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Wildlife Crime in Poland

In-depth Analysis for the ENVI Committee

DIRECTORATE GENERAL FOR INTERNAL POLICIES
POLICY DEPARTMENT A: ECONOMIC AND SCIENTIFIC POLICY

Wildlife Crime in Poland

IN-DEPTH ANALYSIS

Abstract

This analysis on wildlife crime was commissioned by Policy Department A at the request of the Committee on the Environment, Public Health and Food Safety. It gives an overview of the state of wildlife crime in Poland based on available documents and empirical research including interviews. The study identifies main routes and species linked to illegal wildlife trade as well as Polish efforts to combat wildlife crime.

This document was requested by the European Parliament's Committee on the Environment, Public Health and Food Safety

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LIST OF ABBREVIATIONS

- CITES** Convention on International Trade in Endangered Species of Wild Fauna and Flora
- IFAW** International Fund for Animal Welfare
- MA** Managament authority
- SA** Scientific authority
- TAM** Traditional Asian medicine
- TCM** Traditional Chinese medicine

EXECUTIVE SUMMARY

Wildlife crime is not a priority for Polish authorities involved in environmental and criminal legislation and enforcement. Despite a decreasing number of seizures of illegally handled CITES species that is ascribed to trainings provided to CITES enforcement bodies and an increased awareness of wildlife crime among the Polish society, there is no evidence that the scale of wildlife crime in Poland has been reduced.

Recent findings by regional NGOs indicate that Poland is a leading country in terms of the volume of illegal on-line trade in protected fauna and flora in the Central and Eastern part of the EU. There is, however, very little information in this regard collected by the public enforcement authorities involved in wildlife protection. In terms of illegal imports and (re)exports of wildlife, Poland is mainly a destination country, but it is also a territory of transit and, to some extent, of origin. The actual scale of wildlife traffic is not certain. However, it is estimated that the Customs Service only discloses some 10-15 % of illegal traffic of protected species. Illegal markets of traditional Asian medicine, avifauna (including birds of prey), exotic wood, and wildlife suitable for aquaria and terraria are growing. In this context, wildlife crime can be considered a significant problem in Poland, and its scale is believed to grow proportionately to the increase in economic welfare of the Polish society and the demand by Asian minorities in Poland. Limited capacities of enforcement authorities, a lack of a holistic vision, and inadequate legislation further aggravate the problem. Apart from CITES-related offences, the number of illegal poaching instances reported in Poland every year is significant and increasing.

While national legislation implementing EU law relevant to wildlife protection is in place, Poland is struggling to ensure adequate human resources in terms of volume and skills to counteract wildlife crime effectively. This may partly explain why wildlife crime is not among the major issues law enforcement entities are dealing with in Poland. Due to limited resources, these bodies do not have the capacity to follow all threads linked to wildlife crime and effectively counteract it. Moreover, some technical barriers are reported to hinder CITES enforcement. For example, enforcement officers in Poland often have difficulties with establishing the legal origin of captive-bred specimens originating from breeding operations across the EU. The difficulty is considered to stem, among others, from non-harmonised formats of documentation used as a proof of legality of the species' origin.

In terms of judicial action, in the majority of CITES-related cases, Polish courts close the cases in an early phase or impose low penalties unlikely to deter commercial perpetrators. This is likely to stem from an overly rigid system of sanctions for CITES infringements embedded in the Polish Penal Code, which categorizes any breach in this respect as a crime and thus creates a risk of congestion of criminal cases in the already saturated Polish courts. According to stakeholders CITES implementation in Poland would be better if the law was more reflective of the wildlife crime specificity and trainings were provided to the judiciary sector.

In what can still be largely considered a learning process, Poland's efforts against wildlife crime are based on education and public outreach. A number of dedicated trainings have been provided to public enforcement bodies dealing with wildlife protection. To tackle the demand side, awareness-raising is promoted in seminars organised in schools at different levels, as well as by glass displays in airports, border posts and other public places. In both, training and education, the role of conservationist NGOs (namely WWF Poland and PTOP 'Salamandra') has been prominent, often compensating for the constrained capacity of the public authorities in the area of wildlife crime prevention and control.

1. INTRODUCTION

This in-depth analysis presents insights on wildlife crime and efforts to combat it in Poland. It was compiled as part of a larger project for the European Parliament ("Study on Wildlife Crime"), which presents insights into wildlife crime in the EU as well as efforts to combat it (Sina et al. 2016); the study also presents conclusions on how to enhance EU and Member State action on wildlife crime. The present in-depth analysis contains a more detailed description of the situation in Poland than the main study. In addition to this in-depth analysis, similar analyses have also been prepared for Germany, the Netherlands, Spain and the UK.

This study is based on desk research, four interviews with experts, and an analysis of available data on wildlife crime. Generally, data on wildlife crime (as on other forms of environmental crime) have significant gaps; the data that exist are not necessarily coherent across time or between countries.

The study is structured as follows: section 2 presents evidence on wildlife crime in Poland. Section 3 outlines efforts at addressing wildlife crime, including a description of relevant actors and the legislative framework. The conclusions on wildlife crime in Poland are provided in section 4 while recommendations can be found in the main study on wildlife crime.

2. WILDLIFE CRIME IN POLAND

KEY FINDINGS

- Poland is mainly a destination country, but also a transit and to some extent a country of origin in terms of traffic of CITES species.
- Lack of dedicated asylums for forfeited animals is believed to lead to significant enforcement inefficiencies.
- Traditional Asian Medicine (TAM) and Traditional Chinese Medicine (TCM) prevail in terms of quantities of seized illegal imports of CITES species.
- Non-governmental organisations indicate that Poland is a leading country in terms of illegal e-commerce of wildlife in Central and Eastern EU.
- Alongside CITES related offences, the number of illegal poaching instances reported in Poland every year is significant and increasing.
- There is no evidence indicating a relationship between money laundering and wildlife crime in Poland.

