

Uncovering the Invisible: Successes and Challenges for Wildlife Crime Prosecution in Europe

EUROPEAN SUMMARY REPORT



Successful Wildlife Crime Prosecution in Europe:

Uncovering the Invisible: Successes and Challenges for Wildlife Crime Prosecution in Europe: European Summary Report

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LIST OF ACRONYMS

| | | | | | |
|-----------------|---|-----------------|--|--------------|--|
| BiH | Bosnia and Herzegovina | EUROPOL | EU Agency for Law Enforcement Cooperation | NGO | Non-governmental organisation |
| CC | Criminal Code | EU-TWIX | European Union Trade in Wildlife Information Exchange | NWCU | National Wildlife Crime Unit (United Kingdom) |
| CEPOL | European Union Agency for Law Enforcement Training | FBiH | Federation of Bosnia and Herzegovina | OCG | Organised Criminal Group |
| CITES | Convention on International Trade In Endangered Species of Wild Fauna and Flora | GPS | Global Positioning System | PNAB | National Action Plan for Combating Offences against Wild Birds (Italy) |
| CUFA | Command of Forestry, Environmental and Agri-Food Units (Italy) | ICCWC | International Consortium on Combating Wildlife Crime | SEI | Slovak Environmental Inspectorate |
| DG | Directorate-General | INTERPOL | International Criminal Police Organization | SNC | State Nature Conservancy (Slovakia) |
| ECD | Environmental Crime Directive | ISPRA | National Institute for Environmental Research (Italy) | SWiPE | Successful Wildlife Crime Prosecution in Europe Project |
| EJTN | European Judicial Training Network | IUU | Illegal, Unreported and Unregulated fishing | UNODC | United Nations Office on Drugs and Crime |
| EMPACT | European Multidisciplinary Platform Against Criminal Threats | MITECO | Ministry for the Ecological Transition and the Demographic Challenge (Spain) | WAP | EU Action Plan against Wildlife Trafficking |
| ENPE | European Network of Prosecutors for the Environment | NES | National Expert Group on the Elimination of Environmental Crime (Slovakia) | WCO | World Customs Organization |
| EU | European Union | NEST | National Environmental Security Taskforce (Hungary) | WLC | Wildlife Crimes |
| EUROJUST | EU Agency for Criminal Justice Cooperation | | | | |



Executive Summary



Despite a regulatory framework consisting of different international conventions and EU legal instruments, wildlife crime (WLC) is an increasing concern in Europe due to a relatively low risk of detection, shortcomings in law enforcement and prosecution, and potential high gains for offenders.

In 2020, the SWiPE (Successful Wildlife Crime Prosecution in Europe) project was launched to discourage and ultimately reduce WLC by improving compliance with EU environmental law and to contribute to a more successful prosecution of wildlife crimes. The SWiPE project comprises of 13 partners in 11 European countries (Bosnia and Herzegovina, Bulgaria, Croatia, Hungary, Italy, Poland, Romania, Serbia, Slovakia, Spain, and Ukraine) under the funding of the EU LIFE Programme.

In 2022, national reports were published on the 11 SWiPE project countries providing a comprehensive overview of wildlife crime at the respective national levels. This document, the European Summary Report, presents an overview of all 11 national reports, to identify the key, overarching issues that represent challenges to successful wildlife crime prosecution in Europe.

The evaluation, comparison and summary of the national reports was challenging due to the insufficient

completeness and consistency of the data available. This report provides an indicative outline of the situation of WLC prosecution in the 11 SWiPE project countries, which should be read taking into consideration the above-mentioned challenges.

The main findings are summarised below:



1. Analysis of WLC-related legislation

The EU project countries' legal frameworks on wildlife crimes and offences are generally in line with the project countries' obligations as EU Member States and/or as signatories to relevant international treaties and conventions in this area. Serbia and Bosnia and Herzegovina have aligned to a certain extent their WLC-related legislation with the EU laws, although there are still elements that need improvement. Ukraine has taken steps to comply with the requirements of the EU Habitats Directive as per the relevant provisions of the Association Agreement.

Each country's legislation has provisions for specific activities harming protected animal and plant species. The legislation of most countries contains provisions for the criminalisation of activities that correspond to the definition of wildlife crime set by the SWiPE project, with a few exceptions in Bosnia and Herzegovina, and Ukraine.

Most of the 11 project countries identified possibilities for improving their national wildlife crime-related legislation. The issues identified fall into the following categories:

- Inadequate sanctions;
- Unclear distinction between administrative offence and criminal offence;
- Conflicting or inconsistent legislation;
- Legal loopholes.

2. Analysis of WLC-related authorities and competences

The competent authorities in each country can be divided into administrative authorities responsible for granting permits, undertaking checks, etc.; and police departments, guards, inspections and other services with powers to prosecute WLC. Even though most project countries reported inadequacies in their national wildlife crime-related legislation, the main issue was found to be its application in practice.

The main issues identified on the organisational level that hinder the successful WLC prosecution are:

- Lack of or insufficient specialisation in law enforcement and the judiciary;
- Limited collaboration between authorities;
- Lack of uniform data and data sharing;
- Insufficient human and financial resources;
- Insufficient competency of supervisory and enforcement authorities;
- Lack of public awareness.



3. Lessons from sample cases

The analysis of the case studies presented in the national reports permitted the identification of key factors that enable the law enforcement and judicial process for the successful prosecution of wildlife crime.

Among the good practices described in the case studies, four central themes for the detection and investigation phase emerged:

- Targeted and coordinated use of detection resources and technology;
- Securing evidence;
- International cooperation of law enforcement authorities;
- Collaboration between inspection/law enforcement authorities and experts.

Three main themes emerged for the prosecution phase:

- Clarity about formal procedures;
- Involvement of experts to build the case and establish damages;
- Swift and timely proceedings.

4. Analysis of violations against wildlife conservation

The following general observations were made when comparing data from the 11 project countries:

- There is no centralised, uniform, and structured database on crimes against nature within any of the project countries, nor any monitoring of the phenomenon – making wildlife crimes invisible. 87 different regional and national institutions were contacted, showing the lack of a centralised database on wildlife crimes across Europe.
- The wildlife crime data collected for the time period 2016-2020 predominantly related to illegal killing/hunting (27%), poisoning (16%), prohibited methods/equipment of hunting (14%), and wildlife trafficking (13%).
- The majority of the recorded cases of killing birds and mammals were treated as criminal offences, in contrast to the recorded fisheries cases, which were more likely to be treated as administrative offences.

- Birds (namely songbirds, especially goldfinches - *Carduelis carduelis*, and raptor species) were by far the most targeted species. Finches were mentioned as one of the most targeted species in 7 out of the 11 project countries, being victims of different forms of wildlife crime, including illegal trade, killing, poaching, illegal hunting, illegal capture, collection and possession.
- -Most wildlife crimes go unpunished or undetected. For example, 410 cases of poaching passerines were officially recorded in Italy in 2016-2020 but 1183 passerines alone arrived at the wildlife rescue centre CRAS Valpedrina after having been wounded by gunshots or seized.
- Even if reported, a large proportion of wildlife crime cases were not prosecuted. On average, 60% of wildlife crime complaints received by the prosecution did not result in indictments that led to court proceedings. The sanction most frequently applied was suspended imprisonment.



5. Trends and differences

Some regional differences emerged, due in large, to each country's geography, history and traditions.

- The findings for Italy and Croatia testify to the tradition of songbird hunting in the Mediterranean area. In Italy, songbird hunting is carried to extremes. This activity has recently been on the rise in Poland, Romania, and Bosnia and Herzegovina due to the activities of organised crime groups from Italy or hunting tourism by Italian nationals. In Spain, a different tradition, that of capturing and keeping finches (especially goldfinches), contributes to the significant impact on this group of species. Ukraine reported large numbers of songbirds exported illegally to the Middle East.

- In countries where large carnivores are present in significant numbers (Bosnia and Herzegovina, Croatia, Italy, Romania, Slovakia, and Ukraine), illegal killing of these species takes place, mostly as a result of the (perceived or actual) danger to livestock or hunting conflicts, or for trophies.
- A problem encountered in Bosnia and Herzegovina, Croatia, Hungary, Italy, Romania, Slovakia, and Ukraine was the killing, mostly by poison, of birds of prey, also largely for the purported reason of protecting livestock.
- Countries with external EU land borders (such as Croatia, Hungary, Poland, Romania, and Slovakia) and Ukraine reported transboundary trafficking of wildlife.
- It is important to note the existence of Environmental Crime Units within the Police force in Hungary, Italy, Slovakia and, since 30 March 2022, in Serbia, as well as the planned inception of a specialised police unit in Romania.
- In Bulgaria, Poland and Spain, differences in the effectiveness of prosecutions between large urban centres and the provinces and smaller cities were observed in favour of the larger ones.
- Bosnia and Herzegovina and Croatia recorded a decreasing trend in reported and prosecuted wildlife crime cases during the study period. An increasing trend was observed in Hungary, Italy (for administrative offences) and Ukraine.



6. Conclusions and recommendations

Many of the listed conclusions are likely to be valid for European countries in general. Best practices to issues and better cooperation among states can be fostered on a European level, yet it is clear that the implementation of many of the below recommendations need to be addressed at the national level.

Relevant authorities, other than the police, should be granted surveillance and inspection competencies

Authorities for environmental protection, fisheries or protected areas and their associated surveillance bodies (like inspectorates, rangers, wardens or even volunteer groups) are key to the successful detection of violations of WLC-related laws. But the competencies of these authorities are restricted in various ways (financial, technical, training resources), limiting the full potential services they could render.

Protocols for cooperation, coordinated action and legal proceedings should be adopted to improve detection, reporting, and investigation

Several shortcomings were identified at the level of coordinated cooperation between enforcement, prosecution, and judiciary authorities, as well as a lack of expert involvement. The following actions should be advocated at the national level, for example as part of National Wildlife Crime Action Plans, to alleviate these issues:

- Establishing a protocol for the correct filing of administrative and criminal offences, and legal support for surveillance and inspection staff;
- Drawing up explicit agreements for the joint work of the investigating authorities with the main administrative control bodies;
- Establishing a uniform standard for the investigation of wildlife crime;
- Defining the role of NGOs and external experts in the enforcement process and facilitating their participation in court proceedings;
- Establishing formal feedback processes between prosecuting authorities and authorities filing reports on the proceedings and outcomes of cases filed;
- Establishing a formal protocol for prosecutors about WLC that acknowledges the investigation and forensic specifics of such crimes.

Need for specialisation in the judiciary

While growing awareness of the importance of specialised prosecutors is leading to improved training offers for these, none of the analysed national reports mentioned sufficient specialisation at the level of judges. The creation of training opportunities for prosecutors and judges in the field of environmental/wildlife crime should be an advocacy priority at the national level.

Need for databases

Across the SWiPE project countries, a lack of centralised national databases was identified. In line with the Commission proposal for a revised EU Environmental Crime Directive, data should be collected on:

- Illegal killing of wildlife (place, time, species, means, perpetrators);
- Records of the proceedings and results of WLC cases, accessible to all institutions and authorities working to combat wildlife crimes;
- Number of cases that are reported, number of cases that are investigated, number of convictions, number of dismissed court cases;
- Number of natural and legal persons convicted and sanctioned for wildlife crimes;
- The length of the investigation of criminal wildlife crime cases and the time from detection to court decision;
- Types and levels of sanctions imposed for wildlife crime;
- Population status of protected species.

Need for making financial, technical, human and other resources available

The main issue is the limited financial resources, particularly in terms of staff, equipment, and facilities. This, in turn, depends on the political prioritisation that WLC issues receive, highlighting the need to raise awareness among policy-makers, law enforcement institutions, judiciary, media, and civil society and for political advocacy on the part of relevant stakeholders.

- Some of these issues, such as the dedication of special investigation techniques and resources, can be alleviated by training judges (or the respective officials responsible for allocating resources to investigation) who assign resources to the investigation process.

- The identification/assignment of external experts may be facilitated by creating/improving databases of experts (with fields of expertise specified and contact details provided).
- Examples of good practices for working with limited resources were mentioned in national reports and the SWiPE Wildlife Crime Workshop held on 28-30 June 2022 in Madrid. In the United Kingdom (UK), the National Police has a dedicated National Wildlife Crime Unit (NWCU). The NWCU focuses its efforts on achieving maximum impact, defining priority areas based on information regarding the current conservation status of UK species and the volume of wildlife crime. UK prosecutors regularly conduct assessments of successful and unsuccessful WLC cases, with the involvement of investigative authorities. Such good practices are recommended to be followed by the SWiPE countries.
- Some regions of Spain have canine units specialised in poison detection. Hungary has piloted a sniffer dog program for detecting poison, which is currently in the process of upscaling.
- In Slovakia and Hungary, drones, and GPS trackers (respectively) have been deployed successfully for detecting and investigating wildlife crime (including poisoning cases).
- Important lessons may be learned from law enforcement and judicial practitioners from African, Asian, or Latin American countries regarding best practices for working under resource restrictions.

Need for a better transposition of the EU legal instruments and their optimised implementation at a national level by the Member States

While most of the legal issues identified (such as inadequate sanctioning or the unclear differentiation between administrative and criminal offences) may be addressed by the revised Environmental Crime Directive (ECD) other issues are specific to individual countries and have to be addressed at a national level. Countries need to make conscious efforts to comply with their obligations and to abandon the practice of poor transposition and/or implementation of crucial EU laws.



7. Policy Engagement

Engage in EU legislative processes

At the EU level, there are opportunities to engage with the elaboration and implementation of the revised Environmental Crime Directive (ECD) and the EU Action Plan against Wildlife Trafficking (EU-WAP). Both frameworks are currently being revised and elaborated. The new EU-WAP was adopted in November 2022, and the new ECD is expected to be adopted by the end of 2023. During this time, there is an opportunity to give input and make recommendations on content and wording.

1. During the interinstitutional negotiations for the adoption of the new ECD, the respective stakeholders and NGOs can advocate at two levels for specific issues:
2. At the EU level, stakeholders can actively engage with the relevant involved

departments of the European Commission, the European Parliament, and the Council.

3. At the national level, stakeholders can engage with their respective ministries, most importantly the Ministries of Justice, to advocate for specific issues.

Engage in the national implementation of (new) EU policies

While solid legislation builds the basis for good enforcement of the laws and a clear legal situation, advocacy does not stop with the adoption of the final legal text. Continued advocacy and engagement carried out by representatives of the non-governmental sector with relevant ministries at the national level raise awareness of specific issues and pave the way for proper transposition and implementation and directing focus and resources.

Non-EU countries

Serbia and Bosnia and Herzegovina, being candidate states for EU accession, are in the process of complying with the accession criteria, including the adoption and implementation of the EU acquis. Ukraine has applied for an accelerated admission procedure to the EU, which is generally supported by the partners in LIFE SWiPE. Advocacy in these countries should be directed at EU compliance to fulfil the accession criteria. This will also come with positive implications for cross-border cooperation.

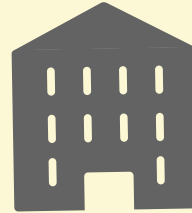


At a glance



THE INVESTIGATION

The LIFE SWiPE project has produced **the most comprehensive picture to date about wildlife crimes in Europe**, with national reports for 11 European countries.



87 different regional and national institutions were contacted, showing the lack of a centralised database on wildlife crimes across Europe.

THE CRIMES

LIFE SWiPE considers as wildlife crimes the following actions:



Illegal wildlife trade



Trapping, harming



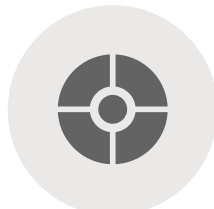
Illegal catching\ capturing



Illegal collection of eggs



Non-selective catching and killing



Poaching and illegal killing for sport, predators or pest control and retaliation



Possession, supply and sale, export\import, illegal fishing

But there is **no official definition of wildlife crime** applied by institutions at a national or European level.

That prevents organizations and researchers from exploring the phenomenon and assessing its actual scope.

The most common wildlife crimes in the LIFE SWiPE countries, for the time period 2016-2020:

Wildlife crime is not a petty crime. It is devastating for biodiversity in Europe and beyond. **We have lost 69% of the populations of vertebrate wild animals since 1970.**

It poses a growing risk to the economic development and security of our societies.



Illegal killing/hunting.

27%



Poisoning.

16%



Use of prohibited hunting methods or equipment.

14%



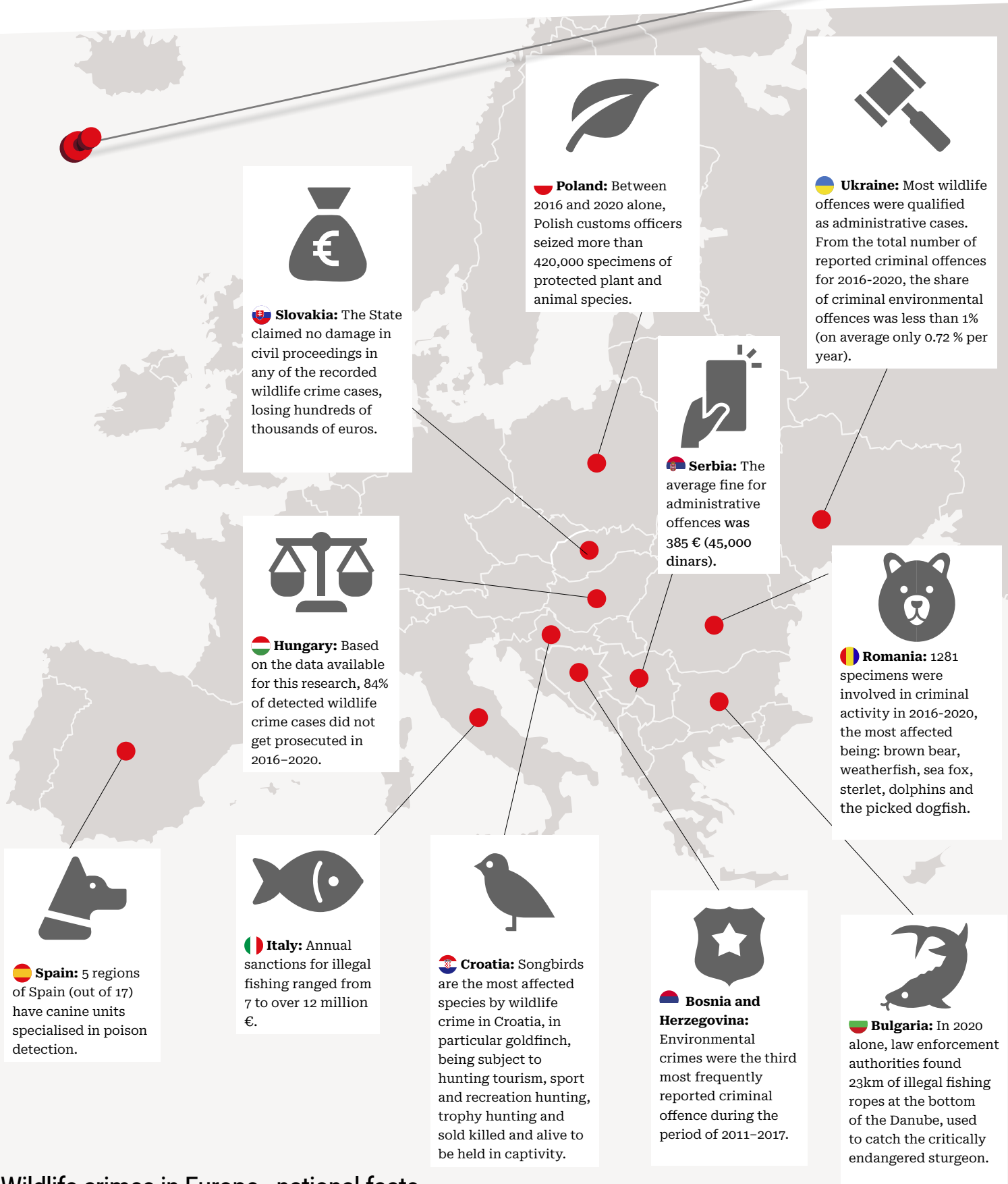
Illegal wildlife trade/smuggling/ CITES violation.

13%



EUROPE IS A KEY CROSSROADS FOR THE TRAFFICKING OF PROTECTED SPECIES.

But Wildlife crimes also happen within the EU borders and threaten European species.

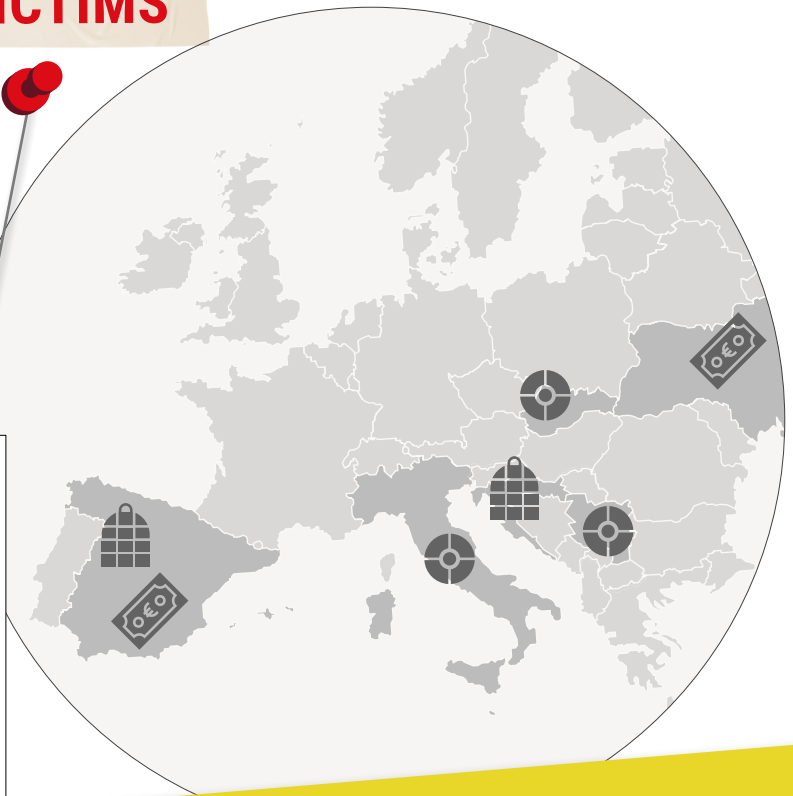




THE VICTIMS

The most targeted species in wildlife crimes for the period 2016-2020 were birds. Finches were mentioned as one of the most targeted animals in 7 out of the 11 project countries.

- Ukraine:** Illegal wildlife trade towards Middle East
- Italy:** Illegal Killing
- Serbia:** Poaching tourism by foreigners / Illegal Killing
- Spain:** Illegal capture as pets / Use of illegal hunting equipment
- Croatia:** Illegal capture as pets
- Slovakia:** Illegal capture as pets

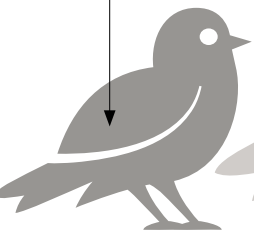


WILDLIFE CRIMES ARE INVISIBLE CRIMES

ITALY

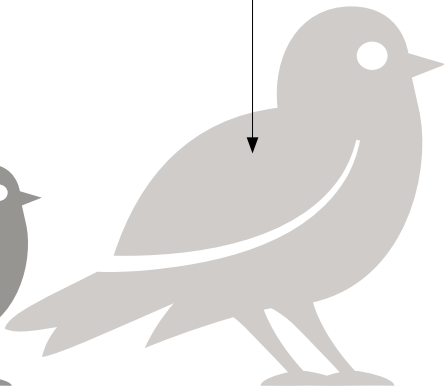
410

Poaching cases of passerines recorded in the whole country (2016-2020)



1183

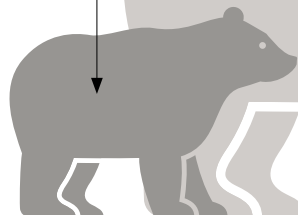
Arrived at just one wildlife hospital after being wounded by gunshots or seized from poachers.



