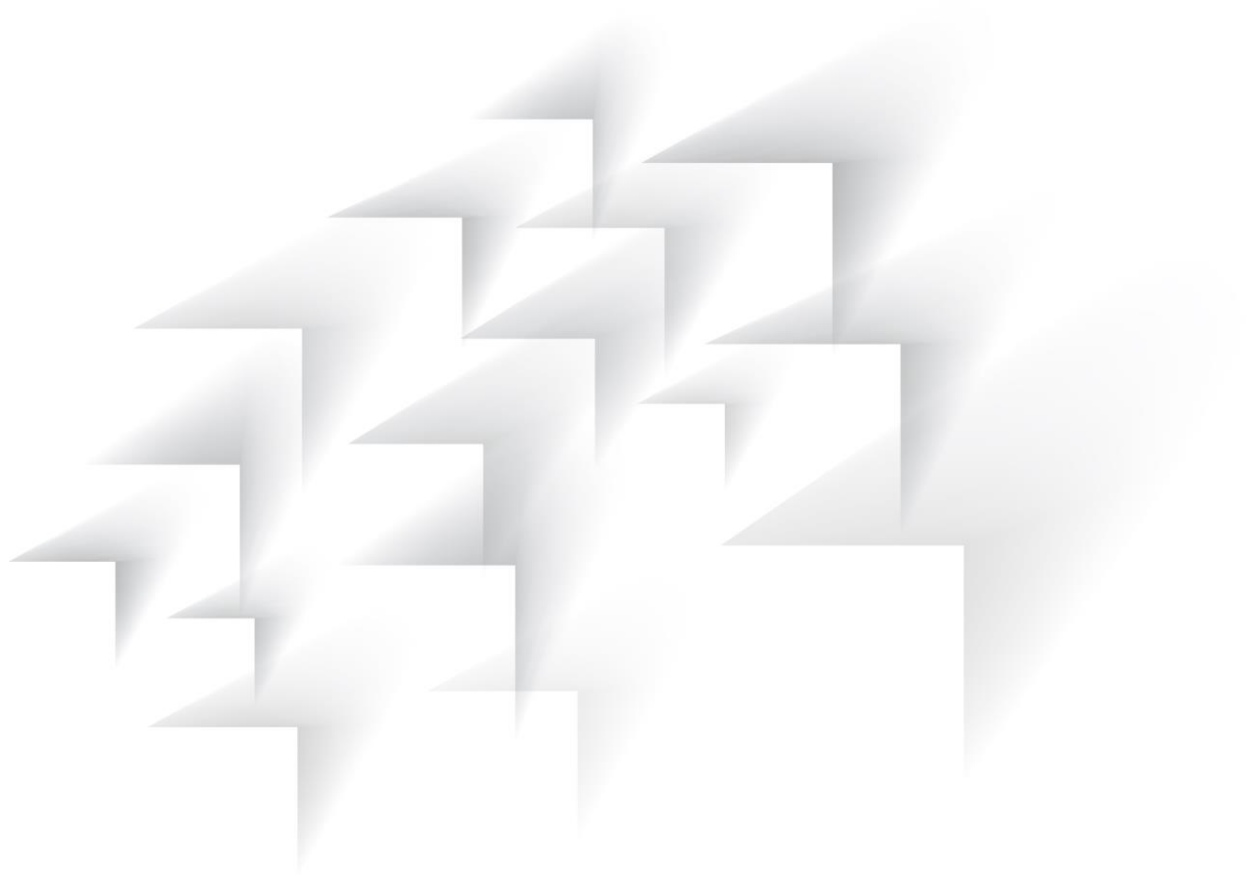




LYNX DIRECTORY I: FRAMEWORK CONDITIONS

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1. Lynx status under international nature conservation law

IUCN Red List status: Least concern (LC, 2008).

Council Directive No. 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (**Habitats Directive**): the Eurasian lynx is listed in **Annex II** (Animal and plant species of Community interest whose conservation requires the designation of special areas of conservation) and in **Annex IV** (Animal and plant species of Community interest in need of strict protection).

Convention on Biological Diversity (CBD) The objectives of this Convention are the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding.

Convention on International Trade in Threatened Species of Wild Fauna and Flora (**CITES**; The Washington Convention): Eurasian lynx is listed in Appendix II. **Appendix II** lists species that are not necessarily now threatened with extinction but that may become so unless trade is closely controlled.

Convention on the Protection of European Wildlife and Natural Habitats (**The Bern Convention**): the Eurasian lynx is listed in **Appendix III (Protected fauna species)**.

Other international documents:

Alpine Convention (1995) is an international treaty between eight countries of the Alpine Arc: Austria, France, Germany, Italy, Liechtenstein, Monaco, Slovenia, and Switzerland and the European Community. Working groups, platforms, committees, etc. support and supervise the implementation of the Convention. One platform of the Convention is the WISO (Wildlife and Society), which deals with large carnivores and wild ungulates.

WISO is focusing on the promotion of information exchange, dialogue and coordination among the Contracting Parties and among authorities, wildlife managers, hunters,

foresters. The platform also promotes initiatives to counteract inbreeding in alpine lynx sub-populations (such as reinforcement).

Bonn Convention (Convention on the Conservation of Migratory Species of Wild Animals, CMS) is specifically tailored to migratory species that cross international borders. The Bonn Convention even allows for states sharing migratory populations to sign legally binding treaties to govern the management of these species. Although the movements of large carnivores across borders do not follow the strict definition of seasonal migration, it may be worthwhile exploring the potential for use of this Convention, which has already been applied to several similar issues.

An Action Plan for the conservation of the Eurasian lynx (*Lynx lynx*) in Europe (2000) was done as part of the Pan-European Action plan for large carnivores by the Large Carnivore Initiative for Europe.

Pan-Alpine Conservation Strategy for the Lynx (PACS, 2003), main goal is to connect populations of lynx from Switzerland and Slovenia with translocations in Austria, Germany, Italy, and Liechtenstein, and later on establish a connection to Croatia and Bavaria (Germany).

