

Strasbourg, 20 February 2015  
[Inf07e\_2015.doc]

**T-PVS/Inf (2015) 7**

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE  
AND NATURAL HABITATS

**Standing Committee**

35<sup>th</sup> meeting  
Strasbourg, 1-4 December 2015

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**2<sup>ND</sup> MEETING OF THE SPECIAL FOCAL POINTS ON  
ILLEGAL KILLING, TRAPPING AND TRADE OF WILD  
BIRDS**

Madrid, Spain, 24-25 February 2015

**Working Session 3: Questionnaire on the identification and  
standardisation of gravity factors, and preparatory work for the  
elaboration of sentencing guidelines**

**- COMPILATION OF PARTIES' REPLIES**

*Compilation prepared by  
the Directorate of Democratic Governance*

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## **ALBANIA / ALBANIE**

*Working Session 3: Identification and standardisation of gravity factors, and preparatory work for the elaboration of sentencing guidelines.*

### **QUESTIONNAIRE FOR PARTIES PARTICIPATING IN THE MEETING**

1. Please specify your country or jurisdiction.

Albania

2. Please specify the legislation which gives effect to the Bern Convention.

Law no 1998 "On the accession of the Republic of Albania to the Bern Convention"

Law no. 10006, dated 23.10.2008 "On wild fauna protection"

Law no. 10253, dated 11.3.2010 "On hunting"

3. What are the maximum penalties or sanctions provided in this legislation for:

(i) illegally killing a wild bird or other animal protected under the Bern Convention,

80 000 to 100 000 albanian leke or 570 to 815 Euros

(ii) using a prohibited device for taking or capturing such a wild bird or animal,

The same as above 80 000 to 100 000 albanian leke or 570 to 815 Euros

(iii) illegally trading ('trafficking') in such wild birds/animals/plants.

30 000 to 50 000 leke or 215 to 355 Euros

4. What are the maximum penalties or sanctions provided in the legislation for illegally trading ('trafficking') in species listed in CITES.

70 000 to 100 000 albanian leke or 500 to 715 Euros

5. Are these penalties or sanctions imposed under administrative measures or prosecuted through criminal courts, or are both these available.

These penalties and sanctions are imposed under administrative measures as currently there are no provisions in the criminal law to refer to them.

6. In respect of items 3(i), (ii) and (iii) above, apart from fines (monetary penalties) and imprisonment, are any of the following also available to be used as sanctions? (*please delete as appropriate*):

(i) Probation or supervision for a set period of time within the community.

**NO**

(ii) Curfew or home detention for set hours per day for a period of time.

**NO**

(iii) Banning orders from being at a specified place.

**NO**

(iv) Orders to perform specified number of hours unpaid work 'to repay' something to the community.

**NO**

(v) Compensation or payment aimed at restoring damage resulting from the crime.

**YES**

(vi) Forfeiture of 'corpus delicti' or items used to commit the offence.

**NO**

(vii) Can sentences of imprisonment be suspended, eg. on conditions which if not complied with may result in the sentence being implemented later?

**Not applicable**

(viii) Other (*please specify*):

Not applicable
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7. Is any form of sentencing guidance, or policy or generally agreed practice, acceptable to and used by the judiciary in the sentencing for any type of criminal/penal offences?

**NO**

\* \* \*

The completed questionnaire be emailed as a 'Word' electronic attachment to Nicholas Crampton, [npdc@btinternet.com](mailto:npdc@btinternet.com), cc. Véronique de Cussac, [Veronique.decussac@coe.int](mailto:Veronique.decussac@coe.int) , **no later than Wednesday 18<sup>th</sup> February 2015**.

Thank you for your cooperation.

## **CROATIA / CROATIE**

*Working Session 3: Identification and standardisation of gravity factors, and preparatory work for the elaboration of sentencing guidelines.*

### **QUESTIONNAIRE FOR PARTIES PARTICIPATING IN THE MEETING**

1. Please specify your country or jurisdiction.

CROATIA

2. Please specify the legislation which gives effect to the Bern Convention.

**Regarding to protection of birds:**

-ACT ON RATIFICATION OF THE CONVENTION ON CONSERVATION OF EUROPEAN WILDLIFE AND NATURAL HABITATS (BERN CONVENTION)

- NATURE PROTECTION ACT

- REGULATION ON STRICTLY PROTECTED SPECIES

-ORDINANCE ON THE LIST OF HABITAT TYPES AND RARE AND ENDANGERED HABITATS

-RULES ON CONSERVATION OBJECTIVES AND BASIC MEASURES FOR THE CONSERVATION OF BIRDS IN THE AREA OF ECOLOGICAL NETWORK

-HUNTING ACT

-REGULATION ON HUNTING CLOSED SEASON

3. What are the maximum penalties or sanctions provided in this legislation for:

(i) Illegally killing a wild bird or other animal protected under the Bern Convention,

Maximal criminal charge-5 years imprisonment

Misdemeanour maximal charges:

-for legal persons 200 000,00 HRK (cca. 26 000 EUROS)

-for natural and resposinble persons within legal persons - 30 000,00 HRK (cca. 3 900,00 EUROS)

(ii) using a prohibited device for taking or capturing such a wild bird or animal,

- for legal persons -500 000 kn (cca. 65 000 EUROS)

- for natural and resposinble persons within legal persons- 50 000,00 (cca. 6 500,00 EUROS)

(iii) illegally trading ('trafficking') in such wild birds/animals/plants.

-for legal persons 200 000,00 HRK (cca. 26 000 EUROS)  
 -for natural and responsible persons within legal persons - 30 000,00 HRK (cca. 3 900,00 EUROS)

4. What are the maximum penalties or sanctions provided in the legislation for illegally trading ('trafficking') in species listed in CITES.

-for legal persons 200 000,00 HRK (cca. 26 000 EUROS)  
 -for natural and responsible persons within legal persons - 30 000,00 HRK (cca. 3 900,00 EUROS)

5. Are these penalties or sanctions imposed under administrative measures or prosecuted through criminal courts, or are both these available.

Illegally killing or capturing can be imposed under both - administrative measures or criminal courts  
 Trafficking, transport or using a prohibited device can be imposed just under administrative measures

6. In respect of items 3(i), (ii) and (iii) above, apart from fines (monetary penalties) and imprisonment, are any of the following also available to be used as sanctions? (*please delete as appropriate*):

(i) Probation or supervision for a set period of time within the community.

**YES**

(ii) Curfew or home detention for set hours per day for a period of time.

**YES**

(iii) Banning orders from being at a specified place.

**YES**

(iv) Orders to perform specified number of hours unpaid work 'to repay' something to the community.

**YES**

(v) Compensation or payment aimed at restoring damage resulting from the crime.

**YES**

(vi) Forfeiture of 'corpus delicti' or items used to commit the offence.

**YES**

(vii) Can sentences of imprisonment be suspended, eg. on conditions which if not complied with may result in the sentence being implemented later?

**YES**

(viii) Other (*please specify*):

Prohibition of work or activity (prohibition of certain functions or work; prohibition of certain activities or operations; restriction on acquisition of licenses, authorizations, concessions or subsidies; ban on transactions with beneficiaries of state and local budgets) over time or permanently.

7. Is any form of sentencing guidance, or policy or generally agreed practice, acceptable to and used by the judiciary in the sentencing for any type of criminal/penal offences?

**NO**

\* \* \*

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Thank you for your cooperation.

