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Judgment of the Court in Case C-436/22 | ASCEL

The wolf cannot be designated as a huntable species at regional level when its conservation status at national level is unfavourable

That is true even in cases where the wolf does not enjoy strict protection in the region concerned in accordance with the Habitats Directive, since species management measures, such as hunting, must in any event be designed to maintain or restore species at a favourable conservation status

The Habitats Directive¹ was adopted with the aim of achieving an essential objective of general interest pursued by the European Union: the preservation, protection and improvement of the quality of the environment, contributing to ensuring biodiversity through the conservation of natural habitats and of wild fauna and flora.

In Spain, in accordance with that directive, Iberian wolf populations are subject to separate protection regimes: the populations situated south of the Douro River enjoy strict protection. Those situated north of that river are, for their part, classified as an animal species of Community interest that may be subject to management measures.

Under a regional Law, the wolf was designated as a huntable species north of the Douro River in the Autonomous Community of Castile and Leon (Spain). In 2019, the regional government approved a plan for the local exploitation of wolves in the hunting grounds situated north of the Douro River for the 2019/2020, 2020/2021 and 2021/2022 seasons. That plan allowed a total of 339 wolves to be hunted²³. The Association for the Conservation and Study of the Iberian Wolf (ASCEL) brought an action against that plan before the High Court of Justice, Castile and Leon⁴.

That Spanish court has doubts as to the compatibility of the regional Law in the light of the Habitats Directive and refers questions to the Court of Justice in that regard. According to a report for the period 2013-2018, sent by Spain to the Commission in 2019, the wolf had an 'unfavourable-poor' conservation status in the three regions it occupied in the national territory (Mediterranean, Atlantic and Alpine), the first two of those regions including Castile and Leon.

The Court answers that **the regional Law is contrary to the Habitats Directive.**

Indeed, **the wolf cannot be designated as a huntable species in a part of the territory of a Member State when its conservation status at national level is unfavourable.**

The fact that an animal species may be subject to **management measures does not mean that its conservation status is favourable.**

The purpose of those measures must be to maintain or restore the species concerned at a favourable conservation status. Thus, where those measures include hunting rules, they are intended to restrict hunting, not to extend it. If it proves necessary, hunting may, therefore, even be prohibited.

Furthermore, a decision authorising the hunting of a species must be justified and based on surveillance data concerning the conservation status of that species⁵⁶. Moreover, that surveillance must be undertaken with

particular care where that species is generally regarded as a species of Community interest. However, when drawing up the contested plan, the Autonomous Community of Castile and Leon did not take account of the 2019 report, according to which the conservation status of the wolf in Spain was unfavourable.

In any event, **assessments of the conservation status of a species and of the appropriateness of adopting management measures** must be carried out taking into account the **report** drawn up by the Member States every six years under the Habitats Directive and the **most recent scientific data** obtained through the surveillance carried out by them. Those assessments must be made not only at **local level**, but also at the level of the **biogeographical region**, and even at **cross-border level**⁷. Where an animal species has **an unfavourable conservation status**, the competent authorities must take **measures in order to improve the conservation status of the species concerned** in such a way that, in future, its populations are **sustainably maintained at a favourable status**. In that context, protective measures, such as the restriction or prohibition of hunting, may be considered necessary where **uncertainty remains as to the risks** that exist for the maintenance of a species at a favourable conservation status (precautionary principle).

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the validity of an EU act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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¹ [Council Directive 92/43/EEC](#) of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.

² That plan is based on a regional census of wolves dating back to the years 2012 and 2013, within the framework of a national census carried out between 2012 and 2014, as well as on annual monitoring reports, which involve less effort in terms of observation and surveillance than that expended in the preparation of a census. Using the data available and applying a number of factors, the plan estimates the number of wolves present north of the Douro River in Castile and Leon prior to hunting to be 1 051 specimens. The national census reported a total of 297 packs in Spain, of which 179 would fall under the Castile and Leon census, that is to say 60.3% of the total recorded at national level. The plan concludes that an annual mortality rate in excess of 35% would lead to a decline in the population of that species.

³ Since September 2021, all Spanish wolf populations are subject to a strict protection regime. However, measures for the taking and capture of specimens, which were adopted at regional level before that date, continued to apply, provided that they complied with certain conditions and limitations. In a [judgment of 13 July 2022](#), the Spanish Constitutional Court declared unconstitutional the relevant provisions relating to the hunting of wolves, contained in the Law of Castile and Leon.

⁴ ASCEL also seeks compensation for the damage caused to the wild fauna, equivalent to the economic value of each specimen killed during the 2019/2020, 2020/2021 and 2021/2022 hunting seasons, that is to say, a sum of €9 261 per wolf. According to the regional Law, the value of each wolf hunted is € 6 000.

⁵ The Habitats Directive requires Member States to undertake surveillance of the conservation status of species and natural habitats, with particular regard to priority natural habitat types and priority species. That surveillance is essential in order to determine the need to adopt management measures for ensuring the maintenance of species at a favourable conservation status. This should enable the most recent data to be obtained on the conservation status of the species concerned. That surveillance obligation is supplemented by the obligation to forward to the Commission, every six years, a report on the implementation of that directive. That report must include the main results of the surveillance referred to, as well as, inter alia, an assessment of the conservation status of the various species present in the territory of the Member State concerned.

⁶ See judgment of the Court of Justice of 10 October 2019, *Luonnonsuojeluyhdistys Tapiola*, [C-674/17](#).

⁷ In the case of protected animal species which like the wolf range over wide areas, the natural range is broader than the geographical area that presents the physical or biological factors essential to their life and reproduction (see judgment of the Court of Justice of 11 June 2020, *Alianța pentru combaterea abuzurilor*, [C-88/19](#), as well as [Press Release No 72/20](#)). It must be observed, in that regard, that the Iberian wolf is a strictly protected species in Portugal.