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LIFE-ENPE Project

Action B2 Working groups to improve consistency and capacity

Working Group 1 (Wildlife crimes) Interim report and training materials

1.0 Introduction

The LIFE-ENPE project has formed four Working Groups to build capacity and consistency in implementing EU environmental law. The working groups will facilitate meeting the LIFE-ENPE project aim:

“to improve compliance with EU environmental law by addressing uneven and incomplete implementation across Member States through improvements to the efficiency and effectiveness of prosecutors and judges in combating environmental crime”.

Working Group 1 (Wildlife crimes) will address non-compliance and improve prosecution of **wildlife crime** in Europe. At an early stage, the Working Group must prioritise which specific areas of the topic it should focus its efforts on.

Working Group 1 is comprised 8 members from 7 countries. The group has met on 3 occasions.

Working Group member	Country	Role
Lars Magnusson (chair)	Sweden	Prosecutor
Christer Jarlas	Sweden	Prosecutor
Stanislav Stoykov	Bulgaria	Prosecutor
George Almpouras	Greece	Judge
Angus Innes	UK (England)	Prosecutor
Tarjei Istad	Norway	Prosecutor
Alexander Fenik	Slovakia	Prosecutor
Bart Van Vossel	Belgium	Prosecutor

This interim report provides a summary of the relevant findings from the LIFE-ENPE Capitalisation & Gap-filling report (Action A1), the findings from the Working Group's own questionnaire survey, and presents draft proposals for training and guidance based on these findings for the group to meet its objectives and the project aim.

In combination with the presentation provided by the Working Group to the LIFE-ENPE Annual conference on 20 September 2017 (Annex 2.0), the report has been produced to meet the following LIFE-ENPE milestone and deliverable:

Deliverable/Milestone	Action	Deadline
<i>First-stage interim report and training materials produced</i>	<i>B2</i>	<i>01/12/2017</i>



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2.0 Capitalisation & Gap-filling report findings

The Capitalisation & Gap-filling report was published in March 2017 and was based on an extensive review of all available data on wildlife crime prosecution activity across Europe¹.

An over-arching conclusion was that less of this kind of crime is being recorded across the EU compared to other categories of environmental crime (e.g. waste crime), and that there is less information available on this type of crime in the reports on environmental crime that do exist.

There are links reported with organised crime and other kinds of crime, including money laundering and terrorism. Trafficking (of wildlife and wildlife products) is the main focus rather than other forms of wildlife crime. The available data are fractured and difficult to compare in any meaningful way, with reporting notably haphazard in many jurisdictions.

In the light of these findings the following recommendations are made:

- i) Wildlife crime should be escalated up the agenda as a genuine priority befitting of its wide implications, complexity and connection to organised crime
- ii) All Member States should work to engage fully with the EU-TWIX² database and with CITES³ reporting requirements in order to fill in the significant gaps in our knowledge of this crime area along with the relevant sanctions imposed across the EU
- iii) Dedicated wildlife crime units with specially trained and knowledgeable enforcement officers should be established in all Member States
- iv) Criminal penalties should be considered more readily as the most meaningful and robust response to cases of wildlife trafficking
- v) Further analysis to investigate implementation of the EU Environmental Crime Directive should be undertaken.

3.0 Questionnaire survey results

The questionnaire was carried out in July 2017 (see Annex 1.0). Its purpose was for the Wildlife crimes Working Group to gather information on judicial cooperation and prosecutions of wildlife crimes in Europe in general, and more specifically, trafficking in endangered species. The questionnaire was sent out to 55 prosecutors involved in wildlife crime prosecutions in the EU Member States and EFTA.

¹ LIFE-ENPE Capitalisation & Gap-filling report 2017

² <https://www.eu-twix.org/>

³ <https://www.cites.org/>



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Responses had been received from 11 countries: Belgium (Flanders), Bulgaria, Germany (Frankfurt), Spain, Greece, Malta, the Netherlands, Norway, Portugal, Finland and Sweden.

The responses to the questionnaire provided the following broad conclusions to help guide training needs:

- Good communication between wildlife crime enforcement agencies is key
- Examples of successful prosecutions (e.g. case studies) are needed
- Improved availability of (shared) data to assist with prosecutions would be of benefit (e.g. access to CITES/EU TWIX data)
- Wider knowledge of endangered species and applicable legislation available to all in the chain of compliance would be of benefit
- Specialised training of prosecutors and judges in wildlife crime is needed.

It was agreed that many of the issues reported can be solved by better cooperation between the authorities such as information exchange, advice on documentation/information that is needed for the prosecution, prioritizing the cases, simplifying the investigations, roles and responsibilities in the enforcement chain, and generally helping to raise awareness of the importance of prosecutions in this area.

4.0 Topic areas considered for training and guidance

Improvements in data-sharing (e.g. EU TWIX) and input of wildlife crimes summaries as examples into the ENPE database of crimes as a priority, would be of benefit to the Working Group in meeting its objectives in the first instance, given that the resourcing of these two areas is not significant in terms of staff time and cost.

The expertise within the group includes extensive experience in addressing the illegal taking and killing of wild migratory birds. Members of the Working Group (e.g. Angus Innes) are contributing to other related projects, such as MIKT⁴; LIFE Reason for Hope⁵ etc. and others are based in countries where this area of Wildlife crime is a significant issue.

