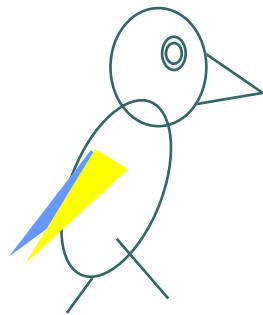




Policy paper
Executive Summary



Implementation of the EU Birds Directive in Ukraine

**Special context:
obligations under Energy Community**

January 2016



Resource & Analysis Center “Society and Environment”

Executive Summary

This policy paper analyzes the ways and obstacles to implement EU Directive 2009/147/EC on the conservation of wild birds in Ukraine. In doing so, it offers the outcomes of our research on EU experience (the United Kingdom, Poland and the European Court of Justice) and birds protection framework in Ukraine.

Ukraine has the obligation to implement the Birds Directive under the EU-Ukraine Association Agreement, as well as due its membership in the Energy Community. Birds and habitats directives are key legal instruments for the protection and sustainable use of nature in the EU, in particular through Natura 2000 protected areas network.

Key conclusions and recommendations:

- **Full implementation of the Directive in Ukraine will inevitably lead to designation of significant number of new protected areas (special protection areas, SPAs).** EU member-states had to create hundreds of SPAs for complying with the Directive. Such SPAs are set up in the UK and Poland as separate categories of protected areas, which do not substitute traditional system of nature protection (national parks, reserves, etc.). SPAs function “in parallel” in space and time, in particular their boundaries may partially or fully overlap with traditional national protected areas.
- **Practical implementation will require significant scientific and financial resources, which will not be available without external assistance.** The process for classifying SPAs should be coordinated with the Emerald Network development, especially for efficient use of resources.
- **The most difficult tasks in implementing the Birds Directive lie within its two key elements: designation of SPAs and general regime for the protection of birds.**
- **In Ukraine, SPAs need to be developed as an independent form for the protection of birds habitats on the basis and for the purpose of the directive.** No other measures can substitute the obligation to set up SPA under the directive. Development of the new form of protected areas in Ukraine puts several conceptual questions: legal and institutional nature of SPAs, classifying and designation procedure, protection regime.

- **We recommend the following key features of SPA as an independent form of birds habitats protection in Ukraine:**
 - independent from existing protected areas – with respect to boundaries and protection regime;
 - special individual protection regime, integrated into state planning and project permitting systems;
 - no “legal person” status;
 - enables coordinated implementation of the Birds and Habitats Directives (as to management of protected areas).

- **General birds protection regime in Ukraine needs to be improved to comply with the Directive provisions, in particular with respect to allowing hunting only for specific species of birds.**

- **In the course of our research we identified a number of challenges, mostly related to the fact that Ukraine is not a member of the EU.** Such challenges primarily relate to Directive’s scope of application, birds species, which are subject to protection or regulation, applicability of some provisions on softening (derogations), functions delegated to European Commission. Some of the challenges are relevant for the overall implementation process of the EU legislation in Ukraine, in particular lack of compliance control by EU institutions.

- **Ukraine’s obligations under Energy Community create a special context** for the implementation of the Birds Directive.

- **Implementation of the Birds Directive in the context of Energy Community obligations should take place within implementation of the Directive as such**, but features the following **peculiarities**:
 - missed deadlines for the implementation of Article 4(2) of the Birds Directive under Energy Community obligations is a serious reason to give high priority for the implementation of the Directive in whole and to be a priority for the Government;
 - for the purpose of complying with obligations under Energy Community, practical steps for classifying/designation of SPAs could begin from identifying habitats of migratory birds, including on international wetlands.



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Contacts:

Sakharova st. 42, office 509, Lviv, 79012 Ukraine

+38 (032) 242 22 84

office@rac.org.ua

www.rac.org.ua

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Full policy paper (44 pages) is available only in Ukrainian at our web-site.