

## COUNTRY REPORT: THE NETHERLANDS

### Gearing Up for Wolf Comeback

ARIE TROUWBORST\*

#### Introduction

The focus of this country report is on a noteworthy policy development in the field of wildlife conservation in the Netherlands. One of the hottest topics in this field at the moment curiously involves a species that is, as far as we know, not currently present within the country. There really is no species better capable of causing this effect than the one in question: the wolf (*Canis lupus*). Indeed, wolves may well be ‘the most admired, reviled, and controversial carnivores the world over’, with opinions on them tending to vary ‘from outright hatred and opposition, to deep respect and reverence’.<sup>1</sup> A few decades ago any suggestion that wolves might again roam the Dutch countryside would have been laughed away. Today, the animals are actually on the verge of doing so. In advance of the species’ arrival, the competent Dutch authorities have initiated a participatory process which is to culminate in a national *Wolf Plan*. The action is in preparation for when the species really does settle in the Netherlands.

Before focusing on the Netherlands, it is necessary to zoom out and take a look at wolves in the wider European context. This is followed by a description of the Dutch wolf policy process and the legal issues raised by the wolf’s imminent return.

---

\* Associate Professor, Tilburg Law School, Dept. of European and International Public Law; member of Large Carnivore Initiative for Europe (a specialist group of the IUCN Species Survival Commission). Email: a.trouwborst@tilburguniversity.edu.

<sup>1</sup> M Musiani, L Boitani and PC Paquet, ‘Introduction – Newly Recovering Wolf Populations Produce New Trends in Human Attitudes and Policy’ in M Musiani, L Boitani and PC Paquet (eds), *A New Era for Wolves and People: Wolf Recovery, Human Attitudes, and Policy* (University of Calgary Press, Calgary 2009) 1, at 2.

## The European Carnivore Comeback

Wolves, brown bears (*Ursus arctos*) and Eurasian lynx (*Lynx lynx*) previously occupied most of Europe before disappearing from large parts of their ranges, chiefly through human persecution. Some populations persisted, mostly on the continent's eastern, southern and northern fringes. Recent decades have witnessed the stabilization and even increase of many populations that then attempt to reoccupy parts of their former ranges, including in Western Europe.<sup>2</sup> Legal protection is often mentioned as one of the likely factors that enabled this 'carnivore comeback', along with land use changes and increases in forest cover and wild prey populations.<sup>3</sup> Large carnivores have long been associated with wilderness. In Europe, however, populations of bear, wolf and lynx have adapted themselves to a variety of modified landscapes with different levels of human influences. Wolves especially have shown themselves capable of surviving in landscapes strongly dominated by human uses, as long as sufficient food is available and persecution levels are not too high. Presently, the three species occur in a few dozen separately distinguishable populations scattered across Europe, some interconnected and others isolated, some robust and others fragile.<sup>4</sup>

Wolves are making the strongest comeback, and they are doing so by themselves, unaided by any active reintroductions.<sup>5</sup> To illustrate, France and Germany – both wolf-less for many years – now harbor swiftly expanding wolf populations. These follow spontaneous recolonizations in Italy and Poland. The first reproduction in Germany was recorded in 2000, with the country now home to an estimated nineteen breeding packs. The last few years have even yielded reliable records of the first wolves reappearing in Belgium and Denmark.

The considerable ecological benefits of conserving and restoring large carnivores like wolves extend beyond the species themselves. Large carnivores provide a living for

---

<sup>2</sup> JDC Linnell, V Salvatori and L Boitani, Guidelines for Population Level Management Plans for Large Carnivores in Europe (European Commission, Brussels 2008); P Kaczensky *et al*, Status, Management and Distribution of Large Carnivores – Bear, Lynx, Wolf & Wolverine – in Europe, Update 2012 (European Commission, Brussels 2013).

<sup>3</sup> JDC Linnell *et al*, 'Predators and People: Conservation of Large Carnivores is Possible at High Human Densities if Management Policy is Favourable' (2001) 4 *Animal Conservation* 345; L Boitani, 'Wolf Conservation and Recovery' in LD Mech and L Boitani (eds), *Wolves: Behavior, Ecology and Conservation* (Chicago University Press, Chicago 2003) 317; L Boitani and P Ciucci, 'Wolf Management across Europe: Species Conservation without Boundaries' in M Musiani, L Boitani and PC Paquet (eds), *A New Era for Wolves and People: Wolf Recovery, Human Attitudes, and Policy* (University of Calgary Press, Calgary 2009) 15.

<sup>4</sup> Linnell *et al* (n 2 above); Kaczensky *et al* (n 2 above).

