

UNIVERSITY OF SZEGED

Doctoral School of Law

**Theses of doctoral (PhD) dissertation**

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**The International Legal Frameworks of Wildlife Crime**

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# I. Background of the Thesis

## I.1. Identification of Research Tasks and Motivation

*“Remember that animals and plants have no M.P. they can write to; they can't perform sit-down strikes or indeed, strikes of any sort; they have nobody to speak for them expect us, the human beings who share the world with them but do not own it.”*

(Gerald Durrell)

Nowadays biodiversity loss is one of the most important environmental issues. One tool in order to preserve biodiversity is to protect endangered species. The “*Red List*” of the International Union for Conservation of Nature provides reliable information about the number of endangered species. With regard to the List, more than 28 thousand species are frightened by extinction, almost 30 percent of all. The survival of species is highly threatened by activities such as the destruction of the natural habitat and the negative aspects of global warming. However, the leading cause of intensified extinction is the economic exploitation of species. The loss of species is a natural phenomenon in wildlife but the last couple of centuries, especially the human activities during the 20<sup>th</sup> century, resulted a much more intensive loss than the natural, causing the disappearance of 20-50 thousand species annually. Those species considered as endangered that are threatened by extinction, so the subsistence of these species is not granted, usually caused by two factors. Firstly, the destruction of natural habitat, on the other hand the non-sustainable use and exploitation of wildlife.

The first time when I came across the phenomenon of “*wildlife crime*” – that provides the basis of my dissertation – was when I attended the annual ACUNS conference in Vienna, in 2015. During my later research I realized, that the above-mentioned topic is mainly unknown for the Hungarian academic literature. The lack of literature is hardly understandable because biodiversity and the phenomena threatening the subsistence of species became key-questions for the international community. In my dissertation I highlight several occasions that wildlife crime can be considered as one of the main difficulties towards the preservation of biodiversity. During my doctoral studies, I have published several articles about wildlife crime, the relevant conceptual issues and the relevance of the European Union. The main focus of my doctoral dissertation is one form of wildlife crime, the wildlife trade and the relevant international treaty

(CITES: Convention on International Trade in Endangered Species of Wild Fauna and Flora, Washington 1973. In force: 1975.)<sup>1</sup>

Wildlife crime is one form of environmental crimes. The illegal trade with endangered species of wild fauna and flora and the trade of wildlife products are the forms of wildlife crime. In the Hungarian language there is a distinction between those forms of the acts considered as wildlife crime, that are punished by criminal sanctions, such as imprisonment. The difference arises from the meaning and translation of “*crime*”. Only the most serious forms of wildlife crime are penalized and sanctioned by criminal law. The basis of my doctoral thesis is one form of the abovementioned acts, the wildlife trade and the trade of endangered wild species regulated by the CITES.

## **I.2. Aims of Research**

*a) To settle the problems of terminology.*

Nowadays there is no generally accepted translation of the English terminology for the following: wildlife crime, wildlife trade, wildlife products. So, my primary goal was to find a proper translation that meets with the linguistic and academic requirements, furthermore, it can be used well in literature. Later I provide a short summary, how the different translations are used within the dissertation.

*b) Determination of the wildlife crime's definition.*

Although the Hungarian literature also pays attention to the environmental crimes, the most important forms, such as wildlife crime and wildlife trade are barely known despite the fact that they have been playing a leading role as part of the environmental discourse in the last decade. At the same time, in my doctoral dissertation I did not want to analyze all forms of environmental crimes. One of the main elements of the dissertation is to answer the question, whether is it aught possible to create one uniform definition for wildlife crime or just the elements can be identified that generally characterize wildlife crime.

*c) To determine the main characteristics of wildlife crime.*

The statement that I made with regard to the Hungarian terminology is true at the international level as well. There is no universally accepted definition for wildlife crime, although the main

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<sup>1</sup> In the following: Convention, CITES, Washington Treaty.

elements of the definition can be identified via the resolutions of the relevant international organizations and international treaties. I systematically organized the relevant resolutions, treaties, and agreements, tools, that are applied by the international community with regard to wildlife crime.

