

WILDLIFE CRIME

BULLETIN

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JANUARY - MARCH 2023**

COUNTER WILDLIFE TRAFFICKING (CWT) PRIORITIES 2023

In 2016, ENV first identified ten critical actions that Vietnam should take to stop the illegal wildlife trade and positively impact the future of Vietnam's endangered wildlife, as well as to reduce and ultimately eliminate Vietnam's role in global wildlife trafficking.

As identified by ENV, 10 priorities for countering wildlife trafficking in Vietnam in 2023 are:

1 Take down major international trafficking networks and their leaders

There are still at least 14 known “kingpins” behind the trafficking of large quantities of ivory, pangolin scales, and rhino horns into or through Vietnam. Therefore, it is of the highest priority for law enforcement agencies to strategically eliminate these networks and bring their leaders to justice.

2 Investigate major seizures at ports to ultimately identify, arrest, and prosecute the senior traffickers behind these shipments

An assessment of major seizures at Vietnam's ports since 2018, which together amount to just over 60 tonnes of ivory and pangolin scales, shows that only one of these major seizures resulted in an arrest.

ENV urges port authorities to expand their partnership with the Ministry of Public Security to conduct in-depth investigations into major seizures at ports, with the aim of arresting and prosecuting leaders of these wildlife trafficking networks, having a substantial impact on international wildlife trafficking, and ultimately, reducing the poaching of rhinos, elephants, pangolins, and other wildlife.



3 Eradicate corruption

Corruption is a widespread problem that severely impacts efforts to effectively combat wildlife trafficking in Vietnam. Corruption takes many forms, ranging from the issuance of commercial wildlife farm permits that provide a cover for criminal laundering operations, to letting criminals go instead of arresting them, or facilitating clearance through airports, seaports, and along our land borders.

We must set high standards of integrity, increase transparency, and promote accountability within the criminal justice system to tackle corruption.



4 Prevent criminal behavior through establishing effective deterrents

ENV calls upon prosecutors and judges throughout Vietnam to keep up the good work, and to exercise “zero tolerance, zero sympathy, zero self-interest” in dealing with wildlife trafficking cases. Taking steps to arrest, prosecute, convict, and punish wildlife traffickers accordingly under the law, as well as widely disseminating such successes, are critical to deterring criminal behavior.



5 Address laundering and tighten controls of commercial farms through the issuance of a “clean list” of species viable for farming

There are more than 9,000 licensed commercial wildlife farms in Vietnam. Many of these farms are engaged in some form of illegal activity, such as laundering wild-sourced animals through their farms, falsifying and selling permits, and keeping animals that they are not authorized to keep.

Along with tighter controls and management of commercial wildlife farms, ENV is calling for the issuance of a “clean list” of species that CAN be farmed and the limiting of commercial farming to only these species.

By limiting commercial wildlife farming to a list of species that are viable for captive production, all other species, including many species that are not suitable for farming, will receive greater protection. Ultimately, tighter regulations, greater oversight, and stricter enforcement will reduce and eventually eliminate the laundering of “clean listed” species as well.



6 Develop ONE overarching law on non-commercial/conservation facilities

Vietnam already has a comprehensive legal framework on wildlife; however, it lacks detailed regulations that would help to ensure effective mechanisms for monitoring wildlife facilities. There is an urgent need for the development of ONE law that clearly defines conservation facilities and other non-commercial facilities with detailed conditions for their establishment and effective management tools to oversee facility operations. The law must effectively prohibit commercial trade at these facilities, require all animals to be legally sourced, regulate the breeding of endangered species, and limit their establishment and operation for conservation and educational purposes only. This new law should also include strict punishment for violations, ranging from fines for minor infractions, to criminal penalties and loss of operations licenses in cases where regulations are seriously breached.



7 Tackle tiger trafficking in and into Vietnam, especially in Nghe An province

Since 2018, a total of 38 seizures involving 88 live and dead tigers being trafficked in Vietnam have been recorded on ENV’s Wildlife Crime Incident Tracking Database. A majority of these seizures are linked to Nghe An province, which is well-known for being the nation’s hotspot for tiger trafficking. To tackle this issue, ENV’s proposed solution entails focused investigations targeting the arrest and prosecution of eight identified major tiger traffickers in Nghe An province; seizure of all illegally held “basement” tigers; shutdown of registered tiger facilities in the province known to be laundering illegal tigers; cooperation with the Laotian government to close Vietnamese-owned or -operated tiger trafficking facilities based in Laos that are trafficking tigers into Vietnam; and the strengthening of effective controls at Cau Treo border gate to eliminate the flow of tiger cubs, as well as other forms of wildlife, from Laos into Vietnam.





