Strasbourg, 14 February 2024 **T-PVS/Files(2024)27**

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

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**Bureau of the Standing Committee**

18-19 March 2024
Strasbourg

## Complaint on stand-by: 2021/5

# Habitat loss in Baden-Württemberg threating the conservation of Tetrao urogallus (Germany)

## - COMPLAINANT REPORT -

*Document prepared by*
*NABU*

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

Dear Mrs Saporito,

during the past year, the situation of Capercaillie in the Black Forest has further deteriorated.

The new action plan following the previous Capercaillie Action Plan 2008-2018 was intended for 2021-2026. However, as we had previously outlined to the COE, suddenly the authorities of Baden-Wuerttemberg had spoken of the new action plan 2022-2027 and thus had simply dropped one extremely time-critical year, without any consequence. However, yet another year passed and only in October 2023 the new action plan was adopted. This plan was termed Capercaillie Action Plan 2023-2028 although ¾ of the year 2023 had already passed. Thus, 3 extremely time-critical years have simply been dropped. It is an open question for us how it is possible that in a situation that is known to be of the highest urgency 3 critical years can be lost, seemingly without any intervention or consequence while the COE is informed about the situation. Furthermore, as of today, we do not know when, where and how much of the new funds has been used for increased Capercaillie protection, especially habitat management.

Meanwhile, the overall habitat situation of Capercaillie in the Black Forest has still worsened: With the introduction of the previous Capercaillie Action Plan 2008-2018, the area inhabited by Capercaillie in the Black Forest in 2008-2013 was 51,000 hectares. However, in the new Action Plan 2023-2028, the Capercaillie distribution area reported for the period 2014-2018 was only 34,000 hectares. So, during the period when a so-called “action plan” was being implemented, 17,000 hectares of Capercaillie habitat have been lost. The figure of Capercaillie habitat 2019-2023 has not been published yet. However, based on expert judgement it seems likely that further continued habitat loss and contraction of the distribution range, further increasing population fragmentation and further isolation of sub-populations has occurred in 2019-2023. Officially published numbers of male Capercaillie remaining in the Black Forest were 136 in 2020, 114 in 2021, 97 in 2022, and 106 in 2023. However, the reported increase by 9 males must be considered with caution because at the same time the area of occupancy most likely further decreased, the number may represent a natural population fluctuation rather than a sustainable increase (future numbers will show the real trend), and the number of Capercaillie in the Black Forest is still far below the minimum viable population number. Furthermore, it is noteworthy that of the 9 more males, 6 (i. e. 66 %) were counted in the Black Forest National Park which covers only c. 20 % of the 2014-2018 Capercaillie distribution range and is under administration of the federal Ministry of Environment, while in the remaining c. 80 % distribution range administered by the federal Ministry of Rural Affairs only 3 (33 %) more males were counted. In the National Park established under federal law Capercaillie habitat has been managed in the frame of a special “emergency plan” under the higher-ranking EU-law, even in the strictly protected National Park core zone, although the core zone is supposed to remain free of human intervention. This has been highly debated and questioned by some conservationists. However, it is unclear how many hectares of habitat have been managed inside the National Park and outside of it.

Meanwhile, the situation of Capercaillie is being continuously and systematically deteriorated by wind power development. The authorities of Baden-Wuerttemberg have decided an "overriding public interest" in the accelerated expansion of wind energy which has resulted in a clear weakening of conservation in general as well as Capercaillie protection. For example, in the Capercaillie Action Plan 2008-2018 networks of corridors necessary for population connectivity were broad swarms of lines from which wind turbines were strictly excluded (Figure 1). In the new Capercaillie Action Plan 2023-2028 these corridors are only recognized as "of great importance for maintaining the population network" – no more strict exclusion of wind power plants – and they are only few very narrow bands which are by far not enough to effectively connect and protect isolated Capercaillie subpopulations (Figure 2). Finally, the weakening of Capercaillie protection peaked in August 2023 when the authorities of Baden-Wuerttemberg issued new "Planning Guidelines for Wind Turbines and Capercaillie": In this document, there is no longer any strict exclusion of wind turbines at all and there are no corridors anymore; merely, obstacles ("spatial resistance") to be overcome for wind power building approval are described (Figure 3).

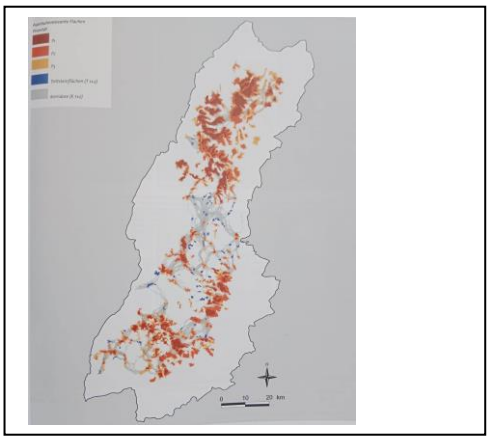

Figure 1: Capercaillie Action Plan 2008-2018: Wind turbines were strictly excluded from networks of corridors necessary for population connectivity.

