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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE  
AND NATURAL HABITATS

**Standing Committee**

35<sup>th</sup> meeting  
Strasbourg, 1-4 December 2015

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**2<sup>nd</sup> Meeting of the Special Focal Points for  
Illegal killing, trapping and trade of wild birds**

Madrid, 24-25 February 2015

**- MEETING REPORT -**

*Secretariat Memorandum  
prepared by  
the Directorate of Democratic Governance*

## 1. WELCOMING REMARKS AND INTRODUCTION TO THE MEETING

The Chair of the Group of Experts on the conservation of Birds, Mr Rastislav Rybanič, opened the second meeting of the Special Focal Points and welcomed the participants. He further expressed his satisfaction for the relevant number of national delegations represented and thanked Parties for their commitment towards addressing illegal killing of birds.

Ms Asunción Ruiz, CEO of SEO/BirdLife, welcomed the participants and thanked the Bern Convention for putting forward the work and achievements of the NGOs on environmental conservation and, in particular, on birds' protection. She further thanked Spanish authorities for providing the technical facilities for the meeting.

Ms Ruiz emphasised on the 60<sup>th</sup> anniversary of SEO/BirdLife and recalled the main results of the conservation work carried out by her organisation. She stressed that a healthy biodiversity is key to the welfare and quality of life of human beings, and she recalled the major role that birds play in the wider environment, including as indicators of the status of biodiversity. She further emphasised on the need to raise awareness among the society on the importance of maintaining a healthy biodiversity, so to impulse a shift towards more sustainable and responsible use of nature resources.

On illegal killing of birds Ms Ruiz recalled the serious impact that these offences have on bird conservation, and noted some of the main challenges ahead. She further recalled that the present meeting is the 4<sup>th</sup> gathering on illegal killing of birds, hosted by SEO/BirdLife in Madrid over the month. She hoped that the outcomes of the previous meetings would also enrich the discussions to be held by the Parties to the Bern Convention on this occasion.

The Secretariat thanked SEO/BirdLife for offering to host the meeting and appreciated that the issue of illegal killing of birds is now high on the international biodiversity agenda.

The Secretariat further welcomed the Parties and thanked the other international bodies with competence on these matters for their participation in the meeting. Moreover, the Secretariat expressed gratitude to the speakers and the moderators for having accepted to contribute, through their expertise, to the work of the Convention on illegal killing of birds.

The Secretariat provided a brief overview of the latest achievements in this field, emphasising on the progress of Parties in the implementation of the Tunis Action Plan 2020. The latter is internationally seen as a sort of “umbrella” Action Plan with the ambition of providing a flexible and efficient framework for coordinating European activities against illegal killing, trapping and trade of wild birds. The Secretariat also reminded that international endeavour towards the implementation of the Tunis Action Plan is also contributing to the fulfilment of CBD Aichi Biodiversity Target 12, a critical target which is however suffering from the lack of internationally coordinated action. The consolidated cooperation with the CMS, INTERPOL, the EU, BirdLife and the FACE to jointly and coherently address wild-bird crimes' issues was also stressed.

Finally, the Secretariat presented the draft Agenda, highlighting the need to use the present meeting as an opportunity for advancing work particularly in the field of agreed priorities, gravity factors, and sentencing principles.

## 2. ADOPTION OF THE AGENDA

The Secretariat apologised Mr Fernando Spina, Chair of the CMS Scientific Council, and Mr Øystein Størkersen, Chair of CITES Standing Committee, for their last-minute absence, due to unforeseen circumstances. The Secretariat also informed about the proposal of Hungary to present a Life+ Project implemented in the country for dealing with illegal killing of raptors.

The Agenda was adopted with these few amendments.

## 3. UPDATE ON THE ACTIVITIES AGAINST ILLEGAL KILLING OF BIRDS IN OTHER FORA

➤ Ms Marita Arvela, representing the **European Commission**, gave a presentation on the state of implementation of the EU Roadmap, and examples of EU funding tools.

Ms Arvela recalled that the EU Roadmap is structured around four main fields of activities:

1. Monitoring and data collection;
2. Information exchange;
3. Enforcement and legal aspects;
4. Prevention.

The EU Roadmap is less comprehensive than the Tunis Action Plan, but is an important instrument for its implementation, particularly when it comes to the enforcement of international legislation in EU member states.

Recent activities with the Commission involvement were explained. There was a meeting between BirdLife, FACE, AEWA, IMPEL and INTERPOL in February 2015, to which the Bern Convention Secretariat could not attend. In addition the Commission discussed illegal killing of birds with the EU Member States in autumn 2014 (Ornis Committee). The EU-Pilot requests (information exchange on possible infringements) and infringement procedures are also being used where necessary. The organization of information sessions for judges continues and there might be one on wildlife trafficking in one year's time. A Guidance document on Cormorants was published recently, promoting good use of derogations. IMPEL continues to work on "IMPEL Implementation Review" (with a financial contribution from the Commission). Measures to strengthen the EU actions against wildlife trafficking is under preparation by the Commission and, in addition, there is an on-going initiative about EU legal instrument on "surveillance", inspections and investigations.

Moreover, the EU will probably grant a financial contribution to the Pan-Mediterranean Task Force on illegal killing of birds, to be set-up by the CMS following the adoption of CMS "Resolution 11.16 on the prevention of illegal killing, taking and trade of migratory birds".

Finally, Ms Arvela presented a non-exhaustive list of EU funding instruments which may be used particularly for organisation of training, awareness raising activities, networking, and capacity-building. She concluded by encouraging member states to implement transnational cooperation programmes and exhorted them to also look into the structural funds as an additional way of financing activities to tackle illegal killing of birds.

The presentation raised a number of interesting questions, mainly by Parties, namely on: the reasons why the EU cross compliance doesn't include anymore any specific article on illegal killing of birds as this has been very useful for enforcement agencies in the past (Cyprus); the number of training for judges so far organized and the way these are advertised, in order to increase participation (Mr Crampton, moderator); the possibility of making the training material public, so to allow member states making use of it (Hungary). Hungary also informed that the authorities are planning to organise a national training for judges. Portugal asked about the procedure, for member states, to comment and amend draft documents produced by the European Commission.

➤ Mr Andreas Andreou, Criminal Intelligence Officer at **INTERPOL**, present the already existing tools and mechanisms that enforcement agencies in Contracting Parties can use to address illegal killing and trade of birds.

Mr Andreou emphasized on the secure global police information system which is functioning seven days per week, 24 hours per day, and which further provides operational support to the whole INTERPOL network, spread across over 190 countries.

Mr Andreou informed that last year the INTERPOL built seventeen databases on organised crime, and stressed that this also concern illegal killing of birds. The databases so created are structured around themes, and keep track of issues like for instance piracy, trafficking in human beings and wildlife crimes. National Central Bureaus (NCB) of INTERPOL have access to this data sharing tool, which is therefore already accessible to all Bern Convention Contracting Parties.

Moreover, INTERPOL can provide operational and investigative support to law enforcement agencies. So far, illegal killing of birds has not been high on INTERPOL agenda for Europe as the focus in the region is currently on e-waste and pollution. But it is not excluded that illegal killing of birds is more thoroughly addressed, if countries show that there is an interest.

INTERPOL is also aware of the difficulties, for some countries, to prioritise the crimes. However, it may help in this task, and offers capacity building programmes which may be tailor-made. Training on interviews and/or investigation techniques is also available.

Participants showed interest in getting more information on the relation between INTERPOL and EUROPOL, and it was clarified that a Europol's liaison officer is appointed to follow INTERPOL work and optimizing operational support across Europe, and that the respective databases are regularly cross-checked.

The Delegate of the Czech Republic stressed that most of INTERPOL work on wildlife Crime is geographically focused at Central America and Asia, and raised a concern regarding the accessibility of INTERPOL's database as the latter is only open to police and similar enforcement bodies. This restricts somehow its utility.

