



Crime control of illegal wildlife trade in Poland

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ABSTRACT

Since Poland joined the European Union, it has become, after the US, the second-largest market for live animal specimens protected by the provisions of the Washington Convention. In addition, it is a transit country for a significant number of specimens (live plants or animals, or products derived from them) destined for buyers in Western Europe, due to Poland's eastern border which is one of the longest EU borders and at the same time the first in the way of illegal wildlife trade [Drzazga, 2020]. The effectiveness of international efforts to counter this phenomenon and its global consequences strongly depends on the actions taken by individual countries that are exporters or importers of extinct and endangered species. That is why it is so important to raise the quality of social control of this phenomenon also in Poland. The main purpose of the article is to present the results of qualitative research on social control of illegal wildlife trade in Poland. Before discussing them, the necessary terminological clarifications will be introduced and the reasons for addressing the topic will be presented.

KEYWORDS: wildlife trade, Poland, CITES, green crimes, green criminology, wildlife trafficking

Introduction

To curb the overexploitation for commercial purposes of many wild plants and animals, various types of legal solutions have been introduced around the world. One of them is national species protection, which consists of prohibiting or regulating the extraction from the wild of species threatened with extinction. Countries with specimens of such flora and fauna are often unable to effectively protect their populations on their own. For this reason, national and international regulations have been introduced to transport them across the border. However, due to the low visibility of smuggling cases, many countries have additional laws regulating the commercial use of plants and animals of protected species. In addition, many countries have banned the possession of specimens of illegal or undocumented origin. Poland has all of the aforementioned types of regulations. Their non-compliance is considered broadly illegal trade in wildlife of endangered species. On the other hand, "social control" is considered to be a system of social sanctions negative and positive, and agendas groups, organizations, institutions that apply such sanctions in response to the behavior of an individual in the normatively regulated sphere. Social control can be formal and informal. In the first case, the circle of controlling entities (control agendas), the means used to induce conformity to certain norms, and the circle of subjects subjected to control are specified. In the second case, the controlling entities, the controlled entities, and the set of control measures are undefined. Crime prevention, which is a fragment of social control, can be implemented in three stages: primary actions, secondary actions, and follow-up actions. At the primary action stage, the focus is on shaping social policy in such a way as to eliminate factors that encourage crime. The secondary action stage manipulates the situation in which a violation of the law may occur to thwart it at a particular place and time by a particular perpetrator. This stage involves techniques from the field of situational crime prevention

[Wortley, 2001]. The follow-up stage, on the other hand, is concerned with responding to a violation of the law that has already been committed. It includes actions taken by formalized control agencies, such as the police, prosecutors, and courts. There are many reasons why the issue of social control of illegal wildlife trade in endangered species deserves the interest of researchers. It is a social problem with a large scope, growing scale, and serious, varied consequences [Wyatt 2013, Wyatt, Nurse, 2021]. The threat posed by them can be divided into several - briefly discussed below types of threats: 1. to the environment 2. economic 3. to people 4. to national security.

Consequences of wildlife trade

1. Threats to the environment

Illegal wildlife trade hurts the environment, causing threats to biodiversity and directly contributing to the extinction of plant and animal species. In addition, the phenomenon in question is linked to both the introduction of foreign, invasive species that can displace native ones and the transmission of diseases to native plants and animals. The issue of wildlife extinction is important not only because it leads to the loss of some species, but also because the disappearance of one species can lead to the collapse of the entire ecosystem, or at least to its imbalance. In the case of coral reefs and forests, such a process can significantly affect climate change. Destruction of plant and animal habitats as a result of human activity often leads to a reduction in biodiversity in the areas concerned [Mozer, 2023]. Examples of such dependencies can be pointed out by referring to the following phenomena: the killing of elephants to obtain their blows, the killing of rhinos to obtain their horns used in traditional Asian medicine, the trapping of sharks, the fins of which are used to prepare the world's most exclusive soup, etc. The fact of the deprivation of the lives of these and other animals, from which, among other things, highly valuable furs are obtained, has contributed to the population decline of many



species. Given the situation of sharks at the top of the food chain, the species that make up their food are beginning to multiply at such a rate that it leads to a loss of food in the form of algae, plankton, etc. Illegal wildlife trade can therefore result in the introduction of invasive plant and animal species that threaten the ecological balance. Sometimes they colonize entire ecosystems, thus impoverishing and destroying them. In addition, they can also be carriers of diseases and parasites to which native species are not immune. So-called "stowaways" of illegal shipments that are not inspected during transport can become invasive species or carry diseases. In addition, there is evidence that commercial conditions in which animals normally isolated from each other suddenly find themselves near each other cause diseases of various kinds to spread very quickly and easily [Rush, Dale, Aguirre, 2021]. The traded animals themselves, as well as livestock, can be threatened by them, which in turn affects production processes and the global economy.