In 2012 the Directorate General for the Environment of the European Commission (DG ENV) launched an initiative for the conservation and sustainable management of large carnivore species, based on dialogue with, and involvement of, relevant stakeholders, with a view to ensuring their commitment to the long-term conservation of large carnivores in coexistence with humans in Europe. For this reason, DG ENV contracted the Institute of Applied Ecology to develop a set of supporting documents that will serve as the basis for improving the implementation of EU policy on large carnivore conservation under the Habitats Directive. Together with members of Large Carnivore Initiative for Europe, they prepared **Key actions for Large Carnivore populations in Europe (2015)**, a list of cross-cutting actions and key actions for each species and populations of the four large carnivores.

2. Lynx status under national nature conservation law

2.1 Czech Republic

Lynx is a native species in the Czech Republic that was hunted in 18th and 19th century, but since 1961 it has been strictly protected by law.

Act No. 114/1992 Coll., On the Conservation of Nature and Landscape

All large carnivores (wolf, lynx and bear) are protected by the above-mentioned law. According to § 48 par. 2 letter b) of Act No. 114/1992 Coll. and the implementing Regulation No. 395/1992 Coll. (as amended by Regulation 175/2006 Coll.) **Eurasian lynx (*Lynx lynx*) is a severely endangered specially protected species in the Czech Republic.** Basic conditions of the protection of specially protected species are described in Section 50 par. 1 and 2 of Act No. 114/1992 Coll. Among other things, it includes the protection of all of their development stages, and natural and artificial settlements and habitats of these animals. A harmful interference with their natural development, including catching, taking captive, interfering, wounding or killing, as well as other interventions that would endanger individuals of a particular species or harm their habitats ("biotopes"), is also prohibited. In addition, prohibitions apply on the collection, destruction, damaging, or relocating of their developmental stages or occupied settlements, as well as prohibitions on possession, transport and commercial use. According to Section 48 par. 4 of the above-mentioned Act, such protection also applies adequately to dead individuals or products thereof.

Exemptions from basic conditions for the protection of lynx may be granted under Section 56 of the above-mentioned Act by regional nature conservation authorities (regional governments, national parks, and Protected landscape areas running under NCA CR) or by the Ministry of Environment as the highest national nature conservation authority. In the case of lynx as an animal which is a "subject to protection under European Community law", **the exemption may be only granted in the case when another public interest overrides the nature protection interest (in terms of species in question) or another nature protection interest**, for the purposes specified in Section 56 par. 2 (e.g. the reason for the prevention of serious harm, the purpose of research and education.). Also, in line with the Habitats Directive, consideration must be given in relation to the condition that there is no other satisfactory solution and that the activity will not negatively affect the achievement or maintenance of the favourable conservation status of the species in terms of protection under § 3 par. 1 t of the above-mentioned Act.

Act No. 115/2000 Coll., On Compensation for Damage Caused by Selected Specially Protected Fauna

According to Act No. 115/2000 Coll. the law defines: (1) the conditions of **the claim for damage caused by the lynx to the health or life of a human and selected domestic animals including dogs used for the care of these animals** (§ 5 and 6); (2) the scope of compensation for damage (§ 7); and (3) claims for damage (§ 8, § 9, § 10). The Annex to the above-mentioned Act lists all the requirements of the claim for damage, the documents and supporting documents attached to the application. The claim is submitted to the regional authorities, mostly regional governments. In the case of protected landscape areas and national parks, the Protected

Landscape Area administrations and National Park administrations declare official statements to the case.

An event must be reported as soon as possible, no later than after 48 hours, to the local authority to which the claim is submitted. A veterinarian should also be called immediately to look for dead animals and issue a confirmation of the cause of their death, or to treat injured animals. Claims for damage arise if the animals at the time of the occurrence of the damage are: (a) located in a closed facility (pasture fenced with a common type of grazing or electric fencing, enclosed wooden shelter for overnight animals in the pasture, closed brick, fenced yard...); (b) under the direct supervision of a physical person or a shepherd dog (in this case it does not have to meet the condition of placing animals in a closed facility or electric fence).

According to the law, no farmed game (mouflon, deer) and exotic species (llama, ostrich, etc.) are included in the provided compensation. The written application must be submitted to the relevant regional authority within ten days of the determination of the extent of damage. Compensation for damage within enclosed objects can also be provided even if the damage was not caused by the specially protected animals but was caused by domesticated animals as a result of infestation by a specially protected animal.

The amount of compensation paid is defined by the Regulation 360/2000 Coll., and it is the usual price - the price that would be attained by sale of harmed animals. In the case of young farmed animals, the price that could be reached at the first selling option (after reaching the age at which they are normally marketed) is paid. If a more expensive breed of livestock is harmed, this fact must be supported by a proof of purchase or goodwill of a veterinarian or farmer.

As a species protected by international law and at national level, the lynx is also covered by Act No. 100/2004 Coll and its implementing Regulation No. 227/2004 Coll. This Act deals with regulation of the trade in wild animals and wild plants that are threatened with survival in accordance with the Convention on International Trade in Endangered Species of Wild Fauna and Flora and Council Regulation (EC) No 338/97 of 9 December 1996. These international legal documents regulate the import and export of wild fauna and flora and in the Czech Republic, they are notified under No. 572/1992 Coll.

The above-mentioned Act lays down the conditions for trade in endangered species of wild fauna and flora and provides for some other measures to ensure the protection and registration of these species in the Czech Republic. It basically constitutes the legislative basis for the application of CITES in the Czech Republic.

Act No. 449/2001 Coll., On Hunting

According to hunting legislation, **the lynx is year-round protected game species** since 1988 (MZVŽ Regulation No. 20/1988 Coll.). Since July 2002, according to the provisions of § 2 par. c) of Act No. 449/2001 Coll., lynx is classified among **game that cannot be hunted** due to international conventions and national legislation.

