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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

37th meeting
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**Joint Meeting of the Bern Convention Network of Special Focal
Points on Eradication of Illegal Killing, Trapping and Trade in
Wild Birds (Bern SFPs Network) and the CMS Intergovernmental
Task Force on Illegal Killing, Taking and Trade of Migratory
Birds in the Mediterranean (MIKT)**

Sliema (Malta), 22-23 June 2017

**Analysis of the Responses to the questionnaire on the
involvement of NGOs and civil society in assisting
national authorities with the better implementation
of the *Tunis Action Plan 2013 – 2020***

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on behalf of the Bern Convention

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**ANALYSIS OF THE RESPONSES TO THE QUESTIONNAIRE ON THE INVOLVEMENT
OF NGOs AND CIVIL SOCIETY IN ASSISTING NATIONAL AUTHORITIES WITH THE
BETTER IMPLEMENTATION OF THE *TUNIS ACTION PLAN 2013 – 2020***

1. The Convention on the conservation of European wildlife and natural habitats, the 1979 ‘Bern Convention’, is the primary international agreement for improving the conservation of European wildlife and natural habitats, having been signed by 50 countries (and the EU) as Parties to the Convention, and upon which the EU Birds and Habitats Directives are based. Following concern over many years that the effectiveness of national legislation which aimed to achieve the aims of the Convention, particularly in respect of illegal killing, taking and trade (‘IKTT’) of wild birds, could be improved, the 33rd Standing Committee of the Bern Convention in December 2013 adopted the *Tunis Action Plan 2013 – 2020 [Recommendation No. 164 (2013)]*. This was supplemented at the 35th Standing Committee in December 2015 with the adoption of [*Recommendation No. 177 (2015)*] which provided expanded definitions and clarification of [*Recommendation No. 164 (2013)*].
2. The *Tunis Action Plan 2013 - 2020* (‘TAP’) aims to assist Parties to achieve the aims of the Convention by providing recommendations for action in three areas, viz. ‘Enforcement and Legal Aspects’, ‘Biological and Institutional Aspects’ and ‘Awareness Aspects’.
3. A key driver for attaining the aims of the Bern Convention is the support and involvement of civil society, and NGOs can provide an effective focus for these. The two EU Directives seeking to implement this Convention across EU Member States, together with the UN Convention on access to information, public participation in decision-making and access to justice in environmental matters, the 1998 ‘Aarhus Convention’, provide a legal basis for the involvement of both individuals and NGOs in supporting and challenging decisions by national authorities in environmental (including wildlife and natural habitats) matters, and developing a continuing dialogue with them.
4. The TAP is not an end in itself but an instrument aimed at better achieving the aims of the Bern Convention through voluntary compliance throughout civil society. As the mid-point in the time set for the TAP is reached, it seems an opportunity not just to look back at what has been achieved, but also to look towards and beyond 2020 and to see how even better achievements may be obtained and entrenched. NGOs are key players in achieving this. The co-operation of hunting societies and others involved in the use of wildlife especially wild birds is particularly important.
5. The purpose of the Questionnaire was thus to identify the extent to which civil society and NGOs (i) are aware of the TAP, and (ii) have sought to assist or encourage national authorities in fulfilling the recommendations contained in the TAP or otherwise fulfilling the aims of the Bern Convention, and (iii) the extent that these may be able to do so in the future.

RESULTS OF THE SURVEY OF NGOs

6. From a total of some 200 questionnaires sent out, 17 completed ones were received back. In addition, two responses were received from NGOs which felt they were not able to assist. The completed ones were divided into three groups based on the type of NGO, and the number of completed questionnaires received from each group were as follows:

International (with either NGOs and/or natural persons as members from, or a focus for its activities in a number of, different countries) – 2.

National, Non-hunting esp. wild birds: (with either a membership primarily from, or a focus for its activities primarily in, one country) – 13.

National, Hunting esp. wild birds: (with either a membership primarily from, or a focus for its activities primarily in, one country) – 3.