BULGARIA

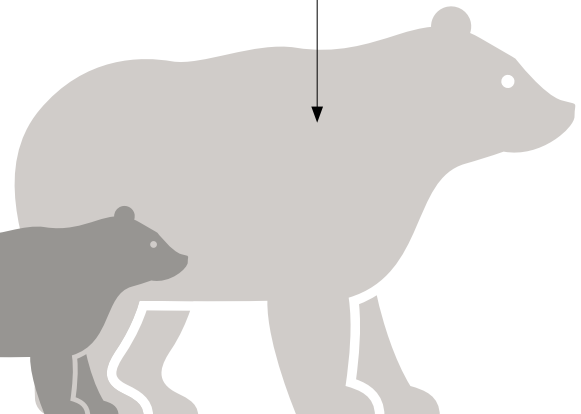
8

Known cases of dead bears.



80

Bear population decline over the same period (from 411 to 329)



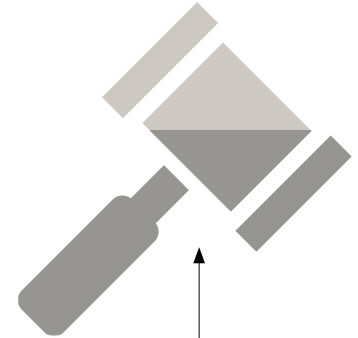
MOST WILDLIFE CRIMES GO UNREPORTED OR UNDETECTED.



MOST WILDLIFE CRIMES GO UNPUNISHED



The revision of the EU Environmental Crime Directive and more collaborative bilateral and multilateral meetings between representatives of national and international law enforcement, prosecution, and investigation units can change this deeply established practice in Europe.



A CRUCIAL WINDOW OF OPPORTUNITY: The revision of the EU Environmental Crime Directive

This legislation, currently under negotiations, may address important legal issues identified by the SWiPE project, such as inadequate sanctioning or the unclear differentiation between administrative and criminal wildlife cases.

On average, **60%** of wildlife crime complaints received by the prosecution did not result in indictments that led to court proceedings

KEY RECOMMENDATION FROM THE SWiPE SUMMARY REPORT:

1.

Close **legal loopholes** at the national level that allow the purchase of illegal hunting gear.

2.

National institutions could form **wildlife crime hubs**, create **specialised units**, and take responsibility for the implementation of protocols for joint work on wildlife crime cases.

3.

Create a **centralised, uniform and structured database** on crimes against nature across Europe.

4.

Invest more resources into **better cooperation** to increase detection, reporting and investigation, taking external experts into account.

5.

Need for **specialisation** in the enforcement and judicial sector.

8.

Improve the limited financial resources available to fight wildlife crimes, particularly concerning staff, equipment and facilities, and **prioritize their enforcement and prosecution.**

7.

The punishments must fit the Proportionate and dissuasive actions are needed to reduce the number of wildlife crimes in Europe.

6.

The **use of Non-governmental organisations as experts** in court proceedings and to allow the participation of the public concerned.



1. Introduction



1.1 THE SWiPE PROJECT

Wildlife crime (WLC) is not a petty crime. It causes a significant reduction in biodiversity and can lead to the extinction of animal and plant species. It poses a considerable and increasing threat to the environment and also to economic and social development and security, locally and globally.

Despite a regulatory framework consisting of different international conventions and EU legal instruments, wildlife crime is increasingly recognised as a concern in Europe due to shortcomings in law enforcement and prosecution, paired with the relatively low risk of detection and potentially high gains for offenders. Due to the scale of the problem, there is an urgent need for enhanced enforcement of laws and effective prosecution to counteract wildlife crime.

There is no universally accepted definition of wildlife crime.¹ Crimes against wildlife can be defined in several different ways. The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) or the United Nations Office on Drugs and Crime (UNODC), for example, define wildlife crime within the context of

illegal (international) trade. Illegal wildlife trade is, beyond a doubt, a serious crime on par with drugs or arms trafficking in terms of its scale and profit margins. There is a large body of literature dedicated to the illegal wildlife trade, the damage it causes and strategies for combating it. Wildlife crime is, however, also taking place to a considerable extent at national levels in every country, where (international) trade may or may not play a role.

In 2020, the SWiPE (Successful Wildlife Crime Prosecution in Europe) project was launched to discourage and ultimately reduce wildlife crimes by improving compliance with EU environmental law, and to contribute to a more successful prosecution of wildlife crimes.² The SWiPE project's definition of wildlife crime includes the illegal wildlife trade but also encompasses "any form of illegal actions directly harming a protected species (except for animal welfare aspects), which take place within the 11 project countries, covering species (animals and plants) protected under the Convention on International Trade In Endangered Species of Wild Fauna and Flora (CITES) and the EU Wildlife Trade Regulations, and animal species listed in the EU Habitats and Birds Directives."³

Below is a non-exhaustive list of wildlife crimes and the categorizations applied by the SWiPE project:

- Poaching and illegal killing for sport, predators or pest control and retaliation;
- Illegal catching/capturing;
- Illegal collection of eggs;
- Non-selective catching and killing;
- Trapping, harming;
- Possession, supply and sale, export/import, illegal fishing.

The SWiPE project comprises 13 partners in 11 European countries (Bosnia and Herzegovina, Bulgaria, Croatia, Hungary, Italy, Poland, Romania, Serbia, Slovakia, Spain, and Ukraine) under the funding of the EU LIFE Programme

1. UNODC (2020)

2. The Successful Wildlife Crime Prosecution in Europe - SWiPE. WILDLIFE CRIMES ARE WILD CRIMES AGAINST LIFE. <https://stopwildlifecrime.eu/>. (Accessed 06.07.2022)

3. SWiPE. Legislation concerning wildlife crime. <https://stopwildlifecrime.eu/international-and-eu-legal-framework/legislation/>. (Accessed 06.07.2022)



1.2 THE NATIONAL REPORTS

In 2022, national reports were published on the 11 SWiPE project countries providing a comprehensive overview of wildlife crime at the respective national levels.

The national reports provide an assessment of WLC across different protected species and different types of crime and offences. This was achieved through the analysis of WLC data collected (individual cases and aggregate data), and by summarising information obtained from semi-structured interviews with representatives of authorities along the WLC enforcement chain, focusing on gaps in the processes of WLC detection and prosecution. The period covered was 2016–2020.

Data on individual WLC cases were gathered from various sources, including authorities (police, prosecution, courts, national reports and statistics, ministries, protected areas, etc.), private databases or the media (for an overview of data sources for each country, see Annex III). Interviews were conducted with representatives of law enforcement agencies and other selected institutions/organisations that play an important role in the fight against wildlife crime.

Each national report describes the country's legal system, the laws setting out the offences defined as wildlife crime by the SWiPE project and the juridical proceedings and authorities involved. The second part consists of the analysis of the collected data on infringement cases related to protected wildlife.

1.3 THE EUROPEAN SUMMARY REPORT

The European Summary Report provides an overview of all 11 national reports to identify the key, overarching, issues that represent hurdles to the successful prosecution of wildlife crime in Europe.

Sections 3 through 5 of this report summarise the national reports of the 11 SWiPE project countries. Facts, figures and circumstances are presented and summarised as described in the national reports, with occasional reference to complementary sources. The national databases of compiled WLC cases were consulted for additional information, as needed.

The content of the national reports is subject to the individual expertise and/or thematic priorities of the authors; the available inter-



view partners and their expertise/priorities; the available data and other factors influence the content of each national report. The reports and the summary are therefore not to be viewed as a comprehensive snapshot of the status quo regarding WLC in the project countries, but rather as an indicative outline of the situation of WLC prosecution and possible leverage points for its improvement.

Although the national reports share a common template, they vary greatly in their length, ranging from 28 pages to 120 pages, and, therefore also in their detail. The differences in length are due, on the one hand, to the detail in which the laws and legal systems are outlined and, on the other, to the quantity and quality of data available for analysis. More details of the data are given in Section 1.4. and Annex I.

This report does not go into the specifics of the legislation, judicial systems, authorities and WLC data in individual countries. This information and specific conclusions and recommendations for each country can be consulted in detail in the national reports.⁴

The European Summary Report focuses instead on common themes or problems at a national level that illustrates a bigger issue that is revealed from the analysis of national laws, institutions and available WLC data in the 11 project countries. This document does not aim to be a legal reference. It aims to identify common issues and solutions to address them, as well as areas that can be advocated at the European policy level.

1.4 ACCESSIBILITY, COMPLETENESS AND CONSISTENCY OF DATA

Sections 3 to 5 aim to summarise and present an overview of the findings of the 11 national reports, with a particular focus on the challenges in evaluating data on wildlife crime as compiled in the national databases. These challenges are briefly outlined in the following paragraphs.

None of the project countries has a centralised database on wildlife crimes.⁵ The data for each country were obtained from various sources, including enforcement authorities, national and regional ministries and authorities, NGOs, media, public and private databases, prosecutors' offices,

courts and others (see Annex I for an overview of the data sources per country), and compiled in a SWiPE project database.

None of the project countries has a centralised database on wildlife crimes.

The data were received in different formats. Individual case data were not available to the same extent from every source and in every country. Those available were integrated into the project database. The resulting country databases are heterogeneous and to varying degrees, incomplete. Challenges were encountered at multiple levels:

The responses of the authorities from which data had been requested varied from country to country. Non-disclosure of information, unwillingness

4. National Reports available at: <https://stopwildlifecrime.eu/resources/national-reports/>

5. However, all countries have to have some kind of public database with court cases, including wildlife crime. At the same time, not all cases are available due to the sensitive nature of some cases. The existing court case registers for the SWiPE countries are listed on the SWiPE project website: <https://stopwildlifecrime.eu/links/databases/>.



to cooperate with the project or the simple lack of response by some authorities severely affected the completeness of the data.

Even within countries, data received from different sources varied considerably in their completeness and structure, for example between autonomous regions (e.g. in Spain), or where data collection or evaluation methodologies had been revised within the survey period (e.g. as mentioned in the Slovakia report, [the methods] for court statistics and the General Prosecutor's Office).

Some data lacked crucial information relevant to the project (e.g. taxonomic information) and had to be disregarded.

For countries with larger datasets and incomplete taxonomic information (e.g. Spain), there can be no guarantee that there are no duplicate cases if the same case was reported by more than one source along the enforcement chain. It is also possible that one defendant committed more than one criminal offence.

At the court proceedings level, there were many cases for which information was not publicly disclosed; this barrier to the publication of judicial decisions goes beyond access to data on wildlife crime.

Depending on the available sources of information, the data may be skewed towards certain species (for example in Italy, where the bulk of data was obtained from bird recovery centres) or certain types of wildlife crime (as is the case in Hungary, where the database contains a large set of EU-TWIX⁶ data, or in Slovakia, where the CITES Executive Body provided a large dataset). The bulk of the data in the national databases relates to offences against protected animal species. This may be because offences against plants are rarely reported but the reasons are unknown.

The individual case datasets collected by country in the framework of the SWiPE project ranged from 11 cases (Bosnia and Herzegovina) to 3,125 cases (Spain). The result was a heterogeneous data set within and between project countries. Overall, the data provided were not exhaustive and data comparability between national reports was limited. The quality of the data significantly influenced the robustness of conclusions drawn from them. This situation was exemplified by the Spanish case: despite having compiled by far the largest dataset, it was still too incomplete to draw any sound general conclusions due to the lack of data from some autonomous regions, including Castile and León and Andalusia, the country's largest regions.

Data from official statistics, yearbooks or annual reviews were aggregated and could not be integrated into the SWiPE project database, although they are useful for presenting an overall picture.

Data on the results of court proceedings were generally only available in aggregate form and were therefore not comparable with national databases. The difficulties in comparing data on court proceedings between national reports lay in the different items under which these data were aggregated and the differing legal

terminology used in the reports and each country. Legal terminology was harmonised to a certain extent, yet it was sometimes difficult to determine whether the terms referred to the same process or if they denoted different processes, as substantive

and procedural legislation vary slightly between countries.⁷

Depending on the data that could be gathered at the national level, the analysis had to be adapted to what was available, resulting in a variety of representations of findings in national reports. This posed a further challenge for comparing and summarising the reports.

The European Summary Report, therefore, aims at providing an indicative overview of the situation regarding WLC prosecution in the 11 SWiPE project countries, with particular regard to the challenges described above.

The individual case datasets collected by country in the framework of the SWiPE project ranged from 11 cases (Bosnia and Herzegovina) to 3,125 cases (Spain).

⁶ The European Union Trade in Wildlife Information eXchange. A restricted access database on seizures and offences related to EU Wildlife Trade Regulations, accessible only to enforcement officers working on CITES issues in Europe. Currently reported by all 27 EU Member States, Bosnia and Herzegovina, Iceland, Switzerland, Ukraine and the UK. EU-TWIX. *EU-TWIX: A Tool to Facilitate Information Exchange on Illegal Wildlife Trade in Europe*. <https://www.eu-twix.org/>. (Accessed 10.07.2022).

⁷ For example, this Report uses the term "administrative offence". However, such offences have been termed "contraventions", "misdemeanours" or "violations" in some national reports. There are differences in the definitions of these terms between countries that this Report cannot elaborate on. In Italy, for example, a "misdemeanour" is a minor criminal offence; for this reason, "misdemeanours" were treated in the criminal offences section for Italy.



2. The SWiPE project countries in the EU legal context



Eight of the eleven SWiPE project countries are EU Member States. Bosnia and Herzegovina, Serbia and Ukraine are non-EU Member States. Serbia and Bosnia and Herzegovina, being candidate states for EU accession, are in the process of complying with the accession criteria, which includes the adoption and implementation of the EU *acquis*.¹ Ukraine, following the Russian invasion in February 2022, has applied for an accelerated admission procedure to the EU, which is currently under assessment but generally favoured.²

2.1. OVERVIEW OF THE GLOBAL AND EUROPEAN LEGISLATION AND POLICY FRAMEWORKS ON WILDLIFE CRIME AND TRADE

To exercise its competencies, the European Union's institutions may adopt five types of legal acts: regulations, directives, decisions, recommendations, and opinions.³

Regulations have general application, binding in their entirety and directly applicable in all European Union Member States.

A directive is binding in all EU Member States but it is up to the Member States to transpose it into their national laws to achieve the objectives set out in the directive. The national authorities must communicate these measures to the European Commission. Transposition must take place by the deadline set when the directive is adopted. When a country does not transpose a directive, the Commission may initiate infringement proceedings and bring proceedings against the country before the Court of Justice of the EU.⁴

A decision is binding in its entirety. A decision which specifies those to whom it is addressed (e.g. an EU Member State or an individual company) is binding only on them.⁵

Recommendations and opinions have no binding force, in other words, they do not impose any legal obligation on those to whom they are addressed. A recommendation allows the institutions to make their views known and to suggest a line of action. An opinion can be issued by the main EU institutions (Commission, Council, Parliament), the Committee of the Regions and the European Economic and Social Committee. In drafting legislation, these committees give opinions from their specific regional or economic and social viewpoint.⁶

1. The *acquis* is the body of common rights and obligations that is binding on all the EU member states.

2. As of 23.06.2022. European Parliament (2022)

3. [Consolidated version of the Treaty on the Functioning of the European Union \(2012\) OJ C 326, p. 171–172](#)

4. EUR-Lex (2022)

5. European Union. *Types of Legislation*. https://european-union.europa.eu/institutions-law-budget/law/types-legislation_en. (Accessed 04.07.2022)

6. European Union. *Types of Legislation*. https://european-union.europa.eu/institutions-law-budget/law/types-legislation_en. (Accessed 04.07.2022)



Other, not legally binding, tools exist that complement and support the implementation of the EU legal framework. Action plans, for example, formalise collaboration on specific issues within and outside the EU. They allow authorities, institutions and civil society groups (among others) to work together with partners across borders to plan and coordinate collaboration on issues such as wildlife trafficking or sturgeon conservation and recovery (see Sections 2.1.5. and 2.1.6.).

2.1.1. CITES and the EU Wildlife Trade Regulations

International wildlife trade is regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The species covered by CITES are listed in three Appendices, according to the level of protection they need. All LIFE SWIPE countries are Parties to (members of) CITES, as is the EU. In the EU, CITES is implemented through a set of regulations known as the EU Wildlife Trade Regulations. Annexes A, B and C of the EU Wildlife Trade Regulations largely correspond to CITES Appendices I, II and III.

The regulations are:

- Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein (the **Basic Regulation**),
- *Commission Regulation (EC) No 865/2006* (as amended by Commission Regulation (EC) No 100/2008, Commission Regulation (EU) No 791/2012 and Commission Implementing Regulation (EU) No 792/2012) *laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97* (the **Implementing Regulation**),
- *Commission Implementing Regulation (EU) No 792/2012 of 23 August 2012 laying down rules for the design of permits, certificates and other documents provided for in Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating the trade therein and amending Regulation (EC) No 865/2006* (the **Permit Regulation**).
- In addition, a **Suspension Regulation** is in place to suspend the introduction into the EU of particular species from certain countries.⁷

Although the regulations are directly applicable in all EU Member States, the necessary enforcement of their provisions must be provided by national legislation, as these are matters that remain in the competence of each Member State. Member States must ensure that infringements are sanctioned appropriately.⁸



2.1.2. EU Birds and Habitats Directive

Within the EU, the EU Birds Directive and the EU Habitats Directive are the cornerstones of nature and biodiversity protection.

The Habitats Directive (*Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora*) ensures the conservation of a wide range of rare, threatened or endemic animal and plant species. It also establishes the EU-wide Natura 2000 ecological network of protected areas, safeguarded against potentially damaging developments. In total, over 1,000 animal and plant species and 200 habitat types, listed in the directive's annexes, are protected in various ways:

Annex II species (about 900): core areas of their habitat are designated as sites of Community importance (SCIs) and included in the Natura 2000 network. These sites must be managed in accordance with the ecological needs of the species.

Annex IV species (over 400, including many Annex II species): a strict protection regime must be applied across their entire natural range within the EU, both within and outside Natura 2000 sites.

Annex V species (over 90): Member States must ensure that their exploitation and taking in the wild is compatible with maintaining their favourable conservation status.⁹

The Birds Directive (adopted as *Directive 79/409/*

EEC in April 1979) is the oldest piece of EU legislation on the environment. Amended in 2009, it became *Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds*. Under the Birds Directive, all wild bird species naturally occurring in the EU are protected by various regulatory approaches. The directive places great emphasis on the protection of habitats for endangered and migratory species. It establishes a network of Special Protection Areas (SPAs) including all the most suitable territories for these species. Since 1994, all SPAs have been included in the Natura 2000 ecological network, set up under the Habitats Directive. Under the Birds Directive, the Commission also provides guidance on hunting practices. The Commission also aims to eradicate the illegal killing, trapping and trade of birds in the European Union.¹⁰

7. European Commission. *The European Union and Trade in Wild Fauna and Flora*. https://ec.europa.eu/environment/cites/legislation_en.htm. (Accessed 04.07.2022)

8. European Commission. *The European Union and Trade in Wild Fauna and Flora*. https://ec.europa.eu/environment/cites/legislation_en.htm. (Accessed 04.07.2022)

9. European Commission. *The Habitats Directive*. https://ec.europa.eu/environment/nature/legislation/habitatsdirective/index_en.htm. (Accessed 04.07.2022)

10. European Commission. *The Birds Directive*. https://ec.europa.eu/environment/nature/legislation/birdsdirective/index_en.htm. (Accessed 04.07.2022)



2.1.3. EU Environmental Crime Directive

Complementing the regulations and directives introduced above, the Environmental Crime Directive (ECD) (*Directive 2008/99/EC on the Protection of the Environment through Criminal Law*) stipulates the criminalisation of serious violations of 72 pieces of legislation in the environmental field and requires Member States to provide for effective, proportionate and dissuasive criminal sanctions.¹¹

As regards wildlife crime, the directive explicitly refers to the following offences as criminal acts with reference to the Birds Directive and the Habitats Directive:¹²

- The killing, destruction, possession or taking of specimens of protected wild fauna or flora species, except for cases where the conduct (...) has a negligible impact on the conservation status of the species

- Trade in specimens of protected wild fauna or flora species or parts or derivatives thereof, except for cases where the conduct (...) has a negligible impact on the conservation status of the species
- Any conduct which causes significant deterioration of habitat within a protected site
- Inciting, aiding and abetting an environmental crime is also punishable as a criminal offence.¹³

An evaluation of the directive by the European Commission Directorate General Justice and Consumers published in October 2020 found that the directive did not have much effect in practice. The number of environmental crime cases successfully investigated and sentenced remained at a very low level. Sanction levels imposed were often too low to be dissuasive and cross-border cooperation was insufficient. There are also considerable enforcement gaps in all Member States and at all levels of the enforcement chain (police, prosecution and criminal courts). Moreover, the lack of coordination between the administrative and criminal law enforcement and sanctioning tracks often hinders effectiveness. It was also found

that the lack of reliable, accurate and complete statistical data on environmental crime proceedings in the Member States not only hampered the Commission's evaluation but also prevented national policy-makers and practitioners from monitoring the effectiveness of their measures.¹⁴ These findings are largely confirmed by the 11 national reports analysed for this summary.

In December 2021, the European Commission published a proposal for a new Environmental Crime Directive, defining new environmental crimes, setting a minimum level for sanctions and strengthening the effectiveness of law enforcement cooperation.¹⁵

11. <https://ec.europa.eu/environment/legal/crime/>. (Accessed 04.07.2022)

12. Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law (2008) OJ L 328

13. European Commission. *Criminal sanctions for environmental offences*. https://ec.europa.eu/info/energy-climate-change-environment/implementation-eu-countries/criminal-sanctions-environmental-offences_en. (Accessed 04.07.2022)

14. European Commission. *Environmental Crime*. https://ec.europa.eu/info/policies/justice-and-fundamental-rights/criminal-justice/environmental-crime_en. (Accessed 04.07.2022)

15. European Commission. *Environmental Crime*. https://ec.europa.eu/info/policies/justice-and-fundamental-rights/criminal-justice/environmental-crime_en. (Accessed 04.07.2022)



2.1.4. EU Action Plan Against Wildlife Trafficking

A first EU Action Plan against Wildlife Trafficking (EU-WAP) was adopted by the European Commission in 2016 and ran for five years until 2020. The WAP was drawn up in response to the risk represented by the major differences in the implementation and enforcement of EU Wildlife Trade Regulations between Member States and the low level of awareness and political engagement.¹⁶

The newly revised EU Action Plan Against Wildlife Trafficking is a critical step forward in the fight against illegal wildlife trade. Building on five years of activities implemented under

the previous plan, it incorporates objectives and actions adapted to newly arising issues, which will enable the EU and Member States to combat wildlife crime more effectively in the region and globally. The new EU-WAP comprises 4 priorities and 17 objectives to be taken by EU institutions and/or Member States to respond to the present challenges in a multi-dimensional way.

The objectives are based on four priorities:

1. preventing wildlife trafficking and addressing its root causes
2. strengthening the legal and policy framework against wildlife trafficking;
3. enforcing regulations and policies to fight wildlife trafficking effectively;
4. strengthening the global partnership of source, consumer and transit countries against wildlife trafficking.¹⁷

The newly revised EU Action Plan Against Wildlife Trafficking is a critical step forward in the fight against illegal wildlife trade.