2. Economic consequences

The negative consequences of illegal wildlife trade in endangered species, such as reduced biodiversity, disease transmission, and the introduction of invasive species, can affect the state of the economy because of the threat they pose to natural resources fundamental to a country's economy. This is because a country may be deprived of tax revenue that would have been generated if the trade had been legal. In addition, all companies associated with the livestock industry may be affected. The loss of profit from a particular area or the reduction of opportunities for food due to a reduction in biodiversity can result in the displacement of individuals or even a population occupying an entire village. This generates the increasingly widespread problem of so-called "ecological migration" [Wyatt, 2013]. It is estimated that the share of illegally harvested timber in the global timber trade is about 30%. This phenomenon contributes more than 50% to deforestation in Central Africa, the Amazon, and Southeast Asia, depriving indigenous peoples of vital development opportunities. Illegal fishing, in turn, depletes fish stocks and leads to the degradation of marine habitats. As a result, competition is disrupted and coastal communities are weakened, especially in developing countries.

3. Threats to humans

Human health can be endangered by the transmission of diseases carried by illegally traded animals. According to the European Economic and Social Committee, animal species illegally imported into the territory of European Union member states are not subject to certification by competent veterinary services, which can lead to the spread of diseases, especially among livestock species. Avoidance of proper phytosanitary control exposes native plant species, both cultivated and wild, to contamination with new pathogens. Moreover, it is estimated that 75% of new infectious diseases are of animal origin, which for the most part come from wildlife. Illegal trade in such species increases the risk of global epidemics such as H5N1 avian influenza and severe acute respiratory syndrome (SARS) [Bell, Robertson, Hunter, 2004]. In addition, the problem of killing

people involved in combating illegal wildlife trade is increasingly cited in the literature [Karesh, R. Cook, E. Benett, J. Newcomb, 2005].

4. Threat to National Security

Because the illegal trafficking of wildlife of endangered species can provide large profits, and the risk of exposure and negative consequences of such activities is negligible, organized criminal groups with extensive network connections and experience in smuggling other goods are involved in this activity. There is evidence of the involvement of organized crime groups in illegal wildlife trafficking. It is seen as a safe and easily profitable activity that provides an alternative to the traditional areas of organized crime groups, such as drug crime, human trafficking, or illegal arms trafficking. This is because various organized crime groups can use traditional smuggling methods and routes with a reduced risk of uncovering illegal activity. In addition, links have been proven to exist between wildlife crimes and drug crimes, terrorism-related crimes, and military conflicts [Naim, 2005].

Making a certain simplification, it can be said that the above-mentioned reasons are used mainly by representatives of traditional criminologists, and those representatives of green criminology who mainly advocate an anthropocentric vision of justice. It consists in recognizing that man and his interests are at the top of the hierarchy of importance, while biota is of utilitarian importance. In contrast, representatives of green criminology, advocating an anthropocentric vision of justice, do not need additional arguments for stopping the phenomenon of wildlife trafficking. This is because, for them, the environment has autotelic value. Given the above, it is not surprising that the international community saw the need for concerted efforts to curb this phenomenon, which found its way once in the development of international regulations, starting with the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the so-called Washington Convention of 1973 (hereinafter: CITES). However, the development of effective, consistent, and adequate measures for social control of illegal wildlife trade, due to its enormous diversity in both quantity and quality, remains a major challenge. This difficulty is also because the problem at hand involves issues from both lawmaking and law enforcement, animal welfare issues, and environmental issues. Thus, several categories of actors with sometimes different missions and different preferred strategies for dealing with it are involved in countering it. Models of legal response to the phenomenon straddle the two ends of the continuum: regulation and criminalization [Drzazga, 2020]. The debate centers primarily around the question of which solution is more effective- allowing wildlife trade to a certain extent or banning it altogether, i.e., whether to opt for regulation or criminalization. The aforementioned Washington Convention, which is the main international regulation of wildlife trade, can be seen as a combination of both issues regulatory and criminalization, with a clear predominance of the regulatory model. It is fundamentally underpinned by an anthropocentric assumption and the associated concern to



guarantee the continuity of the exploitation of environmental resources [Weitzenfeld, 2014]. Parties to the Convention undertake to issue appropriate regulations to protect endangered species listed in CITES. Since Poland joined the European Union, it has become, after the US, the second-largest market for live animal specimens protected by the provisions of the Washington Convention. In addition, it is a transit country for a significant number of specimens (live plants or animals, or products derived from them) destined for buyers in Western Europe, due to Poland's eastern border - which is one of the longest EU borders and at the same time - the first in the way of illegal wildlife trade [Drzazga, 2020]. The effectiveness of international efforts to counter this phenomenon and its global consequences strongly depends on the actions taken by individual countries that are exporters or importers of extinct and endangered species. That is why it is so important to raise the quality of social control of this phenomenon also in Poland.

