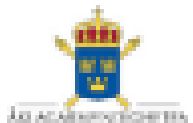


AN INTRODUCTION TO, AND GENERAL INFORMATION ON, THE ILLEGAL KILLING, TAKING AND TRADING OF MIGRATORY WILD BIRDS IN THE MEDITERRANEAN REGION PART 2



PRODUCED BY THE LIFE-ENPE WILDLIFE CRIME WORKING GROUP (WG1) BEING PART OF A TRAINING PACKAGE DEVELOPED FROM THE SEGOVIA WORKSHOP FOR PROSECUTORS FROM MEDITERRANEAN COUNTRIES IN MAY 2018. THE WORKSHOP INVOLVED THE CLOSE COOPERATION AND SUPPORT OF THE CMS (BONN) CONVENTION

The European Commission were recognized as Champion Plus for their generous support and commitment towards addressing Illegal Killing, Taking and Trade of Migratory Birds in the Mediterranean for the period 2018-2020. This activity has been funded with the contribution granted by the European Commission under the Migratory Species Champion Programme and through the Global Public Goods and Challenges (GPGC Programme) Cooperation Agreements with UNEP.



EU FORUM OF JUDGES FOR THE ENVIRONMENT
LE FORUMUM JUCES POLIE I ENVIRONMENT



THE FOLLOWING NOTICE ACCOMPANIED THE FULL 4-PART TRAINING PACKAGE SENT TO THE PROSECUTORS OF EACH COUNTRY OF THE MEDITERRANEAN REGION.

COPYRIGHT AND INTELLECTUAL PROPERTY RIGHTS ALSO APPLY TO THE “INTRODCUTION TO AND GENERAL INFORMATION ON IKB IN THE MEDITERRANEAN REGION” PUBLISHED ON THE ENPE AND CMS WEBSITE

NOTE: THE COPYRIGHT AND INTELLECTUAL PROPERTY IN THIS TRAINING PACKAGE REMAINS WITH ENPE AND THE LIFE-ENPE PROJECT. IT IS DISTRIBUTED FOR THE USE OF PROSECUTORS AND IKB GOVERNMENT ENFORCEMENT AUTHORITIES ONLY. PERMISSION IS GIVEN TO THOSE AUTHORITIES TO TRANSLATE THE CONTENT OF SLIDES AND TO USE THE PACKAGE FOR THE TRAINING OF PROSECUTORS AND IKB REGULATORY STAFF ONLY. IMAGES TAKEN FROM A NUMBER OF PRESENTATIONS WERE PROVIDED TO ENPE ON THE BASIS THAT THEY ARE TO BE SHOWN TO A RESTRICTED AUDIENCE FOR TRAINING PURPOSES. PERMISSION MUST BE SOUGHT FOR REPRODUCTION FOR OTHER PURPOSES.



Note to readers of the ENPE and CMS websites

- **THESE SLIDES ARE SLIDES THAT WERE USED TO PROVIDE PROSECUTORS WITH RELEVANT BACKGROUND FOR TRAINING ON IKB. THIS MATERIAL DOES NOT INVOLVE CASE STUDIES OR OTHER MATERIAL THAT WAS AGREED TO BE TREATED AS CONFIDENTIAL.**
- **IN THE INTERESTS OF A WIDER UNDERSTANDING OF IKB AND OF THE WORK OF ENPE AND CMS IN THIS AREA, THE FOLLOWING PORTIONS OF TRAINING MATERIALS ARE MADE ACCESSIBLE ON THE WEBSITES OF ENPE AND CMS. COPYRIGHT OF THIS MATERIAL STAYS WITH ENPE AND PERMISSION MUST BE SOUGHT BY ENPE FOR ITS USE.**



