

Implementation of Tunis Action Plan in Malta

**Meeting of the Special Focal Points for Illegal Killing of Birds
Tirana, April 2016**

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From Malta to Tunis: pre-May 2013

Strengths <ul style="list-style-type: none">• Conservation of Wild Birds Legislation embedded within the environment protection legislation• Basic institutional set up for enforcement in place• Basic consultative platforms in place (e.g. Ornis Committee)	Opportunities <ul style="list-style-type: none">• Political will & fresh mandate to effect change• Potential for the creation of a central coordinating structure• Potential for cost-recovery mechanisms to fund enforcement and conservation
Weaknesses <ul style="list-style-type: none">• Poor coordination of enforcement effort• Lack of centralised ownership, fragmented institutional responsibilities• Lack of strategy• Lack of funding and resources• Lack of systematic collection of relevant information• Lack of training & capacity• Penalties for IKTTB inadequate• Inefficient judiciary proceedings & lengthy delays• Lack of sustained awareness & education effort• Lack of sustainable hunting governance & regulatory effort• Poor compliance with game reporting obligations and regulatory obligations in general	Threats <ul style="list-style-type: none">• Recurrent illegal targeting of protected birds remained a major problem• Stakeholder polarisation, confrontation & conflict, siege mentality, disenfranchisement• Lack of objective information in public domain; media space dominated by emotional and sensationalist claims from opposing camps• Lack of confidence and trust in institutions• Lack of confidence & trust amongst NGOs• Abysmal international reputation• Infringement proceedings• Poor awareness of regulations

The road to Tunis: extent of the challenge

"Annual figures for Malta show that 3,000,000 finches are trapped while 80,000 golden orioles, half a million swallows, 13,000 shearwaters, over half a million thrushes, 1,000 stilts, even ospreys and 50 to 80,000 birds of prey are gunned out of the sky", *Fenech, N. (1992)*

"Total illegal hunting and trapping incidents recorded by Birdlife (Malta) in 2007: **741**, including **571** incidents of illegal hunting (**10 categories**), **21** incidents of illegal trapping and **149** incidents involving bird callers. Incidents of illegal targeting involved **40** different species in **84** locations. **84** birds of **28** species, diagnosed as bearing gunshot wounds, were recovered by Birdlife Malta volunteers in 2007. **115** birds belonging to **20** species were observed as having obvious gunshot injuries in flight", *Birdlife Malta Illegal Hunting and Trapping Report for 2007*

“This is **the worst season** that many local birdwatchers can remember in recent years. If BirdLife Malta can receive **12 birds of prey with confirmed gunshot injuries in only six days**, then the actual number of protected birds that are being shot throughout the country must be very high.” *Dr Andre Raine, BirdLife Malta’s Conservation Manager, 2008*

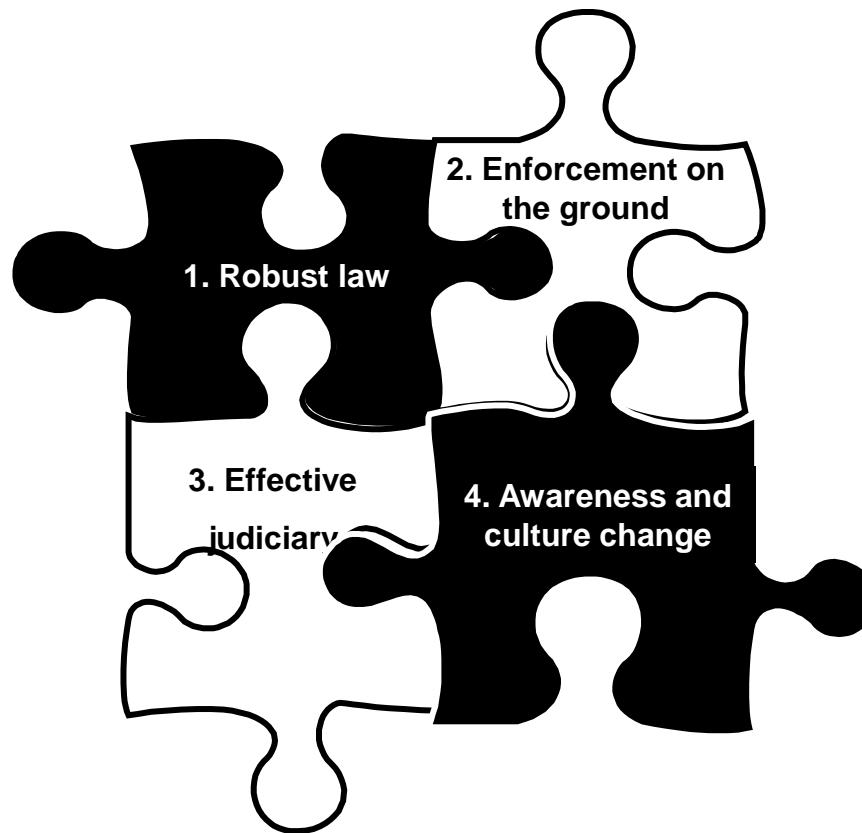
“Near Rabat, a CABS team claimed to have observed hunters opening fire at a group of marsh harriers on Friday evening, at least two of which fell to the ground. CABS member David Conlan estimated that **more than 100 protected birds were killed on Friday and Saturday.**” *Times of Malta, 2008*

"It's like a **war zone, the smell of death is everywhere**. The scale of the slaughter is unimaginable and it's a race against hunters every moment. Few of the hunters are ever caught for illegal killings, and if they are, **they typically escape with a €100 fine**" *Grahame Madge, an RSPB spokesman, 2008*

Priorities that emerged in Tunis

- National wildlife crime priorities
- Taking conservation impact into account
- Identification & standardisation of gravity factors
- Elaboration of sentencing guidelines
- Taking into account the biological and institutional aspects
- National dialogue amongst stakeholders on IKTTB; establishing trust
- Awareness raising and education
- Publication of enforcement results, crime statistics, reports
- Networking and capacity building

From Tunis to Malta – integral elements:



**1. Robust
legislation**

Major legal reforms: 2013 to date

Oct 13	<ul style="list-style-type: none">•Doubled penalties for IKTTB & related offences•Introduced administrative fines for minor offences & review tribunal mechanism•Introduced possibility of community service amongst possible sanctions•Introduced a schedule listing non-Annex I birds to be afforded the highest level of protection•Strengthened overall permitting & regulatory regime
Mar 14	<ul style="list-style-type: none">•Introduced non-discretionary penalties for IKTTB at the level which is ten times higher than the previously applicable minimum penalty•Further refined gradation & penalty structures•Introduced possibility of community service amongst possible sanctions•Introduced fees for hunting-related regulatory services; paving way for major reforms of these services (e.g. hunting examinations, licensing, etc)
Aug 15	<ul style="list-style-type: none">•Afforded the highest legal protection status to 11 further bird species, bringing the total number of species enjoying such status to 163•Introduced the concept of “non-EU territory birds”, which are subject to the same protection status as “EU territory birds”•Empowered the Malta Ornis Committee to make recommendations to close or alter the parameters of any hunting season on the basis of latest scientific advice and other factors•Expanded the list of offences which qualify for higher penalties, including all hunting-related offences, any offence concerning illegal possession, transport, sale, importation and taxidermy of protected bird species. For most categories of offences this implied the doubling of the minimum and maximum penalty range•Introduced a set of gravity factors in line with Bern Convention Recommendation•Clarified and strengthened enforcement powers of inspectors of the Wild Birds Regulation Unit to become on par with the powers granted to environment inspectors
Feb 16	<ul style="list-style-type: none">•Carried out major reform of hunting licenses & game reporting provisions: introduced new multi-annual licensing system; mandatory real time game reporting requirement for all hunters using state of the art telephonic reporting system•Removed <i>Mergus serrator</i> from list of huntable species; introduced autumn quota for <i>Streptopelia turtur</i> and reduced autumn season for this species from 5 months to one month•Establishment of the Conservation of Wild Birds Fund

