



The Enforcement Chain: can it effectively address the Illegal Killing of Birds in four Mediterranean countries?

Report assessing the availability of resources to enforcement against illegal killing of birds and recommendations for improvements to the sanctioning framework in four priority flyway countries: Croatia, Cyprus, Greece and Italy

LIFE against Bird Crime project

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Introduction

Illegal Killing of Birds is defined as the criminal act of intentionally or accidentally killing or removing birds from the wild, all EU countries have legislation in place that prohibits the illegal killing, trapping, take or trade of certain wild species.

Ensuring effective enforcement of this legislation is one of the key elements in reducing the number of illegally killed birds. Successful enforcement is not simply a matter of successful detection of a crime or a successful arrest. Every link along the enforcement chain must be in place.

In this report, we examine the implementation of the law as relates to addressing illegal killing, trapping and trade of wild birds (referred to as IKB). We take a closer look at the major parts of the enforcement chain. First, we give a short description of the legislative background, then the law enforcement chain itself with major focus on the role that NGOs play in supporting the work of the law enforcement authorities in dealing with IKB. Finally, we provide a list of recommendations on strengthening the law enforcement in each of these countries.

BirdLife International, its European regional office (BirdLife Europe and Central Asia) and its partners on the ground have been long working to mitigate the illegal killing of migratory birds in the Mediterranean region. In 2015, BirdLife International published a scientific assessment that estimated that 11–36 million birds are illegally killed or taken in the region every year. Through our research, advocacy, and communications efforts, increasing international attention has been given to this threat. The international community now recognizes that IKB is a crime.

The LIFE against Bird Crime project (LIFE 17GIE/NL/000599) focuses its attention on Cyprus, Croatia, Greece and Italy, which were identified as being among the countries with the highest levels of bird crime in the EU. The governments in the region have identified that law enforcement is the weakest element in the eradication of this illegal activity. This report aims to give achievable recommendations to the aforementioned governments as well as to offer practical advice to any country facing the problem of IKB. The LIFE against Bird Crime project partners are non-governmental organizations (NGOs) from the BirdLife partnership, which are working tirelessly to tackle illegal killing of birds in their respective countries: Association Biom in Croatia, BirdLife Cyprus in Cyprus, Hellenic ornithological society in Greece and LIPU in Italy. In this document they provide examples of good practice, highlights legislative gaps and proposes recommendations for improving the enforcement chain.

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More information about the LIFE against Bird Crime project is available on this website:

<https://flightforsurvival.org/life-against-bird-crimes/>.

Croatia

IKB in Croatia and national initiatives to address it

Croatia has an average 500 million birds killed illegally every year, placing it among the 10 worst countries in the Mediterranean in terms of the numbers of total birds illegally killed per year¹. Association Biom, the BirdLife partner in Croatia, works tirelessly to determine the scope and motivations behind bird poaching and works on enhancing capacities of state institutions competent for tackling illegal killing of birds.

During 2020, Croatia was in the process of drafting its first National Action Plan against IKB, with NGOs partnering with national authorities (Nature Protection Inspectorate, and Ministry of Economy and Sustainable Development, among others). However, this was at first halted due to the COVID outbreak and following this the political will to engage with this process weakened significantly. The National Action Plan against IKB, which should include obligatory steps and responsibilities for all relevant institutions, should have focused to address (in order of priority):

-) Issues in the Prosecution and Judiciary
-) Shortcomings in the Hunting and Nature Protection Inspectorates
-) Knowledge on IKB of police teams and their resources to tackle it
-) Rangers' needs for increased competences, protection and resources

The law

Croatian legislation is in line with the EU acquis regarding IKB. The Environmental Crime Directive is transposed through the Croatian Criminal Code² and the Birds Directive provisions regarding IKB are incorporated through the Nature Protection Act³ and Hunting Act⁴. The Criminal Code prescribes criminal offenses, while the Nature Protection Act and Hunting Act prescribe misdemeanors for IKB. The Nature Protection Act establishes the system of protection for wild birds, while the Hunting Act governs bird species that are declared as game.

¹ Brochet, A. L., Van Den Bossche, W., Jbour, S., Ndang'ang'a, P. K., Jones, V. R., Abdou, W. A. L. I., Al-Hmoud, A. R., Asswad, N. G., Atienza, J. C., Atrash, I., Barbara, N., Bensusan, K., Bino, T., Celada, C., Cherkaoui, S. I., Costa, J., Deceuninck, B., Etayeb, K. S., Feltrup-Azafaf, C., Figelj, J., Gustin, M., Kmecl, P., Kocevski, V., Korbeti, M., Kotrošan, D., Mula Laguna, J., Lattuada, M., Leitão, D., Lopes, P., López-Jiménez, N., Lucić, V., Micol, T., Moali, A., Perlman, Y., Piludu, N., Portolou, D., Putilin, K., Quaintenne, G., Ramadan-Jaradi, G., Ružić, M., Sandor, A., Sarajli, N., Saveljić, D., Sheldon, R. D., Shialis, T., Tsiopelas, N., Vargas, F., Thompson, C., Brunner, A., Grimmett, R. and Butchart, S. H. M. (2016) Preliminary assessment of the scope and scale of illegal killing and taking of birds in the Mediterranean. *Bird Conserv. Internatn.* 26: 1–28.

² OG no. 125/11, 144/12, 56/15, 61/15, 101/17, 118/18, 126/19

³ OG no. 80/13, 15/18, 14/19, 127/19

⁴ OG no. 99/18, 32/19

The current Hunting Act (OG no. 99/2018) transposes the Birds Directive almost to the word. However, in contrast to the former Hunting Act (OG no. 104/05), the current Act removed the prohibition to use artificial decoys for killing birds, since the Bird Directive does not include this prohibition. According to the legislation currently in force, hunting is not allowed at carp fish ponds in Croatia, which represent some of the most important breeding, feeding and stopover sites for a number of waterbird species in Croatia. However, a loophole in the current Hunting Act is used to circumvent this ban in almost all fish ponds, i.e. because the fish ponds are surrounded by fences, they are designated as 'closed' breeding grounds for rearing game birds, mostly mallard (*Anas platyrhynchos*) and teal (*Anas crecca*). These reared birds are allowed to be hunted, as opposed to wild populations of birds that appear on the fish pond. Due to this loophole, enforcement on the ground is problematic as it is almost impossible to distinguish the wild population of waterbirds from the artificially reared populations. Additionally, hunting on fishponds is frequently indiscriminate and significant numbers of strictly protected species, such as ferruginous ducks (*Aythya nyroca*), are illegally killed⁵. Hunting with lead shots in wetlands has been prohibited since 2011 through a by-law⁶ to the Hunting Act, but lacking any substantial provisions to its end, it remains unenforceable.

On the positive side, the current Hunting Act considers poaching (illegal killing) as a criminal offence⁷. The Act on Transboundary Movement and Trade in Wild Species⁸ regulates trade in strictly protected species.

The fines

The Criminal Act, Hunting Act and Nature Protection Act describe in detail the penalties for private and legal persons (such as hunting associations). For private persons only the maximum penalties are described in the Criminal Act. The penalty is up to one year prison time if the person is hunting outside of hunting season and up to 3 years if hunting with illegal means. For legal persons the minimum penalty is 600 euros, while the maximum is 1.300.000 euros – however this is prescribed as a fine for all criminal acts and not specifically for illegal hunting⁹. The Hunting Act prescribes the penalties for misdemeanors, which vary from 400 euros to 9.500 euros depending on the perpetrator. The Nature Protection Act also prescribes penalties for misdemeanors, which vary from 60 euros to 6.500 euros for private persons and from 6.000 euros to 130.000 euros for legal persons.

