

WILDLIFE CRIME BULLETIN

env
ACTION AGAINST EXTINCTION

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TARGETING MAJOR TRAFFICKING NETWORKS

A vision for the future

Imagine: Vietnam no longer has any major trafficking networks operating from within or through Vietnam. Vietnam's role in trafficking ivory, rhino horn, pangolin scales, and other wildlife is negligible. Major traffickers are all in prison or have taken up other legal forms of work because trafficking wildlife is simply too risky. Vietnam is recognized globally for transforming its reputation from a wildlife trafficking hub to a shining example of what can be achieved.

Mission possible!

ENV believes this vision is possible, as long as there is a strong commitment and subsequent string of decisive actions from relevant law enforcement agencies and the justice system.

To achieve this vision, we need to move beyond “taxing” the wildlife trade and instead begin addressing the root problem: the existence of major criminal networks led by career criminals that are responsible for a majority of the transnational trafficking of high value wildlife into or through Vietnam. If we do not target the leaders of these networks, we cannot possibly achieve success in eradicating wildlife trafficking from Vietnam.

ENV urges law enforcement authorities across the country to focus on targeting major trafficking networks specifically by using major seizures as opportunities to collect evidence and build cases against trafficker kingpins and their networks. It is currently common practice to measure success by counting seizures and the quantity or value of wildlife seized. In other words, how much rhino horn was seized, and what is it worth? While seizures are a very important part of efforts to disrupt and eliminate wildlife trafficking networks, overall, they have little impact on wildlife trafficking beyond disrupting trade. ENV argues that investigations should begin with a seizure, not end with one. The target should always be the person, not the product. Law enforcement as a whole should set its sights on eliminating networks and arresting major traffickers, not just seizing goods.

The recent seizure of 6.2 tonnes of pangolin scales and 456 kg ivory in Da Nang, and the July 2021 seizure of three tonnes of lion bones and 138 kg of rhino horn, also in Da Nang, are perfect examples of critical cases AND opportunities for law enforcement in Vietnam to link these major seizures to trafficking networks, and initiate investigations aimed at building cases against the leaders of these networks.

When asked about why no further investigation and arrests are done after a major seizure, a common answer is that it is hard to arrest and prosecute leadership-level traffickers unless they are caught red-handed with illegal goods. ENV believes that it is difficult but not impossible, and if the effort is not made, nothing will change, and the kingpins will continue to live a life of luxury that's built upon the proceeds of their criminal activities.

Obviously, it is far easier to prosecute a subject caught holding 30 kg of rhino horn in his hands. However, senior leadership of trafficking networks generally do not expose themselves to such risks by handling illegal goods, instead allowing subordinates to take the risks.

The good news is that criminals leave a solid trail of evidence behind them by coordinating, buying, paying for, smuggling, and selling wildlife.

Money is transferred and paid between accounts to pay for goods and transportation, communications connect different parts of the network coordinating the smuggling of goods, and personal computers



and telephones are full of evidence that can be used to build and prosecute a case. Moreover, law enforcement agencies should think beyond only wildlife protection laws when determining the best course of action for building a case and prosecuting a kingpin. Other avenues include:

- Money laundering laws, which allow for persons moving or washing money through legal businesses to be prosecuted
- Tax evasion laws, which permit persons with substantial income or assets that are not reflective of their taxed income to be prosecuted, and their illegal assets seized
- Racketeering laws, which prohibit operation of a business established for the purpose of engaging in criminal activity

Vietnam would also benefit from these efforts by improving cooperation with external law enforcement agencies on transnational cases. In some cases, foreign agencies are looking at their side of the same case, as in the Da Nang seizure of July 2021, where South African law enforcement holds crucial pieces of the puzzle that could be beneficial to a prosecution in Vietnam. Cooperation between investigators will help Vietnam build cases that can have genuine impacts on wildlife trafficking.

We need to ask ourselves two important questions: Are we content with taxing the traffickers, or are we fighting this war to win? Is our objective to simply seize goods, or is it to actually have a substantial impact on wildlife trafficking? If the latter is true in both instances, we need to use these tools to accomplish our objectives strategically. Once we start taking down kingpins and showing them that their money and influence does not protect them from justice, much of the trafficking industry will die – with its leaders choosing to avoid the risks – and Vietnam will cease to be a major player as both a consumer and transit state for a sizeable portion of African, as well as regional, wildlife. Our vision can be achieved.

CLEAN LIST

A SIMPLE SOLUTION TO ADDRESS ABUSE IN COMMERCIAL WILDLIFE FARMING INDUSTRY

While husbandry or aquaculture activities seem to receive a lot of governmental attention in the form of detailed zoning and investment incentive policies, commercial wildlife farming continues to operate on its own with poor regulatory controls and lack of effective oversight.

This has created an environment within which profits are generated by widespread laundering of wild animals through licensed farms. Traffickers can buy falsified documentation from farms, showing that any animals they are transporting were legally sourced from a licensed farm. Facilities exist off the grid, keeping illegally sourced animals long before obtaining a farm license, with some farms keeping animals that they are not allowed to have under their license. In fact, some farms are even licensed to breed endangered species. Moreover, corruption by local officials facilitates laundering and continues to undermine efforts to regulate commercial farming. This, paired with a lack of capacity from authorities to inspect or manage farms, as well as other abuses, paint the grim picture of an industry requiring a major overhaul.