Legal deterrents against illegal killing (1st count offence):

Minimum fine

Minimum imprisonment

Minimum suspension of license

Permanent suspension
12 months imprisonment

Eur 5,000

2014/15

24 months suspension

Eur 500

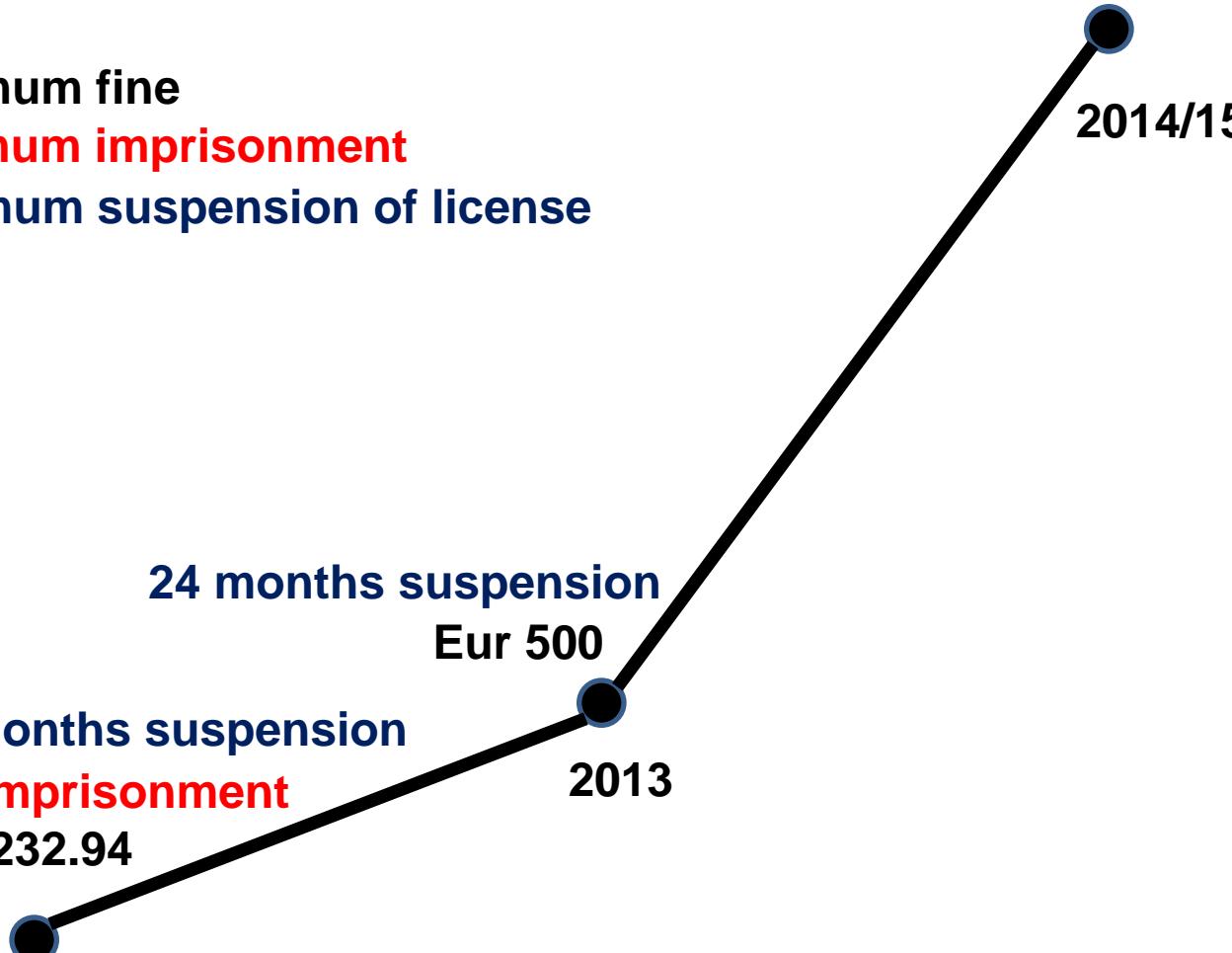
12 months suspension

No imprisonment

Eur 232.94

2013

2012



Legal deterrents (2nd count offence):

Minimum fine

Minimum imprisonment

Minimum suspension of license

Permanent suspension
12 months imprisonment

Eur 10,000

2014/15

Permanent suspension

6 months imprisonment

Eur 1,000

Permanent suspension

2 months imprisonment

Eur 465.87

2012

2013

Maximum penalty:

Eur 15,000 fine

Permanent revocation / ban on license

2 years imprisonment

Confiscation of vehicle and *corpus delicti*

NATIONAL LEGAL PRIORITIES

1. Illegal shooting or taking of bird species listed in Schedule I and Schedule IX of the Conservation of Wild Birds Regulations (SL 504.71).

Automatic, non-discretionary fine of €5,000, imprisonment for one year, confiscation and permanent revocation of any license (on first conviction). On second conviction an automatic fine of €10,000 applies whilst the prison term is increased to two years. Where any illegal shooting or taking of a protected bird is perpetrated by a repeat offender whose licenses were previously revoked for life or the person concerned has been permanently disqualified from obtaining a license, the fine is increased to €15,000.

2. Illegal possession, importation, transport, sale, illegal taxidermy of protected birds, as well as illegal shooting or taking of any protected birds except those in Schedules I and IX, any breaches of spatial or temporal restrictions concerning hunting (e.g. shooting outside the season, in prohibited areas, etc)

On first conviction penalty range of €500 - €5,000 fine + confiscation + suspension of licenses for not less than 2 and not more than 5 years on first conviction, whilst on second conviction the range is increased to between €1,000 and €10,000 fine, confiscation, imprisonment for between 6 months and up to two years and permanent revocation of any license or permit issued under these regulations and under Part XV of the Code of Police Laws. In determining the penalty applicable to each given offence within this range, the judiciary is guided by 8 gravity factors prescribed in the fourth proviso to regulation 27(2).

3. Any offence under Conservation of Wild Birds Regulations that, on the one hand, is not subject to administrative penalty as defined in Schedule VIII, whilst on the other hand does not involve any form of illegal possession of live or dead protected birds, any illegal importation, sale or transport for sale, any illegal shooting or trapping, any breaches of any time or space restrictions pertaining to hunting seasons, or any illegal taxidermy

This category of offences carries a range of penalties, which, on first conviction involve between a minimum of €500 and a maximum of €2,500 fine as well as confiscation of *corpus delicti*. On second or subsequent conviction the minimum fine is increased to €1,000 whilst the maximum is €5,000, in addition to possibility of imprisonment for up to two years.

4. Minor firearms irregularities, administrative offences, use of certain illegal means in hunting practices

Administrative penalty as prescribed in Regulation 27A and Schedule VIII of the Conservation of Wild Birds Regulations apply a defined list of offences which are considered to be of relatively minor nature and are therefore deemed to be more effectively addressed through a system of administrative penalties (typically a €250 fine and confiscation of *corpus delicti*) as opposed to criminal prosecution. The Regulations provide for a defined list of such offences that qualify for an administrative penalty only in those cases where the minor offence was committed on its own, and not in conjunction with any other offence that

Policing Measures: High intensity of enforcement deployment in the field during hunting seasons, high intensity of inspections and spot checks on hunters; use of technological surveillance means (e.g. drones, GIS databases, real-time game reporting systems); border inspections and controls; inspections of collections of stuffed birds; registration system.