Mr Andreou agreed that INTERPOL, as a global organization, has a wide geographical scope, but stressed that Europe is also targeted by its action and clarified that the data collected by INTERPOL are available to all enforcement agencies, not only the police. He encouraged the participants to contact him directly in case of problems.

➤ Mr Willem van den Bossche, European Nature Conservation Officer at **BirdLife International**, presented BirdLife's on-going projects related to the implementation of the Tunis Action Plan. One of the most relevant is the Review of illegal killing of birds in the Mediterranean, aimed at providing a comprehensive quantitative analysis of the scope and scale of illegal killing of birds in the Pan-Mediterranean region. The project is implemented by 26 Mediterranean BirdLife partners, as well as by the NGO's partners in Georgia.

In the frame of the project, the partners already started preparing a review of national legislations on hunting, trapping and trading of birds, compiling existing and new information on blackspots for illegal killing, on the practices used and numbers of individuals per species illegally killed/trapped. The results will be used to develop best-practice techniques and protocols for systematic monitoring of the different type of illegal activities, as well as a road-map and response portfolio.

The interim results already show that illegal killing/trapping of birds is an important conservation issue in most of Mediterranean countries, and the estimates seem to indicate that tens of millions of individual birds may be illegally killed in the region every year. Only a few countries are already implementing systematic monitoring protocols to survey this issue. The project is also working towards the identification of gaps in national legislation where legislation fails to comply with international agreements and conventions.

One of the future developments of the project could be to expand the review to rest of Europe and Middle East. The results will be presented at a conference to take place on 21<sup>st</sup> May 2015 in Rome.

The Delegate of Malta shared the experience of the authorities with this project in his country. He recognized the importance of the initiative but stressed the need to ensure the participation of all stakeholders and to use uncontested and reliable sources of information. He further stressed that illegal killing of birds is a polarized issue in his country and that a serious scientific review should be built on a science-based approach, instead of a campaigning one.

The representative of Birdlife agreed on the need to involve all stakeholders but also stressed that this project is the first ever of this kind in Europe, and it is implemented at the initiative of NGOs, armed of expertise and good-will but limited in resources.

The Delegate of Italy recognized the difficulty of collecting data on these topics, and thanked Birdlife international for initiating this process by gathering and sharing at least some initial information as a basis for deeper work. This is an important step to stimulate national and regional authorities to collect data on their turn.

➤ Mr Cy Griffin, Director of Conservation at the **European Federation of Associations for Hunting and Conservation (FACE)**, presented the perspective from the hunting community and informed of ongoing actions.

Mr Griffin remembered the main related documents and events to which the FACE contributed since 2009. He also recalled the official position taken by the FACE at the 1<sup>st</sup> Conference on illegal killing, trapping and trade of birds, organized by the Bern Convention in Larnaca, Cyprus (2011). On that occasion the FACE called for a clear distinction between responsible hunters/sustainable hunting, which form part of a common European heritage, and criminal activities, which the FACE strongly condemns.

Mr Griffin said that since the Larnaca Conference there has been a clear improvement from the hunting community in condemning or faster denouncing illegal activities, also because there is a better understanding of the prejudice that illegal offences bring to the image of (legal) hunters. This is also the result of the work carried out by the FACE on providing advice on hunting regulations at the national and international levels.

For instance the FACE is involved in addressing the issue of hunting tourism, as many hunting tourism organisations are not well aware of the legislation in place in the country of destination. The result is that they may offer products which are legal in the country of origin but illegal in the country visited by the tourists.

In this context the FACE undertook a review of hunting regulations in South East Europe, with a view of clarifying the provisions of national legislations. The regulations in place seem to be, in most cases, very strict, but enforcement is still not satisfactory because there is often a misinterpretation of the law. One of the key challenges here is to clearly define the problem of illegal killing of birds and set priorities accordingly.

Mr Griffin provided some examples of concrete actions carried out by the FACE, many of them implemented through with other organisations, like it is the case for the Partnership for Action Against Wildlife Crime in Scotland, covering all aspect of wildlife crime.

In conclusion, Mr Griffin recalled that hunting is a highly regulated activity in Europe, and that only a minority of hunters act illegally. Imposing stricter regulations on the majority will not improve the situation and thus the best solution seems to be better enforcement of existing regulations and good communication.

The Chair expressed thanks to both BirdLife International and FACE for their helpful work. He also reminded that enforcement remains the responsibility of the countries.

➤ Mr András Schmidt, Deputy Head of Department at the **Ministry of Rural Development of Hungary**, presented the state of implementation of the Helicon Life+ Project, running since 2012 for a period of four years. The project is part of the long-term conservation work undertaken by the country in 1974 for the protection of the globally threatened eastern Imperial eagle. It is implemented in close cooperation with BirdLife Hungary, the Hungarian National Park Directorates and several other governmental and civil organizations.

The project's specific objectives are to reduce the adverse effects of deliberate killings, improve the detection of offences and prosecution, increase stakeholders' awareness about the overestimated impact of raptor species on game populations and about alternative eagle-friendly game management methods, and increase public awareness about the importance of Imperial eagle's.

Mr Schmidt presented figures on the population of eastern Imperial eagle in Europe, as well as the number of nesting pairs and rates of breeding success in Hungary, showing that the project is already bringing some positive results, particularly in terms of detection and conviction of perpetrators.

More recently, Hungary is giving special attention to poisoning, a problem which is relatively new as it appeared for the first time in 2005. More than 60 Imperial eagles were found poisoned in the past eight years, with peaks in 2008 and 2012.

Two major typologies of poisoning with chemicals (mostly carbofuran) have been identified: one by the misuse of permitted, non-selective rodenticides and other poisoning chemicals, and another by the use of non-permitted, illegal poisons, which is considered to be direct poisoning. For the sake of both prevention and prosecution, Hungary has worked on identifying the black-spots of poisoning on

the whole national territory. The situation sensitively improved between 2009-2011, coinciding with a temporary increase of the population (calculated in nesting pairs). But the analysis carried out on the overall available data reveals that although intensive poisoning did not cause a decrease of the population on the short term, it already affected the population growth.

Finally, Mr Schmidt presented some of the tools and measures put in place in the frame of the Helicon project, including the setting up a veterinary network and best-practice protocol, satellite tagging for tracking purposes, nest guarding at key Natura 2000 sites thanks to a network of volunteers, field surveys with a dog unit, habitat development measures, awareness and information campaigns, including in cooperation with the hunting community. He concluded by announcing the preparation of an international bird crime/bird poisoning conference to be organized in 2016.

The representative of Cyprus asked whether the surveys carried out under the Helicon project revealed any deaths related to windfarms developments. Mr Schmidt said that Hungary didn't carry out a full-scale national analysis of all the threats affecting raptor species, but the impact of windfarms has been analysed for the Saker falcon. The results showed that this species doesn't collide with the windfarms but simply because it achieves to avoid the windfarm's path, by renouncing to its natural habitat. It therefore becomes a problem of habitat loss.

#### **4. UPDATED FROM CONTRACTING PARTIES – PLANS FOR THE IMPLEMENTATION OF RELEVANT STANDING COMMITTEE'S RECOMMENDATIONS**

The Chair opened this session recalling that it was intended to allow Parties sharing information on the steps undertaken to enforce relevant Standing Committee's recommendations.

