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Successful wildlife crime prosecution in Bulgaria
National report

WILDLIFE CRIME IN BULGARIA

Study on wildlife crime from 2016 to 2020



The SWiPE project has received funding from the LIFE Programme of the European Union.

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Project webpage: StopWildlifeCrime.eu.

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I. Executive summary

This study is the first to describe the overall picture of wildlife law violations in Bulgaria. The information has been collected from official sources, through public information requests and interviews with professionals in the fields of law enforcement and conservation. It covers the period 2016-2020. The data show several important trends in law enforcement and justice in this area.

In the period under review, offences against economically important species¹ were significantly more frequent and heavily penalised than those affecting protected species. The sanctioning of offences against protected species is done almost exclusively by the Regional Inspectorate of Environment and Water (RIEW), under the Biodiversity Act (BDA). RIEWs, in turn, suffer from chronic shortages of human resources and capacity, and the fines provided for in the BDA are significantly lower than those in the Fisheries and Aquaculture Act (FAA) for using prohibited fishing methods. Fines imposed by the Executive Agency for Fisheries and Aquaculture (EFAA) under these two articles of the FAA alone are 3.5 times higher than fines imposed under the BDA - 364,900 BGN (186,570 EUR) under the FAA in comparison to 104,750 BGN (53,558 EUR) under BDA.

At the same time, nearly 60% of pre-litigation proceedings initiated by the Prosecutor's office are for illegal hunting and fishing (Articles 237 and 238 of the Criminal Code, CC). The statistics are similar for convictions and sanctions at first instance, where 69% are for these two articles of the Criminal Code².

The prioritizing by law enforcement agencies of the protection of primarily economically important species at the expense of those endangered is a disturbing practice that should be changed to prevent the irreversible loss of valuable animal species.

According to the information received by the RIEWs, the animals which are most often harmed³ are birds, followed by mammals (mostly bat species) and reptiles. The number of animals, which RIEWs registered as harmed however is significantly less than the animals which were treated at the two rehabilitation centres⁴ (for birds and for tortoises). While RIEWs reported a little over 2000 harmed birds in the 5-year period, the Wildlife Rescue Centre in Stara Zagora treated over 8000 animals. At the same time, there is also a discrepancy in the number of officially reported incidents of illegal killing of bears and chamois by the authorities and the cases, which reached the media. The data from RIEWs shows only 4 brown bears, all found dead. At the same time, unofficial information reaching experts in the field, as well as national monitoring data, show a decline in the population from 411 bears in 2016 to 329 bears in 2019. There is no evidence of an increase in natural mortality, so it is likely that the human-caused mortality for the period in question exceeds the natural increase.

In the data available from the RIEW (no data available on chamois) and National Park Direc-

1 The 'economically important species' include game under Appendix 1 to Art. 5, para. 2, item 1 and Art. 5 of the Hunting and Game Conservation Act (HGCA) and fish and/or other aquatic organisms subject to commercial or recreational fishing.

2 The full texts of the articles are described in the tables below.

3 Not all cases registered and reported by RIEW were law violations.

4 Wildlife Rescue Centre-Green Balkans in Stara Zagora and the Centre for Rehabilitation and Reproduction of Tortoises of the Gea Chelonia Foundation

torates (NPD), there is only one chamois killed in Pirin National Park in 2017. By comparison, publications in the media and on the websites of nature conservation organizations in the same period report 21 killed.

These discrepancies indicate that the cases, registered by the authorities, are significantly less than the number of cases of law violations against wildlife and more efforts are needed both in law enforcement and in data collection and analysis.

Another significant finding from the report is that Customs have registered only case of aggravated customs smuggling, in 2019, for which a pre-litigation proceedings were initiated. Further analysis is needed to explain this lack of detection, however there is a need to address this issue.

The report shows that some major law enforcement problems are the lack of structured cooperation and inter-agency coordination in the detection of violations as well as the issuance of penal decrees by the various administrative control bodies and between them and the Prosecutor's office; and, similarly, between them and the investigative authorities.

Another problem is the lack of specialization and in-depth knowledge in the field of wildlife offences of employees in the competent government bodies, which could be positively influenced by more (and frequent) training. Establishing a specialised unit within the Ministry of Interior (MoI) to deal exclusively with wildlife crime would also help improve law enforcement.

The investigating authorities and prosecutors have difficulty in finding experts to assist them. One of the factors contributing to the lack of sufficient experts may be the insufficient remuneration provided for their work.

Problems with legislation related to improving the sanctioning regime and the preventative impact of such penalties were also identified. The tariff for compensation for damage to plant and animal species included in Appendix 3 of the BDA has not been updated since 2006. The recommendations of this Report (chapter VII) describe specific proposals for improving laws and regulations.

Various institutions collect and process information on wildlife offences in radically different ways, and there is no uniform approach to what information should be stored. There is no regular exchange of data between competent authorities. Regular and systematic analysis of data on wildlife offences will help law enforcement authorities to identify trends in offences enabling them to better counter these, and to evaluate the results of their increased efforts.

In order to address the problems identified, law enforcement agencies need to be provided with sufficient human, expert, technological and financial capacity.

II. About the project

II. 1. Aims and main objectives

Wildlife crime causes a significant reduction in biodiversity and can lead to the extinction of



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animal and plant species in Europe in spite of a regulatory framework consisting of different international conventions and EU legal instruments. Wildlife crime is not petty crime. It poses a considerable and increasing threat to the environment and also to economic and social development and security. Such activities are often committed by organized criminal groups and in many cases involving corruption. Due to the scale of the problem, there is an urgent need for enhanced enforcement of laws and effective prosecution to counteract wildlife crime.

Project actions

Project activities aim to boost the awareness and capacity of prosecutors and selected law enforcement authorities to provide effective environmental compliance assurance, enhance cross-border knowledge exchange, and increase cooperation between relevant authorities. Overall, SWiPE will help to reduce the illegal killing of Europe's wildlife, support the recovery of threatened European biodiversity, the health of ecosystems, and decrease Europe's involvement in the illegal wildlife trade. With its activities, SWiPE aims to contribute to increasing the number of successfully prosecuted offences.

Objectives:

- Compile data on wildlife crime in 11 target countries and transfer our data to already existing, reliable databases on wildlife crime (where these are available) to enable access to information, improve comparison of data across Europe, and contribute to the work of law enforcement officers.
- Increase awareness, knowledge, and capacity of wildlife crime professionals (prosecutors and experts from enforcement agencies) in 11 target countries to improve national and cross-border governance in relation to wildlife crime investigations and prosecutions.
- Inform and drive meaningful changes to relevant national and European level policies to increase the recognition of wildlife crime, its seriousness and immense impact.
- Raise awareness of practitioners as well as the public on wildlife crime.

II. 2. Definitions

Wildlife crime, including poaching, wildlife trafficking, or illegal poisoning, causes a significant reduction in biodiversity and can lead to the extinction of animal and plant species in Europe and beyond.

There are various definitions of "wildlife crime". For example, United Nations Office on Drugs and Crime (UNODC) defines it as "harvesting and trade contrary to national [and international] laws". Wildlife crimes can be categorized differently, for instance, based on the motivations of the crime, the species targeted, and the methods used. National regulations may use a combination of these categorizations when describing these offences.

The SWiPE project considers the term "wildlife crime" (WLC) as any form of illegal actions directly harming a protected species, which take place within the 11 project countries, covering species (animals and plants) protected under the CITES Convention, the EU Wildlife Trade Regulations

and animal species listed in the EU Habitats and Birds Directives. Below is a non-exhaustive list of wildlife crimes and some of the wildlife crime categorizations we use:

- Poaching and illegal killing for sport;
- Predators or pest control and retaliation;
- Illegal catching\capturing, possession, supply and sale, export\import, illegal fishing;
- Illegal collection of eggs ;
- Non-selective catching and killing (e.g., poisonous bait, unselective and illegal nets, unselective traps);
- Trapping, harming.

The consortium of partners includes WWF Bulgaria (lead partner), State Attorney's Office of the Republic of Croatia, Fauna & Flora International (in Romania), Judicial Academy Croatia, WWF Adria in Serbia, WWF Adria, WWF Spain, WWF Hungary & TRAFFIC, WWF Italy, WWF Poland, WWF Romania, WWF Slovakia, and WWF Ukraine (associated beneficiaries).

The project started in September 2020 and will run through to the end of August 2023.

SWiPE aims to discourage and ultimately reduce illegally killed European wildlife, supporting the recovery of threatened European biodiversity and the health of ecosystems.

The project addresses national and regional prosecutors, national and regional enforcement officials, as well as professionals from civil society organizations, other wildlife crime experts, staff of national ministries, judges and judicial academies, where relevant.

More information about the project, aims and partners can be found on the website - stopwildlifecrime.eu

III. Methodology

III.1. Scope of the report

The report brings a comprehensive overview of wildlife crime on national level as it provides an assessment of WLC across different species and different types of crime and offenses. This is done through the analysis of WLC data collected and through summarising the information obtained at semi - structured interviews focused on gaps in the processes of WLC detection and prosecution. The interviews were conducted with representatives of law enforcement agencies and other selected institutions / organizations that play an important role in the fight against wildlife crime.

III.2. General methodology for data collection

Data collection was focused on gaining information on:

- a. Gaps in the processes of WLC detection and prosecution: This process was conducted through semi - structured interviews which were focused on obtaining information on institutional shortcomings, causes of latency, insufficient detection and reporting of WLC. It also covered questions on major obstacles to investigation, reasons for not initiating criminal proceedings, not bringing cases to courts, as well as possible legislative shortcomings and problems with application of law in practice at national and international level. In relation to data the questions were aimed at access to information, data collection and exchange of information, institutional cooperation at national and international level. Interviewees were also asked about what training would be needed in order to improve WLC detection and prosecution processes. The interviews were conducted with 1 or 2 representatives of each interviewed institution.
- b. Aggregated data were obtained either from relevant institutions directly or from publicly available sources (websites, yearly reports, etc.). Aggregated data bring a basic information about the number of cases reported or investigated, the number and/or type of sanctions in the given period.
- c. Particular WLC cases – data on WLC cases registered in the period 2015- 2020 were obtained from relevant institutions directly or from publicly available databases.

Scope of data:

- Type of incident: criminal offences; administrative offences; incidents documented by other than law enforcement authority (e.g. by NGO, rangers, hunters).
- Species: species protected under:
 - » CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora) - all listed animals (incl. terrestrial, marine and freshwater species) and plant species.
 - » EU Habitats Directive - animal species.
 - » National law and regulation (normally related to hunting, fishing or nature conservation) - animal species.
- Scope of illegal actions: Poaching; Illegal killing for sport; Control of predators/pests and retaliation; Illegal catching, incl. for pets; Illegal collection of eggs; Trading (all part of the trade chain including transportation, trafficking, sale, possession, consumption; the financing of such activities; laundering of species) ; Non-selective catching and killing that is potentially (and knowingly) endangering protected species i.e. poisonous bait, unselective and illegal nets, unselective traps; Trapping and/or harming;
- Types of crimes not included (but optional):
 - » Harms to the ecosystem in general (i.e. fires and oil spills)
 - » Other forms of environmental crime (i.e. illegal waste dumps)

- Timeframe of cases collected: 2016 - 2020: All relevant cases at any stage of their development during the time frame 2016 - 2020 (e.g. in case of courts - any available cases, not only those which have been finalized but also those under the process).

III.3. Methodological notes – specificities of the Bulgarian survey – accessibility, completeness and consistency of data

Despite the large scope of the Project, it was necessary to set some constraints so that the information obtained could be processed within the Project's set timeframe. Therefore, this report will not address cases of illegal logging, illegal fishing (except as described below) or damage to the ecosystem as a whole (e.g. fires and oil spills), nor other forms of environmental crime such as illegal dumping.

Within the framework of the Project, offences and crimes against wildlife⁵, are defined as having the following scope:

- Illegal killing, trapping and/or harming of endangered and/or protected species, classified as crimes or administrative violations;
- Illegal control of predators/pests through the placement of poisons;
- Illegal catch of endangered and protected species, including for pets;
- Illegal egg collection;
- Illegal trade in endangered species or their products/parts;
- Illegal killing of an unprotected species without a valid hunting permit when classified as a crime under the Criminal Code;
- Illegal fishing for unprotected species, in protected areas, when classified as a crime under the Criminal Code or committed with fishing gear prohibited by law (dredges, hook lines, explosives and electric current).

The reason for including illegal fishing in protected areas in the scope of the report is that it constitutes a crime under Article 238 of the Criminal Code and is a potential threat to endangered species subject to conservation in protected areas.

Illegal hunting of non-protected species is included as it is classified as an offence under Article 237 of the Criminal Code.

To compile the report, we mainly used the following sources of information:

- 1. Information received through requests for access to public information sent to the 36 Regional and 28 District Prosecutor's Offices in Bulgaria, the Ministry of Environment and Water⁶, the 15 Regional Inspectorates for Environment and Water, the National Parks Directorates, the Executive Agency for Fisheries and Aquaculture, the Customs Agency and the Ministry of**

⁵ The articles of the Criminal Code, on which we sought information about court cases and filed applications for access to public information, are: Art. 237, Art. 238, Art. 242 para. 1, point h, Art. 278c, Art. 278d and Art. 278e.

⁶ RIEW - Pernik was restructured to RIEW - Sofia in the period for which we sought information. We were unable to obtain an answer from the institution as to whether the information on RIEW - Pernik was included in the data received from RIEW - Sofia.

Interior - General Directorate "National Police"⁷ ;

2. Published court decisions related to wildlife offences included in the national scope of the Project;
3. Detailed interviews conducted, individually or as a group, with representatives of the stakeholders who form the Project's advisory group for Bulgaria. In addition to the interviews the focus group provided valuable feedback on the conclusions and recommendations made in this report;
4. Reports, analyses, scientific publications, endangered species action plans and other publications related to wildlife crime;
5. Data from the Wildlife Rescue Centre-Green Balkans in Stara Zagora and the Rehabilitation and Breeding Centre for Tortoises of the Gea Chelonia Foundation, which are the two main rehabilitation centres for animals in the country.
6. Media and NGO publications related to the scope of the Project - killing or harming protected species, trafficking and/or illegal hunting.

The requests for access to public information that we sent to the institutions were the same for each territorial division, but the answers we received were in different formats and with different levels of detail. Some data were grouped for the entire period requested (2015-2020), while for others we received grouped responses for several of the specified types of administrative offence or crime. However, the team made an effort to structure the data in a uniform format so that we could do the necessary comparative analysis. Because of the significant volume of data and the different formats of the responses, there may be small discrepancies due to technical errors but, if any, they are within the tolerance for statistical errors.

Within 8 months, from March 2021 to October 2021, the Project team did a thorough search of court decisions in the Apis database and in the Ministry of Justice's Single e-Justice Portal. Those court decisions covered by the Project were downloaded in PDF format and entered into the Project's database (in English), which is available on the SWiPE portal (<https://stopwildlifecrime.eu/>). Some of the court decisions found refer to other decisions that are relevant to this Report but not publicly available. It is impossible to estimate what percentage of the court decisions, rulings, records and out-of-court settlements are published and publicly available. Therefore, it is also impossible to estimate what percentage of all wildlife criminal lawsuits the team found and how many remain unknown to us. The database includes convictions for wildlife crimes under the Criminal Code, as well as decisions on appeals for administrative violations under the Biological Diversity Act (BDA), Fisheries and Aquaculture Act (FAA), Customs Act (CA), and Protected Areas Act (PAA). We have not included appeals against administrative sanctions imposed under the Hunting and Game Conservation Act (HGCA), as these do not fall within the scope of the Project.

⁷ In response, the General Directorate "National Police" refused to provide the requested information with the argument that "In the form in which it was requested, the requested information does not exist in the statistical archives of the Ministry of Interior, i.e. it is not created and is not stored by the entity under obligation under the Access to Public Information Act (APIA) according to the criteria set by the applicant".

IV. General information about Bulgaria

The Republic of Bulgaria has an area of 110 370 km², of which forests and forest areas, as of 31.12.2020 are 4,270,995 ha.

The territory of Bulgaria comprises 6 regions divided into 28 districts and 264 municipalities.

Bulgaria has been a member of the EU since 1 January 2007, but is not part of the Euro area. The national currency is Lev [BGN].

The population of the country, as of 31.12.2020, is 6,916, 548 people, with 5,043,186 in urban, and 1,873, 362 in rural areas. Gross domestic product per capita for 2020 (BGN) is 8,845 Euro (17,299.60 BGN).

The second edition of the Red Data Book of Bulgaria from 2011 includes 287 species and subspecies of animals that fall into the four most endangered categories of the International Union for Conservation of Nature (IUCN) - Extinct (30), Critically Endangered (87), Endangered (70) and Vulnerable (100).

V. Legislation concerning wildlife crime and competences

V.1. Legislation and provisions on wildlife crime

a) General introduction of the country legal framework on wildlife crime

The national legal framework on wildlife crimes and offences is generally in line with Bulgaria's obligations as an EU Member State and as a party to the relevant international treaties and conventions in this area.

In general, the legal framework for wildlife crimes and offences is contained in the relevant provisions of administrative and criminal law, both substantive and procedural, as set out below.

Substantive legal framework

Art. 15 of the Constitution of the Republic of Bulgaria States that "the State shall ensure the protection and reproduction of the environment, the maintenance and diversity of living nature and the reasonable use of the country's natural wealth and resources". Accordingly, a number of laws and regulations provide for the protection of the environment, and include penalty provisions for offences and crimes against wildlife. Penalty provisions can be grouped depending on the qualification of the specific act as an administrative offence or a criminal one. In this way, a distinction can be made between legislation providing for administrative liability and legislation providing for criminal liability for offences against wild animals.

In some cases, similar constituent elements of criminal and administrative violations against wildlife are observed.⁸ In such cases, the danger to society posed by the act must be assessed and a judgement made, by the competent authority, as to whether the act constitutes a “minor case”⁹. The ‘danger to society’ posed by environmental crimes depends on the evidence of environmental harm and the nature of the criminal activity. When the substantive consequence is environmental harm, signs of it are the guiding criterion¹⁰ for assessing the level of danger. Where the substantive result is an ‘environmental risk’, the main criteria are signs of the likely harm and the degree of likelihood of its occurrence. Where the act is formal, or does not result in specific environmental risks or harm but in other changes to reality, the nature of the act is the guiding criterion. In the event of detection of a sign/signs of a criminal offence, the administrative proceedings shall be terminated and the materials sent to the relevant Prosecutor (Art. 33, para. 2 of the Administrative Violations and Sanctions Act). The observation, in practice, of duplication of administrative and criminal proceedings against the same person for the same act is mainly due to errors in the qualification of the act as an administrative or criminal offence. As an inevitable consequence of this the determination of the competence of the authorized body and the type and nature of the proceedings is flawed.¹¹

Statutory instruments providing for administrative and criminal liability

Art. 2, par. 1 of the Administrative Violations and Sanctions Act provides that those acts that constitute ‘administrative violations’, and the penalties for them, shall be determined by law or decree. Virtually all types of administrative offence against wild animals, as well as corresponding penalties, are regulated in several laws (see table below for details). Adults over 18 years of age, who have consciously and knowingly committed administrative violations shall be held administratively liable. Minors who have attained the age of 16 years (but have not yet reached the age of 18 years) when able to understand the nature and significance of the offence committed and to control their actions, shall also be held administratively liable.¹²

Firstly, **the Biological Diversity Act (BDA)** regulates relations between the State, municipalities and legal and natural persons on the conservation and sustainable use of biological diversity in the Republic of Bulgaria. The BDA implements the requirements of a number of EU directives, as follows:

- Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds;
- Council Directive 2006/105/EC adapting Directives 73/239/EEC, 74/557/EEC and 2002/83/EC in the field of the environment, by reason of the accession of Bulgaria and Romania;
- Council Directive 1999/22/EC of 29 March 1999 on the keeping of wild animals in zoos;
- Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora;

⁸ See e.g. Art. 86 of the HGCA and Art. 237 of the Criminal Code.

