

TRAFFIC

R E P O R T

JANUARY 2018

GUIDE TO WILDLIFE LAW ENFORCEMENT, CAMEROON

Competences, Attributions, Duties, and Responsibilities
of the Different Law Enforcement Agencies

Sone NKOKE Christopher, NYA Fotseu Aimé, ONONINO Alain Bernard





TRAFFIC REPORT

TRAFFIC, the wildlife trade monitoring network, is the leading non-governmental organization working globally on trade in wild animals and plants in the context of both biodiversity conservation and sustainable development. TRAFFIC works closely with its founding organizations, IUCN and WWF.

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Park Guard in Northern Cameroon

Prepared with the technical support of WWF and TRAFFIC

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TRAFFIC
the wildlife trade monitoring network





Nyong river valley east of Yaoundé, Cameroon.
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ABOUT THE PROJECT

The Project “Biodiversity conservation through combating poaching and illegal wildlife trade – implementation of the Central African Wildlife Trade Law Enforcement Action Plan of COMIFAC, CAWTLEAP commonly known as PAPECALF (*Plan d'Action sous Régional des Pays de l'Espace COMIFAC pour le Renforcement de l'Application des Législations Nationales sur la Faune Sauvage*) through capacity building of governments and civil society in Central Africa” was approved for funding in 2013 by the German Federal Ministry for Economic Cooperation and Development (BMZ), through WWF Germany.

One of the main challenges to wildlife law enforcement in Central Africa is the lack of technical and operational capacities of law enforcement agencies. This is compounded by weak collaboration between agencies within a country or between countries, leading to an inadequate response to a transnational problem. Among the efforts to address this challenge, the Central African countries devised a Wildlife Trade Law Enforcement Action Plan (CAWTLEAP), under the umbrella of the Central African Forests Commission (COMIFAC), for the period 2012–2017.

This project’s aim is to mitigate the negative impacts on biodiversity, national security and economic development opportunities in Central Africa that are caused by massive illegal killing of its elephant populations.

The specific objective of the project is to build the capacities of governments, the civil society, and partner organizations in five Central African countries (Cameroon, Congo, Gabon, Central African Republic, and Democratic Republic of the Congo), among the most affected by wildlife crime, in order to fight this scourge in accordance with the CAWTLEAP.

This publication is one of the reports and tools developed under this project, providing direction and guidance to the different bodies charged with law enforcement on their respective duties.



Elephant tusks in Cameroon © WWF CARPO / Peter Ngea

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LIST OF PARTNERS

Bengo – Supported by the German Federal Ministry for Economic Cooperation and Development (BMZ) for over 25 years, Bengo serves as an advisory body for German NGOs working on sustainable development projects.

BMZ – The German Federal Ministry for Economic Cooperation and Development has as its mission, to formulate and to lead the policies of Germany in economic development co-operation and to encourage the development of commercial exchanges in order to promote development. BMZ also supports the implementation of the Convention on Biological Diversity and the Sustainable Development Goals.

IUCN – The International Union for Conservation of Nature helps to find pragmatic solutions to the most pressing environmental and development challenges. IUCN is the world's oldest and largest global environmental organization, with nearly 1300 government and NGO members, as well as over 15 000 volunteer experts in 185 countries.

WWF – The World Wide Fund for Nature is one of the world's largest independent conservation organizations, with a global network active in over 100 countries, for over half a century. WWF's mission is to stop the degradation of the planet's natural environment and to build a future in which humans live in harmony with nature by conserving the world's biological diversity, ensuring that the use of renewable natural resources is sustainable, and promoting the reduction of pollution and wasteful consumption.

TRAFFIC – The wildlife trade monitoring network is the leading non-governmental organization working globally on trade in wild animals and plants in the context of both biodiversity conservation and sustainable development. TRAFFIC works closely with its founding organizations, IUCN and WWF, making a critical contribution to achievement of their conservation goals through a unique partnership that complements and engages the considerable strengths of each of these two major global conservation organizations.

USAID – The United States Agency for International Development is in charge of the major part of the Government of the United States' foreign development assistance, including international conservation funding. It is dedicated to ending extreme poverty and promoting resilient and democratic societies, while advancing security and prosperity in America and worldwide. Support was provided to the Wildlife Trafficking, Response, Assessment and Priority Setting (Wildlife TRAPS) Project Officer for Central Africa, who participated in time and expertise in the preparation of this report.

ABBREVIATIONS & ACRONYMS

BMZ	German Federal Ministry for Economic Cooperation and Development
CAAT	Anti-Trafficking Airport Unit
CAWTLEAP	Central African Wildlife Trade Law Enforcement Action Plan of COMIFAC (PAPECALF)
CEMAC	<i>Communauté Économique et Monétaire de l'Afrique Centrale</i> (Economic and Monetary Community of Central Africa)
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
COMIFAC	Central African Forests Commission
CPC	Criminal Procedure Code
DDFOF	Divisional Delegation of Forestry and Wildlife
DGSN	General Delegation for National Security
DRFOF	Regional Delegation of Forestry and Wildlife
FCFA	<i>Francs Communauté Financière Africaine</i> (African Financial Community Francs)
FD	In flagrante delicto
IFAW	International Fund for Animal Welfare
IUCN	International Union for Conservation of Nature
JPA	Judicial Police Agent
JPO	Judicial Police Officer
JPOGC	Judicial Police Officer with General Competence
JPOSC	Judicial Police Officer with Special Competence
LAGA	The Last Great Ape Organization (NGO)
MINFOF	Ministry of Forestry and Wildlife
NGO	Non-governmental Organization
PAPECALF	<i>Plan d'Action sous Régional des Pays de l'Espace COMIFAC pour le Renforcement de l'Application des Législations Nationales sur la Faune Sauvage</i>
USAID	United States Agency for International Development
Wildlife TRAPS	Wildlife Trafficking, Response, Assessment, and Priority Setting Project
WWF	World Wide Fund for Nature

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Transboundary patrol with confiscated wildlife and snares, Djembé, Cameroon. © Olivier Van Bogaert / WWF

EXECUTIVE SUMMARY



Savanna African Elephants *Loxodonta africana africana* in the North of Cameroon © WWF CARPO / Martin Tchamba



Convicted elephant poachers © WWF / James Morgan

The new ecological disaster that is brewing in the Congo Basin in general and Cameroon in particular, and is entirely man-made, will certainly result in the coming decades in the disappearance of thousands of animals, and consequently, the degradation of ecosystems that harbour unique biodiversity. The Congo Basin constitutes after the Amazon, the largest expanse of tropical forest in the world.

Indeed, wildlife crime—a term generally used to refer to poaching and illegal wildlife trade (IWT)—is increasingly one of the major threats to biodiversity due to the increasing demand for wildlife products such as elephant ivory, both nationally and internationally. Wildlife resources are thus plundered by people in search of quick financial gains, acting mostly in well organized criminal networks in contravention of existing legislation.

Several initiatives have been undertaken and considerable efforts have been deployed in recent years at the sub-regional level, notably the adoption of the Central African Wildlife Trade Law Enforcement Action Plan (CAWTLEAP), commonly called PAPECALF by COMIFAC countries; and at the national level, by enacting several laws governing the wildlife sector and measures put in place for effective implementation of the legislative and regulatory arsenal.

These various legislative and regulatory instruments are all tools available to the various agencies charged with wildlife law enforcement including Wildlife Authorities, the Police, the Gendarmerie and Customs, as well as the Judiciary, to enable them to combat wildlife crime effectively.

However, these legislative tools need to be known and understood by those charged with their implementation before they can have any effect. But, due to the existence of a multitude of bodies implementing these laws, issues of contradictions and overlap are often noticed emanating from a loose interpretation of the legislation, which among other issues causes conflicts of competence. Other causes of these conflicts include lack of knowledge or poor interpretation of the texts establishing the competences, attributions, duties and responsibilities, as well as judicial loopholes leading to arbitrary interpretations of the texts.

To remedy this situation and, therefore, contribute to effective wildlife law enforcement, TRAFFIC, supported by the German government through the Bengo-facilitated Project of the German Federal Ministry for Economic Cooperation and Development (BMZ) through WWF Germany and USAID through the Wildlife-TRAPS Project Officer for Central Africa, has undertaken to develop this

guide that specifies and clarifies the duties, attributions and responsibilities of the various bodies intervening in wildlife law enforcement (Wildlife Agents, Customs, Police and Gendarmerie).

To achieve this, a layered approach was adopted as follows:

- Research and compilation of documents: this was done through Internet and desk research, field visits to the competent services of the respective agencies concerned, specialized libraries (including universities), documentation centres and conservation organizations etc.
- Review and analysis: this consisted of a review and a critical and comprehensive analysis of the various laws compiled (laws themselves, their implementing regulations such as decrees, etc.) that define the duties, competences, attributions and responsibilities of the various agencies charged with wildlife law enforcement in Cameroon, highlighting the conflicts and judicial loopholes or gaps.
- Development and submission of questionnaires to resource persons and direct formal and informal discussions with competent authorities: the responses were analysed and synthesized to highlight the modalities of the implementation of texts, resulting conflicts of interests and risks for the invalidation of court cases.

It should be noted that the production of this guide takes into account the different key stages of the wildlife law enforcement process, notably the qualification of offence, gathering of evidence, the search for perpetrators and accomplices, seizures, searches and custody of wildlife products, notification of acts of justice and execution of warrants and court decisions.

From this work, it was determined that conflicts of competences observed in wildlife law enforcement arise less due to the absence of appropriate texts governing the wildlife sector in Cameroon and more from the effective implementation of these texts. It is practically a negative conflict of competence as a result of non-appropriation and a lack of mastery of the texts by some stakeholders (i.e. some agencies ignoring the extent of their competence in wildlife issues or being unaware of which species are protected, refrain from contributing effectively to wildlife law enforcement).

The following recommendations are made following analysis of the problems caused by the conflict of competences:

- Achieving a common understanding among the different agencies charged with the wildlife law enforcement of the relevant legislation;
- Training and retraining of those involved in wildlife law enforcement on legislation and its application pertaining to wildlife, so as to ensure its effective use. This could be achieved through initial training in schools and institutes, as well as in seminars and capacity building workshops;
- Strengthening national and regional working platforms and collaboration between all administrations, which could extend to carrying out joint field operations;
- Serious consideration and treatment of wildlife litigation by judicial authorities and, if possible, the classification of offences against fully protected species to the level of serious crime by the Cameroonian legislator.

RÉSUMÉ

La nouvelle catastrophe qui se prépare dans le Bassin du Congo en général et au Cameroun en particulier et qui sera entièrement le fait de l'homme, aura vraisemblablement pour effet la disparition, en quelques dizaines d'années, de plusieurs milliers d'espèces animales, avec pour conséquence la dégradation de ses écosystèmes qui renferment une biodiversité exceptionnelle, laquelle constitue la deuxième plus grande vaste forêt tropicale du monde après l'Amazonie.

