SWiPE

Successful Wildlife Crime Prosecution in Europe.

Analysis of the effectiveness of wildlife crime prosecution in Hungary

National report

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Analysis of the effectiveness of wildlife crime prosecution in Hungary

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PARTNERS

Abbreviations

CEE	Central and Eastern Europe
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CITES MA	CITES Management Authority
ECD	Environmental Crime Directive
EU	European Union
ECtHR	European Court of Human Rights
ECHR	European Convention on Human Rights
EMPACT	European Multidisciplinary Platform Against Criminal Threats
ENPE	European Network of Prosecutors for the Environment
EUFJE	European Union Forum of Judges for the Environment
ICCPR	International Covenant on Civil and Political Rights
ILEA	International Law Enforcement Academy
IUCN	International Union for Conservation of Nature
JIT	Joint Investigation Team
NEST	National Environmental Security Task Force
SWiPE	Successful Wildlife Crime Prosecution in Europe
UNODC	United Nations Office on Drugs and Crime

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1. Executive summary

Wildlife crime damages the environment to a great extent and, at the same time, poses danger to society. Tackling wildlife crime means saving our protected species in Hungary, addressing our responsibility as a transit country with non-Schengen area borders and as importers of illegal exotic wildlife species. Wildlife crime is often linked to organized crime, and thus, it has been identified as a priority in the fight against serious and organised crime in the EU as part of the European Multidisciplinary Platform Against Criminal Threats (EMPACT) for 2018-2025. The regional Successful Wildlife Crime Prosecution in Europe (SWiPE) project aims to provide a comprehensive overview of wildlife crime in 11 European countries. Wildlife crime, for the purposes of this project, includes poaching and illegal killing for sport; predators or pest control and retaliation; illegal catching, capturing, possession, supply and sale, export, import of protected species; illegal collection of eggs; non-selective catching and killing (e.g., poisonous bait, unselective and illegal nets, unselective traps); and illegal trapping, harming.

This SWiPE report focuses on Hungary and compiles and analyses data on this crime area for the period between 2015 and 2020. As part of the research, data were collected on wildlife crime cases along the enforcement chain from detection to court decisions, and interviews were conducted with representatives of law enforcement agencies and other selected institutions and organisations that play a vital role in the actions tackling wildlife crime in Hungary.

Our research found that overall, the legislative framework in Hungary complies with international and EU law and allows for successful investigation and prosecution of wildlife crime. Some particularly progressive steps have been taken in the country, including the recent establishment of the National Environmental Security Task Force (NEST), which has provided an excellent platform for inter-agency coordination and cooperation. It has already led to improved efficiencies in inter-agency cooperation and a grand specialised training scheme involving several authorities, including prosecutors. Good examples of successfully investigated and prosecuted wildlife crime cases have also been found through the research, which are presented in the case studies

in this report. At least one of these also considered the illicit financial profits gained through wildlife trafficking, which is crucial in deterring perpetrators from committing wildlife crime for financial gain. The authorities have also been working with the civil society in Hungary: for example, the innovative use of poison search dogs trained in collaboration with the police and Birdlife Hungary but operated by Birdlife assists in detecting and investigating cases of raptor poisoning.

The project, however, also found some challenges along the enforcement chain, which require further attention. Based on the data gathered, which admittedly had limitations (for a detailed caveat consult the details at the subsection on data consistency), therefore, it is challenging to provide an overall definitive analysis from this dataset. Still, according to the data received, interviews conducted, and desk research, wildlife crime is prevalent in Hungary. Based on the data available for this research, a significant share (84%) of detected wildlife crime cases did not get prosecuted in 2015–2020.

One of the likely cross-cutting underlying issues causing this is the lack of adequate resources allocated to tackling this crime type. In particular, human resources are insufficient both in terms of the number of staff and specialised knowledge at most relevant authorities. While steps have been taken regarding specialised capacity building, with the high staff turnover, such efforts need to be sustained, and training on tackling wildlife crime should be further built into regular training curricula. Protocols for investigating wildlife crime cases would also be required to support adequate evidence gathering, which is essential for building strong cases for prosecution. Evidence gathering is often more challenging in wildlife crime cases than in other crime areas; therefore, it would be important to introduce qualitative measures in staff performance appraisals across the relevant authorities to reward and motivate staff working on such cases.

As for the legislative framework in Hungary, one aspect that would warrant legislative change is that sanctions available for wildlife crime in the Criminal Code could reflect the illicit financial gains obtained from committing wildlife crime. Additionally, a broader communication of the legislation in force would also be helpful as the complex

nature and scientific references make it challenging for the public to understand the obligations in place. In return, public awareness-raising would also reach prosecutors and judges supporting them in understanding the scale of the issue, plus directly helping them with the public being more aware of the relevant provisions on wildlife crime.

Regarding structural issues, a central objective in the long term would be the specialisation of prosecution and courts for environmental crime cases. This way, wildlife crime cases could be handled more efficiently and professionally. In the shorter term, formally recognised training in environmental matters, including wildlife crime, for prosecutors and judges is recommended to help understand the complex sectoral legislation and serve a better outcome for nature conservation goals. It would be pragmatic if wildlife crime cases were signed to prosecutors who have received specialised training in environmental law. Without prejudice to judicial independence, it is also advised to sign the cases to the personnel who has received specialised training in environmental law.

The contribution of nature conservation experts is necessary in nearly all wildlife crime cases in Hungary. A detailed letter with clear guidance related to the methodology to be followed in wildlife crime cases should be written by the Hungarian Chamber of Judicial Experts so that a clear, high quality and common methodology is followed by all court experts, allowing for more consistency in proceedings.

Inter-agency cooperation is a key to building up wildlife crime cases requiring sectoral knowledge and coordinated operations. The existing platforms, such as the NEST in Hungary, should be utilised more extensively by the authorities. For example, the NEST could serve as the platform for setting strategic law enforcement and inspection priorities for tackling wildlife crime in Hungary, based on analyses of existing data and information. The agreed priorities should set clear timeframes and indicators of progress to ensure the successful delivery of the objectives. The NEST could also help ensure that feedback is provided across the actors in the enforcement chain, as this could lead to further refinement and improved efficiencies in the work of the authorities, as well as increased motivation of staff to tackle this crime area.

Based on the data received, wildlife trafficking cases in Hungary rarely reached the prosecution phase (16%) in the examined period. However, when a wildlife trafficking case was brought before the court, the defendant's criminal responsibility was established in most of the cases. As for sanctions imposed, imprisonment and financial penalty were the most common penalties, and release on probation, reprimand, and confiscation were the most common measures between 2015 and 2020 in Hungary. Fully utilising the available criminal sanctions would likely serve better the sanctioning purposes. For example, disqualification from a profession was never registered for wildlife trafficking cases during the period examined, even though based on some of the interview responses, there were cases where it might have been appropriate. However, the subject of what sanctions have the highest deterring effect and serve nature conservation goals most effectively could be the subject of another research study. In addition to the sanctions available during the criminal procedure, public interest prosecutors serve a pivotal function in the Hungarian legal system as they have the right to initiate civil and administrative procedures, among other things, to receive compensation for damages or restore nature. Utilising other forms of liability (civil and administrative) in tackling wildlife crime in addition to the criminal one may also result in a more deterrent effect.

The quality of data on wildlife crime cases should improve and be made available to stakeholders concerned, and when possible, to the public. It should also be possible to connect cases across the enforcement chain so that analyses can follow cases from detection to the judicial decision. The analyses of such data underpin monitoring and evaluation; therefore, it would greatly help authorities identify potential issues. Further research should be conducted in several areas, which are detailed in the recommendations section of this report. The prerequisite of research is centralized, available, and good quality data. The NEST has a strategic role in analysing such data, setting priorities based on the analysis and planning its activities to tackle wildlife crime with clear success indicators, executing the plan, and evaluating its performance.

While there have been numerous good practices and significant progress, the focus on wildlife crime needs to increase throughout the entire enforcement chain and among

decision-makers in Hungary to ensure this crime area receives adequate attention and prioritization. The full list of recommendations made based on our research can be found in the recommendations section of this report.

2. About the Successful Wildlife Crime Prosecution in Europe (SWiPE) project

2.1. Aims and main objectives

Wildlife crime causes a significant reduction in biodiversity and can lead to the extinction of animal and plant species in Europe. Wildlife crime is not a petty crime. In addition to the impacts on the environment, it poses a threat to economic and social development and security. Wildlife crime is often committed by organized criminal groups and, in many cases, involves corruption. There is an urgent need for enhanced enforcement of laws and effective prosecution to counteract wildlife crime.

The SWiPE project activities aim to boost the awareness and capacity of prosecutors and selected law enforcement authorities to provide effective environmental compliance assurance, enhance cross-border knowledge exchange, and increase cooperation between relevant authorities. Overall, SWiPE aims to help reduce the illegal killing of Europe's wildlife, support the recovery of threatened European biodiversity, the health of ecosystems, and decrease Europe's involvement in the illegal wildlife trade. SWiPE aims to contribute to increasing the number of successfully prosecuted offences.

The objectives of the project are:

- To compile data on wildlife crime in 11 target countries (Bosnia Herzegovina, Bulgaria, Croatia, Hungary, Italy, Poland, Romania, Serbia, Spain, Slovakia, and Ukraine) and transfer the data to already existing, reliable databases on wildlife crime (where these are available) to enable access to information, improve comparison of data across Europe, and contribute to the work of law enforcement officers.

- To increase awareness, knowledge, and capacity of practitioners tackling wildlife crime (prosecutors and experts from enforcement agencies) in the 11 target countries to improve national and cross-border governance in relation to wildlife crime investigations and prosecutions.
- To inform and drive meaningful changes to relevant national and European level policies to increase the recognition of wildlife crime, its seriousness and immense impacts.
- To raise awareness of practitioners as well as the public on wildlife crime.

2.2. Wildlife crime definition

Wildlife crime, including poaching, wildlife trafficking, or illegal poisoning, causes a significant reduction in biodiversity and can lead to the extinction of wildlife.

There are various definitions of wildlife crime. For example, the United Nations Office on Drugs and Crime (UNODC) defines wildlife and forest crime as referring to "all fauna and flora, including animals, birds and fish, as well as timber and non-timber forest products and to the taking, trading (supplying, selling or trafficking), importing, exporting, processing, possessing, obtaining and consumption of wild fauna and flora, in contravention of national or international law. Broadly speaking, wildlife and forest crime is the illegal exploitation of the world's wild flora and fauna."[1] Wildlife crimes can be categorized differently, for instance, based on the motivations of the crime, the species targeted, and the methods used. National regulations may use a combination of these categorizations when describing these offences.

The SWiPE project considers the term wildlife crime as any form of illegal actions directly harming a protected species, which takes 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), the EU Wildlife Trade

[1] See more here: https://www.unodc.org/unodc/en/wildlife-and-forest-crime/overview.html

Regulations[2] and animal species listed in the EU Habitats and Birds Directives. The methodology differed in Hungary as wildlife crime cases aimed at CITES-listed and EU Wildlife Trade Regulations-listed species and nationally protected animal and plant species were analysed. Below is a non-exhaustive list of wildlife crimes and the categories of wildlife crime that the SWiPE project focuses on:

- Poaching and illegal killing for sport;
- Predators or pest control and retaliation;
- Illegal catching, capturing, possession, supply and sale, export, import;
- Illegal collection of eggs;
- Non-selective catching and killing (e.g., poisonous bait, unselective and illegal nets, unselective traps);
- Illegal trapping, harming.

The SWIPE project partners are WWF Bulgaria (lead partner), State Attorney's Office of the Republic of Croatia, Fauna & Flora International (in Romania), Judicial Academy Croatia, WWF Adria in Serbia, WWF Adria, WWF Spain, WWF Hungary & TRAFFIC, WWF Italy, WWF Poland, WWF Romania, WWF Slovakia, and WWF Ukraine (associated beneficiaries). The project started in September 2020 and will run until the end of August 2023.
SWiPE aims to discourage and ultimately reduce illegally killed European wildlife, supporting the recovery of threatened European biodiversity and the health of ecosystems.
The project addresses national and regional prosecutors, national and regional enforcement officials, as well as professionals from civil society organizations, other wildlife crime experts, staff of national ministries, judges and judicial academies, where relevant.
More information about the project, aims and partners can be found on the website: stopwildlifecrime.eu

[2] All EU Member States and the EU itself are parties to the CITES Convention; a set of regulations known as the EU Wildlife Trade Regulations lay down the rules related to CITES. See more how the CITES is implemented in the EU in this document in the section about the legislative background and here: https://ec.europa.eu/environment/cites/legislation_en.htm.

3. Methodology

3.1. Scope of the report

The SWiPE national reports provide a comprehensive overview of wildlife crime at the national level assessing wildlife crime across different species and different types of crime and offences in the 11 target countries. Each national report analyses wildlife crime data collected and summarises the information obtained during semi-structured interviews. The interviews were conducted with representatives of law enforcement agencies and other selected institutions and organisations that play an important role in the actions against wildlife crime.

3.2. General methodology for data collection

Data and information collection for each of the 11 national reports was focused on gaining information on:

a) Effectiveness of wildlife crime detection and prosecution: semi-structured interviews were conducted which were focused on obtaining information on institutional structures, and exploring detection and reporting of wildlife crime. They also covered questions related to the various stage of the enforcement chain (investigation, prosecution and proceedings in court), as well as the legislative framework and any challenges with application of the law in practice at national and international levels. In relation to data, the questions were aimed at access to information, data collection and exchange of information, institutional cooperation at national and international levels. Interviewees were also asked about what training would be needed in order to improve wildlife crime detection and prosecution processes. The interviews were conducted with some representatives of each interviewed institution, the thorough list is available at page 89.

b) Particular wildlife crime cases – data on wildlife crime cases registered in the period 2015–2020 were obtained from relevant institutions directly or from publicly available databases.

c) Aggregated data were obtained either from relevant institutions directly or from publicly available sources (for instance, websites, yearly reports.). Aggregated data

provide basic information about the number of cases reported or investigated, the number and/or type of sanctions in the given period. Aggregated data were used in cases where primary data was not available.

3.3. Scope of data

- **Type of incident**: criminal offences; administrative offences;[3] incidents documented by other than law enforcement authorities (e.g., by NGO, rangers, hunters).

- **Species: species protected under:**
  - CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora) and Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein – all listed animals (including terrestrial, marine and freshwater species) and plant species.
  - EU Birds and Habitats Directive – animal species.
  - National laws and regulations (normally related to hunting, fishing or nature conservation) – animal species.

- **Scope of illegal actions:**
  - Intentional, Illegal killing of animals – e.g., for meat, skin or trophy (poaching), predator or pest reduction, sport, retaliation;
  - Illegal catching and trapping, including for keeping as pets or for falconry;
  - Illegal collection of eggs or other development forms of animals;
  - Injuring or otherwise harming;
  - Illegal trading (all trade related activities that are prohibited, including transportation, purchase, acquisition for commercial purposes, display to the public for commercial purposes, use for commercial gain, possession, offering for sale, sale,

[3] Administrative infringements (in connection to CITES-listed species) are covered as the project aimed to assess the scale of wildlife crime and the reasons why cases do not reach the courts. Analysing the administrative infringements help understand the actual scale of offences committed against wildlife.

hire, barter, exchange and cognate activities, transporting and consumption; laundering of species,[4]) of live or dead specimens, their parts or derivatives;

- Non-selective catching and killing that is potentially (and knowingly) endangering protected species, i.e., poisonous bait, unselective and illegal nets, unselective traps.

The Hungarian SWiPE team included plat species protected under national legislation in the scope of this report.[5]

- **Types of crimes not included in the SWiPE scope:**
  - Harms to the ecosystem in general (i.e., fires and oil spills);
  - Other forms of environmental crime (i.e., illegal waste dumps, release or trade of alien invasive species);
  - Illegal killing of a non-protected species (i.e., shooting of wild boar);
  - Illegal fishing of a non-protected species, outside the fishing period or without fishing permit;
  - Destruction of burrows, nests, wintering sites, and other shelters;
  - Infringements of animal welfare laws.

- **Timeframe of cases collected:** 2015–2020. All relevant cases at any stage of their development during the timeframe 2015–2020 (e.g., in case of courts – any available cases, not only those which have been finalized but also those underway). Offences that were committed before 2015 or for which the date of the violation was unknown, but for which the criminal legal procedure took place or the decision was made in 2015 or later have been included, just as offences that were committed between 2015 and 2020 but for which the criminal procedure took place post 2020 or the case was still pending at the time of writing.

[4] Laundering of species refers to the illegal catching of species from the wild, which then enter 'legal' through mis-declaration of the source (e.g. as captive-bred). See an example of Southeast Asian parrot species here: https://www.traffic.org/site/assets/files/12341/a_review_of_trade_in_southeast_asian_parrot_species.pdf.

[5] Optional scope: the project partners can include in the national scope of the project also information about wildlife crime related to: plant and fungi species, protected under the EU (other than the EU Wildlife Trade Regulations) or national legislation; illegal killing of a species that do not qualify as threatened as defined above; illegal logging and illegal timber trade; destruction of habitats.

3.4. Methodological notes, specificities for Hungary

In Hungary, data received from authorities did not differentiate between protected animal or plant species. Therefore, protected plant species under Hungarian law were also included in the analysis. Cases of illegal fishing and non-selective catching and killing that is potentially (and knowingly) endangering protected species, i.e., poisonous bait, unselective traps were not analysed.

This report focuses on wildlife crime cases; thus, the administrative law angle of wildlife crime is presented only in the context of criminal law enforcement. Nevertheless, in CITES-related cases, data from government authorities were also included in the SWiPE wildlife crime database and analysed in the data analysis section. Additionally, misdemeanours harming nature were not analysed in this project.[6]

In Hungary, semi-structured interviews were conducted with officials from the whole enforcement chain and with other wildlife crime experts. Detailed explanation on data accessibility, completeness, and consistency can be found in the section on data analysis.

4. General information about Hungary

Hungary is a landlocked country of around 93 000 km^2, bordered by seven countries in East-Central Europe, in the Pannonian Biogeographic Region. Hungary has a temperate seasonal climate.

Around 22% or about 2 029 000 ha of the country is forested. In 2019, it had a Forest Landscape Integrity Index mean score of 2.25/10, ranking it 156th globally out of 172 countries.[7] Also about 22% of its land is protected. In terms of landscapes, Hungary largely has plains but also a number of mountain ranges as well as Lake Balaton, the largest lake in Central Europe. The highest point is Kékes at 1014 m. Hungary has 10

[6] According to the Hungarian legal system, misdemeanours are activities or failures that pose a danger to society but not as dangerous as criminal offences; see more at the Act II of 2012 on Misdemeanours.
[7] The Forest Landscape Integrity Index integrates data on observed and inferred forest pressures and lost forest connectivity to generate the first globally-consistent, continuous index of forest integrity as determined by degree of anthropogenic modification. See more at https://www.forestintegrity.com/.

national parks and 39 landscape protection areas.[8] In Hungary, 234 species and 47 habitats are protected under EU law.[9]

Hungary has a population of 9.7 million people and a population density of 107.1 people per km².[10] The country's GDP per capita is 33 076 USD.[11] The most important sectors of Hungary's economy in 2018 were industry (25.9%), wholesale and retail trade, transport, accommodation and food services (18.5%) and public administration, defence, education, human health and social work activities (16.8%).[12] Hungary has been a member state of the European Union since 1 May 2004.[13]

Hungary became a Party to CITES in 1985. The country has traditionally been described as a transit country for illegal trade in wildlife[14]: it has non-EU neighbouring countries as well as neighbouring EU member states, some of which are not part of the Schengen area[15]. The main route for illegal wildlife trade is widely suggested to be coming from the Balkan peninsula with a destination in Western Europe.[16] Additionally, Hungary is also an importer of species protected under CITES, and there is international demand for certain native species in Hungary however most of these are also nationally protected and so rarely appear in international illegal trade.[17] Intentional or accidental poisoning of vertebrate species causes severe problems for protected species in Hungary. Pesticides are typically most commonly associated with wildlife poisoning events. Poisoning can happen through accidental misuse in agriculture or intentionally prepared poisoned baits. Accidental poisoning usually occurs when bait stations are improperly installed or when illegal pesticides are used in agriculture. Poisoning is especially detrimental to

[8] For a more detailed description in Hungarian on what constitutes a national park or a protected area, visit https://termeszetvedelem.hu/orszagos-jelentosegu-egyedi-jogszaballyal-vedett-termeszeti-teruletek/.
[9] More information is available here: https://biodiversity.europa.eu/countries/hungary.
[10] Source of information (accessed 5 May 2022): https://biodiversity.europa.eu/countries/hungary.
[11] OECD (2022), Gross domestic product (GDP) (indicator). doi: 10.1787/dc2f7aec-en (accessed on 18 February 2022).
[12] ibid.
[13] Information from https://european-union.europa.eu/principles-countries-history/country-profiles/hungary_en.
[14] Information from https://www.traffic.org/site/assets/files/10072/wildlife-trade-in-central-and-eastern-europe.pdf.
[15] The Schengen Area is a border control free zone in Europe covering 26 member countries https://ec.europa.eu/home-affairs/policies/schengen-borders-and-visa/schengen-area_en.
[16] Read about this issue, for instance, at https://genesissus.eu/drc/wp-content/uploads/2021/06/Experiences-of-the-Hungarian-customs-authority-in-international-illegal-wildlife-trafficking.pdf.
[17] See more information at https://www.cites.hu/hu.

ecosystems because predators and/or scavenging species can be secondarily or even tertiarily poisoned. Sometimes, the poisoned baits are intentionally used to destroy mammal or avian predator species directly. In Hungary, the poisoning of raptors has been reported with increasing intensity since 2000. High prevalence was detected for the globally threatened Eastern Imperial Eagle (*Aquila heliaca*), for which poisoning became the primary cause of mortality and threatened to undermine previously favourable population trends for the species in Hungary.[18]

Illegal killing or poaching threatens many large carnivore species worldwide. Although in Hungary, all the three large carnivore species, the Grey Wolf (*Canis lupus*), Brown bear (*Ursus arctos*) and Eurasian lynx (*Lynx lynx*), are strictly protected, poaching remains a widespread problem for their conservation. In Hungary, these carnivores are presumably killed because of conflicts with human interests, such as competition for game and livestock depredation. A problem with understanding poaching is the absence of rigorous estimates of its effects relative to other sources of mortality.[19] In the last decades, only a few cases surfaced when large carnivores were the victims of poachers. So-called "cryptic poaching" probably happens more often.

5. Legislation concerning wildlife crime and competences

5.1. Legislation and regulations concerning wildlife crime

5.1.1. General introduction of the legal framework in Hungary related to wildlife crime

"In a state that respects the rule of law, criminal law is not only a tool [of law enforcement], but it protects values and has values in itself [...]".[20] Biodiversity and the protection of threatened species represent values in the Hungarian legal tradition, and criminal law is essential in cases of serious infringements of law, which result in harming such species.

[18] Gábor Deák, Márton Árvay, and Márton Horváth, 'Using Detection Dogs to Reveal Illegal Pesticide Poisoning of Raptors in Hungary' (2020) 69 Journal of Vertebrate Biology., p. 14.
[19] Olof Liberg and others, 'Shoot, Shovel and Shut up: Cryptic Poaching Slows Restoration of a Large Carnivore in Europe' (2012) 279., p. 910-915.
[20] 11/1992. Decision of the Constitutional Court of Hungary (III. 5.).

This section provides a snapshot of the Hungarian legislative system to introduce the broader framework that law enforcement bodies are operating in. While Hungary follows a civil law system, assessment of jurisprudence is also of high importance, so case law is presented in this section as well as in the section focusing on case studies.

Achieving nature conservation goals many times requires transnational action, and so does tackling wildlife crime. There are international aspects in many wildlife crime cases, for example, the type of crime (e.g., illegal wildlife trade across borders), the perpetrator(s) (e.g., nationality is different from the state where the case is before the court), territory (e.g., the state that will decide on the matter may be different from the state where the offence is committed). These require coordinated action, in many cases, by more than one state. From a different perspective, national legislation complies with a range of internationally accepted general guiding principles of criminal law. For example, the principle of legality can be found in the European Convention on Human Rights (ECHR)[21] and in the International Covenant on Civil and Political Rights (ICCPR)[22]. Hungary, being a signatory of the ECHR and having ratified the convention,[23] respects the case law of the regional human rights court, the European Court of Human Rights (ECtHR), deciding on the alleged violations of the ECHR.

In our case, this means that the Hungarian legal system, courts, and law enforcement bodies have to abide by the principles set out in the ECHR system on criminal procedure and criminal law. The EU Member States, like Hungary, also have to respect the fundamental rights guiding criminal law set out in the Charter of Fundamental Rights of the EU.[24]

Specific issues, like corruption or organised crime, in addition to legal instruments protecting wildlife, have regulations at the international level implemented in the

[21] Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended) Article 7.
[22] International Covenant on Civil and Political Rights 1976 (999 UNTS 171) Article 15.
[23] See Act XXXI of 1993 on the Implementation of the European Convention on Human Rights.
[24] See the Charter of Fundamental Rights of the European Union, Official Journal of the European Union C83, vol. 53, European Union, 2010.

Hungarian legal system.[25] Consequently, this report begins with introducing the relevant international law, then national law in Hungary, finally proceeding to the technical provisions of law enforcement in the country.

International law is part of the Hungarian legal system either through the act of promulgation by the legislative body, by the government (in the case of some international treaties), or automatically, since no additional action is needed in the case of customary international law, *jus cogens* norms and the "general principles of law recognised by civilised nations".[26] While "international law remains fragmentary and inconsistent",[27] and certain areas of concern, such as poaching, are not covered by international instruments, global efforts to tackle wildlife crime are essential. Conventions on species protection, other mechanisms to protect natural values, and biodiversity protection are the key areas of existing international law instruments protecting wildlife and ensuring sustainable use of natural resources. The Convention on International Trade in Endangered Species of Wild Fauna and Flora (hereafter "CITES", sometimes also called the "Washington Convention"),[28] the Convention on Biological Diversity (CBD), the Convention Concerning the Protection of the World Cultural and Natural Heritage, and the Convention on the Conservation of Migratory Species of Wild Animals (CMS) are the cornerstone agreements when it comes to tackling wildlife crime.[29] Bilateral agreements between countries, such as agreements on judicial assistance, can also serve as important tools for wildlife protection and enforcement of legislation concerning wildlife crime.[30] Additionally, as mentioned above, transnational organised crime and corruption are tackled globally by the United Nations Convention against Transnational Organized Crime (UNTOC) and United Nations Convention against Corruption (UNCAC). These conventions do not specifically cover wildlife crimes. However,

[25] UN General Assembly, United Nations Convention Against Corruption, 31 October 2003, A/58/422, available at: https://www.refworld.org/docid/4374b9524.html, Council of Europe, Criminal Law Convention on Corruption, 27 January 1999, Eur. T.S. No. 173.
[26] See Article Q of the Fundamental Law of Hungary, and the case law of the Constitutional Court beginning with 53/1993. (X. 13.) decision.
[27] United Nations Office on Drugs and Crime, 'Wildlife and Forest Crime Analytic Toolkit' (Publishing and Library Section, United Nations Office, 2012), p.14.
[28] Convention on International Trade in Endangered Species of Wild Fauna and Flora, 3 March 1973, 993 UNTS 243.
[29] United Nations Office on Drugs and Crime (n 27), p.13-21.
[30] ibid, p.21.

they can serve as effective tools and provide a legal framework for international cooperation tackling various forms of crimes, including wildlife crimes.[31]

For tackling wildlife trafficking, CITES is the relevant international treaty. Principally, it aims to ensure that international trade in specimens of wild animals and plants does not threaten their survival. Like the other countries covered by the SWiPE project, Hungary is a Party to CITES.

CITES accords three levels of protection to species in international trade. Species listed in Appendix I are threatened with extinction, so their international trade is generally prohibited with a few exceptions. Appendix II lists species that are not necessarily threatened with extinction but for which trade must be controlled to avoid utilisation incompatible with their survival. Appendix III lists species protected in at least one country, and this country requests other CITES Parties' assistance in controlling the trade.[32]

The EU itself is also a Party to CITES. In the EU, CITES is implemented through a set of regulations[33] (hereafter "EU Wildlife Trade Regulations") that are directly applicable[34] in all EU Member States and go beyond the original provisions of CITES. The EU Wildlife Trade Regulations have Annexes, which largely correspond to CITES Appendices. Some non-CITES species or species from CITES Appendix III for which the EU holds a reservation are listed in an additional Annex (Annex D). Nonetheless, it is Member State competence to

[31] United Nations Office on Drugs and Crime (n 27), p.17., see further United Nations General Assembly resolution 55/25 of 15 November 2000; Mara E. Zimmermann, "The black market for wildlife", pp. 1657-1685.
[32] See more at www.cites.org, www.speciesplus.net, and (for Hungarian speakers) www.cites.hu/fajkereso.
[33] 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), and 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), plus a Suspension Regulation suspending the introduction into the EU of particular species from certain countries. See more at: https://ec.europa.eu/environment/cites/legislation_en.htm#:~:text=2.,Basic%20Regulation,listed%20in%20its%20four%20Annexes.
[34] This means that Member States do not need to enact additional national legislation. The rules set out in the EU Regulation apply directly in all Member States. Member States can however enact stricter rules than those in the EU Regulations.

