

Strasbourg, 24 March 2014
[Inf04e_2014.doc]

T-PVS/Inf (2014) 4

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

34th meeting
Strasbourg, 2-5 December 2014

**QUESTIONNAIRE FOR THE IDENTIFICATION BY PARTIES
OF CRITERIA FOR ESTABLISHING NATIONAL
POLICING/INVESTIGATION PRIORITIES AND GRAVITY
FACTORS TO BE TAKEN INTO ACCOUNT WHEN COMBATING
ILLEGAL KILLING, TRAPPING AND TRADE OF WILD BIRDS**

*Document prepared by
the Directorate of Democratic Governance*

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**QUESTIONNAIRE FOR THE IDENTIFICATION BY PARTIES
OF CRITERIA FOR ESTABLISHING NATIONAL POLICING/INVESTIGATION
PRIORITIES AND GRAVITY FACTORS TO BE TAKEN INTO ACCOUNT WHEN
COMBATING ILLEGAL KILLING, TRAPPING AND TRADE OF WILD BIRDS**

CONTACT DETAILS:

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| Country: | |
| Organisation: | |
| Name and position of responsible person: | |
| E-mail: | |
| Phone: | |
| Date of completing the form: | |

Please do not hesitate to contact the Secretariat to help you fill in the questionnaire or for any other questions you may have: Ivana d’Alessandro, ivana.dalessandro@coe.int ; Tel.: +33 3 91 21 51 51

A. IDENTIFICATION OF NATIONAL POLICING/INVESTIGATION PRIORITIES¹

Q1: Does your country conduct a periodic Strategic assessment of wildlife or bird crimes?

- No
- Yes

If yes, please describe the methodology used, the authority/agency involved, the sources of knowledge, the main findings, and the follow-up given to the assessment

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Q2: Please list the criteria used (or which could be used) by your country when prioritising bird crimes (in hierarchical order, “1” being the most important)

- Conservation status of the species
- Nature of the area (e.g. hotspots of bird conservation)
- Legal or administrative status of the area where the offence took place
- Possible damage to the ecological balance or to the habitat as a consequence of the offence
- Intrinsic value of wildlife
- Socio-economic benefits of wildlife
- Known regional blackspots
- Level of penalties provided by the legislation
- Public interest
- Public perception of the seriousness of the offence

¹ At national level the key bodies for answering these questions will be government and police as represented by appropriate agency.

Q3: Should you need to inform on possible specificities at the regional or local levels, please use the table below to address them

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Q4: What are/would be the other main criteria which could be used for identifying bird crimes policing/investigation priorities? (on top of those listed under Q2)²

N.B.: The criteria will not be mandatory but to be used as guidelines, allowing the Parties sufficient flexibility to adapt their priorities to the specific national circumstances of each state

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B. IDENTIFICATION OF INTERNATIONALLY AGREED GRAVITY FACTORS FOR THE PREPARATION OF STANDARDISED AND VOLUNTARY SENTENCING GUIDELINES³

N.B.: - The list of Gravity Factors will be drawn-up recognising the principle of judicial independence and taking into account that gravity factors will carry different weight at country level and will change with time.

Gravity ('seriousness') factors for any crime must relate to the adverse effect on the 'beneficiary' (wildlife and, at the end, humanity) of the protection afforded by the legislation. The offence can also be only likely to cause injury. Therefore for wildlife/bird crimes 'gravity factors' must relate to the eco-system and arise from objectively established conservation concerns. Adverse 'effects' can include immediate loss, and directly consequential and potential losses – e.g. mist netting is 'of a type' likely to cause potential loss as well as the actual birds caught, or killing migratory birds in spring will directly reduce the number of breeding pairs and thus chicks.

Levels of sanctions for wildlife crime must therefore be directly related to adverse effects (actual, consequential or potential) on the eco-system and be based on objectively established conservation concerns.

The identification and standardisation of Gravity factors will help, where appropriate:

- *Facilitating effective prosecution and conviction based on more focussed investigation files;*
- *Adapting the penalties to the level of gravity;*

² *For EU Member States: the identification of national priorities could be linked to Article 12 of the EU Birds Directive concerning the general reporting obligations of the Member States.*

Civil society involvement through consultation processes and especially with science on ecosystem and conservation impact could be essential at this stage.

³ *Two issues have been considered by the Bern Convention Group of Experts on the conservation of birds as being particularly important when it comes to the gravity factors: the conservation status of the species and the impact of the illegal activity on the ecosystem. The economic gains deriving from the illegal activity should also be considered by the judges as an aggravating circumstance.*

- *promoting a better understanding of the sentences delivered against the offender;*

Q1: Please list the Gravity Factors that your country would consider essential for determining the level of sanctions (in hierarchical order, “1” being the most important)

- Conservation status of the species or of the habitat affected
- Impact risk for ecosystem
- Scale of offending (number of specimens involved)
- Violation of international legislation/obligations
- Indiscriminate method used in committing offence
- Commercial motivation
- Illegal gain/quantum
- Value of the loss resulting from the offence
- Breach of professional or official duty
- Organised activity (organised crime, group activity)
- Intent and recklessness by defendant
- Recidivism

Q2: Please suggest other Gravity Factors could be used for determining the level of sanctions

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Q3: Should you need to inform on possible specificities at the regional or local levels, please use the table below to address them

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