



STICHTING HET NATIONALE PARK
DE HOGE VELUWE

European Commission
For the attention of: Mr Humberto Delgado Rosa
Director of Directorate D (Natural Capital),
DG Environment
Avenue d'Auderghem 19 / Oudergemselaan 19 1040, Bruxelles / Brussel
BELGIQUE / BELGIË

datum:	ONS kenmerk:	ONDERWERP:
31 juli 2023	178662	urgent assistance required to address dilemma of conservation Natura 2000 habitats and species in light of presence of the wolf in the Netherlands

Dear Mr Delgado Rosa,

We, Dutch independent foundation *Stichting Het Nationale Park De Hoge Veluwe* (the 'Foundation'), are reaching out to the European Commission with an urgent request for assistance in addressing the dilemma of the required conservation of Natura 2000 habitats and species and the negative impact the presence of the wolf in the Netherlands has on this conservation objective.

The Foundation is the private owner and manager of the Hoge Veluwe National Park (the 'Park') in the province of Gelderland near the cities of Ede, Wageningen, Arnhem and Apeldoorn, the Netherlands. The Park comprises 5,400 hectares of conserved woodland, heathland, drift sands and peat bogs and is fenced off. The Park's different landscapes are home to a wide and unique diversity of plant and animal species.

The Foundation strives for an integral ecosystem approach and integral protection of nature. In this regard, the core focus of the Foundation is on the long term and managing the Park not for itself, but for future generations. In doing so, the Foundation aims to establish a fair balance between protection of habitats, protection of species and a balanced population management. As a result of consistent management and the maintenance of said integral approach to ecosystems and the protection of nature, the Foundation has successfully realised a high biodiversity in the Park. This is evidenced by the fact that more than 50 per cent of the Park's surface area is or has the potential to

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become a Natura 2000 protected natural habitat. Late 2021, however, the Foundation was confronted with the introduction of wolves into the Park, causing rapidly decreasing numbers of wildlife and deterioration of Natura 2000 protected natural habitats.

In this letter, we set out the dilemma we encounter, with an urgent request for your assistance. Currently, the Dutch authorities are hesitant to act, while the implications of the introduction of wolves are large and, in some cases, irreversible. Action and guidance at EU level is therefore both appropriate and required.

Could you please confirm the receipt of our letter? We would very much appreciate having a discussion with you or your staff on our request as soon as possible.

SUMMARY DILEMMA AND POSSIBLE SOLUTIONS

The wolf (*canus lupis*) is a strictly protected species under the Habitats Directive. As a result of this strict protection, the wolf has been making a spectacular comeback in Europe. The wolf requires a very large territory that frequently crosses the borders between two or more Member States and wolves are at the top of the food chain. The wolf has now returned to areas that are densely populated and to Member States that cannot offer sufficient space to the wolf, given their size and the density of their population, to reach a favourable conservation status for the wolf within their territories. The presence of the wolf in those Member States puts significant pressure on other protected interests, including, in particular, conservation of Natura 2000 areas, nature management, property and public health and safety.

In the Netherlands, the presence of the wolf negatively affects other protected species and protected natural habitats. Member States are required under the Habitats Directive (articles 6(1) and (2)) to take appropriate conservation measures to (i) maintain and restore the habitats and species for which Natura 2000 sites have been designated to a favourable conservation status and (ii) avoid damaging activities that could significantly disturb these species or deteriorate the habitats of the protected species or habitat types.

However, where wolves endanger natural habitats or other protected species, the Habitats Directive in its current form only offers the option of a derogation for specific actions. The wolf and any negative impact on the wolf are central to the assessment whether a derogation may be granted and the odds are stacked against the affected natural habitats and other protected species.

Balancing the interests of the wolf, the protected habitats and other protected species requires careful management, including population management of the wolf and the other protected species. Given the large, cross-border territories of wolves and the fact that many Member States cannot offer sufficient space to the wolf, given their size and the



density of their population, to independently reach a favourable conservation status for the wolf, individual Member States and local authorities within Member States are unclear on their obligations and options and therefore hesitant to act. Meanwhile, however, the arrival of the wolf comes at the expense of biodiversity, thereby also compromising conservation objectives. Action at EU level is therefore both appropriate and required.

