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Guidance document on the strict protection of animal species of Community interest under the Habitats Directive 92/43/EEC

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Summary: The word "deliberate" covers not only situations where a certain result is directly intended but also situations where the person committing an offence knows the consequences of his action but accepts them, even if not directly intended. The fact that the word "deliberate" is not used in Article 12(1)(d) underlines the importance of preventive action by Member States to avoid all likely deterioration or destruction caused by humans. Cases of deterioration or destruction resulting from natural causes (i.e. not directly the consequence of human activities, e.g. natural disasters) or caused by unforeseeable events, do not fall within the scope of Article 12(1)(d).

II.3.4.b) Identification of "breeding sites and resting places"

(52) Although Article 12(1)(d) explicitly refers to the protection of "breeding sites" and "resting places" of species listed in Annex IV(a), neither Article 12(1)(d) nor Article 1 of the Directive provide any specific definitions.

(53) In the light of the objectives of the Directive, however, breeding sites and resting places may be considered to require strict protection because they are crucial to the life cycle of animals and are very important parts of a species' entire habitat⁷⁶, needed to ensure its survival. Their protection is directly connected with the conservation status of a species. The provision in Article 12(1)(d) should therefore be understood as **aiming to safeguard the ecological functionality** of breeding sites and resting places. Thus, Article 12(1)(d) ensures that such sites and places are not damaged or destroyed by human activities so that they can continue to provide all that is required for a specific animal to rest or to breed successfully.

(54) It thus follows from Article 12(1)(d) that such breeding sites and resting places also need to be protected when they are not being used, but where there is a reasonably high probability that the species concerned will return to these sites and places. If for example a certain cave is used every year by a number of bats for hibernation (because the species has the habit of returning to the same winter roost every year), the functionality of this cave as a hibernating site should be protected in summer as well so that the bats can re-use it in winter. On the other hand, if a certain cave is used only occasionally for breeding or resting purposes, it is very likely that the site does not qualify as a breeding site or resting place.

(55) The identification of general criteria for breeding sites and resting places is difficult, because Annex IV(a) lists species from many taxa with many different life history strategies. It is not possible to provide a rigid definition of "breeding site" and "resting places" that will apply to all taxa. Any interpretation of the terms "breeding sites" and "resting places" must therefore take into account this variety and reflect different prevailing conditions. The following general definitions aim to provide guidance that will allow species-specific definitions to be prepared in the form of individual dossiers for each of the species listed under Annex IV(a) of the Directive. The definitions are based on the assumption that the sites in question can be identified and reasonably delimited. They are intended to be used as a checklist of elements to be considered when preparing individual species dossiers; meaning that not all these elements will be applicable to all species (e.g. *Canis lupus* has no clearly definable mating site). Knowledge gaps for species can be identified here. For example, the current information on *Caretta caretta* permits only breeding sites (i.e. the beaches) to be well defined, with resting places (in marine areas) not yet determined.

⁷⁶ Article 1(f) defines the "habitat of a species" only as "an environment defined by specific abiotic and biotic factors, in which the species lives at any stage of its biological cycle".

However, with improved knowledge and increased research, resting sites may be delimited in future.

(56) The two definitions below are detailed in separate sections, though in practice they will often interlink and overlap and so could be considered together.

(57) **Breeding sites: a definition**

Breeding is defined here as: mating, giving birth to young (including egg laying) or production of offspring where reproduction is asexual. A breeding site is defined here as the areas needed to mate and to give birth in and covers also the vicinity of the nest or parturition site, where offspring are dependent on such sites. For some species, a breeding site will also include associated structures needed for territorial definition and defence. For species that reproduce asexually, a breeding site is defined as the area needed to produce offspring. Breeding sites that are used regularly, either within or between years, must be protected even when not occupied.

(58) The breeding site may thus include areas required for:

1. courtship;
2. mating;
3. nest construction or selection of egg-laying or parturition⁷⁷ site;
4. place used for the purpose of parturition or egg laying or production of offspring where reproduction is asexual;
5. place of egg development and egg hatching;
6. nest or parturition site when occupied by young dependent on that site;

(59) **Resting places: a definition**

Resting places are defined here as the areas essential to sustain an animal or group of animals when they are not active. For species that have a sessile stage, a resting place is defined as the site of attachment. Resting places will include structures created by animals to function as resting places. Resting places that are used regularly, either within or between years, must be protected even when not occupied.

(60) Resting places essential for survival may include one or more structures and habitat features required for:

1. thermoregulatory behaviour, e.g. *Lacerta agilis*;
2. resting, sleeping or recuperation, e.g. *Nyctalus leisleri* roosts;
3. hiding, protection or refuge e.g. *Macrothele calpeiana* burrows;
4. hibernation, e.g. bat dormitories; *Muscardinus avellanarius* hides.

Examples of breeding sites and resting places

	Breeding site	Resting place
<i>Triturus cristatus</i> (see also	All points of the definition apply to <i>T. cristatus</i> . The pond used for mating has individual male territories within which	During the terrestrial phase of its life, <i>T. cristatus</i> makes use of refuges such as stones and logs to hide under during the day. Similar refuges are used for periods of hibernation (in cold regions) or

⁷⁷ parturition – act of giving birth

<p><i>dossier in Annex III)</i></p>	<p>courtship and mating take place. Eggs are laid singly on emergent plants and mature over a period of 12 – 18 days. Young larvae emerge and swim freely.</p> <p>The pond is therefore the breeding site.</p>	<p>summer dormancy (in hot regions). During the aquatic phase of their life, adults and larvae make use of submerged and emergent vegetation as a place of refuge.</p> <p><i>T. cristatus</i> does not migrate but does disperse to adjacent pools. Healthy populations of <i>T. cristatus</i> utilise a series of pools and move between them, dispersing over a suitable interconnecting terrestrial habitat. Individuals may move approx. 1 km from their natal pool.</p> <p>The resting places for <i>T. cristatus</i> are thus the ponds they inhabit and the adjacent terrestrial habitat that supports them during the terrestrial part of their life cycle.</p>
<p>Nyctalus Leisleri</p>	<p>Males establish mating territories in tree holes in the autumn. Mating takes place in late autumn and females delay fertilisation until the spring. Young are born in a maternity roost and are dependent on their mother until they are weaned in the summer.</p> <p>Male territories and maternity roosts are therefore breeding sites. This strict application of the definition omits winter hibernation roosts, which are covered by "resting places" in Article 12(1)(d)</p>	<p>Hibernation <i>N. leisleri</i> is principally a tree-dwelling bat that hibernates over winter. In the winter they roost in tree-holes, buildings and occasionally caves and tunnels that provide a suitable microclimate. They will also utilise artificial roost boxes. Tree roosts have been found in parkland and urban areas as well as deciduous and coniferous woodland. These roosts must be in a relatively undisturbed position as bats roused from their torpor expend valuable energy reserves that cannot be replaced in winter.</p> <p>Day roosts during their active period (in spring) are also essential to all bat species, requiring a relatively undisturbed site during daylight hours, again in the cracks and crevasses of old trees and buildings. Depending on their location, a colony may use several summer roosts in turn, the larger of which may be used as maternity roosts, while males will become solitary or live in small groups.</p> <p>Migration <i>N. leisleri</i> is known to migrate in some parts of its European range: individuals ringed in Germany have been found to winter in France and Switzerland (National report 2003). Exact migration patterns are not known. However, other populations appear more sedentary with both maternity and winter roosts located in the same location.</p> <p>Roosts used by <i>N. leisleri</i> to rest during the day and to hibernate in are resting</p>