En effet, la criminalité faunique - expression communément utilisée pour désigner de façon englobante les phénomènes de braconnage et de commerce illégal de la faune - constitue de plus en plus la principale menace qui pèse sur la biodiversité, ceci en raison de la demande sans cesse croissante en produits de faune tel que l'ivoire d'éléphant, tant au niveau national qu'international. Les ressources fauniques sont ainsi pillées par des hommes sans foi ni loi à la recherche du gain facile, agissant la plupart du temps au sein de réseaux criminels bien organisés au mépris de la législation existante. Plusieurs initiatives ont été prises et des efforts considérables sont pourtant déployés depuis quelques années au niveau sous régional, notamment avec l'adoption par les pays de la COMIFAC d'un Plan d'Action sous-régional pour le renforcement de l'application des législations nationales sur la faune sauvage (PAPECALF) et, au niveau national, par la promulgation d'un certain nombre de textes de loi qui régissent le secteur de la faune ainsi que des mesures pour une application effective de cet arsenal législatif et réglementaire.

Ces différents instruments législatifs et réglementaires constituent autant d'outils à la disposition des différents corps en charge de l'application de la loi faunique que sont les Eaux et Forêts, la Police, la Gendarmerie et les Douanes, de même que la Justice, afin de leur permettre de mieux combattre la criminalité faunique.

Toutefois, ces différents outils législatifs ne peuvent avoir pleine force que s'ils sont connus et compris par tous ceux-là qui ont la responsabilité de les mettre en application. Hors, du fait de l'existence d'une multitude de corps en charge de la mise en application de la loi, l'on relève souvent un certain nombre de contradictions et de chevauchements nés de l'interprétation des textes de loi, ce qui entraîne entre autres des conflits de compétences. Au rang des causes de ces conflits se trouvent donc en bonne place une mauvaise connaissance et/ou lecture des textes fixant les compétences, attributions, missions et responsabilités, mais quelque fois aussi des vides juridiques menant à des interprétations arbitraires des textes.

Afin de remédier à cette situation et, par conséquent, contribuer davantage à l'amélioration de la mise en application de la loi faunique, TRAFFIC partenaire stratégique du WWF et de l'UICN, avec l'appui du gouvernement Allemand à travers le Projet facilité par Bengo du Ministère Fédéral Allemand de la Coopération Economique et du Développement – BMZ et le soutien de l'USAID, a entrepris de développer ce guide qui précise et clarifie les missions, attributions et responsabilités des différents corps intervenants dans la mise en application de la loi (Eaux et Forêts, Douanes, Police et Gendarmerie).

Pour y parvenir, une démarche stratifiée a été adoptée à savoir:

- La recherche et la compilation documentaire: elle s'est faite en ligne, mais aussi à travers des visites dans les services compétents des différents corps concernés, les bibliothèques spécialisées (notamment en milieu universitaire), les centres de documentation au niveau des OSC et au sein des projets de conservation etc.

- L'analyse documentaire : qui a consisté en une lecture et une analyse critique et exhaustive des différents textes de loi compilés (lois proprement dites, mais aussi leurs textes d'application tels que les décrets, arrêtés, etc.) qui définissent les missions, compétences, attributions et responsabilités des différents corps intervenant dans la mise en application de la loi au Cameroun, en mettant en lumière les conflits et les vides juridiques éventuels.
- L'élaboration et la soumission d'un questionnaire aux personnes ressources: les réponses obtenues ont été analysées et synthétisées pour mettre en lumière les modalités d'application des textes, les éventuels conflits de compétences qui en résultent et les risques pour l'invalidation des poursuites judiciaires. Et des discussions directes avec les autorités compétentes.

Il convient de noter que la réalisation de ce guide prend en considération les différentes étapes clé du processus de mise en application de la loi faunique en cas de litige à savoir la constatation d'infraction, le rassemblement des preuves, la recherche des auteurs et complices, les saisies, perquisitions et la garde des produits de la faune, la notification des actes de justice ainsi que l'exécution des mandats et décisions de justice.

De ce travail, l'on retient principalement que les conflits de compétence observés en matière d'application de la loi faunique découlent moins de l'absence de textes appropriés régissant le secteur de la faune au Cameroun que de l'application effective de ces textes. Il s'agit pratiquement d'un conflit négatif de compétence (c'est-à-dire que certains corps ignorant l'étendue de leur compétence en matière faunique, ou n'ayant pas la maîtrise des espèces bénéficiant de protection, s'abstiennent de contribuer efficacement au processus de mise en œuvre effective de la loi faunique) dû en réalité à la non appropriation et à la non maîtrise de ces textes par certains acteurs concernés.

Suite à ces différents problèmes des recommandations suivantes ont été suggérées entre autres:

- La vulgarisation des différents textes portant sur les missions et attributions des corps impliqués dans la mise en application de la loi faunique;
- La formation et le recyclage des acteurs impliqués dans la mise en application de la loi aux lois et procédures applicables à la faune, afin de garantir une meilleure utilisation de celles-ci. Ceci pourrait se faire à travers des formations initiales dans les écoles et instituts spécialisées, de même que lors de séminaires et des ateliers de formation et de recyclage.
- Le renforcement des plateformes nationales et régionales de travail ou d'échange entre toutes les administrations concernées, laquelle pourrait s'étendre à la conduite des opérations conjointes sur le terrain;

Le traitement avec beaucoup de sérieux du contentieux faunique par les autorités judiciaires, et si possible, la classification des infractions contre les espèces intégralement protégées au rang de crime par le législateur camerounais.



Ranger with seized ivory and guns in Yokadouma, Cameroon © Brent Stirton / Getty Images / WWF-UK

INTRODUCTION

Wildlife species have always been hunted and harvested. Each year, millions of animals and plants are taken from the wild for either consumption or trade, as food, medicines, pets, ornaments, clothing, or construction material. Many livelihoods depend on wildlife harvesting, and this can constitute a strong incentive for preserving the utilized species and their habitats.

Today, illicit trade and excessive exploitation of wildlife represent a great threat to endangered species. Demand for illegal wildlife products has considerably increased, mainly associated with increasing wealth in Asia, while criminal activity to meet that demand has flourished, driven by high profits and relatively low risk, compounded by corruption and poor governance of wildlife resources, etc. Such illegal activities erode the protection of the world's valuable biodiversity, depriving humans of their natural heritage and leading to the local extinction of emblematic species such as elephants, rhinoceroses, tigers, and gorillas. They also weaken economies and destroy ecosystems, fueling increasingly dangerous and sophisticated organized criminal networks and creating insecurity worldwide. It is widely considered that wildlife trafficking contributes to political violence and that some African rebel groups possibly raise large sums from elephant poaching for ivory in the areas under their control although most active insurgent groups operate today in areas empty of elephants, impoverished partly by many years of armed conflict.¹

Illegal wildlife trafficking has truly become a global industry. A report published by the non-governmental organization (NGO) International Fund for Animal Welfare (IFAW) in 2013 estimated that this activity was worth at least US\$19 billion per year. The report ranks illegal wildlife trade, including timber and fisheries, as the fourth largest global illegal activity after narcotics, counterfeiting, and human trafficking and ahead of oil, art, gold, human organs, arms, and diamonds.²

Intensive efforts at national and regional levels have been undertaken to combat illicit wildlife trade, including the development of enhanced policies and strategies, awareness and education campaigns, investment in community conservation, and law enforcement. Despite some success, many species remain threatened as illegal trade persists. Continued wildlife poaching and illicit trade at the national and sub-regional levels are not due to the lack of adequate legislation and regulation in the wildlife sector, rather mainly to poor co-ordination amongst the various bodies in charge of enforcing the law in general, and wildlife law in particular, including the Ministry of Forestry and Wildlife (MINFOF), police, gendarmerie, Customs, and the justice system. This inadequate co-ordination or co-operation reveals a number of misunderstandings and differing interpretations of the texts defining the respective duties, competences, powers, and responsibilities of the main bodies involved in wildlife law enforcement, as well as some legal loopholes, leading to conflicts of competence.

Therefore, this guide was designed to address the division of roles among the various actors involved in wildlife law enforcement, clearly delineating the responsibilities, competences, and duties of each entity, in order to come forward with solutions to enhance collaboration and co-operation and the effective enforcement of wildlife legislation.

Wildlife legislative and regulatory framework at international and national levels

Despite the tremendous efforts made by the international community and the adoption of several texts against wildlife poaching and illegal trade, demand for wildlife products continues to grow,

¹ UNODC World Wildlife Crime Report: Trafficking in protected species 2016

² IFAW Criminal Nature Report: The Global Security Implications of the Illegal Wildlife Trade 2013

posing serious threats to biodiversity and potentially challenging decades of conservation policies. It is not only an environmental issue. International crime syndicates, drug dealers, armed groups and even rebel organizations are known to benefit from illicit wildlife trade. They spread violence and corruption and disrupt societies, impeding development and weakening the rule of law.

In this context, the international community has adopted several legal instruments to step up the fight against the illegal trade of wildlife species, both at national and international levels. The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), adopted in March 1973 and entered into force on July 1, 1975, is at the forefront of such efforts. Cameroon acceded to CITES on June 5, 1981, and pursuant to Article 45 of the Constitution, the Convention became part of the national legal arsenal on September 3, 1981.

As a party to CITES and in response to the recommendations of the Convention, Cameroon has established an internal wildlife regulation, including Law No. 94/01 of January 20, 1994 establishing the management of forests, wildlife, and fisheries, Decree No. 95/466 of July 20, 1995 laying down the enforcement of the wildlife legislation, and Order No. 0648/ MINFOF of December 18, 2006 defining animal into classes A, B, and C, according to their degree of protection. The 1994 Law is the foundational text on forest and wildlife protection and management in Cameroon. Article 11 of this law states: *“The protection of the forest, wildlife, and fisheries resources shall be the responsibility of the State”*, giving MINFOF the full authority to ensure the protection and management of forests and wildlife through biodiversity conservation and regulatory mechanisms.

At the regional level, Cameroon joined the Central African Forests Commission (COMIFAC) and is a party to the implementation of several action plans adopted under its umbrella. A major plan on wildlife law enforcement is the Central African Wildlife Trade Law Enforcement Action Plan (CAWTLEAP, commonly known under its French acronym of PAPECALF). The PAPECALF platform aims at strengthening national wildlife law enforcement and enhancing co-operation and collaboration between the authorities involved in wildlife law enforcement in the COMIFAC countries.

These texts and action plans were adopted to achieve and strengthen CITES as a legal instrument for wildlife protection. There are other legislative instruments of general scope, including:

- The Cameroonian Constitution of January 18, 1996, clearly stating in its preamble that *“Every person has the right to a healthy environment and the duty to protect it. The State ensures the protection and the improvement of the environment”*;
- Law No. 2005-007 of July 27, 2005 establishing the Criminal Procedure Code of Cameroon and regulating the various stages of the criminal procedure, from the investigation stage to the execution of the judgment. This law determines the terms and procedures for the repression of wildlife offences.