THE DILEMMA AND POSSIBLE SOLUTIONS FURTHER EXPLAINED

1. Protection of the wolf highly successful: numbers increased dramatically

After a low point in the 1950-60s, when the wolf had disappeared from Western and Northern Europe, populations have been growing steadily in recent decades and the species has returned to areas where it had disappeared. A Central European (sub)population with origins in North-Eastern Poland has been steadily expanding westwards and wolves from this population have recently settled in Germany, Denmark, the Netherlands and Belgium. The Central European (sub)population is connected with the Baltic (sub)population.¹ In Germany, the population grew from one pack to 67 packs between 2000 and 2015 with a growth rate of 36% per year. In May 2022, the number of packs in the Benelux and Germany amounted to approximately 164.² Most of the wolves that show up in the Netherlands are born in the Central European population, especially in Germany.³ Also wolves from the Alpine (sub)population have shown up in the Netherlands.⁴ The Central European population in Germany is still growing and more wolves are expected to migrate to the Netherlands because of this.

2. The problem: negative side effects of the wolf's success story

With the recent return of this large carnivore to densely populated areas which also have high numbers of livestock, new problems and challenges arise with regard to spatial pressure and nature conservation. The legal regime under the Habitats Directive is not well equipped to address this new reality. Other protected interests, such as conservation of Natura 2000 areas, nature management, property and public health and safety are under pressure.

Example of impact wolf on the Park

The Park is part of Dutch Natura 2000 site Veluwe. Although the park covers "only" 5% of the entire Veluwe, its relative importance for the conservation of protected Natura 2000 habitat types is high. The Park plays an important role in working towards achieving the

¹ Gula et al. (2009) and Tack et al (2019)

² [Verspreiding wolf in de Benelux \(bij12.nl\)](https://www.bij12.nl/verspreiding-wolf-in-de-benelux).

³ Jansman et al. (2021).

⁴ Jansman et al. (2021).



conservation objectives set for Natura 2000 site, in particular in relation to protected habitat types such as *Nardus* grasslands (H6230, priority habitat, 58% located in the Park) inland dunes (H2330, 38% located in the Park) and dry sand heaths (H2310, 15% located in the Park). These habitat types are open areas that, in the absence of active management, are vulnerable to overgrowth and would disappear over time. The current nitrogen crisis in the Netherlands is speeding up the overgrowth process. In addition, many protected species, including in particular protected birds⁵ and species, live in the Park. Grazing is an essential tool to manage the natural habitats and to ensure that these habitats remain open. The most effective grazer present in the park is the mouflon. The Park has been home to mouflons since 1921 and prior to the introduction of wolves into the Park, approximately 340 mouflons lived in the Park. The mouflon is an excellent grazer of heather and densely grown shifting sands. Unlike other grazers, mouflons eat young Scots pines, which makes them essential to the preservation and management of the open landscapes. If the mouflon population at the Park were to disappear, overgrowth of these open areas with grass and trees would grow rampant and would lead to disappearance of the open protected habitat types. Two wolves managed to gain access to the Park in the course of 2021. In 2022 pups were born to the two wolves. The wolf is not selective in its prey, but attacks numerous animals with deadly results (without eating all of them). The mouflon population is not spared in this regard, with the result that only 30 mouflons are still living in the Park. For their protection, the remaining mouflons have been fenced in. As such, they are unable to graze the protected habitats, which are deteriorating rapidly as a result. If no action is taken little will remain of these unique landscapes and protected species that depend on those habitats will disappear from the Park.

3. The current protection of the wolf under the Habitats Directive

The wolf is a strictly protected species under the Habitats Directive. This strictly protected status follows from the fact that the wolf is listed in Annex IV(a) of the Habitats Directive. Several specific wolf populations have been exempted from this strict protection.⁶ In respect of species included in Annex(IV)(a), Member States have to establish a system of strict protection for those species in their natural range, both within and beyond Natura 2000 sites, prohibiting *inter alia* all forms of deliberate capture or killing of specimens of these species in the wild (art 12(1) of the Habitats Directive).

4. Habitats Directive offers option of derogation from strict protection for specific actions

⁵ Such as species that fall in scope of the Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds.

⁶ Exempted populations are the Greek populations north of the 39th parallel; Estonian populations, Spanish populations north of the Duero; Bulgarian, Latvian, Lithuanian, Polish, Slovak populations and Finnish populations within the reindeer management area as defined in paragraph 2 of the Finnish Act No 848/90 of 14 September 1990 on reindeer management).



