



ACTION AGAINST EXTINCTION

PROSECUTION REVIEW: WILDLIFE TRAFFICKING CASES IN VIETNAM



2022

OVERVIEW

The Prosecution Review of Wildlife Trafficking Cases in Vietnam is produced annually by ENV to evaluate the performance of Vietnam's criminal justice system in dealing with wildlife trafficking cases.

As evidenced by data recorded by ENV over the course of nearly 10 years, the criminal justice system has made considerable progress towards increasing the risks associated with trafficking wildlife through the imposition of strict and consistent punishment that strengthens deterrence.

While arrests, prosecutions, and punishment show a sustained level of effort to address wildlife trafficking, some challenges remain ahead. Notably, the need has become increasingly urgent to focus attention on targeting the leadership of trafficking networks, not just their underlings, as well as to conduct more comprehensive and in-depth investigations of major seizures at airports and shipping ports to identify ownership.

The use of laws on money laundering, tax evasion, and racketeering to pursue trafficking network leaders also needs to be considered in the course of prosecuting wildlife crime cases. Lastly, investigations need to include cooperation with external law enforcement agencies to enhance intelligence collection and strengthen international investigations.

Comprehensive police investigations aimed at securing the arrest of trafficking network leadership will permit the justice system to bring these criminal leaders to justice, delivering a real and lasting impact on wildlife trafficking, both in Vietnam and globally.

The results of ENV's 2022 Prosecution Review are based on the evaluation of the **156** criminal trafficking cases documented by ENV in 2022. To illustrate the impact of the revised Penal Code, which took effect in 2018, results are reported in comparison with prosecution data recorded since 2014.





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CRIMINAL CASES OCCURRING IN 2022: ARRESTS AND PROSECUTIONS

Note: Criminal cases include transportation, storage, and trade of wildlife, but exclude criminal cases involving retail sales. These cases are recorded based on the seizure date – the date on which the authorities detected and confiscated the wildlife – forming the basis for arresting and handling criminals at a later date.

The percentages of criminal cases resulting in arrests and prosecutions are indicators of performance by enforcement agencies. These data include all arrests and prosecutions recorded by incident date, as well as prosecutions currently still pending from 2022 (Chart 1).

