



TRAFFIC



ANALYSIS OF

WILDLIFE COURT CASES IN MADAGASCAR

BASELINE SURVEY OF WILDLIFE CRIME COURT
CASES IN MADAGASCAR
JANUARY 2021 - DECEMBER 2023

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ABOUT

TRAFFIC is a leading non-governmental organisation working globally on trade in wild animals and plants in the context of both biodiversity conservation and sustainable development.

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ABOUT TRAFFIC

TRAFFIC is a leading non-governmental organisation working globally on trade in wild animals and plants in the context of both biodiversity conservation and sustainable development.

TRAFFIC has been supporting Madagascar authorities since 2003 in implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and has had a presence in the country since 2014 through a project office hosted by the World Wide Fund for Nature (WWF). TRAFFIC's work in Madagascar includes research and capacity building for law enforcement authorities in the fight against the illegal wildlife trade (IWT).

The main aim of the LEMUR CWC project, implemented by TRAFFIC between October 2020 and February 2025, was to improve the understanding of the dynamics of the illegal wildlife trade in Madagascar and build the capacity of law enforcement authorities to combat this phenomenon.

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RESEARCH OBJECTIVES

The objective of this study is to identify the main trends and challenges in law enforcement as it relates to combating the illegal wildlife trade (IWT) in Madagascar, based on an analysis of the court proceedings monitored by TRAFFIC between January 2021 and July 2024, linked to criminal offences committed between 01 January 2021 and 31 December 2023.

In addition, the study aims to: (i) assess the extent to which criminal investigations and court decisions align with the legislative and regulatory framework; (ii) assess the nature of the authorities' overall response to IWT; (iii) highlight successes and good practices in law enforcement and court proceedings; and (iv) identify difficulties, obstacles, and bottlenecks at the legislative and regulatory levels. Suggestions for reform are made in the 'Recommendations' section.

The study aims to answer the following questions:

1. What kind of decision do the courts of Madagascar usually make when it comes to IWT offences?
2. Are IWT offences punished in a way that is commensurate with their multiple impacts on the environment, economic development, community well-being, security, governance, and the rule of law?
3. Do investigations and prosecutions make it possible to trace the instigators and beneficiaries and dismantle the criminal networks involved in IWT?
4. Do legal proceedings generally comply with the provisions of the relevant legislation?
5. What are the main obstacles facing the various players in the criminal justice system when it comes to combating IWT?

In addition, the study pursues the following set of secondary objectives:

1. Systematise and map out information relating to legal proceedings for criminal offences involving IWT.
2. Identify the main wildlife trafficking trends in Madagascar, as well as law enforcement strengths, challenges, and opportunities.
3. Provide quality information to law enforcement authorities and the judiciary to build intelligence and guide the planning and conduct of future criminal investigations and prosecutions.
4. Identify priority needs in terms of capacity-building for judicial police officers (OPJ) and awareness-raising for judges and prosecutors, to complement existing training programmes and improve the handling of cases linked to IWT.
5. Improve coordination between the relevant authorities through the exchange of information on recent legal proceedings.
6. Identify needs for legislative and regulatory reform, where appropriate.

7. Contribute to the consultations launched by the Ministry of the Environment and Sustainable Development as part of the development of a national strategy to combat IWT.
8. Contribute to discussions on the development of national guidelines for the prosecution of wildlife crime.

The recommendations made by TRAFFIC in this study are intended to support the authorities' efforts to implement the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and combat the illegal wildlife trade. The primary objective is to help the judiciary and law enforcement authorities make their long-standing efforts against the illegal exploitation of natural resources more effective and provide them with tools and information to facilitate decision-making.

REPORT STRUCTURE

The report is divided into five sections: Methodology, Results, Discussion, Good Practices, and Recommendations.

The 'Methodology' section presents the methods used by TRAFFIC to collect the data used in the report, as well as their scope and limitations.

The 'Results' section provides a detailed analysis of the data collected by TRAFFIC. It is subdivided into several subsections, containing information on the specimens seized, the legal proceedings (investigations, prosecutions, and court decisions), the people linked to the cases, and the locations linked to the cases.

The 'Discussion' section provides an analysis of the results and identifies the main trends and challenges in law enforcement in Madagascar. It brings together and summarises the main findings of the study.

The 'Good Practices' section highlights a series of law enforcement and judicial successes and good practices.

Finally, in the last section, the authors formulate recommendations based on the findings and conclusions of the study. These are addressed to Madagascar authorities and recommend actions to step up the fight against the illegal wildlife trade.

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Lemur catta © tambako - Flickr

MAIN FINDINGS

- **108 court proceedings** corresponding to offences committed over the period 2021-2023 were analysed as part of this study.
- The 108 cases were handled by 24 courts nationwide, spread over 18 regions.
- Offences are mostly concentrated in **six regions of the country**: Analamanga, Androy, Atsimo Andrefana, Boeny, DIANA and SAVA.

WILD SPECIES

- The 108 cases analysed are linked to a total of **26 species or groups of species**, including both flora and fauna, terrestrial and marine, endemic and naturalised species.
- For fauna, seizures made during the three years covered by the study included **2,692 live specimens and 502 dead individuals**, among other commodities. As for flora, seizures included **2,235 live plants, 1,137 units of sawn wood, and 83 units of round wood**, among other commodities.
- Palisander (*Dalbergia*) and radiated tortoises (*Astrochelys radiata*) are by far the most frequently mentioned species in court cases.
- Most of the specimens seized **were sourced from the wild by the offenders**.

SUSPECTS

- Most of those arrested were men of Malagasy nationality, generally aged between 25 and 44 at the time of the incident.
- 89% of the suspects had no criminal record at the time of the crime.
- The majority of suspects are **low-income earners**. Farmers and fishermen account for 42% of those arrested, while people who are unemployed or whose occupation is unknown account for 21% of suspects.
- 81% of those arrested were involved in the offences as **collectors, transporters, intermediaries or buyers**.

CIRCUMSTANCES OF OFFENCES

- In the vast majority of cases, the offences were committed using **rudimentary and unsophisticated methods**.
- Long expeditions into the forest, often over several days, are the most frequently reported practices.
- Most of the commodities were seized while being transported on foot or in a vehicle, **without any particular method of concealment**.

- In 95% of cases, no documentation accompanied the seized commodities.
- Nevertheless, a significant proportion of the cases mention the existence of **structured and organised networks**, comprising several levels of players.

INVESTIGATIONS

- The Ministry of Environment was in charge or involved in 83% of investigations, and the National Gendarmerie in 56%. However, their investigative capacity remains insufficient.
- In 46% of cases, offences were detected based on information from external sources, including anonymous individuals, local communities, protected area managers, and complainants.
- Proactive investigation techniques such as online intelligence gathering (cyber intelligence) or targeting potential offenders are hardly used by the authorities.
- Once the offence had been recorded, the suspects were nearly always taken into police custody.
- However, **very few cases were investigated in depth**. Special investigation techniques were used in only 3% of cases.
- In 82% of the cases, the payment methods used by the offenders were not specified or identified by the investigators.
- Investigations focus mainly on the initial stages of trafficking, such as harvesting and transport, but have difficulty in tracing the intermediate and upper levels of criminal networks, in particular exporters, final beneficiaries, and sponsors.

PROSECUTIONS

- 96% of those arrested were charged. Criminal proceedings were therefore initiated against the vast majority of suspects.
- Those charged were placed in pre-trial detention in 85% of cases.
- **The preparatory instruction procedure was used in only 6% of cases**, while the basic information procedure was used in 85% of cases.
- A total of 28 charges based on eight different laws were brought against the 228 people charged.
- **No charges relating to corruption, fraud or money laundering were brought.**

COURT DECISIONS

- 85% of cases resulted in the conviction of suspects, representing 74% of those charged.
- **Half of those convicted were convicted under the CITES Law**, while 28% were convicted under the COAP Law.
- Legal proceedings were particularly short. In 91% of cases, they lasted less than six months.
- Of the 170 people convicted, **91% received custodial prison sentences**, as opposed to suspended sentences.
- 92% of prison sentences handed down by judges are for two years or less.

- 82% of fines are less than or equal to 10 million Ariary (equivalent to US\$2,150 as of 31 December 2023).
- Combined sentences, combining at least two types of penalty, were handed down in 68% of cases.
- The sentences handed down by the courts in cases involving terrestrial tortoises and palisander wood are **inconsistent and disproportionate** to the quantities seized and the seriousness of the offences.



Ambovombe Court © Damien Wolff - TRAFFIC

NOTE TO THE READER

This study provides an overview of wildlife law enforcement between January 2021 and July 2024. It does not take into account the most recent developments and does not reflect the multiple changes introduced since August 2024 in the investigation and prosecution of illegal wildlife trade offences. The results of the study should therefore be analysed in light of this new context. By the time this report was finalised, the Government of Madagascar had already begun addressing several of the authors' recommendations.

As part of the implementation of the General State Policy on Environmental and Forest Governance, the Ministry of Environment and Sustainable Development (MEDD) has been making significant efforts to strengthen law enforcement and inter-ministerial coordination with a view to dismantling wildlife trafficking networks operating in Madagascar.

A Water and Forest Intervention and Control Brigade (BICEF), created within the MEDD in August 2024, is now tasked with stepping up the fight against wildlife trafficking and improving the MEDD's institutional performance in the State's sovereign functions of law enforcement in the forestry sector. The BICEF, composed of forestry judicial police officers (OPJ), is responsible for investigating forestry offences related to wildlife trafficking, particularly complex offences involving organised crime. It intervenes quickly and effectively throughout the country and collaborates with other MEDD departments and law enforcement authorities to conduct in-depth investigations with a view to dismantling trafficking networks operating at national and international level.

To date, the BICEF has coordinated and participated in more than a dozen investigations into wildlife trafficking cases, targeting offenders involved at all stages of the trafficking chain i.e. collectors, transporters, intermediaries, exporters, sponsors, and beneficiaries. In order to dismantle trafficking networks, the BICEF has been using special investigation techniques, including financial investigations, in collaboration with other law enforcement authorities. In recent months, Anti-Corruption Courts (specialising in the prosecution of financial crime) have been increasingly notified by judicial authorities whenever wildlife offences involve elements of money laundering. In addition, the MEDD has been strengthening police and judicial cooperation with certain transit and destination countries in Africa and Asia to better coordinate enforcement efforts at the international level. This momentum has led to closer collaboration between the MEDD and the National Police via INTERPOL's National Coordination Bureau.

LIST OF ABBREVIATIONS

IWT	Illegal wildlife trade
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CSP	Fisheries Surveillance Centre
DGD	Directorate General of Customs
DGGE	Directorate General of Environmental Governance (MEDD)
DREDD	Regional Directorate for the Environment and Sustainable Development (MEDD)
DSD	Directorate of Customs Surveillance (Customs)
ICCWC	International Consortium to Combat Wildlife Crime
INL	Bureau of International Narcotics and Law Enforcement Affairs, U.S. Department of State
INTERPOL	International Criminal Police Organisation
LEMUR CWC	Law Enforcement in Madagascar: a United Response in Combating Wildlife Crime
CITES Law	Law 2005-018 on international trade in species of wild fauna and flora
COAP Law	Law 2015-005 revising the Protected Areas Management Code
Rosewood Law	Organic Law 2015-056 creating a special chain to combat trafficking in rosewood and/or ebony and punishing offences relating to rosewood and/or ebony
MEDD	Ministry of Environment and Sustainable Development
MEF	Ministry of Economy and Finance
NGO	Non-governmental organisations
UNODC	United Nations Office on Drugs and Crime
OPJ	Judicial Police Officers (investigators)
IUU fishing	Illegal, unreported and unregulated fishing
UNEP	United Nations Environment Programme
SAR	Special Administrative Region
SPCBD	Unit for the Steering and Coordination of Customs Offices (Customs)
SRC	Regional Control Unit (MEDD)
IUCN	International Union for Conservation of Nature
WWF	World Wide Fund for Nature
EEZ	Exclusive economic zone

GLOSSARY

Adversarial hearing

An adversarial hearing is a public hearing during which each party (prosecutor, defendant, civil party, lawyers, etc.) can present their arguments, respond to those of the other party and assert their rights.

Arrest

The arrest is the act by which a person is apprehended by law enforcement authorities and deprived of liberty, with a view to being brought before a competent judicial authority. An arrest can be made in cases of in flagrante delicto or upon the delivery of an arrest warrant.

Basic investigation

In Malagasy law, the basic investigation is a simplified and accelerated criminal procedure, decided by the prosecutor or his deputy, applicable in certain cases where the facts are clear and the evidence sufficient, allowing a criminal case to be dealt with quickly without recourse to a preparatory instruction by an investigating judge.

Civil party

A civil party refers to any natural or legal person who considers themselves to have been wronged by a criminal offence (crime, misdemeanour, or contravention) and who exercises their rights before the criminal courts to claim compensation for the damage suffered. In Malagasy law, the Ministry of the Environment and Sustainable Development (MEDD) is expressly authorised to lodge a claim as a civil party whenever an environmental offence is committed.

Court fine

A court fine is a pecuniary penalty imposed by a criminal court on a person found guilty of an offence, consisting of the obligation to pay a sum of money to the Treasury. It may be imposed alone or in conjunction with a custodial sentence.

Custodial sentence

A custodial sentence is a criminal penalty imposed by the court that is enforced immediately and effectively, i.e. without suspension.

Damages

Damages are sums awarded by the criminal court to the victim of an offence as compensation for the wrong suffered as a result of the offence. They are awarded to the civil party, who have formally lodged a claim as part of the criminal proceedings, and are intended to compensate for material, moral, or physical damage.

Defer to the wisdom of the court

Deferring to the wisdom of the court, in a prosecutor's closing statement, means that the prosecutor or their representative does not make a specific request as to the sentence or decision to be taken, but leaves it to the judges to make their own assessment of the case. By deferring to the wisdom of the court, the prosecutor implicitly acknowledges that the evidence in the case does not justify requiring the strict application of the law, and accepts that judges should decide freely, according to their conscience and personal belief.

Deliberation hearing

The deliberation hearing is the public hearing at which the court (criminal court, police court, etc.) renders its decision, after examining all the elements in the case and the arguments presented by the parties at the adversarial hearing.

Direct citation

In Malagasy law, the direct citation is a procedure whereby the prosecutor summons a person to appear directly before the competent court (criminal court or police court), without prior investigation by an investigating judge. It is a way of swiftly initiating public proceedings when the perpetrators have been identified, the facts are clear, simple and sufficiently established by a preliminary or flagrante delicto investigation.

Illegal wildlife trade

The illegal wildlife trade refers to the trade that violates national or international legislation on the protection of certain wild species. In the case of Madagascar, this includes species listed in the appendices to the CITES Convention as well as species protected under national regulations (for instance, Decree 2006-400). Trade in wild species encompasses the taking (also known as hunting, poaching, collection, or harvest), breeding, cultivation (also known as propagation or artificial reproduction), possession, transport, processing, and purchase of wild species for import, export, sale, barter or exchange.

In flagrante delicto

A crime or misdemeanour that is currently being committed, or has just been committed, is classified as flagrant. A crime or misdemeanour is also flagrant when, in the immediate vicinity of the action, the suspected person is found in possession of objects, or presents traces or evidence, suggesting that they have participated in the crime or misdemeanour.

Indictment

An indictment is the formal act by which the prosecutor notifies a person that they are being prosecuted for specific offences, on the basis of evidence gathered during a preliminary or flagrante delicto investigation.

Investigating judge

The investigating judge is a judge responsible for conducting preparatory instructions. Their role is to conduct an investigation to gather evidence, find the perpetrators, and establish the facts in a criminal case. The judge investigates both sides of the case, i.e. they must look for evidence of the accused person's innocence and guilt. A case may be referred to an investigating judge either by the prosecutor (by way of an introductory indictment) or by the victim (by way of a civil party complaint).

Judicial control

In Malagasy law, judicial control is a decision taken after the accused has been indicted by a prosecutor (in the case of a basic investigation) or by an investigating judge (in the case of a preliminary instruction), to allow the accused person to remain at liberty subject to certain strict obligations while awaiting trial. Judicial supervision may include obligations such as a ban on going to certain places or meeting certain people, or the obligation to report periodically to the police or gendarmerie.

Preliminary investigation

In Malagasy law, the preliminary investigation is a judicial police enquiry carried out outside cases of flagrante delicto, prior to the initiation of prosecution or the opening of a formal investigation by an investigating judge. The purpose of the preliminary investigation is to gather the information needed to decide whether to initiate criminal proceedings, close the case without further action, or refer the matter to an investigating judge. It takes place under the direction of the prosecutor.

Preparatory instruction

In Malagasy law, the preparatory instruction is the preparatory phase of the criminal trial, the purpose of which is to determine whether there are sufficient charges to take the suspect to trial. In complex,

serious, or legally binding cases, the preparatory instruction is an in-depth judicial enquiry carried out after the prosecution has been initiated. The preparatory instruction is carried out by a specialised judge known as an investigating judge.

Pre-trial detention

Pre-trial detention refers to the practice of holding an accused person in custody while they await trial. In Malagasy law, an accused may be placed in pre-trial detention by a prosecutor after indictment (in the case of a basic investigation) or by an investigating judge (in the case of a preliminary instruction). Pre-trial detention is imposed whenever the individual poses a flight risk, a danger to the community, or may interfere with the investigation or judicial process.

Prosecutor's closing statement

The prosecutor's closing statement at the hearing is the statement in which the prosecutor or their representative verbally explains their position on the case before the court. The prosecutor analyses the facts, the evidence, and the legal qualification of the offence, and then formulates their recommendations. They may either request that the law be applied, by asking for a specific penalty or measure, or decide to defer to the wisdom of the court, leaving the judges complete freedom to assess the facts and decide.

Provisional release

In Malagasy law, provisional release is a decision taken after the accused has been indicted by a prosecutor (in the case of a basic investigation) or by an investigating judge (in the case of a preliminary instruction), to let the accused go free pending trial. This decision is taken when the facts do not justify immediate detention, there are sufficient guarantees that the accused will be represented in court, and there is no risk of the accused absconding, putting pressure on witnesses, reoffending, or disturbing public order.

Referral

A referral is the act whereby a person suspected of having committed an offence is brought before the prosecutor, at the end of police custody or the preliminary investigation, so that the judicial authority can decide what action to take in the case.

Strict application of the law

The strict application of the law, in a prosecutor's closing statement, refers to the position whereby the prosecutor asks the court to impose a sentence or measure expressly provided for by criminal law, without any mitigation or special leniency.

Suspended sentence

In Malagasy law, a suspended sentence is a criminal penalty imposed by the court, the execution of which is suspended for a probation period of five (5) years, provided that the convicted person does not commit a new offence during this period. If no new offence is committed during these five years, the sentence is considered null and void and is not enforced. On the other hand, if an offence is committed within this period, the suspended sentence may be revoked, and the sentence initially imposed becomes enforceable in addition to the new sentence.

INTRODUCTION

1.1. BACKGROUND

The illegal wildlife trade has grown significantly on a global scale since the 2000s and seems to be continuing unabated¹, with many harmful effects on the environment and development. It is generally accepted that this trade represents one of the most lucrative illegal activities after drug trafficking, firearms trafficking, and human trafficking.²

Madagascar, with its unique biodiversity, is no exception to this phenomenon, with many of the country's endemic species being the target of a booming illegal trade. Madagascar is home to some of the richest and most unique ecosystems on the planet, accounting for 5% of the world's biodiversity.³ Around 70% of all species in Madagascar are thought to be endemic.⁴ A large number of plant, reptile, amphibian, bird, and primate species exist only on the island, making them highly sought-after targets for traffickers to supply international markets. The impact of commercial poaching on the island's ecosystems is considerable. The illegal wildlife trade^{5 6} is considered the second biggest threat to Madagascar's biodiversity after deforestation, leading to the rapid decline in the populations of many endemic species.

As a result of these multiple threats, Madagascar is one of the countries in the world with the highest number of species threatened with extinction. In 2021, 41% of Madagascar's recorded species, or nearly 3,500 species of flora and fauna, were on the IUCN Red List of Threatened Species.⁷ The threat of extinction concerns all species of terrestrial tortoises (Testudinidae)⁸, 98% of lemur species (Lemuriformes)⁹, 82% of orchid species (Orchidaceae) out of a total of 39 species assessed by the

¹ See the conclusions of the latest UNODC World Wildlife Crime Report 2024.

² Nellemann et al, 2016. The Rise of Environmental Crime - A Growing Threat To Natural Resources Peace, Development And Security. A UNEP-INTERPOL Rapid Response Assessment. United Nations Environment Programme and RHIPTO Rapid Response-Norwegian Center for Global Analyses.

³ Morelli, T.L., Smith, A.B., Mancini, A.N. et al. (2020). The fate of Madagascar's rainforest habitat. *Nat. Clim. Chang.* 10, 89-96.

⁴ Myers, N., Mittermeier, R. A., Mittermeier, C. G., Da Fonseca, G. A. B., and Kent, J. (2000). Biodiversity hotspots for conservation priorities. *Nature* 403: 853-858.

⁵ JNCC. (1993). A preliminary review of the status and distribution of reptile and amphibian species exported from Madagascar. Joint Nature Conservation Committee Report, JNCC, Peterborough, UK.

⁶ Ratsimbazafy, C., Newton, D., and Ringuet, S. (2016). Timber Island - The Rosewood and Ebony Trade of Madagascar. TRAFFIC Report.

⁷ Michielsen, N.M., Goodman, S.M., Soarimalala, V. et al. (2023). The macroevolutionary impact of recent and imminent mammal extinctions on Madagascar. *Nat Commun* 14. See: <https://doi.org/10.1038/s41467-022-35215-3>

⁸ CITES (2022). Report of Madagascar on tortoises and freshwater turtles: <https://cites.org/sites/default/cases/eng/com/sc/74/E-SC74-80-02.pdf>

⁹ IUCN (2020). Almost a third of lemurs and North Atlantic Right Whale now critically endangered.

IUCN¹⁰, 52% of chameleon species (Chamaeleonidae)¹¹, as well as a large number of bird (Aves)¹² and amphibian (Amphibia) species.

At the international level, trade in wild fauna and flora is regulated by a specific convention, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), ratified by Madagascar in 1975. However, the effective implementation of the CITES Convention and relevant laws in Madagascar poses multiple challenges. This trade is often controlled by organised criminal networks operating on a transnational scale and using sophisticated methods and corruption to smuggle protected species across borders. Money laundering, which enables criminals to reinvest their profits in legal activities while generating significant financial losses for the State, is an integral part of this system.

These phenomena have profound repercussions on the environment, the economy, security, governance, and the rule of law. Millions of people in Madagascar depend directly on natural resources such as forests, wildlife, and fisheries for their livelihoods, and the loss of biodiversity seriously compromises their long-term food and income security prospects.

Against this backdrop, the Government of Madagascar has prioritised the fight against illegal wildlife trade under the Initiative for the Emergence of Madagascar (IEM), committing to "*abolish all trafficking in natural resources, including rosewood, tortoises and other endemic species of fauna and flora*".¹³ Numerous measures have been taken in recent years, in particular to step up the fight against corruption and money laundering associated with the illegal wildlife trade and to put in place a specific criminal law mechanism to combat the illegal trade in rosewood and ebony. Efforts to raise awareness and provide training for judges, prosecutors, and law enforcement authorities have also been made to improve the handling of legal proceedings. The various ministries involved in the fight against IWT (Environment and Sustainable Development, Justice, Economy and Finance, Gendarmerie, Public Security, Fisheries and the Blue Economy) as well as civil society and non-governmental organisations are taking action at their respective levels. Every year, Madagascar Customs intercepts hundreds of wild specimens destined for illegal export. However, this trade is still thriving, and significant progress is still needed to eradicate illegal flows.

¹⁰ IUCN (2020). Newsletter of the Orchid Specialist Group of the IUCN Species Survival Commission, Issue 2, September 2020.

¹¹ Hance J. (2014). Chameleon crisis: extinction threatens 36% of world's chameleons. Mongabay.

¹² Asity Madagascar et BirdLife International (2021) État des populations d'oiseaux de Madagascar: des indicateurs de changements environnementaux. Antananarivo, Madagascar and Cambridge, GB : Asity Madagascar et BirdLife International

¹³ See base no. 1, challenge no. 10 of the Initiative for the Emergence of Madagascar (IEM) 2019-2023.



Palisander wood (*Dalbergia*) © Ministère de l'Environnement et du Développement Durable

WILD FLORA

Since the 2000s, Madagascar's severe deforestation, both legal and illegal, has been exacerbated by the boom in illegal logging and trade in hard or precious woods. The cutting, transport, and export of rosewood (*Dalbergia*) and ebony (*Diospyros*) have been banned since 2010, while an international embargo decreed in 2013 by the Conference of the Parties to the CITES Convention prohibits all international trade in these species from Madagascar.

According to data compiled by TRAFFIC, between 2010 and 2015 more than 350,000 trees (mainly rosewood) were felled each year in protected areas and nearly 150,000 tonnes were illegally exported over the same period.^{14 15} Between 2014 and 2019, Madagascar Customs seized 40,607 logs of rosewood, totalling around 4,500 tonnes.¹⁶

In addition to precious woods, several protected species of orchids and succulent plants found in Madagascar (particularly those belonging to the genera *Pachypodium* and *Opeculicarya*) are illegally traded, as evidenced by the court cases analysed in this report.

¹⁴ TRAFFIC, 'Madagascar Rosewood and ebonies, CITES COP 19 Priority Areas', see: <https://www.traffic.org/about-us/working-with-cites/cites-cop19/cites-cop19-madagascar-rosewood-and-ebonies/>.

¹⁵ Ratsimbazafy, C., Newton, D., and Ringuet, S. (2016). Timber Island - The Rosewood and Ebony Trade of Madagascar. TRAFFIC Report.

¹⁶ Ministry of the Economy and Finance, newsletter, April 2019



Chameleon (Chamaeleonidae) © flickr

TERRESTRIAL WILDLIFE

Terrestrial fauna is a victim not only of the destruction of its natural habitat through deforestation but also of food hunting and international trade, both legal and illegal. Many protected reptile and amphibian species, including tortoises (Testudinidae), chameleons (Chamaeleonidae), geckos (Gekkota), frogs (Anura) and snakes (Serpentes), are highly sought after on the international pet market. According to data compiled by TRAFFIC, 30,875 radiated tortoises (*Astrochelys radiata*) from Madagascar were seized worldwide between 2000 and 2021.¹⁷ In addition, several thousand other tortoises are said to be consumed illegally by the Malagasy population every year.

Many protected species of primates and birds are also affected. It is estimated that between 2010 and 2013, more than 28,000 lemurs (Lemuriformes) were illegally captured in the wild to be sold as pets.¹⁸

¹⁷ Chng, S.C.L, Ratsimbazafy, C., Rajeriarison, A., Rejado, S., Newton, D. (2023). TRAFFIC. Assessment of wildlife trade between Madagascar and Southeast Asia

¹⁸ Reuter, K., Gilles, H., Wills, A.R., and Sewall, B.J. (2015). Live capture and ownership of lemurs in Madagascar: extent and conservation implications. Fauna and Flora International, Oryx, 2015.



Hammerhead shark (*Sphyrnidae*) © David Clode - Unsplash

MARINE WILDLIFE

Marine fauna, meanwhile, suffers from illegal practices involving both illegal fishing and overfishing. Several protected species found in Madagascar's waters - including species belonging to the groups of sharks and rays (Elasmobranchii), sea turtles (Chelonioidae), sea cucumbers (Holothuroidea), seahorses (*Hippocampus*), precious corals (within the Anthozoa subphylum) and reef fish (spanning a wide range of taxonomic families) - are the subject of lucrative illegal trade, threatening both their conservation and that of coastal ecosystems. According to data compiled by TRAFFIC, 23,936 seahorse specimens from Madagascar were seized worldwide between 2000 and 2021.¹⁹ In addition, legal trade data analysed by TRAFFIC suggests that Madagascar is the leading African exporter of sea cucumbers to Hong Kong Special Administrative Region (SAR), i.e. the world's leading importer of sea cucumbers. Between 2012 and 2019, Madagascar's sea cucumber exports to Hong Kong SAR accounted for almost 50% of total sea cucumber imports from Africa, far ahead of all other countries on the continent.²⁰

MAIN LAW ENFORCEMENT AUTHORITIES

Five agencies have a mandate to investigate IWT offences in Madagascar. These are the Ministry of the Environment and Sustainable Development (MEDD), the National Police, the National

¹⁹ Chng et al (2023)

²⁰ Louw, S., Bürgener, M., (2020). A Rapid Assessment of the Sea Cucumber trade from Africa to Asia.

Gendarmerie, the Directorate General of Customs (DGD), and the Fisheries Surveillance Centre (CSP). For a description of their respective roles, mandates, and attributions, please refer to Annex 1.

APPLICABLE LAWS

In Madagascar, the fight against IWT is based on three main laws as well as on a series of secondary ordinances, decrees, and regulations. These constitute the regulatory framework for the conservation of protected species. The three main laws are: Law 2005-018 on international trade in species of wild fauna and flora (known as the CITES Law); Law 2015-005 revising the Protected Areas Management Code (known as the COAP Law); and Organic Law 2015-056 on the creation of the special chain for combating the trafficking of rosewood and/or ebony and the repression of offences relating to rosewood and/or ebony (known as the Rosewood Law). For a brief description of each law, please refer to Annex 1.

MALAGASY LEGAL SYSTEM

The Malagasy criminal justice system is based on a civil law tradition, inspired by French law. This model is characterised by the strong primacy given to written law as the main source of the law, unlike Common Law systems where case law plays a central role. In Madagascar, the Penal Code and the Code of Criminal Procedure are the basic texts governing the definition of offences and the conduct of proceedings, respectively. Malagasy criminal law also includes many special laws that criminalise certain violations in specific areas, such as environmental law, customs legislation, and company law.

The Malagasy criminal justice system is characterised by a predominantly *inquisitorial* procedure, in which the judges and prosecutors, rather than the parties, are the main players in the search for the truth, particularly during the investigation phase. The *public prosecutor* represents society before the criminal courts and prosecutes on behalf of the public interest. The prosecutor decides whether or not to prosecute alleged offenders, based on the principle of discretionary prosecution. They may dismiss a case, propose alternatives to prosecution, or refer the matter directly to the competent court. If a preparatory instruction is required, they will request that one be opened and will then refer the case to an investigating judge. The prosecutor also directs the work of the judicial police officers during investigations, ensures that individual liberties are respected, and demands that criminal law be applied in court. Although they are not a court judge, their role is decisive in the direction and effectiveness of criminal proceedings.

The *investigating judge* or *examining magistrate* is a judge responsible for conducting preparatory investigations in complex or serious cases. Cases may be referred to them by the prosecutor or by a civil party. Their role is to investigate the case impartially, both incriminating and exonerating, in order to compile a complete file with a view to possible referral to a court. To this end, the investigating judge has extensive powers: hearings, interviews, searches, expert reports, seizures, etc. The investigating judge carries out their duty essentially in writing and has considerable autonomy in the conduct of investigations.

LEGAL PROCEEDINGS

The below diagram summarises the different steps of the legal proceedings from the crime scene to the courtroom as per Malagasy law. For a definition of each legal term, please refer to the glossary.

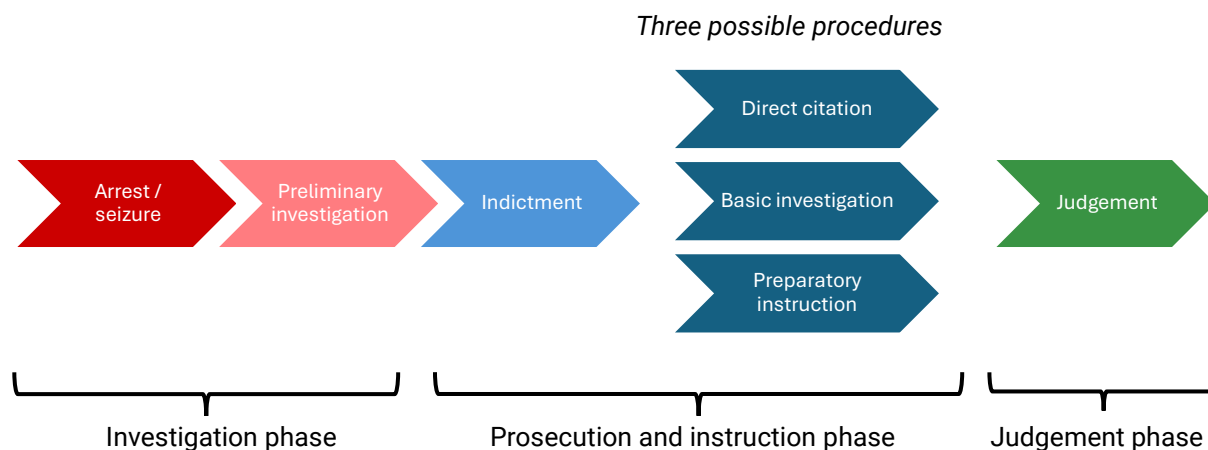


Figure 1. The different steps of legal proceedings under Malagasy law.