2.1. Poland's role in wildlife crime as a destination, origin and transit country

CITES biennial reports do not provide clear indications as to whether Poland is a destination or a transit country regarding illegal imports of CITES species. There is no clear pattern regarding the origin of imported species either. According to the interviewees, however, Poland is mainly a destination country, but also is used for transit purposes and is, to some extent, also a country of origin in terms of traffic of CITES species¹.

The illegally imported specimens seized in Poland between 2013 and 2014 originated from Indonesia, Ukraine, Australia, Russia, and Chad. Considering that medicinal leeches (*Hirudo medicinalis*) and caviar from sturgeon (*Accipenseriformes* spp.) were among the main types of illegally imported specimens, there is strong ground to assume that a large number of wildlife species is imported via Polish Eastern land borders, imported from non-EU Member States. One instance of a potential re-export activity reported that 4 parrots (*Cacatua alba*, *Eolophus roseicapilla*) were seized at the border with Slovakia when a tourist tried to import them on the Polish territory (Ministry of Environment, 2015). There is also the suspicion that Vietnamese criminal organisations used Polish hunters as a proxy to acquire rhino horns from South Africa for Asian markets in 2011. Poland recorded 28 rhino horns imported from South Africa between 2009 and 2011 because of a 'sudden entry of Polish hunters into the South Africa rhino hunting trade' (CITES Secretariat, 2013). The majority of imported rhino horns has supposedly been stolen shortly after they entered Polish territory².

As a **destination** country, Polish demand for wildlife species depends on popularity trends that could be called a 'fashion' in terms of consumption patterns. Recently, commercial activities and illegal imports of significant volumes of **Traditional Asian Medicine** products have been reported. Para-medicinal products are increasingly popular and demand

¹ Interviews with: Andrzej Kepel, PTOP "Salamandra"/CITES SA, 5 November 2015 and Rafał Tusiński, Customs Services, 2 November 2015, Prof. Wiesław Pływaczewski, Chair of Criminology and Criminal Policy Department, Law and Administration Faculty, University of Warmia and Mazury in Olsztyn, 10 November 2015, and Karol Wolnicki, Ministry of Environment, CITES Managing Authority, 29 October 2015.

² Interviews with Andrzej Kepel, PTOP "Salamandra"/CITES SA, 5 November and Rafał Tusiński, Customs Services, 2 November 2015.

for them has been significant for several years. Apart from TAM in form of pills, ointments, creams, and incense there is also demand for **medicinal leeches** and products containing leech extracts. In addition to such trends, there are also relevant cultural influences – the Asian minority in Poland is believed to create demand for products containing CITES species³. Internet sales and Polish language labels indicate that the para-medicinal products are destined for a domestic market in wholesale quantities.

As a **transit** country, there is not much evidence or hard data explaining Poland's involvement in wildlife trafficking. It should be noted, however, that Poland controls over 1 100 km of the EU's Eastern border, making it a natural entry point for exports from Russia, Belarus and Ukraine as well as Asian markets. Moreover, as it was mentioned above, there is an alleged connection between the Vietnamese mafia and Polish rhino hunters, facilitating illegal traffic of rhino horns.

As a country of **origin**, illegal activities related to trafficking of domestic species are less frequently reported, and involve exports of native orchids, with native wild species being exported illegally to Western Europe (e.g. France and Germany) for commercial purposes and presented as plants from floriculture, and exports of CITES species bred in captivity on Polish territory.

2.2. Trade in wildlife species – quantitative insights

Public statistics made available by the Police do not include information on illegal trade in wildlife taking place on Polish territory. The most recent available information is from 2008 when 502 violations of article 128 of the Nature Conservation Act were reported. The 2008 figure represents a decrease in this type of violation as compared to 2007 (564 violations) but is higher than the number of violations recorded in 2006 (433)⁴. The majority of violations are detected at the airports, where travellers try to import leather products, corals, caviar, ivory, hunting trophies or live animals.

The police ascribed the relative improvement of the situation reported in statistical data to an increase in wildlife crime awareness amongst the Polish society. It is argued that informed potential buyers asking for CITES documentation in e.g. pet shops and other trading platforms, including the internet, effectively curtail the illegal trade of protected wildlife species. This explanation does not seem to be satisfactory, however, in light of recent findings by a group of NGOs monitoring internet trade in wildlife in Poland and other countries of the region since 2006 (IFAW & CEEWeb, 2014). During the six-week survey focusing on both live wild animals and their derivative parts and products from CITES Appendix I species, Polish websites hosted 117 advertisements offering 180 wildlife specimens for sale, with live animals making up 80 % of the trade recorded in the survey. The investigation in Poland reported 86 online advertisements of CITES Appendix I species with the addition of primates and sturgeon from Appendix II species. These figures are far from comprehensive however and, due to methodological constraints, cannot be used to estimate the scale of illegal wildlife e-commerce in Poland. The report provides however a number of qualitative findings, for instance it notes that the main category of species for sale was live tortoises and turtles (mainly Hermann's tortoises), followed by primates and then parrots. Most of the many offers for live primates offered CITES Appendix II species common in pet trade. As well as offers for common marmosets, investigators also noted more unusual species such as Barbary apes, savanna and patas monkeys for sale. Among the offers for sale of live exotic birds, investigators recorded examples of highly priced

³ Interview with Andrzej Kepel, PTOP "Salamandra"/CITES SA, 5 November and Rafał Tusiński, Customs Services, 2 November 2015.

⁴ Police official website, <http://statystyka.policja.pl/st/informacje/53172,Przestepstwa-przeciwko-srodowisku-2009-r.html>.

species including yellow head parrots, lilac-crowned Amazons, red-fronted macaw, horned parakeets and a Bali starling uncommon in trade in Poland and Central and Eastern Europe. In addition to this detailed record, the NGOs' findings indicate that Poland is a leading country in terms of illegal e-commerce of wildlife in Central and Eastern Europe.

With regard to protected wildlife species seized in illegal transport, besides some anecdotal information⁵, there is no information whether these specimens are destined for the Polish market or transit through Poland.