Legislation

As mentioned above, the government of Cameroon ratified various legal instruments to combat wildlife crime effectively, including:

Texts of international and regional scope

- The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Washington 1973;
- The Convention on Biological Diversity, 1992;
- The United Nations Convention against Corruption, New York 2003;
- The African Union Convention on Preventing and Combating Corruption, Maputo 2003;

- The COMIFAC (Central African Forests Commission) Convergence Plan
- The Central African Wildlife Trade Law Enforcement Action Plan (CAWTLEAP / PAPECALF).

Texts of national scope

- Law No. 96/06 of January 18, 1996 revising the Constitution of June 2, 1972;
- Law No. 94/01 of January 20, 1994 establishing the management of forests, wildlife, and fisheries;
- Law No. 2005/007 of July 27, 2005 establishing the Criminal Procedure Code;
- Law No. 2016/007 of July 12, 2016 establishing the Penal Code;
- Law No. 5/001-UEAC-097-CM-06 of August 3, 2001 establishing the CEMAC (*Communauté Économique et Monétaire de l'Afrique Centrale* – Economic and Monetary Community of Central Africa) Customs Code;
- Finance Law of July 1996, excerpt on duties and taxes for sport hunting permits and other permits issued by the wildlife administration;
- Decree No. 95/466/PM of July 20, 1995 laying down the application of the wildlife legislation;
- Decree No. 2015/434 of October 2, 2015 reorganizing the Government;
- Decree No. 2005/099 of April 6, 2005 organizing the Ministry of Forestry and Wildlife;
- Decree No. 2005/495 of December 31, 2005 modifying and completing some provisions of Decree No. 2005/099 of April 6, 2005 organizing the Ministry of Forestry and Wildlife;
- Decree No. 2006/088 of March 11, 2006 on the creation, organization, and operation of the National Anti-Corruption Commission;
- Presidential Decree No. 2014/ 413 of October 22, 2014 on the creation, organization, and operation of Anti-Trafficking Airport Units (CAAT) within international airports in Cameroon;
- Decree No. 2008/365 of November 8, 2008 on the organization of the Ministry of Finance;
- Decree No. 2001/181 of July 25, 2001 on the organization of the National Gendarmerie;
- Decree No. 2012 / 540 of November 19, 2012 on the organization of the National Delegation for National Safety;
- Decree No. 2012/539 of November 19, 2012 on the special status of the civil servants of the National Safety;
- Order No. 101/MINFI of February 23, 2015 creating the technical collection units and redeployment of surveillance services units;
- Order No. 0648/MINFOF of December 18, 2006 listing the animals included in protection classes A, B, and C;
- Order No. 0649/MINFOF of December 18, 2006 on the distribution of animal species in protection groups and defining the kills allowed under each type of sport hunting permit;
- Order No. 0083/MINFOF of February 6, 2008 modifying and completing some provisions of Order No. 0648/MINFOF of December 18, 2006 listing the animals included in protection classes A, B, and C;
- Decision No. 000857/D/MINFOF of November 10, 2009 on the organization of bushmeat trade.

PART I

THE DIFFERENT AGENCIES IN CHARGE OF THE IMPLEMENTATION OF WILDLIFE LEGISLATION

Laws must be respected and the actors in charge of their implementation are entitled to enforce them against any contravener. These actors include the police, the gendarmerie, Customs, the Ministry of Forestry and Wildlife, the justice system and other judicial personnel. Most of the time, these actors are civil servants and public-sector agents. Some, under certain conditions, have the status of Judicial Police Officer (JPO) and the related authority of taking of offence statement and law enforcement, pursuant to Articles 79 and 80 of Law No. 2005/007 of July 27, 2005 establishing the Criminal Procedure Code (CPC). It should also be noted that the functions of Judicial Police are exercised under the supervision of the State Council or State Prosecutor, designating therefore Judicial Police Officers and Agents as judicial assistants to the State Council (Article 78 of the CPC). There is a distinction between a Judicial Police Officer and a Judicial Police Agent.

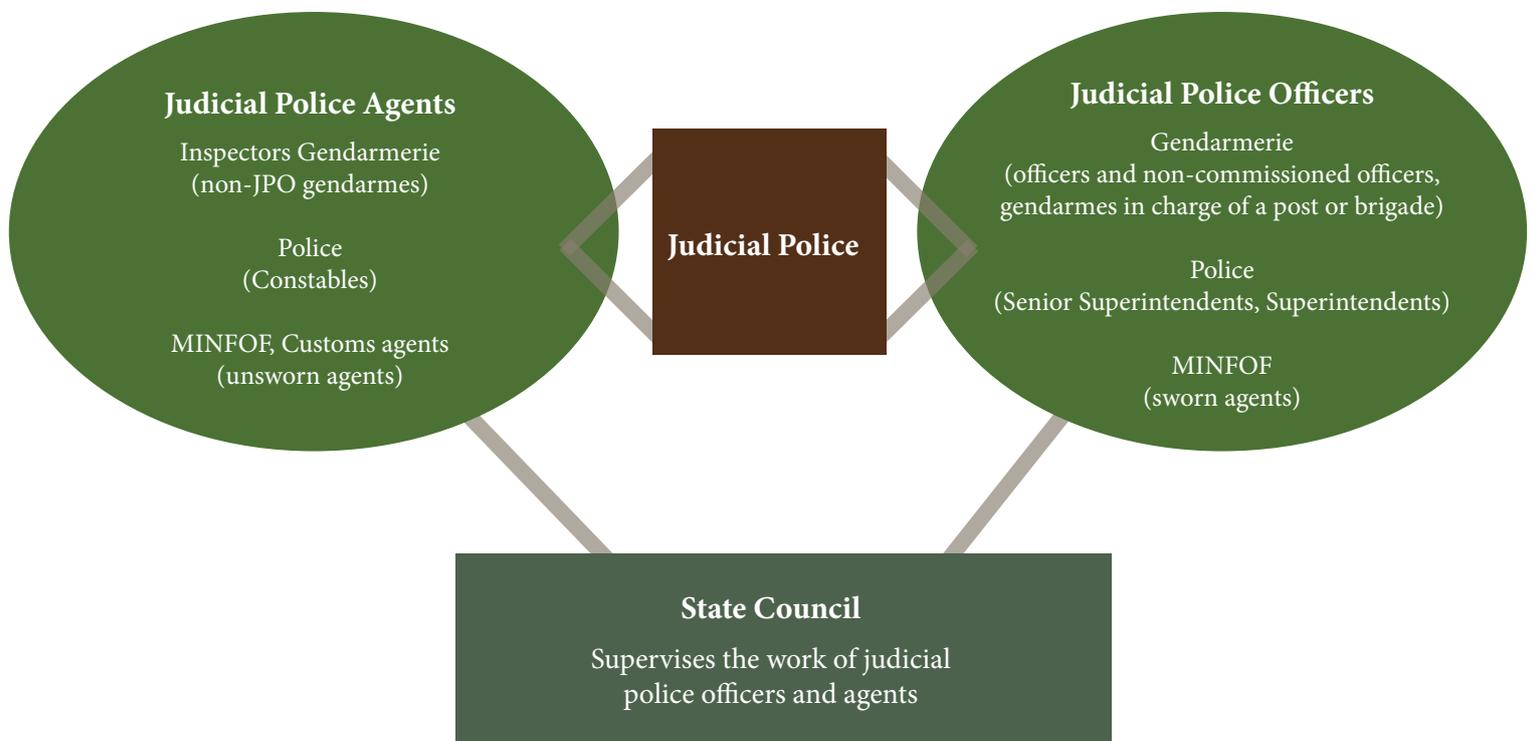
Judicial Police Agents

Judicial Police Agents are public servants and other public agents, whose status and authority are not the same as Judicial Police Officers. However, they assist the latter to carry out procedural steps such as investigation, gathering of evidence, drafting of statements of offences (PV), and custody. This category includes those gendarmes who are not judicial police officers, police inspectors, and police constables (Article 81 of the CPC).

Judicial Police Officers

Judicial Police Officers are public servants and public agents who possess the legal authority to investigate, gather evidence, identify offenders, co-perpetrators and accomplices, draw-up statements of qualification of offence, and bring violators to justice. It should be noted that there are two categories of Judicial Police Officers: Judicial Police Officers with general competence (JPOGC - I) and Judicial Police Officers with special competence (JPOSC - II).

Figure 1: Types of Judicial Police



1. Judicial Police Officers with general competence: Police and Gendarmerie

Judicial Police Officers with general competence (JPOGC) are police and gendarmerie officers with the ability to conduct criminal investigations on complex issues.

1.1 JPOGC status

The following are qualified as Judicial Police Officers with general competence:

- Officers and non-commissioned officers of the gendarmerie;
- Gendarmes in charge, even in an acting capacity, of a gendarmerie brigade or gendarmerie post;
- Superintendents of police;
- Deputy Superintendents of police;
- Gendarmes and Inspectors of police who have passed the Judicial Police Officer's examination and taken the oath;
- Public servants, even if they are temporarily performing the functions of head of an external service of the National Security.

Article 81(1) CPC provides that gendarmes who are not Judicial Police Officers, Police Inspectors, and Police Constables have the status of Judicial Police Agents. They assist Judicial Police Officers and report any infringement they become aware of to their supervisors. These Judicial Police Agents do not have the decisional authority on custodies (Article 81 Paragraph 2 CPC).

1.2 The missions of the JPOGC

The fundamental mission of the police is to ensure they respect and protect institutions, people and goods, public freedom, as well as compliance with laws in the national territory (Article 3 of Decree No. 2012/540 of November 19, 2012). This role is crucial and qualifies the police as the leading strategic force due to its interaction with the population.

The national gendarmerie is a component of the military forces, with the main mission of executing civil tasks of the Ministry of Territorial Administration and the Ministry of Justice throughout the national territory. In addition, it assists the other ministerial departments, executing specific tasks assigned them pursuant to the current regulations (Articles 1 and 2 of Decree No. 2001/181 of July 25, 2001).

1.3 Competences of the JPOGC

The competences of the gendarmerie and the police are twofold: territorial and material.

1.3.1 Territorial competence

Essentially, each Cameroonian institution in charge of law enforcement (police, gendarmerie, MINFOF, justice, and Customs) performs its duties within a legally defined territorial jurisdiction. Each institution has legally defined geographical borders, defining its area of competence and restricting its actions, and outside of which it cannot act without breaking the law.