Other Measures: Regulatory systems, licensing processes, administrative compliance verification procedures, education and awareness raising measures.

POLICING PRIORITIES

Illegal shooting of protected species during spring and autumn migration periods, breaches of hunting regulations, illegal shooting in prohibited areas

Illegal live-capturing of finches and other species

Illegal use of electronic lures, especially at night

Illegal importation and trafficking of bird carcasses, illegal collections of stuffed protected birds, illegal taxidermy. Illegal trade and transport of protected birds especially those which are CITES-listed as well as potentially invasive alien avifauna.

Existing legal sanctions apply as per Legal Priority 1 and 2. Existing policing measures apply.

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Existing legal sanctions apply as per Legal Priority 3 and 4. Existing policing measures apply.

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Illegal importation of live finches especially by sea route from Sicily

Illegal trapping of wader species during summer months

Illegal trapping sites on Annex I habitats, especially on priority and sensitive habitats such as garrigue / phrygana, clay slopes, xeric grassland habitats and wetlands and marshlands

Illegal targeting of protected birds at sea

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Gravity factors

4th proviso to subregulation 27(2):

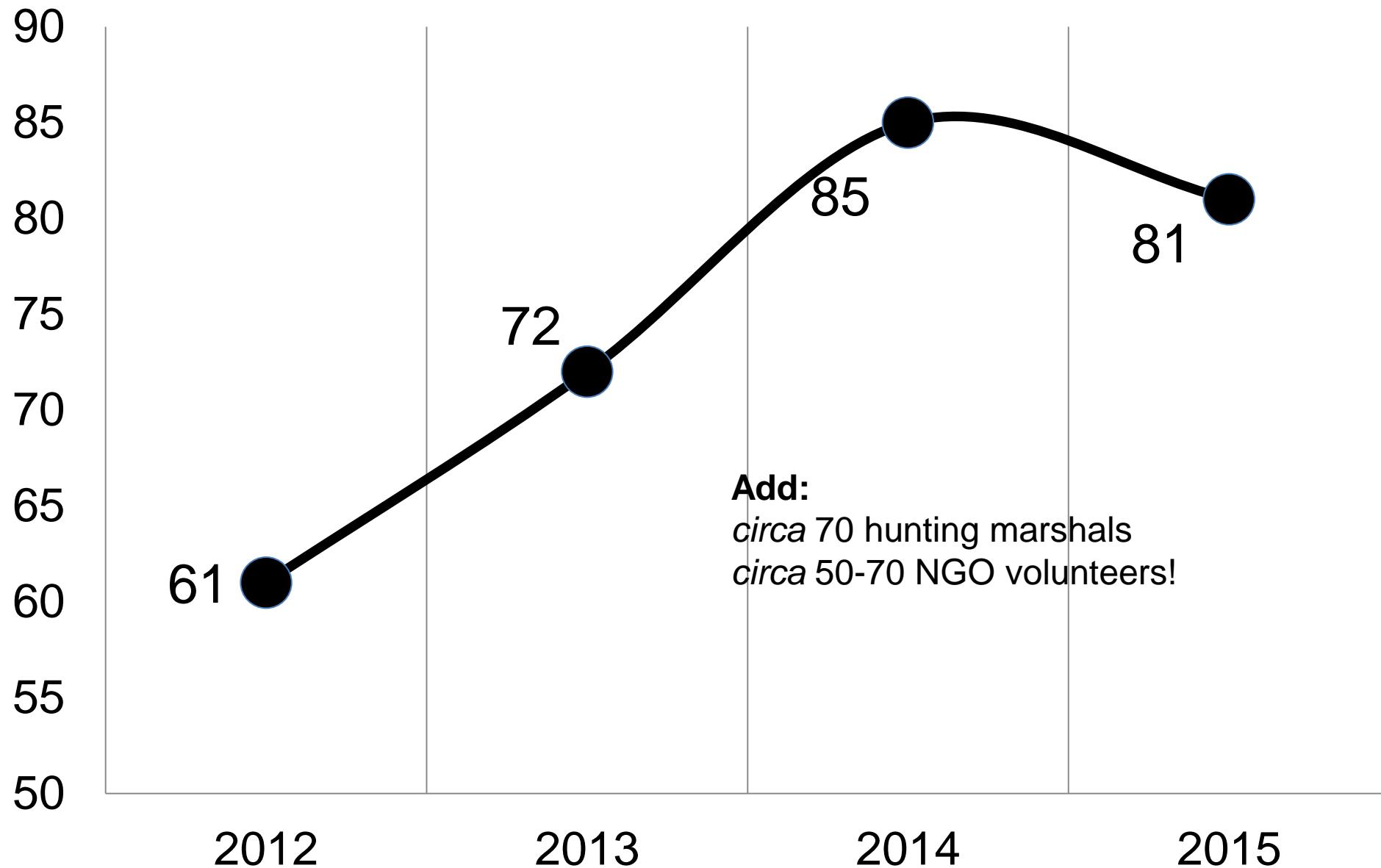
“Provided further that without prejudice to the provisions of this sub-regulation, in determining the gravity of the offence, the Court may consider, amongst others, the following factors:

- (a) the impact that the offence has on the conservation status of the affected species;
- (b) the legal or administrative protection status of the area where the offence took place;
- (c) the possible damage to the ecological balance or to the habitat as a consequence of the offence;
- (d) the impact of the offence on the general public by nature of the time, place, species affected or any other similar consideration inherent to the nature of the offence;
- (e) intrinsic value of wildlife;
- (f) the socio-economic benefits of wildlife;
- (g) public interest; and
- (h) potential quantum of the illegal gain.”