⁹ A “minor case” is one in which the offence committed, in view of the absence or insignificance of the harmful consequences or in view of other mitigating circumstances, constitutes a lower degree of public danger compared to ordinary cases of offences of the relevant type - Article 93, item 9 of the Criminal Code.

¹⁰ Pushkarova-Gocheva, I. (2016). Some issues of criminal law protection of nature.

¹¹ Interpretative Decision No. 3 of 22 December 2015 of the General Assembly of the Criminal Division of the Supreme Court of Cassation.

¹² Art. 26, paras. 1 and 2 of the AVSA.

- Council Directive 89/370/EEC of 8 June 1989 amending and supplementing Directive 83/129/EEC on the importation into the Member States of certain seal skins and products thereof;
- Council Directive 83/129/EEC of 28 March 1983 on the importation into Member States of skins of certain seal pups and products derived therefrom.

The BDA provides for a number of prohibitions and restrictions as well as regimes and conditions related to the conservation of wild animal and plant species. Accordingly, the BDA provides for offences relating to non-compliance with the relevant prohibitions, restrictions, regimes and conditions, including (for species included in Appendices A, B, C and D to Article 3 of Council Regulation (EC) No 338/97 of 9 December 1996) for the protection of species of wild fauna and flora by regulating trade therein, and in specimens of species designated pursuant to Article 4(1) of Regulation (EU) No 1143/2014.

For the respective types of violations under the BDA, the perpetrators of those violations, being natural persons, are sanctioned with a fine, while legal entities and sole traders are subject to a financial penalty. **Fines for natural persons range between BGN 100 and BGN 10,000, and financial penalties for legal entities between BGN 200 and BGN 30,000. In some cases, fines are doubled for offences committed in protected areas or affecting endangered species.**¹³ In some cases, for natural persons such as licensed hunters deprivation of the right to hunt for a period of one to two years is imposed; when the violation is against a globally or European endangered species, deprivation of the right to hunt is for a period of three years.¹⁴ In addition, Art. 129 para. 1 of the BDA provides that the property (items) subject to an offence, including live animals and plants, and the property used to commit it shall be forfeit to the State, regardless of whose property it is. For damage caused to certain species of plants and animals included in Appendix 3 to the BDA, the guilty persons shall pay compensation in an amount determined according to the Tariff for compensation for damage caused to plant and animal species, listed under Appendix 3 to the Biological Diversity Act. The tariff has not been updated since its adoption in 2006.¹⁵

Violations committed against wild animals under the BDA shall be established by an statement on the part of an official designated by the Minister of Environment and Water, the Executive Director of the Executive Forestry Agency or the Regional Governor or Mayor of the municipality. Penal decrees shall be issued, as appropriate, by the Minister of Environment and Water, the Minister of Agriculture, Food and Forestry, the Regional Governor or the Mayor of the municipality or persons authorised by them.

The Hunting and Game Conservation Act (HGCA) regulates the relations, connected with the ownership, protection and management of game, game stocks management, hunting rights as well as the marketing of game and game products. The HGCA introduces the requirements of the following EU Directives:

- Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds;
- Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.

¹³ See Article 125 of the BDA.

¹⁴ Ibid.

¹⁵ Adopted by Council of Ministers Decision No. 235 of 5.09.2006, promulgated in State Gazette No. 76 of 15.09.2006, in force since 15.09.2006.

The HGCA provides for a number of administrative violations related to illegal hunting, and the concealment, storage, processing, sale or transport of illegally acquired game or hunting trophies. **For the particular type of offences under the HGCA, offenders, being natural persons, are punishable by a fine in the amount of BGN 50 to BGN 10,000. The financial penalties for legal entities for certain specific types of violation range from BGN 5,000 to BGN 10,000. In case of violations related to illegal hunting, the weapon and other hunting equipment shall be confiscated by the State, and the illegally acquired game, hunting trophies and game products shall be handed over to the authorities of the Executive Forestry Agency.**

Violations of the law and its implementing regulations shall be ascertained by statements drawn up by the officials of the Executive Forestry Agency (and, in its subsidiaries, at State forests and State hunting farms and research and trial forests) who hold a position for which forestry education is required, the officials under Article 67 of the HGCA or by authorised officers of the Ministry of the Interior, whereas penal decrees shall be issued by the Minister of Agriculture, Food and Forestry or by the Minister of Interior, or by officials authorised by them.

The Fisheries and Aquaculture Act (FAA) regulates relations connected with the ownership, organization, management, use and conservation of fish resources in the waters of the Republic of Bulgaria, trade in fish and other aquatic organisms. The FAA introduces the requirements of the following EU Directives:

- Directive 2004/41/EC of 21 April 2004 repealing certain Directives concerning food hygiene and health conditions for the production and placing on the market of certain products of animal origin intended for human consumption and amending Council Directives 89/662/EEC and 92/118/EEC and Council Decision 95/408/EC;
- Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.

The FAA provides for administrative violations related to the carrying out of illegal fishing, including by means of fishing gear, other means and devices prohibited for fishing and the illegal transfer, transport and sale of aquatic organisms, etc. **For the perpetrators of violations under the FAA natural persons are punishable by a fine of BGN 100 to BGN 10,000 and the financial penalties for legal entities are BGN 1,000 to BGN 10,000.**

In the event of illegal fishing, the fish and other aquatic organisms, as well as the equipment, means and devices with which they were acquired, shall be forfeited to the State.

Violations under the FAA shall be ascertained by statements drawn up by relevant officials designated by order of the Minister of Agriculture, Food and Forestry. Penal decrees for infringements under the FAA shall be issued by the Minister of Agriculture, Food and Forestry or by officials authorised by him/her.

The Protected Areas Act (PAA) regulates the categories of protected areas, the assigned use thereof and the regime of protection and use, designation and management. The PAA introduces the requirements of the following EU Directives:

- Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds;
- Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of

wild fauna and flora.

The PAA provides for several types of administrative violations which, albeit indirectly, can be categorised as wildlife offences. These offences are related to carrying out of illegal activities in a protected area. **For the perpetrators of infringements under the PAA natural persons shall be punished with a fine in the amount of BGN 100 to BGN 10,000 and the financial penalties for legal entities shall be in the amount of BGN 1,000 to BGN 10,000.**

Violations shall be established by a statement of an official designated by the Minister of Environment and Water or the Minister of Agriculture, Food and Forestry or the Executive Director of the Executive Forestry Agency or the mayor of the municipality. Penalty decrees shall be issued respectively by the Minister of Environment and Water, the Minister of Agriculture, Food and Forestry, or the mayor of the municipality, or persons authorised by them.

The Customs Act (CA) regulates the structure and organisation of the customs administration and activities of its bodies. The Customs Act introduces the requirements of a number of EU directives, which, however, are not directly relevant to wildlife conservation.

The Customs Act provides for a penalty for customs smuggling of a fine of 100 to 200 per cent of the customs value of the goods or, in the case of export, the value of the goods themselves. Smuggled goods shall be forfeited to the State irrespective of their ownership and, if they are missing or expropriated, their equivalent shall be awarded representing their customs value or, in the case of export, the value of the goods. Details of confiscated specimens of the species listed in Appendix 3 of the BDA, respectively Appendices A, B, C and D to Article 3 of Regulation (EC) No 338/97 shall be handed over to the Ministry of Environment and Water.

Legislation providing for criminal liability

The Criminal Code of the Republic of Bulgaria (the Criminal Code) defines which socially dangerous acts are criminal offences and what penalties are imposed for them. It establishes those cases in which measures of social influence and education may be imposed instead of punishment. All the constituent elements of crimes against wild animals are exhaustively listed in the Criminal Code.

The Criminal Code defines the criminal jurisdiction of the Republic of Bulgaria, and applies to:

- all crimes committed in the territory of the Republic of Bulgaria;¹⁶
- crimes committed by Bulgarian citizens abroad;¹⁷
- crimes of a general nature committed abroad which affect the interests of the Republic of Bulgaria or of a Bulgarian citizen.¹⁸

16 Art. 3, para. 1 of the Criminal Code.

17 Art. 4, para. 1 of the Criminal Code.

18 Art. 5 Criminal Code.

Insofar as crimes against wild animals are of a general nature, the scope of the Criminal Code for such crimes, including those of a cross-border nature, is broad.

Penally responsible shall be any person of full age - who has completed 18 years of age, and who has perpetrated a crime in the state of being responsible for his acts. A minor - a person who has completed 14 years of age, but has not completed 18 years of age yet - shall be penally responsible if he was able to understand the nature and meaning of the act and to manage his actions.¹⁹

Art. 78a of the Criminal Code provides that an adult shall be discharged from criminal liability by the court and a penalty of one thousand to five thousand leva shall be imposed when the following conditions are simultaneously present:

- **the offence shall be punishable by imprisonment for a term not exceeding three years or any lesser penalty where the offence is intentional, or by imprisonment for a term not exceeding five years or any lesser penalty if committed through negligence;**
- **the offender has not been convicted of a common crime and has not been discharged from criminal liability under this section;**
- **the property damage caused by the offence has been repaired.**

The court imposing the fine may also impose an administrative punishment by deprivation of the right to exercise a particular profession or activity for up to three years if such deprivation is provided for in the relevant offence. Art. 78a of the Criminal Code is widely applied in the practice of crimes against wild animals, as the maximum punishment of imprisonment for these crimes rarely exceeds five years.

Crimes against wild animals under the Criminal Code include the following main elements:

- **unlawful killing or catching of game - Art. 237 of the Criminal Code;**
- **unlawful catching of fish and/or other aquatic organisms by use of illegal substances, devices and/or means and methods of catching - Art. 238 of the Criminal Code;**
- **aggravated customs smuggling by transporting a specimen of a protected species of wild flora or fauna, or parts or derivatives thereof - Art. 242, para. 1, point "h" of the Criminal Code;**
- **unlawful destruction or damage of a protected area or habitat - Art. 278c of the Criminal Code;**
- **unlawful destruction, damage, acquisition, possession, expropriation of a specimen of a protected species of wild flora or fauna - Article 278d of the Criminal Code;**
- **unlawful destruction, damage, acquisition, possession, expropriation of a specimen of European or globally threatened wild vertebrates or a specimen of a species listed under Appendix 3 to the Biological Diversity Act - Article 278e of the Criminal Code.**

Most offences require that the offence be committed intentionally but, in some circumstances, there are also offences for cases where the act is committed through negligence. The penalties for wildlife offences are imprisonment for up to three or five years, probation (suspended sentence) and a fine. The fines range from BGN 100 to BGN 20,000. The exception is the offence of aggravated smuggling, where the penalty is imprisonment for three to ten years and a fine of BGN 20,000 to BGN 100,000.

¹⁹ Art. 31, paras. 1 and 2 of the Criminal Code.

Procedural legal framework

Similar to the substantive law, procedural rules can be broadly divided into administrative procedural and criminal procedural rules.

Administrative procedural provisions

The Administrative Violations and Sanctions Act (AVSA) defines the procedure for establishment of administrative violations and for the imposition and enforcement of administrative sanctions. Pursuant to Art. 36, para. 1 of the AVSA administrative-penal proceedings shall be instituted by way of drawing up a statement of establishment of the administrative violation committed. The drawing up of the statement establishing the violation is of key importance for the administrative penalty procedure. No administrative penal proceedings shall be initiated if no statement for establishment of the violation has been drawn up within three months of the discovery of the offender or if one year has elapsed since the offence was committed (Art. 34, para. 1 of the AVSA). Upon establishment of administrative violations, the administrative officer may seize and withhold all physical evidence and exhibits related to the establishment of the violation, as well as all, personal effects subject to forfeiture to the State (Art. 41 of AVSA). The statement of establishment of an administrative violation must contain a number of mandatory requisites, which are explicitly listed in Art. 42, para. 1 of the AVSA. Within 14 days following the serving of a statement it shall be forwarded to the sanctioning authority along with all objections lodged, exhibits collected and other attachments to the case (Art. 44, para. 3 of the AVSA). The administrative penalty case shall be examined by the administrative body authorised to impose sanctions in whose territory of jurisdiction the violation was committed (Art. 48, para. 1 of the AVSA). Before adjudicating on a case, the sanctioning authority shall examine the statement of violation with a view to its lawfulness and validity, and shall assess any objections lodged and evidence gathered and, where necessary, carry out an investigation of the disputed circumstances. The investigation may also be assigned to other officials of the same department (Article 52, para. 4 of the AVSA). The sanctioning authority is obliged to rule on the administrative-penal case within one month of its receipt (Art. 52, para. 1 of the AVSA). The sanctioning authority shall issue a penal decree imposing an appropriate administrative sanction on the offender when it has established beyond any doubt the fact of the violation, the identity of the person who committed it and his or her guilt. This is unless there are grounds for termination of the proceedings, for a minor case or no agreement has been concluded with the offender. In case of establishing of an indication/indication of a criminal offence, the administrative-penal proceedings shall be discontinued and all materials shall be forwarded to the relevant prosecutor. Physical evidence and exhibits and the personal effects shall be kept by the administrative body authorised to impose sanctions pending the prosecutor's decision (Article 33, para. 2 of the AVSA).

The penal decree or resolution for termination of administrative penalty proceedings shall be subject to appeal or protest before the regional court, in the area of jurisdiction in which the offence was committed or completed and, for violations committed abroad, before the Sofia regional Court (Art. 59, para. 1 of the AVSA). The Regional Court shall hear the case sitting in a one-judge bench and shall deliver a judgment (Article 63, para. 1 of the AVSA). By its decision, the court may (Art. 63, para. 2 of the AVSA):

- repeal the penal decree;

- repeal the penal decree and warn the offender that if they commit another administrative violation of the same type, constituting a minor case, within one year from the entry into force of the judgment, an administrative sanction will be imposed on them for that other violation;
- repeal the penal decree and terminate the administrative penal proceedings;
- amend the penal decree;
- confirm the penal decree.

The decision of the regional court is subject to cassation appeal before the administrative court on the grounds provided for in the Criminal Procedure Code and under Chapter Twelve of the Administrative Procedure Code (Article 63, para. c of the AVSA).

Criminal procedure provisions

The Criminal Procedure Code (CPC) determines the order for conducting criminal proceedings (Article 1, para. 1 of the CPC). Article 24, para. 1 of the CPC defines the cases in which criminal proceedings shall not be instituted and those already instituted shall be discontinued. Pre-litigation criminal proceedings include the investigation and the actions of the prosecutor after the investigation is completed (Article 192 of the CPC). Pre-litigation proceedings shall be conducted in the area corresponding to the area of the court competent to hear the case (Art. 195, para. 1 of the CPC).

Pre-litigation proceedings shall be instituted where there is a legal reason and sufficient evidence of a crime (Article 207, para. 1 of the CPC). Legal grounds for commencing an investigation are (Art. 208 of the CPC):

- a notice to the pre-litigation authorities of a committed crime;
- information about a committed crime, disseminated through the mass media;
- appearance of the perpetrator in person before the pre-litigation authorities with a confession about a committed crime;
- the direct discovery, by the pre-litigation authorities, of signs of a committed crime.

Pre-litigation proceedings are instituted by a decree of the prosecutor. Pre-litigation proceedings shall be deemed to have been instituted upon the drawing up of the report on the first action of the investigation, where an on-site observation (including physical examination, search, seizure and interrogation of witnesses) is carried out, if their immediate execution is the only possible way to collect and preserve evidence (Article 212, paras. 1 and 2 of the CPC). The public prosecutor may refuse to institute pre-litigation proceedings, in which case he shall notify the victim or his/her heirs, the prejudiced legal person and the person who made the notification. The decree is subject to appeal to the superior prosecutor's office (Article 213, para. 1 of the CPC). Where the perpetrator of a criminal offence is unknown, the prosecutor shall, in addition to the investigative measures, entrust the relevant bodies of the Ministry of the Interior, the State Agency for National Security, the Counter-Corruption and Unlawfully Acquired Assets Forfeiture Commission or the Customs Agency with the identification and searching for the perpetrator (Article 215, para. 1 of the CPC).

Investigating authorities are (Article 52, para. 1 of the CPC):

- investigators;
- officials of the Ministry of the Interior appointed to the post of “Investigating police officer” and officials of the Customs Agency appointed to the post of “Investigating customs inspector”;
- the police authorities of the Ministry of Interior and the customs authorities of the Customs Agency in cases expressly provided for in the Criminal Procedure Code.

As a rule, the investigation of crimes against wild animals is carried out by investigating police officers, and for crimes under Article 242 of the Criminal Code, by investigating customs inspectors (Article 194, paragraph 3 of the CPC).

The investigation shall be completed, and the file sent to the prosecutor within two months, at the latest, from the day of its institution (Article 234, paragraph 1 of the CPC). In the event of factual and legal complexity of the case, the public prosecutor may extend the investigation period up to 4 months. If this time limit also proves to be insufficient, the administrative head of the respective prosecutor's office or the prosecutor authorised by him/her may extend it at the request of the supervising prosecutor. The duration of any extension may not exceed two months (Art. 234, para. 3 CPC). When the investigative authority finds that all investigative action necessary to discover the objective truth have been carried out, it shall report the case to the public prosecutor (Article 226, para. 1 of the CPC).

After receiving the case, the public prosecutor shall alternatively: terminate, suspend the criminal proceedings, submit a proposal for exemption from criminal liability with the imposition of an administrative sanction or a proposal for an agreement to resolve the case, or press new charges by indictment if the grounds for doing so exist (Article 242, para. 1 of the CPC). Where the prosecutor terminates the criminal proceedings on the grounds that the act constitutes an administrative violation, the prosecutor shall forward the materials, together with material evidence, to the relevant administrative sanctioning authority (Article 243, para. 3 of the CPC).

The prosecutor shall draw up an indictment where he/ she is satisfied that the evidence necessary to disclose the objective truth and to press charges before the court has been gathered, that there are no grounds for terminating or suspending the criminal proceedings and that there has been no material breach of procedural rules that can be remedied. (Art. 246, para. 1 of the CPC). After the indictment has been lodged, the Court of First instance shall initiate proceedings (Article 247, para. 1 of the CPC) and appoint a judge-rapporteur (Article 247b, para. 1 of the CPC). Where the judge-rapporteur finds that the case falls within the jurisdiction of the court, he shall refer the case (instituted by indictment) for an arraignment hearing within two months of its receipt (Article 247b, para. 2 of the CPC). After hearing the public prosecutor, the defendant, the defendant's counsel, as well as the victim or his heirs and the injured legal entity, the court shall issue an order by which to:

- terminate the proceedings,²⁰ or
- terminate the criminal proceedings,²¹ or

20 When terminating the proceedings pursuant to Art. 248, para. 1, item 3 of the CPC, the court shall return the case to the public prosecutor, setting out in a ruling the procedural violations committed. In such cases, the public prosecutor shall remedy the procedural violations under Article 242 of the CPC, and a new time limit shall begin from the receipt of the case (Article 249, para. 2 of the CPC).