However, judges almost exclusively bring minimal penalties. In 2020, Association Biom has sent a request to all municipal courts for court decisions in cases of criminal offenses against the environment

⁵ Mikuška, A., Horvat, D., Tomik, A. and Mikuška, T. (2014). Impact of hunting on strictly protected bird species in Croatia. 2nd Adriatic Flyway Conference, Durres (Albania), 1–3 October 2014.

⁶ Regulation on the manner of use of hunting weapons and ammunition OG no. 37/19

⁷ During the legislative process it had been proposed that poaching could be considered a misdemeanour; fortunately this did not transpire. Also, this has meant that the enforcement problems faced when both the Hunting Act and Criminal Act penalised the same criminal activity, have been resolved.

⁸ OG no. 94/13, 14/19

⁹ Prescribed in The Act of Liability of Enterprises for Criminal Acts OG no. 151/03, 110/07, 45/11, 143/12.

for the period from 2013 to 2019. Out of 151 court decisions, only 36 were for illegal hunting: 26 resulted in suspended sentences, 6 with fines, 2 with prison time and 2 cases were acquittal.

Prosecution and the Judiciary

Pursuant to recent published reports^{10,11,12} of the State Attorney's Office, illegal hunting and fishing crimes are expressed jointly and participate with negligible 0.7% of all reported crimes in the overall crime structure. The State Attorney's Office considers such a small percentage of these criminal acts to be a consequence of insufficiently developed environmental awareness, meaning that certain behaviors are not even perceived as unlawful activities. In the reports^{10,11,12} it is also considered that increased activities of competent authorities, responsible for detecting and reporting criminal acts of illegal hunting, could alter the present situation towards more cases being reported. They note that this would also establish the possibility of timely recognition of these criminal acts and filing of solid criminal charges, which would ultimately have a preventive effect as well.

From the experience of NGOs, prosecutors are also sometime reluctant to bring charges against IKB perpetrators to court because of a high probability for a negative verdict, which affects their annual statistics. Motivation to enforce the law for the police officers and prosecutors is in part based on their annual statistical records (how many cases they bring forward result in a conviction), which influence their position and future advancement. Criminal courts in Croatia require a very high level of material evidence, and this is one of the main reasons for which prosecutors drop criminal investigations related to IKB. Judges often insist on the evidence of actual killing of birds for a verdict, while most of the cases for which evidence exists are reported before killing actually happens (e.g. IKB using tape lures). As a consequence, the whole law enforcement chain is often uncertain if the usage of illegal methods itself is a crime, i.e. if no birds are killed. This also leads to police officers being reluctant to act upon such perpetrators, who use illegal hunting methods¹³. It is therefore of the highest importance¹³ that the judiciary apply the law on IKB cases: proof of use of illegal methods should be taken into account as "intent" to carry out an illegal act. Furthermore, jurisprudence related to IKB differs between courts. A court decision sentencing a perpetrator only on the basis of using illegal methods, even if no birds were killed, would facilitate future arrests and sentences¹³.

Finally, there is lack of funding dedicated specifically to tackling IKB in prosecution or judicial services, often with insufficient specific training amongst prosecutors on IKB, let alone prosecutors specialized/dedicated to IKB cases. As a result, penalties are rarely applied and sentences are too weak to

¹⁰ State Attorney's Office of the Republic of Croatia (2015). Report of the State Attorney's Office of the Republic of Croatia for 2015. Zagreb.

¹¹ State Attorney's Office of the Republic of Croatia (2016). Report of the State Attorney's Office of the Republic of Croatia for 2016. Zagreb.

¹² State Attorney's Office of the Republic of Croatia (2017). Report of the State Attorney's Office of the Republic of Croatia for 2017. Zagreb.

¹³ Šarić Kapelj, I. (2020). Protuzakoniti lov ptica u Hrvatskoj: stavovi i potrebe policijskih službenika (Illegal bird hunting in Croatia: attitudes and needs of police officers). In D.Novak (ed.) Proceedings of the 6th Zagreb Police college research days – „Keeping Pace with Security Challenges – Where Do We Stand?“, Zagreb, Croatia, April 2019

act as a deterrent when the crimes are economically lucrative. Additionally, to act as a deterrent, the severity of penalties needs to match the severity of offences for IKB cases. In order to reduce the extent of IKB in Croatia, the perception of impunity by perpetrators needs to be reduced.

Law enforcement

There is a wide range of authorities in charge of enforcing the Nature Protection and Hunting Acts: Local Police, Criminal Police, the Hunting Inspectorate, the Nature Protection Inspectorate, Gamekeepers, and Protected Area rangers. Most authorities are chronically understaffed, lack expertise on IKB, and rely heavily on NGO knowledge, but are very often dismissive of involving NGOs, as partners to address IKB.

Local and criminal police are understaffed and are usually not able to identify IKB cases without help¹³. However, in 2018 the Nature Protection Inspection organised a training on tackling IKB for police officers on a regional level and Biom staff served as trainers. During the trainings, a gap analysis of the police sector was conducted by Biom¹³. According to the study, officers stated that their own professional deficiencies regarding the subject is the main obstacle for tackling poaching. This ranges from the lack of topic-specific training, capacities with regard to numbers of available officers and equipment, as well as a single procedure protocol. Local police stations usually have one patrol available per shift and their priorities are, among other things, maintaining civil order, robberies, fires, domestic violence, as well as IKB cases. Nevertheless, local police generally respond after NGO reports on IKB. Procedures for criminal cases are not consistently applied among different police stations, as many do not believe that penalties would be applied even if they went through the effort of catching a poacher¹³. In small closely-knit communities (e.g. certain places in the Neretva delta), interpersonal connections can influence the police officers' impartiality and negatively affect their performance. More police officers need to be trained about bird crime and how to handle IKB cases. Creating a dedicated wildlife crime unit within police would be a good start in addressing these issues.

Hunting Inspectorate: The Hunting Act does not explicitly mention wildlife crime or bird crime, and hunting inspectors are responsible for controlling whether hunting associations are fulfilling their tasks set out by hunting management plan, and therefore do not control illegal hunting or poaching. In practice, however, hunting inspectors are frequently asked for their opinion by prosecutors on illegal hunting cases, with examples where their interpretation of the law was incorrect. Implementing a few changes in the functioning of the Hunting Inspectorate could improve their engagement in tackling illegal hunting:

-) By enforcing IKB legislation when licenced hunters use illegal methods; and
-) By going to the field more often/with police and/or Nature Protection Inspection instead of primarily checking if hunting is compliant with management plans

¹³ Šarić Kapelj, I. (2020). Protuzakoniti lov ptica u Hrvatskoj: stavovi i potrebe policijskih službenika (Illegal bird hunting in Croatia: attitudes and needs of police officers). In D.Novak (ed.) Proceedings of the 6th Zagreb Police college research days – „Keeping Pace with Security Challenges – Where Do We Stand?“, Zagreb, Croatia, April 2019.

Nature Protection Inspectorate: The Nature Protection Act is much more detailed than the Hunting Act, giving rights and responsibilities to nature protection inspectors. Capacity in this Inspectorate is limited in terms of staff, equipment, and funds. On top of this, a common misinterpretation among inspectors is that the Nature Protection Inspectorate can only intervene in protected areas, leaving IKB outside protected areas often unaddressed. Finally, the Nature Protection and Hunting inspectors should cooperate more on tackling IKB, for example through joint inspections, exchange of intelligence, joint planning, etc.

Rangers of protected areas are competent for tackling wildlife crime, giving immediate penalties for violations and confiscating illegal tools used in protected areas, under the Nature Protection Act. However, in practice, rangers' authority is not widely recognised, when compared to police or inspectors. Rangers are often underequipped, and do not have special legal protection in case of a confrontation, hence tend to avoid direct intervention. Protected area rangers need to be given official law enforcement status, comparable to police or State Inspectors.