## **CYPRUS / CHYPRE**

*Working Session 3: Identification and standardisation of gravity factors, and preparatory work for the elaboration of sentencing guidelines.*

### **QUESTIONNAIRE FOR PARTIES PARTICIPATING IN THE MEETING**

1. Please specify your country or jurisdiction.

Cyprus

(Game Fund Department, Ministry of the Interior, CYPRUS)

2. Please specify the legislation which gives effect to the Bern Convention.

There are 2 legislations: Law no. 24/1998 which the Bern Convention was adopted into Cypriot Law. Also the basic legislation No. 152 (I)/ 2003 (for the Protection and Management of Wild Birds) which transposes the EU Wild Birds Directive (2009/147/EC) has specific legislative measures and fines for the species which are mentioned in the Bern Convention and is the main legislation which is used for offenses related to violations with respect to wild birds.

3. What are the maximum penalties or sanctions provided in this legislation for:

(i) illegally killing a wild bird or other animal protected under the Bern Convention,

Up to 17,000 euro fine, and / or up to 3 years in prison. Actual fines though imposed are much lower (see comment below in the General Section point).

(ii) using a prohibited device for taking or capturing such a wild bird or animal,

If a sound device is used to attract birds during hunting and there is no other offence (i.e. game reserve area, use of mistnets, limesticks etc), there is a provision in the law so that this offence (use and possession of sound device to attract game species during hunting) may be fined as an – on- the – spot fine up to 850 euros.

(iii) illegally trading ('trafficking') in such wild birds/animals/plants.

Up to 17,000 euro fine, and / or up to 3 years in prison.

4. What are the maximum penalties or sanctions provided in the legislation for illegally trading ('trafficking') in species listed in CITES.

Up to 17,000 euro fine, and / or up to 3 years in prison.

[Note: After speaking with the responsible agency for the CITES, it seems only 1 case has ever been taken to Court in Cyprus (fine imposed very low: about 50 euros). Mostly some confiscations took place].



5. Are these penalties or sanctions imposed under administrative measures or prosecuted through criminal courts, or are both these available.

Only through criminal Courts.

6. In respect of items 3(i), (ii) and (iii) above, apart from fines (monetary penalties) and imprisonment, are any of the following also available to be used as sanctions? (*please delete as appropriate*):

- (i) Probation or supervision for a set period of time within the community.

YES

NO X

- (ii) Curfew or home detention for set hours per day for a period of time.

YES

NO X

- (iii) Banning orders from being at a specified place.

YES

NO X

- (iv) Orders to perform specified number of hours unpaid work 'to repay' something to the community.

YES

NO X

- (v) Compensation or payment aimed at restoring damage resulting from the crime.

YES

NO X

- (vi) Forfeiture of 'corpus delicti' or items used to commit the offence.

YES

NO X

- (vii) Can sentences of imprisonment be suspended, eg. on conditions which if not complied with may result in the sentence being implemented later?

YES X

NO

- (viii) Other (*please specify*):

**General comment:** Actually, even though provided in the legislation, there is not even one case (amongst the thousands reported by the Game & Fauna Department over the last years since 2003 which we keep good records), where an imprisonment has taken place. After analysis of about 2,500 criminal cases which we took to Court the average court fine is about 800 euros per case taken to court. Amongst these cases there is huge variation and this of course depends a lot on the Judge: Fines vary from 100 – 10,000 euros per case, but the majority of the cases is around 400-500 euros per case. Also there are differences amongst

Court Districts. i.e. Usually in Districts where most trapping takes place the average fine is usually lower than the average fine for the whole country. This has also been affected by the economic crisis of the last 3-4 years where there is a tendency for even less fines compared to the past. Overall, we see that the absence of deterrent court fines is a major reason (if not the only significant reason) why illegal trapping levels in Cyprus do not seem to decrease. For example, over the last 10 years we have prosecuted and taken to Court 1 specific individual 8 times! But he keeps on trapping because the fine he pays is much less than the ‘cost’ going to the Court so often. Therefore many of the trappers are actually repeated offenders. Another related issue: There is no minimum fine in our legislation. Are there any countries where they have minimum fines? If this can be done for the case of Cyprus as well it will solve much of the problems.

7. Is any form of sentencing guidance, or policy or generally agreed practice, acceptable to and used by the judiciary in the sentencing for any type of criminal/penal offences?

YES

NO X

\* \* \*

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Thank you for your cooperation.

## **CZECH REPUBLIC / REPUBLIQUE TCHEQUE**

*Working Session 3: Identification and standardisation of gravity factors, and preparatory work for the elaboration of sentencing guidelines.*

### **QUESTIONNAIRE FOR PARTIES PARTICIPATING IN THE MEETING**

1. Please specify your country or jurisdiction.

the Czech republic

2. Please specify the legislation which gives effect to the Bern Convention.

Act No 114/1992 Coll., on the Conservation of Nature and the Landscape  
Act No 246/1992 Coll. on the protection of animals against cruelty  
Act. No. 449/2001 Coll., on hunting  
Act No. 40/2009 Coll., Criminal code  
Act No. 100/2004 Coll. on the protection of species of wild fauna and flora by regulating trade therein and on further measures for protection of these species and on amendment of several acts (Act on trade in endangered species or CITES Act)

3. What are the maximum penalties or sanctions provided in this legislation for:

(i) illegally killing a wild bird or other animal protected under the Bern Convention,

**Act No 114/1992 Coll., on the Conservation of Nature and the Landscape** - penalty for natural persons up to 100 000 Czech crowns, penalty for legal entity and individual entrepreneurs up to 2 000 000 Czech crowns (§ 87 and § 88)

**Act No. 40/2009 Coll., Criminal code** - Imprisonment up to five years, a fine or forfeiture of property values will offender who commits example, if the offense as a member of an organized group, such a crime for himself or for another benefit more if it was for such a crime in the past three years convicted or punished (§ 304 - poaching). Who mistreats an animal in a particularly brutal or painful manner, or brutal or painful way publicly or public place, shall be punished with imprisonment of up to two years, prohibition of activities or to forfeiture of property. Imprisonment for a term up to three years or prohibition activities offender shall be punished if it was for an offense referred to in paragraph 1, in the past three years convicted or punished, or cause such act lasting health consequences or death. Imprisonment for a term up to five years will be offender who commits this offense on a larger number of animals. (§ 302)

**Act. No. 449/2001 Coll., on hunting**

finest up to 200 000 Czech crowns and for repeated failure or breach of obligations referred to in paragraphs 1 to 4 may be fined up to double the amount

(ii) using a prohibited device for taking or capturing such a wild bird or animal,

**Act No 246/1992 Coll. on the protection of animals against cruelty**

Administrative offenses may be fined up to 500 000 Czech crowns for legal entity and natural person too (§ 27)

**Act. No. 449/2001 Coll., on hunting**

fines up to 200 000 Czech crowns and for repeated failure or breach of obligations referred to in paragraphs 1 to 4 may be fined up to double the amount

(iii) illegally trading ('trafficking') in such wild birds/animals/plants.

**Act No 100/2004 Coll., on the trade on endangered species (CITES Act)**

Offenses may be fined up to 1.5 million Czech crowns (persons and legal entities too)

**Act No. 40/2009 Coll., Criminal code - Imprisonment up to eight years....**

**§ 299 - Unauthorised Disposing with Protected Wild Animals and Herbs**

(1) Whoever contrary to another legal regulation kills, destroys, processes, imports, exports, transits, handles, offers, mediates, obtains for him-/herself or for another a subject of an especially protected animal or herbal species or a specimen of protected species and commits such an act on more than twenty five subjects of animals, herbs or specimens, shall be sentenced to imprisonment for up to three years, to prohibition of activity or to confiscation of a thing or other asset value.

(2) The same sentence shall be imposed to anyone who to another legal regulation kills, destroys, processes, imports, exports, transits, handles, offers, mediates, obtains for him-/herself or for another a subject of a critically endangered animal or herbal species or an specimen of species directly endangered by extinction or extermination.