8

Pull the plug on wildlife crimes on the Internet

In 2015, a total of 21% of all cases recorded by ENV involved online violations (284 cases). In 2022, the percentage of online crimes jumped to 49% (1,686) of all cases.

With the rapid development of online wildlife crime over the past few years, it is understandable that law enforcement agencies would be ill-equipped or unprepared to deal with this new form of crime.

ENV urges law enforcement agencies to actively strengthen law enforcement by targeting online markets and suppliers of illegal wildlife, followed by the issuance of heavy fines, arrests, prosecutions, and imprisonment of serious violators to strengthen deterrence.



9

Finish the job: Ending bear bile farming in Vietnam and closing down all bear farms in the nation's capital

With about 220 bile bears remaining on farms in Vietnam and 43 bear farm-free provinces, the end of bear farming is well within our grasp. However, a total of 120 bears remain on bear farms in Hanoi, accounting for 50% of the national total, and Phuc Tho district alone is home to most of Hanoi's 17 remaining bear farms.

The Hanoi and Phuc Tho People's Committees should act decisively to end bear bile farming in the nation's capital, setting an example for all.

“PEOPLE WHO BUY, SELL, OR TRADE WILDLIFE IN VIOLATION OF THE LAW ARE CRIMINALS.”



10

Arrest the growth of the exotic species trade

Trade in exotic species – mainly for keeping as pets – represents a growing trend in Vietnam, particularly amongst the younger generations. In the past two years alone, the ENV Wildlife Crime Incident Tracking Database recorded more than 288 cases involving more than 9,700 exotic wildlife individuals being traded or kept.

It is critical that the government take steps to proactively address the rise of the exotic species trade in Vietnam, before there is widespread introduction of non-native species to the wild, and before the illegal market grows to a point where the crisis is unmanageable.

In addition to putting in place specific regulations on keeping wildlife (and exotic species in particular) as pets, as well as imposing a ban on the release of exotic species into the wild, it's also important that law enforcement agencies strictly monitor and handle violations involving exotic species, as well as strengthening international border management and monitoring to prevent exotic species from entering Vietnam without legal documentation.



For additional information on the 2023 CWT priorities, please scan the QR code:



AS WE OFTEN SAY :

THE EXCUSE FACTORY IS CLOSED



Failure is failure. When authorities respond to a publicly reported crime but the response fails to yield a successful outcome, it is still a failure, though perhaps not avoidable. Each time we fail, we can analyze what we did and learn how we could have done it better, increasing our likelihood of success the next time.

Live animal cases are difficult. A turtle being sold on the street could be bought and gone by the time the authorities arrive. A civet in a cage in front of a restaurant could be slaughtered and eaten before authorities arrive. Live endangered animals at a pet shop, a serpent eagle in front of a store, turtles at a market...all can be gone before authorities arrive.

Authorities' response times can have a certain amount of flexibility, based on available manpower and other factors. Violations on menus, bear paw wine jars at a bar, ivory bracelets in a shop, and many other types of violations will still be there tomorrow, and in such cases, response time can be measured in days, or even a week, but not much more.

Live animal crimes (aside from possession cases) almost always require timely action. Not weeks, not days, and preferably not hours. Sometimes minutes. Anything short of a fast and timely response almost always results in failure.

It is clear that response time can vary greatly for authorities based on whether the violation involves live animals or advertising, parts, and products. ENV strongly urges functional agencies to differentiate between the two types of reports and respond accordingly, particularly in the case of live animals. There can be no excuse for failure in a live animal case, as these types of cases require an immediate response if there is any hope of success.

FEEDBACK FROM AUTHORITIES: FOUR EXCUSES THAT FUNCTIONAL AGENCIES TELL THEIR BOSSES WHEN THEY FAIL



We responded, but the information was false.