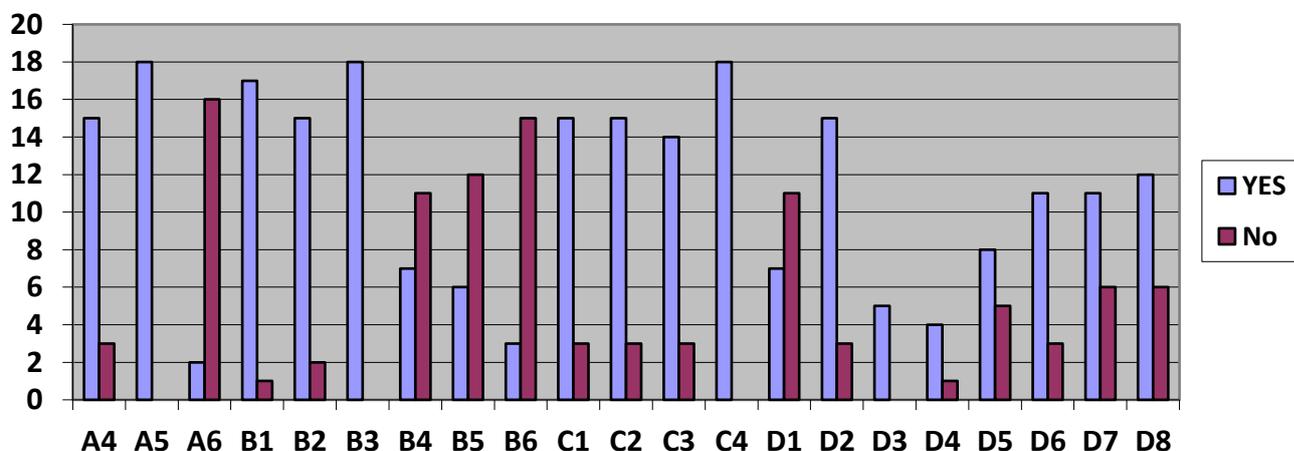
The terms ‘Hunting’ and ‘Non-hunting’ have been used as opposed to the words ‘conservation’ or ‘protection’ to differentiate those NGOs which are exclusively engaged in conservation activities from those which exist to support any form of ‘use’, whether shooting, hunting or falconry, since many of these also use the word ‘conservation’ in their title or have it as a stated, additional, aim.

7. The responses are displayed in the following chart (on page 3) and table (on page 4). Every effort was made to understand the replies, some of which were very detailed, including seeking clarifications from some NGOs, but in a very small minority of cases it proved difficult to ascertain a clear answer. Since the questions sought a clear ‘Yes’ or ‘No’ reply, occasionally any ambiguity was resolved by treating the response as ‘No’. However, for four questions (B2, C3, D5, D7) there was uncertainty or lack of information in a very few of the replies, meaning that no response was recorded, making the totals (shown in the table in *italics*) for these questions fewer than for the majority of the questions. However, this does not affect the trend of the nature of the replies to any question, or the overall result.

8. Anonymity was extended to all those completing the questionnaire, as this was considered more likely to result in full and frank disclosure of information. From the comments received, this appears to have been appreciated by some NGOs and thus to have been beneficial not just to the accuracy of the replies, but also to revealing important activities and contacts by some NGOs of a sensitive nature which could be damaged by publicity.

9. However, respecting anonymity does mean that quoting specific examples is difficult, as it may lead to unintended identification which could compromise the continuation of the activity or contact, and damage trust. This analysis therefore is not a list of NGO projects and activities, but a statistical compilation of the type of activities which can or should help the authorities implement the TAP and the aims of the Convention. Some NGOs referred in some detail to a number of activities, often of a scientific nature compiling data, but others aimed at improving their understanding of the reasons for illegal activity and engaging in strategies aimed at (and sometimes successfully) reducing illegal activity. No two projects or activities were identical, but each NGO appeared good at particularising the problems specific to their area or country and thus focussing on what was locally important in terms of IKTT. To many of the questions where they answered ‘No’, several NGOs provided reasons for, or explained, the ‘difficulties’ they had encountered.