*d) To identify the connection between wildlife crime and transnational organized crime.*

In several cases, the activities that are harmful to the wildlife are remaining within the territory of one sovereign state (such as poaching), however, the rise of organized criminal groups committing environmental crimes, creates challenging new tasks for the law enforcement agencies. The illegal wildlife trade provides that wildlife products – usually also illegally obtained – or species get to the final customer. So, from the thesis' perspective, the evaluation of the connection between wildlife crime with special regard to illegal wildlife trade and transnational organized crime is indispensable. The evaluation of the relevant international legal instruments is also in focus.

*e) Illegal wildlife trade – species and products from wildlife that are the object of illegal trade – is one of the main obstacles in front of the success of programs targeting biodiversity.*

Illegal wildlife trade is the typical form of wildlife trade, that has an international character. Wildlife trade is generally not forbidden or sanctioned, it is one of the main income sources of several states. When endangered, wild species of fauna and flora are the object of trade and connecting activities, the relevant international treaty, the CITES has to be followed. The Washington Treaty has a significant role in the regulation of international trade of endangered species.

*f) The critical review of the CITES.*

The Washington Treaty developed one of the most well-functioning treaty systems when we consider the multilateral environmental treaties. On the other hand, critical views can be formulated – with regard to the effectiveness, the regulation, the Annexes – towards the Convention. The critical consideration of the CITES is one of the main aims of the dissertation, including the significant issues of relevant literature.

*g) To present the impact of Annexes attached to CITES towards wildlife crime and wildlife conservation efforts.*

The level of protection provided by the CITES depends on the Appendices (I.-II.-III.). Appendix I. provides the most and Appendix III. provides the least protection for the species. Nevertheless, critical views were formulated, that the CITES is just a political tool in the hand of the States and for those species that have economic value, the support of the states cannot be reached.

*h) The compatibility of trade suspensions, with regard to the WTO's regulation and the international trade law.*

Some aspects of the international trade law are also arising, because of the multidisciplinary character of the topic, especially the question of trade suspensions applied considering the CITES. The compatibility of these trade suspensions is a significant issue considering the international trade law and the WTO system.

*i) Analyzation of the international treaty law aspects – the effect of reservation clauses made to the Washington Treaty.*

The reservation clauses made by the states is another issue that arises in connection with the effectiveness of the CITES. The reservation clauses had been antagonized the practical enforcement and effectiveness of the Convention. The parties to the treaty usually enter reservations when the protected and endangered species have economic value for the states. Can the reservation be considered as the “loophole” for states in order to avoid the strict regulation or ban of trade with some valuable species?

*j) The analyzation of individual responsibility and wildlife crime.*

The consideration of individual criminal responsibility for wildlife crime and relevant acts stays in the jurisdiction of states. The procedures are conducted in front of the judicial bodies of the states and on other levels of enforcement. Although several multilateral environmental treaties include clauses to “measure and penalize” activities by the parties – the CITES as well – the details rely on the states and the states’ legislation. In several counties, “measures” are not equal to criminal classification. The legal consequences, be civil law, criminal law or administrative law, has their specific functions in sanctioning the environmentally harmful activities. Because environmental crimes are more and more compelling for the international community, the formulating international criminal law can reach a point, where a new category of crime is

created. However, nowadays we cannot mention such category despite that the practice of the International Criminal Court is also more attentive to environmental harms.

*k) The analyzation of the European Union Wildlife Trade Regulation, the European Union as a party to the Convention.*

The European Union was the first “regional economic organization” that joined the Washington Treaty. Another reason for detailed analyzation is the fact, that the European Union and its member states are in the front zone of wildlife trade, where the internal market also creates another difficulty.

### **I.3. Applied Research Methods and Collection of Literature**

During my research, I relied on three main sources. Firstly, the relevant and almost exclusively foreign language literature, furthermore, the sources of international and European Union law. Last but not least, the resolutions of the intergovernmental organizations were important sources too.

#### **I.3.1. Processing the relevant academic literature**

The lack of Hungarian academic literature was one of the main reasons to choose wildlife crime as the topic of my doctoral dissertation. On the other hand, one of the difficulties was the lack of proper Hungarian terminology. So, I could not find any relevant articles and books in Hungarian language with regard to the international law aspects of wildlife crime. Nevertheless, connecting to several special aspects – such as sanctions (countermeasures), reservation clauses, several issues of European Union law – I was able to find, analyze and cite the relevant academic literature. Several substantial foreign language articles and books can be found connecting to wildlife crime, with special regard to the issues of wildlife trade and the CITES. The first step of my research was to find and analyze the relevant literature. Hereby I would like to highlight some of the significant researchers, such as *Rosalind Reeve* (Royal Institute of International Affairs) and *Peter H. Sand* (Ludwig-Maximilians University, München) who published detailed articles in connection to the critical approach with regard to the Convention. Furthermore, several online sources are available about extinction, biodiversity loss, good practices, and some practical aspects, that can be used very well.