21 When discontinuing criminal proceedings, the court shall rule on the issue of the material evidence and shall revoke the measures of procedural constraint imposed on the accused, and the measure for securing the civil claim, if the grounds for its imposition have ceased to exist. Where the act described in the indictment or in the complaint constitutes an administrative offence, the court shall send the case together with the material evidence to the relevant administrative sanctioning authority (Article 250,

- stay the criminal proceedings,²² or
- schedule the trial and notify the persons appearing.

Where the action described in the indictment or in the complaint constitutes an administrative violation, the court shall terminate the criminal proceedings and send the case, together with the material evidence, to the relevant administrative sanctioning authority (Art. 250, paras. 1 and 2 of the CPC).

The case shall be heard by the same panel of the court from commencement to conclusion of the hearings (Article 258, para.1 of the CPC). The court shall conduct a judicial trial (Articles 276 to 290 of the CPC), hear the parties' oral arguments (Articles 291-296 of the CPC) and retire to deliberate in secret to pass sentence (Article 300 of the CPC). The court shall find the defendant guilty when the charge is proved in an unequivocal manner (Article 303(2) of the CPC). The court shall find the defendant not guilty when it is not established that the action was undertaken, that it was not undertaken by the defendant, or that it was undertaken by the defendant culpably, and when the action does not constitute a criminal offence (Article 304 of the CPC).

Proceedings before the appellate review instance shall be initiated on a protest of the public prosecutor or an appeal of the parties (Article 318, para. 1 of the CPC). The appellate court may:

- set aside the conviction and refer the case back to the court of first instance;
- set aside the first instance judgment and pass a new judgment;
- amend the first instance sentence;
- set aside the conviction and discontinue the criminal proceedings in the cases referred to in Article 24, para. 1, items 2-8a and 10 and para. 5 of the CPC;
- suspend criminal proceedings in the cases referred to in Article 25 of the CPC;
- confirm the first instance conviction.

b) Provisions on wildlife crime

The tables below present, in turn, the types administrative violations and wildlife crimes in the Republic of Bulgaria. As already indicated, some of the types of administrative violations listed can be categorised, albeit indirectly, as wildlife offences insofar as they may have the unlawful result of damaging habitats and/or individual specimens of protected species.

Penalty provisions regarding administrative violations against wildlife often use reference to the relevant texts of the law or regulation containing obligations to act or not act. For the convenience of the reader, a summary description of the offence is given in the table before the text of the relevant provision.

para. 2 of the Criminal Code).

²² The public prosecutor shall resume the suspended criminal proceedings once the grounds for suspension have ceased to exist or the need for further investigative action has arisen.

Table 1 Administrative violations against wildlife in Bulgaria

Description and text of the provision	Minimum - maximum fine – natural persons (BGN)	Minimum-maximum financial penalty - legal entities (BGN)	Other sanctions / forfeiture to the State	Competent authority
Biological Diversity Act (BDA)				
<p>Capture, kill, pursue, disturb, possess, keep, transfer, transport, export abroad, trade in specimens of protected and/or regulated species, etc.</p> <p>Art. 125. (1) For violation of Art. 38, Art. 39, para. 1, Art. 40, Art. 41, para. 3, Art. 44, 46, Art. 47, para. 1, Art. 60, paras. 2 and 3, Art. 100, Art. 102, paras. 1 and Art. 111</p> <p>natural persons shall be punishable by with a fine of BGN 100 to BGN 5,000 and legal persons and sole traders shall be subject to a financial penalty of BGN 500 to BGN 10,000.</p> <p>(2) A licensed hunter who has committed an offence under Art. 38, Art. 41, para. 3 and Art. 44 while hunting shall be punishable by a fine under para. 1 and shall be deprived of the right to hunt for a period of one to two years.</p> <p>(3) In the cases referred to in para. 2, where the offence is against a globally or European endangered species, the deprivation of the right to hunt shall be for a period of three years.</p> <p>(4) For violations of Art. 38, Art. 41, para. 3, Arts. 44 and 46, committed in protected areas or affecting endangered species, the fines referred to in para. 1 shall be imposed at twice the amount.</p>	100-5000	500-10000	<p>Deprivation of the right to hunt for a period of one to two years; where the offence is against a globally or European endangered species, the deprivation of the right to hunt shall be for a period of three years.</p> <p>The property, including live animals and plants, which is the subject of the offence and the property used for its commission shall be forfeited to the State, irrespective of whose property it is.</p>	<p>Control and ascertainment - MOEW, EFA, district governor, municipality mayor.</p> <p>Penal decrees – MOEW, Ministry of Agriculture, Food and Forestry, regional governor or mayor of the municipality.</p>
<p>Violations related to false data/false content of certificates under Regulation 338/97</p> <p>Art. 127. (1) For violations under Article 16(b), (c), (d) and (e) of Regulation 338/97, natural persons shall be punishable by a fine of BGN 700 to BGN 4,000 and legal persons and sole traders shall be subject to a financial penalty of BGN 1,500 to BGN 10,000.</p>	700-4000	1500-10 000	<p>The property, including live animals and plants, which is the subject of the offence and the property used for its commission shall be forfeited to the State, irrespective of whose property it is.</p>	<p>Control and ascertainment - MOEW.</p> <p>Penal decrees - MOEW.</p>

Description and text of the provision	Minimum - maximum fine – natural persons (BGN)	Minimum-maximum financial penalty - legal entities (BGN)	Other sanctions / forfeiture to the State	Competent authority
<p>Violations related to forged certificate/ refusal of export application under Regulation 338/97</p> <p>Art. 127. (2) For violations under Article 16, Litterae “k”, “l” and “m” of Regulation 338/97, natural persons shall be punishable by a fine of BGN 1,000 to 6,000 and legal persons and sole traders shall be subject to a financial penalty of BGN 2,500 to 12,000.</p>	1000-6000	2500-12 000	The property, including live animals and plants, which is the subject of the offence and the property used to commit it shall be forfeited to the State, irrespective of whose property it is.	Control and ascertainment - MOEW. Penal decrees - MOEW.
<p>Importation without appropriate permit or certificate/ purchase, acquisition for commercial purposes, display to the public for commercial purposes of specimens of species listed in Annex A of Regulation 338/97</p> <p>Art. 127. (3) For carrying out activities in the cases referred to in Article 16, Litterae “a”, “f”, “g”, “h”, “i” and “j” of Regulation 338/97, natural persons shall be punishable by a fine of BGN 2,000 to BGN 10,000, and legal persons and sole traders shall be subject to a financial penalty of BGN 5,000 to BGN 30,000.</p>	2000-10 000	5000-30 000	The property, including live animals and plants, which is the subject of the offence and the property used for its commission shall be forfeited to the State, irrespective of whose property it is.	Control and ascertainment - MOEW. Penal decrees - MOEW.
<p>Lack of registration under Annexes A and B of Regulation 338/97; trade in specimens of species listed in Appendix 4a of the BDA</p> <p>Art. 128. For violation of Art. 41a, para. 2, Art. 92, para. 1, Art. 94, para. 1, Art. 102, para. 4 and Art. 102b, para. 5, natural persons shall be punishable by a fine from BGN 50 to BGN 2,000, and legal persons and sole traders shall be subject to a financial penalty from BGN 100 to BGN 5,000.</p>	50-2000	100-5000	The property, including live animals and plants, which is the subject of the offence and the property used for its commission shall be forfeited to the State, irrespective of whose property it is.	Control and ascertainment - MOEW. Penal decrees - MOEW.

Description and text of the provision	Minimum - maximum fine – natural persons (BGN)	Minimum-maximum financial penalty - legal entities (BGN)	Other sanctions / forfeiture to the State	Competent authority
<p>Illegal import and trade in seal products under Regulation (EC) No. 1007/2009</p> <p>Art. 128a. For violation of Art. 43a, paras. 1, 2 and 3, Art. 73, para. 2, Art. 90, para. 1, Art. 102, para. 2, Art. 102a, paras. 1 and 2 and Art. 119, para. 2, natural persons shall be punishable by a fine of BGN 500 to BGN 10,000, and legal persons and sole traders shall be subject to a financial penalty of BGN 1,000 to BGN 20,000.</p>	500-10 000	1000-20 000	The property, including live animals and plants, which is the subject of the offence and the property used for its commission shall be forfeited to the State, irrespective of whose property it is.	<p>Control and ascertainment - MOEW.</p> <p>Penal decrees - MOEW.</p>
<p>Other violations of the BDA, Regulation 338/97 and Regulation (EC) No 865/2006, Regulation (EU) No 511/2014 and Regulation (EU) No 1143/2014</p> <p>Art. 128c. For other violations of this Law, of Regulation 338/97 and Regulation (EC) No 865/2006, Regulation (EU) No 511/2014 and Regulation (EU) No 1143/2014, if the perpetration does not constitute a crime, natural persons shall be punishable by a fine of BGN 50 to BGN 2,000 and legal persons and sole traders shall be subject to a financial penalty of BGN 100 to BGN 5,000.</p>	50-2000	100-5000	The property, including live animals and plants, which is the subject of the offence and the property used for its commission shall be forfeited to the State, irrespective of whose property it is.	<p>Control and ascertainment - MOEW, EFA, district governor, mayor of municipality.</p> <p>Penal decrees - MOEW, MAFF, by the regional governor or by the mayor of the municipality.</p>
The Hunting and Game Conservation Act (GCA)				
<p>Hunting without proper permission</p> <p>Art. 84. (1) Whoever hunts without a duly certified hunting licence or with a hunting licence but without a written hunting permit, or hunts outside the localities specified in the permit without having killed or caught game, shall be punishable by a fine of 50 to 400 BGN.</p> <p>(2) Where an offence under para. 1 has been committed at a time prohibited for hunting, in a location prohibited for hunting or by prohibited means, the person shall be punishable by a fine of 100 to 800 BGN.</p>	50-800	n/a	<p>Weapons and other hunting equipment shall be forfeited to the State and illegally acquired game, hunting trophies and game products shall be handed over to the EFA authorities.</p> <p>Where the offence under Art. 84, paras. 1 and 2 of the HGCA is committed within two years from the entry into force of the penal decree, the fine shall be double.</p>	<p>Control and ascertainment- IAG, State forests, State hunting farms and research and trial forests, hunting districts, Ministry of Interior.</p> <p>Penal decrees - MAFF, Ministry of Interior.</p>

Description and text of the provision	Minimum - maximum fine – natural persons (BGN)	Minimum-maximum financial penalty - legal entities (BGN)	Other sanctions / forfeiture to the State	Competent authority
<p>(3) Whoever hunts without carrying their hunting licence shall be liable to a fine of BGN 50, unless liable to a heavier sanction.</p> <p>(4) Where the number of hunters in a group hunt is greater than the number permitted, the leader of the hunt shall be fined from BGN 50 to BGN 300.</p>			<p>Pursuant to Article 84, paras. 1 and 2 of the HGCA - deprivation of the right to hunt for a period of three years.</p>	
<p>Possession and transport of game without a proper hunting permit</p> <p>Art. 85. Whoever takes, carries, transports or conceals game found live, wounded or killed or identifiable parts thereof without a written hunting permit shall be liable to a fine of BGN 200 to BGN 1,000.</p>	200-1000	n/a	<p>Weapons and other hunting equipment shall be forfeited to the State and illegally acquired game, hunting trophies and game products shall be handed over to the EFA authorities.</p> <p>Where the offence is committed again within two years of the entry into force of the penal decree, the fine shall be double.</p> <p>Disqualification from hunting for three years.</p>	<p>Control and ascertainment – EFA, State forests, State hunting farms and Research and trial forests, hunting districts, Ministry of Interior.</p> <p>Penal decrees - Ministry of Agriculture, MoI.</p>
<p>Illegal catching of game without a permit</p> <p>Art. 86. (1) Whoever kills or catches game without having a duly certified membership card or a hunting licence, or with a hunting licence and a duly certified membership card but without a hunting permit, or outside the date, locality of hunting, number and type of game specified therein, shall be punished by a fine:</p> <p>1. for small game - from BGN 300 to BGN 1,000, but not less than three times the amount of the damage caused;</p> <p>2. for big game - from 2,000 to 5,000 BGN, but not less than three times the amount of the damage caused.</p>	300-5000	n/a	<p>Weapons and other hunting equipment shall be forfeited to the State and illegally acquired game, hunting trophies and game products shall be handed over to the EFA authorities.</p> <p>Where the offence is committed again within two years of the entry into force of the penal decree, the fine shall be double.</p> <p>Deprivation of the right to hunt for a period of three years.</p>	<p>Control and ascertainment - EFA, State forests, State hunting farms and Research and trial forests, hunting districts, Ministry of Interior.</p> <p>Penal Decrees - MAFF, Ministry of Interior.</p>

Description and text of the provision	Minimum - maximum fine – natural persons (BGN)	Minimum-maximum financial penalty - legal entities (BGN)	Other sanctions / forfeiture to the State	Competent authority
<p>Catching game at a prohibited time, place or by prohibited means</p> <p>Art. 86. (2) Whoever kills or catches game at a time prohibited for hunting, at a location prohibited for hunting or by prohibited means or methods shall be liable to a fine:</p> <p>1. for small game - from BGN 600 to BGN 2,000, but not less than three times the amount of the damage caused;</p> <p>2. for big game - from BGN 1,000 to BGN 10,000, but not less than three times the amount of the damage caused.</p>	600-10 000	n/a	<p>Weapons and other hunting equipment shall be confiscated for the benefit of the State, and illegally acquired game, hunting trophies and game products shall be handed over to the authorities of the EFA.</p> <p>Where the offence is committed again within two years from the entry into force of the penal decree, the fine shall be double.</p> <p>Deprivation of the right to hunt for a period of three to five years.</p>	<p>Control and ascertainment - EFA, State forest farms, State hunting farms and training forest farms, hunting districts, Ministry of Interior.</p> <p>Penal Decrees - MAFF, Ministry of Interior.</p>
<p>Killing of big game in selective hunting without a permit</p> <p>Art. 86. (3) Whoever, while selection hunting kills or, while acting as a hunting guide, permits the killing of big game different from the species featured in the hunting permit shall pay a fine from BGN 50 to 400 BGN.</p>	50-400	n/a	<p>Weapons and other hunting equipment shall be forfeited to the State and illegally acquired game, hunting trophies and game products shall be handed over to the EFA authorities.</p>	<p>Control and ascertainment - EFA, State forest farms, State hunting farms and training forest farms, hunting districts, Ministry of Interior.</p> <p>Penal Decrees - Ministry of Agriculture, Ministry of Interior.</p>
<p>Storing, handling, transporting or selling illegally obtained game or trophy</p> <p>Art. 90. Whoever conceals, stores, possesses, sells or transports game illegally acquired by someone else or a hunting trophies or unregistered hunting trophies, unless liable to a heavier sanction, shall pay a fine of BGN 100 to 2,000.</p>	100-2000	n/a		<p>Control and ascertainment - EFA, State forest farms, State hunting farms and training forest farms, hunting districts, Ministry of Interior.</p> <p>Penal Decrees - Ministry of Agriculture, Ministry of Interior.</p>

Description and text of the provision	Minimum - maximum fine – natural persons (BGN)	Minimum-maximum financial penalty - legal entities (BGN)	Other sanctions / forfeiture to the State	Competent authority
<p>Processing of trophies and game products without registration</p> <p>Art. 90a. Whoever is involved in processing hunting trophies or game products without due registration pursuant to Article 73, Paragraph 5, shall pay a fine from BGN 1,000 to BGN 5,000.</p>	1000-5000	n/a		<p>Control and ascertainment - EFA, State forest farms, State hunting farms and training forest farms, hunting districts, Ministry of Interior.</p> <p>Penal Decrees - Ministry of Agriculture, Ministry of Interior.</p>
Fisheries and Aquaculture Act (FAA)				
<p>Recreational fishing without a ticket</p> <p>Art. 64. (1) Any person who carries out angling without an angling permit, in violation of Article 22, Paragraph 1, shall be sanctioned with a fine from BGN 100 to 400.</p>	100-400	n/a	<p>The fish and other aquatic organisms, as well as the appliances, means and devices with which they were acquired, shall be forfeited to the State.</p>	<p>Control and ascertainment - MAFF, EAFA, EFA, DG Border Police - Ministry of Interior.</p> <p>Penal Decrees - MAFF, IARA.</p>
<p>Recreational fishing with prohibited gear or methods</p> <p>Art. 65. Any person who carries out angling in violation of the requirements of Article 24, Paragraphs 1 and 2, shall be sanctioned with a fine from BGN 100 to 400.</p>	100-400	n/a	<p>The fish and other aquatic organisms, as well as the appliances, means and devices with which they were acquired, shall be forfeited to the State.</p>	<p>Control and ascertainment- MAFF, IARA, IAG, DG Border Police - Ministry of Interior.</p> <p>Penal Decrees - MAFF, IARA.</p>
<p>Recreational fishing outside authorised sites and areas</p> <p>Art. 67. Any person who carries out angling outside the water sites and zones for angling shall be sanctioned with a fine from BGN 100 and 500.</p>	100-400	n/a	<p>The fish and other aquatic organisms, as well as the appliances, means and devices with which they were acquired, shall be forfeited to the State.</p>	<p>Control and ascertainment- MAFF, IARA, IAG, DG Border Police - Ministry of Interior.</p> <p>Penal Decrees - MAFF, IARA.</p>

Description and text of the provision	Minimum - maximum fine – natural persons (BGN)	Minimum-maximum financial penalty - legal entities (BGN)	Other sanctions / forfeiture to the State	Competent authority
<p>Fishing during a fishing ban</p> <p>Art. 70. (1) Any person who catches fish and other aquatic organisms during the period of the prohibition provided for in Article 30, Paragraph 3, item 1 Paragraphs 4 and 5, and Article 32, Paragraph 1, shall be sanctioned with a fine from BGN 1,500 to 3,000, unless subject to a more severe penalty.</p> <p>(2) Where the violation referred to in Paragraph 1 has been committed by a legal person or a sole trader, a financial penalty of BGN 2,000 to 4,000 shall be imposed.</p>	1500-3000	2000-4000	The fish and other aquatic organisms, as well as the appliances, means and devices with which they were acquired, shall be forfeited to the State.	<p>Control and ascertainment- MAFF, IARA, IAG, DG Border Police - Ministry of Interior.</p> <p>Penal Decrees - MAFF, IARA.</p>
<p>Fishing with prohibited gear, means and appliances</p> <p>Art. 73. (1) Any person who catches fish and other aquatic organisms with prohibited fishing gear, means, tackles and appliances in violation of Article 35, Paragraph 1, items 4, 5 and 7, Articles 36, 37 and 39a, Paragraph 1, shall be sanctioned with a fine from BGN 1,000 to 2,000.</p> <p>(2) Where the violation referred to in Paragraph 1 has been committed by a legal person or a sole trader, a financial penalty of BGN 2,000 to 3,000 shall be imposed.</p>	1000-2000	2000-3000	The fish and other aquatic organisms, as well as the appliances, means and devices with which they were acquired, shall be forfeited to the State.	<p>Control and ascertainment- MZHG, IARA, IAG, GD "Border Police"-MIA.</p> <p>Penal Decrees - MAFF, IARA.</p>
<p>Fishing with particularly dangerous prohibited gear, means and appliances</p> <p>Art. 74. (1) Any person who catches fish and other aquatic organisms in violation of Article 35, Paragraph 1, items 1, 2, 3 and 6, and Paragraph 6, shall be sanctioned with a fine from BGN 4,000 to 6,000, unless subject to a more severe penalty.</p> <p>(2) Where the violation referred to in Paragraph 1 has been committed by a legal person or a sole trader, a financial penalty from BGN 5,000 to 10,000 shall be imposed.</p>	4000-6000	5000-10 000	The fish and other aquatic organisms, as well as the appliances, means and devices with which they were acquired, shall be forfeited to the State.	<p>Control and ascertainment- MZHG, IARA, IAG, GD "Border Police"-MoI.</p> <p>Penal Decrees - MAFF, IARA.</p>

