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## **The Problems of Formalized Social Control of Illegal Wildlife Trade in Poland**

This article considers the problem of counteracting illegal trade in wild fauna and flora in Poland, with a particular focus on exploring formalized social control of CITES crimes. Social controls to rein in supply and demand for wild fauna and flora face certain inherent drawbacks. To effectively counteract illegal trade in wild fauna and flora, it is necessary to recognize the patterns of the phenomenon and to design a social and criminal policy that will provide an adequate response to both the supply of the phenomenon and its demand. The main aim of the project was therefore to present the results of qualitative research conducted with experts dealing with the phenomenon of illegal trade in wild fauna and flora in Poland.

*Keywords:* CITES, green criminology, illegal wildlife trade, Poland, social control, traditional criminology

## **Die Probleme der formalisierten sozialen Kontrolle des illegalen Wildtierhandels in Polen**

Dieser Artikel befasst sich mit dem Problem der Bekämpfung des illegalen Handels mit wild lebenden Tieren und Pflanzen in Polen unter besonderer Berücksichtigung der formalisierten sozialen Kontrolle von CITES-Verbrechen. Sowohl die soziale Kontrolle der Nachfrage nach wild lebenden Tieren und Pflanzen als auch die Kontrolle des Angebots dieses Phänomens sind mit bestimmten Nachteilen behaftet, die per Definition in beiden Modellen enthalten sind. Um den illegalen Handel mit wild lebenden Tieren und Pflanzen wirksam zu bekämpfen, ist es notwendig, die Muster des Phänomens zu erkennen und eine Sozial- und Kriminalpolitik in diesem Bereich zu entwerfen, die eine angemessene Antwort sowohl auf das Angebot als auch auf die Nachfrage darstellt. Das Hauptziel des Projekts war es daher, die Ergebnisse der qualitativen Forschung mit Experten zu präsentieren, die sich mit dem Phänomen des illegalen Handels mit wild lebenden Tieren und Pflanzen in Polen befassen.

*Schlagwörter:* CITES, grüne Kriminologie, illegaler Wildtierhandel, Polen, soziale Kontrolle, traditionelle Kriminologie

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## 1. Introduction

Criminology is the study of crime, criminality, including its social aspects, victims, offenders, and mechanisms of social control. In recent times, criminology has expanded to include discussions of current issues such as climate change, deforestation, environmental pollution, and animal cruelty. This expansion gave birth to green criminology, which focuses on environmental issues.

Before the emergence of green criminology, environmental topics were given less attention in traditional crime studies and were not a priority field of study. (Hall et al. 2014, p. 1; Lynch & Stretesky, 2014; Van Uhm & Siegel, 2019, p. 730). Admittedly, as David Goyes and Nigel South (2017) point out, pioneering overlooked or forgotten concepts contributing to contemporary green perspective were still emerging 2-3 decades before a full project called 'green criminology', it is difficult to speak of their prominent place in criminological debates. (Andre, 1980; Agozino, 2003, 2004; Eman et al., 2009). Given Goyes's (2018) statement about the overrepresentation of English-language sources of so-called contemporary green criminology in the world distribution of knowledge, and the problem that Santos (2014) calls 'epistemological blindness', the generalization that researchers were referring relatively more often to other types of crimes that were more appealing to them still seems justified. This includes research areas such as domestic violence (Arkow, 1996; Beirne, 1999; Flynn, 2001; Ascione et al., 2007; Simmons & Lehmann, 2007; Lockwood & Arkow, 2016, Newberry, 2017; Scheffer, 2019; Cleary et al., 2021; Mota-Rojas et al., 2022), interpersonal violence and antisocial behaviour (McDonald, 1963; Hellman & Blackman, 1966; Felthous & Kellert, 1987; Ascione et al., 1996; Thompson & Black, 1997; Fox & Levin, 1999; Baldry, 2005; Currie, 2006; Gullone & Robertson, 2008; Flynn, 2011; Schwartz et al., 2012; Walters, 2014, 2017; Longobardi (2019); Trentham, 2016; Longobardi & Badenes-Ribera, 2019; Wright, 2023) or organized crime (Block & Scarpitti 1985; Caneppele et al., 2013; Walters, 2013; Calderoni et al., 2014; Rege & Lavorgna, 2016; van Uhm, 2020; van Uhm & Siegel, 2021; Van Uhm & Nijman, 2022).

