

Strasbourg, 13 November 2017
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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

37th meeting
Strasbourg, 5-8 December 2017

Other complaints

**Lack of legal protection for Northern goshawk
and birds of prey in Norway**

- REPORT BY THE GOVERNMENT -

*Document prepared by
The Royal Norwegian Ministry of Climate and Environment, Norway*

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- NOVEMBER 2017 -



ROYAL NORWEGIAN MINISTRY OF
CLIMATE AND ENVIRONMENT

F-67075 Strasbourg Cedex, France

Your ref

Our ref

Date

17/169-8

6 November 2017

Complaint No. 2017/01: Legal protection for Northern goshawk and birds of prey

Dear Mrs. Obretenova,

We refer to your letter of 27. September 2017 to Mr Øystein Størkersen.

According to your letter, the Bureau met in Strasbourg on 18 September 2017 and discussed the complaint from BirdLife Norway. The Bureau considered that it was necessary that the unintentional change to the wording of the Act is corrected. The complaint has therefore been moved to the category Possible files and will be assessed at the upcoming 37th meeting of the Standing Committee to the Bern Convention. The Bureau further instructed the Secretariat to request a new report from both the national authorities and the complainant for the upcoming meeting of the Standing Committee to the Bern Convention on 5-8 December 2017. More specifically, the Standing Committee would need to receive updated information on the authorities' plans to change the wording of the legislation.

Mr. Størkersen has forwarded your letter to the Ministry of Climate and Environment.

As was mentioned in our previous letter of 19 June 2017, the present legislation is, regardless of this question, strict. The relevant provisions reads as follows: "Wildlife may be killed in circumstances where this is considered necessary to eliminate an immediate and significant risk of injury to persons. The owner, or a person acting on behalf of the owner, may kill a wild animal making a direct attack on livestock, domesticated reindeer, pigs, dogs and poultry. Any kill or attempt to kill under this paragraph shall immediately be reported to the police".

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Even if the provision was unintentionally amended when the Nature Diversity Act replaced the Wildlife Act, the provision still requires that "a direct attack" on livestock etc. takes place. This is a considerably stricter criterion than the corresponding criterion that applies to situations where people are at risk ("an immediate and significant risk"), and important to prevent possible misuse of the provision.

For the time being, there are no concrete plans to amend section 2, subsection 2 of the Nature Diversity Act. However, the Ministry is aware of the risk that unfortunate practices may evolve, and we follow the situation. We have not yet received information that the provision is being misused.

As regards the Northern goshawk, which was the species in question in the Supreme Court judgement in 2014, we would like to inform you that the goshawk is not classified as a threatened species in Norway. According to the Norwegian Red List 2015, the Northern goshawk is "Near Threatened". The population in Norway is estimated between 2.800 and 3.700 individuals.

Yours sincerely

Torbjørn Lange
Deputy Director General

Solveig Paulsen
Senior Adviser

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Miljødirektoratet

- *JUNE 2017* -



ROYAL NORWEGIAN MINISTRY OF
CLIMATE AND ENVIRONMENT

F-67075 Strasbourg Cedex, France

Your ref

Our ref

Date

17/169

19 June 2017

Complaint No. 2017/01: Lack of legal protection for Northern goshawk and birds of prey in Norway

Dear Mrs. Obretenova,

We refer to your letter of 15. February 2017 to Mr Øystein Størkersen, and the complaint submitted by the Norwegian Ornithological Society (BirdLife Norway), alleging a presumed breach of the Bern Convention by Norway.

In the complaint, it is stated i.a. the following:

"BirdLife Norway wish to report the lack of legal protection for Northern Goshawk and other birds of prey in Norway, due to a change in the national legislation. The aim of the Bern Convention is to "ensure conservation of wild flora and fauna species and their habitats", with special concern to vulnerable and endangered species, including some specified migratory species. Strictly protected fauna species are listed under Annex II of the Convention. Included in Annex II are all diurnal birds of prey and owls (Council of Europe 1979). We believe that the Norwegian legislation is a violation of the Bern Convention article 9, point 1."

And

"These species can be killed/shot, even in situations where there are other options. Under the present national regulation and interpretation by the courts, BirdLife Norway point to the fact that any bird of prey may now be killed under the pretext of attack on domestic livestock. What constitutes an attack may easily be misinterpreted or misused, and may be an easy excuse to use when removing birds of prey in an area".

In your letter, you ask for the official position of the Norwegian authorities on the different elements presented in the complaint and its annexes. Mr. Størkersen has forwarded the letter to the Ministry of Climate and Environment, which is the responsible ministry as regards this issue.

At present, section 17 subsection 2 of the Nature Diversity Act reads as follows: "Wildlife may be killed in circumstances where this is considered necessary to eliminate an immediate and significant

risk of injury to persons. The owner, or a person acting on behalf of the owner, may kill a wild animal making a direct attack on livestock, domesticated reindeer, pigs, dogs and poultry. Any kill or attempt to kill under this paragraph shall immediately be reported to the police".

We would like to point out that section 17 subsection 2 is a strict provision. According to its wording, it requires that "a direct attack" on livestock etc.takes place. It is obvious that the provision does not allow farmers "to shoot any golden eagles flying below 35 meters over ground level without applying for a necessary license", as was mentioned in your letter.

It is correct that during the process of replacing parts of the Wildlife Act with the Nature Diversity Act, the wording of the legislation was unintentionally slightly changed. As a result, the Supreme Court in a judgement from 12 March 2014 decided that the term "considered necessary" does not apply where wild animals are making a direct attack on livestock, domesticated reindeer, pigs, dogs and poultry. As mentioned in the complaint by the Norwegian Ornithological Society, a proposal by the Ministry of Climate and Environment to change the wording was sent for public comment later that year. For the time being, the ministry has not decided to amend section 2, subsection 2 of the Nature Diversity Act,

Even though section 17 subsection 2 is a strict provision, the Ministry is fully aware of the risk that unfortunate practices may evolve, and we follow the situation. Norway stands firmly by its obligations according to the Bern Convention.

Yours sincerely

Torbjørn Lange
Deputy Director General

Solveig Paulsen
Senior Adviser

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