2.1.5. EMPACT policy cycle

EMPACT (European Multidisciplinary Platform Against Criminal Threats) is a multidisciplinary, intelligence-led and evidence-based EU security initiative. It aims to identify, prioritise and address the main threats posed by organised and serious international crime that the EU is facing. It is driven by the Member States and involves many bodies working hand in hand, including law enforcement agencies, EU institutions and agencies, public and private organisations and relevant non-EU Member States and organisations.¹⁸

First implemented in 2012, EMPACT runs in four-year cycles. In March 2021, the Council adopted conclusions on the permanent continuation of EMPACT as a key instrument for

operational cooperation to fight organised and serious international crime.¹⁹

A cycle starts with the assessment of criminal threats and the adoption of the EU crime priorities. For each of these priorities, annual operational action plans are then developed, implemented and monitored. At the end of the 4-year cycle, an evaluation is undertaken to assess its implementation and outcome and to feed into the next cycle.²⁰

Within the EMPACT framework, partners work closely together to address the identified key criminal threats, using tools and measures ranging from external border controls, police, customs and judicial cooperation to information management, innovation, training, prevention and the external dimension of internal security, as well as public-private partnerships where appropriate.²¹

All types of environmental crime, with a specific focus on waste and wildlife trafficking, figure among the 10 crime priorities identified by Member States for the EMPACT cycle 2022-2025.²² EMPACT relates to the methodology for Serious and Organised Crimes Threat Assessment (SOCTA) which tackles the increasingly complex phenomenon of serious and organised crime and navigates the priorities of the European law enforcement institutions in their fights against major crime.²³

16. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS, EU Action Plan against Wildlife Trafficking (2006) COM/2016/087 final

17. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS, Revision of the EU action plan against wildlife trafficking (2022) COM/2022581 final

18. Council of the EU (2021)

19. EUROPOL (2022)

20. Council of the EU (2021)

21. EUROPOL (2022)

22. EUROPOL (2022)

23. EUROPOL (2021) A CORRUPTING INFLUENCE: THE INFILTRATION AND UNDERMINING OF EUROPE'S ECONOMY AND SOCIETY BY ORGANISED CRIME. https://www.europol.europa.eu/cms/sites/default/files/documents/socta2021_1.pdf (accessed 12.03.2023)



2.2.OVERVIEW OF CURRENT INFRINGEMENT PROCEDURES AGAINST EU MEMBER STATES PARTICIPATING IN THE PROJECT

An infringement procedure is a legal action that the Commission may take against an EU Member State when it fails to communicate measures that fully transpose the provisions of directives, or does not rectify the suspected violation of EU law. The formal proceedings follow several steps:²⁴

1. Formal Notice: The Commission requests further information from the country concerned, which must send a detailed reply within a specified period, usually 2 months.
2. Reasoned Opinion: If the Commission concludes that the country is failing to fulfil its obligations under EU law, it may send a formal request to comply with EU law. It explains why the Commission considers that the country is breaching EU law. It also requests that the country inform the Commission

of the measures taken, within a specified period, usually 2 months.


3. Referral to court: If the country still does not comply, the Commission may decide to refer the matter to the Court of Justice. Most cases are settled before being referred to the court.
4. If an EU Member State fails to communicate measures that implement the provisions of a directive in time, the Commission may ask the Court to impose penalties.
5. If the court finds that a country has breached EU law, the national authorities must take action to comply with the Court judgement.
6. If despite the Court's judgement, the country still does not rectify the situation, the Commission may refer the country back to the

Court. When referring an EU Member State to the court for the second time, the Commission proposes that the Court imposes financial penalties.

In August 2020, the European Commission reported the highest number of legal cases against Member States for infringements of environmental rules than for any other EU policy area.²⁵

For the territorial scope of the project, there are currently²⁶ 23 open/as yet pending cases against EU Member States for violating EU directives relating to wildlife crime and habitat protection. All of these cases relate to the Habitats and/or Birds Directives; cases relating solely to the Environmental Impact Assessment Directive are not included in this summary. Table 1 gives an overview of the open cases, as of May 2022.²⁷

Table 1: Open/ pending infringement cases of the European Commission against Project EU Member States for violating EU laws related to wildlife crime²⁸

| Infringement number | Year of decision | Decision type | Violated legislation | Case Description |
|---|------------------|------------------------------|--|--|
|  Bulgaria | | | | |
| INFR(2008) 4260 | 2008 | Formal notice | Birds, Habitats and Environmental Impact Assessment (EIA) Directives | Bulgaria has authorised a high number of economic activities in the Kaliakra area without appropriate environmental impact assessment, and is continuing to do so. Thousands of wind turbines and some 500 other projects have been authorised without adequate assessments of their effect on Kaliakra's unique habitats and species, and on the thousands of birds and bats that fly over the site each year on their way to and from Africa. No account is being taken of the cumulative effect of the projects. |
| | 2011 | Additional formal notice | | |
| | 2012 | Reasoned opinion | | |
| | 2013 | Referral to Court | | |
| INFR(2008) 4461 | 2009 | Formal notice | Habitats Directive | In Bulgaria, cumulative impacts of existing and authorised plans and projects to Natura 2000 areas have systematically not been taken into account, and many developments representing a major threat to conservation objectives have still been authorised. The issue was first identified a decade ago. New complaints and a check of authorizations granted in Natura 2000 sites in 2019-2020 showed that this structural problem persists and plans and projects continue to be authorised based on inadequate assessments, or even in the absence of appropriate assessments. |
| | 2010 | Additional formal notice | | |
| | 2018 | 2nd additional formal notice | | |
| | 2020 | Reasoned opinion | | |
| INFR(2018) 2352 | 2019 | Formal notice | Habitats Directive | Bulgaria has not yet designated 194 out of 229 Sites of Community Importance as Special Areas of Conservation within the required time limit and has failed to set site-specific conservation objectives and measures for these sites in breach of the Habitats Directive. |
| | 2020 | Reasoned opinion | | |
| | 2021 | Referral to Court | | |

²⁴. European Commission: *Infringement procedure*. https://ec.europa.eu/info/law/law-making-process/applying-eu-law/infringement-procedure_en. (accessed 06.07.2022)




²⁵. European Commission (2020a)

²⁶. 30.05.2022

²⁷. European Commission. *Infringement Decisions*. https://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/. Search terms: infringements by case; status: active cases; all types of infringement; policy area: environment. (Accessed 30.05.2022)

²⁸. The presented infringements relate to general EU legislation related to protected species (i.e., the Habitats and the Birds Directives). Some of these infringements may not be directly relevant to wildlife crime.



|  Croatia | | | | |
|---|------|--------------------------|-------------------------------|--|
| INFR(2020) 2204 | 2020 | Formal notice | Habitats and EIA Directive | Croatia systematically failed to correctly apply the Habitats Directives when authorising changes to wind farm projects along its coast. In particular, authorization procedures do not ensure that all relevant impacts on protected species and habitats are considered. |
|  Italy | | | | |
| INFR(2015) 2163 | 2015 | Formal notice | Habitats Directive | In Italy, 463 Sites of Community importance for which the deadline has expired have not been designated as Special Areas of Conservation yet. Furthermore, Italy has generally and persistently failed to set site-specific detailed conservation objectives and to establish the necessary conservation measures |
| | 2019 | Additional formal notice | | |
| INFR(2021) 2028 | 2021 | Formal notice | Habitats Directive | The current Italian Natura 2000 network does not adequately cover the various habitat types and species that need protection. The most serious gaps are related to marine species. |
|  Poland | | | | |
| INFR(2016) 2072 | 2016 | Formal notice | Birds and Habitats Directives | On 25 March 2016, the Polish authorities adopted a decision approving a modification to the forest management plan for the Białowieża Forest District. The decision allows for a three-fold increase in timber harvesting as well as for active forest management measures in areas which were so far excluded from any intervention. In its judgement of 17 April 2018 the Court ruled against Poland for failing to ensure that the forest management plan for the Białowieża Forest District would not adversely affect the integrity of the Natura 2000 sites. Poland has still not fully complied with the ruling. Most importantly, Poland has not repealed and replaced the annex to the forest management plan for the Białowieża Forest District. |
| | 2017 | Reasoned opinion | | |
| | 2017 | Referral to Court | | |
| | 2021 | Formal notice | | |
| INFR(2018) 2208 | 2018 | Formal notice | Birds and Habitats Directives | Recent changes to Polish law introduce exemptions for forest management activities which compromise the required protection regime. |
| | 2019 | Reasoned opinion | | |
| | 2020 | Referral to Court | | |
| INFR(2019) 2137 | 2019 | Formal notice | Habitats Directive | Under EU law, forest management plans - which regulate activities, such as logging - must undergo an assessment of their effects on Natura 2000 before authorization. In Poland, such assessments are carried out, but Polish law does not provide access to justice with regard to forest management plans. As these plans may have significant effects on Natura 2000 sites, the public interest is, thereby, deprived of effective judicial protection under the Habitats Directive in this regard. |
| INFR(2021) 2025 | 2021 | Formal notice | Birds and Habitats Directives | Poland has not yet designated 655 (out of 845) sites of Community importance as SACs and has failed to adopt site-specific conservation objectives and measures for all its sites. Poland has not completed the adoption of special conservation measures for 50 (out of 145 classified) SPAs and has not based conservation measures on the site-specific conservation objectives for all the remaining SPAs. |



|  Romania | | | | |
|---|------|-------------------|-------------------------------|---|
| INFR(2019) 2138 | 2019 | Formal notice | Habitats Directive | Romania has not proposed all adequate Sites of Community Importance to the Commission that it should have, and those proposed do not adequately cover the various habitat types and species that need protection. |
| INFR(2020) 2238 | 2020 | Formal notice | Habitats Directive | Romania has so far not designated Special Areas of Conservation and, it has generally and persistently failed to set site-specific detailed conservation objectives and measures. |
| INFR(2020) 2033 | 2020 | Formal notice | Birds and Habitats Directives | Inconsistencies in the national legislation do not allow Romanian authorities to check large amounts of illegally harvested timber. In addition, the Commission has found that the Romanian authorities manage forests, including by authorising logging, without evaluating beforehand the impacts on protected habitats as required under the Habitats Directive and Strategic Environmental Assessment Directives. Furthermore, there are shortcomings in the access of the public to environmental information in the forest management plans. The Commission has also found that protected forest habitats have been lost within protected Natura 2000 sites in breach of the Habitats and Birds Directives. |
| | 2020 | Reasoned opinion | | |
| INFR(2020) 2297 | 2020 | Formal notice | Habitats Directive | Among other problems, the Romanian legislation does not explicitly mention that conservation measures contained in management plans need to take into account the ecological requirements of the natural habitat types and species present on the sites. |
|  Slovakia | | | | |
| INFR(2016) 2091 | 2016 | Formal notice | Habitats Directive | Slovakia needs to designate additional sites for 2 habitat types and 5 species, and some designated sites need refinements. |
| | 2019 | Reasoned opinion | | |
| INFR(2018) 4076 | 2018 | Formal notice | Birds and Habitats Directives | Failure to assess the impact of sanitary logging on Natura 2000 sites and failure to take measures for the protection of a bird species. |
| | 2019 | Reasoned opinion | | |
| | 2020 | Referral to Court | | |
| INFR(2019) 2141 | 2019 | Formal notice | Habitats Directive | Slovakia has designated only 1 of its 473 SCIs as a Special Area of Conservation within the required time limit. This means that Slovakia has generally and persistently failed to set site-specific detailed conservation objectives and measures. |
| | 2022 | Reasoned opinion | | |
|  Spain | | | | |
| INFR(2006) 4340 | 2006 | Formal notice | Habitats Directive | Road development project (M-501) in the PSCI /SPA Encinares del río Alberche y río Cofio (Madrid). Further information unavailable. |
| | 2007 | Reasoned opinion | | |
| | 2007 | Referral to Court | | |
| | 2015 | Formal notice | | |
| INFR(2010) 4235 | 2011 | Formal notice | Birds and Habitats Directives | On 24 November 2016, the Court of Justice of the European Union ruled that Spain had failed to take appropriate steps to avoid the deterioration of natural habitats and the disturbance of protected bird species caused by the construction of a railway line crossing through the special protection area 'Campiñas de Sevilla' in Andalusia. Spain has identified a number of mitigation and compensation measures to offset the damage caused and implement the Court judgement. However, almost 5 years after the judgement, Spain has not yet fully implemented those measures. |
| | 2013 | Reasoned opinion | | |
| | 2014 | Referral to Court | | |
| | 2021 | Formal notice | | |



| | | | | |
|-----------------|------|--------------------------|---|--|
| INFR(2014) 2090 | 2014 | Formal notice | Habitats Directive, Water Framework Directive | The overexploitation of the aquifers of the Doñana National Park is triggered by the intensive irrigation farming and the demand from tourist facilities. Although the Habitats Directive does not exclude human activities in Natura 2000 sites, it does require Member States to take action to avoid the deterioration of natural habitats and the habitats of species in the special areas of conservation. The Commission assessment showed that the Spanish authorities have also not complied with EU water legislation, preventing sustainable management of water resources in the Doñana area. |
| | 2016 | Reasoned opinion | | |
| | 2019 | Referral to Court | | |
| INFR(2015) 2003 | 2015 | Formal notice | Habitats Directive | The Commission is urging the country to complete the designation as Special Area of Conservation (SAC) of all Sites of Community Importance (SCI) in the Alpine, Atlantic and Mediterranean regions, and to adopt site-specific detailed conservation objectives and measures for an outstanding part of these SACs. After a formal notice in 2015, by 2020 Spain still failed to designate as SAC 345 sites, more than a quarter of the 1,278 Sites of Community Interest. In addition, (...) there has been a general and persistent practice in 12 Autonomous Communities and at the central level, of failing to set sufficiently detailed and quantified conservation objectives and the necessary conservation measures. |
| | 2020 | Additional formal notice | | |
| INFR(2019) 2143 | 2019 | Formal notice | Birds Directive | Over the period 1996-2016, the turtle dove population in Spain declined by 40%. Spain has not taken the necessary measures to ensure the protection of habitats and the sustainable hunting of this species. |
| | 2020 | Reasoned opinion | | |
| INFR(2020) 4133 | 2021 | Formal notice | Habitats Directive | The deterioration and possibilities to mitigate and compensate for the environmental damage caused by large infrastructure projects, such as the expansion of Barcelona International Airport and Seaport, have been discussed with the Spanish authorities since 2013. However, the commitments on mitigation and compensation taken by the authorities, e.g. the adoption and implementation of a Special Plan for the protection of the natural areas and landscape of Llobregat Delta and an extension of the Special Protected Area to protect the most suitable territories for the conservation of birds, have not been followed up sufficiently. |



3. WLC-related legislation in the 11 project countries



All project countries follow a civil law system, meaning that they rely on regularly-updated written statutes and other legal codes which establish legal procedures, punishments, and what can and cannot be brought before a court. However, earlier decisions of the court (case law) can be used as references, sometimes even with a binding effect, and judges also play a role in filling in the gaps where the applicable legislation does not make everything clear.

Substantive law establishes the rights and obligations that govern natural and legal persons. It refers to all categories of public and private law for WLC,¹ as presented in Annex I. Procedural law prescribes the procedures and methods for enforcing rights and obligations. Procedural law establishes the rules for juridical and administrative procedures, as briefly described in Section 4.1.1.

Legislation governing wildlife offences is spread over multiple pieces of legislation in some countries, ranging from national laws transposing the requirements of international conventions such as CITES, environmental and nature protection laws transposing the EU Birds and Habitats Directives, criminal codes, and laws regulating hunting and fishing, to more specific laws and decrees on issues such as trade in arms or corruption, which can be implicated in WLC.

Annex II gives a detailed overview of each country's national legislation related to WLC.



3.1. GENERAL OVERVIEW OF LEGISLATION ON WILDLIFE CRIME IN THE 11 PROJECT COUNTRIES

The EU project countries' legal frameworks on wildlife crimes and offences are generally in line with the obligations of the project countries as EU Member States and/or as signatories to relevant international treaties and conventions in this area.

As signatories of the Stabilisation and Association Agreement with the EU², which provides the framework for relations between the European Union and the Western Balkan countries, Serbia and Bosnia and Herzegovina have aligned to some extent their WLC-related legislation with EU laws, although there are elements that need improvement. In Bosnia and Herzegovina, the Birds and Habitats Directives have been integrated to a limited extent by all three entities³, while only Republika Srpska has transposed most of the criminal offences from the ECD.

The political and economic association between Ukraine and the European Union is established

by the Association Agreement between Ukraine, on the one part, and the European Union, the European Atomic Energy Community and their Member States, on the other part⁴. In particular, Ukraine has undertaken steps to comply with the requirements of the EU Habitats Directive. However, requirements for the ECD are absent in the Association Agreement for now.

In the EU project countries, the EU Birds and Habitats Directives have been transposed into national law, as has the ECD. In most EU member countries within the project, the ECD has been transposed into the national Criminal Code. In Hungary, in fact, the transposition of the ECD caused a significant change in the structure of the Hungarian legal framework. A notable exception is Romania, where a new law was passed to accommodate the provisions of the ECD. This law was repealed in 2021 and instead, the provisions of the ECD were integrated into various pieces of relevant national legislation regulating nature and environmental protection, hunting and fishing.⁵

In general, the legal framework for wildlife crimes and offences is contained in the relevant provisions of administrative and criminal (in some countries, additionally, misdemeanour) law of each country, and includes penalty provisions for offences and crimes against wildlife. Penalties, among other things, depending on the qualification of the specific act as an administrative or a criminal offence.

1. Free Dictionary. *Substantive Law*. <https://legal-dictionary.thefreedictionary.com/Substantive+Law>. (Accessed 06.07.2022)

2. European Commission. *Stabilisation and Association Agreement*. https://ec.europa.eu/neighbourhood-enlargement/enlargement-policy/glossary/stabilisation-and-association-agreement_en. (Accessed 06.07.2022)

3. The government in Bosnia and Herzegovina is organised at the state level and entity level. There are three administrative units called 'entities': the Federation of Bosnia and Herzegovina (FBiH; further divided into ten units called 'cantons'), Republika Srpska (RS) and a separate administrative unit – the Brčko District (BD). Both entities and the BD have separate legislative, executive, and judicial powers. Nature protection falls within the competence of entity authorities and the Brčko District. In the Federation, part of nature protection matters is furthermore delegated to cantonal governments. Moreover, in both entities, nature protection is separate from the management of natural resources such as forestry, hunting, and water resources. As far as the institutional framework for nature protection is concerned, Bosnia and Herzegovina is fragmented into four administrative levels: state, entity, cantonal, and municipal level. The organisation of the judicial system in Bosnia and Herzegovina is similar.

4. Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part (2014) OJ L 161

5. Hunting Law 407/2006; Protected Areas Law (GEO) 57/2007; Protection of the Environment Law (GEO) 195/2005; GEO no. 23/2008 on fishing and aquaculture.



Both criminal offences and administrative offences⁶ constitute an act (action or omission) that is socially harmful, unlawful and committed culpably. Whereas a criminal offence is punishable by a criminal sanction imposed by a court, an administrative offence is sanctioned by an administrative sanction imposed by an administrative authority. The difference between administrative and criminal offences stems from the different degrees of relative gravity of the offences (so-called ‘public danger’ or ‘harm to society’). Definitions vary slightly from country to country.

Where an act may qualify as an administrative or as a criminal offence, the difference between a criminal act and an administrative offence is determined by the damage caused (usually denominated with terms such as “harm to society” or “public danger”), with each country’s legislation more or less specifically defining a damage threshold above which an act is deemed a criminal offence. See Table 3 for details for each country.

Each country’s legislation has provisions for specific activities harming protected animal and plant species. The legislation of most countries contains provisions for the criminalisation of activities that correspond to the definition set by the SWiPE project, with the following exceptions:

- Illegal trade in protected species is not considered a criminal offence in Ukraine and in the Federation of BiH (Bosnia and Herzegovina).
- Illegal egg collecting is not considered a criminal offence in Ukraine (there is no article with this title in the Criminal Code of Ukraine) and in the Federation of BiH (Bosnia and Herzegovina).
- Trapping animals is not considered a criminal offence in the Federation of BiH (Bosnia and Herzegovina).

At the start of the SWiPE project, trafficking was not criminalised in Romanian law. To have it criminalised was one of the legislative proposals of WWF Romania in the National Report within the SWiPE project in January 2021. It was integrated into legislation in April 2021.

Table 2 gives an overview of the countries whose legislations contain provisions for incriminating offences against wildlife, as defined by the SWiPE project, in the project countries. Ukrainian legislation does not allow for this categorisation and was therefore excluded.

Table 2: Overview over wildlife crimes, as defined by the SWiPE project, that may be criminalised in each project country (except Ukraine).

✓ : Provisions for criminalisation present in national legislation. ✗ : No provisions for possible criminalisation in national legislation

| Country | Illegal Wildlife Trade | Poaching and illegal killing | Illegal catching \ capturing | Illegal collection of eggs | Non-selective catching and killing | Trapping, harming |
|---|------------------------|------------------------------|------------------------------|----------------------------|------------------------------------|---------------------|
| Bosnia and Herzegovina (FBiH) | ✗ | ✓ | ✓ | ✗ | ✓ | ✓ |
| Bosnia and Herzegovina (Republika Srpska) | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Bulgaria | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Croatia | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Hungary | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Italy | ✓ | ✓ | ✓ | ✓ | ✓ | Mistreating animals |
| Poland | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Romania | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Serbia | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Slovakia | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Spain | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |

⁶ As mentioned in the introductory data section, this Report uses the term “administrative offence”. However, such offences have been termed “contraventions”, “misdemeanours” or “violations” in some national reports. There are differences in the definitions of these terms between countries that this Report cannot elaborate on. In Italy, for example, a “misdemeanour” is a minor criminal offence; for this reason, “misdemeanours” were treated in the criminal offences section for Italy.



In all but two project countries, the offences classified as criminal acts are contained in the Criminal Code. Romania is exceptional in that its criminal code does not contain provisions for wildlife crime at all. Instead, laws incriminating acts against wildlife are spread over the applicable protected areas, environmental protection, hunting and fisheries laws⁷. In Poland, the laws criminalising acts against wildlife are contained in the Criminal Code, the Nature Conservation Act and the Act on Inland Fisheries⁸.

Other crimes can also be related to wildlife crime⁹, such as illicit armament and arms trafficking in connection with poaching, illicit manufacture and possession of high-risk chemicals and high-risk biological agents and toxins in connection with poisoned bait, or organised crime in connection with poaching and/or illegal trade, as well as document fraud, corruption and cybercrime.



3.2. OVERARCHING ISSUES IDENTIFIED IN ALL OR MOST PROJECT COUNTRIES

Most of the 11 project countries have identified possibilities for improving their national wildlife crime-related legislation. Most of the findings in the national reports confirm the evaluation of the European Commission assessment of the ECD in 2020,¹⁰ whether at the legislative or organisational (implementation) level.

Most of these issues cannot be viewed in isolation, as they are “mutually dependent and mutually reinforcing”.¹¹

However, apart from the four main points presented below, in general, WLC-related legislation is relatively well set up in the SWiPE project countries. The main issue is its application in practice, which is, to some extent, interlinked with legislative issues.

3.2.1. Sanctions

The ECD states that sanctions imposed should be “effective, proportionate and dissuasive”¹². About half of the national reports affirmed that the statutory sanctions for crimes against wildlife were too low to be dissuasive¹³, especially given the profit margin of some illegal activities. The Italian and Hungarian reports found that current regulatory systems do not allow for sanctions to take into account the profit from illegal operations. The Bulgarian report suggested that lower penalties in the Criminal Code for wildlife crimes hinder the investigative authorities and the involvement of investigators who usually deal with more serious crimes. The Bulgarian

report also pointed out that there are no provisions for aggravated wildlife crime when it is committed on the orders or in the execution of a decision of an organised criminal group (OCG).

In Hungary, there is no legal provision considering the more serious nature of wildlife trafficking committed for commercial gain.

