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Enforcement analysis

Shortcomings and common challenges



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1. Introduction



Tackling wildlife crimes involves many actors, both institutional and non-institutional.

Organised criminal groups, corporations and individual actors make significant profits from wildlife crimes activities.

Recently, SWiPE's countries have developed a greater level of interest in developing concrete answers to wildlife crimes threats, mainly due to their impact on public opinion, national and international economic interests.

However, **gaps between official policies, regulations, statements and daily work activities** within policing organizations are compromising the proper enforcement of wildlife protection provisions and field work.

Main problems in having success in tackling wildlife crimes derive from existing wildlife protection law regulations **not working in their practical implementation**. The reasons behind have been described in detail by the SWiPE national reports.





There is one-word capable of describing in the best possible way most of the problems related to the proper enforcement of the law in wildlife crimes: **complexity**.

Complexity mainly generated by some general factors:

- high **fragmentation** of legal systems
- **low awareness** about wildlife crimes among general public
- partially overlapping and **nonhierarchical institutions** governing and managing specific related issues
- absence of an overarching international/transnational environmental crime legal framework
- often **legal indeterminacy**, normative ambiguity and regulatory uncertainty making stable cooperation among countries difficult to achieve
- **time consuming strategies** to involve local communities
- undeveloped understanding of institutional settings for cooperation





Such complexity has been also generated by precise trigger factors, now understood as **gaps that must be filled** as soon as possible in order to ensure high effectiveness.

As project's objectives, **awareness and education are key factors** for addressing prosecution of wildlife crimes in involved countries. Focusing just on regulation and enforcement, however, can be is insufficient.

- Developing culturally-nuanced environmental judicial solutions requires researchers and practitioners to understand relevant prosecuting activities, engage with actors along the wildlife-crimes chain, use and respect local language and **traditions**, and build **strong cooperation** among all the actors involved.
- Failing to consider deeply held **social and cultural motivations** may result in conservation policies that are inadequate or conflict with stakeholder needs.





SWiPE has presented a broad range of legislative instruments aiming at contrasting the proliferation of wildlife crimes.

However, **misinterpretation and lacking understanding** about how these legal instruments work, how they interact, and what their limitations are, are increasingly becoming challenges to overcome in all the project's countries.

- The enforcement of laws against wildlife crime is required at both the domestic and international level. Additionally, formal laws sometimes can conflict with local “social norms”, and perceptions of the severity of legal violations also vary.
- We will see how **challenges vary among jurisdictions and countries**, and enforcement effectiveness may be constrained by available resources, lack of trust, and capacity, etc..





But complexity also stems from **technical aspects**. Environmental laws and regulations are technically complex. Violations, causes and effects in terms of victimization are often difficult to prove.

Furthermore, the investigation of environmental crimes compete with other economic interests, capable to decrease the focus on the effects of wildlife crime.

- A prior problem affecting judiciary system is that many types of wildlife crimes **do not make immediate victims** or their visible damage, also not automatically landing on police officers' desk.
- **The concept of sensitivity to the harm** done to animals, not comparable with the human one, is of great importance in understanding the low interest/willingness in prosecuting WLC.