ENV: It is true that a small percentage of cases reported by the public include false or inaccurate information. However, independent monitoring by ENV and witnessed accounts of responses by authorities show that the violations are present in an estimated 90-95% of all cases reported, and that in some cases, the authorities do not show up at all, claiming that they did.



The subject ran away or was not found.

ENV: This is usually an excuse used on street vendor cases where authorities claim that no violation was found, or that when they arrived, the subject outsmarted/or outran authorities, escaping before they could be apprehended. Independent monitoring of street vendor cases in Ho Chi Minh City showed that in some cases, either authorities did respond but failed to act when the subject was found, or as in other cases, the authorities did not show up at all and simply reported to ENV that they did and found nothing.



The subject was issued a warning only.

ENV: Warnings are acceptable, but only if they work and successfully secure the violator's compliance. In many cases, the responding officer must make a reasonable assessment as to whether stronger action is needed to deter future crime. Illegal animals should never be left in the hands of a subject following a warning; confiscating live animals or parts and products is a requirement for authorities under the law.



The live animals were legally sourced from a farm.

ENV: While this may be true in some cases, papers confirming legal origin must be presented by the owner upon inspection by authorities. If such papers cannot be presented or the papers include discrepancies, such as having expired or not including animals that are found at the restaurant, then the animals are illegal. Simply claiming that animals come from a commercial wildlife farm does not meet compliance with requirements under the law.

Many provinces are very responsive in dealing with live animal cases and treat such violations seriously. ENV would argue that the functional agencies in these provinces tend to be more responsible and better managed than those in some other provinces, and that superiors hold their subordinates to some degree of accountability for their performance.

ENV urges the leadership of functional agencies to set higher expectations for their subordinates. Increase accountability. Demand results. Clear pathways for promotion so that those within the ranks that are capable and energetic can actively make the province proud. And most importantly, close the excuse factory – it serves no other purpose than justifying more failure.



VIETNAM'S FIRST WILDLIFE CRIME PRECEDENT

On February 24, 2023, the Chief Justice of the Supreme People's Court issued Decision No. 39/QD-CA on precedent publication, in which the first wildlife-related precedent (No. 58/2023/AL) was introduced. The precedent refers to judgment No. 179/2018/HSST dated September 14, 2018, of the People's Court of Ha Long city, Quang Ninh province, on the means by which vital, inseparable body parts of endangered wildlife were converted to the number of individuals being impacted by the crime, thus establishing a foundation for determining applicable clauses under Article 244 of the Penal Code in similar cases.

Accordingly, a single vital, inseparable body part of an endangered wildlife species is considered equivalent to one animal of this particular species. If an exhibit comprises both wildlife individuals and vital, inseparable body parts of endangered wildlife species, the total number of impacted wildlife individuals equals the total number of individuals plus the number of vital, inseparable body parts, unless (1) the vital, inseparable body part is proven to belong to one of the confiscated wildlife individuals (in such cases, the total number of impacted wildlife individuals is equal to the number of confiscated animals), or (2) all the vital, inseparable body parts belong to only one wildlife individual (in such cases, the total number of impacted wildlife is equal to the total number of confiscated wildlife individuals plus one).



NEW AMENDMENTS IN CIRCULAR NO. 26/2022/TT-BNNPTNT ON THE MANAGEMENT AND TRACEABILITY OF FOREST PRODUCTS

Circular No. 26/2022/TT-BNNPTNT, which replaces Circular No. 27/2018/TT-BNNPTNT, took effect in February 2023, stipulating the management and traceability of forest products. Similar to Circular 27, the new circular requires ALL wildlife, their parts, and products to be of legal origin and to be traceable, in order to prevent illegal wildlife trade. In addition, wildlife owners are now required to maintain records of legal origins of wildlife **indefinitely**.

Another notable amendment under Circular 26 is the introduction of a new form for the list of forest products (Form No. 4 attached with Circular 26). In addition to the information that was previously required by Circular 27, the new circular also requires detailed information from the wildlife owners, as well as individuals and organizations buying/receiving ownership of wildlife. This amendment is aimed at eliminating laundering of wildlife.

Moreover, according to Circular 26, certification of forest product lists is mandatory for all wildlife species, parts, derivatives, or products in all cases, **with the exception** of transactions comprising **fewer than five finished and marked products**¹ processed from **crocodiles, species under Group IIB** of the List of endangered, precious, and rare wild plants and animals, and **CITES Appendix II and III species**.