Many wildlife crime cases involve living animals. There is, however, no sufficient infrastructure to provide shelters for forfeited animals. In Poland, zoological gardens are not required to shelter such animals, and only occasionally accept to accommodate them. Moreover, appropriate centres for protected wildlife species require a good level of protection; for example, there has been instance case where seized and confiscated parrot species of high financial value were placed in a zoo by enforcement agents and shortly afterwards stolen from their new shelter. Furthermore, dedicated CITES centres could play an educational role. **Lack of dedicated asylums for forfeited animals is believed to lead to significant enforcement inefficiencies.** Police officers avoid forfeited species in order to eliminate the burden of finding appropriate placement. There is therefore a risk that the police refuses to take up cases involving living animals⁶.

2.3. Seizures, criminal prosecutions, and offenders

As emphasized by the Polish Customs Service, the number of CITES specimen seizures does not reflect the volume of illegal imports of fauna and flora. Statistical information kept by the Customs Service represents the number of annual seizures that depends on many factors, including the availability of 'trained and motivated staff'. It is estimated that the Customs Service only discloses some 10-15 % of illegal traffic of protected species (⁷).

In terms of the **number of seizures** of illegally imported or exported CITES species carried out by the Customs Service between 2007 and 2014, a clearly decreasing trend can be observed (see Figure 1).

Traditional Asian Medicine and Traditional Chinese Medicine products dominate the reported statistics, including 200 000 containers (around 27 tonnes according to CITES SA) of TCM seized in 2008, 800 pills from the crowned seahorse (*Hippocampus coronatus*) imported by a tourist from Indonesia in 2013, and 2040 TAM specimen seized in 2014.

There is no clear trend in terms of live animal import/export seizures. In 2013 and 2014, attempts were made to smuggle significant numbers of medicinal leeches into Poland from the Ukraine (over 8 000 and 1 000 specimen of *H. medicinalis* in 2013 and 2014, respectively). Corals (*Scleractinia* spp. and *Milleporidae* spp.) and caviar (*Acipenseriformes* spp.) continue to be a popular subject of illegal import on Polish territory. Detected traffic of corals reached a record high in 2012 and 2013 (420 kg and 616 kg respectively) over the 2007-2014 period. The seizures of caviar from Poland's Eastern neighbours has decreased recently with 6 kg of caviar seized in 2014 compared to 2007 seizures when 103 kg of caviar (*Acipenseriformes* spp.) were forfeited by the Customs Service.

⁵ For example, 76 parrots of different species seized in a roadside technical inspection were transported to Poland by a citizen of the Ukraine who claimed the birds were purchased in the Czech Republic and destined for trade.

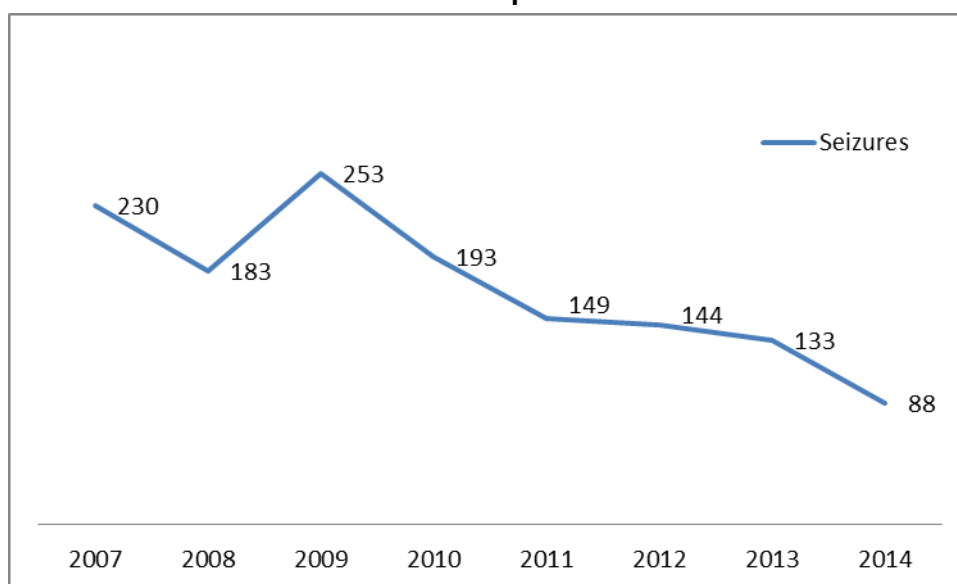
⁶ Interview with Andrzej Kepel, PTOP "Salamandra"/CITES SA, 5 November 2015.

⁷ Interview with Prof. Wiesław Pływaczewski, Chair of Criminology and Criminal Policy Department, Law and Administration Faculty, University of Warmia and Mazury in Olsztyn, 10 November 2015.

Three out of six of the most significant seizures by the Polish Customs Service between 2013 and 2014 were categorised as 'tourist' seizures, five as 'commercial' seizures and three instances remained uncategorised.

A detailed breakdown of seizures per category and most significant seizures is presented in Figure 1 below.

Figure 1: Number of seizures of CITES specimens 2007-2014



Source: Author's compilation based on Poland CITES biennial reports 2009-2015

A detailed description of seizures based on Polish CITES biennial reports is presented below.

2014: In 2014, the Customs Service carried out 88 seizures consisting of 3,303 specimens, including: 1 043 live animals (mostly leeches of *H. medicinalis*), 153 live plants of *Cactaceae* spp., 2 040 specimens of TAM, one specimen of ivory (*Elephantidae* spp.), 44 kg of corals (*Scleractinia* spp. and *Milleporidae* spp.) and 5.9 kg of caviar (*Acipenseriformes* spp.) The most significant seizures carried out by the Customs Service in 2014 as reported in the CITES biennial report for 2013-2014 were:

- 0.15 kg saltwater crocodile (*Crocodylus porosus*) meat imported by a tourist from Australia;
- 600 seahorse (*Hippocampus* spp.) pills from Indonesia, and 500 pills of the same kind of unknown origin;
- Four white and galah cockatoos (*Cacatua alba*, *Eolophus roseicapilla*), imported alive by a tourist from Slovakia;
- 5.9 kg Sturgeon and paddlefish caviar (*Accipenseriformes* spp.) imported from Russia, and
- 21 specimens of *Ornithopteras* spp. and *Troides* spp. imported from Thailand.