All NGO Responses to all Questions



Statistical breakdown of Responses to all questions by type of NGO

Questionnaire number		International NGO (2 replies)	Non-hunting NGO – birds (13 replies)	Hunting NGO – birds (2 replies)	Totals
A4 – Is NGO aware of TAP?	YES	2	10	3	15
	NO		3		3
A5 – do its rules allow it to assist authorities?	YES	2	13	3	18
	NO				0
A6 – is there any legal prohibition?	YES		2		2
	NO	2	11	3	16
B1 – has it given past assistance with enforcement	YES	2	12	3	17
	NO		1		1
B2 – has it had other contact with authorities	YES	2	10	3	15
	NO		2		2
B3 – is it likely in the future to assist with enforcement?	YES	2	13	3	18
	NO				0
B4 – was it involved with identifying national priorities?	YES	1	6		7
	NO	1	7	3	11
B5 – has it helped to compile CIS?	YES	1	5		6
	NO	1	8	3	12
B6 – has it used or proposed use of Gravity factors?	YES		3		3
	NO	2	10	3	15
C1 – does it obtain scientific data?	YES	2	12	1	15
	NO		1	2	3
C2 – does it supply or share scientific data?	YES	2	10	3	15
	NO		3		3
C3 – has it had other contact with scientific authorities	YES	2	10	2	14
	NO		2	1	3
C4 – is it likely to assist scientific authority in the future?	YES	2	13	3	18
	NO				0
D1 – has it given publicity to TAP in the past?	YES	2	4	1	7
	NO		9	2	11
D2 – is it willing to give publicity to TAP in the future?	YES	2	10	3	15
	NO		3		3
D3 – past co-operation: hunting with non-hunting?	YES	2	N/A	3	5
	NO				0
D4 – future co-operation: hunting with non-hunting?	YES	2	N/A	2	4
	NO			1	1
D5 - past co-operation: non-hunting with hunting?	YES	1	7	N/A	8
	NO		5		5
D6 - future co-operation: non-hunting with hunting?	YES	1	10	N/A	11
	NO		3		3
D7 – has it in the past developed alliances with others?	YES	2	7	2	11
	NO		5	1	6
D8 – does it publicise results of enforcement action?	YES	2	8	2	12
	NO		5	1	6

10. The geographical spread of the returns was restricted mainly to the south and east of the European continent and the Mediterranean region, but included national NGOs from both EU member states (8) and those which are not (5), ie. a 61.5/38.5% split (where more than one NGO from a country responded, that country was counted only once.). The response from national NGOs was split heavily in favour of those which do not hunt, ie. 13/15 or 93% (though one International NGO response was from a hunting one.)

11. In terms of numbers this may be seen as a slightly disappointing result, particularly in respect of hunting NGOs, and thus drawing clear conclusions based on statistics must be done with caution. However, some trends do appear to be sufficiently clear for at least tentative conclusions to be drawn, and for some suggested ideas or proposals for the future to be soundly based.

12. The most positive aspect would seem to be those questions which were answered in a way that indicated awareness of the TAP and an ability and willingness to assist the authorities in some way either with implementation of the TAP or otherwise fulfil the aims of the Bern Convention (some with a minor reservation or clarification) by 80%+ of the respondees. These were the following:

A4 – Is NGO aware of TAP? Yes – 15/18

A5 – do its rules allow it to assist authorities? Yes – 18/18

B1 – has it given past assistance with enforcement? Yes – 17/18

B2 – has it had other contact with authorities? Yes – 15/17

B3 – is it likely in the future to assist with enforcement? Yes – 18/18

C1 – does it obtain scientific data? Yes – 15/18

C2 – does it supply or share scientific data? Yes – 15/18

C3 – has it had other contact with scientific authorities? Yes – 14/17

C4 – is it likely to assist scientific authority in the future? Yes – 18/18

13. Question A6 – is there any legal prohibition? – was answered No by 16/18, ie. by all except two of the national NGOs, though one of these reported some legal restrictions which it appeared to have found a way not to contravene. Again, this result indicates that geographically legal impediments to NGO involvement are very limited, but they are most important where they exist. However, some NGOs referred to what appears to be either an administrative decision or an established practice either to have only limited contact with them, or make limited use of material or data they produce. The actual barriers to NGO involvement may therefore be higher than these figures suggest.