The Hunting Act generally lays down the right to appropriate a dead game (including lynx) within the definition of hunting rights (§ 2, par. h). There is no further regulation of

modification or restriction of possession of dead animals by persons other than in the Hunting Act or an obligation to hand over found dead animals, for example to hunting ground users. **According to some interpretations (e.g. Řehák et al., 2002), dead game animals are attributed to hunting ground users** mostly with reference to Section 43 of the Hunting Act. This is a provision on the search for shot or otherwise injured game. Section 3 states that "the intended game belongs to the user of the hunting ground, from which it has passed or has flown; and dead animals that were otherwise found on non-land plots belong to the nearest hunting ground user".

However, in the case of specially protected animals, which are simultaneously classified among game, for example the lynx, the law prohibits handling such animals (live or dead) according to Section 50 par. 1 of Act No. 114/1992 Coll. without permission given by the nature conservation authorities (exemption according to Section 56 of Act No. 114/1992 Coll.). Thus, according to another law interpretation, a dead lynx should be given to the nature conservation authorities or kept by the exemption holder. However, information on the found dead animals must be given to hunters in view of the other provisions of the Hunting Act (in particular in connection with the provisions of Sections 36 and 37 on hunting management).

Act No. 40/2009 Coll., Criminal Code

The new Criminal Code (Act No. 40/2009 Coll.) includes criminal offences against the environment (Title VIII). **Illegal killing of lynx may be prosecuted** under the provisions § 299 par. 2 (Illegal handling of protected wild fauna and flora), according to which a punishment of **imprisonment of up to 3 years**, a prohibition of activity, or the forfeiture of a thing or other property may be granted because of violation of any other legal regulation (in this case Act No. 114/1992 Coll. and Act No. 100/2004 Coll. and Implementing Regulation No. 227/2004 Coll.) **This sentence also applies to a person who would kill, destroy, handle, import, export, make, store, offer, mediate, to himself or another, trade individuals of a critically endangered species of animal, plant or specimen of a species directly threatened with extinction or extinction.**

According to § 299 par. 3 of the above-mentioned Act, imprisonment of 6 months to 5 years, the prohibition of activity or the forfeiture of a thing or other property shall be granted to a person: a) who commits an act as a member of an organized group, b) if he commits an act of intention to acquire for himself, or (c) if such an act causes long-term or irreversible damage to a wild animal, or wildlife, or a local population or a habitat of a specially protected species.

According to § 299 par. 4, the offender shall be punished by imprisonment of 2 to 8 years if they: (a) commit such an offence in connection with an organized group operating in several states; (b) commit such an act with the intention of obtaining, for himself or for other benefit, (c) if such an act causes long-term or irreversible damage to the local population or habitat of a critically endangered species of animal or plant.

Taking into account that the lynx is at the same time a game species in the context of the Hunting Act, the offender would also commit the illegal act of poaching according to Section 304. Under paragraph 1, a poacher may be punished by imprisonment for up to 2 years, by prohibition of activity or by forfeiture of the thing. Subject to paragraph 2 of this Section, the offender that is a person who has a special obligation to protect the

environment may be punished by imprisonment of 6 months to 5 years, by a monetary penalty, or by forfeiture of a thing or other property, a) if he commits the offence referred to in paragraph 1 as a member of an organized group, b) if he gains for him-/herself or for another larger profit by such an act, (c) if he commits such an act as a person who has a special duty to protect the environment, (d) if he commits such acts in a particularly reprehensible manner, in a massive manner, or in the closed season, or (e) if he has been convicted or punished for such an act in the last 3 years. Unfortunately, it is not precisely defined what is meant by "a person who has a special obligation to protect the environment". Considering case-law of the Constitutional Court recognizing public interest in hunting, precisely because of environmental protection, it could be inferred that members of the Czech-Moravian Hunting Association are also included in this category.

The social value (expressed financially) of lynx is not established in the Czech Republic. A monetary value of lynx has not been expressed for the lack of justification.

Red list status

In the Red List of Endangered Species of Vertebrates of the Czech Republic, the lynx is listed as an endangered species (Andera and Červený 2003).

National management plans, action plans, or other bonding documents for lynx conservation and management

A National Management Plan for large carnivores has been drafted by experts and is now revised by the Ministry of Environment and the Nature Conservation Agency of the Czech Republic (both 3Lynx project partners). To become binding, it has yet to be officially approved by the Ministry of Environment.

2.2 Germany

Lynx status according to national Nature Protection Law Bundesnaturschutzgesetz (BNatSchG)

Lynx is a native species and is specially and strictly protected by the German Nature Protection Law (BNatSchG § 44) derived from the Habitats Directive (see above).

This status, among other things, includes the protection of all the developmental stages, breeding and resting sites. It prohibits harmful interference with their natural development, including trapping, taking captive, interfering, wounding or killing, as well as other interventions that would endanger lynx individuals or harm their habitats ("biotopes"). In addition, prohibitions apply on the collection, destruction, damaging, or relocating of their developmental stages or occupied settlements, as well as prohibitions on possession, transport and commercial use (BNatSchG §44, Art. 8, EG-VO 338/97).

Exemptions from basic conditions for the protection of lynx may be exempted under §§ 45 Abs. 7 and 63 BNatSchG by regional nature conservation authorities under consideration of Art. 16 (derogation) of the Habitats Directive.

Removal of lynx (capture, targeted killing) needs special authorization by the regional nature conservation authority (BNatSchG §45) and the local hunting authority. **Removal is only allowed if certain conditions are met: avoidance of considerable agricultural damage, due to a threat to the health of humans or public safety, in the case of predominance of public interest including an economic and social kind.** In all cases, when granting an exemption, consideration must be given to satisfying the condition that there is no other satisfactory solution, the activity is authorized, and it must not negatively affect the achievement or maintenance of the favourable conservation status of the species (BNatSchG §45, Habitats Directive Art. 16, Abs. 1)

Lynx status according to national hunting law Bundesjagdgesetz (BJagdG) and Bayerisches Jagdgesetz (BayJagdG)

Lynx in Germany is listed as a game species, however with year-round protection (“closed season”, BJagdG § 2 und § 22). In accordance with nature protection law, single exemptions might be given if certain conditions are met, for example severe disturbance of ecological balance, severe damage of the culture of the country, control of game epidemics, for removal of sick or ailing game, excessive damage caused by game animals, for scientific teaching and research, disturbance of game fostering (only BayJagdG, Bavarian Hunting Law).

