWA cormorant group?

- + One management unit (not many different migration routes)
- + One unique species of great interest, easy to spot and count
- + Same problems
- Many countries involved
- Different management systems, different approaches

Initiative for starting the platform differs for the goose species, e.g. pink footed geese - grazing damages on Svalbard and increasing damages in Norway, taiga bean goose to try and get a common management as this species was not increasing as other geese (initiative Finland), barnacle geese – agricultural problems and air safety.

EU has been strongly involved in the work, if you can prove that population size correlates to damages, it is acceptable to control the population. The damages by geese are easy to measure.

Countries differ in how they manage the geese populations, different approaches, so there are many challenges. Discussions take place in the task forces to try take steps forward.

Stakeholders seem to be content with the platform. No conflict, everyone is aware of damages on agriculture, need to manage barnacle goose within EU due to protection status in the Bird Directive.

Cormorant nests gives an estimate of the population level and to follow the effects of management. For cormorants there is the possibility to make agreements across neighbouring countries without involving all of Europe, but one of the problems are whether the countries are convinced that the conflicts caused by cormorants are serious and that there is a clear relationship between the number of cormorants and damages. Studies have clearly shown that with a higher number of cormorants present in an area the extent of damages increase. Would be interesting to try and see if something similar can be done as the geese platform on cormorants in the Baltic Sea.

Difference between agriculture and fisheries, in agriculture compensation schemes are normal practice.

#### **Nordic Cormorant management: a shared problem - joint solutions?**

#### **Discussion on cormorant collaboration**

Small group discussions, recap:

1. Oddgeir, Thomas, Robin
  - First step is to identify common problems, then set up collaboration around those topics.

- Funding on cormorant management varies between countries.
  - Feared that countries' ministries are not willing to finance bigger sums on collaboration although they would benefit in the long run. Good arguments needed to persuade them to allocate a sum annually.
2. Markus, Per, Marina
- We would already agree on regulation measures, for example guidance on best practice (e.g. how to carry out oiling).
  - Funding is needed for a secretariat/human resource to coordinate it
  - The group could be called "Baltic Cormorant Management group"
  - Successful cross-border collaboration already now taking place between countries in the Baltic, eg. Mink Sweden and Finland works well, the two countries are interested in collaboration.
  - The commission supports AEWA, could discuss with person from the commission in our next meeting about possibility for EU funding.
  - Helcom a possible platforms, although have not shown much interest on cormorants
3. Roosa, Magnus, Heli
- At the moment this information exchange that we now have is useful, and what has been asked for in Finland at least. This is the first exchange on cormorants between the Nordic countries.
  - Further cooperation is not realistic, it requires resources, e.g. for creating a platform
  - In Norway both carbo and sinensis, carbo constitutes 90 % and is declining. Measures that would reduce carbo are not wanted, conflict level on sinensis not as big as in other Nordic countries. A common plan on sinensis not useful for Norway.
4. Maria O, Niels, Caroline
- Research and management need to collaborate.
  - A management plan needs measurable, collaboration needed with research to follow up on these goals.
  - Research to prove whether there is a problem needed to handle the conflict.
  - Joint research projects would enable replications.
  - Suggest to the EC that we want to handle the conflict, and to do joint research to measure the impact.
- Managers need research results to evaluate the effects of measures.
5. Maria W, Suvi, Terese
- Common dialogue useful even if we face the problem from different angles.
  - We need a common ground / platform for collaborating.
  - Tools from goose platform could be useful.
  - Wide problem, regional, national EU context, not all countries are EU-members, but also differences in approaches between EU countries.
  - Legal framework is important.

## Shared problem definitions

Management plans need measurable goals. Setting goals needs science, politics, and legal framework.

Common ground: what is the legal framework, some directives are old and in need of revision.

Research gives us answers, more science is needed to make better decisions. We need to put more resources for science.

Network for researchers previously within EU project, Pan-EU count (IUCN), but no action in years. We discussed if it is possible to elaborate on existing structures.

Need to persuade the ministries to allocate time for meetings.

## Towards the next meetings

We will organise a third virtual meeting during the spring with a focus on **stakeholder engagement and example on collaboration between stakeholders, for example invite** Bird Life Denmark.

Focus: improving dialogue between different groups.

Swedish HAV should perhaps be included next time.

Towards the last meeting in the autumn (physical meeting, Åland Islands)

- Research proposal writing.
- Agenda target for the end of this process.
- General aim → propose a Nordic management plan. We could work in smaller groups to prepare for the last meeting (Research group, Management group, Stakeholder group) Task: Schedule subgroup work.
- Plan for future permanent group
- Roadmap for research collaboration, present roadmap of different needs and measures, research activities → take Nordic countries towards a joint management.
- How to sustain this collaboration/funding for sustaining collaboration.
- Need for platform for research project planning.
- Overall description on how the process of subgroups towards the end
- Start discussion in ministries.
- Managers prepare for discussion with commission, there was a suggestion that DK needs to take the lead and call for change in commitment to management regime.