This does not mean, of course, that in 1990, the year considered to be the symbolic birth of green criminology in its modern version, the theses attributed to this 'new' perspective of criminology appeared like *a deus ex machina*. After all, even in the Polish context, one can cite the figure of Jan Gwalbert Pawlikowski – a lawyer and economist who, as early as 1913, in his pioneering manifesto, referred to such ideas as the need to protect nature as an autotelic value, the necessity to limit consumption in order to avoid ecological catastrophe in the future and the change in human consciousness as an effective form of controlling environmental harm (Pawlikowski, 1913). The emergence of an 'umbrella term' for the term 'green criminology' could, therefore, be seen as a certain conventional time caesura, marking the beginning of a more coherent, organized narrative on environmental crimes, harms, and problems from a criminological point of view (Lynch, 1990). A narrative that provides an assumption to distinguish a new approach from the hitherto prevailing optics of looking at these problems. According to South:

“[But] in an important sense, a green criminology is justified because it was inevitable and necessary. It reflected scientific interests and political challenges of the moment, carried forward the momentum of critical non-conformist criminology, and offered a point of contact and convergence.” (South, 2014, p. 8).

This is because the environment was/is often defined in ways that describe its existence and 'value' through reference to human conceptions and human interests (Sankoff & White, 2009; Halsey & White, 1998, p. 349-351; White & Heckenberg, 2014, p. 45-47; Devon 2007; van Uhm). This approach, sometimes called mainstream (see Nurse, 2014, p. 110) conventional (see Sollund, 2021; Wyatt, 2012, p.27) or traditional (see Lynch & Stretesky, 2014, p. 7; South, 2014) was evident in the very choice of research topics (Lynch & Stretesky, 2014, p. 4)

The anthropocentric perspective is based on the belief that humans are biologically, mentally, and morally superior to animals (Halsey & White, 1998, p. 345-371; White, 2018, p. 342-362; White & Heckenberg, 2014, p. 65). It prioritizes human interests and places them at the center of considerations, while the value of the environment is solely dependent on its variable assumed value at any given time (Brisman & South, 2019, p. 4; Benton, 1998, p. 151). Consequently, legal regulations are not aimed at removing the actual causes of environmental crimes and harms which are deeply rooted in the social structure and economic policy (Lynch & Stretesky, 2007; Stretesky et al., 2014; Wyatt, 2012, p. 34). Instead, they focus on stopping selected crimes committed to the detriment of the environment. The ultimate goal is to maximize profits by sustaining the processes of production and consumption, even if it causes catastrophic consequences for nature and immense animal suffering (White, 2018, p. 345; White & Heckenberg, 2014, p. 66; Nurse, 2017).

Most green criminologists elaborate on the concept of 'green crimes' beyond legalistic definitions of crime (see Van Uhm, 2017; South et al., 2013, p. 27-30; Sollund, 2015, 2019, 2022; Sollund & Maher, 2015; Canning and Tombs, 2021; White, 2013; Sollund & Brisman, 2017). Thus, the subjects of their research include animal harm encompassing both cruelty typical of the livestock industry (Beirne, 2014; Schally, 2017; Sollund, 2012; Wyatt, 2014a, Gladkova, 2021; Booth et al., 2019), animal abuse (Agnew, 1998; Beirne, 1997, 1999, 2007, 2009; Nurse, 2021) and wildlife trade of endangered species (Wyatt, 2012, 2013; Nurse, 2015; Sollund, 2013; Gutierrez & Duffy, 2024; Alonso & Van Uhm, 2023). Despite the scale of the above phenomena and the harm they generate, most of them are not even criminalized (White, 2008, 2011; Van Uhm, 2017).

Green criminologists focus on studying them especially when they believe that the environment has an autotelic value. While mainstream criminology is dominated by an anthropocentric perspective, on the grounds of green criminology one can distinguish the primacy of two concepts of justice in particular: biocentric and ecocentric (Halsey & White, 1998, p. 345-371; White, 2018, p. 342-362). According to the former, human beings are given the same value as other beings (White & Heckenberg, 2014, p. 66; Van Uhm, 2017, p. 333-334; Halsey & White, 1998). The second, on the other hand, presupposes the necessity of directing – necessary, according to its proponents – production processes in such a way that they do not exceed acceptable limits of harm to the environment (Benton, 1998, p. 149). It is therefore an intermediate solution between biocentric and anthropocentric justice. Opting for either of these concepts entails not inconsiderable consequences for criminal policy. This will be further explained using the example of the illegal wildlife trade in Poland.