“There is no simple fix when it comes to commercial wildlife farming in Vietnam,” says Bui Thi Ha, ENV’s Law and Policy Director. “We need to think differently and recreate an industry that serves the interests of both farmers AND the State, while ensuring the protection of our country’s biodiversity.”

There are currently around 9,000 licensed commercial wildlife farms in Vietnam. However, there are likely many more farms that are not properly accounted for or are awaiting licenses.

A 2014-2015 investigation of commercial wildlife farms by ENV showed that 100% of 26 facilities – most of which were large-scale farms – were involved in some form of wildlife laundering. More recently, experts have concluded that a number of huge shipments containing 20 tonnes or more of wildlife have included animals that were wild-caught and laundered through southern farms, before being shipped to the Chinese border in Mong Cai city of Quang Nam province.

“Our biodiversity is being sold at an alarming rate,” says Ms. Ha. “Traffickers hiding behind licensed wildlife farms are the culprits, profiting at the expense of our children’s future and undermining the law and efforts by the government to protect biodiversity.”



In 2019, ENV received a denunciation report from a suspected senior authority with intimate knowledge of the commercial wildlife farming sector. This report implicated southern farmers, as well as key authorities responsible for regulating commercial farming, of being involved in an organized wildlife trafficking operation that is laundering wildlife through registered farms.

According to traffickers working in Mong Cai, animals reaching the border – including many CITES Appendix II species that would require permits from the CITES Management Authority – are then illegally smuggled into China without permits.

The law clearly states that commercial farming must not have a detrimental impact on wild populations of species, but the truth is that the impacts are not known and are poorly studied. Experts representing various species groups remain deeply concerned about the widespread exploitation and laundering of threatened species, many of which should never be allowed on farms at all.

Licensed farms are permitted to conduct captive breeding and production operations for at least 39 species that are currently globally threatened. If farms operated as closed systems, there would be less concern, but because many – if not most – of these species are being sourced from the wild and laundered through farms, commercial farming in Vietnam is likely to be having a substantial impact on biodiversity in Vietnam, as well as in neighboring countries where the animals are also illegally sourced.

What is the solution to this crisis?

Better management and more effective enforcement is an effective long-term approach. However, in the meantime, ENV is calling on the Ministry of Agriculture and Rural Development (MARD) to work closely with the Institute of Ecology and Biological Resources (IEBR) to establish a “Clean List” of animals that can be legally farmed.

Rather than regulate what can NOT be farmed, a Clean List states clearly what CAN be farmed and limits commercial farming only to these species, and nothing else.

The advantage of such a system is that it protects all threatened species from being hunted and laundered through farms, effectively eliminating the laundering of these species in general.

A Clean List also makes for a much simpler management process by permitting those FPDs responsible for farm inspections and management to simply check to ensure that any species found on a farm is on the Clean List. This also helps to eliminate capacity issues that put authorities in the difficult position of having to have scientific knowledge of breeding or husbandry in order to enforce the law.

Commercial farmers also benefit from firm regulation and a list of species that they can farm. Furthermore, licensing farms at the provincial level will also be less complicated and fall within the capacity of provincial authorities, who may not be fully knowledgeable on either regulations or the validity of requests where species ecology, captive management, and breeding expertise would benefit the permitting decision.

Which species should be on the list?

Only species that breed well in captivity, are economically viable, and are not threatened in the wild will be on the list, with a few exceptions as determined by CITES Scientific Authorities, MARD, and the Ministry of Natural Resources and Environment (MONRE).

How should the list be compiled, managed, and implemented?

Species can be added to or removed from the Clean List through a scientific assessment that guarantees that conservation status, breeding ecology, and economic viability are considered in the process. Farms registered prior to the implementation of the Clean List will be permitted to sell the remaining stocks of their captive wildlife – assuming that the animals are of legal origin – after which they will comply with Clean List regulations.

A Clean List is a path forward that can right the current wrongs of Vietnam's commercial farming industry, eliminating its negative impact on threatened species and greatly simplifying regulatory capacity across the country, both for farmers and the authorities. Such a list serves the interest of conservation, preserves the future, and allows farms to develop and operate profitably without any adverse impact on nature.



THE RISE OF INTERNET CRIME

ONLY STRICT PUNISHMENT CAN DETER ONLINE WILDLIFE SALES

With the current upward trend of online wildlife crime, it's important for law enforcement agencies and the justice system to take the issue seriously and agree on the most effective solution to the problem. ENV believes that about 90% of all online wildlife crime can be addressed through establishing and communicating effective deterrence. In other words, if the risks are present, most people will follow the law.

In order to establish those risks, we need both effective laws – which we have for the most part – and effective enforcement and punishment to make examples of a few in order to influence the many.

ENV argues that there must be a clear and sustained campaign by enforcement agencies throughout the country to address online wildlife crime, with the aim of setting enough examples through serious fines, and in cases where the subject is a major online seller, prosecutions and imprisonments, to deter all but the most stubborn criminals from engaging in the online sale of wildlife.

In 2021, ENV recorded 2,486 online wildlife crime cases comprising 8,182 violations – a 41.3% increase compared to 2020. With the continued development and rising popularity of selling goods on interactive websites, forums, and social networks such as Facebook, Zalo, WeChat, and TikTok, the illegal advertising and trade of wildlife and wildlife products has become common.