2013: In 2013, the Customs Service carried out 133 seizures. The total number of seized specimens was 10 632, including: 8 084 live animals (mostly leeches of *Hirudo medicinalis*; also two tortoises of *Testudo horsfieldii* and four parrots of different species), 2,137 specimens of TCM, two specimens of ivory (*Elephantidae* spp.), 4.6 kg of caviar (*Acipenseriformes* spp.), and 616 kg of corals (*Scleractinia* spp., *Milleporidae* spp.). The

most significant seizures made by Polish Customs Service as reported in the CITES biennial report for 2013-2014 were:

- 300 small leather products made of a Nile monitor (*Varanus niloticus*) imported from Chad;
- 53 specimen of *Ornithoptera* spp. of unknown origin sent by post;
- 7 250 (in two seizures of 290 and 6 960) of live medicinal leeches (*Hirudo medicinalis*) from Ukraine;
- 800 pills from the crowned seahorse (*Hippocampus coronatus*) from Indonesia imported by a tourist.

2012: In 2012, the Customs Service carried out 144 seizures consisting of 8 650 specimens, including: 200 live animals (*T. horsfieldii* and 3 parrots), 8 217 specimens of TAM, nine live plants (*Orchidaceae* spp. and *Cactaceae* spp.), seven specimens of ivory (*Elephantidae* spp.) and 362 kg of live corals (*Scleractinia* spp.), 52.6 kg of corals and over 3 kg of caviar (*Acipenseriformes* spp.).

2011: In 2011, the Customs Service carried out 149 seizures consisting of 12 833 CITES specimens, including: 26 live animals (tortoises of *Testudinidae* spp. and *Cuora* spp., parrots and other birds, pythons, boas), 9,594 specimens of TAM, 3 000 seeds of cactus *Astrophytum asterias* and 4 kg of powder of *Cistanche deserticola*, 2 m³ of wood of *Swietenia* spp., 8.3 kg of caviar (*Acipenseriformes* spp.), 61.5 kg of corals (*Scleractinia* spp.) and 750 kg of live coral substrate.

2010: In 2010, the Customs Service carried out 193 seizures consisting of 8 495 specimens, including: 30 live animals (3 *Caracal caracal*, 1 *Leptailurus serval*, 26 parrots), 8,286 tablets of TAM, 5 kg of *Hoodia gordonii* powder, 70 kg of frozen *Anguilla anguilla* and 352 kg of corals (*Scleractinia* spp.).

2009: In 2009, the Customs Service carried out 253 seizures consisting of 26,380 CITES specimens, including: 1,020 live animals (211 tortoises, 800 medicinal leeches, 8 parrots, 1 specimen of *Brachypelma* spp.), 227 specimens of Traditional Asian Medicine, 3 live plants (*Opuntia* spp.), 25 000 specimens of frozen *Anguilla anguilla*, 10 kg of caviar, 174 kg of corals (*Scleractinia* spp.) and 13 ivory carvings.

2008: In 2008, the Customs Service carried out 183 seizures consisting of 200,889 specimens, including: 104 live animals (birds and reptiles), 200,409 specimens of TAM (medicines containing derivatives of *Hippocampus* spp.) and 409 plasters containing derivatives of *Moschus* spp., as well as 27.5 kg of caviar and 65.2 kg of corals (*Scleractinia* spp.).

2007: In 2007, the Customs Service carried out 230 seizures consisting of 3 196 CITES specimens, including: 248 live animals (birds and reptiles), 1 585 specimens of Traditional Asian Medicine, 25 plants, 103 kg of caviar, 105 kg of corals (*Scleractinia* spp.), 20 kg of *Leptoptilos crumeniferus* fluff and 4.7 kg of rhino horn.

In terms of **enforcement measures**, all CITES related violations are subject to relatively stringent sanctions under Polish law. These include forfeiture, detention, fines, and sentences of imprisonment from 3 months up to 5 years. Furthermore, those who are convicted for an infringement of provisions regarding wildlife trade can be refused by the CITES Management Authority to obtain a CITES permit within the period of three years from the date of conviction (Art. 61 p. 7 of the Nature Conservation Act of 16 April 2004). The most frequent violation concerning endangered species of fauna and flora in recent years is border-crossing without necessary permits and offering for sale without legally required documents of origin and acquisition (usually on markets, zoological exchanges and

internet). In the majority of cases referred to the judiciary, the courts imposed fines and forfeitures of seized specimens. So far, the most severe penalty of imprisonment (from three months up to five years) has not been imposed; but there were cases where a penalty of imprisonment for a few months was applied in suspension.

According to a Polish conservation expert, the main offence against domestic wildlife take place in the context of Strategic Environmental Assessment and Environmental Impact Assessment procedures⁸. The decisions taken before the adoption of strategic plans or development of projects are based on environmental reports that, according to the interviewed expert, often contain fraudulent statements and misrepresentations deliberately ignoring impacts on wildlife.

Illegal imports of wood, including CITES protected species, are also an issue. The enforcement authorities are often incapable of recognising the protected wood species. Polish legislation in this respect is inadequate and the EU Timber Regulation (Regulation No 995/2010) is not enforced.

2.4. Involvement of organized crime and money laundering in wildlife crime

Apart from the abovementioned suspicion that Vietnamese criminal groups used Polish hunters as a proxy and possibly Poland as transit country to acquire rhino horns from South Africa for Asian markets following a 'sudden entry of Polish hunters into the South Africa rhino hunting trade' between 2009-2011 (CITES Secretariat, 2013), no information could be found on the situation of wildlife trafficking in the context of organised crime. There is no data indicating whether there is a relationship between money laundering and wildlife crime in Poland either.