## **2. Illegal Wildlife Trade – General Issues**

Illegal wildlife trafficking is an excellent example illustrating the above dilemmas. Both a criminologist coming from the traditional trend and a representative of green criminology can find

convincing arguments for covering this phenomenon. The world of mainstream criminology, which is dominated by an anthropocentric vision of justice, is usually interested in the fact that wildlife trade in its illegal form presents a direct or indirect threat to the interests of humanity (Van Uhm, 2017; Naim, 2005; Tagliacozzo, 2001). This phenomenon is combined with the introduction of invasive species that can displace native ones and transmit various diseases to them (Karesh et al., 2005). This, in turn, negatively affects production and commercial processes. It is pointed out that it can deplete the natural resources on which the economies of various societies rely due to the deprivation of tax revenues that could affect them in the case of legal trade. Yet another argument in favor of taking an interest in a phenomenon derived from the anthropological concept of justice is that of generating an increasingly acute problem of so-called “ecological migration”. This is because the turnover of wildlife of species threatened with extinction leads to a reduction in biodiversity (Zimmerman, 2003; Hutton & Dickson, 2000) and, consequently, to a loss or significant reduction in the possibility of obtaining profit or food from an area, which forces the people living there to leave (Wyatt, 2013, p. 44-46). And finally, this phenomenon threatens human health and life as a result of the spread of zoonotic diseases (Bell et al., 2004; Lau et al., 2005; Yee et al., 2009). All of the above types of threats generated by illegal wildlife trafficking, from the perspective of the principals of traditional criminology, constitute the most compelling set of arguments for undertaking research in this area.

However, it is widely accepted that criminology is a field of science focused not only on the increment of knowledge but also on identifying appropriate, i.e., effective, adequate solutions to a given crime problem. Therefore, to what extent and based on what vision of justice recommendations will be made in the field of social control of wildlife trade will have a feedback effect on the problem under study itself. It is worth starting the analysis of this relationship with a brief overview of how to counter the phenomenon under discussion.

From a legal perspective, at least two models can be distinguished - a system of criminalization and a system of regulation (see Wyatt, 2022; Nurse, 2015, p. 94). The first is assumed to be more in line with a biocentric or ecological stance and consists in a complete ban on the marketing of endangered animal species. The second, on the other hand, boils down to legalizing and thus sustaining to a certain extent a phenomenon that is beneficial to human interests for certain reasons. Thus, this model expresses an anthropological concept. Currently, the protection of animals and plants of endangered species is based on the regulatory model and corresponds to the anthropocentric attitude of most societies (Goyes & Sollund, 2016; Sollund, 2019, 2022; Wyatt et al., 2021). Its foundations were laid with the entry into force in 1973 of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (also known as the Washington Convention or CITES for short). CITES regulates the movement of live and dead specimens (and their derivative products) of plants and animals of endangered species across borders. Appendices I, II, and III of the Convention contain updated lists of species whose transportation across borders is regulated. Currently, to ensure compliance with the Convention and protect species threatened by trade, Regulation (EEC) No. 3626/8212 was issued. It introduced the Convention on International Trade in Endangered Species of Wild Fauna and Flora in the Community. It was later replaced by Council Regulation No. 338/97 of December 9, 1996, on the protection of species of wild fauna and flora by regulating trade therein. Here, too, the scope of protection of individual species is differentiated, assigning specific plant and animal species to annexes A, B, C, and D. Council Regulation 338/97, in addition to introducing CITES regulations, also bans the commercial use within the EU of all species in

Annexes A and B. These annexes include all species listed in CITES Appendices I and II, as well as many others - protected within the Union, or those deemed dangerous to European wildlife due to their invasiveness. It should be emphasized that the ban on the commercial use of specimens of species from Annexes A and B is not absolute, as the Regulation provides for various exceptions to it and introduces conditions that allow certain specimens to be exempted from the ban.

Taking only the legal provision criminalizing the act into account will primarily lead to interest in the so-called CITES crime. At first glance, this approach only perpetuates an anthropocentric vision of justice and is ineffective in countering the phenomenon in its broad sense. According to Sollund (2022):

“What is actually traded legally remains largely in the shadows. Because most species are not subject to any regulation, many species are going extinct without ever being listed or even discovered (e.g., Frank & Wilcove, 2019). CITES can thereby create an illusion that wildlife trade is subject to control and enforcement that are actually lacking”.

However, the issue can be more complex than it appears on the surface, and the vision of a definitive unambiguous assessment of the contribution of traditional criminology, even uninformed, seems to fade somewhat in light of some more detailed observations. What constitutes the weakness of the traditional trend in criminology, i. e., the strict focus on the protection of human interests, can at the same time become its potential strength in terms of designing effective tools for controlling the phenomenon, or at least not making it worse. Indeed, within criminology, there is an important discussion of the processes of criminalization and penalization of various behaviours. In particular, they are concerned with the rational basis for criminalizing the acts in question, the principles of determining statutory and judicial punishment, and their social consequences. It has been argued that drug prohibition, which intends to discourage drug use, can actually have the opposite effect in cases such as drug crime. This phenomenon has been referred to as the “criminalization tax” by Herbert Packer. (Packer, 1964). Criminalizing a good or service that has a stable demand and will always be in demand leads to a significant increase in its price. This is because the suppliers of the good or service expose themselves to criminal liability and compensate for this risk through high profits (see Yerkes, 1969). As a result, drug production and trafficking become risky yet lucrative activities. It's no wonder that organized crime groups engage in them.