"impose sanctions for infringements in a manner which is both sufficient and appropriate to the nature and gravity of the infringement" of the EU Wildlife Regulations.[35]

As a member state of the European Union, the Hungarian legal system also has to be compliant with EU law. Among the tremendous amount of legislation and case law, the most appropriate ones directly impacting the Hungarian system are highlighted below. Even if criminal law and criminal procedure are generally considered member state competence, the European Court of Justice highlighted in its decisions that this should not prevent the EU from adopting legislation on protecting the environment through criminal law. Environmental protection, being "one of the essential objectives of the [European] Community",[36] is a policy area where the EU has the competency to exercise its legislative powers. With the Lisbon Treaty[37] in effect, the EU recognizes environmental crime as a serious crime with a cross-border dimension. Directives adopted in accordance with the ordinary legislative procedure can establish minimum rules concerning definitions of rules of criminal offences and sanctions in this policy area.[38] This only takes place "if the approximation of criminal laws and regulations of the Member States proves essential to ensure the effective implementation of a Union policy in an area that has been subject to harmonisation measures", such as the protection of the environment.[39] Hence, the competence of the EU in environmental criminal matters is an indirect criminal competence, as the European institutions can only adopt directives, which national parliaments have to transpose into their legal systems and decide how to reach the results of the directives.[40]

The criminal law angle of environmental protection in the EU is realised by the Directive 2008/99/EC on the protection of the environment through criminal law (hereafter "Directive", or "ECD"),[41] formally adopted in 2008. The Directive refers back to sectorial

[35] EU Wildlife Trade Regulations, p.2.
[36] Case C-440/05 *Commission of the European Communities v Council of the European Union,* judgement of 23 October 2007.
[37] See more at https://www.europarl.europa.eu/factsheets/en/sheet/5/the-treaty-of-lisbon
[38] ibid.; Case C-176/03 *Commission of the European Communities v Council of the European Union*, judgement of 13 September 2005.
[39] Treaty on the Functioning of the European Union, Article 83(2).
[40] Giovanni Grosso, 'EU Harmonisation Competences in Criminal Matters and Environmental Crime', *Environmental Crime in Europe* (Hart Publishing 2017), p.18-19.
[41] Directive 2008/99/EC on the protection of the environment through criminal law [2008], OJL 328/28.

environmental legislation and, in case of breaching certain provisions, sets out minimum requirements concerning criminal law. Natural and legal persons could be held liable, while imposing criminal penalties on legal persons is not required. The criminal sanctions must be effective, proportionate and dissuasive. The deadline for the transposition of the Directive was 2010; the transposition caused a significant change in the structure of the Hungarian legal framework.

The European Commission undertook an evaluation of the Environmental Crime Directive, which was published in 2020. The primary finding of the evaluation was that the "number of successfully prosecuted environmental cases was low, sanctions were too insufficient to be a deterrent, and cross-border cooperation was weak".[42] In Hungary, the legislative body chose to transpose the Directive in the Criminal Code. Regarding the undefined legal terms in the Directive concerning wildlife crimes, Hungary defined "negligible quantity" by linking the ecological value of specimens affected by the case.[43] When the Evaluation was published, available sanction levels in wildlife trafficking cases in Hungary could be considered an average of the EU concerning the maximum financial and imprisonment penalties applicable to natural persons.[44]

The evaluation also found that there were considerable differences among the Member States' provisions on sanctions which could create a safe haven for criminals. This is one of the reasons why the Commission published its proposal for a new Directive at the end of 2021. The Commission's proposal for the new Directive establishes common minimum sanction levels and further details on sanctions. Moreover, the proposal uses less ambiguous terms, covers far more environmental criminal offences, proposes additional sanctions (many of them of financial nature), and provides the basis for a more efficient

[42] Please find communication about the newly proposed Environmental Crime Directive here: Protection of the environment through criminal law (europa.eu): https://ec.europa.eu/commission/presscorner/detail/en/ip_21_6744

[43]'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)' (European Commission, 2020)., p.29; Act C of 2012 on the Criminal Code, Article 242(1).

[44] '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)' (n 43)., p.31, p.32. The maximum financial penalties could be 809, 000 EUR, and in qualified cases, the imprisonment could be five years in Hungary. See more on the sanction in the country in the next subsection.

cross-border investigation and successful prosecution.[45] The proposal is still to be discussed in the European Council and Parliament, and thus, the text of the proposal may be significantly amended. After its adoption at the EU level, Member States will have time (e.g., 18 months) to transpose the provisions of the Directive into their national legislation.

At the EU level, other legal instruments also ensure nature conservation goals. The most important ones are the Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora ("Habitats Directive") and the Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds ("Birds Directive"). The Natura 2000 network, established by the Habitats Directive, is the world's largest network of protected areas. The Birds Directive protects all of the 500 wild bird species naturally occurring in the EU[46] and prohibits certain activities that directly threaten birds, such as deliberate killing or capture, the destruction of nests and taking of eggs, and other activities such as trading in live or dead birds, with a few exceptions.[47] Apart from the instruments focusing strictly on nature conservation, combatting transnational and organised crime are also key policy areas in the EU.[48]

Returning to the criminal procedure itself, in accordance with the above-mentioned international and EU human rights instruments, the Hungarian constitution declares the fundamental principles of criminal law and criminal procedure. The constitution and its interpretation by the Constitutional Court of Hungary require that the state ensures that the citizens entertain certain fundamental rights. The state itself, while functioning, has to respect those fundamental freedoms and make sure that rule of law requirements are not to be ignored while enforcing the law in criminal matters.[49] It is also essential, among other

[45] 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, 15 December 2021, available here: https://ec.europa.eu/info/files/proposal-directive-european-parliament-and-council-protection-environment-through-criminal-law-and-replacing-directive-2008-99-ec_en; a relevant position of the European Policy Programme of WWF on the Commission's proposal can be found here: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12779-Environmental-crime-improving-EU-rules-on-environmental-protection-through-criminal-law/details/F2894929_en.
[46] More information about nature conservation policies can be found at https://ec.europa.eu/environment/nature/index_en.htm.
[47] João Pedro Silva and others, 'LIFE & Wildlife Crime'.
[48] See more below when elaborating on the EMPACT (European Multidisciplinary Platform Against Criminal Threats) priorities.
[49] Ervin Belovics, *Büntetőjog I. Általános Rész* (HVG-ORAC Lap- és Könyvkiadó Kft 2020), p.60.

things, that the principles of *ultima ratio*, *nulla poena sine lege*, *ne bis in idem,* the prohibition of analogy, and the other principles are respected in criminal cases.[50]

The *ne bis in idem* principle, which in general "restricts the possibility of a defendant being prosecuted repeatedly on the basis of the same offence, act, or facts"[51] has been interpreted many times by the Court of Justice of the European Union and the European Court of Human Rights,[52] and it is an evolving field within environmental criminal law. In Hungary, criminal, administrative, and civil liability complement each other; an administrative fine imposed by the nature conservation authority does not prevent establishing liability in criminal or civil law cases.[53] This does not contradict the constitutional provisions of the *ne bis in idem* principle, interpreted by the Constitutional Court of Hungary, as legal consequences can be applied in different procedures serving different functions for the same illegal activity.[54] However, if an illegal activity that can be sanctioned by both criminal and administrative law was already sanctioned with criminal penalties or measures in a criminal procedure, or the criminal court acquitted the defendant on the ground that it was not the defendant who committed the offence, prohibition of pursuing the activity and fines cannot be imposed in the administrative procedure. Furthermore, the criminal procedure has primacy over the administrative procedure for activities that are sanctioned in both criminal and administrative law.[55]

This report focuses on the effectiveness of protecting nature through criminal law in Hungary, although administrative sanctions can be efficient, quick, professional, and objective in nature conservation cases. The specificity of administrative sanctions is that

[50] These principles guide criminal law and criminal procedure in Hungary; and they are elaborated on in the constitution (interpreted by the Constitutional Court) and in the sectorial legislative texts. These principles are applied by all courts in the country. As noted above, the international and EU-level legal texts and interpretations concerning these principles affect the Hungarian legal system, too.

[51] Willem Bastiaan Van Bockel, *The Ne Bis in Idem Principle in EU Law* (Kluwer Law International 2010), availabe at http://hdl.handle.net/1814/14641.

[52] The discussion even at the transnational level has not come to an end, and there is an ongoing dialogue between the Court of Justice of the European Union and the European Court of Human rights. Among other publications, see Eurojust's Case-law by the Court of Justice of the European Union on the Principle of *ne bis in idem* in Criminal Matters from December 2021, with references to relevant case-law of the European Court of Human Rights.

[53] Act LIII of 1996 on Nature Conservation, Article 80(5), BH2006. 155., Péter Polt, András Zsolt Varga, and György Vókó, *Az Ügyészek Nagy Kézikönyve* (Budapest CompLex 2013), p.1367.

[54] Article 28(6) of the Constitution of Hungary, 8/2017 (IV. 18.) Decision of the Constitutional Court of Hungary.

[55] László Teszár, 'A Természetvédelem És a Természetkárosítás Az Ügyészi Feladatok Tükrében' (2021), https://okri.hu/images/stories/esemenyek/2021/termeszetved_konf_2021.10.12/003_Teszr_Lszl.pdf.

the nature conservation authority only examines the fact of the substantive or procedural violation and does not assess the subjective attitude of the parties towards their actions. The determination of the administrative substantive sanction level depends solely on the extent to which the offence has caused damage to the protected species or sites.[56] Still, as the administrative authorities in wildlife crime cases have valuable functions in relation to tackling wildlife crime, information on their roles can be found below, as well as lessons learnt based on interviews with representatives from the administrative branch. This report does not cover misdemeanours.

In addition to the case referred to above, the Hungarian Constitutional Court has decisions on nature conservation and environmental protection.[57] However, their role and those cases are not examined in this report. The role and function of the Office of the Hungarian Deputy Commissioner for Fundamental Rights and Ombudsman for Future Generations are not examined closely in this report either.

Despite being a civil law system, not primarily ruled by precedents, the earlier decisions of the court are used as references before a court, and it is important to have similar rulings for similar acts committed due to the obligation to respect the rule of law. To give guidance to all courts, the Curia, the highest judicial authority in the country, guarantees the uniform application of the law. Its uniformity decisions have a binding effect on all other courts for similar future cases, and it has had other instruments to guarantee the uniform application of the law, such as the decisions on principles. Additionally, from 2020, each decision of the Curia on individual cases has a binding effect on all other courts. Certain decisions of the Curia are highly relevant for wildlife crime cases. In one so-called decision on principles, in the context of the illegal transit of protected species, the Curia reaffirmed that protected bird species are being transported for gastronomic purposes from Central Eastern Europe, especially from Romania and Hungary, to Italy is a "well-known" fact in the criminal procedure, and as a well-known fact, it does not to be proven before the court by any party.

[56] Decree No. 33 of 1997 (II. 20.) of the Government concerning the rules of imposition of the nature protection fine.
[57] Access the official search engine of the Hungarian Constitutional Court at https://www.alkotmanybirosag.hu/ugykereso. Some cases are presented in Fruzsina Gárdos-Orosz, Kinga Zakariás (eds), *Az Alkotmánybírósági gyakorlat – Az Alkotmánybíróság 100 elvi jelentőségű határozata 1990–2020* (ORAC, 2021).

A person who works in the transportation industry must be aware of such trade routes.[58] The protected species are sold for a substantial amount of money in Italy as culinary delicacies. The Curia also highlighted that the transporter must have checked their luggage compartment in accordance with transportation rules in effect and their own economic interest as the one being responsible for the transported goods.[59]

5.1.2. Wildlife crime provisions in the Hungarian Criminal Code

Actions sanctioned	Relevant article of the Criminal Code	Possible penalties	Authorities responsible for compliance monitoring*
Damaging natural values (strictly protected species)	Article 242(1)(a)	Imprisonment for up to three years; ban on entering certain areas**	Prosecution, police, customs, national parks, government offices
Damaging natural values (protected species under Hungarian law or protected due to community importance within the EU)	Article 242(1)(b)	Imprisonment for up to three years; ban on entering certain areas**	Prosecution, police, customs, national parks, government offices
Damaging natural values (species protected under CITES and the EU Wildlife Trade Regulations)	Article 242(1)(c)	Imprisonment for up to three years; ban on entering certain areas**	Prosecution, police, customs, national parks, government offices
Damaging natural values (qualified cases)	Article 242(2)(a-b)	Imprisonment for one to five years; ban on entering certain areas	Prosecution, police, customs, national parks, government offices

[58] This could make proving wildlife crime significantly easier in relevant cases.
[59] EBD.2017.B.8.

Actions sanctioned	Relevant article of the Criminal Code	Possible penalties	Authorities responsible for compliance monitoring*
Damaging natural values (negligence, misdemeanour form)	Article 242(3)	Imprisonment for up to two years; ban on entering certain areas*	Prosecution, police, customs, national parks, government offices
Damaging natural values (qualified cases, protected areas)***	Article 243	Imprisonment for one to five years; ban on entering certain areas	Prosecution, police, national parks, government offices
Game poaching, using prohibited means or methods of hunting****	Article 245(c)	Imprisonment for up to three years; ban on entering certain areas**	Prosecution, police, national parks, government offices
Abuse of poison	Article 188	Confinement**	Prosecution, police, national parks, government offices
Violation of obligations related to keeping dangerous animals	Article 359(1)	Imprisonment for up to two years**	Prosecution, police, national parks, government offices
Animal cruelty	Article 244	Imprisonment for up to two or three years**	Prosecution, police, customs, national parks, government offices, National Food Chain Safety Office

Table 1. Wildlife crime provisions from the Criminal Code of Hungary according to the legislation in force in January 2022.

*It is only the police that is required by law to investigate possible criminal activities. However, all the other authorities noted in Table 1 may help detect wildlife crime while ensuring compliance with sectorial legislation.

**Certain provisions of the Criminal Code allow for other penalties or measures to be imposed under specific conditions. See the explanation below.

***Natura 2000 areas and conservation focusing on specific areas and habitats destruction provisions are not covered by the SWiPE project.

****This article is included due to the scope of the SWiPE project. The scope includes non-selective catching and killing and the use of unselective trapping and harming. The SWiPE project focuses only on protected species, not game poaching in general.

A thorough examination of legislation and jurisprudence must be conducted to understand the sanctioning regime fully. In Hungary, the legal consequences of committing a crime consist of penalties, secondary penalties, and measures.[60] Penalties and measures can be imposed simultaneously. The penalties relevant for wildlife crime cases are the following: imprisonment, confinement, community service, financial penalty, disqualification from a profession, ban on entering certain areas, expulsion, and the secondary penalty is the exclusion from participating in public affairs.[61] The penalties can be imposed simultaneously, although certain exceptions apply.[62] Instead of imprisonment, in certain events, if the minimum penalty range for a criminal offence does not reach one year of imprisonment, the other types of penalties could be imposed, "individually or in any combination".[63] In damaging natural values cases, this is applicable; that is the among the reasons why one could find, for instance, financial penalty as a criminal sanction imposed in many cases and not imprisonment.

The measures in the Hungarian system are the following: reprimand, release on probation, reparation work, probationary supervision, confiscation, forfeiture of assets, rendering electronic data permanently inaccessible, and compulsory psychiatric treatment.[64] Criminal measures can be applied alongside penalties and other measures;[65] certain measures can even substitute penalties (for instance, release on probation or reprimand, common in wildlife crime cases) and be imposed independently.[66] While not analysed thoroughly here, legal persons can be held liable under criminal law in

[60] You may find the penalties and the measures in the Criminal Code; penalties are covered from Article 33, measures from Article 63.
[61] Act C of 2012 on the Criminal Code, Article 33-62.
[62] ibid., Article 33(4)-(6), Belovics (n 49) p.435.
[63] Act C of 2012 on the Criminal Code, Article 33(4).
[64] Act C of 2012 on the Criminal Code, Article 33.
[65] ibid.
[66] Belovics (n 49) 434–436.

Hungary; measures applicable to them are not specified in the Criminal Code.[67] Penalties always require an established criminal liability, while measures can be imposed without a criminal conviction. It is relatively common for courts in Hungary to impose measures instead of penalties on defendants due to what is referred to as the lack of danger to society (this is further explained below). Confiscation is also a relevant measure in wildlife crime cases. In principle, in specific cases, confiscation could be dispensed exceptionally "if, considering the gravity of the criminal offence, it is an unfair and disproportionate disadvantage for the perpetrator or the owner"[68]. However, there is no such exception for wildlife crime cases.[69]

In practice, according to the data received by the SWiPE project, the most common sanctions applied in cases from 2015 to 2020 were imprisonment and financial penalty; and release on probation was the most commonly imposed measure in the given period.[70] A more thorough analysis can be found in the data analysis section.

The crime of damaging natural values can be committed along with other crimes. In the Hungarian legal system, "if one or more acts by the perpetrator constitute more than one criminal offence, and they are adjudicated in a single proceeding", it can constitute a concurrence of criminal offences.[71] Let us suppose that the motive behind committing the crime of damaging natural values is to acquire timber illegally. In that case, this activity constitutes a concurrence of theft and the crime of damaging natural values.[72] Causing irreversible and permanent destruction in protected species by not looking after domestic animals that caused such damage constitutes a concurrence of vandalism and the crime of damaging natural values.[73] However, the concurrence may be only

[67] See the Act CIV of 2001 on Measures Applicable to Legal Entities under Criminal Law.
[68] Act C of 2012 on the Criminal Code, Article 73(c).
[69] ibid.
[70] According to Éva Várhegyi's research, most typically applied sanctions in wildlife crime cases were financial penalty and suspended imprisonment in 2015–2020; occasionally disqualification from a profession was imposed. See more at https://okri.hu/images/stories/esemenyek/2021/termeszetved_konf_2021.10.12/004_Vrhegyi_va.pdf.
[71] Act C of 2012 on the Criminal Code., Article 6(1).
[72] Ervin Belovics, Gábor Miklós Molnár, and Pál Sinku, *Criminal Law II. Special Provisions* (HVG-ORAC Lap- és Könyvkiadó Kft 2019), p.374; Éva Várhegyi, 'A környezeti büntetőjog bírósági gyakorlata különös tekintettel a természetkárosítás bűntette elemzésének tapasztalatai alapján' (2013), p.27.
[73] ibid; see BH. 2001.512. for understanding the concurrence of vandalism and the crime of damaging natural values.

"illusory"; for example, as one could learn from the jurisprudence, the crime of damaging natural values and the crime of damaging the environment cannot be committed in concurrence. First, if the subject of the crime is the same, according to the principle of speciality (also called as the *lex specialis derogat legi generali* principle), the crime of damaging natural values has to be applied. Second, if the activity itself infringes both provisions, according to the principle of consumption, the crime of damaging the environment has to be applied as a general rule.[74]

If protected species are illegally appropriated (e.g., theft), the crime of damaging natural values would be concurringly committed with the crime of theft.[75] Other crimes that are usually committed along with the crime of damaging natural values are document fraud, corruption, money laundering, abuse of poison, and abuse of firearms or ammunition. Wildlife trafficking cases often have an organised crime angle.

Repeatedly committing crimes harming the environment would result in more severe sanctions. Let us suppose that someone has previously been held criminally responsible for the crime of damaging natural values. In that case, that will make the offender a special recidivist in another criminal procedure where the offender is accused of committing the crime of damaging natural values. Additionally, for example, committing the crime of violation of waste management regulations after having been held criminally responsible for the crime of damaging natural values would make the person a recidivist and, as a result, make it a qualified offence, which would increase the penalty in these cases: imprisonment for one to five years.[76]

While it is not the main focus of the SWiPE project, understanding relevant administrative law provisions are essential for nature conservation. The legal regulation

[74] Éva Várhegyi (n 72), p.26. To put it simply, the principle of speciality means that if more than one provisions can be applied to the perpetrator's action, and one of such provisions contains more than just general rules, that one should be applied. The principle of consumption in this context means that if more than one provisions can be applied to the perpetrator's action, and one is more serious, that one 'consumes' the other, and it should be applied in the case. To read more about concurrence, consult case law, relevant literature about the *lex specialis derogat legi generali* principle and the consumption principle.
[75] Ervin Belovics, Gábor Miklós Molnár, and Pál Sinku, *Criminal Law II. Special Provisions* (HVG-ORAC Lap- és Könyvkiadó Kft 2019), p. 374.
[76] Act C of 2012 on the Criminal Code., Article 248 (3)(c).

of nature conservation in Hungary has a centuries-old history. In the beginning, nature conservation norms were integrated into forest laws and hunting laws. Over time, nature conservation has become a sector, with nature conservation legislation being implemented by specialised institutions separate from other sectors. Although there are some rules on nature conservation in hunting, fishing and forestry laws (e.g. Prohibited fishing methods, poaching regulation, management aspects of forest habitats),[77] today in Hungary, independent institutions and purely nature conservation legislation ensure the protection of wild species. The primary nature conservation pieces of legislation are Act LIII of 1996 on Nature Conservation and its implementing regulations. In addition to the conservation of protected species and protected natural values, the Nature Conservation Act also covers the general protection of natural habitats and landscapes. In Hungary, the procedure for declaring species protected is regulated by the Nature Conservation Act. The protected species are listed in Decree No. 13 of 2001 (V.9.) Of the Ministry of Environmental Protection. Annexes 1 and 2 of the Decree list protected and specially protected animal and plant species, while Annex 9 lists protected fungi and lichens. These annexes contain the sentimental value of the species,[78] which is the basis for the administrative fine and has a role in the criminal procedure as well. Other annexes to the decree list protected ant hives and specially protected caves. Annexes 7 and 8 list the animal and plant species of importance in Europe.

The Hungarian nature conservation sector is run by two types of institutions: designated national authorities (government offices) and national park directorates.[79] The authorities are responsible for the enforcement of administrative legislation, and the national park directorates are responsible for conservation management and field monitoring. Both nature conservation bodies contribute to the detection of wildlife crime through their professional work and compliance monitoring, and the national park directorates can also act in cases of misdemeanours. It should be mentioned that in

[77] Act CII of 2013 concerning Fisheries and the Protection of Fish; Act LV of 1996 on the Protection, Management, and Hunting of Game; Act XXXVII of 2009 on Forest, Protection, and Management of Forest.
[78] Sentimental value in the Hungarian legal system means a monetary value determined by the minister responsible for nature conservation. It applies to all specimens, regardless of being alive, in any status of development, any recognisable part or derivatives. Sentimental value is not the same as the value of ecosystem services, (black) market value, or the monetary value of damages.
[79] Decree No. 71 of 2015 (III.30.) of the Government on the Appointment of Public Administrative Authorities of Environmental Protection and Nature Conservation.

locally protected areas, municipalities also perform nature conservation tasks, in which case the notary is the nature conservation authority.[80]

Regarding CITES, as presented above, an act of the Parliament declares the convention, and there is no need for any transposition of the EU Wildlife Trade Regulation. Additionally, a government decree includes more details, including the designation of the CITES Management and Scientific Authorities and their responsibilities,[81] the regulation concerning certificates and permits,[82] marking of some live specimens to assist in the individual identifying of specimens,[83] transport and possession,[84] sturgeon species and caviar,[85] and enforcement of the EU Wildlife Trade Regulations[86]. The government decree also contains rules on seizure and confiscation and presents the possible legal consequences of breaching the provisions of this decree,[87] including the right of the nature conservation authority (government offices) to impose fines[88].

Additional sectorial legislation relevant in the context of wildlife crime includes:

- Decree No. 348 of 2006 (XII. 23.) of the Government on detailed rules of protection, keeping, exhibition, and utilization of protected animal species;
- Decree No. 13 of 2001. (V. 9.) of Ministry of Environmental Protection on the protected and specially protected animal and plant species, specially protected caves, animal and plant species significant for conservation goals within the European Community;
- Act XXVIII of 1998 on Animal Protection and Careful Treatment of Animals
- Decree No. 41 of 2010 (II. 26.) of the Government on keeping of pet animals and marketing;

[80] Decree No. 13 of 2001. (V. 9.) of Ministry of Environmental Protection on the protected and specially protected animal and plant species, specially protected caves, animal and plant species significant for conservation goals within the European Community, and a search engine based on the decree is available here (in Hungarian): https://termeszetvedelem.hu/kereso/vedett-fajok/.
[81] Decree No. 292 of 2008 (XII.10.) of the Government concerning the implementation of certain provisions of the international and European Union regulations of Trade in Endangered Species of Wild Fauna and Flora.
[82] ibid.
[83] ibid.
[84] ibid.
[85] ibid.
[86] ibid.
[87] ibid.
[88] ibid.

- Decree No. 85 of 2015 (XII. 17.) of the Ministry of Agriculture on dangerous animal species and on the rules of their keeping;
- Decree No. 14 of 2015 (III. 31.) of the Ministry of Agriculture on the administrative service fees for official procedures concerning environmental and nature protection;
- Act CL of 2016 on General Public Administration Procedures;
- Decree No. 33 of 1997 (II. 20.) of the Government concerning the rules of imposition of the nature protection fine;
- Decree No. 71 of 2015 (III.30.) of the Government on the appointment of public administrative authorities of environmental and nature protection;
- Decree No. 67 of 1998 (IV. 3.) of the Government on the restrictions and prohibitions regarding protected and highly protected ecosystems;
- Decree No. 40 of 2013 (II. 14.) Of the Government on animal testing;
- Decree No. 91 of 2007 (IV. 26.) of the Government concerning the evaluation of damages caused to nature and providing rules of restoration;
- Decree No. 12 of 2005 (VI. 17.) of the Ministry of Environment and Water concerning the detailed rules for the imposition of restrictions on and around the habitats of strictly protected plants and animal species;
- Decree No. 19 of 1997 (VII. 4.) of the Ministry of Environmental Protection and Regional Development on the measures concerning the confiscated protected natural values.

5.1.3. Potential fields of improvements of regulations concerning wildlife crime

Despite the substantial financial gains in wildlife trafficking cases, the Hungarian Criminal Code in effect does not reflect on the amount of illegally gained profit, nor does it take the commercial purpose, the actual scale, or the frequency into consideration. Additionally, in illegal wildlife trade cases, the legislation in force allows differentiating; however, only when the criminal offence directly endangers the survival of the population of the living organism;[89] despite the different impacts of a large-scale

[89] ibid Article 242 (2)(b).

trafficking case and a tourist bringing home some souvenirs from an exotic holiday destination. The organised crime sections of the Criminal Code could apply in relevant cases; however, there is still no legal provision reflecting on the more serious nature of wildlife trafficking committed for commercial gain. The criminal sanction reflecting more and proportionate to the harm done to nature as well as the relevant case law require further studying.

Regarding the sectoral legislation and detailed rules on CITES, there might be areas where improvement would help authorities' work, and, consequently, support wildlife crime detection. For instance, the clarification on whether the customs procedure can be initiated at each border crossing would make the rules easier to understand, in line with the suggestion of the National Tax and Customs Administration.[90]

Some of the interview responses suggested that the purchase of CITES-listed species could be over-regulated. For instance, when purchasing terrestrial tortoise species, both parties have to file additional forms in order to resign from the possession of the specimen and notify the authorities about the acquisition even if the specimen is photographed and chipped, therefore already has a specific code. This regulation could cause unnecessary additional work and, in the end, may not promote sustainable wildlife trade practices.

5.2. Analysis of the law enforcement authorities in the wildlife crime enforcement chain

5.2.1. Authorities responsible for tackling wildlife crime

This section provides an introduction to the law enforcement chain and the role of the different actors in wildlife crime cases.

[90] The suggestions were already submitted by the authorities on the relevant and official channels. See more about the relevant procedures at the customs authority and data and analysis of cases at György Harnberger and Csaba Zsigmond, 'A Veszélyeztetett Vadon Élő Fajok Szállításának Vámhatósági Ellenőrzése' (2020) 20 Magyar Rendészet.