<sup>5</sup> *Ibid.* In the recovery of lynx and bear populations in Western Europe, translocations and reintroductions have played a (limited) part.

scavenging species.<sup>6</sup> Their impact on the abundance and behavior of prey species influences plant communities and associated species. Their removal and return alike thus tend to have profound ripple effects through entire ecosystems, influencing biodiversity at large.<sup>7</sup> Well-documented examples concern wolf re-colonization in North America.<sup>8</sup>

From a human perspective, however, returning the missing large carnivore pieces to the European puzzle is a huge societal challenge. 'Conflict between people and large carnivores has been a consistent theme throughout human history'<sup>9</sup> and modern-day Europe is no exception. Human-wolf conflicts spring, *inter alia*, from livestock depredation, human safety concerns and competition with hunters. The reappearance of wolves in areas from which they long ago disappeared can cause 'high animosity, social stress and tense political controversies'.<sup>10</sup>

### Preparing for a Return of Wolves to the Netherlands

With wolf populations in Germany and France continuing to expand, the scene appears set for a natural return of wolves to the Netherlands. In 2011, several probable wolf sightings occurred in the east of the country, albeit the sightings did not deliver indisputable proof. Since early 2013, similarly tentative sightings have occurred in another area bordering on Germany. These probably correspond with a wolf that was camera-trapped 30 kilometers across the border into Germany in April 2013.<sup>11</sup> In the summer of 2013, several possible but again not indisputable wolf scats were detected in the center of the Netherlands. Thus the situation at the time of writing this report is a few unconfirmed indications and a few interested people (including the author of the present report) keeping an eager lookout for

---

<sup>6</sup> For example, DR Stahler, B Heinrich and DW Smith, 'Common Ravens, *Corvus corax*, Preferentially Associate with Gray Wolves, *Canis lupus*, as a Foraging Strategy' (2002) 64 *Animal Behavior* 283; C Wilmers *et al*, 'Trophic Facilitation by Introduced Top Predators: Gray Wolf Subsidies to Scavengers in Yellowstone National Park' (2003) 72 *Journal of Animal Ecology* 909.

<sup>7</sup> BE McLaren and RO Peterson, 'Wolves, Moose and Tree Rings on Isle Royale' (1994) 266 *Science* 1555; J Berger, 'Anthropogenic Extinction of Top Carnivores and Interspecific Animal Behaviour: Implications of the Rapid Decoupling of a Web Involving Wolves, Bears, Moose and Ravens' (1999) 266 *Proceedings of the Royal Society of London B* 2261; JA Estes *et al*, 'Trophic Downgrading of Planet Earth' (2011) 333 *Science* 301.

<sup>8</sup> See, for example, DW Smith, RO Peterson and DB Houston, 'Yellowstone After Wolves' (2003) 53 *Bioscience* 330; M Hebblewhite *et al*, 'Human Activity Mediates a Trophic Cascade Caused by Wolves' (2005) 86 *Ecology* 2135; Ripple *et al*, 'Trophic Cascades among Wolves, Elk and Aspen on Yellowstone National Park's Northern Range' (2013) 102 *Biological Conservation* 227.

<sup>9</sup> AJ Loveridge *et al*, 'People and Wild Felids: Conservation of Cats and Management of Conflicts' in DW Macdonald and AJ Loveridge (eds), *Biology and Conservation of Wild Felids* (Oxford University Press, Oxford 2010) 161, at 195.

<sup>10</sup> Boitani and Ciucci (n. 3 above) at 28.

<sup>11</sup> The images in question can be viewed at <http://www.noz.de/lokales/71490387/junger-wolf-streift-durchs-emsland-videoclip-als-beweis>.

conspicuous scats and paw prints in the Dutch outdoors. As it is, the last fully confirmed wild wolf sighting in the Netherlands still dates from 1869.

The wolf's expected re-colonization fits a modern trend of long lost species returning to the Netherlands after absences of a century or more. The wolf is only a few steps behind the otter (*Lutra lutra*), beaver (*Caster fiber*), white-tailed eagle (*Haliaeetus albicilla*) and common crane (*Grus grus*), all of which have recently re-established themselves in the country as reproducing species.<sup>12</sup>

Few now doubt whether the wolf will return to the Netherlands; the questions are when and to what extent the species will do so. Although the country appears to contain quite a bit of potentially suitable wolf habitat,<sup>13</sup> its dense human population and infrastructure network are likely to pose considerable challenges. Any future attempts to re-colonize the Netherlands may therefore provide further insight into the extent of wolves' adaptive capacity. Significantly, the same may be expected regarding *people's* adaptive capacity.