IKB IN THE MEDITERRANEAN REGION

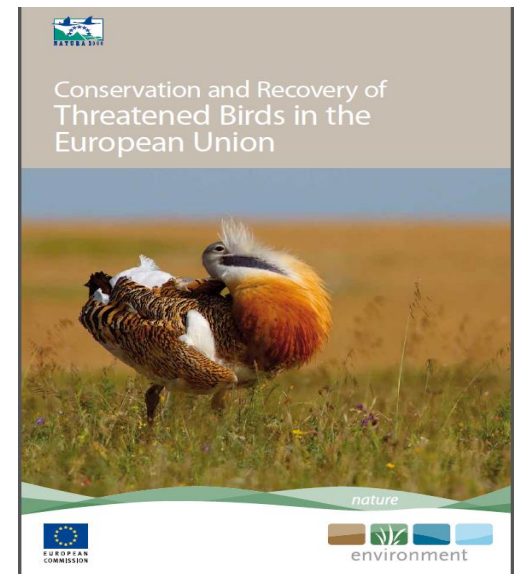
THE RELEVANT INTERNATIONAL CONVENTIONS & EU DIRECTIVES



IKB IN THE MED REGION – CONVENTIONS & DIRECTIVES [1]

The EC DG Environment’s representative at the Segovia Workshop, Joseph van der Stegen, emphasised:

- **European history of bird protection since 1902, today the Birds Directive 1979/2009 is central, with national obligations to enact protection under Articles: 3&4 (habitats & sites) and 5 to 9 (species). Approximately 500 species are protected.**
- **Populations of 32% of bird species are not secure, situation of a further 16% is unknown. Farmland birds have suffered serious decline**
- **2016: EC adopted “roadmap” towards eliminating IKB.**
- **Species action plans for some “Threatened” birds.**
- **Natura 2000 secures 27,732 habitats**
- **Key messages: “Two pillars – (a) Species Protection & (b) Habitat protection & management”.**
**“Cooperation is key, not conservation in isolation”,
and**



“NO SUCCESS WITHOUT PROPER ENFORCEMENT”