Authority	Subject-matter jurisdiction	Main competencies in connection to wildlife crime cases
Nature conservation authorities (government authorities)	Administrative law infringements in nature conservation matters	Issuing permits Seizures Imposing administrative fines, confiscation Monitoring infringements
CITES Management Authority	Infringements related to species protected under CITES	Issuing permits and certificates Seizures Compliance monitoring and notification responsibilities
CITES Scientific Authority	Infringements related to species protected under CITES	Advice on protected species Consultation with other national or international scientific authorities Compliance monitoring
Hunting Authority	Administrative law infringements of hunting regulations	Issuing hunting permits Compliance monitoring
National Food Chain Safety Office	Administrative law infringements of security regulations regarding food safety, animal and plant health, and laboratories	Confiscation
Police departments	General competency	Investigation Seizures
National Bureau of Investigation, Environmental Crime Unit	Environmental crimes	Investigation Seizures
National Tax and Customs Administration	General competency	Monitoring import, export, transit of CITES-listed species Seizures

National Park Directorates	Nature conservation management	Nature conservation asset management Confiscation Imposing an on-the-spot fine Collecting and keeping nature conservation records Monitoring infringements Other field monitoring tasks
Prosecutors in criminal law cases	General competency for criminal offences	Prosecution Supervising the investigation Investigation Requesting and enforcing measures, including confiscation
Prosecutors protecting the public interest in environmental cases	Environmental crime cases and relevant infringements of administrative law	Inter alia, right to sue offenders for compensation for damage to natural values
Criminal courts	General competency for criminal offences	Adjudication Deciding on measures, including ordering a confiscation

Table 2. A brief overview of law enforcement authorities in Hungary according to the relevant legislation in force in January 2022.

The SWiPE project aims to increase the number of wildlife crime prosecutions in Europe. Law enforcement authorities and the prosecutor, representing the State, has a crucial role in tackling wildlife crime cases. In wildlife crime cases, the real victims cannot file a complaint, so public authorities and the public in general have an especially important role in highlighting possible criminal cases. Yet, it is only the public prosecutor who 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".[91]

[91] See a thorough but accessible description at http://ugyeszseg.hu/en/about-us/tasks/.

Therefore, public prosecutors play a particularly prominent role in the prosecution of wildlife crime cases. The other authorities listed in Table 2. also have an important role; for instance, without proper investigation by the police or appropriate expert opinions, a case cannot be successfully prosecuted. The list of all actors and further assessment of their roles can be found in the section on the effectiveness and challenges at the different stages of combating wildlife crime.

5.2.2. National justice system and procedures for infringements related to wildlife conservation

The criminal procedure is "a series of actions by competent authorities and other persons which aims to decide whether a crime was committed or not, find out who the offender is, and apply criminal law in the case".[92] The criminal procedure has two phases in Hungary: i) the preliminary procedure and investigation, and ii) the judicial phase.

Citizens could file a complaint against the suspected person of a crime, or the competent authorities start the proceedings.[93] In many cases, citizens report criminal offences anonymously; it is also rather common in environmental crime cases that the police and rangers detect the offences or catch the defendant in the act. Moreover, nature conservation authorities play an essential role in detecting environmental crime; they receive the citizens' reports and refer the matter to the police in many cases.[94]

Under certain conditions, the criminal procedure may start with the preliminary procedure.[95] As a result of the preliminary procedure, an investigation is conducted if the suspicion of a crime is confirmed.[96] Alternatively, if there was no preliminary procedure, the criminal procedure starts with the investigation, which has two phases: detection and inquiry. Detection is where it has to be clarified whether a crime was committed and, if so, who the perpetrator is, plus the investigative authority gathers and secures

[92] Tibor Király, *Büntetőeljárási Jog* (Osiris Kiadó Kft 2003), p.11.
[93] Act XC of 2017 on the Criminal Procedure Article 375..
[94] Nikoletta Balogh and János Ede Szilágyi, 'Környezeti Ügyek Az Ügyészség Büntetőjogi Szakágának Gyakorlatában', *Studia Iurisprudentiae Doctorandorum Miskolciensium. Miskolci Doktoranduszok Jogtudományi Tanulmányai* (Miskolc Bíbor 2014), p.25.
[95] Act XC of 2017 on the Criminal Procedure, Article 339-347.
[96] Act XC of 2017 on the Criminal Procedure, Article 340.

evidence. When these are clarified, further evidence is analysed and gathered during the investigation, and the prosecution decides if they terminate proceedings or prosecute the case.[97] Covert surveillance requiring a judge's permission can be used in an intentionally committed crime of damaging natural values, damaging the environment, and game poaching cases.[98] The investigative authority and the prosecution suspend the proceedings if – among other things – the defendant is still unknown, even after the investigation.[99] They may suspend the proceedings if the defendant's whereabouts are unknown or the defendant is abroad.[100] After a certain period, these proceedings are terminated when the authorities cannot identify the defendant's identity.[101] According to the data collected and the interviews conducted by the SWiPE project team in Hungary, these were rather common endings of criminal procedures concerning protected species during the period examined. This challenge has been prevalent even prior to the period examined by the SWiPE project.[102]

Before the prosecution of a case, the defendant can enter a guilty plea, and the case can be settled without a hearing in court. The defendant, their defence counsel (or defence attorney), or the prosecution can initiate such a procedure. The bottom line is that the defendant confesses their guilt in the criminal offence they committed and agrees to certain consequences.[103] The content of a settlement agreement may include a plea bargain between the prosecution and the defendant; the criminal procedure could be even terminated, or the criminal charges could be dismissed. At the same time, the defendant, among other things, would cooperate with the prosecution or the investigative authority providing help with evidence.[104] However, a judge must approve the settlement agreement at a preliminary hearing. The procedure must comply with

[97] ibid, Article 348(4)-(5).
[98] Act XC of 2017 on the Criminal Procedure, Article 234(2)(d).
[99] ibid, Article 394(1)(a).
[100] ibid, Article 394(3)(a).
[101] ibid, Article 394(1)(a) and Article 398(5).
[102] Nikoletta Balogh and János Ede Szilágyi, 'Környezeti Ügyek Az Ügyészség Büntetőjogi Szakágának Gyakorlatában', *Studia Iurisprudentiae Doctorandorum Miskolciensium. Miskolci Doktoranduszok Jogtudományi Tanulmányai* (Miskolc Bíbor 2014), p.25. This paper examined environmental crime, procedures and outcome of cases in 2009-2012; the SWiPE project only analyses wildlife crime cases; nevertheless, this finding is still relevant due to the seminal nature of all environmental offences.
[103] Act XC of 2017 on the Criminal Procedure, Article 407(1).
[104] Act XC of 2017 on the Criminal Procedure, Article 410-411.

the specific rules applied in settlements; for instance, the settlement agreement must be in line with the original charges brought.[105] Having a defence council is compulsory during settlement procedures.[106] A thorough analysis of the scale extent of the use of settlements and their effectiveness in wildlife crime cases could be beneficial for the law enforcement authorities; data received by the SWiPE project are presented and analysed below in the section on data analysis.

Besides settlements, analysing mediation in wildlife crime cases would require further research. In case of mediation, the prosecutor can suspend the case under certain conditions: the accused person or the victim have to request the mediation procedure or agree to participate in one, the accused person has to confess their guilt before the prosecution of the case, and the criminal offence, the nature of committing the offence, and the person who committed the offence in the case also have to meet certain additional requirements.[107] What makes mediation in wildlife crime cases rather challenging is that the victim does not have a voice in the criminal procedure in a conventional way.

Still before and instead of prosecuting the case, a penalty order can be requested, which means that the court would decide on the criminal liability of the defendant without a trial only by reviewing the case files. The prosecutor can also request a summary trial taking place "within one month from the interrogation of the suspect. All parties must attend this trial in person. If the suspect has been caught in the act, the trial shall be held within fifteen days from the date of perpetration."[108]

If the prosecutor does not choose to apply diversion or bring the case to court by proposing an expedited procedure, the prosecutor files an indictment. After the prosecution, the judicial phase of the criminal procedure begins. In Hungary, the public prosecutor has the right to prosecute wildlife crime cases. If the defendant confides

[105] Act XC of 2017 on the Criminal Procedure, Article 731-738.
[106] ibid, Article 731(2).
[107] Act XC of 2017 on the Criminal Procedure, Article 412(2); more information in Article (412)-(415).
[108] Act XC of 2017 on the Criminal Procedure, Article 739-746; or see more at http://ugyeszseg.hu/en/about-us/tasks/.

during the preparatory hearing and waives further evidence gathering, the court can decide the case immediately.[109] Without this, the court holds a hearing where the evidence is analysed, the parties can request to admit additional evidence, accusing and defending arguments are presented, and the court makes a decision. Evidence gathering in wildlife crime cases is essential, and most cases cannot be decided without an environmental expert's testimony. The first instance court renders a judgement, conviction or acquittal when deciding on the merits of the case.

According to the Hungarian constitution and international law instruments, an effective remedy must be in place in court cases. If both parties accept the judgement, it becomes binding. However, either party can lodge an appeal in accordance with the rules set by the law.[110] In case of appeal, the second instance court will examine the judgement and the procedure at the first instance. Among other things, the second instance court assesses the basis of the judgement, the qualification of the criminal offence, and the penalties or measures imposed.[111] As a general rule, the facts are not revised at this stage, and the second instance court does not assess new evidence; however, exceptions apply.[112] The second instance court can make the following decisions: upholding, changing, or repealing the judgement of the first instance court. In case of repeal, the second instance court can terminate the criminal procedure or give instructions to the first instance court on conducting a new procedure.[113] If the second instance court's decision is contradictory to the first instance court's judgement concerning the criminal responsibility of the defendant, the parties can appeal to the third instance court.[114] The third instance court can make the following decisions: upholding, changing, or repealing the judgement of the first or the second instance court, or both.[115] Furthermore, if certain conditions are met, extraordinary remedies may be applied.

[109] ibid, Article 499-508.
[110] ibid., Article 579-588.
[111] ibid., Article 590.
[112] ibid. Article 591.
[113] ibid., Article 604-614.
[114] ibid., Article 615. See more details about what makes a second instance court's decision 'contradictory' with a first instance court's judgment at Article 615(2)-(2a) of the Criminal Procedure.
[115] ibid., Article 623-625.

In Hungary, the judicial system in criminal matters consists of district courts, regional courts, regional courts of appeal, and the Curia. District courts and regional courts proceed with cases as first instance courts. Regional courts of appeal act as second instance courts in the cases where district courts were first instance courts, regional courts of appeal decide on cases where regional courts were first instance courts, and the Curia decides on cases where regional courts of appeal were the first instance courts. Regional courts of appeal decide on cases as third instance court where the first instance court was a district court, and the Curia decides on cases as third instance court where the first instance court was a regional court.[116] As a general rule, district courts decide on all matters in the first instance. The exceptions, when the first instance court is the regional court, are enumerated in the text of the criminal procedure.[117] Accordingly, wildlife crime cases typically begin at the district court level. As wildlife crime cases are sometimes linked with corruption, it is worth noting that corruption cases begin at the regional court level.[118]

Environmental crime has additional specific elements which need to be taken into consideration. As the damaging natural values provision in the Hungarian Criminal Code refers back to the thorough administrative legislation on nature protection, it could be challenging to hold defendants liable in wildlife crime cases. In many judges' and scholars' views, deciding upon the knowledge of environmental matters of the defendant is an essential question, with consequences in the final decision and in the criminal liability of the defendant. In other words, if the defendant commits a punishable act but does not realise that their act is against the law and is a danger to society, and they have a reasonable ground for this assumption (e.g., information is unreasonably difficult to find about the sectoral law in question), they cannot be held liable under criminal law.[119]

[116] ibid., Article 12.
[117] ibid., Article 19-20.
[118] ibid., Article 20(11).
[119] For example, in species-based, non-CITES crime cases of damaging natural values, one has to consult the Decree of the Ministry of Environment 13/2001. (V.9.) on protected and strictly protected plant and animal species, and species of community (European Union) importance.

Ignorantia iuris neminem excusat, the lack of knowledge about the law, would not relieve one from the responsibility. To make sure that everyone to whom certain provisions apply is aware of them, all pieces of legislation, including environmental sectoral regulation, has to be promulgated and communicated well in advance of individuals' being held liable for complying with them; the defendant must have the possibility to understand the norms in advance. In environmental crime cases, and in particular, in damaging natural values cases, this means that if the defendant commits the crime of damaging natural values and is under the false but reasonable assumption that their actions were not a danger to society, they cannot be held liable under criminal law; however, if the defendant has considerable knowledge relevant to nature conservation, this cannot be invoked.[120] By means of an example, hunters fulfilling professional requirements to operate as licenced hunters[121] or pet store managers trading in protected species violating CITES-related provisions could not successfully argue that they have not been fully aware of the sectorial regulations on species protection and nature conservation. The same applies to a transporter who must have been aware of bodies of protected specimens in its luggage compartment.[122] Conversely, an average citizen bringing home an alligator head from abroad may not have been held liable, as they were under the false assumption that this was not an act dangerous to society.[123] On the one hand, in practical terms, law enforcement officers need to pay special attention when gathering evidence to be able to prove the intent later in the criminal procedure. For example, (while fully respecting the relevant provisions of the Hungarian Criminal Procedure) by confiscating electronic devices used for communication or illegal activities such as the trade in species protected by CITES without proper documentation, evidence of intent can be obtained. On the other hand, raising awareness of wildlife crime on a large scale is fundamental in this regard, as the judges in wildlife crime cases would consider the awareness of an average citizen on wildlife crime matters, especially if the defendant does not have a professional background as referred

[120] Unless, in wildlife trafficking cases, the criminal act endangers the survival of the population of the living organism, see Article 242(2)(b) of the Criminal Code; however, this does provide any solution to the problem presented above.
[121] Balázs Elek, *Vadászok, Halászok a Büntetőjog Hálójában* (HVG-ORAC Lap- és Könyvkiadó Kft), p.294.
[122] EBD.2017.B.8.
[123] Balázs Elek, 'A "jogi Tévedés" a Természetkárosítás Bűncselekménnyel Összefüggésben', *Ünnepi kötet Dr. Nagy Ferenc egyetemi tanár 70. születésnapjára*, vol 81 (Acta Universitatis Szegediensis : Acta juridica et politica 2018), p.231-233.

to above. Another example from recent research; many consumers were not aware that many medicinal products and food supplements contain parts or derivatives of CITES-listed species, and so the defendants were not aware of the document requirements for importing such products.[124]

Although not part of the criminal procedure, the role of public interest prosecutors must be highlighted here due to the close connection to wildlife crime cases. While the prosecution in Hungary primarily deals with criminal cases, protecting the environment is one of the priority areas of this function of the prosecution service.[125] This means that a prosecutor has the right to initiate court and administrative criminal proceedings, launch administrative authorities' proceedings, and pursue legal remedies for unlawful administrative decisions.[126] Knowing that besides the criminal responsibility, a considerable amount of money as compensation may have to be paid by the perpetrator of wildlife crime can also serve as deterrence.

5.2.3. Specialisation of relevant actors

Police and customs officers have to fulfil requirements in connection to environmental crime during their studies; this field is getting increasing attention. However, the focus of the training is on the general knowledge within their fields. Investigative methods of environmental crime are part of the curriculum at the university; training is available for police and customs officers at least as part of optional courses. The University also works with the Environmental Crime Unit in the National Bureau of Investigation. More and more law faculties providing education for future prosecutors and judges have compulsory environmental law courses.

In Hungary, there is no requirement for the specialisation of law enforcement officers and prosecutors in wildlife or environmental issues. Nevertheless, good practices are

[124] Katalin Tilki, 'A természetkárosítás bűncselekmények felderítésének és vizsgálatának kérdései' (2021), available at https://okri.hu/images/stories/esemenyek/2021/termeszetved_konf_2021.10.12/005_Tilki_Katalin.pdf.
[125] Act CLXIII of 2011 on the Prosecution Service, Article 27(5)(e).
[126] Péter Polt, András Zsolt Varga, and György Vókó (n 53), 1344-1345. For a more thorough understanding, read the section on the role of the prosecution service in protecting public interest at pp.1343-1437.

available. Within the framework of the Hungarian National Environmental Security Task Force (NEST), special training events focusing on environmental crime (wildlife crime included) have been provided for law enforcement officers from different parts and levels of the enforcement chain. The National Institute of Criminology, a research institute connected to the Hungarian Prosecution Service, also offers accredited ad-hoc training for prosecutors; and there are other events relevant to wildlife crime experts.[127] Additionally, the International Law Enforcement Academy (ILEA)[128] in Budapest provides regional criminal justice training for law enforcement officers, judges, and prosecutors. For the moment, there are no official manuals for prosecutors and judges about wildlife crime in Hungary; however, the topic is covered by specific postgraduate degree programmes.

Insufficient training and specialisation contributed to poor enforcement of the ECD throughout the EU and the ineffectiveness of the Directive.[129] The specialisation of law enforcement personnel along the enforcement chain on environmental matters also contributes to more successful cross-border cooperation.[130] As a result, "without prejudice to judicial independence and differences in the organisation of the judiciary across the Union," the proposed text of the new Directive (at the time of writing of this report) requires specialised training related to the objectives of the Directive.[131]

5.2.4. Other actors

Apart from criminal law enforcement, wildlife crime is relevant for different actors with different aims and responsibilities. Civil society, in particular, Birdlife Hungary, plays a crucial role in helping the authorities detect wildlife crime in this country. Having expertise, especially in bird poisoning crimes, their members often act as assigned

[127] For example, by attending the Crime of damaging natural values from the legal practitioners' viewpoint conference (12 Oct 2021), prosecutors could gain credits. More information in Hungarian here: https://www.okri.hu/index.php/esemenyek/konferencia-beszamolok

[128] ILEA in Budapest is fully funded and supported by the Department of State's Bureau of International Narcotics and Law Enforcement Affairs of the United States of America. For more information and an up-to-date calendar of trainings visit their website at https://budapest.ilea.state.gov/.

[129] Willem Bastiaan Van Bockel, *The Ne Bis in Idem Principle in EU Law* (Kluwer Law International 2010) http://hdl.handle.net/1814/14641; Proposal (n 45) p.8.

[130] Proposal (n 45), p.14.

[131] ibid, Article 17.

experts. Additionally, they have detection dogs trained to find the poison and the poisoning victims. These dogs greatly assist their conservation work and even contributed to building up cases and successfully bringing them to court.[132] Birdlife Hungary is a valuable partner in the SWiPE project: in the implementation of so-called pilot actions within the project, Birdlife Hungary cooperates with WWF Hungary in testing the potential of upscaling the existing detection dog units to find large carnivore scat samples in a pilot area in the North Hungarian Mountains in the autumn of 2021 and 2022.

Numerous Hungarian NGOs are specialised in other forms of environmental crime. For instance, the Clear Air Action Group focuses on air quality cases, while Greenpeace Hungary has dedicated projects about illegal waste dumping. They do not work with wildlife crime cases specifically. However, several environmental crimes have similar characteristics and challenges, so their knowledge and materials could be relevant at a certain point. WWF Hungary has been campaigning against the illegal killing of large carnivores for more than three decades in Hungary.

Other important actors in Hungary are the Hungarian Hunters' National Association (OMVV) and the Hungarian Hunters' National Chamber (OMVK). They often try to discourage poaching incidents, and on one occasion, they published written communication after a bear poaching incident in Hungary.[133]

At this stage of the SWiPE project, these main actors have been identified. There are, however, additional possible stakeholders to engage in the future, which include the corporate sector such as traders, pet shops, international transport and courier companies and financial institutions.

[132] Find out more about these cases in the case study section of this report and in this leaflet on bird poisoning by BirdLife Hungary and WWF Hungary available at https://wwf.hu/public/uploads/toltsdle/1637331362-swipe-ragadozomadar-mergezesek.pdf.

[133] The written communication is available at https://www.omvk.hu/hir/kozlemeny-a-salgotarjani-medvelovesrol?fbclid=IwAR3312EvRdjHLn4H6HPzlEj5F1s95kyqzIDpYO_FW98PV9kMw10bFaqJrnY.

5.2.5. Cooperation

Hungary set up its National Environmental Security Taskforce ("NEST") to tackle environmental crime more effectively in 2021.[134] The Environmental Crime Unit of the National Bureau of Investigation initiated the process in close cooperation with the Ministry of Agriculture (responsible for nature conservation and CITES). Members of the NEST include the Ministry of Agriculture, the Ministry of Innovation and Technology (with a role in waste management), the National Tax and Customs Administration, 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. Holding training in the framework of this cooperation also helps mutual understanding of the respective roles of the different authorities in the enforcement chain, builds contacts and trust and provides a platform for exchanging information. NEST also allows for more efficient coordination and preparations for law enforcement operations. Therefore, this initiative is a good practice. It has the potential to make the work of law enforcement authorities more effective and efficient. The exchange of information and the network for communication within the police has already improved thanks to this initiative.

Apart from NEST, there are official lines of cooperation, some of them provided by the law (e.g., the relationship between the prosecution offices and police departments), but personal ties also enhance effective cooperation (e.g., getting professional advice from the CITES Management Authority (MA) in potential wildlife trafficking cases).

Additionally, it is of great importance to set up cooperation across borders tackling wildlife crime due to its transnational character. In the EU, Europol, the EU Agency for Law Enforcement Cooperation, supports operations. Within the EU, the Council of the European Union decides on the European Multidisciplinary Platform Against Criminal

[134] See more at materials by INTERPOL (for instance, at https://www.interpol.int/en/Crimes/Environmental-crime/Our-response-to-environmental-crime) and find out more about the Hungarian NEST here https://www.police.hu/hu/hirek-es-informaciok/legfrissebb-hireink/szervezeti-hirek/osszefogassal-a-kornyezeti-bunozes-ellen.

Threats (EMPACT). This instrument sets out the common priorities for the fights against serious and organised crime in the EU. Environmental crime has been included in the EMPACT 2022-2025 priorities.[135] Additionally, Eurojust, the EU Agency for Criminal Justice Cooperation plays a crucial part in cross-border cooperation in wildlife crime matters. From 2017, Hungary was involved in a joint investigation team consisting of Czech and Slovakian partners. Such teams aim "to coordinate the execution of investigative measures (house searches, arrests, seizure of illegal proceeds), share evidence, prosecute the organised crime group member in a coordinated manner, and recover illegal assets".[136]

In the case referred to above from 2017, an organised crime group was involved in poaching protected species (e.g., tigers, elephants, rhinoceros, bears, wolves) and trading illegally in ivory, bones, skins, and extracts from the bodies of the illegally killed animals. The defendants were also laundering the illegal profit. The positive impact of the coordinated approach is indisputable; however, particular challenges arose. For instance, difficulties with evidence gathering, proving the organised nature of the offences, and the absence of a common methodology between countries to evaluate the damage caused by environmental crime.[137]

5.2.6. Challenges related to organisational arrangements

Specialised knowledge and practical experience lie within a specialised unit, the Environmental Crime Unit of the National Bureau of Investigation. The most challenging investigations with international links are investigated by this unit. The officers working at this unit are also responsible for international liaising and cooperation in environmental cases. The Hungarian National Police Headquarters provides central management and guidance to environmental crime focal points appointed at the county police headquarters.

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[135] See more at https://www.europol.europa.eu/empact; the Council conclusions setting the EU's priorities for the fight against serious and organised crime for EMPACT 2022–2025 are available at https://data.consilium.europa.eu/doc/document/ST-8665-2021-INIT/en/pdf.
[136] European Union Agency for Criminal Justice Cooperation, 'Report on Eurojust's Casework on Environmental Crime' (2021), 19.
[137] ibid.

The organisational structure of government offices and the relevant legal provisions for information sharing between different authorities sometimes make it challenging to tackle wildlife crime successfully.

The lack of specialised prosecutors and judges assigned to wildlife crime cases could also pose a challenge. There is no institutional provision designating the personnel with particular knowledge to such cases.

5.3. Case studies

5.3.1. Trafficking of rare cacti case study

Hungarian cactus collectors systematically smuggled rare cacti species from Mexico and sold them online within the EU. Some of the species implicated were the recently discovered *Aztekium valdezii* (CITES Appendix I), and the critically endangered *Mammillaria pennispinosa* ((CITES Appendix II) and *Mammillaria theresae* (CITES Appendix II).[138] The defendant allegedly endangered even the survival of the population of these species as there are very few specimens living in the wild. Consequently, this is the first qualified wildlife trafficking case in Hungary.

The case started by colleagues from Germany notifying the Hungarian CITES MA about certain protected cacti species being sold online on an online platform. Eight Hungarian nationals were involved in smuggling the protected species; four of them travelled to Mexico. Thanks to successful international cooperation on this case, the police found ca. 1200 specimens of cacti in their luggage when returning to Budapest from Mexico. The Hungarian CITES MA filed a criminal complaint, and the Environmental Crime Unit in the National Bureau of Investigation investigated the case. While executing the search warrant, the police found more cacti species. They confiscated the defendants' electronic devices; this was crucial for the later stages of the criminal procedure. This way, the

[138] The IUCN Red List Categories and Criteria are intended to be an easily and widely understood system for classifying species at high risk of global extinction. It divides species into nine categories: not evaluated, data deficient, least concern, near threatened, vulnerable, endangered, critically endangered, extinct in the wild and extinct According to their evaluation, both *Mammillaria pennispinosa* and *Mammillaria theresae*. are critically endangered. See more at www.iucnredlist.org.

police obtained essential evidence to disrupt and understand the criminal network behind the case.

Several trips were made to Mexico by the defendants, during which protected plants were taken from the wild illegally. Effective cross-border cooperation was a contributing factor to the success of the investigation. The Mexican authorities confirmed that they never issued documents or permits for the collection or trade of several of the species concerned. According to the National Bureau of Investigation, some of the defendants are now banned from entering Mexico.[139]

The case is also a great example of how the illegal wildlife trade moves from physical markets to online ones.[140] The case was in the judicial phase at the time of finalising this report; however, a settlement was reached with some of the defendants. The prosecutor in the case requested sanctions reflecting on the illicit financial gains.

5.3.2. Bird poisoning cases

Bird poisoning is a severe problem affecting protected bird species and the whole ecosystem. In the EU, the illegal poisons abused by criminals in these cases have been banned for decades. The poison can spread throughout the food chains which is highly hazardous, even for humans. Still, the number of poisoning cases has been increasing in Hungary. However, thanks to the work of Birdlife Hungary and their partners, including the Hungarian Police, that situation is changing. Detection dog units find both the poison baits and the victims effectively, thus helping the authorities to find and successfully prosecute the perpetrators.

The use of detection dogs was not common in Hungary for detecting wildlife crime (poisoning). For the first time in Hungary, in the framework of the HELICON LIFE project,[141] a poison and carcass-searching detection dog (Falco) was trained in 2013.

[139] Presented at one of the trainings of the Hungarian National Environmental Security Taskforce on 28 Sept 2022 by Rafael Soczó and on 6 May 2022 by István Daróczi.
[140] UNODC, 'World Wildlife Crime Report. Trafficking in Protected Species', p.13.
[141] The Layman's report of the HELICON LIFE project is available in Hungarian and in English at http://www.police.hu/sites/default/files/projekt_csatolmanyok/helicon_d12_laymans_report_2016.pdf.

Based on Falco's successes, as part of the PannonEagle LIFE project from 2015,[142] three more detection dogs (Carlo, Hella and Samu) were trained and their units were established in Hungary.

Inter-agency cooperation is also exemplary in the case of bird poisoning. In numerous wildlife crime cases, nature conservation organisations (e.g., National Park Directorates) or in the event of poisoning, Birdlife Hungary gather essential information about the facts of the case, get publicity, and organise proper representation. In practice, usually, the National Park Directorates file a criminal complaint, and the Environmental Crime Unit in the National Bureau of Investigation investigates the cases. Birdlife Hungary assists the investigation within the limits of the legal framework of the criminal procedure. The following cases ended in court decisions largely thanks to the work of Birdlife Hungary and local National Park Directorates.

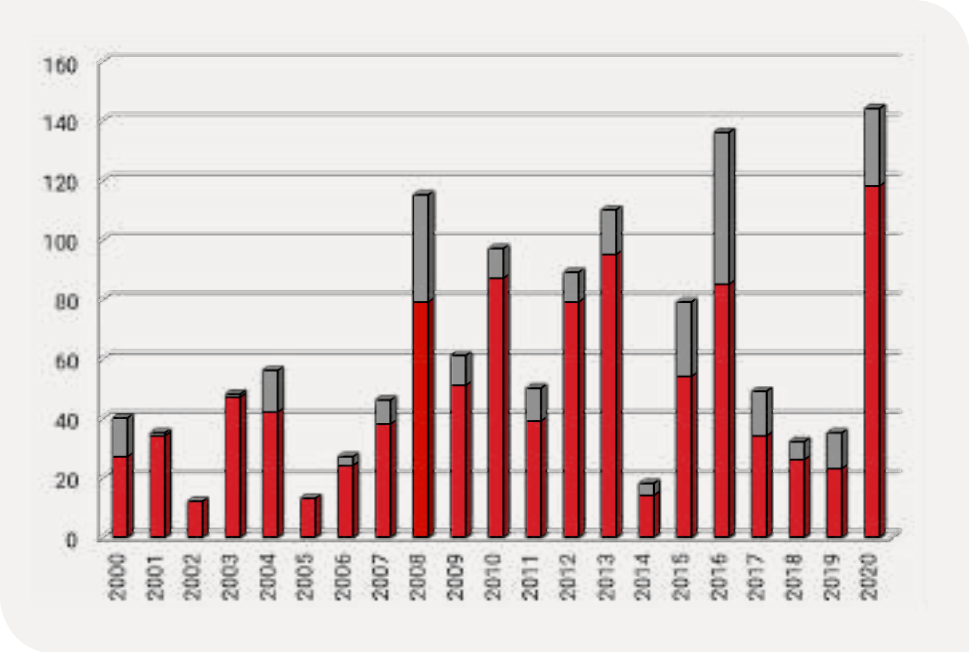


Chart 1. Poisoned individuals (birds) found by birdlife Hungary between 2000 and 2020. Red: protected species; Grey: not protected species.