1.2. PREVIOUS WORK

To the authors' knowledge, no systematic monitoring of legal proceedings relating to IWT offences had been carried out at a national level in Madagascar prior to this study. This is therefore a pioneering initiative.

On a global scale, TRAFFIC has significant experience in monitoring and analysing legal proceedings related to illegal wildlife trade. In recent years, TRAFFIC has monitored legal proceedings in several countries in Southern and Central Africa, including Botswana, Cameroon, Namibia, Zambia, and Zimbabwe. In several of these countries, the analysis of court proceedings led to the formulation of recommendations and the development of targeted strategies in partnership with national authorities to improve the handling of cases, with tangible results.

In some of the abovementioned countries, TRAFFIC also collected and analysed confidential court records to identify long-term enforcement challenges and trends, in close partnership with national authorities.

Other recent initiatives have sought to assess the response of the criminal justice system to wildlife crime in Madagascar. This includes the national self-assessment carried out in February 2023 by the MEDD with the support of the United Nations Office on Drugs and Crime (UNODC). In 2022, the government of Madagascar called on the International Consortium on Combating Wildlife Crime (ICWC) to support the country in assessing criminal justice responses to wildlife and forest crime. A national self-assessment workshop, attended by representatives of all government entities involved in combating IWT, was organised on 23 and 24 February 2023 by the MEDD with UNODC's support. This national self-assessment aligned with the methodology of the ICWC's Indicator Framework, which includes sections on investigations, prosecutions, and convictions.

While this study aims to document the criminal justice response based on information collected by TRAFFIC during court proceedings, the national self-assessment carried out in 2023 is mainly based on the opinions of experts and national officials. The two initiatives are therefore complementary.

1.3. GEOGRAPHICAL SCOPE

As part of the LEMUR CWC project, TRAFFIC monitored court proceedings linked to IWT offences between March 2021 and July 2024. This involved recruiting seven consultants to monitor legal proceedings and collect data in the following 18 regions of Madagascar (out of 22): Alaotra-Mangoro, Amoron'i Mania, Analamanga, Analanjirofo, Androy, Anosy, Atsimo-Andrefana, Atsinanana, Betsiboka, Boeny, Diana, Haute Matsiatra, Ihorombe, Itasy, Menabe, Sava, Sofia, Vakinankaratra.

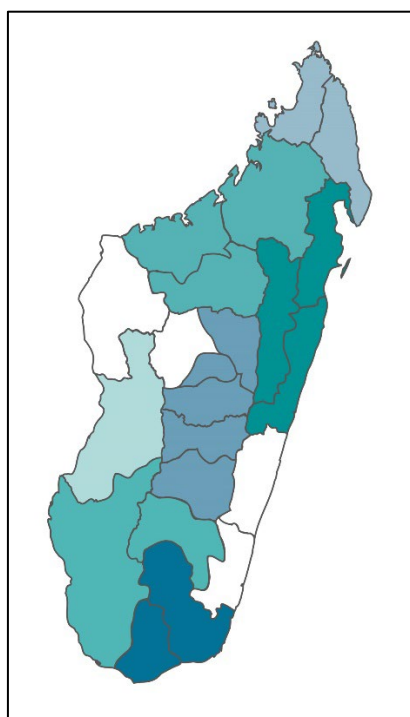


Figure 2. Regions where TRAFFIC monitored court proceedings between 2021 and 2024 (colours indicate the regions covered by each of the seven consultants recruited by TRAFFIC).

The seven consultants recruited by TRAFFIC followed the legal proceedings underway in their respective regions, travelling to the different courts as needed. The number of courts covered by each consultant ranges from two courts for the Menabe region to nine courts for the Mahajanga province, in which three regions were covered.



© Pixabay

METHODOLOGY

2.1. IDENTIFICATION OF COURT CASES

TRAFFIC monitored court proceedings whenever offences were linked to protected wild species. The offences targeted by TRAFFIC are those relating to the taking, possession, transport and sale without authorisation of wild species protected under the CITES Convention, whether fauna or flora, terrestrial or marine.

The main criterion for selecting cases was the material element of the offence, regardless of the legislation (CITES Law, COAP Law, Rosewood Law, Customs Code, Fisheries Code, etc.) or the legal qualification used by the courts. TRAFFIC therefore went beyond monitoring those cases in which the CITES Law was applied.

To identify new cases, the TRAFFIC team monitored various public sources of information, including:

- National and local press.
- Online media, social networks, and law enforcement authorities' websites.
- TV channels and radio stations.
- Public court dockets listing the names of defendants and the charges brought.
- Attendance at public hearings to follow court proceedings and verdicts.
- Court reports disseminated by judicial police officers (OPJ) and prosecutors through the media.

TRAFFIC was not able to verify the accuracy of the information obtained from media sources where the information was not confirmed during court hearings. As a result, the report may contain factual errors insofar as the information has not been verified based on confidential procedural documents, such as investigative reports.

2.2. DATA COLLECTION

The data was collected in a transparent manner, in full compliance with the relevant legislation on the protection of judicial data and respect for the confidentiality of investigations. TRAFFIC ensures that court case monitoring is based solely on publicly accessible sources. This methodology guarantees compliance with the principle of legality.

The TRAFFIC team obtained most of the information by attending public court hearings, during which TRAFFIC consultants took notes on the progress of legal proceedings.

In addition to the public hearings, information was gathered from the websites of the Ministry of Justice, the Ministry of the Environment, and the Regional Directorates for the Environment and Sustainable Development (DREDD). These pages often provide official updates on ongoing legal proceedings, the decisions handed down, and the actions taken to combat the illegal wildlife trade.

All the data was collected using a form developed on the Survey123 application, comprising around a hundred questions or fields on the following aspects :

- Circumstances of the offence;
- Seized specimens;
- Legal proceedings;
- Suspects and persons involved; and
- Locations linked to the offence.

A form was completed for each court case. Where the hearing had not yet taken place, only the information available on the seizure, the suspects, and the presumed circumstances of the offence was recorded.

The TRAFFIC consultants were duly trained before and during their assignment. Training sessions focused on the objectives, methodology, and workflows linked to the court monitoring work and included practical exercises on how to populate survey forms and use the Survey123 application. TRAFFIC's legal expert also held weekly online meetings with the seven consultants to coordinate the work and ensure that they used a consistent and uniform court monitoring methodology.

This study looks at a total of 108 cases for which court decisions were made, at least in a court of first instance.

2.3. DATA COMPILATION AND ANALYSIS

Each form was carefully reviewed by TRAFFIC's legal expert to ensure that the information was accurate and that the methodology was duly followed. Once validated, the data collected via the survey form was exported to Excel and analysed and summarised using graphs and tables, enabling a clear and comprehensible presentation of results. The graphs and tables are included in this study.

2.4. VALIDATION OF RESULTS

The report was first reviewed and validated by other TRAFFIC staff in May 2025. It was then shared with the MEDD for final validation before publication.

RESULTS

3.1. GEOGRAPHICAL DISTRIBUTION OF CASES

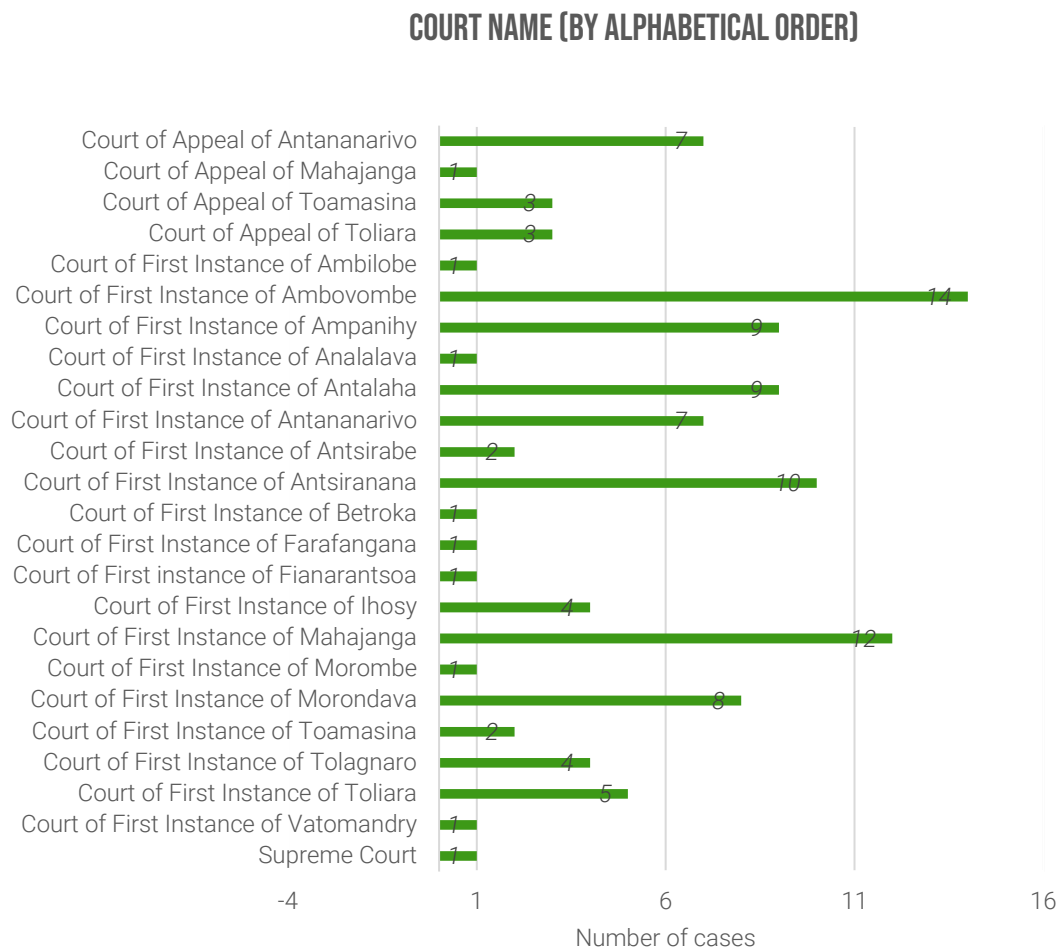


Figure 3. Geographical distribution of cases.

The 108 cases monitored by TRAFFIC were handled by a total of 24 courts nationwide, including (in descending order): 14 cases for the Ambovombe Court of First Instance (13% of cases), 12 cases for the Mahajanga Court of First Instance (11% of cases), 10 cases for the Antsiranana Court of First Instance (9% of cases), nine cases for the Ampanihy Court of First Instance (8% of cases), nine cases for the Antalaha Court of First Instance (8% of cases), eight cases for the Morondava Court of First Instance (7% of cases), seven cases for the Antananarivo Court of First Instance (6% of cases), and seven cases for the Antananarivo Court of Appeal (6% of cases). The other courts each had five or fewer cases.

3.2. DISTRIBUTION OF CASES BY TYPE OF COURT

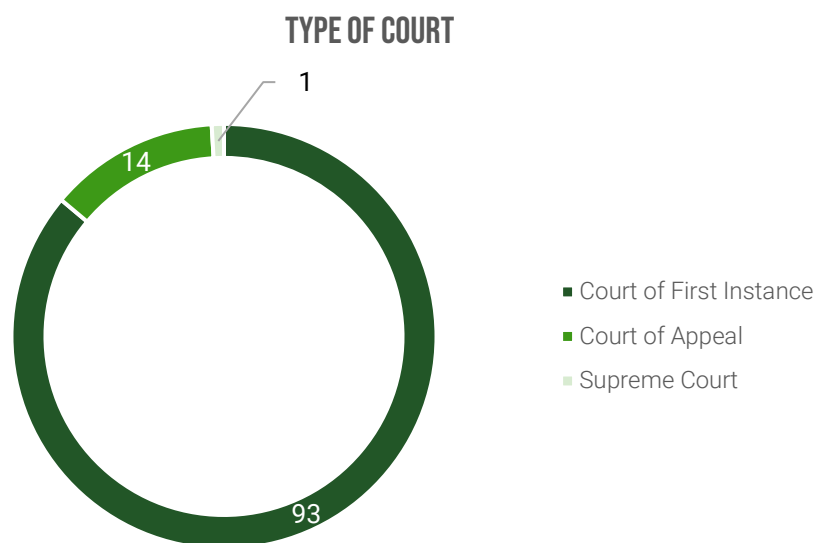


Figure 4. Distribution of cases by type of court.

93 cases out of 108 (i.e. 86% of cases) were handled solely by the first-level courts, i.e. the courts of first instance. 14 cases out of 108 (13% of cases) were appealed. Only one case (less than 1% of cases) was the subject of proceedings before the Supreme Court.



Inspection by Gendarmerie personnel at Toamasina port © Damien Wolff - TRAFFIC

3.3. CHRONOLOGICAL DISTRIBUTION OF CASES

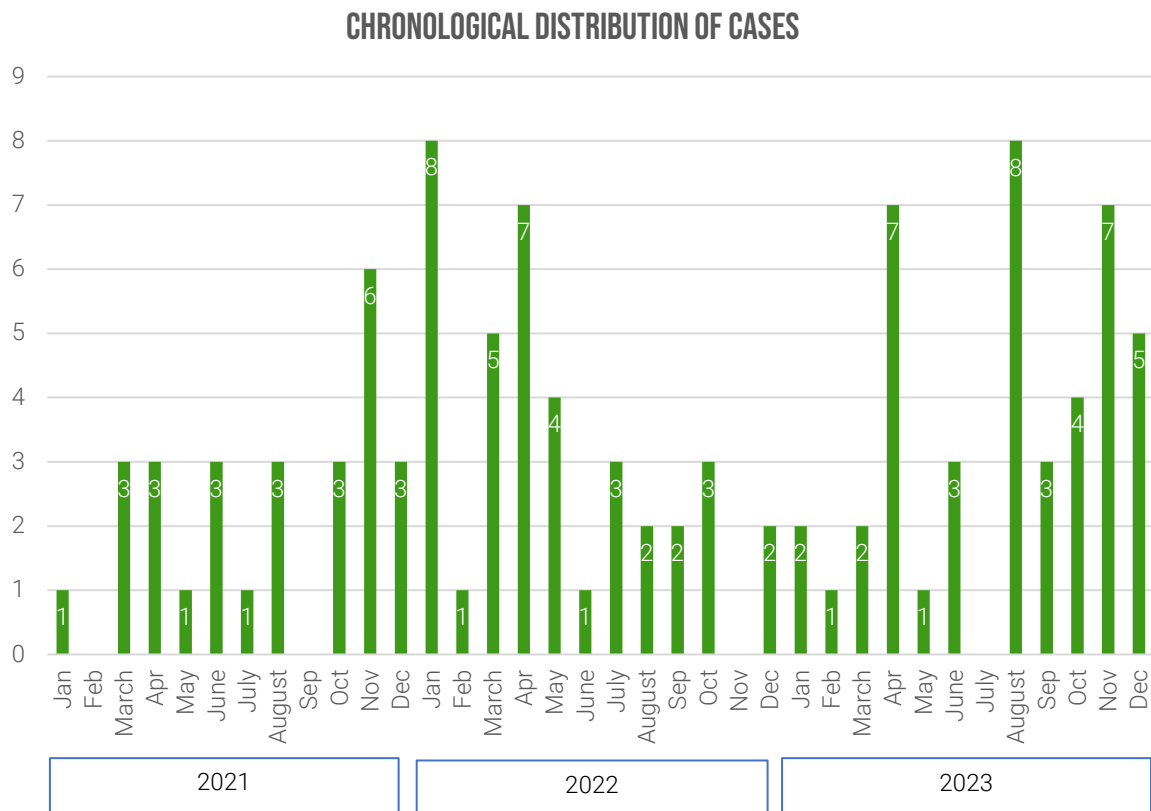


Figure 5. Chronological distribution of cases.

The above graph shows the date on which the offence was recorded and gave rise to the corresponding legal proceedings.

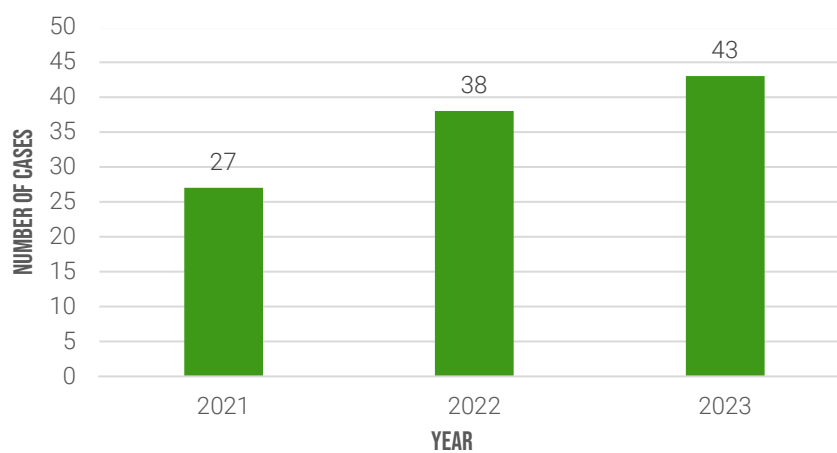


Figure 6. Chronological distribution of cases (per year).

The number of cases increases from year to year: 27 cases in 2021 (25% of cases), 38 cases in 2022 (35% of cases), then 43 cases in 2023 (40% of cases).

The data do not necessarily reflect an increase in wildlife crime incidents over the reference period. They are more likely to reflect variations in TRAFFIC's capacity to monitor court cases and collect data, which increased between 2021 and 2022. While the first three consultants in charge of collecting data were recruited by TRAFFIC between May and September 2021, the remaining four consultants were recruited in the first half of 2022. As a result, TRAFFIC was able to monitor a larger number of court cases in a wider range of regions from 2022 onwards.

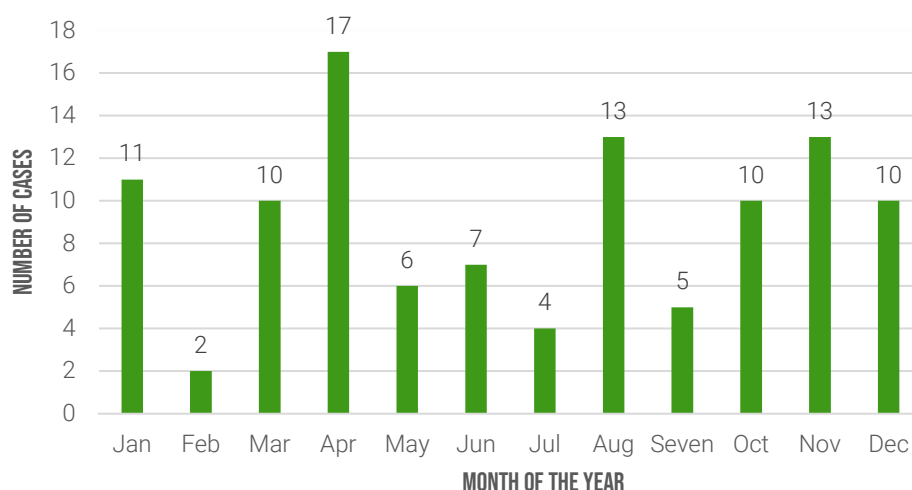


Figure 7. Chronological distribution of cases (per month).

Out of the 108 cases monitored, 17 cases were linked to offences committed in April (16% of cases) while 13 cases were linked to offences committed in August and November (12% of cases in each of these two months). The lowest numbers of offences were reported in February and July (2 and four cases respectively).

Overall, the chronological distribution of offences does not seem to follow a specific trend or pattern.

COMMODITIES

The following sections explore the distribution of seized commodities per taxonomic family, species scientific name, and species common name, amongst other criteria.

3.4. SCIENTIFIC NAMES OF SPECIES

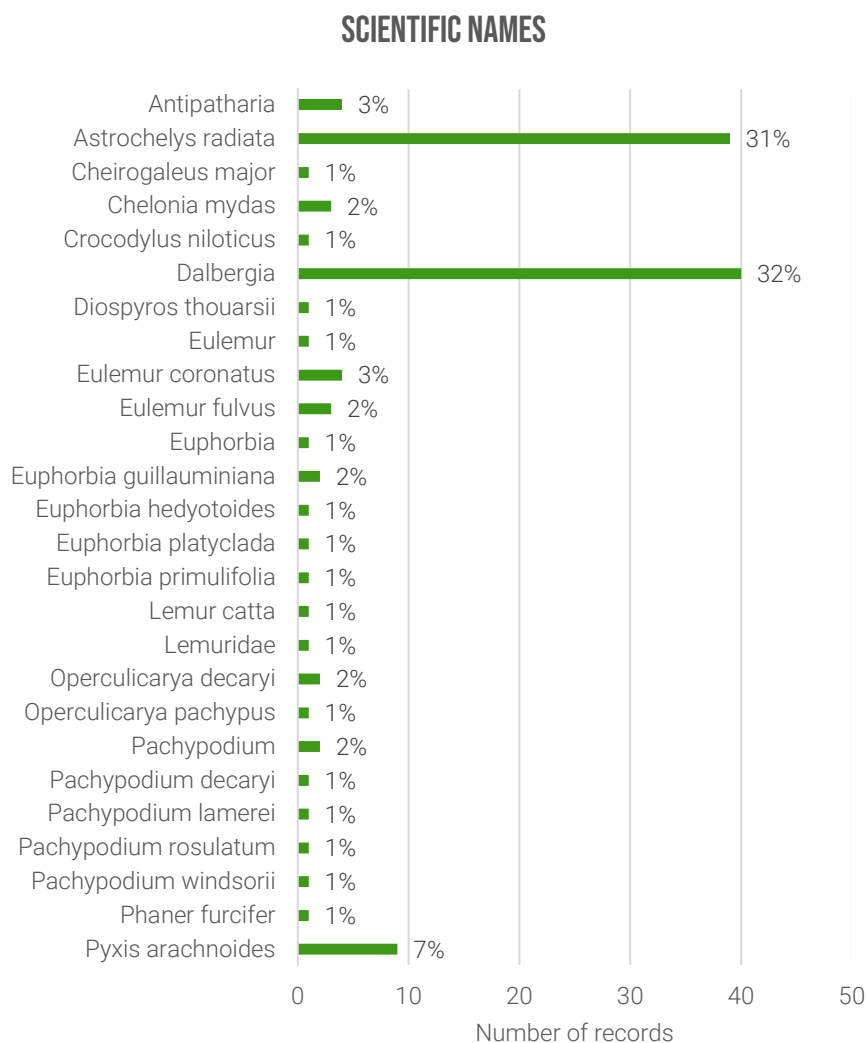


Figure 8. Scientific names of species linked to offences (number of mentions of each species in the cases).

The above graph shows the scientific names of the species linked to the cases. The graph is based on the most precise taxonomic level known by TRAFFIC (order, family, genus, species) as the full scientific name of the species is not always communicated at court hearings or in public sources.

The 108 cases are linked to a total of 26 species (or the most precise taxonomic level known). These 26 species or groups of species are mentioned 124 times in the 108 cases. One case may be linked to several species, for example where a trafficker is arrested in possession of different species of *Pachypodium* or different species of tortoises (e.g. *Astrochelys radiata* and *Pyxis arachnoides*). In addition, the same species may be linked several times to a single case when the offence involves

several types of commodities. In the case of a seizure of live tortoises and parts of dead tortoises (shells and pieces of meat), the species *Astrochelys radiata* will be linked three times: once for the live tortoises, once for the meat, and once for the dead tortoise shells.

Palisanders (*Dalbergia*) and tortoises (*Astrochelys radiata*) were by far the most frequently mentioned species in the 108 cases, with 40 and 39 mentions respectively. In the case of palisanders, it should be noted that the scientific names of the species were neither known to the judicial police officers nor mentioned during the court hearings. In the absence of precise information, these species were therefore grouped together under the genus *Dalbergia*.



Radiated tortoise (*Astrochelys radiata*) © gailhampshire - Wikimedia

3.5. TAXONOMIC FAMILIES

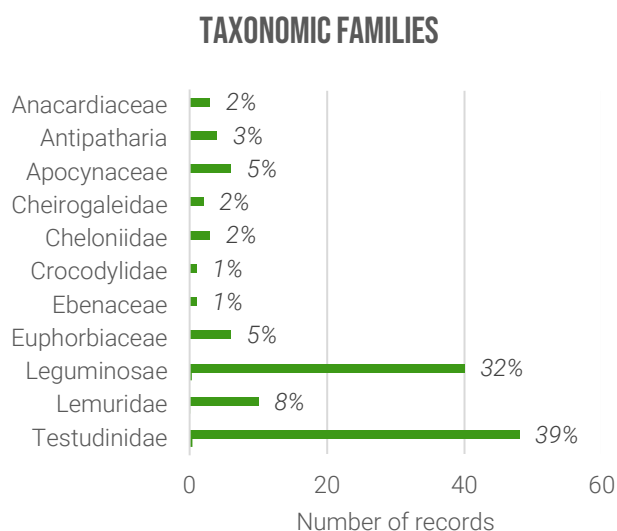


Figure 9. Number of records by taxonomic family.

In total, 10 taxonomic families were mentioned 124 times in the 108 cases. Testudinidae is the most frequently recorded family, with 48 references (39%), followed by Fabaceae or Leguminosae with 40 references (32%). Next come Lemuridae with 10 references (8%), Apocynaceae with six references (5%) and Euphorbiaceae with six references (5%). The remaining six taxonomic families share the remaining 14 records.

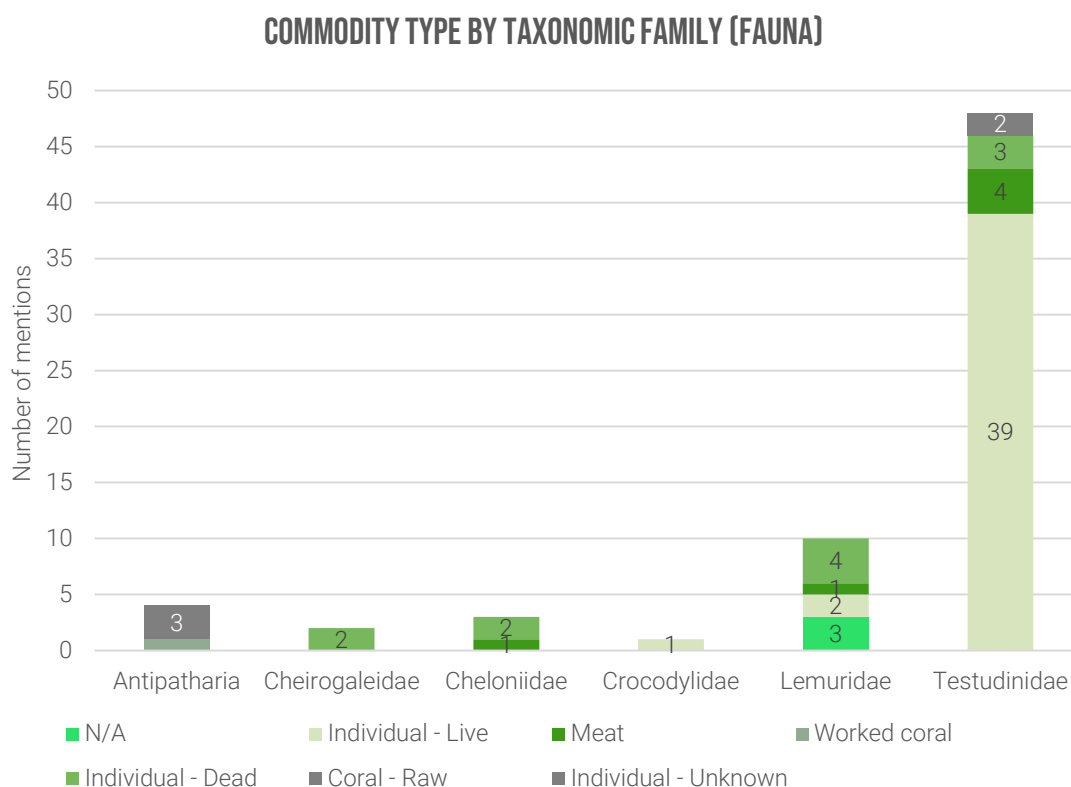


Figure 10. Number of records for each taxonomic family, per commodity type.

The above graph shows the distribution of commodities by taxonomic family for fauna species. Of the 48 mentions corresponding to the Testudinidae family, 39 relate to live individuals, four to meat and three to dead individuals. It should be noted that these figures do not reflect the quantities of individuals seized.

3.6. COMMON NAMES

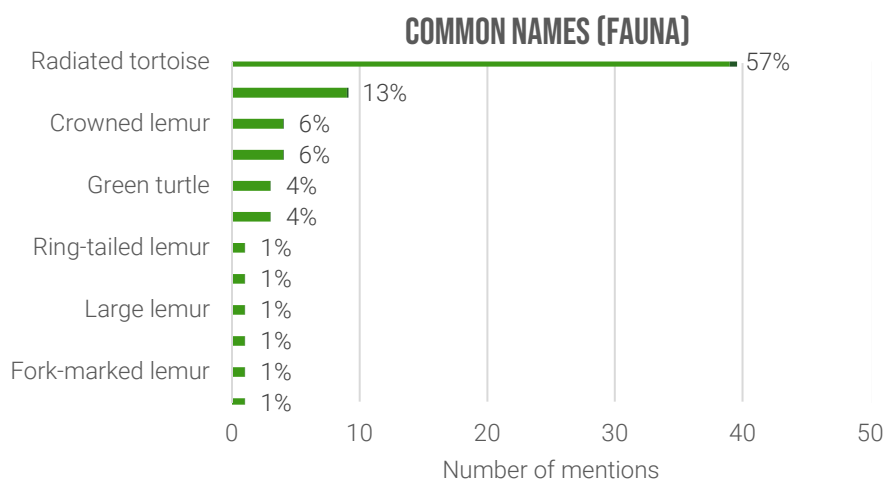


Figure 11. Number of mentions of fauna species, identified by their common name.

Of the 68 mentions of fauna species, radiated tortoises accounted for 39 mentions (57% of the total), well ahead of spider tortoises with nine mentions (13%), black corals with four mentions (6%), and crowned lemurs with four mentions (6%). When adding the records for each lemur species, this brings the total for the lemur super-family to 12 records i.e. 18% of the total, behind radiated tortoises.

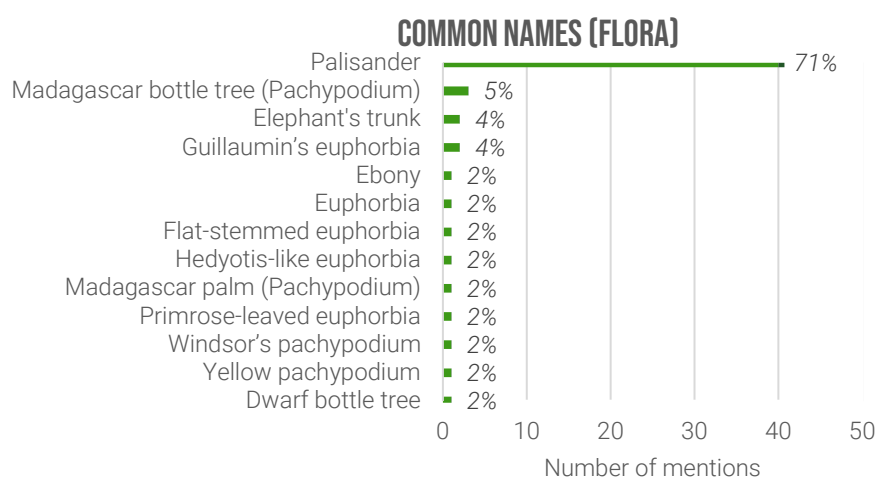


Figure 12. Number of mentions of flora species, identified by their common name.

Of the 56 mentions of flora species, palisander accounts for 40 (71% of the total), far ahead of all other species and species groups. Please note that the species commonly referred to as 'Madagascar palm' belongs to the genus *Pachypodium* and not to the family of palm trees (Arecaceae).

3.7. CITES APPENDICES

FULL SCIENTIFIC NAME	CITES APPENDIX	IUCN RED LIST
<i>Antipatharia</i>	II	N/A
<i>Astrochelys radiata</i>	I	CR (2008)
<i>Cheirogaleus major</i>	I	VU (2018)
<i>Chelonia mydas</i>	I	EN (2004)
<i>Crocodylus niloticus</i>	II	LC (2017)
<i>Eulemur</i>	I	EN/VU (2018)
<i>Eulemur coronatus</i>	I	EN (2018)
<i>Eulemur fulvus</i>	I	VU (2018)
<i>Lemur catta</i>	I	EN (2018)
Lemuridae	I	N/A
<i>Phaner furcifer</i>	I	EN (2017)
<i>Pyxis arachnoides</i>	I	CR (2008)

Table 1. CITES Appendices and IUCN conservation status of wildlife species.

