

WILDLIFE CRIME

A report by WWF Austria and BirdLife Austria

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➡ Bundesministerium Klimaschutz, Umwelt, Energie, Mobilität, Innovation und Technologie

Contact: christina.wolf-petre@wwf.at & johannes.hohenegger@birdlife.at

This document is also available online: <u>https://www.wwf.at/de/artenschutz-oesterreich/</u> or <u>https://www.birdlife.at/page/projektberichte</u>

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CONTENTS

1.	Baseline situation4
2.	Wildlife crime
2.	1 Methods of illegal persecution
	Poisoning4
	Shooting5
	Trapping5
3.	Illegal persecution in Austria6
3.	Illegal persecution – the example of raptors7
	Data collection7
	Cases of illegal persecution in Austria7
	Hot spots
	Use of poison9
	Inferring illegal persecution from shot marks and shootings9
3.	2 Illegal persecution – the example of protected mammals
	Bear 12
	Beaver 12
	Otter12
	Lynx 13
	Wolf13
4.	Convictions for illegal persecution of protected species
•	Summary and outlook
0.	

1. BASELINE SITUATION

Both WWF Austria and BirdLife Austria have been dealing with the problem of wildlife crime in various projects for many years. It is especially worrying that illegal acts continue to occur in particular with regard to species protected under EU law.

The aim of this report is to summarise the state of knowledge on this subject and to identify, based on cases known and reported to us, which areas are affected. The report should enable the interested public and stakeholders to assess the current situation. As in many other countries of the world, it must be assumed that only a small proportion of cases of illegal persecution were actually uncovered, and that this is therefore only the famous "tip of the iceberg". By summarising and communicating the current situation, WWF Austria and BirdLife Austria want to help raise public awareness of this issue and point out further necessary steps to combat this illegal threat to protected species.

2. WILDLIFE CRIME

Illegal persecution and trade of protected species is often seen as a problem primarily affecting countries of the global South. The subject is usually associated with species such as elephant, tiger, pangolin or sharks, which are persecuted for economic reasons. Only few people would think of Europe and its protected species in this context. The extent of illegal persecution in Europe was often only revealed through the work of committed actors in nature conservation and species protection. The fact that the topic is also of great significance in Europe is evidenced not least by the number of European networks that have been set up to combat the problem, including ENPE¹, EUJUST² and EnviCrimeNet³. These cross-border associations of e.g. judges, public prosecutors or law enforcement representatives are dedicated to the issue and strive to improve the prosecution of criminal offences by building and exchanging knowledge and by applying current EU legislation uniformly. Furthermore, a number of projects to improve the situation are being carried out across the EU and at national level⁴, from which valuable information and data have also been incorporated into this report (e.g. the EU LIFE project "PannonEagle"⁵ currently in implementation).

2.1 METHODS OF ILLEGAL PERSECUTION

Poisoning

The discovery of one or more dead animals at the same location or in a small area, whose cause of death appears unclear, is primarily a suspected case of poisoning. Poison is usually laid out in the form of prepared bait. Hares, ducks, chickens, pheasants, gut piles, sausage and meat

⁵ <u>www.kaiseradler.at</u>

¹ Environmental Prosecutors for the Environment; <u>https://www.environmentalprosecutors.eu/eu-life-project</u>

 ² European Union Agency for Criminal Justice Cooperation; <u>http://www.eurojust.europa.eu/pages/home.aspx</u>
³ European Network for Environmental Crime; <u>http://www.envicrimenet.eu/</u>

⁴ <u>https://ec.europa.eu/environment/archives/life/publications/lifepublications</u>

[/]lifefocus/documents/wildlife crime web.pdf

products or even eggs are used as bait to attract animals that are targeted by poisoning. The poison's warning colouration is often conspicuous in such baits. Depending on the substance used, the colours can range from red to violet-blue and blue. Due to the highly toxic effect of poisons such as carbofuran, animals that have ingested the poison often perish in the immediate vicinity of the bait. A search of the surrounding area of the bait often leads to further findings. Carbofuran, like other poisons, is non-selective and can also pose a danger to humans and pets.

Shooting

Besides illegal persecution with poisoned baits, protected species are also deliberately shot down. Shot is mostly used in this case, but there have also been shootings where small calibre and bullets were used. When examining animals killed by shooting, it is usually possible to detect shot pellets scattered throughout the body by X-ray. Observations of birds with so-called shot marks⁶, recognisable as "holes" in the flight feathers, often indicate previously attempted shooting (see p.9).