In Italy, despite the explicit request made by the European Commission and the commitments formally undertaken by Italy with the adoption of the ‘Anti-poaching Plan’, no legislative measures have so far been adopted to adapt the penal system by increasing the penalties laid down in Law

About half of the national reports affirmed that the statutory sanctions for crimes against wildlife were too low to be dissuasive

7. Hunting Law 407/2006; Protected Areas Law (GEO) 57/2007; Protection of the Environment Law (GEO) 195/2005; GEO no. 23/2008 on fishing and aquaculture.

8. The Penal Code, the Nature Conservation Act of 16 April 2004, the Act on Inland Fisheries of 18 April 1985.

9. Own observations from national databases and national reports, UNODC (2020)

10. COMMISSION STAFF WORKING DOCUMENT EVALUATION of the DIRECTIVE 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law (ENVIRONMENTAL CRIME DIRECTIVE) SWD/2020/0259 final

11. COMMISSION STAFF WORKING DOCUMENT EVALUATION of the DIRECTIVE 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law (ENVIRONMENTAL CRIME DIRECTIVE) SWD/2020/0259 final, p. 33.

12. Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law (2008) OJ L 328 Art. 5

13. National reports of Bosnia and Herzegovina, Bulgaria, Italy, Romania, Spain and Ukraine: <https://stopwildlifecrime.eu/resources/national-reports/>



157/1992 laying down rules for the protection of homeothermic wildlife and hunting.

An interesting situation was highlighted in Poland, where the severity and inflexibility of sanctions against CITES offences were found to be a problem. Polish law treats offences related to CITES-listed species as crimes punishable by imprisonment from 3 months to five years, with no alternatives. As wildlife crime is, in general, mistakenly viewed as inflicting little social harm, the sanctions are generally regarded as too high in relation to the damage caused by the offence, and such cases are therefore often discontinued. This evaluation is coherent with the findings of Colantoni et al. (2022). One conclusion may be that tighter sanctions themselves only have a deterrent effect if they are actually imposed. This requires knowledge about the implications of wildlife crime, and the value given to natural assets, by the judicial authorities in charge. Therefore, training and awareness raising go hand in hand with stipulating tighter sanctions (see Section 4.2.1.).

In Bulgaria, inconsistencies were found in the sanctioning provisions between different criminal acts against wildlife, where the legislator assesses the damage done by one act (e.g. import of protected species) to be higher than the damage inflicted by another, but a similar act (e.g. export of protected species). This raised the question as to whether the assessment is adequate given the objective set by the law to protect wildlife.

In Bulgaria and Croatia, the Compensation guidelines for offences against wildlife have not been

updated since 2006 and the mid-1990s, respectively, and do not reflect inflation rates since then. The national report for Serbia also suggested a regular update of the Compensation guidelines, as compensations were found to be too low. In Bosnia and Herzegovina, there is no indemnification ordinance for protected species in the FBiH, whereas, in the Republika Srpska, the Nature Protection Act lays down the obligation to pay compensation for damage caused by a violation of the Act based on an expert assessment. In Slovakia, although damage recovery is prescribed by law through a separate civil proceeding (after the criminal proceeding), in reality, damage recovery has not once been enforced (except for two cases where compensations were determined in the criminal proceedings), according to the sources interviewed.

3.2.2. Unclear distinction between administrative offence and crime

In a number of countries, the same act can be sanctioned by both administrative and criminal law.¹⁴ This leads to a range of challenges, including delays in the investigation and penalising of violations, the need for even more effective coordination of several institutions/authorities and reduced

effectiveness of law enforcement in general.




Whereas the same acts against wildlife could be defined as crimes or as administrative offences, in practice they tended to be treated as administrative offences, which involve less complicated processes and tend to carry lighter penalties. This is partly due to the unclear definition of the damage threshold above which an act qualifies as a criminal offence. The wording in some legislation is unclear, using qualitative terms such as “negligible quantity”, “insignificant number of specimens” or “significant damage”. The lack of expertise in the judiciary and the absence of external experts who can reliably translate these terms into appropriate quantitative measures, mean that milder penalties prevail.

The Spanish report inferred that a general inclination towards classifying acts against wildlife as administrative offences causes a lack of political will to dedicate more means, resources and specialised agents to investigate and prosecute them.

In Bosnia and Herzegovina, the FBiH Nature Protection Act identifies an extremely high number of administrative offences. However, it is difficult to apply its provisions in practice, since the elements of some administrative offences are not clearly defined.






Table 3 gives an overview of the distinction between a criminal and an administrative offence for each country (where available), based on information available from the national reports.

Table 3: Distinction between administrative offence and criminal offence, relating to WLC, in national legislations, subject to available information.

| Country | When does an illegal act qualify as a/n | | Specificities |
|---|--|--|---|
| | administrative offence | criminal offence | |
|  Bosnia and Herzegovina | Entities in Bosnia and Herzegovina do not prescribe the same criminal offences and misdemeanours related to nature protection, while for similar punishable acts various penalties are prescribed. In some cases, the prescribed penalties are extremely low and need to be revised. | | |
|  Bulgaria | Depends on the evidence of environmental harm and the nature of the unlawful activity | Depends on the evidence of environmental harm and the nature of the criminal activity Most offences require that the offence be committed intentionally but, in some circumstances, there are also offences for cases where the act is committed through negligence | The distinction between administrative offences and criminal offences is governed by a number of legal norms. Article 10 of the Criminal Code stipulates that a socially harmful act is an act that threatens or harms the person, the rights of citizens, property, the legal order established by the Constitution (...) or other interests protected by law. Section I. “General provisions” of Chapter 2. “Criminal offence” of the Criminal Code contains a number of hypotheses when a certain offence would not be considered as “socially harmful/dangerous”. In addition, an Interpretative Decision of the Supreme Court of Cassation contains criteria to discern administrative from criminal offences. |
|  Croatia | The misdemeanour legislation is, as a rule, harmonised with the Criminal Code, and all identical descriptions of misdemeanours and criminal offences that could lead to a double trial have been removed. Nevertheless, the distinction between misdemeanours and criminal offences in some cases is difficult in practice because these criminal offences and misdemeanours usually contain a referral disposition, which is why it is necessary to know the professional terminology and regulations in this area. The disadvantage is that, in the case of “overlapping” acts, the law-enforcement agencies, as a rule, decide to initiate misdemeanour procedures. | | |




14. See National Reports of Bosnia and Herzegovina, Bulgaria, Croatia, Serbia, Slovakia and Spain: <https://stopwildlifecrime.eu/resources/national-reports/>



| | | | |
|--|--|---|--|
|  Hungary | | <p>Unlawfully acquiring, keeping, placing on the market, importing to, exporting from or transporting through the territory of the country, trading in, damaging or destroying a specimen of a specially protected living organism, or specimens of a protected living organism or a plant or animal species that are significant for nature conservation purposes in the European Union, or a specimen of a living organism¹⁵ falling within the scope of Annex A or B of the Council Regulation (EC) on the protection of species of wild fauna and flora by regulating trade therein constitutes a crime.</p> | <p>The threshold for specially protected species is that the total sentimental value of all such specimens affected, as determined by law, has to reach the lowest sentimental value determined for specimens of a specially protected living organism. The punishment is more severe if the criminal offence of damaging natural values causes such a destruction of specimens of a living organism that, in the cases of protected or specially protected species, the total sentimental value of all specimens of the destroyed living organism, as determined by law, is at least double the highest sentimental value determined for specimens of a specially protected living organism, or which, in the case of CITES-listed species, endangers the survival of the population of the living organism.</p> <p>The sentimental value of protected and specially protected species can be found at Government Decree 13/2001. (V.9.).</p> |
|  Italy | No information available | | |
|  Poland | <p>Most wildlife-related violations of the law</p> | <p>Only serious violations, generally involving larger-scale criminal activity or relating to CITES</p> <p>Acts causing "significant damage" to plants and animals (protected or not) are classified as criminal offences.</p> | |
|  Romania | <p>Other violations of the law, with a lower degree of gravity, which are not directly targeting wildlife, such as trespassing a protected area, for example, that are not within the scope of the SWiPE Project</p> <p>For these offences the sanction is a fine, never prison. Do not attract a criminal record.</p> | <p>Most of the wildlife-related violations of the law, including killing and trafficking</p> <p>The sanctions vary from criminal fine to prison detention and attract a criminal record.</p> | <p>Trafficking was incriminated as a criminal offence in April 2021; previously it was considered an administrative offence and to have it incriminated was one of the legislative proposals of WWF Romania from the Legal Report within the SWiPE project context in January 2021.</p> |
|  Serbia | <p>Administrative offences and economic offences and envisaged penalties are stipulated by the sectoral laws.</p> | <p>Penalties and environmental offences are stipulated by the Criminal Code.</p> | <p>If the same acts are characterised according to two different laws as both a violation and a criminal offence, the inspection or the police, after consultation with prosecutor or misdemeanour judge, based on their assessment, shall decide whether to file criminal or misdemeanour charges. The criteria considered in the course of assessment are the gravity of the act, the circumstances under which the act was committed, and whether the perpetrator has previously been convicted.</p> |

¹⁵ A specimen of a living organism means all stages, forms, and status of development of a living organism, a specimen resulting from the natural or artificial cross-breeding of living organisms, derivatives of specimens of living organisms, which shall be construed to mean also a dead creature or any part of a dead creature or a specimen of a living organism, as well as any product or preparation made of or containing any ingredient taken from any of the above



| | | | |
|---|---|---|---|
|  Slovakia | <p>damage up to 2660 EUR</p> | <p>above this amount it is considered a criminal act</p> | <p>In general (not relating to plant/animal protection), an act of 266 EUR is considered an administrative offence</p> <p>The amount of damage is not determined at the initial stage of the case; thus, it is not clear at the beginning whether it is an administrative offence or a criminal act.</p> <p>Damage is defined as the sum of environmental damage and property damage, while the latter one also includes the costs of restoring the environment. The calculation of environmental damage and property damage is based on the so-called social value of habitats, trees, protected plant and animal species.</p> |
|  Spain | <p>Criminal law and sanctioning administrative law are not separate, but are spaces for coordinated action.</p> | | |
|  Ukraine | <p>Administrative offences and envisaged penalties are stipulated by the Code on Administrative Offences and in other sectoral legislative acts, among others the Customs Code.</p> | <p>Offences that can be considered as wildlife offences and penalties are stipulated by the Criminal Code (most part of them are contained in the section related to the Environmental offences).</p> | <p>In certain cases, the qualification of an offence under the articles of the Criminal Code happens if such an offence was committed in a socially dangerous manner, and/or caused significant harm, and/or committed by mass destruction of species, and/or caused severe consequences.</p> |



3.2.3. Conflicting or inconsistent legislation

In Bosnia and Herzegovina, Italy, Romania, Slovakia, Spain and Ukraine, it was found that fragmented legislation on WLC or environmental law conflicting with other sectoral legislation poses a hurdle to successful WLC prosecution.

As already mentioned, Romania has transposed the ECD in a range of legal acts. According to the findings of the evaluation of the ECD,¹⁶ such fragmentation can make it difficult for law enforcement authorities and the judiciary to identify the relevant criminal provisions. This may result in inconsistencies in the application of environmental criminal laws¹⁷. In Slovakia, for example, a permit issued in accordance with one law can later be interpreted as conflicting with another law. The same may apply to Spain, where environmental regulations were found to be heterogeneous across the regions. The complexity of the Romanian legal framework requires specialised knowledge from practitioners, and the lack of this knowledge may undermine effectiveness.

Bosnia and Herzegovina is characterised by a complex government system (see Section 4.1.) organised at the state and entity levels. The state level of Bosnia and Herzegovina does not have direct jurisdiction when it comes to nature protection, and there is no umbrella nature protection legislation. The regulation of nature protection

is left to the constituent entities, and this varies significantly between the entities and, in the Federation of Bosnia and Herzegovina, between the cantons that have the possibility of independent regulation of certain matters related to nature protection. In the latter, there are also disparities between the regulations adopted by the federal and the cantonal levels of government. Due to this fragmentation and inconsistencies, the division of competencies between the different levels of government and the different institutions is often unclear.

In Italy and Slovakia, specific situations can arise where nature protection laws conflict with hunting laws:

In Slovakia, species protected under the Law on Nature and Landscape Protection, including large carnivores, are also listed as game species under the Hunting Law. It is disputable which of these laws should take precedence, and the courts interpret this differently. Therefore, to remove any doubt, efforts are made to exclude protected species from the list of games in the new Hunting Law.

A special feature of the Italian nature protection legislation is that the same law regulates the protection of warm-blooded animals (i.e. birds and mammals) and hunting. Although the legislation establishes a clear hierarchy between the needs of wildlife protection and the hunting interests, stating that hunting can be exercised “provided that it does not conflict with the need for conservation of wildlife (...)”, the legislation is contradictory and in effect skewed towards the maintenance of freedoms and concessions for hunters, to the disadvantage of wildlife protection. This situation

is exacerbated by the division of competent authority regarding hunting: legislation is made at the state level while hunting administration is located at the regional level. In this way, a powerful hunting lobby was found to interfere with more stringent nature protection, whether at a legislative or administrative level.

3.2.4. Legal loopholes

Legal loopholes can facilitate poaching and the illegal capture of wildlife in Croatia, Italy, Serbia, Spain and Bulgaria, or the illegal wildlife trade in Ukraine. These countries have laws that prohibit the use of devices and equipment such as live bait, electronic birdcalls and lures, certain fishing equipment or certain traps. However, the sale and possession of these are not prohibited. Furthermore, in Bulgaria, fishing inspections, by law, can only take place after the fishing activity is terminated, which gives ample opportunity to conceal illegal activity, as law enforcement authorities cannot penalise offenders even when the such gear is found in their presence, even though it is not ‘in use’.

In Croatia, the Hunting Act prohibits the hunting of game using “semi-automatic weapons with a magazine that can contain more than two rounds”, “pits, nets, traps ...” or “bow and arrow, air weapons”, but keeping such equipment inside the hunting ground is not considered hunting and cannot be used to facilitate the possibility of punishing the perpetrators.

In Ukraine, the smuggling or illegal movement (trafficking) of protected species across the customs border of Ukraine is not recognized as a criminal offence. There are also inconsistencies in the legislation with the country’s obligations under CITES regarding the scope of its application and in terms of additional sanctions to be applied to illegal actions as defined by CITES.¹⁸

16. European Commission (2020)

17. COMMISSION STAFF WORKING DOCUMENT EVALUATION of the DIRECTIVE 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law (ENVIRONMENTAL CRIME DIRECTIVE) SWD/2020/0259 final

18. See National Report of Ukraine (pp. 47) for details: <https://stopwildlifecrime.eu/resources/national-reports/>



4. WLC-related authorities and competences in the 11 project countries

This section comprises the analysis of the competent authorities and the results of the interviews which were divided into two sections in the national reports.

4.1. GENERAL OVERVIEW OF KEY STAKEHOLDERS

The competent authorities in each country can be divided into administrative authorities responsible for granting permits, undertaking checks, etc.; and police departments, guards, inspections and other services with powers to prosecute WLC. An overview of the competent administrative and enforcement authorities for each country can be found in Annex III.

4.1.1. Judicial Procedures

There is no specific judicial procedure for wildlife-related offences in any of the SWiPE project countries. The proceedings follow the general rules for all offences, as regulated by the country's procedural law. Offences are generally divided into two types: crimes and administrative offences. As described in Section 3.2.2., definitions of what constitutes a crime and what is considered an administrative offence vary from country to country and depend on national legislation and, in some cases, on the interpretation by the prosecutor or judge in charge of the case. Criminal and administrative offences differ in the sanctions and the procedures under which penalties are imposed.

Generally, judicial procedures follow a similar course in each country, with national specificities in some cases that are laid out in the respective national reports.¹

In the case of criminal offences, after receiving notification of a crime, the prosecuting authority initiates an investigation if it considers that a crime has been committed. The investigation identifies the perpetrator and collects the evidence necessary for court proceedings. If the investigation does not provide sufficient evidence that a particular person has committed a criminal offence, the authority discontinues the proceedings. Otherwise, the authority refers the accusation to court.

The court assesses whether the act constitutes a criminal offence and whether the defendant has committed it. If the defendant is found guilty, the court imposes a penalty through a sentence. The court proceedings consist of two, in some countries three, instances, depending on the court system of each country. The judgement of the lower instance court may be appealed



against the court of the second instance and, in some countries, even to a third instance, whose decision is final. In limited cases (e.g. key procedural infringements or gross violations of the law), an appeal to the Supreme Court (constitutional court) is possible.

In the case of administrative offences, the procedure is similar to that for [criminal] offences, albeit with less complicated procedural steps. In some countries, specialised administrative courts exist. After receiving a notification of an administrative offence, the prosecuting authority collects evidence and identifies the offender. If there is sufficient evidence of the perpetrator's

guilt, a motion for punishment is submitted to the court. Prosecutors or judges can redirect criminal complaints to administrative proceedings if they decide that the offence does not qualify as a crime. The proceedings before the court are similar to those for offences but less formal. For administrative offences, there are optional ways of terminating a case: a financial penalty can be imposed with the consent of the offender, or a caution or other form of attention/warning without imposing a sanction.

The prosecution authorities for all types of offences are the public prosecution service and the police. They can investigate any type of

1. Available at <https://stopwildlifecrime.eu/resources/national-reports/>



case, with the police investigating under the supervision of the prosecution service. In some countries, other services may investigate crimes that they discover, and that fall within their sphere of competence, such as customs services, for example.

4.1.2. Special role of volunteer groups and NGOs

In all project countries, volunteer groups and/or NGOs in the environmental field play a crucial role for various aspects of addressing wildlife crime. Most countries do not have NGOs that deal exclusively with wildlife crime, but many do outreach and educational activities in the field of CITES, general wildlife crime (sometimes within the scope of conservation programs targeting certain species) or specific areas of wildlife crime, notably illegal bird hunting and poisoning. In most countries, NGOs and other volunteer groups give specialist input on legislative proposals.

In many countries, NGOs and volunteer groups are very involved in various stages of the judicial wildlife crime proceedings:

- NGOs are the entities that have mostly been collecting data on wildlife crime: Bulgaria, Italy, Serbia, Slovakia, Croatia, Bosnia, Spain and Herzegovina.
- NGOs and volunteer groups help detect wildlife crime and report it: Italy, Hungary, Poland, Spain, Serbia, Slovakia, Romania, Croatia, Bosnia and Herzegovina.
- NGOs represent a repository of expertise and knowledge to aid judicial proceedings: Italy, Hungary, Poland, Spain.
- NGOs and other private entities run wildlife rescue centres: Bulgaria, Spain, Romania, Italy

Particularly regarding birds, NGOs play a crucial role in Italy, Hungary, Serbia, Slovakia, Spain, Bosnia and Herzegovina and Croatia. In these countries, birds are hunted (Bosnia and Herzegovina, Croatia, Italy, Serbia) or poisoned (Bosnia and Herzegovina, Hungary, Serbia, Slovakia, Spain) in large numbers. Directed bird poisoning is usually aimed at birds of prey, as they are perceived as a threat by some livestock holders. Birds of prey, especially scavenging species, are often also subject to non-directed poisoning. In order to detect these crimes, BirdLife Hungary has detection dogs trained to find the poison and the poisoning victims, and is currently in a scaling up test phase.

4.1.3. Existing formalised collaboration platforms to tackle WLC

In all countries, the collaboration required by the judicial procedure, between the investigative (e.g. the police and prosecution) and the judicial (prosecution, judges) authorities is prescribed and established by law.

In the field of criminal offences, the law enforcement authorities of the SWiPE project countries cooperate at the EU level via EUROPOL (the EU Agency for Law Enforcement Cooperation). The European Multidisciplinary Platform Against Criminal Threats (EMPACT) sets out the common priorities for combating serious and organised crime (including environmental crime) in the EU. In the area of prosecution, cooperation takes place at the EUROJUST (EU Agency for Criminal Justice Cooperation) level, with which Serbia and Ukraine also have cooperation protocols. Cooperation is implemented through the European Investigation Order. These agencies and platforms support cross-border cooperation and there have been some successful cases, as reported by Hungary. However, the evaluation report of the ECD² highlights that Eurojust, in particular, has only dealt with a negligible number of environmental crime cases since its inception. The SWiPE project countries also cooperate at the international level through INTERPOL.

In the field of administrative offences, international cooperation is even more problematic and it is not standardised at the same level as criminal cooperation.

In a number of countries, multi-institutional national platforms have been set up to support cooperation, information exchange and training to address wildlife crime, or, more broadly, environmental crime:

- Hungary set up its National Environmental Security Taskforce (‘NEST’) in 2021 to tackle environmental crime more effectively. Members of the Hungarian NEST include the Ministry of Agriculture, the Ministry of Innovation and Technology (with a role in waste management), the National Tax and Customs Administration, the Directorate-General for Disaster Management of the Ministry of Interior (primarily relevant for waste), National Food Chain Safety Office, Government Office of Pest County (with jurisdiction for the whole territory of Hungary), and Hungarian National Police Headquarters. Environmental NGOs (TRAFFIC and BirdLife Hungary) have observer status.
- In Italy, the National Action Plan for Combating Offences against Wild Birds (PNAB),

was set up in 2017 to “strengthen synergies between the surveillance bodies”; namely the Command of Forestry, Environmental and Agri-Food Units (CUTFAAC), the regional forestry corps, the provincial environmental surveillance corps, the volunteer guards and other police corps that may be involved in combating wildlife crime.

In 2022, the Spanish Guardia Civil, in collaboration with the Ministry for the Ecological Transition and the Demographic Challenge (MITECO), set up a National Central Office to analyse information on illegal environmental activities and improve coordination both in the field of illegal wildlife trafficking and other wildlife crimes.

- A “National Expert Group on the Elimination of Environmental Crime” (NES) was established in Slovakia in 2001, and its scope was broadened in 2006 and 2019. The meetings are convened by the Presidium of the Police Corps, and its members are representatives of law enforcement agencies as well as representatives of other relevant institutions. The expert group deals with specific conceptual tasks in the fight against environmental crime. It has 4 subgroups, one of which is set up for CITES and “Wildlife Crime” and the other for “poaching”.
- In Romania, an inter-institutional cooperation protocol was concluded in 2013 between the Ministry of Internal Affairs, the Ministry of Environment and Climate Change, the Ministry of Agriculture and Rural Development, and the Department for Waters, Forests and Fishery.
- Croatia and Bosnia and Herzegovina have established intervention teams for large carnivores. With the assistance of NGOs, both countries work towards the establishment of national working groups to combat wildlife crimes.
- In Serbia, the Bird Protection and Study Society founded the Anti-Poaching Team and initiated the establishment of the Anti-Poisoning Working Group with the competent ministry.

Some countries, such as Romania, have a number of different bilateral cooperation protocols between national law enforcement authorities and scientific or management authorities, for the exchange of information.

Collaboration between non-enforcement or prosecution authorities is often informal and ad-hoc in many countries. Although some countries have taken steps in the right direction, there is still a need for further work on improving inter-agency collaboration to address WLC (see Section 4.2.2.).



4.2. OVERARCHING ISSUES IDENTIFIED IN ALL OR MOST PROJECT COUNTRIES

As described in Section 3.2., even though most project countries reported shortcomings in their national wildlife crime-related legislation, the main issue was found to be its application in practice. Issues at the enforcement and prosecution level cannot be viewed as entirely separated from the legal issues, as they are, to some extent, interrelated. This section describes the findings of the analysis of 11 national reports in the order of their relevance (i.e. most mentioned to least mentioned).

4.2.1. Lack of or insufficient specialisation in law enforcement and the judiciary

The lack of specialisation in WLC at judiciary levels was identified in all national reports as the most prevalent issue hampering the effective detection and prosecution of wildlife crime. Croatia, Italy, Poland, Romania, Slovakia and Spain specifically pointed out that the low prioritisation of WLC cases by the judiciary systematically resulted in inadequate sanctions. This also became evident in the reports that did not mention this explicitly.