Illegal wildlife trade involves similar processes as any other illegal trade, but with the added complexity of rare and endangered species being involved. Animals such as rhinos, elephants, and polar bears are particularly targeted due to the high value of their body parts, like horns, tusks, and other valuable materials derived from them (Mcewan and Turley 2021:3; Dutton, Wener & Whitmore, 2012, p. 15–16). The criminalization of the trade and the involvement of poachers and traffickers further increase the prices of these products. (Drzazga, 2017, p. 4-5). Although this situation does not suggest that we should condone activities that cause direct harm to animals, it highlights the intricacy of the issue. Rather than relying solely on legal and punitive measures, which are often ineffective, we should focus on identifying the root causes of the problem.

The accomplishments of traditional criminology offer an important lesson about the unintended negative effects of inadequate criminalization and excessive punishment. It has been found that they are not always an appropriate and effective response to every case of illegal wildlife trade. Instead, solutions that initiate deeper social changes often turn out to be more effective, or equally effective, without any undesirable secondary effects. For instance, creating



awareness among people about the consequences of uncontrolled exploitation of the natural world, particularly the part that is endangered, can be a more effective solution. Representatives of organizations focused on protecting non-human beings often overlook the fact that different manifestations of a phenomenon require tailored countermeasures. Thus, it is crucial to conduct an in-depth analysis of the situation before designing appropriate solutions. In criminology, this principle is well-known as “one size does not fit all” (White & Heckenberg 2014, p. 292).

The rule mentioned above is highly relevant for controlling the illegal wildlife trade. This is because trade is a complex and diverse phenomenon, varying greatly in terms of quantity and quality (Nurse, 2013, p. 169–185). By examining the trade, certain geographic patterns can be identified concerning differences in demand, supply, market organization, profitability, and the types of rare and common species involved. There are four categories related to the subject of demand. These include (1) products made from animals that have undergone processing; (2) items that are collected or considered valuable; (3) animal-based products that are used in traditional Asian medicine (e.g. van Uhm & Wong, 2019); and (4) food. Each of these categories has distinct features that need to be considered when proposing solutions to address the issue (Wyatt, 2013, p. 23).

Similarly, it is a challenging task to identify the general characteristics of wildlife traders and their motivations. Nevertheless, the literature distinguishes several categories of perpetrators, including individuals who engage in illegal wildlife trade due to desperation or poverty, others who are concurrently involved in other forms of legitimate work that allow them to exploit the environment without detection, such as trappers who harvest skins, people who are specifically hired for wildlife trade such as helicopter-armed bands hunting rhinos in Africa or ornithologists who harvest eggs and young birds to sell, and finally, organized crime groups (Wyatt, 2013, p. 23).

The aforementioned summary of the complex phenomenon emphasizes the need for a multifaceted approach in addressing the illegal wildlife trade. It is imperative to note that the response to illegal wildlife trade cannot be limited to the narrow choice between criminalizing the trade or regulating it. The effective combat of wildlife trade necessitates a comprehensive strategy that considers the unique characteristics of each category of traders. While traditional criminology provides a range of techniques and measures to counter this phenomenon, most green criminologists find ad hoc solutions programmatically unsatisfactory. This conclusion inevitably involves questioning the complicity of state authorities themselves as both perpetrators and beneficiaries of the most significant environmental damage. As such, it is impractical to expect political will at both the national and international levels to change the status quo regarding the legal definition of wildlife trade, which is deemed criminal behaviour.

White proposes a pragmatic intervention on multiple fronts based on a multidisciplinary strategic assessment that includes economic, legal, social, and ecological analyses (White, 1997; Wyatt, 2012; Gore et al., 2022). Such an approach is crucial because it is impossible to halt harmful practices immediately, and some regulation is better than none. Legal regulations are especially necessary when the perpetrators of green crimes are corporations that are primarily beyond the reach of influence at the consciousness level. Therefore, the discussion on counteracting wildlife trafficking must include an analysis of existing legislation and proposals for its amendment, as well as recommendations for more radical transformations of the social construction of the definition of “environmental harm”.

