



Strasbourg, 25 January 2023

T-PVS/Files(2023)03

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

43rd meeting

Strasbourg, 28 November - 1 December 2023

Complaint on stand-by: 2021/5

**Habitat loss in Baden-Württemberg threatening the conservation of
Tetrao urogallus
(Germany)**

- COMPLAINANT REPORT -

*Document prepared by
NABU*



Bern Convention 1st Bureau 2022- Stand-by case-file: habitat loss in Baden-Württemberg threatening the conservation of *Tetrao urogallus*

Dear Ms. Saporito,

Capercaillie in the Black Forest is a prime example for state authorities in charge and responsible for protecting nature and species have been doing something – and in consequence no one can state that nothing has been done – but for decades and still today by far too little and too late to effectively protect target species. Hazel Grouse, *Tetrastes bonasia*, also an Annex I species of the birds directive, has already gone extinct in the federal state of Baden-Wuerttemberg in recent times. In our opinion, there is a very great risk that Capercaillie will follow because even the “new action plan” is characterised by very grave shortcomings.

Therefore, unfortunately, the problem still persists and thus, to our deep regret and concern, our complaint is still valid. In the following we provide arguments as to why and how we get to this conclusion:

- The “new action plan” is based on the “old plan”, i. e. the previous “Capercaillie Action Plan 2008-2018” that had been constructed by the authorities of Baden-Wuerttemberg because even at that time due to decades of inadequate and ineffective protection measures Capercaillie had been in continuous steep decline in the Black Forest. However, the “Capercaillie Action Plan 2008-2018” is proven to not have worked and Capercaillie is still declining. This is the reason why the authorities of Baden-Wuerttemberg have now constructed the “new action plan”. We would like to point out that already before its proven inadequate implementation, the “Capercaillie Action Plan 2008-2018” had not been undisputed amongst species experts. Already years before its establishment, numerous shortcomings of the then-planned “Capercaillie Action Plan 2008-2018” had been pointed out, especially regarding the derivation of the minimum proportions of suitable habitat required for the long-term survival of a Capercaillie population. For example, at the time, minimum requirements for the recovery and long-term protection of Capercaillie in the Black Forest within the frame of the “Capercaillie Action Plan 2008-2018” had been derived from a Capercaillie population in the Black Forest that was proven to be declining and having done so for decades. It stands to reason that minimum requirements cannot be derived from a declining population in order to protect it. Therefore, already the “Capercaillie Action Plan 2008-2018” may well have lacked an adequate and sufficient foundation, even before it was inadequately implemented.
- Thus, the hypothesis that the protection of the Capercaillie in the Black Forest could be improved in the frame of a “new action plan” which represents a "simplification" of the “old plan” is highly speculative. Indeed, judging from the population development of Capercaillie in the Black Forest over the last decades and until now (see below), the new action plan is very likely even sure to fail.