Article 88 of the CPC provides that Judicial Police Officers perform their duties within the territorial limits defined by the existing regulation. For instance, a police agent or a gendarmerie agent on duty in the town of Ayos in the Nyong and Mfoumou Division of the Center Region has only the authority to

work in the Ayos district. He or she cannot make an arrest in the Akonolinga district, another district of the Nyong and Mfoumou Division.

Exceptions to the territorial competence: Article 88 (1) of the CPC includes an exception to the principle of territorial competence. It stipulates that in the case of an investigation conducted by a Judicial Police Officer (JPO) from the central or provincial (currently regional) services, the JPO is required to refer to the State Counsel from the location of investigation, from whom he/she receives all necessary instructions.

Article 88 (2) of the CPC provides that by letter of request of the examining magistrate or the sentencing court, a JPO could act throughout the national territory. In this case, he/she must be assisted by a Judicial Police Officer mandated in the place of intervention.

The State Counsel of the district of intervention shall be informed by the State Counsel from the jurisdiction issuing the commission.

1.3.2 Material competence

Fundamentally, the material competence of the police and the gendarmerie in Cameroon refers to their responsibilities. Such responsibilities are defined by the texts regulating these bodies and by the Criminal Procedure Code. The responsibilities included in specific texts are divided into two categories: general and specific. Specific responsibilities are those recognized under specific fields and listed in the Criminal Procedure Code.

1.4 General responsibilities of the police

They are regulated by Decree No. 2012/540 of November 19, 2012 on the organization of the General Delegation of National Security. Article 4 of this decree provides that the police is charged with:

- Ensuring the State's internal and external security;
- Investigating, stating offences to criminal laws, and bringing perpetrators before a criminal court;
- Maintaining public law and order and social peace, protection, security, and hygiene, particularly in urban centres;
- Gathering information;
- Combatting national, international, and transnational crime;
- Conducting information, safety, protection, and intervention missions, including contacts with populations in the context of national defence;
- Securing the Cameroonian nationality.

Article (1) of Decree No. 2012/539 of November 19, 2012 on the special status of the civil servants of the National Security broadens the responsibilities of the police. This article provides that the Cameroonian police, working in close collaboration with other forces, is required:

- To ensure or support the implementation of laws and regulations;
- To maintain public order and social peace, protection of public security and health, particularly in urban centres;
- To gather information for border surveillance and control of movement of persons;
- To assist governmental, administrative, and municipal authorities;
- To ensure any other task mandated by the President of the Republic;
- National security also contributes to national defence.

1.5 General responsibilities of the gendarmerie

The responsibilities of the gendarmerie are regulated by Articles 2 and 3 of Decree No. 2001/181 of July 25, 2001 on the organization of the National Gendarmerie. This article includes the following responsibilities:

- Under the authority of the Minister in charge of defence, the gendarmerie carries out missions for the Ministry of territorial administration and the Ministry of justice;
- It stands ready for the other heads of ministerial departments under the missions mandated pursuant to the existing regulation;
- Execution of missions of administrative police and judicial police, under the conditions defined by the existing texts;
- It contributes to national defence;
- It contributes to maintain the State's internal security;
- It carries out the missions of military police and military judicial police.

1.6 Specific responsibilities of the police and the gendarmerie

The specific responsibilities of the police and the gendarmerie are provided in the Criminal Procedure Code (CPC). These responsibilities are listed in Articles 82 and 83 of the CPC, indicating that police and gendarmerie agents who have the status of JPOs with general competence have the following responsibilities:

- Establish the offence;
- Gather evidence;
- Seek perpetrators and accomplices, and where required, prosecute them;
- Execute the letter of requests from judicial authorities;
- Notify acts of justice;
- Execute judicial warrants and decisions;
- Receive complaints and denunciations;
- Conduct preliminary investigations under the conditions provided by Articles 116 to 120 of the CPC;
- Immediately transmit to the State Counsel the original and a copy of the investigation proceedings and other essential objects.

Articles 104 of the CPC provides that in cases of *flagrante delicto* (caught in the act or red-handed), the JPO immediately informs the State Counsel. Article 92 (2) of the CPC also entitles the JPO to:

- Conduct searches, house visits, and seizures under the conditions provided in Articles 93 to 100;
- Conduct custodies under the conditions provided in Articles 119 et seq.;
- Request any expert and potentially any individual able to assist during a defined operation;
- Request by writing, with immediate effect, any passage in any vehicle or any mode of transportation, maritime, rail, land or air, public or private. The original of the request shall be left with the carrier.

2. Judicial Police Officers with special competence – MINFOF and Customs

MINFOF and Customs agents are JPOs with special competence (JPOSC), entitled to handle issues specifically related to their respective areas of competence. Pursuant to Article 80 of the CPC, they are civil servants with the prerogatives of JPOs recognized by special texts. They exercise these prerogatives under the conditions and restrictions defined by these texts.

2.1 Forestry and Wildlife agents – MINFOF

Wildlife law enforcement within the Ministry of Forestry and Wildlife (MINFOF) is regulated by Decree No. 2005/099 of April 6, 2005 organizing the Ministry of Forestry and Wildlife, combined to Law No. 94/01 of January 20, 1994 establishing the regime of forests, wildlife, and fisheries and its application decree No. 95/466 / PM of July 20, 1995. In addition, Article 68 of the same decree stipulates unambiguously that *“Control and surveillance of wildlife activities are carried out by the staff of the administration in charge of wildlife, following the arrangements defined by order by the ministry in charge of wildlife”*.

Based on the above-mentioned texts, MINFOF is clearly the main competent body for the implementation of the regulations on wildlife protection. However, it can be assisted by other bodies such as the police and the gendarmerie to which the criminal law recognizes competences in the field.

2.1.1 Prerogatives of Judicial Police Officers – MINFOF agents

The status of JPO is granted to a MINFOF agent sworn in before the competent jurisdiction, under the conditions defined by the decree. Pursuant to Article 142 (1) of the wildlife law, the sworn officials of forestry, wildlife, fishery and merchant shipping services shall be Judicial Police Officers having special jurisdiction as concerns forestry, wildlife and fisheries.

Unlike the police and the gendarmerie, which are competent to conduct investigation on common-law criminal offences, MINFOF agents are JPOs with special competence to carry out investigations related mainly to forestry and wildlife.

2.1.2 Missions of the wildlife administration

Pursuant to Article 1 Paragraphs 2 and 3 of Decree No. 2005/099 of April 6, 2005 organizing the Ministry of Forestry and Wildlife, the Ministry of Forestry and Wildlife is charged with developing, implementing, and evaluating the governmental policy on forestry and wildlife.

As such, it is responsible for:

- The management and protection of forests in the national territory;
- The development and monitoring of forest regeneration, reforestation, inventory, and management programmes;
- The enforcement of logging regulations by the various actors;
- The application of administrative sanctions where needed;
- Liaison with professional bodies in the forest sector;
- The development and management of botanical gardens;
- The implementation of international conventions ratified by Cameroon on wildlife and hunting;
- The supervision of the National Agency for Forests Development, the National School of Waters and Forests, the School of Wildlife and liaison on forest issues with the Food and Agriculture Organization of the United Nations.

2.1.3 Competences of the MINFOF agents

Their competences are as follows:

2.1.3.1 Territorial competence

Just like with the police and the gendarmerie, the actions of MINFOF are restricted within territorial

limits. The MINFOF organizational chart shows that it has a pyramidal structure, from central services to regional and departmental or divisional delegations to forest and hunting control posts. Each of these decentralized administrations performs its mission in a well-defined geographical area. This means that each unit fulfills its duties within its territory of competence.

Pursuant to Article 88 of the CPC, Judicial Police Officers perform their duties within the territorial limits defined by the existing regulation. For instance, the chief of the forest and hunting control post in Djoum in the South Region is only mandated to act in the district of Djoum and neighboring areas. In principle, he/she cannot exercise his/her duties in the district of Mintom or Oveng also in the South Region. The same applies to a MINFOF agent in service at the Mfoundi Departmental Delegation of forestry and wildlife in the Center Region, who cannot operate in the Department of the Upper Sanaga also in the Center Region and vice versa.

Exceptions to the territorial competence:

- A sworn agent under the MINFOF central and regional services can conduct an investigation on a case outside of his/her territory of competency, but must indicate beforehand to the State Counsel the location of the investigation. Afterwards, he/she can execute his/her functions, subject to the instructions of the State Counsel (Article 88 (1) of the CPC).
- JPOs of a MINFOF Divisional Delegation can also conduct investigations outside of their territory of competence upon a letter of request by the examining magistrate or the prosecuting court. In this regard, they can carry out seizures, draw up a statement of offence, and prosecute suspects. In this case, they can also testify as a prosecution witnesses and/or representing the Ministry of Forestry and Wildlife: a combined reading of Articles 88 (2) of the CPC and 142 (3) of the wildlife law.
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- When performing their duties outside of their territory of competence, they can be assisted by other MINFOF, police or gendarmerie agents in service in the area. The objective is to strengthen the investigation team adequately.

2.1.3.2 Material competence

Material competences granted to MINFOF agents are provided in a special text, Law No. 94/01 of January 20, 1994 establishing the regime of forests, wildlife, and fisheries. Their responsibilities are regulated by the 1994 law as well as by the Criminal Procedure Code. Sworn forestry and wildlife agents have the competence to:

- Conduct investigations related to wildlife;
 - Establish offences and initiate legal procedures to repress wildlife infringements (Articles 141 (1) and 142 (1) of the 1994 Law);
 - Seize illegally harvested products and objects used to commit offences;
 - Draw up the statements recording the offences;
 - Transmit these statements to the relevant courts for prosecution, (Article 143 of the 1994 Law);
 - Conduct arrests, hearings and identification of offenders caught red-handed (Article 142 of the 1994 Law).

In the performance of their duties, sworn agents can also:

- Call on the public force for searches and seizures of fraudulently exploited or sold products, or fraudulent products in circulation, or to obtain the identification of the suspect;
- Visit trains, boats, vehicles, aircrafts, or any other potential means of transportation of such products;

- Enter by day, after consultation with local traditional authorities, in homes and fences, in case of flagrante delicto;
- Exercise a right of pursuit against suspects;
- In the absence of a bidder, execute the public auction or private sale of seized perishable goods. Seized weapons and ammunition must be handed to the relevant administrative authority (Article 144).

2.2 Customs agents

Attached to the Ministry of Finance (MINFI), the Cameroonian Customs is regulated by the Central African Economic and Monetary Community (CEMAC) Code, No. 5/001-UEAC- 097-CM-06 of August 3, 2001. Pursuant to the provisions of its Article 1, it stipulates that the code is applicable to the Customs territory of the Central African Economic and Monetary Community, including the territorial waters of its Member States. At the national level, other texts concurrently apply to this institution, the importance of which within the administration is proven. They include the Presidential Decree No. 2013/066 of February 28, 2013 defining the organizational chart of the MINFI, Orders/MINFI No.101 of February 23, 2015 and No. 317/MINFI of September 27, 2015 creating the technical collection units and the redeployment of surveillance services units, the Presidential Decree No. 2014/ 413 of October 22, 2014 on the creation, organization, and operation of Anti-Trafficking Airport Units (CAAT) within international airports in Cameroon.