The Delegate of **Malta** reiterated the commitment of the country towards eradicating illegal killing, trapping and trade of birds, and described the most recent steps taken to ensure compliance. The Delegate namely enumerated the following:

- In order to boost prevention, minimum and maximum penalties were doubled for all types of offences in October 2013, whilst in March 2014 minimum penalties for IKTTB-related offences concerning protected birds were increased ten-fold. This increase in the penalties was coupled with an intense regulatory awareness campaign targeting hunters. The aim was to provide a credible legal deterrent for these illegal activities. The level of penalties for this kind of offences in Malta is now among the highest in Europe.
- Enforcement deployment in the field during the period of peak migration of migratory birds has been doubled during both spring and autumn seasons, in comparison with the deployment prior to 2013.
- Intensity of field inspections has increased four-fold over a period of 24 months.
- Enforcement is aided with the use of modern technology, including surveillance drones, real-time electronic game reporting system for hunters, and portable GIS-enabled devices used during inspections.
- The number of disclosed offences related to IKTTB has declined. This trend is also confirmed through the statistics of observed offences detected by NGOs, which documented a four-fold decline in the number of observed incidents over the last 3 years.
- Conviction rate for IKTTB-related prosecutions improved from 95% in 2012 to 97% in 2014.
- A new administrative fines system introduced for minor offences in 2013 has relieved the courts from backlog of minor cases thus allowing to focus judicial and prosecution resources more effectively on major violations.

Moreover, training sessions were held for police officers in April, August and October 2014 whereby the officers were briefed on the national policing and investigation priorities. National legislation is also in the process of being amended to specifically refer to gravity factors for various offence categories. A further major increase in the penalties for most serious wild-birds related offences is also in the pipeline. Work is underway to improve access to information concerning enforcement against wild-birds related offences. An enforcement database is being developed.

The Delegate of **Portugal** recalled the impact of the economic crisis in some European States and informed that eradicating illegal killing of birds is thus not a top priority. However, the country adopted a biennial Action Plan against wild-bird crimes and set up an enforcement group in charge of its implementation. A second working group has been created to gather other stakeholders for information sharing and coordination purposes. Portugal is also carrying out some data collection activities, mainly in the framework of the CITES Convention, although for the time being there are no financial or human resources for their scientific analysis. The University may probably take this task over.

The Delegate of the **Slovak Republic**, so as the previous speaker, said that wild-bird crime is not a priority in his country, despite being confronted to a serious problem of poisoning of raptors. As in the case of Portugal, the lack of human and financial resources prevents the authorities from accelerating progress towards the eradication of illegal killing of birds. Nevertheless, a dedicated expert group has been recently set up for the purpose of the implementation of the Tunis Action Plan. Moreover, environmental crime has been set as one of the priorities of the forthcoming Slovak Presidency of the European Union. An Action Plan for police forces involved in the fight against environmental crime should also be prepared to palliate the lack of a special police unit. In fact, so far investigation is carried out by the ordinary police, thus making it difficult to achieve good rates in detection and prosecution of wildlife crimes. These activities have made the object of a project proposal, submitted for application to DG HOME grants, with the cooperation of both INTERPOL and Europol.

The Delegate of **Italy** informed that the Ministry of the environment is promoting activities for the implementation of the Recommendation on the identification of priorities. The Ministry requested the joint cooperation of the ISPRA and the Italian Forest Corp (the special police force for environmental crime) in order to identify the different stakeholders involved in the investigation of wild bird crimes. Moreover, the authorities are working on setting-up a database on illegal activities to be used for the identification of national policing priorities. The analysis of the database is also foreseen, as a next step, and the frequency of shooting on certain species will also be assessed, through the use of X Ray photos.

The Delegate of **Cyprus** informed that the authorities decided to adopt a National Action Plan against illegal trapping of birds which will include a programme of activities, campaigns and measures against illegal trapping. The preparation of the NAP started in 2013 and two workshops have already been organized, mainly focused on the three main aspects addressed by the Tunis Action Plan. The NAP is now ready for adoption and its final version is pending the Minister's signature.

The Delegate of the **Czech Republic** informed that they started working on genetic analysis as a tool for improving enforcement and prosecution of offences. However, the work carried out by the national stakeholders is still missing a systematic approach to illegal killing of birds. That is why, already this year, a workshop will target all relevant stakeholders so as to set up a specific Working group which will be in charge of dealing with illegal killing, trapping and trade of birds.

The Delegate of **Croatia** stressed that the two main problems faced by the country are the illegal killing of protected birds during the hunting season, and the illegal killing of songbirds.

The authorities are preparing a small project which should serve as a frame for an awareness and information campaign. Some seminars for police officers should also be organized so to increase their knowledge on the specific aspects of illegal killing of birds.

The Delegate of **Georgia** informed that the huntable species are defined by a Ministerial order, which also rules about the hunting seasons. Any other killing or trapping of birds which is not allowed by the Ministerial order is illegal. Enforcement of hunting rules is dealt with by a special environmental supervision department. But the latter is responsible for enforcement of environmental regulation in general so it is not specialized on wild-bird crimes and their impact on biodiversity. The inspections are generally carried out by the rangers as enforcement agents, but they are limited in number. To mitigate this problem, the authorities have created a hotline which allows citizens to denounce illegal activities.

The Delegate of **France** informed that the country counts with a special police unit made up of around 1 509 officers tasked to control illegal activities. Illegal killing of birds is not very common in France, and there is a special regime of derogations under strict control for traditional hunting. Prosecutions mainly relate to hunting outside the hunting season. There have been some few cases of poisoning of raptors but not on a large scale.

The biggest challenge faced by the authorities is the illegal trade, which is dealt with in compliance with CITES mechanism by CITES officers.

The Chair congratulated the Parties for the consideration given to the Tunis Action Plan as well as for their efforts and tangible results.

## **5. WORKING SESSION I – IDENTIFICATION OF AREAS OF OFFENDING: TOOLS FOR THE SETTING-UP OF MECHANISMS FOR RECORDING WILDLIFE CASES AND STATISTICAL EVIDENCE**

Mr Bob Elliot, Head of Investigations at RSPB, introduced the topic of WS1 through successful investigation tools and techniques experimented in the UK. The starting point of his presentation was the need to first understand what the problems are so as to be able to find the most appropriate solution. In order to define the scope and extent of the problem, the RSPB has elaborated one among the most complete and longest running sets of data relating to wild-bird related incidents, which is put at the disposal of the statutory agencies to investigate crimes against wild birds in the whole UK. Data collection (incidents, offenders, geographical area, etc.) and analysis served for identifying the areas of offending (including sometimes protected areas, such as National Parks), but also to categorise the type of offences and the most targeted species. Moreover, the figures related to the offenders enabled to draw their profile, showing that around 70% of the offences are committed by people with game interests.

Mr Elliot concluded by presenting some case studies, showing the importance of data sharing – with all the necessary precautions for sensitive data - and partnership working to tackle wildlife crime priorities and ultimately protect iconic protected species of conservation concern.

Ms Pavla Rihova, from the Czech Environmental Inspectorate, presented the Czech experience with forensic genetics and DNA analysis applied to the eradication of wildlife crime in general. In fact, DNA analysis allows to collect information on the species, the population, the sex until, in some cases, the individual animal which has been victim of the offence. The main advantage of these techniques, particularly when presenting cases before the Courts, is that they allow for a precise identification of the species and even for the comparison of an unknown sample with the genetic codes published in genetic literature or databases.

However, Ms Rihova also mentioned the main obstacles to a wider use of DNA analysis, mainly: insufficient knowledge on wildlife DNA analysis among the judiciary and enforcement officers, the very wide genetic diversity of species and the limited knowledge on species' DNA. Moreover, there is a higher risk of contamination, which requires particular care for handling with samples, and there are not so many laboratories able to handle this kind of data. Finally, DNA analysis is expensive.

Ms Rihova concluded her presentation through some case studies where DNA analysis had been key in the investigation and prosecution of wildlife crimes.

Discussions continued with considerations on the practical application of DNA analysis in Contracting Parties. Mr David de la Bodega recalled two cases of poisoning in Spain solved through DNA analysis. In one case it enabled the authorities to identify the author of the crime; in the second case it helped discovering the cause of the death (poisoning) and the origin of the poison bait, which came from a lamb farm.

The Delegate of Portugal suggested that Parties work towards the identification of priority species for which DNA analysis would be both necessary and easier (for instance rare or emblematic species). He concluded by noting that the forensic side of the investigation could very much benefit from progress in this field.