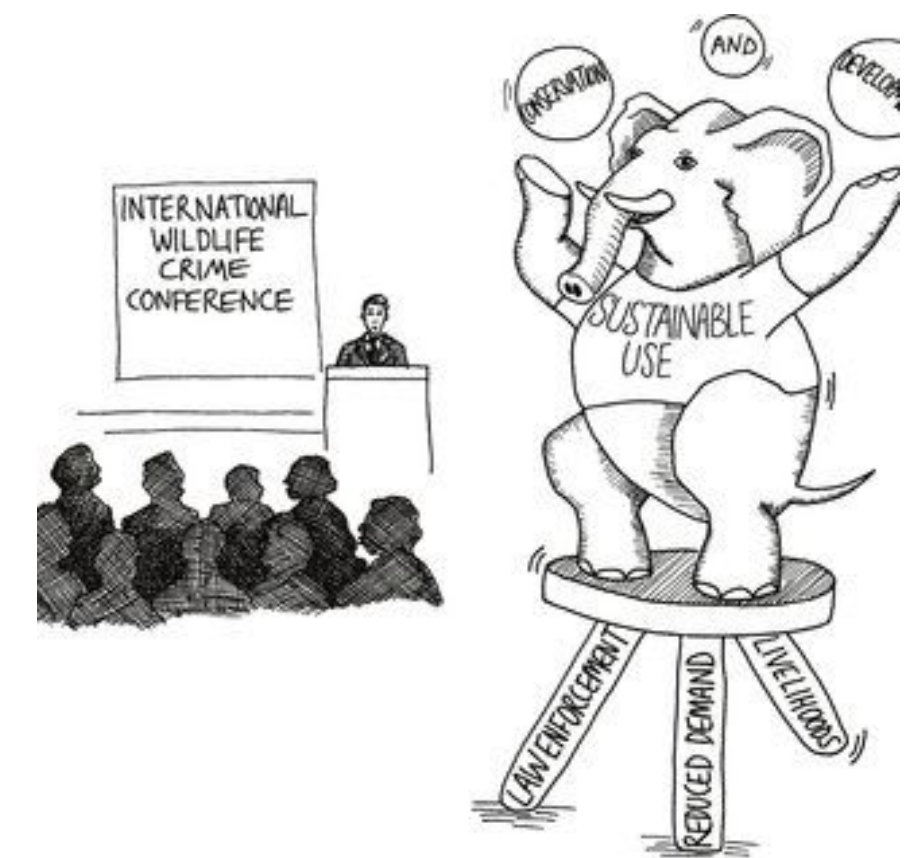




Gaps in judicial knowledge on taxonomy, ecology and behavior of many species threatened need to be filled.

Scientists from various fields are needed for addressing the multidimensional issue, studying the criminal, social and economic aspects of wildlife crimes, and developing/adopting new techniques and technologies for enforcement and tracking.

- Research is needed to understand the role of **wildlife crimes as a source of livelihoods**, and its impact on social and environmental justice for the local community.
- Such competencies are required also to ensure high and specialized levels of surveillance and investigation.





SWiPE' national reports have revealed a **whole series of gaps along the enforcement chain** that are compromising and seriously slowing down the effectiveness of the criminal justice system response to wildlife crimes.

These are quite diverse and refer to different aspects of daily prosecution activities. The effective implementation of sanctions and processing of offenders through justice systems will be key factors to successful wildlife law enforcement.

The effective enforcement of wildlife laws should be intended to **prevent and reduce wildlife crimes**.

National reports underline how many countries' **sanctions for wildlife crimes are insufficient to act as a deterrent**, and do not reflect the seriousness of offences.





2. Gaps to overcome



2.2 Lack of expertise/power/procedure in surveillance and investigative authorities

- This kind of lack has been underlined in many sectors of the prosecution chain. Some project countries have pointed out how necessary is to **ensure broader competencies of some authorities** to facilitate investigation and detection;
- High **competencies during the detection process** have been strongly recommended. Main measures traditionally employed by law enforcement agencies in relation to the investigation and detection of offences usually include search and seizure of property, arrest and questioning, and covert operations (such undercover activities) and such activities require a **high level of practice and specialization**;
- Furthermore, failure in surveillance derive from the fact that profiles like **rangers have not the status of police officers** (Croatia), compromising the effectiveness of prompt filed interventions.
- This affects the existence of clear protocols ruling clear competencies during each step of wildlife prosecution process.



2. Gaps to overcome



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2.3 Lack of specialization in law enforcement authorities and judiciary

- Reported by most of the countries as the **main obstacle** to the smooth and effective prosecution of wildlife crimes, the **lack of WLC specialization within judicial system** represents a gap that should be filled soon in order to to establish a well-functioning and efficient prosecution service;
- Direct consequence is the **low prioritisation in terms of attention and prosecution** of WLC cases by the judiciary, systematically resulted in inadequate and soft sanctions;
- Judiciary especially, shows to suffer the biggest gaps on the topic. The **establishment of specialized environmental units** within the police forces is strongly recommended, even if things are slowly getting better in some countries;
- Establishing specialized environmental units could reduce the judicial workload but it requires financial allocations and available staff working on it. Judicial responses to wildlife crimes can broadly be classified as highly low as reported by national reports while describing soft sentences for cruel crimes.