10 out of the 12 species (or species groups) of fauna mentioned in the cases are listed in Appendix I of the CITES Convention. These are lemur and reptile species.

Appendix I of the CITES Convention lists endangered species whose international trade is strictly prohibited except in exceptional circumstances. These ten species were also included on the IUCN Red List in 2004, 2008, 2017 and 2018 in the "Endangered" category, with varying degrees of risk depending on the species.

FULL SCIENTIFIC NAME	CITES APPENDIX	IUCN RED LIST
<i>Dalbergia</i>	II	VU (2018)
<i>Diospyros thouarsii</i>	II	EN (2018)
<i>Euphorbia</i>	II	N/A
<i>Euphorbia guillauminiana</i>	II	EN (2004)
<i>Euphorbia hedyotoides</i>	II	EN (2004)
<i>Euphorbia platyclada</i>	II	VU (2004)
<i>Euphorbia primulifolia</i>	II	VU (2004)
<i>Operculicarya decaryi</i>	II	LC (2015)
<i>Operculicarya pachypus</i>	II	EN (2015)
<i>Pachypodium</i>	II	N/A
<i>Pachypodium decaryi</i>	I	N/A
<i>Pachypodium lamerei</i>	II	LC (2019)
<i>Pachypodium rosulatum</i>	II	N/A
<i>Pachypodium windsorii</i>	I	N/A

Table 2. CITES appendices and IUCN conservation status of flora species.

As far as plant species are concerned, 12 out of the 14 species (or species groups) mentioned in the cases are listed in Appendix II of the CITES Convention. Only two species (*Pachypodium decaryi* and *Pachypodium windsorii*) are listed in Appendix I.

Appendix II of the CITES Convention lists species whose international trade is subject to special requirements due to the risks it may entail for the survival of species in the wild. Seven out of 14 species were included on the IUCN Red List in 2004, 2015, 2018 and 2019 in the "Endangered" category, with varying degrees of risk depending on the species, while two species (*Operculicarya decaryi* and *Pachypodium lamerei*) were included in 2015 and 2019 in the "Least Concern" category.



Chameleon (Chamaeleonidae) © pxhere.com

3.8. QUANTITY OF SPECIMENS BY COMMODITY TYPE

The tables below show the number of specimens seized in the 108 cases monitored, according to commodity type. The weights of the commodities are shown only where this information was available, i.e. in a minority of cases.

TYPE OF COMMODITIES	NUMBER OF SPECIMENS OR UNITS	WEIGHT (KG)
Coral - Raw		323
Worked coral	16	
Individual - Dead	502	
Individual - Live	2,692	
Individual - Unknown	108	
Meat	92	788
TOTAL	3,410	1,111

Table 3. Quantities of commodities seized (fauna), per commodity type.

For fauna, 2,692 live specimens and 502 dead specimens were seized (the vast majority of both categories being tortoises). The total weight of the specimens and products seized was around 1,111 kilograms, although this only includes raw unprocessed coral as well as tortoise and lemur meat.

TYPE OF COMMODITIES	NUMBER OF SPECIMENS OR UNITS	WEIGHT (KG)
Parts of dead plants	1	
Live plants	2,235	
Round wood	83	
Sawn wood	1,137	239
Wood (in unspecified form)	82	
TOTAL	3,538	239

Table 4. Quantities of commodities seized (flora), per commodity type.

For flora, 2,235 live plants were seized as well as 1,137 units of sawn wood and 83 units of round wood. The weight reported in the table refers only to a limited volume of seized sawn wood products, as information on weight was not available in most of the cases.

3.9. QUANTITIES OF SPECIMENS BY SPECIES AND COMMODITY TYPE

FULL SCIENTIFIC NAME	INDIVIDUAL - DEAD	INDIVIDUAL - LIVE	INDIVIDUAL - UNSPECIFIED	MEAT	OTHER	TOTAL
<i>Antipatharia</i>	0	0	0	0	16	16
<i>Astrochelys radiata</i>	439	2,529	29	90	0	3,087
<i>Cheirogaleus major</i>	6	0	0	0	0	6
<i>Chelonia mydas</i>	7	0	0	0	0	7
<i>Crocodylus niloticus</i>	0	0	0	0	0	0
<i>Eulemur</i>	0	0	0	0	0	0
<i>Eulemur coronatus</i>	46	1	0	2	0	49
<i>Eulemur fulvus</i>	1	0	0	0	0	1
<i>Lemur catta</i>	0	6	0	0	0	6
Lemuridae	1	0	0	0	0	1
<i>Phaner furcifer</i>	1	0	0	0	0	1
<i>Pyxis arachnoides</i>	1	156	79	0	0	236
TOTAL	502	2,692	108	92	16	3,410

Table 5. Quantities of specimens seized (fauna), by species and commodity type.

FULL SCIENTIFIC NAME	LIVE PLANTS (OR PARTS)	ROUND WOOD	SAWN WOOD	WOOD (IN UNSPECIFIED FORM)	TOTAL
<i>Dalbergia</i>	1	83	1,132	82	1,298
<i>Diospyros thouarsii</i>	0	0	5	0	5
<i>Euphorbia</i>	68	0	0	0	68
<i>Euphorbia guillauminiana</i>	185	0	0	0	185
<i>Euphorbia hedyotoides</i>	107	0	0	0	107
<i>Euphorbia platyclada</i>	130	0	0	0	130
<i>Euphorbia primulifolia</i>	463	0	0	0	463

<i>Operculicarya decaryi</i>	1,025	0	0	0	1,025
<i>Operculicarya pachypus</i>	3	0	0	0	3
<i>Pachypodium</i>	39	0	0	0	39
<i>Pachypodium decaryi</i>	1	0	0	0	1
<i>Pachypodium lamerei</i>	2	0	0	0	2
<i>Pachypodium rosulatum</i>	59	0	0	0	59
<i>Pachypodium windsorii</i>	153	0	0	0	153
TOTAL	2,236	83	1,137	82	3,538

Table 6. Quantities of specimens seized (flora), by species and commodity type.

3.10. SOURCE OF SPECIMENS

SOURCE OF SPECIMENS (FAUNA)

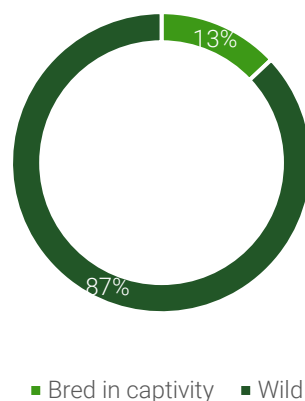


Figure 13. Source of seized specimens (fauna).

Out of 3,410 specimens of fauna seized, 2,968 were sourced from the wild (i.e. 87% of all seized specimens), while 442 came from captive-breeding centres (13%). It is not known to the authors whether captive-bred specimens were born in captivity or sourced from the wild.

In terms of flora species, all 3,538 specimens seized were sourced from the wild.

3.11. GENDER OF SPECIMENS

Data on the gender of seized specimens is available for two species groups: tortoises and lemurs.

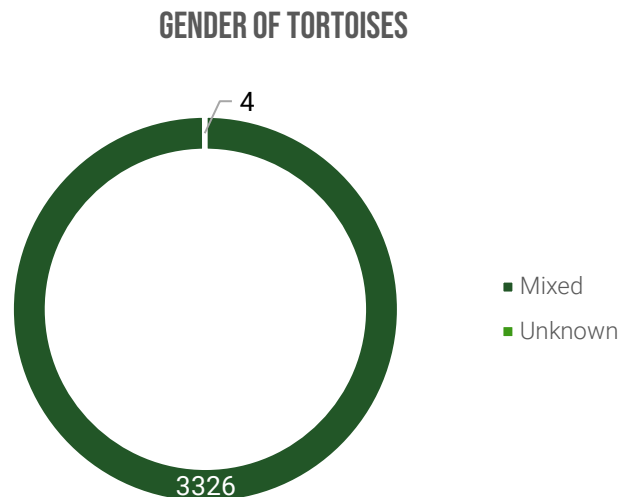


Figure 14. Gender of tortoise specimens.

As far as tortoises are concerned, the vast majority of seizures made by law enforcement authorities include both male and female individuals (mixed) without the precise proportion or number of the latter being specified by judicial police officers. These seizures represent a total of 3,326 individuals, or more than 99% of the total number of tortoise specimens seized by law enforcement authorities. For the remaining four specimens (less than 1% of the total), the gender is either unknown or unspecified.

From these data alone, it is not possible to determine whether poachers and traffickers favour one gender over the other.

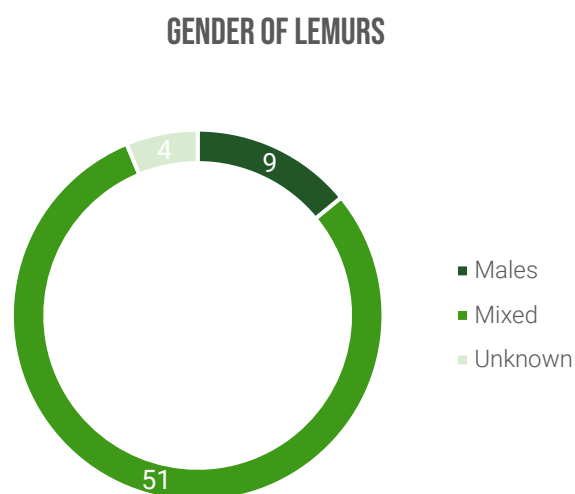


Figure 15. Gender of lemur specimens.

With regard to lemurs, the majority of seizures made by law enforcement authorities include both male and female individuals (mixed) without the proportion or precise number of the latter being specified by the judicial police officers. These seizures represent a total of 51 individuals, or 80% of the total number of lemur specimens seized by law enforcement authorities. In addition, nine male specimens were identified, representing 14% of the total. For the remaining four specimens (6% of the total), the gender was either unknown or unspecified.

From these data alone, it is not possible to determine whether poachers and traffickers favour one gender over the other.

3.12. LIFE STAGE OF SPECIMENS

Data on the life stage of seized specimens relate to two species groups: tortoises and lemurs.

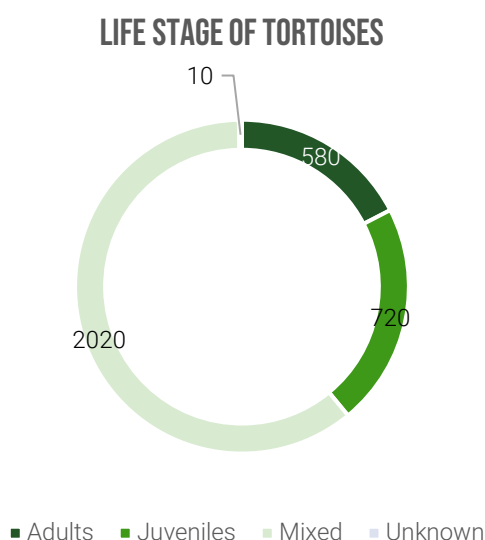


Figure 16. Life stage of tortoise specimens.

With regard to tortoises, the majority of seizures made by law enforcement authorities include both juvenile and adult individuals (mixed) without the proportion or precise number of the latter being specified by judicial police officers. These seizures represent a total of 2,020 individuals, or 61% of the total number of tortoise specimens seized by law enforcement authorities.

In addition, 720 juveniles (22% of the total) and 580 adults (17%) were recorded. For the remaining 10 individuals (less than 1%), the life stage is either unknown or unspecified.

From these data alone, it is not possible to confirm the frequent claim that poachers and traffickers prefer juvenile individuals over adult ones. This aspect could be clarified by analysing the reports of suspects' interrogations.

LIFE STAGE OF LEMURS

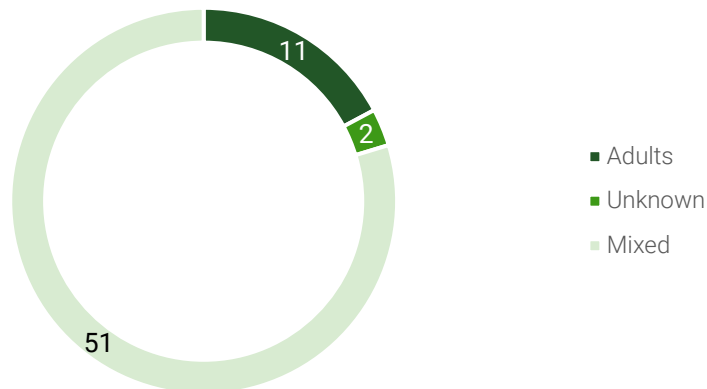


Figure 17. Life stage of lemur specimens.

With regard to lemurs, the majority of seizures made by law enforcement authorities include both juvenile and adult (mixed) individuals, without the proportion or precise number of the latter being specified by judicial police officers. These seizures represent a total of 51 individuals, or 80% of the total number of lemur specimens seized by law enforcement authorities.

In addition, 11 adult individuals (17%) were recorded. For the other individuals, i.e. two specimens (3%), the life stage is either unknown or unspecified.

From these data alone, it is not possible to determine whether poachers and traffickers prefer juvenile individuals over adult ones. As above, this aspect could be clarified by analysing the reports of suspects' interrogations.



Eulemur rufus © pxhere.com

INVESTIGATIONS

3.13. AUTHORITIES IN CHARGE OF PRELIMINARY INVESTIGATIONS

In Malagasy law, the preliminary investigation is a judicial police enquiry carried out prior to the initiation of prosecution or the opening of a formal investigation by an investigating judge. The purpose of the preliminary investigation is to gather the information needed to decide whether to (i) initiate criminal proceedings, (ii) close the case without further action, or (iii) refer the matter to an investigating judge. It is supervised by a prosecutor.

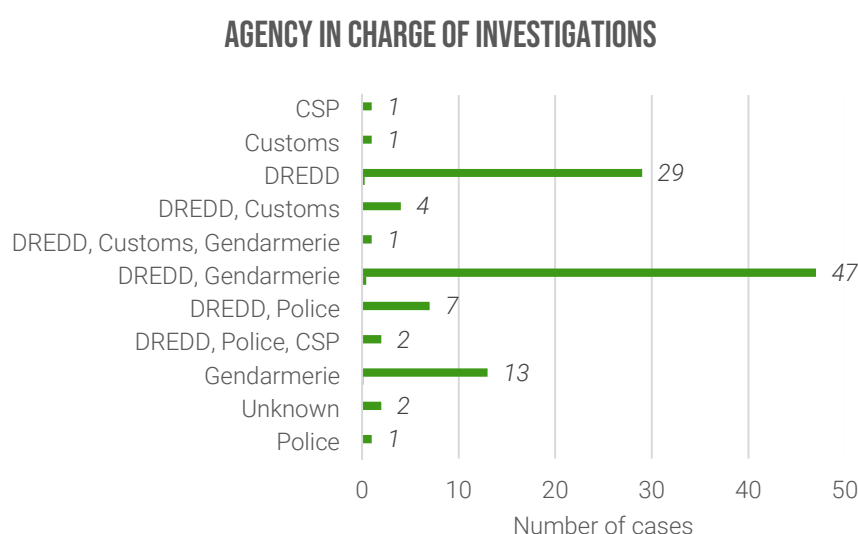


Figure 18. Authorities in charge of investigations.

In 29 cases out of 108 (i.e. 27% of cases), the preliminary investigation was conducted exclusively by the DREDD. In 13 cases (12%), the preliminary investigation was conducted exclusively by the National Gendarmerie. In 47 cases (44%), the preliminary investigation was conducted jointly by the DREDD and the National Gendarmerie. In seven cases (6%), the preliminary investigation was conducted jointly by the DREDD and the National Police. Other combinations are observed in a limited number of cases.

The data show that the DREDD and the National Gendarmerie are the law enforcement authorities most frequently in charge of investigations. The DREDD contributed to investigations in a total of 90 cases (83% of the total), either single-handedly or in collaboration with other agencies. The National Gendarmerie contributed to investigations in a total of 61 cases (56%).

The National Police, Customs, and the Fisheries Surveillance Centre (CSP) contributed to the investigations in 10, 6, and three cases respectively.

3.14. DETECTION METHODS

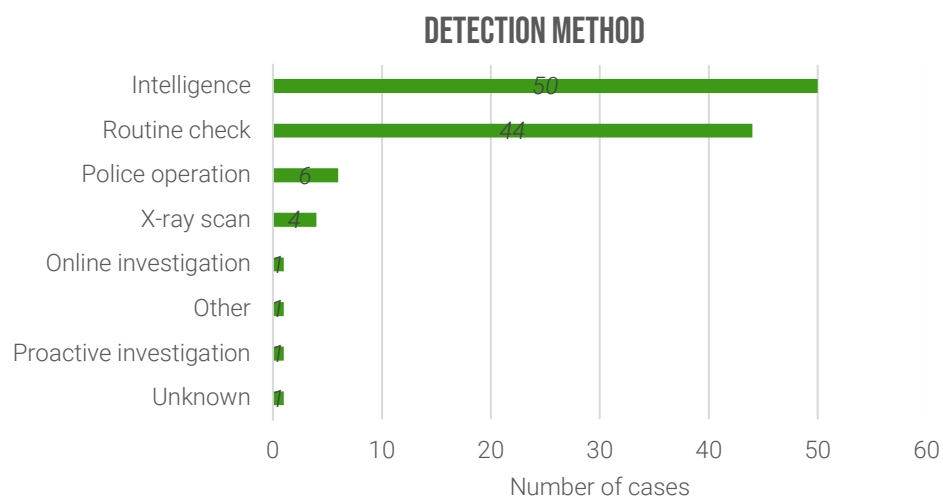


Figure 19. Detection method.

In 50 out of 108 cases (46% of all cases), the offence was detected based on intelligence provided by third parties. Almost half of the seizures were therefore based on intelligence. In 44 cases (41%), the offence was detected during a routine check. In six cases (6%), the offence was detected during a police operation not based on intelligence (e.g. operations to detect other offences). In four cases (4%), the offence was detected using X-ray scanners at ports and airports. Finally, in one case (less than 1%), the offence was detected following a proactive investigation, including the targeting of potential offenders.

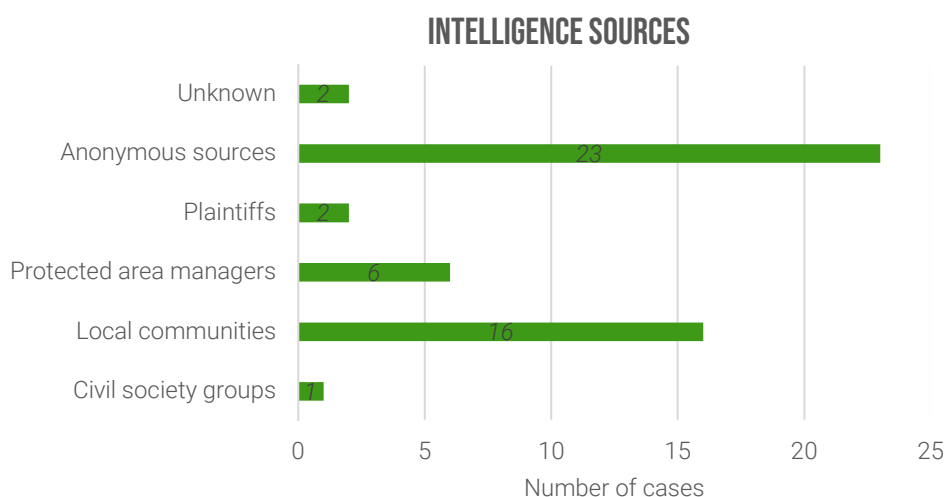


Figure 20. Sources of intelligence.

The third-party intelligence used by law enforcement authorities comes from a variety of sources, including anonymous sources (23 cases out of 50), local communities (16 cases), protected area managers (6 cases), people who have formally lodged a complaint with the authorities (2 cases), and civil society groups (1 case).

3.15. TRANSPORT MODE

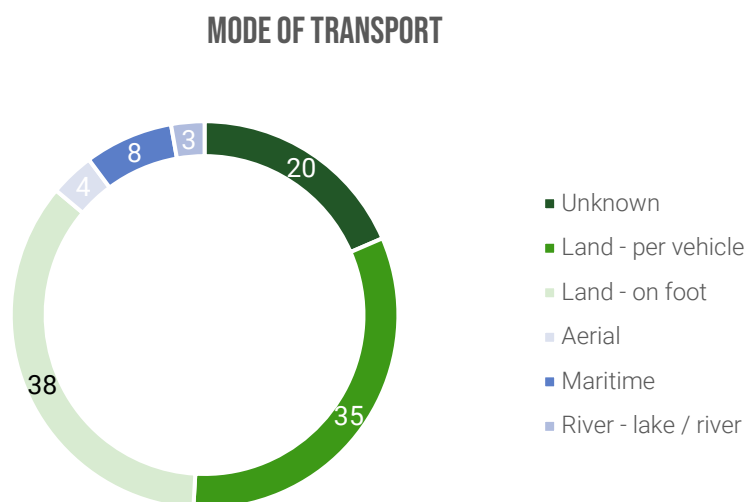
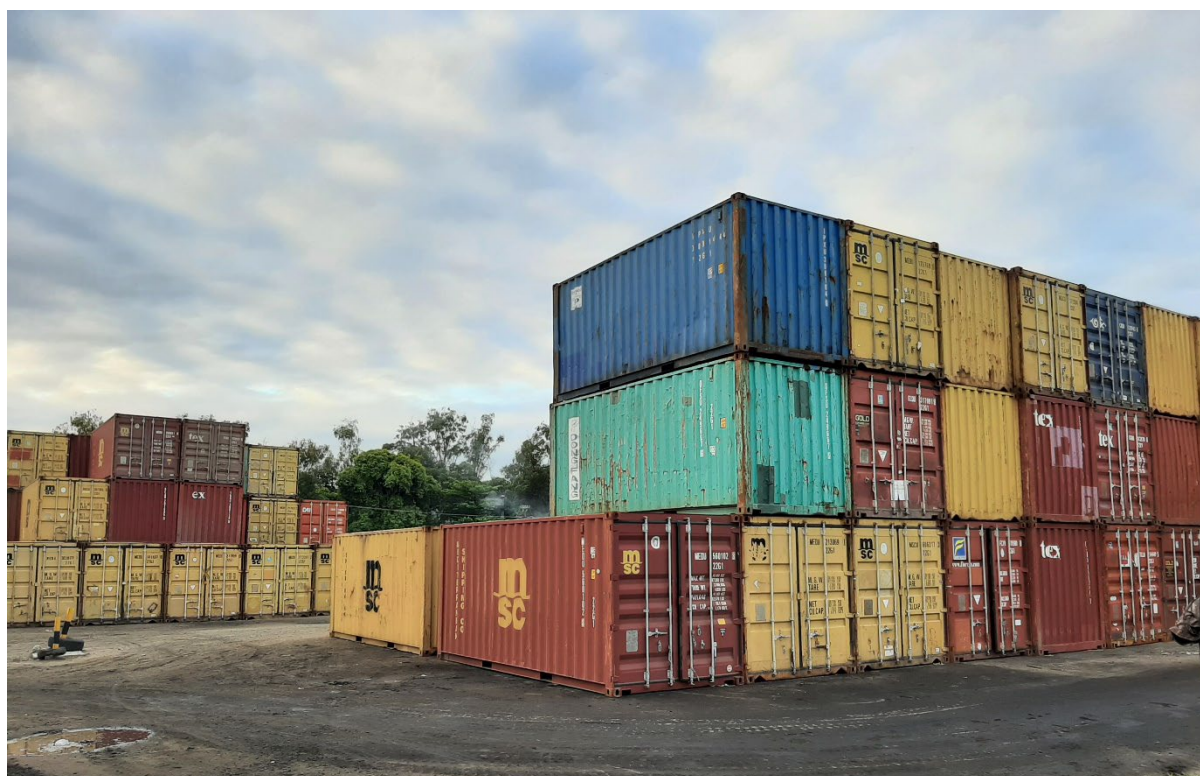


Figure 21. Modes of transport of commodities at the time of detection.

In 38 out of 108 cases (35% of cases), the commodities were being transported on foot at the time of seizure. In 35 cases (32%), the commodities were transported in a vehicle. In 20 cases (19%), another unspecified or unknown mode of transport was used. Maritime and river transport were used to carry the illicit commodities in eight and three cases respectively. In four cases (less than 4%) the commodities were transported by air.



Shipping containers at Toamasina port © Damien Wolff - TRAFFIC

3.16. LOCATION OF COMMODITIES

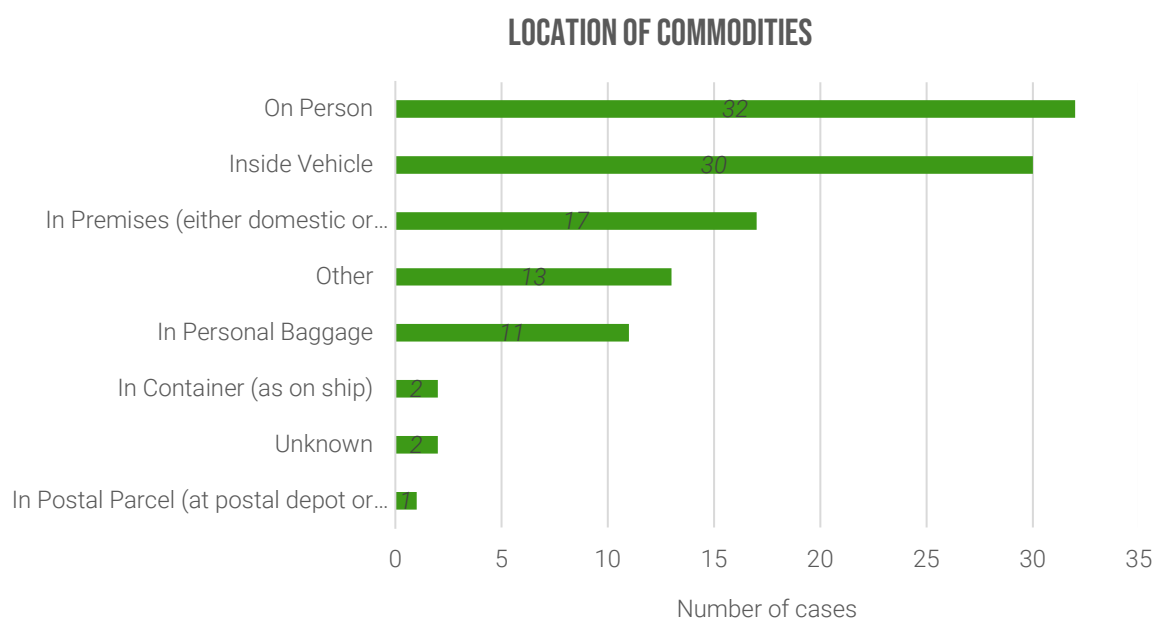


Figure 22. Location of commodities at the time of detection.

In 32 cases out of 108 (30% of cases), the commodities were on or with the person who was apprehended. In 30 cases (28%), they were inside a vehicle. In 17 cases (16%), the commodities were found in private or commercial premises linked to those apprehended. In 11 cases (10%), the commodities were found in personal luggage. In 13 cases (12%), the commodities were in another unspecified location. Maritime containers and postal parcels account for a small proportion of the locations, with 2% and 1% of the cases respectively.



Simulation of inspection © Damien Wolff - TRAFFIC

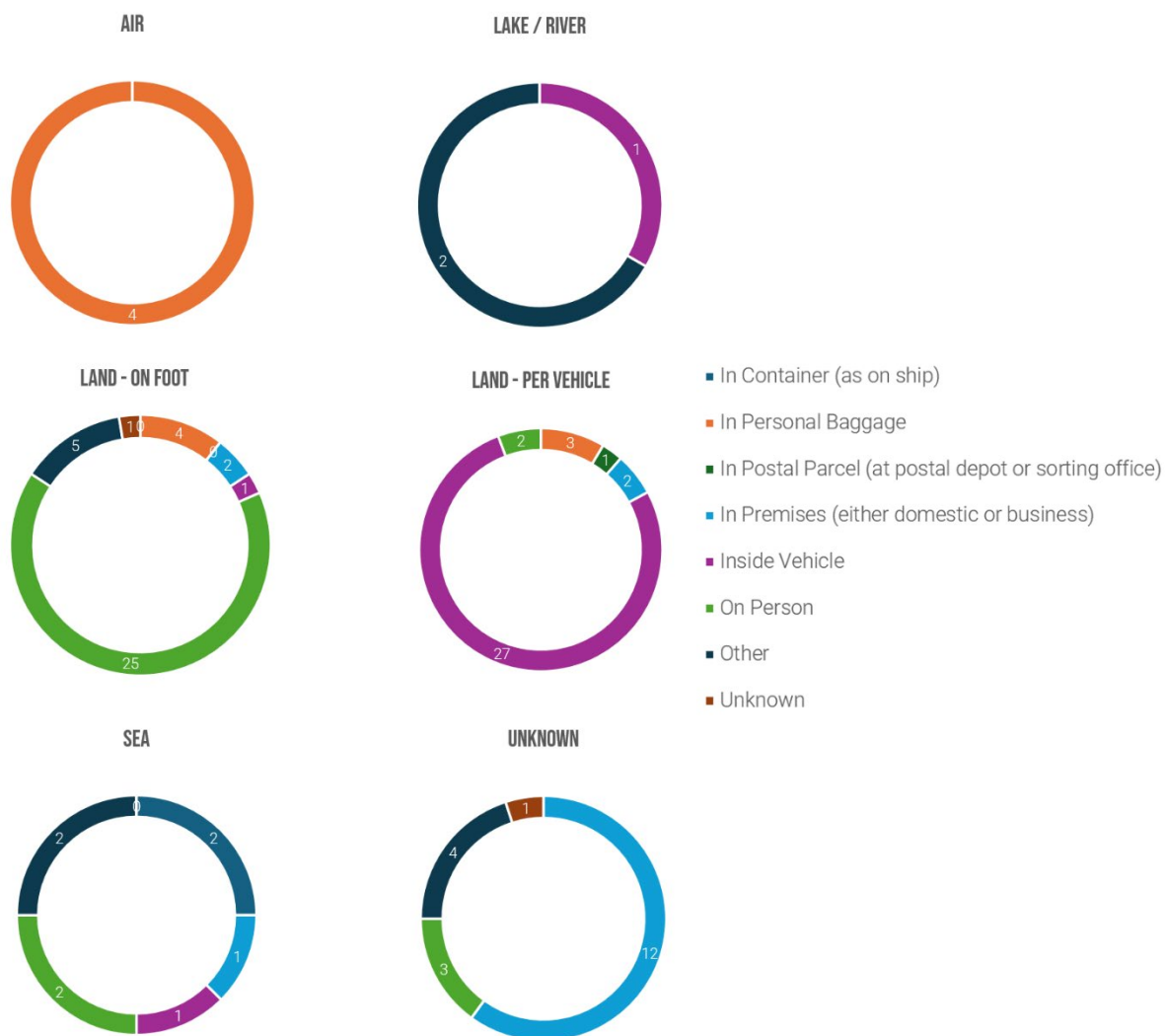


Figure 23. Location of concealed specimens, by mode of transport.

The above graphs describe the modes of transport and methods of smuggling or concealment reported during investigations and where offenders were apprehended. Most concealment cases involving a person took place by land, on foot (25 cases), making it the most frequent mode of transport in this category.

It is likely that river transport is used frequently by poachers and traffickers in protected areas, where control and surveillance operations are less frequent, and the number of incidents are likely not reflective of how often this transport method is used. Arrests mainly take place in areas where surveillance and checks are carried out, particularly around urban areas and on national roads.

Land transport includes significant use of vehicles for concealment, with 27 cases inside vehicles and lower numbers for personal baggage, on premises, "unknown/not reported", and on a person.