Trapping

In addition to persecution by shooting and poisoning, birds of prey and mammals are also caught with illegal trapping devices that are deliberately baited. Beside home-made trapping devices, commercially available traps are also used here. Trap types can include a variety of spring traps and box traps, goshawk traps and crow traps. A basic distinction is made between live and lethal traps. The latter are intended to directly result in the death of the animal. Generally, only live traps are legal. Derogations may be granted by the competent authority, but they must be appropriately marked and regularly checked. The use of traps is governed by the hunting laws of the respective provinces. It is often difficult to identify illegal traps.

⁶ Typical injuries to the plumage of birds caused by shotgun ammunition.

3. ILLEGAL PERSECUTION IN AUSTRIA

The direct persecution of protected species by shooting, trapping and poisoning is a wellknown problem in Austria, and is often one of the main threats to these species' survival. For example, thanks to many years of work and documentation, illegal persecution of white-tailed eagles and imperial eagles has been identified as one of the most frequent causes of death. But many other raptor species⁷, such as buzzards, kites or harriers, are also affected by illegal persecution.

Apart from raptors, other strictly protected species such as bears, wolves, lynx, beavers and otters are also repeatedly targeted by illegal persecution. The illegal killing of species that are slowly regaining a foothold in Austria, after having been almost or entirely extinct, has a particularly dramatic impact on their return, as the loss of even a few individuals can be a major setback.

Regardless of this, the killing of protected species is always an illegal act which must be reported and punished accordingly. Although successful investigations have meanwhile led to a few convictions (see chapter 0), the number of convictions remains very low compared to the number of known cases⁸.

⁷ Accipitrids, falcons and owls are collectively referred to as raptors.

⁸ <u>https://www.imperialeagle.eu/sites/default/files/scharfetter_et_al.___2020___</u>

illegale_verfolgung_von_greifvoegeln_-ein_wegweiser.pdf

3.1 ILLEGAL PERSECUTION – THE EXAMPLE OF RAPTORS

Data collection

In the past, reports and indications of possible illegal persecution of protected bird species, especially raptors, were collected and archived separately by WWF Austria (collection and database since 2000) and BirdLife Austria (species- and project-based collection). Since then, all data has been consolidated in a common database. This database has been jointly managed and fed with new data by the organisations since 2016. To date, **over 770 reports** have been registered **since 2000**. Just **over 450 of these reports** proved to be **cases of illegal persecution**. As these are only the reported cases, a much higher number of unreported cases of illegally killed wild animals must be assumed⁹.

The following illustrations deliberately use data for the **period 2016** – **2020**, as the issue of illegal raptor persecution was addressed by WWF Austria and BirdLife Austria with consistent intensity in these years, and a comparable level of reporting frequency can therefore be assumed.

Cases of illegal persecution in Austria

As shows, the identified cases of illegal persecution largely coincide with the ranges of many raptor species in the lowlands. It should be taken into account, based on past experience, that an illegally killed raptor is much more likely to be found in these lowland areas with extensive farmland compared to, for example, higher, less frequented or extensively forested areas, where it is considerably harder to find dead animals. In any case, it is evident that illegal raptor persecution is not limited to individual districts and is therefore not an isolated phenomenon. In some districts there is "only" one known case, while elsewhere there is an accumulation of cases – up to 16 cases in the period considered – in so called "hot spots".

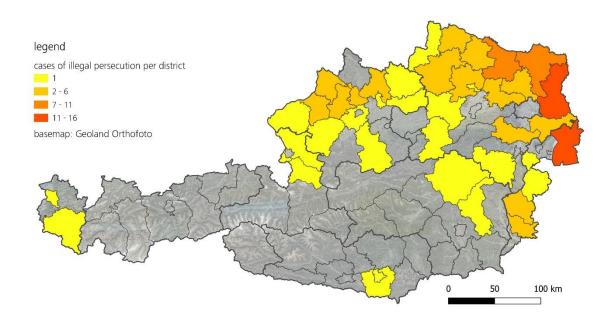


Figure 1: Cases of illegal persecution reported within the PannonEagle-LIFE project (10/2016 - 08/2020)

⁹ Numbers from 09/2020

Hot spots

In order to better reveal the above-mentioned hot spots at district level, a ranking according to the number of cases was made in Table 1. Here, a marked concentration of reports in three districts in Lower Austria and one district in Burgenland becomes apparent: **Gänserndorf** and **Neusiedl am See**, followed by **Mistelbach** and **Hollabrunn**.