Another aspect which raised the interest of the participants related to the limitations given by the legislation on data protection, which often makes it difficult to put useful information at the disposal of a whole network of enforcement agents, particularly at the international level. The Delegate of the Slovak Republic reported on a practical experience related to a conflict between data protection needs and the exploitation of a participatory database.

Information and knowledge sharing appeared however to be crucial. Some participants suggested that a neutral platform should be identified for building up a dedicated website to collect all available knowledge on illegal killing of birds. Portugal stressed that there are different levels of information that can be shared. For instance the EU Twix is a helpful tool for sharing information on cases but it is submitted to strict rules related to data protection.

Cyprus considered that, despite the existing constraints, Parties could probably agree on a very basic set of non-sensitive data/information that could be easily shared. This would allow for the preparation of a harmonized reporting format which Parties could use to report on the number and nature of cases elucidated, number of birds killed, number of cases prosecuted, and sentences applied.

Concerning other mechanisms for reporting on wildlife crimes, the Delegate of Romania emphasized on the key role of volunteers as helpful watchdogs. In some countries volunteers forward data from hotspots, and are also used for participating in patrols. Romania has for instance set up a specific training programme for volunteers.

Hungary recalled the useful role of boarder stations, particular in matters related to illegal trade. SEO/Birdlife wished to remind the use of standardized protocols for reporting, like those prepared by SEO for poisoning. These protocols are the result of the participatory work of a wide group of stakeholder, including the authorities, and some regional authorities are now using them.

## **6. WORKING SESSION 2 - IMPROVING KNOWLEDGE ON BIRD POPULATIONS' MORTALITY DUE TO ILLEGAL ACTIVITIES: HOW TO EFFECTIVELY ESTIMATE MORTALITY DUE TO ILLEGAL TRAPPING AND TRADE?**

Mr David de la Bodega, project coordinator at **SEO/BirdLife**, set the scene for the discussions by presenting the progress achieved in the framework of the European Network against Environmental Crime (ENEC), a network set up under a project funded through EU Programme on "Criminal Justice". The project aims at improving the implementation and application of the Directive 2008/99/EC on the protection of the environment through criminal law. It runs from April 2014 to April 2016 and it is coordinated by SEO/BirdLife with the support of the RSPB. The project should also serve for coordinating BirdLife activities against environmental crime with those of other networks and international institutions involved in the protection of the environment.

The first meeting of ENEC members took place in Madrid, two weeks before the present one, and gathered representatives from NGOs from 18 EU member states. Participants analysed the legal regulatory framework of illegal killing of birds under EU criminal law, and draw a set of recommendations to EU authorities and other Multilateral Environment Agreements (MEAs). Among these, the most relevant concern the need to harmonise penalties across member states, provide specialized training for judges, prosecutors, inspectorates, enforcement officers and lawyers, and recognize a right for the NGOs to take cases before national courts.

Mr de la Bodega further presented the logframe for the implementation of the ENEC project, according to a detailed timetable. He also announced that a Second European Workshop on Environmental Crime will take place in September 2015 and will focus on poisoning. A third workshop is foreseen for February 2016 to discuss habitat destruction. SEO/Birdlife is open for partnership in the organization of this event.

Mr Cy Griffin, Moderator, introduced the working session on improving knowledge on bird populations' mortality by noting that although legislation is important, the latter also needs to be underpinned by science which becomes fundamental when looking at the causes of mortality. Science-based analysis should also take account of the survival rates which are particularly relevant for the migrant population. Prioritisation of species seemed to be a necessary step also in this concrete aspect.

The Delegate of Portugal said that his authorities are in the process of starting the prioritization of species. They are also reporting on the mortality, including when linked to trapping which in Portugal is illegal by definition, and are trying to quantify the dead specimens and analyse the causes of deaths.

Hungary informed that in the frame of the actions to conserve the Imperial eagle the authorities used satellite transmissions. This is an expensive tool which is however very useful and thus it is employed for very rare species.

The Delegate of Malta recognized the interest of estimating the extent of mortality due to illegal killing of birds, but noted that there are only two variables which can be objectively measured and these are the rates of disclosure (cases of shooting and number of specimens), and the indicators of the success of the surveillance (average disclosure rates, number of surveillance, etc.). Other variables cannot be objectively measured. For instance, a high rate of prosecution is not necessarily an indicator of the scale of the problem although it may be an indicator of successful implementation. In Malta, the authorities compare the data collected through the standard reporting format (on the number of officers deployed over a specific period, the number of inspections and the offences that are detected) with the reports provided by the hunters for their bag-limits. This allows the authorities to verify the reports of the hunters; still, it is not possible to ascertain the number of birds killed illegally although the information is useful for having some indication for priorities.

The discussions continued on the variety of illegal methods used in Contracting Parties, and on the difficulty of finding a common methodology for identifying trends.

The Delegate of Cyprus came back on the issue of statistics and emphasized on their importance while stressing that this work requires adequate manpower. He said that the collection and analysis of statistical data may be the object of a project proposal to be submitted by the country for EU grants.

In conclusion, the Parties spotted that there is a lack of harmonized mortality figures across countries. However, knowledge on both mortality and survival rates should be improved. Estimates are difficult to be collected in objective way. Some countries are collecting information on the scale of the problem (Malta has a fully advanced system, Cyprus reports on convictions and Portugal also on the number of birds involved). Figures on the type of infractions would also be useful. Although this is basic data it is still relevant for both investigation and prioritization of species. Parties emphasized on the need to distinguish small scale crimes from organised crime. Transparency and open access to non-sensitive data should be ensured, probably through the setting-up of a commonly agreed protocol for data collection.

## **7. WORKING SESSION 3: IDENTIFICATION AND STANDARDISATION OF GRAVITY FACTORS, AND PREPARATORY WORK FOR THE ELABORATION OF SENTENCING GUIDELINES**

Mr Antonio Vercher Noguera, Head of the Spanish Environmental Prosecution Office, introduced Working Session III providing a very detailed presentation of the Spanish model.

Mr Vercher started with a few general remarks on the challenges of addressing environmental crimes through general criminal law and recalled that environmental crimes are of extreme gravity as they put human well-being at threat. Moreover, the judiciary is not always prepared to assess the real impact of environmental crimes due to the very specific nature of these matters, where science has a prominent role. He also recalled that this was one of the reasons behind the adoption, by the Council of Europe's Committee of Ministers, of [Resolution \(77\) 28, on the Contribution of Criminal Law to the Protection of the Environment](#). The latter recommended to all Council of Europe Member States, already in 1977, the establishment of specialist branches of courts and offices of public prosecution to be able to deal properly with environmental cases. Mr Vercher stressed that a specialization of the judiciary on environmental matters would certainly help raising the level and gravity of the fines applied.

Spain has been working on fighting against environmental crime in a very substantial way since 2009. The primary aim of the creation of the Spanish Environmental Prosecution Office (SEPO) was initially to fight against corruption in land planning and urbanism. However, in 2008 the office started focusing on other areas, including environment and the protection of species. One year later, SEPO

organized a meeting with the Spanish specialized police and the administrative authorities competent for illegal killing of birds, and they assessed cases of infractions from the administrative perspective. As a result, they elaborated a database which now includes all relevant information on the matter, including reports on cases and their outcomes. Cooperation with the INTERPOL on illegal killing of birds also started at that time, when an important police operation on illegal trafficking of birds of prey ended up into two criminal procedures.

Since then, the number of convictions for this kind of offences almost doubled, with 145 convictions versus 64 acquittals in 2013.

Regarding sentencing, Mr Vercher explained that the punishments in Spain can go until imprisonment, but the application of heavy penalties remains generally rather low. This is particularly the case for convictions related to poisoning, despite the latter being a serious problem. In fact, it is often hard to provide evidence in cases of poisoning. Mr Vercher stressed that the problem of the low level of penalties is one of the negative consequences of applying the criminal code to environmental matters, as explained in his introduction.