2.2.1 Duties of the Cameroonian Customs

Pursuant to Article 84 Paragraph 1 of Decree No. 2008/365 of November 8, 2008 on the organization of the Ministry of Finance, the Directorate-General of Customs, placed under a Director-General, the Cameroonian Custom has several missions including:

- Development and enforcement of Customs legislation and regulations on imports and exports, economic and special regimes, foreign trade and exchange, prohibitions of entry or exit, and other restrictions;
- Implementation and monitoring of specific legislations;
- Determination of the assessment and collection of Customs duties and taxes, as well as of any other taxes provided in the existing regulations;
- Surveillance of land, maritime, and river borders, bus terminals and train stations, ports and airports, as well as any location of holding and sales of goods;
- Protection of the national economic space;
- Environmental protection, in conjunction with other relevant administrations;
- Fight against drug trafficking and other illicit trafficking, in conjunction with other relevant administrations;
- Compilation of foreign trade statistics, in conjunction with other relevant administrations;
- In conjunction with other relevant administrations and operators, review and implementation of facilitation measures to reduce the border crossing of goods, considering the competitiveness requirements of the Cameroonian economy;
- International Customs co-operation;
- Implementation of mutual administrative assistance with foreign Customs administrations;
- Implementation of all other regulations mandated to Customs.

These duties can be divided into three categories: fiscal duties, economic duties, and support duties.

2.2.1.1 Fiscal duties

The Customs administration is first and foremost a fiscal administration. Therefore, it collects taxes but also combats tax fraud. Through the control and collection of the different entry taxes in the

national territory, the Customs administration's revenues significantly contribute to the State budget.

2.2.1.2 Economic duties

The Customs administration ensures the sound operation of the national market. It controls the regulation of commercial transactions at the international level, either in a protectionist or liberal way depending on the circumstances. While Customs intervene in specific areas, they also handle common-law infringements or offences related to other administrations, in accordance with its mission of protection and security.

2.2.1.3 Support duties to other administrations

Due to its location at the borders and its strategic and operational deployment throughout the territory of Cameroon, the Customs administration is in a better position than other administrations to enforce specific regulations originating from other ministries, including:

- Prohibition of entry of certain products (war material, medication, drugs, narcotics, pesticides, etc.) into the national territory;
- Recovery of duties for the benefit of some bodies (e.g. Port Authority, the special fund for equipment and inter-municipal intervention, phytosanitary services, etc.);
- Enforcement of the regulation on cross-border movement of some classified products, control of import and export quotas (e.g. CITES, environmental protection, protection of intellectual property, etc.).³

2.2.2 Competences of Customs agents

Their competences are as follows:

2.2.2.1 Personal competence

It should be noted here that regularly sworn Customs agents (Article 63 of the Customs Code) have the status of Judicial Police Officers with special competence (JPOSC), like MINFOF agents, pursuant to the provisions of Article 80 of the CPC. Therefore, they are entitled to conduct preliminary investigation acts such as material establishment of offences, searches, visits and searches of homes, boats, and vessels, etc. (Articles 70 to 72 of the Customs Code).

Regarding custody procedures, the Customs services do not have any adequate structures. Therefore, they must requisition cells from other administrations, such as the gendarmerie or the police. To this effect, Article 307 Paragraph 2 of the Customs Code authorizes Customs to request the assistance of civil and military authorities for the successful completion of their mission.

2.2.2.2 Territorial competence

Custom agents' competences are restricted to the territorial borders of their office (Articles 54 and 55 of the Customs Code). However, some bodies of this administration have a national competence, covering the entire territory of Cameroon. These are the central bodies, pursuant to Order/ No.317/MINFI of September 27, 2015 creating the technical collection units and redeployment of surveillance services units.

³ <http://www.douanescustoms-cm.net/>

PART II

ENFORCEMENT OF WILDLIFE LEGISLATION IN CAMEROON: A SHARED RESPONSIBILITY

Violation of wildlife laws usually leads to several infringements that must be severely sanctioned, to restore justice in favour of seriously threatened wildlife. The police, gendarmerie, Customs and MINFOF are all key players to enforce wildlife laws and particularly the protection of animal species facing extinction. The description of these various bodies reveals that their involvement in the enforcement of wildlife law is undeniable, as provided by Article 141 Paragraphs 1 and 2 of the 1994 Law:

(1) Without prejudice to the prerogatives of the Legal Department and judicial police officers having general jurisdiction, sworn officials of the services in charge of forestry, wildlife and fisheries shall, on behalf of the State, local councils, communities or private individuals, investigate, establish, and prosecute offences relating to forestry, wildlife and fisheries.

(2) The officials referred to in subsection 1 above shall, at the request of the services concerned and- under the conditions laid down by decree, take an oath before the competent court.

Therefore, they are all competent but at varying degrees. Whether during the preliminary investigation when qualifying the offence (1), during the prosecution and trial (2) or after the judicial ruling (3), each body is competent to act based on its own prerogatives, as recognized by the existing legislation.

1. Qualification of offence

Finding violators of the wildlife law and establishing the evidence of their crime mainly fall under the competence of MINFOF (1.1) and exceptionally the police, gendarmerie, and Customs (1.2).

1.1 Principal competence of the wildlife administration

Pursuant to Article 68 Paragraph 1 of the 1995 Decree, control and surveillance of wildlife activities are mandated to the administrative staff in charge of wildlife, based on terms defined by order of the Minister in charge of wildlife. To this effect, the staff has the authority to conduct all acts of the preliminary investigation including arrests, searches, raids, seizures, custodies of offenders and drafting of complaint statements.

1.1.1 Arrest

While performing their control missions, particularly at road checkpoints, patrols or during crack down raids or operations, wildlife administration agents have the authority, pursuant to the provisions of Article 142 Paragraph 3 of the 1994 Law, to make an arrest and proceed to the immediate identification of any offender caught red-handed. This provision is supported by the CPC in its Articles 80 and 84, respectively stating that:

Article 80: Public servants and other public employees who have been assigned judicial police duties by special instruments shall charge those duties under the conditions and within the limits fixed by the said instruments.

Article 84: The judicial police officer (JPO) to whom the infringement was first referred has sole competence to conduct the investigation, subject to the powers mandated by the State Counsel according to Article 83 (5). However, this JPO must withdraw as a rule in favour of agents defined under Article 80 above, due to their competence.

The law recognizes the authority of wildlife administration agents to arrest wildlife law offenders.

The Criminal Procedure Code includes in its Article 84 Paragraph 2 the primacy of MINFOF JPOs in conducting wildlife-related judicial police actions, even if they were not the first referred to or

establishing the infringement. As a rule, other JPOs, either with general (policemen, gendarmes) or special (Customs agents) competence, must withdraw from wildlife procedures, in favour of the JPOSC from MINFOF.

1.1.2 Searches, raids, and seizures

A raid means an entry into the home of an individual or in the premises of a legal entity by wildlife administration staff, to search for evidence of infringement. Raids are carried out by wildlife administration JPOSCs, in accordance with Article 142 Paragraphs 3 and 4 of the 1994 Law, stipulating that:

(3) The sworn officials shall, forthwith, question and identify any offender who is caught in flagrante delicto. They may, in the exercise of their duties requisition the Police and Gendarmerie for purpose of search and seizure of produce fraudulently exploited or circulated, or of securing the identity of offenders; search trains, vessels, vehicles, aircraft or any other means that may be used to transport the said products, upon presentation of a special search warrant; enter houses and enclosures after consultation with local traditional authorities by day in case of flagrante delicto; bring proceedings against offenders.

(4) In the discharge of their duties, sworn officials shall be expected to possess their professional cards.

However, if the above-mentioned authorities are absent, such requirements can be fulfilled by other law enforcement agents upon consultation of the State Counsel, in accordance with Articles 93 to 100 of the CPC.

In light of the above, wildlife administration agents are entitled to conduct searches and raids and seize illicit wildlife products. However, the detention of the seized products is an issue.

Note: The issue of the detention of seized products – Generally, seized illicit products are placed under seal in the prosecution court offices, as provided by Article 89 Paragraph 3 of the CPC: “An inventory of the seized objects is performed and such objects are placed under seal in the State Counsel’s offices; a copy of the seizure statement is given to the holder of such objects”.

In addition, Article 145 Paragraph 1 of the 1994 Law provides that “the detention of seized equipment and non-perishable products is entrusted to the competent technical administration, or failing that, to the nearest impoundment structure”. These provisions indicate that two authorities have the competence to detain seized wildlife products: the prosecutor’s offices on the one hand, and the wildlife administration on the other hand. However, in accordance with the maxim “*Specialia generalibus derogant*”, or that special laws derogate from the general laws, we can assert that the provisions of the 1994 Law mentioned above are the ones applicable. Therefore, the wildlife administration has the competence to detain seized wildlife products. To this effect, it is important to distinguish between perishable goods, non-perishable products, or equipment that was used to facilitate the offence.

- Perishable wildlife products are publicly auctioned. They fall under the exclusive competence of MINFOF as specified in Article 144 of the 1994 Law in these terms: (1) *Perishable products seized, with the exception of those that are dangerous or damaged shall in the absence of a purchaser, be sold forthwith, by public auction or mutual agreement by the competent service, under the conditions laid down by decree. (2) Proceeds of the sale shall be paid into the public treasury within 48 hours.*
- The detention of non-perishable products, such as trophies and live animals, fall under the competence of the wildlife administration, pursuant to Article 145 Paragraph 1 of the

1994 Law: “*The detention of seized non-perishable and material products is mandated to the competent technical administration, or failing that, to the nearest impound*”. In the matter at hand, the competent administration is MINFOF.

- Regarding seized equipment, if it was used more than once for an infringement or in case of repeat offence, it will be publicly auctioned or privately sold, in the absence of a bidder, with the exception of weapons, which will be handed to the relevant authorities of the territorial administration. Article 146 Paragraph 4.d of the 1994 Law.

1.1.3 Custody

Custody is a police measure under which, in a preliminary investigation, an individual is held in the premises of the judicial police, for a limited duration, under the responsibility of a JPO who remains available for that purpose, with the aim of establishing the truth. It should be noted that the wildlife legislation does not expressly address custody. However, in the wildlife administration, JPOSCs have the authority to hold in custody any wildlife law offender, in accordance with the provisions of the law, particularly Articles 92 Paragraph 2 and 118 of the Criminal Procedure Code (CPC). However, the wildlife administration services do not have premises adequate for custody. Therefore, MINFOF JPOSCs can requisition cells from the gendarmerie or the police.