On July 23, 2020, the Prime Minister issued Directive No. 29/CT-TTg on a number of urgent solutions for wildlife management, among which cracking down on online wildlife crime was highlighted as a top priority. This took into account the fact that, with the global nature of the internet, illegal wildlife advertising and trading activities on the internet are not only impacting Vietnam's natural resources, but they are also affecting the country's reputation in the international arena. Accordingly, the Prime Minister instructed the Ministry of Public Security to direct subordinate agencies to: *"Coordinate with relevant units in inspecting and handling illegal advertising and trading of wild animal specimens on electronic information sites."*

In support of this instruction, ENV recommends that relevant authorities perform the following actions upon receipt of information regarding online wildlife sellers:

Upon receipt of information regarding the online sale of wildlife by an individual, determine the seriousness of the crime by evaluating the seriousness of the violations (types and quantities of products advertised) and the respective role of the subject (e.g. opportunistic seller of small quantities or serious online supplier, etc.).

The nature of the law enforcement response will depend on the role of the individual and the nature of the violations, with appropriate punishment applied with the aim of (1) permanently dealing with the crime and (2) using the crime to deter criminal behavior of others.

In the most minor cases of violations, a warning and voluntary link removals may work to permanently influence the subject’s behavior. In some cases, a warning may be coupled with a small fine.

However, while small fines may deter future violations amongst small-time operators, these miniscule fines will not work to deter profitable operations. For example, a VND 1.5 million fine is hardly likely to deter a major online seller offering high-value products.

Major online suppliers of live animals, large quantities of products, and high-value products like rhino horn or ivory are unlikely to be deterred by warnings, link removals, or small fines. Unfortunately, the only recourse in these cases is to subject major online sellers to appropriately strict punishments that will deter their behavior, and more importantly, deter others. Substantial fines, prosecution, and imprisonment – communicated widely – will achieve this aim and greatly reduce online wildlife crime.

While not all major online supplier cases will result in seizures and arrests, ALL of these cases can result in fines under current law.

ENV strongly urges authorities to utilize more substantial financial penalties as a “default response” for major online wildlife crime cases where arrests cannot be made. Some provinces are already issuing VND 70-80 million fines for online advertisement when a seizure or arrest is not possible. ENV believes that this sort of response supports an effective deterrence, particularly when the results are communicated widely.



“Stopping Internet Crime” Toolbox

Objective: Ensure that the subject permanently complies with the law from that point forward, with no further violations, and that actions by authorities in the case serve to deter similar crimes by others.

- Warnings for minor violators and link removals
- Administrative fines for online advertising and link removals
- Seizure of goods if present
- Arrest and prosecution of subjects
- Imprisonment

How to test your effectiveness:
Did the response that you used to deal with the crime achieve the objective or not?

Success: The subject has not violated since my action.
Failure: The subject violated again after my action.

In cases where your first effort failed, it is important to bolster your response for the second offense as necessary to successfully achieve the stated objective.

Many might look at dealing with internet crime as an impossible task. There are so many crimes taking place, and addressing violations seems complex when compared to, for example, inspecting a restaurant or market. However, ENV believes that addressing the problem is not difficult, as long as agencies tasked with dealing with the problem understand the fundamentals of deterrence and respond to crimes accordingly. You are not alone in this effort. ENV stands by your side, along with social media and online partners like Facebook, Tik Tok, Google, Zalo, Shopee, and many others who support the efforts of law enforcement to tackle wildlife crime on the internet.

Law enforcement agencies in many provinces are already adapting to the development of online wildlife crime, as all law enforcement agencies must do – not just in the wildlife sector, but for many other types of crime as well.



ALERT



NEWLY RELEASED BY ENV

PROSECUTION REFERENCE: FREQUENTLY ASKED QUESTIONS IN HANDLING WILDLIFE CRIME

In response to the rising number of queries about legal issues relating to handling wildlife crimes, in February 2022, ENV released a document named “Prosecution Reference: **Frequently Asked Questions in Handling Wildlife Crime**,” dedicated to officials working within the justice system.

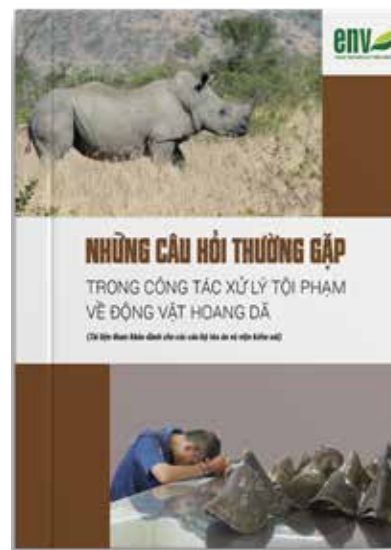
This publication is composed of 15 legal issues on which prosecutors and judges often seek advice from ENV, as well as corresponding solutions proposed by ENV, based on thorough research into current regulations.

Hard copies available: Please contact us at the number below to obtain a copy.

Soft copies available: Use the QR codes below to link to a soft copy of the publication.