Even in countries where there are training possibilities for prosecutors and judges, there are none specialised exclusively in environmental or wildlife crime. At the level of law enforcement, the situation seems

to be better: Hungary, Italy, Serbia, Slovakia and Spain have dedicated Environmental Crime Units in the police force (with Romania in the process of establishing one), and also the level of training




of the authorities responsible for implementing CITES appears to be generally better than that of judicial practitioners.

In Bosnia and Herzegovina, Bulgaria and Croatia, there are no specialised police officers, prosecutors, judges, or courts to deal with WLC cases. No regular WLC specialised training for judges is provided. There are also no dedicated handbooks for judges and prosecutors.

















Table 4 gives an overview of the availability of and access to training, and levels of specialisation in law enforcement and judiciary in the project countries. Colour legend: **red**: unsatisfactory (not available or very sporadically available); **yellow**: some efforts made in the right direction, but only at early stages of implementation or with insufficient results; **green**: favourable (regularly available and frequented).

Hungary, Italy, Serbia, Slovakia and Spain have dedicated Environmental Crime Units in the police force (with Romania in the process of establishing one)






| Table 4: Overview of levels of environmental/ wildlife crime specialisation in law enforcement and the judiciary in the project countries, subject to available information. | | | | |
|--|---|---|--|--|
| | Police/ Law enforcement | CITES enforcement/ customs | Prosecutors | Judges |
|  Bosnia and Herzegovina | ✗ | ✗ Lack of capacities for the implementation of the Convention in all competent bodies and formal cooperation between relevant institutions | ✗ There are no specialised prosecutors dedicated exclusively to environmental and wildlife crimes. One-day courses on the basics of environmental law are occasionally organised for prosecutors and judges. | ✗ No specialisation of judges or courts for environmental and wildlife crimes has taken place. One-day courses on the basics of environmental law are occasionally organised for prosecutors and judges. |
|  Bulgaria | ✗ | ✗ | ✗ | ✗ |
|  Croatia | — General Crime Service of the Criminal Police Directorate and the forensic unit in the Ministry of the Interior are fairly well set up for dealing with environmental crime. However, there are no police officers specialising in and dealing exclusively with environmental crimes and wildlife crimes. | ✓ The Customs Service has very good mechanisms for detecting criminal acts. | ✗ | ✗ |



| | | | | |
|--|--|---|--|---|
|  Hungary |  Environmental Crime Unit in the National Bureau of Investigation |  |  More and more law faculties have compulsory environmental law courses. | |
| |  Police and customs officers have to fulfil requirements relating to environmental crime during their studies. However, the focus of the training is on the general knowledge within their own fields. Environmental Crime Unit maintains a strong working relationship with customs officers | | | |
| |  Good practices are available and training events and postgraduate degree programs focusing on environmental crime (wildlife crime included) are offered by different entities to police forces, prosecutors and judges. | | | |
|  Italy |  Command of Environmental Forestry and Agro-Food Units (CUFA) within the Carabinieri, however lack of staff on the ground |  |  Some prosecutor's offices in Italy have specialised sections on environmental matters and magistrates attentive to wildlife protection. These are however driven by personal interest of the individual prosecutors and magistrates, and not formalised. |  |
|  Poland |  |  Customs and Fiscal Service is well trained in detecting CITES offences |  The National Prosecutor's Office developed a methodology for conducting pre-trial proceedings on environmental crimes and guidelines for cooperation with all relevant institutions appointing also environmental crime coordinators in all regional and district offices. In addition, new provisions were introduced for the participation of the Inspectorate of Environmental Protection in criminal proceedings ³ . |  |



| | | | | |
|--|--|---|---|----------|
|  Romania | <p>—</p> <p>Although a centralised unit for environmental crimes has not yet been established in the police, in March 2022 the Romanian Ministry of the Interior officially expressed the intention to create a Directorate for Environmental Crimes Investigations⁴.</p> | <p>×</p> | <p>—</p> <p>No specialisation, but increasing interest in training opportunities and increased adherence to professional organisations (European Network of Prosecutors for the Environment, European Union Forum of Judges for the Environment, etc.)</p> | |
| | | | <p>—</p> <p>The Association of Parks, the Association of Prosecutors and the National Institute of Law have organised training and have a list of trained prosecutors.</p> | <p>×</p> |
|  Serbia | <p>✓</p> <p>Environmental Crime Unit in the police force⁵</p> | <p>—</p> <p>In 2010 and 2011, two manuals on trade in protected species were published by the Serbian Ministry of the Environment, Mining and Spatial Planning.</p> | <p>×</p> <p>In 2020, WWF Adria and the Ministry of Environmental Protection organised a two-day seminar for inspectors, police representatives, prosecutors and judges from the basic courts in order to promote cooperation in the field of wildlife protection, with an emphasis on sturgeon species.</p> | <p>×</p> |
|  Slovakia | <p>✓</p> <p>Presidium of the Police Corps - National Headquarters of Special Types of Crime, Hazardous Materials and Environmental Crime Detection Department</p> | <p>✓</p> <p>Good cooperation between CITES authorities nationally and on EU level.</p> <p>✓</p> <p>Special subgroup of the NES dedicated to CITES and wildlife crime.</p> | <p>—</p> <p>Office of the General Prosecutor has specialists in environmental crimes in each division⁶. However, exclusive specialisation only on environmental crime is not possible due to the workload and staffing of the prosecutor's office.</p> | <p>×</p> |

4. Colantoni et al. (2022)

5. On the 30th of March 2022, an Environmental Crime Unit was established within the Ministry of the Interior. No further information was available at the time of writing of this report.

6. Colantoni et al. (2022)



| | | | | |
|---|---|---|---|---|
|  Spain | <p style="text-align: center;">✓</p> <p>Trained specialists in the detection and investigation of environmental crime in different police forces, i.e., 1,854 agents of the Civil Guard's Nature Protection Service (SEPRONA) and 6,000 environmental agents.</p> | <p style="text-align: center;">-</p> <p>CITES Management Authority (MITECO) and CITES Scientific Authority (CSIC) ensure the application of CITES regulations and communication with the European Commission. The Corps of Inspectors of the SOIVRE (152 members), acts as the principal management body of the CITES Convention.</p> | <p style="text-align: center;">-</p> <p>Coordinating Prosecutor's Office for the Environment and Urban Planning (state-wide), and a group of prosecutors attached to this (182 out of 2464), who are somewhat specialised in environmental matters. However, not all environmental cases are handled by specialised prosecutors, possibly due to a lack of resources.</p> <p style="text-align: center;">-</p> <p>NGOs can participate in prosecution, however this may change with the new Criminal Procedure Law.</p> | <p style="text-align: center;">✗</p> <p>No training or specialisation in environmental issues.</p> <p style="text-align: center;">✗</p> <p>Lack of awareness of the public importance on complexity of wildlife crime</p> |
|  Ukraine | <p style="text-align: center;">✗</p> <p>Lack of specialisation in the field of environmental protection or protected species in the authorised bodies of general competence combating environmental offence</p> | <p style="text-align: center;">✗</p> <p>State Customs lacks proper coordination and exchange of information and experience on an ongoing basis</p> | <p style="text-align: center;">-</p> <p>Specialized Environmental Prosecutor's Office (as a Department) of the Prosecutor General's Office. Regional specialised prosecutor's offices established in 2021. Although both the Ukrainian Prosecutors' Training Centre and the National School of Judges have conducted trainings for prosecutors and judges on environmental crime, there seems to be a lack of specialisation of judges.</p> | |

Table 4 suggests that overall, specialisation in environmental crime (including, but not limited to, wildlife crime) is more prevalent in the law enforcement (police and customs) sector than in the judicial sector.

Table 4 suggests that overall, specialisation in environmental crime (including, but not limited to, wildlife crime) is more prevalent in the law enforcement (police and customs) sector than in the judicial sector. Many countries seem to have recognised the need for special environmental units in the police force, and there is movement in this sector. It is also noteworthy that in many countries efforts are being made to improve environmental specialisation in the prosecution, albeit evaluated as insufficient in the national reports.

Even in those countries where there is environmental crime specialisation in certain units of the detection and prosecution process, resources are

dence, etc.

In Italy, for example, the State Forestry Corp was integrated with the Carabinieri to form the Command of Environmental Forestry and Agro-Food Units (CUFA) in 2007, which however led to a drastic reduction in staff on the ground, resulting in vast areas of the country (including areas known as poaching hotspots) being devoid of monitoring personnel.

limited. The environmental infringements agenda is broad and complex, leading to insufficient degrees of specialisation. This ultimately results in possible procedural errors, insufficient collection of evi-

At the prosecution level, the need for formal specialisation is being addressed by many countries through training, guidelines or specialised offers within law education. This, however, was not considered sufficient in any project country. At the court level (judges), there seems to be a lack of knowledge about wildlife crime. This was demonstrated in practice by the frequent application of lenient penalties (see Sections 5.2.2. and 5.2.3.). The sample case summary which is in Section 4.3. further solidifies this finding and its practical implications.

To bring light into this bleak picture, in Hungary and Poland, it was found that general awareness of the seriousness of environmental and wildlife crime has been slowly emerging along the entire enforcement chain (starting in urban centres), and recent years have seen a positive change in this direction.

4.2.2. Limited collaboration between authorities

Collaboration between the judiciary (prosecution) and the police (or other law enforcement authorities including, but not limited to, gendarmerie or customs) is established by law in every project country, and collaboration agencies for law enforcement and prosecution already exist at the EU level. Various countries have established working groups on environmental crime in general or on specific aspects of wildlife crime, such as the killing of birds and large carnivores, or wildlife poisoning. These platforms provide for successful formalised cooperation between the participating authorities and institutions, in their specific field (see Section 4.1.3.).

In general, however, cooperation between authorities (including non-law enforcement, such as environmental inspectorates, forestry or fisheries agencies) and institutions regarding wildlife crime was found to be unsatisfactory, particularly at the national level, in all project countries. In Bulgaria, in some cases, such a lack of cooperation has led to an inability to continue proceedings.

National Action Plans to combat wildlife crime only exist in Bulgaria and Spain for the specific purpose of addressing the illegal use of poison against wildlife (with great success in Spain).⁷ Spain also has a National Wildlife Trafficking Action Plan.⁸

In Bosnia and Herzegovina, Croatia and Ukraine, there was a documented lack of specialised legal support related to wildlife crimes to supervisory and surveillance services (inspectorates, rangers etc.) when drafting and issuing administrative offence warrants/decrees and filing criminal charges. This shortcoming sometimes led to formal defects, which in turn caused prosecutors and courts to reject charges filed.

Several reports highlighted the importance of outstanding investigation for successful prosecution, but reported organisational problems in the detection and investigation phase:

- Lack of established protocols for collaboration between authorities, i.e., lack of clarity on the powers of the administrative and surveillance authorities, poor coordination between them and the prosecution, lack of relevant legal provisions for information sharing between authorities;
- Lack of training or lack of appropriate equipment for the collection and preservation of evidence;
- Lack of expert databases for expert opinions, and waiting for such opinions for months, which significantly delays proceedings;



- Existing formal cooperation protocols between law enforcement, surveillance and scientific authorities are outdated.

In the prosecution phase, the environmental expert input (either external or from the competent Nature Protection authorities), such as data on populations of protected species, can help prosecutors build their cases, establish key points and prove guilt. As there is no real specialisation in environmental crime within the prosecution in many countries, exchanging information and methodology would help them to prosecute these complex cases more efficiently and successfully.

4.2.3. Lack of uniform data and data sharing

Generally, information and data sharing between institutions was identified as a challenge. In some countries, the collaboration between certain institutions was found to work well, while others have action plans to improve information sharing. However, there was a general consensus across all project countries that there is a lack of structured, uniform and centralised databases in the first place. Information and data, if available, are scattered across institutions and authorities (e.g. NGOs, species conservation, fisheries or hunting authorities, various police forces, and veterinary or customs inspectorates). This was perceived as a serious gap that hampers the effective and efficient detection, prosecution and sanctioning process of WLC, for example making it difficult to identify and proactively monitor black spots.

All countries mentioned a lack of centralised

(electronic) databases and data sharing. Structured data collection and sharing in databases were called for at various levels:

- Status of protected species;
- Illegal killing of wildlife (place, time, species, means, perpetrators);
- Records of the proceedings and results of WLC cases, accessible to all institutions and authorities working to combat wildlife crimes;
- Number of cases that are reported, number of cases that are investigated, number of convictions, number of dismissed court cases;
- Number of natural persons and of legal persons convicted and sanctioned for wildlife crimes;
- The length of the investigation of criminal wildlife crime cases;
- Types and levels of sanctions imposed for wildlife crime.
- National external expert database, e.g. for species identification (particularly for CITES violations) or damage assessment.
- 87 different regional and national institutions were contacted to gather data on WLC, showing the lack of a centralised database across Europe.

7. MOEW (2021), MITECO (2004)

8. MITECO (2019)



4.2.4. Lack of staff and resources

In most countries, very few rangers or inspectors need to cover vast areas, which leads to most wildlife crime cases not being detected.

IN all countries, shortcomings were identified on the level of staff and resources directed at dealing with wildlife crime.

- Most striking was the lack of personnel on the ground to detect these crimes. In most countries, very few rangers or inspectors need to cover vast areas, which leads to most wildlife crime cases not being detected, or detected too late to identify the perpetrator.
- Rangers and other surveillance staff often do not work at night, on weekends or on holidays, and police stations are often minimally staffed at these times. However, a large proportion of wildlife violations occur outside working hours and on weekends⁹.
- The work of surveillance personnel was found to be further undermined by lacking equipment for the detection of WLC (e.g., video surveillance, drones, off-road vehicles, bright lights, night vision equipment, detector dogs) and processing of evidence.
- On both the enforcement (mainly CITES) and the judiciary side, there was a recorded lack of external experts (and databases of such) for expert opinion input on specific cases. This could be either due to low reimbursement for their efforts, or because of conflicts of interest (e.g. pet store owners or veterinarians may be reluctant to get involved in cases with clients) 10.
- The lack of wildlife rescue centres and facilities to store evidence, e.g. carcasses, for further examination, or forensic investigation facilities was another factor complicating the processing of wildlife crimes. In Bulgaria, the lack of animal rehabilitation centres affects the speed of investigations. The positive Spanish example confirmed the importance of forensic and veterinary Wildlife Recovery and Toxicology Centres, as these provided necessary expert support in such crimes; for example, they determined the causes of death or injury of the specimens, identified them, described the processes they underwent or provided technical reconstructions of the facts.

4.2.5. Insufficient competency of surveillance and enforcement authorities

In the analysis of the factors hampering the effective prosecution of wildlife crimes, Bosnia and Herzegovina, Bulgaria, Croatia, Italy, Romania, Slovakia and Ukraine identified the need to extend the competencies of some authorities to facilitate detection, or to harmonise regulations at state and regional level. The call for extended competencies was most salient at the detection level.

As pointed out in Section 4.2.3., there appears to be a general lack of clear and formalised protocols establishing the competencies of the parties and authorities involved, and the procedural steps for collaboration, particularly at the detection and investigation level.

Examples of gaps in the competencies of surveillance and inspection authorities:

- In Bulgaria, fishing inspection officials are not authorised to undertake inspections while fishing activities are underway. This provides fishermen with the opportunity to conceal illegal activities.
- In Croatia, rangers do not have the status of officials, which makes it more difficult for them to conduct surveillance in protected areas and to prosecute perpetrators.
- In Romania, the extension of the criminal prosecution powers of the gendarmerie would be beneficial in detecting and investigating wildlife crime cases.
- In Slovakia, several shortcomings in the competencies of surveillance and investigation authorities were noted:
 - The supervision of the handover of dead specimens of some felid species for disposal or further processing is handled by the State Nature Conservancy (SNC). The SNC does not have the authority to record a unique identifier of CITES species holders (e.g. ID card number), which would allow the unambiguous identification of the keeper.
 - Stockholm Environment Institute (SEI) inspectors are not authorised to request telecommunications companies to provide the name of the owner of the tele-

phone number, which is listed e.g. when selling species on the Internet.

- SEI is not authorised to do “control purchases”.

- In Ukraine, among the powers of the National Police (in particular, in the structural unit of the Central Office of the National Police – Water and Air Police Department), there are no powers to draw up reports (protocols) on administrative offences and impose administrative penalties under Art. 85 of the Code of Ukraine on Administrative Offences, in particular, under parts 3 and 4 of this article (violation of fishing rules and gross violation of fishing rules).

4.2.6. Lack of awareness

The lack of awareness of the significance of environmental, and specifically, wildlife crime, along the enforcement chain, was perceived as a reflection of a general lack of awareness about these issues.¹¹ For example, it was suggested that the reason why environmental criminal offences accounted for only 0.7%¹² of the overall crime structure for 2017 in Croatia could be due to insufficient environmental awareness, which is why certain behaviours were not even perceived as unlawful acts by the respective authorities as well as by the general public and the offenders.¹³

Additionally, it was reported that the public did not know where to report such violations.

9. National Report of Bulgaria: <https://stopwildlifecrime.eu/resources/national-reports/>

10. National Reports of Bulgaria and Hungary: <https://stopwildlifecrime.eu/resources/national-reports/>

11. National Report of Spain: <https://stopwildlifecrime.eu/resources/national-reports/>

12. Of all known reported acts committed by natural persons

13. National Report of Croatia: <https://stopwildlifecrime.eu/resources/national-reports/>; State Attorney’s Office of the Republic of Croatia (2018)



4.3. LESSONS FROM SAMPLE CASES

The analysis of the case studies presented in the national reports permitted the identification of key factors that enable the successful prosecution of wildlife crime in the law enforcement and judicial process. The conclusions confirm the findings of the data and interview evaluations presented in the previous sections and aid in solidifying the case for establishing good practices as formal standards in the process.

Good or bad examples did not necessarily apply to the whole case presented. There were multiple cases where the detection and investigation phase were exemplary, while the court process and outcome were entirely dissatisfactory.

In general, the emerging picture suggests that law enforcement and inspection authorities were better prepared to deal effectively with wildlife crime than actors in the later stages of prosecution, namely prosecutors and especially judges. This finding may be directly associated with the conclusions drawn from Table 4 in Section 4.2.1., namely that training and special knowledge on wildlife crime are virtually non-existent at the level of judges in all countries.

4.3.1. Detection and Investigation

Among the good practices described in the case studies, four central themes emerged for the detection and investigation phase.

Targeted and coordinated use of detection resources and technology

Presented date shell harvesting cases, both in Croatia and in Italy, and bird poisoning cases in Spain, were successfully intercepted through careful preparation and tapping telephone conversations, covert surveillance, and searches of premises and homes. In Slovakia, a case of bird poisoning was successfully detected with the use of drones and in one case in Hungary, by a GPS tracker worn by an Eastern imperial eagle. In Spain, GPS trackers have proved useful for individuals of strictly protected species. In Ukraine, a case of mass poisoning of birds in a protected area and around it was successfully dealt with by combining the efforts of different authorized bodies, including repeated and large-scale unscheduled inspections. In Hungary and Spain, the increasing use of sniffer dogs is resulting in more poisoning cases being detected.

In some of these instances, large numbers of individuals of a protected species were involved,

the criminal activity had been ongoing for a while, and the activity was premeditated and, in some cases, organised. Such were the cases, for example, with large-scale harvesting and sale of date shells in Italy and Croatia, and the ongoing bird poisoning in Hungary, Slovakia, Spain and Ukraine. This is highlighted by the fact that certain criminal detection and investigation methods like phone tapping or covert surveillance are evidently only applicable in cases where illegal activities are repeatedly committed by the same perpetrator(s), allowing for careful preparation.

Securing evidence

The importance of securing evidence was highlighted in Romania, where in the case of the illegal shooting of a boar, the timely and thoroughly collected evidence built the basis for the conviction of the defendant, and the imposition of a stricter-than-average penalty. In a successful case in Ukraine, the involvement of investigation specialists aided in establishing the case.

On the contrary, in Poland, in the cases of the shooting of a grey wolf and the killing of five grey seals, the evidence was collected sloppily or neglected. In the case of the shot wolf, despite having discovered an unlocked weapon with a tightened scope belonging to the perpetrator, it was not decided to keep it and submit it for ballistic tests. This led to an unnecessary and complicated process of having to create convincing circumstantial evidence. For the dead seals, the



prosecution did not order autopsies. Failure to establish the causes of death prevented any further evidentiary actions and led to the discontinuation of the proceedings. In Romania, there were cases in which, even when the perpetrators were caught with dead animals, they could be convicted, for lack of evidence, not of poaching but only of illegal possession.

International cooperation between law-enforcement authorities

Success has been reported in cases involving international trade or other cases of a cross-border character. In these cases, an international collaboration between national investigative authorities was critical, such as in the date shell harvesting case

in Croatia; a case of keeping a jaguar illegally in a private zoo in Bosnia and Herzegovina, or the uncovering of a large-scale cactus trading operation in Hungary.

Collaboration between inspection/law enforcement authorities and experts

Close cooperation between public authorities and representatives of civil society organisations working in the conservation field was reported as fruitful specifically in cases involving poisoning or illegal killing of animals. Examples include poisoning cases in Croatia and Spain and sturgeon fishing in Bulgaria. Bird conservation NGOs were particularly involved in crime detection in Hungary, Serbia, Slovakia and Spain.

4.3.2. Pre-trial and court proceedings

The need to formalise pre-trial procedures and, again, the need for specialisation of the judiciary, emerged as the main themes in the prosecution phase.

Clarity about formal procedures

In Croatia, there were practical examples related to unclear criteria for the initiation of criminal proceedings and inconsistent practices by national authorities regarding the initiation of misdemeanour or criminal procedures in similar cases. In the case of goldfinches, dates and sea cucumbers, offences went to misdemeanour proceedings, while, if better prepared, they might have been directed towards criminal proceedings.

In Ukraine, an administrative case presented was returned for improvement on formal grounds

because of poor documentation. The specific case was then closed because more than three months had passed since the date of the offence and its detection, so under Ukrainian legislation, this case had no judicial prospects and the documents were not transferred to the court. In this case, the lack of coordinated cooperation between the different public authorities and the absence of an adequate level of awareness among all actors of the seriousness and impact of WLC and the proper handling of these offences contributed to the outcome.

Successful proceedings in the detection, investigation and pre-trial phases, such as sufficient training and expert consultation, lay the groundwork for the successful completion of the case.

In a case study presented by Bulgaria, a criminal case involving two Bonelli's eagles was sent back for review at least six times for the removal of procedural violations by the prosecution, but as these were

not duly remedied, the case was terminated with no conviction.

In other words, the perpetrators got away with no punishment, or with administrative sanctions instead of criminal ones, due to unclear criteria regarding the initiation of administrative or criminal proceedings, or due to formal mistakes made in the paperwork. These situations highlight the need to establish formal protocols for how to proceed after the detection of an offence against wildlife, and to provide sufficient legal training or support for inspection or surveillance staff.

Involvement of experts to build the case and establish damages

A significant number of the good practices presented in the case studies involved the inclusion of experts in the pre-trial or judicial phases. In the cases described in Bulgaria, Italy, Poland, Spain and Ukraine, experts were involved in establishing the crime, or the extent of the damage done. In many cases, a forensic expert's opinion is necessary to successfully hold the perpetrator liable, as it establishes the essential circumstances determining the perpetrator's liability (e.g. determines to which species the specimen at issue belongs; describes the findings of the animal's autopsy; establishes the extent of the damage, etc.). In the cases presented, the involvement of such experts contributed significantly to the adequate sanctioning of offences.

Swift and timely proceedings

Many reports criticised undue delays in processing wildlife crimes due to insufficient engagement by the institutions involved. In some cases, this led to the entry into effect of the statute of limitations, which effectively closed the case without a conviction.