Gamekeepers are supposed to prevent illegal hunting on their respective hunting grounds. They are usually keen and proactive in preventing illegal hunting of game other than birds, but will often remain silent when illegal tools are used to kill birds, as concession owners (their employers) are usually involved in the illegal activity. However, gamekeepers often report IKB of birds of prey or other charismatic species.

The “watchdogs” and access to information

In Croatia there is currently no accessible, computerized, and centralized repository of data of wildlife crime. It is therefore extremely difficult for any involved party to analyze and draw useful conclusions from existing data. However, certain data is sent upon request.

The only actors in Croatia, which regularly monitor IKB and actively raise the alarm against the illegal killing of birds are NGOs. While they have often been overlooked as potential partners to enforcement powers in the country, the cooperation between some Nature Protection inspectors and NGOs is continuous and solid. For example, bird protection NGOs have been invited by Croatia's National Focal Point for illegal killing, trapping and trade of wild birds to be a part of a working group which gives input on the CMS MIKT Scoreboard to assess the progress in combating illegal killing of birds. Most of NGOs comments were in the end accepted and submitted in the Scorecard, as well as the numbers of illegally killed birds that NGOs have estimated. Such joint activities give hope to building a constructive relationship of NGOs with enforcement officers.

Strengthening the Enforcement Chain

This is a list of recommendations to tackle IKB more effectively in Croatia, from enforcement on the ground to judiciary:

- Develop a National Action Plan to tackle IKB, and implement it as a matter of urgency
- Organize training for the Nature Protection Inspection and rangers on IKB and bird identification
- Enforce IKB legislation by the Hunting Inspection when licenced hunters use illegal methods
- Prescribe the obligation to prepare annual reports on the work of inspections within the State Inspectorate
- Prescribe provisions in the hunting legislation for lead shot hunting in wetlands
- Alter the hunting legislation in order to ban hunting on fishponds
- Organize further training on the topic of IKB for police officers
- Equip police officers and protected areas' rangers for tackling IKB (vessels, terrain vehicles, etc.)
- Establish a 'wildlife crime police' unit
- Give official law enforcement status to protected areas' rangers
- Train and sensitize judiciary and state attorney staff on the topic of IKB
- Strengthen cooperation between all competent government institutions for tackling IKB
- Advocate for significant improvement of cooperation between Nature Protection and Hunting Inspection, i.e. joint inspections, exchange of intelligence, joint planning, etc.
- Organize training on tackling IKB for hunting associations and gamekeepers

Cyprus

IKB in Cyprus and national initiatives to address it

In recent years, Cyprus has been assessed as one of the top five worst Mediterranean countries when it comes to the number of illegally killed birds. During 2014-15 experts estimated that cc. 2,3 million birds are killed unlawfully every year¹⁴. Illegal bird trapping with mist nets and limesticks in Cyprus is widespread and extensive, contributing to the large scale killing of hundreds of thousands

¹⁴ Brochet, A. L., Van Den Bossche, W., Jbour, S., Ndang'ang'a, P. K., Jones, V. R., Abdou, W. A. L. I., Al-Hmoud, A. R., Asswad, N. G., Atienza, J. C., Atrash, I., Barbara, N., Bensusan, K., Bino, T., Celada, C., Cherkaoui, S. I., Costa, J., Deceuninck, B., Etayeb, K. S., Feltrup-Azafaf, C., Figelj, J., Gustin, M., Kmecl, P., Kocevski, V., Korbeti, M., Kotrošan, D., Mula Laguna, J., Lattuada, M., Leitão, D., Lopes, P., López-Jiménez, N., Lucić, V., Micol, T., Moali, A., Perlman, Y., Piludu, N., Portolou, D., Putilin, K., Quaintenne, G., Ramadan-Jaradi, G., Ružić, M., Sandor, A., Sarajli, N., Saveljić, D., Sheldon, R. D., Shialis, T., Tsiopelas, N., Vargas, F., Thompson, C., Brunner, A., Grimmett, R. and Butchart, S. H. M. (2016) Preliminary assessment of the scope and scale of illegal killing and taking of birds in the Mediterranean. *Bird Conserv. Internatn.* 26: 1–28.

of migratory and wintering birds. Survey records show that 157 bird species have been found trapped in mist nets or on limesticks, of which 82 are listed as conservation priority species under the EU Birds Directive and/or by BirdLife International¹⁵.

This illegal activity has become a profitable business, which is controlled to a large extent by the 'big' trappers who are also involved in organised crime¹⁶. The Cyprus Game & Fauna Service estimated this illegal business to be valued in the order of 15 million euros per year¹⁷.

In 2013-2014 BirdLife Cyprus led an initiative for the development of a National Action Plan to tackle illegal bird trapping. In a process involving consultation with all key enforcement stakeholders, a document was developed following a participatory, transparent process¹⁸. This document was swiftly adopted by most key stakeholders, except for the Cyprus Government (and consequently the Cypriot relevant authorities, Game and Fauna Service and Cyprus Police). The Cyprus Government finally adopted a NAP in May 2015, but added unilaterally a new clause called 'alternative plan', which allows for derogations to hunt Blackcaps, as a way of "controlling" illegal bird killing. The European Commission has clearly stated¹⁹ to the authorities that this derogation cannot be allowed under the Birds Directive and has called upon the Cyprus government to remove this 'alternative plan'. However the Cyprus Government has not done so yet and to this date neither the NAP have started to be implemented.

The UK Sovereign Base Areas (SBAs), on the other hand, have developed and have been implementing their own Action Plan, with very successful results (significant decrease in trapping levels within their jurisdiction) over the last few years. The SBAs have formed a Bird Trapping Tactical Co-ordination Group, which reviews the implementation of the Action Plan – NGOs are also invited some times per year to meetings held by this group, providing their feedback as stakeholders.

The law

The "Law regarding the Protection and Management of Wild Birds and Game Species"²⁰ transposes and is in general compliance with the Birds Directive. It sets out the provisions for hunting and the illegal practices and offences under this law (including the use of mist nets and limesticks).²¹

¹⁵ BirdLife Cyprus website. List of birds recorded trapped in mist nets and on limesticks. <https://birdlifecyprus.org/species-affected-by-trapping> Accessed January 2021.

¹⁶ Various Newspaper articles, including Alithia paper titled 'Cyprus Police Anti-poaching unit is totally being dismantled', 12/11/19, page 11 [only in printed Greek version]. Attack incidents against officers / game wardens happen almost every year, associated with organised crime / trapping networks. See p.26 of [BirdLife Cyprus Autumn 2017 report](#) for example when that year 3 incidents had taken place.

¹⁷ Cyprus Game and Fauna Service, 2010. Position Paper, presented at the Committee of Environment of the Cyprus House of Parliament during a discussion to change the legislation on the protection and management of wild birds and game species.

¹⁸ BirdLife Cyprus' advocacy strategy <https://birdlifecyprus.org/advocacy> Accessed January 2021.

¹⁹ Press Conference LIVE EC Midday press briefing of 15/12/2015 <https://audiovisual.ec.europa.eu/en/video/I-114292>

²⁰ 152/2003

²¹ Non-selective methods and illegal practices is not something that arrived to Cypriot legislation during the accession process. An older piece of legislation on 'Protection and Development of Game and Wild Birds law' (39/1974), already then stipulated non-selective methods as illegal practices.

The 152/2003 law has been amended several times since 2003. A key amendment law was passed by Cyprus Parliament in July 2017, where one major change to the previous legal framework was the introduction of on the spot fine system for all offences under this law, as opposed to prosecution from the start. The latest amendment law passed in December 2020.

