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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

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New complaint: 2022/03

Wolf Culling Policy in Norway

- *REPORT BY THE GOVERNMENT* -

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



ROYAL NORWEGIAN MINISTRY OF
CLIMATE AND ENVIRONMENT

Your ref

Our ref
22/880-3

Date
27 July 2022

Government report - Complaint No. 2022/03 Wolf Culling Policy in Norway

We refer to your letters dated 2nd March and 9th May, where you ask for the position of Norwegian authorities on Complaint No. 2022/03. The complainants allege that wolf management in Norway violates the Bern Convention Articles 1(2), 2, 3(3), 4, 6, 8, 9 and 11(2a). In this letter we give a description of main elements of the management and comment on main arguments in the complaints. The page limit only allows for a limited account. We will provide more information or elaborate our statements if this is needed.

1. Main elements of the wolf management in Norway ¹

The legal basis for the management of wolves in Norway is the Bern Convention and the Norwegian Nature Diversity Act². The Nature Diversity Act implements the obligations of the Bern Convention into Norwegian law. Within the boundaries of the Act and the Convention, the Norwegian Parliament has decided basic elements of the wolf management policy. There are two underlying objectives. One is to ensure the survival of the wolf in Norwegian nature and contribute to a viable wolf population in Southern Scandinavia. The other is to maintain grazing of livestock and semi-domesticated reindeer, as well as other interests of importance in the Norwegian society. To achieve these objectives, the Parliament has decided that compromises in terms of the number and extensiveness of the population are necessary. Two elements decided by the Parliament are important to this end. One is a zonebased management. In an area which covers around 5 percent of the Norwegian mainland, wolves are prioritised and grazing of livestock and other relevant interests must adjust to a presence of wolves. The other element is a population target of a total of 4-6 breeding pairs with pups, of which 3 solely in Norway. This includes reproduction in packs where the wolves live across the border between Norway and Sweden, which are counted with a factor of 0,5. The reproduction of wolves in Norway is restricted to the wolf zone. Within the boundaries of the Act and the Convention, the political objective is to manage the population as close to the population target as possible.

2. The position of Norwegian authorities to arguments in the complaints

2.1 General remarks

By signing the Bern Convention, Norway has committed to ensuring the survival of wolves in the Norwegian nature. The wolf population in Scandinavia is cross-boundary, living on both sides of the border between Norway and Sweden. Norway has committed to take responsibility for a part of this population. The fact that the Norwegian part of the population is classified as critically endangered³ means that particular emphasis must be given to the conservation of this species in Norway. Articles such as 3, 4, 6, 8, 9 and 11 of the Convention set out obligations that shall contribute to the fulfilment of the obligation to secure the survival of the wolf. Within the wording of the Convention and its objective and purpose, parties have a margin of appreciation to decide how the obligations shall be met.

2.2 Ensuring survival of the wolf in Norwegian nature

According to Article 2, Norway is obliged to take requisite measures to maintain a wolf population or adapt it to a level «which corresponds in particular to ecological, scientific and cultural requirements, while taking

¹ The main elements described in this chapter applies to all species of large carnivores in mainland Norway.

² English translation of the Act from 2009: [Nature Diversity Act - regjeringen.no](https://www.regjeringen.no) (translation of the 2009 version).

³ The Norwegian Red List 2021, Norwegian Biodiversity Information Centre.

account of economic and recreational requirements and the needs of sub-species, varieties or forms at risk locally». Rather than laying down a specific level, Article 2 leaves a margin of appreciation for parties to decide what level the population shall be maintained at, within the framework of the wording of the Article interpreted in light of the objective and purpose of the Convention. It is clear from the wording that other requirements may be taken into account in this consideration, including cultural and economic requirements, such as livestock grazing and reindeer herding. Managing Norway's part of the Norwegian-Swedish wolf population around the level of the population target, is a compromise to achieve the objectives of both maintaining a wolf population and safeguarding other important interests in the society. Our view is that this management is in accordance with the obligation to maintain a wolf population in Norway, and that Norway is taking responsibility for a part of the Norwegian-Swedish population in accordance with the Convention. This has also been established by the Norwegian Supreme Court, which has found that Norway's commitment under Article 2 is met when the Norwegian part of the population is managed at the level of the population target⁴. We want to underscore that the classification of the Norwegian wolf population as critically endangered only refers to the Norwegian part of the population. The classification does not describe the conservation status of the Norwegian-Swedish population⁵.