Source: Birdlife Hungary

[142] See more at https://www.imperialeagle.hu/

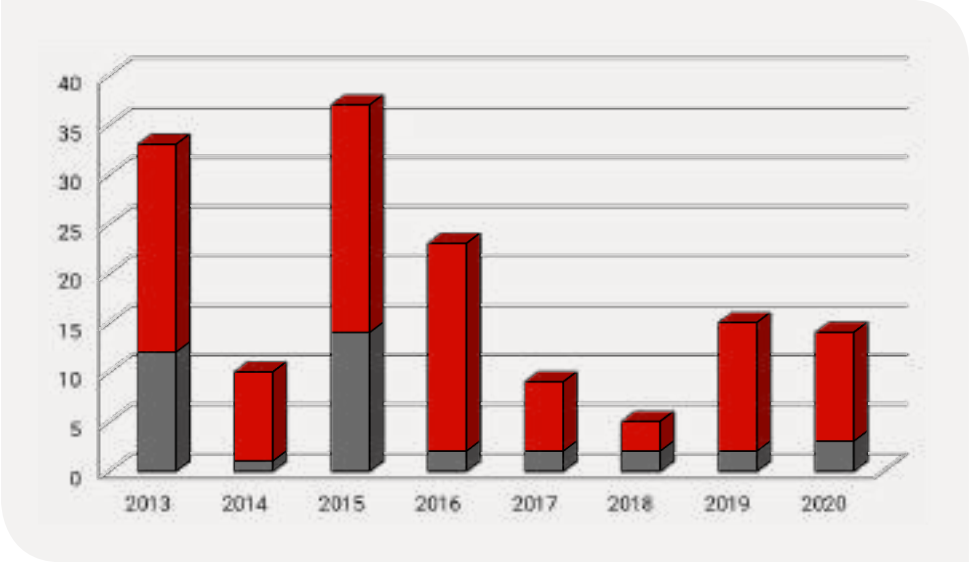


Chart 2. Poisoned baits found by Birdlife Hungary between 2013 and 2020. Red: baits found with dog unit; Grey: baits found without a dog.

Source: Birdlife Hungary

During the time period between 2013 and 2020, Birdlife Hungary participated in 1141 searches and found 331 poisoned animals, as well as 120 poisoned baits. Many of these cases remained unsuccessful regarding investigation or prosecution.[143] In 2015, however, several perpetrators were brought to court. In addition to the detection dog unit, the beginning of the HELICON LIFE project was a game-changer in other ways, too. Its dedicated personnel focusing on bird poisoning cases, working for years as part of a funded project, resulted in recognition of these crimes both by the authorities and the public.

Birdlife Hungary analysed bird poisoning cases committed in 2013-2016 and the related court decisions.[144] One offence was committed in Jász-Nagykun-Szolnok county, another one in Heves county, and two other offences were committed in Bács-Kiskun county. The defendants were men in all cases, aged between 30 and 44 years old. A wide range of species was concerned. In the first case, poisoned carcasses of one Badger and three Western Marsh Harriers were found, as well as 30 carbofuran-infused eggs.[145] In

[144] Márton Árvay, Márton Horváth, and Gábor Deák, 'Vadvilág Ellen Elkövetett Bűncselekmények Ragadozómadár-Mérgezések' (*BirdLife Hungary, WWF Hungary*), p.21., and https://wwf.hu/public/uploads/toltsdle/1637331362-swipe-ragadozomadar-mergezesek.pdf.
[145] District Court of Kunszentmiklós, 03070/217/2013 Bü.

the second case, two Eastern Imperial Eagles, a Western Marsh Harrier, and a poisoned bait were found.[146] In the third case, a strictly protected Imperial Eagle and eight other protected birds (two Hen Harriers, one Western Marsh Harrier, one Eurasian Sparrowhawk, one Northern Goshawk, one Buzzard, one Long-eared Owl, one Rook), and one Red Squirrel fresh taxidermy were found.[147] In the fourth case, fourteen Buzzards, three foxes, one dog, one cat, and twelve domestic ducks, as well as poisonous baits, were found on the site.[148]

Significant takeaways from the cases were that one Eastern Imperial Eagle was found thanks to a GPS tracker on the bird,[149] and that a search warrant is truly beneficial in these cases; for example, the illegal pesticides and all the other evidence proving the abuse of poison can be confiscated. This happened in one case where the search warrant was executed immediately after the field visit.[150] Furthermore, illegal possession of protected species (often trophies or taxidermies) can also be proven.

The criminal sanctions may not serve a deterring effect; further studies are needed in this regard. In the first case, the defendant was sentenced to two-year suspended imprisonment. At the same time, they had to pay 130 EUR wildlife protection fines. In the second case, a ca. 1300 EUR financial penalty was imposed on the first defendant, and a ca. 1600 EUR financial penalty was imposed on the second defendant. In the third case, the defendant was sentenced to one-year, three-month imprisonment (suspended for two years), and a financial penalty of 350 EUR was also imposed. In the fourth case, the defendant was sentenced to one-year seven-month imprisonment (suspended for three years), and a financial penalty was imposed. In conclusion, no one was sentenced to imprisonment to be served in these cases. One may argue that the financial penalties were negligible in light of the hazardous nature of such crimes and the dangers posed to human life and the environment. No disqualification from the profession was imposed, even if the offence was committed by a professional hunter who must have been well

[146] District Court of Szolnok, 66.B.643/2014/17.
[147] District Court of Hatvan, 03070/531/2014. Bü.
[148] District Court of Baja, 29022/97-11/2016.
[149] District Court of Szolnok, 66.B.643/2014/17.
[150] District Court of Baja, 29022/97-11/2016.

aware of the rules of their profession. The costs of the criminal proceedings, paid by the offenders, were sometimes higher than the imposed financial penalty or fines.

Like other forms of wildlife crime, the poisoning cases could be challenging to understand thoroughly, even in the judicial phase. The administrative law regulating conservation matters, the regulatory threshold makes these cases, and the expertise needed in cases involving protected species and poisoning complicated and sometimes burdensome. The recent modifications of the Criminal Code at the end of 2021 included a provision that the person who commits the crime of damaging natural values by abusing poison or using poisonous baits would be guilty of a felony. The penalty is imprisonment for one to five years in such events.[151]

New offences were recently committed in Pest county (September 2021); these cases have not reached the judicial phase by the finalisation of this report.[152] Poisoning also made it to the political agenda of the National Assembly in Hungary, and the Criminal Code was amended at the end of 2021, making poisoning a qualified crime of damaging natural values.[153]

6. Analysis of criminal offences related to wildlife conservation

6.1. Data analysis

This section presents the analysis of data from Hungary on wildlife crime cases from 2015 to 2020 within the SWiPE project's scope. The SWiPE consortium followed a common methodology for data collection. The charts below sometimes are

[151] Act C of 2012 on the Criminal Code, Article 242(2a).
[152] See more about the case at https://parlagisas.hu/hu/content/soha-nem-latott-meretu-ragadozomadar-mergezes-egy-turai-vadasztarsasag-mukodesi-teruleten.
[153] Using poison or placing bait suitable for killing an animal and thus endangering the life of more than one animal would be, if proven, a qualified crime of damaging natural values, and committing such crime by negligence is also a crime; see Article 242(2a)-(3a) of the Criminal Code. BirdLife Hungary, WWF Hungary, and TRAFFIC while welcomed the prioritisation of wildlife crime, called for a meaningful stakeholder consultation, our letter containing the key points of our policy position is available at https://wwf.hu/public/uploads/toltsdle/1637236836-t17434-wwf-traffic-mme.pdf.

supplemented with information from the semi-structured interviews. The following analysis is based on information from Hungarian authorities and official bodies. Relevant recent publications and research complement the findings of this section where relevant.[154]

6.2. Data accessibility, completeness and consistency

The Hungarian SWiPE team received data on wildlife crime cases from the Environmental Crime Unit of the National Bureau of Investigation, the Office of the Prosecutor General, the National Office of the Judiciary, the Hungarian CITES Management Authority, the National Tax and Customs Administration, and government offices. The CITES-related data from the last three institutions were, with the necessary authorisations, EU-TWIX data.[155] Publicly available judgements on relevant wildlife crime cases were also examined.[156]

The total number (of species, specimens, cases) may change due to the relevance and availability of data; nevertheless, it is always clearly stated and explained (when necessary) below the charts.

When the data from the Environmental Crime Unit of the National Bureau of Investigation did not contain information on the species involved in the case, that case was not included in our dataset, as the SWiPE project focuses only on crimes concerning protected species. When it was explicitly stated in a case that no protected species were harmed, these were also excluded from this analysis for the same reason. However, due to the decision of the SWiPE consortium regarding the scope of the project, the datasheets occasionally contained cases regarding non-protected species in wildlife

[154] For instance, György Harnberger and Csaba Zsigmond (n 90), Katalin Tilki (n 124), Zalán Zachar, 'A környezetkárosítás-bűncselekmény kriminálstatisztikai mutatói és az elkövetők szociálgeográfiai vizsgálata' (2020) 68 Belügyi Szemle., p.33-51.

[155] The EU-TWX database is a restricted database accessible only to enforcement officers working on CITES issues in Europe. The data stored in this database of European seizures remains the property of national law enforcement agencies reporting them. At the time of writing, all 27 EU member states, Switzerland, Ukraine, and the United Kingdom report data to the database. See more at https://www.eu-twix.org/.

[156] The official database of Hungarian judgements available at https://eakta.birosag.hu/anonimizalt-hatarozatok.

poisoning cases, which were included in the dataset. This decision had to be respected by the Hungarian team as other partners collected and analysed data in this manner.

When drawing any conclusion from the data provided by the National Office for the Judiciary, it is crucial to consider that one defendant could have received more than one penalty or measure. Therefore, the number of penalties and convictions is not necessarily equivalent to the number of defendants, and it is also possible that one defendant committed more than one criminal offence.

Data received from the Office of the Prosecutor General were incomplete for the purposes of our analysis for a total of 84 cases (approx. 10% of all cases received), so they were excluded from our dataset. For example, information was missing on the typology, and omissions were related to, among others: the date of the incident, the date of the case registration at the police and the prosecutor's office, and information concerning whether the prosecutor requested a penalty order or a summary trial. Data received from the Office of the Prosecutor General may not contain all the pending cases due to technical reasons.

Data from the Environmental Crime Unit of the National Bureau of Investigation did not cover the entire six years analysed; data from 2015 and 2016 were not available due to compliance with their data processing rules. For the same reason, data from 2017 were also incomplete.

While the above points would indicate that our data represent fewer records than the actual total, our database likely also contains the same cases several times, as reported by the different authorities but at different stages of the law enforcement chain. For example, the same case reported by the police, the prosecution and the court could appear three times in our database as we have no objective way (e.g., official case reference/file numbers) to merge them into one record. Therefore, our dataset both under – and overrepresents the actual number of data records, and thus, interpretation of the findings of the analysis has to be made with this in mind. Further research and analysis would be beneficial to understand the scale of wildlife crime in Hungary thoroughly.

The SWiPE project in Hungary lacked access to indictments and publicly not available judicial decisions. This also must be considered when drawing a conclusion based on the presented analysis.

This report analyses and presents data from 2015 to 2020. Due to the national scope of the report, cases from all over the country were examined. When assigning cases to particular years, a somewhat arbitrary approach had to be taken, as depending on the data source and their completeness, information might have been available about the time when the offence was committed, prosecuted, or a court decision was made. However, typically the date when the offence was committed (where available) was used as a benchmark as that was available for most cases and therefore could be used for comparison. Chart and table captions always note that whether referring to a year means that the offence was committed, prosecuted, or a decision of a court or other body was published in that year. When the date of the offence was lacking, but it was clear that the case was from a certain year (e.g., datasets with an annual breakdown from the Environmental Crime Unit of the National Bureau of Investigation), that year was added in as the date of committing the offence.

6.3. A short analysis of all examined wildlife crime cases

This section gives an overview of wildlife crime cases in Hungary, especially on the scale, the prosecution, conviction and acquittal numbers, and the criminal sanctions imposed. Cases not violating criminal law were not included.

	2015	2016	2017	2018	2019	2020*
Registered cases	91	87	81	450	165	59
Convictions	15	38	42	24	34	10
Acquittal	1	2	2	4	3	0
Termination	2	0	0	0	0	0

from the National Office for the Judiciary. Note: in addition to wildlife crime cases covered by the SWiPE project's scope, these cases likely also include cases that do not fall within the scope of this project, such as habitat destruction. *The year 2020 was not a closed statistical year.

In Table 3, official data from the annual report of the Prosecutor General show how many offences of damaging natural values were registered in the reporting years. These values were compared with the data gathered from the National Office of the Judiciary on convictions, acquittals, and termination of criminal proceedings at the judicial phase. As defined in Article 242 of the Criminal Code of Hungary, the crime of damaging natural values almost completely covers the SWiPE projects' scope. The report of the Prosecutor General from 2019 even mentions increasing awareness within society about criminal offences against the environment and nature, and consequently, the prosecution service's particular attention to these cases.[157] The outstandingly high number of cases from 2018 is due to one case with 346 registered offences.[158]

According to the data, the number of officially registered wildlife crime cases was overall rising; the number of wildlife crime cases in 2019 was 1.5 times more than the number in 2015. It is also noteworthy that – in the examined period– there were good chances for a conviction if a wildlife crime case reached the court, even though a conviction in itself is not an answer to all the challenges wildlife crime poses to our society and natural values, and these data and the content of the judicial decisions (which were not available at the time of the finalisation of the report) have to be analysed more thoroughly.

[157] 2019 Annual Report of the Office of the Prosecutor General (*B/12207 A legfőbb ügyész országgyűlési beszámolója az ügyészség 2019. évi tevékenységéről*), available at http://ugyeszseg.hu/wp-content/uploads/admin/2020/10/ogy_beszamolo_2019.pdf, p.12.
[158] 2018 Annual Report of the Office of the Prosecutor General (*B/7481 A legfőbb ügyész országgyűlési beszámolója az ügyészség 2018. évi tevékenységéről*), available at http://ugyeszseg.hu/wp-content/uploads/v1xpafghz/2020/08/ogy_beszamolo_2018.pdf, p.19.

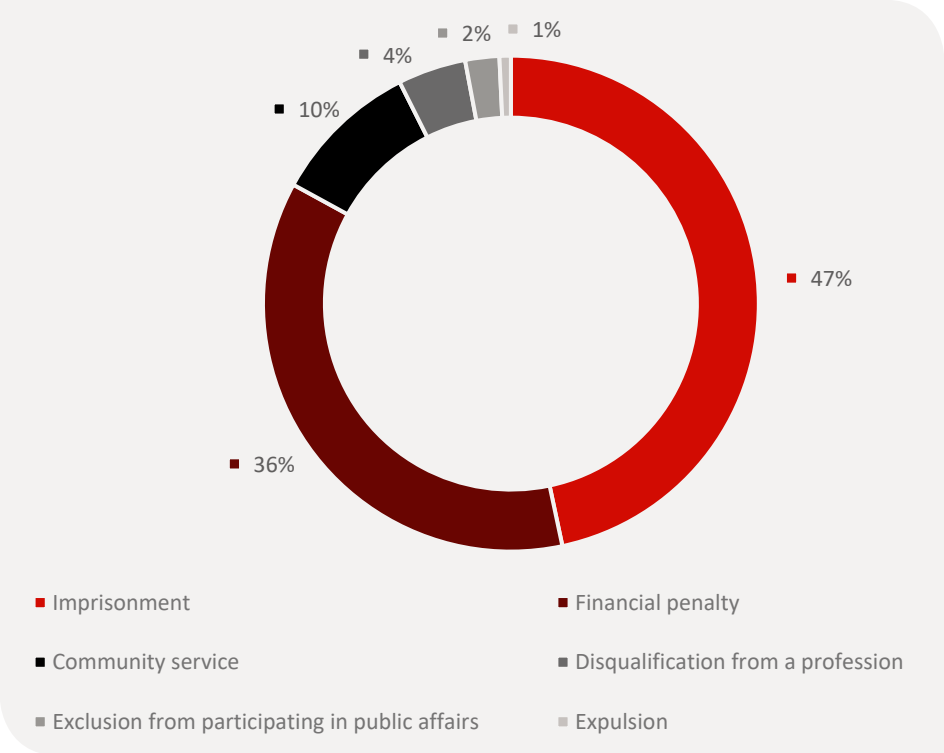


Chart 3. The penalties imposed in cases of damaging natural values, 2015–2020. Total number of penalties: 123.

Source: data from the National Office for the Judiciary.

Note: in addition to wildlife crime cases covered by the SWiPE project's scope, these cases likely also include cases that do not fall within the scope of this project, such as habitat destruction. The year 2020 was not a closed statistical year. When drawing any conclusion while using data from the National Office for the Judiciary, it is crucial to consider that one defendant could have received more than one penalty or measure. Therefore, the number of penalties and convictions was not necessarily equivalent to the number of defendants, and it is also possible that one defendant committed more than one criminal offence.

From a total number of 123 penalties imposed during the period examined (Chart 3), imprisonment was the most frequent penalty as it was imposed in 63 instances (47%), although the penalty of imprisonment to be served was imposed only three times. Financial penalty was the second most common penalty, and it was imposed 49 times (36%). Disqualification from a profession was imposed in six cases (4%), expulsion and community service were each imposed only once (1% each). Exclusion from participating in public affairs is a secondary penalty in the Hungarian legal system,[159] and it was

[159] Act C of 2012 on the Criminal Code, Article 33(2).

imposed thirteen times (10%). The instance of the court was not available; therefore, it was not analysed. The number of years imposed as imprisonment penalty or the amount of money to be paid as financial penalty was unavailable. As a result, it was not possible to thoroughly evaluate these data from a nature conservation viewpoint. Nevertheless, solely imprisonment and financial penalty may not deter defendants from committing wildlife crimes, especially if the (financial) benefits outweigh the possible negative consequences and if the risks of detection and prosecution stay low.

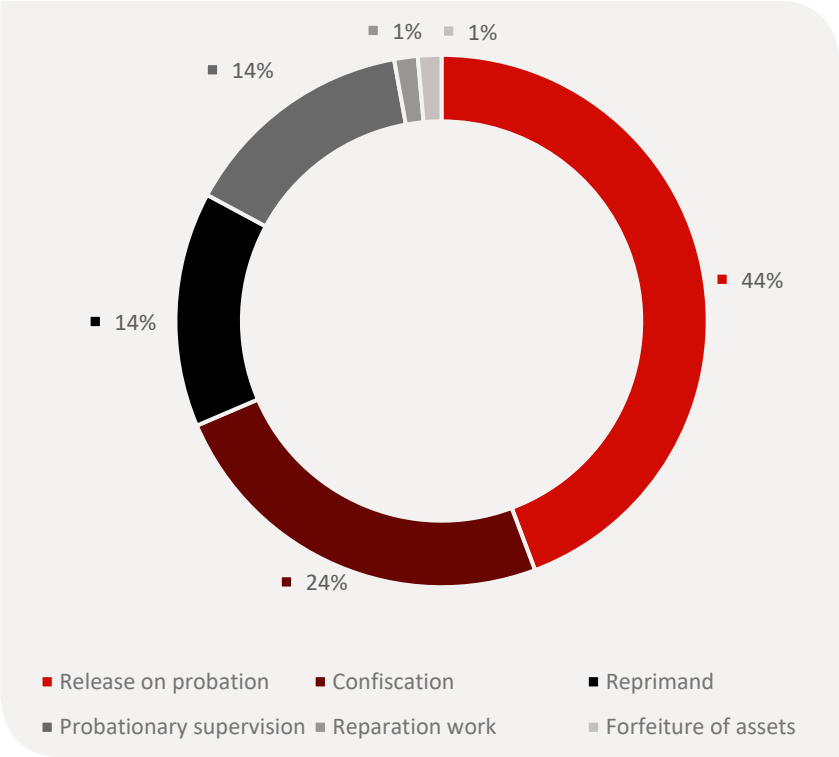


Chart 4. The criminal measures imposed in criminal cases of damaging natural values, 2015–2020. Total number of measures: 70.

Source: data from the National Office for the Judiciary

Note: in addition to wildlife crime cases covered by the SWiPE project's scope, these cases likely also include cases that do not fall within the scope of this project, such as habitat destruction. The year 2020 was not a closed statistical year. When drawing any conclusion while using data from the National Office for the Judiciary, it is crucial to consider that one defendant could have received more than one penalty or measure. Therefore, the number of penalties and convictions was not necessarily equivalent to the number of defendants, and it is also possible that one defendant committed more than one criminal offence.

The other type of criminal sanctions in the Hungarian legal system, apart from penalties, are the so-called measures. As presented in Chart 4, from 2015 to 2020, 70 measures were also imposed in cases of damaging natural values. The most common measure was the release on probation, imposed in 31 instances (44%). The second most common measure was confiscation, imposed 17 times (24%), and the third was reprimand and probationary supervision, each imposed ten times (14% each). Reparation work and forfeiture of assets were imposed only once (1% each). The dominance of release of prohibition and the significant number of reprimands is worthy of consideration as, after careful consideration, they can be applied instead of a penalty. Also, it would be interesting to understand why specimens were not confiscated more times, whether another authority had already seized the specimens or the subject was not available, or other reasons. When considering the lucrative nature of certain types of wildlife crime, rationally thinking, forfeiture of assets should have been applied more regularly. Nevertheless, this cannot be established without further analysis of the cases. Additionally, examining how reparation work imposed in wildlife crime cases can serve nature conservation goals could be an interesting field of research.

While the SWiPE project compiled data received from all agencies, it would be misleading the draw conclusions from the analysis of all cases covering illegal wildlife trade, illegal killing of species (including, e.g., illegal hunting or poisoning cases), illegal taking, capturing, collecting of live specimens, illegal collection of eggs, illegal possession, illegal processing of animal material, illegal supply and sale, consumption of illegal wildlife products, and use of prohibited hunting or fishing equipment or methods (including forbidden traps or baits). All cases committed, prosecuted, or adjudicated in 2015–2020 would be examined together, and that – together with data admittedly missing from certain institutions – could lead to serious misunderstandings of trends. The period between committing the act and prosecuting the case or even delivering a judgement can be lengthy, and such analysis would exceptionally contain cases for which the prosecution or the decision of a court was delivered in the examined period and so inflating the number of cases overall. For example, a bear was shot with the cooperation of several hunters in 2014; the next available information is that the first instance court decided on the case in 2017. Regardless of the logic followed to include

such a case in one year's column, it would be misleading in the end, especially as there are numerous cases where the data received from different institutions did not allow the examiners to connect them, therefore, it would cause a significant overrepresentation.

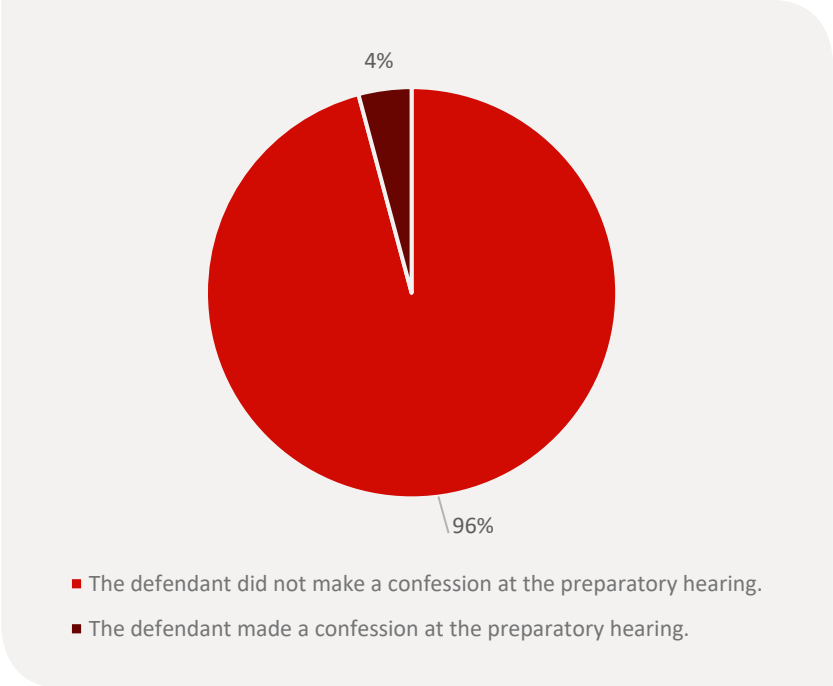


Chart 5. The percentages of cases where the defendant confessed to committing wildlife crime in Hungary, 2015–2020. Total number of cases: 552.

Source: SWiPE wildlife crime database

Information on the confession of guilt was included in the data received from the Office of the Prosecutor General. From a total of 552 cases with such information (Chart 5), the defendant confessed their guilt at the preparatory hearing only in 23 cases. Such confession can open the door to a different procedure from the general one. When guilt is confessed at the preparatory hearing, the prosecutor in those cases can propose sanctions that the judge cannot modify to a more severe one if they accept the confession. However, this means that the defendant does not have a proper trial. In the event that the preparatory hearing did not result in an agreement between the prosecutor and the defendant and acceptance by the judge, the judge would schedule the trial. All in all, with necessary guarantees, this could reduce the workload on the judiciary and help reduce the length of criminal procedures. The law on new criminal

procedure with the relevant provisions was introduced in 2018. Accordingly, all these cases were reported from 2018 onwards (2018: one case, 2019: 12 cases, 2020: 10 cases).

Illegal wildlife trade data were analysed separately from the other types of wildlife crime cases due to their different characteristics.

6.4. Scale and types of detected illegal wildlife trade cases

A total of 344 illegal wildlife trade cases (including detected, prosecuted, and adjudicated cases) were found for 2015–2020. As data from Hungary were collected, the Hungarian Criminal Code's definition was followed for illegal wildlife trade. Accordingly, wildlife trafficking is committed if a person unlawfully acquires, keeps, places on the market, imports to, exports from, or transports through the territory of the country, trades in, damages, or destroys a specimen of a living organism 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.[160]

From 232 cases where information was available, the direction of trade was transnational in 132 cases, and in 62, it was national (the trade was internal) in Hungary in the examined period. In 38 cases, however, the direction of trade was unknown. Note that more than one species and specimens could be involved in one case. According to the data, in 58 cases, specimens were seized at airports, and this represented about 25% of all cases where data was available on seizure location. The EU average for airports as seizure location – generally, the most common type of location – in 2018-2020 was 33%.[161]

[160] Act C of 2012 on the Criminal Code, Article 242(1)(c); EU Wildlife Trade Regulations.
[161] TRAFFIC for the European Commission, 'An Overview of Seizures of CITES-Listed Wildlife in the European Union. January 2019 to December 2018.' (2020), p.9; TRAFFIC for the European Commission, 'An Overview of Seizures of CITES-Listed Wildlife in the European Union. January 2019 to December 2019.' (2021), p.8; TRAFFIC for the European Commission, 'An Overview of Seizures of CITES-Listed Wildlife in the European Union. January 2019 to December 2020.' (2022), p.6.

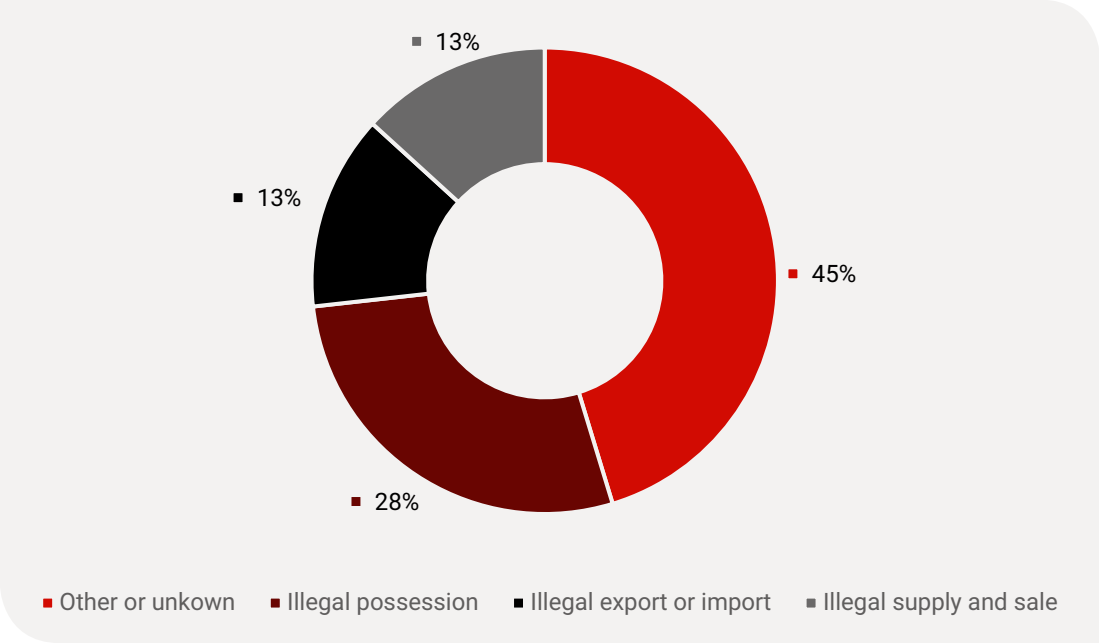


Chart 6. Different forms of reported wildlife trafficking cases, 2015–2020. Total number of cases: 344.