No fewer than **10 of the top 15 hot spot districts** are located in **Lower Austria**, followed by four districts in **Upper Austria**. **Burgenland** is represented in the table with only one district, but due to the number of cases it is in **second place** in the ranking. It is important to note at this point that, from a nature conservation perspective, it is not just the number of cases that needs to be considered when it comes to assessing the impact on (protected) species. The full impact can usually only be assessed on the basis of the number of animals or species affected in each case. Besides the number of cases per district, Table 1 also lists the total number of animals affected. In Gänserndorf alone, 51 animals were affected. Overall, in the period 10/2016 – 08/2020, these hot spots saw **87 documented cases** of illegal persecution involving a total of **165 animals**. Experience shows that the largest number of animals is affected in cases where poison is used. Regardless of the number of killed animals, each individual case is a violation of the law.

Rank	Province*	District	Cases of illegal persecution	Number of affected animals	
1	NÖ	Gänserndorf	16	51	
2	В	Neusiedl am See	12	20	
3	NÖ	Mistelbach 10		9	
4	NÖ	Hollabrunn	8	20	
5	NÖ	Waidhofen an der Thaya	6	10	
6	NÖ	Krems (Land)	6	9	
7	0Ö	Grieskirchen	5	13	
8	0Ö	Ried im Innkreis	4	8	
9	NÖ	Baden	3	4	
10	0Ö	Schärding	3	4	
11	NÖ	Tulln	3	4	
12	NÖ	Horn	3	3	
13	NÖ	Bruck an der Leitha	3	3	
14	ОÖ	Eferding	3	3	
15	NÖ	Korneuburg	2	4	

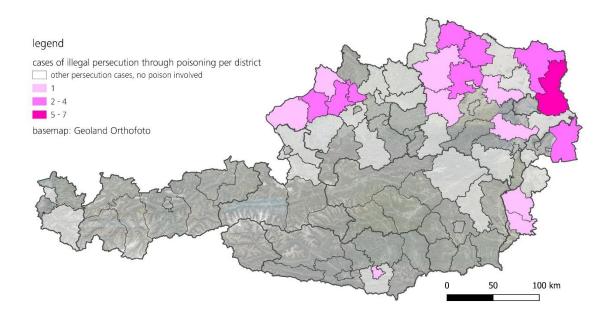
Table 1: Top 15 districts ranked according to the number of cases of illegal persecution reported within the PannonEagle-LIFE project (10/2016 - 08/2020)

* Province abbreviations: B (Burgenland), NÖ (Lower Austria), OÖ (Upper Austria)

Use of poison

Despite an **EU-wide ban on the substance carbofuran since 2008**, analyses of dead animals and baits showed that this **poison continues to be used illegally in many districts** (Figure 2). Here, again, districts are presented according to the number of poisoning cases at district level. Often the persecution of raptors and other protected species is only associated with poisoning. But birds of prey are also killed by shooting or trapping in addition to the use of poison. Districts where no cases of poisoning were detected, but cases of shooting and trapping did occur, are coloured light grey in Figure 2.

Figure 2: Cases of illegal persecution through poisoning reported within the PannonEagle-LIFE project (10/2016 - 08/2020)



Inferring illegal persecution from shot marks and shootings

Shot marks (colloquially known as "Maltese moult") is the term used for typical injuries to the plumage of birds caused by shotgun ammunition. Since the actual body of a flying bird only makes up a small part of its flight silhouette, being hit by shot, especially from a long distance, often does not cause life-threatening injuries but only a degree of damage to the bird's plumage. Shot marks on live birds can therefore be an indication of attempted shooting. Their informative value is mainly determined by two factors, namely the degree of damage and the point in time. Birds with only moderately damaged feathers are usually almost unimpaired in their ability to fly and can therefore quite easily cover even greater distances. For example, marsh harriers on spring migration are quite commonly observed with shot marks, which were most likely sustained in the Mediterranean area.

