

Directive 2008/102/EC of the European Parliament and of the Council of 19 November 2008 amending Council Directive 79/409/EEC on the conservation of wild birds, as regards the implementing powers conferred on the Commission

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PARLIAMENT AND OF THE COUNCIL

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁽²⁾,

Whereas:

- (1) Council Directive 79/409/EEC⁽³⁾ provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽⁴⁾.
- (2) Decision 1999/468/EC has been amended by Council Decision 2006/512/EC⁽⁵⁾, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and was designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument with new non-essential elements.
- (3) In accordance with the statement by the European Parliament, the Council and the Commission⁽⁶⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure laid down in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.
- (4) The Commission should be empowered in particular to amend certain annexes to Directive 79/409/EEC in the light of scientific and technical progress. Since those measures are of general scope and are designed to amend non-essential elements of Directive 79/409/EEC, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

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- (5) Directive 79/409/EEC should therefore be amended accordingly.
- (6) Since the amendments made to Directive 79/409/EEC by this Directive are technical in nature and concern committee procedure only, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 79/409/EEC is hereby amended as follows:

1. Article 15 shall be replaced by the following:

Article 15

Such amendments as are necessary for adapting Annexes I and V to technical and scientific progress and the amendments referred to in the second subparagraph of Article 6(4) shall be adopted. Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 17(2).;

2. Article 17 shall be replaced by the following:

Article 17

- 1 The Commission shall be assisted by the Committee for Adaptation to Technical and Scientific Progress.

- 2 Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof..

Article 2

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

Article 3

This Directive is addressed to the Member States.

Done at Strasbourg, 19 November 2008.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

J.-P. JOUYET

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- (1) [OJ C 211, 19.8.2008, p. 46.](#)
- (2) Opinion of the European Parliament of 8 July 2008 (not yet published in the Official Journal) and Council Decision of 27 October 2008.
- (3) [OJ L 103, 25.4.1979, p. 1.](#)
- (4) [OJ L 184, 17.7.1999, p. 23.](#)
- (5) [OJ L 200, 22.7.2006, p. 11.](#)
- (6) [OJ C 255, 21.10.2006, p. 1.](#)