- Prosecutors especially, but also judges, should have an **in-depth understanding of the relevant legal frameworks and case law**, and the **technical elements of wildlife crime**, as well as the function and **operation of every aspect** of the criminal justice system;
- Extremely important, judiciary must be in the condition to proper understand **the harm caused by wildlife crimes to the wildlife itself**, as well as to the ecosystem and biodiversity in general;
- To better addresses this gap in knowledge, is fundamental to **deliver new empirical data** and a novel scientific-based analytical framework that synthesizes the strengths of both judicial institutional and “green criminology” approaches.





2. Gaps to overcome





2.4 Inadequate/limited cooperation among official judiciary authorities at any level

- The effective enforcement of wildlife offences requires a well-functioning and efficient prosecution service, independent judiciary and a good communication with EU level dedicated organizations. The relation between these bodies is regulated by the law.
- Prosecutors may oversee and direct the investigation of the wildlife crimes and bring cases in front of the court. In many SWiPE's project countries, **there are not specialized units for the prosecution of WLC.**
- Usually, cases are **handled by prosecutors with a more general mandate** and often with different backgrounds (civil, administrative, and criminal).
- **The cooperation between authorities** (including non-law enforcement ones, such as environmental inspectorates, forestry or fisheries agencies) and institutions regarding wildlife crime has been described as **highly inadequate.**



- Such limitations have resulted in the evident **absence of specialised legal support to supervisory and surveillance services** related to wildlife crimes;
- The **lack of established protocols** addressed to rule the collaboration between authorities has been reported in several national reports.
- **The lack of transparency about the configuration of competencies** of the administrative and surveillance authorities together with the poor coordination between them and the prosecution system are paralyzing the decision-making process
- **The lack of** relevant legal provisions able to provide an **exhaustive information sharing system** between authorities does not allow to speed up the opening of court proceedings;
- The importance of **enhanced cross-border cooperation** and training of border police and customs is also an important recommendation for tackling the poaching of large carnivores. Anti-poaching squads are often disorganised and border control is weak.



- The cooperation, information **exchange and coordination between international and European organizations and initiatives**, such as DG Environment and DG Justice, EUROPOL, EUROJUST, IMPEL, ENPE, CMS and ICCWC for example **is often weak** or partly absent. Contrasting wildlife crime is currently not effective, as the countries, including the wide range of relevant stakeholders (e.g., environmental inspectors, police, judiciary and prosecutors) do not usually work and cooperate in a coordinated manner;
- In some countries, like Bulgaria, the absence of a coordinated structure problem has represented a main **obstacle to the capacity in moving forward with the prosecution and related judgement.**





2. Gaps to overcome



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2.5 Lack of staff, expertise and resources

- The quality of prosecutions for wildlife crimes depends particularly on the available **human and material resources** such as staffing levels, staff qualifications and training, and the facilities and **equipment available**;
- The lack of dedicated staff has been listed by many countries. Sometimes, few rangers have the task of surveying vast (mostly mountain) areas according to fixed working hours and many WLC happen during the weekend or at nighttime;
- This shortage reflects also on the possibility to involve **external experts** and profiles usually involved in the crime chain such as pet shops owners and vets;
- The lack of **dedicated equipment** is a direct consequence. High-tech equipment is fundamental to detect sophisticated crime techniques;
- In some places, **inadequate or unsteady salaries increases the risk of corruption** at any level contributing to failure in reporting crimes and suspect activities. It is important that prosecutors are **accountable for their actions**, and that the integrity of the prosecution authority and its staff is well ensured;



- Acute shortage of inspectors, constables and clerical staff are hampering day-to-day functioning of environmental officers, including collecting and collating intelligence related to organised wildlife crime;
- **Trainings and awareness raising** for law enforcement officials as well as for prosecutors and judges is needed to **enhance investigations and enable prosecutors to more effectively pursue cases** and make sufficient arguments in court as well as enable judges to impose higher fines, and in serious cases prison sentences;
- Lack of specialised knowledge on wildlife crime in administrative, enforcement and judicial bodies and lack of specialised institutions can be attributed to a **general lack of priority and resources allocated to wildlife crime issues** as well as a lack of specialised training for prosecutors and law enforcers;



