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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

38th meeting
Strasbourg, 27-30 November 2018

**Beyond 2020: Bringing an end to Illegal Killing,
Taking and Trade in Wild Birds as a
conservation concern for the flyways**

A CONCEPT NOTE

- Second Draft -
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EXECUTIVE SUMMARY

As the 2020 deadline for the implementation of the Tunis Action Plan (TAP) for the eradication of illegal killing, trapping and trade of wild birds (IKB) looms closer, a double challenge arises. From the perspective of the Bern Convention, which has pioneered regional-scale policy action on IKB for over three decades, this is a challenge of ensuring full delivery of TAP commitments by 2020, without losing sight of the longer-term, strategic perspective on the fight against the complex and multifaceted phenomenon of IKB.

This challenge also presents an opportunity for Bern Convention Contracting Parties, observers, partners and stakeholders, to examine critically the progress made so far, and the pitfalls yet to be overcome. This Concept Note aims to capitalise on this opportunity, as it takes stock and synthesizes key information available to date on the implementation of the TAP. Based on this knowledge, the Concept Note proposes necessary revisions, new strategic objectives and potential targets for the post-2020 period. Furthermore, such an objective assessment of the adequacy of policy response to IKB would contribute to a diverse range of states' obligations under multiple international policy instruments, including, beyond the Bern Convention, to overarching Aichi Biodiversity Targets¹, especially 1, 2, 4, 12, 17.

The aim of this Concept Note is to serve as a background document to stimulate a wide stakeholder involvement in the shaping up of the post-2020 strategic priorities for their eventual consideration by Bern Convention's Contracting Parties at the 38th meeting of the Standing Committee due to take place in November 2018.

As part of the process of developing this Concept Note, a high-level situation analysis has been performed, to map out the main developments from the pre-TAP policy context of relevance to IKB, to key strategic inputs that shaped a post-2013 strategy response. In this process, key policy inputs were briefly examined, as well as Bern Convention's Contracting Parties' and other partners' response to the policy priorities. A strategic assessment of the state of implementation of the TAP has thus been performed, and, drawing also on the conclusions of recent IKB-related developments, such as the recommendations of the 2018 Global Summit for the Flyways, key lessons learned from experience of TAP implementation so far were deduced. This analysis is summarized in Chapter 3 of this Concept Note.

A multi-stakeholder consultation exercise was undertaken on the first draft of the Concept Note during the period between July and October 2018. A specially designed questionnaire² was circulated in July 2018 amongst Bern Convention's Contracting Parties, Observers and members of the CMS Mediterranean Task Force on Eradication of IKB.

Stakeholder views have been summarized and analyzed in Annex I. This analysis guided further development and revision of this Concept Note.

The lessons learned from the situation analysis were subjected to a high-level assessment of the strengths, weaknesses, opportunities and threats (SWOT), based on which, a set of updated and revised conclusions and recommendations for post-2020 IKB-related policy priorities are proposed. The SWOT analysis is presented in Chapter 4.

A set of strategic parameters to guide the development of a vision, objectives and high-level targets has been proposed in Chapter 5, which deals with the future strategy considerations. A ten-year post-2020 policy horizon was chosen as a strategic window during which the new objectives and targets are to be implemented. This strategic ten-year policy horizon is punctuated with a strong element of a mid-term assessment, to be performed within a five year timeframe. An ambitious, yet realistic vision for the post-2020 period has been developed, with the view to inspire further strategic framework cascading down from strategic objectives to high-level targets proposed in Chapter 5 of this Concept Note.

¹ Convention on Biological Diversity, Strategic Plan for 2011-2020, Aichi Biodiversity Targets, <https://www.cbd.int/sp/targets/>

² T-PVS/Inf(2018)2

This vision essentially calls for maintaining and strengthening zero tolerance approach to IKB, to bring IKB to an end as a conservation concern for the flyway. The vision also calls for enhanced collaboration between Bern Convention and other regional and global MEAs, partners and networks, to promote eradication of IKB in all of our planet's flyways.

This vision is subsequently translated into five strategic objectives, which broadly mirror the strategic elements of IKB Scoreboard adopted through Bern Convention Standing Committee Recommendation No 164 of 2017. The reasons behind this proposal are explained in Chapter 5 of this Concept Note. The proposed strategic objectives comprehensively cover the entire spectrum of all possible measures necessary for the achievement of the proposed vision. The objectives range from improving understanding of the scale and extent of IKB and its contribution to mortality at flyway level (IKB assessments) to further improving IKB-related legislation, capacities to enforce the law, effectiveness of the justice system, as well IKB prevention. A sixth objective deals specifically with the mid-term and final assessments of the performance of the strategy itself, which is necessary to ensure on-going relevance, effectiveness, efficiency, impact and sustainability of the delivery of the strategy.

Each proposed strategic objective is further broken down into a set of corresponding high-level targets and corresponding timeline.

1. INTRODUCTION

The time horizon for the implementation of the Tunis Action Plan (TAP) for the eradication of illegal killing, trapping and trade of wild birds (hereinafter referred to as “IKB”)³ draws to a close in 2020.

During the first five years of the Plan’s implementation, several important milestones have been delivered by Bern Convention Contracting Parties and other partners. These milestones included, amongst others:

- The formation of Bern Convention Network of Special Focal Points (SFPs) on Eradication of IKB to drive TAP implementation;
 - A number of Bern Convention Standing Committee Recommendations related to IKB adopted during this period⁴;
 - Updates on national and regional activities undertaken by Bern Convention Contracting Parties and other Partners reported following three meetings of the Network of Special Focal Points (SFPs) on Eradication of IKB⁵;
 - A Mid-Term Review of the implementation of the TAP undertaken in 2016⁶;
 - Formation of Inter-governmental Task Force on Eradication of IKB in the Mediterranean (MIKT) under CMS Resolution 11.16 and the adoption of the MIKT Programme of Work for 2016-2020⁷;
 - Development of a self-assessment Scoreboard to measure progress on eradication of IKB;
 - Compilation of national reports on progress related to the implementation of the MIKT Programme of Work (POW) 2016–2020 and the Bern Convention Tunis Action Plan (TAP) 2013–2020⁸;
 - Adoption of a revised CMS Resolution on the Prevention of IKB of Migratory Birds at CMS COP 12⁹, and Bern Convention Standing Committee Recommendation on IKB Scoreboard¹⁰;
- Publication of BirdLife -led reviews of the scope and scale of illegal killing and taking in the Mediterranean¹¹ and in Northern and Central Europe and the Caucasus¹² and the development of the best practice guide to monitoring IKB¹³.

³ Recommendation No 164 (2013) of the Bern Convention Standing Committee on the implementation of the Tunis Action Plan 2013-2020 for the eradication of illegal killing, trapping and trade of wild birds; <https://rm.coe.int/1680746782>

⁴ Recommendation No. 171 (2014) of the Standing Committee, adopted on 5 December 2014, on the setting-up of national policing/investigation priorities to tackle illegal killing, trapping and trade of wild birds; Recommendation No. 177 (2015) on the gravity factors and sentencing principles for the evaluation of offences against birds, and in particular the illegal killing, trapping and trade of wild birds;

⁵ SFP meetings in Madrid (February 2015), Tirana (April 2016), Malta (June 2017)

⁶ Mid-term Review on the Implementation of Tunis Action Plan (T-PVS/Inf (2016) 8): https://www.cms.int/sites/default/files/document/T-PVS-Inf%282016%298_mid-term-review-of-the-implementation-of-the-tunis-action-plan-2020.pdf

⁷ https://www.cms.int/sites/default/files/document/unep_cms_mikt1_doc-04_program-of-work%20FINAL_0.pdf

⁸ Document T-PVS/Inf (2017) 6 presented during the Joint Meeting of Bern Convention SFPs Network and CMS MIKT in June 2017 in Malta: <https://rm.coe.int/compilation-of-national-reports-on-progress-related-to-the-implementation/168072238d>

⁹ https://www.informe.org/sites/default/files/decisions/cms/cms_cop12_res.11.16%28rev.cop12%29_e.pdf

¹⁰ Recommendation No. 196 (2017) of the Standing Committee, adopted on 8 December 2017, on the establishment of a Scoreboard for measuring progress in combatting illegal killing, taking and trade of wild birds: <https://rm.coe.int/recommendation-on-the-establishment-of-a-scoreboard-for-measuring-prog/1680722116>

¹¹ Brochet et al. (2016) *Bird Conservation International* 26 (1):1-28 and Birdlife International (2015), “The Killing”, http://www.birdlife.org/sites/default/files/attachments/01-28_low.pdf

¹² Brochet et al. (2017) *Bird Conservation International Bird Conservation International*, 1-31. doi:10.1017/S0959270917000533 and BirdLife International (2017) ‘The Killing 2.0’

<http://www.birdlife.org/campaign/stop-illegal-bird-killing>

¹³ <https://www.cms.int/en/document/best-practice-guide-monitoring-illegal-and-taking-birds>

Moreover, apart from these and other developments, in April 2018, a four-day Global Flyways Summit took place in Abu Dhabi, UAE, during which over 300 participants representing more than 100 organisations from 70 countries, as well as representatives of key multilateral environmental agreements (MEAs) adopted a declaration, and a specific set of conclusions regarding the fight against IKB.

Whilst there is broad consensus¹⁴ that further effort is needed to fully implement existing TAP commitments until 2020, it is also opportune, at this stage, to draw key lessons learned to date, and to commence the process of developing priorities and actions for post-2020 policy framework on IKB.

This Concept Note, revised and updated following consultation with stakeholders, aims to take stock and synthesize key information available to date on the implementation of the TAP, and to propose necessary revisions, new strategic objectives and targets for the post-2020 period.

The vision, strategy and high-level targets proposed in this revised and updated Concept Note do not in any manner extend beyond the countries' legal obligations set under the Bern Convention or under related international agreements including CMS Convention and the EU Directive 2009/147/EC on the conservation of wild birds.

Implementation of any commitments to eradicate IKB proposed as part of this Concept Note shall not be construed within the context of legal compliance with any binding treaty obligations.

On the other hand, the vision, strategy and high-level objectives proposed in this Concept Note aim at aiding the states' compliance with the overarching obligations under Bern Convention and related international agreements, insofar as eradication of the illegal killing, taking and trade in wild avifauna protected by the said Convention and international agreements is concerned.

Whilst it is explicitly recognised that matters related to policing, the judiciary, penalties and criminal proceedings clearly fall within national competence of the Contracting Parties, any references to such matters throughout this Concept Note should be construed solely within the context of the objectives of capacity building, strengthening cooperation, and promoting information exchange between various state and non-state stakeholders involved in the eradication of IKB insofar as such measures are directly relevant to the overarching aim of eradication of IKB.

2. STRUCTURE OF THIS CONCEPT NOTE

This Concept Note is structured around two key elements. The first element consists of high-level situation analysis. The process flow for situation analysis is depicted in a diagram below. The analysis starts with a brief outline of the pre-TAP policy context of relevance to IKB, and then proceeds to map out key strategic inputs that shaped a post-2013 strategy response. In this process, key policy inputs are briefly examined, as well as Contracted Parties' and other partners' response to the policy priorities. This allows performing a high-level assessment of the state of implementation of the TAP, and, drawing also on the conclusions of recent IKB-related developments, such as the recommendations of the Global Summit for the Flyways, to deduce key lessons that can be learned from experience of TAP implementation so far. These lessons are, in turn, subjected to a high-level assessment of the strengths, weaknesses, opportunities and threats (SWOT), based on which, conclusions and recommendations for post-2020 IKB-related policy priorities are proposed.

The second element of this Concept Note therefore follows directly from the high-level synthesis resulting from the situation analysis and proposes a set of strategic priorities for the post-2020 IKB policy scenario. The ultimate aim is to provide necessary foundations to stimulate a wide stakeholder involvement in the shaping up of the post-2020 strategic priorities for their eventual consideration by

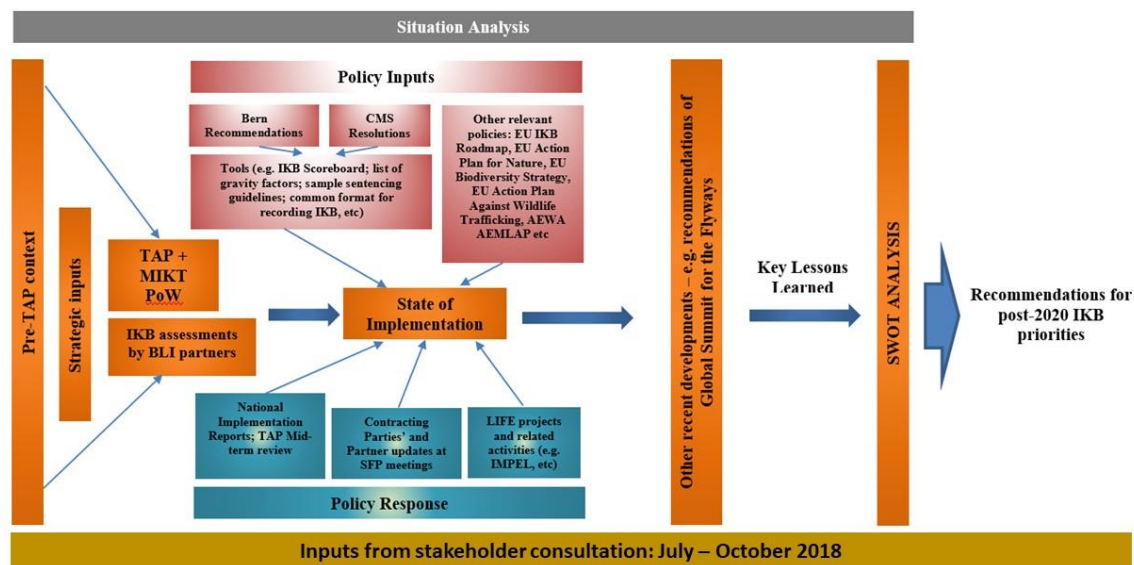
¹⁴ For example the Global Summit for the Flyways that took place in Abu Dhabi in April 2018, in its conclusions related to IKB, called for "Mobilizing political will/resources/funding to fully implement the Tunis Action Plan and MIKT programme of work"

Bern Convention's Contracting Parties at the 38th meeting of the Standing Committee due to take place in November 2018.

A multi-stakeholder consultation exercise undertaken on the first draft of the Concept Note during the period between July and October 2018 through a specially designed questionnaire¹⁵ circulated in July 2018 amongst Bern Convention's Contracting Parties, Observers and members of the CMS Mediterranean Task Force on Eradication of IKB, have further guided the development of both elements of this updated Concept Note.

An analysis of the submissions received, and a summary of the revisions effected to the Concept Note as a result of stakeholder proposals, is enclosed as Annex I.

Figure 1 – Structure of the situation analysis



3. SITUATION ANALYSIS

A detailed analysis of all latest developments concerning IKB at the local, national and international levels is beyond the scope of this Concept Note. However, a high-level synthesis is necessary to assess, at a strategic level, the key lessons learned from the implementation of the TAP to date. This high-level synthesis is reproduced below.

3.1 Pre-TAP context

IKB has been on Bern Convention's radar for over three decades, with the first Standing Committee step on this issue being Recommendation No. 5¹⁶ calling on the Contracting parties to 'ensure the prosecutions of persons illegally catching or killing birds or establishments commercialising live or dead protected birds'. Since then, IKB has gradually gained prominence on Bern Convention's agenda, including through adoption of Recommendation No. 90¹⁷ on the catching, killing or trading of protected birds in Cyprus, organisation of the 1st International Conference on IKB in Larnaca in 2011, adoption of a Declaration¹⁸ calling governments to adopt a zero-tolerance approach towards IKB, and related Recommendation No. 155¹⁹.