Description and text of the provision	Minimum - maximum fine – natural persons (BGN)	Minimum-maximum financial penalty - legal entities (BGN)	Other sanctions / forfeiture to the State	Competent authority
<p>Storage, transport, installation of prohibited fishing gear, equipment and devices</p> <p>Art. 81. Any person who stores, transfers, or installs fishing gears and appliances prohibited for fishing in violation of Article 45a shall be sanctioned with a fine or a financial penalty from BGN 2,000 to 3,000.</p> <p>Art. 81a. Any person who transfers or transports net fishing gear and/or technical devices and equipment to catch with electric current in violation of Article 39 a, Paragraph 2 and/or Article 44, shall be sanctioned with a fine or a financial penalty from 2,000 to 3,000 BGN.</p>	2000-3000	2000-3000	The fish and other aquatic organisms, as well as the appliances, means and devices with which they were acquired, shall be forfeited to the State.	<p>Control and ascertainment- MZHG, IARA, IAG, GD "Border Police"-MoI.</p> <p>Penal Decrees - MAFF, IARA.</p>
<p>Transport, supply and trade in fishery products without documents of origin</p> <p>Art. 83. Any sole trader or legal person who does not fulfil the obligation provided for in Article 47, shall be sanctioned with a financial penalty in the amount of BGN 1,000 to 2,000.</p> <p>Art. 85. Any person who supplies, markets or sells fish or other aquatic organisms in violation of Article 49 shall be sanctioned with a fine, pecuniary sanction, respectively, from BGN 1,000 to 2,000.</p> <p>Art. 86. Any person who transports fish, other aquatic organisms and products derived therefrom in violation of Article 50, shall be sanctioned with a fine, a financial penalty respectively, in amount from BGN 1,000 to 2,000.</p>	1000-2000	1000-2000	In the cases referred to in Articles 85 and 86 of the HPA, the fish and other aquatic organisms, as well as the equipment, means and devices with which they were acquired, shall be forfeited to the State.	<p>Control and ascertainment- MZHG, IARA, IAG, GD "Border Police"-MoI.</p> <p>Penal Decrees - MAFF, IARA.</p>

Description and text of the provision	Minimum - maximum fine – natural persons (BGN)	Minimum-maximum financial penalty - legal entities (BGN)	Other sanctions / forfeiture to the State	Competent authority
<p>Violations of commercial fishing rules</p> <p>Art. 88a. (new – SG No 102/2012) (1) Any natural person who violates the provisions of Art. 18d, Art. 3, Art. 18f, Art. 9, Art. 25c, para. 2, Art. 27, items 1, 6, 7 or 8, Art. 46a, para. 5, or Art. 46e, para. 4, shall be sanctioned with a fine from BGN 400 to 800.</p> <p>(2) A natural person who violates the provision of Art. 19, paras. 1, 3, 4, 5 or 7, Art. 20, para. 1, Art. 27, items 3, 4 or 5, or Art. 46g, para. 1, shall be sanctioned by a fine from BGN 500 to BGN 1,200.</p> <p>(3) Any natural person who violates the provision of Art. 19, para. 6, Art. 46c, para. 1 or Art. 47 shall be sanctioned with a fine from BGN 1,000 to 1,500.</p> <p>(4) ANY natural person who violates the provisions of Art. 45, paras. 1 or 3 shall be sanctioned with a fine from BGN 2,000 to 3,000.</p>	400-3000	n/a		<p>Control and ascertainment- MZHG, IARA, IAG, GD "Border Police"-MoI.</p> <p>Penal Decrees - MAFF, IARA.</p>
Protected Areas Act (PAA)				
<p>Carrying out activities in violation of the protected area regime</p> <p>Art. 81. (1) A fine of BGN 500 or exceeding this amount but not exceeding BGN 5,000 will be imposed on any natural person who:</p> <p>1. carries out any activity within a protected area in violation of the regime determined by this Act, the designation order or any endorsed management plans and designs under Chapter Four herein;</p> <p>2. carries out any activity within a protected area without a permission or clearance provided for in this Act.</p>	5-20 000	100-50 000	<p>The objects - subject of the violation, and the objects used for its commission in protected areas - exclusive State property, shall be forfeited to the State.</p>	<p>Control and ascertainment- MOEW, RIEW, MAFF, IAG, Mayor of the Municipality.</p> <p>Penal Decrees - MOEW, RIEW, Ministry of Agriculture, Mayor of the municipality.</p>

Description and text of the provision	Minimum - maximum fine – natural persons (BGN)	Minimum-maximum financial penalty - legal entities (BGN)	Other sanctions / forfeiture to the State	Competent authority
<p>(2) Where the activity referred to in Items 1 and 2 of Paragraph (1) shall be construction, it will be punishable by a fine of BGN 5,000 or exceeding this amount but not exceeding BGN 20,000, and where the said activity is development of areas, it will be punishable by a fine of BGN 2,000 or exceeding this amount but not exceeding BGN 20,000.</p> <p>(3) Minor cases under Paragraph (1) shall be punishable by a fine of BGN 5 or exceeding this amount but not exceeding BGN 100.</p> <p>Art. 83. (1) A fine or a financial penalty, as the case may be, of BGN 1,000 or exceeding this amount but not exceeding BGN 10,000 will be imposed on any sole trader or a legal person who:</p> <p>1. carries out any activity in a protected area in violation of the regime established by this Act, by the designation order or by endorsed plans and designs under Chapter Four;</p>				
Customs Act (CA)				
<p>Smuggling</p> <p>Art. 233. (1) Any person who carries or transports goods through the State border or any person who attempts to do so without the knowledge and authorisation of the customs authorities, insofar as the said act does not constitute a criminal offence, shall be sanctioned for customs smuggling by a fine of 100 and 200 per cent on the goods' customs value or, in the case of export – on the value of the goods.</p> <p>(2) Smuggling is also punishable for those who carry or transport goods across an external border of the European Union without the knowledge and permission of the customs authorities and the goods are found as a result of an inspection in the territory of the Republic of Bulgaria.</p>	<p>100% to 250% on the customs value of the goods or, in the case of exports, the value of the goods.</p>	<p>100% to 250% on the dutiable value of the goods or, in the case of exports, the value of the goods.</p>	<p>Goods subject to smuggling shall be forfeited to the State irrespective of their ownership, and if they are missing or expropriated, the equivalent value, representing their dutiable value or, in the case of export, the value of the goods shall be used</p>	<p>Customs Agency</p>

Description and text of the provision	Minimum - maximum fine – natural persons (BGN)	Minimum-maximum financial penalty - legal entities (BGN)	Other sanctions / forfeiture to the State	Competent authority
<p>(3) Where the violation referred to in para. 1, committed by using a passenger or carriage vehicle with a secret compartment, or when the smuggling entails excise goods or goods prohibited for import or export, the fine shall range from 200 to 250 per cent of the customs value of the goods upon import or the value of the goods at export. In the case of the smuggling of tobacco products, the fine shall range from 200 to 250 per cent of their sale price.</p> <p>(4) In the event of a repeated violation under Paragraphs 1 and 2, a fine shall be imposed in the maximum amount, envisaged for the respective violation.</p> <p>(5) In the event of a repeated violation under Paragraph 3 a fine shall be imposed in the maximum amount, envisaged for the respective violation, but not less than BGN 1,000 and when the violation would involve tobacco products - not less than BGN 2,000.</p>			<p>The means of transport and means of conveyance which were used for the transport or conveyance of the goods which are the subject of smuggling shall be forfeited to the State irrespective of their ownership, unless their value clearly does not correspond to the value of the subject of smuggling.</p>	

c) Potential areas for improving wildlife protection provisions

As already mentioned, the Compensation Tariff for Damage to Plant and Animal Species included in Appendix 3 to the BDA has not been updated since 2006. For the period since 2006, according to the NSI, the consumer price index for September 2021 compared to September 2006 is 156.5%, i.e. inflation is 56.5%. The Compensation Tariff for damage to plant and animal species should be updated to take account of inflation and changes in the relevant factors which were taken into account when it was originally adopted.

It is noteworthy that, with regard to the administrative sanctions provided for violations against wildlife in the BDA, the legislator has set higher sanctions for violations related to import without an appropriate permit or certificate, purchase, acquisition for commercial purposes, and commercial activity with regard to specimens of designated protected and regulated species such as fines up to BGN 10,000, and financial penalties up to BGN 30,000. At the same time, violations related to illegal catching, killing, pursuing, disturbing, possessing, breeding, carrying, transporting, exporting abroad and trading in specimens of protected and/or regulated species are punishable by fines of up to BGN 5,000 for natural persons and pecuniary sanctions of up to BGN 10,000 for legal persons. Apparently, the legislator assesses violations related to import and commercial activities with regard to protected and regulated species as more serious. The question is whether this assessment is adequate in view of the objective set by the law to protect designated plant, animal and fungal species of the flora, fauna and mycota of the Republic of Bulgaria. A possible approach to improving the penalty regime in the BDA would be to differentiate between offences related to the illegal killing or capture of protected and regulated species, along the lines of the HGCA.

Similarly, the adequacy of the penalties for aggravated customs smuggling (by transporting a specimen of a protected species of wild flora or fauna or a part or derivative thereof) - for which there is a minimum penalty of imprisonment for three years and a maximum penalty of imprisonment for ten years, compared to the basic composition of unlawful destruction, damage, acquisition, possession, appropriation of a specimen of European or globally threatened wild vertebrates or a specimen of a species listed in Appendix 3 to the BDA, for which there is no minimum penalty and the maximum penalty is five years imprisonment should be assessed accordingly.

A frequently cited problem with wildlife offences is the unclear distinction between offences in administrative laws and crimes in the Criminal Code. This leads to a number of problems, including delays in the investigation and penalising of violations, the need for serious coordination of several institutions and reduced effectiveness of law enforcement in general.

The penalties provided for in the Criminal Code were considered by several prosecutors to be "insufficient" to provide the general and individual prevention required by law.

No criminal proceedings have been initiated for attempted wildlife crime. The Criminal Code does not provide for the offence of preparation for a crime against wildlife. The introduction of preparation for wildlife crime in the Criminal Code would strengthen the preventative function of penalties.

The lighter penalties in the Criminal Code for wildlife crimes hinder investigative authorities and the involvement of investigators who usually deal with more serious crimes. There are

no aggravated offences against wildlife in cases where they are committed on the orders or in execution of a decision of an organized criminal group (OCG). Crimes against wildlife are not included in Art. 321, para. 3 of the Criminal Code, which defines aggravated offences for the formation of or participation in an OCG.

The problems of game conservation, poaching and corruption crimes involving high-ranking members of hunting unions in the country were also raised. **A change in the HGCA should be considered to provide for the tenure of the management of hunting farms to increase competition for these positions and thus break potential corrupt dependencies.**

The practical experience of the investigating authorities has shown problems in the legislation when carrying out inspections with fishing underway, as the inspection must be carried out after the fishing is finished. This provides an opportunity to conceal illegal activities.

There is a prohibition on fishing with certain fishing gear, tackle, devices and equipment in the FAA, but there is no prohibition on possession, i.e. the law enforcement authorities fail to penalise offenders even when such gear is found in their boats as they are not 'in use'. A change in the FAA to include a ban on the possession of such devices would facilitate the work of control authorities when carrying out inspections.

Another change that would facilitate control activities for the conservation of wildlife is to harmonise and extend the periods of prohibition of catching and fishing during the breeding season, as there is currently a discrepancy in the periods depending on the species. Particularly in fishing, this defeats the purpose of control bans as fish cannot be selected at the time of capture. Proper assessment needs to be made on the overlapping of the necessary closure periods to avoid the closure periods being reduced, resulting in more harm to the resource than good.

Related to fishing is the conservation of critically endangered sturgeons inhabiting the Danube and the Black Sea, which are frequent victims of illegal fishing with hook lines. WWF Bulgaria has been working on sturgeon conservation and improving law enforcement for nearly a decade. Another project analysed the legislation and law enforcement for sturgeon conservation and made recommendations for improvement. The recommendations focus on necessary changes in legislation, cooperation between different institutions and increasing the capacity of controlling units. The conclusions of the report are still relevant and are included below as no serious steps have been taken to address the deficiencies.



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Recommendations for improving sturgeon protection, from WWF Bulgaria's 2019 report:

- Amendments to Appendix 1 and Appendix 2 of the FAA to exclude sturgeon species from the list of temporary closures and minimum catch sizes respectively.
- Provide additional training and resources for Bulgarian Fisheries and Aquaculture Executive Agency (EAFA) staff in relation to the implementation of their new investigative powers (apprehension of offenders, use of force, stopping of vehicles and use of specialised vehicles) and to prevent potential abuse of power.
- Development of an inter-institutional agreement between the Bulgarian Food Safety Agency, EAFA and the Ministry of Interior for the coordination of the control of vehicles transporting fish and seafood. This agreement would allow for joint inspections by the control authorities to reduce illegal trade and transport of sturgeon (including counterfeiting).
- Enhance monitoring of illegal, unreported and unregulated (IUU) fishing, actively imposing administrative sanctions (fines) under the Fisheries and Aquaculture Act.
- Strengthening cooperation between administrations and between agencies to patrol the waters of the Exclusive Economic Zones and contribute to the fight against IUU fishing.
- Consider including verification of the documentary requirements for the control of species that are part of the CITES/EU WTR Appendices in the duties of the official veterinarian(s) at the Border Inspection Post (BIP) as described in Chapter Eight of the Veterinary Practice Act.
- Consider improving control procedures at veterinary border posts in line with the recommendations of the European Commission's Directorate-General for Health and Food Safety (DG SANTE), introducing a monitoring system for at-risk fish and seafood consignments and DNA testing of consignment samples (as appropriate).
- Consider amending Article 10, Article 27 and Article 27a of the Food Act to include labelling requirements for wild species under Regulation 338/97.
- Strengthen efforts to enforce the Environmental Crime Directive through proactive initiatives, in particular by developing national guidelines for customs, law enforcement, prosecution and judicial officials.
- Increase the capacity of the MOEW with experienced environmental and Natura 2000 experts to adequately support monitoring and enforcement efforts.

V.2. Analysis of the competent public authorities

a) Administrative authorities

Article 37, para. 1 of the Administrative Violations and Sanctions Act defines the range of competent officials who may draw up statements establishing an administrative violation:

- those officials who are explicitly identified under the relevant regulations;
- officials designated by the heads of departments, organisations, district governors and mayors of municipalities tasked with the implementation or supervision of the implementation of the relevant legislation.

Administrative sanctions may be imposed by (Art. 47, para. 1 of the AVSA):

- heads of agencies and organizations, district governors and mayors of municipalities, who are entrusted to implement the relevant regulations or to control their implementation;
- the officials and bodies authorised by the relevant law or decree;
- judicial and prosecutorial authorities in the cases provided for by law or decree.

The main administrative authorities and administrations, responsible for monitoring the implementation of the national and EU legislation in the field of wildlife protection and monitoring compliance with the requirements, detecting infringements and penalising and/or sending reports for initiating pre-litigation criminal proceedings are presented in the text and are detailed for the relevant legislation in the table below.

Minister for the Environment and Water and administrations under their authority

The Minister of Environment and Water shall direct the development and implementation of Government policy in the field of environment and water in accordance with the Constitution and the laws, by:

- controlling the state of the environment in the territory of the country;
- coordinating the control powers of other executive authorities in relation to the environment (Art. 3, para. 1 of the Rules of Procedure of the Ministry of the Environment and Water)

The National Nature Protection Service Directorate of the MOEW conducts procedures for the assignment and approval of action plans for plant and animal species (Article 35, para. 1, item 6 of the Rules of Procedure of the Ministry of the Environment and Water). The total number of staff in the National Nature Protection Service Directorate is 32 as of 1.10.2021 according to the Administrative Register.

The directors of the Regional Inspectorates of Environmental and Water (RIEWs) and the directors of the National Parks Directorates (NPD):

- control compliance with the requirements for conservation of biological diversity in the performance of the activities of the owners or users of land tracts, wooded areas and aquatic areas included in the National Ecological Network;
- control the conservation of plant and animal species subject to the BDA;
- penalise offenders in cases provided for in the BDA (Article 117 of the BDA).

In carrying out the functions of on-going and ex-post control in accordance with the requirements of the legislation on environmental protection, the RIEWs shall carry out independent and/or joint on-site and documentary inspections related to the conservation of biological diversity and elements of the National Ecological Network, as well as the sustainable use of biological resources with regard to:

- the implementation of management plans and compliance with protected areas and protected areas regimes;
- the conservation of protected plant and animal species and their habitats and the sustainable use of biological resources (Art. 16, para. 1, item 6 of the Regulations on the Structure and Activities of the Regional Inspectorates of Environment and Water).

As of 1.10.2021, according to the Administrative Register, there are a total of 15 RIEWs covering the entire territory of the country and the total number of staff in the RIEWs ranges from 74 to 23 full-time positions.

National Park Directorates (NPDs):

- control compliance with the norms, regimes and conditions under the Protected Areas Act (PAA), designation orders and management plans;
- exercise general control over compliance with legislation on environmental protection, biological diversity and protected areas (Art. 5, para. 1, items 9 and 10 of the Regulations on the Structure and Activities of the National Park Directorates).

As of 1.10.2021, according to the Administrative Register, there are a total of 3 NPDs - Pirin National Park Directorate, Rila National Park Directorate and Central Balkan National Park Directorate.

In practice, in addition to the RIEWs and NPDs, the Executive Forest Agency (EFA) also has control and administrative punitive functions under the BDA, and respectively, the relevant regional governor or mayor of a municipality (Article 130 of the BDA). Control and administrative punitive functions under the PTA are exercised by the MOEW, the MAFF, the EFA and the mayors of municipalities.

Minister of Agriculture, Food and Forestry and administrations under their authority

The organisation of the hunting area, the management of the game stocks and the control of game management shall be carried out by the Minister of Agriculture, Food and Forestry. The Minister of Agriculture, Food and Forestry, through the Executive Forestry Agency, shall supervise:

- preservation, reproduction, resettlement and use of game;
- the acquisition and exercise of the right to hunt;
- the conduct of organised hunting tourism;
- trade in game and game products (Art. 14 of the HGCA).

The total number of staff in the Executive Forest Agency is 148 full-time positions as of 1.10.2021 according to the Administrative Register. In the implementation of State hunting policy, the Executive Forestry Agency shall be supported by the hunting associations (Article 4 of the Hunting Act).