Given the above, the main research problem is an attempt to answer the main question: what is the state of social control of illegal wildlife trade in Poland? This problem is considered firstly, about existing legal regulations, i.e. national and international in the area in question. Secondly, concerning the postulates formulated by the representatives of the so-called "green criminology", i.e. with special attention to the integrated approach to countering this phenomenon. This approach is based on the achievements of traditional criminology and the latest research devoted to effective ways to control the phenomenon. Qualitative research in the form of in-depth interviews with experts in the field of controlling the phenomenon was conducted to answer the above questions [Drzazga, 2020].

Social control of the phenomenon

Legal status Poland acceded to the Washington Convention (CITES) in 1989 as one of the last European countries, that is, ratification in our country took place 17 years after the signing of this document. It entered into force in 1990, and the provisions of CITES became effective in Poland in 1991, with the first implementing regulations issued only in 1997. The 1997 Law on the Protection of Animals introduced a ban on keeping, trading in, and transporting across state borders without the required permit animals, their parts, and derivative products subject to restrictions under international agreements. Regarding possession and undefined circulation, this provision, on the one hand, introduced restrictions beyond those required under CITES and criminalized any acts prohibited in this regard. On the other hand, the above law completely ignored the issue of plants. It should be added, moreover, that no document (e.g., a regulation) was ever given listing the plants that the above provision would apply to. Thus, in practice, it became dead from the very beginning of its introduction. In 2001, the above regulations were replaced by more detailed ones, which included plants. However, this time there was a shift of these or ns prohibited to the category of offenses. Again, also, the actual validity of the aforementioned provision was dependent on the issuance of the aforementioned list of regulated species. With some

imperfections, it appeared only a year later, i.e. in 2002, and one can speak here of the implementation of CITES with the validity of this legal status until 2004. Currently, the Washington Convention is not directly transposed into the Polish legal state. Council Regulation 338/97 and implementing regulations of the European Commission are in force. The legal act implementing the relevant regulations is the Law of April 16, 2004, on Nature Protection. Under the current regulations, the Minister of Justice acts as the CITES management authority, while the scientific body is the Polish Society for Nature Protection (PROP). Control over compliance with the Washington Convention and its corresponding regulations is exercised by the Police (primarily responsible for controlling domestic trade) and the Customs and Fiscal Service (responsible for international trade). Both of the above-mentioned institutions have CITES coordinators at provincial levels. In 2006, Poland established a CITES Working Group as a platform for information exchange and cooperation of all major authorities, institutions, and NGOs [Kapel, Kala, 2016].

As mentioned, the agendas of formalized control in Poland are mainly the Police, when it comes to circulation on the internal market, and the Customs and Fiscal Service, when it comes to circulation beyond the borders of our country. Here, the organizational structure, management, financing, and quantitative composition, are extremely important variables that directly affect the effectiveness of control. However, in the case of the Customs Service, there have been organizational changes that, according to the in-depth interviews, have undermined the effectiveness of this control agenda. In 2017, the Customs Service was merged with Treasury Control and Tax Administration, with the main task of Customs and Treasury being the fight against tax fraud and the collection of customs duties. The priority given to controlling the illegal transportation of CITES specimens became extremely low in such an organizational arrangement. This has led to a reduced emphasis on training for Customs and Revenue officers. At this point, it is worth touching on the subject of their knowledge and skills in the context of uncovering so-called CITES crimes. This relationship is best illustrated by the data of the Customs-Tariff Service. The number of seized specimens of flora and fauna increased between 1998 and 2001, followed by a decrease between 2009 and 2017. However, it is difficult to speak of an escalation and then a decrease in the scale of the phenomenon. It should be noted the fact of the gradual raising of awareness among the customs officers of the time in the first period of enforcement of CITES provisions, i.e. from 1998 to 2001. The first training courses on specimen identification were held at that time, which resulted in a gradual increase in the ability of officers to recognize species and, as a result, an increase in the disclosure of the disturbing phenomenon. According to the available data, the decrease in the total number of seizures of specimens of flora and fauna did not have the character of a general trend, the dynamics of the phenomenon in individual customs chambers varied, which is rather related to internal changes taking place in the administrative units of the



Customs Service than to the actual quantitative picture of the phenomenon.