¹⁵ T-PVS/Inf(2018)2

¹⁶ [Recommendation n° 5 \(1986\) of the standing committee on the prosecution of persons illegally catching, killing or trading in protected birds.](#)

¹⁷ [Recommendation No. 90 \(2001\) on the catching, killing or trading of protected birds in Cyprus, adopted by the Standing Committee on 30 November 2001](#)

¹⁸ [Decl\(2011\)01E- European Conference on Illegal Killing of Birds - Larnaca, Cyprus, 7th July 2011 - Larnaca Declaration.](#)

¹⁹ [Recommendation No. 155 \(2011\) on the Illegal Killing, Trapping and Trade of Wild Birds.](#)

Two years later in 2013, the Convention organised the “Week on the conservation of wild birds”, in co-operation with the CMS, which culminated in the 2nd International Conference on IKB held in Tunis.

The Tunis conference resulted in the agreement of a set of measures aiming to help focus the fight against IKB on specific priorities. This set of measures - subsequently became known as the “Tunis Action Plan” – was subsequently formally adopted in Recommendation 164²⁰ as a way to translate vision to action. In parallel, a Network of Special Focal Points was set up to drive and monitor the Plan’s implementation. The Network brought together 26 Contracting Parties that nominated a national Focal Point, as well as key partners such as AEWA, the CMS, the INTERPOL, the EU, BirdLife International and FACE.

Mirroring these developments, the European Commission also adopted an EU Roadmap for IKB²¹, as a way of aiding implementation of the TAP by the EU and its Member States.

3.2 Salient features of the TAP

The TAP is structured around three priority areas, loosely categorized as: “enforcement and legal aspects”, “biological and institutional aspects” and “awareness aspects”. Each priority area opens up into a set of related objectives, actions and corresponding results.

Thus the “enforcement and legal aspects” priority contains actions related to elaboration of national enforcement priorities against IKB, the development of “conservation impact statements” and adoption of standardized “gravity factors” and sentencing guidelines for IKB-related crime, as well as the establishment of relevant mechanisms for monitoring and reporting.

The “biological and institutional aspects” priority area seeks to ensure that aspects such as knowledge of bird mortality due to IKB and its drivers, information on legal harvest, and tools for prosecutors and judges on IKB is taken into consideration throughout the enforcement chain.

The “awareness” chapter of the TAP deals with building “positive and effective alliances with stakeholders” through opportunities for dialogue at the national level (including through decision-making “by consensus”), systematic publication of enforcement results, targeted communication and engagement with specific stakeholder groups as well as a sustained effort to improve education and awareness of IKB and its conservation impacts.

3.3 Conclusions of Mid-term review on the implementation of the TAP

The first three years since the adoption of the TAP have seen the delivery of a “methodology document” to identify IKB black-spots²²; the “sentencing guidelines”²³ to inform the process of imposition of sanctions, and a “list of gravity factors”²⁴ for IKB-related offences (both endorsed by the Standing Committee Recommendation 177 (2015))²⁵, as well as criteria to set-up national policy/investigation priorities²⁶. These actions have directly and indirectly spurred a number of initiatives of legislative, capacity building, enforcement and communications nature by state and regional administrations and various NGOs. Multi-stakeholder networks, such as the European Network against Environmental Crime (ENEC)²⁷, amongst other, were formed to develop specific recommendations on IKB-related aspects ranging from measures on tackling poisoning to strengthening prosecutions and field enforcement.

²⁰ [Recommendation No. 164 \(2013\) on the implementation of the Tunis Action Plan 2013-2020 for the eradication of illegal killing, trapping and trade of wild birds.](#)

²¹ [Roadmap towards eliminating illegal killing, trapping and trade of birds.](#)

²² [Methodology document to identify black-spots of illegal killing of birds](#)

²³ [Proposals for informing the process for the imposition of sanctions in wildlife crime cases, especially the illegal killing, taking and trading of wild birds](#)

²⁴ [Analysis of gravity factors to be used to evaluate offences and list of standardized/harmonized gravity factors](#)

²⁵ [Recommendation N° 177 \(2015\) on the gravity factors and sentencing principles for the evaluation of offences against birds, and in particular the illegal killing, trapping and trade of wild birds](#)

²⁶ [Recommendation No. 171 \(2014\) of the Standing Committee, adopted on 5 December 2014, on the setting-up of national policing/investigation priorities to tackle illegal killing, trapping and trade of wild birds](#)

²⁷ <http://lawyersfornature.org/>

A Mid-term Review of the TAP implementation was undertaken in 2016 and its findings were discussed at the 3rd meeting of SFPs Network in Tirana (April 2016) and subsequently presented to 36th Standing Committee. The review was conducted through a questionnaire, which received response from 24 Contracting Parties (45% of all Contracting Parties and 77% of those that nominated a national SFP). The review report noted in the absence of a structured assessment of the pre-2013 IKB situation²⁸, a direct comparison with pre-TAP situation was not possible.

Nonetheless, the review registered good overall progress on the implementation of the TAP, with the vast majority of respondent states indicating completed TAP actions and actions still in progress.

In the specific areas of the TAP, almost two thirds of the respondents reported having identified national policing and investigation priorities, indicating, overall a good level of understanding of the IKB problem at national level. Some respondent states indicated existence of specialized enforcement agencies to deal with IKB-related crime, whilst other states reported a sustained effort to raise awareness on the specificities of IKB amongst general police and enforcement entities. At the time of the review, only few states reported the existence of national mechanisms to systematically record and monitor IKB-related cases and related information, whilst the majority of states did not yet have such mechanisms in place, primarily due to difficulties in coordination amongst relevant stakeholders at the national and local levels.

Access to information and awareness of IKB-related specificities was observed to be particularly low amongst the judiciary segment of the enforcement chain; hence the review recommended further effort to adopt and disseminate gravity factors and sentencing guidelines developed by the Convention amongst judiciary at national level.

Monitoring effort on the extent, typology and conservation impacts of IKB was noted to have been particularly weak amongst most states, and in most cases, in the absence of official monitoring data, the only available structured effort to collect such information was done through the Birdlife International-led reviews on the scope and scale of IKB²⁹ in the Mediterranean published in 2016 and for Northern and Central Europe and the Caucasus published in 2017

The guidelines for the identification of black-spots developed by the Convention are not mentioned in any of the replies to the questionnaire, although seven countries have data about IKB cases that can result in the identification of black-spots.

Data on legal harvest was reported to be collected by hunters in almost three quarters of the responding Parties with improvement reported in two countries where data was being collected electronically in real time through telephone and the internet. Notwithstanding reported improvements in legal harvest data collection, comprehensiveness and quality of legal harvest data were not assessed at the time of the mid-term review.

Despite deficiencies in IKB monitoring and data collection, most respondent states indicated significant progress on the implementation of a wide variety of awareness raising initiatives and projects. NGOs have played a major role in the majority of awareness raising actions, and in several cases the campaigns are carried out jointly with the national government and supported by EU Life funding³⁰ and other donors.

²⁸ Although there was no single pre-TAP IKB assessment, the mid-term review report made reference to the 2013 Report on the Implementation of the Action Points of Recommendation No.155(2011) on the Illegal Killing, Trapping and Trade of Wild Birds [T-Pvs/Inf (2013) 13] and to BirdLife International 2013 Overview of databases on illegal killing, trapping and trade of birds in the EU.

²⁹ Brochet et al. (2016) Bird Conservation International 26 (1):1-28 and Birdlife International (2015), "The Killing", http://www.birdlife.org/sites/default/files/attachments/01-28_low.pdf and Brochet et al. (2017) Bird Conservation International Bird Conservation International, 1-31. doi:10.1017/S0959270917000533 and BirdLife International (2017) 'The Killing 2.0' <http://www.birdlife.org/campaign/stop-illegal-bird-killing>

³⁰ LIFE projects related to IKB are further discussed in section 3.8.11 of this Concept Note. An example of EU LIFE funded initiatives related to IKB can also be found here: <http://www.leavingisliving.org/life/index.php/en/> http://ec.europa.eu/environment/life/publications/lifepublications/lifefocus/documents/wildlife_crime_web.pdf <https://www.environmentalprosecutors.eu/eu-life-project>

Nonetheless, the review noted that the limited understanding of the drivers of IKB (only 3 Parties have provided that some research has been carried out) risks curbing the effectiveness of the campaigns, which would otherwise have a higher potential to influence and change people's attitude toward the multiple forms of IKB.

Coordination between the international initiatives at national and international level was reported to have been good, while the expertise of INTERPOL has not been used to its full potential, mainly because of limited funding. On the other hand, the development of national mechanisms for cooperation between investigators and prosecutors was reported as being less advanced.

On the basis of a detailed assessment of progress in the implementation of the TAP measures, the review recommended that beyond Mediterranean states, all Contracting Parties of the Convention should contribute to implementation and reporting on the TAP. Identification of national priorities by states that have not yet done so was recommended to be accelerated, because prioritization is a crucial step to ensure the limited resources are focused on the most serious crimes and locations. Likewise, further effort in the specific states was recommended to improve awareness and level of engagement amongst prosecutors and members of the judiciary. The review further recommended the establishment of centralised national registries / databases on IKB, to accelerate availability and improve comprehensiveness and quality of IKB data at the national level. This data would, in turn, help to inform identification of black spots where IKB problems often tend to be concentrated, as well as help in the identification of appropriate enforcement priorities and response.

Since only a few states reported understanding of drivers behind IKB, the review recommended that the process of identification of such drivers should be given a boost, as it would help the authorities and NGOs to better target their enforcement and awareness-raising efforts towards specific root causes of IKB that tend to be highly specific for each state.

Although most contracting parties responding to the questionnaire have reported that communication and information campaigns have been developed, the review indicated that integrated (i.e. using a range of communications tools) campaigns targeting a specific type of illegal activity have been very effective, in particular, when carried out in cooperation between governmental agencies and NGOs engaging local communities. Likewise, the review pointed to the need to further explore the cooperation opportunities with international police agencies and initiatives, particularly with Europol and Interpol, IMPEL, CEPOL, European Forum of Judges for the Environment, European Network of Prosecutors for the Environment, and European Network against Environmental Crimes.

3.4 Formation of CMS MIKT and development of its Programme of Work (POW)

In July 2016, the process of implementation of the TAP received a major boost from the formation of Inter-governmental Task Force on Eradication of Illegal Killing, Taking and Trade in Wild Birds in the Mediterranean. The Task Force was established under CMS Convention Resolution 11.16 on the prevention of the illegal killing, taking and trade of migratory birds to facilitate international cooperation as well as to catalyse implementation of the existing guidelines and action plans in particular the Tunis Action Plan, focusing on the exchange of information, training and education, cooperation in law enforcement, deterrence and prevention to reduce the mortality rate among migratory birds³¹.

The first meeting of the Task Force took place in Cairo in July 2016, resulting in the adoption of the Cairo Declaration on Illegal Killing, Taking and Trade of Migratory Birds in the Mediterranean

³¹ <http://www.cms.int/en/taskforce/mikt>

Region³² as well as a detailed Programme of Work (PoW)³³ until 2020. The Programme of Work sought to further accelerate implementation of the TAP, with a particular focus on four dimensions:

1. **Overarching issues:** actions to encourage development of NAPs; report situation in each country; address IKB in hotspots; develop a Scoreboard;
2. **Legal & enforcement issues:** measures to ensure national legislation complies with international law and is adequate to address IKB; provide judiciary with IKB sentencing guidelines; ensure adequate enforcement; strengthen regional cooperation on enforcement; capacity building for prosecutors & judiciary;
3. **Conservation & monitoring:** measures to promote regular monitoring of IKB; research on IKB drivers; identify alternative income for local communities that depend on IKB for subsistence;
4. **Education & awareness:** actions to promote hunter education programmes; raise awareness within local communities on the environmental, social and economic impacts of IKB; national communication strategies.

The PoW therefore provided further structure, including specific timelines, to boost the implementation of the TAP. A major offshoot that resulted from the adoption of the PoW, was the development of a Scoreboard to provide for the self-assessment of the countries' efforts to respond to IKB. The significance of this tool and its structure are further elaborated in the following sections of this Concept Note.

Another major regional development presented and discussed at the Cairo meeting was a Plan of Action to address illegal bird trapping along the Mediterranean coast of Egypt and Libya³⁴.

3.5 Joint meeting of the MIKT and Bern Convention Network of SFPs

The second meeting of the MIKT took place jointly with the Bern Convention Network of SFPs in Malta in June 2017. The meeting was attended by over 80 delegates representing 28 countries, including 17 EU member states, representatives of the European Commission, Convention Secretariats, as well as by the representatives of over 30 observer organisations including NGOs, international environmental institutions and scientific organisations.

At the outset, the meeting took note of the updates provided by the Secretariats of both Conventions. Much has been done in the intersessional period, including a mid-term review of progress in the implementation of the Tunis Action Plan, work on awareness campaigns, liaison with other networks such as IMPEL and stakeholder organisations such as EUROPOL and INTERPOL.

The meeting also served as a forum for Contracting Parties and Observers to exchange updates on their activities. The main highlights resulting from this exchange of updates, which to date remains the most recent information on the state of play, are summarized below:

- Israel reported work on the conservation of pelicans, and eradication of killing of these species by fishermen and prevention of secondary poisoning.
- France reported a major upgrade in biodiversity protection legislation, which has seen, amongst other, a tenfold increase in the penalties against IKB.
- Croatia focused on educational initiatives, as well as improving inter-agency networking and collaboration with stakeholders to catalyse action against IKB.
- Cyprus reported the adoption of the National Action Plan on IKB, as well as some major legal reforms, particularly the introduction of significant minimum fines for IKB offences.
- Malta described its work on the identification of national enforcement priorities against IKB, establishment of a dedicated conservation of wild birds fund, and training for enforcement officers.

³² <https://www.cms.int/sites/default/files/unep cms mikt1 Cairo Declaration.pdf>

³³ https://www.cms.int/sites/default/files/document/unep cms mikt1 doc-04_program-of-work%20FINAL_0.pdf

³⁴ <https://www.cms.int/sites/default/files/document/unep cms mikt1 inf-12 %20poa-bird-trapping-egypt-libya.pdf>

- Hungary reported the introduction of stricter penalties for IKB, as well as some major initiatives to deal with the problem of raptor poisoning.
- Albania focused on awareness and educational initiatives. Although the country continued to maintain its current hunting ban, work is also underway to engage with the hunting organisations to develop future groundwork for sustainable hunting governance.
- Lebanon reported major improvements in hunting regulation, as well as political backing behind the fight against IKB.
- Portugal engaged stakeholders in the CITES processes, to improve awareness on bird-related crime and to improve deterrents.
- Italy adopted a National Action Plan and reported a host of initiatives that contribute to the attainment of the Plan's targets and actions.
- Czech Republic reported extensive work on interagency collaboration, particularly focusing on the problem of poisoning.
- The UK reported on the work of the national Wildlife Crime Unit, focusing on priority species, and the prevention and response to specific categories of bird-related crime.
- Tunisia reported the establishment of a national monitoring platform, which coordinates efforts against IKB including awareness raising and education.
- Serbia reported work in progress on the preparation of a Protocol that incorporates the Tunis Action Plan into the national framework, as well as specific actions related to improving hunting legislation and controls, as well as dealing with the issue of poisoning.
- Turkey concentrated its efforts on improving hunting governance, as well as capacity building for enforcement and judiciary.
- Slovakia adopted a National Action Plan and established a task force to drive its implementation.
- Spain reported training and capacity building for enforcement agencies, as well as coordination of effort in addressing specific issues such as illegal trapping and poisoning in some regions.
- Germany reported collaboration between the authorities and NGOs to combat the problem of persecution of birds of prey.
- European Commission reported providing substantial support to a number of initiatives to address IKB, in line with the EU Roadmap.
- IMPEL reported a number of projects related to IKB, including an initiative which aims at improving sharing of key information.
- Birdlife International and Birdlife Europe reported a host of activities and initiatives undertaken together with partner organisations in several states, as well as provided a preview of the preliminary results of the study on the extent of IKB in Northern and Central Europe and Caucasus, as well as in the Arabian Peninsula, Iraq and Iran, which showed that the problem of IKB is by no means confined to the Mediterranean region alone, and requires a concerted action on a wider scale. This study was subsequently formally launched at CMS COP12 in Manila in October.
- Birdlife Cyprus and CABS reported a very dynamic situation with regards to illegal trapping in Cyprus, particularly within the hotspot areas, noting also recent positive trends.
- Nature Conservation Egypt reported working with foreign partners on cross border IKB, as well as engagement with local stakeholders and communities.
- A representative of the Carpathian Convention reported latest trends and initiatives in combating IKB in the Carpathian / Danube region, focusing on specific cases studies.
- The International Association of Falconry and Conservation of Birds of Prey highlighted the role of falconry in conservation, as well as reported initiatives ranging from research into raptor

collisions with power lines, to the establishment of a Fund to conserve Peregrine falcons, addressing the issue of illicit trafficking of raptors and initiatives to implement the Saker Falcon Action Plan.