- The new action plan was intended for 2021–2026, as previously outlined by the authorities of Baden-Wuerttemberg in written form to the Council of Europe. Now, the authorities of Baden-Wuerttemberg suddenly speak of a new action plan 2022–2027. Thus, obviously, the federal state of Baden-Wuerttemberg has simply dropped one extremely time-critical year, despite countless complaints by conservationists and without experiencing any intervention from anywhere. Indeed, to our knowledge, the federal state government of Baden-Wuerttemberg had not even made available the budgetary funds required for the implementation of the new action plan until very recently and to our knowledge, the funding is not yet in place and ready to be spent on site. Indeed, the association "Auerhuhn im Schwarzwald e. V." (Capercaillie in the Black Forest e. V.) that is being explicitly mentioned by the authorities of Baden-Wuerttemberg has in public complained towards the end of the past year 2022 that it cannot go ahead with urgent measures and loses very critical time because it does not have any of the funding that was promised by the federal state government of Baden-Wuerttemberg. If necessary, the Council could double-check all the dates, they speak for themselves.
- The catastrophic population development of the Capercaillie in the Black Forest in the last decades, documented by the state authorities themselves, and even in the last three years and since this complaint has been lodged also speaks an unmistakable language: In 2020, the number of male Capercaillie remaining in the Black Forest was only 136. This number dropped further to 114 in 2021 and even further to 97 in 2022.
- However, at the same time, the authorities state: "At present, the Ministry of Food, Rural Affairs and Consumer Protection does not yet have an overall overview of the measures already implemented". And still at the same time it is stated that "more than 150 hectares of Capercaillie habitat have already been significantly enhanced since 2014 and increasingly since 2022" in the Black Forest National Park. Apart from the fact that according to the federal state government's own National Park Law the national park is primarily designated to unmanaged forest succession (and thus not to conservation measures to protect and restore species), highlighting 150 ha, and this figure since 2014, while tens of thousands of hectares are required right now to protect Capercaillie effectively, also speaks for itself.
- Despite these facts, the authorities of Baden-Wuerttemberg give the impression that everything is under control and in order and mention an updated map "...in which between 2014 and 2018 Capercaillies have been reliably detected and additionally potential resettlement areas with approximately 25.000 ha of forest area, which includes the highest habitat potential for the species." In this context, the authorities also mention "a specific planning guide ... Capercaillie protection versus wind power expansion". Indeed, this is a cloudy or confusing formulation because to construct this map has involved adding up and shifting around hectares of biologically and physically real or considered "potentially suitable" Capercaillie habitat, drawing hypothetical corridors and shifting them around at the desk, for the benefit of wind energy expansion and other interests which directly counteract Capercaillie protection. In our opinion, the most important reason for why by now wind power expansion has become a grave problem for Capercaillie protection is that for decades not enough had been done to protect the species and restore a healthy and resilient population. The current planning obviously represents an attempt to square the circle and protect a species that over decades has been driven to the edge of extinction, and at the same time build lots of wind power plants into its habitats. This is a further problematic to disastrous recent development for Capercaillie not only because of the windmills themselves which have been proven to displace the species, but also due to easier access into previously intact forest areas for people and predators, further forest and Capercaillie habitat fragmentation as well as disturbance caused by the construction and the maintenance of

the facilities; these are all known factors that threaten Capercaillie. Furthermore, the “specific planning guide” has various loopholes for windmill building, e. g. even within currently suitable Capercaillie habitat and even on ridges that are essential for habitat and population connectivity and even in areas where the species currently still occurs. Furthermore, as soon as there may be no Capercaillie found in an area (which does not necessarily mean that there is no Capercaillie) or consultants may spin or formulate hypotheses accordingly, windmills may be built following each further step of Capercaillie regression, immediately leaving the habitat physically lost and making population recovery into this habitat impossible. Top-down, authorities have systematically been “instructed” that the state is positive towards granting permission for windmills and guidelines have systematically been “adapted”, i. e. softened and weakened to the disadvantage of Capercaillie protection.

- What we outline in the previous bullet point may even be the case even when habitat suitability is currently still given and when the following factors are active, which in our opinion is not being adequately considered and taken into account in the new action plan: Capercaillie in the Black Forest is trapped in a typical extinction vortex; this inevitably means that in addition to the points considered by the authorities of Baden-Wuerttemberg, also mechanisms of small population biology are active. E. g., local populations may be so small by now, because for decades the species has not been protected adequately, that individuals may disappear due to chance events and other factors (e. g. genetics) and leave habitat that is of critical importance for recovery temporarily unoccupied by the species. This is one of the reasons that, on top of the threats (above all habitat loss) that have been stressed by species experts for decades but were not addressed adequately by the authorities of Baden-Wuerttemberg for decades, by now also wind power expansion confounds and interacts with other threats and this further threatens both the survival and the recovery of Capercaillie in the Black Forest.
- We would like to point out one example: In the last corridor for Capercaillie that connects the northern part to the southern part of the Black Forest, a local municipality (Elzach) wants to build a wind farm. This is the last connection between north and south for Capercaillie because surrounding ridges have already been blocked with wind farms, some of which were even built on former Capercaillie lekking sites which are now physically lost for Capercaillie population recovery. The entire area was part of the EU-LIFE project Rohrhardsberg 2006-2011 that was funded with 1.9 million Euros, almost a million of which was contributed by the EU. The project included measures to protect the Capercaillie and the official “care and development plan” (PEPL) for this area explicitly mentions that no wind power plant should be built in the area due to Capercaillie. Instead of legally or otherwise preventing such plans, so that Capercaillie restoration may be possible, with the “specific planning guide” the authorities of Baden-Wuerttemberg indeed promote and heat up such ideas and plans.
- The number of male Capercaillie is now below 100 individuals in the entire Black Forest. This means that by now, after decades of inadequate Capercaillie protection measures by the authorities in charge, a critically low population level has been reached. Looking at species declines and subsequent recoveries around the globe it is clear that by now Capercaillie protection has gone far beyond the point of declarations of intent or cosmetic measures by the authorities in charge but has reached a point at which systematic small population restoration is required. In our opinion, what is required now does not any more involve, e. g. as formulated by the authorities of Baden-Wuerttemberg “the cartographic basis of the species’ actual distribution provides the prerequisite for any further steps in Capercaillie protection”, which in fact means key measures will at best take further years to be implemented, if they are achieved