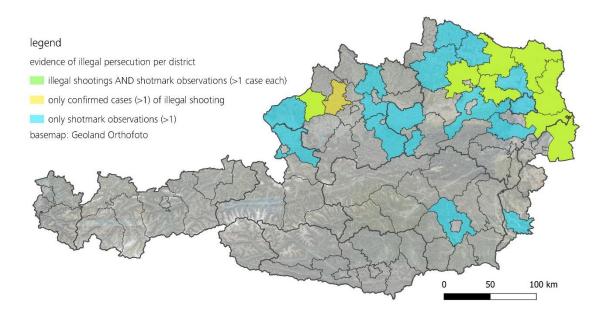
Thus, in migratory birds, it can be difficult to judge the origin of such injuries. Furthermore, shot marks usually disappear with the next complete moult of a bird's plumage. Knowledge of affected species' moult cycles is therefore essential for an informed assessment. Freshly moulted birds¹⁰ or first-year juvenile birds with shot marks, for example, indicate that they were shot at only recently.

¹⁰ soon after renewing feathers

Despite their limited informative value in individual cases, there is statistical evidence that an **accumulation of birds with shot marks correlates with known cases of illegal shooting at district level**¹¹. Thus, shot marks can at least be used as an aid in identifying problem areas.

Figure 3 shows an intersection of the cases of **illegal shooting** documented within the PannonEagle LIFE project with observations of birds bearing **shot marks** for the same period. Only districts with at least two reports of shot marks and at least two confirmed shootings were analysed, in order to focus on those areas that appear most important for the elimination of the problem.

Figure 3: Visual intersection of reports of live birds with shot marks and cases of illegal shooting documented within the PannonEagle-LIFE project (10/2016 - 08/2020)



¹¹ Riener 2020

3.2 ILLEGAL PERSECUTION – THE EXAMPLE OF PROTECTED MAMMALS

As has been mentioned already, illegal persecution is not limited to birds of prey but also affects other strictly protected species. However, the data situation for these species is currently a lot worse in comparison to raptors. At the same time, in species with only a small number of individuals – as is the case with lynx and wolf, for example – the loss of individual animals has greater consequences. In addition to the confirmed cases listed here, there are **regular indications of further cases of illegal persecution**.

Due to the currently much worse data situation for mammals, the following figure only gives an overview of those provinces with confirmed cases of illegal persecution of bear, wolf, lynx, beaver and otter. Further details of these cases are summarised in the following paragraphs.

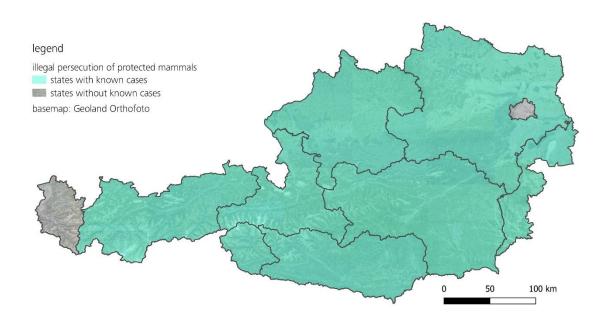


Figure 4: Known cases of illegal persecution of bear, wolf, lynx, otter and beaver.

Figure 4 shows that cases of **illegal persecution** of one or more of the considered **mammal species** are known and confirmed in **seven of the nine provinces**. Table 2 gives an overview of the species affected by illegal persecution in each province, taking the species' respective occurrence into account.

Table 2: Known cases of illegal persecution of selected mammal species in the individual provinces (turquoise=known case, grey=no known occurrence, white=no known cases, ?=individuals lost but cause unknown)

Affected species	Known cases of illegal persecution									
	NÖ	Ktn.	Bgld.	0Ö	Sbg.	Т	W	Vbg.	Stmk.	
Bear									;	
Beaver										
Otter										
Lynx										
Wolf	?									

Bear

At least 20 bears of the **Ötscher area** population disappeared in unknown circumstances between 1989 and 2007. There was reason to suspect illegal persecution and indeed it was reported anonymously on multiple occasions. Finally, in 2007, a stuffed bear "J93" was found in the home of a deceased hunter. In 2009, bear "Roznik" (an animal that had migrated from Slovenia) was found killed in **Carinthia**. The possible perpetrator was acquitted as his responsibility for the offense could not be proven beyond doubt. In 2010, with the disappearance of the last bear born in Austria, "Moritz", the small population died out¹².

Beaver

In **Lower Austria** at least four cases of illegal persecution (trapping during the closed season, illegal shooting or illegally set trap), spread over the years 2014 and 2017, were reported to the competent authority¹³. This is in addition to at least two out of four beavers found dead in Seekirchen (**Salzburg**/Flachgau), which were confirmed to have been shot illegally (2018)¹⁴. An investigation in 2020 identified poachers who are said to have illegally killed 100 animals, including beavers¹⁵.