- UNESCO gave an overview of its Global Geoparks and Biosphere Reserves programme, highlighting in particular the potential of Biosphere Reserves to facilitate stakeholder action against IKB.
- EUROPOL and INTERPOL outlined activities that ranged from providing technical support to states in combating IKB, to direct involvement and assistance in specific operations, particularly in the case of trans boundary and organised crime.

Besides serving as a forum for exchanging updates, a major part of the joint meeting was dedicated to discussion on the draft Scoreboard to assess progress in eradication of IKB – this is elaborated in the next section of this Concept Note.

3.6 Scoreboard to assess the progress in combating illegal killing, taking and trade of wild birds

The idea behind this tool emerged at the first CMS MIKT meeting in Cairo, which identified the need for a voluntary, comprehensive, objective and internationally recognised self-assessment of the countries' preparedness and commitment to eradicate IKB. A mandate for the development of the Scoreboard was therefore agreed as part of the overall Programme of Work developed in Cairo.

Much of the groundwork leading up to the development of the Scoreboard was performed in advance of the joint meeting of MIKT and Bern Convention SFPs Network in Malta that took place in June 2017. A small working group was formed consisting of the representatives of both Convention Secretariats, interested Contracted Parties and stakeholders. The group was facilitated by an Expert appointed by the Bern Convention. At the outset, the working group sought to define the aims of the proposed tool, and to research groundwork for its potential architecture.

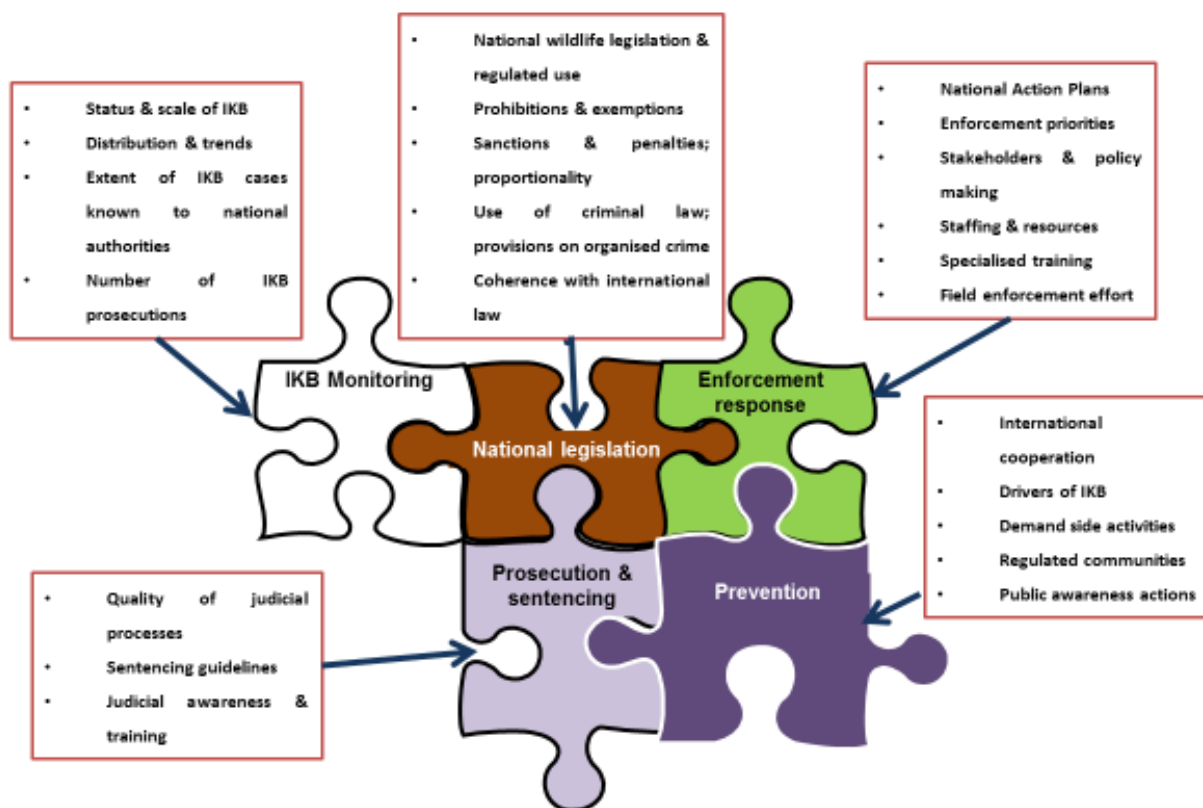
As part of this initial research, the group zoomed on the wildlife and forest crime analytical toolkit which was developed by UNODC and the International Consortium to Combat Wildlife Crime (ICWC). An indicator framework that formed part of this toolkit was chosen to serve as the blueprint for IKB Scoreboard tool. A distinguishing feature of this tool was that it was conceived and negotiated as a self-assessment tool based on multi-agency participation and civil society involvement. However, this format required a number of changes and adaptations, in order to focus on the specific requirements for the assessment and measurement of IKB, as opposed to a general assessment of the state of affairs with regard to international wildlife trade, of which IKB is only a limited component. The working group therefore opted to adapt and tailor this framework to the specific aims of IKB Scoreboard.

The framework of the Scoreboard was therefore built around 28 indicators, grouped across five categories: monitoring, comprehensiveness of national legislation, enforcement response, prosecution and sentencing, and prevention.

This structure was dictated by a logical workflow process, which begins with the identification of the known extent of the IKB problem, and subsequently zooms in onto the manner in which the states respond to it in terms of legislation, and in terms of enforcement in the field. Sentencing and judicial action also form part of this response, which is measured and captured through a series of easy-to-use indicators.

Recognising the fact that lasting and sustained progress can only be achieved through awareness actions, collaboration and education, the final segment of the Scoreboard deals with prevention.

Figure 2 – Structure of the Scoreboard



Two rounds of consultations were held on the initial drafts of the Scoreboard in advance of the meeting in Malta, and a series of five working groups corresponding to the five segments of the Scoreboard were subsequently held in June 2017.

Each working group identified specific improvements, which were subsequently incorporated into a revised draft. This draft was then subjected to a final round of consultation, eventually leading the consolidation of the document and its finalisation. Throughout the process, it was agreed that the Scoreboard shall be a voluntary, self-assessment tool that will be used periodically to enable a meaningful and consistent analysis.

It was furthermore agreed that the prime focus of the Scoreboard is countries' response to IKB, which was defined for this purpose as: *“those unlawful activities committed intentionally resulting in the death, injury or removal of specimens of wild birds from the wild either dead or alive, including their parts or derivatives”*.

The Scoreboard makes it possible for States to assess their progress not only at the national level but also on a regional scale as appropriate, thus contributing to prioritization and commitment of resources by national administrations, NGOs and international actors. It offers national authorities an opportunity to show leadership and the capacity and willingness of being proactive and transparent regarding their efforts to tackle an issue which is far more common than previously recognized.

The process leading to Scoreboard compilation, as described in the next pages, promotes cooperation and sharing of experience and know-how between governmental bodies and national stakeholders. Although the main emphasis of the Scoreboard is on self-assessment by national administrations, the Scoreboard methodology recommends that an expert assessment is best completed with the participation of experts from all relevant enforcement agencies and it is recommended that a multi-stakeholder group should be involved.

The cooperation developed among stakeholders and the information gathered for compiling the Scoreboard can be the basis for the development of a national action plan. Additionally, if a national action plan has already been developed the Scoreboard can be used to monitor its implementation at national level. Indeed some countries, most notably – Italy, have already adopted this *modus operandi*.

Figure 3 – Scoring system utilized by the Scoreboard

Country	A.	B.	C.	D.	E.	Size of problem
XXX	Light green	Green	Red	Yellow	Light green	Yellow
YYY	Red	Yellow	Light green	Green	Green	Light green
ZZZ	Green	Green	Yellow	Light green	Yellow	Red
....						

Red - National score <25% of maximum possible score

Yellow - National score between 25% and 50% of maximum possible score

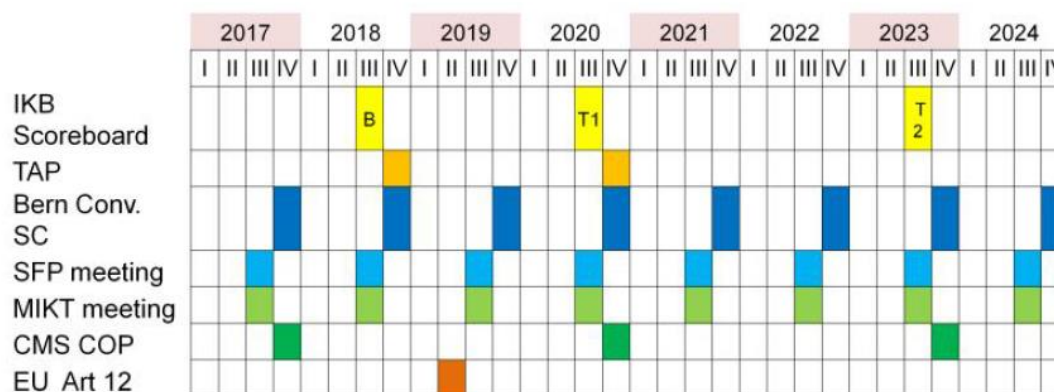
Light green - National score between 50% and 75% of maximum possible score

Green - National score >75% of maximum possible score

The geographical scope of the Scoreboard is the entire area covered by the Bern Convention and CMS MIKT. It has been explicitly agreed that the scoreboard shall not be used in relation to any Treaty compliance process.

Logically, in order to self-assess progress over time, the Scoreboard needs to be used repeatedly. Both the Tunis Action Plan (TAP) and the MIKT Programme of Work (PoW) envisage regular monitoring and reporting on progress. The Scoreboard offers the opportunity to report on both initiatives. It is envisaged that the first voluntary self-assessment will be implemented in 2018. This will be the baseline which will enable States to benchmark national and regional IKB status and efforts. The next self-assessment will be carried out in 2020 as this is the horizon of both the Tunis Action Plan and MIKT Programme of Work. The third self-assessment will be carried out in 2023. The following assessments will be in synchrony with the CMS COPs (i.e. every 3 years).

Figure 4 – Periodicity in the use of the Scoreboard



By the end of 2017, reference to the Scoreboard has been explicitly incorporated into the revised CMS Resolution 11.16 adopted at CMS COP 12 in Manila³⁵.

The text of the Resolution specifically acknowledges the work of the MIKT to develop the Scoreboard; promotes its use as a voluntary tool for Parties to assess their own progress in combating illegal killing, taking and trade of wild birds; notes that experience from the practical use of the scoreboard should be gathered for its potential further development; and invites the Parties to periodically use the scoreboard as a national tool to self-assess progress in addressing the illegal killing of wild birds and provide, on a voluntary basis and to the extent of availability and relevance of

³⁵ CMS Resolution 11.16 (rev. COP12) on the Prevention of Illegal Killing, Taking and Trade of Migratory Birds: https://www.cms.int/sites/default/files/document/cms_cop12_res.11.16%28rev.cop12%29_e.pdf

information for the indicators, the CMS Secretariat with the information identified in the Scoreboard. The Resolution also makes reference to the work of MIKT as a potential blueprint that can be replicated within the East Asian – Australasian Flyway.

A similarly-worded Recommendation³⁶ on the Scoreboard was also adopted at the 37th Standing Committee meeting of the Bern Convention, encouraging the use of the Scoreboard amongst Contracting Parties that are MIKT members and beyond.

3.7 Global Summit for the Flyways

The Global Summit for the Flyways took place in Abu Dhabi between 24th and 26th April 2018. Convened by Birdlife International in association with CMS and a number of other organisations and with support from a number of donors, the Summit brought together around 250 participants representing around 100 organizations from around 70 countries, including NGOs, private organisations, donors and representatives of MEAs. The Summit resulted in the adoption of a Declaration, which summarized key conclusions of the event³⁷. A full day session, comprising plenary meetings and thematic breakout groups was dedicated to discussion on IKB, resulting in the following reference in the Summit declaration:

“All governments must commit to zero tolerance of illegal killing, taking and trade of wild birds. Increased effort is needed to strengthen, comply with and enforce relevant legislation and judicial processes, and engage with stakeholders, local communities and wider society to change attitudes. The Bern Convention Tunis Action Plan for Europe and CMS Mediterranean Task Force, which have taken as their baseline the BirdLife review of illegal killing of bird, and adopted a Scoreboard to assess national progress, including through national action plans involving all stakeholders, are important tools for facilitating this. Other regions, most urgently Asia, need similar mechanisms.”

Additionally, several thematic breakout sessions on IKB, produced a number of key conclusions, some of which are of direct relevance to the scope of this Concept Note.

The IKB session at the Flyways Summit synthesised current understanding of the scale and scope of IKB in each global migratory flyway, and explored successful approaches to end IKB. By bringing together key stakeholders, it built upon and further developed committed alliances for the delivery of priority actions to stop IKB in each of the major flyways.

The session was attended by over 80 delegates and identified the following actions as being **overall priorities** for addressing the illegal killing/hunting of migratory birds:

- Ensure global level understanding of the scope and scale of IKB/IHB. Prioritise **situation analyses** in Central and Southeast Asia and in Sub-Saharan Africa to complement those already undertaken by BirdLife for the Mediterranean, rest of Europe and Middle East.
- Increase focus on lasting **change of attitude** towards migratory birds and nature in general. Build on scientific basis and emotions whilst taking into account cultural context. Prioritise engagement with young people and families.
- Strengthen **cooperation with hunters** to champion conservation and zero-tolerance of illegal activities.
- Advocate for governmental commitment to address IKB through CMS and Bern Convention **task forces, scoreboards and National Action Plans**. Prioritise formation of task force in Asia. Stimulate conservation action planning in Arabian Peninsula, Iran and Iraq.
- A zero **tolerance** approach to IKB should be retained or introduced worldwide, with clarity on **definitions** of legal/illegal activities.

³⁶ Bern Convention Standing Committee Recommendation No 196 / 2017 on the establishment of a Scoreboard for measuring progress in combating illegal killing, taking and trade of wild birds:

<https://rm.coe.int/recommendation-on-the-establishment-of-a-scoreboard-for-measuring-prog/1680722116>

³⁷ <https://www.birdlife.org/worldwide/news/summit-flyways-our-declaration>

Building on the examples presented in the plenary and the breakout discussions, the following theme-specific priority actions of direct relevance to this Concept Note were identified:

A. Changing hearts and minds

1. Seek input from **behavioural sciences** in developing attitude-change strategies adapted to local context and audiences.
2. Increase focus on emotion without abandoning science in **narratives that combine emotion, science and follow-up action**.
3. Ensure clear legal frameworks for conservation are in place allowing for successful engagement with **local communities**. Use participatory and culturally sensitive approaches and identify and support alternative livelihoods where relevant. Involve community leaders (religious, cultural etc.) and identify and support local IKB champions within communities
4. Stimulate **young people** to connect to nature by embedding environmental education programmes into official school curricula, setting up of youth conservation forums to foster active involvement, and engage with families as a win-win long-term investment.