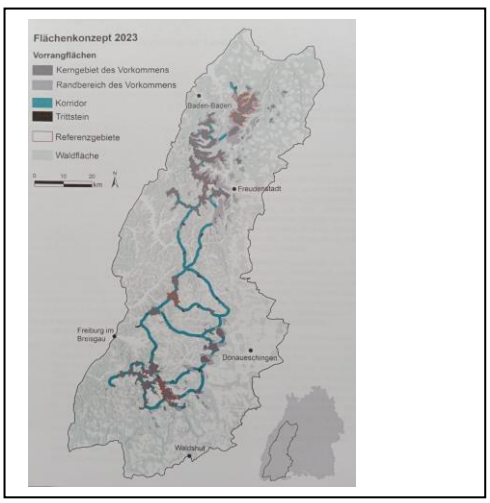


Figure 2: Capercaillie Action Plan 2023-2028: No more strict exclusion of wind power plants, corridors are only few very narrow bands that are by far not enough to effectively connect and protect isolated Capercaillie subpopulations.

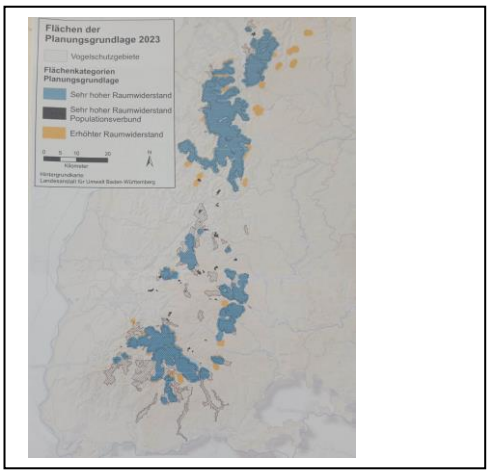


Figure 3: Planning Guidelines for Wind Turbines and Capercaillie from August 2023: No more corridors, no more strict exclusion of wind turbines at all.

Furthermore, in the new Capercaillie Action Plan 2023-2028, in addition to the 34,000 hectares of capercaillie distribution remaining in 2018 further 25,000 hectares of peripheral areas with the highest habitat "potential" are identified. These areas were inhabited by Capercaillie in the past and in some instances also up to present, but due to inadequate forestry practices, Capercaillie habitat and Capercaillie has largely disappeared. These areas are considered indispensable for the recovery and long-term survival of capercaillie in the Black Forest. Therefore, both the previous Capercaillie Action Plan 2008-2018 and the new Capercaillie Action Plan 2023-2028 aim to reclaim these areas, mostly located in municipal and private forests, through Capercaillie-friendly forest management. However, if there have been no Capercaillie sightings in an area within the last 5 years or no Capercaillie habitat maintenance has been carried out, the Planning Guidelines for Wind Turbines and Capercaillie from August 2023 designate them as areas without spatial resistance where simpler and faster approval procedures can be expected. This counteracts the very aims of the 20-year Capercaillie Action Plans from 2008 up to 2028 and may well render the recovery of Capercaillie impossible. Thus, wind energy expansion is clearly prioritized over Capercaillie protection and the way is paved for almost boundless wind energy expansion, deliberately accepting the extinction of Capercaillie.

What we outline above means the chances for recovery and survival of Capercaillie in the Black Forest are being diminished systematically. We urge for a clear signal of intervention by the COE, otherwise Capercaillie will go extinct in the Black Forest.

Furthermore, we would like the authorities of Baden-Württemberg to provide the following information that may enable the COE to get a better picture and assess the situation in more detail:

1 Report on the years 2019-2023 regarding Capercaillie habitat and distribution development, detailed by forest ownership (state forest managed by ForstBW, municipal forest, private forest, state forest managed by the National Park authority).
2 Report on when, where and how much funding has been used already for which measures of Capercaillie protection, especially how many hectares of Capercaillie habitat have been restored or newly created and how many Capercaillie have repopulated this new habitat.
3 Information and a map showing existing, newly constructed, and currently planned wind energy facilities in the Black Forest before 2019 and for the period of 2019-2023 and from 2024 onwards.

4 Break down which percentage of funding is allocated to which measures including habitat management.
5 Inquiry as to if municipal forests are subject to the same mandatory capercaillie-friendly forest management practices as state forests.
6 Report on whether or not and to what extent the nationwide "Natural Climate Protection" funding program is being used to improve Capercaillie habitat in the Black Forest.
7 Inquiry to which extent measures to reduce nutrients and excessive growth of blueberry – (both benefitting Capercaillie) are implemented in state forests, e. g. whole-tree harvesting, forest grazing, stray use, etc., as had been listed in the Capercaillie Action Plan 2008-2018 already, plus tolerating natural red deer populations that maintain Capercaillie habitat through natural grazing.
8 Inquiry into the effectiveness of previous compensatory measures for wind power plants that have been built. We believe that compensation of Capercaillie habitat lost due to wind energy facilities can only be achieved through proven re-population of new habitat created by sustainable Capercaillie-friendly forest management and the re-population must be proven to have taken place before the respective wind energy plants are being built.

Yours sincerely

Dietrich Weller