### **I.3.2. Sources of International and European Union law**

Numerous international treaties are specified in my doctoral dissertation, for example with regard to biodiversity and environmental crimes. On the other hand, only one international convention is analyzed in details, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). During my research – especially in connection with wildlife trade – the CITES has been in the focus point. Because I wanted to avoid the lengthy and continuous word-to-word citation of legislation and treaties, I tried to demonstrate the treaty provision via practical examples. A great example of the abovementioned method is the chapter about the Appendices, where the treaty rules were exemplified with the case of African elephants. The chapter about the EU wildlife trade is based on the Wildlife Trade Regulations of the European Union, complemented with the relevant communications and other sources (of the European Commission and the Council of the European Union).

### **I.3.3 The resolutions of the intergovernmental organizations**

Finding the resolutions of the relevant intergovernmental organizations was one of the main research aims. The resolutions have a detailed description of the definition and other characteristics of wildlife crime and wildlife trade. The resolutions of the United Nations' main organs usually have a practical approach, exemplifying the characteristics via examples. The other elements are connecting to the transnational organized crime and other criminal activities, such as corruption. Furthermore, the resolutions invite the member states of the United Nations to sign and ratify the relevant international conventions (the United Nations Convention against Corruption and the United Nations Convention against Transnational Organized Crime). So, the practical and international law elements are combined in the resolutions of the intergovernmental organizations. During my research I considered as relevant the following organizations: some of the main organs of the United Nations (General Assembly, Security Council, Economic and Social Council), the United Nations Environment Programme (UN Environment), the United Nations Office on Drugs and Crime (UNODC) and the Commission on Crime Prevention and Criminal Justice. I was trying to sort out the elements connecting to different areas of law, with special regard to the trade activities.

### **I.4. Presentation of Dissertation**

The structure of the doctoral dissertation follows the different areas of law, because of the multidisciplinary character of wildlife crime. The different aspects of international environmental law, international trade law, criminal law, international criminal law, European



Union law, and international public law can be found in the dissertation. The dissertation considers one form of wildlife crime, the illegal wildlife trade of endangered species as a focus point, so the detailed research of the connecting areas would have diverted the research. The research of the topic of wildlife crime demands multidisciplinary research approach, the comparative analysis. The matter of wildlife crime is full of interesting and hardly approachable legal problems that need persistent consideration and international view to answer. However, several connecting issues are arising too, that are not analyzed in details as part of the dissertation. The following issues are not part of the research and the dissertation: the international conventions sentenced to biodiversity (in details); the rights of indigenous peoples, the question of state responsibility, the free-trade and the environmental law aspects. After the *summary of the main research aims* and the *introductory thoughts*, I focus on the phenomenon of wildlife crime, highlighting the importance of the occurrence towards the protection of endangered species and to the environmental, social and economic aspects of the states (*II. chapter*).

In the *III. main chapter* I write about the conceptual issues, in which after specifying the scheme of wildlife crime in international law, the various elements of the definition are discussed. Although I disregard the detailed analyzation of environmental crimes, the main categories and definitions can be found in the dissertation. The certain conceptual elements are also described, with special regard and in details to the correlations of transnational organized crime and wildlife crime. Furthermore, the significance of corruption in connection to wildlife crime is also highlighted. With regard to the aspects of transnational organized crime and corruption, the relevant international conventions are also parts of the research. The relevant resolutions, decisions of the intergovernmental organizations – such as the main organs of the United Nations and the UNEP – are also objects of discussion. The main character of the abovementioned decisions, resolutions is that the different elements (criminal law, environmental law, trade law, and international public law) are mixed.