In the case of game species found dead, the user of the hunting district has the right to take possession of the animal. As lynx is listed as a game species, this is also valid for lynx. To examine the dead corpse of a lynx (in order to find out cause of death), approval of the hunting ground user is necessary. At present, nature conservation administrations or other institutions do not have access to the dead lynx if the hunting ground user refuses.

Illegal killing or capture of lynx

The illegal killing (shooting, poisoning, etc.) of a lynx is a criminal act. Therefore a preliminary investigation by public prosecution must be initiated.

Punishments: according to the Nature Conservation law (BNatSchG §71, §69), **imprisonment of up to 5 years or forfeit** (Wilful act against strictly protected species). According to the Protection of Animals Act (TierSchG §17), **imprisonment of up to 3 years or forfeit** (Killing of an animal without a reasonable basis). According to §292 of the Criminal Code and §38 Hunting Law, **imprisonment of up to 3 or 5 years respectively or forfeit** (Poaching).

Red list status

In the Red List of Endangered Species of Vertebrates of Germany and Bavaria, the **lynx is listed as an endangered species** (Haupt et al. 2009.).

Compensation regulations

Principally the state of Germany is not liable for damage caused by wild animals. The keeper of farm animals is responsible for their safeguard. However, a voluntary compensation fund exists to compensate verifiable predation by large carnivores (i.e. lynx, wolf and bear) on livestock. The money for this compensation fund is provided by four non-governmental organisations (15%) and by the Bavarian Nature Conservation Fund (NCF, 85%). The money for the NCF comes from lottery money, thus does not stem from taxes.

Claims for damage are handled by the BayLfU (Bavarian Agency of Environment, 3Lynx project partner) with the help of the voluntary Large Carnivore network and veterinary offices. The verification of an attack of a lynx on livestock is done in three steps: 1) on-site investigation and documentation of the dead animal and surroundings; 2) autopsy at a veterinary office; 3) consolidation of first and second investigation by an expertise which evaluates if all evidence found qualifies as a lynx attack.

If a large carnivore attack can be verified, the compensation fund pays an amount which was or will be specified by the Bavarian Agency of Agriculture. Species compensated are ungulates (even-toed ungulates like red deer, sika deer, fallow deer, mouflon, sheep, goats; odd-toed like pigs, cattle, horses), poultry, and bees.

National management plans, action plans, or other documents for lynx conservation and management

A national management plan for lynx in Germany does not exist.

For Bavaria, a federal state management plan has existed since 2008. The plan was compiled in the scope of a large carnivore management board by various interest groups in cooperation with administrations of nature conservation, agriculture and hunting. It is seen as a common guideline and is not implemented into legislation yet.

The plan has to be further developed, especially concerning the stagnation of the population. In particular this comprises the following issues:

- Work on the main threat to the Bavarian lynx population: put more effort into preventing illegal killing and successfully finish future criminal investigations.
- Lynx conservation measures to enlarge lynx distribution and abundance (e.g. restocking, translocations)
- To consider lynx presence in game management.

The further development of the Bavarian lynx management plan will be closely interlinked with the development of the conservation strategy for Czech - Bavarian - Austrian (BBA) population within the 3lynx project.

2.3 Austria

Lynx status according to nature conservation law of the federal states of Austria

Lynx was a native species in Austria that became extinct during the 19th century. It slowly returned from the East (Bohemia/Carpathia) and the South (Slovenia) in the late 1950s to mid-1960s and was reintroduced in Styria between 1977 and 1979. The population in northern Austria today is derived mainly from lynx that were captured in the Slovak Carpathians in the 1980s and finally reintroduced in the area of today's Šumava National Park in southern Bohemia. More or less permanent and reproductively active subpopulations only exist at present in the Kalkalpen National Park region and in the Austrian-Czech border region from the Bohemian forest over the Mühlviertel to the Waldviertel.

The species is specially and strictly protected by hunting regulations within the competence of the respective federal states of Austria derived from the **Habitats Directive**, bound by the EU to restore a favourable conservation status for the lynx in Austria.

Art. 15 section 1 Federal Constitutional Law

The importance of nature conservation laws with regard to their regulatory relevance for the lynx depends on the transposition of **Habitats Directive** into federal law of the respective states in Austria.

According to Art. 15 section 1 of the federal constitutional law, nature conservation is subject to federally ruled legislation and enforcement competences of the nine federal states of Austria. The underlying laws aim, amongst other species, at the conservation and protection of large predators like the lynx.

The lynx is included in all hunting regulations of the federal states of Austria, where it is classified as a (hunnable) game species with year-round protection. Thus, it is considered in the legal framework of the federal states of Austria as a strictly protected species and is no subject to hunting or prosecution in any of its developmental forms and life stages. It may not be deliberately troubled, persecuted, imprisoned, injured, killed, kept, and/or taken away.

Exemptions

In their hunting regulations, Carinthia, Tyrol and Styria have issued specific measures to prevent damage caused by the lynx that allow exemptions from year-round protection.

Carinthia

According to the Carinthia hunting regulation, in the interests of the public and public safety as well as for research purposes, the closed season for the lynx can be abolished or reduced. Therefore, the federal government of Carinthia is authorized in exceptional cases to allow selective killing, catching or keeping of lynx by legislated regulation. Furthermore, this regulation may only be adopted on the condition that the favourable conservation status of the lynx population is maintained, despite the abolition or reduction of the closed season. This regulation may also be adopted in the case of protection of property in general or for the

preservation of natural habitat. These regulations may only be issued for a maximum period of two years (see Carinthia hunting regulation - § 51 para. 4).