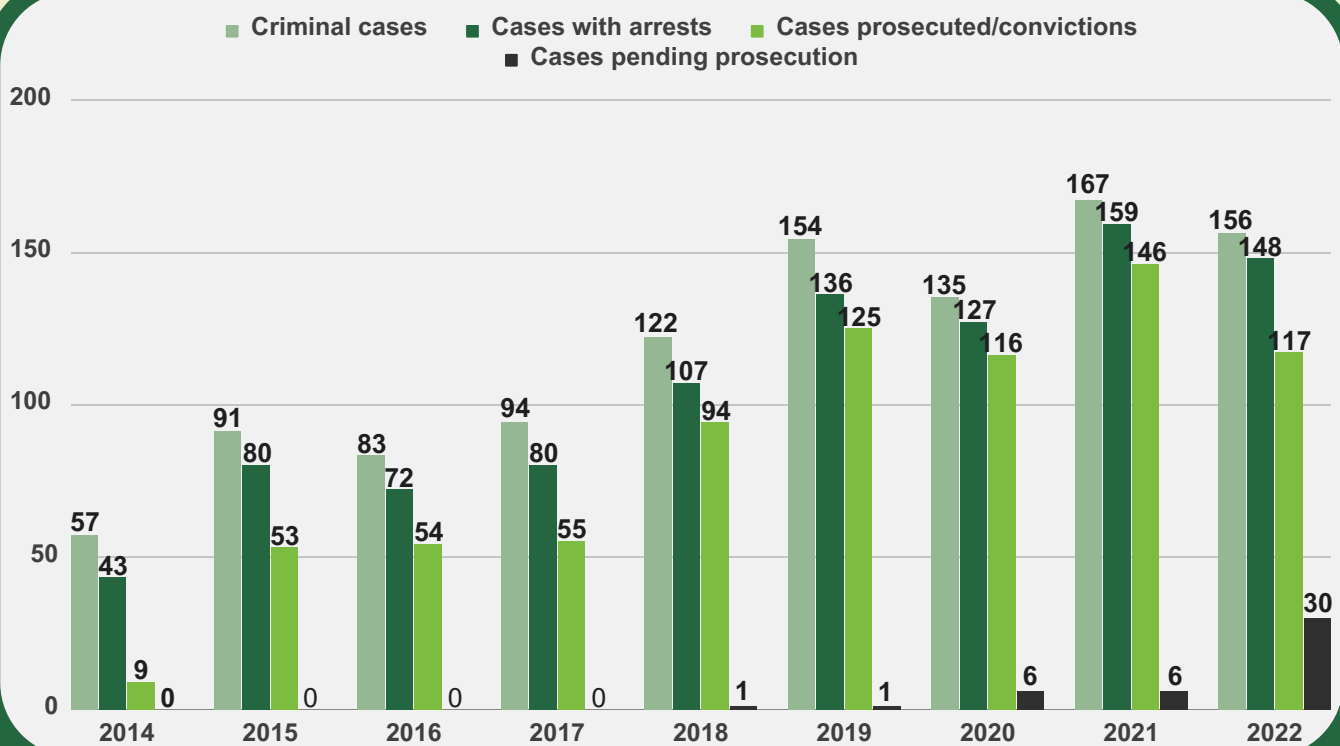


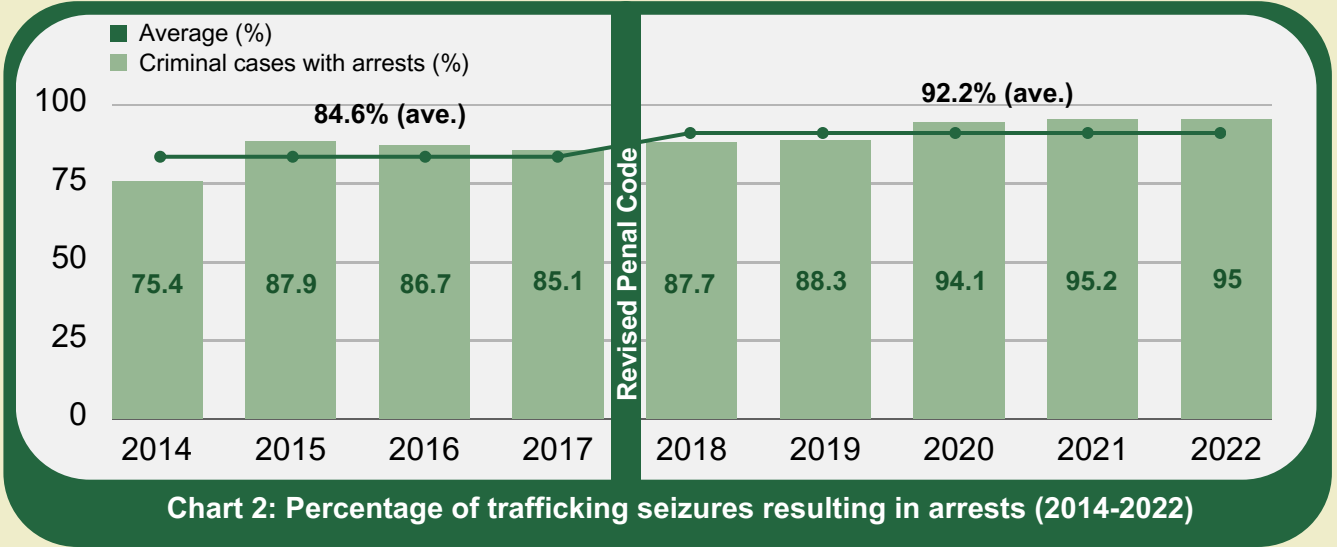
Chart 1: Arrests and convictions by incident date (2014-2022)