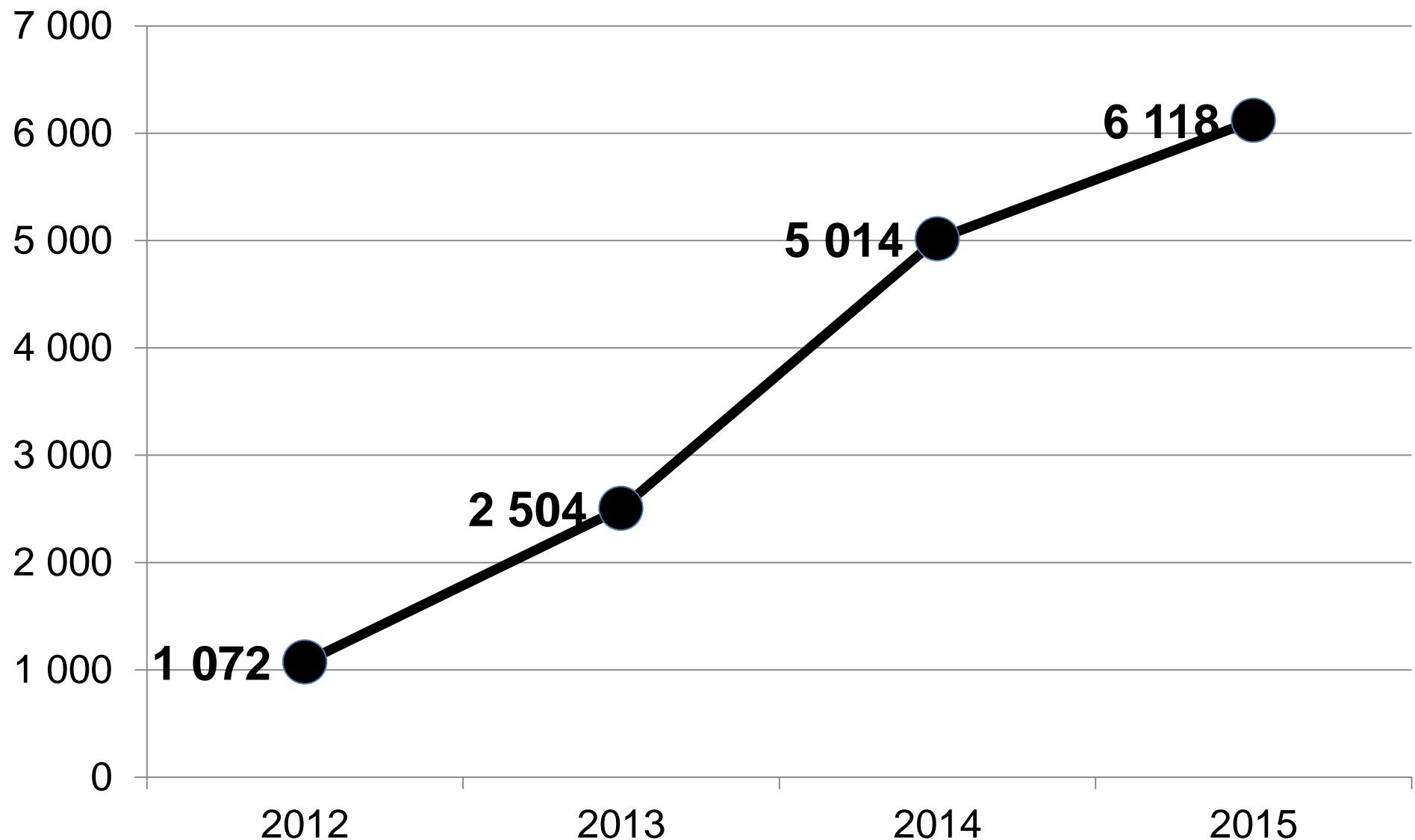
but...
..is the law enforced
in practice?

2.
**Enforcement
in the field**

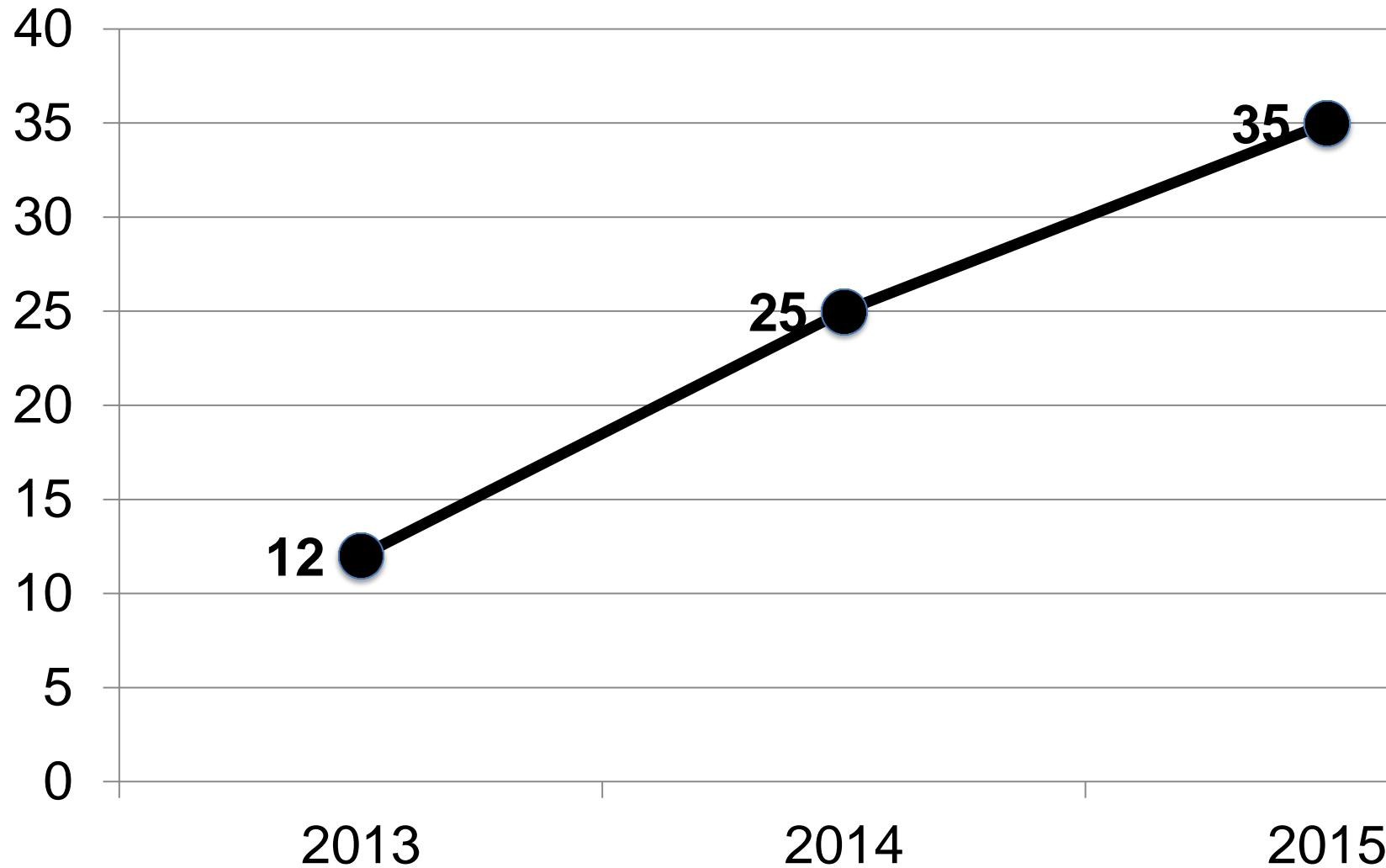
Officers deployed on field patrols during spring derogation seasons