It has therefore been decided to hold a training event, focussed on the illegal killing and taking of wild birds, as well as contributions relating to CITES. It is expected that at least one motivated prosecutor from each Member State in the Mediterranean will attend with the intention that they then promulgate the training to colleagues in their own country thereby raising the profile of the legislation on wildlife crime legislation.

It may be possible to fund the attendance of one or two prosecutors from northern Africa and the Middle East. The agenda shall focus on information on the problem in killing and taking the migratory birds with case studies from Spain, Italy (e.g. the Bald Ibis case) and from other Mediterranean countries included. Presentations with the

⁴ <http://www.cms.int/en/taskforce/mikt>

⁵ <https://www.rewildingeurope.com/project/life-reason-for-hope-reintroduction-of-the-northern-bald-ibis/>



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prosecutor, the police investigator and the enforcement officer involved, would be of great value.

At the end of the meeting there will be a presentation on CITES training. Feedback from the questionnaire showed that many prosecutors find the legislation hard to understand. So providing training in how to navigate in the regulations, with its pitfalls and exemptions would be of benefit. For example:

- Some simple cases involving buying/selling of living animals of annex A or B species
- Import of tourist souvenirs
- Selling a worked specimen (the antiques derogation)
- The most used objections from the defence and how to deal with them

5.0 Conclusions & next steps

There is experience in addressing crimes relating to wild birds and a comprehensive geographical spread of participants within the group. This suggests that a focus on this area of wildlife crime (i.e. illegal killing and taking – IKT, of wild birds), would be sensible.

Furthermore, ongoing Working Group participant involvement in related projects (e.g. MIKT) will ensure that any training and guidance developed by the group in this area, will not duplicate anything that has gone before or is planned.

It is agreed that a workshop addressing IKT of wild birds, featuring latest techniques and technologies in the fight against this type of wildlife crimes, together with case studies demonstrating good practices in their prosecution, will be provided to stakeholders on 09-11 May 2018 in Segovia, Spain. The next steps in ensuring all objectives are met include:

- Continue the agreement to share data with EU TWIX
- Develop a library of wildlife cases for inclusion on the ENPE crimes database
- Organise and deliver the training workshop in May 2018 in Spain
- Continue to network with relevant projects and organisations as at present.



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Annex 1.0 Working Group 1 Questionnaire Survey July 2017

European Network of Prosecutors for the Environment

Working Group 1 – Wildlife

Questionnaire survey July 2017

Introduction

LIFE-ENPE (LIFE14 GIE/UK/000043) is a multi-partner project that will improve compliance with EU Environmental Law by addressing uneven and incomplete implementation across Member States through improvements to the efficiency and effectiveness of prosecutors and judges in combating environmental crime.

The project won funding under the LIFE+ Programme, which finances environment-related projects. The duration of the project is from 16-JULY-2015 to 17-JULY-2020.

The project is led by the England-based Environment Agency (EA) in Bristol, as Co-ordinating Beneficiary, and involves a consortium of 4 other partners; The European Union Forum of Judges for the Environment (EUFJE); The Irish Environmental Protection Agency (EPA); The Office for Serious Fraud and Environmental Crime of the National Public Prosecutor's Office (FP, Netherlands) and The National Environmental Crimes Unit at the Swedish Prosecution Authority (REMA). A key activity is the convening of four Working Groups to focus on Wildlife crimes, Waste crimes, Air pollution and Prosecution and sanctioning. Working Group 1, which is focussed on Wildlife crimes will address what hinders efficient and effective prosecution and adjudication of non-compliance with EU wildlife legislation.

The questionnaire

This questionnaire will enable the Wildlife crimes Working Group to gather information on judicial cooperation and prosecutions of wildlife crimes in Europe in general, and more specifically, trafficking in endangered species.

Responses to this questionnaire will be compiled and presented to the participants of the Tri Networks Meeting on 20-21 September 2017 in Oxford. The Working Group will analyse the results and the conclusions will be shared and debated during the meeting.

Please can you complete the questionnaire as fully as possible and return via email to me at Lars.Magnusson@aklagare.se; and shaun.robinson@environment-agency.gov.uk

What are the main challenges in investigating and prosecuting wildlife crimes in general and trafficking in endangered species in particular? :



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How does the cooperation with the involved authorities work in your country? :

What are, if any, the main obstacles to a good cooperation between the involved authorities in your country? :

What do you require to make a successful prosecution? :

What are the key factors for a successful prosecution? :

How can ENPE help in increasing the numbers of successful prosecutions? :

Do you have indications from your country that trafficking in endangered species is an organised crime? Can you give an example? :

Do you have any convictions where the court found it was an aggravating circumstance that it was an organised crime? :

What decides whether a breach of the regulations is considered a crime or an infringement that will impose an administrative fine/fee? :



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Do you have guidelines for sentencing wildlife crimes in your country? :

How many cases have you had the last three years regarding wildlife crimes in general and in trafficking in endangered species in particular :

How many prosecutions have you had in the recent 3 years? :

How many convictions have you had in the recent 3 years? :

Have you in your country specialised prosecutors regarding wildlife crimes? :

Have you in your country specialised police units regarding wildlife crimes? :

Is it considered as an aggravated circumstance when the protected species is a domestic one? :