Under these circumstances, the Dutch authorities have taken various steps to prepare themselves and society at large for the wolf's expected comeback. This has involved a fact-finding study,<sup>14</sup> opinion poll,<sup>15</sup> assessment of experiences in other countries and workshops involving all stakeholders ranging from conservationists to sheep farmers. It has also involved a legal study commissioned to assess the viability of various policy options regarding the management of wolves should they return to the Dutch landscape.<sup>16</sup> The process culminated in a national Wolf Plan that is currently being contemplated for adoption. The Ministry of Economic Affairs, being the current national authority dealing with wildlife conservation in the Netherlands, commissioned the development of a blueprint for the Wolf Plan. The blueprint, entitled *Proposal for a Wolf Plan for the Netherlands*, was finalized in October 2013.<sup>17</sup> The blueprint is the result of a participatory process involving national and

---

<sup>12</sup> As can be expected, this is also part of a broader European trend, with certain mammal and bird species experiencing notable recoveries across the continent. For a recent overview, see S Deinet *et al*, *Wildlife Comeback in Europe: The Recovery of Selected Mammal and Bird Species* (The Zoological Society of London, London 2013).

<sup>13</sup> See, for example, G Lelieveld, 'Wolven Terug in Nederland? Het Verschil tussen Sprookjes en Potentie' (2012) 23 *Zoogdier* 18.

<sup>14</sup> GWTA Groot Bruinderink, HAH Jansman, MH Jacobs and M Harms, *De Komst van de Wolf (Canis lupus) in Nederland: Een 'Factfinding Study'* (Alterra, Wageningen 2012).

<sup>15</sup> Bureau Intomart, *Appreciatie-onderzoek naar de Komst van de Wolf* (Intomart, Hilversum 2012).

<sup>16</sup> A Trouwborst and CJ Bastmeijer, with the cooperation of CW Backes, *Wolvenplan voor Nederland: Naar een Gedegen Juridische Basis* (Tilburg University and Maastricht University, Tilburg/Maastricht 2013).

<sup>17</sup> GWTA Groot Bruinderink and DR Lammertsma, *Voorstel voor een Wolvenplan voor Nederland: Versie 2.0* (Alterra, Wageningen 2013).

provincial governmental bodies, protected area managers, NGOs, livestock farmers' organizations, hunting associations and academics from various disciplines. One NGO initiative, called 'Wolven in Nederland', has been particularly influential in both the *Wolf Plan* process and the societal debate more generally, in the latter respect most notably by informing the public.<sup>18</sup>

The scope of the blueprint is broad. Among other things, it includes guidelines regarding information and communication, monitoring and research and the prevention and compensation of damages to livestock. It also includes a discussion of the applicable legislative framework for wolves, including the species' generic protection through various prohibitions, the designation of protected areas and transboundary cooperation with neighboring states. Nevertheless, the Wolf Plan has not yet been formally adopted by government and it remains to be seen to what degree the blueprint will be transformed into actual policy.

One feature does stand out, namely the proactive manner in which the entire process has been conducted, *in absentia* thus far of the protagonist species itself. In other European jurisdictions, dedicated wolf policies have been developed *after* wolf populations had become established. The Dutch experience so far appears to affirm the intuitive notion that it is easier to reach a level of agreement amongst stakeholders with conflicting views on wolves *before* the animals themselves arrive on the scene. That is, before the first images of sheep (allegedly or actually) killed by wolves appear in the newspapers and the debate heats up.

### **Legal Issues Raised by Wolf Comeback**

The anticipated return of wolves to the Netherlands has given rise to various legal questions, many of which are addressed in the legal study commissioned to assess policy options (mentioned above).<sup>19</sup> Examples of some of the legal questions that arise include:

- What is the legal status of wolves returning to the Netherlands?
- What can be done about wolves preying on livestock?
- Is a zoning policy of 'go and no-go areas' for wolves a viable option?
- At what stage of re-colonization are protected areas to be designated for wolves?

---

<sup>18</sup> See <http://www.wolveninnederland.nl>.

<sup>19</sup> Trouwborst *et al* (n. 16 above).

- What is the position of wolf-dog hybrids and of measures to counter hybridization?
- What role is reserved for transboundary cooperation?

There is only space here to concisely reproduce the report's main findings with respect to some of these issues. On a preliminary note, many of the questions involved are linked to international obligations. For example, the Netherlands is a contracting party to the 1979 *Convention on the Conservation of European Wildlife and Natural Habitats*<sup>20</sup> (*Bern Convention*). As a European Union member state, the Netherlands is also bound by the *EU Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora*<sup>21</sup> (*Habitats Directive*).<sup>22</sup>

The first main finding of the report is that as soon as wolves return to the Netherlands on their own feet, they will qualify as a protected species under the Dutch *Flora and Fauna Act*.<sup>23</sup> The Act in principle accords protection to, *inter alia*, 'all mammal species occurring naturally in the Netherlands'.<sup>24</sup> This status entails that the killing, capturing *et cetera* of wolves would be prohibited, save when authorized under special license. Such prohibitions are required, in any event, by the Bern Convention and the Habitats Directive. Both of these instruments prescribe strict protection for the wolf with a set of prohibitions that may only be derogated from under stringent conditions and on a case-by-case basis.<sup>25</sup> In some countries,

---

<sup>20</sup> *Convention on the Conservation of European Wildlife and Natural Habitats* (adopted 19 September 1979; entered into force 1 November 1983) ETS 104.