B. Reducing IKB in the Arabian Peninsula, Iraq, Iran

1. Important that data and results of **IKB review** are shared to improve understanding of the scale of IKB in the region. The first review is an important starting point but **improvement in data** is needed for future editions.
2. There is **no single solution to IKB** in the region so different approaches and resources are needed, adapted to the national/local conditions, but where possible **improving collaboration/coordination** nationally, regionally and internationally, including for:
 - **Education and awareness** to improve recognition of IKB as a problem for bird populations amongst Government and practitioners and via cultural and religious preachers (especially for the younger generation), the School Curriculum and Movie spots.
 - **Regulations and enforcement** which need to be reviewed and strengthened where necessary at least to bring them into line with international commitments (licensing and permissions vary between countries) and communicated with the public
 - Understanding the **socioeconomic dimensions** to IKB, including the mobility of hunters.
 - Engaging with **hunters, including falconers** especially via existing clubs (or through prompting the establishment of associations), to build trust, recognise responsible hunters and encourage their role in stopping IKB.
 - **Protected areas (safe havens, refuges)** designation and management locally for responsible hunting, linked to livelihoods.
 - **Developing capacity** of relevant authorities and **exert pressure** as necessary (political and emotional) but not confrontational.
 - Developing more systematic **monitoring** protocols, building on existing schemes with appropriate capacity development, including using social media photo detection, alerts/reports and other intelligence to hotlines (e.g. WhatsApp groups), focused on blackspots and using legitimate hunters also to report transgressions.

C. African – Eurasian Flyway: Med, Africa & Central Asia

1. *IKB in African Eurasian Flyway – Tunis Action Plan/MIKT*

- Tackling IKB should be presented as a conservation concern **of relevance for the whole flyway** (due to connectivity along the flyway).
- **Mobilize political will/resources/funding** to fully implement the Tunis Action Plan and MIKT programme of work.

- Promote development of **National Action Plans** on IKB, building on good examples (eg Italy), including through highlighting incentives for their development (both “negative” like infringement procedures, and “positives” like fulfilling international obligations) and coordinated where possible with CBD and other relevant processes (e.g. subchapter in national biodiversity strategies and action plans of CBD or African Union).
- Need for joined up approach between civil society and governments (example through **national stakeholder workshops**).

2. *Sub-Saharan Africa and Central Asia*

- **IKB reviews in Sub-Saharan Africa and Central Asia** would help ‘complete’ our understanding of the scale and scope of IKB at the level of the African–Eurasian Flyway and would be the first such flyway-scale review. It is advised to split the work in geographic units of manageable size (for example Sahel, Southern Africa). The Sub-Saharan IKB review should also include intra African migratory birds.
- Reviews to build on **multiple inputs** such as waterbird census, AEWA African Action Plan, CMS Raptors MoU, IUCN work on bushmeat, CMS work on terrestrial and aquatic wild meat, BirdLife’s work as well as on-going projects (e.g. in West Africa).
- Review process must **include all stakeholders from the start**, especially governments, taking steps to ensure **national capacity** is available to input.
- The review process should encourage governments to use the **IKB scoreboard** approach.

3. *IKB in African Eurasian Flyway – post 2020 priorities*

- Promote the use of the MIKT/Bern Convention **IKB scoreboard** in a post 2020 context, broadening the scope from the Mediterranean and Europe to other parts of the flyway, from a regional to global perspective; problems and solutions in one part of the flyway will have an effect on other parts of the flyway. Level of ambition must be high but with realistic time frames for implementation.
- **Coordinated effort is needed between CMS/CITES/Bern Convention/CBD** and other relevant instruments, including the relevant national focal points and national action plans, ensuring that IKB chapters are included in CBD national biodiversity strategies and action plans.

3.8 Other MEAs, policy instruments, initiatives and networks of relevance to this Concept Note

3.8.1 *CMS Raptors MoU, the African–Eurasian Migratory Waterbird Agreement (AEWA) and Action Plan for Migratory Landbirds in the African-Eurasian Region (AEMLAP)*

The CMS Memorandum of Understanding on the Conservation of Migratory Birds of Prey in Africa and Eurasia (Raptors MOU)³⁸ aims to promote internationally coordinated actions to achieve and maintain the favourable conservation status of migratory birds of prey throughout their range in the African-Eurasian region, and to reverse their decline when and where appropriate.

The Raptors MOU currently covers 93 species of birds of prey and owls which occur in 132 Range States in Africa, Europe and Asia. An Action Plan is included as an Annex to the Raptors MOU with the following key objectives:

1. To halt and reverse the population declines of globally threatened (Critically Endangered, Endangered and Vulnerable) and Near Threatened birds of prey and to alleviate threats to them such that they are no longer globally threatened or Near Threatened;
2. To halt and reverse the population declines of other birds of prey with an Unfavourable Conservation Status within Africa and Eurasia and alleviate threats in order to return their populations to Favourable Conservation Status;

³⁸ <https://www.cms.int/raptors/en/legalinstrument/birds-prey-raptors>

3. To anticipate, reduce and avoid potential and new threats to all bird of prey species, especially to prevent the populations of any species undergoing long-term decline.

Signatories to the Raptors MOU commit to adopting and implementing measures to conserve migratory birds of prey and their habitats, for example, by: providing a legal framework to protect migratory species and a network of habitats and sites along their flyways; identifying important habitats, congregation sites and favoured routes; supporting relevant research and monitoring of populations, sharing results internationally; and, developing cooperative international projects and initiatives to promote effective conservation efforts.

The Agreement on the Conservation of African–Eurasian Migratory Waterbirds (AEWA) is an intergovernmental treaty dedicated to the conservation of migratory waterbirds that migrate along the African–Eurasian Flyway. The Agreement covers 254 species of birds ecologically dependent on wetlands for at least part of their annual cycle. The treaty covers 119 Range States from Europe, parts of Asia and Canada, the Middle East and Africa.

An Action Plan for Migratory Landbirds in the African-Eurasian Region (AEMLAP) was adopted in 2014 with the aim of promoting a coordinated flyway-scale approach to the conservation and protection of African-Eurasian migratory landbirds through facilitating implementation of the action plan across the flyway as called for by CMS Resolution 10.27 on Improving the Conservation Status of Migratory Landbirds in the African-Eurasian Region.

With regards to illegal taking of migratory landbirds, AEMLAP urges states to take action through existing legal instruments regulating domestic and/or international trade (e.g. CITES) where there is evidence that trade (legal or illegal) is driving unsustainable taking of birds. Active participation with CITES by all Range States is encouraged. Where domestic instruments do not presently exist, states are urged to explore processes for their introduction, implementation and enforcement³⁹.

3.8.2 *Convention on international trade in endangered species of wild fauna and flora (CITES)*

CITES binds the Parties to not allow trade (including import and export) in specimens (any animal or plant, whether alive or dead) of species included in Appendices I, II and III except in accordance with the provisions of the present Convention, subject to appropriate permitting and authorization procedures. The Convention furthermore establishes a regulatory regime for the monitoring and granting of authorisations for such activities. Implementation of CITES obligations is a key element in the international efforts to curb illicit trade in protected species.

3.8.3 *Convention on Biological Diversity (CBD)*

The Convention specifically refers to the concept of Sustainable Use of Components of Biological Diversity, wherein each Contracting Party is required to integrate conservation and sustainable use of biological resources into national decision-making, adopt measures relating to the use of biological resources to avoid or minimize adverse impacts on biodiversity, as well as to protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements.

In decision X/2, the tenth meeting of the Conference of the Parties, held 2010 in Nagoya, Aichi Prefecture, Japan, adopted a revised and updated Strategic Plan for Biodiversity, including the Aichi Biodiversity Targets⁴⁰, for the 2011-2020 period.

This Plan provides an overarching framework on biodiversity, not only for the biodiversity-related conventions, but for the entire United Nations system and all other partners engaged in biodiversity management and policy development.

From the perspective of the states' commitment to combat IKB, Aichi targets 1, 2, 4, 12 and 17 appear to be of most relevance:

³⁹ Recitals 35-36 of AEMLAP:

https://www.cms.int/sites/default/files/document/cop11_Doc_23_1_4_Rev1_Landbirds_AP_E.pdf

⁴⁰ <https://www.cbd.int/sp/targets/>

- Target 1 - By 2020, at the latest, people are aware of the values of biodiversity and the steps they can take to conserve and use it sustainably.
- Target 2 - By 2020, at the latest, biodiversity values have been integrated into national and local development and poverty reduction strategies and planning processes and are being incorporated into national accounting, as appropriate, and reporting systems.
- Target 4 - By 2020, at the latest, Governments, business and stakeholders at all levels have taken steps to achieve or have implemented plans for sustainable production and consumption and have kept the impacts of use of natural resources well within safe ecological limits.
- Target 12 - By 2020 the extinction of known threatened species has been prevented and their conservation status, particularly of those most in decline, has been improved and sustained.
- Target 17 - By 2015 each Party has developed, adopted as a policy instrument, and has commenced implementing an effective, participatory and updated national biodiversity strategy and action plan.

3.8.4 EU Directive 2009/147/EC on the conservation of wild birds

The EU Birds Directive aims to protect all birds naturally occurring within the territory of EU member states. Article 5 of the Directive prohibits:

- deliberate killing or capture by any method;
- deliberate destruction of, or damage to, their nests and eggs or removal of their nests;
- taking their eggs in the wild and keeping these eggs even if empty;
- deliberate disturbance of these birds particularly during the period of breeding and rearing, in so far as disturbance would be significant having regard to the objectives of this Directive;
- keeping birds of species the hunting and capture of which is prohibited.

Article 6 prohibits the sale, transport for sale, keeping for sale and the offering for sale of live or dead birds and of any readily recognizable parts or derivatives of such birds. The Article also requires that Member States shall prohibit the use of all means, arrangements or methods used for the large-scale or non-selective capture or killing of birds or capable of causing the local disappearance of a species.

Article 7 stipulates that Member States shall ensure that the practice of hunting, including falconry if practiced, as carried on in accordance with the national measures in force, complies with the principles of wise use and ecologically balanced control of the species of birds concerned and that this practice is compatible as regards the population of these species, in particular migratory species, with the measures resulting from Article 2. They shall see in particular that the species to which hunting laws apply are not hunted during the rearing season or during the various stages of reproduction. In the case of migratory species, they shall see in particular that the species to which hunting regulations apply are not hunted during their period of reproduction or during their return to their rearing grounds. The Court of Justice has interpreted the last-mentioned provision as requiring that Member States set the hunting period so as to ensure that the period "guarantees complete protection of the species concerned."

Article 8 requires Member States to prohibit "the use of all means, arrangements or methods used for the large scale or non-selective capture or killing of birds or capable of causing the local disappearance of a species, in particular the use of those listed in Annex IV (a)". Hunting from the modes of transport and under the conditions mentioned in Annex IV(b) is also required to be prohibited.

Article 9 provides for the specific circumstances when special exemptions from the prohibitions mentioned above can be granted, where there is no other satisfactory solution, and provided that a number of parameters and conditions are met.

3.8.5 *EU Directive 2008/99/EC on the protection of the environment through criminal law*

Article 3 of EU Directive 2008/99/EC requires EU Member States to ensure that the following conduct constitutes a criminal offence, when unlawful⁴¹ and committed intentionally or with at least serious negligence⁴²: “the killing, destruction, possession or taking of specimens of protected wild fauna or flora species, except for cases where the conduct concerns a negligible quantity of such specimens and has a negligible impact on the conservation status of the species;” and “trading in specimens of protected wild fauna or flora species or parts or derivatives thereof, except for cases where the conduct concerns a negligible quantity of such specimens and has a negligible impact on the conservation status of the species”.

3.8.6 *EU Roadmap to Eradicate Illegal Killing of Birds*

The EU Roadmap to Eradicate Illegal Killing of Birds is a non-binding instrument for cooperation and prioritization of measures aimed at eliminating illegal killing, trapping, and trade of birds in the EU. Actions include: monitoring and data collection; information exchange, training and awareness-raising, enforcement and legal aspects, as well as emphasis on prevention.⁴³

3.8.7 *EU Action Plan Against Wildlife Trafficking and Action Plan on Improving Environmental Compliance and Governance*

Wildlife trafficking has become one of the world’s most profitable organised crime, affecting a broad range of species. Europe is currently a destination market and hub for trafficking in transit to other regions as well as a region from which certain species are sourced for illegal trade. To halt the devastating impact of wildlife crime on ecosystems and the economy, a decisive and comprehensive response was needed, which was the prime rationale for the EU Action Plan against Wildlife Trafficking. The Action Plan includes 3 main priorities together with 32 actions that need to be implemented⁴⁴. With respect to IKB, the Action Plan specifically refers to EU roadmap towards eliminating the illegal killing, trapping and trade of birds and aims to step up the actions that facilitate its implementation.

A separate EU Commission Action Plan on Improving Environmental Compliance and Governance⁴⁵ was adopted in January 2018 with the aim of increasing compliance with and improving governance on EU environmental rules. The Action Plan envisages several measures that are indirectly relevant to the scope of the present Concept Note, particularly the measure which envisages preparation of a guidance document on combating environmental crime. The overall approach adopted for promoting compliance is also relevant – this is summarized in figure 5 below.

⁴¹ “Unlawful” means infringing: (i) the legislation adopted pursuant to the EC Treaty and listed in Annex A; or (ii) with regard to activities covered by the Euratom Treaty, the legislation adopted pursuant to the Euratom Treaty and listed in Annex B; or (iii) a law, an administrative regulation of a Member State or a decision taken by a competent authority of a Member State that gives effect to the Community legislation referred to in (i) or (ii);

⁴² The ECJ defined “serious negligence” as an unintentional act or omission by which the person responsible commits a patent breach of the duty of care which he should have and could have complied with in view of his attributes, knowledge, abilities and individual situation (*Intertanko case*)

⁴³ http://www.cms.int/sites/default/files/uploads/meetings/MIKT1/mikt-page-docs/EC_Roadmap-illegal-killing-trapping-trade-birds.pdf

⁴⁴ http://ec.europa.eu/environment/cites/pdf/WAP_EN_WEB.PDF

⁴⁵ Please refer to Commission’s Communication on ‘EU actions to improve environmental compliance and governance’, COM/2018/10, and a Decision, C(2018)10 on establishing a new high-level expert group entitled the ‘Environmental Compliance and Governance Forum’. There is an associated Staff Working Document, SWD(2018)10: http://ec.europa.eu/environment/legal/compliance_en.htm

Figure 5 – Nine actions to improve compliance



Source: European Commission

3.8.8 EU Fitness Check of Nature Legislation & Action Plan for Nature, People and the Economy

As part of its Regulatory Fitness and Performance Programme (REFIT), the European Commission has carried out a Fitness Check of the EU Birds Directive and the Habitats Directive ('the Nature Directives'), which involves a comprehensive assessment of whether the current regulatory framework is "fit for purpose". This Fitness Check, which was carried out since January 2015, resulted in the publication of a Staff Working Document SWD (2016) 472 in December 2016, which summarised key conclusions of this exercise. The document, amongst other, concludes that:

“Within the framework of broader EU Biodiversity policy the Nature Directives are fit for purpose but achievement of their objectives and realisation of their full potential will depend upon substantial improvement in their implementation both in relation to effectiveness and efficiency, working in partnership with different stakeholder communities in the Member States and across the EU to deliver practical results on the ground.”

Subsequent to the conclusions of the Fitness Check, in June 2017, the Environment Council adopted an Action Plan⁴⁶, which comprises 4 priorities and 15 actions that will spur and catalyse implementation of the Nature Directives until 2019.

3.8.9 Key networks: IMPEL, EUFJE, ENPE, EnviCrimeNet and ENEC

The **European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL)** is an international non-profit association of the environmental authorities of the European Union Member States, acceding and candidate countries of the EU, EEA and EFTA countries aiming to promote cooperation in the field of implementation and enforcement of EU environmental law. The Network's objective is to create the necessary impetus in the European Union to make progress on ensuring a more effective application of environmental legislation. Amongst other fields of cooperation, IMPEL has been active in promoting collaboration on eradication of

⁴⁶ http://ec.europa.eu/environment/nature/legislation/fitness_check/action_plan/communication_en.pdf

illegal killing of birds and has implemented several projects in this area, including Impel Review Initiatives in Romania and in Italy. As part of its 2018 work programme, IMPEL aims to implement a further project related to hunting tourism, as well as a project related to collaboration on eradication of IKB.