Law Guidance

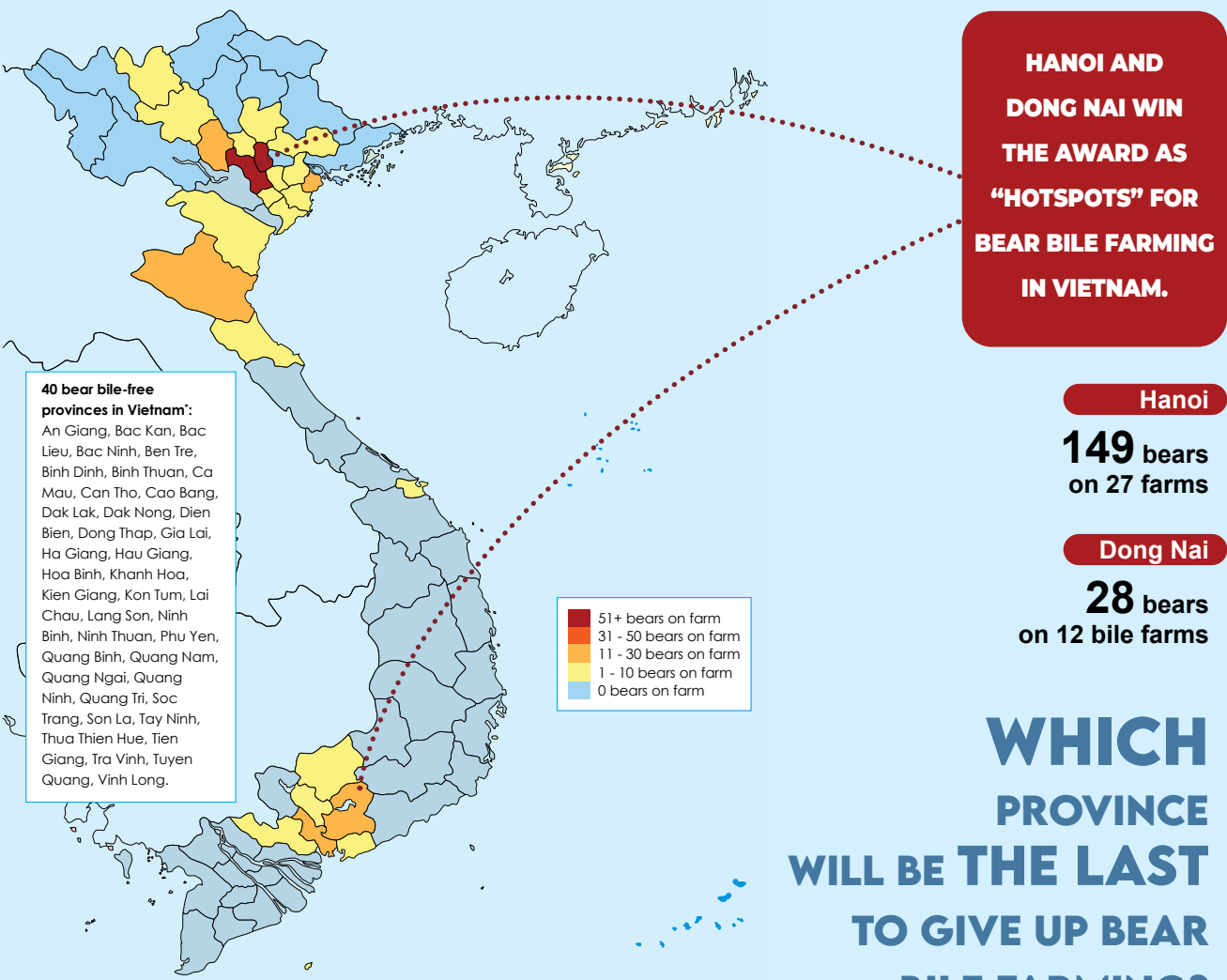


Prosecution Reference: Frequently Asked Questions in Handling Wildlife Crime

ENV also encourages prosecutors and judges to contact our Policy and Legislation Department directly at **+84 865 242 882** for timely support on wildlife trade laws and regulations.