14. Several questions stood out as receiving answers indicating a lack of or limited involvement with a specific aspect of the TAP. These were the following:

B4 – was it involved with identifying national priorities? Yes 7/18

B5 – has it helped to compile CIS? Yes 6/18

B6 – has it used or proposed use of Gravity factors? Yes 3/18

15. The remaining questions D1 – D8 received answers indicating a variety of patterns. This group of questions related to relations with other NGOs. Three questions (D2 – is it willing to give publicity to TAP in the future?, D7 – has it in the past developed alliances with others? and D8 – does it publicise results of enforcement action?) received a reasonably high ‘Yes’ rating of 15/18, 11/17 and 12/18 respectively. Questions D3 – D6 related to those with a different uses of or involvements with wildlife, where historically there has been an opposed and at times antagonistic relationship. The score of 7/12 in answers to question D5 indicates the limited extent of past co-operation of national non-hunting NGOs with hunting NGOs, though (at D3 – 4/4) all hunting NGOs referred to past co-operation with non-hunting NGOs. However, there appeared to be a greater readiness to consider future co-operation between these groups, with ‘Yes’ being indicated at question D6 by 10/13 national non-hunting NGOs, (and similarly question D4 being answered ‘Yes’ by 3/4 of all hunting NGOs). One international (non-hunting) NGO stated it was happy to support both groups.

CAN WE DRAW ANY MEANINGFUL CONCLUSIONS?

16. The *considerable potential for national NGOs to play a prominent part in implementing the TAP*, or in some cases through a national plan that had similar objectives, was shown by the very good level of response to questions A4, A5, A6 and B3 and C4 (their awareness of the TAP, that their rules allowed them to assist the authorities, that there was no legal bar to them doing so, and their expressed willingness to assist, both generally and with scientific information, in the future).

17. However there was much *less involvement by NGOs in the process of enforcement of legislation*, as revealed in the responses to questions B4, B5, B6 (their involvement with identifying national priorities, compiling conservation impact statements and using the gravity factors to assess the relative seriousness of wildlife offences). The reasons for this are unclear and clarifying them would be beneficial. They may include a lack of opportunities to be involved being made available to them by national authorities, especially in the procedures governing enforcement. A concern by some authorities at perceived bias and/or a prohibition by, or very restricted involvement being allowed by, the procedural rules relating to enforcement may be hinted at in one or two replies.

18. This part of the TAP is intended to support the Environmental Crime Directive (*Directive 2008/99/EC on the protection of the environment through criminal law*) for E U Member States, as is confirmed in the 2017 version of the E U Commission's '*Roadmap towards eliminating illegal killing, trapping and trade of birds*'. The role of Special Focal Points here may be important in encouraging or initiating the setting of national priorities, in requiring conservation impact statements when investigating wildlife offences and in requiring that the TAP gravity factors be adopted or incorporated into the enforcement process. If the authorities are not wanting to do these things there will be no opportunity for NGOs to assist, but equally there appears to be no barrier to them asking the authorities to implement these aspects of the TAP and campaigning for this. There appears to be scope for greater NGO involvement here.

19. This comparative lack of involvement in the processes for enforcement may explain the *relatively low level of publicising the results of enforcement by national non-hunting NGOs* (question D8, 8/13), simply through a lack of knowledge of the results of enforcement action which in many cases can take a long time to complete their administrative or judicial procedures. However, 3/4 hunting NGOs did do so.

20. Whilst around 60% of NGOs had not done much or anything in terms of past *publicity of the TAP* (question D1), there was a substantial majority (c.80%) willing to do so in the future (question D2). This is a positive development for the future.

