

SUMMARY REPORT



An evaluation of the outcomes of prosecutions
for serious wildlife crimes in Vietnam



2014

INTRODUCTION

In January 2014, ENV carried out a review of criminal prosecutions which involved rare and endangered wildlife species that are currently listed in Group 1B of Decree 32/2006 and are fully protected under Vietnamese law. The review was carried out to evaluate the outcome of these criminal cases and assess whether punishment that was applied for serious criminal offenses involving wildlife may be effective in deterring criminal behavior and meeting the full protection needs of Vietnam's most critically endangered species as intended under the law.

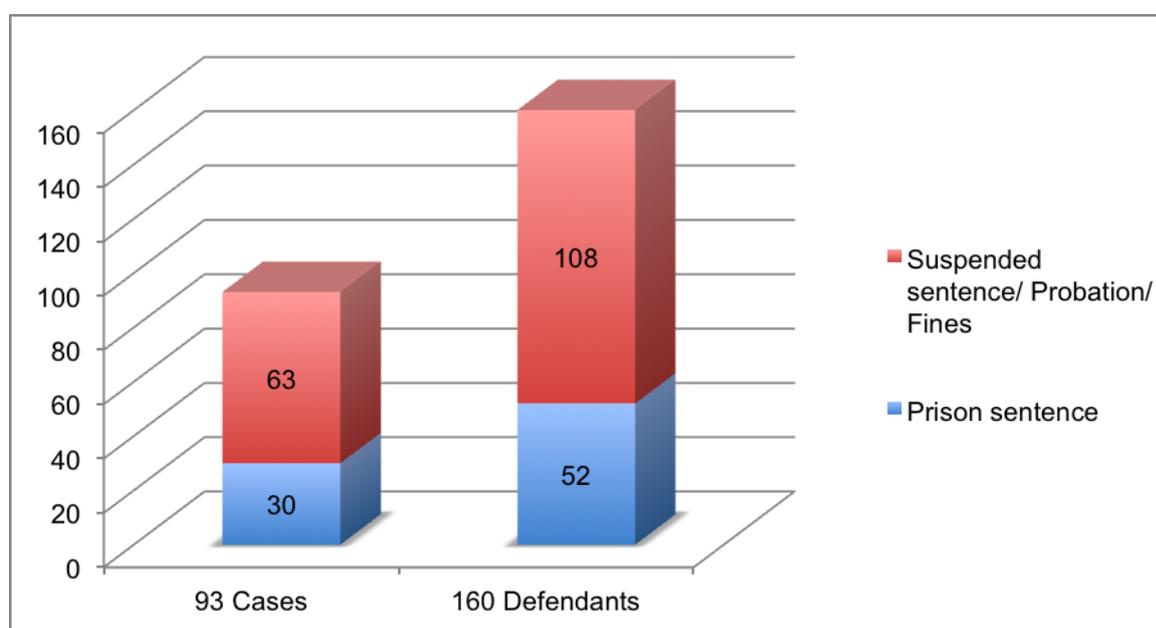
The review looked at 93 criminal prosecutions were documented on ENV's National Wildlife Crime Incident Tracking System, between January 1, 2010 and December 31, 2013. The review did not include cases that did not reach the courts or for which the conclusions are either pending or unknown.

RESULTS OF THE REVIEW

The results of the review can be summarized as follows:

- Out of 93 criminal cases that reached the courts, just under one third (30 cases) resulted in prison terms for one or more of the defendants. Almost two thirds of the cases (63) resulted in suspended sentences or probation.
- Of 160 defendants brought to trial in these cases, 52 were sentenced to prison terms, whilst 108 received suspended sentences, probation, or fines.
- Prison sentences for wildlife crimes ranged from five months to seven years, with the average prison sentence consisting of 24 months. The single case that resulted in a seven-year prison sentence involved a repeat offender.