Alongside CITES-related offences, the number of illegal poaching instances reported in Poland every year is significant and increasing (313 in 2012 compared with 319 in 2011 and 293 in 2010; PGL Lasy Państwowe, 2013). Different species of deer (including *Cervus elaphus*, *Capreolus capreolus*, and *Alces alces*) and wild boar are the main victims of this illegal activity.

Publicly accessible written evidence as well as the interviews with the CITES Management Authority (MA), Scientific Authority (SA) and Customs Service officers (for full list of interviewees see the Annex) did not provide detailed evidence of connections between wildlife crime and organised crime. Nonetheless, all the consulted sources make unambiguous links between the two types of crimes, with a strong association of illegal trade in TAM and organised criminality (Drzazga, 2015). On top of that, many instances of wildlife crime are conducted by organised entities running legal businesses. For example, retailers of alternative products offer TAM through internet sales. There is also an alleged practice of wholesalers distributing protected medicinal plants to retailers operating in local markets⁹. Moreover, massive imports of para-medicinal products containing *Hippocampus* spp. (commercial products available under name of *Ginjal* and *Zolotoj Konik*) destined for sale on the Polish market also result from organised activity. In 2008, the scale of attempted imports of pills containing *Hippocampus* spp. was so large that it may have led to a drastic loss of population of one hippocampus species from Indonesia¹⁰.

Pills containing *Hippocampus* spp., as well as medicinal leeches, are imported to Poland via its Eastern borders with Ukraine and Belarus. Companies trading such para-medicinal products are often registered entities, attempting to prove the legality of their activities by

⁸ Interview with Andrzej Kepel, PTOP "Salamandra"/CITES SA, 5 November 2015.

⁹ Interview with Andrzej Kepel, PTOP "Salamandra"/CITES SA, 5 November 2015.

¹⁰ Interview with Rafał Tusiński, Customs Services, 2 November 2015.

using fraudulent documents regarding the ingredients of their products and export permits. They could therefore fall under the category of organised crime understood as a crime committed by groups engaged in planned and sustained criminal activities. The legal assessment of wildlife crime in such cases in Poland is uncertain, however, and depends on the public prosecutor. No information about legal actions in this regard could be collected.

Apart from TAM and medicinal leeches, potential hotspots of organised wildlife crime are likely to involve the most highly valued species and their derivatives such as rhino horns and ivory¹¹.

¹¹ Interview with Rafał Tusiński, Customs Services, 2 November 2015.

3. EFFORTS TO COMBAT WILDLIFE CRIME IN POLAND

KEY FINDINGS

- Polish law classifies all CITES-related illegal activities as crimes. However, in practice wildlife related cases are often closed at the phase of investigation to avoid congestion of criminal cases in courts.
- Adoption of the National Action Plan for Implementation and Enforcement of CITES is planned for 2016.
- Non-governmental organisations play a major role in the fight against wildlife crime in Poland. They provide trainings to relevant authorities and conduct public information campaigns.
- Capacity constraints undermine the effectiveness of CITES enforcement authorities as well as non-governmental organisations that support them.
- Poland is an active partner in regional and international initiatives to combat wildlife crime.

3.1. Authorities responsible for combating wildlife crime

The Polish Customs Service is the main enforcement body acting against illegal wildlife trafficking. The police is also involved in the enforcement of legislation protecting endangered species of fauna and flora, including legislation on illegal domestic trade of wildlife species. There are **CITES coordinators** designated within the Police (General and Regional Headquarters), the Ministry of Finance and regional Customs Chambers. Their main role is to coordinate CITES-related efforts and to monitor activities of local and regional units concerning offences against wildlife. There is no lead or superior institution among the enforcement agencies.

The Management Authority (MA) in charge of administering the licensing system under CITES is the Ministry of Environment (Division of the Conventions in the Department of Forestry and Nature Conservation). As of 2014, the CITES MA team consists of 4 staff members working full time on CITES-related issues. The State Council for Nature Conservation acts as the Scientific Authority (SA) advising the MA on the effects of trade and the status of endangered species.

CITES coordinators of the enforcement bodies, together with the MA, SA, Veterinary Inspection, Phytosanitary Inspection and NGOs (mainly WWF Poland and Polish Society for Nature Conservation 'Salamandra'), participate in meetings and activities of the national **Working Group for CITES**.

According to the interviewees, the weakness of current CITES enforcement could be overcome by establishing a Nature Conservation Guard or another specialised enforcement agency. Such an agency would combine the competences that are currently distributed between the Ministry of Finance and the Police, which are often supported or even replaced by environmental NGOs.

CITES coordinators have been established at the regional and central level in the Polish Customs Service in 1998 and within the Police in 2004 ⁽¹²⁾. This approach, alongside specialized trainings, is recognised as one of the few good practices related to the combat

¹² Interview with Rafał Tusiński, Customs Services, 2 November 2015.

of wildlife crime in Poland. It is not, however, free from flaws. It has been reported that in many cases, successes of the enforcement agents, including regional CITES coordinators, have led to their promotion to posts where their wildlife-related competence was no longer required.

3.2. Legal framework

Overall, the legal framework in Poland is arguably more stringent than the EU's requirements with regard to wildlife protection, as it classifies all CITES-related illegal activities as crimes. The Nature Conservation Act of 16 April 2004 includes prohibitions referring to, e.g. harvesting, possessing, transport, sale and purchase, donations that apply to all protected native species, including native CITES species. Moreover, any party holding or breeding CITES species (with the exception of circuses, zoological gardens and other authorised commercial entities involving wildlife in their activities) is legally bound to register them, a requirement that is neither introduced by CITES nor harmonised by EU law. However, the implementation of this national registration requirement has proven to be inefficient and ineffective due to the dispersion of registers and lack of adequate competence of authorities in charge of running them.