More information on Circular 26:



¹ Although the definition of "finished products" has not been provided in the Decree, it can be understood that these are products made from wildlife that have been processed, manufactured, and labelled directly on the specimen or on the package containing the specimen.



In the Quang Ninh case that was used as the basis for this precedent, the offender was caught while transporting five tiger cubs and a tiger penis. In this case, the Judges' Council decided that the confiscated tiger penis is a vital, inseparable body part of a tiger, and it didn't belong to any of the five confiscated tiger cubs. Therefore, this penis was considered equivalent to a tiger, and the crime accordingly impacted a total of six tigers. As a result, the offender was prosecuted and tried under the third punishment bracket of Article 244 rather than the second punishment bracket, which would have applied had his crime only impacted five tigers.

ENV believes that in cases involving numerous vital, inseparable body parts of endangered wildlife, the competent authorities are responsible for identifying whether these parts belong to different or the same wildlife individuals, and examinations by experts might be needed in serious complicated cases.

Scan the QR code for full details of the precedent. Please also feel free to contact ENV should you encounter any difficulties in understanding or implementing the precedent or other wildlife laws.



“ THE ILLEGAL WILDLIFE TRADE IS MAINLY RUN BY ORGANIZED CRIMINAL NETWORKS, SOME OF WHICH ARE ALSO INVOLVED IN TRAFFICKING DRUGS AND HUMANS. ”



UPDATED CITES APPENDICES

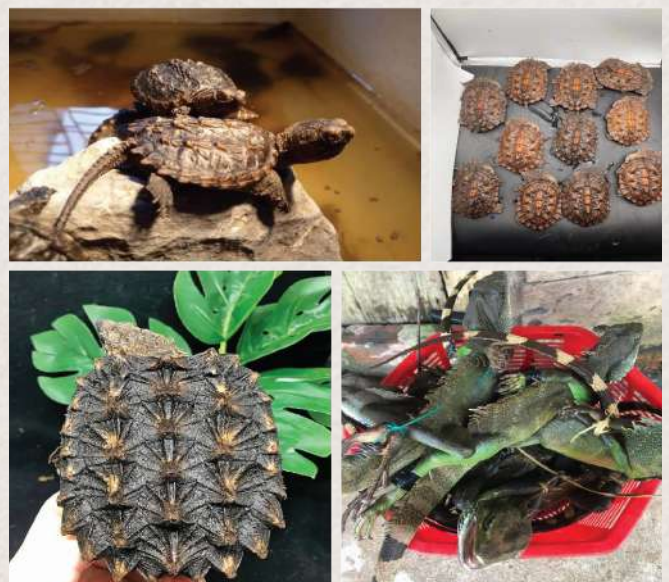
On November 14-25, 2022, the 19th Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) was held in Panama City. At the conference, member states adopted 46/52 proposals, deciding on whether to increase or decrease controls on international trade of more than 500 species with the aim of ensuring the sustainability of populations of these species in the wild.

Some recent important additions to the CITES Appendices include:

- Chinese water dragon (included in CITES App. II)
- Mata-mata (included in CITES App. II)
- Indochinese box turtles (transferred from CITES App. II to App. I)
- Alligator snapping turtles (transferred from CITES App. III to App. II)
- Snapping turtles (transferred from CITES App. III to App. II)

Most of the amendments to the CITES Appendices have come into force as of February 23, 2023 – that is, 90 days after the end of the conference, as provided for in Point c, Clause 1 of Article XV CITES – and are binding to all member countries, including Vietnam.

Upon the conclusion of the convention, the CITES Management Authority of Vietnam issued Notice No. 25/TB-CTVN, dated February 17, 2023, on the publication of the List of wild fauna and flora species included in the CITES Appendices. You can access the updated list via this QR Code:





HOW TO GET WILDLIFE EXHIBITS VALUATED

In criminal proceedings, the valuation of wildlife exhibits is a mandatory requirement for the prosecution of criminals in cases related to:

- Products of species listed in CITES Appendix I, as well as in Group IB of Decree 06/2019/ND-CP (amended and supplemented by Decree 84/2021/ND-CP);
- Individuals, organs, and products of species listed in CITES Appendix II and III and species listed under Group IIB of Decree 06/2019/ND-CP (amended and supplemented by Decree 84/2021/ND-CP);
- Common forest species.