The European Union Forum of Judges for the Environment (EUFJE)⁴⁷ was created in Paris in 2004 as an association which aims to promote the enforcement of national, European and international environmental law by contributing to a better knowledge by judges of environmental law, exchanging judicial decisions and sharing experience in the area of training in environmental law. In the recent years, the Forum was actively involved in a number of actions contributing to the delivery of TAP and MIKT priorities, including through work to develop IKB knowledge and related EU-based law among judges, and by focusing on IKB within the framework of EU LIFE+ project (LIFE/GIE/UK/000043) “Improving capacity and effectiveness in prosecuting environmental crime in Europe”, where the problem of migratory birds has been included in the scope of project activities regarding wildlife crime.

ENVICRIMENET is an informal network⁴⁸ connecting police officers and other enforcement actors in the field of environmental crime to learn from each other about the extent and nature of environmental crime, the best practises to handle it.

EnviCrimeNet is aiming to improve the results of the fight against environmental crime by ensuring that member states become aware of the fight against environmental crime at the strategic level; through mutual sharing of expertise; through risk assessments that can be exchanged amongst the participants; by learning from one another in the fields of risk assessments and intervention strategies; by establishing tactical analyses of particular forms of environmental crime; organizing joint investigations, exchanging information and developing training and capacity building.

The **European Network against Environmental Crime (ENEC)** aims to improve the implementation and application of the Directive 2008/99/EC on the protection of the environment through criminal law. The Network is spearheaded by SEO/BirdLife and the Royal Society for the Protection of Birds (RSPB). The project partners’ work is focussed on those species and habitats that are in the greatest danger, tackling the causes of decline, including wildlife crime and habitat loss.

The ENEC is funded by the European Commission through the Criminal Justice Programme of the European Union.

Amongst other activities, ENEC recently carried out a study to assess the degree of implementation of Directive 2008/99/CE in the EU Member States (MS)’ national legislation and practice, as well as delivered recommendations on eliminating IKB⁴⁹.

The **European Network of Prosecutors for the Environment (ENPE)**⁵⁰ works to promote a consistent approach to prosecuting environmental crimes across Europe. One of the main working groups of the Network is focused on wildlife crime. The working group is expected to deliver a written report on the barriers and solutions to effectively tackling wildlife offences (e.g. under the Habitats Directive, Birds Directive or CITES Regulations), in particular the issues prosecutors and judges encounter in practice in interpretation, practical application, evidence gathering and damage quantification. The Network also developed a suite of training materials addressing various aspects of enforcement against wildlife crime, including presentations, case studies and guidance on minimum standards and best practice. A key recent deliverable of the Network in relation to IKB was a training workshop for IKB prosecutors from Mediterranean region held in May 2018 in Spain (please refer to the next section).

⁴⁷ <https://www.eufje.org/index.php?lang=en>

⁴⁸ <http://www.envicrimenet.eu/>

⁴⁹ http://www.lawyersfornature.eu/wp-content/uploads/2016/04/LEGAL-RECOMMENDATIONS_IKB_ENEC_SEO_BirdLife.pdf

⁵⁰ <https://www.environmentalprosecutors.eu/wildlife-crime>

3.8.10 Workshop for Government Prosecutors on the Illegal Killing, Taking and Trade of Migratory Birds (IKB) in the Mediterranean Region

Ensuring that national legislation is effective in addressing national challenges and it is properly implemented and enforced represents a key component of the MIKT Programme of Work. With this aim, prosecutors and investigators working on environmental legislation were invited to a Workshop for Government Prosecutors on the Illegal Killing, Taking and Trade (IKB) of Migratory Birds in the Mediterranean Region⁵¹.

The workshop was organized by the European Network of Prosecutors for the Environment (ENPE) at Valsain, Segovia, Spain, from 9 – 11 May 2018 in the context of a LIFE project⁵². The training covered presentations on the research into the size and extent of the problem, the various motives of offenders, the techniques and equipment used in IKB, the expertise and international assistance available, the EU Wildlife Trade (CITES) Regulations and, most importantly, case studies of significant prosecutions and investigations into IKB from different countries, mainly from the Mediterranean Region.

The workshop concluded, amongst other, that Intergovernmental Task Force on IKB in the Mediterranean under CMS (MIKT) has a vital role as a platform for international cooperation, which was regarded as critical for eradication of IKB. Participants also concluded that the creation of the specialized figure of the environmental prosecutor in all countries would greatly enhance the fight against IKB and contribute to achieve a higher number of convictions. Examples were given on the creation of specialized police forces that are adequately trained/equipped and work on the ground and how they greatly increase the possibility of success in the fight against wildlife crime and illegal killing of birds in particular.

As an important output of this workshop, ENPE and CMS are preparing a training package for prosecutors and investigators compiling the expertise shared during the workshop. The training package will provide specialized capacity building for specialist working on environmental legal systems at the national level for the Mediterranean region.

3.8.11 Recent EU LIFE projects related to IKB

LIFE is the EU's financial instrument supporting environmental, nature conservation and climate action projects throughout the EU. LIFE is the only financial programme under the EU budget solely dedicated to the environment, and in particular to nature conservation. A specific part of the LIFE programme covers environmental governance projects, including on environmental compliance assurance. Since 1992, LIFE has co-financed more than 1 650 nature and biodiversity projects, mobilising over 2 billion euros for conservation.

A recent report published by EU Commission in 2018⁵³ provided a detailed inventory of some 43 LIFE projects implemented in various regions of Europe over the 1992-2017 period, targeting specifically various aspects of illegal activities connected with wildlife.

Of the 43 LIFE projects that have targeted illegal activities connected to wildlife, the majority have addressed the problem of poisoning of protected species, in particular birds, such as raptors and vultures.

Projects have also targeted other wildlife crimes, such as illegal killing, trapping and poaching, and species trafficking, with three projects covering all wildlife crimes. The report furthermore noted the following key achievements of LIFE projects under review:

- Monitoring and data collection with new satellite tagging technologies
- Database of incidents (potential to become pan-European)
- Anti-poison detection and prevention patrols in almost all EU Mediterranean countries

⁵¹ <https://www.environmentalprosecutors.eu/node/151>

⁵² <https://www.environmentalprosecutors.eu/wildlife-crime>

⁵³

http://ec.europa.eu/environment/life/publications/lifepublications/lifefocus/documents/wildlife_crime_web.pdf

- Anti-poison networks involving hunters and shepherds etc
- Working with technology and people
- Getting the media involved – making people aware wildlife crime is a crime
- Awareness-raising campaigns across Member States
- Specialised awareness raising and training for statutory authorities, police, customs, public prosecutors, environmental lawyers and judges
- Strong and clear penalties, more routinely enforced

LIFE projects dealing with wildlife crime have been mainly located in southern and central Europe, which is in line with the highest incidences of wildlife crimes in Europe, according to BirdLife's assessments of IKB⁵⁴. It is worth noting that some projects have implemented trans-border actions. However, the report also notes that several EU Member States, in particular in central Europe, have yet to have a LIFE project addressing wildlife crime activities.

4. KEY LESSONS LEARNED AND SWOT ANALYSIS

Following the mapping of the strategic landscape through situation analysis contained in section 3 of this Concept Note, a number of key lessons could be deduced. Some of these lessons evidently point to significant internal strengths as well as weaknesses in the current IKB-related policy structure, and actors' response to IKB challenge. Other lessons indicate potential opportunities as well as threats that are likely to shape future policy efforts in this area.

For this reason, the SWOT (strengths, weaknesses, opportunities and threats) model was chosen for the analysis of key lessons learned. The outputs of this model would, in turn, inform the development of proposals for post-2020 IKB policy options, which would thus seek to capitalize on existing and emerging strengths and opportunities, whilst systematically mitigating and minimising weaknesses and threats.

Evidently, the strengths, weaknesses, opportunities and threats would vary according to national, regional or even local context. However, on the basis of the analysis undertaken in section 3 of this Concept Note, it is possible to deduce the common strategic issues which require a high-level international policy response.

The following table summarizes the conclusions of the SWOT analysis. The factors listed in each SWOT category are not ranked in terms of their relative importance or priority, since arguably priorities would vary for different stakeholders and stakeholder groups.

⁵⁴ Brochet *et al.* (2016) *Bird Conservation International* 26 (1):1-28 and Birdlife International (2015), "The Killing", http://www.birdlife.org/sites/default/files/attachments/01-28_low.pdf and Brochet *et al.* (2017) Bird Conservation International Bird Conservation International, 1-31. doi:10.1017/S0959270917000533 and BirdLife International (2017) 'The Killing 2.0' <http://www.birdlife.org/campaign/stop-illegal-bird-killing>

Table 1 – SWOT analysis

Strengths	Opportunities
<ul style="list-style-type: none"> • IKB is now firmly embedded within policy agenda of major MEAs, including Bern Convention, CMS, AEWA, EU policies etc • Basic international treaty frameworks specifically address IKB-related commitments; strong international collaboration on a regional scale (for example between the EU and Southern Med) • Key international policy priorities for combatting IKB have already been identified through TAP and MIKT PoW • IKB Scoreboard allows structured self-assessment of progress, as well as identification of strategic areas for improvement • MIKT PoW in particular provides a reasoned structure for addressing these priorities in the short term until 2020 • Stakeholders in IKB are organised and highly networked, particularly through umbrella groups such as MIKT and Bern SFPs Network • A good level of trust and transparency has been built up between stakeholders of different types based on a common desire to make progress in achieving zero tolerance • Good practice examples are available • The policy framework on IKB has increased awareness of the problem and has highlighted the importance and need for more action on the ground • A wide variety of high quality expertise on various specialised aspects of addressing IKB is available • Basic opportunities for funding and capacity building on IKB already exist through EU LIFE, CMS, private donor initiatives • Basic assessments of the scale of IKB within key regions are already available • Significant number of Bern Convention Contracting Parties report structured work on addressing IKB priorities through national-level initiatives such as NAPs, capacity building, policing initiatives, legal frameworks • General improvement in the legal frameworks is evident; generally strong legislative basis in most countries particularly in EU 28 member states where legislation is harmonized under EU Birds Directive • Technological improvements permitting better knowledge of IKB and more effective response • Availability of dedicated mechanisms and funding instruments (for instance EU LIFE programme) that support a variety of projects related to IKB 	<ul style="list-style-type: none"> • IKB is generally a high-visibility issue, and is increasingly becoming so in many of the problem areas – this presents opportunities for mobilizing necessary political will and resources to combat IKB • With good coordination and an effort to reduce overlap, existing networks provide opportunities for harnessing necessary expertise • Existing tools (e.g. Scoreboard, methodologies for IKB assessments, etc) can be further improved and fine-tuned through sustained use • Major MEAs support the cause of combatting IKB (e.g. CBD, Bern, CMS, AEWA etc) • Social media allow for rapid and inexpensive dissemination of education and awareness projects • Mobilizing public support should be relatively easy due to non-controversial nature of the subject with “charismatic victims” and the growing societal sensitivity towards related issues such as animal torture • Post-2020 revision of key nature-related policies (e.g. Biodiversity strategy, etc) presents an opportunity for mainstreaming and integrating IKB concerns within all relevant policies both vertically (i.e. integrated as specific policy objectives) and horizontally (mainstreamed throughout policy actions) • Current momentum on addressing IKB through several joint initiatives • Vast potential for field research activities • Existing projects such as EU / FAO sustainable wildlife management project amongst other can be good vehicles to promote wise and sustainable use of wildlife resources particularly in sub-Saharan Africa • A joined-up ethos of co-working and involvement of diverse stakeholder groups in addressing IKB at international level championed through MIKT and Bern SFPs Network can be further promoted particularly at local and national level • An example of MIKT/ Bern work in the African-Eurasian flyway can serve as a useful model and proof of concept in other flyways providing added value; this has already inspired set up of the ITTEA Intergovernmental Task Force to address the Illegal Hunting, Taking and Trade of Migratory Birds in the East-Asian-Australasian Flyway (ITTEA) in cooperation with the East-Asian-Australasian Flyway Partnership (EAAFP) and AMBI • An array of incentives of cultural, political and economic nature exist for greater grassroots involvement of local communities and stakeholders in addressing IKB

<ul style="list-style-type: none"> • Basic assessments of the likely scale of IKB are already available for some regions 	<ul style="list-style-type: none"> • Multiple existing good practices (e.g. linking IKB NAP with Scoreboard in Italy, legal changes in Cyprus, France and Malta, stakeholder engagement in Lebanon, etc) present opportunity for dissemination and replication • National action plans have been shown to be an effective means of bringing together relevant stakeholders to tackle this issue and there are some good examples now for countries to refer to • Training provided so far for Mediterranean region prosecutors and law enforcers/ judiciary has been very successful so there is an opportunity to continue that with future workshops and to maintain this group of collaborators • Opportunity to highlight reputational damage done to countries allowing unchecked IKB • Opportunity to better demonstrate the link between IKB and other crimes which enforcement authorities might consider more serious – such as organised crime, illegal cross-border trade of other kinds • Increase focus on lasting change of attitude towards migratory birds and nature in general. Build on scientific basis and emotions whilst taking into account cultural context. Prioritise engagement with young people and families • Opportunity to capitalise on social media to target young people building off successful approaches to awareness raising / cultivating attitude change • Opportunity to use internet platforms more to monitor different forms of IKB – such as for instance monitoring of online trade in birds, social media posts by IKB perpetrators etc • Opportunity to strengthen cooperation with hunters to champion conservation and zero-tolerance of illegal activities; active promotion by the hunting community of awareness raising and education, through removing membership of hunting organisations and where appropriate-licenses from any perpetrators within their ranks and working towards changing the culture where necessary to increase reporting of incidents and cooperation of hunters with law enforcement authorities in prevention and prosecution of IKB • Opportunity to further promote zero tolerance approach to IKB worldwide, with clarity on definitions of legal/illegal activities, and a focus on cross-border IKB • Potential to seek input from social sciences for better understanding the drivers behind IKB and for developing attitude-change strategies adapted to local context and audiences • Potential to increase focus on emotion without abandoning science in narratives that combine emotion, science and follow-up action • Opportunity to ensure clear legal frameworks for conservation are in place allowing for successful engagement with local communities.
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| | <ul style="list-style-type: none">• Opportunity to use participatory and culturally sensitive approaches and identify and support alternative livelihoods where relevant. Involve community leaders (religious, cultural etc) and identify and support local IKB champions within communities• Potential to stimulate young people to connect to nature by embedding environmental education programmes into official school curricula, setting up of youth conservation forums to foster active involvement, and engage with families as a win-win long-term investment• Potential to focus on emotional appeal of communication messages without abandoning science in narratives that combine emotion, science and follow-up action |
|--|--|