The fines

Most offenders caught are asked to pay a fine of 2000 euros on the spot – 10% of the maximum fine under the law – which depending if other offences also take place, it can increase. Enforcement officers seem to be issuing high fines, which are acting as a significant deterrent for poachers and trappers.

However, not all offences are treated equally and not all species share the same level of protection with regards to fines. In the latest amendment law in December 2020, the Cyprus Parliament passed that the on-the-spot fine for the offence of illegal killing (using limesticks or a shotgun) of up to 50 birds from a list of 14 protected non-game species to be €200 only i.e. 1% of the maximum fine (previously this offence was €2000). These 14 songbird species “happen” to be the target-species of trappers and poachers, also known as “ambelopoulia”. This is much lower than other offences under the same law, has no deterrent effect, and effectively decriminalizes the killing (illegal shooting or trapping) of these 14 protected migratory species²².

One new issue arising is that fines on the higher spectrum (above 5000 euros) are less likely to be paid within the allotted 45 days, with offenders being then referred to court for prosecution. In many cases, offenders in this situation are ultimately handed out lower fines²³. The relevant UK SBA legislation applicable within their jurisdiction generally mirrors the Cyprus legislation 152/2003. Therefore, the on the spot fine adjustment was passed into SBA legislation. However, the fine for using limesticks equals the other offences at 2000 euros.

Prosecution and the Judiciary

As described above, the on-the-spot fine system has been rather successful, with higher fines being issued than in the past, and this has helped avoid lengthy court procedures.

The fact that higher fines tend not to be paid, and that when prosecuted, offenders are issued lower fines than on the spot obviously puts the sustainability of this system at risk. On average an on the spot unpaid fine of 5,000 euros is handed out a fine of about 2,000 euros by Cyprus courts, a significant difference²³.

Wildlife crime is not considered a serious crime by the judiciary in general, and this inheritance is reflected in the lower fines imposed by the judges. There are no prosecutors or judges specialized in

²² BirdLife Cyprus press release on 23 December 2020, <https://birdlifecyprus.org/news-details/announcements/call-for-the-annulment-of-relaxation-of-bird-protection-law>

²³ BirdLife Cyprus Trapping Report (2020) p.24-25 of the autumn 2019 report https://birdlifecyprus.org/udata/contents/files/Trapping-Reports/BirdLife%20Cyprus_Autumn_2019_Trapping_report_Final_April%202020_for%20publication.pdf

environmental or wildlife crime in Cyprus; judges often need to examine different types of offences in a day.

Law enforcement

There are two active competent authorities responsible for enforcement against illegal bird trapping in Cyprus: the Game & Fauna Service are responsible for areas controlled under the Republic of Cyprus, and the SBA Police Anti-Poaching unit responsible for areas within the UK Sovereign Base Areas. The resources and competences of the above-mentioned enforcement bodies are as follows:

Game & Fauna Service implement the Protection and Management of Wild Birds and Game Species. It takes action on the ground against poaching, but often prioritise hunting and game management issues (such as reproduction of game species e.g. chukars), to illegal bird trapping. It has about 210 game wardens in total across the country's 5,500 km²²⁴, while Larnaca & Famagusta districts (about 2,800 km²), where most of the bird trapping takes place in Cyprus, has about 50 game wardens.

SBA Police Anti-Poaching Unit has turned into an effective, deterrent unit applying a series of measures that have improved their operational effectiveness such as covert surveillance, use of drones, increased bail sentences, better cooperation on the ground with NGOs, across the Dhekelia Eastern SBA (ESBA) that covers an area of 131 km². Normally the unit comprises of about 10 officers, including office staff dealing with the investigation and filing of cases, particularly during the main autumn trapping period. In 4 years (from 2016 when the highest trapping activity was recorded with ESBA), it has managed to turn UK SBAs from being the main hotspots of illegal trapping of birds to a conservation enforcement success, having drastically reduced the practice. This is an excellent example of best practice that should be replicated across the whole country, and the region.

The Cyprus Police Anti-Poaching Unit, which no longer exists, was established in 2007 and had turned into an effective and deterrent specialized unit, particularly in the period 2014-2016.. At its height of effectiveness it had upto 10 officers and it was successfully targeting organised trappers that would operate large scale trapping sites killing illegally thousands of migratory birds every year. Sadly, after 2016 its enforcement action gradually reduced and in November 2019 was dismantled, without proper justification from the Cyprus Police. The dismantlement of this extremely effective Unit was a huge step backwards in enforcement action, particularly against the big, organised trappers, and BirdLife Cyprus expressed its opposition to this backward development²⁵.

²⁴ Cyprus area is 9,251 km², however only 59% is under the effective control of the Republic of Cyprus due to the illegal occupation of Turkey.

²⁵ BirdLife Cyprus Trapping Report (2020) p. 25 of the autumn 2019 report https://birdlifecyprus.org/udata/contents/files/Trapping-Reports/BirdLife%20Cyprus_Autumn_2019_Trapping_report_Final_April%202020_for%20publication.pdf

The “watchdogs” and access to information

The role of the civil society and in particular environmental NGOs is very important in the fight against IKB. BirdLife Cyprus has been acting as a watchdog regarding illegal bird trapping on the island for nearly 20 years, sounding the alarm and lobbying the authorities to take greater action on this conservation issue. It is certain that in the absence of this pressure, enforcement action would be much less on this issue.

Furthermore, NGOs can play an important role in the enforcement aspect, supporting competent authorities on the ground, provided a true collaboration is established. A tangible example is the collaborative partnership approach that has developed in recent years between the SBA Police and NGOs, with a significant decrease in bird trapping levels being recorded²⁶. BirdLife hopes that this case study of conservation success regarding enforcement would be expanded and adopted across the island, and also to other countries with similar IKB problems.

Environmental information in Cyprus is in general limited and non-transparent, while access to it is not easily facilitated and not publicly available in many cases. For example, IKB cases, are not publicly available and published by the competent authority, Game and Fauna Service. However, such data are provided in some form when officially requested by BirdLife Cyprus.

Strengthening the Enforcement Chain

This a list of recommendations to tackle IKB more effectively in Cyprus, from enforcement on the ground to judiciary:

-)] Change the on-the-spot fine for the killing of 14 species, either with shooting or with limestick use, from 200 euros to 2000 euros, in line with other similar offences under the relevant national law in order to have a deterrent effect.
-)] Cyprus Republic to start implementing the National Action Plan (which has been ‘on hold’ since May 2015), with the removal of the ‘alternative plan’ derogation option (as already requested from the Commission). A good example to follow is the SBA Action Plan, highly effective, implemented and reviewed annually.
-)] Build on partnership approach between NGOs and SBA Police and extend this model to all of Cyprus.
-)] Reinstate the Cyprus Police Anti-poaching unit (dismantled last November 2019)

²⁶ Relevant article in Financial Mirror in 5th August 2020, <https://www.financialmirror.com/2020/08/05/heavy-fines-hunting-bans-for-bird-trappers-in-uk-bases/>

- J) Cyprus game wardens / police officers need further training regarding the on-the-spot fine system, as well as evidence gathering and setting up an ambush. Particularly focus should be given to the 140 staff members that have been added to the Game Service recently.
- J) Explore the use of covert surveillance technology by Cyprus authorities (this has already been taking place within the SBAs for the last 4 years). Find way to transfer very positive results from covert surveillance in SBAs to all of Cyprus.
- J) Prosecutors and judges:
 - o Need to be further informed about wildlife offences, with particular reference to the various illegal practices and the impact they may have on the conservation status of the bird species involved.
 - o It is vital to evaluate the court sentences vs. "on-the-spot" fines and to ensure that judges do not issue lower sentences. Alternatively this would risk the viability of the on the spot fine system (in place since July 2017).