1.1.4 Drafting of offence statements

In case of wildlife infringement, the agents who qualified the offence must draw up statements. However, it should be noted that drafting of an offence statement falls in principle under the responsibility of MINFOF sworn agents (enforcement agents), under their functions of JPOSCs, assistants to the State Counsel, as provided by Article 141 of the 1994 Law:

Sworn agents of administrations in charge of forests, wildlife, and fisheries and sworn agents of the Merchant Shipping services are Judicial Police Officers with special competence in forests, wildlife, and fisheries as the case maybe. (1) Without prejudice to the competences recognized to judicial police with general competence, they carry out qualification of offences, seizure of illegally harvested products and of objects used for the infringement, and draw-up an offence statement. This statement is exempted from registration and stamp duties. (2) The drafted statement, signed by the sworn agent, is evidence of the material findings described therein, until proven otherwise.

Note: Transaction – It is important to note that concerning wildlife offences, the law provides the suspect the possibility of requesting a transaction (Article 146 of the 1994 Law). It is defined as a clemency measure granted by the legislator to offenders involved in litigation related to Class B animals. However, it should be noted that wildlife-related transactions fall under the exclusive competence of MINFOF. Pursuant to Article 77 Paragraph 2 of the 1995 Decree, only the minister in charge of wildlife and his/her provincial (regional) representatives have the authority to transact. Provincial (Regional) representatives cannot transact for a sum higher than 500 000 FCFA (about USD1000), in which case the minister is the sole competent authority. Figure 2 illustrates the qualification of offence procedure by MINFOF.

1.2 Exceptional interventions of other bodies

During the wildlife law enforcement process, other bodies such as Customs (1), police and gendarmerie (2) can undertake judicial police actions, including conducting the preliminary investigation.

Figure 2: Diagram of the qualification of offence procedure by MINFOF

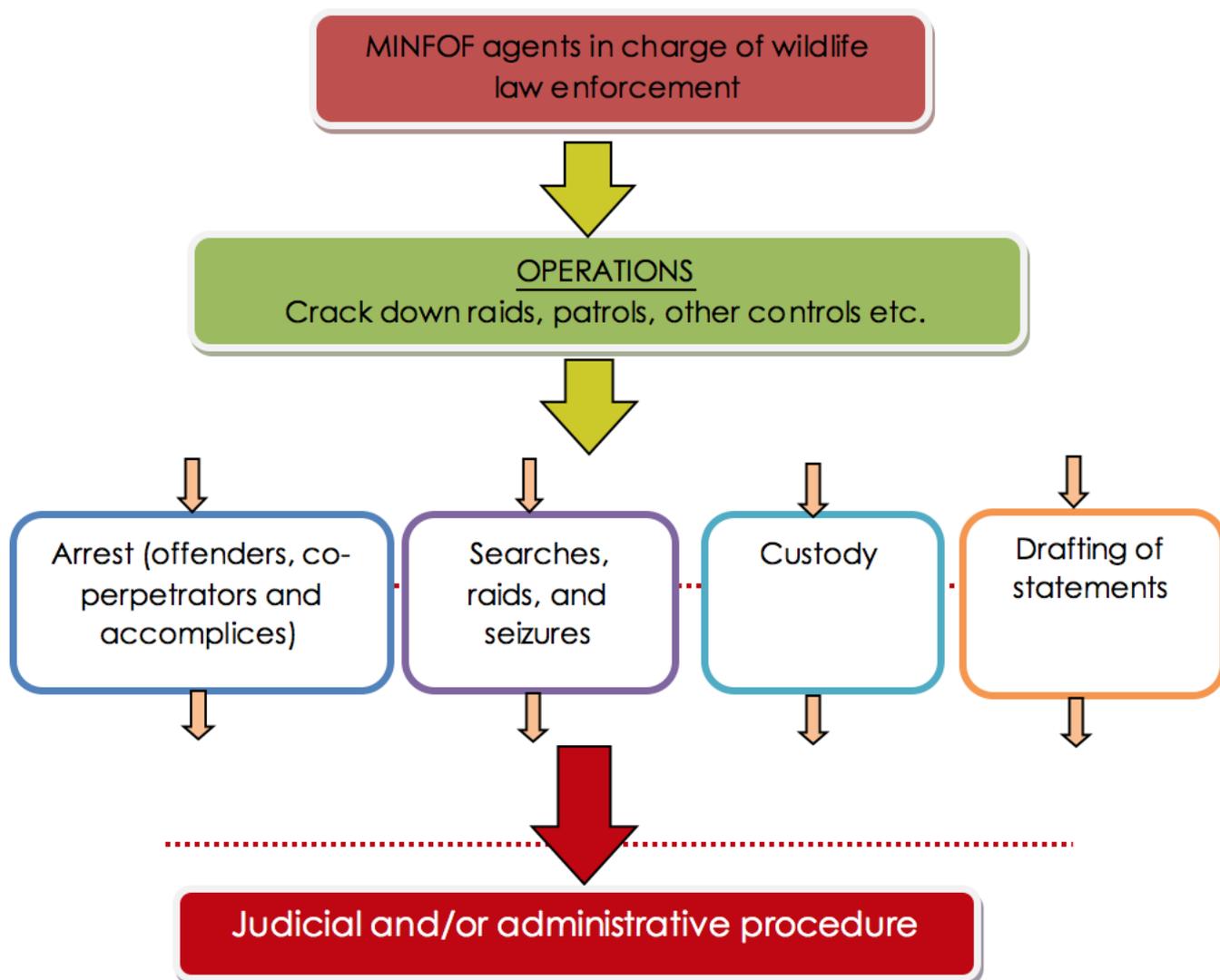
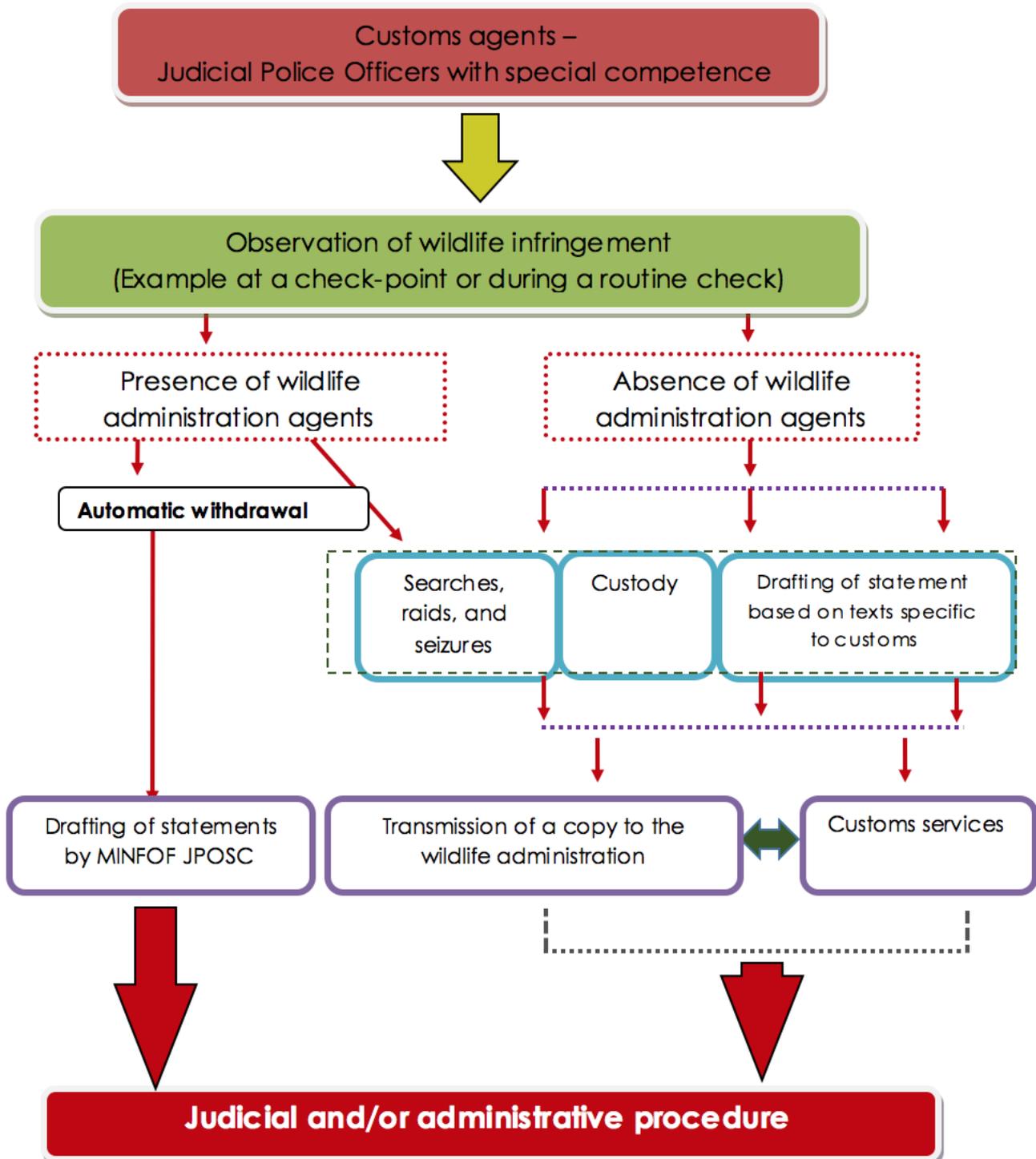


Figure 3: Diagram of the Customs officer's procedure



1.2.1 Customs

Exceptionally, the Customs JPOSCs can, under their functions, undertake judicial police actions in case of wildlife offences, in the absence of agents of the wildlife administration. To this effect, they can carry out arrests, raids, searches, and seizures. However, this prerogative is not expressly mentioned in the Customs Code of the CEMAC.

If a service of the wildlife administration exists in the location of arrest, as a rule, Customs should withdraw in favour of wildlife agents, to comply with the provisions of Article 84 Paragraph 2 of the CPC mentioned above. Figure 3 illustrates the procedure applied by Customs agents in the presence or absence of the wildlife administration and the communication for judicial procedures.

1.2.2 JPOGCs : Police and gendarmerie

JPOGCs exceptionally intervene in the qualification of wildlife offences in two cases:

1.2.2.1. In the case of joint missions with the wildlife administration

The JPOSCs wildlife administration can, during their function, request the JPOGC's assistance to carry out certain actions during preliminary investigation. To this effect, they can provide assistance during arrests, raids, searches, and seizures in accordance with Article 142 Paragraph 3 of the 1994 Law:

(3) Sworn agents carry out the apprehension and immediate identification of any contravener caught in flagrante delicto. While performing their duties, they can call on the public force for searches and seizures of fraudulently exploited or sold products, or fraudulent products in circulation, or to obtain the identification of the contravener.