Concerning the work of the prosecutors, Mr Vercher explained that they are in charge of evaluating the damage that the offence represents for the environment, but they don't receive specialized training, apart from the skills developed through their own experience in the field. To ensure a proper scientific assessment SEPO has integrated among its staff some scientists, so to also preserve the independence of the Office. This has been considered by many participants as a necessary and outstanding practice, which could be implemented by other countries at a very low cost.

Mr Vercher concluded his presentation with a series of examples of real cases for which the sentences have already been pronounced.

Answering a question on poisoning, Mr Vercher further informed that the SEPO addressed letters to all companies producing carbofuran, with clarification on the legislation in place, and obtained that most of them stopped the production. However, a step further would be to prepare a dedicated Strategy against poisoning, to be implemented together with the Spanish environment police.

Mr Nicholas Crampton, Moderator, thanked Mr Vercher for the very interesting presentation and asked the participants to have a first discussion on the identification of common and coherent gravity factors. Mr Crampton recalled that the Tunis Action Plan is to be implemented across a range of different jurisdictions and that harmonization of gravity factors across these many judicial systems is obviously a challenge. To overcome this, a questionnaire and some introductory material were circulated to Parties prior to the meeting. Based on the Parties' replies, Mr Crampton invited the participants to discuss the list of proposed factors in order to see whether there was a scope for additions and/or clarification or re-definition.

Three aspects attracted virtually all of the comments made by the participants:

1. **Impact on the ecosystem:** The essence of the comments referred to its apparent lack of precision ("What does it mean? "It is difficult to evaluate". "Does it include the status of the species, how threatened or rare?" "Are these to be evaluated locally, nationally or regionally?" "Is there a link to the IUCN Red List?" "There is a need to be specific as possible." "How to prove the impact of the offence on the ecosystem while presenting a case before a Court?").

Two suggestions emerged: first that it would be better to amend it to local or national populations of species and habitats, and secondly, to include whether any damage to the habitat/ecosystem/population was reparable or irreparable.

2. **Black spots:** Participants agreed that this designation was more useful in allocating resources to investigations, i.e. to national policing/investigation priorities, but not to the evaluation of the seriousness of each case.
3. **Hot spots and areas of special protection:** Many suggested that the nature of the area where an offence takes place is a relevant matter. Others said it may be more serious if an offence against a threatened species takes place outside a protected area. One suggestion was that it could be

included in the definition of “conservation status of species”. However, it appeared equally relevant to national policing/investigation priorities.

No other specific objections were made to the broad concepts of seeking amalgamation nor of giving greater definition to the factors. The need for clarity of terminology was, however, a principal theme of the discussion.

On the issue of the “sentencing principles”, Mr Crampton recalled that Contracting Parties have different ways of enforcing legislation: wide differences in the maximum available financial sanctions, although there is a substantial dependence on financial penalties imposed administratively; significant differences in the frequency of prosecutions; etc.. Therefore the sentencing principles should be a set of basic standards able to fit across different ranges of jurisdictions, bearing in mind that these cannot be imposed from the outside. The sentencing principles should be rather seen (and disseminated) as a tool for assisting prosecutors and judges in their work.

The moderator prepared some introductory material in which he suggested that any sentencing principles had to be strictly confined within a jurisdiction since they had to relate directly to the range of penalties provided within it, assuming that such principles were acceptable to the judiciary and compatible with judicial independence. Thus, he suggested a number of broad principles which might be suitable to assist the enforcement of wildlife legislation across a range of jurisdictions and invited the participants to consider these during the discussions.

The following points were made:

1. **Administrative measures:** in some jurisdictions the issuing of fines as “administrative measures” is not tracked, and thus that there may not be an easily available record. This means that not only officials but also judges may not know whether such fines had been imposed previously or how much (meaning that they can be imposed many times on the same offender: an example was provided by the Delegate of Cyprus).

Also, that the level of these fines is often so low that it was “worth it” for a repeat offender to break the law than comply. A further problem mentioned was of offenders appealing to the court (where this was allowed under the legislation) and getting administrative fines reduced. The Delegate of Georgia instanced a case of raptor poisoning in a rural area where the perpetrators were deemed too poor to be able to pay any financial penalty. Portugal experienced the same constraint.

2. **Financial penalties:** Other problems with fines were identified and included the problem of poor collection measures of, or enforcement of, the fine, meaning that fines may not be paid. Reference was made to ECHR and the necessity to have regard to the “means to pay” as an essential element in the imposition of financial penalties at the instance of the state or Government. The comment was made that the authorities must be very careful in their use.
3. **Minimum sanctions:** There was discussion about the merits of legislating for minimum levels of fines and the moderator was asked to identify any minimum fines set out in the returned questionnaires. Further there was some support for specifying minimum sanctions more broadly than simply the financial, with one Party considering a minimum prison term for the most serious offence(s) against wild birds.
4. **Possible principles:** It was suggested that the proposed possible principles be re-arranged into two groups, one preamble of over-arching “general”, “trans-national” principles and the other of more specific jurisdiction-focussed ones.

There was more support for the idea of Parties enacting a similar range of sanction options, rather than having similar maximum sanctions.

Two additional principles were suggested: (i) That a guardian of the ecosystem is needed and that Governments need to defend it, ie. to fulfil practically the commitment they made when signing an international Convention, and (ii) That the type of offence, i.e. how it was committed, may be more important than the actual number of specimens caught or involved in a specific case (e.g. if the method used was indiscriminate or widespread).

Finally, it was suggested that training and awareness initiatives aimed at judges and prosecutors should be streamlined between the EU and Bern Convention.

In conclusion, the moderator agreed to prepare a draft document on gravity factors and a draft set of sentencing principles, to be circulated to the participants electronically for feedback by end of April 2015. Second drafts integrated the comments so collected would be then circulated to all Parties in view of the meeting of the Group of Experts on the conservation of birds and prior to the Standing Committee meeting.

## **8. IDENTIFICATION OF BLACK-SPOTS OF ILLEGAL KILLING OF BIRDS**

Mr Willem van den Bossche, representative of BirdLife International, summarized the content of document [T-PVS/Inf \(2014\) 19](#) suggesting a methodology for the identification of black-spots of illegal killing of birds. The document had been already presented to the Standing Committee as draft.

Mr van den Bossche recalled that the identification of black-spots is a cost-efficient way of addressing illegal killing of birds, as it allows for targeted surveillance and campaigns. Its main requirements are (i) National database and hazard maps; (ii) Action plan focusing on local stakeholders (NGO and citizens have an important role to play); (iii) Flyway data.

Mr van den Bossche presented some examples of existing databases used to collect data and keep track of offences (field data, veterinarian data, police data, photo, reports). Some of these information systems are accessible to selected stakeholders for feeding online. Mr van den Bossche launched the discussions by asking the participants to inform on whether they have in their country some centralized systems of data collection and reporting.

Again the issue of intelligence sharing appeared to be problematic because of the sensitive nature of the data, which in many countries cannot be disclosed (even when the offender has been prosecuted, or in the case of maps). The Delegate of Portugal clarified that the reporting system put in place in Portugal is not focused at identifying black-spots, although the data so collected could be used for the purpose, pending availability of human and financial resources. The Chair also said that in the Slovak Republic information is gathered but not analysed or mapped.

All Parties agreed that they need information on the extent and magnitude of the problem, and that the latter should be analysed and made public without prejudice to data protection legislation. Participants suggested that a basic reporting format is prepared under the Bern Convention, requesting information that can be shared like for instance the number and type of offences, the number of prosecutions, the number of convictions and acquittals. The reporting would be harmonized across Europe, periodically requested to Parties, and used for the purposes of statistics, follow-up action, and knowledge sharing. More sensitive information could be possibly shared only among enforcement agencies, under strict conditions, with the support of either INTERPOL or Europol.