The delimitation of the wolf zone is, as the population target, a necessary compromise. The zone is primarily delimited to avoid overlapping with areas with extensive livestock grazing and herding of semi-domesticated reindeer. There is extensive herding of reindeer by the Sami people in northern Norway and in some areas in the south. Norway is obliged to safeguard the traditional practices of the Sami people. The wolf zone does not overlap with areas used for reindeer herding as one of several measures that shall ensure this obligation is fulfilled. The area that makes up the wolf zone does, however, cover large areas of habitat appropriate for wolves, where husbandry practices have been adjusted to the presence of wolves, and it borders to Sweden to ensure connection with the Swedish part of the population. Our view is that the zone-based management, with the designation of the wolf zone where wolves shall be prioritised and vice-versa, is in accordance with the Convention.

2.3 The legal basis for culling of wolves in Norway

In accordance with Article 6 litra a of the Convention, wolves are not subject to regular hunting in Norway due to the species being listed in Appendix II. Wolves may, however, be culled subject to the criteria in Article 18 of the Nature Diversity Act. Article 18 implements the derogation criteria of Article 9 (1) of the Convention⁶.

The first paragraph of Article 18 states that removal of wildlife may be permitted to safeguard a set of alternative objectives. For removal of wolves, the relevant alternatives are: (b) «to prevent damage to crops, livestock, domesticated reindeer, forest, fish, water or other property» or (c) «to safeguard general health and safety interests or other public interests of substantial importance». It follows from Article 18 that, when litra c is considered for removal of large carnivores, it shall be taken into consideration whether the population target for the specie is met. Decisions under the first paragraph may only be made if «the removal does not jeopardise the survival of the stock and the purpose cannot be achieved in any other satisfactory manner». Whether the criteria in Article 18 are met, must be considered in each individual case. Consequently, decisions to remove wolves undergo thorough consideration in accordance with these strict criteria, in line with Article 9 of the Convention.

The requirement of Article 9 (1) second indent, that the damage must be «serious», is implemented through the application of the criterion in Norwegian law. Article 18 litra b of the Act is presupposed to be implementing this criterion of the Convention, and the Supreme Court has confirmed that the damage must

⁴ Decision 26th March 2021 (HR-2021-662-A), section 71. The Court concluded that three decisions from the Ministry to cull wolves outside the wolf zone was lawful. Norway's obligations under the Bern Convention were thoroughly considered during these proceedings

⁵ In 2015, a report commissioned by the Swedish Environment Agency concluded that the Swedish part of the population should be at 300 individuals to meet the criteria of the EU Habitats Directive of a «favourable conservation status», given that Norway keeps a population of 40 wolves and that there is sufficient immigration from the Finnish-Russian population. The view of the expert group was that this is well above a minimum level for a viable population. This winter the Norwegian-Swedish population was estimated to a total of 540 wolves, of which 460 lives in Sweden (included half of the wolves living in packs across the border between Norway and Sweden) and the rest in Norway (included half of the wolves living in packs across the border between Norway and Sweden).

⁶ An exception is that the last indent of Article 9 first paragraph is not included in Article 18 of the Act.

fulfil certain minimum requirements in terms of scope and seriousness⁷. In practice, the requirement is also integrated in the zone-based management, where different policy regarding implementation of preventive measures entails that damage will often be serious outside the wolf zone, and vice versa.

2.4 On other specific measures in Norway's wolf management

The Norwegian-Swedish population was established by a small number of individuals, leading to a high level of inbreeding. Wolf management is marked by a high level of conflict in Norway, and directly introducing wolves from other populations is not considered to be an acceptable alternative to improve the genetic situation. Improving the genetic variation is nevertheless a top priority, and great emphasis is put on protecting genetically important individuals. Guidelines adopted by Norwegian and Swedish authorities states that killing of genetically important individuals shall be avoided as far as possible. In 2019 a wolf from the Finnish-Russian population wandered into Norway, and great emphasis has been put on protecting this individual. Measures implemented include relocating the individual into the wolf zone, where the individual has now established and produced a litter⁸.