Greece

IKB in Greece and national initiatives to address it

Greece ranked 6th out of the worst 10 Mediterranean countries in illegal killing of birds (IKB) with an estimated average number of 0.7 million birds killed illegally every year²⁷. Songbirds such as Goldfinches (*Carduelis carduelis*), Serins (*Serinus serinus*), Greenfinches (*Chloris chloris*) are being illegally trapped and sold in open markets or pet shops. This mass trapping is taking place mainly during autumn migration (September-October) and mostly in Aegean islands with the perpetrators using two so-called traditional techniques: limesticks (ksoverges), and pools (limnes), where birds are lured by other birds trapped in cages, placed close to man-made drinking pools and feeding areas. In Greece, although spring hunting is illegal since 1985 (with the transposition of Birds Directive into national law), it's still a common practice in Western Greece and especially in the Ionian Islands. Every spring, thousands of birds, mainly

²⁷ Brochet, A. L., Van Den Bossche, W., Jbour, S., Ndang'ang'a, P. K., Jones, V. R., Abdou, W. A. L. I., Al-Hmoud, A. R., Asswad, N. G., Atienza, J. C., Atrash, I., Barbara, N., Bensusan, K., Bino, T., Celada, C., Cherkaoui, S. I., Costa, J., Deceuninck, B., Etayeb, K. S., Feltrup-Azafaf, C., Figelj, J., Gustin, M., Kmecl, P., Kocevski, V., Korbeti, M., Kotrošan, D., Mula Laguna, J., Lattuada, M., Leitão, D., Lopes, P., López-Jiménez, N., Lucić, V., Micol, T., Moali, A., Perlman, Y., Piludu, N., Portolou, D., Putilin, K., Quaintenne, G., Ramadan-Jaradi, G., Ružić, M., Sandor, A., Sarajli, N., Saveljić, D., Sheldon, R. D., Shialis, T., Tsiopelas, N., Vargas, F., Thompson, C., Brunner, A., Grimmett, R. and Butchart, S. H. M. (2016) Preliminary assessment of the scope and scale of illegal killing and taking of birds in the Mediterranean. *Bird Conserv. Internatn.* 26: 1–28.

turtle doves, are being illegally killed during their migration to their breeding grounds. Zante, Paxoi and Othonoi islands are known black spots for the IKB of Turtle doves.

IKB continues to be rampant and not properly tackled in Greece, mostly due to the lack of a national strategy against IKB, a deficient IKB penal legal framework which lacks dissuasive penalties, and its problematic on-the-ground enforcement, and the lack of Greek representation in international fora where IKB is discussed. Also, it is noteworthy that an IKB database, in the sense of an organized, structured, computerized and publicly accessible source of reliable data, which is updated and verified in a standardized manner, does not exist in Greece.

In regards to detailed information on IKB, compiled data are only collected by NGOs and in particular the Hellenic Ornithological Society (HOS), BirdLife in Greece . The local Forestry Services record cases handled by them, reported to them by citizens or detected by themselves however, there isn't a comprehensive IKB database in the local Forestry Services or in the Ministry of Environment and Energy where IKB data are being recorded, in an organized, structured and computerized standardized manner.

In general, perpetrators have a general sense of impunity due to poor enforcement of the law, the low prioritization of environmental delinquency, the lack of monitoring, the deficiency of knowledge and low awareness of the phenomenon. Local communities often don't consider IKB as a crime, in some cases i.e. spring hunting they even encourage and support it.

The legislation is in place and adequate, meaning that it allows IKB to be tackled, and does not allow the hunting of internationally protected species and internally banned hunting method. On the other hand, the in-force legislation does not correspond fully with the ecological importance of the phenomenon, which can result in frequent mishandling of the prosecuted cases by the competent judicial authorities.

HOS was involved in the development of Local Action Plans to tackle IKB by local authorities as a key stakeholder, these LAP were prepared under the framework of the LIFE Against Bird Crime , as a way to influence the decision making and push the issue of IKB further up in the agenda of law enforcement bodies. In the year 2020, Greece witnessed the first development and implementation of Local Action Plans (LAPs) in the Ionian island. Results have not been communicated yet, although since May 2020, HOS has repeatedly requested from the Ministry of Environment and Energy. LAP's are supposed to be re-implemented this year.

The law

Legislation to address IKB in Greece is in place and largely adequate, with a general system of rules, provisions and legislature providing an integrated framework for the delimitation of hunting, and identifying and defining IKB: the system regulates hunting, compels national authorities to tackle IKB, prohibits hunting of internationally protected species, especially species listed in Annex I of the Birds Directive, and provides for banned hunting methods. However, their implementation is far from effective in eliminating IKB. In fact, a large number of protected species are killed illegally every year, often by

including illegal methods and IKB is even taking place in strictly protected areas where hunting is prohibited.²⁸

IKB in Greece is dealt by a Joint Ministerial Decision²⁹ which constitutes the main legislation for the integration of the Directive 2009/147/EC in the national legal order. Certain provisions of the Forest Code also apply for the IKB tackling.

The fines

The current framework of fines lacks measures to effectively prevent and properly address IKB in Greece. Breaches of environmental law, and more precisely breaches of bird protection and hunting legislation, are penalised both with administrative fines, which do not surpass € 1,000 in any case and other measures, such as confiscation of goods, and penal procedures and penalties. Administrative measures are imposed in situ when the perpetrator is caught on the act. The infliction of administrative measures on a perpetrator does not exclude the possibility of the imposition of criminal sanctions, which do not exceed the incarceration of up to one (1) year, never actually imposed. In any case, administrative fines are currently set too low, when taking into account the damage done, and do not produce a deterring effect.

For this framework to be effective, the fines and other type of punishment need to be set much higher so as to have a meaningful deterrent effect.

Prosecution and the Judiciary

Judicial procedures in Greece are generally slow: it takes a lot of time to complete a preliminary, prejudicial process and investigation and to launch the main procedure for the prosecution of a suspect. This is mostly due to the lack of capacity of investigative authorities, depending of course on the very nature of the misconduct itself, the heavy workload of the judicial system, the lack of education and awareness of the judicial system on specific topics (such as IKB) and the possibilities and requirements provided by the judicial system itself (e.g. postponements). The above apply to IKB cases as well.

IKB incidents are considered minor offences by the law, given that the provided fines and penalties by the relevant legislation are extremely low, as described above. Therefore, even if an IKB case manages to reach the court and the accused is found guilty, and even if the judge imposes the maximum of these penalties that can be imposed, still IKB cases are not treated in an effective way. So far, the Greek legislator

²⁸ Brochet, A. L., Van Den Bossche, W., Jbour, S., Ndong'ang'a, P. K., Jones, V. R., Abdou, W. A. L. I., Al-Hmoud, A. R., Asswad, N. G., Atienza, J. C., Atrash, I., Barbara, N., Bensusan, K., Bino, T., Celada, C., Cherkaoui, S. I., Costa, J., Deceuninck, B., Etayeb, K. S., Feltrup-Azafaf, C., Figelj, J., Gustin, M., Kmecl, P., Kocevski, V., Korbeti, M., Kotrošan, D., Mula Laguna, J., Lattuada, M., Leitão, D., Lopes, P., López-Jiménez, N., Lucić, V., Micol, T., Moali, A., Perlman, Y., Piludu, N., Portolou, D., Putilin, K., Quaintenne, G., Ramadan-Jaradi, G., Ružić, M., Sandor, A., Sarajli, N., Saveljić, D., Sheldon, R. D., Shialis, T., Tsiopelas, N., Vargas, F., Thompson, C., Brunner, A., Grimmett, R. and Butchart, S. H. M. (2016) Preliminary assessment of the scope and scale of illegal killing and taking of birds in the Mediterranean. *Bird Conserv. Internatn.* 26: 1–28.