According to the law, authorities can use one of two methods to determine the monetary value of wildlife for the handling of wildlife-related crimes:

1. Send a request for asset valuation to the local Asset Valuation Council

Law enforcement authorities can send a request for asset valuation of wildlife in criminal proceedings to the Asset Valuation Council in the locality, in accordance with the principles and procedures specified in the Criminal Procedure Code and Decree 30/2018/ND-CP dated March 7, 2018.

During the valuation process, the Asset Valuation Council will value wildlife based on Article 15 of Decree 30/2018/ND-CP (which may include valuations provided by consulted valuation enterprises).

2. Send a request to individuals and organizations in the financial sector for judicial expertise on a case-by-case basis

ENV believes this method is easier to implement, while still maintaining compliance with the provisions of the Criminal Procedure Code regarding the source of evidence. Competent authorities can solicit expertise on a case-by-case basis from individuals or agencies in the financial sector (valuation enterprises) which are authorized for judicial assessment. These individuals or agencies can be found on the list of individuals and agencies officially approved for the purpose of valuation by the Ministry of Finance (currently under Notice No. 955/TB-BTC dated December 30, 2022) according to the principles and procedures specified in the Criminal Procedure Code and Circular 40/2022/TT-BTC of the Ministry of Finance, dated June 29, 2022.

ENV has developed a list of judicial assessment agencies which are specifically capable of valuing wildlife on a case-by-case basis according to Notice No. 955/TB-BTC of the Ministry of Finance, dated December 30, 2022. For the full list, please scan the QR code:



SPECIES IDENTIFICATION

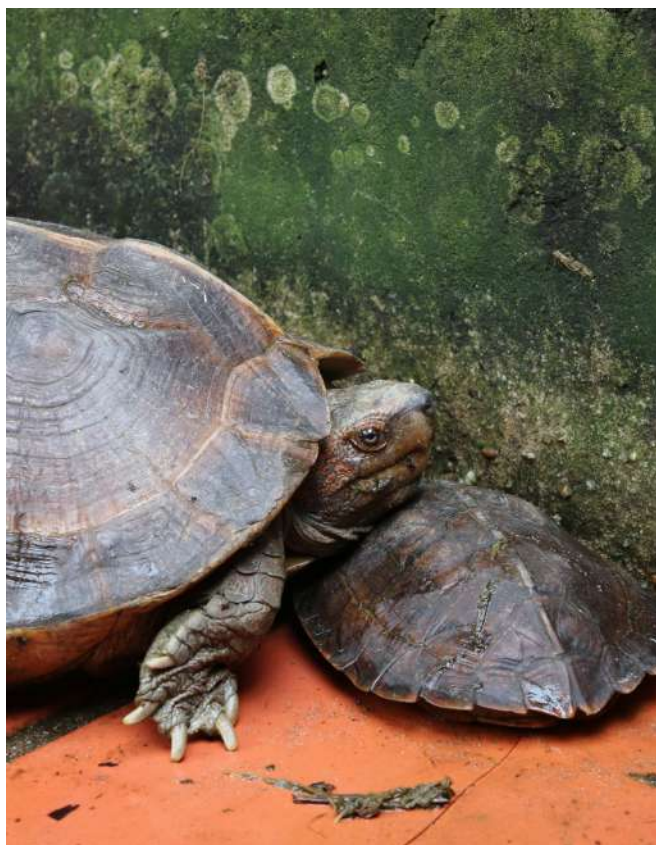
When handling wildlife violations, it is important that authorities perform accurate wildlife species identification in order to determine the corresponding level of legal protection. In some cases, this requires authorities to request identification services from competent agencies with expertise in wildlife identification.