95% of trafficking seizures resulted in arrests

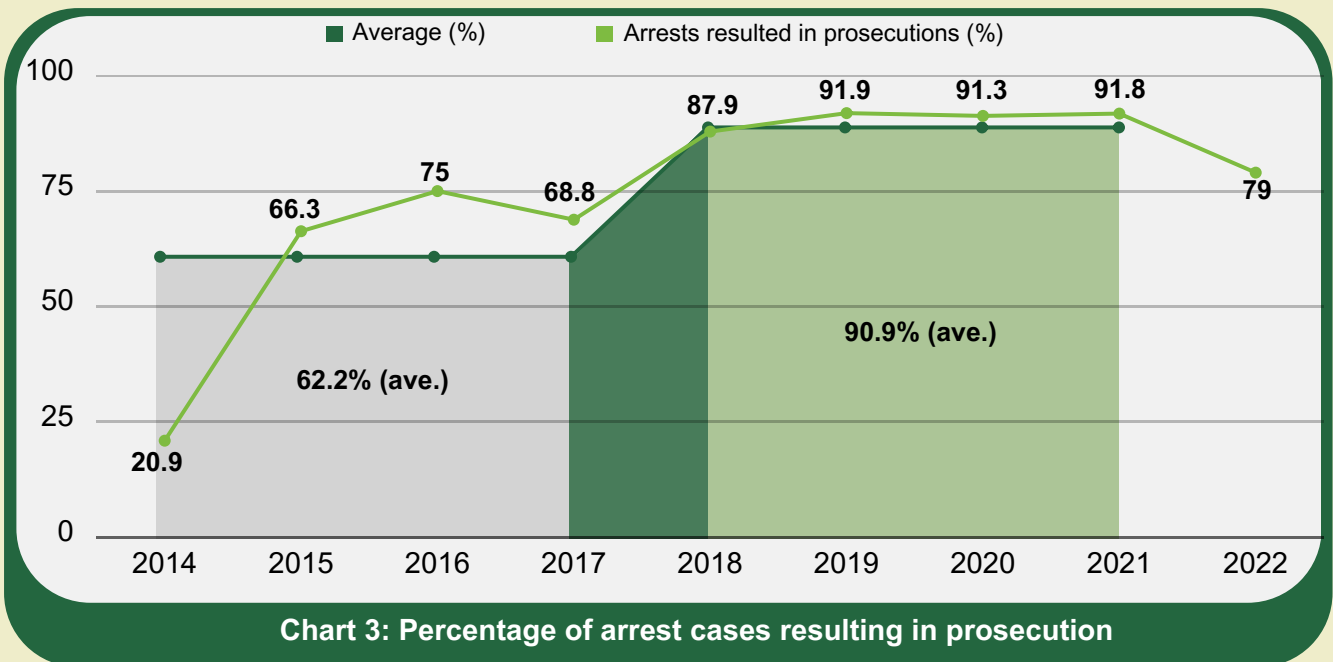
According to the ENV Wildlife Crime Incident Tracking System, in 2022, a total of **148** out of **156** criminal cases (**95%**) resulted in the arrest of one or more subjects. The average arrest rate in criminal cases has increased from **84.6%** pre-revised Penal Code (2014-2017) to **92.2%** for the period of 2018-2022 – the five-year period since the revised Penal Code came into effect (Chart 2).



79% of all arrest cases resulted in prosecution

Of the **148** wildlife-related criminal cases with arrests in 2022, **117** cases (**79%**) resulted in the prosecution of one or more subjects. In addition, it should be noted that as of May 2023, there are **30** prosecution cases pending from 2022. ENV can forecast that the prosecution rate upon conclusion of those **30** pending cases will be at least similar to the previous year's.

In the four years following the revision of the Penal Code (2018-2021), on average, **90.9%** cases with arrests resulted in the prosecution of one or more subjects. Conversely, this average across the four years preceding the Penal Code was only **62.2%** (Chart 3).





TRIAL OUTCOMES IN 2022: CONVICTIONS AND PRISON SENTENCES BY TRIAL DATE

Trial outcomes are used to analyze court performance. These data include all wildlife trafficking cases that were tried during 2022, and thus include cases with arrests that may have occurred before 2022.



MORE THAN 47% of all prosecutions resulted in prison sentences

The percentage of convictions resulting in prison sentences in 2022 was **47.5%**, continuing the positive trend that has been recorded post-revised Penal Code (Table 1).