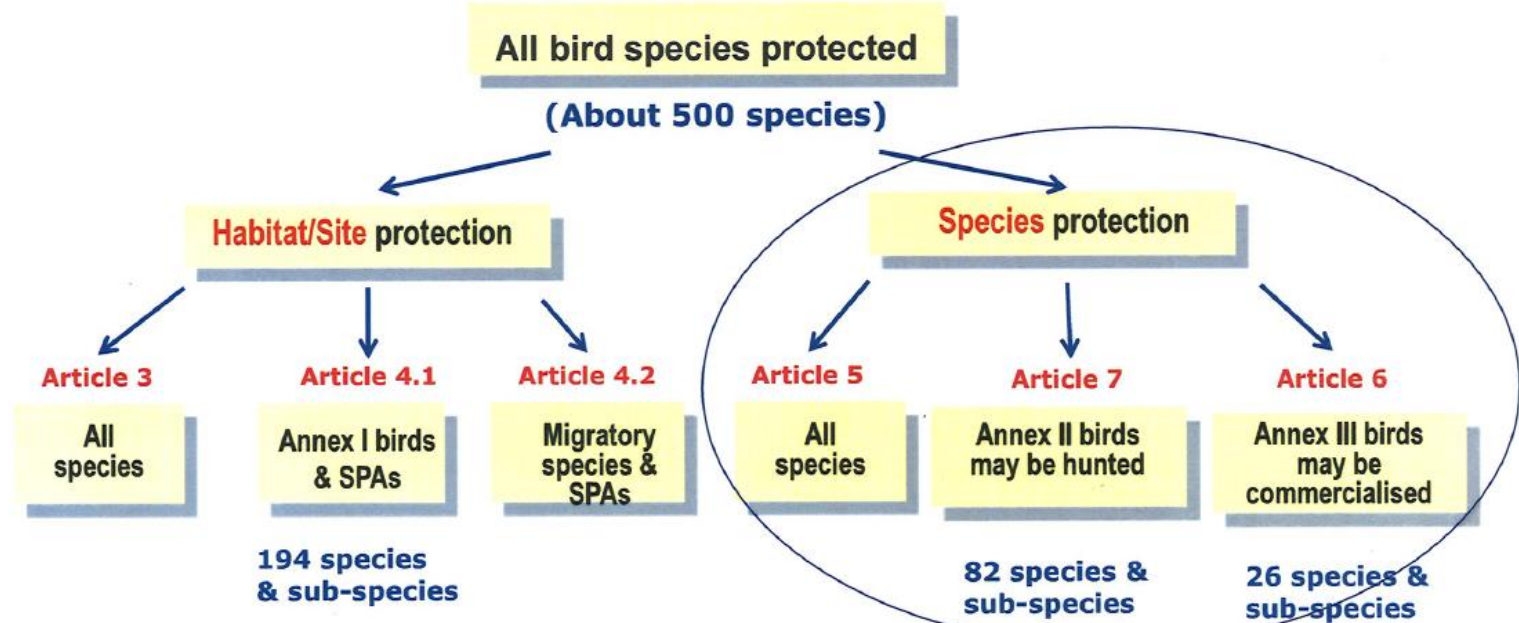


IKB IN THE MED REGION – CONVENTIONS & DIRECTIVES [2]

THE BIRDS DIRECTIVE – PROTECTION IN OUTLINE



Categories of protection of bird species



C & D [3] - DIRECTIVE 2009/147/EC “THE BIRDS DIRECTIVE” – “Articles”

Article 1

(THESE ARE EXTRACTS ONLY – SELECTED BY ENPE)

This Directive relates to the conservation of all species of naturally occurring birds in the wild state in the European territory of the Member States....It shall apply to birds, their eggs, nests and habitats.

Article 2

Member States shall take the requisite measures to maintain the population of the species referred to in Article 1.

Article 4

1. The species mentioned in **Annex I** shall be the subject of special conservation measures...account shall be taken of (a) species in danger of extinction; (b) species vulnerable to specific changes in their habitat; (c) species considered rare because of small population or restricted local distribution: (d) other species requiring particular attention for reasons of the specific nature of their habitat.

2. Member States shall take similar measures for regularly occurring migratory species not listed in Annex I, bearing in mind their need for protection in the geographical sea and land area where this Directive applies, as regards their breeding, moulting and wintering areas and staging posts along their migration routes. (+ *particular attention to wetlands*)

C & D [4] - DIRECTIVE 2009/147/EC “THE BIRDS DIRECTIVE” - “Articles”

(THESE ARE EXTRACTS ONLY – SELECTED BY ENPE)

Article 5: Without prejudice to Articles 7 and 9, Member States shall take the requisite measures to establish a general system of protection for all species of birds referred to in Article 1, prohibiting in particular: (a) deliberate killing or capture by any method; (b) deliberate destruction of, or damage to, their nests and eggs or removal of their nests; (c) taking their eggs in the wild and keeping these eggs even if empty; (d) deliberate disturbance...during...breeding and rearing....(e) keeping birds (Article 6 – in summary – prohibits sale, transporting & keeping for sale, live or dead birds or parts.)

Article 7: 1. the species listed in **Annex II** may be hunted under national legislation...Member States shall ensure that the practice of hunting, including falconry if practised, as carried on in accordance with the national measures in force, complies with the principles of wise use and ecologically balanced control of the species of birds concerned and that this practice is compatible as regards the population of these species, in particular migratory species...

In the case of migratory species, they shall see in particular that the species to which hunting regulations apply are not hunted during their period of reproduction or during their return to their rearing grounds.

Article 8: 1. Member States shall prohibit the use of all means, arrangements or methods used for the large-scale or non-selective capture or killing of birds

C & D [5] - DIRECTIVE 2009/147/EC “THE BIRDS DIRECTIVE” - “Articles”

(THESE ARE EXTRACTS ONLY – SELECTED BY ENPE)

Article 8: 1. Member States shall prohibit the use of all means, arrangements or methods used for the large-scale or non-selective capture or killing of birds

Article 9

DEROGATIONS

1.where there is no other satisfactory solution, for the following reasons: (a) in the interests of public health and safety, - in the interests of air safety, - to prevent serious damage to crops, livestock, forests, fisheries and water, - for the protection of flora and fauna; (b) for the purposes of research and teaching, of re-population, of re-introduction and for the breeding necessary for these purposes; (c) to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers.
2. The derogations referred to in paragraph 1 must specify: (a) the species which are subject to the derogations; (b) the means, arrangements or methods authorised for capture or killing; (c) the conditions of risk and the circumstances of time and place under which such derogations may be granted; (d) the authority empowered to declare that the required conditions obtain and to decide what means, arrangements or methods may be used, within what limits and by whom; (e) the controls which will be carried out.

