



Bern Convention: Complaint relating to the ecological impacts of culling badgers

Summary

On 16 June 2014, Badger Trust, Care for the Wild and Humane Society International/UK submitted a complaint to the Secretariat of the Bern Convention (Convention on the Conservation of European Wildlife and Natural Habitats), on the basis that:

- The UK government has failed to conduct sufficient risk assessments on the possible impacts of badger culling in England on the wider ecosystem (in particular habitats and species listed in Appendix I and II of the Convention), in breach of Articles 2, 3, 4 and 6;
- The UK government has failed to prohibit the use of indiscriminate means of capture and killing of an Appendix III species (badgers), in breach of Article 8; and
- An alternative 'satisfactory solution' exists which the UK government should utilize to avoid the impacts on both badgers, and other protected species, as specified in Article 9.

The UK has been a signatory to the Bern Convention since 1982, and is committed to upholding its Articles. The co-signatories call on the Bern Convention to fully investigate this complaint in the light of possible infringements, and on the UK government to suspend any further culling of badgers while the complaint is being investigated.

Background

Badger culling zones in Gloucestershire and Somerset and surrounding areas are home to many protected endangered species of birds and mammals, and protected habitats such as heathlands, grasslands, meadows and forests. Removing or displacing large numbers of badgers from nature's delicate balance could be catastrophic for some of these species and habitats.

Research has revealed that large-scale badger removal can lead to significant changes in the density of other predators, including in some cases a doubling of the number of foxes. This in turn can threaten other protected species such as ground nesting birds, both through direct increases in predation, and the impacts on habitats through reductions in prey species such as rabbits.

Scope of complaint:

The complaint focuses on the 'pilot' cull areas in Somerset and Gloucestershire licensed in 2013 and in which culling may continue in 2014, but also concerns the Randomised Badger Control Trials (RBCT) undertaken 1997-2005 in south west England and the West Midlands, and the proposed extension of badger culling over a wider area from 2015.

1. Impacts of predator removal of predators on protected species and habitats: breach of articles 2, 3, 4 & 6

It is widely accepted that removing or reintroducing a dominant predator in any ecosystem may have a widespread impact upon a wildlife community, and that the impact is hard to predict (FERA 2011 ^[1]).

A range of species and habitats listed in Appendix I and II of the Bern Convention may be directly or indirectly impacted by badger culling, including mammals, migratory and resident birds, invertebrates and plants ^[a]. These include species that are rare or declining, some of which may be subject to recovery and specific recovery and/or reintroduction plans and programmes.

The analysis of the government's badger culling policy conducted by its own Food and Environment Research Agency in 2011 highlighted the potential for associated ecosystem disruption and the need for further appraisal before culling be considered and licenses issued (FERA 2011 ^[1]).

In the report's executive summary it states that the onus for identifying and managing the potential ecological impacts of culling should rest individually or jointly with the culling contractors and the licensing body (Natural England), prior to the commencement of any culling.

It is understood that Natural England received information on the proposed boundaries of the pilot culling zones in spring/summer 2012. However, it only conducted a very limited internal assessment of the possible ecological impacts of culling on protected areas within the Somerset zone.

The complainants consider this assessment to have been insufficient in respect of the area considered, the number of sites and species appraised, the estimation of the extent of any impacts, and the identification of necessary mitigating measures.

- **The complaint finds that the UK, in not taking adequate steps to determine and evaluate the impact of badger culling on Bern-listed species and their habitats and in carrying out and planning to carry out further such culling, has been and is a breach of the Articles 2, 3, 4, and 6 of the Bern Convention ^[2].**

2. Allowing indiscriminate methods (unmeasured culling): breach of Article 8

The Independent Expert Panel report into the 2013 pilot badger culls in Somerset and Gloucestershire (IEP 2014 ^[3]) provides clear evidence that the methods employed by the UK government, its agencies and the culling contractors failed to reliably determine the size of the badger populations or the proportion the populations that were removed.

Government agency reports estimate reductions in badger populations across the two pilot cull areas of 28 – 65 % and 50-144% for one area and 19-43% and 29-42% for the other. These are sufficiently inaccurate and imprecise to render meaningful day to day management decisions on achieving target population reduction impossible. The IEP report and DEFRA response (DEFRA 2014 ^[4]), clearly demonstrate the indiscriminate nature of badger culling under the policy.