Participants also agreed to provide electronic feedback on the Methodology document by end of April. A second draft will then be prepared by end of May, prior to submission to the Standing Committee for consideration at its 35<sup>th</sup> meeting.

## **9. OTHER BUSINESS**

Some Parties requested to have a short discussion devoted to the Intergovernmental Task-Force to address illegal killing, taking and trade of migratory birds in the Mediterranean, to be set up under the CMS.

The following clarifications were made:

1. The **decision** of setting-up such a Task-Force stems from CMS Resolution 11.16 on the prevention of illegal killing, taking and trade of migratory birds, adopted at last CMS Conference of the Parties. Such a Task-Force is generally considered to be CMS contribution to the implementation of the Tunis Action Plan, and a positive example of coordination and synergies between biodiversity-related Conventions so to avoid duplication of work. The CMS is in fact the most appropriate frame for an action which targets a wider geographical area compared to the one covered by the Bern Convention.

2. The **role** of the Task Force is to facilitate concerted efforts and procedures to combat illegal killing, taking and trade of migratory birds in the Mediterranean Region. It will facilitate the implementation of the existing guidelines and action plans in particular the Tunis Action Plan 2013-2020, and to consider whether any new guidelines, action plans or other recommendations to respond to specific problems are necessary.
3. **Remit:** The Task Force will promote, facilitate and monitor the implementation of relevant decisions and plans adopted in the framework of MEAs or other frameworks, set priorities for its actions and implement them, mobilise resources for priority actions, submit progress reports to the governing bodies of the participating MEAs, stimulate internal and external communication and exchange of information, experience, best practice and know-how, and strengthen regional and international networks.

The CMS is the body responsible for convening the Task Force, which will also involve observers from MEAs, academic institutions, the hunting community, NGOs and other stakeholders. The Bern Convention already figures among the MEAs invited to join the Task Force.

The Participants held a discussion on the timeframe for the setting-up of the Task Force as well as on its coordination and methodology, and instructed the Secretariat to approach the CMS Secretariat for more detailed information.

The Chair thanked the participants for the useful meeting and declared it closed.

## Annex 1



# 2<sup>nd</sup> Meeting of the Special Focal Points for Illegal Killing of Birds

24-25 February 2015

General Directorate of Rural Development  
and Forestry Policy of the Ministry of Environment  
Gran Vía de San Francisco, 4  
Madrid (Spain)

## AGENDA

### DAY 1 - TUESDAY 24<sup>TH</sup> FEBRUARY 2015

**8H30 – 9H30** Registration at the Conference site

**09H30 – 10H00**

#### 1. WELCOMING REMARKS AND INTRODUCTION TO THE CONFERENCE

- Ms Asuncion Ruíz, Chief Executive Officer, SEO BirdLife
- Mr Eladio Fernández Galiano, Head of the Democratic Initiatives Department, Council of Europe
- Ms Ivana d'Alessandro, Secretary of the Bern Convention

#### 2. ADOPTION OF THE AGENDA

**10H00 – 13H00**

#### 3. UPDATES ON ACTIVITIES AGAINST ILLEGAL KILLING OF BIRDS IN OTHER FORA

- **State of implementation of the EU Roadmap and examples of EU funding tools**  
*Ms Marita Arvela, European Commission, DG ENV*
- **The INTERPOL Environmental Security Sub Directorate: tools and mechanisms for combating illegal killing of birds**  
*Mr Andreas Andreou, Criminal Intelligence Officer, INTERPOL*

➤ **The Helicon Life+ Project in Hungary: progress and interim results**

*Mr András SCHMIDT, Deputy Head of Department at the Ministry of Rural Development of Hungary*

➤ **BirdLife's contribution to the implementation of the Tunis Action Plan: overview of on-going related projects**

*Mr Willem van den Bossche, European Nature Conservation Officer, BirdLife International*

➤ **Perspective from the hunting community & ongoing action**

*Mr Cy Griffin, Director of Conservation, European Federation of Associations for Hunting and Conservation (FACE)*

**4. UPDATES FROM CONTRACTING PARTIES – PLANS FOR THE IMPLEMENTATION OF RELEVANT STANDING COMMITTEE'S RECOMMENDATIONS**

**13H00 – 14H30 – LUNCH BREAK**

**WORKING SESSIONS (ONE AFTER THE OTHER)**

**14H30 – 17H00**

***Working Session 1: Identification of areas of offending in Contracting Parties: tools for the setting-up of mechanisms for recording wildlife cases and statistical evidence***

**Moderator:** Mr Bob Elliot, Head of investigations, RSPB

**Introductory presentation:** DNA analysis as a tool for combating wildlife crime: the example of the GENE project - Ms Pavla Rihova, Head of CITES Department, Czech Environmental Inspectorate.

**16H30 – 17H00 – COFFEE BREAK**

**17H00 – 18H30 – TO BE CONTINUED ON DAY 2**

***Working Session 2: Improving knowledge on bird populations' mortality due to illegal activities: how to effectively estimate mortality due to illegal trapping and trade?***

**Moderator:** Mr Cy Griffin, Director of Conservation, FACE

**Introductory presentation:** Recommendations and progress achieved in the framework of the European Network against Environmental Crimes - Mr David de la Bodega, Coordinator of the European Network against Environmental Crime (ENEC), SEO/BirdLife

**DAY 2 - WEDNESDAY 25<sup>TH</sup> FEBRUARY 2015**

**9H30 – 10H30**

*Continuation of working session 2*

*Short discussion on the outcomes of the first day*

**WORKING SESSIONS (CONT.)**

**10H30 – 13H00**

*Working Session 3: Identification and standardisation of gravity factors, and preparatory work for the elaboration of sentencing guidelines*

**Moderator:** Mr Nicholas Crampton

**Introductory presentation:** Mr. Antonio Vercher Noguera, Head of the Spanish Environmental Prosecution Office, Ministry of Justice

**13H00 – 14H30 LUNCH BREAK**

**14H30 – 16H00**

**5. IDENTIFICATION OF BLACK-SPOTS OF ILLEGAL KILLING OF BIRDS**

- **Presentation of the 2<sup>nd</sup> draft methodology document on the identification of the blackspots**

*Mr Willem van den Bossche, European Nature Conservation Officer, BirdLife International*

- *Discussion*

**6. OTHER BUSINESS**

**7. CLOSURE**

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**Annex 2****LIST OF PARTICIPANTS /  
LISTE DES PARTICIPANTS****I. CONTRACTING PARTIES / PARTIES CONTRACTANTES****BOSNIA AND HERZEGOVINA / BOSNIE-HERZÉGOVINE**

Ms Mirjana MILICEVIC, Professor, University of Mostar, Faculty of Science and Education, Matice hrvatske bb, 88000 MOSTAR.

Tel: +387 36355760. Fax: +387 36355458. E-mail: [mirjana.milicevic@sve-mo.ba](mailto:mirjana.milicevic@sve-mo.ba) or [mirjana.milicevic@gmail.com](mailto:mirjana.milicevic@gmail.com)

**CROATIA / CROATIE**

Ms Maja POLIĆ, Nature Protection Inspector, Directorate for Inspection, Sector for Nature Protection Inspection, Ministry of Environmental and Nature Protection, Mike Tripala 6, HR-21000 SPLIT

Tel: +385 21 340 405. E-mail: [maja.polic@mzoip.hr](mailto:maja.polic@mzoip.hr)

**CYPRUS / CHYPRE**

Mr Panicos PANAYIDES, Game & Fauna Department Officer, Ministry of the Interior, 1453 NICOSIA.