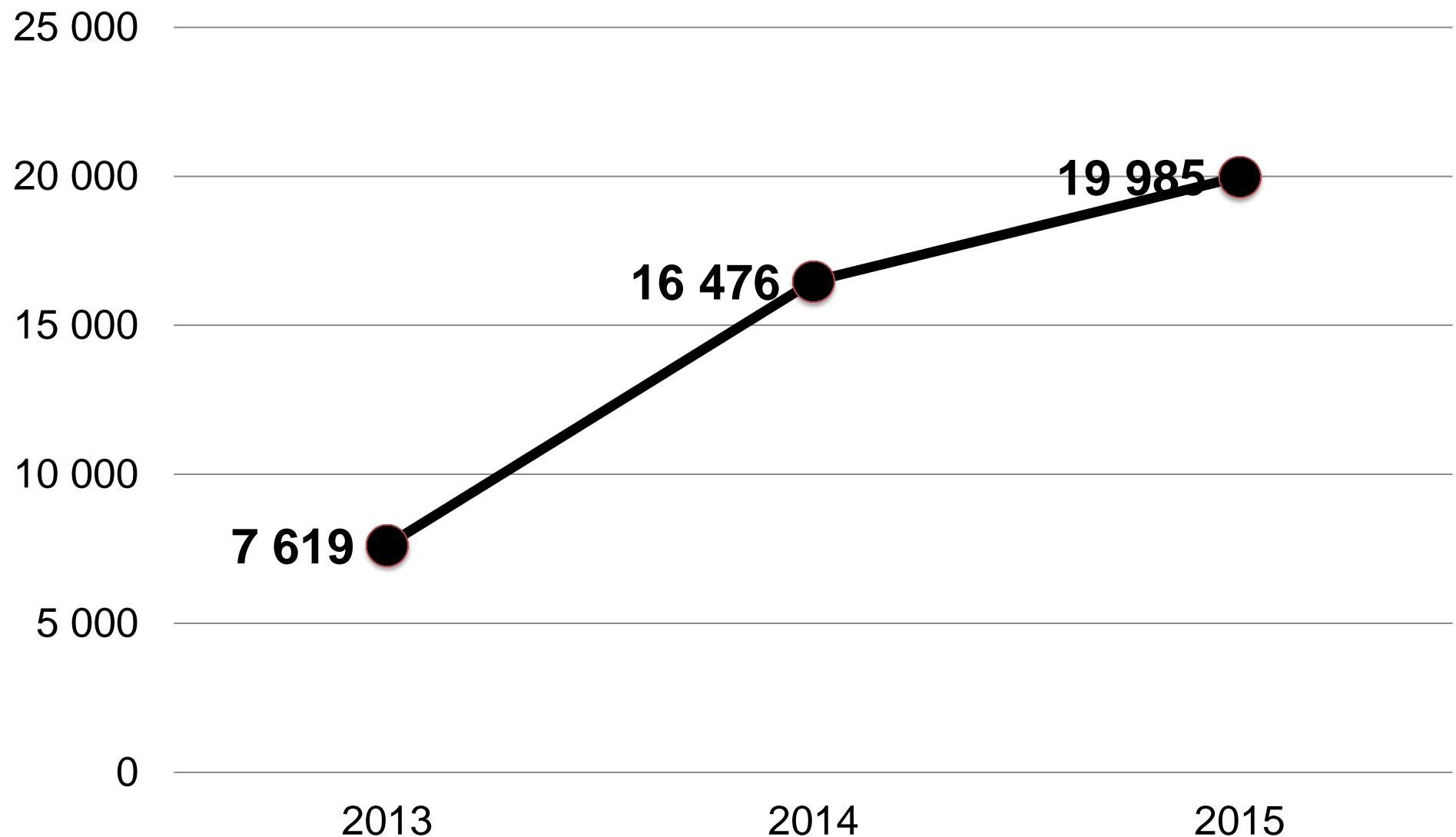
Number of field inspections & spot-checks conducted during spring derogation seasons



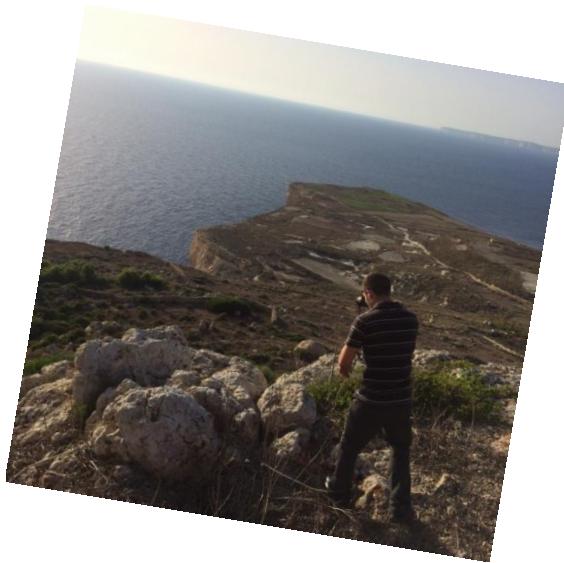
Average daily officers deployed to monitor autumn hunting season



Number of inspections & spot-checks conducted during autumn seasons (1st Sept – 31st Jan)