It is generally beneficial for both law enforcement and the defendants to have less time

between the commitment of an alleged criminal offence and the decision on the case. According to the mainstream theory in criminal law, sanctions will not serve their purpose if too much time passes.¹⁴

Adequate sanctions/ consequences

Both the good and bad practices presented in the case studies regarding sanctions highlighted the need for adequate penalties and other legal consequences imposed. Good practices included the imposition of damages for the environmental harm caused and the collection of the financial proceeds from the illegal activity, as described in the date shell harvesting case of Croatia. Additionally, sufficiently severe sentences were called for, to have a deterrent effect.

In many of the cases viewed positively, successful proceedings in the detection, investigation and pre-trial phases, such as sufficient training and expert consultation, lay the groundwork for the successful completion of the case.

In cases where the sanctions were found to be insufficient, previously successful proceedings were often reversed at the judicial stage. In one case in Slovakia, the prosecutor appealed the mild sentence of the court, but the first-instance decision was upheld.



5. Analysis of infringement data related to wildlife conservation in 11 project countries



All quantitative findings presented in this section are subject to the caveats described in more detail in Section 1.4. In particular, the reader should bear in mind that the available data were incomplete and any conclusions drawn from them have to be interpreted carefully and with scrutiny.

5.1. SCALE AND TYPES OF RECORDED WLC OFFENCES: OVERVIEW












Based on the data available, the majority of wildlife crime data collected for the period 2016-2020 in most countries related to illegal hunting and poaching, and wildlife trafficking. In some countries, most of the received cases did not fall within the SWiPE project scope, as they pertained to the big game (e.g. red deer, roe deer, wild boar), hunting with unauthorised means, without a licence or within protected areas, or other similar offences. In the example of Romania, out of over 600 cases of wildlife crime received, only 25 fell within the

project's definition of wildlife crime. Other countries, such as Bosnia and Herzegovina and Spain, mentioned that cruelty against domestic animals featured prominently among animal torture data received. For aggregated data about wildlife crime, where information at the taxonomic level was missing, this meant that the information had to be interpreted very carefully considering these limitations.

Depending on the sources of information available, data may be skewed towards certain species (for example, in Italy, where the bulk of data was obtained from bird recovery centres) or certain types of wildlife crime (as is the case in Hungary where the database includes a large set of EU-TWIX data,¹ or Slovakia, where the CITES Executive Body provided a large dataset).

Table 5 gives an overview of the most frequently recorded types of wildlife crimes per country.²

Table 5: Typology of most frequently reported offences against wildlife in the SWiPE project database, per country, subject to available information, 2016-2020

| |  Bosnia and Herzegovina |  Bulgaria |  Croatia |  Hungary |  Italy |  Poland |  Romania |  Serbia |  Slovakia |  Spain |  Ukraine |
|---|--|--|---|---|---|--|---|--|--|---|---|
| Animal cruelty | | | | | | | | | | 0 | 18 |
| Illegal wildlife trade/ smuggling/ CITES violation | | 11 | 44 | 48 | 4 | 5 | 7 | 32 | 503 | 20 | 66 |
| Illegal supply and sale | 1 | 12 | 18 | 53 | 6 | | | 35 | | 397 | |
| Illegal killing/ poisoning | | 22 | 9 | 38 | | | | 12 | 57 | 793 | |
| Illegal killing/ hunting/ unknown or other than poisoning | 7 | 45 | 11 | 50 | 65 | 1 | 9 | 8 | 84 | 1210 | 46 |
| Use of prohibited hunting methods or equipment | | 16 | 38 | 7 | 89 | | | 5 | 7 | 611 | 4 |
| Illegal fishing | | 11 | | | | 1 | 6 | 6 | | 10 | |
| Use of prohibited fishing equipment or methods | | 17 | | | | | | 22 | | 0 | 251 |
| Illegal taking/ capturing/collecting of live species | 1 | 8 | 9 | 7 | 7 | | 2 | 32 | 7 | 362 | |
| Illegal mussel collecting | | | 27 | | | | | | | 0 | |
| Illegal possession | 2 | 17 | 44 | 120 | 32 | 1 | 1 | 13 | 8 | 99 | 29 |
| Damage of breeding and/or resting place | | | | | | 2 | | | 21 | 1 | |
| Nest Removal/ destruction | | | | 35 | | | | | 18 | 1 | |

1. The European Union Trade in Wildlife Information exchange. A restricted access database on seizures and offences relating to the EU Wildlife Trade Regulations, accessible only to enforcement officers working on CITES issues in Europe. Currently reported by all 27 EU Member States, Bosnia and Herzegovina, Iceland, Switzerland, Ukraine and the UK. EU-TWIX. *EU-TWIX: A Tool to Facilitate Information Exchange on Illegal Wildlife Trade in Europe*. <https://www.eu-twix.org/>. (Accessed 10.07.2022).

2. Please note that "The sum of the cases by typology does not coincide with the total sum of cases because several cases included more than one type of crime at the same time.



The following general observations were made by comparing the datasets from the 11 project countries

5.1.1. Typology of offences against wildlife

In those countries where sufficient data were available, the vast majority of recorded cases of killing of protected bird and mammal species were treated as criminal offences, in contrast to fisheries offences, which were more likely to be treated as administrative offences.

A striking exception is Italy, where all but two cases of illegal hunting/killing were treated as administrative infringements or offences. This was possibly related to the fact that the protection of bird and mammal species and hunting is regulated by the same law, leaving room for the interpretation of the act as a violation of the Hunting Law. A similar case was recorded in Bosnia and Herzegovina, where the killing of a brown bear was classified as an administrative offence, as it was interpreted as a violation of the Hunting Act because a hunting association had approved the hunt without the necessary authorisation from the competent ministry.

Table 6 gives an overview of wildlife offences by type of offence (administrative or criminal offence), by country.

Table 6: Number of wildlife offences by typology of offence, by country, subject to available information (numbers from database do not add up to total number of cases, as for some of them, this information was not provided), 2016-2020. Source: SWiPE project database (for Slovakia, additionally WWF SK project database).

| Country | No. of criminal offences | No. of administrative offences |
|------------------------|--------------------------|--------------------------------|
| Bosnia and Herzegovina | 7 | 2 |
| Bulgaria | 21 | 39 |
| Croatia | 107 | 101 |
| Hungary | 943 | |
| Italy | 12 | 201 |
| Poland | 9 | 5 |
| Romania | 18 | 7 |
| Serbia | 54 | 111 |
| Slovakia | 62 | 571 |
| Spain | 306 | 21 |
| Ukraine | 93 | 319 |

5.1.2. Most targeted species per crime within CITES

Based on the data available, the majority of recorded crimes in the national databases were of a national character with a very few transboundary cases reported. Birds were by far the most targeted species by different types of wildlife crime. A notable exception was international trade.

Parrots, tortoises, some reptiles and skins/ parts and products from big cats, brown bears, elephants and sturgeons featured most prominently among animal species seized in confiscations. An exception appeared to be Ukraine, where goldfinches (*Carduelis carduelis*) were perceived to be the most common animals involved in illegal trade cases. In the countries that received data from CITES authorities (Hungary and Slovakia), plants such as snowdrop (*Galanthus nivalis*), costus root (*Saussurea costus*), cacti and succulents were also frequently represented in the seizure data.

Songbirds are hunted for consumption in Italy while in other countries they are caught alive. Spain has a tradition of keeping live finches, especially goldfinches, in cages as pets, but as observed in Croatia, Hungary, Poland and Romania, in other countries songbirds may be caught live for export to Italy. By far, the most commonly targeted songbird species was the goldfinch (*Carduelis carduelis*).

Raptors were the second group of birds that consistently appeared throughout the datasets of most countries. Raptors (*Accipiter sp.*, *Aquila sp.*, *Buteo buteo*, *Circus aeruginosus*, *Falco sp.*, *Gyps fulvus*, *Haliaeetus albicilla* and *Milvus milvus*) were particularly hard hit in Croatia, Hungary, Serbia, Slovakia and Spain. On the one hand, they are hunted, but far more devastating for these birds and the entire ecosystem is the use of poison bait to kill them. These crimes are particularly harmful as they indiscriminately kill any scavenging animals that eat the bait. Consistently, the Bulgarian and Spanish findings reflected high numbers of domestic dogs and foxes among the victims of illegal killing by poison.

Birds were by far the most targeted species by different types of wildlife crime.

relatively common targets for illegal hunting, although to a much lesser extent than small species such as birds.

Table 7 gives an overview of the species most frequently involved in wildlife crime, by country.

In countries where they occur in significant numbers, *Ursus arctos* and other large carnivores and large species were perceived as

**Table 7: Most common species involved in different types of wildlife crimes per country, subject to available information in SWiPE database and aggregate data 2016-2020**

| Country | Species | Additional information |
|----------------------------------|--|--|
| I. Illegal wildlife trade | | |
| Bosnia and Herzegovina | Brown bear (<i>Ursus arctos</i>) | |
| Bulgaria | Grey Parrot (<i>Psittacus erithacus</i>) | |
| Croatia | Sturgeons (<i>Acipenseriformes spp</i>) | Caviar |
| | Common Snipe (<i>Gallinago gallinago</i>) | |
| | Date Shell (<i>Lithophaga lithophaga</i>) | |
| | Hermann's tortoise (<i>Testudo hermanni</i>) | |
| Hungary | Hermann's tortoise (<i>Testudo hermanni</i>) | Mostly live specimens |
| | Brown bear (<i>Ursus arctos</i>) | Skins, leather products, trophies, a rug, a fur product, and dead bodies |
| | Lion (<i>Panthera leo</i>) | Live specimens |
| | Greek tortoise (<i>Testudo graeca</i>) | Live specimens |
| | Corals (<i>Scleractinia</i>) | Coral or derivatives |
| | Elephants (<i>Elephantidae</i>) | Ivory carving, tusks, or bones |
| | Snowdrop (<i>Galanthus nivalis</i>) | Flower |
| | Costus Root (<i>Saussurea costus</i>) | medicine, derivative/extract |
| Italy | Parrots (<i>Psittaciformes</i>) | |
| | Elephants (<i>Elephantidae</i>) | |
| | Pythons (<i>Pythonidae</i>): Python spp. and Python reticulatus | |
| | Crocodiles (<i>Crocodylidae</i>): <i>Crocodylus niloticus</i> and <i>Crocodylus spp.</i> | |
| | American alligator (<i>Alligator mississippiensis</i>) | |
| Poland | Corals (<i>Scleractinia</i>) | |
| | Sturgeons (<i>Acipenseriformes spp</i>) | Caviar |
| | Elephants (<i>Elephantidae</i>) | Ivory |
| | Glass eels (<i>Anguilla anguilla</i>) | |



| | | |
|---|--|------------------------------|
|  Romania | <i>Psittacidae</i> | |
| | <i>Chamaeleonidae</i> | |
| | <i>Acipenseridae</i> | Caviar |
| | <i>Panthera pardus</i> | Head |
|  Serbia | Cats (<i>Felidae</i>) | |
| | Brown bear (<i>Ursus arctos</i>) | Medicinal products and skins |
| | Sturgeons (<i>Acipenseriformes spp</i>) | Caviar |
| | Crocodiles (<i>Crocodylia</i>) | |
| | Tortoises (<i>Testudinidae</i>) | |
| | Eurasian skylark (<i>Alauda arvensis</i>) | |
|  Slovakia | Corals (<i>Scleractinia</i>), Queen conch (<i>Strombus gigas</i>), Giant clams (<i>Tridacna</i>) | Shells |
| | Parrots (<i>Psittacus erithacus</i> , <i>Ara ararauna</i> , <i>Syrnaticus reevesii</i> , <i>Amazona aestiva</i> , <i>Primolius maracana</i>) | Feathers |
| | Raptors and owls (<i>Tyto alba</i> , <i>Bubo bubo</i> , <i>Falco peregrinus</i> , <i>Falco cherrug</i>) | Live specimens |
| | Tortoises (<i>Testudinidae</i>): <i>Testudo marginata</i> , <i>Testudo hermanni</i> | |
| | Large carnivores: Brown bear (<i>Ursus arctos</i>), Grey Wolf (<i>Canis lupus</i>), Lynx (<i>Lynx lynx</i>) | skins, skulls |
| | Crocodiles (<i>Crocodylia</i>): <i>Crocodylus siamensis</i> , <i>Alligator mississippiensis</i> | small leather products |
| | Cacti and succulents | |
|  Spain | Tortoises (<i>Testudinidae</i>): <i>Testudo graeca</i> , <i>Testudo marginata</i> | Live specimens |
| | Parrots (<i>Psittacus erithacus</i>) and toucans (<i>Ramphastidae</i>): <i>Ramphastos sulfuratus</i> , <i>Aulacorhynchus prasinus</i> | Live specimens |
| | Elephants and (<i>Elephantidae</i>) and rhinos (<i>Rhinocerotidae</i>) | Carving - ivory, horn, tusk |
|  Ukraine | <i>Falconidae</i> | |
| | Birds (not specified), Goldfinch (<i>Carduelis carduelis</i>) | |
| | Python (<i>Pythonidae</i>) | |
| | Butterfly larvae | |





| II. Illegal killing/poaching, use of illegal hunting or fishing equipment | | |
|---|--|--|
| Bosnia and Herzegovina | Brown bear (<i>Ursus arctos</i>) | Hunting/shooting |
| | Long-legged buzzard (<i>Buteo rufinus</i>) | |
| | Lynx (<i>Lynx lynx</i>) | |
| Bulgaria | Brown bear (<i>Ursus arctos</i>) | Shooting |
| | Chamois (<i>Rupicapra rupicapra</i>) | |
| | Red deer (<i>Cervus elaphus</i>) | |
| | Grey wolf (<i>Canis lupus</i>) | Poisoning |
| | Griffon vulture (<i>Gyps fulvus</i>) | |
| | Red fox (<i>Vulpes vulpes</i>) | |
| | Finch species (<i>Carduelis sp.</i>) | |
| | Soft-shell clam (<i>Mya arenaria</i>) | Use of prohibited fishing equipment or methods |
| Croatia | Brown bear (<i>Ursus arctos</i>) | Shooting |
| | Many raptor species | Poisoning |
| Hungary | Many raptor species | Poisoning |
| Italy | Finch species (<i>Fringillidae</i>), especially Goldfinch (<i>Carduelis carduelis</i>) | |
| | Thrushes (<i>Turdidae</i>) | |
| | Wild boar (<i>Sus scrofa</i>) | |
| Poland | Grey wolf (<i>Canis lupus</i>) | |
| Romania | Thornback ray (<i>Raja clavata</i>) | |
| | Sturgeons (<i>Acipenseriformes spp</i>) | |
| | Brown bear (<i>Ursus arctos</i>) | |
| | Chamois (<i>Rupicapra rupicapra</i>) | |
| Serbia | Sturgeons (<i>Acipenseriformes spp</i>) | Poisoning |
| | Many raptor species | |
| | Finches (<i>Carduelis sp.</i>) | |
| Slovakia | Goose species (<i>Anser sp.</i>) | Shooting |
| | Grey wolf (<i>Canis lupus</i>) | |
| | Brown bear (<i>Ursus arctos</i>) | |
| | Many raptor species | |
| | Common house martin (<i>Delichon urbicum</i>) | |
| Spain | | Poisoning, killing, shooting |
| | Many raptor species (especially <i>Buteo buteo</i> , <i>Accipiter nisus</i> , and <i>Falco tinnunculus</i>) | Hunting/shooting |
| | Ungulate species (mainly <i>Capreolus capreolus</i>) | Poisoning |
| | Many raptor species (especially <i>Milvus milvus</i> , <i>Milvus migrans</i> , <i>Gyps fulvus</i> , <i>Aegypius monachus</i> , <i>Aquila adalberti</i>) | |
| | Red fox (<i>Vulpes vulpes</i>) | |
| | Songbirds (<i>Passeriformes</i>), especially <i>Carduelis carduelis</i> | Use of prohibited hunting equipment or methods |
| Red fox (<i>Vulpes vulpes</i>) | | |
| Ukraine | Moose (<i>Alces alces</i>) | Shooting |
| | European bison (<i>Bison bonasus</i>) | |
| | Brown bear (<i>Ursus arctos</i>) | Shooting; illegal possession |
| | Wildcat (<i>Felis silvestris</i>) | Use of prohibited hunting equipment/ methods |
| | Common buzzard (<i>Buteo buteo</i>) | Poisoning |
| | Sturgeons (<i>Acipenseriformes spp</i>) | Illegal killing/fishing and use of prohibited fishing equipment or methods |
| | Common barbel (<i>Barbus barbus</i>) | |
| | Pontic shad (<i>Alosa immaculata</i>) | Use of prohibited fishing equipment/ methods |
| | Asp (<i>Aspius aspius</i>) | |
| Black Sea roach (<i>Rutilus frisii</i>) | | |



| III. Illegal capture/ collection | |
|----------------------------------|---|
| Bosnia and Herzegovina | No data available |
| Bulgaria | No species trend in database |
| Croatia | Songbirds (<i>Passeriformes</i>), especially <i>Carduelis carduelis</i> |
| Hungary | No data available |
| Italy | Low number of cases relative to dataset |
| Poland | No data available |
| Romania | Weatherfish (<i>Misgurnus fossilis</i>) |
| Serbia | Songbirds (<i>Passeriformes</i>), especially <i>Carduelis carduelis</i> |
| Slovakia | Raptor species |
| Spain | Finch species (<i>Fringillidae</i>), especially goldfinch (<i>Carduelis carduelis</i>) and common linnet (<i>Linaria cannabina</i>) |
| Ukraine | Goldfinch (<i>Carduelis carduelis</i>) |
| IV. Illegal possession | |
| Bosnia and Herzegovina | No species trend in database |
| Bulgaria | Tortoises (<i>Testudinidae</i>) |
| Croatia | Seashells (<i>Pinna nobilis</i> and <i>Tonna galea</i>) |
| | Goldfinch (<i>Carduelis carduelis</i>) |
| Hungary | Orchids (<i>Orchidaceae</i>): <i>Dendrobium</i> |
| | Snowdrop (<i>Galanthus nivalis</i>) |
| Italy | No species trend in database |



| | | |
|----------|---|---|
| Poland | No data available | |
| Romania | No species trend in database | |
| Serbia | Raptor species | |
| Slovakia | Tortoises (<i>Testudinidae</i>) | Illegal breeding |
| | Large carnivores | illegal possession of trophies; missing permits/ documents |
| | Raptor species | missing permits/documents; deficiencies in record keeping |
| Spain | Finch species (<i>Carduelis sp.</i>) | Illegal possession, deficiencies in record keeping, failure to prove origin of species, failure to report the discovery of a protected animal |
| | Finch species (<i>Fringillidae</i>) such as goldfinch (<i>Carduelis carduelis</i>) and chaffinch (<i>Fringilia coelebs</i>) | |
| Ukraine | Tortoises (<i>Testudinidae</i>): <i>Testudo hermanni</i> , <i>Testudo graeca</i> , <i>Testudo marginata</i> | |
| | Sturgeons (<i>Acipenseriformes spp</i>) | |
| | Brown bear (<i>Ursus arctos</i>) | |
| | Big cats (<i>Felidae</i>): <i>Lynx lynx</i> , <i>Panthera tigris</i> , <i>Panthera leo</i> , <i>Panthera onca</i> , <i>Lynx rufus</i> , <i>Leopardus pardalis</i> , <i>Leptailurus serval</i> | |

5.1.3. Most wildlife crimes go unpunished or undetected

A common feature of wildlife crime, particularly of illegal killing and where the carcass is not retrieved by the offender, as in poisoning cases, is that for most of these, the offender remains unknown. As the Croatian and Polish reports suggested, wildlife crimes usually take place in uninhabited areas with no witnesses to the act. Wildlife is not reported missing like humans and cannot self-report themselves as victims, so most of these acts go unreported, and in all likelihood, much more go undetected.

Bulgaria and Italy observed great disparities between the number of criminal acts recorded in the official data received and the number of protected wildlife killed, which are known to experts in the field or reported in the media.

Bulgaria recorded a big discrepancy between the number of killed brown bears and chamois (protected species) known to scientists, experts in nature conservation organizations and reported in the media, and the cases actually registered by the State authorities. For example, four brown

bears were found dead by the authorities in Bulgaria and four other cases are known through media reports or files from prosecutors. At the same time, however, the brown bear population declined from 411 to 329, without evidence of an increase in natural mortality. In the case of chamois, official statistics reported one chamois killed in 2017. Publications in the media and on the websites of nature conservation organisations reported 21 animals killed in the same period. At the same time, poaching of chamois is acknowledged as a major conservation threat to the species in both the expired and the new draft Action Plan for the Conservation of Balkan Chamois Populations.

Wildlife is not reported missing like humans and cannot self-report themselves as victims, so most of these acts go unreported, and in all likelihood, much more go undetected.

In Italy, the total number of cases of poaching of passerines in the SWiPE database for the period 2016-2020 for the whole of Italy was 410. However, the number of passerines wounded by gunshots or seized and hospitalised at CRAS Valpredina (a WWF's wild animal recovery centre) was 1,183 in the period 2016-2020 alone.

This implies that the vast majority of wildlife crimes go undetected or unreported, which aligns with the situation observed internationally.³ In Italy, the strong underestimation of wildlife crime threatens to jeopardise the survival of entire populations, especially in combination with other factors threatening the species (e.g. invasion by alien species, climate change, deforestation).



5.1.4. Organised crime

Many sources, among them the UNODC World Wildlife Crime Report (2020) and a recently launched report “Fighting Environmental Crime in Europe” (Colantoni et al., 2022), report that the involvement of organised criminal groups (OCG) in environmental crime is on the rise. The UNODC report explicitly refers to transnational wildlife trafficking, and the latter report additionally lists illegal waste trafficking as crimes where an increasing degree of organisation and professionalisation are noticeable. The United Nations Convention against Transnational Organized Crime defines an OCG as “... a structured group of three or more persons, existing for a while and acting in concert to commit more serious crimes or offences established in accordance with this Convention,⁴ to obtain, directly or indirectly, financial or other material benefits...”.⁵ The EMPACT cycle 2022-2025, in its environmental crime priority, specifies a focus

Ukraine reported multiple cases of (organised) smuggling of large numbers of goldfinches (between 500 and 2,000) to the Middle East.

on waste and wildlife trafficking, as well as on criminal networks⁶.

Most national databases did not contain many cases with the involvement of OCGs, or this information was not available. Apart from Ukraine, no country has more than a few mentions of OCG being involved in wildlife offences and wildlife trafficking. Croatia described a good example of dismantling an OCG in the date shell harvesting case.

In the case of Ukraine, most activities involving OCGs relate to the illegal fishing of sturgeon, illegal hunting of moose and smuggling of raptors. An interesting aspect of the Ukrainian dataset is multiple cases of (organised) smuggling of large numbers of goldfinches (between 500 and 2,000) to the Middle East.

It should be stressed that the focus of data collection and analysis for the national reports was not to look for and detect links between wildlife crime and OCG. The questionnaires for interviews and data collection and analysis protocols did not include specific questions on OCGs.

In consequence, the finding does not imply that organised crime does not take place or that it plays an insignificant role - it may also mean that these crimes go undetected or that the organised nature of the crime is not uncovered/investigated; possibly due to a lack of awareness and training of the investigating authorities, and perhaps even because of some degree of professionalism of the criminal groups involved.

4. The United Nations Convention against Transnational Organized Crime
 5. UNODC (2020), p. 31
 6. EUROPOL (2020)



5.2. RESULTS OF PROSECUTION, PRE-TRIAL PROCEEDINGS AND ADMINISTRATIVE VIOLATIONS

This section presents an overview of the main findings of the national reports. Generally, data received from the prosecutors' offices, courts or legal databases were difficult to compare and interpret, as they were mostly aggregate data summarising annual cases. Also, the datasets from different sources did not contain the same information.