Tel. +357 22 867 897. Fax. +357 22 867 780. E-mail. [panayides.gf@cytanet.com.cy](mailto:panayides.gf@cytanet.com.cy)

**CZECH REPUBLIC / RÉPUBLIQUE TCHÈQUE**

Mr Zdeněk VERMOUZEK, Director, Czech society for Ornithology - Česká společnost ornitologická, Na Bělidle 34, 150 00 PRAHA 5-SMÍCHOV

Tel: +420 773 380 285. E-mail: [verm@birdlife.cz](mailto:verm@birdlife.cz). website: [cso.cz](http://cso.cz)

Ms Pavla RIHOVA, Head of CITES Department, Czech Environmental Inspectorate – Headquarters, Na Brehu 267, PRAGUE 9, 190 00

Tel: +420 222 860 308. Fax: +420 222 860 227. E-mail: [rihova.p@gmail.com](mailto:rihova.p@gmail.com)

**EUROPEAN UNION / UNION EUROPÉENNE**

Ms Marita ARVELA, European Commission, Directorate-General for Environment, Unit B3: Nature, Avenue de Beaulieu 5, office BU 5 06/124, B-1049 Brussels/Belgium.

Tel : +32 2 2988386. E-mail : [marita.arvela@ec.europa.eu](mailto:marita.arvela@ec.europa.eu)

**FRANCE / FRANCE**

Mr Jacques BAZ, Chargé de mission avifaune, Ministère de l'Ecologie, du développement durable et de l'énergie (MEDDE), Tour Séquoïa- Place Carpeaux, 92055 LA DEFENSE Cedex

Tel : +33 140 81 31 89. Fax : +33 140 81 75 33. E-mail : [jacques.baz@developpement-durable.gouv.fr](mailto:jacques.baz@developpement-durable.gouv.fr)

**GEORGIA / GÉORGIE**

Ms Teona Karchava, Chief Specialist of Biodiversity Protection Service, Ministry of Environment and Natural Resources Protection of Georgia, 6 Gulua street, 0114, Tbilisi.

Tel/Fax: +995 32 272 72 31. E-mail: [teonakarchava@yahoo.com](mailto:teonakarchava@yahoo.com), [t.karchava@moe.gov.ge](mailto:t.karchava@moe.gov.ge)

**HUNGARY / HONGRIE**

Mr András SCHMIDT, Deputy Head of Department, Ministry of Rural Development, Kossuth tér 11, H-1055 BUDAPEST.

Tel : +36-1-457-3490. E-mail : [andras.schmidt@vm.gov.hu](mailto:andras.schmidt@vm.gov.hu)

**ITALY / ITALIE**

Mr Alessandro ANDREOTTI, Researcher of ISPRA, National Institute for Environmental Protection and Research, Via Ca' Fornacetta 9, 40064 OZZANO EMILIA (BO)

Tel: + 39 051/6512225. Fax: + 39 051/796628. E-mail: [alessandro.andreotti@isprambiente.it](mailto:alessandro.andreotti@isprambiente.it) .

Mr Claudio MARRUCCI, Head of Core operating anti-poaching- Officer, Italian State Forestry Corp, 9 floor, 1 division, operating core anti-poaching, Viale Antonio Ciamarra 139, I-00173 ROME.

Tel: +39 067246631. Fax: +39 067233054. E-mail: [c.marrucci@corpoforestale.it](mailto:c.marrucci@corpoforestale.it)

**MALTA / MALTE**

Mr Sergei Golovkin, Head of Wild Birds Regulation Unit, Parliamentary Secretariat for Agriculture, Fisheries & Animal Rights, Casa Leone, St Venera, Malta

Tel: +356 23886214. Email: [sergei.a.golovkin@gov.mt](mailto:sergei.a.golovkin@gov.mt)

**POLAND / POLOGNE**

Ms Dorota Łukasik, Expert, Nature Conservation Department, General Directorate for the Environmental Protection, ul. Wawelska 52/54, 00-922 WARSZAWA.

Tel: +48 (22) 57 92 156. Fax : +48 (22) 57 92 197. E-mail : [dorota.lukasik@gdos.gov.pl](mailto:dorota.lukasik@gdos.gov.pl)

**PORTUGAL / PORTUGAL**

Mr João José LOUREIRO, Instituto da Conservação da Natureza e das Florestas, ICNF, Chefe da Divisão de Gestão das Espécies da Fauna e da Flora (Head of Unit), CITES Management Authority, Avenida da República nº 16 a 16B, 1050 - 191 LISBOA

Tel: (+ 351) 21 350 79 00. Fax: (+351) 21 350 79 86. E-mail: [joaoloureiro@icnf.pt](mailto:joaoloureiro@icnf.pt)

**ROMANIA / ROUMANIE**

Mr Cristian Radu TRUPINA, Commissioner, National Environmental Guard - General Commissariat - Directorate for Control of Biodiversity, Biosecurity and Protected Areas, Blvd. Unirii no.78 , sector 3, BUCHAREST.

Tel/Fax: +40 21 326 89 75. E-mail: [cristian.trupina@gmail.com](mailto:cristian.trupina@gmail.com)

**SERBIA / SERBIE**

Mr Marko Raković, Biologist, The Natural Museum in Belgrade, Njegoseva Str 51, 11000 Belgrade

Tel: +381 11 34 42 149. Fax: +381 11 34 46 580. E-mail: [markorakovic@nhmbeo.rs](mailto:markorakovic@nhmbeo.rs)

**SLOVAK REPUBLIC / RÉPUBLIQUE SLOVAQUIE**

Mr Rastislav RYBANIČ, Director General, Division of Nature Protection and Landscape Development, Ministry of the Environment, Námestie L. Stura 1, SK-812 35 BRATISLAVA

Tel : +421 2 5956 2160. E-mail: [Rastislav.rybanic@enviro.gov.sk](mailto:Rastislav.rybanic@enviro.gov.sk)

Mr Ondrej KOPOREC, Police Presidium, Criminal police, Ministry of Interior of the Slovak Republic, Račianska 45, CZ-812 72 BRATISLAVA

Tel: +4219610 50253 or +421903701551. Fax: +4219610 59172. E-mail: [ondrej.koporec@minv.sk](mailto:ondrej.koporec@minv.sk)

**SPAIN / ESPAGNE**

Ms Bárbara SOTO-LARGO MEROÑO, Director Gral. de Medio Natural y Forestal, Ministerio de Medio Ambiente y Medio Rural y Marino, c/ Rios Rosas 24, E-28003 MADRID.

Tel: +34 (91) 749 37 04. Fax: +34 (91) 749 38 73. E-mail: [bsotolargo@marm.es](mailto:bsotolargo@marm.es)

**« THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA » / L'EX-RÉPUBLIQUE YOUGOSLAVE DE MACÉDOINE**

Mr Branko MICEVSKI, dr. biological science, Dpt. for animal taxonomy and ecology, Institute of Biology, Faculty of Natural Sciences, Saints Cyril and Methodius University, Arhimedova -3, Gazi Baba, P.box.162, MK-1000 SKOPJE.

Tel: +389 2 3249 614; +389 22 432 071; + 389 22 400 276. Fax: +389 2 2435 544. E-mail: [brankom@ukim.edu.mk](mailto:brankom@ukim.edu.mk)

**TURKEY / TURQUIE**

Mr Burak TATAR, Wildlife Biologist, Department of Wildlife Management, Ministry of Forestry and Water Affairs, Sogutozu Cad. No: 14 / E Bestepe / ANKARA.

Tel: + 90 312 207 6080. Fax: + 90 312 287 1178. E-mail: [btatar@ormansu.gov.tr](mailto:btatar@ormansu.gov.tr)

**II. OBSERVERS / OBSERVATEURS****BirdLife International / BirdLife International**

Mr Willem VAN DEN BOSSCHE, Conservation Officer, BirdLife Europe, Avenue de la Toison d'or 67, 1060 BRUSSELS / Belgium.