Methodology

As part of the research, 20 anonymous in-depth interviews were conducted with various experts who are in contact with the problem of illegal wildlife trade in Poland. To obtain a wide range of expert statements, the target selection included: representatives of the customs and fiscal service, police officers who are CITES coordinators, representatives of the Department of Social Control of Illegal Wildlife Trade in Poland Customs of the Ministry of Finance, the State Council for Environmental Protection, representatives of the State Society for Nature Protection "Salamandra" and WWF Poland. The research tool the interview scenario was developed based on the recognition of the phenomenon based on the so-called analysis of found data and dogma-legal analysis. The expert interviews were recorded on an electronic medium. They were then subjected to transcription and analysis involving the following stages: selection and ordering of data, creation of a set of analytical categories, assignment of data to appropriate categories, analysis and interpretation of data, and presentation of conclusions. For this purpose, a qualitative data analysis program was used -- MAXQDA. This software is a package for coding, explaining, searching, and analyzing small and large collections of documents and images. The analysis process included the following phases: 1. Inductive coding and preliminary coding of two selected interviews. 2. creation of a code book. 3. Coding of all material to be analyzed. 4. Creation and analysis of case representations. 5. Attempting to answer the research questions. 5. expert opinions [Drzazga, 2020].

Results

Respondents paid a lot of attention to the aforementioned structural changes that the Customs Service has undergone. This is because, with the organizational change, several experienced CITES coordinators were removed from service. And it is up to them to initiate internal training for officers at the regional level. In addition, it is to them that customs officers first turn with doubts about the qualification of a fauna or flora specimen as a CITES specimen. The continuity of experts largely determines the effectiveness of public control of the phenomenon. This is a general statement that applies to both CITES coordinators employed by the Customs and Revenue Service and CITES coordinators employed by the Police.

Another problem raised by respondents was the lack of a sufficient number of places in zoos where live animals should go after they are detained. Some respondents also pointed to the lack of a central asylum where all live detained animals could go.

As for the evaluation of the legal state of affairs, respondents tended to the opinion that regulations for transportation across the border were sufficient. On the other hand, they were very critical of the regulation of circulation on the internal market. According to the experts, EU regulations are applied in Poland, which include solutions for internal circulation that do not have proper counterparts in Polish legal

regulations. The adopted model of animal registration is not a good solution, as it is a technical activity, and the failure to perform it constitutes an offense. The district doctor only states the fact of captive birth, he does not verify the origin of the animal. Therefore, to the police and customs, this document has no meaning. In addition, the Minister of the Environment, in consultation with the State Council for the Protection of Wildlife, is the only body that decides whether a specimen can be considered captive-born.

In contrast, there are no systemic solutions. According to the respondents, the solution to this problem is simple, i.e. each breeding farm should be registered after first determining whether or not there are legal animals in it. It should be given a number, while the animals coming from it should be microchipped and given a document with their number and photo. It would be necessary to introduce at the same time periodic inspections of registered kennels to check whether they are being fed animals from an illegal source. Such a solution would reduce the perpetrator's benefit from the crime.

As for cooperation with the police in the local market, respondents rated it rather well. However, they stressed the need to maintain continuity in the employment of CITES coordinators. As in the case of CITES coordinators in customs houses, the new coordinators do not have sufficient knowledge of the phenomenon.

Evaluation of cooperation with representatives of the judiciary was mostly negative. Respondents stressed that prosecutors and judges do not have sufficient knowledge of both the phenomenon and the current legal regulations in this area. And CITES crimes themselves are given one of the lowest priorities. The burden of raising awareness among representatives of the judiciary has fallen on the shoulders of NGOs. As an example of such activities, WWF Poland (World Wildlife Fund; hereafter: WWF) conducted a regional training course on so-called CITES crimes for about 900 people from the Police and Prosecutor's Office. WWF was also the first organization in the country to issue a publication for more than 120 prosecutors' offices containing guidance on conducting pre-trial proceedings in cases of illegal trade in endangered wildlife species.

Regarding situational prevention of CITES crimes, respondents indicated that it is difficult to speak of a concrete idea for such solutions within our country's borders. Trained tracking dogs, whose presence at the borders would increase the risk of revealing violations of the law, are not used. On the other hand, there are public campaigns initiated by NGOs to raise awareness of the phenomenon and legal regulations. Banners with content informing potential buyers of exotic animals and plants about the phenomenon in an accessible way are placed at some airports. A similar role is played by workshops held in schools to raise public awareness of the phenomenon. The above solutions cited by respondents can be categorized as the 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 crime committed [25].

Taking into account the above, based on the in-depth expert interviews conducted, some conclusions can be drawn related to the state of broad social control of illegal wildlife trade in Poland. 1) Social control of illegal wildlife trade is incomplete and inconsistent at the legislative level. 2) Social control of

illegal wildlife trade is ineffective at the law implementation level. 3) Social control of illegal wildlife trade is mainly follow-up. 4) Social control of illegal wildlife trade mainly covers the supply side of the phenomenon. 5) Current criminological knowledge, such as situational crime prevention techniques, is insufficiently applied. 6) Illegal wildlife trade prevention has a low priority.

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