2. Gaps to overcome



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2.6 Lack of uniform data and ongoing data sharing

- Considering that the **activities of criminals have expanded** due to advancements in information and communication technology, **wildlife crime databases are becoming a fundamental information system** that helps enforcement officers to detect and prevent such crimes. Data has become fundamental for every law enforcement agency;
- Data alone are not enough. With the use of crime and intelligence data, **crime analysts** are essential to plan or organize a directed patrol or tactical action plans that would result in effective response.
- SWiPE project has shown how challenging could be to identify uniform and structured data in all the involved countries. Indeed, **all countries have claimed a lack of centralised (electronic) databases and the existence of a good data-sharing process;**
- Sometimes, database exist but are not well integrated each other and data sources remain independent.
- Database are important also to distinguish relevant and irrelevant information and speed up the investigation process;



- The lack of structured, uniform and centralised databases has been perceived by many countries as a serious gap that hampers an effective and efficient WLC detection, prosecution and sanctioning process;
- There is a clear need to assist countries to harmonize and enhance their enforcement activities and capabilities. Appropriate information systems and communication channels should be put in place, as a prerequisite for **effective enforcement and effective joint actions**.
- Data-driven and cross-disciplinary approaches to wildlife crimes prosecution can reduce illegal and unsustainable exploitation of fauna, through addressing the multiple and diverse drivers of human illicit acting.
- Online platforms that gathers information about environmental regulations/permits required (like CITES for example) for **scientific activities in different countries** and respective responsible governmental agencies and the simplification of the bureaucracy related to regulating scientific activities would make regulations easier to comply with.



2. Gaps to overcome



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2.7 Issues with gathering sufficient evidence

- SWiPE national reports have described how **most wildlife crimes go undetected or unreported**. We know that there is a major issue of under-reporting of wildlife crimes that is undermining the survival of animal and plant species of great naturalistic value, especially when associated with other factors threatening them (e.g., invasion by alien species, climate change).
- The challenge of **lack of basic equipment** is frequent among project's countries. Basic scene of crime kits may be lacking in the field and items such as good cameras or drones are quite costly. Furthermore, **WLC often happen away from prying eyes** or in remote areas where patrols are quite complex.
- Indeed, a key challenge is the vast area of control upon officers. The jurisdiction in protected areas is often very wide and **quick response to crime scenes is sometimes not easy** due to distances. Sometimes transporting of suspects from one point to another or to a court may take more than a day.



- Some national laws are not enabling when it comes to wildlife law enforcement. They limit the enforcement power of investigators and nature of investigations;
- **Wildlife can't talk.** There is not any opportunity for the victims to report the crimes. Sometimes the recovery of animal corpses is extremely complicated because of specific regulations and just new sophisticated technologies can overcome the issue.
- There are also legal **challenges to wildlife crimes and evidence-gathering over the web.** In addition to the many legal and enforcement challenges associated with conventional wildlife crimes, internet-based wildlife crimes (illegal trafficking) poses another set of problems for officials, forcing them to operate in a trans-jurisdictional, virtual space that they, and the law, are largely unprepared to manage.
- **Local communities have a major role to play in the response to the need to quickly report wildlife crimes** and related illicit conducts. Where communities have a positive relationship with enforcement actors, the most successful outcomes for biodiversity, even in places at high risk of WLC, can be reached.



2. Gaps to overcome



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2.8 Weak and highly variant sanctioning regimes

- It is widely accepted that **wildlife crimes amount to serious crime**, with offenders often being involved in **different types of crime** conflicting with diverse regulations. SWiPE's case studies have shown how when individuals are convicted of crime against wildlife, it is very **rare that they receive custodial sentences**. Furthermore, **fines** for wildlife crimes **seldom approach the allowed maximum** according to national regulations;
- As with the offences themselves, the types and severity of statutory **penalties** for wildlife crimes **differ considerably between different jurisdictions**. While some countries limit penalties to small fines, others provide for longer terms (few ones) of imprisonment;
- In many countries, most of the sanctions imposed by judiciary are simply inadequate and **cannot be regarded as being dissuasive**.
- The lack of effectiveness do not usually derive from lack of efforts on the side of enforcement authorities, but mainly by **the law which do not provide appropriate deterrent** to the offenders.