IKB IN THE MED REGION - CONVENTIONS & DIRECTIVES [6]

DIRECTIVE 2009/147/EC “THE BIRDS DIRECTIVE” - The “Annexes”

The 500 wild bird species naturally occurring in the European Union are protected in various ways:

Annex 1: 194 species and sub-species are particularly “threatened”. Member States must designate Special Protection Areas (SPAs) for their survival and all migratory bird species.

Annex 2: 82 bird species can be hunted. However, the hunting periods are limited and hunting is forbidden when birds are at their most vulnerable: during their return migration to nesting areas, reproduction and the raising of their chicks.

Annex 3: overall, activities that directly threaten birds, such as their deliberate killing, capture or trade, or the destruction of their nests, are banned. With certain restrictions, Member States can allow some of these activities for 26 species listed here.

Annex 4: the directive provides for the sustainable management of hunting but Member States must outlaw all forms of non-selective and large scale killing of birds, especially the methods listed in this annex.



IKB IN THE MED REGION - CONVENTIONS & DIRECTIVES [7]

DIRECTIVE 2009/147/EC “THE BIRDS DIRECTIVE” - DEROGATIONS

Some member countries have had problems in their use of Article 9 – Derogations, particularly for hunting and trapping. Joseph van der Stegen specifically addressed this Article and made these points:

- Derogations are possible, IF NECESSARY, from Art 5 (strict protection), 6 (trade), 7 (hunting), or 8 (means);**
- In most member states the majority of derogation licences are issued for: the reason of preventing damage to crops, livestock, etc.; the protection of flora and fauna by deliberate killing of birds or destruction of eggs; research and education (e.g. ringing of birds).**
- Formal conditions must be respected (means, controls, etc.).**
- Some are given “to permit under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers”.**
- Reporting by Member States generally good, but important information frequently missing.**

**IT IS THE OBLIGATION OF EACH EU COUNTRY TO ENACT LAWS THAT CARRY INTO
LAW THE CONTENTS OF THE DIRECTIVE**



IKB IN THE MED REGION - CONVENTIONS & DIRECTIVES [8]

CMS (BONN) CONVENTION

CMS Secretariat, through Dr Borja Heredia (then Head of Avian Species Team UNEP/CMS Secretariat), in Segovia, made the following points:

- **The Convention (on the Conservation of Migratory Species of Wild Animals) commenced in 1983. 126 parties (countries).**
- **There are four “Flyways” (main routes taken by migratory birds) across the World.**
- **The Mediterranean is in the middle of the African-Eurasian Flyway, between wintering grounds in Africa and breeding grounds in Europe and Western Asia.**
- **Resolution 11.16 of the 2014 Quito CMS meeting of parties to CMS, set up MIKT to tackle IKB in the Mediterranean Region this is an intergovernmental task force, which has 20 (nation) members and 37 Observers (including ENPE). They include representatives of bird conservation and hunting.**



IKB IN THE MED REGION - CONVENTIONS & DIRECTIVES [9]

THE CMS CONVENTION – Text Extracts

- The preamble to the convention states that the signatories are:
“**RECOGNISING** that wild animals in their innumerable forms are an irreplaceable part of the Earth's natural system which must be conserved for the good of mankind;”
AND: “**CONVINCED** that conservation and effective management of migratory species of wild animals require the concerted action of all States within the national jurisdictional boundaries of which such species spend any part of their life cycle;”
HAVE AGREED as follows: (*SIGNATURE OF PARTY COUNTRY*)
- Amongst the articles of the convention, the following statements occur (Article II):
“The Parties acknowledge the importance of migratory species being conserved and of Range States (*basically all countries in the Flyway*) agreeing to take action to this end... individually or in co-operation appropriate and necessary steps to conserve such species and their habitat...The Parties acknowledge the need to take action to avoid any migratory species becoming endangered...
(Article III) **Appendix I** shall list migratory species which are endangered.
(Article IV) **Appendix II** shall list migratory species which have an unfavourable conservation status and which require international agreements for their conservation and management