3.17. METHODS OF CONCEALMENT

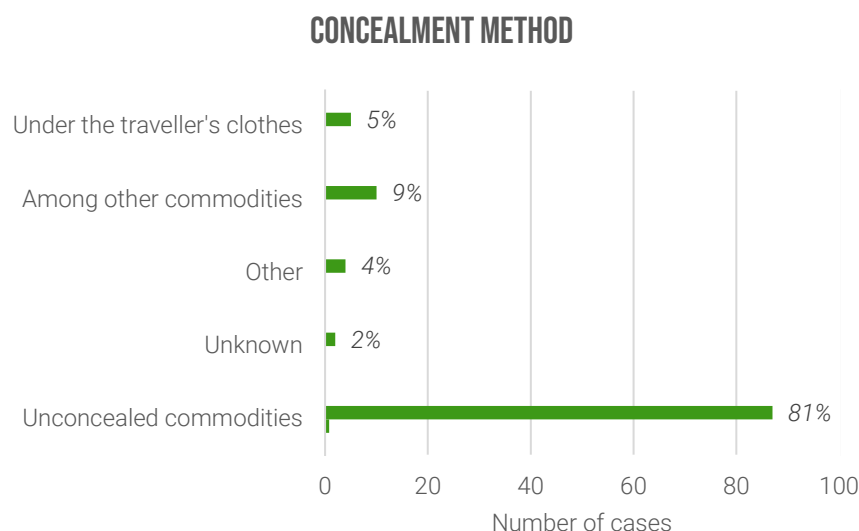


Figure 24. Methods of concealment.

In the vast majority of cases (87 out of 108, or 81% of cases), the commodities were not concealed at the time of detection. In 10 cases (9%), they were concealed among other commodities. Only in five cases (5%) were the commodities concealed under the clothes of apprehended individuals. The other methods of concealment are either unknown or unspecified. In the vast majority of cases, the suspects made no particular effort to conceal the commodities.

3.18. DOCUMENTATION

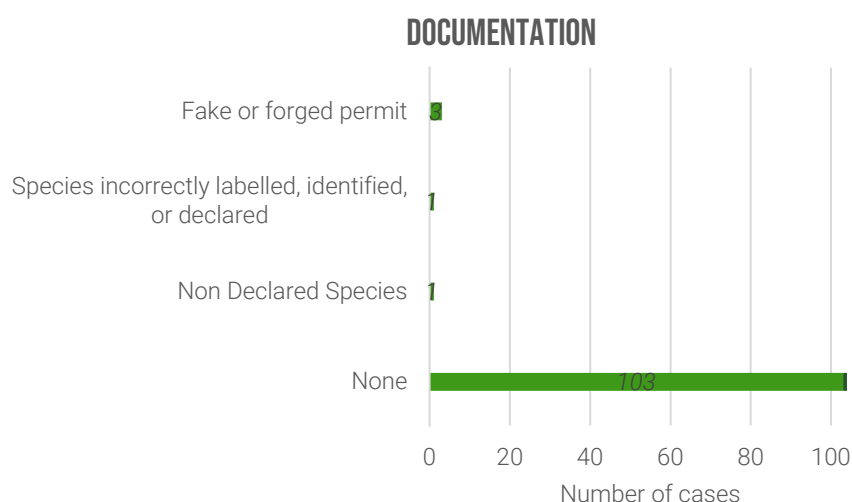


Figure 25. Documentation produced by suspects.

The offenders were in possession of supporting documentation in only five of the 108 cases (i.e. less than 5% of the cases). Out of these cases, the offenders produced false CITES permits in three cases, and permits that included incorrect quantities or species that were misdeclared, misidentified, or

misclassified in two cases. In 103 cases (95%), no documentation equivalent to a permit or authorisation was produced by the offenders.

3.19. PAYMENT METHODS

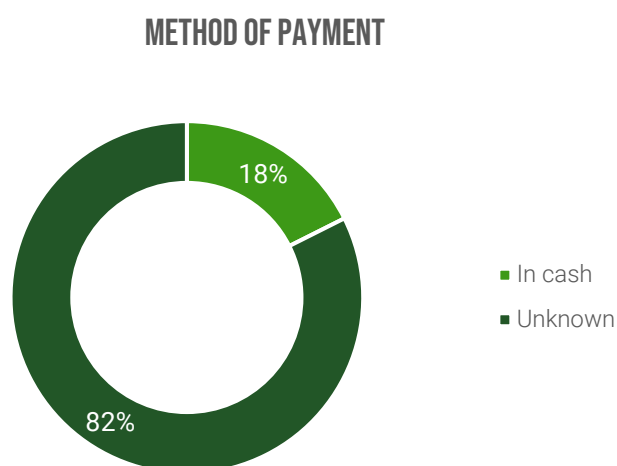


Figure 26. Payment methods.

The use of cash to make payments in connection with the offence was mentioned in 19 cases (18% of cases). The remaining 89 cases (82%) contain no information about the payment methods used by the offenders or other people in the supply chain.

3.20. E-COMMERCE

Out of 108 cases, the use of e-commerce platforms was documented in only two cases. No further details are available.



Traditional malagasy dhows at Mahajanga port © Damien Wolff – TRAFFIC

3.21. OTHER CONTRABAND

Several of the cases mention the presence of other illegal commodities or commodities during seizures.

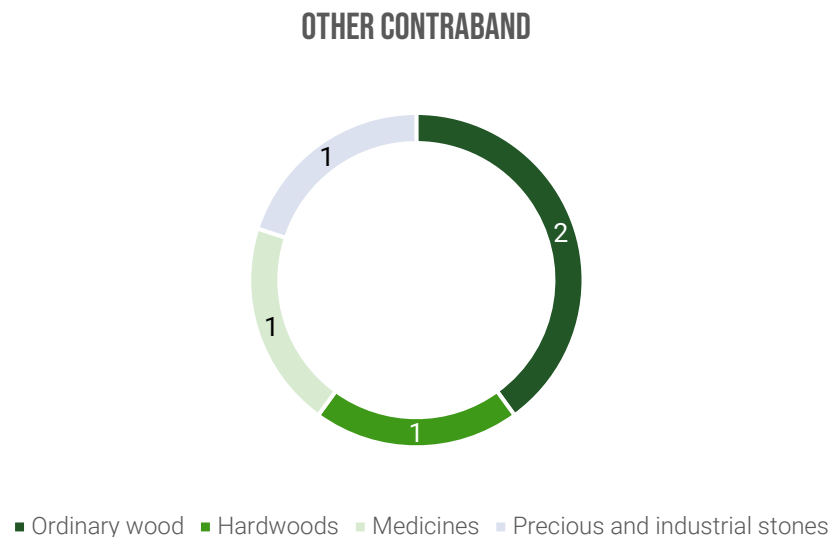


Figure 27. Number of cases in which other contraband was seized, by commodity type.

The 'ordinary wood' category includes 1,388 pieces of ordinary wood of all kinds, while the 'hardwood' category includes 120 planks of Nanto wood. These commodities are classified as contraband in that they were not accompanied by any harvest or transport authorisation. In the case of medicines and precious and industrial stones, the offenders were not in possession of any document proving the legality of the commodities and/or exports.

3.22. SEARCHES

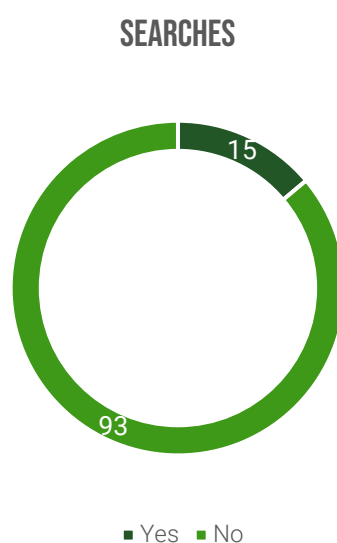


Figure 28. Searches.

Searches of suspects' homes or premises associated with their activities were carried out in 15 out of 108 cases (14% of cases).

3.23. POLICE CUSTODY

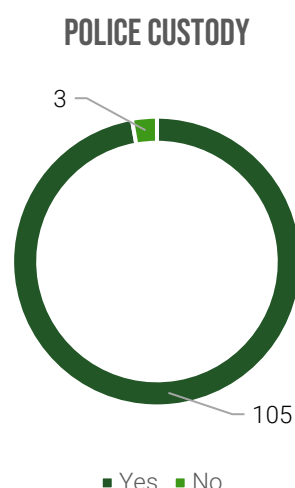


Figure 29. Number of cases in which suspects were taken into police custody.

Suspects were taken into police custody in most cases, i.e. 105 out of 108 (or 97% of cases). The reasons why suspects were not taken into police custody in the remaining three cases (3%) were not clarified during the corresponding court hearings.

3.24. INFORMATION OBTAINED DURING PRELIMINARY INVESTIGATIONS

TYPE OF INFORMATION	NUMBER OF CASES	% OF TOTAL CASES
Origin of specimens	75	69
Owner of specimens	72	67
Identity of carriers	63	58
Modus operandi	50	46
Identity of intermediaries	14	13
Sale prices	9	8
Identity of buyers	8	7

Table 7. Information obtained during preliminary investigations.

The preliminary investigations carried out by the judicial police officers provided information on the origin of the specimens in 75 out of 108 cases (i.e. 69% of the cases), the owners of the specimens (67%), the identity of the transporters (58%) and the modus operandi of the trafficking (46%). On the other hand, the sale prices of the products and the identity of the buyers were clarified in a small proportion of cases (8% and 7% respectively).

3.25. ADDITIONAL ARRESTS

The term "additional arrest" refers to the fact of placing under arrest accomplices or associates of suspects already under investigation. These accomplices or associates may be identified by law enforcement authorities during questioning, searches, or any other investigative act occurring in the course of the preliminary investigation or inquiry. The proportion of additional arrests is an indicator of the extent to which investigations are being conducted with a view to dismantling networks.

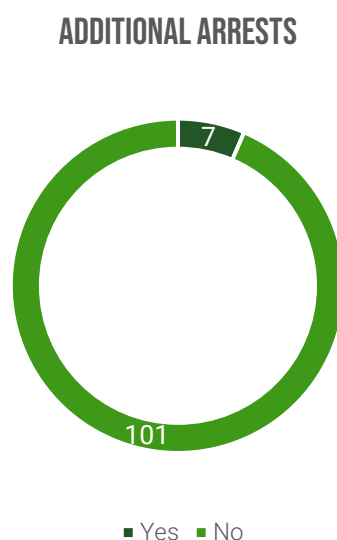


Figure 30. Number of cases in which additional arrests were made during the investigation.

The data show that additional arrests were made in only seven of the 108 cases (i.e. 6% of the cases). No additional arrests were made in 101 cases (94%).

3.26. SPECIAL INVESTIGATIVE TECHNIQUES

The use of special, modern investigative techniques is essential to dismantle organised crime networks. This principle applies to many crime types, including IWT. Article 20 of the United Nations Convention against Transnational Organized Crime (UNTOC, or 'Palermo Convention') encourages State Parties to make appropriate use of special investigative techniques, including controlled delivery, electronic surveillance, undercover operations, and other forms of surveillance of suspects and transactions. Depending on the country, special investigative techniques may also include :

- Secret searches of premises, letters, parcels, containers and vehicles ;
- Purchase simulations ;
- Simulations of corruption offences or "integrity tests" ;
- Secret real-time monitoring of financial transactions.

In Madagascar, 'Law 2016-017 amending and supplementing certain provisions of the Code of Criminal Procedure' provides for special investigative techniques such as infiltration, surveillance, decryption of data, capture of computer data, interception of digital correspondence, and investigations under pseudonyms, with a view to effectively combating crime in all its forms.

Special investigative techniques are often intrusive and can affect fundamental rights and infringe the right to privacy. For this reason, they must be strictly regulated by law to avoid abuse and misuse.

Their use requires a balance between the effectiveness of investigations and respect for fundamental rights. In addition, law enforcement authorities must respect the principles of proportionality and necessity when using special investigative techniques. These should only be used when conventional investigative methods are not sufficient.

SPECIAL INVESTIGATIVE TECHNIQUE	NUMBER OF CASES	OF TOTAL CASES
Communications monitoring	2	2
Online survey	1	1
Other	1	1

Table 8. Use of special investigative techniques.

The investigative technique which consists in monitoring the suspect's communications - for example via phone tapping or the requisition of electronic means of communication - was used by law enforcement authorities in only two cases out of 108 (or 2% of cases). Online investigations, which consist in gathering information from social networks, e-commerce platforms, and other open-access sources, were used in only one case (1%). Another unspecified special investigative technique was used in one case.



Customs officers at work © Direction Générale des Douanes de Madagascar

3.27. FORENSIC ANALYSES

In addition to conventional analyses such as ballistics and DNA analyses of human samples, forensic analysis methods include taxonomic analysis, DNA analysis of seized fauna and flora specimens, macroscopic or microscopic analysis of the anatomical characteristics of wood, toxicological analysis, veterinary pathology analysis, taxidermal examinations, and soil and pollen analysis, amongst others. The use of these methods enables the precise identification of specimens and their origin, as well as suspects and the circumstances of the offence, thus helping to establish the truth in the course of criminal investigations. It should be noted that Madagascar authorities have limited access to such techniques and therefore a limited capacity to carry out forensic analyses.

Forensic analysis techniques were not used in any of the cases.

3.28. MODUS OPERANDI

MODUS OPERANDI CATEGORY	SUB-CATEGORY	NUMBER OF CASES	PERCENTAGE
Hunting or logging expeditions	Multiple-day forest expeditions	18	17%
	Group expeditions	12	11%
	Night-time operations	2	2%
	Forest coverage	7	6%
	Group coverage	3	3%
	Concealment of commodities in fields and/or forests	2	2%
Processing and preparation	Animal slaughter/meat preparation	4	4%
	Meat smoking	7	6%
	Preparing food in camps	6	6%
Storage	Home/residential storage	9	8%
	Storage on agricultural land/fields	3	3%
	Yard storage	3	3%
	Storage in business premises	2	2%
	Temporary storage sites	1	1%
Organised networks	Structured networks with sponsors	9	8%
	Coordinated operations between several people	25	23%
	Networks with financial transactions	16	15%
	Professional trafficking operations	5	5%
Collection based on orders	Collection for specific buyers	12	11%
	Pre-organised sales/deliveries	4	4%
	Commercial resale transactions	13	12%
	Supplying hotels/companies	0	0%
Document fraud	Falsified export documents	2	2%
	False permits	3	3%
Payment methods	Advance payment system	2	2%
	Payment based on quantity collected	2	2%

Table 9. Modus operandi used by traffickers.

The above table was generated using an analysis tool based on artificial intelligence (<https://claude.ai/>). It may therefore contain factual errors and should be interpreted with a degree of caution. The percentages represent the proportion of cases (out of 108) that employed each specific method.

The categories of modus operandi used by traffickers were identified based on information collected by investigators and then shared with the court during public hearings.

Carrying out long hunting operations is one of the most commonly cited modus operandi (32 cases). The modus operandi listed in the above table also indicate the existence of structured and organised networks (55 cases in total), involving coordination between several people (25 cases), different levels of financial transactions (16 cases), professionalisation and specialisation of the players (5 cases), and the existence of sponsors at the end of the chain (9 cases). Illegal harvesting is

sometimes the result of orders placed by specific buyers (12 cases) and gives rise to commercial sales (13 cases).

3.29. ASSETS CONFISCATED ALONGSIDE WILDLIFE COMMODITIES

The arrests made by law enforcement authorities in the 108 cases led to the confiscation of other assets alongside wildlife commodities. These assets were used by offenders while committing the offences and included vehicles (both regular and 4x4 type), boats (dhows and commodity ships), mobile phones, as well as tools used for poaching and harvesting (axes, knives, darts, lemur traps), all of them confiscated in small numbers.

3.30. FATE OF SEIZED COMMODITIES

FATE OF SEIZED COMMODITIES (BY TYPE OF COMMODITY)	UNITS	WEIGHT (KG)
Individuals - Live		
Transferred to a rescue centre	1,692	
Unknown	580	
Reintroduced into the wild	420	
Individuals - Dead		
Unknown	1	
Destroyed	501	
Individuals - Unknown		
Unknown	79	
Stored	29	
Meat		
Destroyed	92	788
Coral - Worked		
Stored	16	
Coral - Raw		
Unknown		323
Live plants		
Transferred to a rescue centre	941	
Reintroduced into the wild	1,045	
Stored	249	
Parts of dead plants		
Stored	1	
Sawn timber		
Other	301	
Transferred to a rescue centre	30	
Unknown	17	
Stored	789	239
Round wood		
Unknown		
Stored	83	
Wood products not elsewhere specified		

Stored	82	
TOTAL	6,948	1,350

Table 10. Fate of commodities seized, by commodity type.

Information on the fate of the commodities following their confiscation is not known for all cases. However, the fate and destination of the commodities are known for a total of 6,948 specimens and 1,350 kg of commodities, including 3,410 specimens of fauna (49% of the total specimens) and 3,538 specimens of flora (51%).

As detailed in Section 3.8 of the report (*Quantity of specimens by commodity type*), 2,692 live animals and 2,235 live plants were seized in the 108 cases monitored, adding up to 4,927 live specimens.

According to the information available at the time of the final court hearings, 2,663 live specimens had been transferred to rescue and quarantine centres (i.e. 54% of the total number of live specimens seized), while 1,465 specimens had been reintroduced into the wild (30%). It is likely that other live specimens were reintroduced into the wild following the court decisions.

PROSECUTIONS

3.31. TYPE OF CRIMINAL PROCEDURE

Madagascar's Code of Criminal Procedure (articles 177 to 179) foresees three types of procedures for the prosecution of criminal offences: direct citation, basic investigation, and preparatory instruction.

In Malagasy law, the **direct citation** is a procedure whereby the prosecutor summons the suspect to appear directly before the competent court (criminal court or police court), immediately after the preliminary investigation. It is a way of swiftly initiating public proceedings when the perpetrators have been identified, the facts are clear, simple and sufficiently established, and the evidence deemed sufficient to proceed to the judicial deliberation.

The **basic investigation** procedure is a simplified and accelerated criminal procedure, initiated by a prosecutor, applicable in certain cases where the facts are relatively clear but where additional evidence is required, allowing a criminal case to be dealt with quickly without launching a preparatory instruction by an investigating judge. A basic investigation may last up to six months (not renewable). At the end of this period, the prosecutor may decide to schedule a court hearing based on the outcome of the investigation.

In complex, serious, or legally binding cases, the prosecutor may initiate a **preparatory instruction** procedure. This is an in-depth judicial enquiry led by an investigating judge (or examining magistrate). The purpose of this procedure is to determine whether there are sufficient charges to take the suspect(s) to trial. The preparatory instruction procedure is used in complex cases involving, for example, multiple offences, sophisticated modus operandi, and/or the involvement of criminal networks. Prosecutors may initiate this procedure when many additional investigative acts are required to establish the facts and search for evidence, and when the necessary investigations cannot be carried out within six months. The preparatory instruction can last up to eight months for crimes and up to six months for misdemeanours (renewable twice).

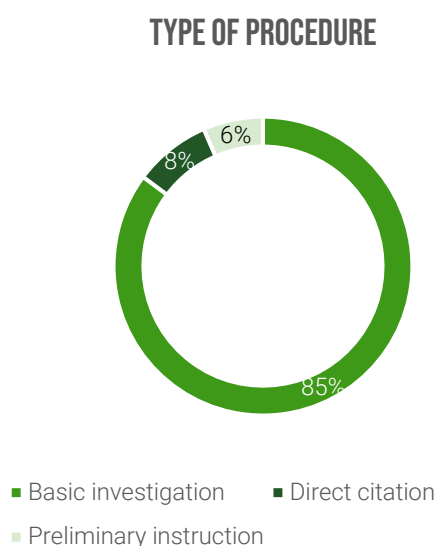


Figure 31. Type of criminal procedure initiated by prosecutors.

Prosecutors initiated basic investigation procedures in 92 out of 108 cases (85% of the total). Direct citation procedures were initiated in nine cases (8%), while the preparatory instruction procedure was chosen in only seven cases (6%).

3.32. MEASURES TAKEN WITH REGARD TO DEFENDANTS AT THE TIME OF THE INDICTMENT

An indictment is the formal act by which the prosecutor notifies a person that they are being prosecuted for specific offences, on the basis of evidence gathered during a preliminary or flagrante delicto investigation.

In Malagasy law, at the time of indictment the prosecutor may choose to let the accused go free pending trial (provisional release), place them in pre-trial detention, or allow them to remain at liberty subject to certain strict obligations while awaiting trial (judicial control). For a detailed definition of each term, please refer to the glossary.

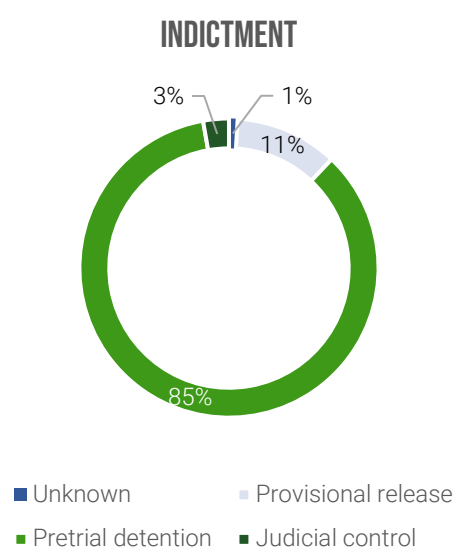
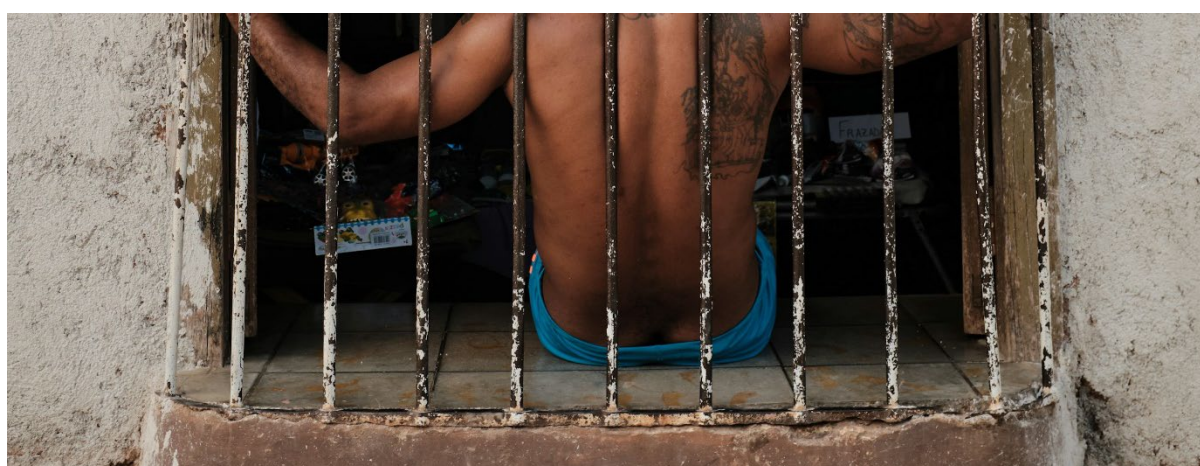


Figure 32. Measures taken with regard to the accused at the time of indictment.

Following the indictment, the defendants were placed in pre-trial detention by prosecutors in 92 of the 108 cases (85% of the total). Prosecutors opted for provisional release in 12 cases (11%), and for judicial supervision in three cases (3%).



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3.33. CHARGES

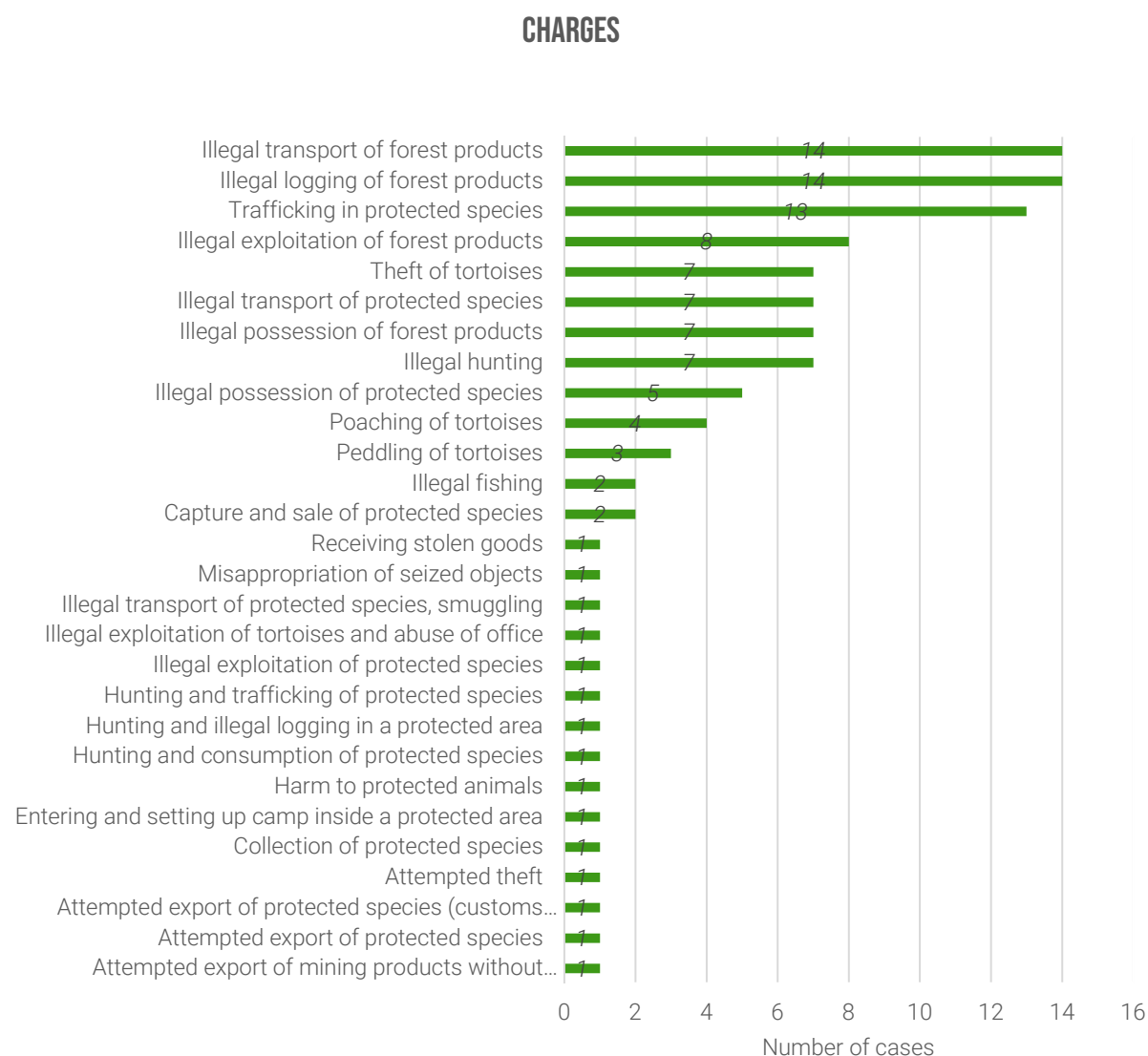


Figure 33. Charges brought by prosecutors against the accused.

Prosecutors brought a total of 28 different charges against the accused out of 108 cases. Of these, 12 charges made specific reference to the fact that protected wild species were involved.

Charges of "Illegal logging of forest products" and "Illegal transport of forest products" were brought in 14 cases each, representing 13% of the total. This was followed by charges of "Trafficking in protected species" (brought in 13 cases, or 12%) and "Illegal exploitation of forest products" (brought in eight cases, or 7%). Charges of "Illegal hunting", "Theft of tortoises", "Illegal possession of forest

products", and "Illegal transport of protected species" were each brought in seven cases, i.e. 6% of the total.

No charges relating to financial crime (i.e. corruption, fraud, or money laundering) were brought by prosecutors. However, as mentioned in Section 3.18 (Documentation), the investigations established that fraudulent permits had been used by the offenders in three cases.

3.34. LEGAL BASIS FOR THE INDICTMENT

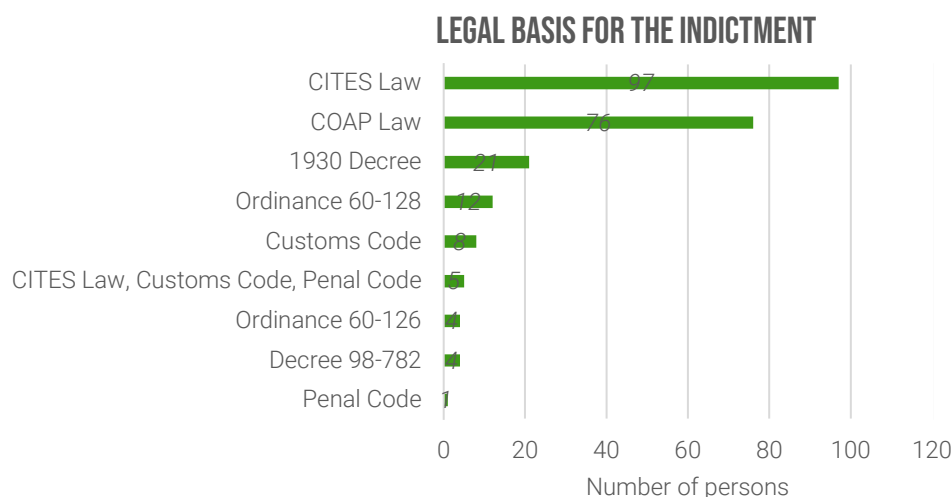


Figure 34. Legal basis for the indictment.

A total of eight different laws or decrees were used by the prosecutor as the legal basis for the indictment. Out of a total of 228 people charged, 97 were charged based on Law 2005-018, known as the 'CITES Law' (i.e. 43% of the total number of people charged), while 76 (33%) were charged based on Law 2015-005, known as the 'COAP Law'. In addition, 12 people (5%) were charged based on Ordinance 60-128 and eight people (4%) based on the Customs Code.

It should be noted that 21 people (9%) were charged based on the 'Decree of 25 January 1930 reorganising the forestry regime in Madagascar and its dependencies' (hereinafter '1930 Decree'). The legality and validity of this decree, which dates back to colonial times, is open to interpretation. It would appear that the provisions of Ordinance 60-128, which incorporated those of the 1930 Decree, were repealed by the Law of 16 September 1998 relating to the forest exploitation regime.

3.35. PROSECUTOR'S CLOSING STATEMENT

In Malagasy law, the prosecutor's closing statement at the final adversarial court hearing is the statement in which the prosecutor or their representative verbally explains their position on the case before the court. The prosecutor analyses the facts, the evidence, and the legal qualification of the offence, and then formulates their recommendations. They may either request that the law be applied by asking for a specific penalty or measure (strict application of the law) or decide to "defer to the wisdom of the court", leaving the judges complete freedom to assess the facts and decide.

The strict application of the law refers to the position whereby the prosecutor asks the court to impose a sentence or measure expressly provided for by criminal law, without any mitigation or special leniency. On the other hand, deferring to the wisdom of the court means that the prosecutor or

their representative leaves it to the judges to make their own assessment of the case. By deferring to the wisdom of the court, the prosecutor implicitly acknowledges that the evidence in the case does not justify the strict application of the law, and accepts that judges should decide freely, according to their conscience and personal belief.

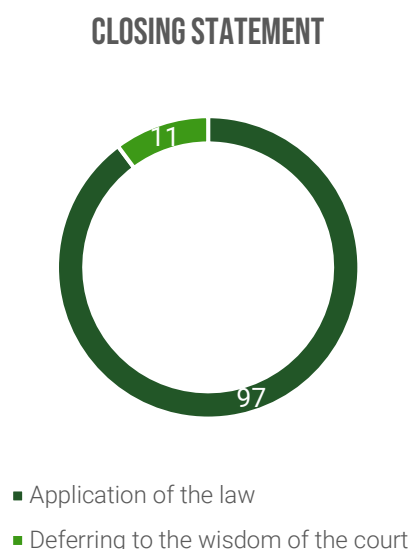


Figure 35. Prosecutor's closing statement.

In 97 cases (90% of the total), the prosecutor requested the strict application of the law. In the remaining 11 cases (10%), the prosecutor deferred to the wisdom of the court.

3.36. CRIMINAL SETTLEMENT

This report is based to a large extent on information gathered during public court hearings. In such cases, the possibility of a pre-trial settlement is excluded. In addition, TRAFFIC's monitoring stopped as soon as a court decision was made. As a result, the authors are not aware of criminal settlement procedures that might have been initiated after the judgment.

3.37. PARTICIPATION OF THE DREDD IN PROCEEDINGS AS A CIVIL PARTY

A civil party is a natural or legal person who considers themselves to have been wronged by a criminal offence (crime, misdemeanour, or contravention) and who exercises their rights before the criminal courts to claim compensation for the damage suffered. In Malagasy law, the Ministry of the Environment and Sustainable Development (MEDD) is expressly authorised to lodge a claim as a civil party whenever an environmental offence is committed.

The MEDD, represented by a DREDD in each region of the country, plays an important role in legal proceedings linked to environmental offences both as an investigating authority and as a civil party to the case. In this latter capacity, the DREDD acts in the public interest to obtain compensation for damage caused to the environment.