The management, monitoring and control of fisheries, aquaculture and trade in fish and other aquatic organisms is carried out by the Executive Agency for Fisheries and Aquaculture (EAFA) under the Minister of Agriculture, Food and Forestry (Article 3, para. 1 of the FAA). The EAFA shall carry out, where necessary, joint activities with the General Directorate of Border Police (GDBP) to control fishing vessels, fishing and fishery activities in the border zone, in the border checkpoints' zones, ports, inland sea waters, the territorial sea, the adjacent zone, the continental shelf, the exclusive economic zone, the Bulgarian section of the Danube River and in other border rivers and basins (Article 6, para. 8 of the FAA). The total number of staff in the EAFA is 220 full-time positions as of 1.10.2021 according to the Administrative Register.

In practice, in addition to the EAFA, control and administrative punitive functions under the

BDA are also performed by the EFA and GDBP.

Minister of the Interior and administrations under their authority

The Minister of the Interior conducts the government policy on crime prevention, combating crime, protecting public order and border control (Article 33, para. 1 of the Ministry of Interior Act (MoIA)). Administrative and penal activities are carried out by the Ministry of Interior authorities in the cases provided for by law through:

- establishing administrative violations and imposing administrative sanctions;
- imposing administrative coercion measures (Article 31 of the MoIA).

The Regional MoI Directorates are the main structures of the Ministry of Interior in the implementation of the administrative and penal activities of the MoI. The total number of staff of the Regional MoI Directorates ranges from 5096 to 403 full-time positions as of 1.10.2021 according to the Administrative Register.

The Border Police Directorate General (BPDG) is a national specialised structure for carrying out the functions of the Ministry of Interior in the border area, in the areas of border checkpoints, international airports and ports, in the internal sea waters, the territorial sea, the adjacent zone, the continental shelf, the Bulgarian section of the Danube River and other border rivers and water basins. The total number of staff in the BPDG is 6882.5 full-time positions as of 1.10.2021 according to the Administrative Register.

Minister of Finance and administrations under their authority

The general management and control of the activities of the customs administration shall be exercised by the Minister of Finance or a Deputy Minister designated by him (Article 7, para. 8 of the Customs Act). The Territorial Directorate comprises a Territorial Office and Customs Bureaux and/or Customs Posts (Article 7, para. 4 of the Customs Act). The Territorial Directorate of the Customs Agency organizes, manages, controls and reports on the activities of the customs bureaux and/or customs posts included in the structure of the Territorial Directorate and, together with them, is the main executor of customs supervision and control. (Article 7, para. 7 of the Customs Act). The total number of staff in the territorial directorates of the Customs Agency ranges from 979 to 277 full-time positions as of 1.10.2021 according to the Administrative Register.

The customs authorities shall exercise customs supervision and control over the import and/or export of specimens of species referred to in Article 43a and Article 70 of the BDA into and out of the customs territory of the Republic of Bulgaria in accordance with the requirements of

Table 2 Competent administrative authorities, administrations and officials for administrative violations and crimes against wildlife

Administrative authority	Scope of administrative violations/offences for which it has responsibility	Types of powers	Organisational units and staff with functionality in countering administrative violations against wildlife
Administrative authorities and administrations			
Minister of Environment and Water / Ministry of Environment and Water	<p>Art. 125, Art. 127, Art. 128, Art. 128a, Art. 128c of the BDA</p> <p>Art. 81 of the PAA</p>	<p>The statements establishing violations shall be issued by officials appointed by the Minister of Environment and Water.</p> <p>Penal decrees shall be issued by the Minister for the Environment and Water or by persons authorised by him.</p>	<ul style="list-style-type: none"> • Directorate "National Nature Protection Service" at the central administration of the MOEW • Regional Inspectorates of Environment and Water (RIEW) • National Parks Directorates (NPDs)
Minister of Agriculture and Forestry / Ministry of Agriculture, Food and Forestry	<p>Art. 125, Art. 128c of the BDA</p> <p>Art. 84, Art. 85, Art. 86, Art. 90, Art. 90a HGCA</p> <p>Art. 64, Art. 65, Art. 67, Art. 70, Art. 73, Art. 74, Art. 81, Art. 83, Art. 88a of the FAA</p> <p>Art. 81 of the PAA</p>	<p>Violations under Article 125 and Article 128c of the BDA shall be established by an act of an official designated by the Executive Director of the EFA. Penal decrees shall be issued by the Minister of Agriculture, Food and Forestry or by persons authorised by him.</p> <p>Violations of the HGCA and by-laws, upon its implementation, are established by statements drawn up by officials of the EFA and its departments, the State forests, the State hunting farms and the Research and trial forests.</p> <p>Penal decrees shall be issued by the Minister of Agriculture, Food and Forestry or by officials authorised by him.</p> <p>Violations under the FAA shall be established by statements drawn up by officials designated by order of the Minister of Agriculture, Food and Forestry. Penal decrees for violations under the FAA shall be issued by the Minister of Agriculture, Food and Forestry or by officials authorised by him.</p>	<ul style="list-style-type: none"> • Executive Forest Agency (EFA) • Executive Agency for Fisheries and Aquaculture (EAFA) • State forests • State hunting farms • Research and trial forests

Administrative authority	Scope of administrative violations/offences for which it has responsibility	Types of powers	Organisational units and staff with functionality in countering administrative violations against wildlife
		Violations under Article 81 of the PAA shall be established by a statement of an official designated by the Minister of Agriculture, Food and Forestry or by the Executive Director of the EFA. Penal decrees shall be issued by the Minister of Agriculture, Food and Forestry or by officials authorised by him.	
Minister of the Interior / Ministry of the Interior	Art 84, Art. 85, Art. 86, Art. 90, Art. 90a of the HGCA Art. 85, Art. 85a, Art. 86 of the FAA	Violations of the HGCA, and the by-laws implementing it, shall be established by statements drawn up by authorised officers of the Ministry of the Interior. Penal decrees shall be issued by the Minister of Interior or by officials authorised by him. Violations detected during control activities under Art. 54, para. 1, second sentence of the FAA shall be established by statements of the officers of the Border Police Directorate General of the Ministry of Interior.	<ul style="list-style-type: none"> • General Directorate Border Police (GDBP) • Regional Directorates of the Ministry of the Interior
Minister of Finance / Customs Agency	All offences under the BDA relating to the import/export of specimens under Article 43a and Article 70 of the BDA Art. 233 of the Customs Act	The customs authorities shall carry out customs supervision and control for the importing and/or exporting of specimens of species under Article 43a and Article 70 of the BDA into and out of the customs territory of the Republic of Bulgaria. For each case of violation of the customs regime under the Customs Act, a statement establishing a customs violation shall be drawn up by the customs authorities. Penal decrees shall be issued by the Director of the Customs Agency or by officials designated by him.	•• Territorial Directorates

Administrative authority	Scope of administrative violations/offences for which it has responsibility	Types of powers	Organisational units and staff with functionality in countering administrative violations against wildlife
Regional governors/ regional administrations	Art. 125, Art. 128c of the BDA	Violations of the BDA shall be established by a statement of an official designated by the Regional Governor. Penal decrees shall be issued by the Regional governor or by persons authorised by him.	<ul style="list-style-type: none"> Administrative Control, Regional Development and State Property Directorate
Mayors/ municipal administrations	Art. 125, Art. 128c of the BDA Art. 81 of the PAA	Violations under the BDA shall be established by a statement of an official designated by the Mayor of the municipality. Penal decrees shall be issued by the mayor of the municipality or by persons authorised by him. Violations under the PAA shall be established by a statement of an official designated by the mayor of the municipality. Penal decrees shall be issued by the mayor of the municipality or by persons authorised by him.	<ul style="list-style-type: none"> Environment Directorate/Department

Administrative authorities and officials with investigative functions in pre-litigation criminal proceedings

Employees of the Ministry of Interior appointed to the post of "Investigating police officer"	Art. 237; Art. 238; Art. 242, para. 1, point h; Art. 278c; Art. 278d; Art. 278e of the Criminal Code	Investigating police officers undertake pre-litigation investigation in criminal cases - they carry out the procedural actions provided for in the Criminal Procedure Code for revealing the crimes, documenting and proving the guilt of the perpetrators.	<ul style="list-style-type: none"> Regional Directorates of the Ministry of Interior - investigating police officers
Employees of the Customs Agency appointed to the position of "Investigating Customs Inspector"	Art. 242, para. 1, point h of the Criminal Code	Investigating customs inspectors undertake pre-litigation investigation in criminal cases - they carry out the procedural actions provided for in the Criminal Procedure Code to detect crimes, document and prove the guilt of the perpetrators. The customs authorities may detain a person against whom there is evidence that he has committed an offence under Article 242 of the Criminal Code.	<ul style="list-style-type: none"> Territorial directorates – Investigating customs inspectors

the BDA, customs legislation and the requirements of:

- Regulation (EC) No 338/97 and Regulation (EC) No 865/2006;
- Regulation (EC) No 1007/2009 and Regulation (EU) No 737/2010;
- Regulation (EU) No 1143/2014. (Art. 86 of the BDA).

Mayors and regional governors

The Mayor of the Municipality manages the entire executive activity of the municipality (Art. 44, para. 1, item 1 of the Local Self-Government and Local Administration Act, LSGLAA). There are a total of 265 mayors of municipalities in Bulgaria as of 1.10.2021. The staffing of municipal administrations varies widely due to the significant differences in population and geographical scope.

The Regional Governor ensures the observance of the law on the territory of the district and exercises administrative control over the implementation of administrative acts (Art. 7, para. 1, item 6 of the Rules of Procedure of the Regional Administrations). The Directorate of Administrative Control, Regional Development and State Property of the regional administration coordinates and supports the implementation of activities in the field of environmental protection (Art. 17, item 17 of the Rules of Procedure of the Regional Administrations). In Bulgaria, as of 1.10.2021, there is a total of 28 regional governors. The total number of staff in the regional administrations ranges from 56.8 to 31 full-time positions as at 1.10.2021 according to the Administrative Register.

Officers with investigative functions in pre-litigation criminal proceedings

Employees of the Ministry of Interior, appointed to the position of “investigating police officer” and employees of the Customs Agency appointed to the position of “investigating customs inspector”, shall have the powers of investigating authorities within the framework of pre-litigation criminal proceedings (Art. 52, para. 1, item 2 of the Criminal Procedure Code).

b) The country's judicial system and procedures for offences related to wildlife conservation

As already stated, the main actors involved in criminal proceedings for wildlife crime are:

- in the framework of pre-litigation criminal proceedings - investigating police officers, investigating customs inspectors and prosecutors from the respective prosecution offices;
- in the judicial (litigious) phase of criminal proceedings - the prosecutors of the relevant prosecuting offices and judicial panels of the competent courts.

As regards cases of crimes against wild animals, the competent courts are as follows (Art. 35, paras. 1 and 2 of the Criminal Procedure Code):

- under Art. 237, paras. 1 and 2 of the CC - Regional court, respectively Regional Prosecutor's Office;
- under Art. 238, paras. 1, 2 and 3 of the CC - Regional court, respectively Regional Prosecutor's Office;
- under Art. 242, para. 1, point h of the CC – District court, respectively District Prosecutor's

Office;

- under Art. 278c, paras. 1 and 3 of the CC – District court, respectively District Prosecutor's Office;
- under Art. 278d, paras. 1, 2 and 3 of the CC – District court, respectively District Prosecutor's Office;
- under Art. 278e of the CC – District court, respectively District Prosecutor's Office.

Regional and District Courts

The judicial system of the Republic of Bulgaria comprises a total of 182 general and specialised courts. There are 113 regional courts and 28 district courts.

Judicial statistics produced by the Supreme Judicial Council on an annual basis²³ do not include separate data on cases of crimes against the environment and specifically against wildlife. Therefore, it is not possible to make generalised estimates of the workload of individual courts and prosecution offices.

There is no provision for functional specialization in the regional and district courts and prosecutor's offices regarding cases of crimes against the environment and, specifically, against wildlife. This is due to the legislator's chosen approach to functional specialisation only within criminal, civil and/or commercial divisions respectively, but not by type of crime.

Regional Courts

The Regional Court is the main court of first instance hearing civil and criminal cases. It has jurisdiction over all cases in the territory of the given judicial district, except those which are subject to the jurisdiction of the district court. Divisions may be set up in the regional court (Article 77, para. 2 of the Judiciary System Act). When divisions are established, a civil division and a criminal division are usually formed. In the criminal division, a different number of panels (chambers) are formed. As of 31.12.2020, according to the data of the Supreme Judicial Council, Sofia Regional Court²⁴ has the greatest number of employees and Malko Tarnovo Regional Court²⁵ the smallest. Typically, about 30-40% of the judges in the regional courts are assigned to the relevant criminal division and hear criminal cases. The regional court hears criminal cases, at first instance, in a panel of one judge when the offence is punishable by up to five years' imprisonment or another, lighter, penalty (Article 28, para. 1 of the Judiciary System Act).

District Courts

The District court, at first instance, shall hear criminal cases when composed of one judge and two court assessors (jurors), unless otherwise provided by law (Article 82, para. 1 of the Judiciary System Act). Divisions may also be set up in the district court (Art. 84, para. 2 of the Judiciary System Act). Usually a civil, a commercial and a criminal division are created. In the criminal division, a different number of panels (chambers) is formed. As of 31.12.2020, according to the

²³ Available online at: <http://www.vss.justice.bg/page/view/1082>

²⁴ A total of 886 permanent staff, including 207 judges.

²⁵ A total of 9 permanent staff, including 2 judges.

data of the Supreme Judicial Council, Sofia City Court ²⁶ has the highest number of employees and Kardzhali District Court the lowest²⁷. Usually about 30-40% of the judges in the district courts are included in the particular criminal division and hear criminal cases.

Regional and District Prosecutor's offices

The Public Prosecutor's Office of the Republic of Bulgaria is unified, and its structure is in line with that of the courts. The Public Prosecutor's Office consists of the Prosecutor General, the Supreme Cassation Prosecutor's Office, the Supreme Administrative Prosecutor's Office, the National Investigation Service, appellate prosecutor's offices, appellate specialised prosecutor's offices, military-appellate prosecutor's offices, district prosecutor's offices, specialised prosecutor's offices, military-district prosecutor's offices and regional prosecutor's offices. The district and specialised prosecutor's offices shall have investigative departments (Article 136, paragraph 1 of the Judiciary System Act). There are 36 regional prosecutor's offices and 77 territorial divisions, corresponding to the 113 regional courts. There are a total of 28 district prosecutor's offices, including the Sofia City Prosecutor's Office, which has the status of a district prosecutor's office. The organisational structure of each district or regional prosecutor's office is usually determined by order of the administrative head, which does not allow for an assessment of the internal structuring of the prosecutor's offices.

c) Other actors

N/A

d) Collaboration

A serious problem that emerged during interviews with all the members of the Advisory Group was the lack of structured cooperation between the different administrative control bodies, between them and the prosecution and between them and the investigating authorities. In some areas, prosecutors rated cooperation with administrative authorities as good. However, there are fewer examples of such cooperation, and they mainly relate to work with the Executive Forestry Agency.

Other respondents, however, gave examples of a lack of cooperation that led to an inability to continue the investigation.

This issue is discussed in more detail in section "VI.3. Effectiveness and problems at different stages of the fight against wildlife offences".

e) Shortcomings at organisational level

As a general conclusion, the following areas for improvement were identified through the review of the functions and structure of the administrations:

- There are a large number of cases in which administrative structures and officials of the MOEW, MAFF, MoI, mayors and/or regional governors have the competence to establish administrative violations and/or to issue penal decrees, without ensuring interagency coor-

²⁶ A total of 613 permanent staff, including 151 judges.

²⁷ A total of 29 permanent staff, including 9 judges.

dination;

- With few exceptions²⁸, no instructions have been adopted for joint control activities between the competent administrative authorities and administrations in the field of combating wildlife crimes;
- The functions of the RIEWs are not sufficiently staffed in the areas/departments of Biodiversity, Protected Areas and Zones;²⁹
- National Parks Directorates (NPDs) functions are not sufficiently staffed in the Control and Security Directorates;³⁰
- No functional specialization of MoI and Customs Agency officers in the field of administrative violations and wildlife crime is anticipated.
- Concerning the organization of the law enforcement bodies, the possibility of creating a specialized unit in the MoI analogous to the structural unit “Trafficking in Cultural and Historical Property” at the Organised Crime Combat Directorate General (OCCDG) – MoI, was noted.

Police representatives interviewed believe that there is a lack of well-trained personnel to deal exclusively with violations against nature and the environment.

There is a lack of technical support that would facilitate the investigation and prevention of wildlife violations, such as video surveillance, drone surveillance or monitoring for illegal methods of fishing with sonar on the Danube River. All interviewees who work on the Danube agreed that video surveillance should be introduced along the entire Danube coast.

There is a chronic shortage of rehabilitation centres for injured animals in the country which leads to problems for investigating authorities. The shortage of accommodation facilities for fish and aquatic organisms poses a particular problem when trafficking in European eel, live sturgeon or aquarium fish is detected. Pursuant to Article 4 of the Regulations for the operation of rescue centres, it applies only to temporary accommodation within the framework of administrative and penal proceedings under the BDA³¹ and there is no legal regulation for live animals as material evidence under the Criminal Procedure Code. It is necessary to amend the regulations on the activities of rescue centres in order to provide explicit rules for the cases referred to in Articles 110, para 4 and Art. 111, para. 1 of the Criminal Procedure Code³² where the material evidence in criminal proceedings is live specimens of plants or animals.

28 Directions for cooperation between the Ministry of Environment and Water, the Customs Agency and the Bulgarian Food Safety Agency to increase the effectiveness of controls on the introduction, trade, transit and export of specimens of endangered species of wild fauna and flora.

29 For example, in RIEW Blagoevgrad there are 6 employees in the Biological Diversity, Protected Areas and Zones Department. Only one of the functions of the Department is the control of the implementation of the Environmental Protection Act, the Protected Areas Act, the BDA, the Medicinal Plants Act, the Animal Protection Act and the Genetically Modified Organisms Act in accordance with the powers of the Director of the RIEW.

30 For example, the Control and Security Department of the Pirin National Park Directorate has 5 chief inspectors and 28 park guards. Pirin National Park covers over 40,000 hectares.

31 Pursuant to Art. 39, para. 2, item. 2, Art. 104, para. 1, item 1 and Art. 106, para. 1, item 3 of the BDA of live specimens of plants or animals for breeding or treatment.

32 The general provision of Art. 110, para. 4 of the CPC allows for material evidence which, due to its size or for other reasons, cannot be enclosed to the case, to be sealed if possible and left in storage in the places designated by the relevant authority. In such cases, the investigating authority shall, on the basis of Article 110, para.4 of the CPC and Article 111, para. 1 of the CPC, issue a ruling on the safekeeping of material evidence and, against receipt, leave it in the custody of the person where it was found or later left. The person shall be under an obligation to keep the items left with him and to provide them to the investigating authorities when requested to do so.

It was also noted that there were no facilities for storing carcasses or parts of killed animals to be preserved until needed. There is also a lack of a procedure for what is done with the carcass(es) of the specimen(s) concerned, once the need for it has ceased, and who is responsible for this action.

Some representatives of administrative control bodies pointed out that, in the procedure under Article 33, para. 2 in conjunction with Article 36, para. 2 of the AVSA, when the prosecutor has refused to initiate criminal proceedings and the file has been forwarded to the sanctioning authority, often the time limits for the imposition of administrative violations under Art. 34 of the AVSA have expired because the administrative authority has waited for the prosecutor's examination. According to prosecutors, deadlines for the examination of files under Article 33, paragraph 2 of the AVSA are respected and, accordingly, there should be no such problem. Also, according to one of the prosecutors, it is not always a question of identity between the act and the crime under investigation. In some cases, it is possible to impose an administrative penalty for an offence that is not part of the factual composition of the crime under investigation. The duplication of offences in administrative laws and in the Criminal Code, as well as the lack of well-structured cooperation between the administrative authorities and the prosecution, makes this assessment difficult.