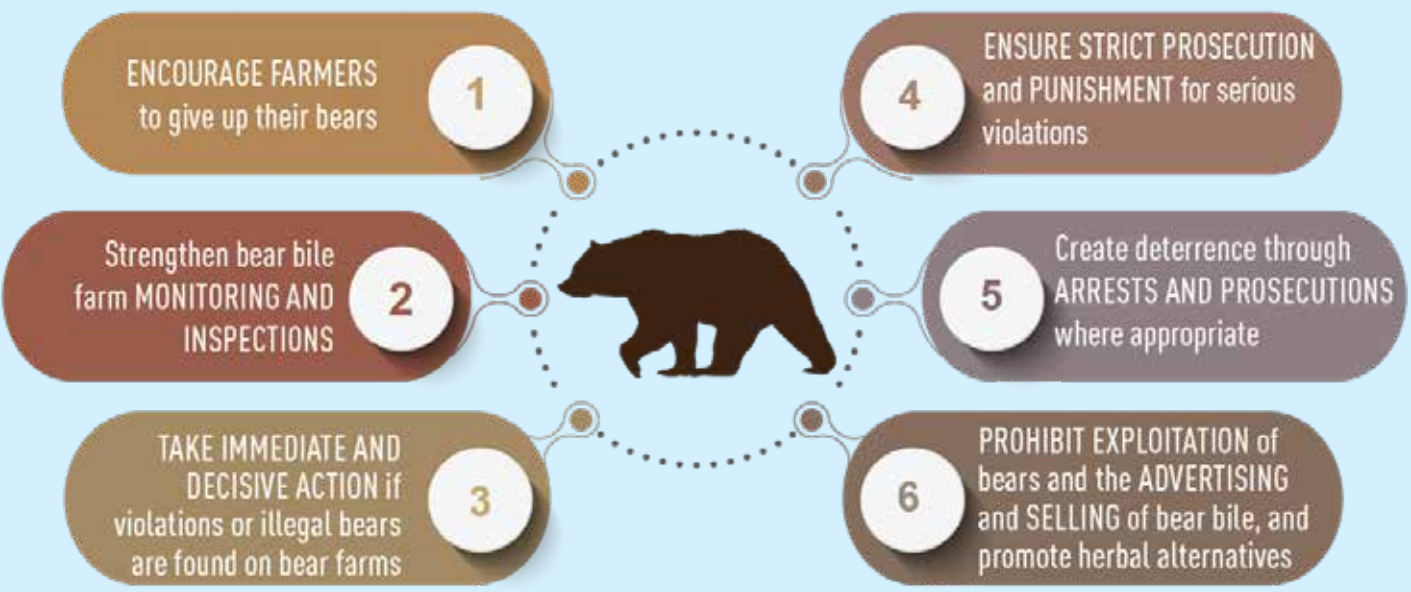
END BEAR BILE FARMING

40 BEAR BILE-FREE PROVINCES IN VIETNAM* As of May 2022



*Including 6 provinces that never had bears before and 10 provinces with bears kept at tourism areas or private zoos

SIX ACTIONS THAT LOCAL AUTHORITIES CAN TAKE TO END BEAR FARMING IN THEIR PROVINCE:





SPECIES IDENTIFICATION

WHAT YOU NEED TO KNOW

The identification of confiscated wildlife or its specimens by a competent judicial authority is a mandatory process that functional agencies must perform during the handling of a wildlife-related case (especially criminal cases), in accordance with current law in Vietnam.



Who can carry out species identification?

Only a certain number of Vietnamese authorities and agencies are legally qualified to carry out the identification of wildlife species. According to the Law on Judicial Expertise of 2012 (revised in 2018 and 2020), the following bodies may carry out judicial assessment: The Criminological Science Institute under the Ministry of Public Security; the Criminological Technique Divisions of provincial-level police departments; the Criminological Technique Expertise Division of the Ministry of National Defense; and some other institutions specializing in forensic/forensic psychiatric medicine.

Moreover, a number of ad-hoc judicial experts or institutions are recognized and listed by different ministries and People's Committees in different provinces for solicitation of expertise in specific fields, and there are also those that have not been recognized and listed, but meet the requirements to be selected for solicitation of expertise in special cases. For these special cases, the relevant agency must specify the reason behind using that particular expert consultant or institution in the appraisal solicitation document.

According to Decree No. 06/2019/ND-CP, the CITES Scientific Agencies of Vietnam must take charge of identifying CITES specimens. Accordingly, in Decision No. 2249/QĐ-BNN-TCLN dated June 17, 2020, the Head of MARD designated four agencies that are CITES Scientific Agencies of Vietnam, two of which are specialized for wildlife identification: The **Institute of Ecology and Biological Resources (IEBR)** (animal and aquatic fields), and the **Research Institute for Marine Fisheries (RIMF)** (aquatic field).

From an expertise standpoint, ENV encourages relevant authorities to consult with IEBR or RIMF on species identification in all situations, if possible.

Please also feel free to contact ENV for support in the case of questions or difficulties contacting relevant agencies.





How is the identification process carried out?

Though there is no standard for species identification under the current law, two methods for species identification are currently recognized by CITES Scientific Agencies: Visual identification and DNA analysis. In most cases, visual identification is the first step. If the visual identification is sufficient to identify an animal, there is no need for DNA testing. The visual identification can be carried out either by directly inspecting the animal or product, or indirectly by using certified photos sent by the relevant authorities, especially in cases involving live animals. However, when conclusive results cannot be reached through visual identification, such as in the case of wildlife products (e.g. rhino horn, ivory, or pangolin scales), DNA testing will be required. DNA testing is costlier, and it takes longer (usually two weeks) to obtain the result.



What are the costs related to species identification?

Usually, the cost for visual species identification is VND 1.5 million per case (if there is only one animal classification involved, e.g., mammals, reptiles, or birds, but regardless of the number of specimens). If there is more than one classification of animal, an additional VND 1.5 million will be charged per additional classification, as each classification may require the support of different experts.

For DNA testing, the cost for each sample tested is presently VND 4.685 million. In cases where a large number of similar samples are involved, the cost might be reduced. The DNA testing cost is mainly to pay for special chemicals used in the identification process. Please consult directly with the testing agency on the cost and discounts.

Note: Please remember to include species identification fees in your annual budget plan to avoid any delays occurring in the handling of wildlife crimes due to a lack of dedicated budget.

NEW PROVISIONS ON WILDLIFE MANAGEMENT AND ADMINISTRATIVE SANCTIONS TO HELP BETTER PROTECT WILDLIFE IN VIETNAM

On September 22, 2021, the government of Vietnam promulgated Decree No. 84/2021/ND-CP, which took effect on November 30, 2021, amending a number of provisions of Decree No. 06/2019/ND-CP on the management of endangered, precious, and rare species of forest fauna and flora and the implementation of the Convention on International Trade in Endangered Species (CITES). The government also issued Decree No. 07/2022/ND-CP, dated January 10, 2022, to amend a number of provisions of the decrees regulating administrative sanctions in forestry, plant protection and quarantine, veterinary treatments, and husbandry. These changes have resolved certain limitations to the previous regulations, with the most notable of these detailed below:

Certain definitions were added or revised to help resolve any confusion that has thus far occurred with regards to the application of the previous decrees. Decree 84 for the first time specifies the definition of “wild fauna and flora,” which includes all species under the List of endangered, precious, and rare species, as well as common forest animals and all terrestrial mammals, birds, reptiles, and amphibians (excluding the 27 species for which management is considered unnecessary). This specification, together with the expansion of the number of wildlife violations that can be sanctioned through administrative measures, have significantly widened the scope of protection for most wildlife species, including those under CITES Appendix III, migratory birds, and almost all terrestrial animals.