- In countries such as Bulgaria or the Czech Republic illegal killings of wild birds is treated as minor offences, even when the crime is systematic, heavily damaging the environment or particularly cruel.
- Difficulties in distinguishing between administrative and criminal offences have been broadly reported. Case studies have shown how that a **failure to use criminal sanctions** and a preference for administrative sanctions, often due to insufficient evidence, is common among project's Countries;
- **Damage thresholds are particularly left to the discretion of judges** who often have no knowledge of the severity of the damage suffered by wildlife. The result are low fines and most of the time the lack of prosecution;
- As reported by significant SWiPE' cases, the prompt involvement of experts positively contributed to the adequate sanctioning of offences and in some cases to the right damage quantification.



2. Gaps to overcome



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2.9 Lack of transparency

- ❑ **Corruption is a key enabler of the wildlife crimes**, and its effects are not widely understood or taken in duly consideration;
- ❑ Corruption can be present in wildlife crime cases in different ways. **Corruption may have directly facilitated the crime**. Corruption can also **subvert the law enforcement** and judicial proceedings.
- ❑ Traditional organised criminal groups involved in illegal activities such as human, drugs, and arms trafficking are now increasingly involved in the most profitable activities of wildlife crime, of which trade is one of the most lucrative;
- ❑ Individuals, and companies, may use corruption or **personal relationships in order to obtain hunting permission** which otherwise wouldn't be issued. Furthermore, government officials and forest patrols may be paid to turn a blind eye to illegal/ pseudo-hunting.
- ❑ Corruption can be used to **influence policy-makers' decisions** related to wildlife protection.



- Alagesan, S. P., Wildlife crime data integration from multiple sources: A way forward to ensure public access to information and data analytics, CrimRxiv, <https://doi.org/10.21428/cb6ab371.65fdcb30>, (2020);
- Colantoni, L., Bianchi, M., Fighting Environmental Crime in Europe – preliminary report, Ambitus project, (2020);
- Foster, S.J., Vincent, A.C.J., Holding governments accountable for their commitments: CITES Review of Significant Trade for a very high-volume taxon, Glob. Ecol. Conserv. 27 (e01572) <https://doi.org/10.1016/j.gecco.2021.e01572> 2021, (2021);
- Hall, M., Wyatt, T., Tackling Environmental Crime in Europe, LIFE-ENPE Report, Bristol, Environment Agency Horizon House, https://www.environmentalprosecutors.eu/sites/default/files/document/Cap%20and%20Gap%20report_FINAL_Print.pdf, (2017);
- Haysom, S., Digitally enhanced responses: New horizons for combating online illegal wildlife trade, Global Initiative Against Transnational Organized Crime, <http://globalinitiative.net/wp-content/uploads/2018/06/TGIATOC-Digital-Responses-Report-WEB.pdf>, (2018);
- Lemaître, S.; Hervé-Fournereau, N., Fighting Wildlife Trafficking: An Overview of the EU's Implementation of Its Action Plan Against Wildlife Trafficking, Journal of International Wildlife Law & Policy, 23:1, 62-81, DOI: 10.1080/13880292.2020.1775949, (2020)
- Life SWiPE project, European Summary Report, <https://stopwildlifecrime.eu/resources/european-summary-report/>, (2022);
- Life SWiPE project, National Reports, <https://stopwildlifecrime.eu/resources/national-reports>, (2022);
- Pires, S.F., Olah, G., Wildlife Crime: Issues and Promising Solutions, Animals, (2022);
- White, R., Transnational environmental crime. Toward an eco-global criminology, Routledge, (2011);
- Wyatt, T., Ngoc Cao, A., Corruption and wildlife trafficking, Chr. Michelsen Institute (U4 Issue 2015:11) 54 p., (2015);
- Wyatt, T., Wildlife trafficking: A deconstruction of the crime, the victims, and the offenders, Palgrave Macmillan, (2013);
- UNODC, *World Wildlife Crime Report. Trafficking in protected species*, United Nations Office on Drugs and Crime, Vienna, (2020);