21. The picture revealed of the *relationships between hunting and non-hunting NGOs is mixed* (questions D3 – D6). The responses of non-hunting NGOs to the questions relating to past co-operation with hunting NGOs ('Yes' 7, 'No' 5) improves substantially for expected or possible future co-operation ('Yes' 10, 'No' 3), though the responses from hunting NGOs, though far fewer, appear to be more frequently positive. Overall, the responses point to a cautious interaction between these two, historically polarised, groups. This indicates that there is room for greater interaction and co-operation, though this appears to be better developed at the international level. A number of comments indicated that such co-operation is seen as desirable, even if possible only on a limited basis or difficult to achieve. However, some comments indicated a reluctance to engage in, or no or a limited level of any expectation for, co-operation in the future due to a lack of trust based on alleged past activities or responses, or a failure to come to at least a partial common understanding. One international organisation made it clear it co-operated with both hunting and non-hunting organisations, provided they accepted its principles. Overall, the responses were reasonably positive on this issue, and the willingness at least to consider co-operation (14/18) may be seen as commendably high, and it provides a good indication that in future this may increase, if some form of agreed understanding can be found and as confidence can thus be built.

22. In terms of dealing with scientific data, there was a *substantial majority across all groups for obtaining and supplying or sharing it* (questions C1 – C4), which is a very positive response.

IS IT REASONABLE TO MAKE PROPOSALS FOR THE FUTURE?

23. *The role of SFPs in interacting with NGOs*: SFPs can stimulate and actively encourage relevant NGO and civil society involvement in the national development and implementation of the TAP, or any similar national plan which has aims which give effect to the Convention. Their role should not be limited only to being the link between national governments and the Bern Convention Secretariat or to overseeing the implementation of the TAP within their administrations. They should be encouraging civil society and relevant NGOs to assist in, and hold governments to account for, the continued implementation of the Convention. By providing a neutral platform for discussion and inviting NGOs

with a range of interests in wild birds, and wildlife generally, SFPs can contribute substantially to a bringing together of the traditionally heavily opposed groups on the issue of hunting. Further, the effectiveness of SFPs within government administrations can only be strengthened if they can point to support from a substantial cross-section of the population at large for the aims of the TAP and the Convention. Actively to look for and encourage such support seems to be an obvious way to make themselves more effective. Further, the quality of NGO projects and activities clearly indicates their value to the authorities as reliable partners in implementing the TAP and the aims of the Convention. That is a major result of this exercise, which should encourage SFPs to make full use of them. In some cases this may involve proposing changes to administrative practices.

24. *Proactive NGOs to seek to assist with TAP implementation (or alternative national plan):* With NGO awareness of the TAP at such a high level, this provides a good basis for NGO support, pressure and demands for compliance to be directed at national governments. It is reasonable to look for a proactive approach from national NGOs, taking the initiative to encourage and assist their SFP, seeing him/her as an obvious 'handle' to use to influence national administrations. There appears to be substantial scope for this, especially with aspects of enforcement and the sharing of scientific information.

25. *Engagement with other NGOs and civil society:* Given that the aim of the Convention (and therefore the TAP) is widespread and increasing voluntary compliance with the national legislation implementing it, engagement with civil society to change the attitudes which lead to IKTT of wild birds and other wildlife is a 'sine qua non'. NGOs with an interest in and knowledge of any, and especially illegally exploited, wildlife are most obviously an available and knowledgeable means 'to get the message out' into the community. The authorities should be seeking to use them for this purpose, and this too should be seen as part of the role of the SFP. NGOs should be willing to accept this as one of their roles, which in large measure many already do. The means available to help achieve this include projects in formal educational establishments, social media, 'one-off' publicity events, as well as the traditional media outlets of press, radio and television. Further, there may be possibilities of setting up partnerships or consortia bringing together a range of NGOs with an interest in wildlife conservation to discuss and propose actions to improve compliance. NGOs and their members can participate in all of these.

26. It is submitted that these three proposals are well-founded in the replies to the questionnaire, and together would help to provide a well-integrated or 'joined up' approach to the implementation of the TAP and to obtaining a broader and deeper compliance with the aims of the Convention within civil society.

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