²⁹ НП 37338/1807/E.103/01.09.2010 (GG 1495/v. B/06.09.2010) titled "Establishing measures and procedures for the conservation of wild birds and their habitats, in accordance with the provisions of Directive 79/409 / EEC "On the conservation of wild birds" of the European Council of 2 April 1979, as codified in Directive 2009/147 / EC

(Hellenic Parliament), for the purpose of the relief of the heavy workload of the Greek judicial system, has repeatedly voted provisions (laws) on the statute of limitations that led to the dismissal of several IKB cases. Those provisions, voted in years 2012, 2013, 2016 and 2019, led to the conditional elimination and cessation of the criminal prosecution for certain offenses of relatively low value, under the special condition that these offences have been committed before a certain date, different each time. Such offenses include misdemeanours for which a prison sentence of up to two years is threatened, which is the case with most of IKB offenses in Greece. Therefore, a few serious offenses against the environment and biodiversity, which have a lot of significant implications, fall under otherwise 'beneficial' provisions of these provisions, with the consequence that they are not prosecuted, and the perpetrators remain unpunished, by virtue of the law.

Given that, according to information HOS possess at the moment, neither the National School of Judges nor the Judges' Unions have in the past organised events, seminars or workshops on IKB legislation and its effective implementation, it is strongly believed that there is lack of IKB legislation awareness among judges and prosecutors, which might lead to mishandling or poor handling of IKB cases before the court.. Civil society (namely HOS mainly) has organised various such seminars to train prosecutors and judges on IKB legislation, and its scale and impact on biodiversity. However, participation in such seminars is still extremely low and probably this is indicative of the fact that IKB is still of low interest for prosecutors and judges.

Access to information on IKB prosecution is extremely difficult, due to the rules and the organisation of the judicial system, namely the preconditions, the requirements for confidentiality and the required legal interest that is only recognised to a limited number of people who can gain access to the archives of the judicial system, and for practical reasons as well, namely the way judicial archives are kept and informed, meaning that only recently efforts are being made for the upgrade and computerization of the judicial system. Therefore, it is extremely hard for the civil society to gain information on IKB prosecution, and it is only recently that via LIFE projects such as LIFE Natura Themis and the functioning of two (2) special environmental observatories, and under very strict authorization, primary material for the prosecution of environmental delinquency has been collected and analysed.

Law enforcement

In Greece, there are three enforcement bodies for the implementation of legislation to prevent IKB on the ground: the Hellenic Police, the Forestry Service and the Game Guard.

Most recent data³⁰ shows that, the Hellenic Police is staffed with around 55000 officers, although it is largely unclear how any of them have been trained in wildlife crime. There are no police officers exclusively dedicated to investigating wildlife crime; in any case, there are no "Environmental Police" units. Police Officers, as general investigators, are obliged to detect, inspect and to back up the work of justice in any matter, including wildlife crime.

³⁰ Hellenic Police, <http://www.astynomia.gr/newsite.php?&lang=>

The Forestry Service is highly understaffed with around 1.800 employees, charged to execute a wide range of duties aimed to protect the Greece's forest land, focusing mainly on forest development issues and the protection of forest areas, the execution of forestry projects, forest restoration and reforestation projects, forest mapping and property issues. They are in charge of handling special illegal activities such as illegal logging, illegal harvesting of plants, illegal interventions in the woods etc. The Departments of Forest Protection and Management, and especially the local Forestry Services accompanied by the Public Prosecutor, are assigned to protect the forest fauna and flora, as special investigators who are primarily competent to tackle wildlife crime. However, there are no specialized units focused on tackling wildlife crime, dealing with illegal killing or trade of particular species.

Forestry Service has a wide range of duties to execute, and comparing to the total capacity of the body, it is rather difficult for it to fulfil its obligations. The Forest Service considers IKB cases as of low priority since it is mostly dedicated to the protection of its primary subject: the stricto sensu protection of the forest, meaning the land and the trees. That means that the Forestry Service's work is mostly oriented towards the programs of forest conservation, meaning the preservation of woodland areas and wetlands (only the terrestrial part) from illegal activities such as illegal logging, illegal harvesting of plants, illegal housing or other similar construction project, and also it is mostly involved in projects and plans that are related to the restoration of burnt areas and reforestation projects, and finally it is deeply involved in the forest mapping project.

The Game Guard, established in 2000, numbers around 350 members for the whole of Greece (mainland and islands). They are in charge of the on-the-ground enforcement of the hunting legislation, as an additional private body of the Hunting Association. On the absence of proper game guarding on behalf of the State, meaning the Forestry Services, the Hunting Organizations formed patrols for the prevention and suppression of poaching and wildlife crime, financed by the amounts that hunters pay to obtain the hunting licences. However, it should be mentioned that there is a profound conflict of interest in the sense that the employees control their employer. In Greece, a mixed patrolling system combined by Forestry Service and Game Guard representatives is provided. Enforcement of wildlife crime in Greece is not effective. This is due to various reasons, in particular lack of staffing, lack of training of the importance to address wildlife crime and the fact that tackling wildlife crime is given a low priority. Most worryingly, it seems like the unclear remits of the different enforcement bodies is making the issue of wildlife crime to fall between the cracks.

The “watchdogs” and access to information

Local divisions of both the Hellenic Police and the Forestry Service only keep handwritten records of the breaches of the relevant legislation as described above (namely hunting of internationally protected species, use of banned hunting methods etc.), but none of the national offices compile the data gathered at local level, nor produce a compounded, accessible, computerized, and centralised repository of data of wildlife crime. It is therefore extremely difficult for any involved party to analyse and draw useful conclusions from existing data. This not only puts enforcement agencies in a conundrum, as they remain

unaware of the general status of wildlife crime, nor what are the causes, nor priorities to tackle it. Civil society working to tackle wildlife crime are therefore also kept in the dark, as they are also denied access to the original reports arguing legal processes and the rules mentioned above. As it is stated above, once there is a case of crime, as in wildlife crime, the relevant procedures take place, which provide the preconditions, the requirements for confidentiality and the required legal interest that is only recognised to a limited number of people who can gain access to the archives of the judicial system, and the information that could be extracted.

Throughout 2019 and 2020, civil society records have registered a progressive increase in IKB incidents. All incidents recorded by civil society have been reported to the competent authorities. This increase could be attributed to the communication campaigns undertaken under the Life against Bird Crime and other for the protection of birds and animals in general, to the development of the Important Bird Areas caretakers network and to the environmental education actions undertaken by HOS, which have all led to a greater public awareness.

Civil Society representatives, meaning both NGOs and individuals, need to collaborate to tackle IKB. It is the duty of the NGOs to form and offer knowledge and the suitable, attractive environment that would encourage citizens to detect and report IKB to the competent authorities, convincing them for the importance of biodiversity. And it is for the citizens to feel that protection of environment and biodiversity is as a right and an obligation for them, so they should be actively involved in IKB tackling. HOS makes every effort to mainstream IKB and wildlife crime issues, so that the citizens endorse the biodiversity conservation ideas. So far, statistics justify HOS' views, as more and more citizens are concerned about IKB and proceed with reporting of cases. However, progress needs to be made and citizens should be more proactive towards that direction.