(3) An offender shall be sentenced to imprisonment for six months to five years or to a pecuniary penalty, if he/she commits the act referred to in Sub-section (1) or (2)

a) as a member of an organised group, or

b) with the intention to gain for him-/herself or for another substantial profit

c) causes such a crime long-term or irreversible damage to the population of wild fauna or flora or the local population or habitat particularly protected species of animal or plant.

(4) An offender shall be sentenced to imprisonment for two to eight years, if he/she commits the act referred to in Sub-section (1) or (2)

a) in connection to an organised group operating in several states, or

b) with the intention to gain for him-/herself or for another extensive profit.

c) causes such a crime long-term or irreversible damage to the local population or habitat of critically endangered animal or plant.

**§ 300 - Negligent Unauthorised Disposal with Protected Wild Animals and Herbs**

Whoever negligently breaches another legal regulation by killing, destroying, repeatedly importing, exporting or transiting, or obtaining for him/herself subject of an especially protected animal or herbal species or an exemplar of a protected species and commits such an act on more than twenty five subjects of animals, herbs or exemplars, shall be sentenced to imprisonment for up to one year, to prohibition of activity or to forfeiture of a thing or other asset value.

4. What are the maximum penalties or sanctions provided in the legislation for illegally trading ('trafficking') in species listed in CITES.

**Act No 100/2004 Coll., on the trade on endangered species (CITES Act)**

Offenses may be fined up to 1.5 million Czech crowns (persons and legal entities too)

**Act No. 40/2009 Coll., Criminal code** – for crimes **the** maximum is imprisonment up to eight years (international organized groups)

5. Are these penalties or sanctions imposed under administrative measures or prosecuted through criminal courts, or are both these available.

both are possible, monetary sanctions are imposed under administrative measures (administrative proceedings) and crimes are sentenced by the court (criminal proceedings)

6. In respect of items 3(i), (ii) and (iii) above, apart from fines (monetary penalties) and imprisonment, are any of the following also available to be used as sanctions? (*please delete as appropriate*):

- (i) Probation or supervision for a set period of time within the community.

**NO**

- (ii) Curfew or home detention for set hours per day for a period of time.

**NO**

- (iii) Banning orders from being at a specified place.

**NO**

- (iv) Orders to perform specified number of hours unpaid work 'to repay' something to the community.

**NO**

- (v) Compensation or payment aimed at restoring damage resulting from the crime.

**YES**

- (vi) Forfeiture of 'corpus delicti' or items used to commit the offence.

**YES**

- (vii) Can sentences of imprisonment be suspended, eg. on conditions which if not complied with may result in the sentence being implemented later?

**YES, it is unfortunately very typical for enviro and wildlife crime cases**

- (viii) Other (*please specify*):

7. Is any form of sentencing guidance, or policy or generally agreed practice, acceptable to and used by the judiciary in the sentencing for any type of criminal/penal offences?

**NO**

\* \* \*

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Thank you for your cooperation.

## **FRANCE / FRANCE**

*Working Session 3: Identification and standardisation of gravity factors, and preparatory work for the elaboration of sentencing guidelines.*

### **QUESTIONNAIRE FOR PARTIES PARTICIPATING IN THE MEETING**

1. Please specify your country or jurisdiction.

FRANCE

2. Please specify the legislation which gives effect to the Bern Convention.

En grande partie, à travers la transposition des Directive Oiseaux et Habitats : Article L.411-1 et suivants du Code de l'environnement (C. Env.). En matière d'habitats naturels, à travers notamment les articles L.414-1 et suivants du C. Env.

En matière d'espèces chassables, à travers les articles L.420-1 et suivants du C. Env.

3. What are the maximum penalties or sanctions provided in this legislation for:

(i) illegally killing a wild bird or other animal protected under the Bern Convention,

- Espèces protégées : un an d'emprisonnement et 15 000 € d'amende (L.415-3, 3° C. Env.) ; un an d'emprisonnement et 30 000 € d'amende si braconnage dans cœur d'un Parc national ou d'une réserve naturelle.

- Espèces chassables : 4 ans d'emprisonnement et 60 000 € d'amende si infraction de grand braconnage c'est-à-dire en réunion, en temps prohibé ou de nuit, avec port d'arme et usage d'un véhicule (L.428-5-1 C. Env.).

(ii) using a prohibited device for taking or capturing such a wild bird or animal,

Espèces chassables : 1500 € d'amende (amende de 5<sup>ème</sup> classe) ; 2 ans d'emprisonnement et 30 000 € d'amende si circonstances aggravantes, notamment, si chasse à l'aide de moyens prohibés, en temps prohibé sur le terrain d'autrui ou sur un espace protégé, avec port d'arme.

(iii) illegally trading ('trafficking') in such wild birds/animals/plants.

- Espèces protégées : un an d'emprisonnement et 15 000 € d'amende pour commercialisation illégale (L.415-3, 3° C. Env.) ; 7 ans d'emprisonnement et 150 000 € d'amende pour trafic en bande organisée (L.415-6 du C. Env.)

N.B : dans le cadre du projet de loi Biodiversité, une aggravation des peines sera opérée => 1 an d'emprisonnement et 150 000 € d'amende pour trafic simple ; 7 ans d'emprisonnement et 750 000 € pour trafic en bande organisée.

- Espèces chassables : jusqu'à 4 ans d'emprisonnement et 60 000 € d'amende, en fonction des circonstances, pour transport et commercialisation de gibier tué.

4. What are the maximum penalties or sanctions provided in the legislation for illegally trading ('trafficking') in species listed in CITES.

Un an d'emprisonnement et 15 000 € d'amende pour commercialisation illégale (L.415-3, 3° C. Env.); 7 ans d'emprisonnement et 150 000 € d'amende pour trafic en bande organisée (L.415-6 du C. Env.)

N.B : dans le cadre du projet de loi Biodiversité, une aggravation des peines sera opérée => 1 an d'emprisonnement et 150 000 € d'amende pour trafic simple ; 7 ans d'emprisonnement et 750 000 € pour trafic en bande organisée.

5. Are these penalties or sanctions imposed under administrative measures or prosecuted through criminal courts, or are both these available.

Les peines pour braconnage, capture illégale et trafic d'espèces sont prononcées devant les juridictions judiciaires.

6. In respect of items 3(i), (ii) and (iii) above, apart from fines (monetary penalties) and imprisonment, are any of the following also available to be used as sanctions? (*please delete as appropriate*):

- (i) Probation or supervision for a set period of time within the community.

**YES**

**NO**

- (ii) Curfew or home detention for set hours per day for a period of time.

**YES**

**NO**

- (iii) Banning orders from being at a specified place.

**YES**

**NO**

- (iv) Orders to perform specified number of hours unpaid work 'to repay' something to the community.

**YES**

**NO**

- (v) Compensation or payment aimed at restoring damage resulting from the crime.

**YES**

**NO**

- (vi) Forfeiture of 'corpus delicti' or items used to commit the offence.

**YES**

**NO**

(vii) Can sentences of imprisonment be suspended, eg. on conditions which if not complied with may result in the sentence being implemented later?

**YES**

**NO**

(viii) Other (*please specify*):

- Retrait du permis de chasser et interdiction de le repasser pendant un certain temps ;  
- Retrait du permis de conduire ;  
- Gel des avoirs financiers liés à l'infraction.

7. Is any form of sentencing guidance, or policy or generally agreed practice, acceptable to and used by the judiciary in the sentencing for any type of criminal/penal offences?

**YES :**

Tout dépend de la politique pénale conduite par les parquets. Parfois les services verbalisateurs sont interrogés par le parquet pour déterminer la sanction la plus adaptée.

Une procédure sur deux est traitée par voie d'alternative aux poursuites (ordonnance pénale / composition pénale).

Des documents-cadre de coopération entre les services verbalisateurs et la justice fixent les grandes lignes d'analyse de la gravité des impacts (cf. Convention quadripartite ONCFS/ONEMA/DDT/Parquets dont son annexe 3 - Grille d'évaluation de la gravité des infractions - et son annexe 4 - Transaction pénale)

**NO**

\* \* \*

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Thank you for your cooperation.