The FERA 2011 ^[1] report suggested that indiscriminate culling is likely to give rise to unknown and unpredictable local effects on ecosystems and protected species.

- **The complaint finds that the UK is in breach of Article 8 of the Bern Convention because its policy allows indiscriminate methods (unmeasured culling) that result in a ‘means of killing’ of an Appendix III species, capable of causing serious disturbance to or local disappearance of Appendix II species.**

3. Failure to choose alternative satisfactory solution: breach of Article 9

Contracting parties may make exceptions from Articles 4, 5, 6 and 7, provided that the killing of Appendix III- species is done, *inter alia*, to ‘prevent serious damage to livestock’, and that there is no other satisfactory solution.

The recent bovine TB statistics for Northern Ireland and Wales show that cattle-based measures to limit the spread of bovine TB are achieving very significant and ongoing reductions in TB incidence, and the numbers of cattle slaughtered as reactors or in-contacts, without any associated wildlife interventions ^[5].

Cattle-focused measures introduced in Wales, including annual testing of cattle, zero tolerance of overdue cattle tests, prompt isolation and removal of reactor cattle, improved biosecurity, and a focus on risk-based trading, have resulted in a reduction in the numbers of cattle slaughtered by more than 48% over the past 4 years. The most recent published figures indicate that in the 12 months to the end of March 2014, new herd incidents in Wales fell by 22% compared to the previous 12 months, with the number of cattle slaughtered reducing by a third over the same period .

Further, the Department for Food, Agriculture and Rural Affairs (DEFRA) found that because of a computer error, it had overstated the number of cattle herds infected with TB in Britain in 2012-13, and that there had been a decline in TB incidence in the year preceding the pilot badger culls rather than the rise it had previously reported ^[6].

The Bern convention requires that in order to justify an intervention with a protected species, there should be no other satisfactory solution. However, the trends in bTB incidence in Ireland and Wales in recent years, the content of the IEP report from March 2014, and the scientific research findings of the RBCT, demonstrate that an alternate satisfactory solution to the problem of bovine tuberculosis exists, and that the culling of badgers is unnecessary.

- **Therefore the complaint finds that the UK is, in its implementation of culling in the presence of an alternative satisfactory solution, in breach of Article 9**

Notes:

a. The FERA report ^[1] identified some protected species within the culling areas, however we believe it to be only a small proportion of exposed species: Lesser horseshoe, Greater horseshoe, Barbastelle and Bechstein’s bats, Great crested newt, Chough, Corncrake, European nightjar, Hen harrier, Merlin, Roseate tern, Stone-curlew, Woodlark, Dartford warbler, Eurasian curlew, Northern lapwing, Song Thrush, plus the plant Early gentian and the Marsh Fritillary butterfly

Locally on a site basis, ecological perturbation altering meso-predator relationships will likely result in changes to the herbivore populations & alter grazing pressures. Predators that interact with badgers and each other and that have been and are likely to be disrupted include stoat, weasel, red fox, hedgehog, pine marten, european polecat and brown rat.

References:

1. Food and Environment Research Agency (2011) Evaluation of the Potential Consequences for Wildlife of a Badger

Control Policy in England (2011)

2. Article 2 requires Contracting Parties to take requisite measures to maintain wild fauna. Article 4 (3.) requires Contracting Parties to give special attention to the protection of areas that are of importance to migratory species specified in Appendix II of the Convention. Article 6 requires Contracting Parties to take appropriate and necessary legislative and administrative measures to ensure the special protection of Appendix II species including (c.) the deliberate disturbance of wild fauna particularly during the period of breeding, rearing and (d.) in relation to the destruction of eggs.

3. Independent Expert Panel (2014) Pilot badger Culls in Somerset and Gloucestershire. Report by the Independent Expert Panel for the Secretary of State for Environment, Food and Rural Affairs. March 2014.

4. Defra (2014) Defra response (April 2014) to: Pilot badger Culls in Somerset and Gloucestershire: Report by the Independent Expert Panel.

5. Bovine TB statistics for Wales <http://wales.gov.uk/statistics-and-research/incidence-tuberculosis-cattle-great-britain/?lang=en>

6. Bovine TB statistics flawed <http://www.independent.co.uk/news/uk/politics/government-releases-figures-showing-badger-cull-case-was-exaggerated-by-flawed-bovine-tb-statistics-9130563.html>