DREDD NAMED AS CIVIL PARTY

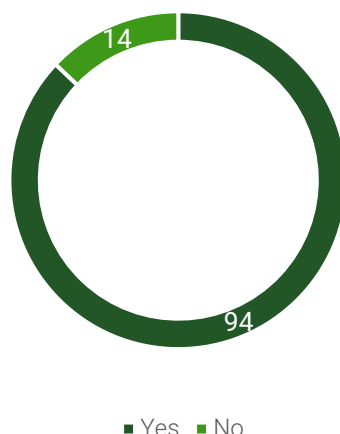


Figure 36. Participation of the DREDD in proceedings as a civil party.

In 94 out of 108 cases (i.e. 87% of cases), DREDDs were included by prosecutors in the proceedings as a civil party.

3.38. CONCLUSIONS DRAWN BY THE DREDDs

As an investigating authority and civil party to the case, the DREDD is required by law to submit written conclusions to the prosecutor to support their case. These conclusions should set out:

- The alleged facts constituting the offence(s),
- The legal qualification of the offence(s),
- The applicable pieces of legislation and regulation,
- A description of the environmental damage,
- And the amount claimed in compensation for the damage, supported by concrete evidence.

The DREDD's conclusions are drawn up by forestry administration officials (usually technicians) and explain the reasons why a given situation constitutes an offence based on the investigative reports received. They must link the facts to the applicable legislation, based on an in-depth technical analysis. They also include an estimate of the damage and recommendations concerning both criminal and civil penalties to be considered. Article 7 of Ordinance 60-128 requires law enforcement authorities to forward investigative reports to the DREDDs for the drafting of these conclusions. Article 27 of the same ordinance stipulates that investigators must refer to the conclusions when presenting the case before the competent court. The purpose of these conclusions is to inform the prosecutor about the seriousness of the offence and the appropriateness of prosecution. The DREDD's conclusions contribute to ensuring the solidity of the case, the accurate identification of the damage, and the credibility of public action in the fight against environmental crime.

DREDD'S CONCLUSIONS

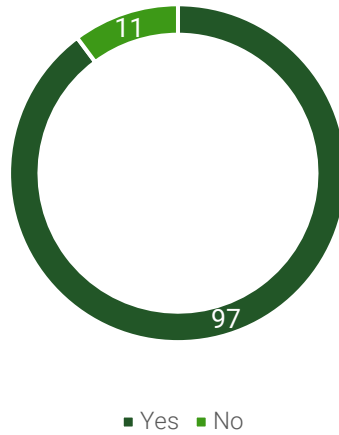


Figure 37. Transmission of the DREDDs' conclusions to the prosecutor before the indictment.

In 97 of the 108 cases (i.e. 90% of the cases), DREDDs sent their conclusions to the Prosecutors before the indictment, either as a civil party involved in the proceedings or in their capacity as representative of the Madagascar CITES Management Authority. On the other hand, in 11 cases (10%), the DREDDs' conclusions were not forwarded and/or added to the case.



Wildlife commodities on display at a handicraft market in Antananarivo © Damien Wolff - TRAFFIC

COURT DECISIONS

3.39. LEGAL BASIS FOR THE CONVICTION

The judge is not bound by the legal qualification of the facts made by the prosecutor at the time of the indictment. Both at the investigation stage and in the court decision, the judge may re-characterise the facts, set aside an offence, or adopt another more appropriate qualification, provided that the rights of the defence are respected. Thus, the judge may choose a different legal basis more aligned with the facts, by virtue of their sovereign discretion.

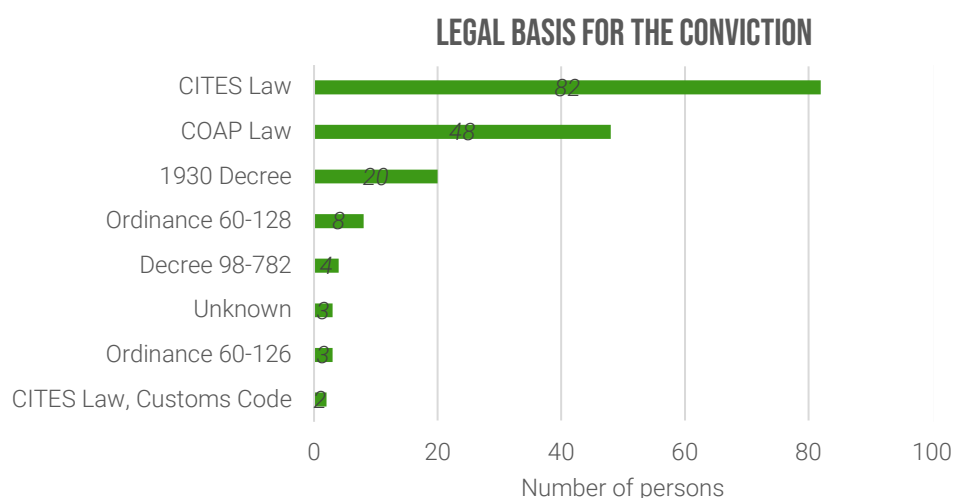


Figure 38. Legal basis for the conviction.

Seven different laws or decrees were used as legal basis by the judges at the time of sentencing. Out of 170 people convicted, 82 were convicted based on Law 2005-018, known as the 'CITES Law' (i.e. 48% of the total number of people convicted), while 48 (28%) were convicted based on Law 2015-005, known as the 'COAP Law'. In addition, eight people (5%) were convicted based on Ordinance 60-128 and two people (1%) based on the Customs Code combined with the CITES Law.

It should be noted that 20 people (8%) were convicted based on the 1930 Decree, the validity of which is subject to interpretation as mentioned above in Section 3.34 (*Legal basis for the indictment*).

3.40. JUDICIAL OUTCOME

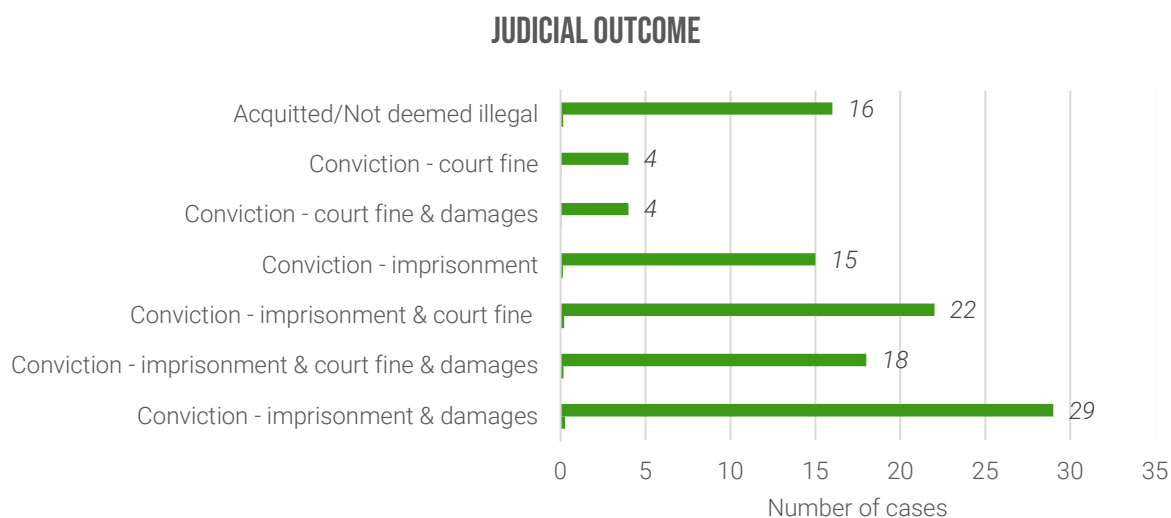
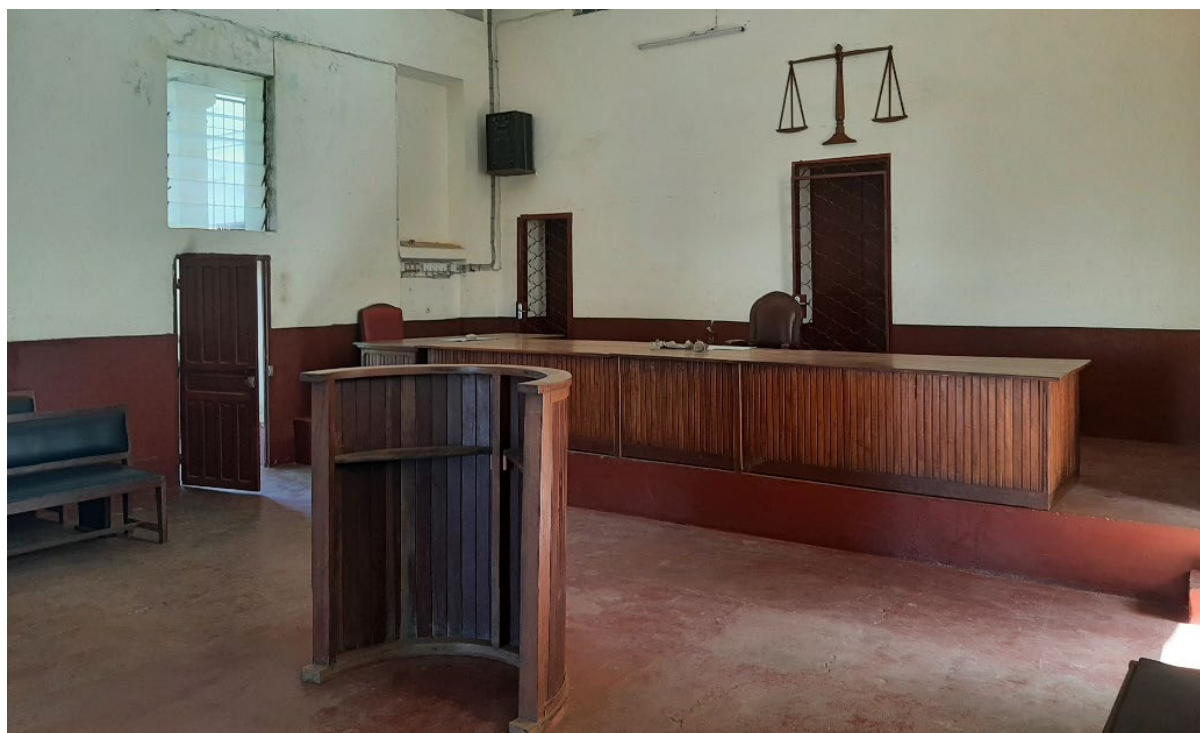


Figure 39. Judicial outcome.

Out of 108 cases, 84 resulted in prison sentences (i.e. 78% of the total), 48 (44%) resulted in judicial fines, and 51 (47%) in damages. These three types of sentences were combined in various ways in most cases. Defendants were given prison sentences combined with fines in 22 cases (20%), and prison sentences combined with damages in 29 cases (27%). The three types of sentences were combined in 18 cases (17%). It is unknown to the authors whether any of the accused pleaded guilty. 16 cases (15%) resulted in the acquittal of the accused.



Antsiranana Court © Damien Wolff - TRAFFIC

3.41. LENGTH OF LEGAL PROCEEDINGS

The length of legal proceedings refers to the time elapsed between the detection of the offence and the court's decision (from the crime scene to the courtroom).

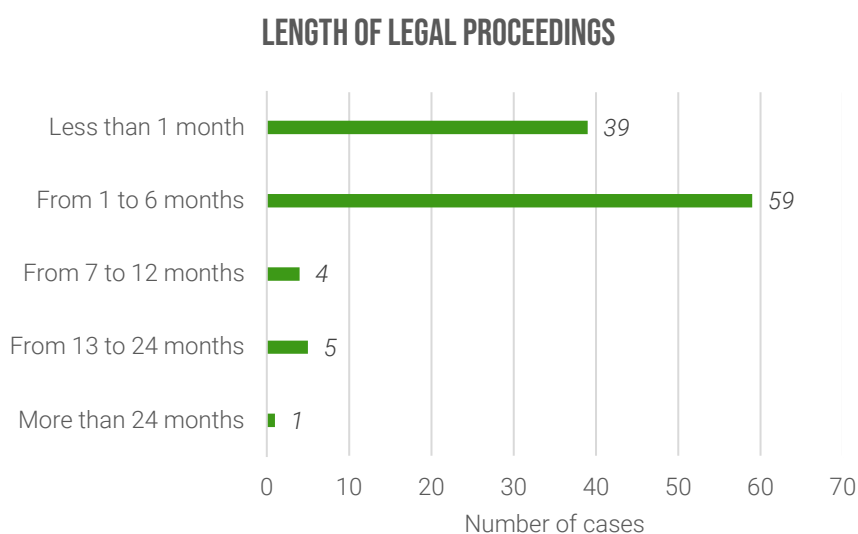


Figure 40. Duration of legal proceedings.

Proceedings lasted less than one month in 39 cases (36%) and between one and six months in 59 cases (55%). Overall, most legal proceedings - 98 out of 108 cases (91%) - lasted less than six months.

Legal proceedings lasted more than two years in only one case (less than 1%).

3.42. LENGTH OF PRISON SENTENCES

LENGTH OF PRISON SENTENCES	NUMBER OF PEOPLE
From 1 to 12 months	97
From 13 to 24 months	45
More than 24 months	13
TOTAL	155

Table 11. Length of prison sentences handed down by the courts.

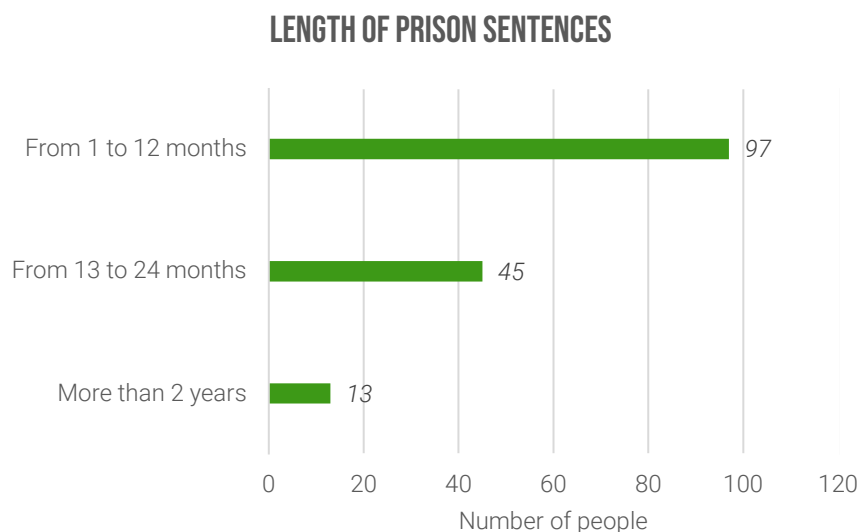


Figure 41. Length of prison sentences.

Out of 155 people sentenced to prison, 97 (63%) were sentenced to between 1 and 12 months, and 45 (29%) were sentenced to between 13 and 24 months. Finally, 13 people (8%) were sentenced to more than two years' imprisonment.

A custodial sentence is a criminal penalty imposed by the court that is enforced immediately and effectively, i.e. without suspension. On the contrary, a suspended sentence refers to a criminal penalty whose execution is suspended for a probation period of five (5) years (in Malagasy law), provided that the convicted person does not commit a new offence during this period. If no new offence is committed during these five years, the sentence is considered null and void and is not enforced. On the other hand, if an offence is committed within this period, the suspended sentence may be revoked, and the sentence initially imposed becomes enforceable in addition to the new sentence.

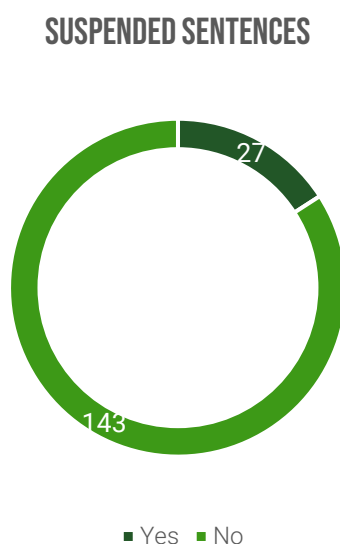


Figure 42. Suspended sentences.

Of the 170 people convicted, 155 received prison sentences, while 15 received fines alone. The suspended sentences concerned both prison sentences and fines.

Most of those convicted (143 out of 170, or 84% of the total) received custodial sentences. Only 27 (16%) received suspended sentences.

3.43. CORRELATION BETWEEN PRISON SENTENCES AND THE VOLUME OF SEIZURES

This section explores the correlation between prison sentences (i.e., for each case, the highest prison sentence imposed on a suspect) and the volume of seizures (i.e. the number of units seized by law enforcement) for two subsets of data. The section looks specifically at the two commodity groups most often linked to the 108 court cases, i.e. terrestrial tortoises and palisander.

Each data point in the graphs below represents a court case for which a prison sentence was handed down by the courts. Although acquittals and other types of sentences (i.e. any court case for which “prison sentence = 0”) were not included in the graphs, correlation trends look relatively similar when factoring those in.

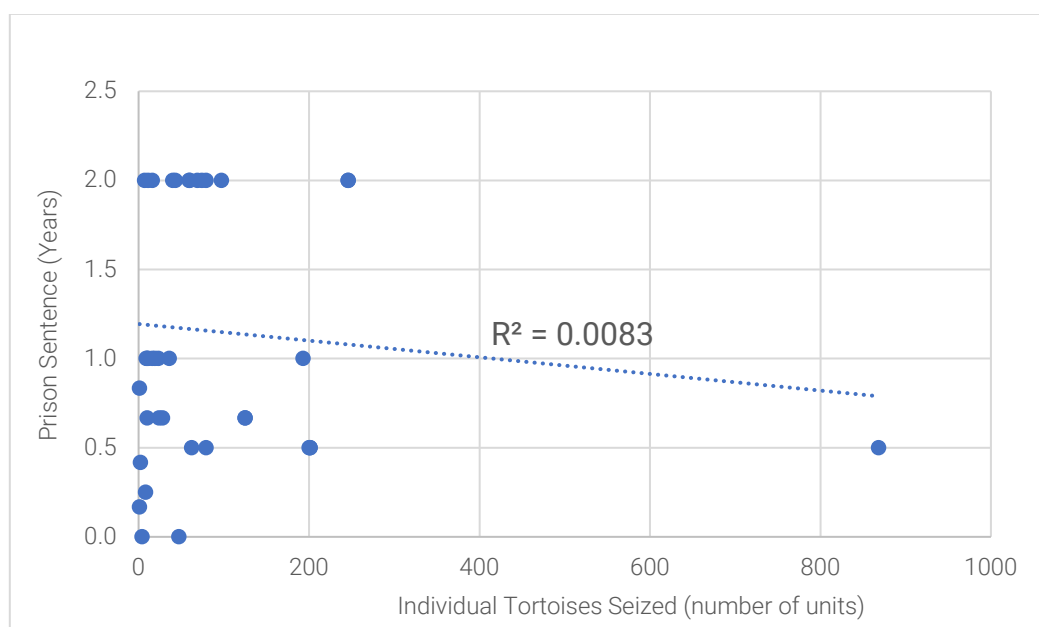


Figure 43. Correlation between prison sentences and volume of seizures for terrestrial tortoises.

The above graph refers to cases linked to *Astrochelys radiata* and *Pyxis arachnoides*. It captures seizures of live specimens, dead specimens, and unknown specimens linked to these species. The graph does not include cases in which other commodity types (e.g. pieces of meat) not referring to whole specimens were seized by law enforcement.

The data show a low correlation ($R^2=0.0083$). The graph shows that there is a lack of consistency in the distribution of prison sentences. This could suggest that judges do not rely primarily (or solely) on the volume of seizures to assess the seriousness of offences.

In some cases involving large seizures of tortoises (e.g. several hundred specimens), the maximum prison sentences imposed by the courts were lower than those imposed in cases involving seizures of only a few specimens.

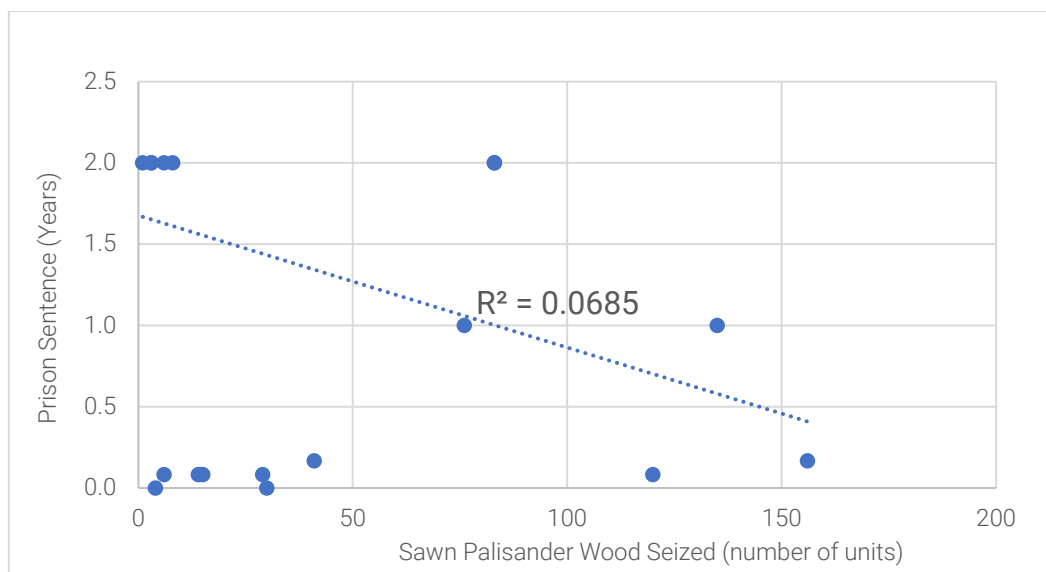


Figure 44. Correlation between prison sentences and volume of seizures for sawn palisander wood.

The above graph exclusively refers to cases linked to the *Dalbergia* genus. It captures seizures of sawn palisander wood but does not include seizures of palisander in the form of roundwood or in unspecified form. Distinguishing between these different commodity types is important as statistical correlations can only be drawn by comparing similar commodities and similar units of size or volume.

As is the case with tortoises, the data for palisander show a low correlation ($R^2=0.0685$). As a matter of fact, the correlation is almost inverse, meaning that large seizures tend to result in shorter prison sentences.



Antsiranana port © Damien Wolff - TRAFFIC

3.44. AMOUNT OF COURT FINES

Damages and court fines are two distinct consequences of a criminal conviction, differing in nature, function and beneficiary. The purpose of a court fine is to punish, whereas the purpose of damages is to compensate.

A court fine is a penal sanction with a repressive function: it is imposed by the judge to punish the offender in the name of public order. It is paid into the Treasury and its amount is set within a range determined by the law applicable to the offence in question (Penal Code or special laws).

Damages, on the other hand, are intended to compensate the victim for the harm suffered as a result of the offence. To qualify, the victim must bring a civil action, prove the existence of the damage (whether material, non-material or physical) and provide a quantified assessment, enabling the court to set the amount of compensation. These sums are paid directly to the civil party or their heirs.

AMOUNT OF FINES (IN MGA)	AMOUNT OF FINES (IN USD)	NUMBER OF PEOPLE
Less than 200,000	Less than 44	20
200 000 - 500 000	44 - 110	3
500 000 - 1 000 000	110 - 220	5
1 000 000 - 5 000 000	220 - 1,100	11
5 000 000 - 10 000 000	1,100 - 2,200	29
10 000 000 - 50 000 000	2,200 - 11,000	12
More than 50,000,000	More than 11,000	3
TOTAL		83

Table 12. Amount of court fines imposed by the courts.

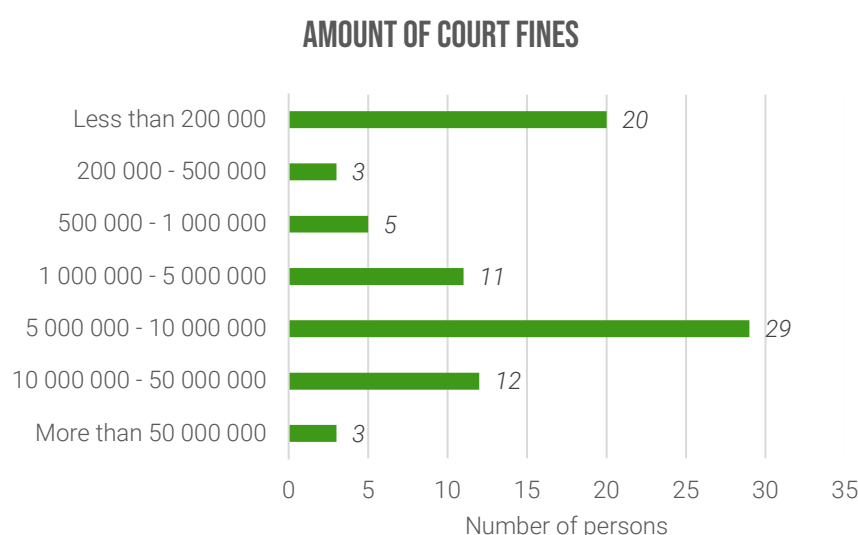


Figure 45. Amount of court fines (in Malagasy Ariary - MGA).

Of the 83 people fined, 28 people (34%) were fined less than MGA 1 million (USD 220), 11 people (13%) were fined between MGA 1 and 5 million (between USD 220 and 1,100), 29 people (35%) were fined between MGA 5 and 10 million (between USD 1,100 and 2,200), and 12 people (14%) were fined between MGA 10 and 50 million (between USD 2,200 and 11,000). Only three people (4%) were fined more than MGA 50 million (USD 11,000).

The equivalents in U.S. dollars (USD) provided above are based on the exchange rate for 31 December 2023.²¹

Altogether, the 83 fines handed down by the courts in the referred court cases amounted to a total of MGA 928,670,740, equivalent to USD 204,308 (two hundred four thousand three hundred and eight U.S. dollars).

3.45. AMOUNT OF DAMAGES

AMOUNT OF DAMAGES (IN MGA)	AMOUNT OF DAMAGES (IN USD)	NUMBER OF PEOPLE
Less than 200,000	Less than 44	4
200 000 - 1 000 000	44 - 220	24
1 000 000 - 5 000 000	220 - 1,100	48
5 000 000 - 10 000 000	1,100 - 2,200	10
10 000 000 - 50 000 000	2,200 - 11,000	14
More than 50,000,000	More than 11,000	2
TOTAL		102

Table 13. Amount of damages imposed by the courts.

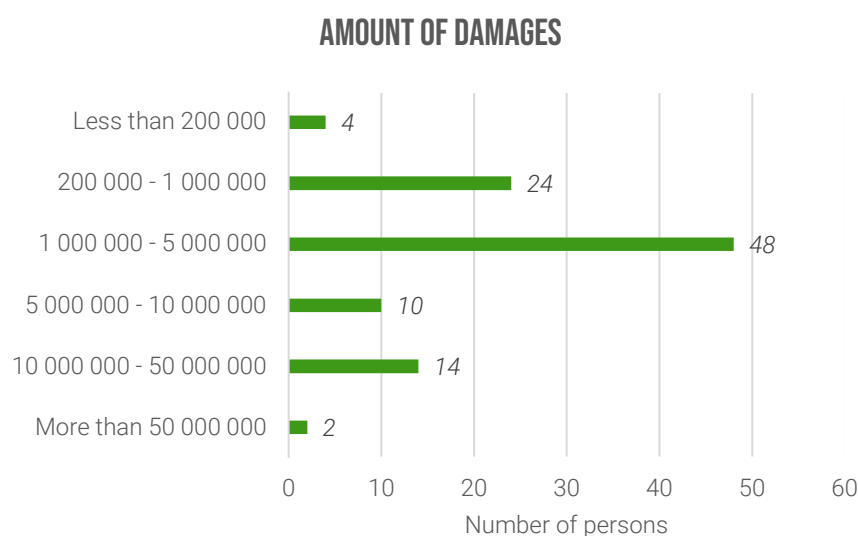


Figure 46. Amount of damages (in Malagasy Ariary - MGA).

Out of 102 people sentenced to damages, 28 people (28%) were sentenced to pay damages of less than MGA 1 million (USD 220), 48 people (47%) were sentenced to pay damages of between MGA 1 and 5 million (between USD 220 and 1,100), 10 people (10%) were sentenced to pay damages of between MGA 5 and 10 million (between USD 1,100 and 2,200), and 14 people (14%) were sentenced to pay damages of between MGA 10 and 50 million (between USD 2,200 and 11,000). Only two people (2%) were sentenced to pay damages in excess of MGA 50 million (USD 11,000).

²¹ 1 MGA = 0.00022 USD. Source: www.oanda.com

Altogether, the 102 damages handed down by the courts in the referred court cases amounted to a total of MGA 592,109,000, equivalent to USD 130,264 (one hundred thirty thousand two hundred and sixty four U.S. dollars).

3.46. PRESENCE OF THE DREDDs AT HEARINGS

An adversarial hearing is a public court hearing during which each party (prosecutor, defendant, civil party, lawyers, etc.) can present their arguments, respond to those of the other party and assert their rights.

The active participation of DREDDs at such court hearings, whether through a forestry judicial police officer, a lawyer, or another designated official, is of paramount importance to ensure that judges effectively consider the DREDD's point of view when ruling on matters linked to environmental protection.

The DREDD plays an important role in legal proceedings linked to environmental offences both as an investigating authority and as a civil party to the case. As such, the DREDD participates in court hearings to support the application of environmental legislation, demonstrate the materiality of the facts, demonstrate the breaches of the law, and highlight the environmental impact of the offences. The active participation of DREDDs at court hearings is all the more important as the offences in question (poaching, trafficking in protected species, illegal logging, etc.) require a technical understanding of the issues, which only a specialised administration can fully provide.

DREDDs' PRESENCE AT HEARINGS

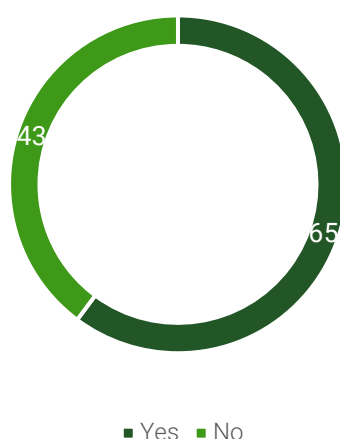


Figure 47. Presence of the DREDDs at adversarial hearings.

The DREDD was present at the adversarial hearings in 65 cases out of 108 (i.e. 60% of the cases). In the remaining 43 cases (40%), the DREDD was not represented at the hearings.

The specific reasons why DREDDs were absent at hearings are not known to the authors. These absences may be due to: (i) the unavailability of DREDD personnel, who might have been busy attending other urgent matters; (ii) a shortage of staff within the relevant DREDD; or, in rarer cases, (iii) the absence of notification to participate in court hearings.



Ebony wood samples (Diospyros) © Damien Wolff – TRAFFIC

3.47. APPEAL PROCEDURES

APPEAL PROCEDURES

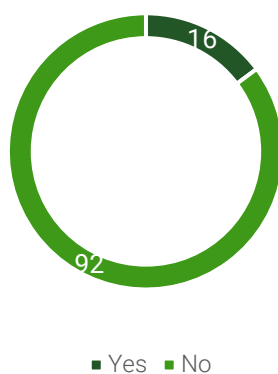


Figure 48. Cases subject to appeal procedures.

At the end of the monitoring period (July 2024), 16 out of 108 cases (i.e. 14% of the total) had been or were still being appealed.