### 3. Research Problem and Methodology

Poland is mainly a destination country, but also a transit and to some extent a country of origin in terms of traffic of CITES species. The actual scale of wildlife trade in Poland is not certain due to the lack of precise statistics. However, it is estimated that the Tax and Customs Service only discloses some 10-15 % of illegal traffic of protected species. Illegal markets of traditional Asian medicine, avifauna (including birds of prey), exotic wood, and wildlife suitable for aquaria and terraria are growing. In this context, wildlife crime can be considered a significant problem in Poland, and its scale is believed to grow proportionately to the increase in economic welfare of the Polish society and the demand by Asian minorities in Poland (Paquel, 2016, p. 7). Considering the above mentioned theoretical foundation and incomplete knowledge of social control of illegal wildlife trade in Poland, research on this topic is imperative. In this case, exploratory research is the most appropriate research methodology. Exploratory research is a flexible and open-ended methodological strategy employed in the scientific community to investigate novel or poorly explained phenomena. It serves as a preliminary investigation to acquire knowledge, stimulate ideas, and identify potential patterns or associations in a particular topic or issue. Unlike other types of research that have preconceived hypotheses and objectives, exploratory research aims to expand knowledge and comprehension by analyzing a topic from various perspectives and viewpoints. It is frequently used when there is little or no prior information on a topic or when existing information is inadequate to formulate specific hypotheses. Exploratory research assists researchers in defining research questions, developing hypotheses, and designing more focused future research. The primary objective of this paper is to assess the state of social control of illegal wildlife trade in Poland. Specifically, this study aims to evaluate the formalized social control of this phenomenon in Poland and to answer the following research questions: What is the current state of formalized social control over illegal wildlife trade in Poland?

To achieve this objective, the study will examine the extent of social control measures in place to combat illegal wildlife trade in Poland. The research will utilize existing literature on the topic and a range of primary data sources, such as interviews with relevant stakeholders and field observations, to analyze the state of social control measures in Poland.

The findings of this study will provide valuable insights into the effectiveness of social control measures to combat illegal wildlife trade in Poland. By identifying the strengths and weaknesses of the current social control measures, the study will contribute to the development of more effective strategies for combating illegal wildlife trade and protecting endangered species.

To address the main query, a series of twenty in-depth interviews were conducted anonymously with several experts who possess specialized knowledge in dealing with the critical problem of illegal wildlife trade in Poland. These experts were chosen based on their extensive experience, academic background, and professional expertise in this field. The interviews were conducted with utmost confidentiality and anonymity to ensure the authenticity and credibility of the responses obtained. The data collected through these interviews is expected to provide valuable insights and information that can inform future research, policy formulation, and practical interventions aimed at combating illegal wildlife trade in Poland. To obtain the widest possible range of expert statements, the target selection included: representatives of the Cus-

toms and Tax Service, police officers who are CITES coordinators, representatives of the Customs Department of the Ministry of Finance, the State Council for Environmental Protection, representatives of the State Society for Nature Protection “Salamandra” and WWF Poland. The interviews conducted during the research were partially categorized, meaning that the interviewer had more flexibility than in a fully categorized interview. The interview script was developed based on research objectives and analysis of found data and legal analysis. It had a list of questions to be asked, but the order and format were not fixed. Before each interview, a brief introduction was given to the respondent, including an explanation of the topics to be covered and ensuring anonymity. After the interview, there was a debriefing to summarize the findings. The expert interviews were recorded electronically and transcribed for analysis, which included selecting, organizing, and assigning data to appropriate categories, interpreting the data, and presenting conclusions. For analyzing the qualitative data, a program called MAXQDA was used. The analysis process involved the following steps: 1) Inductive coding and preliminary coding of two interviews were done, 2) Creation of a codebook, 3) Coding of all the material that needed to be analyzed, 4) Creation and analysis of case representations, and 5) Attempting to answer the research questions.

## 4. Research Results

### 4.1 Legal Provisions

Respondents had differing opinions on regulations governing transportation across borders and the trade of wildlife specimens within the internal market. Some considered the first group of regulations too restrictive. As one Customs and Tax official stated:

“We currently have some of the strictest laws regarding the transporting CITES-listed species across borders.”

According to experts, the CITES regulations implemented in Poland are considered the strictest in Europe, generating worrying phenomena. This happens especially in the case of transporting a small number of CITES specimens across borders without meeting the conditions set by law.

“The laws are nonsensical. It is irrational for a tourist to be charged with a crime for transporting a 3.5 cm piece of coral, especially when debris up to 3 cm is allowed to be collected on the beach. It would be reasonable for any judge to discontinue the proceedings.” (representative of the Customs Department of the Ministry of Finance)

Indeed, the act mentioned by one of the interviewees constitutes a crime with the same statutory penalty as for smuggling in bulk. In the course of the interviews, an extremely interesting problem of the unintended consequences of such legislation came to light. It turned out that, as a consequence of a provision equating qualitatively two extreme phenomena in terms of statutory punishment, the authorities of the broader judiciary make decisions that can impinge on the entire system for controlling the phenomenon.

Customs officials often ignore minor smuggling, to avoid unnecessary procedures. Judges, on the other hand, if proceedings are initiated, usually discontinue the proceedings. This means that social control agencies are correcting from the bottom up a flawed criminal policy in terms



of the legally regulated degree of repression, which is still undifferentiated for different categories of acts and perpetrators.