IKB IN THE MED REGION - CONVENTIONS & DIRECTIVES [10]

THE CMS CONVENTION – Text Extracts & Comment

EXTRACTS FROM THE ARTICLES – CONTINUED

ARTICLE V: 1. The object of each agreement shall be to restore the migratory species concerned to a favourable conservation status or to maintain it in such a status. Each Agreement should deal with those aspects of the conservation and management of the migratory species concerned which serve to achieve that object.

GENERALLY: THE SCHEME OF THE CONVENTION

CMS acts as a framework **Convention**. The Agreements instigated or facilitated by CMS may range from **legally binding** treaties (called Agreements) under Article V such as the [AEWA](#) - the Agreement on the Conservation of African-Eurasian Migratory Waterbirds to less formal instruments, such as Memoranda of Understanding (MOU), for example the Memorandum of Understanding on the Conservation of Migratory Birds of Prey in Africa and Eurasia (Raptors MoU) or Action Plans.

**ONLY AGREEMENTS MADE UNDER ARTICLE V ARE LEGALLY BINDING.
HOWEVER, EACH COUNTRY THAT BECOMES A PARTY IS COMMITTED TO THE
TERMS OF THE CONVENTION.**



IKB IN THE MED REGION - CONVENTIONS & DIRECTIVES [11]

THE BERN (WILDLIFE/HABITATS) CONVENTION – Text Extracts

Article 1

1. The aims of this Convention are to conserve wild flora and fauna and their natural habitats, especially those species and habitats whose conservation requires the co-operation of several States, and to promote such co-operation.

2 Particular emphasis is given to endangered and vulnerable species, including endangered and vulnerable migratory species. *(Full Article)*

(Part)

Article 7

1 Each Contracting Party shall take appropriate and necessary legislative and administrative measures to ensure the protection of the wild fauna species specified in Appendix III.

2 Any exploitation of wild fauna specified in Appendix III shall be regulated in order to keep the populations out of danger, taking into account the requirements of Article 2. *(Part)*

ALL EU COUNTRIES AROUND, OR IN, THE MEDITERRANEAN ARE PARTIES TO THE BERN CONVENTION + TURKEY, MOROCCO & TUNISIA (with a reservation)



IKB IN THE MED REGION - CONVENTIONS & DIRECTIVES [12]

COUNTRIES AND THEIR DIRECTIVE/CONVENTION OBLIGATIONS

The countries surrounding, or in, the Mediterranean are: (EU) [Spain](#), [France](#), [Italy](#), [Slovenia](#), [Croatia](#), [Greece](#); [Malta](#) and [Cyprus](#); (Non EU) [Montenegro](#), [Albania](#), [Turkey](#), [Bosnia and Herzegovina](#), [Syrian Arab Republic](#), [Lebanon](#), [Israel](#), [Egypt](#), [Libya](#), [Tunisia](#), [Algeria](#), [Monaco](#) and [Morocco](#); (Additionally, the [Gaza Strip](#) and the [British Overseas Territories](#) of [Gibraltar](#) and [Akrotiri and Dhekelia](#) have coastlines on the Med, but, for the purpose of simplicity, are not included as countries). below.)

BIRDS DIRECTIVE: It is an absolute obligation of each EU Member State to enact laws that carry into law the terms of the Directive.

CMS (BONN) CONVENTION: All the above countries (EU and Non-EU) around, and in, the Mediterranean Sea, are parties to the Convention and committed to implement its terms.

BERN (EUROPEAN WILDLIFE & HABITATS) CONVENTION: All European countries (EU and Non-EU), including Turkey, plus Morocco and Tunisia (the latter with a “reservation”) are parties to the Convention and committed to implement its terms.