Weaknesses	Threats
<ul style="list-style-type: none"> • International biodiversity policy landscape lacks coherence with regards to IKB-related priorities. Lack of commonly agreed definitions and terminology often fuels polarization amongst stakeholder groups • Insufficient progress has been made on the delivery of the first MIKT PoW • Regional fragmentation of MEAs dealing with IKB • International IKB agreements do not easily translate to concrete action against IKB on the ground • Some national legislation may be weak or insufficiently detailed, whilst political pressure may lead to laws that are weakened or become unenforceable and therefore ineffective • Derogations may be mis-used without fulfilling the requirements of Bern Convention Article 9 as a means of ‘legalising’ forms of IKB – this sends mixed messages to the general public regarding zero tolerance • Commitment at national authority level to tackling IKB may not be carried through to provincial authorities • Penalties are often too weak and too rarely applied to act as a deterrent when the crimes are economically lucrative • Lack of legal clarity in some countries on what constitutes IKB • Lack of prosecutors dedicated to IKB cases or insufficient training amongst prosecutors on IKB • Insufficient international cooperation on dismantling transboundary organised crime networks • International IKB policy priorities are poorly structured (e.g. lack of SMART targets in TAP), significant duplication and overlap exist amongst a variety of policy instruments • Lack of consistent progress monitoring • Poor to non-existent (or even negative) political will to address IKB in specific local hotspots, due to political influence wielded by local communities engaged in IKB • Insufficient understanding of the behavioural motivations and local drivers behind IKB, particularly the cultural and economic aspects, limits possibility of providing meaningful solutions and where appropriate IKB-free alternatives to local populations in some regions • Current IKB international policy may be oversaturated with over-ambitious rhetoric (e.g. «to eradicate IKB by 2020», « zero tolerance » etc) but often lacks specific SMART targets and strategy for their achievement, and necessary political will at state level to implement real change • Significant duplication, overlap and challenges of coordination amongst multiple networks revolving around IKB topics which can lead to policy confusion and duplication of work • IKB expertise may be lacking at local and national levels, particularly amongst 	<ul style="list-style-type: none"> • There is a sense of disconnection between international IKB policy discourse and needs and priorities of local communities. This partly results from dearth of factual and plain-language information on IKB being easily available to local stakeholders; as well as from lack of concrete and meaningful incentives for some local communities to change behaviour and attitude towards IKB, as well as disincentives to those engaged in perpetrating IKB • There is significant disparity and variance in robustness of legal and regulatory controls related to IKB • Despite political appeal and uptake of « zero-tolerance » rhetoric, IKB is still widely tolerated in many regions • The economic and political “interests” behind IKB; IKB remains to be a very “profitable” activity in some regions • Political instability, insecurity and corruption in some important IKB countries • Impunity and facility of electronic commerce • A highly variable willingness and capacity to enforce against IKB undermines progress in some areas • Duplication of effort and challenges of coordination amongst various stakeholder groups leads to inefficient use of resources • Lack of clear SMART goals and strategy for their achievement hampers effective delivery • Involvement of state administrations in the assessment and monitoring of IKB to date has been weak to non-existent; in some regions the authorities seem over-reliant on NGOs to detect and report IKB and are insufficiently proactive in the prevention, detection and prosecution of IKB • Insufficient resourcing and funding of some national administrations involved in countering IKB • Increasingly sophisticated organisation of criminal networks involved in IKB • Insufficient political priority afforded to IKB in some countries due to generally poor economic situation especially amongst rural communities • Difficulty to change culturally entrenched traditions • Fight against IKB is sometimes seen as an activity for “tree-huggers”, insufficiently mainstreamed • Scientific understanding of the conservation impact of IKB is often lacking – this at times contrasts sharply with emotional claims made by polarized stakeholder groups (e.g. either overstating or underplaying conservation impacts for political reasons) • Apathy of national administrations - a significant number of Contracting Parties

<p>enforcement authorities which are often over-reliant on expertise available in NGOs</p> <ul style="list-style-type: none">• Enforcement authorities in some regions may lack sufficient powers to effectively deal with IKB• High turnover of staff in some law enforcement authorities may reduce effectiveness of training on IKB• Poor resourcing and funding for IKB prevention and control reflects lack of real political or social and economic priority afforded to IKB issues• True scale of IKB is not fully understood – extent of the problem in many regions has not yet been mapped (e.g. sub-Saharan Africa and Central Asia), or assessed in a scientifically robust manner; IKB impact at flyway conservation level is largely unknown• Funding and resources for IKB-related work are difficult to access and may not be available to some actors. Coordination amongst donors is challenging• Local IKB is often not seen as a conservation problem affecting the entire flyway. Conservation consequences of IKB are not well understood at local level, and more so at flyway level	<p>exhibit low levels of involvement in IKB issues; policy agenda on many aspects is mainly driven by NGOs, resulting in lack of state ownership and leadership over the issue</p> <ul style="list-style-type: none">• Mismatch between policy horizons and real needs for lasting change - current policies (e.g. TAP, MIKT PoW, etc) are too short term to inspire significant change and make lasting impact• Contracting Parties are apprehensive of « administrative burdens » - a valid concern which requires smarter prioritization and policy focus• Lack of expertise, technical capacity and resources at local authorities' level• Lack of methodological guidance on how to assess IKB in the drivers behind IKB• Lack of access to judicial processes on IKB by NGOs in some regions• Local politicians pandering to interests of local communities engaged in IKB; cronyism and corruption in general; inefficiency of institutions; weak rule of law ; thriving organised crime - these issues are rarely discussed in open fora despite seriously hampering attainment of policy objectives.
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5. SETTING THE SCENE FOR POST-2020 IKB PRIORITIES FRAMEWORK

5.1 Strategic parameters

On the basis of the factors identified in SWOT analysis, several strategic parameters can be deduced to guide the shaping of post-2020 IKB policy priorities. The overarching ethos underpinning these parameters is the need to maximise on existing strengths, whilst addressing current weaknesses, as well as the need to capitalise on existing opportunities, whilst minimising or mitigating threats. In consideration of the above, the following guiding parameters are therefore proposed:

1. The time horizon for post-2020 framework must be sufficiently long-term to allow a sequential and incremental progress on specific priorities, and the possibility of long term mobilization and planning of the necessary financial, human and technical resources to achieve long term goals. A ten-year time horizon (i.e. 2020-2030) is therefore proposed. However the ten-year horizon must be punctuated with a strong element of mid-term assessment, which is proposed to be undertaken on a **5-year basis**. This would allow stakeholders to remain motivated and committed to long term goals, whilst ensuring that progress remains on track and the necessary corrective measures are taken if the mid-term assessment reveals the need for any revision.
2. The post-2020 policy framework must be guided by an ambitious vision, which must clearly spell out the overall aspirations of the Bern Convention, its Contracting Parties and Partners, in terms of the desired impact the Convention should make on the IKB problem in ten years time.
3. The overall vision must be underpinned by specific objectives, which must be sufficiently ambitious to inspire long term action and transformation; yet be realistic and achievable within the timeframes and resources available.
4. The objectives must be accompanied by incremental targets, milestones and strategy for their implementation.
5. There should be a common monitoring mechanism to enable assessment of progress. The IKB Scoreboard adopted by the 37th Standing Committee following extensive development and consultations appears to provide the most appropriate framework and structure for the monitoring effort. Beyond monitoring, the structure provided by the Scoreboard is useful in defining strategic objectives themselves.
6. There should be effort to integrate post-2020 IKB objectives of the Bern Convention into other key international policy instruments, both vertically and horizontally.
7. There should be increased effort to ensure no duplication of work and overlap of priorities with other mechanisms, particularly those that have proven to be effective in addressing similar aims. Rather than duplication of effort, spotlight should be directed on attaining higher levels of synergy between existing and emerging strategies, policy mechanisms and networks⁵⁵.
8. The post-2020 policy should seek to build upon and further develop existing measures and tools. It should not aim at a wholesale revision of existing definitions, terminology, or a fundamental re-think of existing approaches, but rather seek to fine-tune and better focus these approaches with the view to achieving more effective results in a more efficient manner.
9. The vision, objectives and strategy must be simple, clear and unambiguous.

⁵⁵ For example several networks concurrently focus on various aspects of IKB: Bern SFPs, MIKT, IMPEL, ENPE, EUFJE, ENEC and EnviCrimeNet to mention a few

5.2 Vision 2030

The objective of Bern Convention's extensive work on IKB is the total eradication of this phenomenon. This overarching aim can be translated into the following vision for IKB policy 2020 – 2030:

In the ten-year period between 2020 and 2030, Bern Convention, its Contracting Parties and other partners and stakeholders will continue to build upon the measures piloted under Tunis Action Plan and MIKT PoW, taking bolder action to achieve zero tolerance and scaling up efforts as necessary, to ensure that by 2030, IKB shall no longer exist as a conservation concern within the flyways shared by Bern Convention's Contracting Parties. By 2030, Contracting Parties will strive to achieve a significant and measurable reduction in the scale and extent of IKB within their national territories, over a 2020 baseline, to the extent necessary for the successful elimination of IKB as a conservation concern. In doing so, Bern Convention will continue to strengthen partnerships with CMS and other multilateral environmental agreements, institutions, networks and stakeholders, to promote eradication of IKB in all flyways.

5.3 Strategic objectives and targets

A set of high-level strategic objectives and targets is necessary in order to translate the above vision into action. These high-level objectives and targets would subsequently need to be further elaborated in terms of intermediate milestones, specific measures, actions, projects and strategy for their achievement.

A set of high level objectives that mirrors the logical structure adopted by IKB Scoreboard is being proposed for three principal reasons:

1. **Continuity.** For maximum effectiveness, objectives must build on existing strengths, mitigate weaknesses, capitalize on opportunities and neutralize threats identified in SWOT analysis. This calls for continuity in the sense that a future IKB policy must be a logical continuation and further evolution of the current policy. With this in mind, it is notable that the structure of the Scoreboard was developed on the basis of the existing priorities adopted under the TAP and subsequently further elaborated in MIKT PoW. Consequently, the use of the Scoreboard structure provides for continuity of the efforts initiated under the TAP, and takes these beyond 2020.
2. **Logical sequence of priority areas in the fight against IKB.** The fact that the IKB Scoreboard structure is based on five elements⁵⁶, namely: monitoring, comprehensiveness of national legislation, enforcement response, prosecution and sentencing, and prevention, which are logically interlinked, ensures that any action against IKB would fall under one or more of the above five elements. The sequence is broadly consistent with other related approaches to environmental compliance, such as for instance those described in EU Commission Action Plan on Environmental Compliance and Governance⁵⁷, where measures related to compliance monitoring are complemented by enforcement response in case of non-compliance as well as measures aiming at compliance promotion.
3. **Future outlook.** Since the Scoreboard was conceived and developed as a self-assessment tool to be used periodically (in synch with other related obligations) to track progress, its purpose is inherently future-oriented. The monitoring tool that is meant to be used post-2020 can therefore help to shape the actual priorities that would be subject to periodic evaluation.

The interrelationship between the proposed high-level objectives and vision is depicted schematically on a diagram below.

⁵⁶ A sixth element, that of mid-term and final monitoring and assessment of the strategy itself has been added

⁵⁷ COM(2018)10 and SWD(2018)10: http://ec.europa.eu/environment/legal/compliance_en.htm

Figure 6 – The “spiral galaxy” of strategic objectives, vision and stakeholders



The following six high-level strategic objectives and corresponding targets, mirroring IKB Scoreboard priority areas, are summarized in the table below.

Table 2 – Strategic objectives and corresponding targets**Objective 1 - Understanding drivers behind and extent of IKB****Description and link to vision**

Noting the need for a “zero-tolerance” approach, effectively addressing IKB would occur best on the basis of thorough understanding of the drivers and reasons behind IKB in terms of motivations and potential incentives and disincentives, and the extent of IKB problem. It is essential that IKB assessments are performed periodically in all range states that are Contracting Parties of the Bern Convention, in a manner that would allow prioritisation of action.

High-level targets

1.1 Common methodology and guidelines for carrying out IKB assessments is developed and adopted by Bern Convention Standing Committee by 2021. Methodology should allow for systematic assessment of, *inter alia*:

- a. Drivers and motivation behind various IKB categories;
- b. Scale of IKB, including mortality, trends, seasonal and geographic distribution;
- c. Typology, number and trends in prosecution of IKB cases⁵⁸;
- d. Wherever feasible⁵⁹, consideration of the potential impact of mortality due to IKB upon flyway populations.

The above methodology may be developed on the basis of the methodology pioneered by BLI in its initial assessments⁶⁰ or in other assessments; an essential prerequisite is that the methodology must ensure participative approach and full involvement of national administrations and other stakeholders including nature protection NGOs and representatives of the hunting community.

1.2 Status and scale of IKB is systematically and regularly monitored and assessed in each Bern Convention Contracting Party⁶¹ at state level using a common methodology, as part of the Scoreboard requirement. Assessments are repeated periodically in sync with IKB Scoreboard, i.e. in 2023, 2026, 2029. As part of this process, systematic, standardised, replicable monitoring of IKB is established in each CP at national level and where appropriate in collaboration with other stakeholders making use of guidance to be further developed by Bern/ MIKT.

1.3 Beyond the area covered by Bern Convention Contracting Parties, the Convention shall work closely with stakeholders in other regions to perform IKB assessments in Central Asia and Sub-Saharan Africa by 2023.

1.4 Whilst maintaining at all times a zero-tolerance approach towards IKB, Bern Convention Contracting Parties shall aim to achieve a significant and measurable reduction in the assessed scale of IKB within their national territory in comparison with a 2020 baseline, to the extent necessary for the elimination of IKB as a

⁵⁸ Although at a first glance this appears to focus more on *response* to IKB problem as opposed to measuring and understanding the extent of the IKB problem itself, in fact, statistics related to IKB cases complements the overall analysis of the extent of IKB insofar as the typology and frequency of IKB cases known to justice is at least partially indicative of the typology and frequency of IKB itself. In other words, assessment of particular typologies of IKB cases (for instance poisoning) is often indicative of the existence of the particular category of IKB and hence should be included in the overall assessment. For example an assessment that indicates mortality of raptors in a specific area may be positively correlated with the statistics of IKB cases related to illegal persecution of these species through shooting, taking of eggs or poisoning. The inclusion of this indicator within the “assessment” chapter of IKB Scoreboard was in fact guided by this rationale.

⁵⁹ Whilst it is acknowledged that a conservation impact of IKB on flyway populations may be extremely difficult to assess in an objective and scientifically robust manner, there may be instances where conservation impact may be so clear and severe that an assessment is clearly warranted. For example this may be the case where an extremely small, localised and vulnerable population is threatened with extinction due to IKB and where a documented loss of even several individuals could threaten the entire population.

⁶⁰ Brochet et al. (2016) Bird Conservation International 26 (1):1-28 and Birdlife International (2015), “The Killing”, http://www.birdlife.org/sites/default/files/attachments/01-28_low.pdf

⁶¹ Although the scope of this Concept Note is focused on Bern Convention, the Scoreboard monitoring and reporting is also a requirement of CMS MIKT as referenced in CMS Resolution 11.16 (rev COP12).

conservation concern.

1.5 By 2023, the Secretariat of the Convention shall, together with relevant stakeholders, agencies and networks, develop and enact a programme of support to aid Contracting Parties and other stakeholders in the achievement of the above objectives.