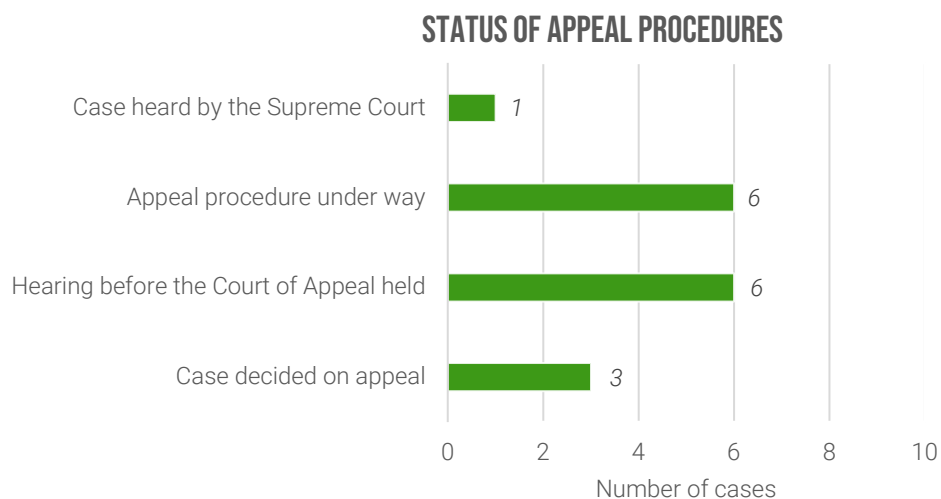
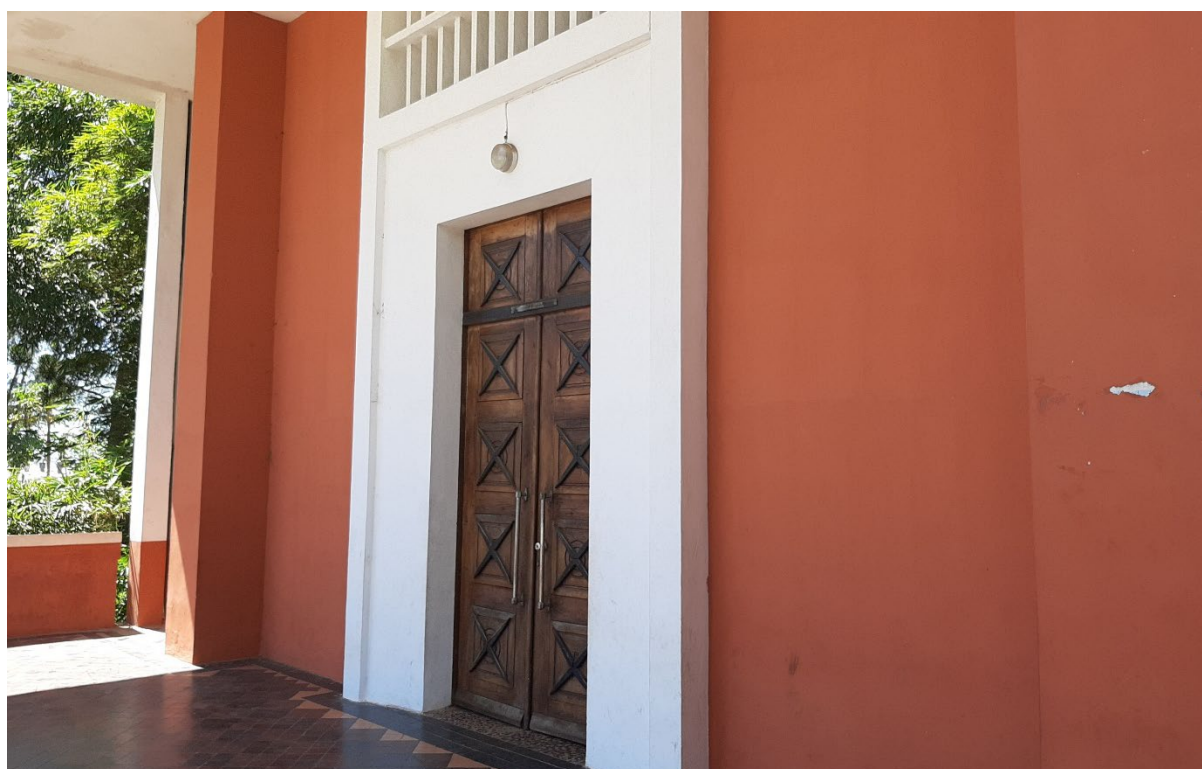


Figure 49. Status of appeal procedures.

At the end of the monitoring period (July 2024), the Courts of Appeal had already ruled on three cases out of 108 (i.e. less than 3% of the total). The appeal procedure was still under way for 12 cases (10%), including six (5%) for which a hearing before the Court of Appeal had already taken place. Lastly, one case (less than 1%) had been heard by the Supreme Court and was pending judgement.



Taolagnaro Court © Damien Wolff – TRAFFIC

SUSPECTS

3.48. NUMBER OF PEOPLE INVOLVED

A total of 238 people were linked to the 108 cases as suspects. This figure includes 231 people arrested and seven people who were either on the run or unidentified. A total of 228 people were charged. Of these, 58 were acquitted and 170 were convicted. Of the 170 people convicted, 155 were sentenced to prison, 83 were fined and 102 were sentenced to pay damages.

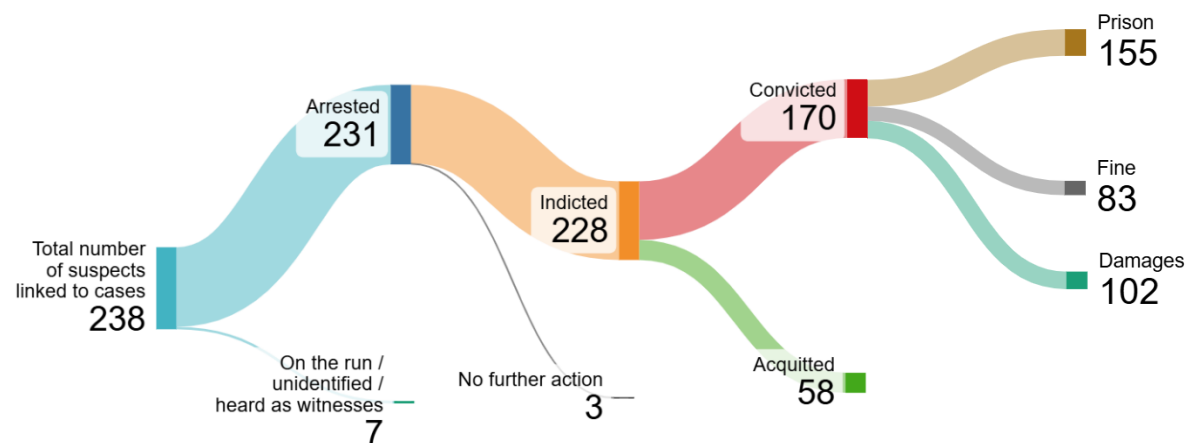


Figure 50. Number of people linked to the cases.

Following arrests, 96% of suspects were charged and 74% of those charged were convicted.

3.49. GENDER OF SUSPECTS

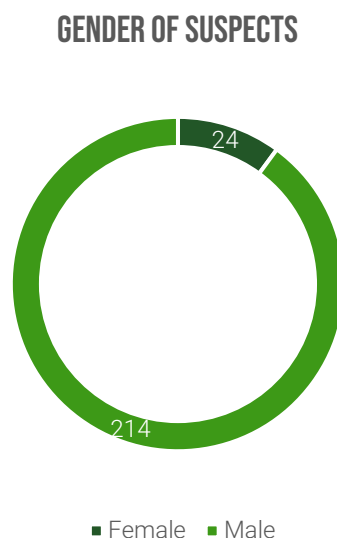


Figure 51. Breakdown of suspects by gender.

214 of the 238 suspects were male (90%), while 24 were female (10%). The male/female ratio varies according to the judicial outcome (see the figure below). Females account for 17% of those acquitted, and 8% of those convicted.

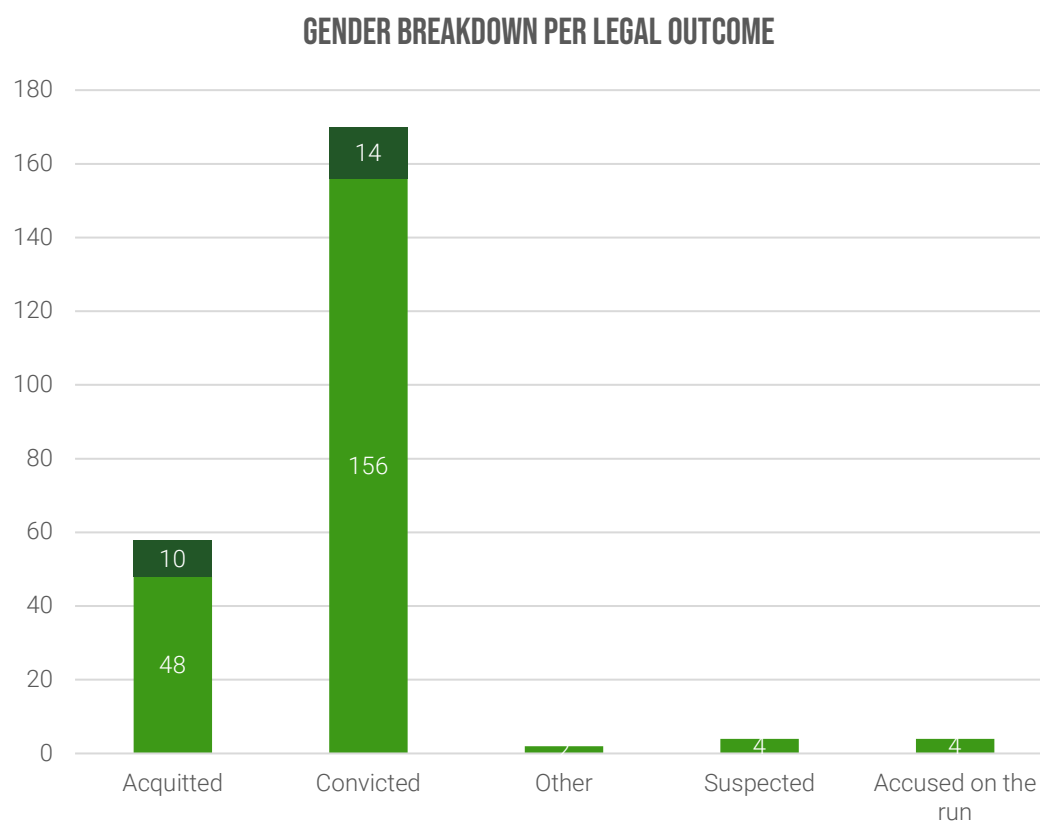


Figure 52. Breakdown of suspects by legal outcome and gender.

3.50. AGE OF SUSPECTS

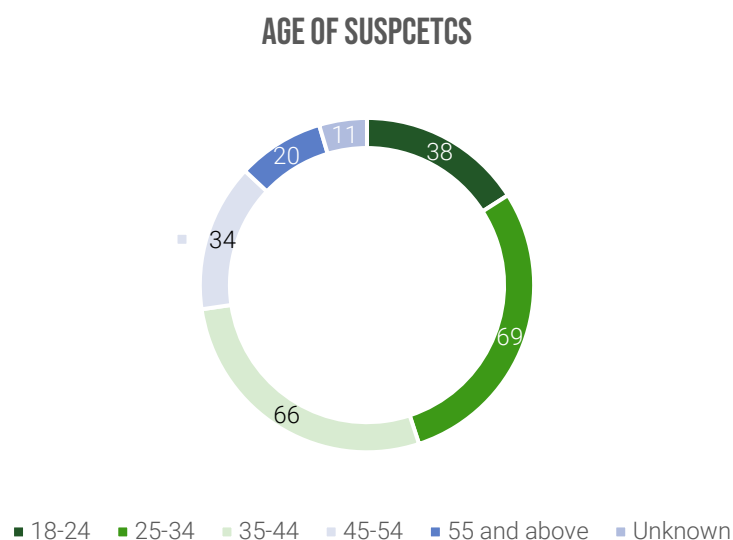


Figure 53. Breakdown of suspects by age group.

Out of 238 suspects, 38 were aged between 18 and 24 at the time of the offence (16% of the total), while 69 (29%) were aged between 25 and 34. 66 suspects (28%) were aged between 35 and 44, 34 (14%) were aged between 45 and 54, and 20 (8%) were aged 55 and over. In addition, the age of 11 suspects (5%) was unknown. Overall, most suspects (57%) were aged between 25 and 44 at the time of the offence.

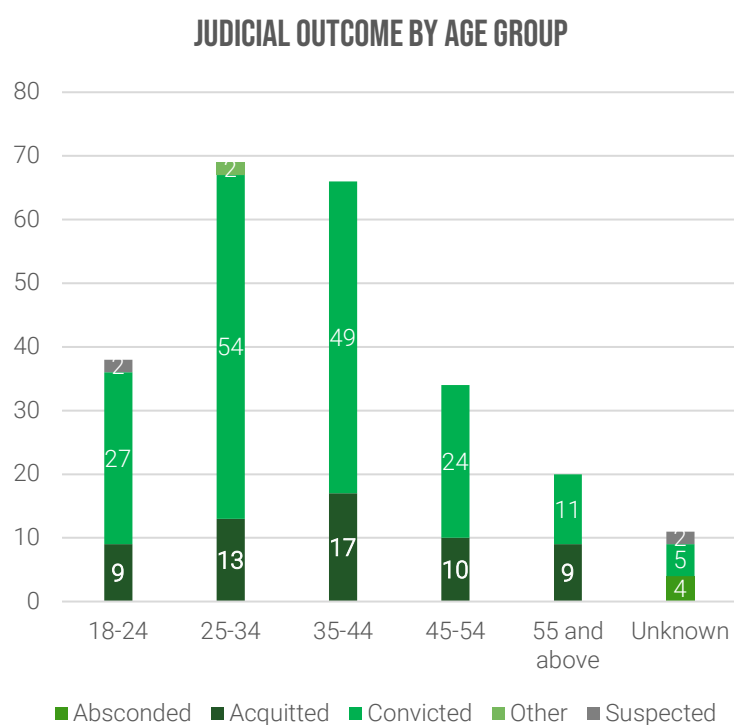


Figure 54. Legal outcome by age group.

The proportion of acquitted and convicted persons within each age group does not vary significantly. In other words, there is no significant correlation between the age of suspects and the outcome of legal proceedings.

3.51. NATIONALITY OF SUSPECTS

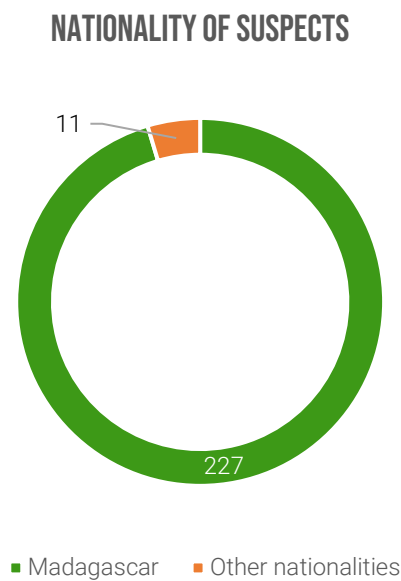


Figure 55. Nationality of suspects.

Out of 238 suspects, 227 (95%) are Malagasy nationals. The remaining 11 suspects (5%) are foreign nationals.

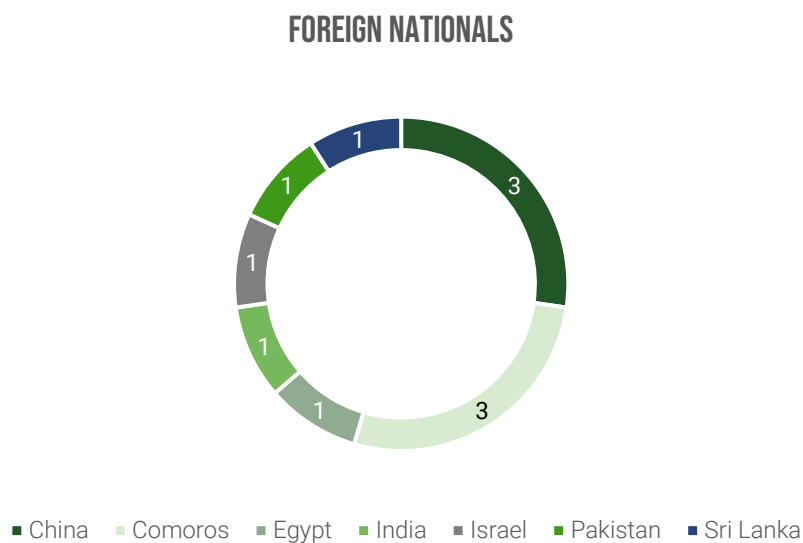


Figure 56. Suspects of foreign nationality.

The 11 foreign nationals account for seven different nationalities, including three Chinese nationals and three Comorian nationals (27% each). The remaining five nationalities (Egypt, India, Israel, Pakistan and Sri Lanka) are each represented by a single suspect (9% each).

3.52. OCCUPATION OF SUSPECTS

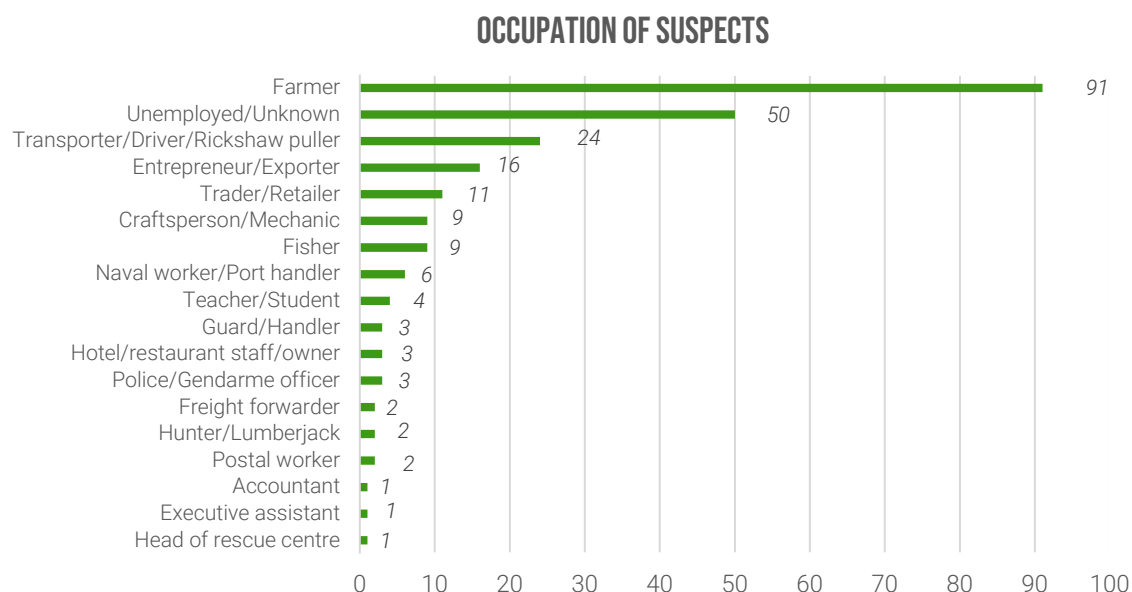


Figure 57. Occupation of suspects.

50 suspects out of 238 (21% of suspects) were unemployed or had unknown jobs. 91 suspects (38%) were farmers, and nine (4%) were fishermen. In addition, 24 suspects (10%) worked as transporters, drivers or pedicab pullers and 16 suspects (7%) worked as entrepreneurs or exporters. 11 suspects (5%) worked as traders, and nine suspects (4%) as craftsmen or mechanics.

Farmers and fishermen together form the occupational category to which the most suspects arrested belonged, accounting for 42% of the total. If only those whose jobs are known are taken into account, farmers alone account for 48% of all suspects. Civil servants account for 2% of those arrested.

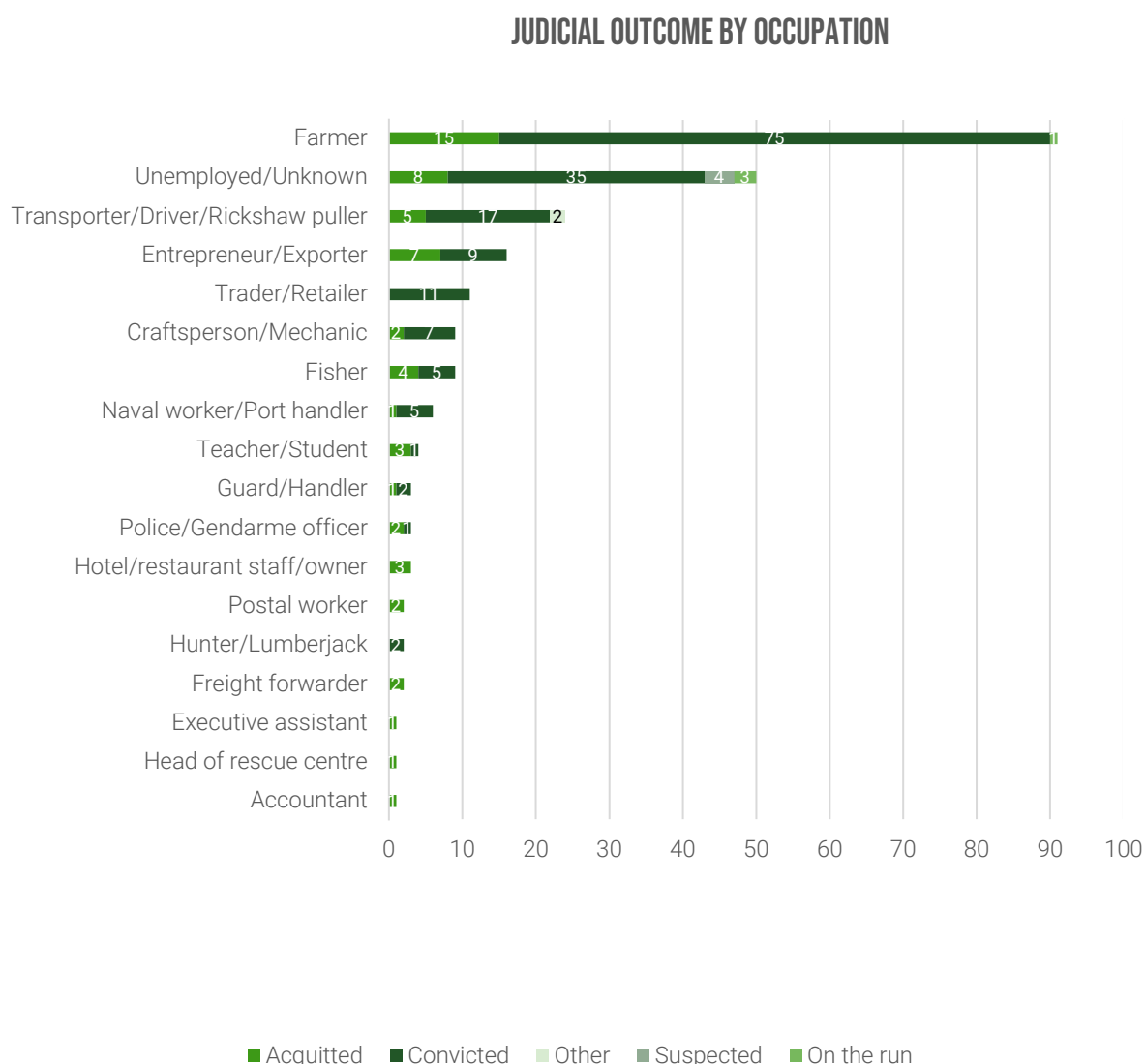


Figure 58. Judicial outcome by occupation.

There is no obvious or significant correlation between the suspect's occupation and the outcome of legal proceedings. Nevertheless, the proportion of acquittals is higher for certain professional categories, in particular: postal agent, executive assistant, head of rescue centre, accountant, teacher/student, entrepreneur/exporter, police officer/gendarme, hotel/restaurant professional, and customs broker. For some professional categories, the number of acquittals was higher than the number of convictions. Therefore, it would seem that the likelihood of conviction varies - to some extent - according to the suspect's occupation.

3.53. ROLE OF SUSPECTS IN THE OFFENCES

Wildlife specimens and commodities generally pass through several hands before reaching the end consumer. The trafficking chain generally includes around ten stages or players, as shown in the diagram below.

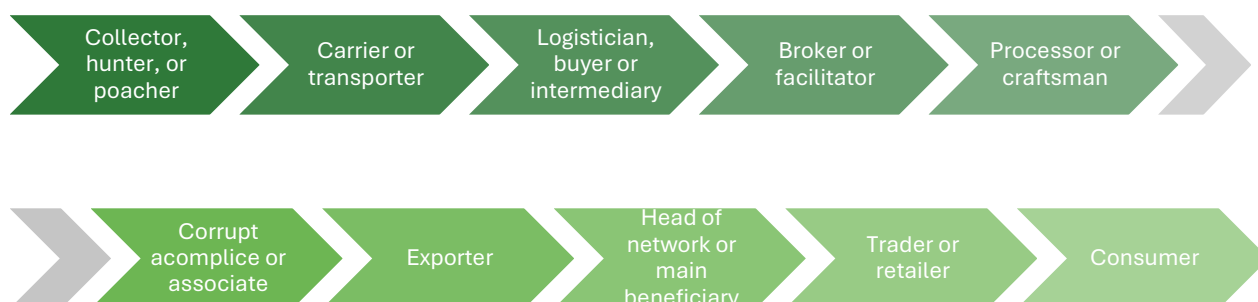


Figure 59. The different stages in the trafficking chain.²²

Collectors, transporters and intermediaries are the players at the bottom of the trafficking chain. The players at the end of the chain, such as exporters, heads of networks, and traders, on the other hand, are considered to be the main architects and beneficiaries of IWT.

It should be noted that certain players may be involved at different stages in the trafficking chain. This is particularly true of transporters, processors, and corrupt associates.

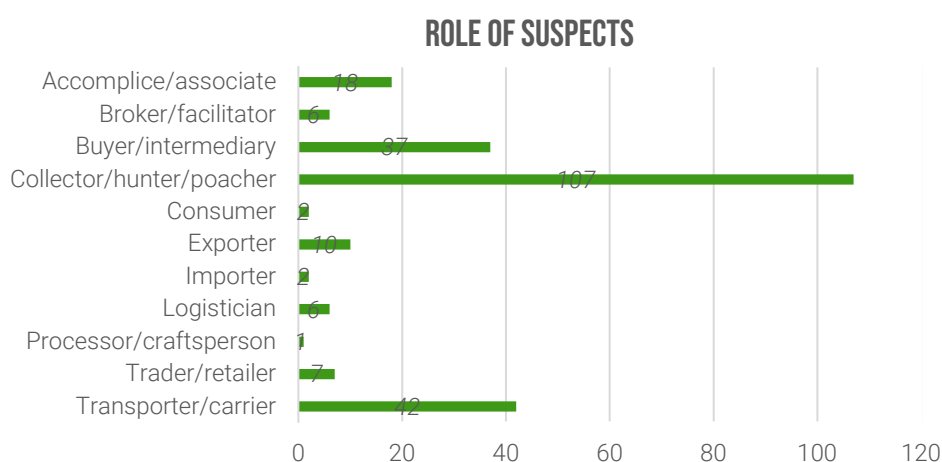


Figure 60. Role of suspects in offences.

The above graph shows the roles played by the 238 suspects in the commission of the offences. It should be noted that a suspect's role is not necessarily linked to their occupation. For example, a tradesman or craftsman may take part in an offence as a carrier or facilitator. The same applies to farmers, who may be involved at different levels of the trafficking chain, and not necessarily as collectors, hunters, or poachers. This explains why the data presented in this section may slightly differ from the data presented in Section 3.52 (*Occupation of suspects*).

Out of 238 suspects, 107 (45% of the total) were suspected of taking part in the offence as collectors, hunters or poachers. 42 people (18%) were suspected of participating in the offence as transporters. 37 (16%) were suspected of participating in the offence as buyers or intermediaries, compared with the six suspects (3%) associated as brokers and facilitators. Finally, 18 suspects (8%) were suspected of participating in the offence as accomplices or associates. This includes suspects whose

²² This diagram is based, among other sources, on the following publication: 'Wildlife crime: Key actors, organizational structures, and business models', UNODC, 2022.

occupation falls under the 'civil servant' category e.g. gendarmerie officers, police officers, postal agents, and teachers.

192 of the 238 suspects (81% of the total) were linked to the first three stages of the trafficking chain, as collectors, transporters, intermediaries, or buyers. In comparison, only 19 suspects (8%) were linked to the last three stages of the trafficking chain, as exporters, traders, retailers, and consumers.

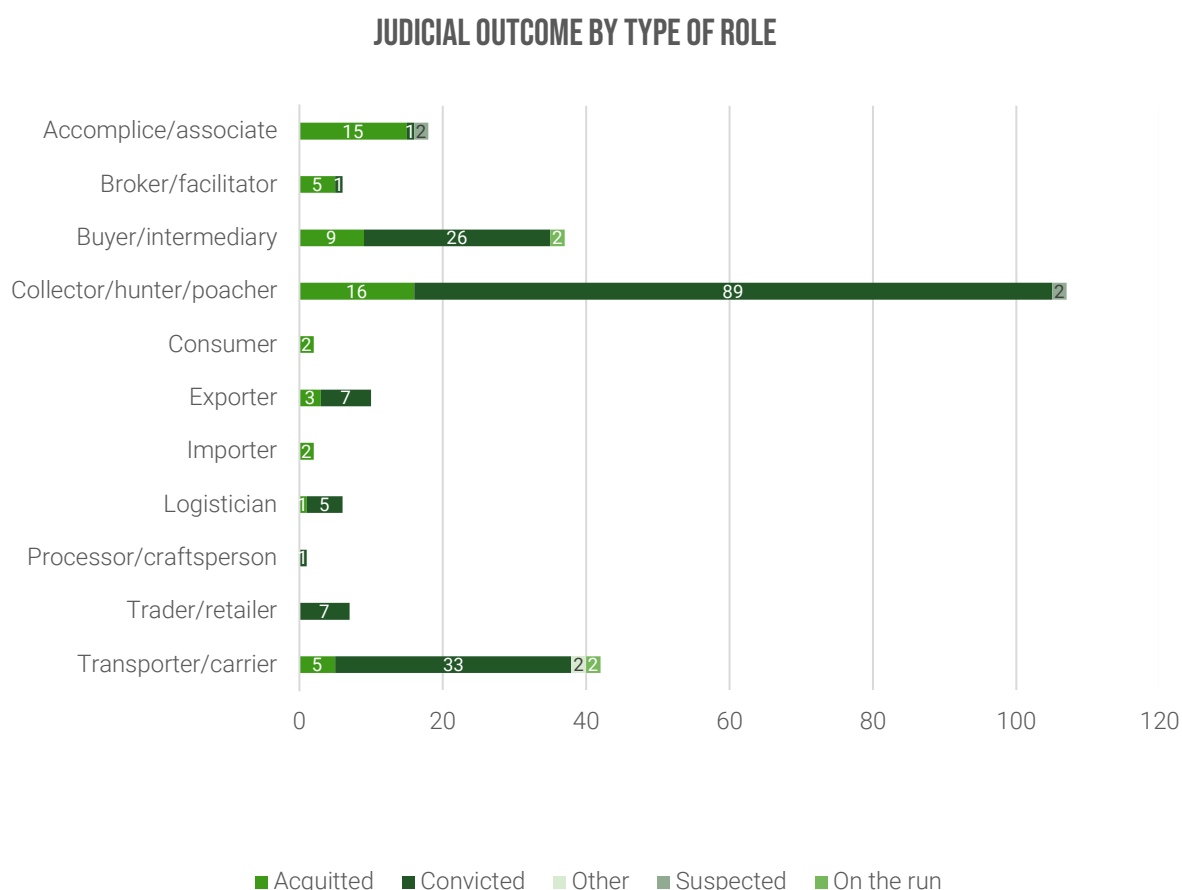


Figure 61. Judicial outcome according to the suspect's role in the offence.

There is no obvious or significant correlation between the suspect's role in the offence and the outcome of the legal proceedings. Nevertheless, the proportion of acquittals is higher for certain roles, in particular: corrupt accomplices and associates, consumers, brokers/facilitators and importers. For some categories, the number of acquittals was higher than the number of convictions. Therefore, it would seem that the likelihood of conviction varies - to some extent - according to the suspect's role in the offence.

3.54. PAST CONVICTIONS

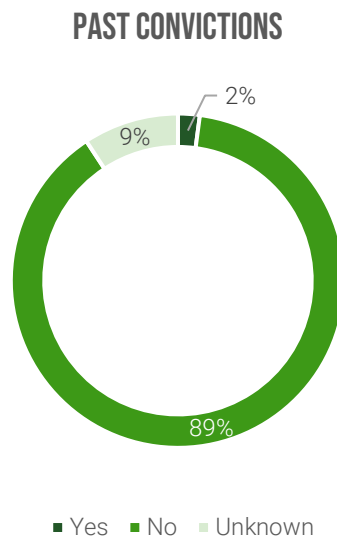


Figure 62. Proportion of suspects with previous convictions.

Out of 238 suspects, only five (2% of the total) had been convicted in the past. The criminal offences linked to these previous convictions (and whether these were related to IWT) is unknown to the authors.

Most suspects (i.e. 211 suspects, 89% of the total) had no previous criminal record at the time of their arrest. For 22 suspects (9%), this information was not known.