Otter

Illegally set traps have been documented photographically multiple times in **Lower Austria**, and reported to WWF. In 2016 a pond leaseholder in **Styria** was put on trial and found guilty of attempting to target an otter with clap and box traps¹⁶. Recently an injured animal was found in **Salzburg**, presumably having escaped from a trap, but it died a painful death from its severe injuries despite attempted treatment¹⁷. In 2010 in Burgenland, an otter was illegally shot by a hunter¹⁸. In the following year an otter was caught in a foothold trap in **Burgenland** along the Lafnitz river¹⁹.

¹² <u>https://www.krone.at/73926</u>

¹³ <u>https://forschung.boku.ac.at/fis/suchen.publikationen_suchergebnis</u>

¹⁴ <u>https://www.sn.at/salzburg/chronik/seekirchen-vier-tote-biber-an-der-fischach-entdeckt-tiere-erschossen-61249915</u>

¹⁵ https://ooe.orf.at/stories/3063251/

¹⁶ Conviction according to §§ 137, 138 and 222 – cat was killed in clap trap

¹⁷ Pers. communication from experts, substantiated with photographic material

¹⁸ <u>https://www.meinbezirk.at/jennersdorf/c-lokales/otterjaeger-bleibt-vorerst-unbehelligt_a33628</u>

¹⁹ https://www.bvz.at/guessing/tierquaeler-auf-jagd-fischotter-in-treteisen-5074391

Lynx

Six cases of illegally poached lynx are known, but a higher hidden figure is very likely. In 2012, to cover the cause of death, a shot lynx was placed on railway tracks near Mautern/**Styria** and run over by a train²⁰. In the following year two dead lynx were found in a plastic bag in the Ysper river – perpetrators unknown²¹. In 2015 a married couple of hunters were proven to have killed two lynx in the Kalkalpen National Park region, which led to a conviction²². The last case of illegal persecution was documented in 2017. Lynx "Alus" was found shot on the border between **Salzburg** and Bavaria (Saalachsee)²³. Orphaned young lynx have also repeatedly been found in the Waldviertel and Mühlviertel regions (Lower and Upper Austria, respectively), pointing to the possibility of further illegal persecution, particularly due to other confirmed incidents there.

Wolf

In 2019 an illegally shot and beheaded wolf was found in **Tyrol**²⁴. A year ago, three packs were confirmed in **Lower Austria**: in addition to the pack in the Allentsteig military training area, wolves were also sighted in Litschau and Karlstift (both in Gmünd district). Due to the formation of two new packs, the number of known packs has since remained the same, but two of the original packs have vanished without trace and in unknown circumstances²⁵.

²⁰ <u>https://www.derstandard.at/story/1350258426567/luchs-aus-steirischem-tierpark-von-zug-getoetet</u>

²¹ <u>https://www.derstandard.at/story/1375626346024/zwei-tote-luchse-in-plastiksack-in-ysper-versenkt</u>

²²https://www.ris.bka.gv.at/Dokumente/Justiz/JJT 20161222 OGH0002 00600B00229 16V0000 000/JJT 20161222 OGH0002 00600B00229 16V0000 000.pdf

²³ <u>https://salzburg.orf.at/v2/news/stories/2879178/</u>

²⁴ <u>https://www.tt.com/artikel/16800984/abschuss-und-enthauptung-von-wolf-in-sellrain-noch-ungeklaert</u>

²⁵ <u>https://noe.orf.at/stories/3019615/</u>

4. CONVICTIONS FOR ILLEGAL PERSECUTION OF PROTECTED SPECIES

A major challenge in the prosecution of cases of illegal persecution is the selection of the correct legal basis. As a study²⁶ recently published by ÖKOBÜRO, WWF Austria and BirdLife Austria described, there are grounds for prosecuting illegal persecution in both **judicial criminal law** and administrative criminal law. Practice has shown, however, that despite the numerous cases and subsequent police investigations, **final convictions have rarely been handed down after prosecution according to judicial criminal law in Austria**.

