

5 February 2021

Dear Minister for the Environment Lea Wermelin and Minister for Food, Agriculture and Fisheries Rasmus Prehn,

The undersigned organisations and experts urge you to order an independent assessment of the two newly captive harbour porpoises at the Danish facility Fjord&Bælt in Kerteminde¹ in order to determine their candidacy for release and also to prohibit retaining rescued harbour porpoises at this or any other facility if the animals are suitable for release.

Harbour porpoises (*Phocoena phocoena*) are listed on Annex IV of the *EU Habitats Directive*² and therefore protected from capture in the wild. Moreover, cetaceans are included in the CITES Annex I, hence trade with, transportation of and keeping porpoises in captivity for commercial public display are also prohibited³. Denmark is further obliged to ensure the favorable conservation status of the species⁴, especially because one of the populations, the Baltic Sea harbour porpoise, is considered 'critically endangered', including in Danish waters, by the IUCN, whereas the status of the remaining populations is of least concern/healthy⁵. However, since 1995 the Danish facility Fjord&Bælt has been granted permission by the Danish Environmental Protection Agency (EPA) to retain bycaught harbour porpoises based on *the Order of Species Conservation section 12, chapter 1 (4)*⁶.

In most global jurisdictions, cetaceans found entangled or trapped in fishing gear must be immediately released if found alive; this is the case in Denmark⁷. However, the permit granted to Fjord&Bælt makes Denmark one of the few – maybe the only – countries in the world where it is legally allowed to retain bycaught harbour porpoises, even when they are suitable to be released back to nature. According to the *Order on Species Conservation section 30*⁸, cetaceans can be rescued/rehabilitated but only by an authorized person or facility. Whether Fjord&Bælt is authorized or not, it is important to note that the intention behind the permit granted to Fjord&Bælt is not and has never been to rescue/rehabilitate cetaceans; it is for research. Hence, the permit allows cetaceans to be deliberately retained, even when they are suitable for release.

It does not send a good conservation message to the public or the world when cetaceans who are bycaught, and potentially can be released, are retained for any reason, even research. Not releasing successfully rehabilitated cetaceans turns a rescue into a deliberate capture.

Based on what we currently know, both Saga and Eskild, the two newly bycaught harbour porpoises, are considered by the undersigned to be potential candidates for release after their recovery (see Annex 1, which presents the various criteria that are important to consider for a successful release of a cetacean). Cetaceans are sentient beings with behavioural and species-specific needs that can only be fulfilled in natural habitat, where they can fully thrive (see Annex 2, which describes the welfare concerns related to keeping cetaceans such as harbour porpoises in captivity). Further we clearly believe the message of the newly and passed Danish Animal Welfare Act⁹, is neglected when authorities continue to justify that wild animals such as whales thrives in captivity.

¹ Fjord&Bælts hjemmeside: <https://fjordbaelt.dk/hvad-er-fjordbaelt/> [sidst besøgt: 11.01.2021, 13:45]

² Council Directive 92/43/EEC of 21st May 1992. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31992L0043&from=EN>

³ Rådets forordning (EF) Nr. 338/97 af 9. december 1996 om beskyttelse af vilde dyr og planter ved kontrol af handelen hermed: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A31997R0338> & Kommissionens forordning (EF) Nr. 865/2006 af 4. maj om gennemførelsesbestemmelser til Rådets forordning (EF) nr. 338/97 om beskyttelse af vilde dyr og planter ved kontrol af handelen hermed: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32006R0865>.

⁴ Fiskeristyrelsen – Beskyttelse af arter, marsvin. <https://fiskeristyrelsen.dk/beskyttede-omraader/natura-2000/beskyttelse-af-arter/>

⁵ Marsvin i de danske farvande er opdelt i minimum tre populationer: 1) Østersøpopulationen – farvandet omkring Bornholm og østover ind i Østersøen, 2) Bælthavs-populationen – de indre danske farvande (inkl. Bælthavet, Øresund, sydlige Kattegat og vestlige Østersø) og 3) Nordsø-populationen – nordlige Kattegat, Skagerrak og Nordsøen. Det er vigtigt at forvalte hver population separat, da de har forskellig bevaringsstatus og er udsat for forskellige trusler. Bestanden i Østersøen er fx erklæret 'kritisk truet' af IUCN (International Union for Conservation of Nature). <https://dce2.au.dk/pub/SR355.pdf>

⁶ Artsfredningsbekendtgørelsen, BEK nr. 1466 af 06/12/2018. <https://www.retsinformation.dk/eli/ta/2018/1466>

⁷ Naturstyrelsen marts 2012. Beredskabsplan for havpattedyr. https://naturstyrelsen.dk/media/261398/beredskabsplan_for_havpattedyr.pdf

⁸ Artsfredningsbekendtgørelsen, BEK nr. 1466 af 06/12/2018. <https://www.retsinformation.dk/eli/ta/2018/1466>

⁹ Newly passed Animal Welfare Act of 3rd February 2020. https://www.ft.dk/ripdf/samling/20191/lovforslag/l80/20191_l80_som_vedttaget.pdf

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Thus, we strongly urge you to support the independent assessment of Saga's and Eskild's suitability for release and, if they are good candidates, to support their careful, monitored release.