## **GEORGIA / GÉORGIE**

*Working Session 3: Identification and standardisation of gravity factors, and preparatory work for the elaboration of sentencing guidelines.*

### **QUESTIONNAIRE FOR PARTIES PARTICIPATING IN THE MEETING**

1. Please specify your country or jurisdiction.

Georgia

2. Please specify the legislation which gives effect to the Bern Convention.

1. Law on Wildlife  
2. Order of the Minister of Environment and Natural Resources Protection of Georgia on hunting rules, period and allowed hunting devices  
3. Administrative offense code

3. What are the maximum penalties or sanctions provided in this legislation for:

(i) illegally killing a wild bird or other animal protected under the Bern Convention,

Administrative fine 700 GEL – approximately 300 EUR

Besides of the administrative fine offenders are also required to pay environmental damage, which is multiplied 5 times in case of red list species.

(ii) using a prohibited device for taking or capturing such a wild bird or animal,

Administrative fine 2000 GEL – approximately 870 EUR

(iii) illegally trading ('trafficking') in such wild birds/animals/plants.

Administrative fine 300 GEL – approximately 130 EUR, in case of red list species 850 GEL – approximately 370 EUR

In addition offenders also pay environmental damage which is multiplied 5 times in case of red list species.

4. What are the maximum penalties or sanctions provided in the legislation for illegally trading ('trafficking') in species listed in CITES.

In case of transboundary movement no penalty is set, however specimen is confiscated by the customs service.

5. Are these penalties or sanctions imposed under administrative measures or prosecuted through criminal courts, or are both these available.

Several articles are included in the criminal law in case of red list species, mass killing wildlife or protected areas

6. In respect of items 3(i), (ii) and (iii) above, apart from fines (monetary penalties) and imprisonment, are any of the following also available to be used as sanctions? (*please delete as appropriate*):

- (i) Probation or supervision for a set period of time within the community.

YES

NO

- (ii) Curfew or home detention for set hours per day for a period of time.

YES

NO

- (iii) Banning orders from being at a specified place.

YES

NO

- (iv) Orders to perform specified number of hours unpaid work 'to repay' something to the community.

YES

NO

- (v) Compensation or payment aimed at restoring damage resulting from the crime.

YES

NO

- (vi) Forfeiture of 'corpus delicti' or items used to commit the offence.

YES

NO

- (vii) Can sentences of imprisonment be suspended, eg. on conditions which if not complied with may result in the sentence being implemented later?

YES

NO

- (viii) Other (*please specify*):

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7. Is any form of sentencing guidance, or policy or generally agreed practice, acceptable to and used by the judiciary in the sentencing for any type of criminal/penal offences?

YES

NO

\* \* \*

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Thank you for your cooperation.

## **HUNGARY / HONGRIE**

*Working Session 3: Identification and standardisation of gravity factors, and preparatory work for the elaboration of sentencing guidelines.*

### **QUESTIONNAIRE FOR PARTIES PARTICIPATING IN THE MEETING**

1. Please specify your country or jurisdiction.

Hungary

2. Please specify the legislation which gives effect to the Bern Convention.

KTM Tájékoztató Magyar Közlöny 1991. 14. sz. 454-455 (this is a ministerial communication on the ratification of the Bern Convention in Hungary)

The various provisions asked about below are incorporated into different pieces of legislation, such as Act No. 100 of 2012 on the Criminal Code.

3. What are the maximum penalties or sanctions provided in this legislation for:

(i) illegally killing a wild bird or other animal protected under the Bern Convention,

It depends on the level of national protection of the given species. For illegally killing a specimen of a strictly protected species, the maximum penalty is imprisonment up to 3 years (Article 242 of Act No. 100 of 2012 on the Criminal Code). In case of protected species, sanctions are much less severe (a fine) and are governed by Act No. 2 of 2012 on Petty Offences (Article 187). However, if the sum of the theoretical value of the specimens involved reaches the lowest theoretical value for a strictly protected species (100 000 HUF), then the Criminal Code can be applied. For example, the theoretical value laid down in separate law of a Blackbird (*Turdus merula*) is 25000 HUF. If at least four specimens are killed illegally, the Criminal Code can be applied. If a Great White Egret (*Egretta alba*), which is strictly protected with a theoretical value of 100 000 HUF is taken illegally, then the Criminal Code can be applied.

If the sum of the theoretical value of the specimens involved reaches twice as much as the maximum theoretical value (1 million HUF), then the penalty can be up to 5 years imprisonment. In case of CITES listed species, this sanction can be applied if the illegal activity threatens the survival of a given population (many CITES listed species are also nationally protected, as they occur in Hungary, so they have a theoretical value and the first sentence can be applied, but species that do not occur in Hungary do not have a theoretical value and that is why a different threshold value has been identified).

Theoretical values are also used in fines imposed by the nature conservation authority under Government Decree No. 33 of 1997 (II.20.) on nature conservation fines (these fines are independent from the application of the Criminal Code).

The same logic and legal provisions apply to illegal killing, using a prohibited device to take or capture or trade with any protected species.

- (ii) using a prohibited device for taking or capturing such a wild bird or animal,

The maximum penalty is imprisonment up to 3 years. Article 245 of Act No. 100 of 2012 on the Criminal Code. See explanation above, but in this case there is no difference whether the prohibited device was used to take or capture a protected or a strictly protected species (only refers to vertebrates).

- (iii) illegally trading ('trafficking') in such wild birds/animals/plants.

Same as (i)

4. What are the maximum penalties or sanctions provided in the legislation for illegally trading ('trafficking') in species listed in CITES.

Same as (i), but in this case there is no difference according to the level of national protection (any species listed on Annexes A or B of the EU CITES Regulation automatically falls under the Criminal Code, even if the national protection level is only "protected" and not "strictly protected").

5. Are these penalties or sanctions imposed under administrative measures or prosecuted through criminal courts, or are both these available.

See explanation under (i). In short, both are available.

6. In respect of items 3(i), (ii) and (iii) above, apart from fines (monetary penalties) and imprisonment, are any of the following also available to be used as sanctions? (*please delete as appropriate*):

- (i) Probation or supervision for a set period of time within the community.

**YES**

**NO**

- (ii) Curfew or home detention for set hours per day for a period of time.

**YES**

**NO**

- (iii) Banning orders from being at a specified place.

**YES**

**NO**

- (iv) Orders to perform specified number of hours unpaid work 'to repay' something to the community.

**YES**

**NO**

- (v) Compensation or payment aimed at restoring damage resulting from the crime.

**YES**

**NO**

(vi) Forfeiture of ‘corpus delicti’ or items used to commit the offence.

**YES**

**NO**

(vii) Can sentences of imprisonment be suspended, eg. on conditions which if not complied with may result in the sentence being implemented later?

**YES**

**NO**

(viii) Other (*please specify*):

--

7. Is any form of sentencing guidance, or policy or generally agreed practice, acceptable to and used by the judiciary in the sentencing for any type of criminal/penal offences?

**YES Could be acceptable but not used, does not exist to our knowledge in this field.**

**NO**

\* \* \*

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Thank you for your cooperation.

## **ITALY / ITALIE**

*Working Session 3: Identification and standardisation of gravity factors, and preparatory work for the elaboration of sentencing guidelines.*

### **QUESTIONNAIRE FOR PARTIES PARTICIPATING IN THE MEETING**

1. Please specify your country or jurisdiction.

Italy

2. Please specify the legislation which gives effect to the Bern Convention.

Law No. 157 of 1992

3. What are the maximum penalties or sanctions provided in this legislation for:

(i) illegally killing a wild bird or other animal protected under the Bern Convention,

In accordance with the Article 30 of the Law No. 157 of 1992:

- i) whoever kills, captures, or keeps in captivity any individual of bear, Alpin ibex, Abruzzo chamois, mouflon will be jailed (3-12 months) and fined (1032-6197 €);
- ii) whoever kills any individual of wild birds will be jailed (up to 1 year) and fined (774-2065 €).