A lot of resources are put into wolf management in Norway, to ensure protection of the species. These go amongst others to grants aimed at preventing damage from wolves on livestock, compensation schemes for damage and grants for adjustments in husbandry practices. Another important element is a comprehensive monitoring programme, providing knowledge about the size, condition, and extensiveness of the population. Resources are also spent to provide the public with information on the need to conserve large carnivores. Examples are establishment of visitor centres, providing information to the public and schools on this topic⁹. Other examples are the grant scheme for measures aiming at reducing conflict related to large carnivores¹⁰, and funding of research on the conservation of large carnivores.

2.5 Culling of wolves in Norway in 2021-2022

Regional boards for management of large carnivores or the Ministry of Climate and Environment decided quotas for culling of wolves in Norway in 2021-2022¹¹. A quota of 26 wolves was set for areas outside the wolf zone, while a quota of four wolf packs was set for the wolf zone¹². Our position is that these decisions are in compliance with the Convention.

2.5.1 The culling was not detrimental to the survival of the population

The Environment Agency assessed the total quota for culling of wolves in Norway in 2021- 2022¹³ to establish the consequences for the population¹⁴. Whether the culling would jeopardise the survival of the population was considered for the Norwegian-Swedish population, as the criterion must be understood as referring to the biological population. We refer amongst others to Revised Resolution No. 2 (1993) which states that «[i]n case of a transboundary population, its entire habitat and subpopulations should be considered when issuing an authorisation». Cumulative effects of other derogations and impacts were considered. The Agency concluded that the quotas did not jeopardise the survival of the population on some conditions¹⁵. The Ministry took these conditions into account and integrated measures in the final decision to prevent killing of wolves known to be genetically important and wolves not belonging to the relevant packs. Based on this, the Ministry concluded that the criterion corresponding to Article 9 (1) of the Convention was met.

2.5.2 The culling was decided to achieve lawful objectives that could not be achieved in any other

⁷ Decision 26th March 2021 (HR-2021-662-A), section 82.

⁸ Article from Rovdata (Rovdata.no) 26th October 2021. Rovdata is responsible for operating, communicating and developing the Norwegian Large Carnivore Monitoring Program.

⁹ <https://rovdysenter.no/?lang=en>

¹⁰ Regulation on grants for measures to prevent damage from large carnivores and measures to reduce conflict: <https://lovdata.no/dokument/SF/forskrift/2013-01-01-3> (only in Norwegian)

¹¹ The Ministry considers complaints on decisions made by the regional boards.

¹² Two of the packs lived solely in Norway, while two lived in both sides of the border.

¹³ Assessment dated 22nd November 2021.

¹⁴ In addition to considering the criterion that the culling must not jeopardise the survival of the population, the authorities also assess the consequences for the Norwegian population target. The Ministry amended the decision to permit culling in the wolf zone to ensure that the target can be met.

¹⁵ Conditions: a sufficient number of immigrants from the Finnish-Russian population establish in the Norwegian Swedish population, individuals from other packs are not killed as part of the culling and the level of illegal hunting is at the same level as previous years.

satisfactory manner

Outside the wolf zone, livestock grazing is prioritised, and the zone-based management limits the extent to which preventive measures shall be implemented. Based on experience with damage and the possibility for future damage, the extensiveness of grazing and the wandering potential of stray wolves taken into account, the criterion corresponding to Article 9 (1) second indent of the Convention was found to be fulfilled for stray wolves outside the wolf zone. The objective of preventing damage on livestock and semi-domestic reindeer could not be achieved in any other satisfactory manner than by permitting culling, cf. the criterion corresponding to Article 9 (1).

Culling of a pair of wolves that had established outside the wolf zone was permitted, pursuant to the criterion corresponding to Article 9 (1) third indent. It follows from the zonebased management that there shall not be breeding of wolves outside the wolf zone, and culling was permitted to maintain a predictable zone-based management, reduce conflicts, and maintain public trust that the management is in accordance with policy decided by the Parliament. The Ministry's assessment was that this constitutes «overriding public interests» in accordance with the criterion corresponding to Article 9 (1) third indent, and that this objective could not be achieved in any other satisfactory manner than permitting culling, cf. the criterion corresponding to Article 9 (1).