Tyrol

(1) If there is reason to fear that a particular lynx individual may pose a risk within the meaning of paragraph 2 (see below), the federal state government may, after consulting the national environmental lawyer, the animal protection ombudsman, and the state hunter (Landesjägermeister), authorize suitable persons to track down the animal in question and provide it with a transmitter that shows the location. The welfare of the animal must be considered at all times. The authorized persons are required to carry a letter of authorization of the federal government and an official photo ID. While tracking, this document has to be shown on request to the organs of the public security service, to the hunting authorities, and to the authorized hunting permit holder.

(2) The State Government may, after consulting appropriate experts (State Environmental Lawyer, Animal Welfare Ombudsman, State Hunter, and the Chamber of Agriculture), declare by regulation that a particular lynx individual is an imminent threat to the safety of persons or an imminent significant threat to grazing animals or other facilities. The regulation must be made public for a period of 2 weeks by a notice issued by the Office of the Federal State government.

(3) In the event of the issuing of a decree pursuant to paragraph 2, the federal state government has to, unless there is otherwise a satisfactory solution, authorize appropriate persons to detect and capture or, if necessary, kill the individual concerned. The measures covered by the authorization must be described in detail. Paragraph 1 second and third sentence applies.

(4) In the case of a procedure according to paragraphs 1 to 3, the provincial government must take care that the population of the affected species nevertheless remain in a favourable conservation status.

(5) Persons authorized under subsections (1) or (3) are authorized to roam hunting grounds outside of public roads and paths and to carry and use the equipment required for the respective activity. It is necessary to proceed with the greatest possible protection of the interests of the hunters.

(6) The particular hunting permit holder who is entitled to practice hunting shall tolerate the activities of the persons authorized under paragraph 1 or 3 in his hunting area.

(7) Any lynx that has been killed with this regulation will become the property of the Tyrolean hunting association. The animal is to be used for educational and training purposes as well as for exhibition (see Tyrol hunting regulation - § 52).

Styria

Open season for the lynx may only be stipulated if the conditions specified in paragraph 3 are met, which are as follows:

1. On the condition that the favourable conservation status of the populations of the affected species in their natural range is not affected by the exemption from the year-round protection.
2. In the case of danger to public health and public safety, to prevent significant damage to crops, livestock, forests, fishing areas, waters, and other forms of property, for the protection of wild fauna and flora and for the conservation of natural resources and habitats, as well as for research and teaching purposes.

However, the exceptions are only allowed if there is no other satisfactory solution to achieve the interests mentioned above (see Styria hunting regulation - § 49).

Art. 15 paragraph 9 B-VG on Compensation for Damage Caused by Selected Specially Protected Animals

All hunting regulations of the federal states of Austria contain special rules on the compensation for damage caused by game animals with or without year-round protection that differ from general liability under civil code (ABGB §§ 1295).

The competence of state legislation to regulate and compensate this damage is based on Art 15 para 9 of the federal constitutional law. Furthermore, in the federal states of Austria, committees on damage caused by game animals for enforcement of these regulations have been established.

The main difference to general liability under the civil code persists, that the hunting permit holder is liable and must be responsible for the damage caused by game animals with a defined open season, if in the concrete case nothing is to blame. He is therefore liable regardless of fault.

The liability insurance of the hunting communities in the federal states of Austria only compensates damage caused by (hunnable) game species for damage caused to land, to agricultural and forestry crops, and to products not yet brought in (damage that is mainly caused by ungulate species). Hunters in all federal states of Austria are liable only for damage caused by game species that have defined open seasons and permitted hunting dates.

Since the lynx, as a year-round protected predatory game species under all hunting regulations of the federal states of Austria, is not known to cause damage to land, it is exempt from the obligation to pay compensation in these circumstances. Thus, liability for this kind of damage caused by large predators such as the lynx is not covered, and compensation follows different guidelines as explained below.

As the hunting permit holder can draw no benefit from year-round protected animals like the lynx, it is not clear why he should be responsible for damage caused by these species. Consequently, unlimited liability for damage caused by large predators (with the exception of the federal state of Carinthia) is waived for the hunting permit holder.

Thus, nearly all federal states (Burgenland, Lower Austria, Upper Austria, Salzburg, Styria, Tyrol, Vorarlberg, and Vienna) have a limited liability for damage caused by large predators as a game species with year-round protection. In these states, only (and exclusively) the general compensation and liability rules of the civil code (ABGB) apply for the compensation of damage to domestic animals, as well as the compensation of bodily injury caused by a large predator. Liability for damage caused by game for the hunting permit holder in these states in regard of all year-round protected animals, such as the lynx, is not given.

Exceptions to the described jurisdiction and the current legal situation in some federal states of Austria are described as follows.

Carinthia

Carinthia is the only federal state in which liability exists for the hunting permit holder for damage to domestic animals caused by a year-round protected game species. The duty of compensation for the hunting permit holder includes all damage within the meaning of § 74 para. 2 (a) of the Carinthia hunting regulation which is caused by a game species as defined in § 4 leg cit. The status of the species in question, whether huntable or protected year-round is thereby irrelevant. Hence, the hunting liability insurance of Carinthia, which has been responsible for carrying the damage in proven cases of bear damage to domestic animals, also comes into effect for damage demonstrably caused by lynx.

Salzburg

In principle, predators are excluded from the liability regulations according to the Salzburg hunting regulation (SGB-JG), but liability exists for damage caused by game towards domestic animals as well, although not in principle and the state government can compensate such damage with possible replacement benefits in the case of damage caused by a year-round protected game species such as the lynx.

Thus § 91 para. 5 contains special provision for damage caused to certain animals (domestic animals, farm animals) which are only replaced if they have been killed by predators that have year-round protection. Damage caused to domestic and farm animals by non-year-round protected predatory species are not to be compensated (§ 91 para. 1 (b)).

Section 91, para. 3 (c) of the Salzburg hunting regulation states that damage caused by game that is protected year-round, such as the lynx, must be compensated by the federal state government. In the process, the federal state government replaces the hunting permit holder as compensator. Section 91 para. 5 leg cit confirms this and stipulates that damage in terms of killed domestic and farm animals caused by year-round protected predators must be compensated by the federal state government of Salzburg as the bearer of private rights.