Source: SWiPE wildlife crime database

Regarding illegal wildlife trade offences, the SWiPE project's chosen typology contained the following categories: illegal export or import, illegal supply and sale, illegal possession, illegal taking, capturing, or collecting of live species, illegal collecting of eggs. From a total number of 344 examined cases, illegal possession took up 95 cases, illegal supply and sale 45 cases, and illegal export and import 46 cases (Chart 6). However, there could be anomalies in reporting. Due to the negligible number of cases of illegal taking, capturing, or collecting of live species, they were included in the "Other" heading of Chart 6. In either way, there was no unequivocally dominant form of wildlife trafficking in Hungary for the examined period.

From the data received, one could draw the conclusions that wildlife trafficking is on the rise of the country, as it shows that; there were more than twice as many reported cases in 2020 than in 2015. However, as the data was admittedly incomplete and insufficient to draw well-established conclusions, for instance, it was not possible to link the data from different institutions, this might not exactly represent reality. Therefore, for credibility reasons, the chart showing such annual breakdown, is not shown in this report.

Information on taxonomy was included in the data from the Environmental Crime Unit of the National Bureau of Investigation and the EU-TWIX data (from the CITES MA, including government authorities reports, and from the National Tax and Customs Administration). The data received from the Office of the Prosecutor General did not include such information. In this manner, only the cases with taxonomy information were included in the next piece of analysis. In wildlife trafficking cases it means that 24 cases could not be analysed.[162] From the whole dataset, 445 cases could not be analysed from a taxonomical viewpoint.

From all cases where information on the taxonomic categories was available, 277 (57%) fauna and 207 (43%) flora specimens were reported. According to the data available, slightly more plant species were the victims of wildlife trafficking than animals in Hungary in the examined period. Data from prosecution sometimes included only high-level information on taxonomy, like "bird" or "plant species", but not sufficient for full analysis (e.g., unclear if protected species were involved or if the protection was national or EU level).

From the 579 records where information on the taxonomy of the species involved was available,[163] Hermann's Tortoise (*Testudo hermanni*) was the most common animal species and the subject of the crime of damaging natural values in Hungary according to data available during the period under examination (36 records); in most cases, the specimens were found and seized live. 175 (all live) specimens have been included in the SWiPE wildlife crime database. The Snowdrop (*Galanthus nivalis*) was the second most often seized species (30 records), traded most frequently as a flower. This number includes *Galanthus nivalis "Flore peno"* seizures, an artificially propagated hybrid, the trade of which does not directly threaten the species' survival in the wild and cause minimal damage to the environment but the international trade of which still requires CITES documents. A total of 6099 flowers and live specimens of this species were seized from 2015 to 2020. Costus Root (*Saussurea costus*) was the third most often seized species

[162] Apart from the 84 cases mentioned above where no information was available on the typology of the criminal offence.
[163] One case can contain more than one record (information on taxonomy).

(17 records), predominantly traded as medicine, sometimes as a derivative/extract. The Brown Bear (*Ursus arctos*) and the Lion (*Panthera leo*) were next (14 records each). The former was traded as skins, leather products, trophies, a rug, fur products, and dead bodies. As for lions, all specimens were seized live. The Greek Tortoise (*Testudo graeca*) was also a frequently trafficked species in the examined period (13 records), seized live in all registered cases. Species from the Scleractinia order (corals) were traded and seized regularly (21 records), mostly as coral or derivatives. Species from the Elephantidae family were also seized quite frequently (15 records), mainly as ivory carving, tusks, or bones. In addition to the protection under CITES, the Snowdrop, Hermann's Tortoise, and the Greek Tortoise are animal species significant for nature conservation purposes in the EU, therefore protected in Hungary. The Brown Bear is a strictly protected species in Hungary.

Where information was available on the defendants – only in the datasets received from the Office of the Prosecutor General– the crimes were typically committed alone. In some cases, a considerable number of people were prosecuted. In a case committed in 2018, 58 people were prosecuted; the prosecution in their case requested financial penalties. The defendants were caught while committing the offence, and the subjects of the case were CITES protected plant species. No further information was available. In another case committed in 2017, 34 people were prosecuted, and financial penalties were requested as a sanction in that case as well. No further information was available on this case, either, and no data implied the organised nature of wildlife trafficking cases in Hungary from the available data. However, this does not mean that it was not the case. The data collected by the authorities and requested by the SWiPE project did not focus on organised crime. Further research and analysis could conclude on this matter.

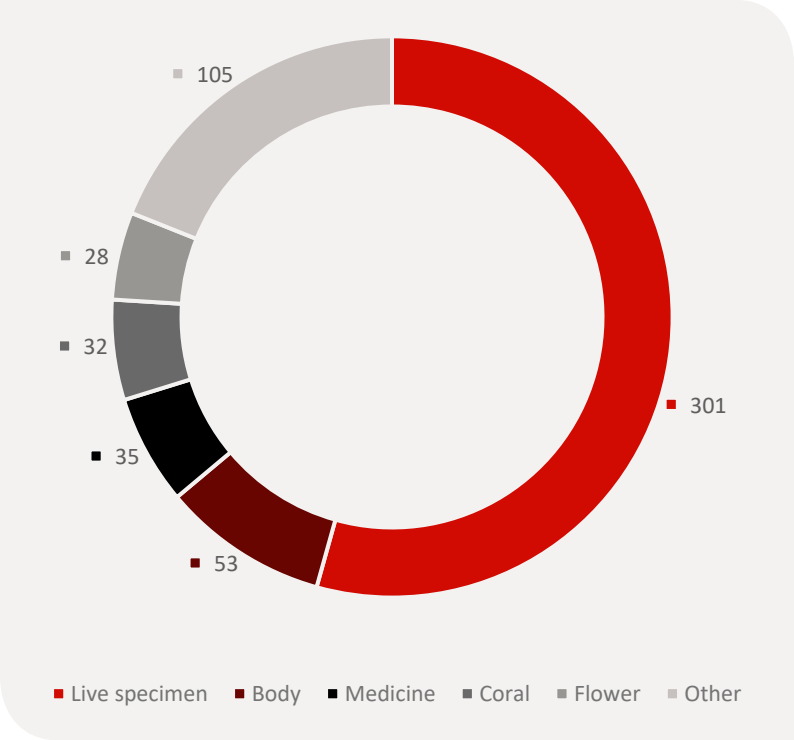


Chart 7. Description of specimens reported in wildlife trafficking cases, 2015–2020 following the descriptive terms used in EU-TWIX. Total amount of specimens: 579.
Source: SWiPE wildlife crime database

As shown in Chart 7, from the total of 579 specimens, in many cases where there was information about taxonomy, the specimen was live (301).[164] Bodies were reportedly intercepted in a much smaller number (53). Medicinal products were significant (35). Other forms of wildlife specimens (105); included small leather products, trophies, skins, derivatives, and carvings. The total number from the original dataset is around 22,000; however, this number could be misleading as it contains numbers of, for example, pills used for medicine and live animals at the same time.

Particular examples of seizures included 6000 pills containing *Dendrobium* species (an orchid primarily used in traditional medicine) at the airport in Budapest in 2020. Snowdrops as flowers were prominent (with more than 500 flowers in certain cases), as well as the noteworthy case of cacti smuggling (see above in the section on case studies).

[164] Nevertheless, even if specimens do stay alive, without necessary, and in many times, costly care they could easily catch diseases. The policy position paper of BirdLife Hungary, TRAFFIC, and WWF Hungary suggested to provide funding for such cases (both for animal and plant species); the suggestion has been partly successfully.

Cacti species were also dominant among seized species in Hungary during the examined period. In only one case, 662 cacti specimens were seized in 2016 by the Environmental Crime Unit of the National Bureau of Investigation. Specimens of 131 different cacti species were, among others, the subject of Hungary's first qualified wildlife trafficking offence case, as the illegal trade seriously endangered the survival of certain species. In that case, a total of 1466 live specimens of rare cacti species were seized. 814 protected bird and mammal bodies (e.g., *Garrulus glandaridus*, *Passer domesticus*, *Pavo cristatus*) were seized in one case in 2018. Other species in the case were reportedly unknown.

6.5. Results of prosecution in illegal wildlife trade cases

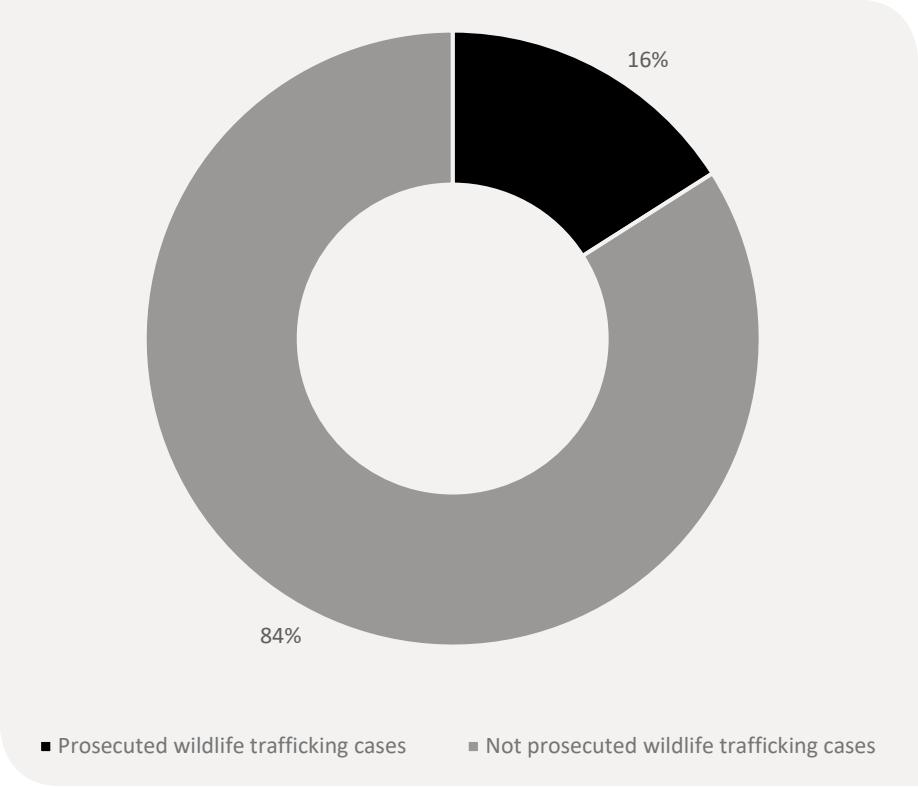


Chart 8. Percentage of prosecuted wildlife trafficking cases reported for the SWiPE project, 2015–2020. Total number of cases: 344

Source: SWiPE wildlife crime database

As presented in Chart 8, of all 344 wildlife trafficking cases in 2015–2020, only 56 (16%) reached the prosecution phase and accessed a criminal court. This is a low number

considering that there is no threshold for or misdemeanour form of wildlife trafficking. Nevertheless, after a thorough examination, the prosecution can choose other procedures instead of prosecuting the case, for example, requesting a penalty order, or the defendant may enter a guilty plea. Examining whether such procedures support tackling wildlife crime effectively could be a subject of further research.

Data with unclear descriptions regarding the procedure or the sanction (whether criminal or administrative) were not included in this analysis. At the same time, the number and, therefore, the proportions could change if more specific information on the cases was available, as there might be duplications due to the lack of sufficient information, for instance, on case numbers. When interpreting this chart, it should be considered that it is not simply a high proportion of prosecuted cases one would expect to see to reach nature conservation goals. It is equally important that all the necessary information and capacity is available for law enforcement officials, prosecutors, judges and all members of the enforcement chain, so no cases end up in termination and never get before a court only because of a lack of resources and awareness.

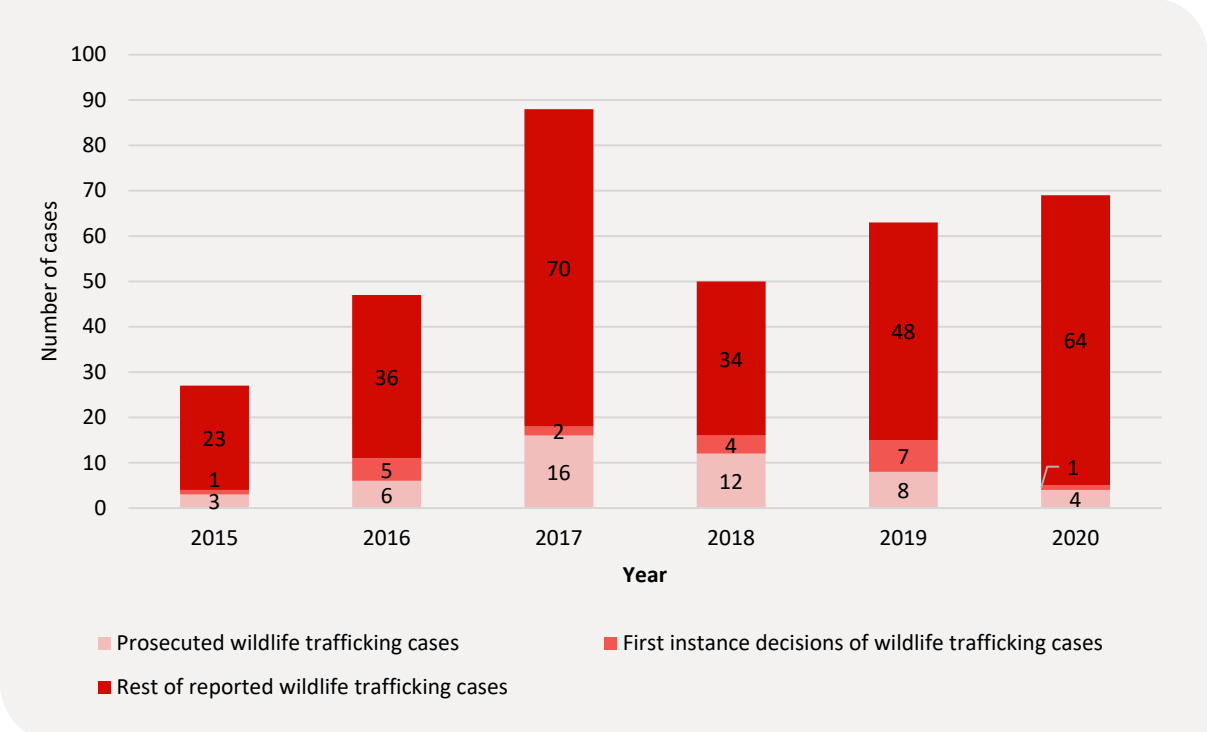


Chart 9. Data on the judicial process: comparison of the amount of all reported wildlife trafficking cases, prosecuted wildlife trafficking cases, and cases that were brought to court, 2015–2020. Total number of cases: 344.

Source: SWiPE Wildlife crime database

The yearly breakdown of wildlife trafficking cases reported, prosecuted, and brought to court (Chart 9) shows how many cases were prosecuted and brought before the court. This Chart, however, could significantly mislead if not considering the necessary caveats of data incompleteness and insufficiency. The total number of cases was 344. The year 2017 saw the most cases. Also, in 2017, the highest number of first instance decisions were made compared to all the other years in the examined period. The lowest number of all cases, prosecuted cases, and cases with first instance decisions were from 2015, although that was a year when police data were not available. Hopefully, the increasing attention to environmental crime could play a role in the overall increasing trend of officially reported cases. However, according to the data received, the number of cases reaching the court was on the decline during the period; prosecution numbers decreased by two thirds, although the dataset on this part of the enforcement chain was the most incomplete. Therefore, it is not appropriate to draw solid conclusions based on this Chart, especially not trends.

The low number of cases prosecuted and brought to court does not necessarily mean that an insignificant number of wildlife trafficking offences was committed in the country; it could also suggest that the offences stay undetected and hidden from the judiciary due to a lack of capacity among the law enforcement authorities or other challenges such as the defendant being unknown. Access to all judicial decisions from the examined period or even the indictment texts would help understand the exact numbers and the causes of such outcomes. Note that Chart 9, without first understanding the actual judgements (and so the outcome of the cases) being accessible to the public, could be misleading, as this chart does not show the underlying reasons for the outcome of the cases, the arguments used by the parties and the judge in the criminal procedure, or even whether the decision was a conviction or an acquittal. The other sections of this report, especially the section on the effectiveness and problems at different stages of combating wildlife crime, analyse and elaborate on the possible causes of such a low number of prosecuted cases.

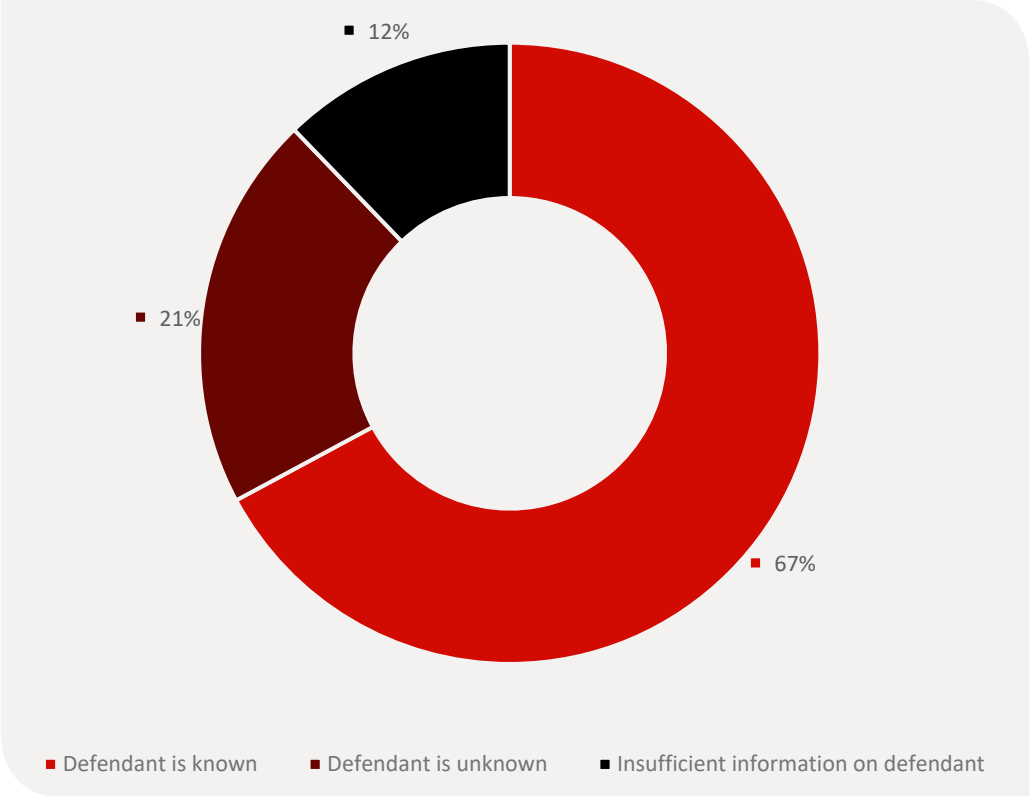


Chart 10. Information on the defendant: known or unknown defendant in wildlife trafficking cases, 2015–2020. Total number of cases: 341.

Source: SWiPE wildlife crime database

The defendant was known in 231 cases (67%), unknown in 71 cases (21%), and in 42 cases (12%); there was not sufficient information available to determine whether the defendant was known or unknown. Without a known defendant, a criminal case cannot be prosecuted. The data on prosecuted cases from the Office of the Prosecutor General were considered as cases with a known defendant, as a known person is needed to prosecute the case; therefore, such data normally only contain cases only with known defendants. The same logic was followed when analysing data from the Environmental Crime Unit of the National Bureau of Investigation; if a case was prosecuted, the defendant must have been a known person. The EU-TWIX data were also used to determine whether the defendant was known or unknown. The information presented in Chart 10 is necessary for understanding the whole picture. If the defendant remains unknown, the criminal procedure must be suspended and then terminated after a certain amount of time. Even if the data show that the defendant was known in the majority of cases, this could be due to data inconsistency, as this information may have been entered into the database

more than once about the same case. Yet, according to the semi-structured interviews with law enforcement officers, the defendant being unknown was a significant cause of wildlife trafficking cases not reaching the court phase.[165]

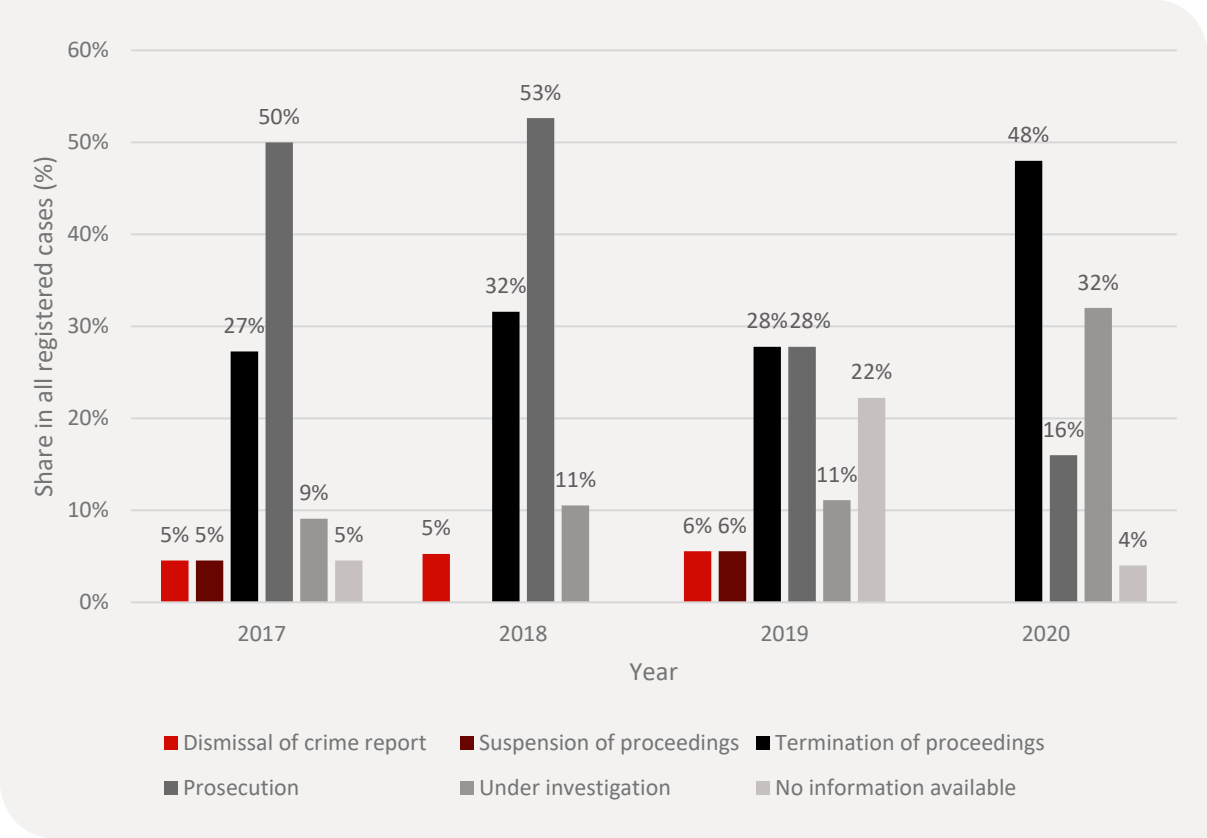


Chart 11. Overview of different possible outcomes of wildlife trafficking cases (prosecution, suspension of proceedings, termination of proceedings, dismissal of crime report), 2017-2020. Cases reported as under investigation are shown as well. Data from 2017 were incomplete.
Total number of cases: 344.
Source: SWiPE wildlife crime database

Chart 11 presents data solely from the Environmental Crime Unit of the National Bureau of Investigation. This is because only this dataset contained sufficient information to determine what happened in the case. Unfortunately, there was no information on what happened in these cases before the court during prosecution. It would be useful to conduct further research to link up cases from different datasets to understand the outcome of wildlife trafficking cases fully. However, additional data from different

[165] Please find more on this issue at the Effectiveness and problems at different stages of combating wildlife crime and at the Recommendations section of this report.

institutions are needed to finalise such research. Until that, the analysis at the beginning of this section with the consolidated official data provides a top-line overview. Nevertheless, some conclusions can be drawn by examining the available data. Following up on the challenges shown and elaborated on in Chart 10 and in the section about the effectiveness and challenges of tackling wildlife crime, vast numbers of terminated cases are presented in Chart 11, and they are on the rise. The low number of cases where the crime report was dismissed is unambiguously positive. Following the relatively high proportion of prosecuted cases in 2017 and 2018, one can see how the termination of proceedings has slowly become dominant, which is not a desirable tendency. In 2020, this number was near twice as many as in 2017.

	Total	2015	2016	2017	2018	2019	2020*
First instance proceedings	34	1	5	2	4	17	5
Second instance proceedings	8	0	1	1	0	5	1
Tertiary proceedings	1	0	0	1	0	0	0

Table 4. Wildlife trafficking cases from 2015–2020 in Hungary. *Source: SWiPE Wildlife crime database.* Note: 2019 and 2020 also contain data from the CITES annual illegal trade report submitted by Hungary. *2020 is not a closed statistical year.

From all 29 cases with relevant information on the court phase of the criminal procedure, in not many cases was there an appeal (Table 4). Access to all judgements would allow for a more thorough analysis.

6.6. Criminal sanctions in wildlife trafficking cases: penalties and measures

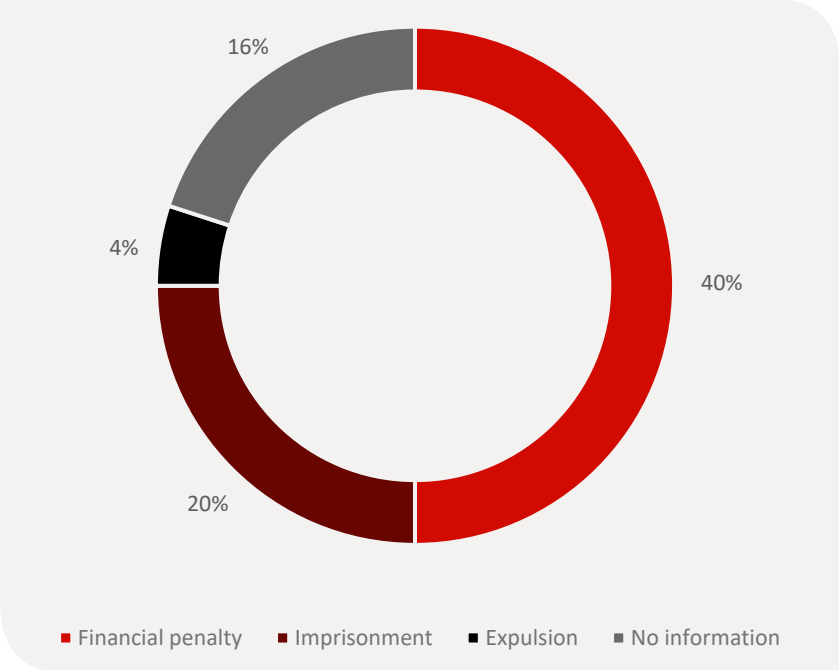


Chart 12. Requested criminal penalties in wildlife trafficking cases in 2015–2020 (total number of cases with relevant information available: 25).

Source: SWiPE wildlife crime database

Only the datasets from the Office of the Prosecutor General contained sufficient information on sanctions, including criminal penalties. Chart 12 presents the distribution of the penalties requested by the first instance prosecutor for a total number of only 25 cases. Financial penalty was requested in 10 cases (40%). Imprisonment penalty was requested in seven cases (20%), and only in one case of these the prosecution requested imprisonment to be served. For the rest (six cases), suspended imprisonment was requested. Expulsion, which can only be imposed on non-Hungarian citizens, was requested in one case (4%), and in four cases (16%), there was no information on the requested penalties. Information from other datasets (e.g., EU-TWIX) shows that sanctions (of criminal or non-criminal nature) with a financial disadvantage were the most common in wildlife trafficking cases.