Therefore, the results of comparing the available data are to be interpreted very cautiously, as crimes committed in one year may not be prosecuted until the following year and court proceedings can extend over multiple years in some cases. When looking at prosecution and court proceedings per year, it may thus happen, for example, that more convictions were recorded for a year than indictments filed. However, some general insights can be generated by looking at the available data.

An additional challenge was posed by the differences in legal terminology between countries. An attempt was made to summarise the findings comprehensively; however, some terms may not designate the same process in different countries. An attempt has been made to take this into account.

Data received from the prosecutors' offices, courts or legal databases were difficult to compare, so these results are to be interpreted very cautiously.

In general, a large proportion of wildlife crime cases, even if reported, were not prosecuted. A quick calculation for those countries where sufficient information was available (always considering the above caveats) suggests that between 6% and 47% (Croatia) of reported wildlife crime cases (complaints) resulted in the conviction of the perpetrators (see Table 8). An observation made by the reports of Bulgaria and Romania was that those complaints about poaching that concerned species of commercial interest (i.e., big game) were more consistently prosecuted than complaints about illegal hunting of protected species of no commercial value.

Table 8: Indicative percentage of received criminal complaints related to WLC resulting in conviction, for countries where such data is available, 2016-2020.

| Country | | Percentage of complaints resulting in conviction |
|--|--|--|
|  Bosnia and Herzegovina ¹ | Federation of BiH | 43% |
| | Republika Srpska | 50% |
|  Bulgaria ² | | 13% |
|  Croatia ³ | | 47% |
|  Hungary | violations of Criminal Code other than wildlife trafficking ⁴ | 17% |
| | Wildlife trafficking ⁵ | 6% |
|  Serbia ⁶ | | 24% |
|  Spain ⁷ | | 76% |

1. Source: Official records of the High Judicial and Prosecutorial Council of BiH

2. Source: Prosecutor's Office

3. Source: Croatian Bureau of Statistics

4. Source: Annual reports of the Prosecutor General, datasets from the National Office for the Judiciary

5. Source: SWiPE database

6. Source: Basic Public Prosecutor's Office

7. Source: SWiPE database. In Spain, of the 327 sentences, 76% led to convictions, while 20% resulted in acquittals and 4% not known.



5.2.1. Criminal offences: Reported wildlife crime cases leading to indictments

The overall picture that emerged is that on average, 60% of wildlife crime complaints received by the prosecution did not result in indictments that led to court proceedings. For the countries where data permitting an estimate were available, the percentage of complaints received that resulted in the indictments ranged from 12% (Bulgaria)⁸ to 89% (Poland for reported offences under the Act on Inland Fisheries against protected species).

Table 9 gives an overview of the reported criminal offences against wildlife that resulted in indictments.

| Country | Comments | Percentage of complaints resulting in indictments |
|-------------------------------------|---|---|
| Bosnia and Herzegovina ⁹ | Federation of BiH | 51% |
| | Republika Srpska | 46% |
| Bulgaria ¹⁰ | | 12% |
| Croatia ¹¹ | | 63,5% |
| Hungary ¹² | Only wildlife trafficking, as the research team lacked resources to evaluate indictments related to other forms of wildlife crime under the criminal law. | 16% |
| Italy ¹³ | | 54-59% |
| Poland ¹⁴ | Offences under the Nature Conservation Act | 27% |
| | Offences under the Act on Inland Fisheries against protected species | 89% |
| | Offences under the Criminal Code | 35% |
| Romania ¹⁵ | Even if it was not possible to exactly determine how many offences were wildlife related, the number of cases that did not reach the court is very high (approximately 7200 ¹⁶ in 82.4% of the prosecutor's offices in Romania), the dismissed files being 10 times more than those sent to court. | About 10% |
| Serbia ¹⁷ | | 42% |
| Slovakia ¹⁸ | | 21% |
| Spain ¹⁹ | The large number of cases collected (n = 3125) is high compared to the number of sentences (n = 327) collected (either criminal or administrative). | 10.5% |
| Ukraine ²⁰ | This number refers to environmental offences, namely to cases under the 8 articles of the Criminal Code of Ukraine that can be considered as wildlife offences (were chosen as the most relevant for the project), and were referred to the court out of number of cases under given 8 articles of the Criminal Code that were registered for the period 2016-2020. | 30% |

8. This is an example of the difficulty to draw robust conclusions from the aggregated data: In the Bulgarian case, the data suggest that in the study period, the percentage of complaints that led to indictments (Table 9) was lower than the percentage of complaints that led to convictions (Table 8). This may seem illogical because clearly, indictment is a prerequisite to conviction. It is, however, explained by the fact that data aggregated by year do not necessarily cover the same cases; the data probably contain convictions from cases whose court processes were initiated before the start of the study period. By the same token, proceedings initiated during the study period may still be ongoing.

9. Source: Official records of the High Judicial and Prosecutorial Council of BiH

10. Source: Prosecutor's Office

11. Source: Croatian Bureau of Statistics

12. Source: SWIPE project database

13. Source: Ministry of Justice - General Directorate of Statistics and Organizational Analysis

14. Source: Police

15. Source: National Report of Romania, p. 76: <https://stopwildlifecrime.eu/resources/national-reports/>

16. for Hunting law 407/2006, GEO 23/2008 on Fishing and Aquaculture, and Protected Areas Law GEO 57/2007

17. Source: Basic Public Prosecutor's Offices

18. Source: SWIPE project database; WWF SK database

19. Source: SWIPE project database

20. Source: Ukrainian national report, statistical data sets accumulated in it, which were received (extracted, analysed and summarised) from raw official data sets of various state authorities of Ukraine (e.g. Statistical data according to the Unified Report on Criminal Acts. The Prosecutor General's Office (The Prosecutor General's Office publishes statistical reports, based on URPI data, received from the Ministry of internal Affairs, National Investigation Bureau, National Anticorruption Authority, Security, Tax Authorities)



In Bosnia and Herzegovina, in three of the six recorded criminal cases collected by the LIFE SWiPE project, the procedures were suspended on the grounds of self-defence, lack of evidence, and statute of limitations (respectively).

In Bulgaria, the proportion of refused criminal cases under laws governing endangered animal species and protected areas was significantly higher than in cases violating hunting laws. 31% of pre-litigation proceedings were discontinued and redirected towards administrative proceedings. Almost half of the illegal fishing complaints fall in this category.

In Slovakia, 19-21% of reported crimes were not prosecuted due to the unknown identity of the perpetrator.

In Italy, a very high proportion of complaints do not result in an indictment, partly due to the generous application of mechanisms and processes that allow cases to be closed before being referred to court. In 49% of complaints, the “extinguishment by obliteration” was applied. This is a simplified procedure by which a minor criminal offence is extinguished through the payment of a predetermined sum of money (lower than the fine that would be imposed at the end of the procedure). The obliteration results in decriminalisation, allowing the defendant to come out with a clean record.²¹ The application of the criminal

conviction decree (in 16% of cases) is also significant. This procedure allows for a simplified prosecution process without a court hearing for less serious crimes. It is ordered by the judge at the request of the prosecutor. It offers perpetrators the possibility of reducing the sentence by up to half compared to the minimum sentence, imposing a financial penalty instead of a prison sentence, or obtaining a suspended sentence. In addition, if the defendant does not commit any offence within the next two years (for contraventions) or five years (for crimes), the offence is extinguished.²²

In Serbia, the public prosecutor’s offices applied the ‘opportunity principle’ in 5 cases. The principle of opportunity is an instrument adopted in Serbia in 2001 to increase efficiency in criminal proceedings and reduce the workload of courts. According to it, in cases where the factual and legal reasons for initiating and conducting criminal proceedings are fulfilled, the public prosecutor decides on a case-by-case basis whether it is opportune and expedient to initiate and conduct criminal proceedings in a specific criminal matter. The opportunity principle gives the public prosecutor the right to not initiate criminal court proceedings against a person despite there being legal conditions for such.²³

In Ukraine, illegal fishing or other aquatic extractive industries offences represented the

largest number of reported cases (see also Table 5), after illegal logging or illegal transport, storage, and sale of timber offences, the collection of which was optional for the project partners.



21. Criminal Code of Italy (Royal Decree 19 October 1930, n. 1398), Art. 162, HUGLO LEPAGE & Partners Counsel (2003), p.74

22. Code of Criminal Procedure of Italy (DPR 22 September 1988, n. 477), Art 459-464

23. Criminal Procedure Code Art. 283














5.2.2. Criminal offences: Results of court proceedings and sanctions

In the majority of project countries, the highest proportion of convictions was recorded for illegal killing and fishing. In this section, illegal hunting and illegal killing are merged under the same term of “illegal killing”, as not all countries’ laws make a clear distinction.

Percentages may add up to more than 100 because in some cases more than one sanction was applied.

Table 10 gives an overview of the distribution of sanctions applied in court for wildlife crimes.

Table 10: Percentage of sanctions imposed in the study period, by country, subject to available data. Where percentages add up to more than 100, more than one sanction may have been applied in one case.

| Sanction |  Bosnia and Herzegovina ²⁴ | |  Bulgaria ²⁵ |  Croatia ²⁶ |  Hungary ²⁷ |  Italy ²⁸ |  Poland ²⁹ |  Romania ³⁰ |  Serbia ³¹ |  Slovakia ³² |  Spain ³³ |  Ukraine ³⁴ |
|--|--|------------------|--|---|---|---|--|---|--|--|---|---|
| | Federation of BiH | Republika Srpska | | | | | | | | | | |
| Conviction (no detailed information) | | | | | | 27% | | | 6% | | 76% | 2% |
| Imprisonment | | 1% | | 11% | 1% | | | 3% | 29% | | | |
| Suspended prison sentence | 70% | 51% | 39% | 69% | 29% | | 57% | 52% | 47% | 60% | | 2% |
| Release on probation/conditional suspension | | | | | 15% | | | | | | | |
| Suspended prison sentence + financial penalty | | | | | | | | 10% | | | | |
| Probationary supervision | | | | | 5% | | | | | | | |
| Financial penalty | 17% | 22% | | 4% | 24% | | 50% | 7% | 65% | 20% | | 35% |
| Exemption from criminal liability | | | 57% | | | | | | | | | |
| Plea bargain | | | | | | 40% | | | | | | |

24. Source: High Judicial and Prosecutorial Council of Bosnia and Herzegovina

25. Source: e-Justice portal

26. Source: SWiPE database

27. Source: National Office for the Judiciary

28. Source: Ministry of Justice - Directorate General of Statistics and Organisational Analysis

29. Source: SWiPE database

30. Source: SWiPE database

31. Source: SWiPE database

32. Source: SWiPE database; WWF SK database

33. Source: SWiPE database

34. Source: SWiPE database



| | | | | | | | | | | | | |
|---|-----|-----|----|-----------|------|-----|-----|-----|-----|------|-----|-----|
| Confiscation of property | | 5% | | | 0,5% | | | | | 20% | | |
| Community service | | | | | | | | | | 27% | | |
| Disqualification from profession | | | | | 3% | | | | | 6.6% | | |
| Expulsion | | | | | 0,5% | | | | | 6.6% | | |
| Community service | | | | | 0,5% | | | 7% | | 27% | | 1% |
| Suspension of hunting/ fishing licence | | | | | | | | 24% | | 20% | | |
| Exclusion from participating in public affairs | | | | | 1% | | | | | | | |
| Confiscation | | | | all cases | 8% | | 36% | | 71% | 20% | | 39% |
| Reparation work | | | | | 0,5% | | | | | | | |
| Court reprimand | | 1% | | | 5% | | | 10% | | | | |
| Punishment waived | | | | | | | | | | | | |
| Acquittal | 12% | 12% | | | 6% | 21% | 43% | 3% | 12% | | 20% | 42% |
| Termination | 1% | 8% | | | | | | | | | | |
| Statute of limitations | | | | | | 43% | | | | | | |
| Mixed sentence | | | | | | 4% | | | | | | |
| Information unavailable | | | 4% | 2% | | 4% | | | | | 4% | 16% |

Based on the information available at the time of the research, the ratio of indictments to convictions for trafficking in the entire period was 36% in Hungary and 76% in Spain. This information is not available for other countries.

In most countries, the sanction most frequently applied was suspended imprisonment. In Romania, this is the minimum applicable sentence by law for the perpetrated crimes. In Poland, in general, the courts were found to be most likely to impose financial penalties whenever possible, and, as a rule, amounts moved in the lower range applicable. In the case of CITES offences, for which the only possible penalty prescribed by law is imprisonment, up to one-year imprisonment sentences were most often imposed and the penalty was usually conditionally suspended if the perpetrator had not been previously sentenced.

Based on the limited data gathered, Italy and Ukraine stood out as the countries with the highest percentages of court cases that ended in acquittal or other reasons for non-punishment, such as the entry into force of the statute of limitations.

In Bulgaria, more than half of the known criminal cases brought to court resulted in the release of the defendant from criminal responsibility with the imposition of an administrative penalty.³⁵ The ratio of pre-litigation proceedings initiated was highest for illegal hunting and fishing.

In Italy, the meagreness of criminal sanctions for wildlife offences was found to be a constant, especially concerning illegal hunting. The penalties imposed were found to be largely insufficient to generate a dissuasive and deterrent effect and

thus to achieve a significant decrease in crime. The available data suggested that wildlife crimes in Italy have in fact been on the rise in recent years.

35. The institute of exemption (discharge) from criminal liability by imposing an administrative penalty was introduced by an amendment to the Criminal Code in 1982 as a new method of sanctioning criminal acts which represent a relatively lower degree of public danger. The administrative penalty is imposed by the criminal court. In this sense this is a hybrid procedure - the criminal court finds the defendant guilty, discharges him/her from criminal liability, and imposes an administrative penalty (fine) by Article 78a of the Criminal Code.



5.2.3. Administrative violations

In the case of administrative offences, there is no uniform conclusion to be drawn from the national reports. Table 11 gives an overview of fines imposed for administrative offences, in those countries where this information was available.

| Country | Imposed fines (| Comments | % of administrative offences receiving a sanction/fine |
|-------------------------------|--------------------------------------|--|--|
| Bosnia and Herzegovina | 500 - 2,500 | suspended fines with a probationary period of one year | |
| Croatia | 500 - 2,100 | | |
| Italy | 0 - 2,582 | | |
| Poland | 1,100 - 215,000 | | 50% (offences under the Nature Conservation Act) |
| | | | 40% (offences under the Act on Inland Fisheries) |
| Serbia | 5 - 4,260 | Average fine imposed was 385 EUR | 70% |
| Slovakia | 705 EUR average range 15 - 10 000 | Violations of the Nature and Landscape Protection Act. The most common fine was 100 EUR. | 74% |
| | 439 EUR average range 16 - 15 000 | Violations of CITES legislation | 26% |
| Spain | 737 | Of the 177 cases recorded that received a sanction, 60 (33.9%) resulted in a financial penalty (average fine: 736.7€) The values calculated apply for both criminal and administrative sentences. | 96% (of these, 34% fines) |
| Ukraine | 4.12 | Average fine imposed for poaching (hunting and fishing) | 88% (poaching (hunting and fishing)) |

In Bulgaria it was observed that the total amount of fines imposed by the fisheries authorities was almost 3.5 times higher than the amount imposed by the environmental inspectorates, while the number of penal decrees³⁷ drawn up by the latter was only 1.3 times higher than the number issued by the environmental inspectorates. Two cases of illegal sturgeon fishing were specified for which relatively high (1,500 EUR) fines were imposed, suggesting that the authorities attribute some seriousness to illegal fishing offences.

In Croatia, monetary fines imposed in administrative offence procedures were generally below the legal minimum for such illegal acts. The highest fines imposed (approximately 8,000 to 13,000 EUR) pertained to cases under the Transboundary Movements and Wildlife Trade Act.

In Italy, the total amount of fines imposed in relation to administrative offences, published in the “Anti-Poaching Plan” for 2020, appeared to be particularly low compared with the data available for the national report.

In Poland, the ratio of discontinued administrative offences under the Nature Conservation Act was much lower than that for criminal offences. Only 12% of administrative offence cases were discontinued, 32% of cases ended with only a caution and 6% of cases ended with a motion to prosecute to the court. For fishing offences, the numbers were similar, albeit with a lower proportion of discontinuation (3%) and 52% with the issuance of a caution.

In Ukraine, in the case of poaching, there has been a slight but steady increase in the proportion of administrative offence protocols drawn in cases receiving fines, from 85% in 2016 to 90% in 2020.

³⁶. Source: SWiPE project database for all countries except Ukraine

³⁷. In Bulgaria, for administrative offences, a penal decree is issued by the penalising authority. It imposes the relevant administrative sanction on the offender. Source: Administrative Violations and Sanctions Act of Bulgaria (2022), Article 53



5.3. TRENDS AND REGIONAL DIFFERENCES

5.3.1. Regional differences

The analysis of the project countries' national reports yielded an overview of the most commonly encountered legal and structural issues that hamper the successful prosecution of wildlife crime. Many of the issues identified are common to most or even all countries. There are some regional differences largely due to each country's geography, history and traditions. These factors affect wildlife crime, for example, which species are hunted, for what reason and by which means.

The findings for Italy and Croatia testify to the tradition of songbird hunting in the Mediterranean area. In 2016,

BirdLife International estimated that between 3,400,000 and 7,800,000 birds are illegally caught in Italy each year, contributing to between 20% and 30% of the birds caught in the entire Mediterranean basin. The same re-

view estimated that between 166,000 and 855,000 bird specimens are killed in Croatia each year.³⁸ Italy's geographic position, which makes it an ideal passage point for migratory birds between Europe and Africa, is one of the main reasons why the Mediterranean tradition of songbird hunting is carried to extremes in this country. Songbird hunting has recently been on the rise in Poland due to the activity of organised crime groups from Italy. The trade route for trafficking protected bird species from Eastern Europe (including Romania and Hungary) to Italy is even a "well-known fact" before Hungarian courts, which means that it does not have to be proven by the prosecution. In Bosnia and Herzegovina, where the illegal killings of birds are relatively well documented, Italian citizens, stand out among the foreign hunters who pursue this activity.³⁹

In Spain, a different tradition, that of capturing and keeping finches (especially goldfinches), contributes to the significant impact on this group of species.

The data available to the Italian research team showed that the number of birds entering recovery centres with gunshot injuries was higher

during the open hunting season than outside of the legal hunting season.

The special situation of countries where large carnivores, namely brown bears and wolves, are present in significant numbers is also noteworthy. The national reports of Bosnia and Herzegovina, Croatia, Hungary, Italy, Romania, Slovakia, and Ukraine pointed to the fact that illegal killing of these takes place, mostly as a result of (perceived or actual) danger to livestock or hunting conflicts, or for trophies. A problem encountered in Bosnia and Herzegovina, Croatia, Hungary, Italy, Romania, Slovakia, and Ukraine was also the killing of birds of prey, mostly by poison, also for the purported reason of protecting livestock. Birds of prey and their eggs were also illegally taken for falconry, collection or for ornamental purposes.

Countries with external EU borders (like Croatia, Hungary, Poland, Romania and Slovakia) and Ukraine also reported transboundary trafficking of wildlife. According to the Polish report, this illegal trade primarily involved products of traditional medicine, leather and fur products from animals hunted in Eastern European countries, and to a lesser extent live animals (e.g. tortoises, various birds, primates). Ukraine reported large

Thanks to specialization of police forces and the monitoring of threatened birds of prey, Spain imposes more criminal or administrative penalties for wildlife poisoning than the rest of Western Europe as a whole.

numbers of songbirds exported illegally to the Middle East.

As a positive case, within the European context, the Spanish report pointed out that Spain is at the forefront of sanctions for wildlife poisoning cases, with the

number of criminal or administrative penalties imposed in Spain being greater than the sum of all sanctions imposed in Western Europe as a whole.⁴⁰ This may be owed, to a large extent, to the existence of specialised environmental police forces and monitoring programmes for threatened birds of prey.

The existence of Environmental Crime Units in Hungary, Italy, Slovakia and, since 30 March 2022, Serbia, as well as the planned inception of a specialised police unit in Romania,⁴¹ are also noteworthy.

In Bulgaria, Poland and Spain, differences in the effectiveness of prosecutions were observed between large urban centres (the capitals and some of the largest cities) and the provinces and smaller cities in favour of the larger ones. Prosecutions in large cities were observed to be more effective.

5.3.2. Trends in numbers of offences in the study period

Bosnia and Herzegovina and Croatia described a decreasing trend in reported and prosecuted wildlife crime cases over the study period. An increasing trend was observed in Hungary, Italy (for administrative offences) and Ukraine.

Considering the very limited data available, it is difficult to draw any exhaustive conclusions from these observations. The most likely situation is that the data are so incomplete that it is impossible to capture robust time trends. Other possible explanations are that increased/decreased enforcement efforts have led to increased/decreased detection.

An interesting observation was made in Spain regarding the successful implementation of the Andalusian strategy against poison in the last 15 years. The implementation of the strategy has led to an increase in the detection and prosecutions of wildlife poisoning. This, in turn, has led to a change in the *modus operandi* for poisoning: there has been a shift from indiscriminate poisoning with large amounts of baits to few baits placed at dusk and systematically monitored to avoid detection. The same applies to snares and traps, with a noticeable shift towards direct persecution with firearms. These changes make the detection of these crimes more difficult, while at the same time, their overall lethal effects have been greatly reduced.

38. Brochet et al. (2016)

39. See National Reports of Bosnia and Herzegovina, Croatia, Hungary, Italy, Poland and Romania: <https://stopwildlifecrime.eu/resources/national-reports/>

40. Torres & Marquès (2016)

41. Colantoni et al. (2022)



6. Conclusions and recommendations



All the issues identified are of national character in the first place, as they were found and described in the individual countries' national reports. Transnational wildlife crime seemed to play a role, however, the largest proportion of the crimes described had no transnational character.

The final sections of this report are dedicated to presenting a final overview of the issues identified and possible solutions or pathways towards improvement. Some of the issues identified can be addressed at the EU level, mainly by engaging in advocacy activities at both the EU and national levels. All the issues presented below also need to be addressed at a national level.

It is important to stress again that all conclusions and evaluations are based on incomplete and inconsistent data, allowing only for the detection of indicative trends. For details on data limitations, please see introductory Section 1.4.

The recommendations also consider input from the Wildlife Crime Workshop organised by the SWiPE project, which was held in Madrid on 28-30 June 2022 and brought together leading experts in wildlife crime prosecution from 20 countries, with the aim to strengthen transnational working relations.

6.1. CONCLUSIONS AND RECOMMENDATIONS

Being fully aware of the fact that more issues hamper successful wildlife crime prosecution in the 11 project countries than the ones detailed below, we present in this Section the most salient ones that were repeatedly mentioned in many of the national reports, in the order of their position along the enforcement chain.

6.1.1. Specialised authorities, other than police, should be granted surveillance and inspection competencies

At the level of law enforcement, police units specialised in environmental crime have been or are being formed in many countries. While some of the main issues regarding the detection of wildlife crimes persist, these specialised units greatly facilitate the initial stages of investigation and prosecution. The recently published Ambitus report "Fighting Environmental Crime in the EU" applauds the inception of centralised police units, dedicated solely to environmental crimes. The report finds these to have proved particularly effective across the EU, 'because of their inherent specialisation, their ability to promote information sharing and coordination among agencies and, above all, because of their cross-sectorial, comprehensive approach on environmental crimes as a whole.'¹ Positive examples among the SWiPE project countries include SEPRONA in Spain and CUFA in Italy. In the case of CUFA though, the Italian project team found that its effectiveness was significantly hampered by the lack of staff on the ground.²

There appears to exist a general momentum regarding the awareness of environmental crime and consequently, action at the level of national police forces, including in some SWiPE project countries (Hungary, Slovakia, Serbia and Romania).