In the wolf zone, wolves are prioritised, and livestock industry must adjust to the presence of wolves. The Ministry's assessment was that the potential for damage to livestock in the wolf zone was not sufficient to fulfil this criterion. The Ministry's assessment was, however, that there is and has been for some time, a high level of conflict related to wolves in Norway. A considerable part of the conflict is caused by the fact that the population has exceeded the population target. A quota for culling, that would regulate the population towards the population target, was permitted to reduce conflict, safeguard public trust that the management is in accordance with policy decided by Parliament and safeguard interests of regional policy. The Ministry's assessment was that this constitutes «overriding public interests» in accordance with the criterion corresponding to Article 9 (1) third indent. The assessment was closely linked to instructions from the Parliament regarding the understanding of Article 18 first paragraph litra c of the Act.

Revised Resolution no. 2 (1993) states that «The purpose of the exception indicated in the third indent of paragraph 1 of Article 9 raises a very difficult problem [...] it is extremely difficult, if not impossible, to find a general, prior interpretation for such concepts». The discretionary character of this criterion gives parties a room to decide what circumstances may be «overriding public interests», within the wording of the requirement. There will often be conflicting interests related to management of large carnivores, and the management must balance these. The balancing of interests done, and compromises decided, by the Parliament, expressed through the wolf zone and the population target, gives important guidance for this balancing act in Norway. We cannot see that Article 9 (1) fifth indent is necessary for the quota to be in accordance with the Convention.

A central part of the consideration behind culling in the wolf zone was conflict related to the wolf population exceeding the population target. The Ministry's assessment was that the purpose of reducing conflict etc. could not be achieved in any other satisfactory manner than permitting culling, cf. the criterion corresponding to Article 9 (1).

2.5.3 Culling by the Norwegian Environment Agency after 15th February

In the wolf zone there will be reproduction of wolves. While there may be culling of wolves outside the wolf zone from 1st December until 31st May, there may only be culling in the zone from 1st January until 15th February, due to the breeding season. This winter, court Page 6 proceedings regarding the culling in the wolf zone began in December and ended 11th February. To achieve the objective behind the culling, the Environment Agency was given the task to cull wolves remaining on the quota from 16 st February until 1 th March. The culling was decided in accordance with the criteria of the Convention, and the task was given to the Agency to ensure that culling was carried out as controlled and quickly as possible. To this end, the Agency used a helicopter¹⁶. Achieving the objective behind the culling could not be secured in any other satisfactory manner than by allowing this measure. The culling did not jeopardise the survival of the population, and this apply accordingly to the use of this measure. We cannot see that the operation

¹⁶ Localising, stalking or shooting wildlife using an aircraft is as a main rule prohibited, cf. the Wildlife Act Art. 21.

violated Article 6 (1) litra c.

3. Biennial reporting pursuant to Article 9

We refer to the error that has been discovered in the report from Norway on exceptions made under Article 9 in the Bern Convention in the years 2017/18, and separate correspondence regarding this issue. Culling of wolves pursuant to the criterion corresponding to Article 9 third indent has been permitted by Norwegian authorities since 2017. We regret that this has not been reported, and the error is now being corrected.

4. Concluding remarks

Through the management system that is briefly described in this letter, Norway is maintaining a wolf population in Norwegian nature, taking responsibility for a part of the Norwegian-Swedish wolf population, and ensuring protection of the wolf, in accordance with the Convention. The wolf zone and the population target balance the obligation to ensure the protection of the wolf with the concern for other important interests in our society. The quotas for culling in 2021-2022 were based on thorough considerations, pursuant to the strict criteria of the Nature Diversity Act and the Convention. Yours sincerely Tiril Sandbekk Acting Deputy Director General Morten Gluva Senior Adviser This document is signed electronically and has therefore no handwritten signature Copy Miljødirektoratet Secretariat of the Bern Convention

Yours sincerely,

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