Table 1: Outcome of prosecutions

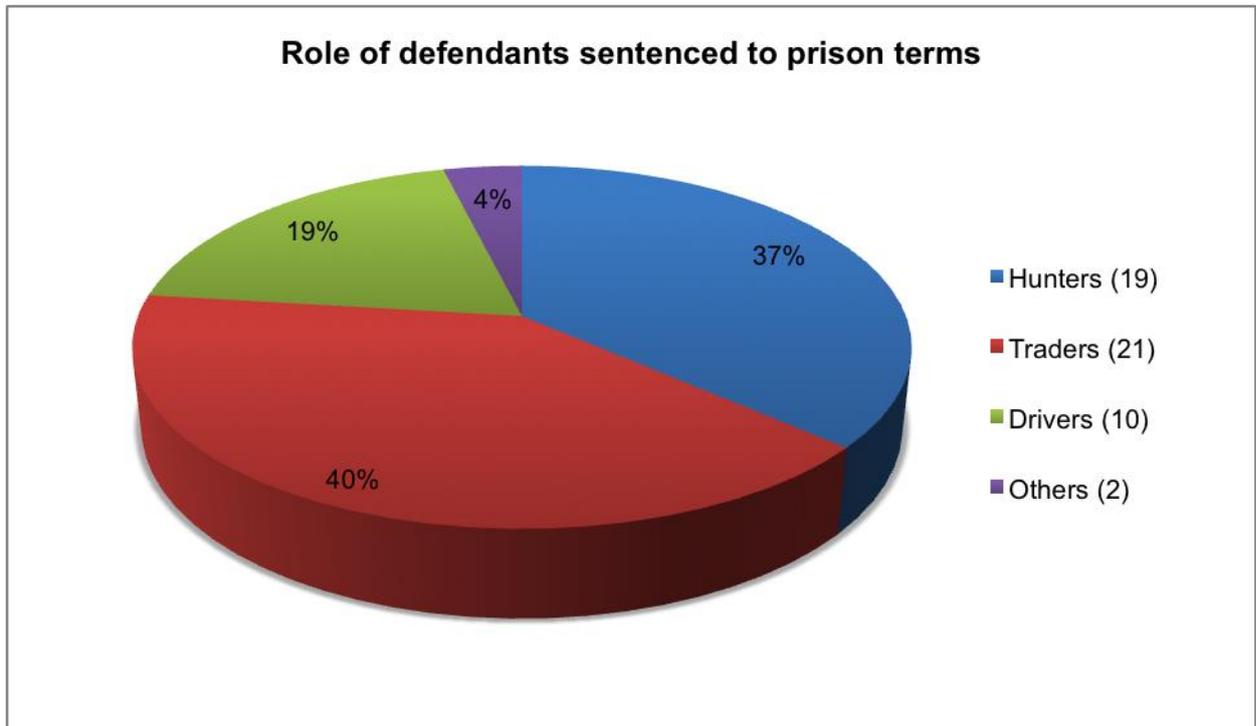


Role of defendants

- Of the 52 defendants sentenced to prison terms, 21 were identified as traders, 19 were described as hunters, 10 as drivers, and 2 indicated other roles. Note: Defendants' roles may not be accurate as court documents and information from law enforcement authorities in many cases are based on statements from the defendants themselves about their role in the crime.

- The review showed that amongst the 93 cases that were prosecuted, none of the subjects of prosecution could be classified as major figures in any of the known criminal networks engaged in smuggling and trade of tigers, rhino horn, or ivory.

Table 2: Role of defendants prosecuted for wildlife crimes



Prosecutions in relation to species groups

- Prosecutions for tiger smuggling and trade accounted for 17 of the 93 cases. However, only 2 of these tiger smuggling and trade cases resulted in prison sentences for just three of the five subjects involved. Similarly, only two of the 13 cases involving serious bear crimes resulted in prison sentences. Four out of 21 prosecutions for other major crimes involving golden cats, clouded leopards, and leopard cats resulted in prison sentences for 10 defendants.
- Cases involving langurs (*Pygathrix sp.*) resulted in the greatest number of prison sentences, with more than half of the 25 cases resulting in prison sentences for 26 defendants. Eighteen of the 26 defendants that were sentenced to prison terms were described as “hunters” and caught in proximity to source areas, some of which were protected areas.
- Only two cases were prosecuted in relation to crimes involving gibbons (*Nomascus sp.*). Only one of these cases resulted in a prison sentence for one subject.
- Out of six ivory cases prosecuted, only two cases resulted in prison terms for a total of three defendants.