Lower Austria and Upper Austria

In both of these federal states, no compensation or compensatory measures are provided by hunting liability insurance for damage to livestock caused by lynx. However, there is an insurance effected by the Upper Austrian as well as the Lower Austrian hunter's associations that covers livestock damage up to approximately 10,000 EUR per year.

Furthermore, there is a form of voluntary bonus (60 EUR) to document any confirmed lynx kill by the expertise of trained hunters, which is paid by the hunting association of Upper Austria to the hunting grounds. This scheme was applied in Upper Austria in order to increase acceptance for lynx within the hunting community but does not exist in Lower Austria. But this is not compensation of damage because the natural predator-prey interaction does not cause any damage to human property.

Vorarlberg and Vienna

The game laws of Vorarlberg and Vienna follow a taxative approach, a taxable enumeration of the game species for whose damage the hunting permit holder can be held responsible under the Vorarlberg and Vienna hunting regulations. This enumeration **excludes the lynx** and therefore liability for damage caused by the species.

Consequently, hunting liability insurance also assumes **no liability** in the event of the occurrence of damage caused to domestic and farm animals. Thus, a no-fault liability of the hunting permit holder does not exist in the case of damage caused by lynx.

Penalties for violations of animal species which are protected year-round with a year-round closed season within the existing hunting and nature conservation laws

Hunting laws

For violations of nature conservation regulations (killing or catching species which are protected according to the Habitats Directive) **in the federal states of Burgenland, Salzburg, and Vienna, the hunting card is invalid for a period of up to 3 years from the day of the committed crime** (Bgl: § 64, 67 (11), 68; Sbg: § 44 1 / (3), 46; Vie: § 53 e), § 54), **in Lower Austria up to 5 years** (LA § 61 1 (12) & 2), **in Upper Austria up to 7 years** (UA § 39, 40), **deprived in Styria for a period of up to 2 years and, if in the case of renewed violation of law, from 2 to 5 years** (Stm § 41 (1) h, 42).

Carinthia, Vorarlberg, and Tyrol do not comment on the catching and shooting of protected species according to the Habitats Directive and refusal or withdrawal of the hunting card in the existing hunting laws, but treat **infringements in the existing nature conservation laws and the penal provisions issued thereto** (see below). For the duration of the withdrawal, another exhibition of a hunting card in all federal states is denied.

Nature conservation laws

Within the existing nature conservation laws of the Austrian federal states, the following provisions apply to a breach of the requirements for protected animal species which in all forms of development are neither to be tracked, troubled, caught, carried, held, injured, killed, stored, removed nor harmed, as well as the destruction of reproductive or resting places is strictly prohibited as well as a violation of the prohibition on the purchase and sale, as well as the transfer of protected animals or parts of such irrespective of their condition, age or developmental forms.

In Burgenland, a breach of the above conditions is punishable by a fine of up to € 3,600, in the case of repeated and serious violations by a fine of up to 7,300 EUR (§ 16 (2), § 78 NSchG Bgl); in Carinthia with up to 3,630 EUR, in the case of aggravating circumstances and in the case of recurrence up to a fine of 7260 EUR (§ 19, § 67 NSchG); in Lower Austria, a penalty of up to 14,500 EUR can be imposed; in the case of a lack of financial means, a penalty of up to 6 weeks imprisonment can be imposed (§ 18 (4), 36); in Upper Austria a fine of up to 2,000 EUR is charged (§ 28, 56); In Salzburg is such a crime punished with a fine of up to 14,600 EUR or imprisonment of up to 6 weeks (§ 32 (1), 61). In Styria and Tyrol, a crime in this context can be punished with up to 30,000 EUR (Stm § 17, 41, Ty § 24, 45). In Vienna, such a crime is punishable by a fine of up to 21,000 EUR, in the case of insufficient funds with a substitute sentence of up to 4 weeks, in a repeat case by a fine of up to 35,000 EUR, or a substitute fine of up to 6 weeks imprisonment (§ 10, 49).

Act on the Supervision of Trade in Wild Fauna and Flora Species (Species Trading Act 2009 - ArtHG 2009) StF: BGBl. I Nr. 16/2010 (NR: GP XXIV RV 318 AB 348) based on CITES regulations

CITES is implemented in the EU through a set of Regulations known as the EU Wildlife Trade Regulations. Currently these are *Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein*.

It lays down the provisions for import, export and re-export as well as internal EU trade in specimens of species listed in its four Annexes. It provides for procedures and documents required for such trade, and it regulates the movement of live specimens. It also sets out specific requirements for Member States to ensure compliance with the Regulation and to impose adequate sanctions for infringements.

The Act on the Supervision of Trade in Wild Fauna and Flora Species (Species Trading Act 2009 - ArtHG 2009) based on CITES regulations is intended to implement Council Regulation (EC) No 338/97 in the protection of species of wild fauna and flora through the supervision of trade, OJ. 1, the implementing provisions based thereon, and the implementation of Art. 3 lit. g of Directive 2008/99/EC on the protection of the environment through criminal law (OJ No. L 328 of 6.12.2008 p. 28) in Austria.

Lynx hunting status

Legal frameworks and particular regulations on open and closed seasons, as well as accompanying issues concerning the Eurasian Lynx, fall within the federal competence of the particular states of Austria; for details see overview Figure 1.

In the sense of the federal states of Austria as legislators, and according to the applied regulations, the lynx is included in all respective regulations and classified as a (hunting) game species (ground game/predators) (for exact wording see the respective legislation of: Burgenland: § 3 para. 1 lit a - Burgenland hunting regulations JG 1988; Carinthia: § 4 - Carinthia

hunting regulations; Lower Austria: § 3 - Lower Austria hunting regulations; Upper Austria: § 3, Annex: Hunttable Species - Upper Austria hunting regulations; Salzburg: § 4 - Salzburg hunting regulations (Sbg JG); Styria: § 2 - Styria hunting regulations (Stmk JG); Tirol: § 1 para. 1, Annex hunttable species - Tyrol hunting regulations (Tir JG); Vorarlberg: § 4 - Vorarlberg hunting regulations; Vienna: § 3 Abs 1 lit a - Vienna hunting regulations).