3.01 YEARS was the average prison term in 2022 for a wildlife trafficking offense

The average prison sentence for wildlife criminals in 2022 was **3.01** years.

The average prison term in 2022 has continued to slide downward from its high in 2019, when the average sentence was **4.45** years.

However, despite the decline, the average prison term in 2022 still remains more than twice as high as the **1.21**-year average recorded in 2017, prior to the enactment of the revised Penal Code.



Even after an appeal, 14 years remains the highest punishment ever recorded for a wildlife criminal in Vietnam.

In 2021, a wildlife trafficker was convicted by Hanoi Court for rhino horn trafficking and sentenced to 14 years in prison. The subject appealed the sentence, but his appeal was turned down by the Hanoi High Court in February 2022. Therefore, the 14-year prison sentence remains the highest punishment ever recorded for a wildlife crime in Vietnam and cements the positive trend in Vietnam's progress and determination to combat the illegal wildlife trade.

Table 1. Court performance by verdict date

| Year | 2017 | Revised Penal Code | 2018 | 2019 | 2020 | 2021 | 2022 |
|--|-------|--------------------|------|-------|-------|-------|-------|
| Prosecutions | 64 | | 63 | 95 | 120 | 139 | 158 |
| No. of cases resulting in prison term(s) | 19 | | 29 | 46 | 59 | 63 | 75 |
| % Cases resulting in prison term(s) | 29.6% | | 46% | 48.4% | 49.2% | 45.3% | 47.5% |
| No. of subjects imprisoned | 27 | | 39 | 81 | 95 | 83 | 112 |
| Average prison term (years) | 1.21 | | 3.08 | 4.45 | 4.09 | 3.64 | 3.01 |

Note: The number of prosecutions shown by verdict date in Table 1 will differ from the numbers shown in Chart 1, as Table 1 reflects ONLY cases that were trialed during each given year, including cases where seizures and arrests occurred during previous years.

Table 2. Notable criminal penalties in 2022

| ENV case number | Court | Offender | Penalty | Violation |
|-----------------|---|-------------------|-----------------------------|---|
| 14737 | Hanoi High Court (appellate trial) | Do Minh Toan | 14 years in prison | Illegally transporting 126.5 kg of rhino horn by plane |
| 12010 | Ho Chi Minh City High Court (appellate trial) | Tran Quy | 13 years in prison | Illegally trafficking 114 Sunda pangolins and 278.5 kg of Sunda pangolin scales |
| 12010 | Ca Mau Provincial Court (re-trial) | Nguyen Hai Nam | 12 years in prison | Illegally transporting 114 Sunda pangolins and 278.5 kg of Sunda pangolin scales |
| 21074 | Cam Pha City Court (first-instance trial) | Nguyen Duc Truong | 10 years 6 months in prison | Illegally transporting 33 big-headed turtles and three Indochinese box turtles |
| 20106 | Hanoi Court (appellate trial) | Nguyen Chi Linh | 10 years 6 months in prison | Illegally trafficking 17 Bourret's box turtles |
| 12010 | Ca Mau Provincial Court (re-trial) | Le Viet Linh | 10 years in prison | Illegally transporting 114 Sunda pangolins and 30 kg of Sunda pangolin scales |
| 20547 | Kon Tum Provincial Court (appellate trial) | Tran Van Ngoc | 10 years in prison | Illegally trafficking 63 big-headed turtles |
| 12562 | Ca Mau Provincial Court (appellate trial) | Le Van Toan | 10 years in prison | Illegally transporting 12 frozen green sea turtles |
| 20106 | Hanoi Court (appellate trial) | Dau Quang Nam | 9 years 6 months in prison | Illegally transporting 17 Bourret's box turtles |
| 22476 | Hanoi Court (appellate trial) | Huynh Thi Gai | 8 years 3 months in prison | Illegally trafficking an Indochinese box turtle, 13 Southern Vietnamese box turtles, two big-headed turtles, and 10 Vietnamese pond turtles |
| 21295 | Hanoi Court (first-instance trial) | Phan Ngoc Dinh | 8 years in prison | Illegally transporting 9.3 kg rhino horn by plane |
| 12562 | Ca Mau Provincial Court (appellate trial) | Nguyen Thi Dua | 8 years in prison | Illegally trafficking and transporting 12 frozen green sea turtle |
| 17777 | Hanoi Court (first-instance trial) | Nguyen Thi Chinh | 7 years in prison | Illegally trafficking 984 kg of pangolin scales |
| 20457 | Dak Lak Provincial Court | Nguyen Thanh Tung | 7 years in prison | Illegally possessing 14 live clouded monitors |
| 21295 | Hanoi Court (first-instance trial) | Luu Van Dat | 7 years in prison | Illegally transporting 9.3 kg rhino horn by plane |