For custody, it should be noted that since the wildlife administration does not have any holding cells, it can use the services of the JPOGC to take offenders into custody, in accordance with Article 119 of the CPC. However, upon assistance provided to the wildlife administration by the JPOGCs, the latter shall prepare a mission report to be attached to the statement of the wildlife administration. Figure 4 illustrates the joint missions of the MINFOF JPOSCs and the JPOGCs and the transmission for judicial procedures.

1.2.2.2. In the absence of agents of the wildlife administration

There are two possible situations: the presence or absence of a JPOSC at the location of infringement. In the absence or non-existence of wildlife administration agents in the area, JPOGCs are entitled to carry out autonomous actions and proceed to the qualification of offences, pursuant to Article 82 Paragraph A of the CPC, providing that:

The JPOGCs are entitled to proceed to the qualification of criminal offences, gather evidence, seek perpetrators and accomplices, and where applicable, prosecute them.

This prerogative is confirmed by Article 143 Paragraph 1 of the 1994 Wildlife Law:

Sworn agents from the administrations in charge of forests, wildlife, fisheries, and Merchant Shipping services, and Judicial Police Officers with general competence immediately submit their statements to the supervisors at the administrations in charge of forests, wildlife, and fisheries, as the case may be.

Figure 4: Diagram of the joint missions of the MINFOF's JPOSC and the JPOGC

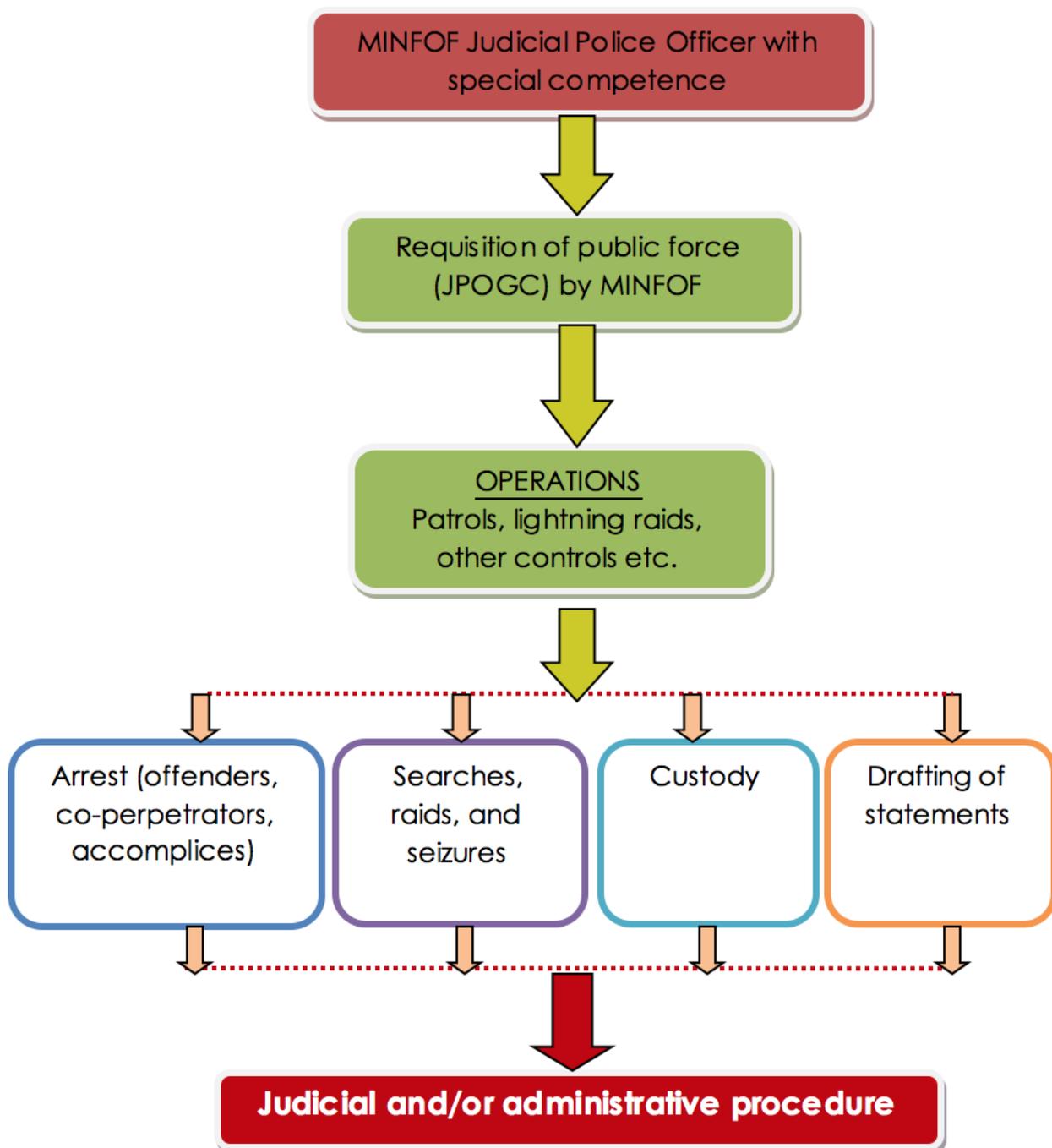
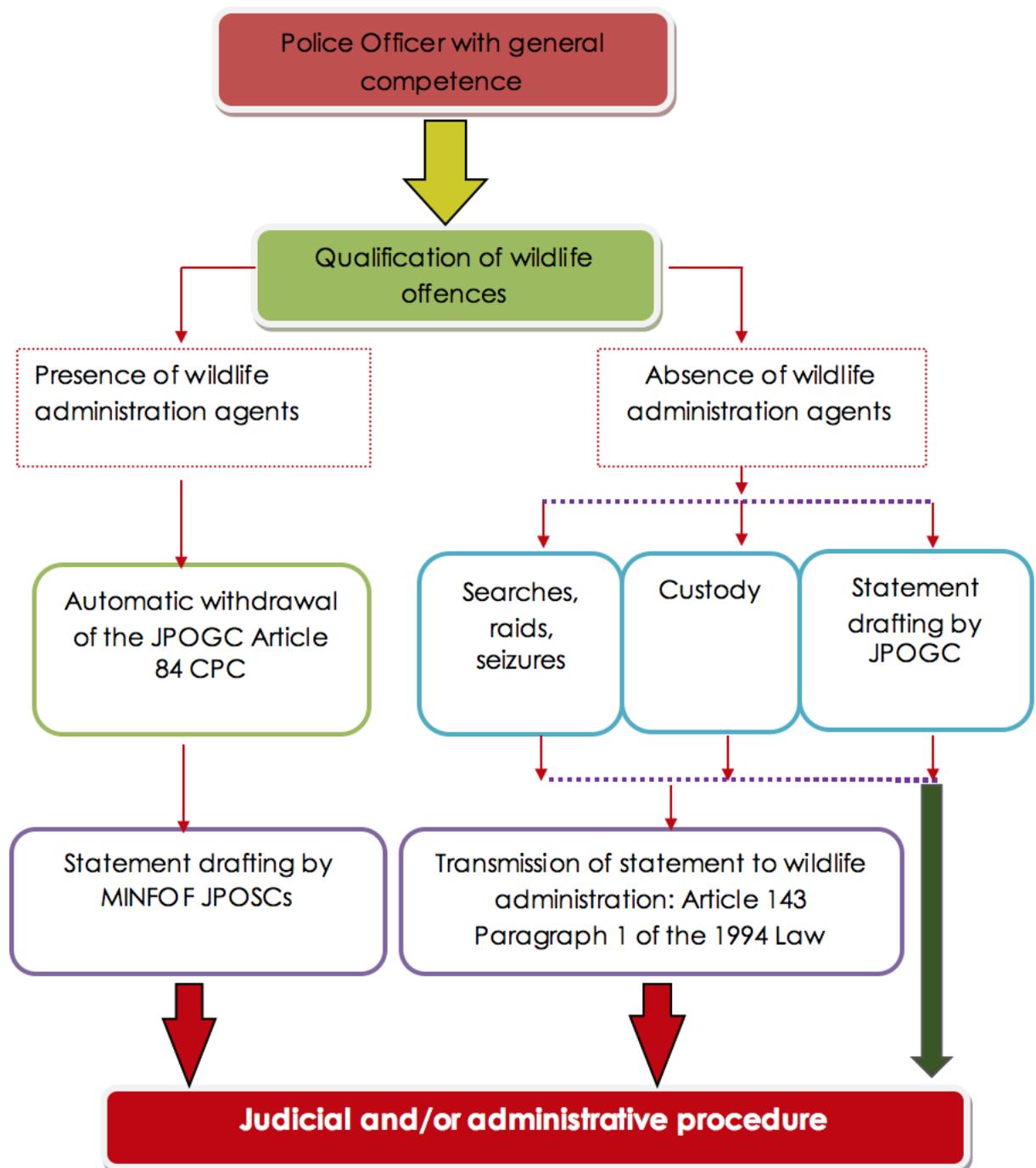


Figure 5: Diagram of the qualification of offence procedure by the JPOGC in the presence or absence of MINFOF agents



This means that they can carry out all actions related to the preliminary investigation, provided that they submit their statements to the wildlife administration. However, if a JPOSC of the wildlife administration is present in the location of infringement, the JPOGCs automatically withdraw from the case, in favour of the MINFOF JPOSC, pursuant to Article 84 of the CPC. Figure 5 illustrates the qualification of offences procedure by the JPOGCs depending on the presence or absence of MINFOF agents.

Note: For wildlife crimes committed in international airports, it should be noted that Article 2 of Decree No 2014/413 of October 22, 2014 on the creation, organization, and operation of Anti-Trafficking Airport Units (CAAT) within international airports in Cameroon, each international airport in Cameroon has an anti-trafficking unit composed of civil servants from the National Security, the National Gendarmerie, and the Cameroonian Customs. However, their authority is restricted to seizures and arrests. They cannot carry out any other actions related to the preliminary investigation, as provided by Article 4 of the same Decree:

CAAT is competent in airports and their outbuildings. It does not have the competence to carry out investigations. In case of seizures, it immediately transfers the competence for legal proceedings to the adequate structures.

2. Prosecution and ruling

Concerning wildlife cases, court referrals are mainly the responsibility of the wildlife administration. However, other administrations can legally initiate court procedures.