Another issue raised by several interviewees was the low pay of expert witnesses and the long delay in receiving their fees. Because of this, many professionals refuse to be involved as expert witnesses.

In the administrative departments there is no provision for after-hours duty, which hinders cooperation between them and the police, and a large proportion of wildlife violations occur outside working hours and at weekends.

There are not enough monitoring activities for protected species in the country and, therefore, the data on populations are not analysed and these data may reveal the presence of violations and poaching. In general, there is a lack of structured and targeted data collection and analysis of wildlife crimes and violations at the institutional level in all responsible institutions. To the best of our knowledge, the current study is the first of its kind in Bulgaria.

There is no case law on the law on liability for the prevention and remediation of environmental

Table 3 Information on animals confiscated for the benefit of the State, released, handed over for treatment and care or stuffed, by the RIEW, the MOEW and NPD between 2016 and 2020

Year	Birds	Mammals	Reptiles	Amphibians	Others ¹
2016	427	93	13	0	2
2017	318	77	42	0	24
2018	374	82	64	0	3
2019	525	43	91	0	0

¹ Clothes of protected species, cans of sturgeon caviar, corals and pieces of corals are collectively described.

2020	445	12	34	0	0
Total	2089	307	244	0	29
Total without data on species²					2818

² RIEW Smolyan have submitted information for the period 2015-2020 in summary - 11 pieces, without specifying species. RIEW Stara Zagora reported 135 stuffed animals (a court decision from the same year was found, which refers to 119 stuffed animals dating back to the 1960s), without specifying the species. RIEW Montana did not provide species information at all. From NPD we have information on 3 animals.

damage to protected species.

VI. Analysis of infringements related to wildlife conservation

VI.1. Statistical analysis

a) Scale and types of recorded WLC offences

Presented here are the statistics collected through requests for access to public information sent to the Ministry of Environment and Water (MOEW), the Regional Inspectorates of Environment and Water (RIEWs), the National Parks Directorates (NPDs), the 36 Regional Prosecutor's Offices, the 28 District Prosecutor's Offices, the Customs Agency and the Executive Agency for Fisheries and Aquaculture. Information was also sought from the Ministry of the Interior, Directorate General "National Police", but was refused because the data were not collected in the requested format. Additionally, we also sought data from the Wildlife Rescue Centre-Green Balkans in Stara Zagora and the Centre for Rehabilitation and Reproduction of Tortoises of the Gea Chelonia Foundation, which are the two main rehabilitation centres for animals in the country. Data on illegally caught game was collected from the reports of the Executive Forestry Agency.

Data from the Regional Inspectorates of Environment and Water, the Ministry of Environment and Water and the National Park Directorates

Most of the mammals are of the order 'Bats'. A possible explanation for why they dominate the statistics may be related to their lifestyle - many of them form large aggregations and any impact can affect tens, hundreds, even thousands of individuals. One such impact is the renovation of buildings and large construction, especially in the winter period, where it is necessary to move colonies to carry out construction activities. Another threat is disturbance in caves, which can cause high mortality during hibernation.

The country is home to 33 of the 35 European bat species and they are widely distributed.

Among the biggest threats to their survival is the disappearance of their natural habitats due to improper forest management including the removing of old, hollow trees in which they live. Another problem is pesticides, as bats feed on insects and through their food also fall victim.

In the report from RIEWs we find information about only 4 brown bears, all found dead by RIEWs:

- Pazardzhik - 1 pc in 2016, 1 pc in 2017 and 1 pc in 2020.
- Sofia - 1 bear skull in 2017.

Court decisions and media monitoring reported 4 other cases of killed bears or bear tracks. This data strongly disagrees with reports received by experts in the field, as well as with national monitoring data, which show a decline in the population from 411 bears in 2016 to 329 bears in 2019. There is no evidence of an increase in natural mortality, so it is likely that human-caused mortality for the period in question exceeds a natural increase.

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It is also noteworthy that, in the statistics of the RIEWs (no data on chamois) and NPDs, there is only one chamois killed in Pirin National Park in 2017. By comparison, publications in the media and on the websites of nature conservation organizations in the same period report 21 killed. At the same time, poaching of chamois is described as a major threat to the conservation of the species in both the new action plan³³ that is being drafted and the document that expired in 2016.



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In reptiles, tortoises are most often affected. A big problem with tortoises is human interference. They are taken from the wild and kept as pets or attractions in restaurants. Sometimes tortoises fall victim to road traffic or mowing. According to the report³⁴ of the Rehabilitation and Reproduction Centre for Tortoises of the Gea Chelonia Foundation, 1,113 tortoises passed through the Centre during the same period, most of which were released into the wild. Some of the tortoises

³³ Action Plan for the Conservation of Balkan Chamois Populations 2019-2028 in Bulgaria, <https://rupicapra.sciencefornature.org/> (accessed on 04.11.2021)

³⁴ Gea Chelonia, "2020 - Challenges and Successes", 2021 <https://geachelonia.org/2020-otchet/> (accessed on 27.10.2021)

housed at the Centre have been handed over by the RIEWs.

The largest number of animals in the statistics of RIEWs are birds. Some of them have been handed over for treatment and care in the Wildlife Rescue Centre- Green Balkans in Stara Zagora. The organization's statistics show that, for the same period, 8,219 injured birds passed through the Centre. Moreover, since 2010, the number of birds passing through the Centre³⁵ has steadily increased, a possible indicator of increased anthropogenic pressure on birds in Bulgaria over the last 11 years. Another possible reason for this increase in cases could be better awareness and activity of citizens in reporting injured birds and referring them to the Centre.

In birds it is difficult to list all the possible reasons why they have been injured, but human activity is a major cause. The problems are related to shooting, poisoning, nest destruction, keeping wild birds as pets and motor traffic. There are also groups of birds that have died from avian influenza in the RIEWs data.

Prosecutor's Office

According to information provided by the prosecutor's offices, they have received 180 files for identifying signs of crimes. It is interesting to note that 115 of them are under the articles of the Criminal Code related to endangered animals and territories.

The number of case-files for illegal hunting is 42 and for illegal fishing, 13. Only 10 cases were received for potential customs offences.

Table 4 Number of case-files received pursuant to Art. 33, para. 2 of the AVSA for an indication/indications of a criminal offence

Type of offence	2016	2017	2018	2019	2020	2015-2020	Total
Art. 237	6	9	4	4	8	4	35
Art. 238	0	3	1	3	5	0	12
Art. 242, para. 1, point h	0	2	5	3	0	0	10
Art. 278c	4	6	2	6	10	0	28
Art. 278d	14	15	10	5	9	1	54
Art. 278e	3	6	1	2	3	0	15
Total	27	41	23	23	35	5	154

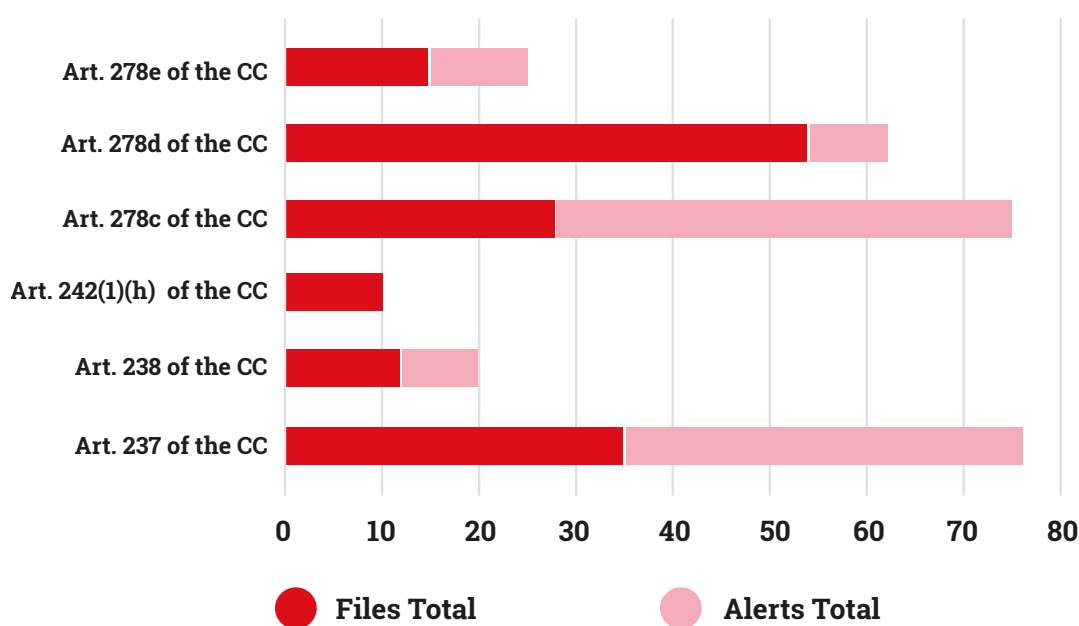
³⁵ The Centre was established in 1990-1991 and has maintained a database of its patients since then.

Citizens and legal entities have sent 114 alerts/ reports to the prosecutor's office. The reports are mainly for illegal hunting or for destruction or damage of a protected area. The latter crime has seen an interesting increase in recent years from 9 alerts in 2016 to 15 alerts in 2020. Illegal hunting, on the other hand, has seen a decrease from 14 alerts in 2016 to only 4 alerts in 2020, which may also be due to the COVID-19 pandemic.

Table 5 Number of reports received from citizens and NGOs under Article 209 of the Criminal Procedure Code on an indication/ indications of a criminal offence

Type of offence	2016	2017	2018	2019	2020	2015-2020	Total
Art. 237	14	5	3	7	4	8	41
Art. 238	0	2	0	2	4	0	8
Art. 242, para. 1, point h	0	0	0	0	0	0	0
Art. 278c	9	5	7	11	15	0	47
Art. 278d	1	0	1	1	5	0	8
Art. 278e	0	2	1	4	3	0	10
Total:	24	14	12	25	31	8	114

Figure 1 Total number of alerts and files received by type of wildlife crime for the period 2016-2020



b) Results of prosecution, pre-litigation proceedings and administrative violations

Regional Inspectorates of Environment and Water and National Park Directorates:

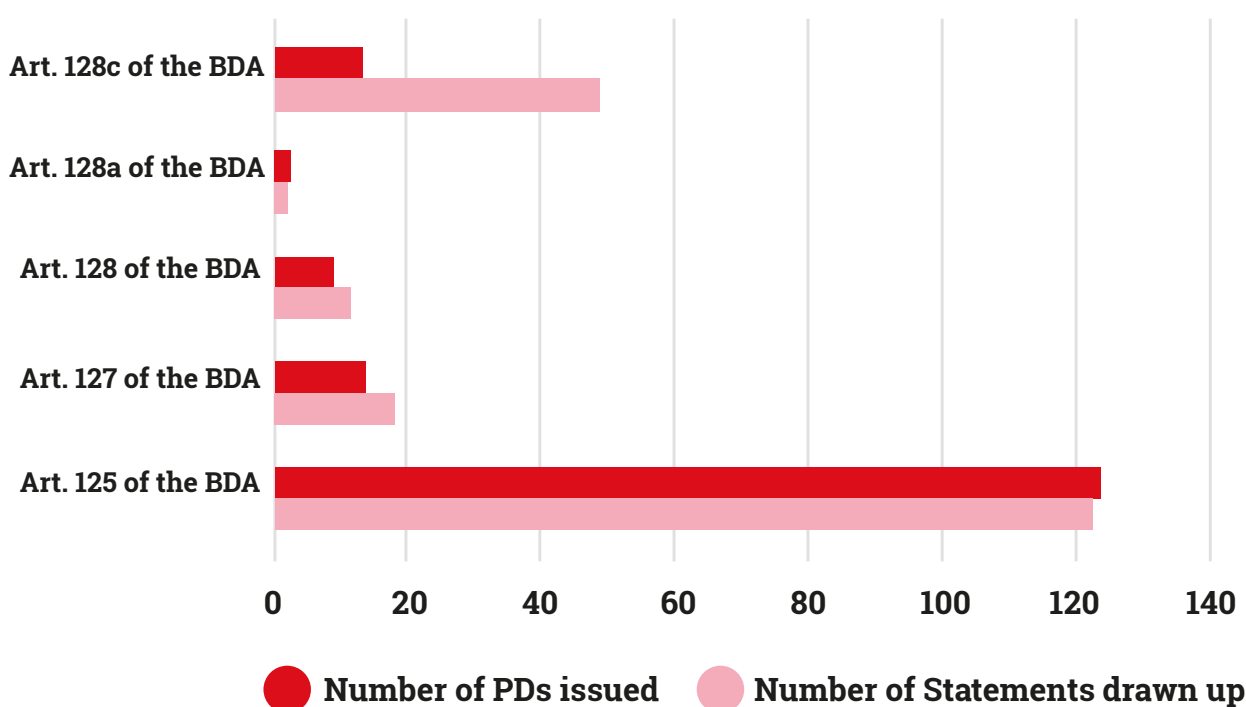
In the period 2016-2020, the regional inspectorates issued 204 statements establishing an administrative violation³⁶ and 163 penal decrees. The highest number of administrative violations was registered in Haskovo, Sofia and Plovdiv.

It is noteworthy that 124 out of all 163 penal decrees were issued under Article 125 of the BDA, which refers to the capture, killing, pursuit, disturbance, possession, breeding, transportation, movement, export abroad and trade in specimens of protected and/or regulated species. Penal decrees were issued for 5.78%³⁷ of the animals affected and their registered products. Again Sofia, Plovdiv and Haskovo have the highest number of administrative violations. Significantly fewer penal decrees (13) were issued under Article 128c of the BDA compared to the number of statements establishing an administrative violation (49). The reasons for this discrepancy should be analysed.

Regional Inspectorates of Environment and Water and National Park Directorates:

In the period 2016-2020, the regional inspectorates issued 204 statements establishing an administrative violation and 163 penal decrees. The highest number of administrative violations was registered in Haskovo, Sofia and Plovdiv.

Figure 2 Number of statements establishing an administrative violation (SEAVs) drawn up and penal decrees (PDs) issued by the RIEW for the period 2016-2020 by type of administrative violation



³⁶ Pursuant to Art. 125, Art. 127, para. 1, Art. 128, Art. 128a and Art. 128c of the BDA

³⁷ The percentage is indicative, as not all cases recorded by the RIEW are offences.

It is noteworthy that 124 out of all 163 penal decrees were issued under Article 125 of the BDA, which refers to the capture, killing, pursuit, disturbance, possession, breeding, transportation, movement, export abroad and trade in specimens of protected and/or regulated species. Penal decrees were issued for 5.78% of the animals affected and their registered products. Again Sofia, Plovdiv and Haskovo have the highest number of administrative violations. Significantly fewer penal decrees (13) were issued under Article 128c of the BDA compared to the number of statements establishing an administrative violation (49). The reasons for this discrepancy should be analysed.

When indications of a crime are found, the RIEWs send the file to the Prosecutor's office³⁸. The responses from the RIEWs are in a variety of formats and the inspections maintain the information sought in different ways. Therefore, the data on files sent to the prosecution are inaccurate. For example, in the response of RIEW Haskovo there is no information on how many files have been sent to the prosecutor's office, but there are data on the pre-litigation proceedings initiated and the files returned. RIEW Ruse, on the other hand, has no information on the pre-litigation proceedings initiated. **In the answers received there are data for 54 files, and the Prosecution has returned 28 files for administrative proceedings under Article 36, para. 2 of the AVSA, due to lack of evidence of a crime under the articles listed. 17 pre-litigation proceedings were initiated.**

The directorates of the three parks sent 2 files to the prosecutor's office, which did not return any of them for administrative proceedings.

It is indicative that information on wildlife offences is not collected in a uniform manner. This makes the assessment of the situation almost impossible, and hence there is no analysis of the follow-up steps to counteract violations more effectively.

Executive Agency for Fisheries and Aquaculture (EAFA)

The information requested from EAFA relates to prohibited fishing gear, equipment and devices - Article 73 of the FAA (fishing with prohibited gear, equipment and devices) and Article 74 of the FAA (fishing with particularly dangerous prohibited gear, equipment and devices).

Table 6 Data from the EAFA on administrative violations and penalties issued under Articles 73 and 74 of the FAA

Year	Statements establishing an administrative violation drawn up under Article 73 of the FAA	Penalty Decrees issued under Article 73 of the FAA	Statements establishing an administrative violation drawn up under Art.74 of the FAA	Penalty Decrees issued under Article 74 of the FAA
2016	33	33	4	5
2017	24	23	6	8
2018	40	40	10	7
2019	44	42	4	4
2020	49	48	0	1
Total	190	186	24	25

³⁸ Under Art. 238, paras. 1, 2 and 3 of the CC, Art. 242, para. 1, item of the CC, Art. 278c, Arts. 1 and 3 of the CC, Art. 278d, paras. 1, 2 and 3 of the CC, and Art. 278e of the CC

This includes both prohibited means of catching economically important species and endangered species (in the case of the hook lines - long lines with hooks and weights that are placed on the bottom of the river Danube and are used only for inhumane illegal catching of critically endangered sturgeon).

During the same period, 6 pre-litigation proceedings were initiated on files sent to the Executive agency and 23 files were returned by the Prosecutor's office for administrative proceedings. The fines imposed are described in the section "Sanctions".

WWF Bulgaria's 2021 research on the sturgeon products market and offence data in Bulgaria show that, over the same period, law enforcement in Bulgaria found 594 hook lines³⁹.

Table 7 Number of hook lines detected by EAFA and "Border Police" Directorate General for the period 2016-2020

Year	2016	2017	2018	2019	2020	Total
Number	50	26	86	172	260	594

Their total reported length (excluding 119 jigs for which no length is given) is 23,450 metres. However, only 3 sturgeon captures were recorded for the same period. The data from the other countries in the study (Romania, Serbia and Ukraine) differ greatly from the Bulgarian data and further analysis is needed to determine what accounts for the difference between detected and seized hook lines and the low number of recorded offences of endangered species.

Customs Agency

The Customs Agency provided information only by number of violations, and not by biological species. For the period one statement establishing an administration violation and two penal decrees were issued in connection with the import and/or export of specimens of species under Article 43a and Article 70 of the BDA, for one of which a pre-litigation procedure was initiated and completed in 2019.