As a hunttable game species it is, however, in the particular implementation regulations on closed seasons of the particular federal state (see below) and based on the Habitats Directive, as listed in Annex II and IV all year-round protected, and subject to a year-round closed season and in principle may not be caught, persecuted or killed (See § 82 - Burgenland hunting regulation; § 51 para. 1 - Carinthia hunting regulation; § 3 para. 2 leg cit. Lower Austria hunting regulation (NÖ JG), for prohibitions applying to the conservation of lynx in Lower Austria see section 4; § 3 para. 1 of the Upper Austrian hunting regulation, prohibitions under § 48 para. 5 (derogations following the adoption the Habitats Directive) - Upper Austria hunting regulation; § 36 Tyrol hunting regulation; § 36 - Vorarlberg hunting regulation).

Federal states such as Salzburg have a slightly different jurisdicitive wording. The Salzburg game law states that open or closed seasons for Eurasian Lynx have to be regulated by the federal state government of Salzburg. During the closed season, lynx may neither be pursued, caught, nor killed. According to paragraph 3 leg cit, all kinds of game, for which no closed season is set and which cannot be pursued all year round, have to be protected throughout the whole year. In Salzburg game law, Eurasian Lynx is assigned to this group. Additionally, § 103 Salzburg game law (Sbg JG) states in its paragraph 1 lit a, that the lynx is subject to special protection in all life cycle stages. Thus, protection provisions as stated in section 2 leg cit. apply to it.

In Styria there are no open seasons set for the lynx; thus, even though it is declared as a game species, it is nonetheless not subject to hunting and is protected year-round as well. The killing of game, for which no hunting periods are fixed, is prohibited (§ 2 Styria regulation on open seasons).

Exceptions are foreseen.

Federal State	Status under hunting law	Closed season	Special state of protection (as defined by Art. 12 HD guideline)
Burgenland	Game (ground game/predator),	Year-round closed season	§ 16 NSchG

	hunnable animals: § 3 (1) lit a		
Carinthia	Game (ground game/predator): § 4 (a) lit a	Year-round closed season	§ 19 NSchG
Lower Austria	Game (ground game/predator): § 3 (2) Z 1	Not huntable, therefore no defined closed season	§ 18 NSchG
Upper Austria	Game (ground game/predator), huntable animals: § 3 (1) iVm Annex lit a	Year-round closed season; § 1 Oö. SZV 2007 § 1	§ 27, 28 NSchG
Salzburg	Game (ground game/large predators): § 4 Z 1 lit b	Year-round closed season	§ 31, 32 NSchG
Styria	Game: § 2 (1) lit d	Year-round closed season	§ 17 NSchG
Tyrol	Game (ground game/large predator): § 2 (1) iVm Annex 1 b)	Year-round closed season	§ 24 NSchG
Vorarlberg	Game (ground game/predator): § 4 (1) lit a - Vbg JG iVm § 1 lit a Vbg JVO	Year-round closed season	§ 6 Vbg NschVO
Vienna	Game (ground game/predator): § 3 (1) lit a	Year-round closed season	§ 10 Abs 3 Wr NschG iVm § 4 Abs 1 Wr NschVO

Fig.1 Overview of hunting and nature conservation laws and legal status of Eurasian Lynx enforced and regulated by the respective federal state governments of the Republic of Austria.

Red list status

In the Red List of Endangered Species of Vertebrates of Austria, the Eurasian lynx is listed as an endangered species (Zulka 2005).

National management plans, action plans, or other binding documents for lynx conservation and management

A **monitoring concept** for large carnivores has been elaborated by the section on large predators (“Fachgruppe Großraubtiere - Monitoringkonzept für Braunbär, Luchs & Wolf in Österreich”, May 2009). This monitoring concept has not yet been implemented into legislation. Improvement of the Austrian lynx monitoring concept will be closely interlinked with the development of the conservation strategy for Czech - Bavarian - Austrian (BBA) population within the 3lynx project.

2.4 Slovenia

Lynx status in Slovenia

From 1978 there was regulated hunting of lynx. From the reintroduction of the lynx in 1973 until the nineties there has been an increase in the population, despite hunting. The population spread to the north-east to Italy and Austria and South to Croatia and Bosnia and Herzegovina. The last legal hunt of lynx was recorded in February 2003.

From 2004 the legislation for nature conservation changed, and the lynx is treated as a protected species and therefore lost its status as a game species. The Decree on protected wild animal species was adopted, which provides a system for strict protection of the lynx. It is prohibited to consciously hurt, poison, kill, hunt, catch, or in any way disturb the lynx.

Exemptions from the protection of lynx are listed under Articles 6 and 7. **In all cases, when granting an exemption, the condition must be satisfied that there is no other satisfactory solution and that the activity will not negatively affect the achievement or maintenance of the favourable conservation status of the species.** Removal of lynx needs special authorization (Article 8) and it is only granted when certain conditions are met (e.g. considerable agricultural damage, threat to public safety).

Supervision is done by inspectors responsible for nature conservation, inspectors responsible for hunting, and nature protection wardens. The authority responsible is the Ministry of Environment and Spatial Planning.

Nature Conservation Act

This Act provides general protection of wildlife fauna and flora, and their habitats. Penalty provisions are listed in Article 160. **The fine for intentionally, without a justifiable cause, killing or damaging protected animals is 200-1,000 EUR for individuals, for legal persons 10,000-50,000 EUR.**

Fines are also prescribed for other acts contrary to the prescribed rules for protected species. Supervision is done by inspectors responsible for nature conservation, inspectors responsible for hunting, and nature protection wardens.