“THE LAW: ‘WILDLIFE’ INCLUDES ALL SPECIES UNDER THE LIST OF ENDANGERED, PRECIOUS, AND RARE SPECIES, AS WELL AS COMMON FOREST ANIMALS AND ALL TERRESTRIAL MAMMALS, BIRDS, REPTILES, AND AMPHIBIANS.”

Furthermore, the definition of “non-commercial purposes” was expanded to include conservation breeding, pets, and rescue. These additions allow for all “non-commercial” activities to be regulated under the same decree – Decree 06. It also hopefully has successfully addressed some of the loopholes that could have had a greatly negative impact on the management of keeping wildlife as pets – an emerging trend in Vietnam.



From May 2022, anyone keeping endangered, precious, or rare wildlife species, even as pets or for other non-commercial reasons, is required to register for a facility code and prove that they have obtained the animals legally, as well as having adequate facilities, protection, and sanitary measures in place. After this date, any persons found in violation of this regulation shall be sanctioned, even if the animals they are keeping are of legal origin.

As for the farming of CITES Appendices-listed species or endangered, precious, or rare species under the government's regulation, farms registering to farm such species for the first time will need to secure a written confirmation by CITES Scientific Authorities that the breeding and rearing of such species do not cause any negative impact on the existence of that and other species in nature.

In addition, the new decree also provides a clear procedure for obtaining this confirmation from the CITES Scientific Authorities. While this new approach aims to "individualize" the licensing process for each facility, ENV still believes that the previous idea of having a "Clean List," i.e., a list of species viable for farming, and allowing farm owners to register to farm these species without further administrative burden would be more effective.

Decree 84 also expanded the Vietnamese List of endangered, precious, and rare forest fauna and flora to 186 wildlife species by including two new species in Group IB – the Sunda flying lemur (*Galeopterus variegatus*) and the chestnut-eared laughingthrush (*Ianthocincla konkakinhensis*); and five new species in Group IIB – the flying fox (*Pteropus hypomelanus*), the hog badger (*Arctonyx collaris*), the Vietnam mouse-deer (*Tragulus versicolor*), the tokay gecko (*Gecko gecko*), and the raccoon dog (*Nyctereutes procyonoides*). Following the new decree, 11 species have

also been moved to Group IB for a higher degree of protection. The Vietnamese and scientific names of many species have also been revised for easier reference.

In addition, many limitations to the previous regulations on administrative sanctions of wildlife offenses have been addressed with the issuance of the amendment. For instance, the overlap between regulations that paved the way for lighter sanctions against certain offenses has been resolved. The illegal advertisement of forest animals and their products under Decree 07 (carrying a VND 1-1.5 million fine) is now limited to those species that are not listed in Appendix III of the Law on Investment, while illegally advertising those species that are listed shall be considered as an advertisement of prohibited products under the Law on Investment and shall be handled accordingly (carrying a VND 70-100 million fine).

The new decree also clearly states that the illegal storing of live animals shall carry the same sanction as the act of illegally keeping and/or raising forest animals, in order to prevent offenders from taking advantage of the lighter sanction applied for the "illegal storing of forest products."

In addition, since January 10, 2022, the scope of violations to be sanctioned has been expanded to include the illegal importing or exporting of forest products, as well as other violations relating to the requirements for wildlife tracking records.

These amendments have made for a more comprehensive framework on wildlife management that promises stronger protection for wildlife species and higher clarity for practical implementation.



Read more about the changes in the Decree 06 revision:

Read more about the changes in the Decree 35 revision:





RECOGNITION



Dong Da District Court and Procuracy

For proposing and sentencing a turtle trafficker to 11 years and six months in prison and his accomplice to 10 years and six months in prison on March 28, 2022, for trafficking 17 Bourret's box turtles (*Cuora bourreti*). These sentences marked the strictest punishments for a wildlife offense involving turtles in Vietnam to date.



Nam Tu Liem District Court and Procuracy

For proposing strict prison sentences for and subsequently sentencing two online suppliers to 13 months and nine months in prison respectively on December 16, 2021, for illegally trading 93 Asiatic black bear (*Ursus thibetanus*) claws. These notable sentences – in particular the nine-month prison sentence for the subject caught trading three bear claws – marked one of the strictest punishments for a wildlife offense involving bear claws in Vietnam.



Da Nang High Court

For their successful intervention under cassation procedure and subsequent annulment of the first-instance and appellate judgments in the case of a licensed wildlife farm owner who was caught selling five pangolins, leading to the subject's retrial and sentencing to two years and nine months in prison on January 11, 2022. This marked one of the first times a licensed wildlife farm owner has been successfully prosecuted for trafficking wildlife in Vietnam.



Vietnam has continued to strengthen its collective efforts to address wildlife crime. This is especially evidenced by the great examples below of achievements from government agencies in reinforcing a strict zero-tolerance policy with regards to arresting and punishing wildlife criminals, and therefore greatly contributing to the national effort to combat wildlife trafficking.



Lai Chau Provincial Court and Procuracy

For effectively prosecuting and imposing prison sentences of between fifteen months and three years upon four wildlife traffickers in a mobile trial held on December 18, 2021. The traffickers were punished for selling two live Asiatic black bear (*Ursus thibetanus*) cubs and other bear products. The mobile trial and strict prison sentences not only helped to educate the public about the risks of wildlife crimes, but also contributed to national efforts to end bear farming and trafficking.