Prosecutor's Office

The Prosecutor's Office has initiated 392 pre-litigation proceedings for crimes against wildlife in 5 years, with nearly 60% of them for illegal hunting and fishing (Arts. 237 and 238 of the Criminal Code). There is only one pre-litigation proceeding for a customs offence in 2019 – aggravated customs smuggling - as can be seen from the data of the Customs Agency. 74 are pre-litigation proceedings for damage to protected areas and habitats and 63 are related to endangered animals. In both illegal hunting and pre-litigation proceedings for damage to protected areas and habitats, there has been an increase in the number of pre-litigation proceedings initiated since 2016. On the other hand, there has been a decline in pre-litigation proceedings under Article 278d of the Criminal Code. Comparatively, the Prosecutor's office has initiated significantly more pre-litigation proceedings than the number of reports and files received for illegal hunting and fishing (Articles 237 and 238 of the Criminal Code).⁴⁰ Conversely, pre-litigation proceedings

³⁹ "Wild sturgeon trade continues despite bans" - https://wwfeu.awsassets.panda.org/downloads/market_survey_bg_web.pdf

⁴⁰ A coefficient of respectively 2.43 for Art. 237 of the Criminal Code and 2.40 for Art 238 of the Criminal Code.

initiated for aggravated customs smuggling under Art. 242, para. 1, point h of the Criminal Code and for unlawful destruction, damage, acquisition, possession or appropriation of a specimen of a protected species under Article 278d of the Criminal Code are significantly fewer than the number of reports and files received.⁴¹

Table 8 Number of decrees issued for initiation of pre-litigation proceedings under Article 212, paragraphs 1 and 2 of the CPC

Type of offence	2016	2017	2018	2019	2020	2015-2020	Total
Art. 237	28	26	24	22	32	53	185
Art. 238	5	6	5	3	10	19	48
Art. 242, para. 1, point h	0	0	0	1	0	0	1
Art. 278c	11	10	11	17	25	0	74
Art. 278d	9	5	7	4	6	1	32
Art. 278e	5	8	3	7	8	0	31
*Arts. 237 and 238						21	21
Total:	58	55	50	54	81	94	392

The Prosecutor's Office has refused to initiate 127 pre-litigation proceedings, most of which are under Article 278d of the Criminal Code (endangered animals), followed by Article 238c (protected areas). The number of refusals to initiate pre-litigation proceedings for illegal hunting and fishing was significantly lower.

Table 9 Number of decrees for refusal to initiate pre-litigation proceedings under Article 213, para. 1 of the Criminal Procedure Code

Types of offences	2016	2017	2018	2019	2020	2015-2020	Общо
Art. 237	2	3	4	4	9	6	28
Art. 238	1	3	5	4	6	2	21
Art. 242, para. 1, point h	0	0	1	1	0	0	2
Art. 278c	2	6	4	5	10	0	27
Art. 278d	8	9	8	5	8	0	38
Art. 278e	1	5	2	2	1	0	11
Total:	14	26	24	21	34	8	127

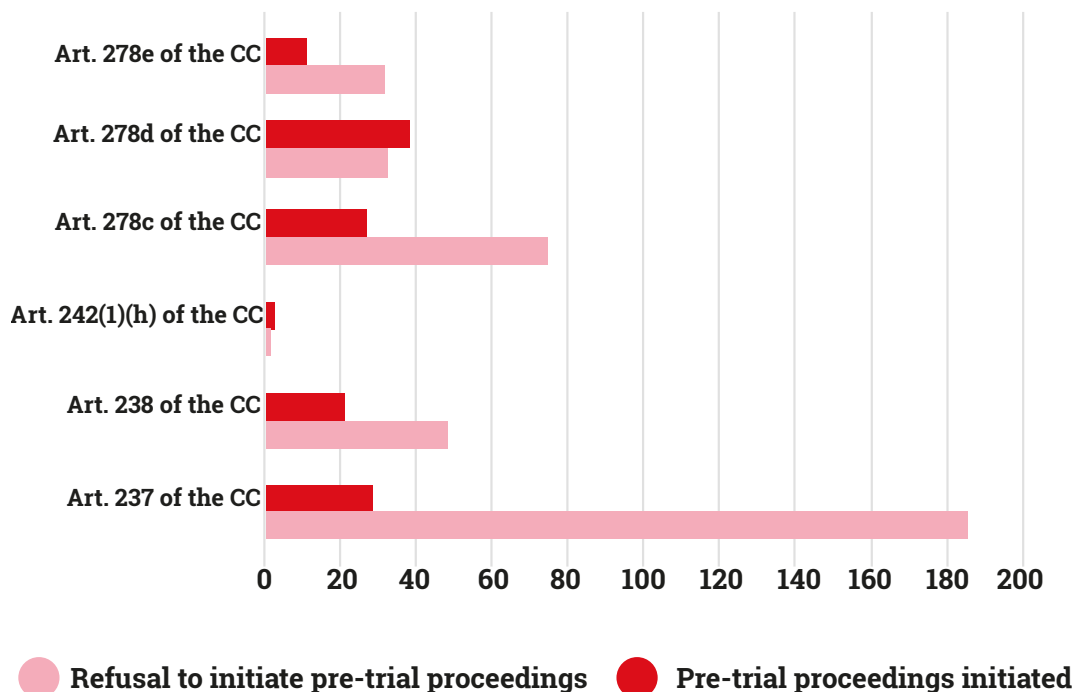
41 A coefficient of respectively 0.1 for Art. 242, para. 1, point h of the Criminal Code and 0.52 for Art. 278d of the Criminal Code.

Comparatively, decrees for refusal to initiate pre-litigation proceedings compared to those for initiation of pre-litigation proceedings are the highest for aggravated smuggling under Art. 242, para. 1, point h of the Criminal Code⁴² and in cases of unlawful destruction, damage, acquisition, possession or appropriation of a specimen of a protected species under Article 278d of the Criminal Code⁴³. **This high ratio may be a sign of practical difficulties in the investigation, and/or insufficient capacity of the control authorities to identify the signs of these types of crimes.**

The difference in practice between offences against economically important species and protected species is particularly evident in the following table describing those charged with an offence. **Of the 113 decrees, 83 were for illegal hunting and fishing, 3 were for offences relating to protected areas, and 27 were for protected species.**

The ratio of decrees defining an accused person(s) to pre-litigation proceedings is highest for illegal hunting and fishing⁴⁴, and for unlawful destruction, damage, acquisition, possession, appropriation of a specimen of a European or globally threatened wild vertebrate or under Appendix No. 3 to the BDA⁴⁵. With a very low ratio of decrees defining an accused party (parties) to pre-litigation proceedings initiated are customs smuggling offences⁴⁶ and unlawful destruction or damage of a protected area⁴⁷. This may be due to practical difficulties in the investigation, and/or insufficient capacity of the investigating authorities to investigate these types of offences.

Figure 3 Number of decrees for the initiation of pre-litigation proceedings and number of decrees for refusal to initiate pre-litigation proceedings on the basis of Article 213, para. 1 of the CPC



42 Coefficient of 2.

43 Coefficient of 1.19.

44 A coefficient of 0.31 for Art. 237 of the CC and 0.40 for Art. 238 of the CC.

45 A coefficient of 0.52 for Art. 278e of the CC.

46 A coefficient of 0 for Art. 242, para. 1, point h of the CC.

47 A coefficient of 0.04 for Art. 278c of the CC.

The ratio of decrees for constituting an accused party for illegal hunting and fishing versus crimes against protected species and protected areas is 75% to 27%. There has been an increase in the number of decrees issued for defining accused parties for illegal hunting in recent years compared to 2016. There have been no indictments for aggravated smuggling since 2019. Of the 113 charges brought, only 17 resulted in convictions and penal decrees for endangered species and only 3 related to protected areas and habitats⁴⁸.

Table 10 Number of decrees issued pursuant to Article 219 of the CPC for defining a person/persons as an accused for a criminal offence

Type of offence	2016	2017	2018	2019	2020	2015-2020	Total
Art. 237*	6	6	5	8	11	21	48
Art. 238*	5	0	0	5	6	3	19
Art. 242, para. 1, point h	0	0	0	0	0		0
Art. 278c	0	0	0	3	0		3
Art. 278d	5	0	3	0	1	2	11
Art. 278e	3	6	2	3	2		16
* The Regional Prosecutor's Office of Stara Zagora has aggregated the data for Articles 237 and 238	0	0	0	0	0	7	7
Total:	19	12	10	19	20	24	113

In the period under review, 182 pre-litigation proceedings were terminated under Article 243 of the Criminal Procedure Code, most of them under Article 237 of the CC for illegal hunting. The next group is under Article 278c, for damage or destruction of a protected area or habitat. 40 decrees related to protected animals were terminated. On a comparative basis, the ratio of decrees for termination (under Article 243 of the CPC) to decrees for initiation of pre-litigation proceedings is the highest for customs smuggling⁴⁹ and unlawful destruction, damage, acquisition, possession or appropriation of a specimen of a protected species⁵⁰.

Table 11 Total number of decrees for termination of criminal proceedings pursuant to Article 243 of the CPC, where pre-litigation proceedings have been initiated on reasonable suspicion that a criminal offence has been committed

Type of offence	2016	2017	2018	2019	2020	2015-2020	Total
Art. 237	10	19	15	15	22	6	88
Art. 238	1	5	2	2	4	3	17

48 A coefficient of 1 for Art. 242, para. 1, point h of the CC.

49 A coefficient of 0.84 for Art. 278d of the CC.

50 A coefficient of 0.35 for Art. 238 of the CC.

Art. 242, para. 1, point h	1	0	0	0	0	0	1
Art. 278c	5	5	9	4	16	0	43
Art. 278d	4	4	8	4	7	0	27
Art. 278e	2	1	2	3	5	0	13
Total:	26	35	36	28	54	10	182

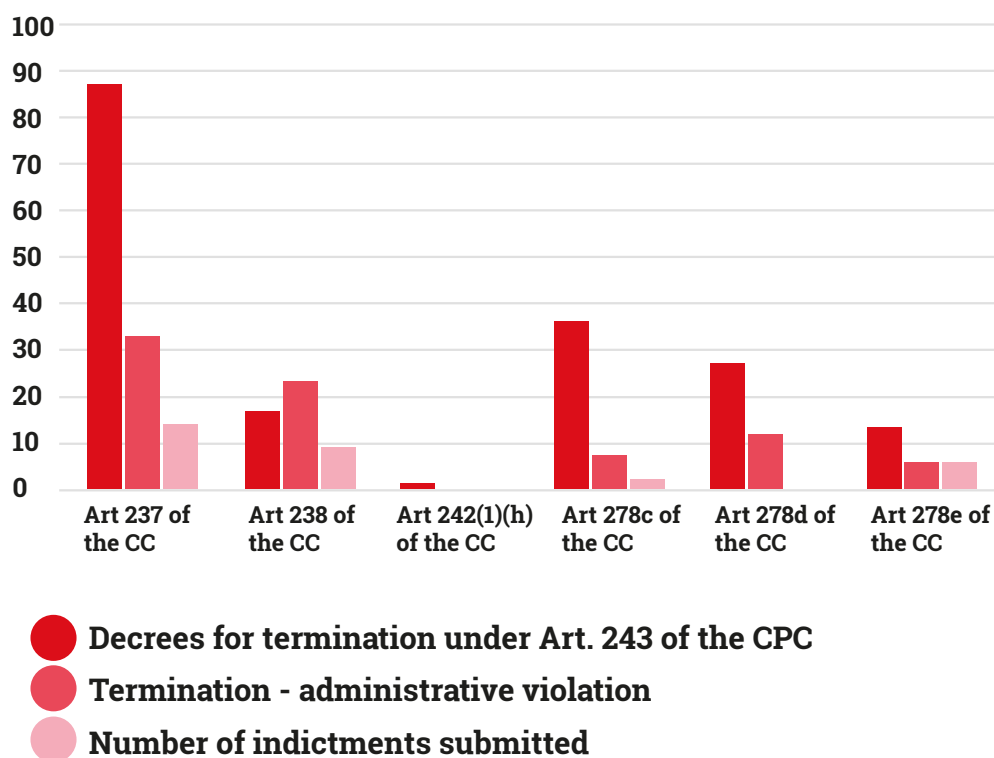
A further 81 pre-litigation proceedings were discontinued as the offence was defined as an administrative one. There was an increase in 2020, when a total of 17 proceedings were discontinued under all the articles listed, compared to 4 in 2016. There is a high proportion of terminations under Article 24, para. 1, item 1 of the Criminal Procedure Code compared with decrees to initiate pre-litigation proceedings for illegal fishing⁵¹.

Table 12 Number of decrees for termination of criminal proceedings on the grounds of Art. 24, para. 1, item 1 of the CPC on the grounds that the offence constitutes an administrative one, where pre-litigation proceedings were initiated on the grounds that a that a criminal offence had been committed

Type of offence	2016	2017	2018	2019	2020	2015-2020	Total
Art. 237	0	2	3	1	5	22	33
Art. 238	1	2	1	2	5	12	23
Art. 242, para. 1, point h	0	0	0	0	0	0	0
Art. 278c	1	1	0	1	4	0	7
Art. 278d	1	1	5	3	2	0	12
Art. 278e	1	2	1	1	1	0	6
Total:	4	8	10	8	17	34	81

⁵¹ A coefficient of 0.35 for Art. 238 of the CC.

Figure 4 Total number of decrees for termination of criminal proceedings under Article 243 of the CPC, number of decrees for termination of criminal proceedings pursuant to Article 24, para. 1, item 1 of the CPC on the grounds that the offence constitutes an administrative one and number of indictments drawn up and submitted to Court.



Available data show that 32 indictments have been filed in court. The main charges are for illegal hunting and fishing. No indictments have been filed for customs offences and there have been no indictments for damage to protected areas or habitats in the last 3 years. For all 5 years there were no indictments under Article 278e for protected species, but there were 6 indictments under Article 278e for European and globally threatened species listed in Appendix 3 of the BDA.

Table 13 Number of indictments drawn up and submitted to Court

Type of offence	2016	2017	2018	2019	2020	2015-2020	Total
Art. 237	4	3	1	1	2	3	13
Art. 238	1	1	1	1	2	3	9
Art. 242, para. 1, point h	0	0	0	0	0	0	0
Art. 278c	1	1	0	0	0	0	2
Art. 278d	0	0	0	0	0	0	0
Art. 278e	1	1	1	3	0	0	6
*Art. 237 and Art.238						1	1
Total:	7	6	3	5	4	6	32

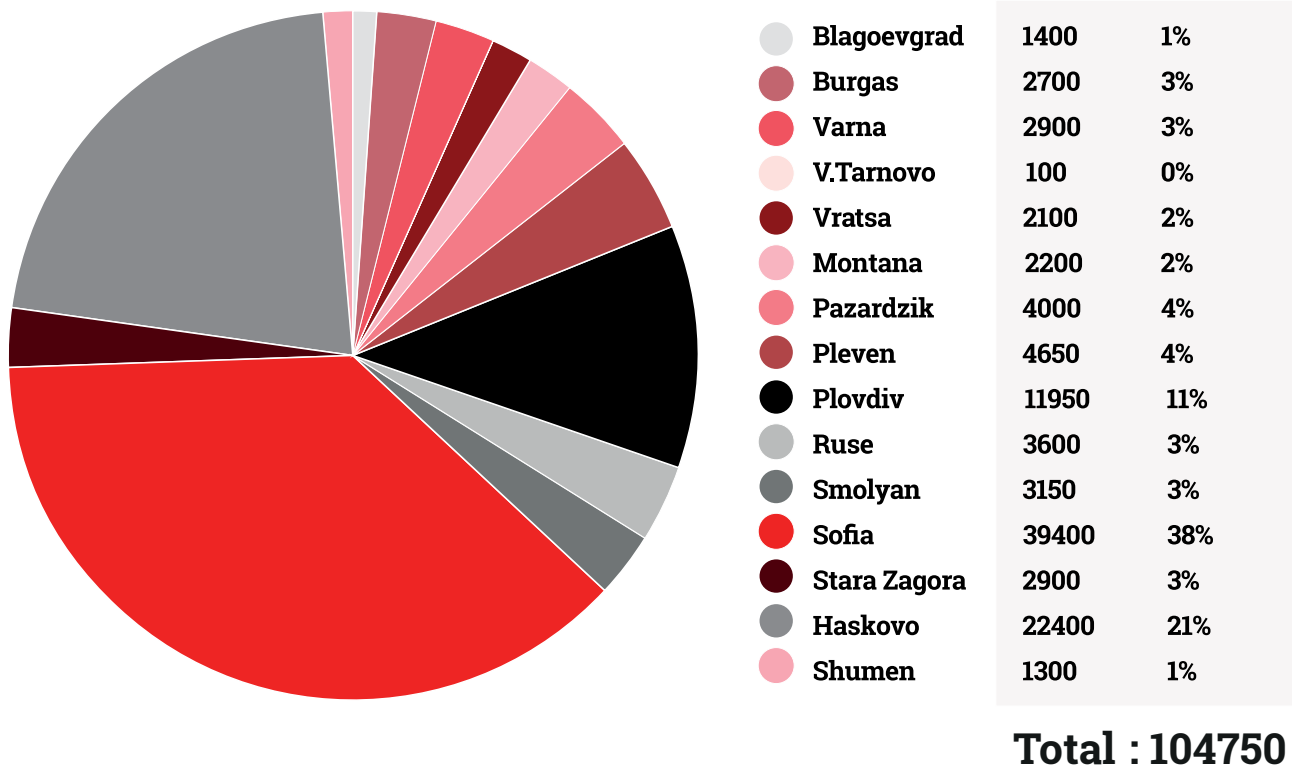
c) Sanctions

Regional Inspectorates of Environment and Water:

Fines imposed by the RIEWs for the period 2016-2020 for the whole country amounted to 104,750 BGN, 70% of which were imposed by 3 regional inspectorates - Sofia, Haskovo and Plovdiv. There are no data on fines imposed by NPDs.

Table 14 Fines imposed by RIEW

RIEW	Total fines (BGN)
Blagoevgrad	1400
Burgas	2700
Varna	2900
Veliko Tarnovo	100
Vratsa	2100
Montana (2015-2020)	2200
Pazardzhik	4000
Pleven	4650
Plovdiv	11 950
Ruse	3600
Smolyan (2015-2020)	3150
Sofia	39 400
Stara Zagora	2900
Haskovo	22 400
Shumen	1300
Total	104 750



Executive Agency for Fisheries and Aquaculture

For the period 2016 -2020, the EAFA imposed fines, under Article 73 of the FAA, in the amount of 258,700 BGN, and under Article 74 of the FAA of 106,200 BGN. The total value of the fines is BGN 364,900 and is almost 3.5 times higher than the fines imposed by the RIEWs.

Information gathered for the study “Trade in sturgeon products continues despite bans”, published by WWF Bulgaria, shows that fines of BGN 4,500 were imposed in two cases of illegal sturgeon fishing. For the third case of illegally caught sturgeon, found during an inspection, no information is available on the amount of the fine.

Prosecutor’s Office

The data of Prosecutors’ offices reveal that nearly half of the 68 convictions and penal decrees are under Article 237 of the Criminal Code for unlawful killing or the catching of game, and the next largest group are convictions and penal decrees for illegal fishing. The highest number of convictions and penal decrees for illegal hunting occurred in 2020. 11 convictions were for unlawful destruction, damage, acquisition, possession, appropriation of a specimen of European or globally threatened wild vertebrates or a specimen of a species listed in Appendix 3 to the BDA. A decrease is observed between 2016 and 2020. Another 6 are for unlawful destruction, damage, acquisition, possession, appropriation of a specimen of a protected species of wild flora or fauna. Only 3 convictions were issued for intentional unlawful destruction or damage of a protected area or habitat. There are no convictions or penal decrees for aggravated smuggling.

Table 15 Number of convictions and penal decrees at first instance

Crimes under the Criminal Code	2016	2017	2018	2019	2020	2015-2020	Total
Art. 237	9	7	3	2	8	3	31
Art. 238	0	3	0	3	1	9	16
Art. 242, para. 1, point h	0	0	0	0	0	0	0
Art. 278c	0	3	0	0	0	0	3
Art. 278d	3	0	2	0	1	0	6
Art. 278e	4	2	2	2	1	0	11
Total:	15	15	7	7	11	12	68

A total of 42 cases were proposed for exemption from criminal liability, again most of them under Article 237 and Article 238 of the Criminal Code. The highest number of proposals was made for offences of illegal hunting and, for all offences in general, the highest number of proposals for discharge of the accused from criminal liability with imposition of an administrative penalty in 2020.