This problem was highlighted in a statement made by a police officer who was interviewed:

“It is incumbent on the judge to find the line between offense and non-offense based on rational grounds. This should be [clearly defined] in the law, and proposals for this have long been developed by [NGO name] to make it a misdemeanour. Detecting a tourist who smuggles an insignificant amount should end in confiscation, a fine and that's it. That's also why customs officials turn a blind eye to those cases when they see something individual in [a traveler's] suitcase, so as not to initiate a case that will be dropped anyway. There have been proposals put forward by us to distinguish when we are dealing with commercial scale and when we are dealing with individual specimens”.

It is clear from the above that the original problem of overly repressive legislation is generating another disturbing phenomenon. The persistent lack of response to “minor” cases makes the entire control system leaky. In turn, this backfires on the phenomenon itself, encouraging a group of determined perpetrators to take advantage of such loopholes that testify to the increasingly low priority given to the problem of illegal wildlife trade. As a result, it is difficult to effectively counter this phenomenon. This is despite the proposals put forward by experts to amend the aforementioned legal regulations by shifting minor cases to the category of offenses. The experts' assessment of the regulations relating to the circulation of wildlife on the internal market is even harsher. The Polish Law on Nature Protection has become downright unreadable after its amendments, which were not subject to expert consultation.

“It is very urgent to rationalize the criminal provisions. The Polish Law on Nature Protection was not the worst by the standards of the time, and after the changes, a monstrosity was created out of it, in which the same terms are used with very different meanings. Often there is a reference to terms that have no definition at all, and using a dictionary will completely distort the meaning of [the law]. Now [the law] is fatal. I am in favor of splitting it into at least three different laws.” (representative of the State Society for Nature Protection “Salamandra”)

A characteristic feature of Polish nature protection laws is their impermanence. During its 20 years in effect, the Nature Protection Law was amended more than 50 times, or on average every four months or so. In addition, it has been affected four times by Constitutional Court rulings challenging the constitutionality of its provisions. As a result, some of the provisions are inconsistent internally, among themselves, and with European Union regulations.

“It's difficult to control this process because these changes are not subject to any consultation. But for now, there is no political will to change it.” (representatives of the State Society for Nature Protection “Salamandra”)

The adopted model of animal registration was unequivocally criticized. Under the current regulations, the obligation to report animals to the register is incumbent on each holder of a CITES specimen. Notification to the registry is submitted to the district governor with jurisdiction over the place where the animal is kept within 14 days from the moment the animal comes into possession or is brought to Poland. The application must be accompanied by a copy of a document stating the legality of the animal's origin, with the law only providing examples of the types of such documents. It turns out that such a solution gives illusory protection to animals. As the respondents noted:

“Now, the obligation to register rests with the final purchaser [of the animal], i.e., the one who is at the very end of the distribution chain, and to him, it is the most difficult to prove the legal origin because in the meantime all these documents are already copied. The final purchaser, even as if he wanted to, cannot produce the relevant documents and those who first market the specimen are exempt from this obligation.”

Furthermore, the legal origin of the animal is certified by a veterinarian.

“As for the kennels, all specimens [of legal and illegal origin] can be found there. The district veterinarian does not verify the origin and signs off on every application for confirmation of legality. Therefore, such a document has no value. It is not a confirmation of legal origin, it is a statement of fact of captive origin, and whether the breeding was not based on smuggled animals is not verified.” (Customs and Tax official)

## 4.2 Law enforcement

When queried about the state of the application of the law to the aforementioned phenomenon, respondents expressed their concerns regarding informal and entrenched mechanisms of opportunistic action. In addition to the aforementioned difficulties, they pointed out several other challenges that require attention. These can be divided into at least two groups of related problems: 1) concerning control agendas; and 2) concerning logistical facilities and financing.

In the context of discussing the first group of problems, let us briefly zoom in on what formalized control agencies are involved in countering illegal wildlife trade. Social control of illegal trade in wild fauna and flora is mainly directed at the supply side of the phenomenon. Its scope is determined by legal regulations, which began with the Washington CITES Convention, Poland acceded to the Convention in 1989. CITES provisions came into force in 1991, while the first implementing provisions were issued in 1997. In the Act of 1997 on the protection of animals, a ban on keeping, trading and transporting animals, their parts and derived products across the state border, subject to restrictions under international agreements without the required permit, was introduced. Currently, the Washington Convention has not been directly transposed into the Polish legal system. Council Regulation 338/97 and the implementing regulations of the European Commission should be applied. The legal act implementing the relevant regulations is the Act of April 16, 2004, on nature protection. By the applicable regulations, the Minister of Justice acts as the managing body of CITES, while the scientific body comprises the Polish Society for Nature Protection (PROP). Control over compliance with the provisions of the Washington Convention and the corresponding regulations is exercised by the Police (primarily responsible for controlling domestic trade) and the Customs and Tax Service (responsible for international trade). Both of the above institutions have CITES coordinators at voivodship levels. In 2006, the CITES Working Group was established in Poland as a platform for the exchange of information and cooperation of all the most important bodies, institutions and nongovernmental organizations.