NOTES TO TRAINER/ TRANSLATOR - IKB IN THE MED REGION – PRINCIPAL LOCAL LEGISLATION

TO THE TRAINER/TRANSLATOR:

WOULD THE LEAD LOCAL PROSECUTOR/LAWYER ON THIS SUBJECT MATTER PLEASE INTRODUCE THE LOCAL LEGISLATION BY LISTING IT ON THIS PAGE (AND THE NEXT IF NECESSARY).

IT IS SUGGESTED YOU SIMPLY LIST THE LEGISLATION AND THEN HAVE COPIES TO GIVE TO THE ATTENDEES OR, PREFERABLY, CIRCULATE BEFORE THE TRAINING SESSION - ASKING THEM TO READ THE RELEVANT PROVISIONS BEFORE THE TRAINING. (THIS WILL FACILITATE THE DISCUSSION SESSION THAT IMMEDIATELY FOLLOWS.)



IKB IN THE MEDITERRANEAN REGION

ADDITIONAL TOPIC

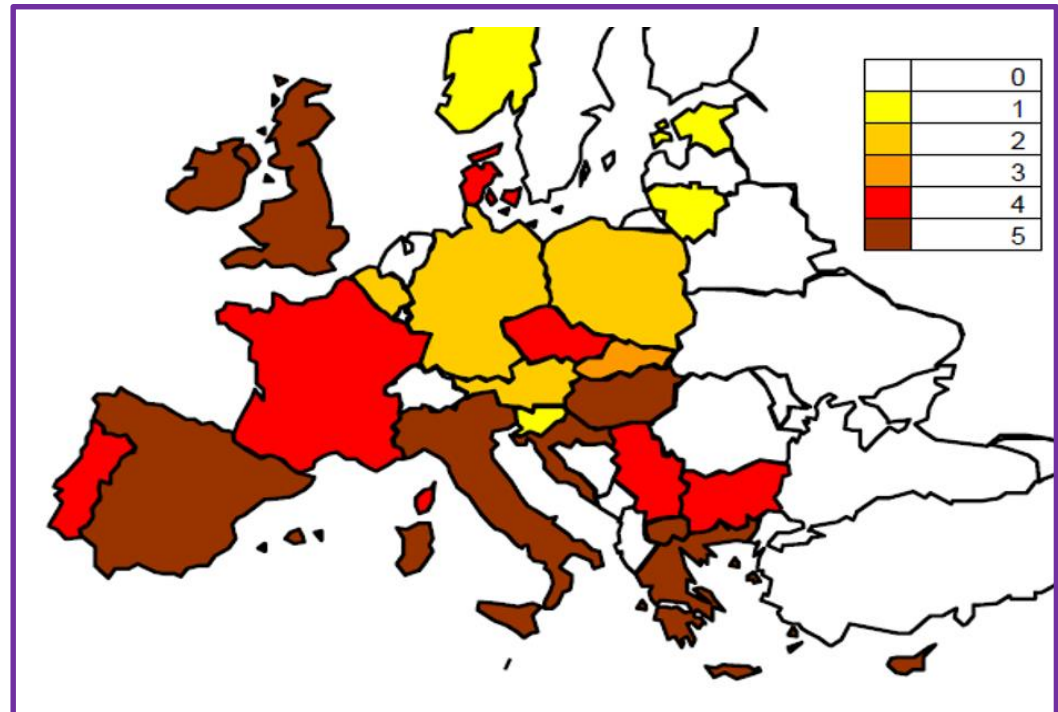
“RAPTOR POISONING” (presented by
David de la Bodega, SEO Birdlife (Spain)
Legal Officer)