When data shown in Chart 12 is being compared to Chart 3, it is worth highlighting how imprisonment was the dominant penalty when all wildlife crime cases were analysed. In contrast, in wildlife trafficking cases, financial penalty was the most common

requested criminal sanction. Further research has to be conducted to understand the effect of such sanctions thoroughly. In any way, from the data available and interviews conducted, the amount of financial penalty could have been negligible compared to the illicit profit generated by committing the crime, and the sanction is not necessarily linked to the illicit financial gains. Again, all these findings have to be interpreted bearing in mind the assumption that wildlife trafficking is difficult to detect, investigate, and prosecute. The data shows how less than one-fifth of all cases ended up before the court (see, for example, Chart 8).

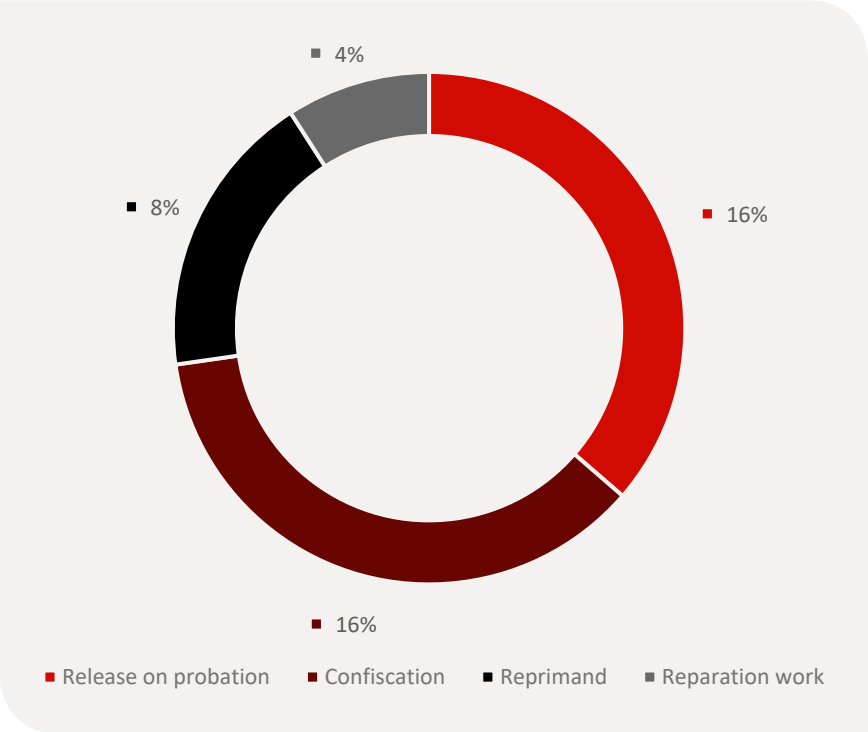


Chart 13. Requested criminal measures in wildlife trafficking cases in 2015–2020. Total number of cases: 25.

Source: SWiPE wildlife crime database

Only the datasets from the Office of the Prosecutor General contained information on sanctions, including criminal measures. Chart 13 presents the distribution of the measures requested by the first instance prosecutor for a total number of 25 cases. In two cases (8%), the prosecution asked for a reprimand. In three cases (12%), release on probation was requested. In one case (4%), reparation work was requested, and in three cases (12%), confiscation was requested. Naturally, confiscation is a measure commonly

used in wildlife trafficking cases. In the SWiPE wildlife crime database, there were data on seizures; however, those could not be compared with data from the Office of the Prosecutor General, as it was unclear whether it was part of a criminal or an administrative procedure (e.g., EU-TWIX data). Further research or the *ex-post* impact assessment of recent legislative amendments[166] would be beneficial to understand what happens in cases when the confiscated specimens involve live specimens.[167]

The comparison with criminal measures imposed in all wildlife crime cases (Chart 4) shows the following discrepancy. The most commonly imposed measure was release on probation in all wildlife crime cases, meaning the imposition of sanctions is only delayed for all wildlife crime cases. The most common measure was also release on probation in wildlife trafficking cases, with confiscation imposed in just as many cases; the second most common one was confiscation in all wildlife crime cases, only the proportion changed. It is interesting how no forfeiture of assets was registered in wildlife trafficking cases, as this criminal activity is one of the most profitable transnational crimes.

[166] Before a legislative proposal is submitted, the actor who has been preparing the file must examine its possible impacts, especially on society, economy, state budget, environment, human health, administrative burdens, as well as the necessity of such law and the conditions for enforcement. The relevant member of the government could initiate an ex-post impact assessment following the former list. More information about the main rules on impact assessment are available in the Act CXXX of 2010 on Legislation.

[167] Data from the National Bureau of Investigation's Environmental Crime Unit sometimes contained information on these matters. However, it was not sufficient for a thorough analysis.

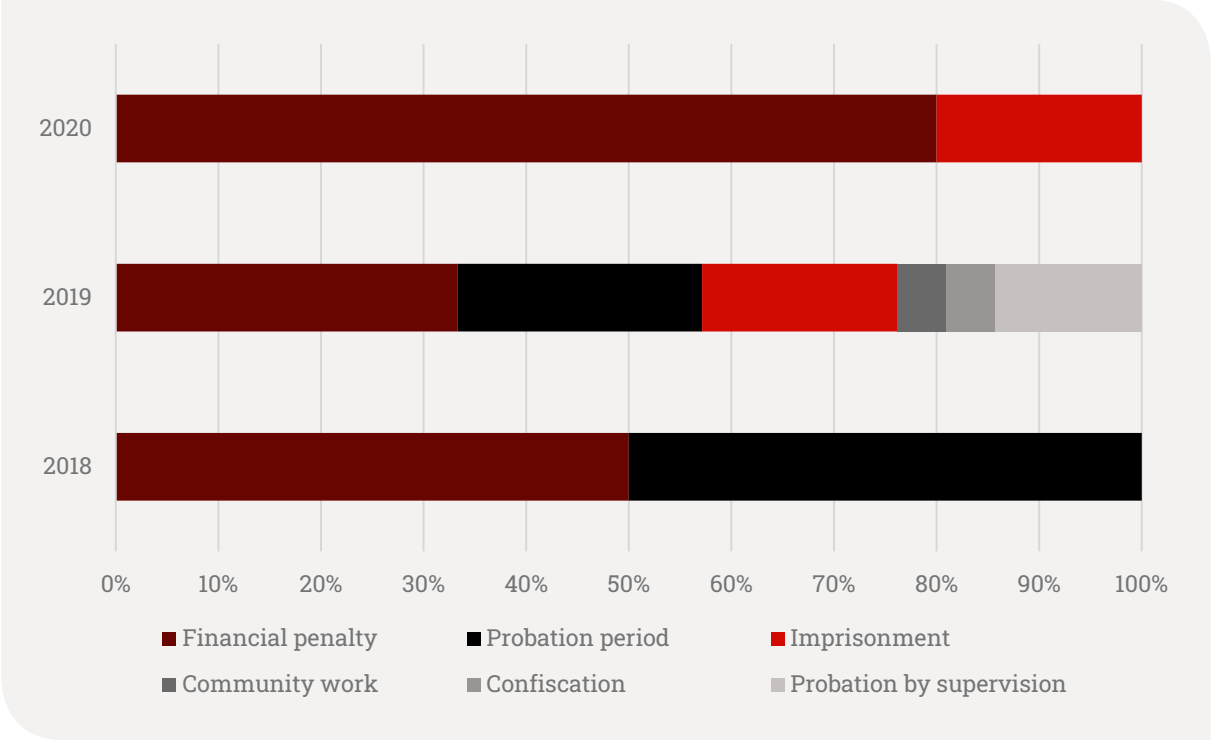


Chart 14. Imposed criminal sanctions: penalties and measures in wildlife trafficking cases in Hungary, in 2018-2019. Total number of cases: 27. Total number of reported penalties and measures: 30.

Source: CITES annual illegal trade report submitted by Hungary. 2020 was not a closed statistical year.

Comparing the data collected directly for the SWiPE project with the data on wildlife trafficking cases submitted by Hungary, it is still clear that financial penalty was the most commonly applied penalty or measure. While, without the proper understanding of the details of the cases, it cannot be safely said what sanction is the appropriate one; however, a more diversified sanctions palette may serve the sanctioning purposes better than simply imposing financial penalties. Therefore, it is a positive change that can be seen in 2019 in Chart 14. Nevertheless, as stated above, measures imposed alone and instead of a penalty may not support tackling wildlife crime effectively.

6.7. Trends and regional differences

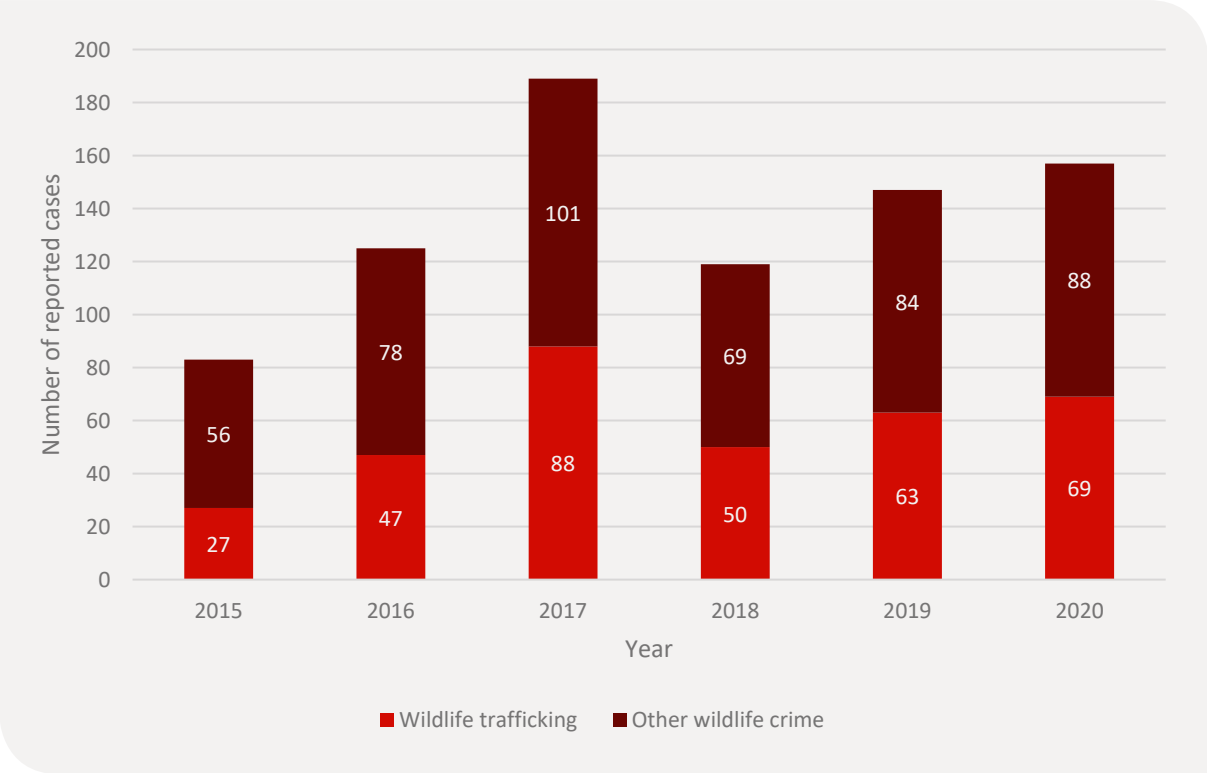


Chart 15. Trends of reported wildlife crime offences within the scope of the SWiPE project, 2015–2020. Total number of cases presented in this chart: 820.

Source: SWiPE wildlife crime database

The collected data supports the hypothesis that wildlife crime is prevalent in the CEE region and Hungary. A considerable number of cases analysed were wildlife trafficking cases; this suggests that well-thought-out policy responses and firm action are needed in this field. The trend of wildlife crime cases shows an increase in detected and reported cases; however, this is not necessarily due to the increased presence of criminal activity. It could equally show increased enforcement effort and increased awareness of wildlife crime. From the analysis of received data, it is quite likely that sometimes wildlife trafficking was misinterpreted by the authorities, then it has been wrongly recorded, and the SWiPE team received such data, and, therefore, there could be more actual cases of wildlife trafficking than presented in Chart 15.

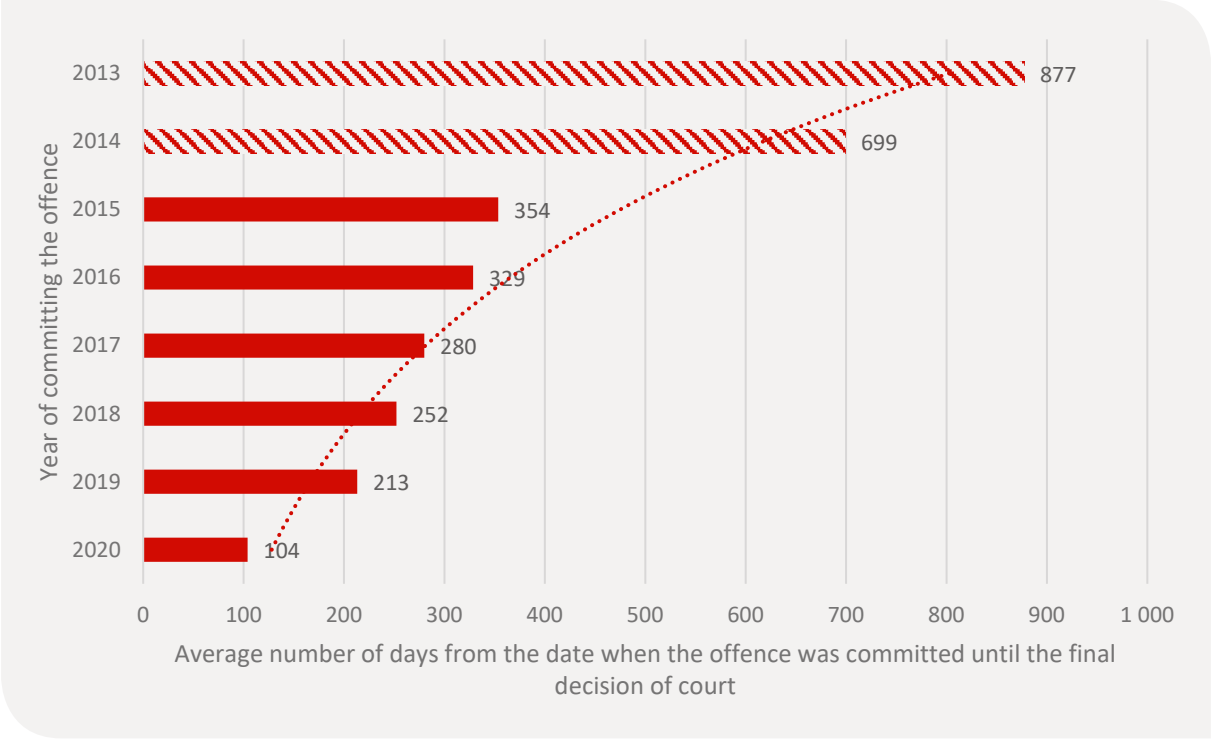


Chart 16. Length of procedure of wildlife crime cases in Hungary in 2013-2020. Total number of cases: 356.

Source: SWiPE Wildlife Crime Database

Note: 2020 was not a closed statistical year for some sources. Data for 2013-2014 most likely was not representative of that period hence the different patterns in the bars.

A total number of 356 cases are presented above, where sufficient information to calculate the length of the criminal proceedings was available. Three additional cases were in the dataset, from 2010 and 2011, with an average length of 2869 and 2445 days. However, presenting such information on the chart would have resulted in even more distorted numbers. The presence of cases with a longer average time before 2015 does not necessarily mean that this was common practice; potentially, it was the result of our dataset carrying a bias: from the pre-2015 period, only those cases were included in our database, which extended to 2015–2020 and thus our dataset was not representative for the pre-2015 period. Further research would be required to understand the reasons for the steady decrease in the number of days; one factor could be that since mid-2018, a new Criminal Code has been in effect in Hungary. Chart 16 above only analyses cases where the date of the final decision was available; where no such information was to be found,

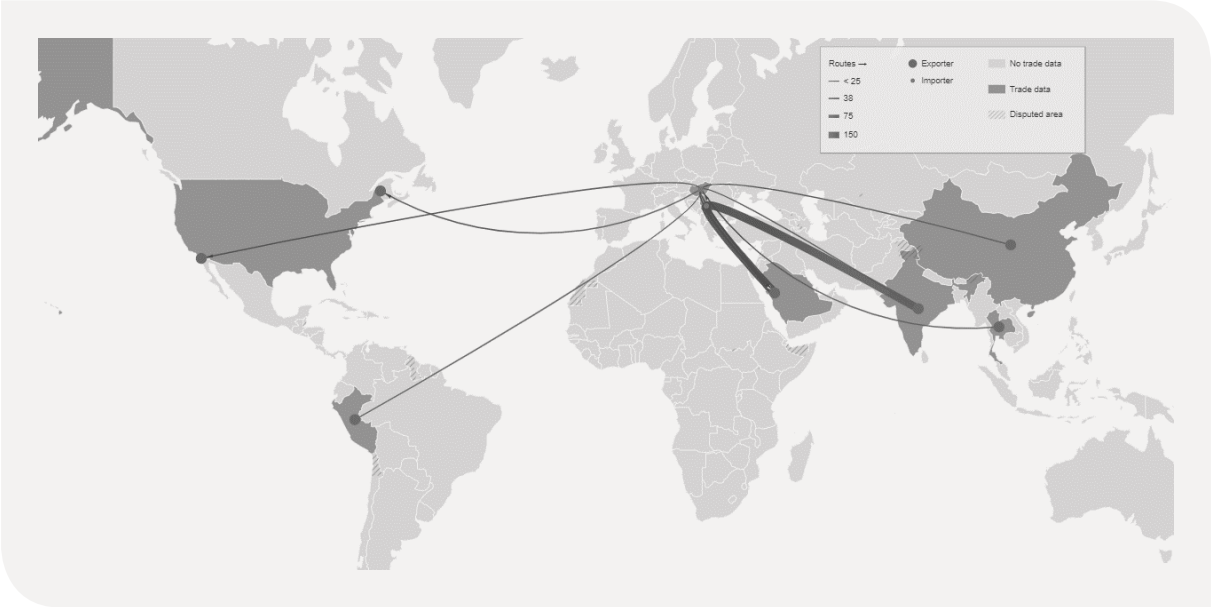
the criminal procedure can be even more lengthy. The average number of days was calculated from six cases committed in 2013, 29 cases committed in 2014, 50 cases committed in 2015, 72 cases committed in 2016, 60 cases committed in 2017, 26 cases committed in 2018, 41 cases committed in 2019, and 28 cases committed in 2020. The number of cases, at least with such information available, also increased significantly. Generally, it is beneficial if less time passes between the commitment of an alleged criminal offence and the decision in the case, both for law enforcement and the defendants. According to mainstream theory in criminal law, the criminal procedure will not serve its purpose if too much time passes,[168] and in any way, it is better to have a resolved criminal case. As time passes, for instance, it could be more challenging for law enforcement authorities to examine evidence or collect further evidence, if needed. For example, in wildlife trafficking cases, the animal or plant species being subject of the crime may require special care. They could be victims of illnesses or other adverse circumstances, making it burdensome to analyse them as evidence.

Map 1. Trade routes of trafficked CITES-listed species seized in Hungary, 2015–2020, based on reported seizures. Total number of records: 484.

Source: SWiPE wildlife crime database

[168] As one of aims of sanctions in criminal law is deterrence, it is fundamental to effectively react to the commitment of criminal activities by the perpetrators, and that includes a timely manner. From another angle, right to a fair trial in the ECRH includes that "everyone is entitled to a fair and public hearing within a reasonable time" regarding any criminal charges. Having the right to have one's affairs administered by the authorities in an impartial, fair and reasonably timely manner is in the Hungarian Constitution, and the Hungarian Constitutional Court examined the matter in its 14/2004. (V.7) decision.

According to the data gathered, the seized species were exported from all over the world. Significant seizures included, for example, illegal import of medicines from Singapore containing protected orchid species (Dendrobium genus, CITES App. II); however, Hungary was only a transit country in that case.



Map 2. Trade routes of trafficked CITES App. I listed species seized in Hungary, 2015–2020, based on reported seizures. Total number of records: 110.

Source: SWiPE wildlife crime database

This map shows the trade routes of CITES App I. listed species. The exporter countries were China, India, Peru, Thailand, and the USA. Among the species affected were cacti from the *Ariocarpus*, *Aztekium*, *Strombocactus, Obregonia, Pelecyphora, Turbinicarpus, Coryphantha* and *Mammillaria* genus, Costus Root (*Saussurea costus*), orchids from the *Paphiopedilum* family and the *Dalbergia* genus, Guatemalan Fir (*Abies guatemalensis*), Grey Parrot (*Psittacus erithacus*), Siamese Crocodile (*Crocodylus siamensis),* Asian Elephant (*Elephas maximus*), Ocelot (*Leopardus pardalis*), Eurasian Otter (*Lutra lutra*), Peregrine Falcon (*Falco peregrinus*), Tiger (*Panthera tigris*), White-tailed Eagle (*Haliaeetus albicilla*). These species were traded in various forms, ranging from live specimens to different parts and derivatives. Costus Root specimens were also one of the most seized species in terms of quantity in the examined period (mainly as medicines).

Map 3. Trade routes of trafficked CITES App. II listed species seized in Hungary, 2015–2020, based on reported seizures. Total number of records: 237

Source: SWiPE wildlife crime database

Map 3 showing the trade routes of trafficked CITES App. II species does not differ significantly from Map 1.

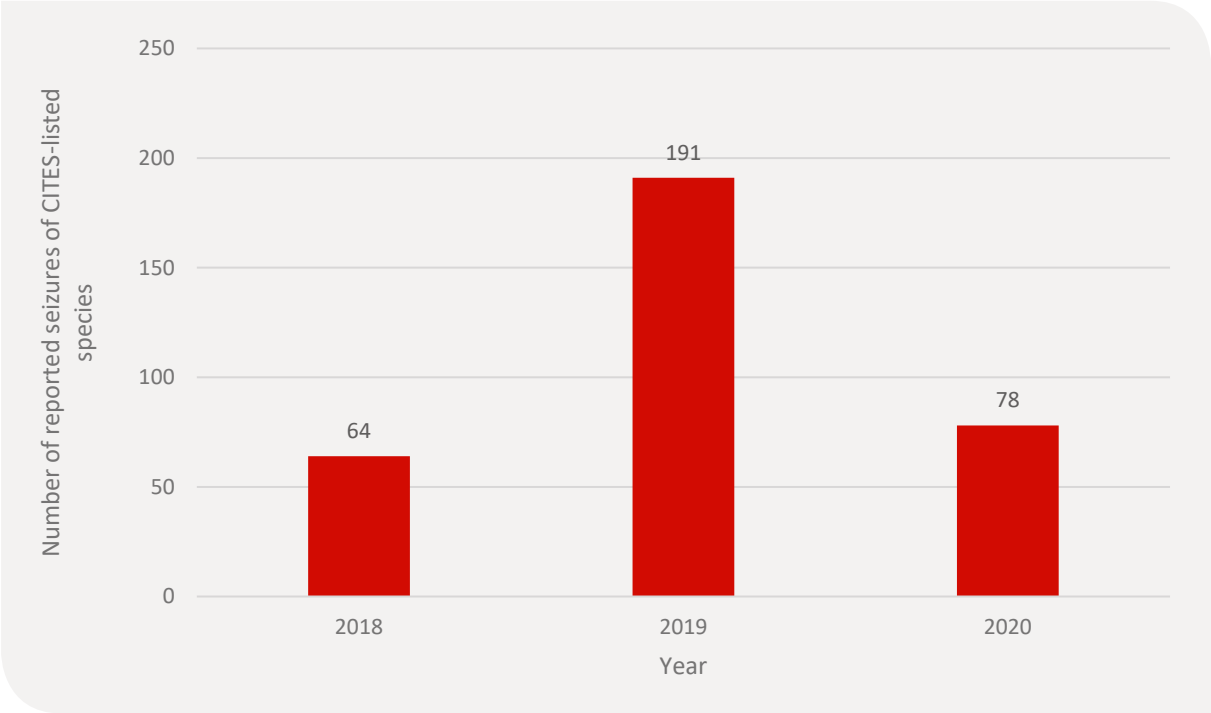


Chart 17. The number of seizure records of CITES-listed species in Hungary. The total number of seizures in the EU was 6012 in 2018, 6441 in 2019, and 3977 in 2020.

Source: An overview of seizures of CITES-listed wildlife in the European Union (2018, 2019, 2020).

Chart 17 analyses the trend of seizure records in Hungary, and the following should help understand the European context. In 2018, Hungary was the fourteenth, in 2019, the fifth, and in 2020, the ninth country among all EU member states regarding reported seizures of CITES-listed species.[169] Sometimes being the first among the Central and Eastern European (CEE) regions, Hungary seems to be on the right path even if the vast majority (77% on average) of CITES-listed species was seized in Germany, France, the Netherlands, the United Kingdom (not included since 2020), and Spain. In 2018, the Czech Republic reported more than twice (129 seizures) than Hungary (64 seizures), Poland and Austria also preceding Hungary.[170] In 2019, Hungary reported 191 seizures; this was the highest number in the CEE region.[171] In 2020, Poland reported more seizures (86); however, Hungary was still in the first third of all member states.[172] The data from that year, showing a decline in the number of seizures, suggests the impact of the pandemic caused by the SARS-COV-2 virus, though France and Germany still reported nearly the same amount of seizures[173] or even more.[174] Despite Hungary holding a prominent spot in the region in the last years, for example, in 2018, the number of seizure records was still only five per cent of the leading one, France's records, which can not only be explained by the territorial differences. In any case, these data should not be interpreted without the semi-structured interviews conducted with the relevant authorities; see more in the section about the effectiveness and challenges at the different stages of tackling wildlife crime. Additionally, while seizures are crucial when building up a case, many other factors affect the final outcome of wildlife crime cases. Hungary has rather few cases reaching the courts even if there are quite a few seizures in EU comparison.

[169] All official overviews of seizures of CITES-listed wildlife in the EU are available at https://ec.europa.eu/environment/cites/reports_en.htm#seizures_annual_illegal.
[170] TRAFFIC for the European Commission, 'An Overview of Seizures of CITES-Listed Wildlife in the European Union. January 2019 to December 2018.,' (2020), p.3.'
[171] TRAFFIC for the European Commission, 'An Overview of Seizures of CITES-Listed Wildlife in the European Union. January 2019 to December 2019.' (2021), p.4.
[172] TRAFFIC for the European Commission, 'An Overview of Seizures of CITES-Listed Wildlife in the European Union. January 2019 to December 2020.'
[173] Germany reported 1291 seizures in 2019 and 1144 in 2020.
[174] France reported 984 seizures in 2019 and 1071 in 2020.

6.8. Analysis of other wildlife crime cases

The remaining crime types against wildlife species could be divided into the following five categories:

- Illegal possession
- Illegal killing – poison
- Illegal killing – poaching
- Illegal processing of animal material
- Illegal supply and sale (of non-CITES-listed species).

In 27 cases (18% of all cases), exact species names were not provided in the data obtained, probably due to difficulties in identifying the species (e.g., only some parts or remains of the animal or plant species were available based on which it was not possible to identify

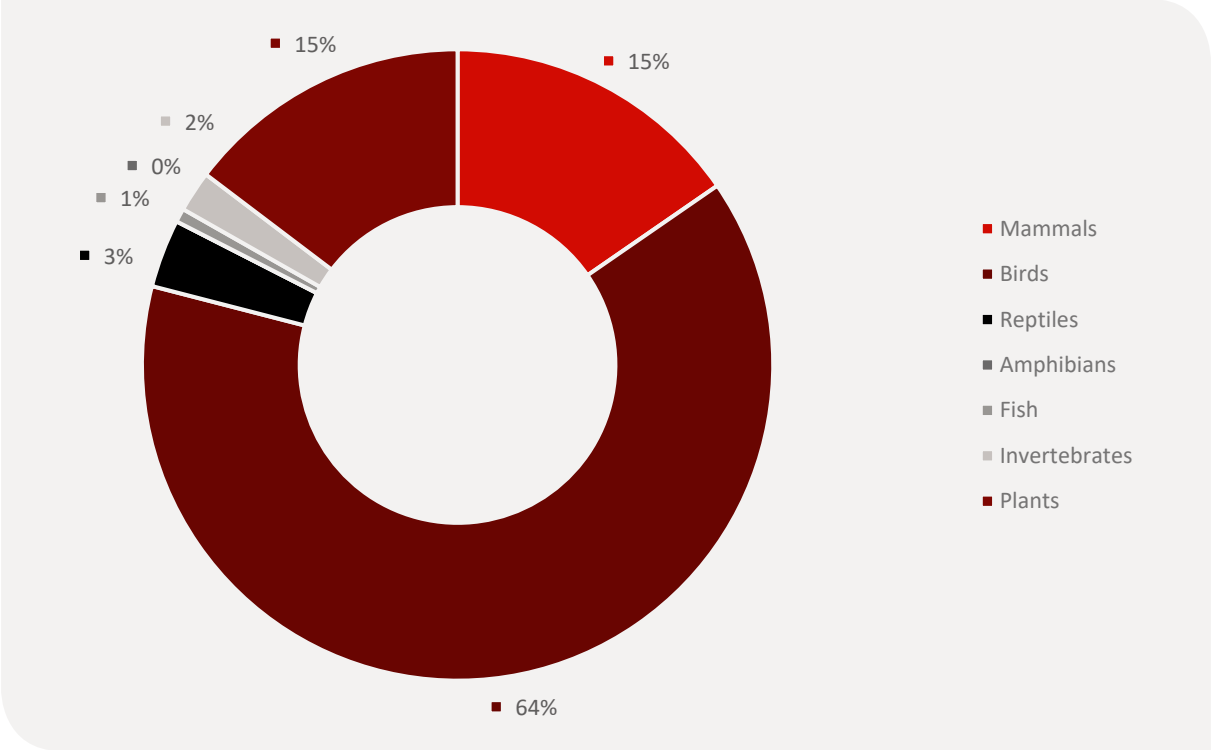


Chart 18. Seizures of various taxonomic groups connected to destroying a strictly protected specimen, mass destroying protected species, provision on the qualified version of the damaging natural values crime, destroying protected or strictly protected species because of negligence, poaching, illegal fishing, Hungary, 2015–2020. Total number of cases: 143.