Ha Dong District Economic Police

For their decisive and prompt responses to publicly reported crimes, which resulted in the successful arrests of two wildlife criminals and the seizure of a pangolin, two king cobras, and other wild animals during the two-week period between December 27, 2021 and January 12, 2022. This is a positive demonstration of an appropriately aggressive response to publicly reported wildlife crimes, setting an important example for other agencies.



Hanoi City Court

For imposing a prison sentence of 14 years upon a wildlife trafficker found guilty of trafficking 55 rhino horns, totaling 126.7 kg, on December 4, 2021. This is the highest punishment meted out for a rhino horn trafficker – and in fact, for any kind of wildlife criminal in Vietnam – to date, marking a positive milestone in the nation’s progress and determination to combat the illegal wildlife trade.



“HEROIC” CRIMINALS

DID THEY REALLY RESCUE DROWNING VICTIMS?

When considering punishment for wildlife criminals, the court often takes into account the criminals’ mitigating and aggravating factors, as is standard practice for all criminal trials, in accordance with the Penal Code. However, these mitigating factors are being abused by wily criminals, who may fabricate mitigating events to ensure a reduction in their punishment for wildlife crimes.

There are 22 mitigating factors currently stipulated in Article 51 of the Penal Code, ranging from self-defense or being pregnant, to being a respected soldier. According to Section 1 of Article 54 of the Penal Code, if an offender can present **at least two deciding mitigating factors**, the court may apply a lighter sentence, though this lighter sentence must be in accordance with the next lower punishment bracket.

For this reason, when strict punishment is warranted, some wildlife criminals may rush to include as many mitigating factors as possible in their court cases. For example, offenders in at least five wildlife crime cases in 2020 alone were hailed as heroes for saving people from drowning – alleged actions that then served as a mitigating factor for criminal liability in each of these cases, commonly referred to as “offender’s atonement,” and leading to their reduced sentences.

The Council of Judges of the Supreme People’s Court has explained that this factor must occur after the crime is committed and before the trial, which is defined as including the first instance trial, appellate trial, cassation review, and reopening. Atonement can include the offender: a) showing repentance and actively aiding agencies in their efforts to investigate his/her crime(s); b) taking action to help agencies detect and prevent others from committing crimes; or c) aiding in the arrest of other offenders. It also applies when an offender saves another person’s life by selflessly putting themselves in a dangerous situation, such as rescuing someone from a fire, or from drowning.

In 2020, ENV recorded five wildlife crime cases hinging on alleged drowning persons being saved by the offenders – an alarming figure for such a specific event. Even more interesting is that in order for such a mitigating factor to be considered, the criminal must obtain written certification of the mitigating action from the People’s Committee or relevant authorities in the location where the “atoning action” occurred, and present this certification to the court. Therefore, in order to ascertain if and how this is done, ENV set out to determine the validity of one of these stories of “heroism.”

Nguyen Mau Chien – an alleged kingpin of an illegal trade network trafficking wildlife products from Africa to Vietnam, and the owner of a tiger farm in Thanh Hoa province – claimed to have saved a person from drowning just before his third trial for trafficking more than 30 kg of rhino horn and being in possession of other endangered wildlife products. While Chien presented the court with a certified document from the People’s Committee of Cam Tu commune (Cam Thuy district, Thanh Hoa province), where he allegedly saved a person from drowning, ENV’s follow-up communications with the People’s Committee resulted in a written confirmation from the agency, stating that **there were no drowning incidents and no cases of people being saved from drowning in the area of Cam Tu commune in 2020!** However, despite this turn of events, after his third trial, Nguyen Mau Chien only received 23 months in prison for trafficking and possession crimes, partly in thanks to the success of his fabricated story.

Article 15 of the Criminal Procedure Code 2015 clearly states that “**Competent procedural authorities, within their rights and duties, must use legitimate measures to determine the facts of a case in unbiased, thorough, and complete ways, in order to clarify the evidence of guilt or innocence, as well as the aggravating or mitigating circumstances of criminal liabilities of the accused person.**”

From ENV’s experience in Nguyen Mau Chien’s case, verifying this type of mitigating factor is certainly not difficult. Therefore, ENV strongly recommends that all relevant procedural authorities carefully scrutinize cases involving mitigating circumstances presented by wildlife criminals and perform their due diligence to determine the legality of those factors, before deciding to reduce punishments. Such simple measures will put a stop to this farce and avoid any further impediment to the sound judgment of the trial panel and the application of the principles prescribed in Article 3 of the Penal Code. Put simply, it will also help to reduce the number of fake “heroes” who use made-up sob stories to circumvent the law.



PLEASE URGE THE PUBLIC NOT TO BUY WILDLIFE TO SAVE IT

Local authorities need to actively communicate to the public what they should do if they see a live animal for sale. All too often, people will buy animals to save them. While this might seem like a good idea, it is not, and the public should be discouraged from doing it.

ENV has seen a drastic increase in the number of animals being transferred voluntarily by the public. In 2021 alone, more than 389 animals were turned over following “rescues.”

While on the one hand we are moved by the increased well-meaning sentiment of the public toward wildlife, we must also remember that every purchase only encourages and enables another animal to be hunted. Our well-meaning citizens are actually promoting wildlife trafficking by purchasing an animal from a seller. To illustrate: the seller buys from a supplier. Then, the supplier buys from a trafficker, and the trafficker from a hunter. Finally, the animal is sold to a member of the public. In short, the animal comes from the wild, and any purchase creates demand, paying criminals to exploit wildlife.