Strengthening the Enforcement Chain

This a list of recommendations to tackle IKB more effectively in Greece, from enforcement on the ground to judiciary:

-) Urgent need for the introduction of a penal system composed by dissuasive, proportional, and drastic punishments and fines, for ikb crimes.
-) Enhancement of the on-the-ground inspection and law enforcement equipped with adequate means for proper recording and substantiating.
-) The education/ training of the relevant competent authorities and stakeholders involved in ikb, if not the creation of specialized authorities focused exclusively on ikb.
-) The creation and implementation of a general National Action Plan aiming at the ikb tackling, and of Local Action Plans where such need might be.
-) Education of prosecutors and judges on matters of wildlife crime.
-) Raising public awareness.

Italy

IKB in Italy and national initiatives to address it

Italy is the country with the highest number of illegally killed birds in Europe and is among the top three countries in the whole Mediterranean when it comes to the number of illegally killed birds. Experts estimated that about 5.6 (3.4 – 7.8) million birds per year were illegally killed³¹. To put pressure on the Italian government, the EU started a Pilot procedure³² to investigate the issue of the killing, capture and illegal trade of birds in Italy and followed up in 2016 with a second official letter asking about the progress done.

As a result of this pressure, the Italian government has worked on developing a National Action Plan to tackle bird crime. It was formally approved by the National and the Regional governments in March 2017. National conservation NGOs, as well as hunting associations, the Regions, and all relevant ministries, have been involved since an early stage in the development of the plan; LIPU is currently representing the NGOs in the Coordinating Table [Cabina di Regia], which is in charge of overseeing the National Action Plan (NAP) implementation and meets at least once per year.

The law

The national framework law on hunting (n. 157/1992) is, in general terms, in compliance with the Birds Directive. The law clearly defines what is legal and what is not, and offers opportunities to issue derogations following European legislation. Furthermore, it gives the National Environmental Protection Institute [ISPRA], an important role in providing advice and judgments on management and hunting regulations. Nevertheless, the level of IKB in Italy indicates that the penalties set by the law are not strong enough to act as a deterrent to those breaking the law.

The national framework law is implemented through Regional laws that define the hunting calendar, game list, the local hunting management authorities and coordinate its enforcement. The game list and hunting calendars are issued every year and often the Regions try to apply the derogations in inappropriate ways resulting in the government opposing the regional acts or the NGOs bringing them to

³¹ Brochet et al. (2016) Preliminary assessment of the scope and scale of illegal killing and taking of birds in the Mediterranean. *Bird Conservation International*, Volume 26, Issue 1.

³² The EU Pilot system is a mechanism for the exchange of information between the European Commission and the Member States related to possible problems arising from incorrect or missed application of EU law. This instrument was introduced in 2008 by the Commission Communication "[A Europe of Results — Applying Community Law](#)" (COM (2007) 502) with the purpose of encouraging a greater commitment and a closer cooperation between the Commission itself and the Member States in order to avoid the formal opening of an infringement procedure of the EU law.

court. In most cases the administrative Court rule in favour of the NGOs but often well after the start of the hunting season.

The fines

The national framework law on hunting provides for criminal and administrative sanctions. Criminal sanctions are foreseen for the most serious breaches, such as the killing of protected species, or hunting in protected areas, outside the hunting season, or using electronic calls. Criminal sanctions are only foreseen in the national law and are handled by the judiciary. The national law also provides for administrative sanctions in some cases, such as lack of insurance or failure to register the shot animals on the regional game recording card. Each Regional law provides for other administrative sanctions that are not defined in the national law. The administrative sanctions system is managed by the regional hunting offices.

The criminal sanctions system of the hunting legislation is inadequate as a deterrent or to seriously punish those who commit an offense causing serious damage to biodiversity, such as the killing of the strictly protected Bonelli's Eagle (*Aquila fasciata*).

Two other issues exacerbate the situation:

-) Most wildlife crimes are considered minor. This offers the opportunity to the culprit to pay a rather mild cash settlement [*oblazione*] which avoids the crime been registered in their criminal file.
-) Recently the judges have been given the opportunity to declare a crime as an 'offense of minor nature' [*tenuità del fatto*], dismissing altogether the case, when the set penalty is up to five years. As the maximum penalty set for infringements of the national hunting law is one year of incarceration, there is the potential for the dismissal of all cases ok IKB. According to the official data, this rule has been enforced in 4% of the cases during 2017 and 6% in 2019. Although the number of occasions in which the judges have dismissed the case using this option is still small, this increasing trend is of concern.

The National Action Plan (NAP), calls for an increase of the penalties and to provide for penalties relative to the damage caused in accordance with the gravity factors identified by the Bern Convention³³; currently, the killing of one or ten specimens of a protected species is punished by the same penalty.

Prosecution and the Judiciary

Recently the Ministry of Justice has produced data on the number of IKB cases and the sentences for the period 2017- 2019, for the first time, as part of the implementation of the NAP. Some 1270 cases on average are defined every year, of which only a third reach the court.

³³ Analysis of gravity factors to be used to evaluate offences and list of standardised / harmonised gravity factors. T-PVS/Inf (2015) 12

Between 50% and 60% of criminal proceedings at first instance are resolved without any criminal sanction, and many of the prosecutions end with a cash settlement [oblazione] or are terminated due to “minor nature of the offense” or canceled because the statute of limitations ran out.

There are no specialized judges or prosecutors. Institutional training on the subject does not exist, but there are several training initiatives promoted by environmental associations. Within the NAP, a handbook is being written to inform and train judges about IKB.

Law enforcement

Italy has several law enforcement agencies (LEAs): Carabinieri, State Police [*Polizia di Stato*], Provincial or Regional Police [*Polizie Provinciali o Regionali*], Forestry Corps of the autonomous Region and Provinces [*Corpi Forestali delle Regioni e Province autonome*], Custom Police [*Guardia di Finanza*], and the Municipal Police [*Polizia municipale*]. All must prosecute any illegality they become aware of, including cases of illegalities involving wild birds.

Two LEAs are specialized in addressing environmental and wildlife crime: the Carabinieri Forestali (a branch of the Carabinieri) and the Provincial (in some cases Regional) Police forces. Both are in charge of wildlife crimes, as per the national hunting law (n. 157/1992).

A third law enforcement body, with limited authority, is composed of the voluntary hunting guards (GVV [*Guardie Venatorie Volontarie*]).

SOARDA, the special unit of the Carabinieri Forestali, organizes and implements special operations at blackspots (e.g. Operation Pettiroso [Robin] in the Brescia Valleys, Operation Adorno [Honey Buzzard] at the Messina Straits) and addresses special issues with larger geographical scope (e.g. the taking and trade of birds ‘laundered’ through breeding centers). They work mostly in cooperation with NGOs volunteers and their efforts are crucial in addressing IKB in the blackspots and is bearing results.

The Carabinieri Forestali has established one National and Local Coordination Unit (in the blackspots identified in the National Action Plan). The Coordinating Units are composed of all LEAs and the NGOs working on IKB within each blackspot. These joint units coordinate and plan joint operations to tackle IKB and streamline and improve information sharing.

However, SOARDA lacks the staff to address all the existing blackspots at the same time, as poaching events tend to be concentrated during migration time, alongside national issues such as the fake breeding centers of small passerines, which requires a specialized investigation effort.

The number of Carabinieri Forestali officers devoted to fighting wildlife crime outside the seven blackspots covered by SOARDA is not sufficient to address many widespread issues (e.g. the use of electronic calls).

The capacity of Provincial (Regional) police to enforce wildlife and hunting legislation has declined since 2007 as a result of the prohibition (aimed at addressing the economic crisis) of replacing retired staff with recruits. Compared to the 2007 baseline, staff levels have declined by on average 50% in the following 10 years in all 15 Regions that provided data (out of 21 regions/autonomous provinces). Only three local authorities i.e. Liguria, Lombardy, and Trento Autonomous Province have hired in the last few years (2018-2019) a total of 64 new staff, while they have lost since 2007, 453 staff members! In the same period (2007 – 2017) the number of hunters has declined as well, but at a slower pace and while in 2007 there was one Provincial/Regional Guard every 281 hunters, the rations is now 1/318.