A mix of surveillance techniques



Use of modern technologies



UAVs



GIS

Game reporting system



Training for enforcement officers



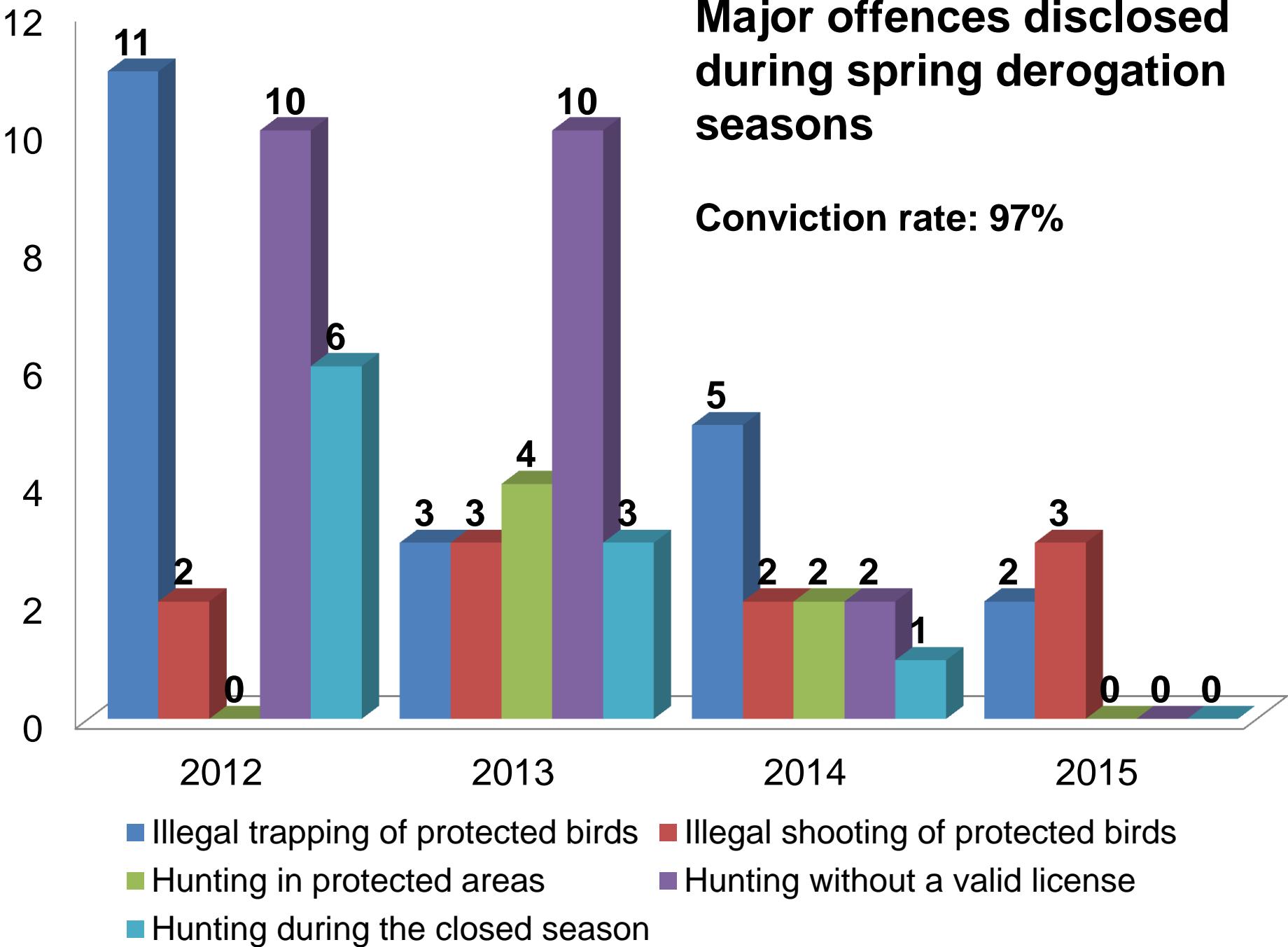
Hunter education processes



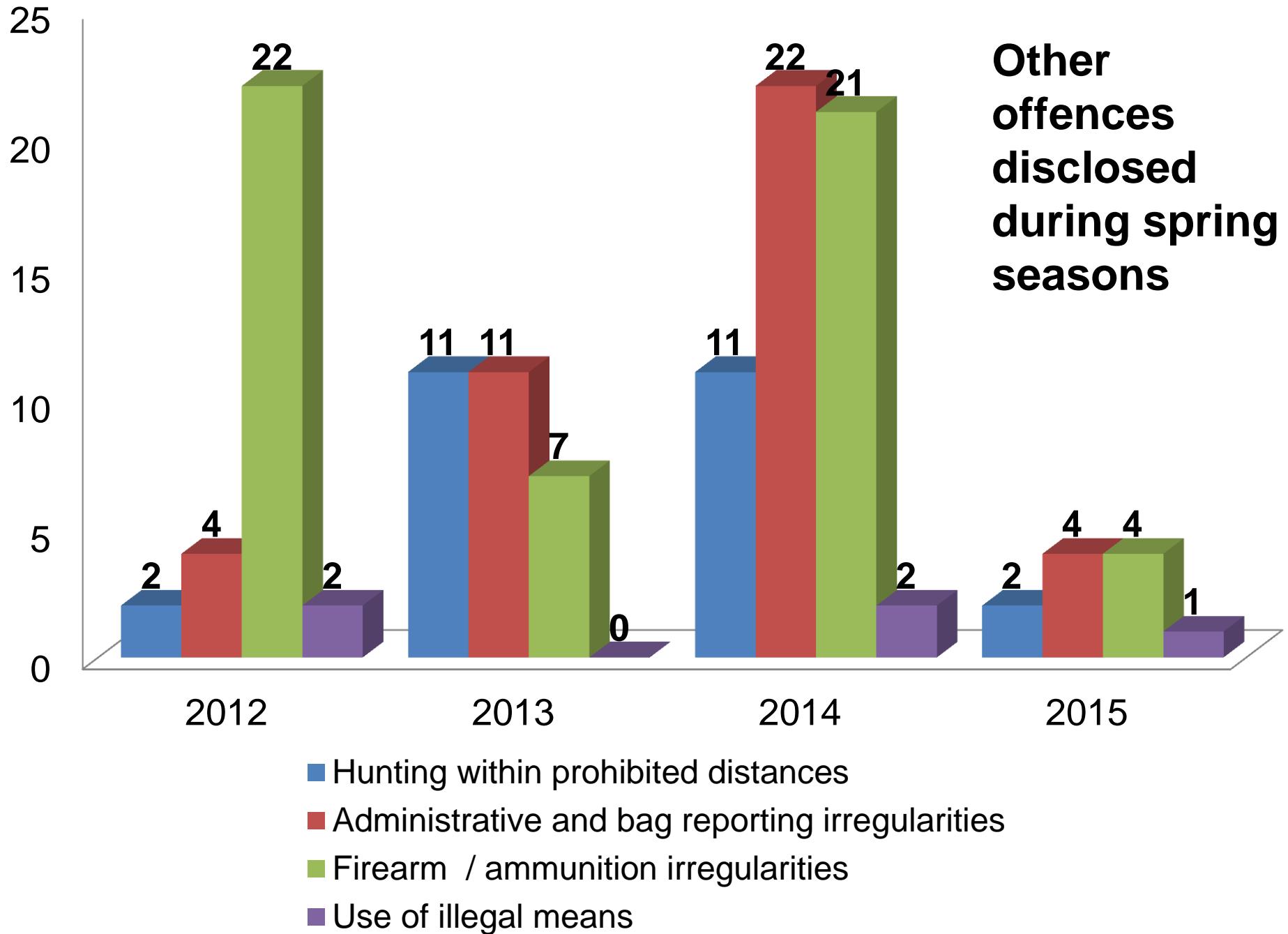
but..
..is anyone **caught**
breaking the law?

Major offences disclosed during spring derogation seasons

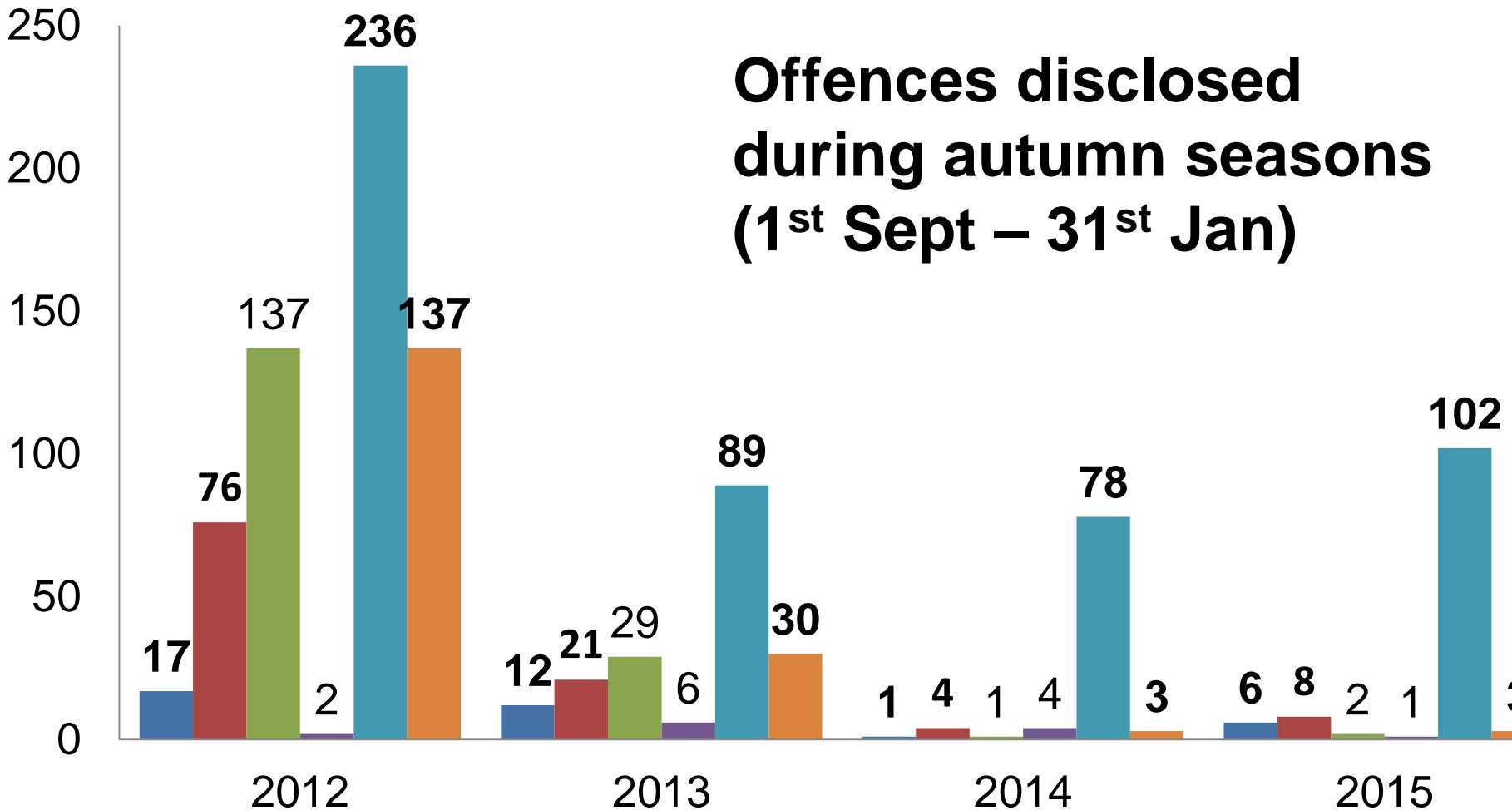
Conviction rate: 97%



**Other
offences
disclosed
during spring
seasons**



Offences disclosed during autumn seasons (1st Sept – 31st Jan)