(ii) using a prohibited device for taking or capturing such a wild bird or animal,

According to the Law No. 157 of 1992, anyone who hunts by using unauthorized decoys will be fined up to 1549 €.

(iii) illegally trading ('trafficking') in such wild birds/animals/plants.

According to the Law No. 157 of 1992, whoever trades or keeps in captivity wild fauna for commercial purposes will be jailed (2-6 months) or fined (516-2065 €). Whenever the prosecuted for these illegal activities had not a hunting license, he will be also accused of receiving stolen goods, and then jailed for further 2-8 years and fined for 516-10000 €.

4. What are the maximum penalties or sanctions provided in the legislation for illegally trading ('trafficking') in species listed in CITES.

The penalties for illegally trading are listed in the Law no. 150 of 1992, in which a period of 3-12 months in prison and a sanction of 7746-77468 € are provided. In the case of recidivism, a period of 3-24 months in prison and a sanction of 10329-103291 € is provided.

5. Are these penalties or sanctions imposed under administrative measures or prosecuted through criminal courts, or are both these available.

These penalties are both imposed under administrative measures and prosecuted through criminal courts. In the former case, the CITES service of the State Forestry Corps is the administrative authority that is charged with applying sanctions.

6. In respect of items 3(i), (ii) and (iii) above, apart from fines (monetary penalties) and imprisonment, are any of the following also available to be used as sanctions? (*please delete as appropriate*):

- (i) Probation or supervision for a set period of time within the community.

**YES**

**NO**

- (ii) Curfew or home detention for set hours per day for a period of time.

**YES**

**NO**

- (iii) Banning orders from being at a specified place.

**YES**

**NO**

- (iv) Orders to perform specified number of hours unpaid work 'to repay' something to the community.

**YES**

**NO**

- (v) Compensation or payment aimed at restoring damage resulting from the crime.

**YES**

**NO**

- (vi) Forfeiture of 'corpus delicti' or items used to commit the offence.

**YES**

**NO**

- (vii) Can sentences of imprisonment be suspended, eg. on conditions which if not complied with may result in the sentence being implemented later?

**YES**

**NO**

- (viii) Other (*please specify*):

A sentence of imprisonment can be cancelled if the prosecuted pays a monetary penalty, and will not repeat any illegal activity within a certain period of time. In case of recidivism, tougher sanctions would be applied.



In respect of items 3(i), (ii) and (iii) above, apart from fines (monetary penalties) and imprisonment, the following measures can be applied:

- the withdrawal of the hunting license (if the prosecuted is a licensed hunter);
- the requisition of the weapons or the capture means (nets, lime, etc.).

7. Is any form of sentencing guidance, or policy or generally agreed practice, acceptable to and used by the judiciary in the sentencing for any type of criminal/penal offences?

YES

NO

\* \* \*

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Thank you for your cooperation.

**MALTA / MALTE**

*Working Session 3: Identification and standardisation of gravity factors, and preparatory work for the elaboration of sentencing guidelines.*

**QUESTIONNAIRE FOR PARTIES PARTICIPATING IN THE  
MEETING**

1. Please specify your country or jurisdiction.

Malta

2. Please specify the legislation which gives effect to the Bern Convention.

Birds: Conservation of Wild Birds Regulations, Subsidiary Legislation 504.71

Other flora and fauna: Flora, Fauna and Natural Habitats Protection Regulations, Subsidiary Legislation 504.73

CITES-related legislation: Trade in Species of Fauna and Flora Regulations, Subsidiary Legislation 504.64

3. What are the maximum penalties or sanctions provided in this legislation for:

(i) illegally killing a wild bird or other animal protected under the Bern Convention,

Maximum penalty for illegal killing or taking of protected wild birds:

First offence: €5,000 fine, or imprisonment for one year, or both the fine and imprisonment, plus permanent revocation / disqualification from obtaining hunting license for life and the confiscation of *corpus delicti*.

Second offence: €10,000 fine or imprisonment for two year, or both the fine and imprisonment, plus permanent revocation / disqualification from obtaining hunting license for life and the confiscation of *corpus delicti*.

Maximum penalty for illegal killing of other protected animals: €2,329.37 fine for each specimen (first offence); €4,658.75 for each specimen (second or subsequent offence), or imprisonment for a period of up to two years, or both fine and imprisonment.

(ii) using a prohibited device for taking or capturing such a wild bird or animal,

Maximum penalty for use of prohibited methods of capture / killing of protected wild birds:

First offence: €5,000 fine, confiscation of *corpus delicti*, suspension of hunting & firearm license for a period of between 2 and 5 years.

Second offence: €10,000 fine, or imprisonment for between 6 months and up to two years, or both the fine and imprisonment, permanent revocation of license and confiscation of *corpus delicti*.

It should also be noted that in the case of the illegal use of pre-recorded bird calls only, and provided such illegal use **is not accompanied by any other offence** (e.g. pre-recorded calls are used by legally licensed hunter during a legal hunting season on legal game species) an

automatic €250 penalty is applied administratively in lieu of prosecution. However if the use of pre-recorded bird calls is accompanied by any other offence, except administrative offences listed in Schedule VIII of the Conservation of Wild Birds Regulation, criminal prosecution and penalties listed above would apply.

Maximum penalty concerning protected animals: €2,329.37 fine for each specimen (first offence); €4,658.75 for each specimen (second or subsequent offence), or imprisonment for a period of up to two years, or both fine and imprisonment.

(iii) illegally trading ('trafficking') in such wild birds/animals/plants.

Maximum penalty for illegal trade in wild birds:

First offence: €2,500 fine, confiscation of *corpus delicti*.

Second offence: €5,000 fine, or imprisonment for up to two years, or both the fine and imprisonment, and confiscation of *corpus delicti*.

Maximum penalty for illegal trade in other protected animals and plants:

€2,329.37 fine for each specimen (first offence); €4,658.75 for each specimen (second or subsequent offence), or imprisonment for a period of up to two years, or both fine and imprisonment.

4. What are the maximum penalties or sanctions provided in the legislation for illegally trading ('trafficking') in species listed in CITES.

The maximum penalty for illegally trading in species listed in CITES is €4,658.75 fine, or imprisonment for a period between one month and not exceeding two years, or both the fine and imprisonment.

5. Are these penalties or sanctions imposed under administrative measures or prosecuted through criminal courts, or are both these available.

Offences concerning illegal killing, taking, trafficking and trade in protected species are, as a rule, prosecuted through criminal courts. However legal possibility also exists in terms of Article 93 of the Environment and Development Planning Act, for the application of special procedures (out of court settlements). In such cases the offender, apart from remedial action, would also be required to pay a penalty.

6. In respect of items 3(i), (ii) and (iii) above, apart from fines (monetary penalties) and imprisonment, are any of the following also available to be used as sanctions? (*please delete as appropriate*):

(i) Probation or supervision for a set period of time within the community.

**YES in relation to 3 (ii) and (iii)**

**NO in relation to 3 (i)**

(ii) Curfew or home detention for set hours per day for a period of time.

**NO**

- (iii) Banning orders from being at a specified place.

**NO**

- (iv) Orders to perform specified number of hours unpaid work 'to repay' something to the community.

**NO**

- (v) Compensation or payment aimed at restoring damage resulting from the crime.

**YES for the killing of protected animals.** Offenders may also be liable to pay for the expenses incurred for remedying the damage caused by the infringement and for any other expenses incurred or mitigation measures required to remedy such doings, damage and infringement.