LOCATIONS

3.55. ROLE OF LOCATIONS LINKED TO THE CASES

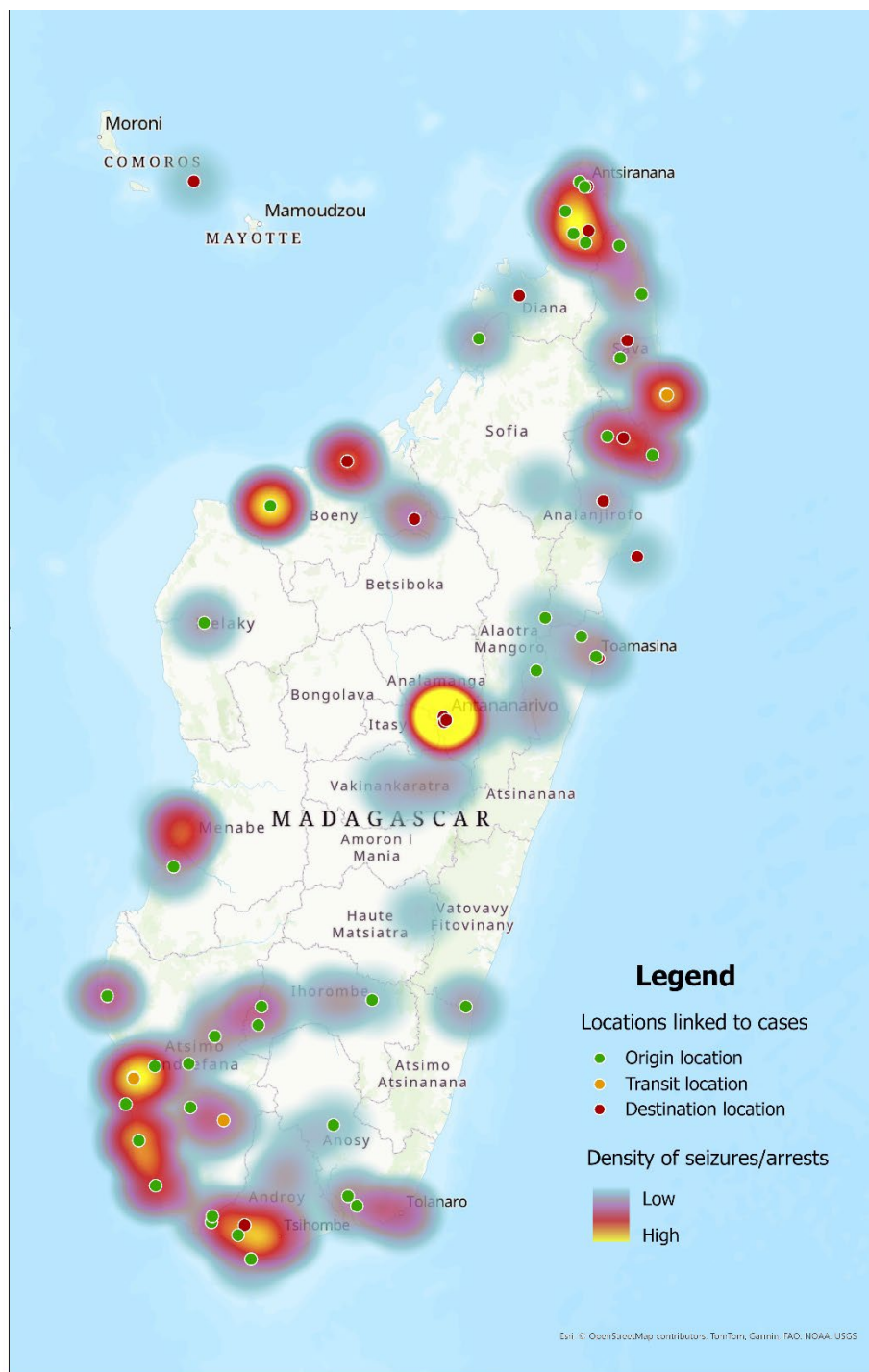


Figure 63. Mapping of seizures/arrests by density zone, and location of the points of origin, transit, and destination of commodities.

The above map shows that the areas with the highest densities of seizures and arrests are the municipalities of Antananarivo, Antsiranana, Soalala, and Toliara.

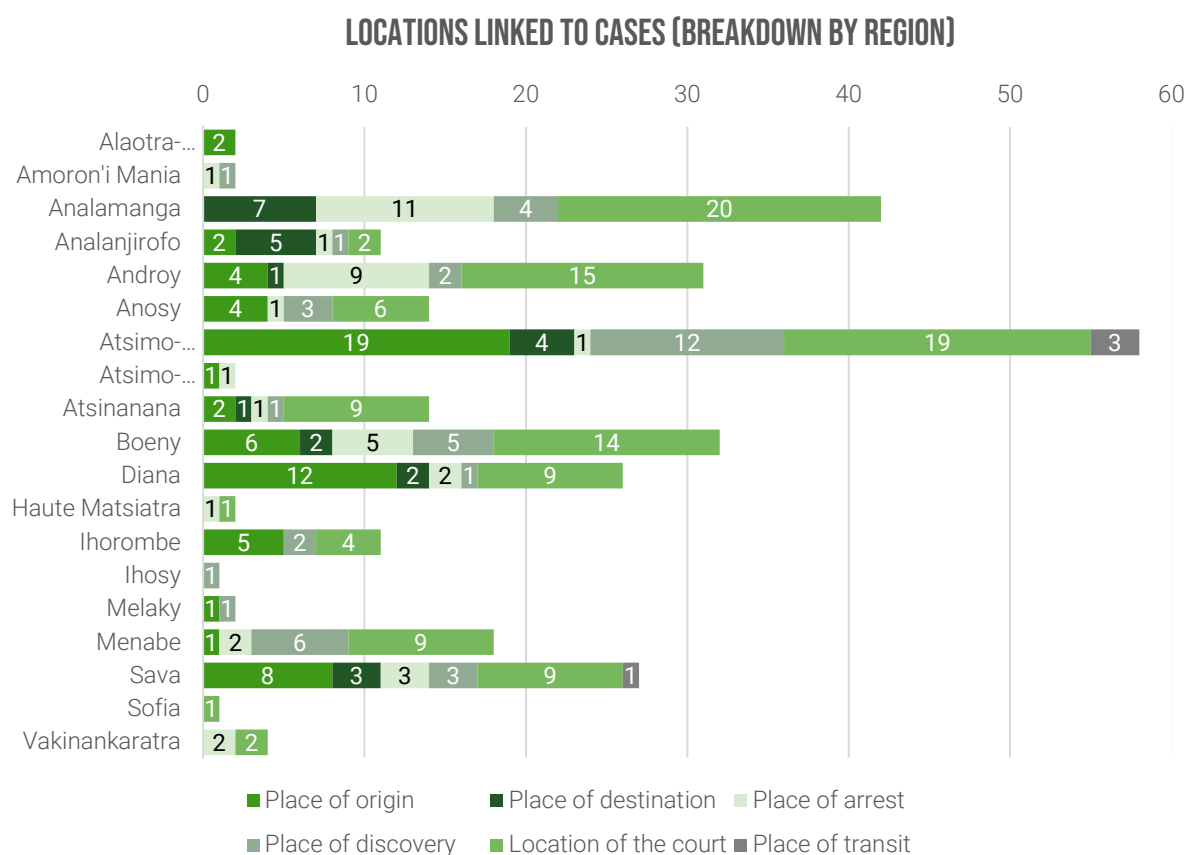


Figure 64. Locations linked to the cases, broken down by region.

REGIONS OF MADAGASCAR	ORIGIN LOCATION	TRANSIT LOCATION	DISCOVERY LOCATION	SEIZURE/ ARREST LOCATION	DESTINATION LOCATION	TOTAL
Alaotra-Mangoro	2					2
Amoron'i Mania			1	1		2
Analamanga			4	11	7	22
Analanjiroro	2		1	1	5	9
Androy	4		2	9	1	16
Anosy	4		3	1		8
Atsimo Andrefana	19	3	12	1	4	39
Atsimo Atsinanana	1			1		2
Atsinanana	2		1	1	1	5
Boeny	6		5	5	2	18
Diana	12		1	2	2	17
Haute Matsiatra				1		1
Ihorombe	5		2			7
Ihosa			1			1
Melaky	1		1			2

Menabe	1		6	2		9
Sava	8	1	3	3	3	18
Sofia						0
Vakinankaratra				2		2
TOTAL	67	4	43	41	25	180

Table 14. Locations linked to the cases, broken down by region.

Excluding court locations, the regions with the highest number of case-related locations are, in descending order: Atsimo Andrefana (39 locations), Analamanga (22 locations), SAVA (18 locations), Boeny (18 locations), DIANA (17 locations), and Androy (16 locations). These six regions alone account for 72% of the locations linked to the cases.

The regions with the highest number of origin locations are, in descending order: Atsimo Andrefana (19 locations), DIANA (12 locations), and SAVA (8 locations).

The regions with the highest number of discovery and seizure/arrest locations are, in descending order: Analamanga (15 locations), Atsimo Andrefana (13 locations), Androy (11 locations), Boeny (10 locations), and Menabe (8 locations).

The region with the highest number of destination locations is Analamanga (7 locations), while figures for the other regions are negligible.



Angraecum sesquipedale © Motohiro SUNOUCHI

DISCUSSION

4.1. COMMODITIES

A wide range of wild species present in Madagascar, including both fauna and flora, terrestrial and marine, endemic and naturalized species, are affected by illegal wildlife trade. The 108 cases monitored by TRAFFIC are linked to a total of **26 species or species groups**, belonging to a total of 10 taxonomic families.

Palisanders (*Dalbergia*) and radiated tortoises (*Astrochelys radiata*) are by far the most frequently linked species, with 40 and 39 mentions respectively. This should not overshadow other species groups for which the quantities of specimens seized are nonetheless significant: succulent plants (pachypodiums, jabihiy, euphorbias), lemurs, and black corals, amongst other groups.

In the case of tortoises, lemurs, and succulent plants, illegal trade mainly involves **live specimens**. In the case of palisander wood and black coral, illegal trade mainly involves **dead specimens and by-products**.

Of the 62 cases listed in Annex 2, some relate to other species groups such as sharks, sea turtles, and seahorses (all trafficked as dead specimens or parts of dead specimens). The legal proceedings relating to these cases were still in progress when TRAFFIC stopped its court monitoring work (in July 2024), which is why they were not included in this study.

Most of the specimens seized **were sourced from the wild**. The wild origin has been established for 87% of fauna specimens and 100% of flora specimens seized by law enforcement authorities.

In the case of lemurs and tortoises, it is not possible to determine from the available data whether poachers and traffickers target one gender (male or female) over the other. Nor is it possible to determine whether poachers and traffickers target juvenile individuals. These aspects, as well as others relating to trafficking modus operandi, should be clarified in future when questioning suspects.



Rosewood (*Dalbergia*) © Flickr

4.2. SUSPECTS

- 90% of suspects were male.
- 57% of suspects were aged between 25 and 44 at the time of the offence.
- 95% of suspects were Malagasy nationals.
- Out of 11 foreign nationals, three were Chinese and three were Comorian.
- 89% of suspects had no criminal record at the time of the offence.

Most suspects were **low-income earners**. Farmers and fishermen account for 42% of those arrested. Transporters account for 10%, while people who were unemployed or whose occupation was unknown account for 21% of suspects.

81% of suspects were linked to the first three stages of the trafficking chain, as collectors, transporters, intermediaries, or buyers. In comparison, only 8% of suspects were linked to the last three stages of the trafficking chain, as exporters, traders, retailers, and consumers. Similarly, only 7% of suspects belonged to the professional category of entrepreneurs and exporters. These figures suggest that investigations attempting to trace the networks back to the instigators and main beneficiaries of the trafficking were either not conducted thoroughly or unsuccessful.

Although there is no obvious or significant correlation between the suspect's occupation or role in the offence, on the one hand, and the outcome of legal proceedings, on the other hand, the proportion of acquittals is higher for certain roles and certain occupations. To a certain extent, it seems that the likelihood of conviction varies according to the suspect's occupation and/or role in the offence.

4.3. CIRCUMSTANCES OF THE OFFENCES

On the use of simple trafficking methods

Those involved in the illegal wildlife trade in Madagascar appear to operate mostly using **simple, unsophisticated methods**. In most cases, the commodities were seized while transported on foot or in a vehicle (67%), with **no specific concealment** (81%). The use of e-commerce platforms or social networks is marginal (2%). The assets that were confiscated alongside wildlife commodities e.g. conventional vehicles, light boats, mobile phones, and basic tools such as axes and knives, also suggest simple trafficking methods.

In most cases (95%), **seized commodities were not accompanied by any documentation**. In all likelihood, the offenders did not seek to falsify the administrative documents required by law, such as harvest and transport authorisations or CITES export permits. This may indicate that most offenders do not consider it necessary to conceal their activities or to give them a veneer of legality. There are several possible explanations to this situation, including amongst others: (i) offenders do not expect to be detected or apprehended; (ii) offenders plan to escape prosecution if apprehended (for example, by resorting to bribery); (iii) offenders don't know what documents are required; (iv) offenders are aware that certain permits are required but they don't know exactly what these are or how they could go about making forged copies.

Some of the traffickers' modus operandi were clarified during the investigation phase. Lengthy hunting expeditions, the setting up of temporary camps, and the processing and preparation of products are among the modus operandi most reported by investigators. The questioning of suspects by judicial police officers proved to be essential in obtaining basic information on the workings of the trafficking networks.

The illegal wildlife trade in Madagascar seems to be characterised by a certain degree of specialisation, insofar as wildlife commodities are rarely commingled or mixed with other types of contraband (5% of cases). Illegally logged wood products from unprotected species make up the bulk of other contraband products found alongside wildlife commodities from protected species.

The existence of **structured and organised networks** is nonetheless frequently mentioned in the cases (55 mentions). These involve coordination between several players (25 mentions), different levels of financial transactions (16 mentions), some level of professionalisation and specialisation (5 mentions), and linkages with clients at the end of the supply chain (9 mentions). Illegal harvesting is sometimes the result of orders placed by specific buyers (12 mentions) and gives rise to commercial sales (13 mentions).

Offences relating to protected species listed in the CITES Appendices are committed throughout the year, with comparable frequency and intensity from month to month and from season to season. Although April stands out as the month in which the most offences were committed, the chronological distribution of cases does not seem to follow a specific trend or pattern.

4.4. INVESTIGATIONS

The DREDDs and the National Gendarmerie are the law enforcement authorities most frequently in charge of investigations. When other law enforcement agencies contribute to investigations, it is most often in partnership with these agencies or with others.

On the importance of intelligence

External intelligence plays a central role in the detection of wildlife crime offences in Madagascar. In 46% of cases, offences were detected thanks to information provided by external sources, including anonymous individuals, local communities, protected area managers, and individuals who lodged formal complaints with the authorities. In other words, half of the seizures were made thanks to intelligence coming from external sources.

Law enforcement authorities seem to make a very limited use of proactive investigation techniques such as online intelligence gathering (cyber intelligence) or targeting of potential offenders. These techniques were used in just one case out of 108. This highlights the need for law enforcement authorities to strengthen their capacity to proactively gather intelligence to detect more offences and reduce their reliance on external sources.

On the need to carry out in-depth investigations

Once the offence was established, suspects were taken into police custody in almost all cases (97%).

Nevertheless, the data indicate that **most cases were not investigated in depth**:

- The information on modus operandi obtained during the investigation and prosecution phases was limited (46% of cases);
- The proportion of searches was low (14% of cases);
- The proportion of additional arrests was low (6% of cases);
- The use of special investigative techniques was very limited (3% of cases);
- The use of financial investigation techniques was limited (payment methods unknown in 82% of cases);
- Forensic analysis techniques were not used at all.

Only in a very limited proportion of cases were the selling price of the products and the identity of the purchasers clarified during the investigation phase (8% and 7% respectively).

In the absence of thorough investigations, it is difficult, if not impossible, for law enforcement authorities to gain an accurate and comprehensive understanding of how wildlife trafficking networks operate, let alone dismantle them. These various shortcomings can have a cascading effect. The limited use of special investigative techniques, as well as financial investigation techniques and forensic analysis techniques, reduces the likelihood of identifying additional suspects or collecting additional evidence.

4.5. PROSECUTIONS

Out of 238 suspects linked to the cases, 228 people (96% of suspects) were charged by a prosecutor. This shows that **charges are indeed brought against most individuals suspected of participating in the illegal wildlife trade.**

Defendants were placed in pre-trial detention in 85% of cases. In most jurisdictions, prosecutors have a policy of systematically placing defendants in pre-trial detention in cases linked to IWT. Placing defendants in pre-trial detention contributes to criminal deterrence insofar as it discourages repeat offences and the commission of future offences by other offenders.

However, the legal basis used by prosecutors for indictments is not always ideal, insofar **as the most recent and relevant laws are sometimes disregarded in favour of old decrees or regulations that are not specific** to protected species listed in the CITES appendices. Out of 228 people charged, 21 (9%) were charged based on the 'Decree of 25 January 1930 reorganising the forestry regime in Madagascar and its dependencies' (hereinafter 1930 Decree). In other cases, prosecutors charged defendants based on Ordinance 60-126 and Ordinance 60-128, both dating from 1960. This may be attributed to the lack of knowledge among prosecutors regarding the existence of specific pieces of legislation resulting from an international convention ratified by Madagascar.

Prosecutors chose the basic investigation procedure in 85% of cases, while **the preparatory instruction procedure was used in only 6% of cases.** However, in-depth investigations can only be conducted as part of a preparatory instruction procedure.

Prosecutors brought a total of **28 different charges** in the 108 cases. This is most likely due to the multiplicity of texts used as a legal basis by prosecutors at the time of the indictment (8 different laws) as well as the lack of clarity of certain legislative provisions which foresee many different qualifications for similar offences.

None of the charges brought against defendants relate to corruption, fraud, or money laundering, although IWT is closely linked to these offences in Madagascar. None of the investigations carried out by law enforcement authorities in the 108 cases looked specifically at suspicions of corruption or money laundering.

The criminal courts involved the DREDDs in the majority of legal proceedings. In 87% of cases, the DREDD was brought into the proceedings by the prosecutor as a civil party to the case. In 90% of the cases, the DREDD sent its conclusions to the prosecutor before the case was referred to court, either as a civil party or as a representative of Madagascar's CITES management authority. This is a real strength insofar as the participation of the DREDD in legal proceedings ensures the proper application of environmental legislation by advising the prosecutor on the seriousness of the offence, on the damage caused by the offence, and on the appropriateness of prosecution.

4.6. COURT DECISIONS

All the proceedings monitored by TRAFFIC were handled by the ordinary courts. Future awareness-raising efforts should therefore focus primarily on judges and prosecutors operating in ordinary courts.

74% of those charged were convicted by the courts. This means that 85% of cases resulted in convictions. In the meantime, only 15% of cases resulted in acquittals. This information alone sends out a powerful message.

Judges generally confirmed the legal basis and characterisation of offences proposed by prosecutors at the time of the indictment. In fact, judges handed down convictions based on the same laws and decrees that had been used by prosecutors when the case was referred to court.

Almost half of all convictions (48%) were based on the CITES Law, while 28% were based on the COAP Law.

The most recent and relevant laws were sometimes disregarded by judges in favour of old decrees or regulations that are not specific to CITES-listed species. Out of 170 people convicted, 20 (8%) were convicted based on the 'Decree of 25 January 1930 reorganising the forestry regime in Madagascar and its dependencies'. Judges also sentenced 11 people based on Ordinance 60-126 and Ordinance 60-128.

Furthermore, only 63% of those charged by prosecutors based on the COAP Law were effectively convicted by the courts based on the COAP Law. A possible explanation for this is that judges may be cautious in applying the COAP Law whose repressive provisions are sometimes perceived as too draconian.

The use of the COAP Law to qualify offences, particularly through its article 56, would be relevant in many cases, in particular for cases linked to radiated tortoises, as it would make it possible to impose harsher penalties against the offenders. Most of the radiated tortoises collected by poachers in the Androy region (i.e. in the districts of Tsihombe and Beloha) come from the peripheral zones and zones of influence of the Special Reserve of Cap Sainte Marie. In other words, they come from the direct vicinity of a protected area, if not from the protected area itself, which is known to be a major breeding ground for this species.

Legal proceedings linked to IWT offences are particularly short. In 91% of cases, legal proceedings lasted less than six months, from the time the offence was detected to the court's verdict. This information should be seen in the context of the procedures used. The basic investigation procedure, which was used in 85% of cases, has a maximum duration of six months (see details in Annex 1). This procedure does not allow investigators to carry out in-depth investigations and dismantle criminal networks.

Of the 170 people convicted, 91% were sentenced to prison, most of them to custodial sentences. This is a positive point insofar as prison sentences are generally considered to be the most effective deterrent of all. Nevertheless, the prison sentences handed down appear to be relatively low compared with the penalties foreseen under the COAP Law and the CITES Law. Indeed, **92% of the prison sentences handed down by judges are less than or equal to two years.** In comparison, the CITES Law provides for a maximum prison sentence of 10 years for any false declaration or attempt to illegally export CITES-listed species (see article 29 of Law 2005-018, paragraphs 1-4).

Similarly, 82% of fines are less than or equal to MGA 10 million (equivalent to USD 2,200 as of 31 December 2023), which seems low compared to the penalties foreseen under the COAP Law and the CITES Law. The CITES Law provides for fines of up to MGA 200 million (USD 44,000) for offences such as unauthorised transport and false declaration.

Combined sentences – combining at least two of the three existing types of penalty (imprisonment, fine, damages) – were **handed down in 73 cases (68%)**. Judges used the discretionary power conferred on them by the CITES Law, which allows them to hand down "*sentences of imprisonment and fines or one of these two penalties only*" (see articles 30 to 32 of Law 2005-018). In 18 cases, the courts handed down sentences combining the three types of penalty (imprisonment, fine and damages).

The courts ordered the accused to pay damages in 51 cases (47%). This type of penalty should be used systematically in cases involving protected wild species. Damages should, at the very least, cover the costs of transporting seized specimens, caring for them, and reintroducing them into their natural habitat. These sums may also fund actions designed to restore natural habitats and the balance of ecosystems most affected by poaching and illegal harvesting. According to the authors, the principles set out in article 70 of the COAP Law (which establishes the need to estimate damages based on a thorough assessment of the biodiversity loss resulting from the offence) should be applied to all court proceedings involving protected wild species. In addition, the sums recovered through damages should be effectively channelled to the MEDD, insofar as ensuring the proper management of natural resources and ecosystems is the ministry's responsibility.

There is a **lack of consistency and proportionality in the sentences** handed down by the courts in cases involving terrestrial tortoises (*Astrochelys radiata* and *Pyxis arachnoides*) and palisander wood (*Dalbergia*). Some cases involving few specimens received significantly higher prison sentences than others involving large amounts of specimens. These disparities indicate a lack of correlation between the prison sentences handed down by the courts and the volumes seized, the species involved, and the environmental and economic impact of the offences.

The DREDDs were present at the hearings in only 60% of the cases, even though they submitted their conclusions in 90% of the cases. It would be useful to identify the reasons behind these absences and remedy the situation, given that DREDDs are responsible for ensuring that environmental legislation is properly applied in their area of jurisdiction.

At the end of the monitoring period (July 2024), 14% of cases - a small proportion of the total - had been or were still being appealed. This suggests that the parties to the proceedings were generally satisfied with the decisions handed down by the courts in first instance.

Finally, the available data indicate that **the management of seized specimens is primarily driven by the need to safeguard and reintroduce them**. Indeed, the majority (54%) of live specimens seized by law enforcement authorities were transferred to rescue or quarantine centres, while 30% of specimens had already been reintroduced into the wild at the time of the court decision. This is a positive point insofar as the reintroduction of specimens into their natural habitat is the cornerstone of damage repair.

4.7. LEGISLATION

On the importance of the preparatory instruction procedure

Article 179 of the Code of Criminal Procedure allows prosecutors to refer cases to an investigating judge (or examining magistrate) and initiate a preparatory instruction procedure. In accordance with the Code of Criminal Procedure, the preparatory instruction procedure may be used for crimes and misdemeanours where the prosecutor considers it necessary. It is used in complex cases involving, for example, multiple offences, sophisticated modus operandi, and/or the involvement of criminal networks. For further details, please see Section 3.31 (*Type of criminal procedure*).

The CITES Law does not foresee the possibility to use the preparatory instruction procedure. This loophole considerably reduces the ability to prosecute those behind transnational criminal networks. In fact, law enforcement authorities and prosecutors often prosecute individuals responsible for the

poaching itself, rather than conducting investigations to dismantle the organised crime syndicates that sponsor and finance these illegal enterprises.

In its current drafting, the CITES Law does not allow law enforcement and prosecuting authorities to carry out the complex investigations that are needed to dismantle organised crime networks. While the criminal penalties foreseen under the CITES Law must be commensurate with the challenge of combating organised crime, the investigative resources and techniques must also enable law enforcement authorities to trace criminal networks and identify the instigators. Such investigations require coordinated work with specialised investigative services, particularly under the aegis of Interpol, and investigative resources outside the scope of ordinary law. According to the authors, the fact that the CITES Law does not foresee the use of the preparatory instruction procedure is a shortcoming that should be remedied. To date, law enforcement authorities in Madagascar have few resources at their disposal to conduct complex investigations into organised crime.

On the legal basis for the repression of offences linked to the illegal trade in palisander

Trafficking in palisander wood may be prosecuted based on multiple pieces of legislation. There are disparities in the application of these laws, depending on the case and the jurisdiction.

In several cases, prosecutors and judges used the 'Decree of 25 January 1930 reorganising the forestry regime in Madagascar and its dependencies' as the legal basis for the indictment and conviction. Article 49 of the 1930 Decree provides for a prison sentence of between one and 12 months and a fine of between 500 and 5,000 francs²³ (FMG) (equivalent to USD 0.02 – 0.2), or one of these two penalties only, for the offence of "transporting forest products without authorisation". According to the authors, the maximum penalties foreseen by the 1930 Decree are not a sufficient deterrent compared to the significant financial benefits that offenders may reap from trafficking palisander wood and other forest products.

All species of palisander belong to the *Dalbergia* genus, which is listed in Appendix II of CITES due to the risk of extinction posed by deforestation and illegal logging. All species of palisander benefit from special protection status under the CITES Convention and Law 2005-018 (CITES Law). As a result, **judges and prosecutors may use Law 2005-018 in cases involving the illegal trade in palisander.**

However, in cases where palisander specimens come from a protected area, judges and prosecutors also have the option to use Law 2015-005 (COAP Law), which provides for harsher penalties than the CITES Law. For simple transport, the COAP Law provides for prison sentences of between two and five years, compared with six to 24 months under the CITES Law. Article 56 of the COAP Law also states that "any species of fauna or flora irregularly held, transported or offered for sale outside a Protected Area is presumed to have been taken from within it". This is a legal presumption of an offence committed inside a protected area, placing the burden of the proof on the accused.

On the legal qualification of offences under the CITES Law

As it stands, the multiplicity of offences foreseen by Law 2005-018 (CITES Law) in its article 29, coupled with the extremely broad range of prison sentences, creates uncertainty for the judge, who must first qualify the facts and determine the appropriate penalty. This task is even more difficult when the judges and prosecutors are not well-versed in environmental law.

Redundant offences should therefore be removed and the provisions of Law 2005-018 relating to the qualification of offences should be simplified so as to comply with the principles of clarity and intelligibility of the law.

²³ The Malagasy Franc (FMG) was the currency in use in Madagascar during the French colonial rule and up until 2003, when it was replaced by the Malagasy Ariary (MGA).

4.8. LOCATIONS

Most offences are concentrated in six regions of the country: Analamanga, Androy, Atsimo Andrefana, Boeny, DIANA and SAVA.

The regions with the highest number of places of origin of specimens are Atsimo Andrefana, DIANA, and SAVA. The regions with the highest number of discovery and arrest sites are Analamanga, Atsimo Andrefana, Androy, Boeny, and Menabe.

Some of the municipalities with the highest seizure and arrest densities (see Figure 63) are close to protected areas, which are themselves included in the ranges of many wild species listed in the CITES appendices. This is particularly true of the following species (non-exhaustive list) :

- *Astrochelys radiata* and *Pyxis arachnoides*, for the Tsimanampetsotsa National Park, the Vohidefo Protected Area and the Special Reserve of Cap Sainte Marie.
- *Chelonia mydas*, for the Velondriake and Nosy Ve-Androka marine protected areas.
- *Cheirogaleus major*, for the Kirindy Forest.
- *Eulemur coronatus*, for the Analamerana Special Reserve, the Ankarana Special Reserve and the Montagne d'Ambre National Park.
- *Phaner furcifer*, for the Masoala National Park, the Andranomena Special Reserve and the Ankarana Special Reserve.
- *Dalbergia spp.*, for a large number of protected areas throughout the country.



Tsimanampetsotsa National Park © Gridarendal - Flickr

GOOD PRACTICES

Several good practices worth highlighting were identified in the course of this study. Where possible, these should be promoted and encouraged by law enforcement and judicial authorities to strengthen the State's response to the illegal wildlife trade.

1. In a very large number of cases, law enforcement authorities used information provided by private citizens, local communities, protected area managers, and other sources to detect offences, make seizures, and apprehend suspects.
2. 97% of apprehended suspects were taken into police custody. The almost systematic use of police custody is a positive point insofar as it allows suspects to be questioned, confessions to be taken, and information to be gathered to help establish the facts of the case.
3. Almost all of those arrested (96%) were formally charged by prosecutors. This shows that **charges are being brought against most individuals suspected of participating in the illegal wildlife trade.**
4. Prosecutors used the **preparatory instruction procedure** in seven cases, even though it is not foreseen in the CITES Law. The use of this procedure is commendable insofar as it enables in-depth investigations to identify the instigators and dismantle the criminal networks.
5. The direct citation procedure was used by prosecutors in only nine cases. This is a positive point insofar as this procedure entails a high risk of superficial investigations resulting in minimal sentences.
6. The **CITES Law** was the piece of legislation most frequently used by judges, although it was not used systematically.
7. **74% of those charged were convicted.** This is a positive point insofar as three-quarters of those prosecuted for offences relating to the illegal wildlife trade were convicted by the courts.
8. **Of the 170 people convicted, 91% were sentenced to prison.** This is a positive point insofar as prison sentences are generally considered to be the most deterrent of all sentences.
9. 84% of those sentenced to prison and/or fines were not given suspended sentences.
10. **Combined penalties** - combining at least two of the three existing types of penalty (imprisonment, fine, damages) - **were handed down in 68% of cases.**
11. Judges ordered defendants **to pay damages in 47% of cases.** This is commendable as these sums are intended to repair the damages caused by the offence. When recovered, damages are typically used to cover the costs of transporting the seized specimens, caring for them, and reintroducing them into their natural habitat.
12. **Prosecutors involved the DREDDs almost systematically in legal proceedings.** In 87% of cases, the DREDDs were brought into the proceedings by prosecutors as civil parties to the case. This is a positive point insofar as the participation of the DREDDs in legal proceedings makes it possible to guarantee the proper application of environmental legislation by enlightening prosecutors on the seriousness of the offence, on the damage caused by the offence, and on the appropriateness of prosecution.

13. At the end of the monitoring period (July 2024), 14% of cases - a small proportion of the total - had been or were still being appealed. This suggests that the parties to the proceedings were generally satisfied with the decisions handed down by the courts in first instance.
14. The majority (54%) of live specimens seized by law enforcement authorities were transferred to rescue or quarantine centres, while 30% of specimens had already been reintroduced into the wild at the time of the court's decision. This is a positive point insofar as the reintroduction of specimens into their natural habitat is the cornerstone of the principle of damage repair.



Adansonia grandidieri © TRAFFIC

RECOMMENDATIONS

The recommendations below are based on the main findings of the study. They are addressed to the authorities of the Republic of Madagascar, mainly law enforcement authorities, the Ministry of Justice, and the judiciary.

6.1. LEGISLATION

Recommendations for the Ministry of Justice and the Malagasy Parliament.

1. Introduce the preparatory instruction procedure into Law 2005-018 (CITES Law) to enable in-depth investigations.
2. Simplify the provisions of the CITES Law relating to the qualification of offences so that they comply with the principles of clarity and intelligibility of the law, and eliminate redundant offences.
3. Clarify the status of the 'Decree of 25 January 1930 reorganising the forestry regime in Madagascar and its dependencies' (hereinafter 1930 Decree) and specify whether it has already been repealed. If so, inform judicial authorities accordingly. If not, draw up a legal reform proposal aimed at formally repealing the 1930 Decree, in particular its provisions concerning the qualification of offences and the corresponding penalties.

6.2. DETECTION OF OFFENCES

Recommendations for the Ministry of the Environment and Sustainable Development (MEDD), the National Police, the National Gendarmerie, the Directorate General of Customs (DGD), and the Fisheries Surveillance Centre (CSP).