The *IV. main chapter* of the dissertation is sentenced to the issue of wildlife trade. I analyze the relevant international and European Union Law legislation in a comprehensive approach. Wildlife trade can be considered as the most important form of wildlife crime, that has an international character. Since the signature of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, several challenges occurred towards the basically well-functioning treaty system. The implementation and practical enforcement of the CITES raise international public law and trade law issues that cannot be answered in a reassuring way. The legal force of the decisions and resolutions accepted by the CoPs (Conference of the

Parties), the compatibility of trade suspensions with the WTO system and the effect of reservations to the protection of species are the main concerns that can be raised. In my dissertation – as the last part of the IV. chapter – I focus on the “measures” that must be taken by the parties to the convention, to the individual criminal responsibility and to the approach of the International Criminal Court about environmentally harmful activities.

Last but not least, in the V. *main chapter*, I analyze the main regulation of the European Union, with regard to the differences between the CITES and the Wildlife Trade Regulations of the European Union.

Before the “*Closing Thoughts*”, the dissertation ends with the following chapter: “*Conclusion: the tools of the fight against wildlife crime – corner point in the conservation of protected species.*”

## **II. Theses of Dissertation**

Before the theses of the dissertation, I shortly summarize, how the terminological issues are settled and what kind of wording is applied in my dissertation.

The first main goal of the dissertation is to create the proper Hungarian terminology, that can be used in the academic literature and also meets with the linguistic requirements. As a result, I differentiated between the activities that are sanctioned by criminal law from those that are wildlife crime but implicated other legal consequences. In my dissertation I translate “*wildlife crime*” to “*vadvilággal kapcsolatos bűncselekményeknek*” (in English practically: criminal activities connecting to wildlife) and to “*vadvilági bűncselekmények*” (criminal activities connecting to wildlife and qualified as criminal conduct under law). I use the term “*crime*” in cases, where the consequences are criminal and the act is qualified as criminal conduct under the Hungarian criminal law. Wildlife trade is translated to “*vadvilági kerskedelem*” and to “*vadon élő fajok kereskedelme*” (trade with species from wildlife). A wide variety of wildlife (in any living forms and as products) is sold in traditional markets, called *wildlife markets*. The products that are made from the species of wild fauna and flora are referred as *wildlife products*. The use of wildlife products is varying from medical to fashion, so we can state that wildlife products are widespread in many areas of life. One specific form of wildlife crime is called “*forest crime*” that can be translated to Hungarian as “*erdészeti bűncselekmények*”. The Hungarian terminology is usually used in a plural form, because these activities can be committed in several ways, so they are considered as umbrella terms.

*Hereinunder I shortly summarize the significant conclusions of my doctoral dissertation, arranged in relevant categories and subpoints.*

## **II.1. The relevance of wildlife crime**

a) One form of wildlife crime is conducted by the transnational organized crime syndicates, but the relevant sources are not specifying this characteristic of the phenomenon. So, the *complementation* of the convention against transnational organized crime and corruption – even with protocols – is needed with the cases of wildlife crime and wildlife trade.

b) With regard to membership, the CITES can be considered as a *universal* international convention, but effective enforcement is still pending. Because of that, those parties who have fewer resources, have to be supported in order to create and conduct effective and adequate conservation plans on national level. The support has to consider not just financial, but other forms as well (the development of human resources, including the expert basis). Providing adequate expertise has to be a priority, that includes the education of the customs department's staff and the lawyers who work at the judicial sphere as well.

## **II.2. Conceptual issues – the definition of wildlife crime**

a) Although the exact *definition* of wildlife crime that can be classified as one form of environmental crimes is not settled yet, the main elements and characteristics can be identified. Henceforward, all the relevant international treaties, intergovernmental and non-governmental organizations concluded specific definitions with regard to their own interpretation. There is no universally accepted definition for wildlife crime. In my opinion, the lack of the universally accepted definition is not surprising and the development of such definition is not necessarily needed. In most of the cases, the content of the definition depends on the approach of the relevant organization or treaty. So, at the case of an international organization that has a specific criminal approach – such as the UNODC – the definition will rely on the criminal aspects, for example on the transnational organized crime and on the corruption. In other cases, where the phenomenon is approached from the aspect of conservation efforts and biodiversity, the main characteristics rely on the taxonomical approximation, the biodiversity and the level of extinction risk. So, to summarize, the elements of the wildlife crime's definition can be

identified easily, although, there is no universally accepted definition, but there is no urgent need for such conceptual settlement. In light of the abovementioned influencing factors, I defined wildlife crime for the purpose of the dissertation, but the main approach is connecting to the wildlife trade.