Objective 2 - Ensuring robust and comprehensive national legal systems to respond to IKB

Description and link to vision Robust national legislation and rigorous regulatory controls are essential prerequisites for eradication of IKB. It is expected that countries should strive to assess and improve their legal and regulatory framework, to ensure that it:

- A. Correctly transposes applicable international commitments related to IKB under appropriate MEAs to which the state is a party;
- B. Contains clear and adequate provisions to combat IKB;
- C. Provides for necessary regulations and controls over IKB-related activities, and ensures that legal activities that involve taking of birds are adequately regulated, controlled, monitored and reported to prevent IKB;
- D. Clearly defines prohibitions related to IKB, and where exemptions from these prohibitions are justified following the provisions of relevant MEAs and regional legal frameworks, provides for adequate regulatory controls for authorising, supervising, monitoring and reporting such exemptions;
- E. Provides adequate and sufficient deterrents and penalties for IKB;

High-level targets

2.1 By 2023, Contracting Parties shall ensure that their national legislation:

- a. Has adequate provisions to deter and combat IKB;
- b. Is supported by necessary legal instruments, regulations, and institutional frameworks for implementation and enforcement;
- c. Integrates clear regulations in relation to legal hunting to ensure enforceability and clarity on what constitutes IKB
- d. Insofar as relevant for the purpose of combatting IKB, lays down comprehensive provisions concerning:
 - i. Establishment and definition of hunting seasons to ensure clear delineation between legal hunting and IKB outside of the legal hunting seasons
 - ii. Listing species that can be hunted to ensure that taking of any bird species not so listed is prohibited
 - iii. Definition of hunting areas to ensure enforceability against any taking of bird species outside of such areas
 - iv. Regulation and definition of which methods are allowed for hunting to ensure enforceability against taking of bird species by any other methods that constitute IKB
 - v. Provision for appropriate authorization mechanism and criteria for obtaining a hunting license, including where relevant, requirements for compulsory education and examination of hunting license applicants
 - vi. Where relevant and applicable, enabling appropriate provisions for enforceability of compliance with harvest bag limits or quotas
 - vii. Controls related to implementation, including enforcement (for instance providing enforcement powers to game wardens, park rangers
- e. Generally prohibits:
 - i. Deliberate killing of wild birds except where legal hunting is permitted
 - ii. Taking or attempting to take (luring) wild birds by using illegal means such as nets, traps, lime sticks, sound-devices, etc. for capturing birds

- iii. Possession and trade of live or dead wild birds or their parts
- iv. Importation or export of wild birds or their derivatives
- f. Where authorization of specific exceptions from the above prohibitions is possible, defines comprehensive criteria upon which such exemptions can be granted by the responsible authority, which criteria must correspond to criteria for exemptions stipulated in the relevant applicable legislation and / or agreements;
- g. Establishes, for each exemption granted on an annual basis, a specific regulatory mechanism that ensures strict supervision of compliance, monitoring and public reporting;
- h. Requires that data on all exemptions granted, is compiled on an annual basis and is publicly available including information on affected species, number of specimens, justification, the responsible authorities, permitting and licensing procedures, compliance monitoring;
- i. Provides a comprehensive description(s) of specific IKB-related offences that encompass illegal killing, trapping, trade, possession, transport, importation and taxidermy of wild birds;
- j. Where feasible, stipulates both the minimum and a maximum penalty for all offence categories except those where a level of penalty is fixed permanently in the law;
- k. Provides for a wide spectrum of criminal and administrative sanctions including as may be appropriate: fines, imprisonment (both effective and suspended jail terms are usually automatic for the most severe cases of IKB), suspension of license, confiscation of *corpus delicti*, permanent revocation of license in the case of IKB involving highly protected birds, and, where these may be relevant and appropriate - restoration or remedial measures;
- l. Ensures that:
 - i. Penalties for IKB are prescribed in legislation and provide for criminal prosecution for the most serious offences;
 - ii. Fully reflect severity of offences based on gravity factors recommended as part of Bern Convention Tunis Action Plan;
 - iii. Are generally seen as providing an adequate and proportionate deterrent for all IKB cases, as evidenced through sustained IKB crime decline (sustained decline in IKB cases observed over at least 3 years);
 - iv. Wildlife crime offences involving organized criminal groups are treated as serious crime.
- m. Ensures applicability of criminal law in most serious IKB cases;
- n. Clearly describes offence categories that are subject to criminal as opposed to administrative liability;
- o. Is supported by mechanisms that harmonize wildlife and other key domestic legislation such as police laws, weapons laws, other criminal laws;
- p. Fully and correctly transposes Bern Convention and CMS commitments related to IKB.

2.2 By 2023, Contracting Parties shall undertake all measures necessary to ensure that there are no pending / unresolved case files / complaints under Bern Convention related to incorrect transposition of the provisions of the Convention into national law, or their implementation.

2.3 By 2023, the Secretariat of the Convention shall, together with relevant stakeholders, agencies and networks, shall develop and enact a programme of support for Contracting Parties aiming to facilitate achievement of the above objectives.

Objective 3 - Ensuring that the law is implemented and enforced

Description and link to vision Even the best law needs to be properly enforced and implemented. In order to achieve the vision of zero tolerance and putting an end to IKB as a flyway conservation concern, Bern Convention Contracting Parties must work in concert with the necessary stakeholders and partners to ensure that they have necessary detection/ surveillance, enforcement and implementation mechanisms in place, backed by clear national enforcement priorities and action plans, underpinned by adequate enforcement capacities, including human, material and financial resources.

High-level targets

3.1 By not later than 2023, all Contracting Parties that have a significant IKB problem within their national territories (including, where relevant – transboundary IKB⁶²) should have developed, adopted, published, commenced implementation, regular monitoring and review of their National Action Plans (NAPs) to address IKB at the national level in a concerted manner with the involvement of the necessary stakeholders. The NAPs should comprehensively address all aspects of the fight against IKB.

3.2 By not later than 2021, Contracting Parties should ensure that IKB is afforded the highest level of enforcement priority on a national level, commensurate with the extent of IKB problem in the country, and, where relevant - *on par* with other forms of serious wildlife crime.

3.3 Since concerted action drawing on the support and resources of a broad range of stakeholders is, in the long term, more effective in producing results, than a unilateral action, Contracting Parties should strive to enact appropriate mechanisms at the national level, which would ensure stakeholders' participation in policy decisions concerning IKB. Such mechanisms may take the form of, *inter alia*, formal stakeholder structures and committees at national level, or legal provisions requiring the authorities to ensure stakeholder consultation and involvement in decision-making processes.

3.4 By 2023, Contracting Parties shall ensure that the designated law enforcement agencies tasked with IKB-related detection/ surveillance and enforcement duties should have adequate staff complement, adequate and appropriate for prevailing IKB trends in the country. States shall furthermore ensure that such enforcement entities have appropriate recruitment and training processes in place that result in the selection, retention, continuous development and training of appropriately qualified personnel possessing the right mix of skills, knowledge and expertise to effectively tackle IKB challenge in the country.

3.5 By 2023, the Contracting Parties shall ensure that at least 50% of enforcement personnel deployed within the law enforcement agencies which are regularly tasked with IKB-related enforcement, would have undergone appropriate specialised training on IKB-related issues, where appropriate partnering with stakeholder organisations with specialist expertise. Contracting Parties shall strive to maintain and further improve this training ration thereafter, so as to reach a target of 80% of officers so trained by 2029.

3.6 By 2023, the Secretariat of the Convention shall, together with other stakeholders such as Interpol, Europol, IMPEL and other relevant enforcement agencies and networks, develop and enact a programme of support for Contracting Parties in facilitating exchange of enforcement expertise, training for enforcement personnel, capacity-building, and similar activities, in the areas of relevance to overall capacity building for enforcement against IKB.

⁶² For example a country which might not have a significant indigenous IKB problem within its national territory, but which may have a direct or indirect transboundary contribution to IKB problem in another state (such as through “IKB tourism” or as a transshipment base for IKB-related trade or through demand for IKB-related articles and proceeds) should focus its National Action Plan on addressing the problem at source.

Objective 4 - Ensuring efficient justice for IKB-related offences

Description and link to vision The mere existence of elaborate legislation, even when backed by sufficient enforcement in the field, would not, in itself, guarantee success against IKB, unless complemented by an effective and efficient justice system and credible deterrents against IKB-related crime. Consequently, Contracting Parties and other partners must further develop their capacities to improve prosecution procedures, sentencing processes, ensure adequacy and proportionality of penalties and sanctions against IKB that reflect appropriate gravity factors, including conservation impact of IKB by considering species' conservation listing status as part of the judicial processes.

High-level targets

4.1 By 2023, Contracting Parties shall implement requisite measures to improve the quality, effectiveness and efficiency of prosecution and justice to ensure that:

- a. Majority of all criminal proceedings (excluding appeals) in IKB cases are concluded within one year from initiation;
- b. Majority of all administrative proceedings (excluding appeals) in IKB cases are concluded within 3 months from initiation;
- c. Majority of all criminal or administrative proceedings in IKB cases where conviction is achieved result in imposition of penalties that are exemplary and dissuasive;
- d. Where feasible, criminal or administrative proceedings in IKB cases are handled by specialised prosecutors and judges;
- e. Information on prosecution and sentences / sanctions applied in the case of IKB-related criminal or administrative proceedings is recorded and made publically accessible;
- f. Sentencing guidelines for IKB cases are finalised and adopted;
- g. Information on the above judicial processes should be recorded in appropriate databases and made public.

4.2 By 2025, Contracting Parties shall ensure that more than 50% of all environmental prosecutors and judges who deal with wildlife crime have received training in IKB-related aspects. As a result, prosecutors and judges should become well aware of the nature and prevalence of wildlife crime, and the impact and potential profits of wildlife crime; have a high level of awareness of wildlife crime-related charges; should collaborate to deliver verdicts that are appropriate to the nature and severity of the crime and should routinely adhere to sentencing guidelines. The setting up of specialized prosecution and policing bodies dedicated to IKB shall be strongly encouraged.

4.3 By 2023, the Secretariat of the Convention shall, together with other stakeholders such as Interpol, Europol, IMPEL and other relevant enforcement agencies and networks, develop and enact a programme of support for Contracting Parties in facilitating exchange of expertise amongst prosecutors and judges, training, capacity-building, and similar activities, in the areas of relevance to overall capacity building for justice against IKB.

Objective 5 – Preventing IKB

Description and link to vision Whilst robust legislation, effective enforcement, efficient justice system are necessary for the *reduction* of IKB, the ultimate elimination of this phenomenon as a conservation concern at the flyway level would only be possible through a lasting change in attitudes towards IKB, and behaviour of communities and actors engaged in IKB. For this reason, significant effort needs to be directed at prevention of IKB, through enhanced cooperation between stakeholders, through awareness raising, education, and investment in non-ICKB alternative livelihoods and culture change.

High-level targets

5.1 By 2023, Contracting Parties shall ensure that all action against IKB at the national / regional / local levels is informed by in-depth and comprehensive understanding of the local drivers behind IKB. This understanding should have emerged as a result of IKB assessments (Objective 1) and necessary scientific research feeding into the development of National Action Plans (Objective 3.1).

5.2 Contracting Parties in collaboration with stakeholders shall ensure that there is a concerted and sustained effort to address IKB drivers and demand through appropriate combination of measures ranging from legislative (regulation of specific activities), enforcement and judicial action to economic incentives, as well as educational and awareness raising programmes specifically targeting communities engaged in IKB. 5.3 By 2023, Contracting Parties in collaboration with stakeholders shall adopt national communication strategies (as part of national action plans, where relevant) focusing on promoting elimination of IKB. After 2023, Contracting Parties shall ensure adequate allocation of necessary resources to ensure implementation of these communication strategies.

5.4 By not later than 2023, Contracting Parties in collaboration with stakeholders shall establish national education programmes to promote awareness and appreciation of the ecological, cultural and economic value of avifauna, and to promote a culture of zero-tolerance against IKB. Depending on local priorities and contexts, such educational programmes may be specifically tailored towards young people, school children, students, women as well as specific stakeholder groups: e.g. local farmers, hunters, game managers, community leaders, elders, etc.

5.5 By 2023, the Secretariat of the Convention shall, together with other stakeholders such as BLI and FACE and other relevant NGOs and networks, develop and enact a programme of support for Contracting Parties in facilitating the development and implementation of national communication, information, awareness raising and educational initiatives, through provision of audio-visual materials, toolkits, training for communicators, marketing support, media packs and similar initiatives.

Objective 6 – Ensuring relevance, efficiency, effectiveness, impact and sustainability of the Strategy through mid-term and ex-post assessments

Description and link to vision Taking into consideration the overall ten-year time horizon for the present Strategy, it is necessary to ensure that the Strategy's implementation is punctuated with a robust and comprehensive mid-term assessment, to be undertaken at the end of the first five-year period. This would ensure that the Strategy's objectives and targets remain relevant within an evolving context, and that their implementation remains efficient, effective, and produces the desired impact. On the other hand, this would also ensure continuous improvement, better prioritization and commitment of the necessary resources, and motivation of the stakeholders. A final assessment of the performance of the strategy at the end of the ten-year period is also essential to draw lessons learned.

High-level targets 6.1 By the end of 2025, the Secretariat of the Convention shall, together with the Contracting Parties and other stakeholders, carry out a mid-term assessment of the delivery of the present Strategy, focusing on the following parameters⁶³:

- a. **Relevance:** have the overall objectives, goals and targets of the Strategy remained relevant or necessitate a revision in the light of changing context and circumstances?
- b. **Effectiveness:** Are the objectives listed in the Strategy being achieved and to what extent? Is there scope for fine-tuning or amending the objectives or measures of delivery to optimize effectiveness and results achieved?
- c. **Efficiency:** Are the objectives being attained economically, with the optimum ratio of resources used? Is there a need for better prioritization to ensure optimum impact with the least resources possible?
- d. **Impact:** Does the implementation of the Strategy produce the desired impact in terms of the overarching aim of eradication of IKB? Are the results and progress attained contributing to improved conservation of the species within the flyways?
- e. **Sustainability:** Are the positive effects or results sustainable? How can the sustainability and permanence of the intervention be maintained?

Necessary corrections and revisions should be effected depending on the outcome of this assessment.

6.2 A final assessment following similar parameters as may be appropriate shall also be performed by the end of 2029, the final year of the Strategy's implementation. This final assessment should yield necessary direction to guide the development of the relevant policies and strategies in the post 2030 period.

⁶³ The parameters of relevance, effectiveness, efficiency, impact and sustainability are based on a widely used monitoring model for strategies and programmes, adopted by several international institutions and bodies, such as for example OECD: <https://www.oecd.org/development/evaluation/dcdndep/47069197.pdf>

ANNEX I – STAKEHOLDER CONSULTATION SUMMARY AND ANALYSIS

1. Introduction

A multi-stakeholder consultation exercise was undertaken on the first draft of the Concept Note during the period between July and October 2018. A specially designed questionnaire⁶⁴ was circulated in July 2018 amongst Bern Convention's Contracting Parties, Observers and members of the CMS Mediterranean Task Force on Eradication of IKB.

A total of 13 submissions⁶⁵ were received by the end of October 2018. These included eight submissions from Bern Convention Contracting Parties⁶⁶, one submission from non-Contracting Party state member of the MIKT⁶⁷, and four submissions from partner NGOs⁶⁸.

Stakeholder views have guided further development and revision of the first draft of the Concept Note. Inputs received as part of consultation were categorized and addressed as described in the following sections of this Annex.

2. Comments on the introductory part of the Concept Note and Situation Analysis chapter

- 2.1 Comments on the situation analysis chapter were reflected in the text of the revised Concept Note. Comments included, amongst other: addition of further information on latest developments of relevance to IKB, addition of further references to key networks, documents and publications not listed in the first draft, minor clarifications to terminologies used, minor editorial revisions and updates.
- 2.2 A detailed log of the main updates and revisions made is found below:
 - a) Updated Executive Summary with reference to stakeholder consultation exercise, inclusion of reference to Aichi biodiversity targets, reference to revised vision and strategic objectives;
 - b) Updated the Introductory chapter with reference to the outcome of the consultation exercise;
 - c) Updated the structure of the Concept Note chapter – amended figure 1 to include stakeholder consultation; included further references;
 - d) Updated Situation Analysis chapter:
 - i. minor correction in 3.1; inclusion of reference to ENEC in 3.3;
 - ii. correct referencing of BLI assessments;
 - iii. inclusion of clarification re process of developing the Scoreboard in 3.6;
 - iv. corrections in references to outcomes of Global Summit for the Flyways in 3.7;
 - v. major revisions and updates to 3.8: inclusion of section on Raptors MoU in 3.8.1, clarifications to aims of AEMLAP, inclusion of reference to CBD targets of relevance to IKB in 3.8.2 and 3.8.3; minor clarification to wording on derogations under EU Birds Directive in section 3.8.4; addition of reference to EU Action Plan on environmental compliance in 3.8.7 and new figure 5; addition of reference to major networks (EUFJE, ENPE, ENEC and EnviCrimeNet) in section 3.8.9; minor corrections to sections 3.8.10 and 3.8.11.