“Since the Customs Service became a Customs and Tax service, the priority is fiscal matters. The priority is vat collection and financial matters. CITES matters are not a top priority.” (Customs and Tax official)

Due to structural transformations, the emphasis on training for Customs and Tax Service officers has also decreased. This is because with the organizational change, several experienced CITES coordinators have been removed from service. It is to them that Customs officers turn

with doubts about the qualification of a fauna or flora specimen as a CITES specimen. Respondents made it clear that the continuity of experts largely depends on the effectiveness of public control of the phenomenon.

“It all depends on whether the coordinators in the customs chambers in question are experienced, knowledgeable, and above all – whether they want [to deal with these issues].” (Customs and Tax official)

The aforementioned organizational issues permeate the realm of CITES coordinators employed by the police. The appointment of these coordinators within the economic crime departments has engendered supplementary responsibilities beyond their existing duties and competencies. This has precipitated the relegation of endangered species protection to a subordinate position in this organizational configuration. In addition, the interviews show that the system of granting promotions to experienced CITES coordinators, which involves transferring them to other cases, further weakens the control of the phenomenon in question by the Police.

“We [police coordinators] don’t get any privileges, promotions, etc. from this. It’s an additional burden.”

One issue that arises in the context of CITES coordination in law enforcement is the appointment of inexperienced officers to this role. This issue is not limited to the police; rather, it is also present in customs and tax chambers. These coordinators, lacking sufficient knowledge of the phenomenon, may face difficulties in fulfilling their duties effectively. In order to address this issue, experts recommend implementing measures that promote continuity in the employment of coordinators and introduce a system of promotions within the same formation. By doing so, the coordinators will have the opportunity to gain the knowledge and experience necessary to carry out their duties effectively, which will ultimately result in better enforcement of CITES regulations.

One proposed solution to address this issue was to establish a unified service for protecting wildlife.

“Until there is one service in Poland that deals with at least one type of crime against the environment that can be trained so that the results of the training result in promotion within that service, it won’t work. Because someone better currently gets promoted, which involves transferring him to other cases. And inexperienced young officers are directed to these cases. The various guards: forestry, fishing, etc. should be merged so that scattered responsibility does not work.” (Police officer)

The study’s respondents raised concerns regarding the level of proficiency exhibited by police officers concerning CITES crime legislation. This concern was particularly pronounced during the first years of the coordinators’ operation.

The assessment of the control exercised by the judiciary was predominantly unfavorable. The respondents unanimously stated that both prosecutors and judges lack sufficient knowledge of the phenomenon and the existing legal regulations in this area. Additionally, crimes that relate to the Convention on International Trade in Endangered Species (CITES) are given low priority. During the interviews, an intriguing theme emerged regarding the role of non-governmental organizations (NGOs) in controlling the phenomenon. After scrutinizing the interviews conducted with experts, it can be inferred that the responsibility of making judiciary representatives aware of the illegal wildlife trade in Poland rests on the shoulders of NGOs. The World

Wildlife Fund (WWF) Poland is an exemplar of such activities conducted by NGOs. They conducted training courses on CITES crimes for approximately 900 people from the Police and Prosecutor's Office.

“Provincial CITES coordinators were appointed within the Police Department, but the Economic Crime Department officers, who were suddenly given an additional duty related to CITES, had no idea what it was all about. To address this, our NGO worked in partnership with WWF and other organizations to provide training to the police officers, which eventually extended to the customs service as well.” (Customs and Tax officer)

It would be important to mention that WWF was the first organization in the country to issue a publication for more than 120 prosecutors' offices containing guidelines for conducting pre-trial investigations in cases of illegal trade in endangered wildlife species. Subsequently, PTOPI Salamandra began cooperation with WWF, among others, to focus also on monitoring the trade, initially in traditional distribution channels such as stores, and exchanges, then on the Internet. In addition, there was the formation of the Working Group on CITES in PL, coordinated by PTOPI Salamander, which included the Minister of Environment, representatives of the Ministry of Finance, Customs Service, Police and NGOs. However, despite promising beginnings, this organization has been inactive for a few years, because, as the respondents mostly agreed on this point, there is no interest in cooperation with NGOs, which is one of the biggest difficulties to overcome on the way to improving the state of control of illegal wildlife trade in Poland.

“At one point, we formed a CITES Working Group in Poland, which included the Minister of Environment, Finance, Customs, Police, and NGOs. The group functioned for a few years, and we successfully coordinated its efforts. However, for the past couple of years, it has not been operational due to a lack of interest in working with NGOs. This is a current and significant problem that needs to be addressed.” (Representatives of the State Society for Nature Protection “Salamandra”)

The second group of problems mentioned – infrastructure problems – relates to the pressing problem of where live animals could be taken after apprehension. Most zoos refuse to accept animals, so police often fail to take action despite the information they have about CITES crimes.