Actions by FPDs

1. Advise persons transferring animals that in the future, they should not buy the animals, as they are stimulating further exploitation and trade.
2. Get this message out through the media, which often interviews FPDs following transfers or releases. Make it known to journalists that this is a bad idea and should not be encouraged.
3. Tell journalists and the public to report live animals to authorities immediately, after which a best effort will be made to have the animal found and confiscated.

Q&A

RESCUING WILDLIFE TO SAVE IT

Citizen: So what should the public do instead?

ENV: Simple. Call local authorities and let them confiscate the animal.

Citizen: But the animal will disappear before they get there!

ENV: Maybe. But at least we did not pay criminals for the animal. You can also always call ENV's Wildlife Crime Hotline, and we will actively work to have the animal found and confiscated.

Citizen: Well, if the response by authorities is too slow, I must rescue the animal.

ENV: Under no circumstances should you buy wildlife to save them because if you buy the loris that you see for sale to rescue it, the hunter will be paid to get another, and another, and another. You might rescue one animal, but you will directly contribute to killing 10 others by doing so.

Citizen: Got it. Let authorities do their job. When they confiscate the animal, no one gets paid, and the trade chain is broken.

ENV: Thanks for your cooperation and being a good citizen!



**"PEOPLE WHO BUY, SELL,
OR TRADE WILDLIFE IN
VIOLATION OF THE LAW
ARE CRIMINALS."**



ENV WILDLIFE CRIME UNIT OPERATIONS: JANUARY-MARCH 2022 TACKLING WILDLIFE CRIME

The ENV Wildlife Crime Unit receives an average of **eight** new cases reported to ENV’s Wildlife Crime Hotline each day. Upon receiving a report, experienced case officers contact the appropriate authorities to address the violation and track each case through to conclusion, documenting the outcome on ENV’s Wildlife Crime Incident Tracking Database. In cases involving the advertisement or sale of critically endangered species, ENV will work directly with law enforcement to set up and execute “sting” operations aimed at both apprehending the seller and seizing wildlife.

A total of **808** cases were logged during the first quarter of 2022, including **46** trafficking cases, **588** retail selling and advertising cases, and **164** cases involving illegal possession of wildlife, which commonly included possession of live animals.

Hotline reports from the public accounted for **472** new cases during the reporting period, of which **74%** resulted in successful outcomes. Successful outcomes include seizure of wildlife, arrest, and prosecution, as well as administrative penalty or voluntary compliance as a result of warnings issued by the authorities or ENV.

During this reporting period, **287** live animals were confiscated or transferred to authorities with ENV’s assistance. These included **24** macaques, **9** Asiatic black bears, **12** tigers, **81** tortoises and freshwater turtles, as well as many other species.

Additionally, **482** online advertisements were addressed either through law enforcement action, voluntary compliance following issuance of warnings, or deactivation and removal by websites and social media platforms.

A total of **22** online wildlife selling groups comprising **61,508** members were deactivated during the first three months of 2022.

ENV wants to thank our collaboration partners in law enforcement, provincial Forest Protection Departments, and most importantly, the public, for working together to strengthen wildlife protection and helping Vietnam meet its national and international responsibility to protect global biodiversity.

CRIME STATISTICS: January 1, 2022 through March 31, 2022

Crime classification	January – March 2022	Total 2021	TOTAL 2005 - June 2021
Total cases ^[1]	808	3,703	22,829
Total number of violations	1,631	9,847	61,441
Trafficking	46	182	2,405
Selling and advertising	588	2,594	13,672
Possession	164	962	6,413
Hunting/other	29	178	619
Success rate (overall) ^{[2][3]}	69%	75%	NA

[1] Some cases logged are not ultimately classified as violations, and thus the total number of cases may differ slightly from the total number in each classification (possession, trafficking, etc.).

[2] Overall success includes both publicly reported cases AND cases resulting from ENV enforcement campaigns. Successes include all successful conclusions that occurred during the month, including achievements that may have been reported in a previous month.

[3] Flagging of successful cases did not begin at ENV until 2014.

EDUCATION FOR NATURE – VIETNAM

Education for Nature – Vietnam (ENV) was established in 2000 as Vietnam's first non-governmental organization focused on the conservation of nature and the protection of the environment. ENV combats the illegal wildlife trade and aims to foster greater understanding amongst the Vietnamese public about the need to protect nature and wildlife. ENV employs creative and innovative strategies to influence public attitudes and reduce demand for wildlife trade products. ENV works closely with government partners to strengthen policy and legislation, and directly supports enforcement efforts in the protection of endangered species of regional, national, and global significance.

ENV STRATEGIC PROGRAMS

Since 2007, ENV has focused its activities on three major program areas that comprise ENV's integrated strategic approach for addressing illegal wildlife trade in Vietnam. These include:

-  Working with policy-makers to strengthen legislation, close loopholes in the law, and promote sound policy and decision-making relevant to wildlife protection.
-  Strengthening enforcement through direct support and assistance to law enforcement agencies, and mobilizing active public participation in helping combat wildlife crime.
-  Reducing consumer demand for wildlife products through investment in a long-term and sustained effort to influence public attitudes and behavior.

ENV's efforts to combat illegal hunting and trade of wildlife are made possible thanks to the generous support of the following partners:



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