Tel : +32 2 541 07 82. Fax: +32 02 230 38 02. E-mail : [willem.vandenbossche@birdlife.org](mailto:willem.vandenbossche@birdlife.org)

**SEO - BirdLife**

Ms Asunción RUIZ, Executive Director of SEO/BirdLife, C/Melquiades Biencinto, 34, 28053 MADRID

Tel: +34 (91) 434 09 10. Fax: +34 (91) 434 09 11. E-mail: [aruiz@seo.org](mailto:aruiz@seo.org)

Mr Juan Carlos ATIENZA, Head of Conservation Unit of SEO/BirdLife, C/Melquiades Biencinto, 34, 28053 MADRID

Tel: +34 (91) 434 09 10. Fax: +34 (91) 434 09 11. E-mail: [jcatienza@seo.org](mailto:jcatienza@seo.org)

Mr David DE LA BODEGA, Coordinator of the ENEC, Conservation Officer of SEO/BirdLife, C/Melquiades Biencinto, 34, 28053 MADRID

Tel: +34 (91) 434 09 10. Fax: +34 (91) 434 09 11. E-mail: [ddelabodega@seo.org](mailto:ddelabodega@seo.org)

Mr Nicolás LÓPEZ, Threatened Species Officer of SEO/BirdLife, C/Melquiades Biencinto, 34, 28053 MADRID

Tel: +34 (91) 434 09 10. Fax: +34 (91) 434 09 11. E-mail: [nlopez@seo.org](mailto:nlopez@seo.org)

Mr Octavio INFANTE, Conservation Officer of SEO/BirdLife, C/Melquiades Biencinto, 34, 28053 MADRID

Tel: +34 (91) 434 09 10. Fax: +34 (91) 434 09 11. E-mail: [oinfante@seo.org](mailto:oinfante@seo.org)

Ms Julieta VALLS, Conservation Officer of SEO/BirdLife, C/Melquiades Biencinto, 34, 28053 MADRID

Tel: +34 (91) 434 09 10. Fax: +34 (91) 434 09 11. E-mail: [jvalls@seo.org](mailto:jvalls@seo.org)

Ms Beatriz SÁNCHEZ, Conservation Officer of SEO/BirdLife, C/Melquiades Biencinto, 34, 28053 MADRID

Tel: +34 (91) 434 09 10. Fax: +34 (91) 434 09 11. E-mail: [bsanchez@seo.org](mailto:bsanchez@seo.org)

Ms Sara CABEZAS, Conservation Officer of SEO/BirdLife, C/Melquiades Biencinto, 34, 28053 MADRID

Tel: +34 (91) 434 09 10. Fax: +34 (91) 434 09 11. E-mail: [scabezas@seo.org](mailto:scabezas@seo.org)

Ms María Soledad GALLEGO, Lawyer of SEO/BirdLife of SEO/BirdLife, Despacho Justicia Ambiental, C/ Velazquez 15, 1º Dcha 28001 MADRID

Tel: +34 (91) 873 46 31. Fax: +34 (91) 761 61 48. E-mail: [mshallego@justiciambiental.es](mailto:mshallego@justiciambiental.es)

**RSPB – Royal Society for the Protection of Birds**

Mr Bob ELLIOT, Head of Investigations, RSPB, UK Headquarters The Lodge, Sandy, Bedfordshire SG19 2DL, United Kingdom.

Tel: +44 01767 693498. E-mail: [Bob.Elliot@rspb.org.uk](mailto:Bob.Elliot@rspb.org.uk). Website : [rspb.org.uk](http://rspb.org.uk)

**International Association for Falconry and Conservation of Birds of Prey / Association  
Internationale de la Fauconnerie et de la Conservation des Oiseaux de Proies**

Mr Gary TIMBRELL, Executive Director, Association Internationale de la Fauconnerie et de la Conservation des Oiseaux de Proie, rue F. Pelletier 82, B-1030 BRUSSELS, Belgique.

Tel : +353 87 1330922. E-mail: [timbrell@iaf.org](mailto:timbrell@iaf.org) . website : [www.iaf.org](http://www.iaf.org)

**INTERPOL**

Mr Andreas ANDREOU, Criminal Intelligence Officer, Environmental Security Sub-Directorate, Interpol General Secretariat, 200, Quai Charles de Gaulle, F-69006 LYON, France

Tel: +33 6 11 555 777. Fax: +33 472 44 73 51. E-mail: [A.ANDREOU@interpol.int](mailto:A.ANDREOU@interpol.int)

**III. MODERATORS – SPEAKERS / MODERATEURS - INTERVENANTS**

Mr Fernando SPINA, Chair of the CMS Scientific Council, Istituto Superiore per la Protezione e la Ricerca Ambientale (ISPRA), Sede amministrativa ex-INFS, Via Ca' Fornacetta, 9, I-40064 OZZANO EMILIA, Bologna, Italy.

Tel: +39 051 6512214. Fax: +39 051 796628. E-mail: [fernando.spina@isprambiente.it](mailto:fernando.spina@isprambiente.it)

*[Apologised for absence / Excusé]*

Mr Nicholas CRAMPTON, Retired U K Crown Prosecution Service Lawyer, Stagsden, Swaffham Road, Mundford, NORFOLK, IP26 5HR, United Kingdom.

Tel: +44 1842878492. Fax: +44 1842879556. E-mail : [npdc@btinternet.com](mailto:npdc@btinternet.com)

Mr Antonio VERCHER NOGUERA, Head of the Spanish Environmental. Prosecution Office, Public Prosecutor's Office for the Protection of Environment and Land Planning, Ortega y Gasset, 57, 3º, E-28009 MADRID.

Tel: +34 91 524 0710. Fax: +34 91 524 0712. Email: [a.vercher@fiscalia.mju.es](mailto:a.vercher@fiscalia.mju.es)

Mr Bob ELLIOT, Head of Investigations, RSPB, UK Headquarters The Lodge, Sandy, Bedfordshire SG19 2DL, United Kingdom.

Tel: +44 01767 693498. E-mail: [Bob.Elliot@rspb.org.uk](mailto:Bob.Elliot@rspb.org.uk). Website : [rspb.org.uk](http://rspb.org.uk)

Ms Pavla RIHOVA, Head of CITES Department, Czech Environmental Inspectorate – Headquarters

Mr Cy GRIFFIN, Director of Conservation, FACE - Federation of Associations for Hunting and Conservation of the EU, Rue F. Pelletier 82, B-1030 BRUSSELS, Belgium

Tel: +32 (0) 2 732 6900. Fax: +32 (0) 2 732 7072. E-mail: [cy.griffin@face.eu](mailto:cy.griffin@face.eu). Website: [www.face.eu](http://www.face.eu)

Mr Willem VAN DEN BOSSCHE, Conservation Officer, BirdLife Europe

**IV. SECRETARIAT / SECRETARIAT**

**Directorate of Democratic Governance / Direction de la Gouvernance démocratique  
F-67075 STRASBOURG CEDEX, France**

Tel: +33 388 41 20 00. Fax: +33 388 41 37 51

Mr Eladio FERNÁNDEZ-GALIANO, Head of the Democratic Initiatives Department / Chef du Service des Initiatives démocratiques, Directorate of of Democratic Governance / Direction de la Gouvernance démocratique DGII

Tel: +33 388 41 22 59. Fax: +33 388 41 37 51 E-mail: [eladio.fernandez-galiano@coe.int](mailto:eladio.fernandez-galiano@coe.int)

Ms Ivana d'ALESSANDRO, Head of the Biodiversity Unit, Secretary of the Bern Convention / Cheffe de l'Unité de la Biodiversité, Secrétaire de la Convention de Berne, Biodiversity Unit / Unité de la Biodiversité

Tel: +33 390 2151 51. Fax: +33 388 41 37 51. E-mail: [ivana.dalessandro@coe.int](mailto:ivana.dalessandro@coe.int)

Ms Véronique de CUSSAC, Administrative Assistant / Assistante administrative, Biodiversity Unit / Unité de la Biodiversité

Tel: +33 388 41 34 76. Fax: +33 388 41 37 51. E-mail: [veronique.decussac@coe.int](mailto:veronique.decussac@coe.int)