Source: SWiPE wildlife crime database.

143 records contained information on the specific species involved in the cases. In some cases, one seizure could generate several records due to the fact that there were several species included in the seizure. In Hungary, based on our data, mostly birds (64%, 91), mammals (15%, 22) and plants (15%, 21) were affected by wildlife crime, followed by reptiles (3%, 5). Data on Amphibians were not found.

Most seizures in the case of plants involved *Saussurea costus/lappa* (41% of all plants). The seizures were mostly connected to illegally owning products for medical purposes. The three invertebrates were *Ephemeroptera ssp.*, *Hymenoptera ssp.*, and *Astacus astacus*. In the case of fish, *Umbra kameri* was found in one case. The seized reptiles were *Emys orbicularis*, an Agama specimen, *Varanus griseus*, a Caiman and a sea turtle. Many of the bird cases were connected to the vulnerable *Aquila heliaca* (13%, 12) and to the more common *Buteo buteo* (8%, 7). On one occasion, during illegal hunts, altogether 814 birds were shot. Most cases involving mammals were trophies of *Ursus arctos* (27%, 6). While normally, CITES-listed species not protected in Hungary should not appear among the species in this subsection, they obviously do, which is most likely due to misreporting (i.e., the incorrect article of the Criminal Code was assigned to the case in the data received).

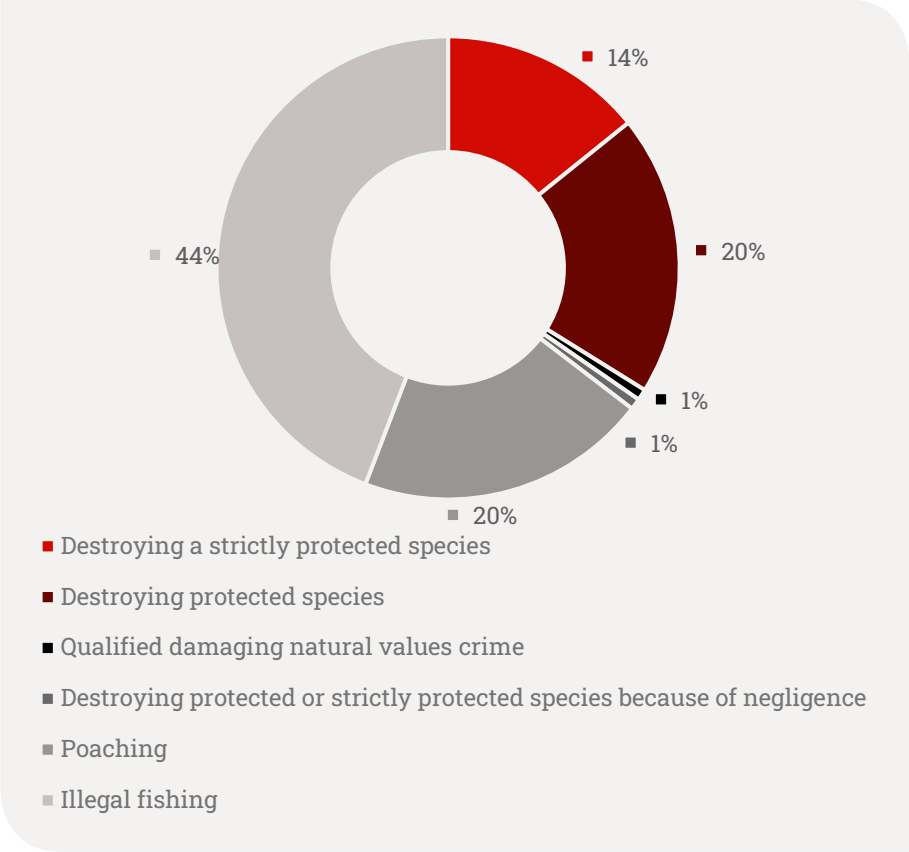


Chart 19. Different proportion of wildlife crime cases,[175] Hungary, 2015–2020. Total number of cases: 389.

Source: SWiPE wildlife crime database.

At the time of writing, the SWIPE wildlife crime database contained a total of 389 cases related to the following article of the Hungarian Criminal Code: Article 242 (1) (a) [destroying strictly protected species], Article 242 (1) (b) [mass destroying protected species], Article 242 (2) [imprisonment for one to five years], Article 242 (3) [destroying protected or strictly protected species because of negligence], Article 245 [poaching], Article 246 [illegal fishing]. From these, most cases were described as Article 246 (b), illegal fishing (171, 44%), followed by 245 (c), poaching (79, 20%) and 242 (1) (b) mass destruction (76, 20%) and 242 (1) (a), destroying strictly protected species (55, 14%). Only three cases (1-1%) were connected to 242 (2), long term imprisonment and 242 (3), negligence.

[175] Article 242 (1) (a) of the Criminal Code is for destroying a strictly protected specimen, Article 242 (1) (b) is for mass destroying protected species, Article 242 (2) is the provision on the qualified version of the damaging natural values crime, Article 242 (3) is for destroying protected or strictly protected species because of negligence, Article 245 is for poaching, and Article 246 is for illegal fishing.

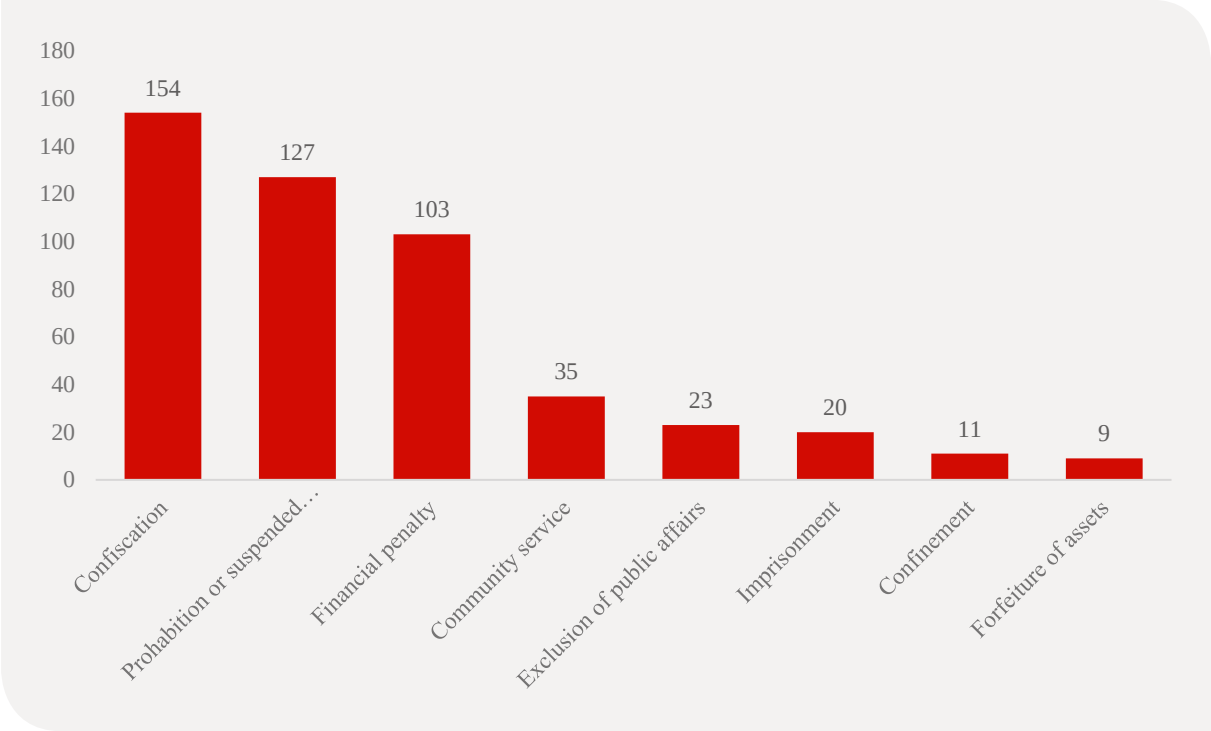


Chart 20. Most common penalty types for wildlife crime in Hungary (2015–2020) *Source: SWiPE wildlife crime database*

Where perpetrators were found guilty, 24-36 months of suspended imprisonment and EUR 140-4,300 financial penalty were imposed. Confiscation was the most common measure, which was imposed in 154 cases (39%), followed by suspended imprisonment or release on probation in 127 cases (32%) and financial penalty (103 cases, 26%). A huge drop can be seen in the application of the top three most common sanctions: community service (35 cases, 9%), exclusion of public affairs (23 cases, 6%), imprisonment (20 cases, 5%), confinement (11 cases, 3%) and forfeiture of assets (9 cases, 2%). Disqualification of a profession or driving and reparation work were rarely imposed as criminal sanctions.

7. Effectiveness and challenges at the different stages of tackling wildlife crime

This section presents the issues brought up during the 16 semi-structured interviews conducted in 2021, when possible, in focus groups. The Hungarian SWiPE team consulted with 58 wildlife crime experts, including officers from the Environmental Crime Unit in the National Bureau of Investigation, Hungarian National Police Headquarters, the National Tax and Customs Administration, the CITES Management Authority, county government offices, national park directorates (from Aggtelek, Bükk, Duna-Dráva, Duna-Ipoly, Hortobágy), prosecutors (including the prosecutor part of ENPE (European Network of Prosecutors for the Environment) from Hungary, judges, colleagues from the Office of the Hungarian Deputy Commissioner for Fundamental Rights and Ombudsman for Future Generations, from the International Council for Game and Wildlife Conservation (CIC), Hungarian Hunters' National Association (OMVV) and the Hungarian Hunters' National Chamber (OMVK), and from WWF Hungary, including former employees of the Hungarian Natural History Museum, researchers from the National University of Public Service and a criminologist from the National Institute of Criminology, and a hunter, wildlife management expert without affiliation, and a pet store manager. In addition to these, colleagues from TRAFFIC attended as observers at the Hungarian focus group discussion of the AMBITUS project,[176] and TRAFFIC officially has had observer status and has been a strategic partner in the Hungarian National Environmental Security Taskforce since December 2021.

7.1. Detection and investigation

7.1.1. Human resources, capacities of law enforcement authorities, training, specialisation

Generally, a lack of specialised and trained personnel investigating wildlife crime is an obstacle; more people and additional expertise are needed in this field. Nevertheless, merely having more enforcement officers would not solve the problem without adequate

[176] See more at https://en.ambituseuropa.com/.

capacity building, specialisation in wildlife crime, and prioritisation and recognition of this crime area at the executive level. Simultaneously, raising awareness of and prioritising wildlife crime at the local police stations is also of high importance. The Environmental Crime Unit in the National Bureau of Investigation, in general, deals with more complicated cases of wildlife crime (e.g., those involving cross-border cooperation), so focusing on capacity building of focal points at local police stations is essential. Additionally, it could be beneficial to include more aspects focusing on quality (not just quantity) in the performance reviews of police officers. Although wildlife crime cases cause severe damage to nature and society, they are not easy to prosecute; it is difficult to attain a good outcome if quantity is the only measure of the success of police work.

In poisoning cases, prompt response and a search warrant are of great importance. In these cases, it is more difficult to hold the defendant liable for the crime of damaging natural values or poaching than for the crime of abusing poison. Successful detection is crucial, as certain cases stay hidden because the carcass starts to decompose or the leaf litter covers it, for example, in the case of poisoning, or offenders try to hide to remains of illegal killings of protected species. Detection of poaching and poisoning of protected species requires continuous and regular field presence that could be costly and requires funding. Training and using more poison and carcass searching dog units could improve the efficiency of executing search warrants and field visits in Hungary. Sometimes, more efficient use of existing resources (e.g., trained detection dogs at the police) could improve detection rates: as one of the interviewees said, some of the detector dogs at the police have been used to find poison baits although they were not originally trained for that.

In addition to capacity building of police forces at all levels, the development of a protocol for investigating wildlife crime cases would be essential. For instance, in order to be able to prove the intentionality of the criminal act by the defendant, which is required for establishing criminal responsibility for the crime of damaging natural values, law enforcement personnel should seize electronic communication devices (e.g., mobile phones, computers). Data on the seized devices can help identify species, which is crucial to understanding whether the act was a criminal offence. Furthermore, data on

electronic devices could be evidence proving the intentionality and the organised crime nature of the offence, if relevant. Such a protocol could also emphasise how evidence related to wildlife crime cases should be collected or recorded on the spot.[177] The appointment of environmental crime police focal points working at territorial investigative authorities (e.g., county police headquarters) is a good practice. These experts are assigned to environmental issues in the broadest sense, from nature conservation to animal welfare issues. Another current challenge is related to criminal activities concerning protected species sold online; collaborating with e-commerce companies is useful when tackling wildlife cybercrime cases. Interviewees from the customs authority expressed that they would like to receive regular, updated, and detailed training material on wildlife crime. Due to the high staff turnover mentioned by several authorities as a general problem, regular capacity building would also be essential across the various authorities involved in tackling wildlife crime.

While the CITES MA described their relationship with the other relevant authorities as supportive and collaborative, insufficient human resources restrict their availability for cooperation. Several authorities reported understaffing as a general problem.

With regular training or specialisation, the important interlinkages between different environmental offences and organised crime would be easier to understand. It is more difficult or even impossible to collect evidence on these aspects later in the criminal procedure. Without proper evidence, prosecutors cannot work further successfully on a case. The need for well-trained personnel is highlighted here as, for instance, if the defendant commits crimes in cumulation with another offence or in an organised way, a more severe penalty can be imposed. High staff turnover rates at most of the authorities dealing with wildlife crime also necessitate regular and specialized training. A basic understanding of environmental sciences is a prerequisite for detecting and investigating wildlife crime; training and specialisation must take this into account.

[177] While an official Hungarian protocol with country specific guidance is still needed, the Directorate-General for Environment of the European Commission published a guidance document on combatting environmental crimes and related infringements in 2021; available here (in all official languages of the EU): https://op.europa.eu/en/publication-detail/-/publication/e004a9c9-596a-11ec-91ac-01aa75ed71a1.

To conclude, more capacity building and well-trained, dedicated personnel are needed to investigate wildlife crime cases successfully. That remark is even more apposite in cases with transnational nature like the cacti case (where rare cacti species were smuggled from Mexico and sold in Germany by Hungarian defendants) or with an organised crime angle like the bird smuggling cases (e.g. the case where 814 protected bird and mammal bodies were seized in one case in 2018). According to the analysed data and along with what wildlife crime experts stressed during the interviews, to have more successfully prosecuted wildlife crime cases – in 2015–2020, only 16% per cent of all reported cases reached the court – the authorities must carry out an outstanding investigation. The interviews and the data suggest that one of the reasons why many criminal proceedings end in termination, which was a rather common outcome of wildlife crime cases, is the lack of resources to investigate the cases successfully, beginning with the challenges with the defendants themselves. Prosecutors cannot prosecute the case without a known person as a defendant (see Charts 10 and 11). The interviews and seizure data of CITES-listed species support the hypothesis that Hungary is an export, import, and transit country for wildlife trafficking (see Maps 1, 2, and 3). As a country laying on the Schengen Area border on the EU, it is of utmost importance to closely monitor the scale of illegal wildlife trade and have an intelligence-led approach to tackling wildlife crime.

7.1.2. Inter-agency cooperation in wildlife crime cases

Inter-agency cooperation is another key element of successfully prosecuted wildlife crime cases. A good example is that in wildlife trafficking cases, when the Environmental Crime Unit in the National Bureau of Investigation handles the case, they maintain close contact with the Hungarian CITES MA. The prompt sharing of relevant information by nature conservation and customs authorities with investigative authorities and prosecutors on suspicion of wildlife crime offences is very important. For instance, national park directorates working together with local law enforcement authorities and game wardens (e.g. Monitoring, live trapping protected species with permission) is beneficial for all parties. While working together, the different institutions learn to understand each other's roles and ways of working. The results are clear; for

instance, field presence supplemented with joint patrols has been reported to reduce the number of illegal logging.[178] Overall, the Hungarian National Environmental Security Taskforce provides a valuable framework for inter-agency cooperation, as elaborated in the subsection on authorities. However, this forum has even greater potential going forward; it could serve as the platform for setting strategic law enforcement and inspection priorities for tackling wildlife crime in Hungary, based on an analysis of existing data. The agreed priorities could set clear timeframes and indicators of progress to ensure the successful delivery of the objectives.

A close and efficient working relationship between customs authorities and all different levels of the police throughout the country is necessary to tackle wildlife crime. Currently, this is largely in place, but the extent and the quality of the relationship vary across the different locations.

Inter-agency cooperation was analysed thoroughly in the subsection on authorities as well. In short, the Hungarian NEST is a promising initiative that can enhance coordination and cooperation between different authorities; nevertheless, experts working on wildlife crime cases and other related infringements will give substance to the framework. Therefore, they need a well-functioning institutional framework, sometimes outside of the NEST, and motivation and appreciation of their work. It is not the purpose of this report to comprehensively analyse different sanctioning systems, but it could be timely to emphasise the need for close cooperation between different authorities and a thorough understanding of each other's work as administrative and criminal sanctioning have new rules in Hungary.

7.1.3. Specific issues concerning customs authorities

The National Tax and Customs Administration conducts risk assessments on at least two levels, centrally and locally, for example, for the particular border crossing points. According to the interviews, at land border crossing points, most wildlife trafficking

[178] According to a wildlife crime expert from a semi-structured interview conducted in 2021 within the framework of the SWiPE project.

cases are detected thanks to the local risk profiles, and almost all of those cases involved profit-oriented activities. However, at the airport, many cases are connected to tourists or other people who bring small quantities of protected species (and their derivatives) to the country in contravention of the regulations (i.e., without the required documents). The reason for this could be the lack of awareness of the rules.

At the same time, the COVID-19 pandemic has significantly changed how trafficking works, and wildlife trafficking has moved online to an even greater degree. Customs agencies rely on expert support from other authorities, such as the CITES MA, to inform their risk management systems related to CITES.

Another challenging situation is when a defendant orders CITES-listed species or their products without the necessary documentation, delivered by the post or courier. According to the data received, many cases were terminated as ordering was qualified only as preparation of the crime of damaging natural values, even if unlawfully acquiring or trading in species protected by CITES constitutes a crime. According to the practice, only if the receiver of the package admits to having ordered the content themselves can they be held accountable. While this may seem somewhat lenient at first sight, there have been cases where the recipient indeed had nothing to do with the order of packages addressed to them.

In conclusion, customs authorities play an essential role in detecting wildlife crime, especially wildlife trafficking cases. Apart from basic knowledge of biology and a well-functioning network of different authorities and experts, the strategy the National Tax and Customs Administration chooses regarding risk assessment, tackling new forms of criminal conduct, and, generally, detecting wildlife crime determines their overall success. Seizures data and the EU comparison suggest that Hungary is a country where illegally traded commodities could be spotted. As a Schengen Area border country, the strategic planning of controls and other operations serve the nature conservation interests of the whole EU.

7.1.4. Specific issues concerning nature conservation authorities

Government offices would require more resources and capacity building to tackle wildlife crime successfully. The current organisational structure, some working practices and the legal background present some challenges with implications further down the enforcement chain. Areas that may be improved relatively easily include on-site inspections and communication with other authorities. Training focusing on practical aspects would be particularly useful: e.g., conducting inspections, handling live animals, taking a blood sample from a live specimen, and identifying species. The government offices' inspections of wildlife keepers and breeders have great potential to uncover possible issues and initiate wildlife crime cases. There are good examples of such cases initiated; however, there remains further scope for improvement to make the most of this potential. Yet, government offices have an extremely large range of issues that they work on and thus, prioritising wildlife crime would be required so that further human and financial resources can be allocated to this area. Additional human resources would help conduct more systematic and rigorous checks, which in turn would likely lead to uncovering more anomalies and potentially bringing more cases to court. Additional financial resources would allow the carrying out of genetic tests to prove or check the parentage of captive-bred specimens, which could also help uncover possible anomalies and even criminal cases. The Hungarian NEST is essential for successful cooperation, and it is already showing results, for example, in coordinating seizures.

A challenge with cases involving exotic live specimens is that special care is required to keep seized live specimens until the end of any proceedings. This is a costly and difficult task; in one case of rare orchid specimens from Thailand, after confiscation, the specimens died and dried; thus, it was impossible to identify the species formally. Sufficient resources should be allocated to resolve these issues.

Overall, government offices also play a significant role in tackling wildlife crime, even if this is not their primary function. The majority of the seizures of CITES-listed specimens throughout the period considered was seized not by the customs authorities but by the police or the government offices. Nature conservation authorities also serve essential

functions in ensuring compliance in other cases where they can detect wildlife crimes. The organisational structure they are working at and their capacities could substantially affect how effectively they can cooperate with the police. In short, government offices' role in detecting possible wildlife crime cases is essential, which has implications further down the enforcement chain.

7.1.5. Role and contribution of environmental experts in wildlife crime cases

Certified environmental experts in court are vital players in prosecuting wildlife crime cases successfully and holding the perpetrators of these crimes accountable. A concrete methodological letter on wildlife crime from the Hungarian Chamber of Certified Experts in Court would give clear guidance related to methodologies to be followed in wildlife crime cases and so reduce uncertainties and increase consistency across cases. However, according to the interviews, a lack of resources poses a challenge; the Chamber's professional departments do not have dedicated budget or sufficient personnel to complete this work.

Additional experts would be required to become formally recognized and certified as environmental experts who can give expert opinions in criminal proceedings. Additionally, cooperation is vital in this aspect of the criminal procedure. Experts do not automatically receive information on the proceedings of the cases they were working on, nor do they get the decisions of the courts; they receive minimal feedback on their work. Naturally, feedback would be necessary to improve their work. At the same time, it is also crucial to further educate law enforcement personnel on the role of experts in wildlife crime cases as that is somewhat different from the role of experts in other, more commonly encountered crime cases. It is crucial for law enforcement officers to understand what evidence (i.e., wildlife) and how to preserve and record it so the experts can complete their tasks successfully. For instance, evidence can be lost or the crime scene changed by the end of the lengthy appointment procedure. Furthermore, the improvement of the database of environmental experts could result in a more productive working relationship between law enforcement personnel and

environmental experts. The specific area of expertise within environmental issues is not currently provided in the database of experts.

As a relatively small state, in Hungary, few people possess specific knowledge about protected exotic species and are certified experts. Conflict of interest may occur, for example, in the case of exotic species. The few collectors of rare species can form a strong community, which does not constitute a problem until somebody illegally obtains protected specimens; it then becomes challenging to find someone who is able and willing to give unbiased expert testimony.[179] Sometimes it could be a solution to invite experts from abroad. However, this could be rather expensive, and in most cases, the government offices or the local police department has to take the risk of bearing the costs in the end.

While it is difficult to conclude without learning more about the decisions of wildlife crime cases during the examined period, it is clear that these cases require expert opinions to establish the facts thoroughly in most instances. Information on experts, when it was available (94 cases, in 10% of all reported and examined cases), shows how different authorities and other experts perform this function. The Ministry of Agriculture is the most commonly asked, often as an ad hoc expert. The Museum of Natural Sciences, the National Food Chain Safety Office, and colleagues and rangers from National Park Directorates also served as experts in the examined cases. Experts in nature conservation, wildlife, zoology, toxicology, botany, chemistry, landscape protection, and even members of conservation NGOs were asked to present their opinion. On the one hand, the same facts should be presented uniformly by all experts in the country; the excellent quality of their expert opinion is of utmost importance in such science-heavy cases. The availability of competent and skilled experts is also vital for law enforcement authorities to be efficient in tackling wildlife crime cases. On the other hand, only well-trained and specialised officers can ask good questions from experts in many wildlife crime cases, which will support the prosecution's arguments.

[179] The closed communities may cause problems in poaching or poisoning cases, too. According to the interviews, there have been examples where local police was suspected of leaking the date and the location of a raid in an environmental crime case, and some of the interviewees also suggested that citizens in the countryside rarely report wildlife crimes even if they know the defendant.

7.2. Prosecution

Prosecuting wildlife crime faces challenges in Hungary, though many relate to earlier stages of the criminal procedure. Less than one-fifth of reported wildlife trafficking cases were prosecuted in the examined period between 2015 and 2020. While the prosecution may choose to tackle wildlife crime not only by prosecuting cases, this is still a relatively low number of cases reaching the court. While the number of wildlife trafficking cases was increasing, the prosecuted and adjudicated cases decreased during the period examined and based on available data.

7.2.1. Capacity building, specialisation, and inter-agency cooperation in wildlife crime cases

Sharing relevant knowledge within and across institutions working to tackle wildlife crime is essential. For example, national park directorates could still provide relevant help during this procedural phase. It was suggested in some of the interviews that up-to-date data on populations of nationally protected species could help prosecutors build their cases. Even if there are prosecutors with specialised knowledge in environmental crimes, exchanging information and methodology would help them to prosecute these complex cases more efficiently and successfully. Prosecutors, who has specific knowledge about environmental crimes or a post-graduate specialist training in environmental protection, when possible, will be assigned to these cases. However, this appears to be the practice based on the interviews conducted. Specialised prosecutors would, in particular, be needed to work on wildlife crime cases in cities or counties where these offences appear more regularly.

Capacity building and "formally recognised training"[180] on environmental and wildlife crime would help highlight the key elements of successfully prosecuted cases and the use of effective techniques in practice. A well-trained prosecutor is better equipped and prepared to prosecute wildlife crime cases, especially since significant background knowledge of sectorial legislation is needed to prosecute wildlife crime cases

[180] Prosecutors are required to take part in different training events regularly. Participants in these training events obtain credits, which are then formally recognized as proof of having taken the training.

successfully. Training on wildlife crime could also help prosecutors understand why committing the crime of damaging natural values poses a danger to society. In addition to the obligation of the state to protect, sustain and preserve biodiversity and natural resources, many wildlife trafficking cases are linked to other forms of serious crime, such as organised crime, corruption, document fraud, or money laundering.

Although having different roles than the police or customs, prosecutors, especially in wildlife trafficking cases, could also utilise available online databases where the species protection status can be determined quickly, including in Hungarian.[181] It would be advantageous for prosecutors to follow law enforcement agencies' public announcements, communications, and awareness-raising initiatives on what constitutes wildlife trafficking or other forms of infringements, such as those published by the National Tax and Customs Administration.[182] Taking these communications into consideration, it could be easier to build up a case where the defendant cannot successfully argue that they could not have been aware of the legal obligations and conservation status of the protected species. At the same time, public awareness-raising about the dangers environmental and wildlife crime pose to society is equally important.

The so-called public interest prosecutor also benefits from inter-agency cooperation. A close working relationship with nature conservation authorities could mean more efficient work regarding compensation claims for environmental damages. It is encouraging that a prosecutor from Hungary has joined ENPE. The next step would be to elaborate a mechanism to share information from this cooperation effectively with prosecutors in Hungary.

[181] The database by the Hungarian CITES MA is available at: https://www.cites.hu/hu/fajkereso.

[182] The official publication called 'Information for passengers' of the National Tax and Customs Administration contains a briefing and a warning about the export and import of protected species and the permits needed, available here: https://nav.gov.hu/kiadvanyok/utastaj/utastajekoztato-2021; and a communication was published in the beginning of summer 2021 to warn citizens not to illegally bring protected species back from a holiday, available here: https://nav.gov.hu/sajtoszoba/hirek/Itt_a_vakacio_20210705. The National Food Chain Safety Office also communicated about the legislation affecting plant species, available here: https://portal.nebih.gov.hu/-/minden-kulfoldrol-hazautazot-erintenek-a-szigorodo-novenyegeszsegugyi-eloirasok.

