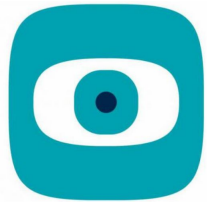


Using the law to access wildlife crime data



Dr Caroline Cox
Portsmouth Law School



journalismfund.eu



OXPECKERS

Investigative Environmental Journalism

Welcome

Dr Caroline Cox

University of Portsmouth, Portsmouth Law School

My work

The illegal wildlife trade

Focusing on the illegal ivory trade



Ivory Act 2018

2018 CHAPTER 30

An Act to prohibit dealing in ivory, and for connected purposes.
[20th December 2018]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the ad-
vice and consent of the Lords Spiritual and Temporal, and Commons, in this
Parliament assembled, and by the authority of the same, as follows:—



THE ELEPHANT IN THE SALE ROOM

An Inquiry into the UK Antiques Trade's Sale of Ivory



Caroline Cox
The School of Law, University of Portsmouth
2017



In this session we will cover

- a. The European Legal framework
- b. Court data
- c. Evidence and collection of data
- d. Privacy and data collection
- e. How to fill in and submit a FOIA form



Definitions



Defining wildlife crimes:

- Wildlife crimes are typically referred to as green crimes, they are crimes that are directed against sentient beings that are not human;
- Types of crimes
 - can be direct crimes, i.e. the conduct is unlawful or
 - it can be a secondary crime such as falsifying documentation to facilitate such a crime – examples Rhinos and Rosewood

Defining access to information:

- Access to information is the process of getting information that you may find useful for the purpose that you are seeking

Definitions (continued)



Defining legal systems:

- A legal system is referred to a set of laws that a countries operates under and that binds the State and persons within that state
 - UNEP: United Nations Environmental Programs
 - CITES: Convention on International Trade in Endangered Species of Wild Fauna and Flora

European Legal Framework



International Law and the illegal wildlife trade:

- Illegal wildlife trade is a serious and global threat to many species and ecosystems in general. Trade is often international, so the regulatory framework is also transnational.
- **CITES** (The Convention on trade in endangered species of fauna and flora) is an international treaty that regulates the international trade of approximately 6000 species of animal and 33 000 plant species via a permitting system. It aims to ensure that international trade in specimens of wild animals and plants does not threaten their survival.
- The **European Union** (and the UK) is a signatory to the CITES convention. In the EU, CITES is implemented through a **set of regulations** (commonly called the “EU Wildlife Trade Regulations”) that are **directly applicable in all EU Member States** and go beyond the original provisions of CITES.

European Legal Framework



Within the EU, the cornerstones of nature and biodiversity protection are the **EU Birds Directive** and the **EU Habitats Directive**:

- All wild bird species naturally occurring in the EU are protected by various regulatory approaches provided for the **Birds Directive**.
- Over 1000 animals and plant species and over 200 types of habitats are also under the protection provided by the **Habitats Directive**.
- The EU established **Natura 2000** areas, a network of protected sites, coordinating core breeding and resting sites for rare and threatened species.
- The current **EU Biodiversity strategy for 2030** aims to put Europe's biodiversity on the path to recovery by 2030.

European Legal Framework



Within the EU, the cornerstones of nature and biodiversity protection are the **EU Birds Directive** and the **EU Habitats Directive**:

- Within the EU, the **Environmental Crime Directive** aims to ensure environmental protection through criminal law.
- In the **EU legal system**, environmental crime covers acts that breach environmental legislation and cause significant harm or risk to the environment and human health. The directive has been evaluated, and it is being reviewed. Furthermore, in the **new EU Strategy to tackle Organised Crime 2021-2025**, environmental crime, specifically wildlife trafficking, is recognised.

European Legal Framework



In the EU Member States:

- EU directives need to **be transposed into the national legal system**, and the Member States determine how exactly they reach the directive's objectives.
-
- Apart from common minimum standards, **it is in the national competency of each Member State to decide on its criminal justice system**, so there are differences in Member State environmental criminal law due to different legal and judicial systems.
- Domestic law may be stricter than international law and EU requirements in protecting nature.

