



Notification Number: 2012/126/E

## Draft decree establishing additional standards applicable to high-voltage overhead electricity installations to protect bird fauna and mitigate environmental impact.

Date received : 24/02/2012

End of Standstill : 25/05/2012

### Message

Message 002

Communication from the Commission - SG(2012) D/5572

Directive 98/34/EC

Translation of the message 001

Notification: 2012/0126/E

No abre el plazo - Nezhahajuje odklady - Fristerne indledes ikke - Kein Fristbeginn - Viivituste perioodi ei avata - Καμμία έναρξη προθεσμίας - Does not open the delays - N'ouvre pas de délais - Non fa decorrere la mora - Neietekmē atlikšanu - Atidėjimai nepradedami - Nem nyitja meg a késések - Ma' jiftaħ il-perijodi ta' dawmien - Geen termijnbegin - Nie otwiera opóźnień - Nao inicia o prazo - Neotvorí oneskorenia - Ne uvaja zamud - Määräaika ei ala tästä - Inleder ingen frist - He се предвижда период на прекъсване - Nu deschide perioadele de stagnare - Nu deschide perioadele de stagnare.

(MSG: 201200572.EN)

#### 1. Structured Information Line

MSG 002 IND 2012 0126 E EN 24-02-2012 E NOTIF

#### 2. Member State

E

#### 3. Department Responsible

Subdirección General de Asuntos Industriales, Energéticos, de Transportes, Comunicaciones y Medio Ambiente.

Dirección General de Coordinación de Políticas Comunes y de Asuntos Generales de la Unión Europea. Secretaría de Estado para la Unión Europea.

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### 3. Originating Department

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### 4. Notification Number

2012/0126/E - B00

### 5. Title

Draft decree establishing additional standards applicable to high-voltage overhead electricity installations to protect bird fauna and mitigate environmental impact.

### 6. Products Concerned

Technical methods and materials to be used in the construction and modification of certain high-voltage electricity lines.

### 7. Notification Under Another Act

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### 8. Main Content

This draft is intended to build on the specific legislation of the Autonomous Region of Murcia on the protection of wildlife, which provides for the application of measures to protect bird fauna throughout the region to minimise the impact that bird electrocution and collision have on natural heritage and regional biodiversity. It also develops basic state regulations on the protection of bird fauna against electricity lines.

Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009, and Law 42/2007 of 13 December on natural heritage and biodiversity provide for the adoption of measures to ensure the conservation of species living in the wild. Within the region, Article 31 of Law 7/1995 of 21 April on wildlife in the region of Murcia establishes the need to adopt technical environmental standards applicable to high- and low-voltage electricity installations in the region in order to reduce and eliminate risk to the physical well-being and life of breeding, migrating and wintering birds, as well as the barrier and cut-off effect on natural habitats.

Electricity Sector Law 54/1997 of 27 November, as amended by Law 17/2007 of 4 July, provides for mandatory compliance of the provisions it contains—in particular those relating to planning and the environment (Articles 36.3 and 40.3)—for permits for electricity distribution and transmission installations.

With regard to the exclusive powers granted to the Autonomous Region in Article 10.1.28 of the Statute of Autonomy on energy production, distribution and transmission installations, this standard provides for the need—where transmission is entirely contained within the region and its use does not affect any other autonomous region, and as part of the authorisation procedure—to obtain the prior binding opinion of the Directorate General of Natural Heritage and Biodiversity on any installations passing through any of the zones provided for in Annex II, unless they are subject to an Environmental Impact Assessment.



Royal Decree 1432/2008 of 29 August establishing measures for the protection of bird fauna against collision and electrocution on high-voltage electricity lines was adopted in implementation of Law 54/1997 of 27 November, and the fundamental nature of said royal decree—adopted in application of Article 149.1 points 13, 23 and 35 of the Spanish Constitution—and the nature of the area it regulates require regulations to be passed at regional level. The regional regulations are required to identify the bodies responsible for ensuring compliance with the provisions of the aforementioned royal decree.

The provisions of this decree shall apply notwithstanding the provisions of Royal Decree 263/2008 of 22 February, and the regulations therein shall apply to all overhead electrical installations having a rated power exceeding 1 kV falling into one of the following categories:

- a. Newly built installations.
- b. Extensions or modifications of existing installations.
- c. Electrical installations declared Extremely Hazardous to Bird Fauna.