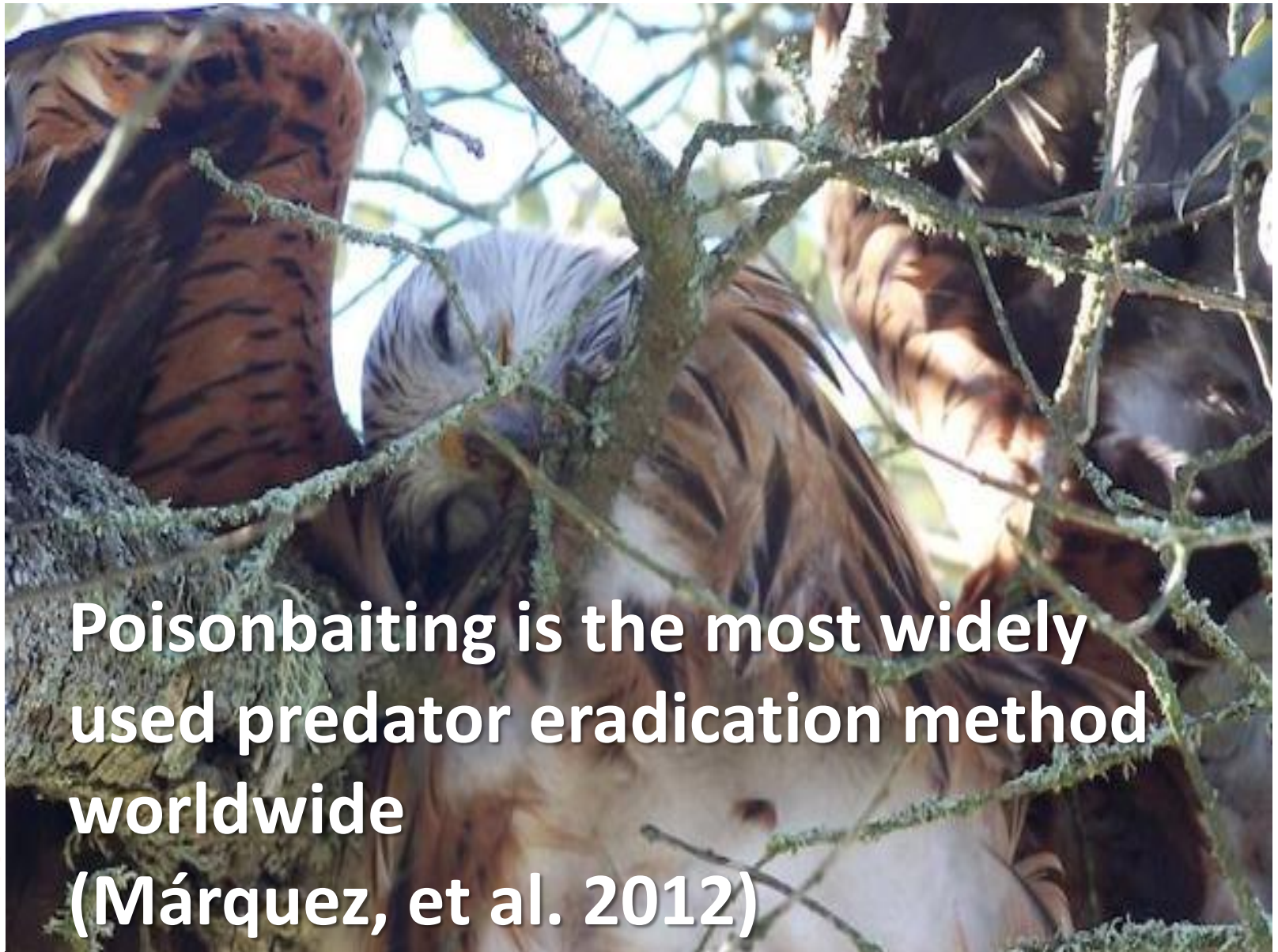
IKB IN THE MED REGION – RAPTOR POISONING [a]

So far as birds species go, this is specific form of IKB that especially affects raptors (birds of prey) and some other birds and animals. It often involves farmers/shepherds who have an (exaggerated) fear of these birds attacking their small animals or birds. Typically, poison is put into meat or dead small animals. It can be targeted at raptors specifically, but it can be targeted at animal predators such as wolf or lynx, which also attracts raptors. Many raptor species are migratory, sometimes in large numbers that cross the Mediterranean region. The map (of European states) below shows the Mediterranean is a major area of raptor poisoning.