<sup>21</sup> Council Directive 92/43/EEC of 21 May 1992 on the Conservation of Natural Habitats and of Wild Fauna and Flora [1979] OJ L206/7.

<sup>22</sup> For further analysis of the *Bern Convention* and the *Habitats Directive* in respect of wolves and other large carnivores, see Linnell *et al* (n 2 above); A Trouwborst, 'Managing the Carnivore Comeback: International and EU Species Protection Law and the Return of Lynx, Wolf and Bear to Western Europe', (2010) 22 *Journal of Environmental Law* 347; J Darpö, 'Brussels Advocates Swedish Grey Wolves: On the Encounter between Species Protection according to Union Law and the Swedish Wolf Policy' (2011)(8) *SIEPS European Policy Analysis* 1; JDC Linnell and L Boitani, 'Building Biological Realism in to Wolf Management Policy: The Development of the Population Approach in Europe' (2012) 23 *Hystrix, the Italian Journal of Mammalogy* 80; Y Epstein and J Darpö, 'The Wild Has No Words: Environmental NGOs Empowered to Speak for Protected Species as Swedish Courts Apply EU and International Environmental Law' (2013) 10 *Journal for European Environmental & Planning Law* 250; Y Epstein, 'Population Based Species Management across Legal Boundaries: The Bern Convention, Habitats Directive, and the Gray Wolf in Scandinavia' (2013) 25 *Georgetown International Environmental Law Review* (forthcoming); A Trouwborst, 'Exploring the Legal Status of Wolf-Dog Hybrids and Other Dubious Animals: International and EU Law and the Wildlife Conservation Problem of Hybridization with Domestic and Alien Species' (2014) 23 *Review of European, Comparative & International Environmental Law* (forthcoming); and A Trouwborst, 'Wilderness Protection under the Bern Convention: The Perspective of Europe's Large Carnivores' in CJ Bastmeijer (ed), *Wilderness Protection in Europe: The Role of International, European and National Law* (Cambridge University Press, Cambridge, forthcoming).

<sup>23</sup> Wet van 25 mei 1998 houdende Regels ter Bescherming van in het Wild Levende Planten- en Diersoorten (Stb. 1998, 402).

<sup>24</sup> *Ibid*, Art 4(1)(a).

<sup>25</sup> The wolf is listed by default in Appendix II of the Convention and in Annex IV of the Directive.

or parts thereof, more flexible regimes apply due to reservations submitted under the Convention and/or exceptions agreed to under the Directive. Not so for the Netherlands, however, given that wolves were not given much thought by the Dutch authorities back in the 1980s and 1990s when such exemptions could have been created.<sup>26</sup> The report does note a potential downside of the wolf's protected status. That is, the limited scope for killing so-called 'problem wolves' – animals repeatedly targeting livestock and/or displaying undesirably bold behavior towards people – except in rare cases where the animal involved is rabid or a wolf-dog hybrid.<sup>27</sup>

The report found that the designation of 'no-go areas' is apparently incompatible with the wolf's strictly protected status under the Bern Convention and the Habitats Directive. A zoning recommendation set out in an early draft of the proposed *Wolf Plan* was accordingly removed. Fourth, there are strong arguments, including legal ones, in favour of conserving and managing wolves at the level of each (sub)population, virtually all of which are shared between two or more countries. Correspondingly, the adoption of transboundary population level management plans by the states involved is highly recommended in connection with the implementation of the Bern Convention and the Habitats Directive.<sup>28</sup> This makes particular sense for a country like the Netherlands. After all, given the country's size and layout, the prospects of a Dutch wolf population that is viable by itself are slim. As pressing as the above issues may appear, for now the discussion is theoretical as there has been no evidence of wolves in the Netherlands.

---

<sup>26</sup> The Netherlands ratified the *Bern Convention* in 1980, and the *Habitats Directive* was adopted in 1992.

<sup>27</sup> On the avoidance and mitigation of wolf-dog hybridization in relation to the *Bern Convention* and *Habitats Directive*, see Trouwborst 2014 (n 22 above).

<sup>28</sup> See in particular Linnell *et al* (n 2 above).