b) As part of the dissertation, the *characteristics* of wildlife crime are also under research, with special regard to the national penalization, the transnational organized crime, and corruption. To summarize, although the penalization of acts occurs on national level in every state, from the view of the international community only the transnational activities are relevant, that usually have the characteristics of transnational organized crime as well, including wildlife trade. These activities have a negative impact on local flora and fauna. The environmental crimes and wildlife crimes are already realized within the territory of states, however, due to the illegal trade activities they became international and as a result of the involvement of transnational criminal syndicates, a new category of crime has formulated. These new categories of wildlife crime are usually attached to other criminal activities, resulting a great danger for the states and for the international community. It can be stated that environmental crime and wildlife crime are great burdens in front of the sustainable use of natural resources.

### **II.3. The element of the definition**

a) There is a need for different types of *legal consequences* (civil law, administrative law, criminal law) sanctioning environmentally harmful activities. Obviously, the most serious legal consequences can be used only as *ultima ratio*. It is not excluded to use the different consequences besides each other, for example, a serious case of pollution can result the parallel procedure of the administrative and the criminal justice systems as well. The importance of national criminal law is indisputable in connection with wildlife crime because without national penalization there is no crime.

b) Since wildlife crimes have a strong connection to *transnational organized crime* and *corruption*, the states have to join the relevant international conventions, and they have to strive in order to develop effective national enforcement. The strong relation between wildlife crime, illegal wildlife trade, and transnational organized crime has already determined on international and on EU level as well. The first report that has described the wildlife crime as a form of

transnational organized crime and revealed the strong correlation between the two, was adopted in 2016. The view that considers wildlife crime as one form of international organized crime has started to spread on international level. The illegal profit of wildlife crime is so significant that can be considered as the third most profitable illicit activity in the World. On the other hand, nor the Convention against Transnational Organized Crime, nor the Protocols consider wildlife crime. Stating, that there is a lack of will from the international community to legislate and to punish wildlife crime is no exaggeration. This defectiveness is fought by international organizations, such as the UNODC and non-state actors.

c) In the case of environmental crimes, *corruption* provides a way to avoid rules and legal norms that allow the exploitation of natural resources, the trade of such resources in order to gain significant profit. To commit wildlife crime, the different acts of corruption are practically an indispensable condition. In this way, corruption is strongly tied to environmental crimes, especially to wildlife crime and to illegal wildlife trade. The source countries of wildlife products and endangered species of wild fauna and flora (the supply countries) are usually considered as developing countries. The developing countries have the characteristics of the following: low economic performance and weak governmental system. The developing countries are usually more vulnerable to corruption as well. It is proved that there is a strong correlation between the illegal ivory trade and state corruption. In many cases elephant poaching, illegal ivory trade, and smuggling through international borders are only possible due to corruption. The corruption can vary from bribery to counterfeiting official documents. Unfortunately, those countries where biodiversity is especially rich, have to face the so-called “*resource curse*”. Resource course means that despite the level of natural resources is high, the relevant countries are less developed and they are more vulnerable to corruption. The United Nations Convention against Corruption (signed in 2003. and entered into force in 2005.) can be one of the most important tools in the fight against wildlife crime. The correlation between wildlife crime and corruption is indisputable, as it was highlighted at the 7<sup>th</sup> meeting of the parties to the United Nations Convention against Corruption.

#### **II.4. Conclusions connecting to wildlife trade and the CITES**

a) When it comes to the issue of *compliance with the CITES*, the use of trade suspensions can be considered an effective tool to pursue the states. On the other hand, the trade suspensions

are applied against developing countries which are already behind, can manage only fewer resources. So, there is a strong view that trade suspensions do not mean proportional burden for the developing countries. Fairness is also questionable because the supplier countries are usually developing countries, which provides wildlife products and endangered species in order to meet the needs of the developed countries, the demand for wildlife species. To achieve compliance and effective enforcement, other sanctions and tools can be used by the CITES system.