[A BirdLife map compiled from partner reports -the colour key, denotes intensity (darker colour) of poisoning incidents - the numbers are a scale and not actual numbers of incidents]



IKB IN THE MED REGION – RAPTOR POISONING [b]



**Poisonbaiting is the most widely
used predator eradication method
worldwide
(Márquez, et al. 2012)**



IKB IN THE MED REGION – RAPTOR POISONING [c]

- A poisoned bait may take the form of a pigeon or rabbit carcass or piece of meat which has been sprinkled with poison. Sometimes eggs are injected with poison.
- Many poisons are fast acting so the victims are often found close to the baits.
- The abuse of the agricultural pesticide carbofuran, to illegally poison birds of prey and other wildlife, has become a particular concern.
- Increasingly its use is being banned – and even its possession. An indiscriminate form of killing, it contravenes the Bern Convention.

TREND

In the last 10 years, poisoning of birds has increased in 9 countries: Spain, Portugal, Ireland, Hungary, Greece, France, Bulgaria, Czech Republic and Macedonia. This activity has decreased in Poland, Cyprus, and Denmark. It has remained stable in the other countries concerned.

SPECIES AFFECTED

Aegypius monachus, *Aquila heliaca*, *Haliaeetus albicilla*, *Milvus milvus*, *Aquila chrysaetos*, *Circus cyaneus*, *Gypaetus barbatus*, *Neophron percnopterus*, *Buteo rufinus*, *Milvus migrans*, *Hieraetus fasciatus*, *Hieraetus pennatus*, *Falco peregrinus*, *Accipiter gentilis*, *Gyps fulvus*, *Circus aeruginosus*, *Buteo buteo*, *Corvus corax*, *Corvus corone*

Bold = Species with unfavourable conservation status in Europe (SPEC 1-2-3)



IKB IN THE MED REGION – RAPTOR POISONING [d]

David de la Bodega (who has a special interest in the subject of wildlife poisoning, and has contributed to EC deliberations on the subject) used Spain as an illustration:

- Poisons became illegal in Spain in 1983**
- Between 1992 and 2013 18,503 poisoned animals were recovered**
- Suspected actual figure was 180,000 + poisoned.**
- Special training of officers and sniffer dogs**
- Cases investigated 8,324**
- Convictions 80**
- Most important case – the poisoning of 6 Spanish Imperial Eagles in Ciudad Real – the offender was ordered to pay €360,000 for civil liability, sentenced to 18 months in prison and was banned from hunting for 3 years.**

THE NEXT SLIDE LISTS THE SOME KEY PROPOSALS SET OUT IN A PROPOSED EU ACTION PLAN ON POISONING OF WILDLIFE

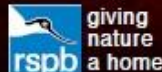


IKB IN THE MED REGION – RAPTOR POISONING [e]

ILLEGAL POISONING

A proposal for a EU ACTION PLAN to prevent illegal poisoning of wildlife

II European Workshop on Environmental Crime:
Illegal Poisoning of Wildlife



SL. 1.1 Enhance knowledge of the origin and effects of poison-baits

SL. 1.2 Create an information baseline and hazard map through the use of existing sources of Information

[...]

SL. 2.3 Adopt training and awareness-raising measures

[...]

SL. 3.1 Create a specialized and motivated patrol of environment officers

SL. 3.2 Ensure proper collection and custody of evidence and carcasses

SL. 3.3 Ensure legal validity of toxicological analyses and expert appraisals

SL. 3.4 Ensure the adoption of effective, proportionate and dissuasive sanctions


[...]


SL. 5.3 Set up and appoint national and regional coordinators for poisoning

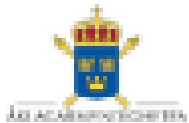




END OF PART 2

 The European Commission were recognized as Champion Plus for their generous support and commitment towards addressing Illegal Killing, Taking and Trade of Migratory Birds in the Mediterranean for the period 2018-2020. This activity has been funded with the contribution granted by the European Commission under the Migratory Species Champion Programme and through the Global Public Goods and Challenges (GPGC Programme) Cooperation Agreements with UNEP.





LE FORUM OF EXPERTS FOR THE ENVIRONMENT
LE FORUM DES EXPERTS POUR L'ENVIRONNEMENT



With the contribution of the LIFE financial instrument of the European Community