In addition to training at a national level, members of national law enforcement authorities can benefit from courses offered by CEPOL (the European Union Agency for Law Enforcement Training).³ The Agency offers training courses on environmental crime, and also on wildlife trafficking.

The International Consortium on Combating Wildlife Crime (ICWC), through its member organizations CITES, INTERPOL, UNODC, World Bank and the World Customs Organization (WCO), offers a wide array of training courses for law enforcement, including border control authorities, on specific wildlife crime issues.⁴

In addition to the police and gendarmerie (where applicable), there are other authorities with competencies in enforcing laws related to wildlife crime. The police and gendarmerie are endowed with full authority and competencies regarding all types of offences. Other institutions, such as

the national environmental protection, fisheries or protected areas authorities and their associated surveillance bodies (inspectorates, rangers, wardens etc., in some countries volunteer groups), may, among other things, conduct inspections and confiscations, collect fines and undertake administrative proceedings in the event of law violations and file criminal complaints to the prosecution.

Despite these authorities being central to the successful detection and subsequent successful prosecution of violations of WLC-related laws, the reports of Bulgaria, Croatia, Romania and Slovakia indicate various ways in which the competencies of some of the enforcement authorities are curbed, limiting the full potential services they could render (see Section 4.2.5. for details). This should be addressed at a national level.

Protocols for cooperation, coordinated action and legal proceedings should be adopted to improve detection, reporting, and investigation

The national reports identified several shortcomings at the level of coordinated cooperation between enforcement, prosecution and judiciary authorities, as well as a lack of expert involvement. At the same time, a strikingly large proportion of the success of "good practice" sample cases was attributed to cooperation, especially with external experts. The majority of cases described successes in the detection and investigation phase, but there were also good examples in the prosecution and court proceedings phase. In the latter, the involvement of external experts or NGOs was highlighted. A periodically updated database of external experts, available to all relevant authorities, could meet that need (see Section 6.1.5.)

A specific case of lack of coordination was identified in Bosnia and Herzegovina and Ukraine. Despite the involvement of inspection and surveillance personnel is crucial to the detection and subsequent prosecution of WLC, there is no sufficient level of specialised legal support related to WLC or effective protocols established for these bodies for the drafting and issuing of administrative offence warrants/reports and the filing of criminal charges. The resulting formal defects have caused prosecutors and courts to reject the filed charges.

The following actions should be advocated at a national level to alleviate these issues as part of National Wildlife Crime Action Plans or otherwise.

- A protocol should be elaborated for the correct filing of administrative and criminal offences and legal support should be provided for surveillance and inspection staff, especially for the classification of offences as administrative or criminal.
- An explicit agreement and/or instruction

1. Colantoni et al. (2022), p. 15

2. National Report of Italy: <https://stopwildlifecrime.eu/resources/national-reports/>

3. CEPOL. *Education and Training*. <https://www.cepoleuropa.eu/education-training>. (Accessed 10.07.2022)

4. CITES. *Tools, Services and Resources available through ICCWC*. <https://cites.org/eng/prog/iccwc/tools.php>. (Accessed 10.07.2022)



should be drawn up for the joint work of the investigating authorities with the main administrative control bodies, similar to the instructions for the investigation of other types of crime;

- A uniform standard for the investigation of wildlife crime should be drawn up and adopted after a joint discussion between the prosecution and control authorities, to bring clarity to the sequence of actions required in the investigation;
- The role of NGOs and external experts in the enforcement process should be defined, and their participation in court proceedings should be facilitated (see also Article 14 of the proposal for the new ECD, Section 6.2.1.)
- Training should be provided to prosecutors, investigators and administrative control bodies on this standard and, in its absence, more effective coordination and clarity of the powers of the different State bodies.
- Additionally, formal feedback processes should be established between prosecuting authorities and authorities filing reports on the proceedings and outcomes of filed cases. In the UK, this was reported to be common practice and was found to have a favourable effect on the quantity and quality of filed complaints.⁵
- A good practice was similarly reported from the UK, where there is a formalised protocol in place for prosecutors regarding WLC.⁶

6.1.2. Need for specialisation in the judiciary

Prosecutors play a salient role as public prosecutors for wildlife crime cases. In wildlife crime cases, the real victims cannot file a complaint. While public authorities and the public, in general, have an especially important role in reporting possible criminal cases, only the public prosecutor can take wildlife crime cases to court. Furthermore, the prosecutor takes part in the criminal procedure from the start of the investigation until the delivery of the final verdict.⁷

While prosecutors accompany the entire process, judges hold significant governmental power: they can authorise police, military or judicial officials to conduct searches, arrests, seizures, and deportations or prescribe specific investigative methods, among many others.⁸ Judges also deliver the

final verdict. The low prioritisation of WLC cases by the judiciary, as a result of a lack of knowledge, was recognised as a widespread problem.

The lack of understanding of WLC matters on the part of prosecutors and judges has led to a trivialisation of WLC cases. There appears to be a general perception that these crimes are minor offences causing little social harm, which has a number of implications along the entire judicial process:

- It leads to a lack of political will to dedicate more means, resources, advanced techniques and specialised agents to investigate and prosecute WLC.
- Complaints are dismissed/rejected for lack of evidence.
- Offences are incorrectly qualified as administrative when they constitute a crime.
- Cases are often closed without a sentence, due to the entry into force of the statute of limitations or other legal instruments available to the advantage of the defendant (such as plea bargains and similar institutes differing from country to country, in some cases even allowing the defendant to clear their criminal record).
- The sanctions imposed are characterised by leniency, even when the law provides for the possibility of more severe sentences.
- The damage incurred by WLC is not recovered, even when stipulated by law, partly due to a lack of expertise for determining the damage and methodological support and guidelines on how to proceed in recovering damages.
- All the above have prevented the build-up of a solid body of case law in the field of wildlife crime. This shortcoming further demotivates judges, exacerbating all the issues identified above.

While some countries have specialised units at the law enforcement level, and a growing awareness of the importance of specialised prosecutors leads to improved training offers for these, none of the national reports analysed mentioned sufficient specialisation at the level of judges.

A pronounced need for specialisation at the judiciary level of law enforcement was also emphasised by ENPE (the European Network of Prosecutors for the Environment) within the framework of an EU project addressing compliance with EU environmental law across Member States. The information gathered confirmed the need to train prosecutors and judges, at two levels: knowledge

of environmental crime and the harm it causes, and knowledge of environmental law. Additionally, the importance of structural specialisation was stressed.⁹

The creation of training opportunities for prosecutors and judges in environmental/ wildlife crime should be an advocacy priority at the national level. At the EU level, the European Judicial Training Network (EJTN) provides training for early career judges and ongoing training.¹⁰ While there are some environmental offers, they are not frequent and very general.

Additionally, the International Consortium on Combating Wildlife Crime (ICWC), through its member organisations CITES, INTERPOL, UNODC, the World Bank and the World Customs Organisation (WCO), offers some training courses on specific wildlife crime issues for prosecutors and judges.¹¹

6.1.3. Need for databases

Existing databases, such as the EU-TWIX (European database on seizures and violations of the EU Wildlife Trade Regulations, available to law enforcement authorities in the EU and some non-EU countries including Ukraine and Bosnia and Herzegovina¹²), are generally applauded and used extensively in their field. ENPE is currently building and extending a database of case law on environmental crime for EU countries, accessible to prosecutors through their website. This database contains, among other areas, a wildlife crime category.¹³

Across the SWiPE project's countries, a lack of centralised national databases was identified. As described in Section 4.2.3., there is a desire that many resources are widely available electronically. Accessible and reliable data are a prerequisite for effective monitoring and evaluation. This need was repeatedly highlighted by participants in the SWiPE Wildlife Crime Workshop held on June 28-30 in Madrid. The available information can support many actions necessary for the successful prosecution of WLC.

- Status of protected species;
- Illegal killing of wildlife (place, time, species, means, perpetrators);
- Records of the proceedings and results of WLC cases, accessible to all institutions and authorities working to combat wildlife crimes;
- Number of cases that are reported, number

5. Panel discussion contribution from Paul Stimson (ENPE- European Network of Prosecutors for the Environment), representing the UK, 28 June 2022, Madrid

6. Panel discussion contribution from Paul Stimson (European Network of Prosecutors for the Environment), representing the UK, 28 June 2022, Madrid

7. National Report of Hungary: <https://stopwildlifecrime.eu/resources/national-reports/>

8. The powers, functions, and training of judges vary across different jurisdictions.

9. Billiet et al. (2020)

10. EJTN. *EJTN Projects & Programmes*. <https://www.ejtn.eu/About-us/Projects--Programmes/>. (Accessed 10.07.2022)

11. CITES. *Tools, Services and Resources available through ICCWC*. <https://cites.org/eng/prog/iccwc/tools.php>. (Accessed 10.07.2022)

12. EU-TWIX. *EU-TWIX: A Tool to Facilitate Information Exchange on Illegal Wildlife Trade in Europe*. <https://www.eu-twix.org/>. (Accessed 10.07.2022).

13. ENPE. *The ENPE database for environmental case law and related documents*. <https://www.environmentalprosecutors.eu/node/57>. (Accessed 10.07.2022)



of cases that are investigated, number of convictions, number of dismissed court cases;

- Number of natural persons and of legal persons convicted and sanctioned for wildlife crimes;
- The length of the investigation of criminal wildlife crime cases;
- Types and levels of sanctions imposed for wildlife crime.
- National external expert database, e.g. for species identification (particularly for CITES violations) or damage assessment.



6.1.4. Need for making financial, technical, human and other resources available

All national reports identify a shortage of staff and resources directed at dealing with wildlife crime, namely, a lack of:

- Personnel on the ground to detect WLC, no 24-hour availability of staff
- Equipment for the detection of WLC (e.g. video surveillance, drones, off-road vehicles, bright lights, night vision equipment, detector dogs) and processing of evidence.
- External experts (and databases of such) for expert opinion input on specific cases
- Wildlife rescue centres, facilities to store evidence, e.g. carcasses, for further examination, or forensic investigation facilities are another factor complicating the processing of wildlife crimes.

Largely, the issue is one of the limited financial resources, particularly concerning staff, equipment and facilities. This, in turn, depends on the political priority given to them, highlighting again the need for general awareness raising, and political advocacy on the part of relevant stakeholders.

Some of these issues, such as the dedication of special investigation techniques and resources, can be alleviated by training judges who assign resources to the investigation process. The appointment of external experts can be facilitated by the establishment of appropriate databases.

A number of relatively cost-effective approaches,

especially in the detection phase, were related by some countries. Some regions of Spain (5 of the 17) have canine units specialised in poison detection, which are very useful both in search operations and prevention. Andalusia stands out in the number of inspections. Hungary has also piloted a successful sniffer dog program for detecting poison, which is currently being expanded. In Slovakia and Hungary, drones and GPS trackers (respectively) have been successfully used to detect and investigate wildlife crime (including poisoning cases).

Best practices for working with limited financial and personnel resources were discussed at the SWiPE Wildlife Crime Workshop held on June 28-30 in Madrid.

In the United Kingdom, the national police has a dedicated National Wildlife Crime Unit (NWCUC). Acknowledging it has to work with limited resources, the NWCUC focuses its efforts to gain maximum impact. Priority areas will be then defined based on regular information from the Wildlife Crime Conservation Advisory Group (consisting of the relevant authorities and NGOs) about the current conservation status of UK species and police reports on the level of wildlife crime. For each priority area, there are implementation plans with plan owners and leads identified for the prevention and enforcement of crimes.¹⁴

As a final note on working efficiently with limited resources, it is recommended that relevant authorities should consult and cooperate with col-

leagues in African, Asian, or Latin American countries. In contrast to Europe, where WLC has been largely neglected in criminal prosecution, wildlife crime has been a crucial issue in some countries in Africa, Asia, or Latin America for much longer, given its strong impact on local wildlife populations and other detrimental social and economic effects. Important lessons may be learned from law enforcement and judicial practitioners from these countries regarding best practices for working under resource restrictions.¹⁵

6.1.5. Need for a better transposition of the EU legal instruments and their optimised implementation at a national level by the Member States

Many issues have been identified that need to be addressed at the legislative level (see Section 3.2.). While most of these may be addressed by the revised ECD¹⁶ (such as inadequate sanctioning or the unclear differentiation between admin-

14. UK National Wildlife Crime Unit. *How do we Prioritise?* <https://www.nwcuc.police.uk/how-do-we-prioritise/>. (Accessed 10.07.2022)

15. Panel discussion contribution from Pavol Zilincik (WWF Slovakia), 28 June 2022, Madrid workshop

16. The proposal for the revised ECD contains provisions to remediate many of the legal issues identified by project countries. However, the European Council is currently proposing a weakened ECD. The SWiPE project is advocating for a strong new ECD.



istrative and criminal offences) other issues are specific to individual countries and will have to be addressed at a national level.

This is particularly the case when resolving conflicts between laws regulating different sectors, as is the case in Italy and Slovakia, where wildlife protection and hunting laws come into conflict with each other, albeit for different reasons.

Legal loopholes permitting the sale of illegal hunting and fishing gear should be closed in Croatia, Italy, Serbia, Spain and Bulgaria.

In Slovakia, a very rigid and over-formalised criminal procedure leads to a large proportion of cases ending without a verdict. In Poland, an overly rigid sanctioning system for CITES offences in combination with the lack of recognition of wildlife crimes as serious crimes leads to fewer convictions and many cases being dropped as a way to decrease the pressure on the already overburdened courts with criminal proceedings. This leads to similar outcomes as the Slovakian example. Changes in these legal provisions should be advocated at a national level.

6.1.6 Need for increased awareness of wildlife crime

Although awareness raising is not a focus of the SWiPE project and a lack of awareness was not explicitly identified as the main issue for the successful prosecution of wildlife crimes, it is nevertheless an overarching and underlying theme in the target countries.

The insufficient understanding of and lack of expertise about environmental matters, and specifically WLC, on the part of the judiciary, simply reflects a general lack of education and awareness of these matters in society.¹⁷ Studies conducted in various countries in Europe have shown that public opinion influences political priorities and is a driver for political change.¹⁸ In this sense, a general awareness of the implications of wildlife crime among the general public will reflect in the levels of awareness among the judiciary, and furthermore, public opinion has the potential to indirectly influence the priorities of prosecutors and judges.



6.2. POLICY ENGAGEMENT

At the EU and international level, there are opportunities to participate in the elaboration and implementation of the new Environmental Crime Directive and the EU Action Plan against Wildlife Trafficking and to engage with agencies and organisations offering specialised training courses.

6.2.1. Engage in EU legislative processes

The newly revised EU Action Plan against Wildlife Trafficking, and Environmental Crime Directive (yet to be adopted) are critical in the fight against wildlife crime. The project partners of LIFE SWiPE actively participated with suggestions for amendments and openly shared their views on the necessary changes to ensure that the newly arising environmental and wildlife issues will be tackled and the Member States enabled to combat wildlife crime more effectively in the region and globally.

During the interinstitutional negotiations for the adoption of relevant EU legislation, SWiPE

project members and relevant stakeholders and NGOs should follow the negotiations between the Council and the Parliament to make sure that the proposals stay ambitious, and they can advocate specific issues at two levels:

1. At an EU level, SWiPE members and relevant stakeholders and NGOs can actively engage with the relevant departments of the European Commission, e.g. Directorate-General (DG) Environment or DG Justice and Consumers. Engagement with the Council, via representatives of the Member States, and with members of the European Parliament is important in order to advocate for strong positions ahead of the final negotiations between both institutions.¹⁹
1. At a national level, project members and other stakeholders, such as national authorities, can engage with their respective ministries, most importantly the Ministries of Justice, to advocate for specific issues. National advocacy is especially relevant as it shapes the position of the MS in the Council.

The new ECD put forward contains several elements that provide opportunities for concrete legislative recommendations. Among other relevant points, the contents directly pertinent to the findings of this report are:²⁰

- Regarding sanctioning and other measures, Article 5 provides for minimum standards to

17. National Report of Spain: <https://stopwildlifecrime.eu/resources/national-reports/>

18. Anderson et al. (2017), Hobolt & Klemmensen (2005), Rasmussen et al. (2018),

19. WWF offices should do this through the WWF European Policy Office.

20. Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the protection of the environment through criminal law and replacing Directive 2008/99/EC COM(2021) 851 final



ensure that offences²¹ are punishable by effective, proportionate and dissuasive criminal penalties. To this end, the proposal requires that minimum levels for the maximum term of imprisonment should be set for natural persons. Additional sanctions are often seen as being more effective than financial sanctions, especially for legal persons. Additional sanctions or measures should therefore be possible in criminal proceedings. These should include the obligation to reinstate the environment, the exclusion from access to public funding, including tender procedures, grants and concessions and the withdrawal of permits and authorizations. As the illegal profits or expenditures that can be generated or avoided through environmental crime are an important incentive for criminals, these should be considered when determining the appropriate level of sanctioning in each individual case.

- Article 8 sets out aggravating circumstances (such as involvement of an organised group, repeat offences or substantial financial benefits from the offence) to be considered when imposing sanctions for an offence.
- Article 10 ensures that Member States allow the competent authorities to freeze and confiscate the proceeds derived from offences.
- Article 11 lays down provisions on limitation periods to allow the competent authorities to investigate, prosecute and adjudicate offences during a certain time.
- Article 14 defines provisions ensuring that members of the public concerned have appropriate rights to participate in proceedings, for instance as a civil party.
- Article 16 aims at ensuring that national authorities which detect, investigate, prosecute or adjudicate environmental offences have a sufficient number of qualified staff and sufficient financial, technical and technological resources necessary to perform their roles effectively.
- Article 17 aims at enhancing training activities along the enforcement chain to ensure that all parties involved have the necessary specialised skills and abilities to perform their roles effectively.
- Article 18 stipulates that special investigative tools must be made available for the investigation of the offences.
- Article 19 obliges Member States to ensure coordination and cooperation at strategic and operational levels among all their competent authorities involved in the prevention of and fight against environmental crime.
- Article 21 addresses the need to systematically collect information on efforts to combat

environmental crime and to provide statistical data on environmental crime. It requires Member States to collect, publish and send relevant statistical data to the Commission. This provision also aims to help address the current limited availability of environmental crime data, which would assist in evaluating the effectiveness of national systems in fighting environmental criminal offences. After the entry into force of the Directive, minimum standards for the reporting and collection of statistical data on environmental crimes will need to be established through an implementing act.

- Recital 21 states that Member States should clearly define the scope of administrative and criminal law enforcement regarding environmental offences according to their national law.

6.2.2. Engage in the national implementation of (new) EU policies

While solid legislation builds the basis for good law enforcement and a clear legal situation, advocacy does not stop with the adoption of the final legal text. In the end, the legislation is only on paper and its implementation is what ultimately determines its effectiveness on the ground.

In the SWiPE project context, this means that continued advocacy and engagement with the relevant ministries at the national level pave the way for and raise awareness of specific issues, to direct focus and resources. Depending on the legal expertise within the national SWiPE project team, SWiPE partners should guide on the transposition of the new ECD or the implementation of the new EU-WAP.

6.2.3. Non-EU countries:

For the project countries that are not Member States of the EU, the advocacy possibilities at the EU level are more limited. However, there are a number of agreements and formal working relationships between the EU and Serbia, Bosnia and Herzegovina, and Ukraine.

Serbia and Bosnia and Herzegovina, as candidate states for EU accession, are in the process of complying with the accession criteria, which includes the adoption and implementation of the EU *acquis*.²² Ukraine, following the Russian invasion in February 2022, has applied for an accelerated admission procedure to the EU, which is currently under assessment but generally favoured²³.

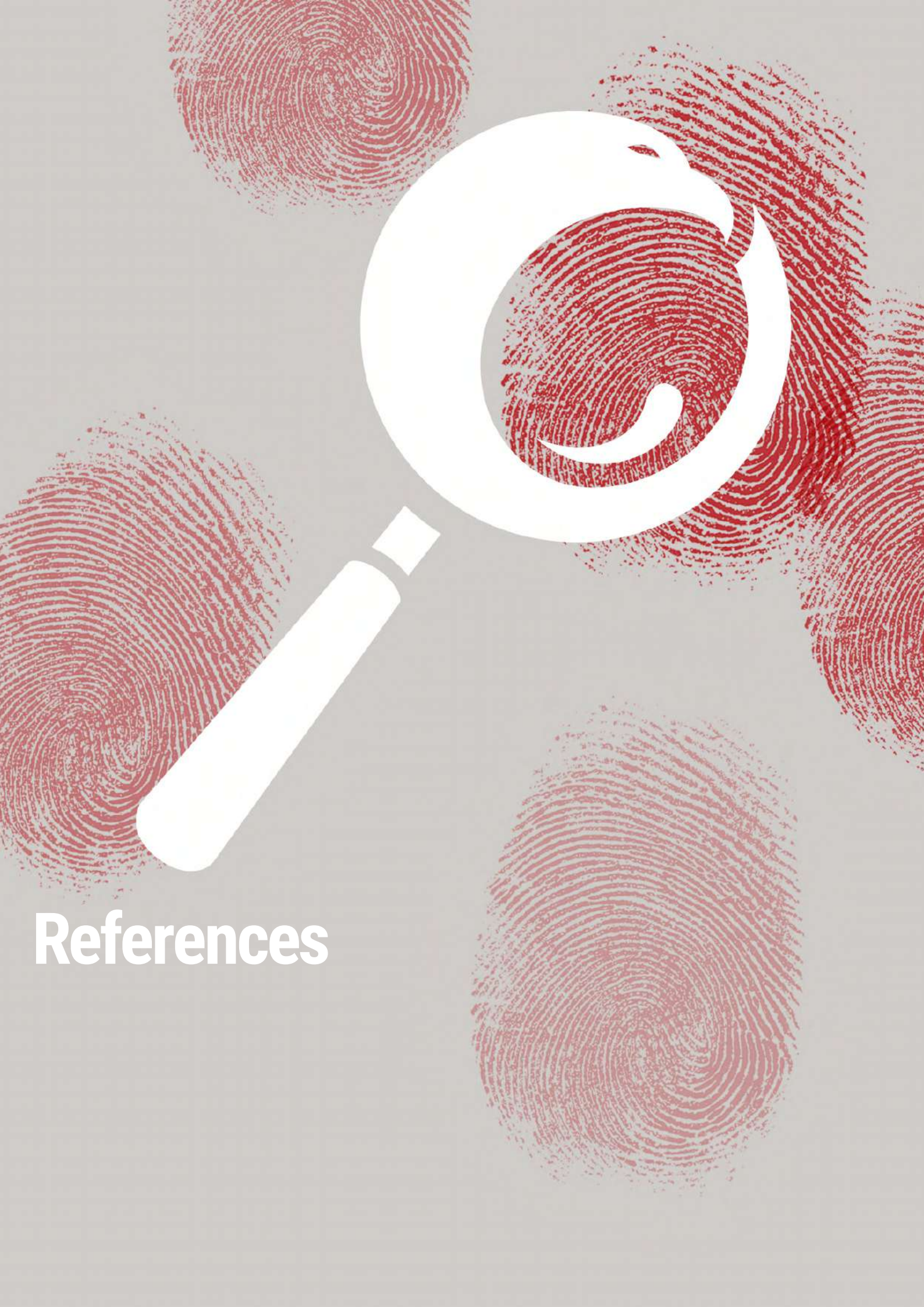
Advocacy in these countries should therefore focus on EU compliance to fulfil the accession criteria. This will also come with positive implications for cross-border cooperation.

In Ukraine, additionally, there is a need to criminalise wildlife trafficking as part of the country's obligations under CITES.

21. "offences", in this context, encompasses environmental criminal offences as defined in articles 3 and 4 of the ECD

22. The *acquis* is the body of common rights and obligations that is binding on all the EU member states.

23. As of 02.06.2022



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PARTNERS