Based on a review of relevant regulations and extensive experience in coordinating with authorities on the handling of wildlife violations, ENV recommends that authorities request wildlife species identification services at the following agencies:

1. Vietnam CITES Scientific Agencies

CITES Scientific Agencies of Vietnam (as appointed in Decision No. 4519/QD-BNN-TCLN, dated June 17, 2020, of the Ministry of Agriculture and Rural Development on the designation of CITES Scientific Authorities of Vietnam) with expertise in wildlife identification include:

- Institute of Ecology and Biological Resources (IEBR), specializing in terrestrial animals and aquatic animals
Address: No. 18 Hoang Quoc Viet Street, Cau Giay district, Hanoi city
- Research Institute for Marine Fisheries, specializing in aquatic animals
Address: No. 244 Le Lai Street, May Chai ward, Ngo Quyen district, Hai Phong city
- Vietnam National Museum of Nature, specializing in terrestrial animals
Address: 18 Hoang Quoc Viet Street, Cau Giay district, Hanoi
- Central Institute for Natural Resources, specializing in terrestrial animals
Address: 19 Le Thanh Tong Street, Hoan Kiem district, Hanoi
- Southern Institute of Ecology, specializing in terrestrial animals and aquatic animals
Address: 1D, TL 29 Street, Thanh Loc ward, district 12, Ho Chi Minh City
- Institute Of Oceanography, specializing in aquatic animals
Address: 01 Cau Da Street, Vinh Nguyen ward, Nha Trang city, Khanh Hoa province
- Research Institute for Aquaculture, specializing in aquatic animals
Address: 02 Dang Tat Street, Vinh Hai ward, Nha Trang city, Khanh Hoa province



A number of CITES Scientific Agencies of Vietnam and their affiliated staff have been announced by competent State agencies as organizations or persons with judicial expertise in wildlife identification on a case-by-case basis. The remaining CITES Scientific Agencies are in the process of applying to be officially nominated and announced for this purpose as well.

However, regardless of whether or not these Vietnam CITES Scientific Agencies have been announced by competent State agencies as persons or organizations with judicial expertise on a case-by-case basis, these agencies still have the qualifications and functions to conduct judicial assessment of wildlife species if requested in writing (with reasons detailed) by the agency conducting the proceedings.

2. Specific individuals and organizations

According to Article 20 of the Law on Judicial Assessment 2012 (amended and supplemented in 2020), specialized ministries (e.g. the Ministry of Agriculture and Rural Development or the Ministry of Natural Resources and Environment); other ministerial-level agencies (e.g. Vietnam Academy of Science and Technology); and provincial-level People's Committees are responsible for annually publicizing a list of experts and organizations of judicial expertise (which fall under their respective scopes of management) which can facilitate criminal/civil procedures on an ad hoc basis.

Authorities must therefore refer to this list of persons/ organizations of judicial expertise in wildlife-related fields (e.g. forestry, agriculture, rural development,

and biodiversity) as published by the aforementioned agencies – especially the Provincial People's Committee in the locality – in order to determine where to solicit wildlife identification when necessary.

In the absence of either a Vietnam CITES Scientific Agency in their area or a judicial assessment organization or individual that may provide judicial expertise on an ad hoc basis (as listed by the government), enforcement authorities may refer to individuals and organizations with expertise in wildlife identification that are not on the announced list of the government, but must clearly state the reason for doing so in writing.

In this case, the competent authority may request that the Legal Department under the Ministry of Agriculture and Rural Development and the Department of Agriculture and Rural Development under the People's Committee of the province provide the information of unlisted, qualified individuals or organizations that meet the standards and conditions specified in Circular 20/2022/TT-BNNPTNT to carry out wildlife identification activities.

“THE BEST PLACE TO PROTECT WILDLIFE IS IN THEIR HABITAT WHERE THEY BELONG, BEFORE THEY FALL INTO THE HANDS OF HUNTERS AND TRADERS.”



ENV WILDLIFE CRIME UNIT OPERATIONS

JANUARY-MARCH 2023

TACKLING WILDLIFE CRIME



The ENV Wildlife Crime Unit receives an average of **8** new cases reported to the ENV's Wildlife Crime Hotline each day. Upon receiving a report, experienced case officers contact the appropriate authorities to address the violation and track each case through to its conclusion, documenting the outcome on ENV's Wildlife Crime Incident Tracking Database. In many cases, ENV cooperates directly with law enforcement to undertake operations aimed at both apprehending traffickers and seizing wildlife.

A total of **861** cases were logged during the first three months of 2023, comprised of **2,423** individual violations. These cases included **45** trafficking cases, **610** retail selling and advertising cases, and **204** cases involving illegal possession of wildlife, commonly possession of live animals.