⁶⁴ T-PVS/Inf(2018)2

⁶⁵ Full text of the submissions is available from here [[document T-PVS/Inf\(2018\)5](#)]

⁶⁶ Croatia, France, Georgia, European Commission, Hungary, Malta, Monaco and United Kingdom

⁶⁷ Israel

⁶⁸ Birdlife International, Centre for Protection and Research of Birds (Montenegro), Association BIOM (Birdlife partner in Croatia), European Federation for Hunting and Conservation - FACE

3. Comments on the analysis of the strengths, weaknesses, opportunities and strengths (SWOT)

- 3.1 Comments on the SWOT chapter resulted in the addition of further SWOT factors in the analysis presented in the updated Concept Note. Comments also provided an indication of those factors that some stakeholders view as a priority. Whilst a full and updated SWOT analysis is presented in the revised chapter 5 of the updated Concept Note, it is notable that stakeholders' views have largely coalesced around the following main concepts:

Strengths

- a. Most stakeholders viewed visibility and public scrutiny afforded to the phenomenon of IKB, and the fact that IKB is broadly recognized as a major conservation concern at international level, as a major strength. This visibility and recognition is positively complemented (and possibly aided) by the degree of coordination and multi-stakeholder involvement attained as result of networking initiatives including Bern SFPs network and MIKT.
- b. Improvements in national legislation of relevance to IKB, availability of dedicated and motivated expertise, as well as technological advancements and recent IKB assessments that yield better knowledge were also commonly cited amongst strengths.
- c. Another chief strength listed by several stakeholders was the fact that IKB is now firmly embedded within the international policy agenda under several key MEAs.
- d. Several stakeholders specifically mentioned Bern Convention TAP, MIKT PoW, EU Roadmap on IKB and IKB Scoreboard as directly contributing to a positive process.
- e. One stakeholder highlighted importance of inter-regional cooperation between the EU and non-EU states.

Weaknesses

- f. On the other hand, several stakeholders highlighted deficiencies in progress monitoring, the lack of understanding of the conservation impacts of IKB and its true scale, the degree of overlap and duplication of work that exists amongst various networks focusing on IKB as being amongst major weaknesses.
- g. Other weaknesses flagged included:
 - i. lack of on-the-ground action on IKB especially in hotspots and the over-reliance of governments on NGOs for reporting crimes as opposed to proactivity of enforcement and intelligence-led policing;
 - ii. lack of enforcement capacity often linked to the low number of IKB prosecutions;
 - iii. insufficiency of legal deterrents against IKB such as disproportionately minimal sentences and penalties for IKB offences;
 - iv. insufficiently robust legislation at the national level which permits "loopholes" or does not enable sufficient legal powers to effectively fight IKB;
 - v. poor financing and general availability of resources for players engaged in combatting IKB;
 - vi. lack of interest and motivation to fight IKB particularly lack of political will, the latter factor often correlated with generally low public awareness on some aspects of IKB;
- h. One stakeholder specifically flagged the disconnection that exists between agreements reached at international level and the reality and action on the ground, as well as the fact that insufficient enforcement or policies in one region cause conservation impacts in other regions.
- i. Another stakeholder highlighted the sluggishness and inertia of state bodies in combatting IKB, as well as socio-economic factors like poverty of local communities that hamper effectiveness of efforts to combat IKB.

- j. Lack of priority afforded to IKB prosecutions within the overall judicial process was also cited as a weakness, as well as the difficulty of objectively assessing, let alone acting upon IKB in some regions particularly in sub-Saharan Africa.

Opportunities

- k. Current international momentum on IKB, as well as public and NGO pressure to act were cited as a major opportunity.
- l. Significant opportunities were also identified for combatting IKB through:
 - i. the promotion of wise and sustainable use of birds;
 - ii. intensifying international collaboration on IKB across different flyways;
 - iii. expansion of existing MEAs (e.g. AEWA);
 - iv. the use of latest technologies and communication (particularly social media);
 - v. increased focus on lasting changes in attitudes towards birds and nature in general, existence of multiple good practices (e.g. linking NAP and Scoreboard in Italy, legal changes in Cyprus, France and Malta, stakeholder involvement in Lebanon, etc); increasing focus on combatting cross-border IKB, availability of EU and international funding instruments (including development assistance) that have the potential to be utilized on fighting IKB;
 - vi. the gradual establishment and harmonization of reporting tools allowing more standardized and comprehensive collection of knowledge; and
 - vii. opportunities for the engagement with local communities particularly hunters.

Threats

- m. Key threats to the efforts to combat IKB identified by stakeholders largely mirrored the already mentioned weaknesses, including:
 - i. the apparent apathy of some national administrations to allocate sufficient priority to IKB;
 - ii. lack of expertise, technical capacity and resources at local level;
 - iii. lack of policy direction and strategy at the national level;
 - iv. the apparent tolerance of IKB in some regions despite the zero tolerance rhetoric;
 - v. lack of cooperation amongst some stakeholders;
 - vi. the difficulties in engaging with local communities; and
 - vii. lack of political will and marginalization of nature protection issues in some regions.
- n. Short policy horizons were mentioned by several stakeholders as a threat, which makes mobilization of the necessary resources and long term commitment more difficult.
- o. Inaccurate reporting and knowledge gaps, the disconnection between international policy agenda and local action, the difficulties faced by NGOs in participating in decision making in some regions, particularly in accessing judicial proceedings related to IKB were also mentioned.
- p. A key threat that was flagged in one submission was that of economic motives behind IKB, and the increasing involvement of organized crime networks in fuelling this phenomenon.
- q. One respondent mentioned the apparent “political interest” behind IKB that may be present in some regions, which is inextricably linked to issues like corruption, political instability and insecurity in some important regions.
- r. Another stakeholder mentioned that efforts to combat IKB are often seen as an activity for “tree huggers”, and that despite public visibility in some regions, the issue is very far from being mainstreamed.
- s. The difficulty of changing entrenched traditions and practices came out consistently as a threat.

3.2 The above stakeholder views were reflected in major updates to chapter 4 – SWOT analysis.

4. Comments on the proposed horizon for the post-2020 IKB policy

4.1 Stakeholders generally exhibited consensus on the need for a sufficiently long time horizon for the post-2020 IKB priorities; however views diverged on the actual period that such strategy should encompass:

- a. Three stakeholders (non-Contracting Parties) expressed support for a three-year policy horizon.
- b. Six stakeholders (including four Contracting Parties) supported a 5-year policy horizon. Four stakeholders (including three Contracting Parties) expressed preference for a ten-year timeframe.
- c. Three stakeholders (including two Contracting Parties) agreed with a timeframe of longer than ten years.

4.2 Since the majority of the respondents clearly backed a timeframe that ranges between five and ten years, and the overall agreement with the rationale for long term perspective, the initially proposed **10-year time horizon has been retained**. This also takes into account the difficulty of mobilizing necessary resources and political will with short term priorities – a concern that was flagged by several stakeholders as part of the comments on the SWOT analysis.

4.3 However, taking also into account the support expressed behind a five-year option, it is now proposed that within the overall 10-year policy horizon, **a strong element of assessment is introduced mid-term, i.e. within a 5-year timeframe**. This would ensure that progression towards long-term policy goals will be assessed, the stakeholders would remain committed and motivated, and corrective action would be taken if necessary. Reference to this effect was made in the updated section 5.1 and in subsequent sections of the revised Concept Note.

5. Comments on the proposed vision

5.1 All respondents indicated their agreement with the need for post-2020 policy to be guided by a **vision**.

5.2 Ten respondents, including six Contracting Parties indicated their support for the vision proposed in the first draft Concept Note; however two Contracting Parties expressed reservations on whether the proposed 90% reduction in IKB goal is realistically achievable, and one non-Contracting Party expressed a further concern over availability of the necessary 2020 baseline data against which further reductions could be measured.

5.3 These reservations were further amplified by one Contracting Party, which highlighted the difficulty of objectively measuring IKB reduction and argued that the focus should instead be on spurring concrete action as opposed to overemphasizing specific measurements which themselves need to be justified.

5.4 Two non-Contracting Party respondent organisations suggested that the overarching **commitment to zero-tolerance towards IKB must be maintained** and be highlighted in the vision.

5.5 In consideration of the above suggestions, the vision text has been revised accordingly:

- a. reference to zero tolerance was made prominent throughout the vision;
- b. reference to 90% reduction target has been removed and replaced with reference to a “significant and measurable reduction in the scale and extent of IKB within their national territories, over a 2020 baseline, to the extent necessary for the successful elimination of IKB as a conservation concern”.

6. Comments on the development of strategic objectives and high-level targets

6.1 Whilst the majority of the respondents indicated agreement **with the high level strategic objectives and targets proposed in the first draft Concept Note, some stakeholders expressed reservations and suggested** alternatives to the specific wording of some objectives and targets.

6.2 One Contracting Party raised three general concerns, which must be addressed at a strategic level. These concerns are reproduced below:

- *“Objectives to ensure comprehensive legal provisions in Contracting Parties’ national legislation cannot extend beyond agreed legal obligations set under Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (the Birds Directive) and other international agreements. For example, the establishment of bag limits is not required under the Birds Directive and should not be proposed as an objective for this exercise.*
- *Objectives to improve and expand data collection should not extend beyond IKB. The objectives include the provision of indicators on the number of legal killing of birds and a requirement to report on legal exemptions. This information is not relevant to IKB.*
- *Objectives that make reference to policing, the judiciary, penalties and criminal proceedings are not appropriate for this document. These are issues that are within national competence and, therefore, should be outside of the scope of this exercise.”*

6.3 In consideration of these concerns, besides further revisions made to strategic objectives and high-level targets as explained further below, the following clarification has been included in the introductory chapter of the revised Concept Note:

“The vision, strategy and high-level targets proposed in this revised and updated Concept Note do not in any manner extend beyond the countries’ legal obligations set under the Bern Convention or under related international agreements including CMS Convention and the EU Directive 2009/147/EC on the conservation of wild birds.

Implementation of any commitments to eradicate IKB proposed as part of this Concept Note shall not be construed within the context of legal compliance with any binding treaty obligations.

On the other hand, the vision, strategy and high-level objectives proposed in this Concept Note aim at aiding the states’ compliance with the overarching obligations under Bern Convention and related international agreements, insofar as eradication of the illegal killing, taking and trade in wild avifauna protected by the said Convention and international agreements is concerned.

Whilst it is explicitly recognised that matters related to policing, the judiciary, penalties and criminal proceedings clearly fall within national competence of the Contracting Parties, any references to such matters throughout this Concept Note should be construed solely within the context of the objectives of capacity building, strengthening cooperation, and promoting information exchange between various state and non-state stakeholders involved in the eradication of IKB insofar as such measures are directly relevant to the overarching aim of eradication of IKB.”

6.4 Furthermore, in the light of these and other specific suggestions provided by other consultees, the draft strategic objectives and targets were revised substantially, as further detailed below:

- a. Clarification of the **logical sequence of priority areas** added in section 5.3, whilst figure 6 which highlights relationship between these priority strategic areas has been revamped to reflect the not only the relationship between the proposed strategic objectives and the vision, but also involvement of key stakeholders in the process.
- b. **Revisions to objective 1 and corresponding high-level targets included:** removal of reference to “conservation consequences of IKB” which appears to not yield to a feasible assessment within the context of the proposed strategy; inclusion of reference to the understanding of incentives and disincentives for IKB within the context of understanding the drivers and motives; multiple clarifications to reference to the development of a methodology for IKB assessment; inclusion of references to ongoing monitoring apart from periodic assessments; highlighting the need for maintaining a zero tolerance approach to strive to a reduction and elimination of IKB.
- c. **Revisions to objective 2 and corresponding high-level targets included:** multiple clarifications to terminology to highlight the focus on improved regulation of activities that have a potential impact on IKB, particularly provisions related to hunting. The overarching aim of these revisions

was to ensure that only those measures that are potentially directly relevant⁶⁹ to IKB situation are included, whilst provisions that may not be directly relevant (e.g. previously proposed reference to measures related to legal harvest bag data collection, hunting quotas and bag limits) have been removed. It has been specifically clarified, amongst other, that national legislation should, insofar as it is relevant for the purpose of combatting IKB, lay down comprehensive provisions concerning:

- i. Establishment and definition of hunting seasons to ensure clear delineation between legal hunting and IKB outside of the legal hunting seasons
 - ii. Listing species that can be hunted to ensure that taking of any bird species not so listed is prohibited
 - iii. Definition of hunting areas to ensure enforceability against any taking of bird species outside of such areas
 - iv. Regulation and definition of which methods are allowed for hunting to ensure enforceability against taking of bird species by any other methods that constitute IKB
 - v. Provision for appropriate authorization mechanism and criteria for obtaining a hunting license, including where relevant, requirements for compulsory education and examination of hunting license applicants
 - vi. Where relevant, enabling appropriate provisions for enforceability of compliance with harvest bag limits or quotas where applicable⁷⁰
- d. Similar revisions were also made throughout multiple provisions of objective 2 and corresponding targets, to ensure direct relevance of each measure to the scope of combatting IKB. Provisions that relate to matters falling within exclusive national competence (for example reference to penalties for IKB), even though these are directly relevant to the scope of this Concept Note, have been qualified with references to “where feasible”, “where appropriate” and similar terms. Reference to desirability of provisions related to organised crime have been removed.
- e. Revisions **to objective 3 and corresponding high-level targets** reflected, upon consideration of the suggestions made by several consultees, the need to ensure that states with a **significant IKB** problem within their territories, including, where relevant – transboundary IKB⁷¹, should develop, adopt, publish, commence implementation and ensure regular monitoring and review of their National Action Plans (NAPs), in a concerted manner and with involvement of stakeholders.
- f. It has been further clarified that the NAPs should comprehensively address all relevant aspects of the fight against IKB. Similarly, it has been additionally clarified that Contracting Parties should ensure that IKB is afforded the highest level of enforcement priority at the national level, and that

⁶⁹ For example it was necessary to clarify that references to species that can be lawfully hunted or seasons or permitted methods for hunting them were made not in the context of regulation of hunting per se, which is clearly beyond the scope of this Concept Note, but solely within the context of ensuring that such regulations clearly spell out the parameters of lawful hunting thus making it clear that any taking of birds that do not respect such lawful parameters effectively constitute IKB. The targets stipulated in this section mirror those specified in section 2 of the IKB Scoreboard.

⁷⁰ The rationale behind this particular provision has its origins in the development of the IKB Scoreboard, wherein the adopted definition of IKB encompasses “*those unlawful activities committed intentionally resulting in the death, injury or removal of specimens of wild birds from the wild either dead or alive, including their parts or derivatives*” and therefore clearly includes non-compliance with applicable provisions concerning hunting harvest bag limits or quotas, where relevant. For this reason, whilst the setting up of provisions concerning bag limits or quotas is deemed to be outside the scope of this Concept Note, provisions concerning their *enforceability*, where applicable, are deemed to be directly relevant.

⁷¹ For example a country which might not have a significant indigenous IKB problem within its national territory, but which may have a direct or indirect transboundary contribution to IKB problem in another state (such as through “IKB tourism” or as a transshipment base for IKB-related trade or through demand for IKB-related articles and proceeds) should focus its National Action Plan on addressing the problem at source.

this priority should be commensurate with the extent of the IKB problem in the country, and where relevant, be *on par* with other forms of serious wildlife crime.

- g. **Revisions to objective 4 and** corresponding **high-level targets** included a clarification with regards to consideration, as part of judicial proceedings related to IKB offences, of species' conservation status listing, as opposed to the previously proposed vaguer definition of the "conservation impact". In this regard, reference to the encouragement for the setting up of specialised prosecution and policing bodies dedicated to IKB was also included. On the other hand, the previously proposed specific targets for over 90% of all criminal and administrative proceedings related to IKB have been removed, upon consideration of the concerns expressed by several Contracting Parties which highlighted externalities such as availability of evidence that are not always within the control of prosecutors and hence cannot be subject to a specific numerical target. These provisions were reformulated in a manner that retains the overall rationale for the improvement of the quality and efficiency of the judicial proceedings, without placing limitation of specific targets that are not always within the state administrations' control.
- h. **Revisions to objective 5 and** corresponding **high-level targets** were relatively minor – these chiefly emphasized relationship between communication campaigns and IKB communication strategies and the NAPs, as well as referenced specific target audiences for communication and education programmes.
- i. **A new Objective 6** was added to ensure that the ten-year time horizon of the proposed Strategy is punctuated with a robust mid-term assessment, which shall ensure that the Strategy remains relevant, effective, efficient and produces the desired impact throughout its implementation. Provision for ex-post evaluation has also been included. The overall structure of these assessments is proposed to follow a well-established monitoring model adopted by several international bodies including the OECD⁷².

⁷² <https://www.oecd.org/development/evaluation/dcdndep/47069197.pdf>