

DIRECTORATE OF SOCIAL RIGHTS, HEALTH
AND ENVIRONMENT

Ms Simone KLAIS

Amt der Wiener Landesregierung
Magistratsabteilung (MA) 22 –
Umweltschutz
Dresdner Straße 45
1200 Wien / Austria

Strasbourg, 16 May 2025

Subject: Complaint No. 2022/02: Complaint on stand-by: Alleged violation of the Convention in relation to deliberate killing of *Lutra lutra*

Dear Ms Klais,

At its first ordinary meeting of 2025 on 8-10 April, the Bureau of the Standing Committee to the Bern Convention re-examined the above-mentioned complaint in light of the most recently submitted reports by the authorities and complainant.

Decision: The Bureau thanked both parties for their reports.

It noted from the reports of the parties that nothing had changed since last year and that the content of the new Carinthian regulation of 12 December 2024 remained the same as that of the previous version.

The Bureau recalled that, according to Appendix II of the Bern Convention, *Lutra lutra* is a strictly protected fauna species. All forms of deliberate capture, keeping in captivity, and deliberate killing of *Lutra lutra* are therefore prohibited according to Article 6 of the Bern Convention. A few exceptions are however possible in accordance with Article 9 of the Convention “provided that there is no other satisfactory solution, and that the exception will not be detrimental to the survival of the population concerned”. One of these exceptions is “the protection of flora and fauna”. In addition, Appendix IV of the Bern Convention prohibits, among other things, the using of traps if applied for large scale or non-selective capture or killing.

The Bureau therefore considered firstly whether the deliberate capture and killing of *Lutra lutra* in Carinthia is needed to protect fauna. In this regard, it noted that the authorities argued that this was done to maintain sustainable fish stocks in Carinthia. The authorities referred to a decline in protected fish biomass and made a link with an increase in the otter population. The Bureau noted, however, firstly, that among the fish species mentioned by the authorities (brown trout, Danube salmon, Danube brown trout and Crayfish) the Danube Salmon (*Hucho hucho*) and the Crayfish (*Astacus astacus*) were the only species protected under the Bern Convention (in Appendix III, Protected fauna species), when *Lutra lutra* was protected under Appendix II (Strictly protected fauna species). The Bureau also noted that the report didn't

refer to studies confirming the link between the decline of these species and the otters. It therefore requested information from the authorities on whether investigations have been made into whether other factors beside the otters' presence could explain the decline in fish biomass, such as water pollution or ineffective fish ladders.

Secondly, the Bureau also noted from the authorities' report that the hunting of otters was not permitted everywhere, but only in certain areas, such as the upper reaches of rivers, in the entrance and exit areas of fish ladders at run-of-river power plants and at ponds that can't be fenced in. The report, however, lacked sufficient demonstration that there were no other satisfactory solutions to protect fauna in these areas than the deliberate capture, keeping and deliberate killing of *Lutra lutra*, which is therefore in breach of the requirements of the Convention.

Thirdly, the Bureau noted that the authorities continue to argue that the [conservation status](#) of *Lutra lutra* in Carinthia was favourable. According to the conservation status reported under articles 17 and 12 of the Nature Directives, the conservation status of *Lutra lutra* is favourable for the continental part of Austria. It is however unfavourable in the alpine region of Austria where Carinthia is located. Therefore, the deliberate killing of *Lutra lutra* in Carinthia could be detrimental to the survival of *Lutra lutra*, and should, as a consequence, not be permitted.

Finally, the Bureau first noted that, according to the authorities, the use of conibear traps in Carinthia was considered necessary, among other things, to protect the life and health of people. It requested that the authorities elaborate on this and explain the risks that otters pose to human life and health. Second, even though the relevant regulation limits the use of Conibear traps in Carinthia, the Bureau noted that they can be used between 1 November and the end of February, leading to the killing of *Lutra lutra*, which is in contradiction with the requirements of Appendix IV of the Bern Convention. The Bureau therefore requested that the authorities ban the use of Conibear traps or of any other non-selective means all year-round.

On the basis of all the elements detailed above, the Bureau considered that the authorities failed to demonstrate that the exceptions to the deliberate killing of *Lutra lutra* were justified and in line with the requirements of the Bern Convention. It therefore reiterated its strong concern about the deliberate killing of *Lutra lutra* in Carinthia and decided to **elevate the status of the complaint to a possible file**.

Both parties were requested to submit their progress reports for the Bureau meeting in Autumn 2025, in preparation for its consideration by the 45th Standing Committee in December 2025.

In that regard, I would invite the authorities of Austria to send a progress report including the above-requested information and any other relevant updates no later than 31 July 2025 to be addressed at the meeting of the Bureau at its Autumn meeting (dates to be confirmed).

Case-file reports should contain a summary of the information requested by the Standing Committee or its Bureau, and be as concise as possible. Reports should also include, at the beginning of the analysis, an abstract of approximately 2700 characters (with spaces). The report should be strictly kept to a maximum of 6 pages in total and submitted in electronic WORD format. If you will require more space or to attach photographs or other heavy media, kindly send a separate annex to the report, if possible with a link to a Cloud Drive.

The same deadline and information on reports apply to the complainant organisation for the submission of an updated report for the attention of the Bureau.

On behalf of the Bureau, I would like to thank you for your ongoing cooperation with the Bern Convention and for your work in protecting species and habitats.

Yours sincerely,

A handwritten signature in blue ink, reading 'Mikaël Poutiers', with a long horizontal flourish extending to the right.

Mikaël Poutiers
Secretary of the Bern Convention

Cc: Permanent Representation of Austria to the Council of Europe
Ms Michaela Lehner (Complainant)
Ms Iva OBRETENOVA, European Commission Focal Point to the Bern Convention