Moreover, the capacity of the Provincial/Regional police to enforce hunting legislation and address IKB is further diluted as they also need to attend to cases on other environmental and health legislation, and face a general lack of resources (cars, fuel).

The national hunting framework law provides that environmental NGOs, farming, or hunting associations can appoint voluntary hunting guards (GVV [Guardie Venatorie Volontarie]). These Guards are full-fledged public officials, but with limited powers. They can check the documents of the hunters and can check their gamebags, they can raise administrative sanctions and they can report any ascertained crimes to the judicial authorities or the police. In case of crimes, the GVV cannot proceed with the seizure of the weapons or the means used or of the killed fauna, this can only be done by the police forces. There are about 15,000 GVV in Italy most of which are members of hunting organizations.

The appointment of the GVV are operated by the Regions, which organize the training courses and the exams for the acquisition of the GVV title. Some Regions, in order to hamper the GVV work increase bureaucracy delay training courses, and the release of the exam results.

The effectiveness (measured in number of fines raised and crime reports filed with the police) clearly indicated that the GVV of the hunting organizations are far less effective than those of the conservation NGOs the difference is so large that the hunting associations have not offered data about this for the annual implementation report of the National Action Plan.

The “watchdogs” and access to information

Only NGOs have been blowing the whistle regarding the problem of IKB. Following NGOs' reports to the EU, the European Commission started a Pilot Procedure that, alongside the IKB initiative of the Bern Convention and the Convention of Migratory Species, resulted in the Italian Government developing the NAP (see above).

The NAP timeframe was 2017-2020. Following the third NAP Implementation Report and the Italian submission of the second IKB Scoreboard LIPU, WWF and Legambiente decided to send a request to the European Commission to take action against Italy as most of the actions in the NAP were not implemented.

Data on IKB cases reported to the law enforcement agencies are hard to obtain. The main causes are:

- J The several Italian Police forces (both national and Regional/Provincial) do not share a common database on IKB. Carabinieri Forestali (which use to be a separate force called *Corpo Forestale dello Stato*) is still in the process of merging their BD with the one of the Carabinieri. No shared DB among the LEAs exists on IKB cases. The National Police forces share a DB on criminals, but not specific on IKB.
- J Data from local authorities is incomplete and often impossible to compare. Local authorities (Region/Autonomous Provinces) should report annually to the Ministry of Agriculture, according to the National Hunting Law (157/99, art 33), on the number of hunters registered, the number of wildlife police officers, their effort level, and on the number of cases, fines, and criminal prosecutions. Over the period 2008 – 2017 (last reports available) on average only 60% of the expected reports were filed. The Calabria region (which hosts the infamous Messina Strait Blackspot) has not submitted a single report since at least 2008. Only three regions have submitted reports every year. Data provided are often inconsistent within regions and between yearly reports from the same authority.

Data on prosecutions are limited. The Ministry for Justice has for the first time in 2020, as part of their report for the annual NAP implementation report, produced data on prosecution statistics of the years 2017 and 2018 and partial data for 2019. Before that, only partial and less detailed data were collected by an NGO (LAV - Lega Anti Vivisezione) by contacting all courts in Italy and published every year as a written report.

NGO data collections are not coordinated. NGOs and in particular WWF, LIPU, Legambiente, LAC, LAV, CABS, collect information on their activities on the ground performed by the GVV within and outside the Blackspot. The lack of coordination has not allowed the regular production of a commonly shared report on IKB in the country. The latest being 'The Killing' (2015).

Data from Wildlife Recovery Centers not standardized and centralized. An important source of data on IKB would be the dozens of official Wildlife Recovery Centers, many of which are managed by the NGOs. Within the NAP the first steps have been taken to harmonize data collection and a draft strategy on the development of a centralized database is under development, but no date has been set for its finalization.

Strengthening the Enforcement Chain

This a list of recommendations to tackle IKB more effectively in Italy. Most of the recommendations below are already included in the National Action Plan, and it is a matter for the Italian government to implement them much faster than it has to date.

The government should update certain parts of the existing legislation to better address remaining gaps:

Action 2.1.1. of the NAP calls for a number of legal changes aimed at increase the severity of the punishments and specifically:

- J Adding as an accessory penalty the permanent withdrawal of the hunting permit to the penalties set for crimes such as the killing of strictly protected species);
- J Adding accessory penalties such as the temporary withdrawal of the hunting permit to the penalties set for illegalities punished with an administrative sanction;
- J Adapting the penalties, as per Recommendation No.177 (2015) of the Standing Committee of the Bern Convention³⁴ (Gravity Factors), taking into consideration, among other issues the potential economic advantages obtained by the perpetrator and the damage caused to biodiversity. These adaptations should include upgrading some illegalities currently dealt with through administrative fine to be considered penal offenses;
- J Prohibition the possession (and not only the actual use) of electronic devices during hunting and any activity linked to it such as dog training sessions.
- J Exclusion of the applicability 'offense of minor nature' [tenuità del fatto] to all wildlife-related crimes.

The NGOs are furthermore asking:

- J To introduce the concept of 'hunting thief' (sanctioned with a penal sentence) for IKB, which would apply to people that hunt without a hunting license. Currently, a person caught shooting without a hunting permit is only prosecuted for illegal possession of a gun, which is punished with an administrative fine. This is a concept already applied by many Public Prosecutors in Italy as an additional charge to the illegal possession of a gun but which needs confirmation through an enacted law.
- J To introduce in the national hunting law a rule that applies objective liability to hunting authorities (local hunting management authorities [ATC – Ambiti Territoriali di Caccia]). A significant poaching activity (e.g. killing of a species particularly protected or repeated and widespread offenses), hunting would be suspended in the entire area managed by the relevant ATC if the local authority does not put an end to it.

Law enforcement agencies also need to be improved, in particular:

- J The **Provincial/Regional Polices** need to deploy enough officers on the ground to ensure proper enforcement of the hunting legislation on the entire peninsula. The NAP calls for returning to staff levels comparable to 2007 levels.
- J **SOARDA** (Unit of the Carabinieri Forestali) needs to mobilize a sufficient number of officers to implement the special operations at all IKB blackspots at the appropriate time (mostly migration periods), and to deal with National challenges. Moreover, former Forestali that were transferred to other administrations or were given different tasks in the reform of the Carabinieri, could be recalled to serve the Carabinieri Forestali. This would ensure the strengthening of the professionalism of the force. The Carabinieri Forestali should keep the leading role in addressing

³⁴ Recommendation N° 177 (2015) on the gravity factors and sentencing principles for the evaluation of offences against birds, and in particular the illegal killing, trapping and trade of wild birds <https://rm.coe.int/16807463a9>

IKB coordinating the different law enforcement agencies, by enhancing their human and financial capacity, as well as providing them with durable tools to carry their services.

-) To strengthen the **Voluntary Hunting Guard (GVVs)**, it is clear, that regional procedures and powers should be regulated through national framework legislation as indicated in the specific action of the National Action Plan, making sure that the rules and powers of the GVVs are common across the country and expanded to at least the regional level (currently they are limited to their province).
-) **Prosecution and Judiciary:** the lack of knowledge on IKB by prosecutors and judges should be addressed through training at the Higher School of Magistrates, on wildlife offenses, with a focus on illegal practices and the impact on the conservation status of bird species, coordinated by the Attorney General of the Court of Cassation, and the district's General Prosecutors.

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