- Hunting within prohibited distances / prohibited areas
- Hunting / trapping without license
- Illegal trapping of protected birds
- Illegal shooting of protected birds
- Hunting / trapping using illegal means / other breaches of license conditions
- Possession of live protected birds

**3. Effective
judicial
processes**

Some recent convictions:

On 18th March 2015 one person was convicted for illegal importation of protected birds and sentenced to **one year imprisonment** and a fine of **€2,600**.

On 15th April 2015 one person was charged under arrest for shooting a common cuckoo (*Cuculus canorus*), convicted and sentenced to **€2,500 fine, a 3.5 year suspension of hunting licence and confiscation of shotgun and ammunition**.

On 16th April 2015 one person was charged under arrest for shooting a Lapwing (*Vanellus vanellus*), convicted and sentenced to a **3 month effective jail term, a 3 year suspension of hunting licence**, confiscation of shotgun and ammunition and a €200 fine for breaching bail conditions on an unrelated charge.

On 28th April 2015 one person was apprehended shortly after shooting a Kestrel (*Falco tinnunculus*) on 27 April 2015. The suspect was arraigned under arrest on the same day, tried, convicted and sentenced to a **one year effective jail term, permanent revocation of hunting licence**, confiscation of weapon and ammunition and a **fine of €5,000**.

On 24th June 2015 one person was charged with illegal trapping, convicted and sentenced to a **€2,000 fine and 2 years suspension of all licences** issued under Conservation of Wild Birds Regulations.

On 16th September 2015 a person who attempted to target white storks (*Ciconia ciconia*) in 2014 and was also found in possession of live and dead protected birds was **fined €8,000 and had his hunting licence permanently withdrawn**.

On 13th October 2015, a bird trapper from Gozo has been found guilty of illegal finch trapping in spring 2015. He was sentenced to pay **€8,000 and has his trapping permit and hunting licence revoked for life**.

On 14th October 2015 a bird trapper was fined **€2,400 and lost his hunting and trapping licence for 3 years**, after having been found guilty by the court of illegally trapping finches inside the Majistral nature & history park in spring 2015. On the same day another person was also sentenced to a **€1,200 fine and had his licences suspended for 2 years** for illegal finch trapping in spring 2014.

On the 13th of January 2016 one person was charged with illegal importation of protected birds, convicted and sentenced to a fine of **€2,500 and revocation of all licences** issued under Conservation of Wild Birds Regulations.

On the same day (13/01/16), two persons were found guilty of shooting Greater Flamingo (*P. roseus*) (incident occurred in 2013) and were sentenced to **2 years in jail, lifetime ban on hunting license and €9,000 fine each**.