Moreover, through the transposition of the Directive 2004/35/CE on environmental liability with regard to the prevention and remedying of environmental damage, when damage is caused to a protected species through the fault or negligence of an operator undertaking an occupational activity, or when there is imminent threat of such damage the concerned offender may be liable to bear the costs of the preventive and remedial actions taken.

- (vi) Forfeiture of 'corpus delicti' or items used to commit the offence.

**YES**

- (vii) Can sentences of imprisonment be suspended, eg. on conditions which if not complied with may result in the sentence being implemented later?

**YES**

- (viii) Other (*please specify*):

Other sanctions concerning the illegal taking of protected animals include the payment for the expenses incurred for the keeping and transport of seized specimens.
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7. Is any form of sentencing guidance, or policy or generally agreed practice, acceptable to and used by the judiciary in the sentencing for any type of criminal/penal offences?

**YES. Although no written sentencing guidance exists, there is unwritten sentencing practice that takes into consideration a set of gravity factors, including species' protection status, legal protection status of the area where the offence took place, ecological damage, quantum of illegal gain, and public perception of seriousness of the offence, amongst other.**

\* \* \*

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Thank you for your cooperation.

## **POLAND / POLOGNE**

*Working Session 3: Identification and standardisation of gravity factors, and preparatory work for the elaboration of sentencing guidelines.*

### **QUESTIONNAIRE FOR PARTIES PARTICIPATING IN THE MEETING**

1. Please specify your country or jurisdiction.

Poland

2. Please specify the legislation which gives effect to the Bern Convention.

Nature Conservation Act of 16 April 2004 (concerns protected species)

Hunting Law of 13 October 1995 (concerns game species – 13 birds)

Criminal Code of 6 June 1997

3. What are the maximum penalties or sanctions provided in this legislation for:

(i) illegally killing a wild bird or other animal protected under the Bern Convention,

Offence: arrest or fine (max 5000 PLN-1220 EUR) – protected species, or game species when the shooting took place closer than 500 m from a public meeting sites when a meeting takes place, or closer than 100 m from human settlements.

Crime:

A. restriction of liberty or prison up to 1 year or fine (max 2000 PLN-488 EUR/day \* max 540 days) – game species when exceeding the provisions of a license;

B. restriction of liberty or prison up to 2 years or fine (max 2000 PLN-488 EUR/day \* max 540 days) - all species when significant impact on population;

C. prison up to 5 years - game species when:

- hunting migrating birds on the coastline: in the distance of up to 3000 m from the shoreline on sea or up to 5000 m from the shoreline on land,

- hunting with sighthounds or their hybrids,

- hunting during a protective season,

- hunting without hunting license.

(ii) using a prohibited device for taking or capturing such a wild bird or animal,

Offence: arrest or fine (max 5000 PLN-1220 EUR) – protected species.

Crime: prison up to 5 years - game species.

(iii) illegally trading ('trafficking') in such wild birds/animals/plants.

Offence: arrest or fine (max 5000 PLN-1220 EUR) – protected species

Crime:

A. prison up to 5 years – protected species, if it concerns a higher number of specimens, the conditions or means are significant for the favourable conservation status of the species;

B. restriction of liberty or prison up to 1 year or fine (max 2000 PLN-488 EUR/day \* max 540 days) – game species.

4. What are the maximum penalties or sanctions provided in the legislation for illegally trading ('trafficking') in species listed in CITES.

Crime: prison up to 5 years.

5. Are these penalties or sanctions imposed under administrative measures or prosecuted through criminal courts, or are both these available.

All offences and crimes are prosecuted through criminal courts.

6. In respect of items 3(i), (ii) and (iii) above, apart from fines (monetary penalties) and imprisonment, are any of the following also available to be used as sanctions? (*please delete as appropriate*):

(i) Probation or supervision for a set period of time within the community.

**YES**

**NO**

(ii) Curfew or home detention for set hours per day for a period of time.

**YES**

**NO**

(iii) Banning orders from being at a specified place.

**YES**

**NO**

(iv) Orders to perform specified number of hours unpaid work 'to repay' something to the community.

**YES**

**NO**

(v) Compensation or payment aimed at restoring damage resulting from the crime.

**YES**

**NO**

(vi) Forfeiture of ‘corpus delicti’ or items used to commit the offence.

**YES**

**NO**

(vii) Can sentences of imprisonment be suspended, eg. on conditions which if not complied with may result in the sentence being implemented later?

**YES**

**NO**

(viii) Other (*please specify*):

--

7. Is any form of sentencing guidance, or policy or generally agreed practice, acceptable to and used by the judiciary in the sentencing for any type of criminal/penal offences?

**YES**

**NO**

\* \* \*

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Thank you for your cooperation.

## **PORTUGAL / PORTUGAL**

*Working Session 3: Identification and standardisation of gravity factors, and preparatory work for the elaboration of sentencing guidelines.*

### **QUESTIONNAIRE FOR PARTIES PARTICIPATING IN THE MEETING**

1. Please specify your country or jurisdiction.

**Portugal**

2. Please specify the legislation which gives effect to the Bern Convention.

- Decree-Law n° 316/89, 22 September, which regulates Bern Convention (and Decree-Law n° 140/99, which regulate Bird Directive)

*Note 1: sanctions related with infringements to Bern Convention can be penalize according to national Penal Code Law n° 56/2011, 16 November, and if the birds were seized when are being captured that act can be penalized according the hunting legislation (Law n.o 173/99, 21 de Setembro) which criminalize it.*

3. What are the maximum penalties or sanctions provided in this legislation for:

(i) illegally killing a wild bird or other animal protected under the Bern Convention,

**Administrative fines:**

- According to Decree-Law 316/89, these infractions can be fined (administrative fine) up to 1.000 € if you are an individual person or up 15 times more if you are a commercial or collective person.

- If you use DL 140/99, infractions could be fined up to 3.740 € to an individual or up to 44.890 € if you are a collective person.

**Criminal sanctions:**

-According to n° 1, of article 278° of the Penal Code, infractions could be penalized up to three years of prison or 600 days of fine.

- If infractions are caught in the act of hunting it can be used the hunting legislation and be penalized up to 6 months of prison or 100 days of fine (article 30° of Law 173/99)

*Note 2: you can use both criminal options if you are penalizing different acts (for instance capturing illegally and using illegal devices)*

(ii) using a prohibited device for taking or capturing such a wild bird or animal,

**Administrative fines:**

- According to Decree-Law 316/89, these infractions can be fined (administrative fine) up to 750 € if you are an individual person or up 15 times more if you are a commercial or collective person.



- If you use DL 140/99, infractions could be fined up to 3.740 € to an individual or up to 44.890 € if you are a collective person.

**Criminal sanctions:**

- If infractions are caught in the act of hunting it can be used the hunting legislation and be penalized up to 6 months of prison or 100 days of fine (article 30° of Law 173/99)

(iii) illegally trading ('trafficking') in such wild birds/animals/plants.

**Administrative fines:**

- According to Decree-Law 316/89, these infractions can be fined (administrative fine) up to 1.000 € if you are an individual person or up 15 times more if you are a commercial or collective person.

- If you use DL 140/99, infractions could be fined up to 3.740 € to an individual or up to 44.890 € if you are a collective person.

**Criminal sanctions:**

-According to n° 2, of article 278° of the Penal Code, infractions could be penalized up to one year of prison or 240 days of fine.

4. What are the maximum penalties or sanctions provided in the legislation for illegally trading ('trafficking') in species listed in CITES.

**Administrative fines:**

- According to Decree-Law 211/2009, which implements CITES these infractions can be fined (administrative fine) up to 37.500 € if you are an individual person or up 2.500.000 € if you are a commercial or collective person.