As mentioned above, in terms of **enforcement measures**, the Polish Penal Code subjects all CITES-related violations to relatively stringent sanctions. These include forfeiture, detention, fine, and sentence of imprisonment from 3 months up to 5 years. The stringency, however, stems from the fact that *all* illegal activities related to CITES are categorized as crimes under Polish law. This is an irrational approach ⁽¹³⁾, potentially leading to a congestion of criminal cases in already saturated courts, but actually being one of the reasons for closures of wildlife-related cases at the phase of investigation and acquittals of perpetrators (Duda & Chrobot, 2015). Another reason for weak judicial deterrence of wildlife crime is related to the fact that judges often consider such offences to be negligible nuisance. There is consensus among the stakeholders involved in CITES management and enforcement (interviews with CITES MA, SA and Customs Service) that the current legal provisions under the Penal Code as well as the level of competence in Polish judiciary are not adequate. Recommendations include flexibility in terms of imposing a sanction that would be proportionate to the respective CITES infringement, complemented with additional specialized trainings for judges and their assistants. Creating a toolbox of penalties adapted to the nature and weight of the offence could add flexibility to the system of sanctions.

3.3. National action plan and similar measures

In 2015, the MA stated that it has commissioned an expert report on a national action plan regarding the implementation and enforcement of CITES legislation in Poland for the years 2014-2020. The MA also declared that it plans to adopt a national action plan for the coordination of enforcement of CITES legislation based on the findings of the report.

According to the interviewed authorities from CITES MA, the adoption of a national action plan is expected for 2016. There is a general consensus that, if duly prepared, an action plan could play an important role in combatting wildlife crime in Poland. However, according to all gathered evidence, the lack of systematic wildlife crime prevention and

¹³ Interviews with: Andrzej Kepel, PTOP "Salamandra"/CITES SA, 5 November 2015 and Rafał Tusiński, Customs Services, 2 November 2015, Prof. Wiesław Pływaczewski, Chair of Criminology and Criminal Policy Department, Law and Administration Faculty, University of Warmia and Mazury in Olsztyn, 10 November 2015, and Karol Wolnicki, Ministry of Environment, CITES Managing Authority, 29 October 2015.

combat could be best addressed by establishing a strong, specialised national unit or agency coordinating all activities in this field.

Moreover, according to the interviewees, an EU wide action plan would be very useful. A set of additional guidelines or binding rules imposed on all EU Member States could contribute to a better protection of CITES species. Top-down measures can help restructure national systems and make CITES protection more robust thanks to increased political importance and visibility of the EU framework¹⁴. The main perceived benefit of further harmonisation through additional EU legislation seems to be related to the potential standardization of documentation required for legal trade and import/export of wildlife, including species listed in Appendix B of CITES¹⁵.

3.4. Efforts made/priority given in Poland to combat wildlife crime

Overall, with regard to the fight against wildlife crime, Poland seems to be focusing on capacity building activities. The main efforts undertaken by the main stakeholders are the following:

3.4.1. CITES Management Authority

The Ministry of Environment is active in CITES-related communication activities such as press releases and lectures. It has also issued a CITES calendar for 2015 and distributed copies to entities involved in CITES implementation in Poland and abroad. Another action aimed at raising awareness of wildlife crime was the installation of a glass display case with forfeited CITES specimens in the Ministry of Environment headquarters in Warsaw. The MA participates and supports the organisation of the annual meetings of the **national Working Group for CITES**. The group was established in 2006 by PTOP 'Salamandra' and is coordinated by the CITES Scientific Authority as an information exchange and cooperation platform for all stakeholders involved in the protection of endangered flora and fauna species (Pływaczewski, 2011). It was supposed to meet at least once a year but it did not hold any meeting in 2015 due to a lack of funds. Finally, the MA has commissioned a number of reports, including:

- National action plan concerning the implementation and enforcement of CITES legislation and CITES-related EU law for the years 2014-2020;
- Evaluation of the registration system of CITES animals in Poland;
- European eel – conservation, reconstruction of population and trade control;
- Issues regarding trade in CITES animals of captive breeding origin; and
- Identification of problems concerning trade in CITES plants originating from cultivation.

3.4.2. Enforcement authorities

Alongside border controls and following potential wildlife crime threads, the enforcement authorities in Poland provide trainings dedicated to CITES and action against wildlife crime. The Customs Service organises regular talks at schools at different levels; there is evidence that thanks to such interventions in some cases children are better informed than their parents. Fairs and festivals are another opportunity used by Customs Service officers to promote knowledge of wildlife crime through leaflets and expositions (display cases with

¹⁴ Interview with Karol Wolnicki, Ministry of Environment, CITES Managing Authority, 29 October 2015.

¹⁵ Interview with Andrzej Kepel, PTOP "Salamandra"/CITES SA, 5 November 2015.

forfeited species). WWF Poland and PTOP “Salamandra” were actively involved in these initiatives alongside many other activities dedicated to wildlife protection¹⁶.

Poland’s over 20-year experience in CITES implementation is considered valuable, especially in terms of tactical and technical disclosures of wildlife trafficking instances by the Customs Service on the Polish part of the EU’s Eastern border and activities undertaken by CITES coordinators appointed within the Customs Service and police. Their experience in unveiling the *modus operandi* of perpetrators could be shared with other countries¹⁷.

On a less positive note, the Polish police is deemed underprepared to effectively implement the EU Wildlife Trade Regulation (Council Regulation (EC) No 338/97) due to limited resources in terms of trained staff and equipment¹⁸.

There is also a large room for improvement in the judiciary – the identified knowledge gap and poor awareness among judges is not only related to CITES offences but to violations of nature conservation law in general. Moreover, there seems to be a need to introduce some form of support to establish and manage centres that would host forfeited CITES species and provide them with professional care. This need is even greater if the growing pressure on accommodating invasive alien species is considered.

3.4.3. NGOs

Polish NGOs are relatively active in the field of wildlife protection, including in the field of action against wildlife crime. One of the eminent initiatives undertaken by PTOP ‘Salamandra’, International Fund for Animal Welfare (IFAW) and CEEweb for Biodiversity consisted of monitoring the internet trade in CITES species. Within this project, Polish activists developed a methodology to monitor illegal wildlife trade on the internet, and used it to monitor Polish websites. The results were published in 2007 and 2009. The most recent publication comprising web monitoring results (‘Wanted - Dead or Alive’) was prepared by IFAW and released in 2014. Web monitoring and detections by enforcement authorities are two main sources of information about the scale of wildlife crime in Poland. While the latter depends largely on the capacity of enforcement agents, the former depends on funds available to employ a monitoring staff member.