7.2.2. Alleged presence of organised crime

As stated above, illegal wildlife trade is often linked to organised crime, corruption, and other forms of criminal activities. When supervising or monitoring the investigative authority or leading the investigation, further attention should be accorded to exploring and uncovering the possible organised nature of certain wildlife crimes. Special attention is required to prove the organised crime nature and ensure that the defendants will be held responsible. Further research could focus on exploring the organised crime angle of wildlife crime in Hungary, but it would appear from the data received that a vast network of people is working together in some cases.[183]

7.2.3. Other aspects helping successful prosecution

Challenges particular to wildlife crime arise in relation to obtaining evidence. In large-scale cases, it could be rather difficult to prove, for example, the taking from the wild as the laboratory analysis of numerous specimens is quite expensive. Evidence on that opens the door to prosecuting the case and holding the defendant responsible successfully. In many cases, as explained above, the high costs also deter investigative authorities from ordering such expert analyses, as they have to bear the costs in advance.

7.3. Judicial phase and criminal sanctions

Although more research is needed in this field, the uniform application of the law does not appear to be guaranteed in wildlife crime cases in Hungary based on the information gathered for this report.

7.3.1. Specialisation

According to the interviews, the specialisation of judges would greatly help them deal with wildlife crime cases. Understanding the legal background of nature conservation and its links with criminal law requires a considerable amount of time if one does not

[183] Regarding the transportation of CITES-listed species, it was also mentioned by Harnberger and Zsigmond (n 90) that the cases where a great amount of specimens are seized are presumably committed by members of international networks.

have specialised knowledge in environmental matters. Specialised knowledge would help judges better understand the otherwise hidden angles of wildlife crime cases crucial for determining criminal liability. In some decisions, even if the judgement quoted the expert, the key findings have been overlooked, most likely not related to judicial independence but due to insufficient knowledge of environmental matters.

7.3.2. Inter-agency cooperation, information sharing

As explained above, some feedback would benefit the experts working on environmental crime. Customs, government offices, and the CITES MA would all find it valuable if the decisions of cases where they were involved were shared with them. Professional evaluation of their work is necessary to improve, and for that, it is fundamental to understand the outcome of the cases. It is also rewarding for officers to know that their detection ended with a judgement establishing the defendant's criminal responsibility in the case. Apart from motivation, such a feedback loop could also help refine and further improve risk profiles and enable them to do their work better. There are reporting obligations under international instruments, like CITES, and for the CITES MA to meet these, they need to have information on the cases that reach court. Furthermore, it is of utmost importance for issuing certificates that they are aware of defendants convicted by a final judgement for wildlife crimes. Automatic information sharing would support their everyday work.

7.3.3. Awareness-raising on wildlife crime

Judges underlined the importance of raising public awareness of wildlife crimes and their seriousness. As explained above in the section on legislation, without intention, no one can be held responsible for a criminal offence unless the criminal code states otherwise. The provisions of damaging natural values allow responsibility for the negligent commitment of such crime in exceptional cases.[184]

[184] See Article 7 and 8, and Article 242 (3) of the Criminal Code.

7.3.4. Sanctions imposed in wildlife crime cases

Some interviewees were of the opinion that the criminal sanctions imposed are not sufficient to deter offenders but believed that there was no problem with the legislative framework. Others thought that the sanctions available could be more elaborate, such as reflecting on the illicit financial gains. Some also mentioned obstacles deriving from the criminal procedure, as wildlife crime is exceptional in many ways, and different authorities are obliged to work closely together. Regarding sanctions from different procedures, not just the criminal one, it is yet unclear from the interviews conducted and too early to conclude the effects of the new legislation on sanctions.[185] According to the interviews, the administrative fines were relatively high in the past, and at the same time, the criminal sanctions were not considered as severe. The sanctioning system is presented in the section on legislation; there is room for further research in this field.

According to the interviews, there is a loophole in the regulatory framework relevant to criminal sanctions. People who have been previously sanctioned in a criminal procedure can get CITES certificates if they reapply in the name of their company and vice versa. While being aware that criminal law is *ultima ratio*, the overlaying problem should receive attention and require action from the legislator. Additionally, further research may touch upon the criminal responsibility of enterprises in wildlife crime cases and whether it is possible to pierce the corporate veil in Hungary in such cases.

All forms of wildlife trafficking (of species listed in Annex or B of the EU Wildlife Trade Regulations) are criminalised in Hungary, yet the data available indicate that the imposed sanctions or measures are relatively lenient in many cases. While it is not only severe but well-thought sanctions that are conducive to nature conservation goals, one of the possible reasons for the lenient sanctioning is the belief that such criminal activities did not pose a danger to society, which is a common misconception. While tourists and negligent citizens should not be the primary targets of law enforcement agencies, whole coral reefs can disappear if all tourists bring just one tiny piece of

[185] Act CXXV of 2017 on the Sanctions of Administrative Law Infringements.

protected coral back home.[186] If the trafficking endangers the survival of the protected species directly, stricter sanctions may apply in Hungary. This provision was applied in one case where rare cacti species were threatened by Hungarian defendants trafficking the cacti specimens from Mexico.[187] Still, in many cases where this cannot be proven, the whole scale of illegal wildlife trade worldwide poses an imminent threat to the survival of species; there is no threshold in the Hungarian legal system by no coincidence. The international community and the EU regulate wildlife trade and criminalise wildlife trafficking because of the danger it poses globally to species survival, biodiversity, and societies. Due to the illegal wildlife trade, indigenous peoples and local communities particularly face challenges from insecurity, losses of livelihood opportunities and economic assets and the sometimes militarised responses to wildlife crime.[188] Thus illegal wildlife trade has direct, visible consequences on societies. Consequences such as degradation of nature, extinction of species, or biodiversity loss are breaches of values of our society, protected by law, even if not so easily understood as simple theft. These factors have to be considered when prosecuting and adjudicating wildlife crime cases; well-educated prosecutors and judges will be aware of such severe consequences and make decisions accordingly, even if only one specimen is involved in the case.

Considering the data received and analysed, it can be concluded that cases in Hungary rarely reached the court, and, in wildlife trafficking cases, adjudicated cases were on the decrease for a few years. However, it was also evident in wildlife trafficking cases that if a case was brought before the court, the defendant's criminal responsibility was established in most of the cases. Imprisonment and financial penalty were the most common penalties, and release on probation, reprimand, and confiscation were the most common measures. While measures and their smart imposition are essential to tackle wildlife crime, it is noteworthy that certain measures can be imposed instead of a

[186] Note that it is not only trafficking that threatens the survival of coral species, climate change, overfishing, ocean pollution, and costal land use also contribute to the problem.
[187] The case is presented above in the case study part of this report and the involvement of cacti species is analysed in the data analysis section.
[188] See more, for example, at https://www.traffic.org/news/the-role-of-indigenous-peoples-and-local-communities-in-combating-illegal-wildlife-trade/; and https://www.fauna-flora.org/news/smart-illegal-wildlife-trade-local-communities-matter/.

penalty. For instance, defendants can be reprimanded if their act no longer poses a significant danger to society, and even the lowest criminal sanction would be unnecessary.[189] In wildlife trafficking cases, disqualification from a profession was never registered in the examined period, which was peculiar in light of the semi-structured interviews. The sanctions being linked to illicit financial flows and the better utilisation of asset recovery could be a great tool in tackling wildlife trafficking cases; it is crucial to react adequately to such a lucrative form of crime.

7.4. Prevention

Prevention is not the focus of the SWiPE project; however, according to the interviews, it is crucial to allocate resources to preventing wildlife crime. Raising awareness of the dangers of wildlife crime could support prevention goals, and nature conservation organisations have guidance and experience in such activities.[190]

[189] Act C of 2012 on the Criminal Code, Article 64; see more on the "danger to society" in wildlife crime cases above.

[190] To highlight a few initiatives, a significant part of TRAFFIC's work focuses on consumer behaviour change and using evidence-based sociological, psychological, economical and marketing research-based solutions to reduce the motivation behind the consumption of illegal wildlife products. See more at https://www.traffic.org/what-we-do/projects-and-approaches/behavioural-change/. Fauna & Flora International (FFI) has recently studied the potential of situational crime prevention to address illegal wildlife trade; available at https://www.fauna-flora.org/approaches/species-and-habitats/combating-illegal-wildlife-trade/situational-crime-prevention/. WWF Hungary was a partner in the LIFE Euro Large Carnivores project that, among other goals, focused on preventing conflicts with large carnivores, see more at https://www.eurolargecarnivores.eu/en/.

8. Recommendations

According to the data received, interviews conducted, and additional research done in the framework of the SWiPE project, wildlife crime is prevalent in Hungary, causing damage to the environment and thus society; therefore, it requires more attention from the whole enforcement chain. The following recommendations are made based on the findings of this report and are organised in order of importance.

1. **Effective detection and investigation are prerequisites for ending the vicious circle of lack of prioritisation of wildlife crime and, in the end, successfully prosecuting wildlife crime cases.**

1.1 With a few key challenges resulting in few cases reaching the courts (e.g., numerous unknown defendants and termination of proceedings, lack of resources and awareness), wildlife crime often remains undetected, and the overall extent of the phenomenon is probably little known. From detection to prosecution, authorities along the enforcement chain should acknowledge – in line with the EU EMPACT priorities – the dangers this poses as safe havens can be created for criminals in Hungary, where the illicit profit and benefits far exceed the possibility of being detected or held responsible for committing such crimes. Recognising this crime area at the management level would require allocating sufficient human and financial resources to tackle wildlife crime.

1.2 A joined-up and intelligence-led approach should be adopted throughout the enforcement chain, followed by jointly agreed priorities, monitoring and evaluation of targets set by the authorities. The Hungarian NEST could co-ordinate such a joined-up approach across the relevant agencies.

1.3 Regular training is highly recommended along the whole enforcement chain, but would be particularly important for the authorities responsible for detection and investigation (e.g., government offices and local police stations, where the majority of the cases are detected).

1.4 Investigators and prosecutors are encouraged to uncover illicit financial flows related to wildlife trafficking cases. Applying follow the money approach more consistently would have multiple benefits, such as underlying the seriousness and

the lucrative nature of these crimes and resulting in more severe and deterrent sanctions with possibilities for recovering illegal proceeds of the crime.

1.5 Resources essential for evidence gathering in wildlife crime cases (e.g., costs of experts, DNA tests) and keeping the seized and confiscated live specimens should be allocated in the authorities' regular yearly budgets, particularly at the police and government offices.

1.6 A protocol for police officers should be compiled and made available, outlining how evidence must be collected on the spot in wildlife crime cases.

1.7 Reconstruction of the organization within the police is encouraged to rationalize efficiencies regarding management and guidance rights in environmental crime cases.

2. Inter-agency cooperation is a key to building up wildlife crime cases requiring sectoral knowledge and coordinated operations.

2.1 The NEST should be utilised more extensively as a platform for inter-agency cooperation with particular attention to sharing knowledge and information, training, and exchanges on new ways to tackle wildlife crime in the country. Member authorities in the NEST should, in particular, continue exchanging information relevant to customs authorities' profiling and risk assessments. The NEST in Hungary should analyse data on wildlife crime, set priorities, clear timeframes and indicators of progress, execute such a plan on tackling wildlife crime, and evaluate its performance to ensure the successful delivery of the objectives.

2.2 Further communication, qualitative feedback, and sharing of the final decisions (including judgements) in wildlife crime cases with each authority and expert involved in the case are highly recommended to improve the quality of work and the effectiveness throughout the whole enforcement chain.

2.3 All authorities – in particular, government offices – should share relevant information with public interest prosecutors working in environmental cases. Their work can effectively complement sanctions and liability in criminal law providing another layer of deterrence for offenders.

2.4 Authorities are urged to collaborate with relevant non-governmental organisations. These organisations have specialist knowledge of certain criminal offences and can offer other valuable resources that support tackling wildlife crime.

3. Due to the international scope of specific wildlife crime cases such as wildlife trafficking, cooperation must go beyond the national borders.

3.1 The best practices shared via transnational and EU-wide networks, fora, and agencies (e.g., Europol, Interpol, EnviCrimeNet, ENPE, EUFJE, Eurojust) should be applied by Hungarian authorities, where relevant as they all serve essential roles in tackling wildlife crime, especially those with transnational nature, like wildlife trafficking. Similarly, the authorities in Hungary should continue to participate in and expand their contributions to the EMPACT.

3.2 The lessons learnt from international operations should be identified, understood, and implemented in the Hungarian context, for example, in the framework of the NEST or in one of its sub-groups.

4. As wildlife crime cases are typically complex ones, specialisation and regular training are crucial.

4.1 Although wildlife crime and its characteristics are to some extent part of the curriculum for certain branches of law enforcement, we suggest to put more emphasis on these matters. The whole enforcement chain must be aware of its specificities and the dangers of wildlife crime to nature and society as well as the distinct strategies to stop it. Furthermore, regular and practical training for employees in government offices, police and customs officers on carrying out field work in wildlife crime cases is highly recommended.

4.2 Without prejudice to judicial independence, it is highly recommended that the legislator appoints courts with exclusive competence on environmental crime cases with judges having access to specialised knowledge on environmental. Prosecutors having specialised knowledge is a good practice; and we welcome when it is ensured that prosecutors or judges with adequate training and knowledge are signed to wildlife crime cases.

4.3 In the meantime, formally recognised training in environmental matters (including wildlife trafficking, poisoning and illegal killing of protected species), focusing on

wildlife crime, for prosecutors and judges is recommended to help understand the complex cases and serve a better outcome for nature conservation goals.

4.4 Due to high staff turnover at most authorities along the enforcement chain, regular capacity building on wildlife crime is recommended to be organized, especially for the authorities part of the Hungarian NEST.

5. The contribution of nature conservation experts is necessary in wildlife crime cases.

5.1 The quality of the work of certified experts is ensured by detailed guidance on methodology provided by Hungarian Chamber of Judicial Experts; wildlife crime should be covered by such a guidance.

5.2 It is also essential to have enough available certified experts with relevant knowledge and experience in wildlife crime cases, and the access to their contacts must be made easily accessible in a searchable database.

6. In principle and with only a few exceptions, the Hungarian legal framework provides an adequate level of protection when it comes to wildlife crime. It allows for the utilisation of different procedures to ensure that who caused the damage in natural values will be held liable.

6.1 However, it is essential that all stakeholders apply these laws effectively. As criminal law is not primarily utilised for restoring such damages, it is also crucial that public interest prosecutors have access to all information relevant for them to initiate civil and administrative procedures, among other things, to receive compensation for damages or restore nature.

6.2 The regulator should communicate effectively on the legislation in force, ensuring that everyone, including the general public as well as the authorities, have a basic understanding of wildlife crime. This can have an effect even on the adjudication of these cases and the imposed criminal sanctions.

6.3 The proposal of a new directive on protecting the environment through criminal law is in the EU decision-making process at the time of writing this report. It is highly recommended that the members of the Hungarian NEST pro-actively support the European Commission's proposal.

6.4 After careful consideration and meaningful discussions with all relevant stakeholders, legislative modification might be necessary so the following are taken

into consideration when valuing the severity of the crime: financial assets and illicit profit gained by committing the crime of damaging natural values, the actual scale, frequency, or commercial purpose of wildlife trafficking. Further studies understanding the Hungarian legal context should be conducted to find the ideal solution to reflect on the financial aspects of wildlife crime.

6.5 Wildlife trafficking or damaging natural values should be listed as a specific crime in the forfeiture of assets section of the Criminal Code to have the burden of proof reversed. In this case, the defendant would have to prove that the assets do not originate from a criminal offence to avoid the forfeiture of their assets.

6.6 Amendments to government decree 292/2008. (XII. 10.) already recommended by the National Tax and Customs Administration and supported by the Hungarian CITES MA should be adopted.

6.7 It is advised to address the linkage between the illegal activities committed by a company and its representative more satisfactorily in wildlife trafficking cases in the Criminal Code or in the Act CIV of 2001 on Measures Applicable to Legal Entities under Criminal Law.

6.8 Understanding and integrating the viewpoints of key stakeholders is a necessity when evaluating or modifying any regulation in force. In addition to law enforcement and nature conservation authorities, prosecutors, and judges, pet store owners and other stakeholders in the wildlife trade chain have crucial knowledge and experience in applying the rules. Thus, regulators should extensively consult and consider their opinions when finalizing legal texts so that the regulations are as easy to implement and enforce as possible while achieving their main purpose.

7. Collecting and analysing high quality data in fundamental to adopt the right strategies to tackle wildlife crime.

7.1 Data transparency and availability have to be ensured by authorities collecting data related to wildlife crime. Final decisions, including judgements of courts on wildlife crime cases should be shared with the relevant NEST members automatically and, where possible, also with the public.

7.2 When sharing data, authorities must ensure to provide such information (e.g. case number) that allows the linking up of the data from different parts of the enforcement chain, so that the cases can be traced across the entire enforcement

chain from detection to court decision. This would also allow the conducting of further research on the subject.

8. Finding the most fitting prevention techniques and awareness-raising are crucial.

8.1 Relevant authorities (e.g., CITES MA, police, customs, prosecution service) should allocate resources for effective internal and external communication and awareness-raising activities.

8.2 Complementing the internal awareness-raising activities, external initiatives, such as wildlife crime prevention campaigns by authorities, if possible, in collaboration with civil society organisations, should target citizens. While this project has not been focusing on prevention, sufficient material is available on raising awareness and preventing wildlife crime; plus, criminologists and other wildlife crime and crime prevention experts could help the authorities find the techniques best fitting to the Hungarian context. This activity would also require allocated funding.

8.3 Open and transparent data sharing on protected species among practitioners (e.g., hunters, rangers) and when relevant, tracking devices on individual animals are also recommended as the device can lead to fewer offences committed since it can act as a deterrent.

9. Cooperation and joint operations of nature conservation and game management authorities can serve conservation goals effectively.

9.1 More efficient communication between stakeholders is necessary to understand interests and cooperate in nature protection and game management issues. We suggest that stakeholders (e.g., natural park directorates, hunting associations, WWF Hungary, and Birdlife Hungary) have a meeting coordinated by the Ministry of Agriculture and establish a dialogue on the transparent joint monitoring of certain protected or game species and on adaptive wildlife management.

9.2 In territories where hunters live catch protected birds of prey species, it is highly advised to ensure trust and collaboration between them and the competent nature protection authority.

10. Further research, among other topics highlighted in the report, should be conducted in several areas.

10.1 Court decisions, the texts of the judgements on wildlife crime should be studied thoroughly by researchers, the judicial, or the prosecution service. An in-depth

analysis should cover the different outcomes of the first, second, and tertiary procedures, arguments used, sanctions applied, length of procedures, territorial differences, and the role of the Curia. Furthermore, after accessing the necessary information (e.g., case number), the cases analysed in this study should be linked along the enforcement chain.

10.2 Analysing wildlife crime prevention techniques specifically for the Hungarian context could complement the findings of this research.

10.3 Research on the organised nature of wildlife crime cases would be beneficial for understanding the organised crime networks present in Hungary and beyond, and tackling this challenge effectively. Studies on the financial aspects of wildlife crime, including the illicit profit, related money laundering activities, or the market value of species concerned, could help prosecutors and judges understand the scale of the problem caused by wildlife crime.

10.4 Researchers or the prosecution service should further analyse the role and possibilities of preparatory hearings, settlements, and alternative dispute resolutions in wildlife crime cases to determine how these institutions function in this area and how they can be further utilised.

10.5 Researchers should thoroughly examine what deters possible perpetrators from committing wildlife crimes, what types of sanctions are the most effective, and what other tools should be used to prevent wildlife crime. It would be useful to follow up on the perpetrators sanctioned to release on probation to understand better if this sanction serves its function for instance, in wildlife trafficking cases. Additionally, the exact effect of other particular penalties and measures has to be analysed in depth. Recidivism in the Hungarian context also could be apprehended better, including the connection with business entities infringing the law. The public interest prosecutors' role and further utilisation of public interest litigation serving conservation goals could also be beneficial to understand.

10.6 Researchers or the authorities should analyse the system, including the sanctions within the Hungarian administrative branch, of nature conservation in the country in the context of the relatively low number of wildlife crime cases reaching criminal courts. More data should be collected and analysed to learn the role of government offices in non-CITES-related infringements. The Hungarian government should

conduct an ex-post impact assessment on the legislative changes in 2021 to the Criminal Code in Hungary in accordance with the relevant legislative provisions in effect to evaluate and assess the outcome of the amendment.

10.7 Non-CITES-related misdemeanour cases also have to be analysed to get a more comprehensive understanding of the wildlife crime situation in Hungary.

References

Annual Report of the Office of the Prosecutor General for 2019 (*B/12207 A legfőbb ügyész országgyűlési beszámolója az ügyészség 2019. évi tevékenységéről*) http://ugyeszseg.hu/wp-content/uploads/admin/2020/10/ogy_beszamolo_2019.pdf.

Annual Report of the Office of the Prosecutor General for 2018 (*B/7481 A legfőbb ügyész országgyűlési beszámolója az ügyészség 2018. évi tevékenységéről*) http://ugyeszseg.hu/wp-content/uploads/v1xpafghz/2020/08/ogy_beszamolo_2018.pdf.

Balázs Elek, 'A "jogi tévedés" a Természetkárosítás Bűncselekménnyel Összefüggésben', *Ünnepi kötet Dr. Nagy Ferenc egyetemi tanár 70. születésnapjára*, vol 81 (Acta Universitatis Szegediensis : Acta juridica et politica 2018).

Balázs Elek, *Vadászok, Halászok a Büntetőjog Hálójában* (HVG-ORAC Lap- és Könyvkiadó Kft 2015).

Belovics E, *Büntetőjog I. Általános Rész* (HVG-ORAC Lap- és Könyvkiadó Kft 2020)

Ervin Belovics, Gábor Miklós Molnár, and Pál Sinku, *Büntetőjog II. Különös Rész* (HVG-ORAC Lap- és Könyvkiadó Kft 2019).

European Union Agency for Criminal Justice Cooperation, 'Report on Eurojust's Casework on Environmental Crime'.

Éva Várhegyi, 'A környezeti büntetőjog bírósági gyakorlata különös tekintettel a természetkárosítás bűntette elemzésének tapasztalatai alapján' (2013).

Fruzsina Gárdos-Orosz, Kinga Zakariás (eds), *Az Alkotmánybírósági gyakorlat – Az Alkotmánybíróság 100 elvi jelentőségű határozata 1990–2020* (ORAC 2021).

Gábor Deák, Márton Árvay, and Márton Horváth, 'Using Detection Dogs to Reveal Illegal Pesticide Poisoning of Raptors in Hungary' (2020) 69 Journal of Vertebrate Biology.

Giovanni Grosso, 'EU Harmonisation Competences in Criminal Matters and Environmental Crime', *Environmental Crime in Europe* (Hart Publishing 2017).

György Harnberger and Csaba Zsigmond, 'A veszélyeztetett vadon élő fajok szállításának vámhatósági ellenőrzése' (2020) 20 Magyar Rendészet.

João Pedro Silva and others, 'LIFE & Wildlife Crime'.

Katalin Tilki, 'A természetkárosítás bűncselekménye felderítésének és vizsgálatának kérdései' (2021) https://okri.hu/images/stories/esemenyek/2021/termeszetved_konf_2021.10.12/005_Tilki_Katalin.pdf.

László Teszár, 'A természetvédelem és a természetkárosítás az ügyészi feladatok tükrében' (2021) https://okri.hu/images/stories/esemenyek/2021/termeszetved_konf_2021.10.12/003_Teszr_Lszl.pdf.

Márton Árvay, Márton Horváth, and Gábor Deák, 'Vadvilág ellen elkövetett bűncselekmények ragadozómadár-mérgezések' (*BirdLife Hungary, WWF Hungary*) https://wwf.hu/public/uploads/toltsdle/1637331362-swipe-ragadozomadar-mergezesek.pdf.

Nikoletta Balogh and János Ede Szilágyi, 'Környezeti ügyek az ügyészség büntetőjogi szakágának gyakorlatában', *Studia Iurisprudentiae Doctorandorum Miskolciensium. Miskolci Doktoranduszok Jogtudományi Tanulmányai* (Miskolc Bíbor 2014).

Olof Liberg and others, 'Shoot, Shovel and Shut up: Cryptic Poaching Slows Restoration of a Large Carnivore in Europe' (2012) 279.

Péter Polt, András Zsolt Varga, and György Vókó, *Az Ügyészek Nagy Kézikönyve* (Budapest CompLex 2013).

Tibor Király, *Büntetőeljárási Jog* (Osiris Kiadó Kft 2003).

TRAFFIC for the European Commission, 'An Overview of Seizures of CITES-Listed Wildlife in the European Union. January 2019 to December 2018'.

TRAFFIC, 'An Overview of Seizures of CITES-Listed Wildlife in the European Union. January 2019 to December 2019'.

TRAFFIC, 'An Overview of Seizures of CITES-Listed Wildlife in the European Union. January 2019 to December 2020'.

United Nations Office on Drugs and Crime, 'Wildlife and Forest Crime Analytic Toolkit'.

United Nations Office on Drugs and Crime, 'World Wildlife Crime Report. Trafficking in Protected Species'.

Willem Bastiaan Van Bockel, *The Ne Bis in Idem Principle in EU Law* (Kluwer Law International 2010) http://hdl.handle.net/1814/14641.

International law

Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950, ETS 5.

Convention on International Trade in Endangered Species of Wild Fauna and Flora 1973 (993 UNTS 243).

Criminal Law Convention on Corruption 1999 Eur. T.S. No. 173.

Council of Europe, Criminal Law Convention on Corruption, 27 January 1999, Eur. T.S. No. 173.

International Covenant on Civil and Political Rights 1976 (999 UNTS 171).

UN General Assembly, United Nations Convention Against Corruption, 31 October 2003, A/58/422.

European Union legislation

Treaty of the Functioning of the European Union.

Charter of Fundamental Rights of the European Union, Official Journal of the European Union C83, vol. 53, European Union, 2010.

Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein [1996] OJ L 61/1.

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 on the protection of species of wild fauna and flora by regulating trade therein [2006] OJ L 166/1.

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 [2012] OJ L 242/13.

Commission Regulation (EC) No 605/2006 of 19 April 2006 amending Regulation (EC) No 349/2003 suspending the introduction into the Community of specimens of certain species of wild fauna and flora [2006] OJ L 107/3., OJ L 330M/349.

Directive 2008/99/EC on the protection of the environment through criminal law [2008], OJ L 328/28.

Case law of the Court of Justice of the European Union

Case C-176/03 Commission of the European Communities v Council of the European Union, judgement of 13 September 2005.

Case C-440/05 Commission of the European Communities v Council of the European Union, judgement of 23 October 2007.

Hungarian legislation

Act LIII of 1996 on Nature Conservation

Act LV of 1996 on the Protection, Management, and Hunting of Game

Act CIV of 2001 on Measures Applicable to Legal Entities under Criminal Law

Act XXXVII of 2009 on Forest, Protection, and Management of Forest

Act CLXIII of 2011 on the Prosecution Service

Act C of 2012 on the Criminal Code

Act CII of 2013 concerning Fisheries and the Protection of Fish

Act XC of 2017 on the Criminal Procedure

Act CXXV of 2017 on the Sanctions of Administrative Law Infringements

Decree No. 13 of 2001. (V. 9.) of Ministry of Environmental Protection on the protected and specially protected animal and plant species, specially protected caves, animal and plant species significant for conservation goals within the European Community

Decree No. 33 of 1997 (II. 20.) of the Government concerning the rules of imposition of the nature protection fine

Decree No. 71 of 2015 (III.30.) of the Government on the Appointment of Public Administrative Authorities of Environmental Protection and Nature Conservation.

Decree No. 292 of 2008 (XII.10.) of the Government concerning the implementation of certain provisions of the international and European Union regulations of Trade in Endangered Species of Wild Fauna and Flora.

Cases of the Constitutional Court of Hungary

11/1992. (III. 5.) Decision of the Constitutional Court of Hungary.

53/1993. (X. 13.) Decision of the Constitutional Court of Hungary.

14/2004. (V.7.) Decision of the Constitutional Court of Hungary.

8/2017 (IV. 18.) Decision of the Constitutional Court of Hungary.

Hungarian case law

EBD.2017.B.8.

BH2006. 155

District Court of Kunszentmiklós, 03070/217/2013 Bü.

District Court of Szolnok, 66.B.643/2014/17.

District Court of Hatvan, 03070/531/2014. Bü.

District Court of Baja, 29022/97-11/2016.

Cases analysed in the Analysis of criminal offences related to wildlife conservation section (no access to case numbers).

Legislative proposals, evaluations, and other sources

European Commission, 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.

European Commission, '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)' (2020).

Presentation at the Hungarian National Environmental Security Taskforce's training on 28 Sept 2021 by Rafael Soczó and on 6 May 2022 by István Daróczi.