**Criminal sanctions:**

-According to n° 2, of article 278° of the Penal Code, infractions could be penalized up to one year of prison or 240 days of fine.

5. Are these penalties or sanctions imposed under administrative measures or prosecuted through criminal courts, or are both these available.

**Answers in previous replies**

6. In respect of items 3(i), (ii) and (iii) above, apart from fines (monetary penalties) and imprisonment, are any of the following also available to be used as sanctions? (*please delete as appropriate*):

(i) Probation or supervision for a set period of time within the community.

YES

NO

- (ii) Curfew or home detention for set hours per day for a period of time.  
 YES  
 NO
- (iii) Banning orders from being at a specified place.  
 YES  
 NO
- (iv) Orders to perform specified number of hours unpaid work 'to repay' something to the community.  
 YES  
 NO
- (v) Compensation or payment aimed at restoring damage resulting from the crime.  
 YES  
 NO
- (vi) Forfeiture of 'corpus delicti' or items used to commit the offence.  
 YES  
 NO
- (vii) Can sentences of imprisonment be suspended, eg. on conditions which if not complied with may result in the sentence being implemented later?  
 YES  
 NO
- (viii) Other (*please specify*):

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7. Is any form of sentencing guidance, or policy or generally agreed practice, acceptable to and used by the judiciary in the sentencing for any type of criminal/penal offences?  
 YES  
 NO

***Note 3: not known by the national authority to biodiversity, ICNF (but it was elaborated and agreement, awaiting for signature, between the General Prosecutor Office and ICNF)***

\* \* \*

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Thank you for your cooperation.

## **ROMANIA / ROUMANIE**

*Working Session 3: Identification and standardisation of gravity factors, and preparatory work for the elaboration of sentencing guidelines.*

### **QUESTIONNAIRE FOR PARTIES PARTICIPATING IN THE MEETING**

1. Please specify your country or jurisdiction.

Romania

2. Please specify the legislation which gives effect to the Bern Convention.

Law 406 / 2006 regarding hunting and the protection of wild fauna

Emergency Ordinance 57/2007 regarding protected natural areas, conservation of natural habitats and of wild flora and fauna

3. What are the maximum penalties or sanctions provided in this legislation for:

(i) illegally killing a wild bird or other animal protected under the Bern Convention,

From 3 month to 3 years in prison

(ii) using a prohibited device for taking or capturing such a wild bird or animal,

From 6 month to 3 years in prison

(iii) illegally trading ('trafficking') in such wild birds/animals/plants.

Fine : 15 000 LEI (around 3333 euros ) for individuals

: 100 000 LEI (around 22222 euros ) for legal entities

4. What are the maximum penalties or sanctions provided in the legislation for illegally trading ('trafficking') in species listed in CITES.

Fine : 15 000 LEI (around 3333 euros ) for individuals

: 100 000 LEI (around 22222 euros ) for legal entities

5. Are these penalties or sanctions imposed under administrative measures or prosecuted through criminal courts, or are both these available.

Both available

6. In respect of items 3(i), (ii) and (iii) above, apart from fines (monetary penalties) and imprisonment, are any of the following also available to be used as sanctions? (*please delete as appropriate*):

(i) Probation or supervision for a set period of time within the community.

**NO**

(ii) Curfew or home detention for set hours per day for a period of time.

**NO**

(iii) Banning orders from being at a specified place.

**NO**

(iv) Orders to perform specified number of hours unpaid work 'to repay' something to the community.

**YES – only for contraventions resulting in fines.**

(v) Compensation or payment aimed at restoring damage resulting from the crime.

**YES**

(vi) Forfeiture of 'corpus delicti' or items used to commit the offence.

**NO**

(vii) Can sentences of imprisonment be suspended, eg. on conditions which if not complied with may result in the sentence being implemented later?

**YES**

(viii) Other (*please specify*):

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7. Is any form of sentencing guidance, or policy or generally agreed practice, acceptable to and used by the judiciary in the sentencing for any type of criminal/penal offences?

**NO**

\* \* \*

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Thank you for your cooperation.

## **SLOVAK REPUBLIC / RÉPUBLIQUE SLOVAQUE**

*Working Session 3: Identification and standardisation of gravity factors, and preparatory work for the elaboration of sentencing guidelines.*

### **QUESTIONNAIRE FOR PARTIES PARTICIPATING IN THE MEETING**

1. Please specify your country or jurisdiction.

There is the continental law used in the Slovak Republic.

2. Please specify the legislation, which gives effect to the Bern Convention.

The main act is the act nr. 543/2002 on nature protection and landscaping and his regulation nr. 24/2003. Some regulations related to kind of killing and capturing of the wild animals are also in the act. Nr. 274/2009 on hunting.

Criminal offences are in the Criminal Code.

3. What are the maximum penalties or sanctions provided in this legislation for:

(i) illegally killing a wild bird or other animal protected under the Bern Convention,

Under the act nr. 543/2002 on nature protection and landscaping is maximum sanction 33 193,91 EUR when a legal entity is an offender, 9 958,17 EUR when a natural person is an offender.

When animal protected under the Bern Convention is also a hunting game, its killing is always criminal act under the article 310 of Criminal Code – Poaching. Maximal sanction is a prison sentence of four to ten years (when an act is committed in a large extent).

When the social value of the killed animal is higher then 2660 EUR the act is a crime under the article 305 of Criminal Code - Violation of Flora and Fauna Protection. The maximum sanction is a prison sentence of three to eight years (when an act is committed in large extent or with the intention of procuring a benefit of a large extent for offender or another person).

(ii) using a prohibited device for taking or capturing such a wild bird or animal,

Under the act nr. 543/2002 on nature protection and landscaping is maximum sanction 23 235,74 EUR when a legal entity is an offender, 6 638,78 EUR when a natural person is an offender.

Using a prohibited device for taking or capturing wild animal outside built-up areas is always criminal act under the article 310 of Criminal Code – Poaching. Maximal sanction is a prison sentence of four to ten years (when an act is committed in a large extent).

When the social value of the captured or taken animal is higher then 2660 EUR the act is a crime under the article 305 of Criminal Code - Violation of Flora and Fauna Protection. The maximum sanction is a prison sentence of three to eight years (when an act is committed in large extent or with the intention of procuring a benefit of a large extent for offender or another person).

(iii) illegally trading ('trafficking') in such wild birds/animals/plants.

Under the act nr. 543/2002 on nature protection and landscaping is maximum sanction 33 193,91 EUR when a legal entity is an offender, 9 958,17 EUR when a natural person is an offender.

When animal protected under the Bern Convention is also a hunting game, its trading with illegal catching animal is always criminal act under the article 310 of Criminal Code – Poaching. Maximal sanction is a prison sentence of four to ten years (when an act is committed in a large extent).

When the social value of the traded animal is higher then 2660 EUR the act is a crime under the article 305 of Criminal Code - Violation of Flora and Fauna Protection. The maximum sanction is a prison sentence of three to eight years (when an act is committed in large extent or with the intention of procuring a benefit of a large extent for offender or another person).

4. What are the maximum penalties or sanctions provided in the legislation for illegally trading ('trafficking') in species listed in CITES.

Under the act nr. 15/2005 on protection species by regulation of trade in species is maximum sanction 33 000 EUR when a legal entity is an offender, 9 958,17 when a natural person is an offender.

When the social value of the traded animal is higher then 2660 EUR the act is a crime under the article 305 of Criminal Code - Violation of Flora and Fauna Protection. The maximum sanction is a prison sentence of three to eight years (when an act is committed in large extent or with the intention of procuring a benefit of a large extent for offender or another person).

5. Are these penalties or sanctions imposed under administrative measures or prosecuted through criminal courts, or are both these available.

The sanctions under the act of nature protection and landscaping and the act on protection species by regulation of trade in species are imposed under administrative measures.