According to PTOP ‘Salamandra’, it would be a good idea to establish a system of internet monitoring for all EU Member States. The methodology developed under the auspices of CEEweb has proven to be efficient and cost-effective. Reports resulting from such monitoring activities would provide a good basis for subsequent enforcement actions. According to experts, most illegal traffic of wildlife species will leave a trace on internet websites, indicating that the internet is one of the most potent tools to combat wildlife crime¹⁹.

Moreover, wildlife protection experts from PTOP ‘Salamandra’ published a textbook on CITES implementation, which is updated regularly and distributed among public authorities in charge of wildlife protection free of charge. In 2015 the same NGO, in collaboration with the Foundation for Culture and Education ‘Sztuki Wszystkie’, launched a production of a series of films „Map of Dying World” [pl. ‘*Mapa Ginącego Świata*’] employing a popular Polish actor to raise wildlife crime awareness among the general public in Poland. The

¹⁶ Interview with Rafał Tusiński, Customs Services, 2 November 2015.

¹⁷ Interview with Prof. Wiesław Pływaczewski, Chair of Criminology and Criminal Policy Department, Law and Administration Faculty, University of Warmia and Mazury in Olsztyn, 10 November 2015.

¹⁸ Interview with Prof. Wiesław Pływaczewski, Chair of Criminology and Criminal Policy Department, Law and Administration Faculty, University of Warmia and Mazury in Olsztyn, 10 November 2015.

¹⁹ Interview with: Andrzej Kepel, PTOP “Salamandra”/CITES SA, 5 November 2015.

project was co-financed by the National Fund for Environmental Protection and Water Management. PTOP 'Salamandra' also announced a launch of a free of charge mobile phone application ('Conscious traveller') in 2016. Apart from that, the NGO has provided training on CITES species registration to the employees of district governors' offices and published an accompanying guidebook. In 2015 it organised trainings on fight against wildlife crime for public prosecutors in Poland.

WWF Poland has been actively involved in trainings and other actions promoting wildlife protection. However, its activities related to combat against wildlife crime ceased recently, effectively depriving Polish combat against wildlife crime of one of two major non-governmental players. This situation is aggravated by insufficient capacity and subsequent inaction of public authorities that often fail to respond to wildlife offences with adequate measures.

3.4.4. Multi-stakeholder involvement

The flow of information between different entities relevant to wildlife crime (i.e. the Customs Service, police, Ministry of Environment, NGOs, academia, zoological and botanical gardens) is triggered on a case-by-case basis. This *ad hoc* cooperation is believed to work relatively well, with potential room for improvements regarding clarity on the entities in charge, the level of detail of transferred information and the specific time and grounds for transfer²⁰.

The abovementioned national **Working Group for CITES** consists of representatives of the CITES Management Authority, CITES Scientific Authority, Ministry of Finance, Customs Service, the police, Veterinary Inspection, judiciary and NGOs such as WWF Poland, PTOP 'Salamandra', Polish Society for the Protection of Animals (TOZ) and representatives of zoological and botanical gardens. There are different views on the effectiveness of the CITES Working Group so far. CITES MA and SA consider it a good practice that proved successful in coordinating knowledge sharing and generally in combating wildlife crime. Academic sources, however, criticise the quality of the coordination of different stakeholder activities related to combating wildlife crime in Poland. The CITES Working Group was set up to help in exchange for information and to promote cooperation, but not to coordinate the enforcement activities. For this reason, its effectiveness on the enforcement field may be questionable²¹. It did not improve the coordination between different actors in charge of combatting wildlife crime. Coordination in this respect is still considered to be 'non-transparent' and 'ineffective', allowing for isolated actions by enforcement agencies with very limited, anecdotal effects. The CITES authorities of Poland failed to develop adequate tools to curtail the scale of wildlife crime. They convene sporadically and do not create lasting and prospective standards of cooperation between the stakeholders involved in CITES implementation and wider wildlife protection. It is not disputed that public entities rely on and, in some cases, are replaced by, non-governmental organisations. Such reliance may be one of the reasons for the weak internal coordination between public entities in charge of wildlife protection²².

Another example of Polish efforts in the context of illegal handling of protected species, is the opening of **CITES Centre for seized specimens** at the Municipal Zoological Garden in Warsaw in 2014. It has been co-financed by the European Fund for Regional Development

²⁰ Interview with Karol Wolnicki, Ministry of Environment, CITES Managing Authority, 29 October 2015.

²¹ Interview with Prof. Wiesław Pływaczewski, Chair of Criminology and Criminal Policy Department, Law and Administration Faculty, University of Warmia and Mazury in Olsztyn, 10 November 2015.

²² Interview with Prof. Wiesław Pływaczewski, Chair of Criminology and Criminal Policy Department, Law and Administration Faculty, University of Warmia and Mazury in Olsztyn, 10 November 2015.

for the period 2007-2013. The centre offers temporary care for amphibians and small- to medium-sized reptiles.

Public prosecutors, judges, the police and Customs Service officers participated in CITES enforcement trainings organised by the Polish NGO PTOP 'Salamandra' with financial support from the National Fund for Environmental Protection and Water Management. Current initiatives are likely to have only limited effects – due to a limited number of trained personnel, lack of lasting specialization of the enforcement agents, and staff upgrades and other personnel changes undermine the training results ⁽²³⁾.

3.5. Interaction with other states

Cooperation of public authorities with other countries was sporadic in 2013-2014 and only concerned some specific cases within the scope of CITES enforcement. For example, the Polish CITES Scientific Authority undertook a consultation on the management plan for *Canis lupus* engaging with stakeholders from Belarus.

