

Endangering Species

Protecting Nature – A Police Task

Multi Country – Workshop on Regional capacity building on Nature Inspection
Osijek, 21. – 23.10.2014



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- Police structure
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Police Structure in the field of **Environmental Crime**

- Criminal Intelligence Service
 - Coordination – national and international
 - INTERPOL and EUROPOL national offices
 - Strategic leadership
- 9 Regional Crime Departments
 - Investigation
- 600 Front line officers (part time)
 - Detection
 - Investigation



awareness and motivation within the authority (Police)



- Volunteer !!
- First training and regular follow up trainings
- Regular meetings for exchange of experience
- Regular teamwork in checks and investigations
- Individual responsibility for cases and region
- Quick feedback





INTERPOL
General Secretariat
Lyon

INTERPOL
National Central Bureau
Zagreb

INTERPOL
NCB
Vienna

IP
Peking

INTERPOL



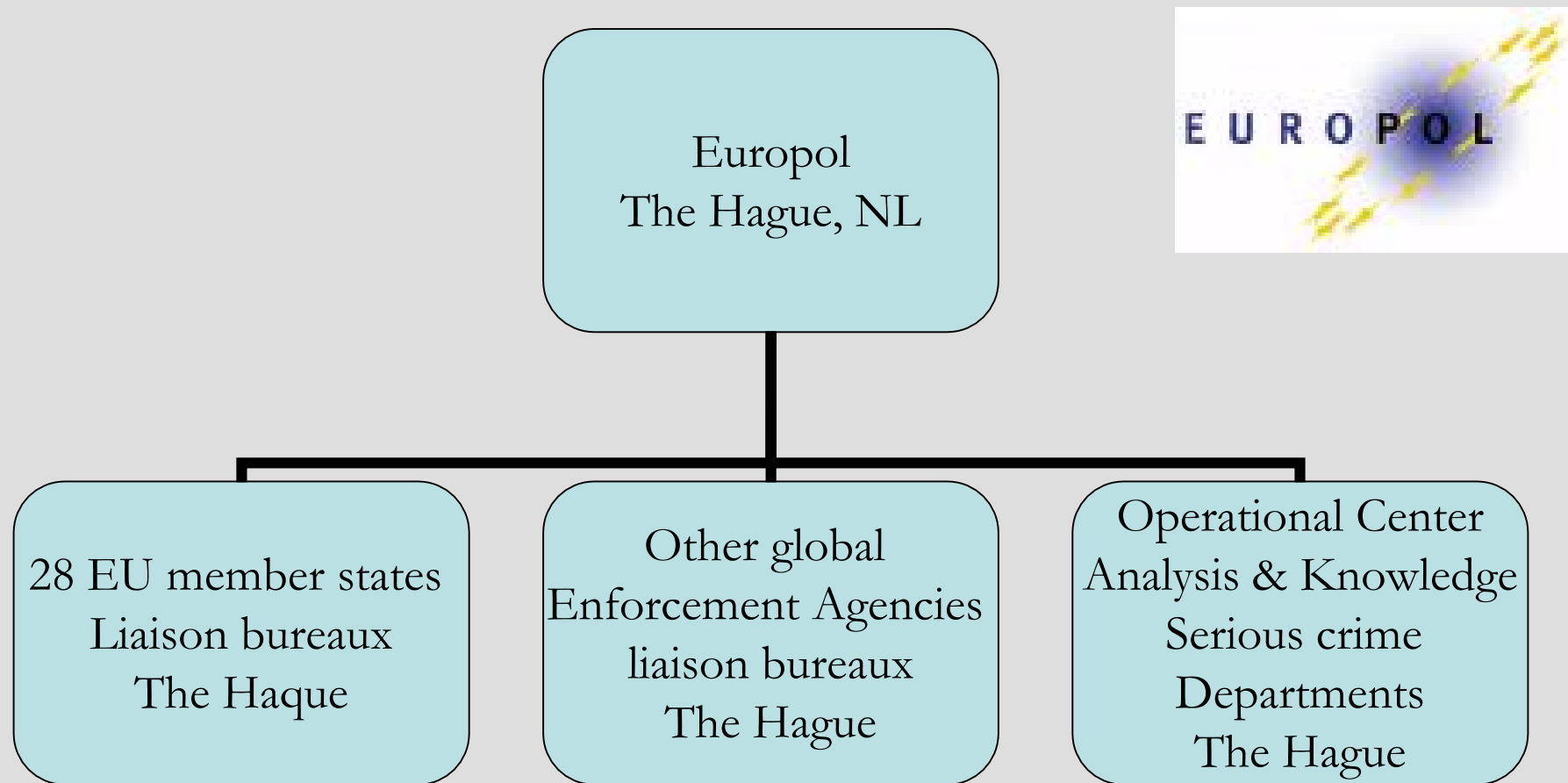
Availability - I / 24 / 7

Environmental Crime Programm

Information – Intelligence – Exchange - Search warrants

Secure communication

English, French, Spanish, Arabic – 4 global languages



EUROPOL



**Information & Intelligence Support
Analysis**

24 hours a day – 7 days a week service

Joint Investigation Teams

Secure communication

Legal Frame

EU:

