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Op-Ed: “Downgrading of the Status of the Wolf: don’t crack a Nut with a Sledgehammer”

Nicolas de Sadeleer

Having been hunted for centuries, the wolf (*Canis lupus*) disappeared from many parts of Europe during the 19th century. Its scarcity led States within the Council of Europe to grant it strict protection under the [1979 Bern Convention](#) on the Conservation of European Wildlife and Natural Habitats. As the EU and its 27 Member States are parties to this mixed agreement, the species was subsequently granted strict protection in 1992 under the [EU Habitats Directive](#) (HD). Thanks to this international protection, populations of this large carnivore have almost doubled in ten years, rising from 11,000 individuals in 2012 to over 20,300 in 2023. The continued expansion of its range, and the colonisation of new territories, have inevitably led to local difficulties (e.g. attacks on 0.065% of the 60 million sheep in the EU).

Before [it killed one of her ponies](#), the wolf that broke into a paddock on Ms. von der Leyen’s family property in 2023 clearly did not plead the cause of its fellow wolves. Following this attack, the President of the European Commission [peremptorily decreed](#) that wolf packs posed a ‘real danger’ to livestock and, potentially, to humans, even though the species does not consider humans as potential prey.

To make matters worse, frightened by last spring’s agricultural opposition to agri-environmental measures ([Regulation \(EU\) 2024/1468](#) of 14 May 2024 amending various CAP Regulations) and the European Nature Restoration Act ([Regulation \(EU\) 2024/1991](#) of 24 June 2024 on nature restoration), on 4 December 2024 the European Commission, with the backing of the Council of Ministers, submitted a proposal to

the Standing Committee of the 1979 Bern Convention to downgrade the status of the wolf. In the near future, the wolf is likely to be downgraded from its current status as a ‘strictly protected’ species under the Appendix II to the Bern Convention, which prohibits hunting and other management measures, to one that allows ‘management measures’, which could include more systematic culling. Although Appendix III species are protected, their ‘exploitation’ can be regulated. The amendment to the Bern Convention will enter into force on 7 March 2025, unless a third of the parties object to it.

This amendment should enable the EU lawmakers to modify the relevant annexes of the HD, moving the wolf from Annex IV (strictly protected) to Annex V (protected). As the *HD is subject to the ordinary legislative procedure* (Art. 192(1) TFEU), the Commission will have to propose a legislative amendment to the European Parliament and the Council. In accordance with Article 19(1) HD, a unanimous vote in the Council is required, which sets the bar relatively high.

The modification of the legal status of this emblematic predator raises several difficulties, not least of a legal nature. Firstly, Member States must guarantee ‘wild species of Community interest’ a ‘favourable conservation status’ (FSC), which in short implies the immediate and long-term maintenance of their biogeographical range (Art. 2(2) HD). Secondly, according to the established case law of the Court of Justice, any measure that entails a reduction in the level of environmental protection must be justified in the light of the best available and the most recent scientific evidence ([C-436/22](#), *ASCEL*, para. 65). Despite the increase in wolf populations on a continental scale, the wolf’s conservation status is not favourable in six of the EU’s seven biogeographical regions. More fundamentally, by requesting the abandonment of the strict protection regime, the EU is in essence seeking to use a sledgehammer to crack a nut. Indeed, whether under the 1979 Bern Convention or the 1992 HD, the strict protection status of a wildlife species is not synonymous with absolute protection. In the event that damage is caused by wolves to domestic livestock, national authorities may, by way of derogation, authorise the culling of the wolves responsible for the attacks (Article 16(1)b). However, such derogations are subject to conditions, which have been strictly interpreted by the Court of Justice in 2024 ([C-601/22](#), *WWF Österreich*;

[C-436/22](#), *ASCEL*). Firstly, killing must not be detrimental to the maintenance of the FSC of the local and national populations. Secondly, it can only be ordered 'if there is no other satisfactory alternative' ([C-324/20](#), *Commission v Finland*, para. 28), such as the construction of fences or the presence of sheepdogs, or even shepherds, as long as these measures do not involve disproportionate economic costs. Targeted preventive measures can ensure that wildlife and rural life coexist. Last but not least, any damage caused by a 'big bad wolf' on sheep, who has been 'so bold' as to 'fool his drink' (J. de Lafontaine, *Le loup et l'agneau*), must not be future or hypothetical (Case C-601/22, para. 44).

In addition, the fact that the wolf has been classified as a protected species (Annex V) instead of as a strictly protected species does not mean that unfettered national management practices are allowed. The controlled exploitation of Annex V species is more rigorous than it seems to be given that their 'exploitation' must be compatible with the objective of achieving their FCS (Art. 14(1) HD). In the case of the Iberian wolf, populations of which inhabit the area north of the river Duero and which, unlike wolves found on the territory of other Member States, may be subject to management measures, the Court of Justice has held that authorised hunting on part of Spanish territory (Castilla y León) could not undermine their FCS (C-436/22, para. 58; [Opinion AG Kokott](#), point 71). In addition, management measures entail a continuous 'surveillance' of the protected species (Art. 14(2)). In this connection, the FSC must be assessed on a biogeographical scale that is broader than the region or Member State concerned (C-436/22, para. 65; see also C-601/22, para. 66). Finally, if there is any doubt as to the impacts of hunting practice on the conservation status of the large carnivore, the precautionary principle (Art. 191(2) TFEU) imposes strict management measures pending a more precise assessment of the management measures (C-436/22, para. 72). If the surveillance is not carried out properly, the Member State will not be able to invoke Article 14 HD to authorise the cynegetic exploitation of the wolf.

What will the practical consequences of the forthcoming legislative change be? In Member States where the FCS-status is unfavourable (Belgium, the Netherlands, Denmark, Spain and France) hunting will still be prohibited, save any recourse to strict derogations in cases

involving damage to cattle (Art. 16(1)(b) HD). However, in Sweden, [the government aims to halve the population of the endangered predator](#).

After the EU’s painful birth of an EU nature restoration law, which should prevent Noah’s Ark from becoming stranded, the downgrading of the wolf’s protection status – a symbol of our continent’s rewilding – will set a dangerous precedent. The ‘green’ image that the new European Commission is trying to project to the public risks being tarnished forever. But as we learn from the Jean de Lafontaine’ fable of 1688 *Le Loup et l’Agneau*, ‘the wolf always wins because of its strength’; or quite simply, ‘might is right’. Perhaps some food for thought.

Nicolas de Sadeleer is full Professor of EU institutional and environmental law at UCLouvain, Saint Louis. He is an active commentator on EU legal and political issues in the area of trade and sustainable development.