Table 16 Number of decrees issued and submitted to the Court pursuant to Article 375 of the Criminal Procedure Code proposing to release the accused from criminal liability by imposing an administrative penalty

Type of offence	2016	2017	2018	2019	2020	2015-2020	Total
Art. 237	6	5	3	2	9	9	33
Art. 238	0	1	0	1	1	2	5
Art. 242, para. 1, point h	0	0	0	0	0	0	0
Art. 278c	0	1	1	0	0	0	2
Art. 278d	0	0	0	0	2	0	2
Art. 278e	0	0	0	0	0	0	0
*Arts. 237 and 238							0
Общо:	6	7	3	3	12	11	43

In comparative terms, the ratio of convictions and penal decrees to the total number of pre-litigation proceedings initiated shows that the highest proportion of convictions and penal decrees is for illegal fishing⁵² and for illegal destruction, damage, acquisition, possession, appropriation of a specimen of European or globally threatened wild vertebrates or a specimen of a species listed in Appendix 3 to the BDA⁵³. The ratio of the two indicators is lowest for aggravated smuggling⁵⁴ and for unlawful destruction or damage to a protected area⁵⁵. For these two types of offence, an in-depth analysis of the reasons for the extremely low number of indictments and, respectively, convictions and sentences at first instance should be carried out.

Information from Court decisions found

Part of the information collected by the research team includes court decisions published in the unified e-Justice portal and accessible through the APIS platform. The search was carried out using relevant articles of the Criminal Code and keywords - the most common animals, victims of poaching or according to media publications. Sixty-two court decisions were found, of which 23 were criminal cases under the CPC. The remaining 39 were appeals against administrative penalties. Of the criminal cases, 13 resulted in the release of the accused from criminal responsibility with the imposition of a fine, while the remaining 9 sentences were suspended. For one of the cases, information on the final outcome is not available, as the case was sent back at least 4 times for review by different panels (chambers), according to the available court decisions, and the last decision was not published. The case is notorious in conservation circles and will be discussed further in section "VI.2. Analysis of sample cases".

Total fines imposed by the Court amount to BGN 25,500. Seven of the cases are under Article 237 of the CC, 3 under Article 238 of the CC, and all three are for illegal fishing in the Srebarna Reserve. One case, which resulted in a settlement, was initiated on charges under Article 242, para. 1, point "h" for a customs offence. Of the remaining 12 cases, 4 were charged under Article 278d and 8 under Article 278e.

d) Accessibility, completeness and consistency of data

As described in the survey methodology, requests for access to public information that we sent to the institutions were the same for each territorial division, but the responses we received were in different formats and with different levels of detail.

It is impossible to calculate what percentage of judgments, orders, records and out-of-court settlements are published and publicly available. Therefore, it is also impossible to estimate what percentage of all wildlife crime lawsuits have been found by the team and how many remain unknown to us.

More information on the specifics of the data collected, the scope of the Project, and the sources used is presented in Chapter III.3.

52 A coefficient of 0.33 for Art. 238 of the CC.

53 A coefficient of 0.35 for Art. 278e of the CC.

54 A coefficient of 0 for Art. 242, para. 1, point h of the CC.

55 A coefficient of 0.04 for Art. 278c of the CC.

e) Trends and regional differences (if identified)

- As can be seen from the statistics, birds are the most frequently injured animals, but this is not always the case in crimes or offences.
- In the case of tortoises, the problem is most often illegal collection from the wild for pets and, less often, for food or because of false traditional beliefs about the medicinal properties of their blood.
- There is a big discrepancy between the number of killed brown bears and chamois (protected species) known to scientists, experts in nature conservation organizations and reported in the media, and the cases actually registered by State authorities.
- A similar discrepancy exists for red deer, which, on the one hand, are subject to highly regulated hunting and, on the other, constitute a protected species under the Bern Convention ratified by Bulgaria - Appendix III.

f) Results of additional national surveys beyond the general methodology (if applicable)

WWF Bulgaria conducts various studies related to illegal activities against wildlife, which are not covered in this Report.

Recommendations to combat illegal logging can be found on the website of WWF Bulgaria.

More information on the sturgeon products market study and training materials for law enforcement and outreach materials are also posted on the website of the project "Life for Danube Sturgeons".

VI.2. Analysis of sample cases

a) Example of good practice

WWF Bulgaria's study on sturgeon offences, cited above, shows positive results in a relatively short period - from 2016 to 2020 - achieved through prioritisation of control and increased enforcement. Thanks to more frequent and targeted inspections by the Eafa and the Border Police separately, as well as their joint actions, more than 23 km of hook lines have been removed from the Danube. What is more, each year the controlling authorities are taking out more and more ropes - from 50 pcs in 2016 to 260 pcs in 2020.

At the same time, there are only 3 cases in which the controlling authorities have detected sturgeon fishing and not the use of illegal hook lines. One of these cases is described here, as it shows good practice in cooperation between inspectors and experts in the field and has a live endangered animal caught.

On 19 February 2019, an Eafa inspector observed a fisherman catch a large Beluga Sturgeon, pull it out of the river in his boat and load it into the trunk of his car. The inspector called for assistance at the regional MoI office, where they arranged for passing vehicles to be stopped for inspection in the area. This is how they caught the fisherman and found the live fish in the boot of the car.

WWF Bulgaria's Water Programme Manager Stoyan Mihov received a call from the EAFB inspector about the Beluga Sturgeon⁵⁶ as it suffered injuries during the hunt. Together with the expert ichthyologist Borislava Margaritova and the ecologist from the nature park "Persina" Veselin Koev, they went immediately from Belene to the village of Aydemir, municipality of Silistra, to provide first aid to the injured animal. The Beluga Sturgeon entered the river Danube to spawn, but there became a victim of illegal fishing. After carefully treating her wounds and fitting her with a tracking chip, the rescue team released the Beluga Sturgeon back into the river. Her fate remains unclear as no further signal from her tracking device has been detected. She may not have survived due to her wounds and stress and may have been recaptured. There is also a small possibility that her signal was not detected by the receivers but that she managed to return to the Black Sea to recover.



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⁵⁶ Sturgeons are the most endangered family of animals in the world, according to the IUCN Red List. Some of the world's last reproducing populations of sturgeons live in the Black Sea and migrate to the Danube River, where they spawn. It is the demand for black caviar that is one of the main reasons for the declining numbers of this ancient species. There is a ban on catching and selling wild sturgeons throughout the Black Sea basin, but poaching continues.

Pre-litigation proceedings were initiated for a crime⁵⁷ under Article 238 of the Criminal Code, within the framework of which Stoyan Mihov prepared a forensic- ichthyological and pricing expert report for the Police Department of the Ministry of Interior-Silistra. The price assessment is based on the market prices of legally sold caviar produced in Bulgarian aquaculture facilities, as well as on an expert assessment of the price of the meat and fish caviar on the black market. Such an approach could be developed as a methodology for assessing the value of endangered wildlife products so that prosecutors, investigators and the courts have a clearer picture of the economic, as well as the environmental, consequences of an offence.

The supervising prosecutor considered that the fisherman's actions did not constitute a crime, but were a violation of Art. 124, para. 1 of the BDA. "By Decree of 20.05.2019, the criminal proceedings were terminated, and the materials sent to the head of EAFA – Ruse which is the competent authority pursuant to Art. 130 para. 1 of the Biological Diversity Act⁵⁸." Two fines of a total amount of BGN 2,500 have been imposed by Penal Decree No. 19-13/13.06.2019. The person penalised appealed against the fines in the Silistra Regional Court, which confirmed them by reclassifying one of the administrative offence committed from Art. 33, para. 3 of the FAA to the violation of Art.33, para. 1 of the FAA. The Decision⁵⁹ of the Regional Court was also appealed, but the Administrative Court of Silistra⁶⁰ upheld it.

Hypothetically, if the supervising prosecutor had decided that the act constituted a crime and the Court had found the defendant guilty, the possible penalty would have been imprisonment of up to 6 months, probation and a fine of 5,000 to 10,000 BGN.

b) Example of more challenging cases

The following case is notorious in conservation circles, as the court hearings lasted from March 2010 to August 2017 and, according to available information, ended with the termination of criminal proceedings without a conviction. On 27.03.2010 in the town of Vidin at the checkpoint, Feriboti - Vidin, S.G.G. was detained. He was trying to smuggle 2 hawk eagles (*Hieraetus fasciatus*)⁶¹ across the border with forged Ministry of Environment and Water certificates, pretending to be a member of the environmental organization Green Balkans team. The customs inspector, who had attended the organization's training, doubted the version provided and determined, through several phone calls, that S.G.G. did not work for the Organization. The eagles were confiscated and placed in the Wildlife Rescue Centre-Green Balkans in Stara Zagora, where they remained until 2017. Information on the development of the case was gathered from the 8 published Court decisions and rulings, but there are several missing court decisions that are not available in Apis or the e-Justice portal.

The first published decision is Judgment No. 40 of 8.10.2014 of the District Court - Vidin in criminal case of a general nature No 340/2013, in which it is stated that the case was initiated on a third indictment, as two judgments were revoked and the case was returned to the District Court - Vidin because of "significant procedural violations, including - in the pre-litigation proceedings and for drafting indictments contrary to the requirements of Article 246, paragraph 2 of the CPC."

57 Pre-litigation proceeding № 1886 ZM-96/2019 under the description of the Regional Directorate of the Ministry of Interior - Silistra.

58 The text is part of Decision No. 327 of the Silistra District Court, which is hearing an appeal against the fine imposed.

59 Decision No. 327/03.10.2019 on Administrative Penalty Case No. 600/2019 of the Silistra District Court.

60 Decision No. 125/ 14.01.2020 on Administrative penalty cassation case No. 127 of the Administrative Court of Silistra.

61 Critically endangered species, listed in Appendices 2 and 3 of the Biological Diversity Act.



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The last published document is Ruling No. 63 of 30.03.2017 of District Court - Vidin in criminal case of a general nature No. 49/2017, which “Terminates the criminal proceedings against S. ***(..) on the indictment on which the present Case is brought. Pursuant to Article 369, paragraph 5 of the CPC, the Ruling is not subject to appeal.” By Ruling No. 57 of 29.08.2017 of District Court - Vidin in criminal case of a general nature No 49/2017, the birds were seized in favour of the State and placed in the Centre in Stara Zagora. In 2019, one of the eagles will go to Mallorca, where it will participate in a breeding program of the Spanish organization GREFA

The case was sent back for review at least 6 times for the removal of procedural violations by the prosecution but until the last Court judgement, the procedural violations had not been duly remedied and no conviction was reached. In addition, no charge was originally brought for the forged export certificates, and a charge under Article 316 in conjunction with Article 308, para. 1 of the CPC (knowingly using false documents) was only included in the third indictment, and the Court acquitted the defendant for violating the prohibition of “*reformatio in peius*”⁶².

While the trial was ongoing in Bulgaria, S.G.G. was convicted in Russia for illegally harvesting peregrine falcon eggs (*Falco peregrinus*). The Russian court set the material damage from this act at 15,000,000 roubles (BGN 403,308 at the exchange rate on the day of the verdict, 26.05.2016).

An in-depth analysis of the case described in this way could be useful to the prosecution to prevent similar procedural violations from allowing crimes against wildlife to go unpunished.

62 Deterioration of the circumstances of the defendant.

VI.3. Effectiveness and problems at different stages of the fight against wildlife offences

The speed of evidence gathering and response when a wildlife offence is recorded is critical to the successful investigation of such crimes, most of the prosecutors on the advisory group noted. To improve investigations, several problems must be overcome.

The first main problem, which was raised by almost all specialists, is the lack of clarity about the powers of the administrative authorities in case of offences against wildlife and the poor coordination between them and the prosecution. Several examples were given of poor or lacking cooperation in cases of illegal activity in forests. Several solutions to this problem were also proposed:

- **An explicit agreement and/or instruction should be drawn up for the joint work of the investigating authorities with the main administrative control bodies, similar to the instructions for investigating other types of crime;**
- **A uniform standard for the investigation of wildlife crime should be drawn up, to be adopted after joint discussion between the prosecution and control authorities, and applied throughout the country to bring clarity to the sequence of actions required in the investigation;**
- **Training should be provided to prosecutors, investigators and administrative control bodies on this standard and, in its absence, for more effective coordination and clarity of the powers of the different State bodies.**

The lack of animal rehabilitation centres mentioned above also affects the speed of investigation.

Another problem highlighted is the lack of experience of the prosecution in the field of crimes against wildlife, due to the specific nature of these crimes which, according to prosecutors, are not common. Law enforcement authorities have difficulty finding suitable expert witnesses and experts who can determine whether an offending specimen is a protected species and provide necessary expertise. Solutions proposed in this direction were towards improving capacity, through training and the creation of an easily accessible database of many experts on relevant protected species (including their field of expertise and contacts) so that necessary expert opinions could be provided in a short timeframe.

One of the proposals to overcome the lack of sufficient expertise on wildlife crime in the Prosecutor's office is to create a contact network of trained prosecutors and investigators to deal with such crimes. For the quality of the investigation and the final outcome, it is crucial that investigators working on wildlife crimes are trained and specialized.

So far, the Association of Parks in Bulgaria, the Association of Prosecutors in Bulgaria and the National Institute of Law have organized such trainings and have prepared lists of trained prosecutors that could be published on the website of the Prosecutor's office, for example. The list should also be sent to the MOEW so that the experts can refer to the relevant trained prosecutor.

There is a lack of good public awareness of wildlife crime and where to report such violations. There is a need to conduct an awareness campaign targeting the public at large to increase the reporting of offences.

Reports to the police are currently made through the emergency telephone number 112, where priority is given to reports of injured people. A possible solution to this problem is the creation of a telephone line, similar to the emergency phone 112, for offences against wildlife, as suggested by Police Inspector Nikolov. This could also be done through a mobile app. Police Inspector Nikolov believes that the existing “Green Phone” at the MOEW cannot perform the functions of the proposed emergency phone, as there is no control and, therefore, there is a need for a new, inter-agency contact point. Alerts or reports to this contact point could be more easily distributed to responsible institutions by well-trained dispatchers and should be recorded to ensure follow-up of inspections.

VII. Conclusions and recommendations

Organisation and cooperation of law enforcement agencies and the Prosecutor’s office

- Organise an inter-agency working group to create a single point/platform for reporting wildlife offences – a phone line and/or mobile app;
- An explicit agreement and/or instruction for the joint work of investigating authorities with the main administrative and control authorities, similar to the instructions for the investigation of other types of crimes, should be prepared;
- Adopt a procedure for action when preserving, as evidence, the carcass/carcasses of an animal specimen/s is no longer necessary;
- Ensure inter-agency coordination in cases where the competence to establish administrative violations and/or to issue penal decrees is shared by administrative structures and officials of the MOEW, MAFF, MoI, mayors and/or regional governors;
- Adopt a uniform standard for the investigation of all wildlife crime offences after joint discussion between the prosecution and control authorities to be applied throughout the country to bring clarity about the sequence of actions required in an investigation;
- Establish a network of trained and experienced wildlife crime prosecutors. It is recommended that the list of contact details of this network of prosecutors be published on the website of the Public Prosecutor’s Office and widely disseminated among the administrative control bodies;
- Establish and maintain a list of experts and expert witnesses who are classified according to their detailed expertise (specialisation) in order to assist the investigating authorities and prepare expert reports. This list should be updated periodically and published in places accessible to the investigating authorities (e.g. at police stations, Prosecutor’s offices and district and regional courts);
- Adequate provision should be made for the work of expert witnesses that matches their expertise and offers similar pay to that in the labour market;
- Develop a methodology for estimating the economic value of endangered wildlife products that can be applied in the preparation of forensics reports.
- Conduct systematic training, locally and with law enforcement agencies, to help both increase their knowledge and build working contacts between them to improve cooperation;
- Establishing video surveillance systems at the northern border, especially along the Danube, which would assist investigators and law enforcement officers not only for wildlife crime but

also for other crimes such as drugs and arms trafficking;

- Establish a contact point in the regional offices of the MoI to liaise with EU-TWIX in order to improve the exchange of information on wildlife crime and investigations;
- Establish a specialised unit within the MoI for the investigation of wildlife crime;
- Designate MoI and Customs Agency officers with specific duties and responsibilities in the area of administrative violations and wildlife crime;
- Ensure that sufficient staff are allocated to the “Biological diversity, Protected Areas and Zones” departments of the RIEWs and that there are staff on duty outside working hours;
- Ensure that the functions of the DNPs are adequately staffed in the Control and Security Directorates;
- Establish and/or financially support existing rehabilitation centres for injured animals in the country. This need is particularly great for fish housing as no such aquarium exists;
- Amend the Rules of Procedure of the Rescue Centres in order to provide explicit rules for cases under Article 110, para. 4 of the CPC and Article 111, para. 1 of the CPC where material evidence in criminal proceedings is live specimens of plants or animals.

Legislative changes

- Improve the penalty regime of the BDA by differentiating between offences related to illegal killing or capture of protected and regulated species, following the example of the HGCA;
- Update the Compensation Tariff for damage to plant and animal species included in Appendix 3 of the BDA, taking into account inflation since 2006 and/or other factors affecting the amount of damage;
- Assess whether the penalties provided for in the Criminal Code are sufficient to ensure general and individual prevention, and develop proposals for legislative changes, taking into account the public danger of acts concerned and the practice in wildlife crime cases. Specifically, an assessment should be made of the adequacy of the penalties for aggravated smuggling by the transporting of a specimen of a protected species of wild flora or fauna or parts or derivatives thereof, for which a minimum penalty of three years’ imprisonment and a maximum penalty of ten years’ imprisonment is provided, against the unlawful destruction, damage, acquisition, possession, appropriation of a specimen of European or globally threatened wild vertebrates or a specimen of a species listed in Appendix 3 to the BDA, for which there is no minimum penalty of imprisonment, and the maximum is five years imprisonment;
- Introduce a definition of ‘protected species’ in Article 93 of the CC;
- Propose a change in the HGCA to provide a mandate for the management of hunting farms to increase competition for these positions and thus reduce the likelihood of potential corrupt dependencies;
- Propose an amendment to the FAA to prohibit the possession of certain fishing gear, equipment, material and tackle, and prohibit their use;
- Harmonise and extend the closed seasons for catching and fishing during the spawning season so that there is no divergence of seasons depending on species.

Collection and analysis of information and data

- There is a need to establish a unified approach to collecting data on wildlife offences and to ensure inter-agency access to this information. This will enable qualitative and quantitative analysis on the basis of which more effective action can be taken to prevent offences and punish offenders and improve cooperation between different control and enforcement authorities. This analysis should include (but is not limited to):
 - » Analysis of the reasons for the low number of indictments and convictions and sentencing judgements, at first instance, for the different types of wildlife crime (e.g., aggravated customs smuggling and unlawful destruction or damage to a protected area);
 - » Analysis of the reasons for the significantly lower number of penal decrees issued compared to the number of administrative statements establishing the violation issued, by type of administrative offence and by control authority (e.g. under Article 128c of the BDA by the Regional Inspectorate of Environment and Water).

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