1. Strengthen detection and law enforcement efforts by prioritising the taxonomic families most targeted by illegal wildlife trade in Madagascar (including but not restricted to the ones mentioned in this report). Reassess the situation periodically, preferably every year, in order to adapt prevention and law enforcement strategies in line with trafficking trends and developments.
2. Intensify detection and law enforcement efforts in and around protected areas, focusing on the Androy, Atsimo Andrefana, Boeny, DIANA, and SAVA regions.
3. Prioritise the search for temporary camps used by offenders as part of lengthy hunting expeditions.
4. Continue performing systematic roadside checks, which appear to be yielding results.
5. Encourage citizens, local communities, and protected area managers, amongst other stakeholders, to report offences and suspicions.
6. Strengthen the capacity of law enforcement authorities to collect intelligence proactively, by means of cyber surveillance, making the most of intelligence originating from foreign countries, and targeting potential offenders, in line with the relevant legislation.

7. Reinforce checks on passengers and baggage at airports through enhanced risk profiling, with a focus on international flights.
8. Tighten controls on international freight, particularly shipments of legal commodities likely to conceal specimens belonging to protected wild species, through enhanced risk profiling.

6.3. INVESTIGATION

Recommendations for the Ministry of the Environment and Sustainable Development (MEDD), the National Police, the National Gendarmerie, the Directorate General of Customs (DGD), and the Fisheries Surveillance Centre (CSP).

1. Encourage judicial police officers to involve local communities in the search for information.
2. Strengthen collaboration between the DREDDs and the National Gendarmerie, ideally based on a harmonised criminal policy setting out clear principles and objectives for the conduct of investigations.
3. Encourage the use of searches and the questioning of additional suspects to gather intelligence and evidence and deepen investigations.
4. Encourage judicial police officers to conduct in-depth investigations to identify the *modus operandi*, the accomplices, and the circumstances surrounding the offences, upstream and downstream of the seizure. As far as possible, investigations should aim to identify the locations linked to the offences (collection, storage, transit, and sales locations), the different players involved (collectors, owners, intermediaries, transporters, accomplices, dealers, buyers, sponsors), the operating methods (transport, sale, export), the various financial transactions and selling prices, and the assets used to commit the offences.
5. Promote and facilitate the use of special investigative techniques²⁴ in order to: deepen investigations; identify the players involved along the supply chain; better understand the workings of trafficking networks; and dismantle them. These techniques include controlled deliveries, electronic surveillance, undercover operations, simulated purchases, integrity tests, as well as financial investigations and forensic analyses.
6. Promote and facilitate the gathering of information and intelligence, notably through a policy of whistleblower protection and the recruitment/protection of informants, to deepen investigations and trigger more of them.²⁵
7. Build capacity and encourage investigators to identify corruption, fraud, and money laundering offences associated with the illegal wildlife trade, and to use existing legislation on corruption and financial crime as frequently as possible.
8. Ensure that specimens are duly identified by wildlife specialists and that the scientific names of species are mentioned in investigative reports and court documents to ensure that the CITES status and level of protection are duly taken into account throughout legal proceedings.
9. Build the capacity of investigators to identify wild species, based on a prior assessment of needs.

²⁴ At present, the lack of material and financial resources considerably limits the possibilities for law enforcement authorities to use special investigative techniques. Further research is needed to determine whether this is true for other categories of crime, beyond just illegal wildlife trade offences. Where appropriate, TRAFFIC recommends that law enforcement authorities build capacity across the board to strengthen investigations regardless of the type of crime involved.

²⁵ *Idem*.

10. Encourage the DREDDs to play an active role in proceedings as representatives of the CITES Management Authority.
11. Increase the resources of the DREDDs to ensure the presence of forestry judicial police officers at court hearings and the monitoring of legal proceedings.

6.4. PROSECUTION AND ADJUDICATION

Recommendations for the Ministry of Justice and the judiciary.

1. Target high-level sponsors and beneficiaries rather than collectors, transporters, and intermediaries, with a view to dismantling structured and organised networks. Initiate criminal proceedings as a matter of priority against downstream players in the supply chain, including buyers, logisticians, facilitators, processors, accomplices and corrupt associates, exporters, traders, consumers, beneficiaries, and sponsors.
2. Encourage judges and prosecutors to give preference to the most recent and relevant laws over old decrees or regulations that are not specific to protected species.
3. Until the use of the preparatory instruction procedure is foreseen by the CITES Law (as recommended above), promote the use of the preparatory instruction procedure for cases linked to non-flagrant crimes, as well as crimes whose perpetrators are unknown or are not in Madagascar, in line with article 179 of the Code of Criminal Procedure.
4. Raise judges' and prosecutors' awareness of the need to protect wild species and address wildlife crime. Strengthen judges' and prosecutors' awareness of the relevant legislation and the list of species protected under the CITES Convention and national legislation. Give priority to the ordinary courts of first instance, insofar as most court cases relating to IWT are handled by them.
5. Develop and adopt a criminal policy aimed at harmonising the prosecution of offences linked to IWT. Such a criminal policy should include guidelines for prosecution and sentencing.
6. Encourage judges and prosecutors to prosecute and punish offences relating to corruption, fraud, and money laundering associated with IWT, and to use existing legislation on corruption and financial crime as frequently as possible.
7. Encourage judges and prosecutors to use the COAP Law more frequently to prosecute and punish offences linked to IWT, whenever wild specimens are likely to have been sourced from a protected area.
8. Encourage judges to consider other existing laws when assessing the legal basis and qualification of offences proposed by prosecutors.
9. Encourage prosecutors to systematically include the DREDDs in proceedings relating to IWT offences.
10. Systematically notify the DREDDs of court hearings in matters relating to IWT.
11. Delay any court decision until DREDDs have submitted their conclusions to the court. Encourage judges to consider the DREDDs' conclusions when ruling.
12. Encourage judges to systematically award damages to the MEDD to cover the costs of transporting seized specimens, caring for them, reintroducing them into their natural habitat, and restoring ecosystems.

13. Encourage judges to hand down prison sentences and fines proportionate to the seriousness of the offences and the volumes seized, in accordance with the provisions of the CITES Law and the COAP Law.
14. Encourage judges to hand down sentences that include all three types of penalty (imprisonment, fine, damages), where appropriate, with a view to strengthening criminal deterrence.
15. Encourage the competent authorities to recover fines and damages in order to make criminal penalties and deterrents effective.



Mantella aurantiaca © PixaBay

ANNEX 1

MADAGASCAR'S INSTITUTIONAL AND LEGISLATIVE FRAMEWORK ON COMBATING IWT

1. MAIN LAW ENFORCEMENT AUTHORITIES

In Madagascar, five agencies have a mandate to investigate IWT offences. The roles and attributions of each of these government agencies are presented in the following paragraphs.²⁶

1.1. MINISTRY FOR THE ENVIRONMENT AND SUSTAINABLE DEVELOPMENT

The mission of the Ministry of the Environment and Sustainable Development (MEDD) is to ensure the conservation and enhancement of the biodiversity of Madagascar's flora and fauna. Within the ministry, the Directorate General for Environmental Governance (DGGE) is responsible for enforcing the law regarding all offences linked to wild flora and fauna. The CITES Management Authority, which reports to the DGGE, is responsible for coordinating the implementation of the CITES Convention at national level by "managing and controlling the trade in species of wild fauna and flora"²⁷. The CITES Management Authority is "responsible for the implementation of legal and regulatory requirements for trade in species of wild fauna and flora"²⁸, and "criminal prosecutions in this area are initiated at the request of the Minister for Water and Forests, through the Management Authority, which may file a civil action"²⁹. The CITES law clearly states that the MEDD is responsible for combating the illegal wildlife trade in Madagascar. The MEDD's judicial police officers are empowered to record offences linked to IWT and are authorised to carry out the corresponding investigations, seizures, and searches.

The MEDD is present in every region of the country through the Regional Directorates for the Environment and Sustainable Development (DREDD) as well as Inter-Regional Directorates (DIREDD). The DREDDs and DIREDDs include a Service Régional de Contrôle (SRC) or Regional Control Unit. Each district has a "cantonement", a basic unit of the forestry administration, with one or more officers, at least one of whom is a judicial police officer in his or her area of jurisdiction (i.e. either forestry or environmental). While environmental judicial police officers are competent to record and investigate a broad range of breaches of environmental laws including offences linked to pollution, forestry judicial police officers are specifically responsible for recording and investigating breaches of forestry regulations, in particular Law 2005-018 (known as the CITES Law) and Law 2015-005 (known as the COAP Law).

²⁶ The content of this section is mainly taken from the "Report of the UNODC assessment mission on wildlife and forest crime, conducted in Madagascar from 5 April to 9 May 2016". Modifications and updates have been made by TRAFFIC for the purposes of this study.

²⁷ see article 5 of Law 2005-018

²⁸ Article 6

²⁹ Article 56

The forestry administration often calls on the National Police and the National Gendarmerie to arrest suspects and seize illegal specimens and commodities, via requests for assistance.

Checks in the form of roadblocks are carried out, with the assistance of the National Police or National Gendarmerie, according to a predefined schedule or on a targeted basis to exploit information provided by informants, local communities, protected area managers, civil society organisations, NGOs, or other law enforcement authorities.

In the event of an offence, DREDD officers who have been sworn in as forestry judicial police officers are required by the CITES Law to formally report the offence through a standardised statement. The report must then be submitted by the head of the cantonment to the prosecutor. As DREDDs do not have any security cells, suspects are usually taken into custody on the premises of the National Police or National Gendarmerie.

1.2. NATIONAL POLICE

The country's 14,000 police officers, mainly present in the cities, play a leading role in the fight against organised crime. The National Police and the National Gendarmerie are the two main law enforcement agencies. Police officers and gendarmes share the same general remit for the exercise of judicial policing, which, according to the Code of Criminal Procedure, consists of "recording breaches of criminal law, (...) gathering evidence and (...) tracking down the perpetrators" under the direction and coordination of the prosecutor and "supervision of the general prosecutor at the court of appeal".³⁰

1.3. NATIONAL GENDARMERIE

The National Gendarmerie, with 18,000 members, is present throughout the country, particularly in rural areas and on national roads. The Gendarmerie's judicial police activities are coordinated at national level by a Judicial Police Department. They are carried out at provincial level by Criminal Investigation Sections and at regional level by Judicial Police Support Groups, themselves placed under the command of the Gendarmerie's territorial units (groups, companies, brigades and outposts). Environmental protection is one of the Gendarmerie's missions. To this end, it exercises administrative police powers in the area of prevention, and judicial police powers in the area of enforcement.

The National Gendarmerie's interventions against IWT often take the form of forest patrols (at the request of and alongside DREDD officers) and fixed roadblocks to control the transport of commodities. These actions usually result in the arrest of poachers, collectors, transporters, and intermediaries.

1.4. DIRECTORATE GENERAL OF CUSTOMS

Madagascar's Directorate General of Customs (DGD) employs 1,124 staff, distributed in approximately equal proportions between central services and field offices responsible for maritime and air customs clearance. The DGD includes a Customs Surveillance Directorate (DSD), created in 2023, which performs checks and surveillance to detect smuggling attempts.

³⁰ Articles 123 and 124 of the Code of Criminal Procedure

The DSD has a mandate to operate throughout the country and in the maritime zone that extends from the coastline to the limit of the Exclusive Economic Zone (EEZ). It currently has around 80 staff (this contingent is expected to grow), who will gradually specialise on addressing transnational organised crime.

Customs officers are armed and can "inspect goods, means of transport and people", carry out home visits, in case of in flagrante delicto or at the request of a prosecutor, take people into custody, and "visit any vessel" in the EEZ. In the event of seizure of illegal wildlife commodities (species whose import, export, transit or possession are prohibited or strictly regulated by law), customs officers draw up a seizure report, which is forwarded to the prosecutor's office and files a civil action for the prosecution of the customs offences before the judicial court.

1.5. FISHERIES SURVEILLANCE CENTRE (CSP)

Under the supervision of the Ministry of Fisheries and the Blue Economy, the Fisheries Surveillance Centre (CSP) was set up as a public administrative body in 2012 and is responsible for enforcing the law in the country's marine areas (continental waters). The CSP is involved in cracking down on IUU fishing and the illegal trade in marine species, including through interceptions on land.

CSP staff is divided between the head office in Antananarivo and several regional offices, notably in Toamasina, Mahajanga, Antsiranana, and Toliara. It includes fisheries inspectors and judicial police officers (OPJ). The CSP operates vessels for sea patrols and interceptions.

2. APPLICABLE LAWS

In Madagascar, the fight against IWT is based on three main laws, which constitute the backbone of the regulatory framework for the conservation of protected species:

1. Law 2005-018 on international trade in species of wild fauna and flora (known as the CITES Law);
2. Law 2015-005 revising the Protected Areas Management Code (known as the COAP Law);
3. Organic Law 2015-056 creating a special chain to combat trafficking in rosewood and/or ebony and punishing offences relating to rosewood and/or ebony (known as the Rosewood Law).

The purpose of 'Law 2005-018 on international trade in species of wild fauna and flora' is to set out the conditions for implementing the CITES Convention in Madagascar and to incorporate the provisions of the Convention into domestic law. This law sets out the rules for the import, export, possession, transport and transshipment of any wild species listed in Appendices I, II and III of CITES. Chapter 5 of the CITES Law includes a set of criminal provisions, on the qualification of the offences and penalties relating to IWT (articles 29 to 34).

'Law 2015-005 revising the Protected Areas Management Code' creates Madagascar's System of Protected Areas, the main objective of which is to conserve all of the country's biodiversity, ecosystems, species, and genetic variability. The COAP Law introduces a nomenclature of Protected Areas and sets out the governance rules and management objectives specific to each category of Protected Area. Title 5 (articles 55 to 79) includes criminal provisions aimed at strengthening biodiversity conservation and the sustainable management of natural resources. These articles define the offences, penalties, and procedures for prosecution and for the confiscation of seized commodities.

'Organic Law 2015-056 creating a special chain to combat trafficking in rosewood and/or ebony and punishing offences relating to rosewood and/or ebony' is an exceptional law adopted with the aim of stemming the rise in trafficking in rosewood and ebony in Madagascar. It creates a special court with national jurisdiction, based in Antananarivo, as well as a special prosecutor; joint investigation brigades made up of police, gendarmerie, and MEDD officers; and a special committee in charge of managing seized precious wood stockpiles. The Rosewood Law foresees high penalties and represents a significant step forward in the fight against organised crime linked to IWT. For example, it provides for the use of special investigative techniques (controlled deliveries, undercover operations, telephone tapping, surveillance of bank accounts, audio and video recordings) and introduces protective measures for witnesses and investigators as well as testimonial aids for vulnerable victims and witnesses. The repressive provisions are set out in Titles 3 and 4 (articles 69 to 89) of the law.

In addition to these three laws, Madagascar authorities apply the Customs Code (Ordinance 60-084 as amended by successive Finance Laws) and the Fisheries Code (Law 2015-053) in certain cases. The Customs Code contains no specific provisions relating to protected wild species and the illegal trade thereof. For its part, the Fisheries Code stipulates that such offences must be dealt with in accordance with "the national legislation in force and international conventions ratified by the Malagasy State".³¹

LAW 2005-018

LAW 2015-005

LAW 2015-056

³¹ article 18

<ul style="list-style-type: none"> ▪ Forestry judicial police officers ▪ Any other judicial police officers (Art. 35 and 50)	<ul style="list-style-type: none"> ▪ Forestry judicial police officers ▪ Ordinary judicial police officers ▪ Fisheries judicial police officers ▪ Agents authorised by the maritime authority ▪ Mining and oil judicial police officers ▪ Customs inspectors and controllers (Art. 66)	<ul style="list-style-type: none"> ▪ Joint investigation brigades made up of judicial police officers from the National Police, the National Gendarmerie, and the MEDD. (Art. 6)
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Table 15. Officers empowered to detect offences under the three main laws.

2.1. PROCEDURES UNDER THE CODE OF CRIMINAL PROCEDURE

The Code of Criminal Procedure (articles 177 to 179) provides for three types of procedure for the prosecution of offences: direct citation, basic investigation, and preparatory instruction. Please see Section 3.31 (*Type of criminal procedure*) for details on each type of procedure.

LAW 2005-018	LAW 2015-005	LAW 2015-056
<ul style="list-style-type: none"> ▪ Direct citation ▪ Basic investigation 	The three standard procedures, i.e. : <ul style="list-style-type: none"> ▪ Direct citation ▪ Basic investigation ▪ Preparatory instruction 	<ul style="list-style-type: none"> ▪ Preparatory instruction only

Table 16. Procedures applicable under the three main laws.

ANNEX 2

ADDITIONAL CASES MONITORED BY TRAFFIC

As mentioned under Section 2 of the report (*Methodology*), the study only covers cases for which a ruling by a court of first instance was made. When TRAFFIC ended its court monitoring activities in Madagascar (July 2024), 62 additional cases involving alleged illegal wildlife trade offences were pending before the courts nationwide. However, these 62 cases were not included by TRAFFIC in this study in the absence of ruling by a court of first instance.

The purpose of this annex is to provide basic information on the commodities seized by law enforcement authorities in these 62 additional cases.



Acrantophis madagascariensis © Damien Wolff – TRAFFIC

1. GEOGRAPHICAL DISTRIBUTION OF COURT CASES

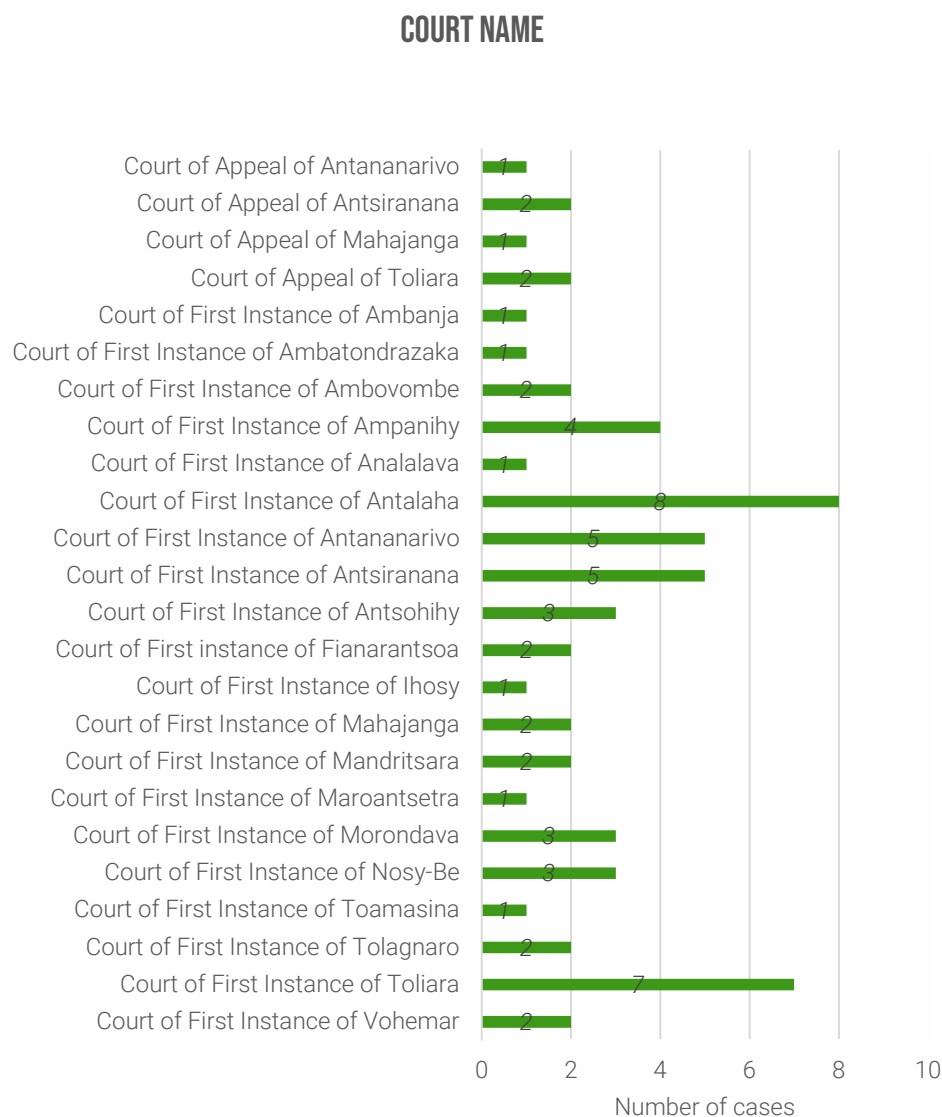


Figure 65. Geographical distribution of court cases.

At the time when TRAFFIC ended its court monitoring activities, the 62 additional cases were being processed in 24 courts nationwide, including (in descending order): eight cases for the Antalaha Court of First Instance, seven cases for the Toliara Court of First Instance, five cases for the Antsiranana Court of First Instance, 5 cases for the Antananarivo Court of First Instance, four cases for the Ampanihy Court of First Instance, and three cases for the Nosy-Be, Morondava, and Antsohihy Courts of First Instance. The other courts each had two or fewer cases.

2. SCIENTIFIC NAMES OF SPECIES

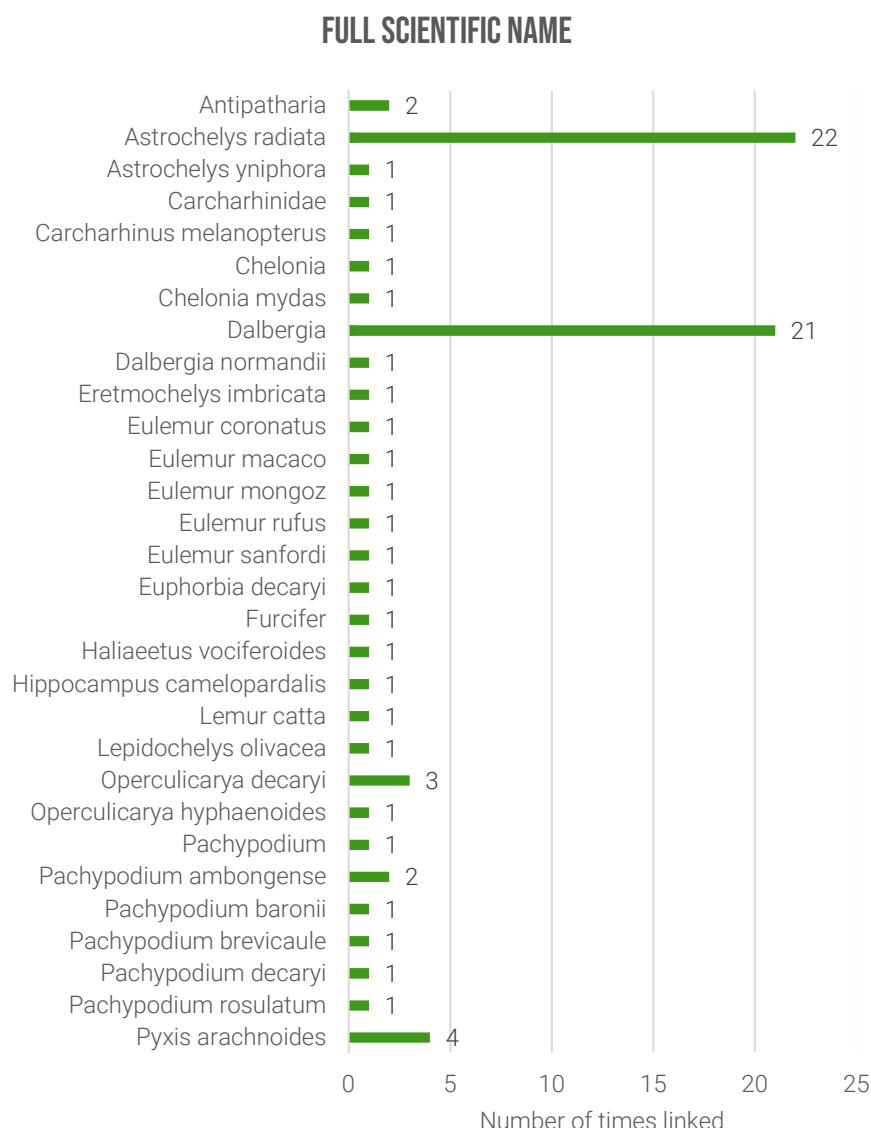


Figure 66. Scientific names of species linked to offences (number of mentions of each species in the files).

The above graph shows the scientific names of the species linked to the 62 cases. The graph is based on the most precise taxonomic level known (order, family, genus, species), since the full name of the species is not always given at court hearings or in public sources.

The 62 cases refer to a total of 30 species (or the most precise taxonomic level known). These 30 species or groups of species are mentioned 78 times in the 62 cases.

Radiated tortoises (*Astrochelys radiata*) and palisander (*Dalbergia*) are by far the most mentioned species groups in the records, with 22 and 21 mentions respectively. In the case of palisander, the scientific names of the species were not known at the time when TRAFFIC ended its court monitoring activities. In the absence of precise information, these commodities have therefore been grouped together under the *Dalbergia* genus.

3. TAXONOMIC FAMILIES

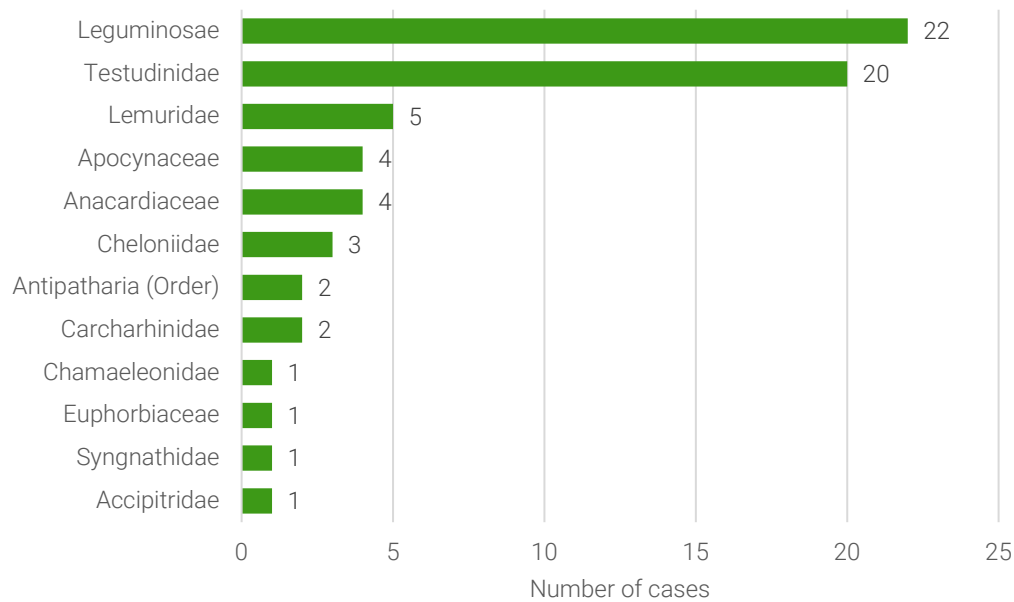


Figure 67. Number of cases by taxonomic family (scientific names).

A total of 12 taxonomic families were mentioned in the 62 cases. The Leguminosae family is the most frequently mentioned, with 22 records, followed by the Testudinidae family with 20 records. Next come the Lemuridae family with five records, the Apocynaceae and Anacardiaceae families with four records each, and the Cheloniidae family with three records. The remaining six taxonomic families are linked to a number of records less than or equal to two.

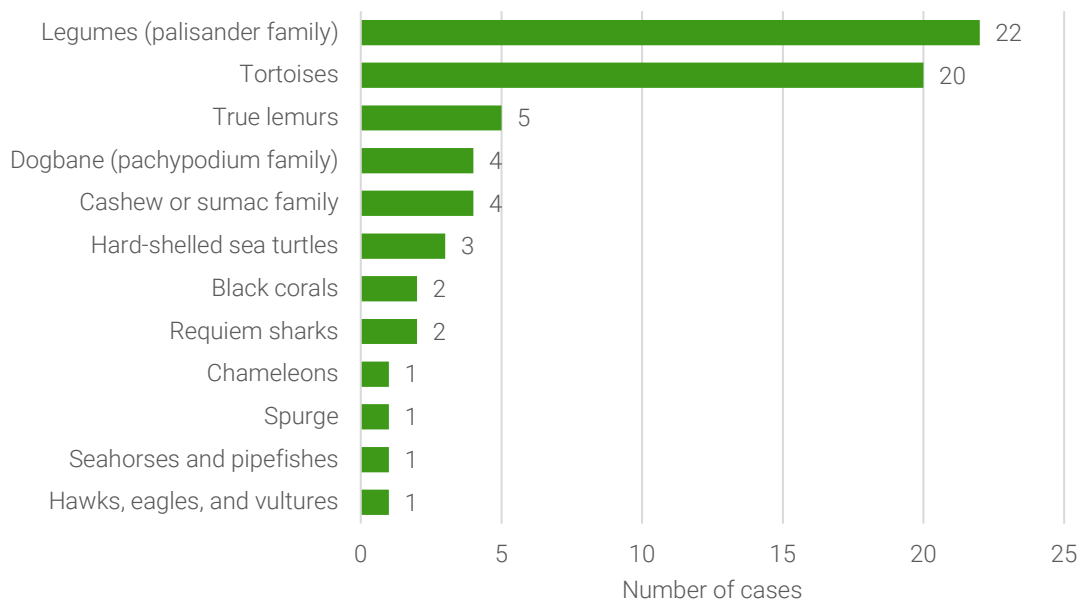


Figure 68. Number of cases by taxonomic family (common names).

The above graph is identical to the previous one, except that the taxonomic families are indicated by their common name.

In addition to the 10 taxonomic families mentioned in the 108 files analysed in this study, there are four new families mentioned in the 62 additional cases: requiem sharks, chameleons, seahorses and pipefishes, and hawks, eagles, and vultures.

4. NUMBER OF SPECIMENS PER TAXONOMIC FAMILY

The graph below shows the number of specimens (in units or weight) seized in the 62 cases. Weights of commodities are shown only where this information was available, i.e. in a minority of cases. In most cases and for most commodities, the quantities seized are expressed in units. This is the case for seizures of precious woods, tortoises, and succulent plants. On the other hand, seizures of sharks and black coral are most often expressed in weight (kg).

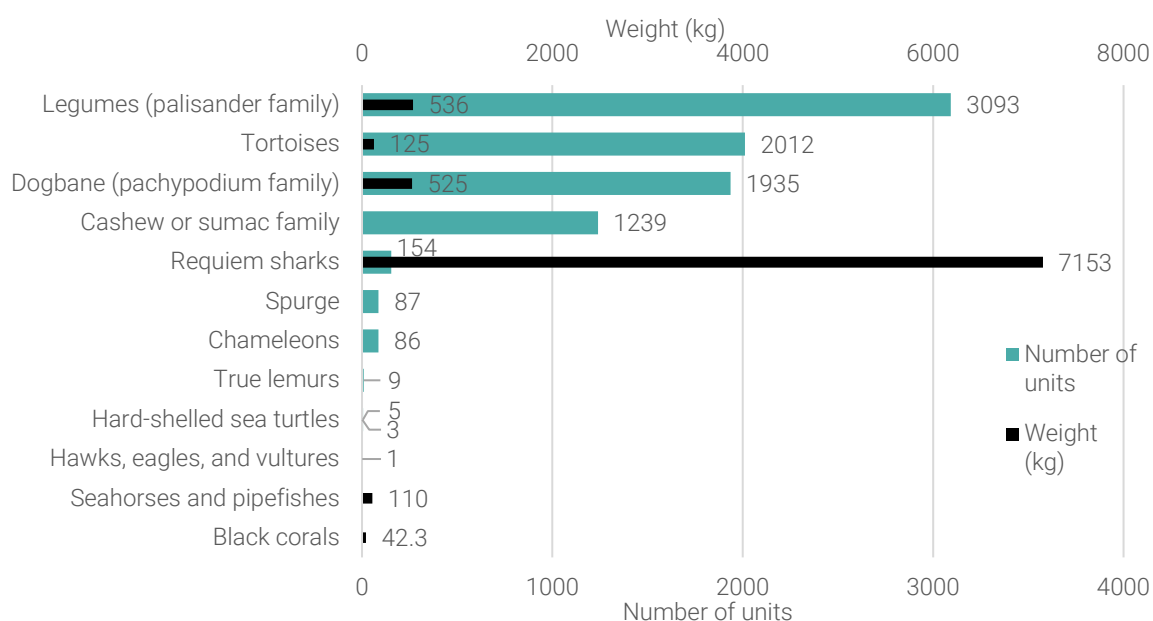


Figure 69. Quantities of specimens seized, by taxonomic family (common names).

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JUNE 2025

WORKING TO ENSURE THAT TRADE
IN WILD SPECIES IS LEGAL AND
SUSTAINABLE, FOR THE BENEFIT OF
THE PLANET AND PEOPLE.



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