Sourcing data from the courts



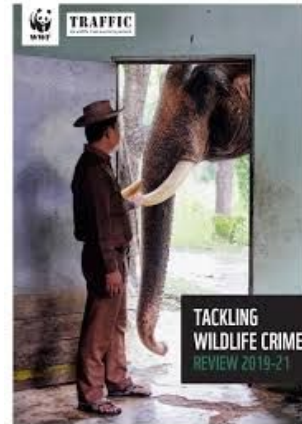
- **ENPE database** for environmental case law and related documents
 - Supports the network of environmental public prosecutors providing them with relevant criminal case law and related documents from the various Member States;
 - A very new initiative – currently only the Waste Section completed;
 - Air Pollution and the Wildlife Sections are being developed.
- **Legal Atlas Wildlife Trade**
 - A comprehensive data base available to registered users from across the world;
 - Covers 70+ jurisdictions.



Evidence and collection of data



- **[TRAFFIC Wildlife Trade Portal](#)**
 - The Wildlife Trade Portal is an interactive tool that displays TRAFFIC's open-source wildlife seizure and incident data.
- **[TRAFFIC EU-TWIX](#)**
 - The EU-TWIX database contains centralised data on seizures and offences reported by all 27 EU Member States, Bosnia and Herzegovina, Iceland, Switzerland, Ukraine and the UK;
 - Developed to assist national law enforcement agencies.
- **[ENPE database for environmental case law and related documents](#)**
 - Supports the network of environmental public prosecutors providing them with relevant criminal case law and related documents from the various Member States.



Privacy and data collection



- Intersection between the role of the **media** in reporting on a matter of public interest and the rights of **data privacy**:
 - **Principles of data privacy**: Lawfulness, fairness, transparency, purpose limitation, data minimisation, storage and accuracy;
 - Media practitioners must maintain the **highest professional and ethical standards**;
 - Media must carry out their **functions**, which include informing, educating and entertaining the public professionally and responsibly.



Privacy and data collection



- Intersection between the role of the **media** in reporting on a matter of public interest and the rights of **data privacy**:
 - Media practitioners must take reasonable steps to ensure that they disseminate **accurate and balanced information**, and that their comments upon events are genuine and honest.
 - Media practitioners must never publish information that they know to be **false or maliciously** make unfounded allegations about others that are intended to harm their reputation.

Privacy and data collection



- **Freedom of Speech European Convention on Human Rights:**
 - *Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.*

Privacy and data collection



- The [EU Charter of Fundamental Rights](#) stipulates that EU citizens have the right to protection of their personal data.
- **The General Data Protection Regulation (GDPR)**
- **The Data Protection Law Enforcement Directive**
 - [Directive \(EU\) 2016/680](#) on the protection of natural persons regarding processing of personal data connected with criminal offences or the execution of criminal penalties, and on the free movement of such data.

How to submit an official request



- **The European Charter of Fundamental Rights**

- States at Article 42 that:

“Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to documents of the institutions, bodies, offices and agencies of the Union, whatever their medium.”



How to submit an official request



- The right of access to **documents** “whatever their medium” is also contained in [Article 15 of the Treaty on the Functioning of the European Union \(TFEU\)](#)
- The rules for accessing EU documents are set out in [Regulation 1049/2001](#) regarding public access to European Parliament, Council and Commission documents

How to submit an official request



- Requesting information from the European Union can be done **in any written form**, including electronic form, in one of the 23 official languages of the European Union;
- Requests can be submitted in writing via normal post, email, or online using [AsktheEU](#)
- Submitting your request for documents is **always free of charge**.
 - Regulation 1049/2001 states that the only charges that can be incurred when requesting documents are those that correspond to “the cost of producing and sending copies.”

How to submit an official request



- A suggested template for your request:

“Dear Sir/Madam,

Under the right of access to documents in the EU Treaties, as developed in Regulation 1049/2001, I hereby request access to the following documents: xxxxxx

I would prefer for this information to be sent to me in machine-readable electronic format, to the email address provided below. Thank you.

Yours sincerely,

Name Surname,
name@email.com”

Thank you!



@ghost_ivory



@universityofports
mouth



@University of
Portsmouth

DISCLAIMER

Views expressed in this presentation do not necessarily reflect the views of the Journalism Fund.eu or the Oxpeckers Investigative Environmental Journalism Board.