Additional findings relating to cases involving Group 1B species

- None of the 15 rhino horn smuggling or trade cases documented by ENV between Jan 2010 and December 2013 have resulted in prosecutions. The lack of apparent outcomes for these cases may in part be a result of the fact that some cases are currently pending trial, the outcomes are unknown, or the cases were not prosecuted.
- Similarly, there is a significant gap between the 37 known ivory cases during the assessment period and the six that were known to be prosecuted. This may mean that some cases may be pending outcomes, unknown, or have not yet been concluded in court.
- Since 2010, ENV has documented an additional 120 cases involving illegal keeping of species (without intention of exploitation for commercial purposes) that are fully protected under the law

and listed under Group 1B of Decree 32/2006. These cases include a range of live animals of illegal origin including gibbons, lorises, langurs, and leopard cats, as well as others. None of these 120 cases resulted in prosecution of the subject.

Table 3: Prosecutions by species group

A brief summary of prosecution outcomes by species for cases involving smuggling and trade of wildlife.

Species (hunting, smuggling, trade cases)	Total cases prosecuted	Cases resulting in prison sentences	Number of defendants imprisoned
Tigers	17	2	3
Rhino horn	0	0	0
Ivory (elephant)	6	2	2
Bears	13	2	2
Langurs (<i>Pygathrix sp.</i>)	25	13	26
Gibbons (<i>Nomascus sp.</i>)	2	1	1
Golden cats/other cats	21	4	10
Other (king cobra, serow, gaur, other)	17	6	8

Note: Some cases involved more than one Group 1B species. In such cases, the results are shown for each species groups (above) accordingly

CONCLUSIONS

ENV concludes that the current application of the law does not sufficiently meet the protection needs of endangered species in Vietnam, as it is intended to do.

The outcomes of 93 major cases show that no major criminal figures, involved in the illegal smuggling and trade of protected wildlife and known to the authorities, have been prosecuted over the past three years; on the contrary, the review shows that only low level criminal operators such as hunters, drivers, middlemen and fixers have been subject to prosecution.

The focus of law enforcement and the courts on low level cases and the lack of investment in pursuing substantial criminal enterprises only “scratches the surface” and will not succeed in achieving the intended purpose of the law; the absence of active investigations to dismantle known criminal networks is an indicator that the efforts of law enforcement agencies, prosecutors, and the courts have been thus far insufficient in having a significant impact on wildlife protection.

The review also suggests that the punishment administered for criminal cases involving protected wildlife may not be sufficient to deter further criminal behavior; the fact that two thirds of the prosecuted defendants did not serve time in prison is likely to have little impact on deterring criminal behavior.

Finally, the law is not correctly applied in cases concerning the keeping of wildlife without commercial purpose, and therefore fails to protect such animals. Lack of prosecution for crimes involving keeping animals protected under Decree 32 could be explained by a lack of knowledge from local law enforcement agencies or differing interpretations of the law as it relates to “keeping” of wildlife (Prior to 2009, keeping of Group 1B species not for commercial purposes was not included as a criminal violation within the criminal code, but was later added into article 190 and is presently considered a criminal offense).

ENV notes four general actions that must be undertaken to strengthen protection for endangered wildlife as the law intends:

1. Greater emphasis needs to be placed on aggressive and determined efforts to pursue major criminal figures and their business operations that stand behind the trade of tigers, rhino horn, ivory and other protected wildlife. This need is supported by the recent directive from the Prime Minister calling on enforcement agencies and the judicial system to focus efforts on dismantling criminal networks and prosecuting “kingpins”.
2. Emphasis must be placed on gaining the support of national and local prosecutors and judges to address wildlife crime cases more seriously, with the clear intention of fully utilizing the power of the court to administer consistent and sufficient punishment to offenders in order to send a clear message to the public that deters others from engaging in similar behavior.

3. Criminals must not be permitted to escape prison through use of influence or their ability to “buy their way out”, as has been reported in several cases investigated independently by ENV.
4. Criminal punishment should be considered in cases involving keeping of Group IB protected species. All “possession” cases should be treated as “keeping/raising” cases and prosecuted in accordance to the Criminal Code of 2009.

The results of this review are being utilized by ENV as part of a broader initiative which aims to strengthen protection for endangered wildlife through combined efforts which address weaknesses in the law, target and work for the prosecution of “kingpins”, and help establish meaningful and effective deterrence value in the outcome of prosecutions.

This summary was produced for a roundtable meeting, hosted in Hanoi on March 28, 2014, between key representatives from the law enforcement community, prosecutors, and judges, to discuss obstacles that impede the prosecution and punishment of major criminal figures behind the tiger and rhino horn trade.