The fact that the wolf is a strictly protected species, does not mean that individual specimens of the wolf have to be protected in all circumstances and at all costs. Article 16 of the Habitats Directive provides for the possibility of derogation, allowing specific actions that may affect strictly protected species. A derogation can only be granted if it is justified in relation to the overall objective of the Habitats Directive and three specific, cumulative conditions are met:

- 1) demonstration of one or more of the interests listed in Article 16(1) of the Habitats Directive (f.e. protecting wild fauna and flora and conserving natural habitats and preventing serious damage to property); and
- 2) absence of a satisfactory alternative; and
- 3) assurance that a derogation is not detrimental to the maintenance of populations at a favourable conservation status.

In her letter of 25 November 2022 to the European Commission, Commission president Ursula von der Leyen emphasized that derogation in relation to the wolf is possible: *"In other words, the existing rules on derogation make it possible to balance different interests against the conservation aims of the Directive. The Directive thus authorises Member States to take action to derogate to its provision in order to address the specific challenges they are currently facing in relation to the wolf population. In this context, Member States have at their disposal the appropriate means to address local conflict and circumstances, in line with the principle of subsidiarity. The Commission is kept informed of such measures but will not stand in the way of Member States making use of the various derogation possibilities offered to them under the terms and conditions of the Directive."*⁷

It follows from case law that the burden of proof lies with the competent authorities of a Member State to demonstrate that a derogation meets all three conditions.⁸ In practice, this means that a party that wishes to prevent further damage to natural habitats, protected species, property or livestock, will have to provide the authorities with all the required expert reports and information to enable this assessment, which presents a challenge. In addition, the wolf and any negative impact on the wolf are central to the assessment whether a derogation may be granted and the odds are stacked against the affected natural habitats and other protected species or protected interests.

National or local competent authorities are tasked with assessing the conservation status of the wolf, where this, in many cases, cannot adequately be assessed at Member State level (in light of the wolf's large, cross-border territory). Von der Leyen's encouragement

⁷ Annex 1.

⁸ Judgment of 14 June 2007, *Commission v Finland*, Case C-342/05, ECLI:EU:C:2007:341, paragraph 25: 'Since Article 16(1) provides exceptional arrangements which must be interpreted strictly and must impose on the authority taking the decision the burden of proving that the necessary conditions are present for each derogation, the Member States are required to ensure that all action affecting the protected species is authorised only on the basis of decisions containing a clear and sufficient statement of reasons which refers to the reasons, conditions and requirements laid down in Article 16(1) of the Habitats Directive.'



notwithstanding, competent authorities are hesitant to enable population management in the absence of voluntary agreement with other Member States on international wolf management.

5. Member States are required to take appropriate measures to protect Natura 2000

Member States are required under the Habitats Directive (article 6(1) and (2)) to take appropriate conservation measures to (i) maintain and restore the habitats and species for which a Natura 2000 site has been designated to a favourable conservation status and (ii) avoid damaging activities that could significantly disturb these species or deteriorate the habitats of the protected species or habitat types.

In relation to Natura 2000 site Veluwe, this means, for example, that the Netherlands has to ensure that the quality and area of the protected habitats present at the Veluwe will not deteriorate. As indicated above, these protected habitats are already vulnerable to overgrowth. The wolf, which itself is doing increasingly well, poses an additional threat to these protected habitats. However, the Dutch authorities remain hesitant to act. So far, the focus lies on the status of the wolf as a strictly protected species. With this, however, the overarching goal of integrated nature protection is lost sight of. In the view of the Foundation, a shift in focus is required, notably from a focus on the protection of individual species (sectoral approach) to a focus on the protection of habitats (an integral approach to the protection of nature and species as one).

URGENT REQUEST FOR ASSISTANCE

The presence of the wolf in densely populated Member States puts significant pressure on other protected interests, including, in particular, conservation of Natura 2000 areas, nature management, property and public health and safety, but the Dutch authorities are hesitant to act. Action and guidance at EU level is therefore both appropriate and required.

Due to the presence of the wolf in the Netherlands, and in the Park in particular, the Foundation is rapidly losing the carefully created and maintained ecosystem in the Park. This has a negative effect on the quality and quantity of the protected Natura 2000 habitats and species in the Park and provides a significant challenge to obtaining the Natura 2000 conservation objectives.

National, provincial and local authorities in the Netherlands have not been able to adequately address this challenge. We therefore urgently request assistance from the European Commission in addressing the dilemma of the required conservation of Natura 2000 habitats and species and the negative impact the presence of the wolf in the



Netherlands has on this conservation objective.

We look forward to hearing from you and would very much appreciate having a discussion with you or your staff on our request as soon as possible.

Yours sincerely,

Sege van Voorst tot Voorst
Managing Director