Hotline reports from the public accounted for **478** new cases during the reporting period, of which **59%** resulted in successful outcomes. Successful outcomes include seizure of wildlife, arrest, and prosecution, as well as administrative penalty or voluntary compliance as a result of warnings issued by authorities or ENV.

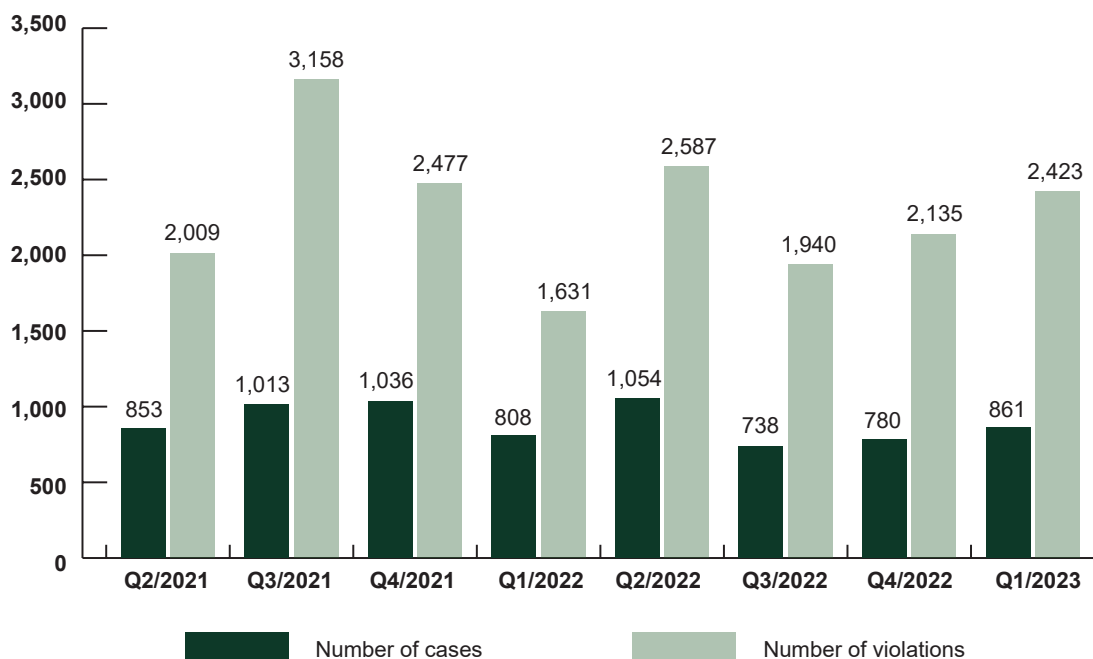
During this reporting period, **994** live animals were confiscated or transferred to authorities with ENV assistance. These included **43** macaques, **5** Asiatic black bears, **389** tortoises and freshwater turtles, **2** gibbons, and **458** birds, as well as many other species.

Additionally, **298** online advertisements were addressed either through law enforcement action, voluntary compliance following issuance of warnings, or deactivation and removal by websites and social media platforms.

Since 2005, when the ENV Wildlife Crime Unit was established, ENV has logged **26,583** cases comprised of **74,176** individual violations.

ENV wishes to thank our collaborating partners in law enforcement, provincial Forest Protection Departments, and most importantly, the public, for working together to strengthen wildlife protection and help Vietnam meet its national and international responsibility to protect global biodiversity.

ENV CASELOADS AND VIOLATIONS OVER THE PAST TWO YEARS



EDUCATION FOR NATURE – VIETNAM

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 combating illegal wildlife trafficking in Vietnam. These include:

- Working with policy-makers to strengthen legislation, close loopholes in the law, and promote sound policy and decision-making relevant to wildlife protection.
- Strengthening enforcement through direct support and assistance to law enforcement agencies, and mobilizing active public participation in helping combat wildlife crime.
- Reducing consumer demand for wildlife products through investment in a long-term and sustained effort to influence public attitudes and behavior.

ENV's efforts to combat illegal hunting and trade of wildlife are made possible thanks to the generous support of the following partners:



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Education for Nature – Vietnam



Education for Nature – Vietnam



[env.wildlife](https://www.instagram.com/env.wildlife)