The following relevant convictions at Austrian courts* in the period 2008-2020 are known²⁷:

- 2008 LG Tyrol: Charges according to § 137 StGB for poaching, because goshawks had been found in the perpetrator's possession awaiting taxidermy. A fine of € 1,200 was imposed.
- 2009 UVS Lower Austria: Fine of € 4,000 or substitute imprisonment for the shooting of a white-tailed eagle.
- 2012 LG Tyrol: Charges according to §§ 181f, 222 StGB for the shooting of a golden eagle. A fine of € 2,000 was imposed.
- 2015 conviction OGH: A married couple of hunters were proven to have killed two lynx in the Kalkalpen National Park region. The hunter and his wife were convicted in separate criminal trials for the shooting of one lynx each. The Supreme Court confirmed the claim for damages of Kalkalpen NP after revision of the appeal.
- 2016 LG Carinthia: Charges according to §§ 137, 138, 222 StGB for trapping a goshawk with a clap trap. A fine of € 2,000 was imposed.
- 2016 BG Oberpullendorf (Burgenland): Sentencing to conditional prison term of 3 months according to § 222 StGB for poisoning and shooting of at least 23 protected birds of prey.
- 2017 LG Styria: Charges according to § 222 StGB for keeping an eagle owl in a far too small rabbit cage. A conditional prison sentence of 4 months with a probationary period of 3 years was imposed.
- 2020 LG Krems (Lower Austria): Sentencing to a conditional prison term of 6 months and a fine of € 1,800 for poisoning a white-tailed eagle, a common buzzard, beech martens and a fox, and for the killing of an eagle owl and further beech martens. Additionally, a blackbird died in a cage trap which was not checked according to regulations.

²⁶ <u>https://www.imperialeagle.eu/sites/default/files/scharfetter_et_al.__2020__</u>

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²⁷https://www.imperialeagle.eu/sites/default/files/scharfetter et al. - 2020 illegale_verfolgung_von_greifvoegeln_-ein_wegweiser.pdf

^{*} used abbreviations: BG (District Court), LG (State Court), OGH (Supreme Court), UVS (administrative state court)

5. SUMMARY AND OUTLOOK

From the results compiled in this report it becomes clear that illegal persecution of protected species, such as birds of prey and mammals, poses a serious threat to the protection of species but also to the health of us humans and our pets. The number of reports and cases of illegal persecution available to BirdLife Austria and WWF Austria strikingly show that this problem is neither restricted to individual cases nor to certain species or regions in Austria.

Important steps to combat illegal persecution have already been taken in recent years by WWF and BirdLife Austria. These include:

- strengthening **cooperation between experts and law enforcement agencies** in the handling of cases of illegal persecution;
- **training** "environmental expert organs" within the executive branch²⁸ and environmental law enforcement organs on the subject of illegal persecution of raptors;
- jointly developing the **"police investigation guideline"**²⁹ with key stakeholders to ensure a consistent approach to investigating cases of raptor persecution;
- a summary of the legal aspects regarding criminal prosecution of illegal persecution of raptors, in the form of a legal study "Illegal persecution of raptors A guide for criminal prosecution"³⁰.

In the opinion of WWF Austria and BirdLife Austria, further steps are necessary to better combat wildlife crime:

- expanding cooperation between experts, the executive and the judiciary;
- increasing the rate of successful investigations;
- increased punishment of offences;
- clarification of open questions in the legal system.

The problem of wildlife crime is also addressed in the **government programme 2020** – **2024**³¹ of the Austrian federal government. A number of measures to combat wildlife crime were laid down in the programme. In addition to the implementation of the recommendations formulated in an external evaluation, an Austrian strategy based on the European action plan for "environmental compliance assurance"³² is to be elaborated.

Furthermore, there are plans for awareness-raising measures, increased inspections and even the introduction of harsher penalties through reduced thresholds for offences³³.

²⁸ Environmental experts of law enforcement

²⁹<u>https://www.imperialeagle.eu/sites/default/files/leitfaden_polizermittlungen_greifvogelverfolgung_web_smal</u> <u>l2.pdf</u>

³⁰ <u>https://www.imperialeagle.eu/sites/default/files/scharfetter_et_al.___2020__</u>

illegale verfolgung von greifvoegeln -ein wegweiser.pdf

³¹ https://www.bundeskanzleramt.gv.at/bundeskanzleramt/die-bundesregierung/regierungsdokumente.html

³² https://ec.europa.eu/environment/legal/pdf/env-17-017-env-complianceassurance-factsheet_de.pdf

³³ https://www.bundeskanzleramt.gv.at/bundeskanzleramt/die-bundesregierung/regierungsdokumente.html

In summary, despite all the measures and steps that have already been taken, there is still a long way to go that will require the close **cooperation of all relevant institutions** and thus a **broad alliance against wildlife crime** in Austria, in order to protect endangered and protected species from illegal persecution and to safeguard our own health and the health of our pets.