at all. Rather, what is required by now is targeted, high-intensity and clearly evidence-based small population management and species restoration action involving every single individual because by now, every single individual counts. In our opinion, these facts are hardly or not at all accounted for in the new action plan.

- The measures taken to date to reduce disturbance by public recreation and other activities, e. g. forestry operations during the Capercaillie breeding period (which due to drought or bark beetle are basically carried out with blanket coverage and often without even the least of consideration of Capercaillie protection) have been very modest at best and can furthermore not be monitored and enforced without much increased personnel deployment.
- The efforts made to date to manage predators have not had any measurable impact on Capercaillie numbers.
- Indeed, we would like to ask for an official accounting of how many hectares of Capercaillie habitat have been physically lost since 1980, since 2000, since 2010 and since 2020 due to the physical loss of habitat suitability and how many additional hectares of Capercaillie habitat have been functionally lost due to other factors, and in the same periods how many hectares of suitable Capercaillie habitat have been developed that were also proven to have been re-populated by Capercaillie.
- To conclude, we would like to stress that Hazel Grouse, also an Annex I species of the birds directive for which SPAs have been designated in Baden-Wuerttemberg, has now been officially listed as extinct in the latest update for the period 2012-16 of the Red List of Breeding Birds of the Federal State of Baden-Wuerttemberg that was recently published. For this species, too, the Black Forest was the last stronghold in Baden-Wuerttemberg and the species has gone extinct due to the lack or inadequate conservation measures over decades, while its decline and all the measures required for its restoration had been documented and stressed countless times over decades. Similarly, the Black Grouse has gone extinct in Baden-Wuerttemberg as well. Thus, Baden-Wuerttemberg has a track record of driving grouse species to extinction while species experts and conservationists are helpless and desperate but left to the will or arbitrariness of the state authorities who are legally in charge. Time-lagged parallels between Hazel Grouse and Capercaillie are obvious. In the course of the extinction of Hazel Grouse within and outside SPAs, several species experts and conservationists have (been let) run into the void and been left without support or means of intervention. It is obvious that what happened to Hazel Grouse is now happening to Capercaillie in Baden-Wuerttemberg, while the state authorities who are in charge and responsible for their protection by law have not done enough for decades and still are not doing enough.

Apparently, the issue of protecting the Capercaillie in the Black Forest is not taken seriously enough by the federal state government of Baden-Wuerttemberg but is rather stretched out and carried off. In the meantime, official voices and public statements out of the federal state government of Baden-Wuerttemberg get more frequent and louder that climate change is the reason for Capercaillie extinction and that the species is probably not saveable, although it is clear that protection measures have been totally inadequate for decades.

The inconsistencies that we have outlined point towards the systematic and symptomatic phenomenon that the authorities in charge have been doing far too little for decades and still are doing far too little for Capercaillie and grouse protection in Baden-Wuerttemberg, and that the alarming situation is not taken adequately seriously.

We are deeply concerned and would like to warn urgently that there is very grave danger that Capercaillie in the Black Forest will not only not be recovered but be driven to total extinction because the measures that are overdue for decades will still not be implemented sufficiently and adequate to the alarming situation. In our opinion, what has happened to Black Grouse and Hazel Grouse in Baden-Wuerttemberg already and is now also happening to Capercaillie is a scandal.