According to the latest CITES biennial report, Poland participates regularly in meetings of the Committee on Trade in Wild Fauna and Flora and in a Scientific Review Group at EU level. In April 2013, Polish authorities participated in a meeting of the Polish-Slovakian group on big predators with the aim of cooperating in the field of management of the cross-border populations of big predators. Poland took also part in the international project SAMBAH (Static Acoustic Monitoring of the Baltic Sea Harbour Porpoise). The project involved partners from Sweden, Poland, Denmark, Finland, Germany, Estonia, Latvia, and Lithuania. The Polish part of the project was realised by the Marine Department of the Institute of Meteorology and Water Management, the Hel Marine Station and the Chief Inspectorate for Environmental Protection.

Poland is an active player in Central and Eastern Europe. Notably Polish NGOs are active in the initiatives coordinated by CEEweb for Biodiversity, a network of regional NGOs. PTOP 'Salamandra' (together with CEEweb for Biodiversity and the CITES MAs and SAs of the respective countries) co-organized a series of seminars for the representatives of CITES authorities from Central and Eastern Europe devoted to CITES issues. Delegations from Belarus, Bulgaria, Croatia, Czech Republic, Hungary, Latvia, Lithuania, Poland, Romania, Serbia, Slovakia and Ukraine made up of officials responsible for implementing CITES regulations met during the special seminars organized annually since 2011 (three times in Poland, once in Kenya and once in Hungary) to discuss and coordinate their activities related to CITES implementation and wildlife crime prevention and combat.

3.6. Interaction with international organisations

Poland actively cooperates and takes part in Europol's and Interpol's initiatives dedicated to combating wildlife crime.

In 2010, Interpol awarded Polish authorities a special prize for effective communication under the Ecomessage system: 'The INTERPOL Ecomessage award is presented to the country or countries which have contributed most significantly to the international exchange of intelligence relating to environmental criminals. Botswana and Poland were recognized in 2010, in particular, for the value of their information and their consistency in submitting ecomessages' (IFAW, 2011).

More recently, Polish enforcement authorities also took part in Europol's Cobra III - the biggest ever-coordinated international law enforcement operation targeting the illegal trade

²³ Interview with Andrzej Kepel, PTOP "Salamandra"/CITES SA, 5 November 2015.

in endangered species. On Polish territory, Cobra III resulted in many seizures of illegally handled species, including the interception and seizure of more than 500 kg of frozen European eel (Europol, 2015).

There is still some room for improvement in terms of Poland's interactions with international organisations. For instance, in 2012 Poland was called by IFAW to participate in the meetings of the International Whaling Commission (Poland is a member of IWC since 2009) in order to prevent Japan from breaking the quorum in the decision making on whaling related issues (IFAW, 2012).

4. CONCLUSIONS

Wildlife crime is not a priority for Polish authorities involved in environmental and criminal legislation and enforcement. Despite a decreasing number of seizures of illegally handled CITES species ascribed to trainings provided to CITES enforcement bodies and an increased awareness of wildlife crime among the Polish society, there is no evidence that the scale of wildlife crime in Poland has been downsized. Recent findings by regional NGOs indicate that Poland is a leading country in terms of volume of illegal on-line trade in protected fauna and flora in Central and Eastern Europe.

In terms of illegal imports and (re)exports of wildlife, Poland is mainly a destination country, but it is also a territory of transit and, to some extent, of origin. The actual scale of wildlife traffic is, however, unknown. Moreover, wildlife crime is usually a secondary preoccupation of public authorities in charge of conservation law enforcement. Illegal markets of traditional Asian medicine, avifauna, exotic wood, and wildlife suitable for aquaria and terraria, are growing. In this context, wildlife crime can be considered a major problem in Poland, and its scale is believed to grow proportionately to the increase in economic welfare of the Polish society and the demand shaped by Asian minorities in Poland. Under-preparedness of enforcement authorities, a lack of a holistic vision, and inadequate legislation further aggravate the problem. Apart from CITES-related offences, the number of illegal poaching instances reported in Poland every year is significant and increasing.

Poland's efforts against wildlife crime rely on education and public outreach. While national legislation implementing EU law relevant to wildlife protection is in place, Poland is struggling to ensure adequate resources to counteract wildlife crime effectively. Due to limited resources, enforcement bodies have no capacity to follow all threads linked to wildlife crime and effectively counteract it. Moreover, technical barriers (e.g. lack of harmonised formats of documentation used as a proof of legality of specimens' origin) seem to hinder CITES enforcement.

In terms of judicial action, in the majority of CITES-related cases, Polish courts close the cases in an early phase or impose low penalties unlikely to deter commercial perpetrators. This is likely to stem from an overly rigid system of sanctions for CITES infringements embedded in the Polish Penal Code, which categorizes any breach in this respect as a crime and thus creates a risk of congestion of criminal cases in the already saturated Polish courts. Stakeholders suggest that CITES implementation would be better if the legal system was more reflective of the wildlife crime specificity and trainings were provided to the judiciary sector.

To combat wildlife crime in Poland, a number of dedicated trainings have been provided to public enforcement bodies dealing with wildlife protection. To tackle the demand side, awareness is raised in seminars organised in schools at different levels, as well as by glass displays in airports, border posts and other public places. In both areas, training and education, the role of conservationist NGOs (namely WWF Poland and PTOP 'Salamandra') has been prominent, often substituting the competence of public authorities.

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ANNEX: LIST OF INTERVIEWS CONDUCTED

The author conducted interviews with the following persons:

- Dr. Andrzej Kepel, chair of the State Council for Nature Conservation (CITES Scientific Authority of Poland), chair of PTOP "Salamandra", a leading conservationist NGO in Poland, 5 November 2015
- Prof. Dr. hab. Wiesław Pływaczewski, chair of Criminology and Criminal Policy Department, Law and Administration Faculty, University of Warmia and Mazury in Olsztyn, 10 November 2015
- Rafał Tusiński, Polish Ministry of Finance – Customs Service, expert in charge of CITES and other non-tariff barriers, 2 November 2015
- Karol Wolnicki, Ministry of Environment, senior specialist at the Department of Forestry and Conservation – CITES Management Authority of Poland, 29 October 2015

NOTES

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