According to the law¹⁰ and further explained in the permit granted to Fjord&Bælt to retain bycaught harbour porpoises¹¹, the Danish EPA can permit exemptions to the capture ban, if three conditions are met: 1) there must not be another suitable solution, 2) the dispensation must not impede the maintenance of the wild population's conservation status, and 3) there must be significant societal considerations, including research and contributions to species conservation *cf. section 12, chapter 1 (4)*.

Firstly, the Danish EPA justifies retaining harbour porpoises because the animals are used for research, and no alternatives other than capturing free-ranging porpoises are considered available to conduct the research necessary to manage and protect the species. Fjord&Bælt maintains that its research contributes to species conservation primarily because the use of animals in a controlled environment is needed and the only suitable solution to calibrate and develop equipment to use in field research. We acknowledge that some questions can be answered by captive research. However, those questions should and could be answered by studying rescued animals who cannot be released, due to injuries or other conditions that preclude a successful return to a life of independence in the wild.

Secondly, the Danish EPA justifies retaining these two porpoises, bycaught in the Belt Sea, because the population there is relatively stable and large enough to remove two individuals without having a significant impact on the population. However, it is clear after dialogue with the ministry in charge of the permits that more animals may eventually be affected by Fjord&Bælt's activities¹². This is not favourable for a species that is protected, even if not endangered. While it is possible that removing these two animals might impede the maintenance of the wild population in the Belt Sea, it definitely sends a poor conservation message to the public to deliberately remove individuals of a protected species from the wild – individuals who could otherwise live long and productive lives – when other alternatives exist for conducting research. This is especially the case when a permit allows the standard practice of releasing a bycaught cetacean if at all possible, to be bypassed, simply to secure research animals for a facility.

Thirdly, the facility was allowed to acquire additional harbour porpoises to secure a sufficient number of animals to ensure continuous research at the facility. When the permit was issued, the facility only had two porpoises remaining, both elderly females. Fjord&Bælt had been unable to maintain the desired number of harbour porpoises through breeding. Hence, the permit specified that at least one of the newly acquired animals should be a male. Whether a new dispensation to retain wild animals should be granted depends on how successfully the facility can breed the animals it already holds¹³. However, history shows that Fjord&Bælt has had poor success breeding harbour porpoises. Calves born there have had a low survival rate, with only one calf surviving longer than just a few days (see Annex 3, which lists the various cetaceans held at the facility, those born in captivity and from the wild). In general, captive reproduction in harbour porpoises has been unsuccessful¹⁴. Thus, permits could easily be issued again in the future.

Lastly, we contend that the conditions of granted permits need better monitoring and enforcement by the relevant authorities. Whether these are exemption permits to retain bycaught cetaceans or research permits to conduct studies on harbour porpoises, enforcement of permit conditions is essential, especially as harbour porpoises are a protected species. Fjord&Bælt has previously violated terms of its research permits. These violations include conducting tests on

¹⁰ Artsfredningsbekendtgørelsen, BEK nr. 1466 af 06/12/2018. <https://www.retsinformation.dk/eli/ta/2018/1466>

¹¹ See attached copy B: Tilladelse til indhentning af to marsvin, samt opbevaring og udstilling af levende marsvin, herunder eventuelt afkom i perioden 2017-2021.

¹² See attached copy H: Korrespondance med Miljøstyrelsen – Anmodning om aktindsigt og afgørelse fra Miljøstyrelsen om ønsket præcisering af indhentningstilladelse.

¹³ See attached copy I: Korrespondance med Miljøstyrelsen – Anmodning om aktindsigt og afgørelse fra Miljøstyrelsen om ønskede oplysninger om Fjord&Bælt centerets nye marsvin.

¹⁴ Blanchet, M.-A., Wahlberg, M., & Ishigami, T. (2009). First Observation of the Parturition and Peripartum Events in a Harbor Porpoise (*Phocoena phocoena*). *Aquatic mammals*, 35(4).

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the facility's captive-bred neonates (see Annex 4, which presents the details about the violation). Research facilities that violate permit conditions harm the credibility of their science, which relies heavily on trust and integrity.

The authorities must ensure all permitted activities affecting protected species in Denmark comply with the laws. However, after reviewing publicly accessible documents issued by the authorities, we have become aware of more than a few incidents where enforcement has been deficient (see Annex 5, which presents the incidents). This amplifies and reinforces our overall concerns.

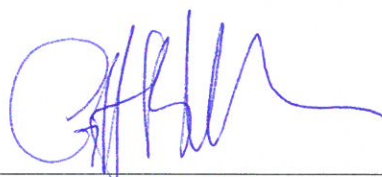
In summary, we believe that Fjord&Bælt's previous permits and potential future permits do not ensure the protection of wild harbour porpoises, and do not contribute to a favorable conservation status for the species. We also contend that the welfare of these individuals is compromised by keeping them at the Fjord&Bælt facility. We therefore call on you to no longer grant exemption permits allowing the retention of releasable cetaceans at this facility.

Thank you in advance, we look forward to hearing your consideration of our request.

Signed by,



Margaux Dodds,
Chair of Dolphinarium-Free Europe.



Gitte Buchhave,
Director of World Animal Protection, DK