Criminal Code

According to the **Criminal Code** (Article 344), **unlawful handling of protected animals and plants is punishable by imprisonment of up to 5 years.**

Act on Forests

The forest management plan 2011- 2020 includes a measure that, in the inner protection area for lynx, forest and landscape management is done according to the requirements of the species and its prey.

Act on Game and Hunting

The Act on Game and Hunting is the main legal document that provides the Slovenia Forest Service to implement measures for providing coexistence of all protected large carnivores (including the lynx) and humans in accordance with strategies and management plans for protected species. **Articles 45 and 46 apply control and register for game species and other large carnivores when they are culled or found fallen.**

Other legislative tools

The **Decree on special protection areas (Natura 2000 areas); Natura 2000 Site Management Programme 2015-2020** was adopted in 2015 and it lists the areas where the lynx and its habitats are protected: Javorniki - Snežnik, Notranjski trikotnik, Julijske Alpe, Trnovski gozd - Nanos, Krimsko hribovje - Menišija, Kočevsko, Gorjanci - Radoha. It also lists the measures needed for conservation of the lynx and its habitat.

Decree on ecologically important areas; the areas are consistent with Natura 2000 areas for the lynx.

Compensation Regulations

In Slovenia, livestock depredations from lynx occurred regularly until 2012, with just one loss documented in 2014. The decline in damage is most likely due to fewer lynx.

Principally the state of Slovenia is liable for damage caused by large carnivores. Claims for damage are handled by the Slovenian Environment Agency.

The verification of an attack of a lynx on livestock is done in four steps: 1) the damage claimer must report the damage within 3 days of the attack; 2) an authorized official from Slovenian Forest Service does the on-site investigation and documentation of the dead animal and surroundings and writes a report; 3) if an attack of a large carnivore is verified, the amount of the claim is decided according to national regulation; 4) the Slovenian Environment Agency checks the documentation and issues a decree for compensation. **Species compensated are for all bred animals.**

Red list status

Rules on the inclusion of endangered plant and animal species in the Red List; The lynx is in Appendix III, status extinct (Ex/E), reintroduced population is listed as endangered (E).

National management plans, action plans, or other documents for lynx conservation and management

The **Slovenian Lynx Conservation Strategy was adopted in 2016**. The plan contains legal frameworks, management and measures for implementation and long-term conservation of lynx in Slovenia. The Slovenian government adopted the plan for 2016-2026. A management plan for lynx is in preparation and we expect it to be adopted soon.

Review of Slovenian legislation:

- **Decree on protected wild animal species** (Uradni list RS, št. 46/04, 109/04, 84/05, 115/07, 32/08 - odl. US, 96/08, 36/09, 102/11, 15/14 in 64/16)
- **Nature Conservation Act** (Uradni list RS, št. 96/04 - uradno prečiščeno besedilo, 61/06 - ZDru-1, 8/10 - ZSKZ-B in 46/14)
- **Rules on the inclusion of endangered plant and animal species in the Red List;** (Uradni list RS, št. 82/02 in 42/10)
- **Criminal code**
- **Decree on special protection areas** (Uradni list RS, št. 49/04, 110/04, 59/07, 43/08, 8/12, 33/13, 35/13 - popr., 39/13 - odl. US, 3/14 in 21/16)
- **Decree on ecologically important areas** (Uradni list RS, št. 48/04, 33/13 in 99/13)
- **Act on Forests** (Uradni list RS, št. 30/93, 56/99 - ZON, 67/02, 110/02 - ZGO-1, 115/06 - ORZG40, 110/07, 106/10, 63/13, 101/13 - ZDavNepr, 17/14, 24/15 in 9/16 - ZGGLRS)
- **Act on Game and Hunting** (Uradni list RS, št. 16/04, 120/06 - odl. US, 17/08 in 46/14 - ZON-C;)

2.5 Italy

LEGGE 11 febbraio 1992, n. 157, Law on the protection of wildlife and hunting harvest

The lynx is listed among the species with special protection status in the species protection and hunting law 157/1992 (Article 2). Until this legislation was passed, there was no sanction for the capture or killing of Eurasian lynx individuals. The protection the species enjoyed was only indirect, by not being included in the list of animals allowed to be hunted (Ragni et al. 1998). Explicative of the past legal situation was the killing of a lynx in September 1989 in Roncogno (Trento province). After a long legal dispute, the hunter responsible for the illegal killing was fined 600,000 Lire, a fine equivalent for the illegal killing of a roe deer.

The species protection and hunting law 157/1992 implies that **it is prohibited to hunt lynx, it is forbidden to remove and capture, as well as any disturbance.**

Regional authorities can give an exception for scientific purposes (or if in difficulty) but the favourable opinion of the National Wildlife Institute is needed (Article 4). Article 20 defines

the conditions for the introduction of wildlife, which is only allowed for population reinforcement purposes or genetic rehabilitation.

Article 26 states that each region has to constitute a fund for damage prevention and compensation.

The killing, capture or holding in captivity of lynx may be prosecuted under Article 30, according to which there is an imprisonment sentence from two to eight months or the fine of 1,500.000 up to 4,000.000 Lire (approximately 775-2066 EUR).

Legal situation at regional level (example Friuli Venezia Giulia)

In respect of the national and international obligations that the Italian state has assumed (e.g. Habitats Directive and Bern Convention), the region Friuli Venezia Giulia specifies law 9/2007: Norme in materia di risorse forestali (Directives concerning forest resources). **Article 43 states that the forest has to be improved for species cited in Annex IV of the Habitats Directive.**

Additionally, based on Article 26 of the national law 157/1992, the region provides funds for the compensation and prevention of damage caused by brown bear, wolf and lynx, large carnivores of community interest (legge regionale n. 6/2008, art. n. 11). The criteria, modalities and deadlines for submitting applications for prevention works, and the claim for compensation, are described in the Implementing Regulation (D.P. Reg. 128/2009). **Based on Article 8, the damage has to be reported within three days. The amount of compensation depends on market prices, for example species, breed and age are considered.**

Red list status

Not listed.

National management plans, action plans, or other documents for lynx conservation and management

There is no management plan for lynx in Italy.