The sanctions under the Criminal Code are prosecuted through criminal court.

6. In respect of items 3(i), (ii) and (iii) above, apart from fines (monetary penalties) and imprisonment, are any of the following also available to be used as sanctions? (*please delete as appropriate*):

(i) Probation or supervision for a set period of time within the community.

**YES**

(ii) Curfew or home detention for set hours per day for a period of time.

**YES**

(iii) Banning orders from being at a specified place.

**YES**

(iv) Orders to perform specified number of hours unpaid work 'to repay' something to the community.

**YES**

(v) Compensation or payment aimed at restoring damage resulting from the crime.

**YES**

(vi) Forfeiture of ‘corpus delicti’ or items used to commit the offence.

**YES**

(vii) Can sentences of imprisonment be suspended, eg. on conditions which if not complied with may result in the sentence being implemented later?

**YES**

(viii) Other (*please specify*):

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7. Is any form of sentencing guidance, or policy or generally agreed practice, acceptable to and used by the judiciary in the sentencing for any type of criminal/penal offences?

**NO**

\* \* \*

The completed questionnaire be emailed as a ‘Word’ electronic attachment to Nicholas Crampton, [npdc@btinternet.com](mailto:npdc@btinternet.com), cc. Véronique de Cussac, [Veronique.decussac@coe.int](mailto:Veronique.decussac@coe.int) , **no later than Wednesday 18<sup>th</sup> February 2015**.

Thank you for your cooperation.

**“THE FORMER YUGOSLAV RÉPUBLIQUE OF MACEDONIA” /**  
**L’ “EX-REPUBLIQUE YOUGOSLAVE DE MACEDOINE”**

*Working Session 3: Identification and standardisation of gravity factors, and preparatory work for the elaboration of sentencing guidelines.*

**QUESTIONNAIRE FOR PARTIES PARTICIPATING IN THE MEETING**

1. Please specify your country or jurisdiction.

Republic of **MACEDONIA**

2. Please specify the legislation which gives effect to the Bern Convention.

**Low on Nature**

3. What are the maximum penalties or sanctions provided in this legislation for:

(i) illegally killing a wild bird or other animal protected under the Bern Convention,

**500-700E for a persona and for a company 3300-5000 E but not strictly for a Bern species but for any strict protected species according to International and national legislation**

(ii) using a prohibited device for taking or capturing such a wild bird or animal,

**500-700 E and taking his equipment, but for a company the charges are much higher and a prison is also possible for a manager of a company**

(iii) illegally trading (‘trafficking’) in such wild birds/animals/plants.

**For a person the species will be confiscated and equipment to and for a company punishment is 3300-5000 Eura plus confiscations of equipment and species...**

4. What are the maximum penalties or sanctions provided in the legislation for illegally trading (‘trafficking’) in species listed in CITES.

**For a person the species will be confiscated and equipment to and for a company punishment is 3300-5000 Euro plus confiscations of equipment and species ...**

5. Are these penalties or sanctions imposed under administrative measures or prosecuted through criminal courts, or are both these available.

**Inspector for nature impose that sanctions but also police could be involved**



6. In respect of items 3(i), (ii) and (iii) above, apart from fines (monetary penalties) and imprisonment, are any of the following also available to be used as sanctions? (*please delete as appropriate*):

(i) Probation or supervision for a set period of time within the community.

**YES**

**NO**

(ii) Curfew or home detention for set hours per day for a period of time.

**YES**

**NO**

(iii) Banning orders from being at a specified place.

**YES**

**NO**

(iv) Orders to perform specified number of hours unpaid work ‘to repay’ something to the community.

**YES**

**NO**

(v) Compensation or payment aimed at restoring damage resulting from the crime.

**YES**

**NO**

(vi) Forfeiture of ‘corpus delicti’ or items used to commit the offence.

**YES**

**NO**

(vii) Can sentences of imprisonment be suspended, eg. on conditions which if not complied with may result in the sentence being implemented later?

**YES**

**NO**

(viii) Other (*please specify*):

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7. Is any form of sentencing guidance, or policy or generally agreed practice, acceptable to and used by the judiciary in the sentencing for any type of criminal/penal offences?

**YES**

**NO**

\* \* \*

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Thank you for your cooperation.

## **TURKEY / TURQUIE**

*Working Session 3: Identification and standardisation of gravity factors, and preparatory work for the elaboration of sentencing guidelines.*

### **QUESTIONNAIRE FOR PARTIES PARTICIPATING IN THE MEETING**

1. Please specify your country or jurisdiction.

Republic of Turkey

2. Please specify the legislation which gives effect to the Bern Convention.

Land Hunting Law coded 4915, enacted in 2003.

3. What are the maximum penalties or sanctions provided in this legislation for:

(i) illegally killing a wild bird or other animal protected under the Bern Convention,

There are two types of penalties, one is the administrative fine, and the other is compensational fine. Compensational fine is the highest and it changes according to the species in question. Monetary fine is highest for killing Anatolian Mouflon, which is 60.000 Turkish Liras for 2015. The highest penalty for birds is for accipitridae and falconidae family, and it is 7.500 Turkish Liras.

If the illegal action causes the extinction of a species or affects the ecological balance negatively, then there is a 2-5 years sentence for those kind of actions.

(ii) using a prohibited device for taking or capturing such a wild bird or animal,

Using prohibited devices are penalized by administrative fines and each of the illegal methods used is fined up to 225 Turkish Liras. Those fines are additive, i.e, for disobeying more than one provision of the law, one is penalized by every other provision separately.

(iii) illegally trading ('trafficking') in such wild birds/animals/plants.

Administrative fine is 300 TL, besides, compensational fine is added according to the species.

4. What are the maximum penalties or sanctions provided in the legislation for illegally trading ('trafficking') in species listed in CITES.

Administrative fine is between 600 and 3804 Turkish Liras according to the Land Hunting Law, for CITES species, there is also an administrative fine according to the Environmental Law, which can be up to 20.000 Turkish Liras. Moreover, there is a fine according to anti-smuggling law, if a person exports the CITES related matters shall be punished from one year up to three years imprisonment and five thousand days of judicial fine and if a person imports the CITES related matters shall be punished from two years up to six years imprisonment and twenty thousand days of judicial fine.

5. Are these penalties or sanctions imposed under administrative measures or prosecuted through criminal courts, or are both these available.

Both of these are possible. First they are imposed by the administration, if the perpetrator objects to the fines, he/she appeals to the court. Not a criminal court, though.

6. In respect of items 3(i), (ii) and (iii) above, apart from fines (monetary penalties) and imprisonment, are any of the following also available to be used as sanctions? (*please delete as appropriate*):

- (i) Probation or supervision for a set period of time within the community.

**YES**

**NO**

- (ii) Curfew or home detention for set hours per day for a period of time.

**YES**

**NO**

- (iii) Banning orders from being at a specified place.

**YES**

**NO**

Partially yes, some of the penalties includes seizure of the hunting licence and in this case the perpetrators cannot enter special hunting grounds.

- (iv) Orders to perform specified number of hours unpaid work 'to repay' something to the community.

**YES**

**NO**

- (v) Compensation or payment aimed at restoring damage resulting from the crime.

**YES** As mentioned above, there are compensational fines.

**NO**

- (vi) Forfeiture of 'corpus delicti' or items used to commit the offence.

**YES**

**NO**

- (vii) Can sentences of imprisonment be suspended, eg. on conditions which if not complied with may result in the sentence being implemented later?

**YES**

**NO**

- (viii) Other (*please specify*):

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7. Is any form of sentencing guidance, or policy or generally agreed practice, acceptable to and used by the judiciary in the sentencing for any type of criminal/penal offences?

**YES** Central Hunting Commission publishes a handbook every year.

**NO**

\* \* \*

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Thank you for your cooperation.