- Birds Directive - Council Directive 2009/147/EC on the conservation of wild birds
- Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora
- Directive 2008/99/EC on the protection of the environment through criminal law

Austria:

- Nature Protection Laws
- Hunting Laws
- Criminal Law

Directive 2008/99/EC

Offences – Article 3

... the following conduct constitutes a criminal offence, when **unlawful** and committed **intentionally** or with at least serious negligence

(f)
the **killing, destruction, possession or taking** of specimens of **protected wild fauna or flora species**, **except** for cases where the conduct concerns a **negligible quantity** of such specimens **and** has a **negligible impact** on the conservation status of the species;

(h)
any conduct which **causes the significant deterioration** of a **habitat within a protected site**;

Austrian Criminal Law

Article 181f – **Intentional** causing of damage to the animal population or vegetation

(1) Anyone who **kills or possesses a significant quantity** of specimen of a **protected wild animal species** or **destroys** their developmental forms or **takes** them from the wild or destroys or possesses a significant quantity of specimen of a protected **wild plant species** or or takes them from the wild in **violation of a legal provision or an order issued by an authority and** thus causes a **substantial impact** on the conservation status of the species, shall be punished with imprisonment up to two years or a fine up to 360 daily rates.

Article 181h – **Intentional** causing of damage to habitats in protected sites

(1) Anyone who **causes considerable damage** to a **habitat within a protected site** in **violation of a legal provision or an order issued by an authority** shall be punished with imprisonment up to two years or a fine up to 360 daily rates.

Directive 2008/99/EC

Definitions – Article 2

(a) **'unlawful'** means infringing:

- (i) EC Treaty + listed in Annex A; or
- (ii) Euratom Treaty + listed in Annex B; or
- (iii) a law, an **administrative regulation** of a Member State or a **decision** taken by a **competent authority** of a Member State that gives effect to the Community legislation referred to in (i) or (ii);

(b) **'protected wild fauna and flora species'** are:

- (i) for the purposes of Article 3(f), those listed in:
 - **Annex IV to Directive 92/43/EEC**
 - **Annex I to Directive 79/409/EEC**

(c) **'habitat within a protected site'** means any habitat of species for which an area is classified as a special protection area pursuant to Article 4(1) or (2) of **Directive 79/409/EEC**, or any natural habitat or a habitat of species for which a site is designated as a special area of conservation pursuant to Article 4(4) of **Directive 92/43/EEC**;

Austrian Criminal Law

Article 181f – Intentional causing of damage to the animal population or vegetation

(1)... in **violation of a legal provision or an order issued by an authority ...**

(2) **Protected wild animal species** are the species listed in **Annex IV (a) of Directive 92/43/EEC** or in **Annex I of Directive 2009/147/EC**

Protected wild plant species are the species listed in **Annex IV (b) of Directive 92/43/EEC**

Article 181h – Intentional causing of damage to habitats in protected sites

(1)... in **violation of a legal provision or an order issued by an authority ...**

(2) A **habitat within a protected site** is any habitat of a species listed in Annex I of **Directive 2009/147/EC** or any national habitat or habitat of a species for which an area has been designated by law or ordinance as a special protection area under Art. 4, subsection 4 of **Directive 92/43/EEC**.

awareness and recognition

- Hint from the public
- whistleblower
- Information from (competent) authority
- Report from other (Police) units
- Order from the prosecutor
- Own recognition
- **Seldom from the claimant / victim – Environment !**



Endangering Austria's heraldic animal *killing of eagles*

- Shooting a *golden eagle* in Tirol –
suspicion of 181f Criminal Law
- Firing a sea eagle in Lower Austria –
Investigation according to Criminal law an Regional Hunting
Law
- Imperial eagle – shot dead in Burgenland
- Shooting of bearded vultures
- Poisoning of birds of prey

Tirol

- Inhabitants Tirol: 722.000
- Inhabitants Innsbruck: 120.000
- Size: 12.600 km²



Case – what had happend

H. was together with K. at the valley station. In the car his own hunting rifle. K. is co-owner of this hunting ground. The reporting person B. within a hiking group heard a shot and saw the observed golden eagle falling from a cliff.