The Decree charges the competent administrative authorities both with delimiting and publishing the protection zones provided for in Article 4 of Royal Decree 1432/2008 of 29 August establishing measures for the protection of bird fauna against collision and electrocution on high-voltage electricity lines (body responsible for environmental affairs), as well as identifying and publishing the electricity lines provided for in Article 5 of the same standard (body responsible for industrial affairs and energy).

Article 5 of the draft decree (“General design criteria”) specifies that the electrical installations covered by sections 2a and 2b of Article 2 must satisfy the technical specifications provided for in Annex I, notwithstanding the provisions of the technical and safety standard established in the high-voltage electrotechnical regulations and other concordant regulations, and in all cases the project must detail the grounds on which the technical solution proposed has been chosen. In general, the route of new overhead electricity lines through the zones specified in Annex II is limited, such that only installations that can be shown to have no alternative route may pass through the zones identified in said Annex II. In all cases, said installations must comply with the technical specifications established in this decree and the Natural Resource Management Plans (PORN), or any other approved planning documents.

Finally, lines that are no longer in use, as a result of replacement or permanent loss of demand, shall be decommissioned in full by the owner of the installation. Only those supporting elements used by protected species, as identified by the body responsible for environmental affairs, shall not be decommissioned, although the cables and all other elements posing any risk of accident to breeding birds shall be removed.

Scheduled maintenance work on electrical power lines on supporting elements that contain nests or in the vicinity of which protected species are known to nest must not be carried out during the nesting, breeding and brooding season, unless there are reasonable grounds to do so, in which case express authorisation must be obtained from the environmental body. If faults on these supporting elements require correction to restore service, the owner shall not require the aforementioned authorisation, but it must inform the environmental body of the scope of the work done.

The departments responsible for environmental affairs and industrial affairs and energy, in conjunction with electricity companies, shall run the studies required to improve technical systems with a view to preventing bird collisions and electrocutions, as well as a system for monitoring and following up on improvement actions carried out in accordance with the objectives of this decree.

With regard to penalties, the provisions of this decree shall constitute technical industrial safety standards pursuant to the provisions of Heading X of Electricity Sector Law 54/1997 of 27 November, notwithstanding the liability provided for in Heading VI of Law 42/2007 of 13 December on natural heritage and biodiversity and Heading V of Law 7/1995 of 21 April on wildlife in the region of Murcia.



## 9. Brief Statement of Grounds

This draft is intended to establish the related regulations and to apply a dual qualification:

- a) Implementation and development of basic state regulations, specifically Royal Decree 1432/2008 of 29 August establishing measures for the protection of bird fauna against collision and electrocution on high-voltage electricity lines.
- b) Establishment of regional sector-specific legislation, specifically Article 31 of Regional Law 7/1995 of 21 April on wildlife in the region of Murcia.

The foregoing is intended to minimise the impact that bird collision and electrocution have on regional biodiversity and natural heritage, establishing for this purpose the basic state regulations on the protection of birdlife against electrical power lines.

## 10. Reference Documents - Basic Texts

References to basic texts: References to basic texts:

Electricity Sector Law 54/1997 of 27 November, as amended by Law 17/2007 of 4 July.

Law 7/1995 of 21 April on wildlife in the region of Murcia.

Royal Decree 1432/2008 of 29 August establishing measures for the protection of bird fauna against collision and electrocution on high-voltage electricity lines.

The basic texts were submitted as part of a previous notification: 2008/155/E

## 11. Invocation of the Emergency Procedure

No

## 12. Grounds for the Emergency

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## 13. Confidentiality

No

## 14. Fiscal measures

No

## 15. Impact assessment

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## 16. TBT and SPS aspects

TBT aspect

No - The draft will have no noticeable effect on international trade.

SPS aspect

No - the draft is not a sanitary or phytosanitary measure.



**EUROPEAN COMMISSION**  
GROWTH DIRECTORATE-GENERAL

**Single Market for goods**  
Prevention of Technical Barriers

No - The draft will have no noticeable effect on international trade.

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