b) Urgent measures are needed in order to improve *social awareness*. Social awareness is especially important to achieve a law-abiding behavior, to pressure the private citizens to buy and sell wildlife products in a lawful way or to reduce demand for wildlife species. Social awareness can be improved only during long time and efforts. The proper education of the next generations has great importance, but the organization of awareness-raising events and the availability of adequate information are able to improve the situation of the current generation as well.

c) Significant differences can be identified in the individual states when it comes to the applied “measures” and legal consequences. Because of the differences, the perpetrators of wildlife crime are using the known method of “*forum-shopping*”. The practice that has a negative impact to enforcement, could be avoided or at least reduced if wildlife crime considered as criminal conduct that has serious consequences (such as imprisonment or high financial penalty, expulsion). On the other hand, it is very important to differentiate between the international criminal acts that are usually committed via transnational organized crime and the acts that remain within the territory of one state. Furthermore, in the case of critically endangered species, particularly strict measures have to be taken, including the level of responsibility and applied sanctions.

d) The correlation between wildlife crime and the *destabilization* of territories and states have been already proved. Accordingly, special programs are needed, where the social, the economic and environmental impacts are also considered as priority. These programs are especially important in connection with the use of natural resources.

e) The proper and applicable legal tools are already available with regard to wildlife crime, so the main focuses have to be the following two segments: the proper *enforcement* and *effectiveness*.

## **II.5. The critical remarks connecting to the CITES**

Although CITES is considered as one of the well-functioning multilateral environmental treaties, the weaknesses of the system that occur in the practice are highlighted in the relevant literature.

a) The three Appendices attached to the CITES provide *different levels* of protection for the endangered species, which conservation is influenced by trade. The main issues (including the methods of modification) with regard to the Appendixes are analyzed through the case study of African elephants' populations. The conservation measures and the efforts to save endangered species are highly correlating with the fact, how the CITES favors the relevant species.

b) In the line of *critical views* towards the CITES, the issue of reservations made to the Convention has an outstanding place. In most of the cases, the states are entering *reservations* due to economic reasons, because the trade with relevant species gain significant profit for the budget. Meanwhile, some of the reservations are undermining the core aims of the Convention. Because of the abovementioned, it has to be reasoned, why reservations are allowed? Several cases proved that the reservations can significantly influence conservation efforts. The critical view of reservation clauses is one of the hardly answerable questions that can be raised in connection with the CITES. When the economy of the states is based on the trade in endangered species and wildlife products, the industrial lobby can have a great influence on the states' point of view with regard to CITES. One well-known example is the case of the saltwater crocodile and its trade regulation, when the CoP wanted to transfer the endangered species to the I. Appendix, in 1979. When those states are against the stricter regulation, which conducts a significant part of the trade, the reservation may negatively influence the aims of CITES. However, reservation cannot be unknown for law of international treaties, because reservation clauses are integral parts of the multilateral treaty system. The absolute integrity of treaties has been overwritten by the will of the creation of multilateral treaties. Usually the states have very different interests, so in the creation of multilateral treaties, the reservation clauses provide the

opportunity for the states to join the treaty, without compromise. So, the principle of absolute integrity of treaties is less important than the creation of universal international conventions. Since only some of the states are conducting intense trade activities with highly endangered species listed in the I. Appendix, generally, the main aims are not compromised. On the other hand, this is just a general statement, because in the case of conservation efforts the acts, that are undermining the protection of endangered species, must be forbidden. The trade interests of the states must not influence the conservation efforts and the level of protection under the CITES system.

c) In connection with the *trade suspension*, the question of compliance with the WTO regulation arises. Interesting, that until this day the issue was not raised in front of the dispute settlement body. During the research of the compliance with the WTO sanctions and regulations, several conclusions can be delivered. The issue influences those countries that are parties to the Convention and to the international trade agreements as well. Nowadays the question is solved by silence from the parties because none of them has started any procedure in front of the dispute settlement body concerning the trade sanctions. The trade sanctions are applied when the state fails to meet with the requirement of trade in endangered species or in the case of other non-compliance (ex. documentation requirements).