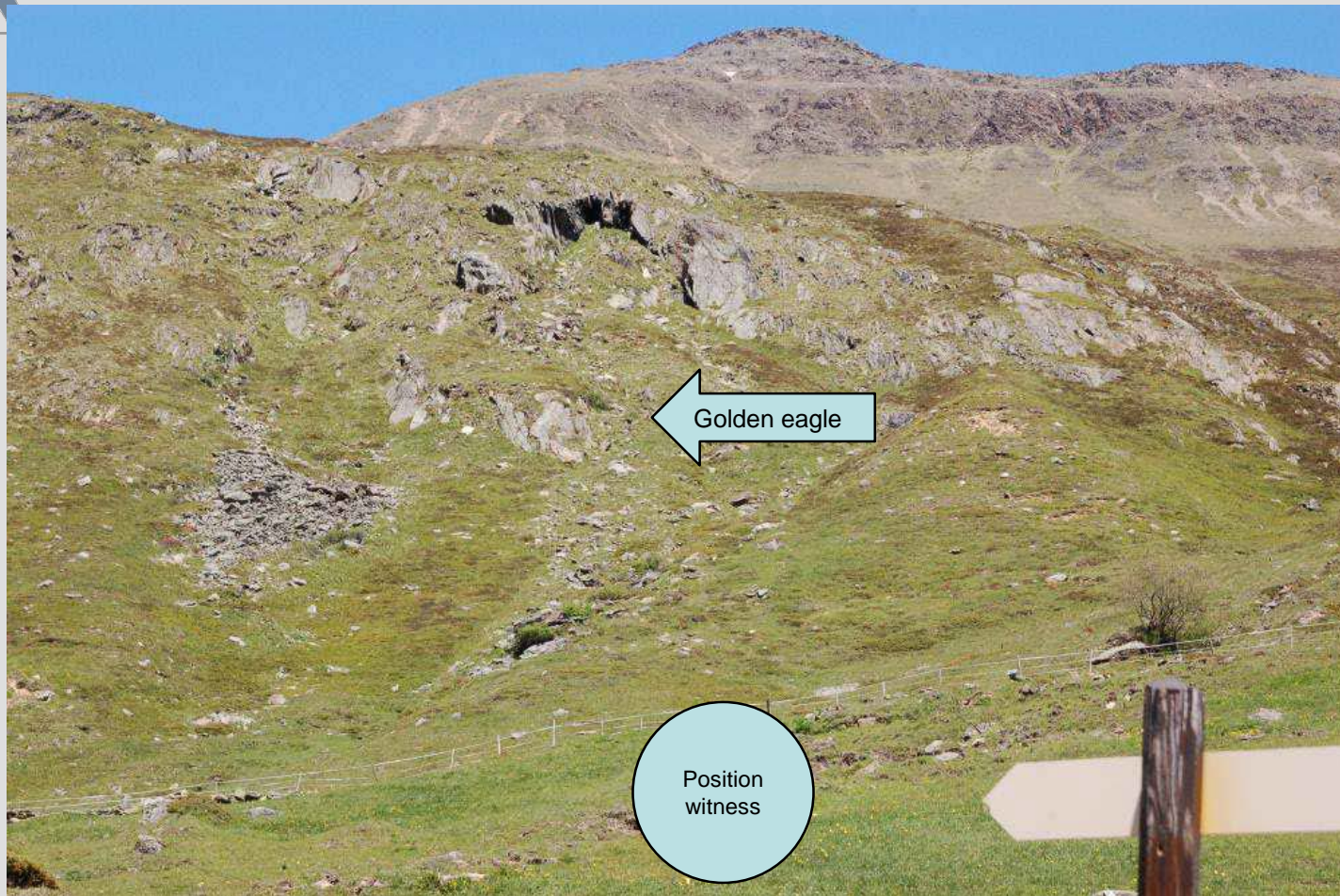
Argues from the shooter:

H. and K. explained they got aware of the golden eagle because of a whimpering kid (young goat) getting to be caught by the eagle.

H. shot in agreement with K. towards the eagle in order to chase him away.

H. himself was even surprised when the eagle fell dead from the cliff.

Most probably the eagle was hit by a ricochet (part of a bullet). The kid hid in bushes.



Report from the witnesses:

B. observed a flying golden eagle. Shortly after the eagle settled on a cliff a shot was heard. The eagle fell from the cliff.