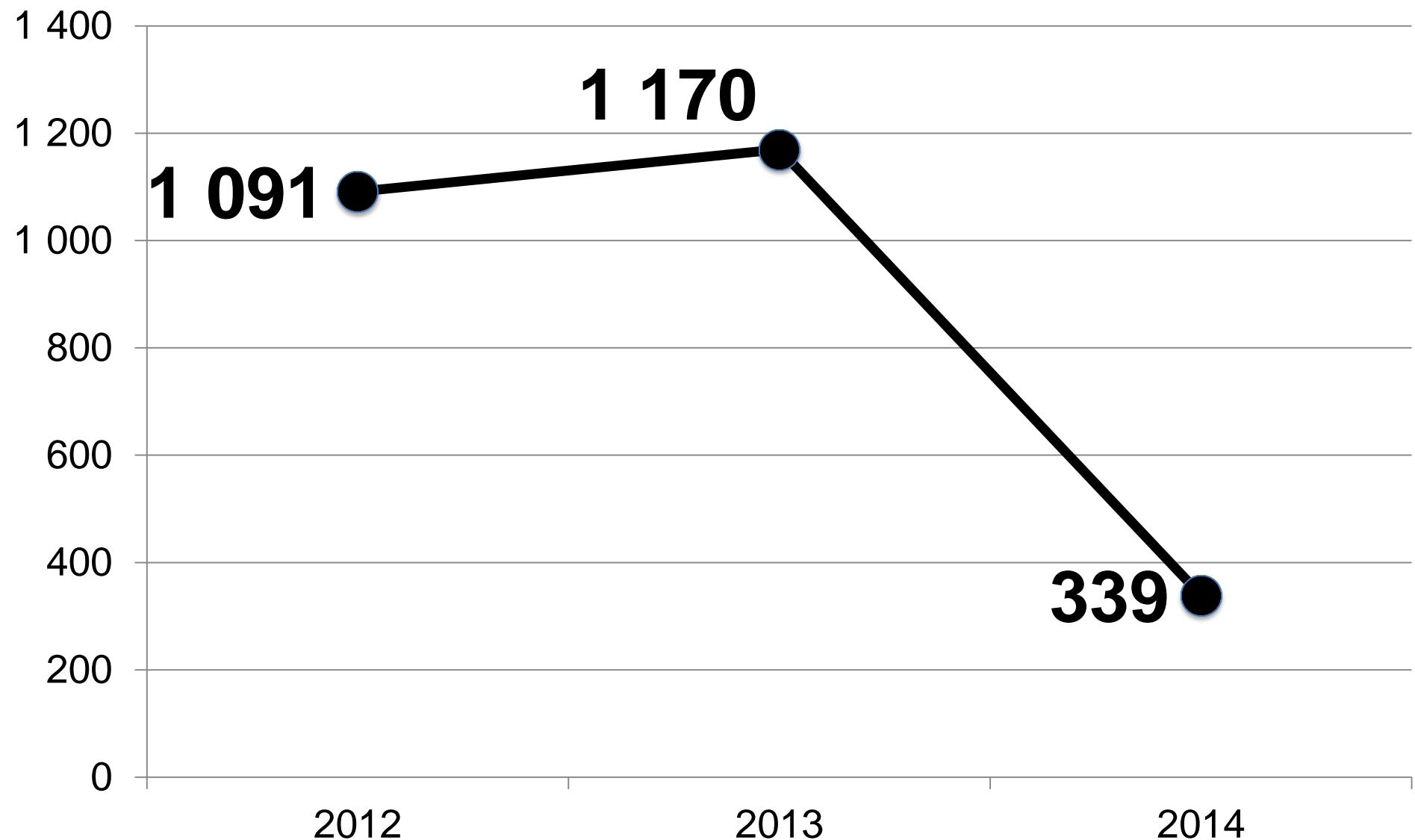
**4. Awareness
and culture
change**

2014

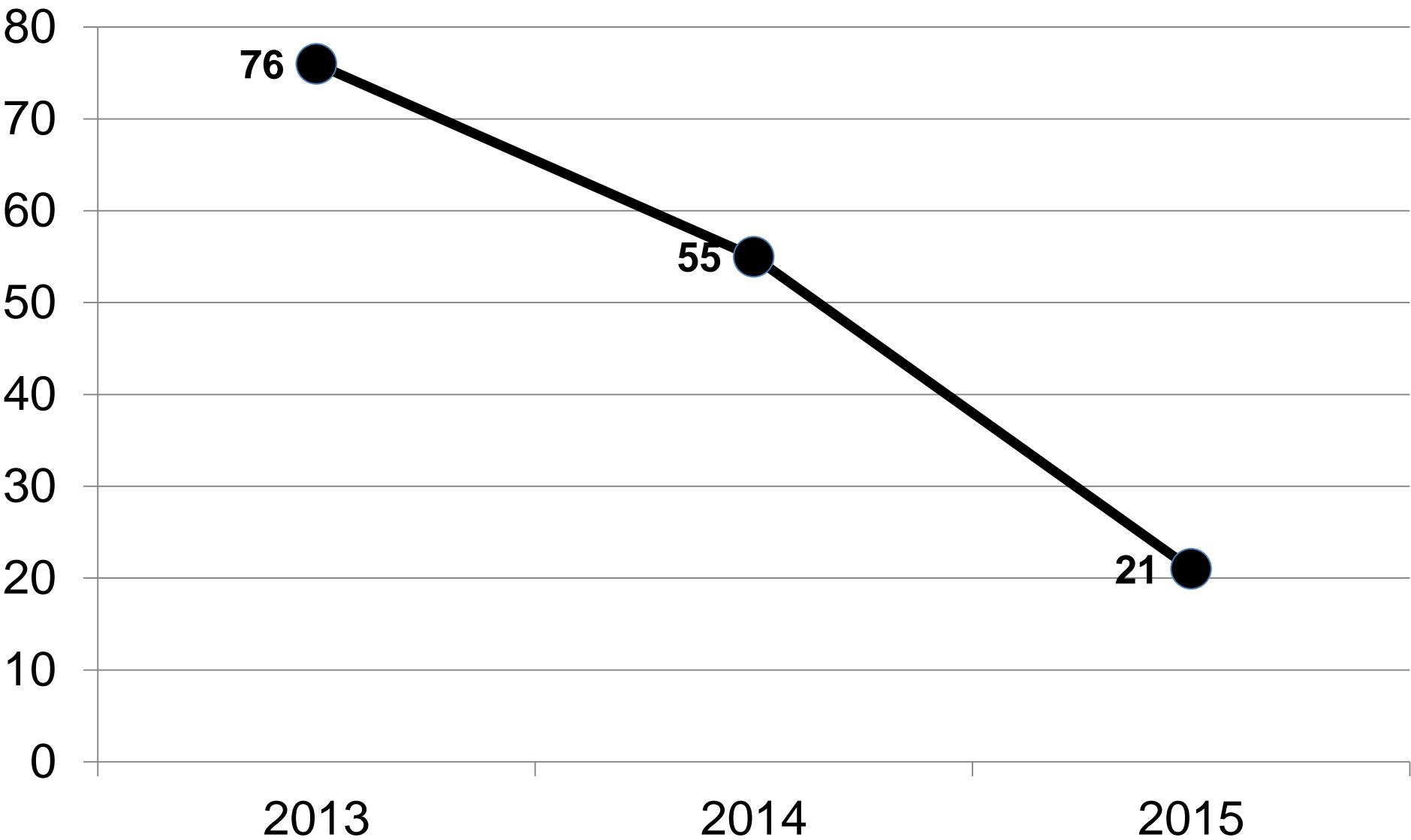
“There was a significant decrease in the number of illegal hunting and trapping incidents **witnessed during** the 2014 spring hunting season compared to previous years; the illegalities in 2014 were 29% of the number of illegalities in 2013”

Birdlife Malta, Spring Watch Report, 2014

Total number of alleged illegalities observed by Birdlife (Malta) during spring hunting seasons



Number of protected birds bearing gunshot wounds recovered by the authorities



2015

“During their morning shift on Malta volunteers of the Committee Against Bird Slaughter (CABS) witnessed and filmed what they described as a “bold attempt to hit and kill a highly protected species”. **There is absolutely no need to report the case to the police as the two hunters appeared to be a pair of Peregrine Falcons.** The Harrier was not hurt either”, CABS Press Officer Axel Hirschfeld reports. It seemed that the Falcons acted jointly to defend their territory – a behaviour which would confirm reports of local Ornithologists stating that the **Maltese Falcon is on the comeback.**

CABS which is monitoring raptor migration and illegal hunting on Malta and Gozo since 11 September has so far observed and reported three incidents of shooting of protected birds to the police. The victims are a Short-toed Eagle, a Hoopoe and the Eurasian Spoonbill found near Salini last week. **Apart from these cases the birdwatchers observed a significant decrease of incidents which involved shooting at or of protected birds as well as observations of birds with visible shotgun injuries.”**

“The times of the big massacres are over. We now have to deal with the criminals who still think that they are above the law”, CABS president Heinz Schwarze said. *CABS press release 30/09/2015*

2015

“Malta has come a long way since then. The illegal hunting situation in Malta has changed drastically over the past few years and continued to improve over the past year...”

...One can never accept any illegalities and even one single act is an act too many. But one has to put things into perspective too. Ten, even five years ago, one would not dream of being able to see a Flamingo anywhere, and it lasts more than a few minutes. In 2015, there were different Flamingos spending over a week at the Salina Salt Pans, formerly a notorious place for bird killing, in spite of being protected.

Lesser kestrels and Red footed Falcons as well as Montagu’s and Marsh Harriers have spent weeks in the same areas this spring and in some places there were Marsh Harriers throughout the months of March, April and May. Some Red-footed Falcons are still being recorded in June.

Malta is fast becoming a normal place for birds.”

Dr Natalino Fenech, PhD, June 2015



Photo credit: Committee Against Bird Slaughter, 2016



Three years after Tunis

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From weaknesses to strengths; from threats to opportunities!

Three years after Tunis

<p>Strengths</p> <ul style="list-style-type: none">• Robust, modern legal regime• Harsh, proportionate, effective legal deterrents• Clear national priorities• Clear institutional ownership; dedicated & competent enforcement structures• Strong coordination• Sufficient funding and technical capacity• Effective deployment of latest technologies in enforcement and regulation• First mandatory real time game reporting system in Europe• Unprecedented intensity of spot checks and inspections• Wealth of statistical and scientific information published on a regular basis• Effective judicial processes• Much higher regulatory awareness and rapidly improving compliance• Drastic, sustained reduction in IKTTB• Proven platforms for stakeholder involvement	<p>Opportunities</p> <ul style="list-style-type: none">• Potential for collaboration between government and NGOs• Potential for networking, further capacity building• Potential for continuous improvement, learning• Greater acceptance of the need for more positive change
<p>Weaknesses</p> <ul style="list-style-type: none">• Specialised skills not easy to find: need more, systemic investment in training of human resources	<p>Threats</p> <ul style="list-style-type: none">• Stakeholder polarisation remains a threat to cooperation• Potential exists for more confidence-building , measures• Localised problem issues & hotspots remain a priority that demands greater investment of resources

In conclusion..

The Plan is not a fixed, prescriptive, panacea. It can and must be adapted to the realities of each country or region.

A list of possible measures are flexible enough to fit into possibly any legal or administrative framework.

Tunis Action Plan works.. but only if implemented!