Regarding my opinion, the applied trade sanctions are usually meet with the requirements of WTO countermeasures. The trade suspensions, embargos are introduced because of the problems of trade in endangered species and other relevant issues and applied in the same economic sector. When the party to the Convention meets with the requirements again – usually the trade suspensions can be dissolved in a year – the sanctions are immediately recalled. The trade sanctions are based on the recommendation of the Standing Committee or the Conference of the Parties. If the trade suspensions and embargos are used by the state's individual decision, that is a really different issue. Trade suspensions and the use of other trade sanctions are not completely out of the scope of the CITES, on the other hand, they may be weighed in front of the WTO's dispute settlement body, in the upcoming years. Whether the "greening" World Trade Organization would decide for the environmental concerns or for the state's individual economic interests? As Noreena Hertz said: "*The World Trade Organization is an organization that defends trade interests. I think the problem is less that they exist. The problem is that internationally we've only got an organization that protects trade interests. Surely we need some kind of counterweight to protect human rights and the environment, too.*" Are these counterweights can be developed within the existing system of WTO? Narrowing the issue to



the trade with wildlife products and species, the reasonable solution can be the cooperation of the existing system: the CITES and the WTO. However, in the case of trade measures and applied rules the environmental interests have to be considered more efficiently. Nowadays, cooperation has formed between the multilateral environmental treaties and the WTO. After all, in my opinion, the inappropriate enforcement and implementation of the multilateral environmental treaties influence all the other cooperation efforts. The question must be answered, whether the gaps in the environmental policy, the ineffectiveness of regulation are arising from the lack of proper international and national legislation. If the answer is positive, the WTO and other trade organizations are blamed as the “bringer of bad news” rather than to find the real problems. Although, the environmental effects of free trade and trade liberalization are undoubted, do not forget, that if something is forbidden by regulation, that is outlawed and illicit. If the environmental interests have proper representation during the trade negotiations, the later occurred negative impacts are not necessarily occurred from the trade but from the low level of environmental consideration and the lack of effective enforcement.

d) The Article VIII. of the CITES as part of the “*Measures to be taken by the Parties*” obligates the parties to the Convention to “*take appropriate measures to enforce the provisions of the present Convention and to prohibit trade in specimens in violation thereof*”, if the party failed to comply with the provisions of the CITES. The expression of “measures to be taken” is not equal with criminal consequences. On the other hand, the Convention uses the expression of “penalize”, so, with grammatical interpretation, the aim of the Convention is to sanction the activities that are failed to fulfill the requirements of the CITES. The CITES Secretariat is trying to help the national legislation of the parties to the Convention with resolutions and decision of the conferences. The Secretariat published a “Model Law” to help the improvement of national legislation in order to comply with the rules of the Convention. In the relevant document it is stated that “*illegal trade in CITES specimens may be sanctioned by different laws, in particular the penal code, Customs legislation or foreign trade laws, it is important to specify which specific legal provisions apply to CITES-related offenses and penalties.*” Some indicators can reason the use of criminal law consequences. First of all, the motivation of the act is purely profit-oriented, the aim is not just to circumvent the regulation. Furthermore, the execution of the acts highly relies on the expected behavior of unscrupulous traffickers and suppliers. Finally, the infringements are not just innocent or negligent, but the will of the perpetrator orients towards to commit a crime.

### III. List of Relevant Publications

1. *A veszélyeztetett fajok kereskedelmének uniós szabályozása: a CITES szabályainak végrehajtása az Európai Unióban (The European Union regulation of trade in endangered species: the enforcement of the CITES' regulation in the European Union)*

In: Miskolci Jogi Szemle, 13:2 pp. 119-132. (2018.)

2. *A vadvilági bűncselekmény mint a transznacionális szervezett bűnözés egyik formája (Wildlife crime as one form of transnational organized crime)*

In: FORUM: ACTA JURIDICIA ET POLITICA 8:1 pp. 347-365. (2018.)

3. *A veszélyeztetett fajok kereskedelmi szabályozásának szintjei az Európai Unió tagállamaiban (Different levels of regulation of trade in endangered species in the European Union's member states)*

In: Fejes Zsuzsanna – Soós Edit – Varga-Jakó Mira Anna (szerk.) A modern állam 21. századi közjogi kihívásai: Az állami funkciók változásai az európai integrációban. Iurisperitus Bt. Szeged pp. 62-67. (2017.)

4. *Combating Wildlife Crime – International and EU approach*

In: Lucian Bercea (szerk.) European Legal Studies and Research, International Convergence of PhD Students in Law, Universul Juridic, Temesvár pp. 717-727. (2017.)

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