B. went towards the eagle. The hiking group headed to the valley station where they met two persons.

B. made a report via telephone. He didn't recognize any kid.

Upon questioning H. and K. gave no answer to the hiking group.

authority conclusions



- **Police investigation**
The bullet went through the eagles body.
The crash of the bullet on the cliff identified.
The bullet could not be found.
Eagle seized on prosecutors order.
- **Administrative Authority**
First order to hand out the eagle to K., co-owner of the hunting ground.
Afterwards though seizure on prosecutors order (at preparators place).
- **Veterinary medicine analysis**
Death because of the bullet.
- **Forensic medicine analysis**
Shot through the body – NO ricochet
- **Scientific Expertise of the Federal State**
Negative influence on the conservation of the species more than 30 %
- **Court**
Final punishment - € 5.000,--

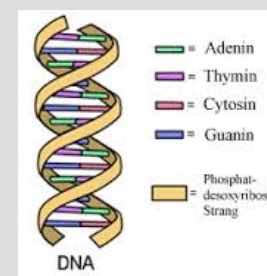
Lower Austria

- Inhabitants Lower Austria: 1.625.000
- Inhabitants St. Pölten: 52.000
- Size: 19.178 km²



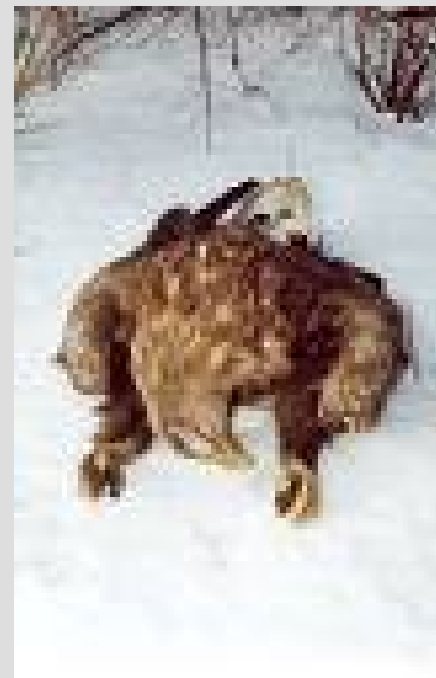
shooting of a sea eagle in Lower Austria

- An eye witness reported to the local police station the shot of a sea eagle. The witness could describe the car of the shooter.
- Police investigations identified H. – hunter and gamekeeper – being strongly suspicious killing a sea eagle.
- H. refused to confess. He argued shooting a dun crow.
- DNA profiles (two sea eagles!) in H.s car underlined the reasonable suspicion.



proceedings

- H. was reported and prosecuted based on Criminal Law in line with the EU „birds directive“ and Hunting Law Lower Austria. WWF gave the necessary scientific expertise concerning endangerment of the species.
- Though it could not be proven that the respective sea eagle was one of the local population (6 breeding pairs) or possibly one winterguest from the north european population (approx. 110 Individuals).
- H. was therefore acquitted by the court.
- Due to this decision the administrative authority fined H. according to the Hunting Law –
 - €5.200,-
 - Cancellation of the hunting permit for 5 years.
- Hunting association canceled H. function as game keeper.



Burgenland

- Inhabitants Burgenland: 287.000
- Inhabitants Eisenstadt: 13.000
- Size: 3.961 km²



imperial eagle – shot in Burgenland

Report of an Animalpreparator

- Animal with a shooting injury
- Eagle all year protected
- Bearer loose contact – mobile number

Police investigations

- Data of the mobile holder
- Picture (passport) shown to the preparator – recognizes bearer
- Identifying the bearer – Questioning the person



Arguments of the suspect:

- Shot eagle by mistake
- Wanted to shoot a magpie – was hit too (pellets)
- First thought it was buzzard

Police report

- Criminal Law
- Hunting Law Burgenland

Scientific expertise by the authority Federal State Burgenland

Case ongoing !!



Nationalpark Hohe Tauern – Illegal shooting bearded vultures

- Resettlement of bearded vultures in the Alpes since 1986
- France, Switzerland, Italy, Austria
- Frequently illegal shooting
- DNA laboratory in Switzerland



Poisoning of birds of prey

- Display of bait with poison (Carbofuran – pesticide – EU ban 2007)
- Suspects hunters
- Motive – trophy, competition
- Threat for other animals – dogs
- Enforcement chain:
 - Police
 - WWF
 - Hunting association
 - Veterinary university



Enforcement challenges

- Legal frame
- Cooperation with other authorities
- Elements of crime
- Questioning suspects
- Scientific proof
- Crime scene



Interagency Approach

Agency	Role/Task
Environmental Agencies	Environmental responsibility, Notification procedure for certain incidents
Health Departments	Incidents with health concern
Fire Departments	Mitigate an immediate threat to life, environment and property.
Police	Stop/prevent environmental impact, Secure the crime scene, investigation
Prosecutor	Assists to evaluate and determine if a crime has been committed.

	Administrative Agency	Police	Justice
Local	Local or Regional Environmental Authority	Local Police Station or Environmental Unit	Local Court, Judge, Prosecutor
National	Ministry of Environment	Top or Central Police Service for Environmental Crime	Ministry of Justice
International	Ministries of Environment to each other	INTERPOL EUROPOL	EUROJUST Letters Rogatory



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