SUMMARY OF RESULTS

2022 marked five years since the revised Penal Code came into effect in 2018 – a big leap in legal reform with regards to wildlife crime in Vietnam. The revised Penal Code has afforded the criminal justice system in Vietnam a stronger legal basis to investigate and penalize wildlife criminals, resulting in an overall increase in the number of arrests, prosecuted and sentenced cases, and prison terms since 2018, particularly in comparison to preceding years.

The data recorded by ENV in 2022 continued to demonstrate the concerted efforts being made to address wildlife crime in Vietnam, with **95%** of **156** criminal cases resulting in arrests. In fact, the past three years have each seen a national arrest record of over **90%** – a marked improvement from the rates recorded before 2018.

Although sentencing also remained strong, with **47.5%** of the cases tried during 2022 leading to a prison sentence, more lenient prison terms for wildlife criminals were recorded in 2022, averaging **3.01** years. Maintaining a high average prison term is essential, as without harsh criminal justice sanctions, offenders have no reason to think twice before committing acts that could generate substantial profits at the expense of national biodiversity. Vietnam's all-time highest wildlife-related prison term of **14** years, handed down to a subject for illegally facilitating a shipment of rhino horns in 2021 and upheld in the subsequent appellate trial, is one example of how Vietnamese judges have successfully utilized the law to punish biodiversity-threatening acts and deter others.

Moreover, despite the overall increase in arrests and prosecutions for wildlife crimes in the years following the revised Penal Code's instatement, the issue of wildlife smuggling through Vietnam's ports remains unresolved. Since 2015, a total of **34** wildlife trafficking cases were discovered at shipping ports in Vietnam, accounting for nearly **80** tonnes of ivory, rhino horn, and pangolin scales being confiscated. Unfortunately, up to now, only three subjects have been convicted in relation to these crimes (one of whom was only recently convicted in January 2023). While seizures at ports disrupt the movement of smuggled wildlife to some extent, ENV believes the key to dismantling these networks lies in the ability and willingness of law enforcement agencies to secure the arrests of network leaders and in the courts' capacity to impose appropriate sanctions.



6'4"
6'2"
6'0"
5'8"
5'6"
5'4"
5'2"

GUILTY

“ The key to dismantling these networks lies in the ability and willingness of law enforcement agencies to secure the arrests of network leaders, and in the courts’ capacity to impose appropriate sanctions. ”

In all, the past five years have shown a strong stance from Vietnam's criminal justice system in dealing with wildlife trafficking, both on the front lines of enforcement and in the courts. However, as ever, what remains to be done in order to effectively eliminate Vietnam's role in wildlife trafficking globally is to bring the leadership of wildlife trafficking criminal enterprises to justice, starting with using major seizures, both at ports and elsewhere, as opportunities to collect evidence and build cases against trafficker kingpins and their networks.

It's important that we take an even stronger stance on wildlife crime and deliver the knock-out blow needed to consolidate our gains and eliminate – once and for all – the criminal activities of a few that undermine the reputation of a nation and threaten the existence of some of the world's most critically endangered species.

EDUCATION FOR NATURE - VIETNAM (ENV)

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 effective application of laws and policy that protect wildlife.
-  Strengthening enforcement through direct support and assistance to law enforcement agencies in combatting wildlife crime.
-  Reducing consumer demand for wildlife products through investment in a long-term and sustained effort to influence public attitudes and behavior, including mobilizing public participation and action protecting wildlife by reporting wildlife crime.



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