“When police come across many live specimens, there is nowhere to put them because most zoos are overcrowded. That's why the police often don't respond despite the information they have about illegal breeding. No one wants to take on the financing of such places.” (Customs and Tax official)

As a result, regulations on live animals are often unenforced. A recommendation to create a single central asylum and to guarantee funding for more than just its operation runs through the statements of respondents.

“If the regulations don't allocate funds for animal maintenance, no one will be willing to build a centre. It wouldn't make sense to invest in constructing a centre that cannot be maintained. Since we cannot predict how many animals will appear or what type of animals we will receive, it is crucial to have a constant and uniform source of funding. This funding should cover the maintenance of the centre and its readiness to accept animals at all times.” (representative of the State Society for Nature Protection “Salamandra”)

### 4.3 Demand Reduction-Oriented Activities

In the course of the interviews, issues emerged that were not directly related to the legal state and the assessment of the degree of effectiveness of the application of the law. Moreover, some statements were sceptical of basing the control of the phenomenon solely or mainly on its formal exposure, especially in the form of repression.

“Without the education of school children, there is no chance of preventing the phenomenon.”  
(Police officer)

Instead, attention was drawn to the neglected sphere of monitoring the phenomenon, recognizing its patterns, and refraining from treating its perpetrators as a homogeneous category of people deserving similar treatment.

It is also impossible to omit the recurring theme of raising public awareness of the need to protect endangered species and the consequences of human overexploitation of nature.

“There should be ongoing national and local public campaigns to raise awareness about protected animal and plant species because many people are unaware of them. This effort should be repeated consistently to instill this belief in society and to discourage certain behaviors.” (Representative of WWF)

From the point of view of traditional criminology, which is based mainly on an anthropocentric vision, solutions such as social campaigns that raise awareness of the phenomenon and the applicable laws can be categorized as so-called prior control of the phenomenon. On top of that, they are examples of situational crime prevention techniques from the field of removing the offender's excuses for the criminal act committed. On the other hand, from the perspective of green criminology, they can be seen as an exemplification of the rule of differentiation of crime prevention methods and thus the implementation of the principle of one size does not fill all (“there is no universal model”).

## 5. Key Findings

Based on the interviews, it is possible to distinguish some of the most significant problem areas related to the control of illegal wildlife trade in Poland.

### 5.1 At the Normative Level

Overly repressive regulations on the transport of CITES specimens. The uniform treatment of perpetrators transporting small quantities of CITES specimens and those smuggling wholesale quantities is counterproductive. The failure to distinguish small-scale cases causes social control agencies to correct flawed criminal policies from the bottom up in terms of the regulated degree of repression. The perpetuated lack of response to “minor” cases makes the entire control system leaky. In turn, this backfires on the phenomenon itself, encouraging a group of determined perpetrators to exploit such gaps in control.

While the regulations on transportation are too strict, the regulations on circulation in the internal market are inconsistent and unsustainable. The Law on Nature Protection does not live



up to expectations due to its too frequent amendments, editorial deficiencies and internal inconsistency.

There is a lack of rational regulation of the animal registration and breeding system. In the current state of the law, the system is leaky and makes it easy to confirm the legality of a contraband animal's origin.

There is a lack of consideration of expert opinions when introducing legal solutions.

## 5.2 At the Institutional Level

The police and prosecutor's office lack specialized units to investigate wildlife crimes, making them ill-equipped to handle CITES-related offenses. Inexperienced officers are often appointed as CITES coordinators, lacking the necessary knowledge to investigate such crimes. Experts suggest maintaining continuity in the employment of coordinators and introducing a system of promotions within the same formation to remedy this situation.

## 5.3 At the Level of Law Enforcement

The issue at hand is the inadequate treatment of CITES-related offenses. These offenses are not considered to be serious crimes, which affects the involvement of law enforcement agencies in detecting them and the number of sentences imposed by the courts

Another pressing problem is the lack of infrastructure for housing live animals that have been apprehended. Most zoos refuse to take in these animals, leaving law enforcement with little options for dealing with illegal breeding facilities. To solve this issue, it is necessary to establish a central facility for detained animals and to ensure its permanent financing.

## 5.4 At the Level of Legal Knowledge and Public Awareness

The level of understanding regarding the phenomenon of criminal-legal regulation is low among prosecutors and police officers. These services are also not adequately trained. Prosecutors receive training only as needed, and although police training is more frequent, it is still insufficient. The Customs and Tax Service, which conducts border controls of goods, has the best-trained personnel. However, the level of knowledge among customs officers varies depending on the experience and involvement of the coordinators of each customs chamber.

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