2.1 Court referrals

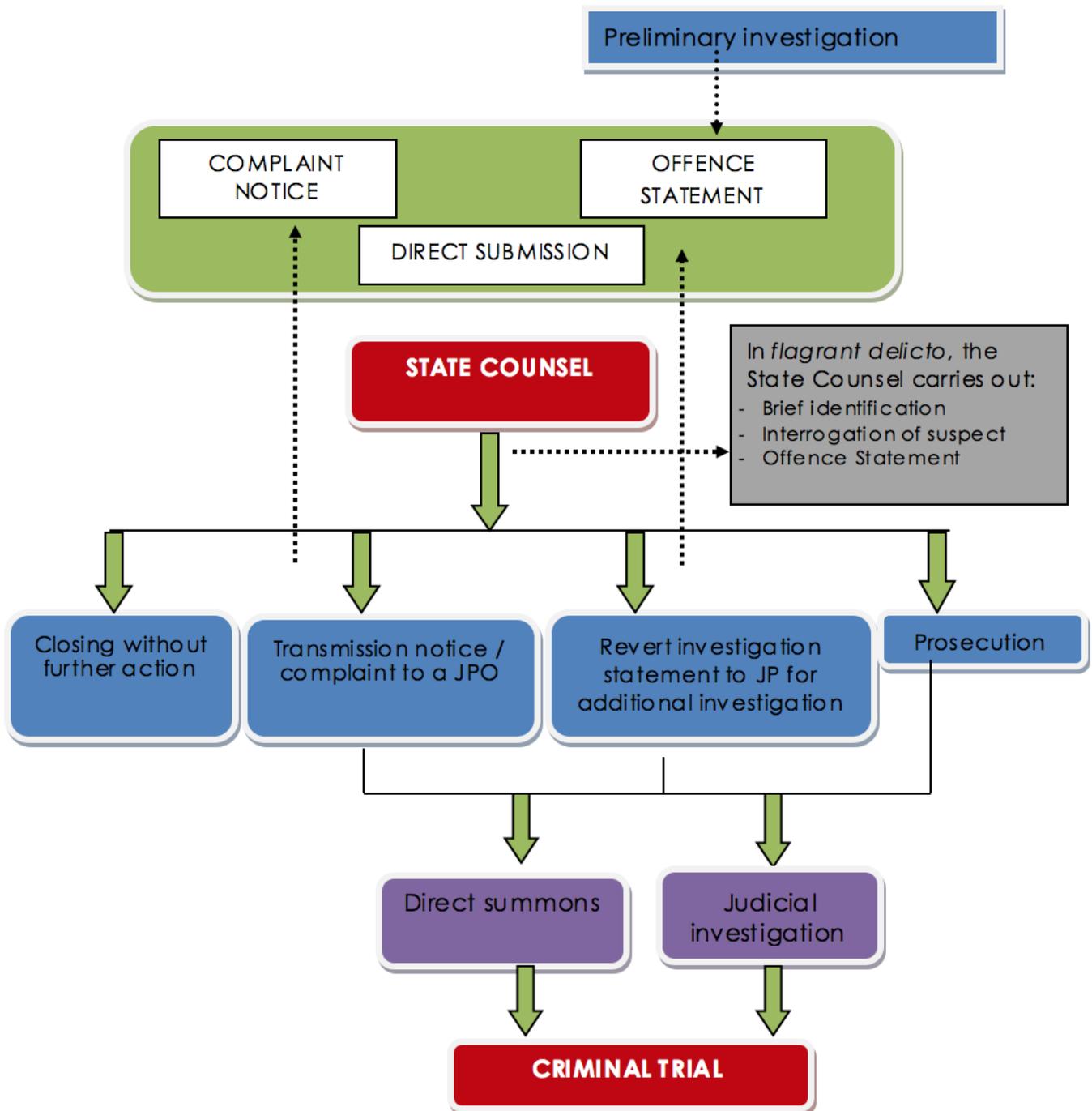
It should be noted that in wildlife cases, court referrals are chiefly the prerogative of the wildlife administration. However, the law has broadened the scope to other bodies.

2.1.1. Court referrals: a specific prerogative of the wildlife administration

The wildlife administration, as the main victim, is entitled to initiate legal actions against offenders by referring to the relevant authorities. There are several judicial referral approaches:

- Through the procedure of *flagrante delicto*: in case of *flagrante delicto*, the JPOSCs of the wildlife administration can refer to the State Counsel, using the regularly drafted statement of qualification of offence, as provided by Article 135 Paragraph 5 of the CPC: *“Any civil servant, in accordance with Article 131 of the CPC, who, while on duty, becomes aware of a crime or an offence, shall inform the State Counsel through the transmission of any related statement or notice, as applicable”*;
- The wildlife administration can also refer to the Prosecutor by complaint, laying out the facts, indicating the texts providing for and punishing such infringements, and requesting to press charges against the offender (s). Article 135 Paragraph 1a of the CPC: *“The State Counsel is referred to either by written or verbal notice, complaint, or statement established by a competent authority”*.
- In addition to both abovementioned approaches, the wildlife administration can undertake direct legal proceedings against the alleged perpetrator of the wildlife crime. To this effect, Article 147 of the 1994 Wildlife Law gives the wildlife administration the competence to *“bring before the competent court any offender, at the cost of the Public Treasury”*.

Figure 6: Diagram of the court referral procedures in criminal matters



2.1.2. Court referrals by other bodies

Regarding wildlife cases, initiation of criminal proceedings can also be carried out by the JPOGCs and the State Counsel.

- JPOGCs (gendarmerie and police) can also refer to the State Counsel if they become aware of a wildlife infringement, when there is no wildlife JPOSCs in their district, or if the latter are present but cannot be reached. Article 89 of the CPC states:
 - *The judicial police officer shall inform immediately the State Counsel of any infringements he/she becomes aware of.*
 - *As soon as the investigation is closed, he/she shall transmit to the State Counsel the original and a copy of the drafted statements, and any other related documents.*
 - *Seized objects are recorded and placed under seal in the State Counsel's office; a copy of the seizure statement is given to the holder of such objects.*
- At the initiative of the prosecution, represented by the State Counsel, who upon being informed of a wildlife infringement, may decide to take up the case without investigation or referring to the examining magistrate. This case is called direct summons. Article 135 Paragraphs 1 a and b: *"The State Counsel is referred to: – by written or verbal notice; – by complaint; – by statement drafted by a competent authority. (b) The State Counsel can also decide to directly take up the case"*.

When referred to, the State Counsel may:

- *Transmit the notice or the complaint for investigation to a judicial police officer;*
- *Revert the investigation statements to the judicial police for additional investigation;*
- *Decide to drop a case and notify the plaintiff accordingly; when a case is closed without further action, a copy of the decision is transmitted to the General Prosecutor at the Court of Appeal within a month;*
- *Decide on the deposit at the archives of the statements related to infringements that were subject to paid lump-sum fines;*
- *Decide to prosecute the suspect. Article 141 of the CPC.*

In any case, whether the wildlife contravener is sent before the examining magistrate following a judicial investigation, prosecuted based on flagrante delicto or directly sent before the criminal court, he/she must appear before the sentencing court. Figure 6 illustrates the court referrals procedures in criminal matters.

2.2. Wildlife trial

When the procedure is brought before the sentencing court, the wildlife administration is involved in all stages of the procedure:

2.2.1. For court composition

Concerning wildlife infringements, a representative in uniform of the wildlife administration joins the court. He sits by and forms part of the Prosecutor's team as provided by Article 147 of the 1994 Law: *"In such case, their representatives, in uniform and without caps, shall act in association with the State Counsel. They shall not be refused' the right to speak and lodge appeals as provided for by law in accordance with ordinary law procedure"*. Therefore, in principle, without a representative of the wildlife administration, the trial cannot be held on a regular basis. In the absence of a wildlife administration representative, wildlife trials are often reported until the appearance of the latter.

2.2.2. During the debates

The representative of the wildlife administration sitting by the Prosecutor actively participates in the debates. To this effect:

- The law provides that he/she has the right to request the floor, and, as part of the prosecution, cannot be denied such right. He/she is given the floor by the president of the court, who is in charge of the hearing.
- In addition, Article 147 of the 1994 Law provides that the relevant administrations in charge of forests, wildlife and fisheries, which are parties to the trial, have the competence to *“file their submissions and conclusions and make any observations they deem useful to safeguard their interests”*.
- The law also gives to sworn agents from the wildlife administration, as well as to the prosecution, the power to compel or summon a suspect or a witness to appear before the competent court. Article 330 Paragraph 2 of the CPC: *“Witnesses of the prosecution are heard first, followed by the witnesses of the civil party, if any, and finally the defense witnesses”*; Article 147 of the 1994 Law: *“The representative of the wildlife administration shall bring any offender at Government’s expense before the competent court”*.
- Before the hearing, the representative of the wildlife administration must bring the seized products to the court, if that is where they were kept. If they were placed under seal at the Prosecutor’s offices, he/she must ensure that they are brought to the courtroom to constitute evidence. In addition to the presentation of the sealed products, he/she may *“file any submissions and conclusions and make any observations deemed useful to safeguard the interests of the State”*: Article 147, 1994 Law.
- Evidence: the production of evidence falls to the party initiating the legal proceedings (Article 307 of the CPC). This implies that in wildlife matters, the production of evidence is the responsibility of the prosecution and the wildlife administration. The main evidence in wildlife cases are the offence statements drawn up by the enforcement officers as they constitute *“evidence of the material findings described therein, until proven otherwise”*: Article 142 Paragraph 2, 1994 Law. This can include statements of qualification of offences, seizures, auction sales, and raids.

To institute a civil action, the wildlife administration can seek civil compensation for the losses suffered, even if it did not initiate the prosecution. Article 61 of the CPC: *“A civil claim may be made alongside a criminal action before the same court so long as they arise from the same offence”*. In this case, the representative of the wildlife administration breaks down the amount of damages sought, in compensation for the losses, in accordance with the Finance Law of 1996. Article 385 Paragraphs 1 and 2 of the CPC: *“(1) Anyone who alleges that he suffered damage as a result of the commission of an offence may make an oral or written application for damages in court; (2) The civil party shall indicate the damages which he is claiming”*.

Note: It should be noted that if a JPOGC initiated a wildlife procedure, he/she can be heard as a witness to assist the court, as provided by Article 317 of the CPC: *“The author of a statement or a report may be heard as a witness before the court”*.

2.2.3. Judgment

The court decision is based on the judge’s authority and personal conviction.

2.2.3.1 Custodial sentence

There are two assumptions on custodial sentences. The first one is the acquittal of the defendant. Under this assumption, the defendant is discharged at the conclusion of the prosecution. If a

detention warrant was issued against him/her, release will be ordered, without prejudice of the possibility for him/her to request a compensation for arbitrary preventive detention.

Under the second assumption, the alleged facts are proven against the defendant. In this second case, the court will notify him/her accordingly. However, mitigating factors may be recognized, resulting either in a conditional sentence or a firm condemnation. In the latter case, the court may decide to issue an arrest warrant during the hearing.

2.2.3.2 Monetary penalties

There are two instances: either the defendant was released or was found guilty of wildlife law infringement.

If the defendant is released upon the closing of the prosecution, and if a civil action was instituted, the court will recuse itself regarding civil interests and would not be able to impose fines and costs. If the defendant is found guilty and even if he/she is not sentenced to a prison term, the court has the full authority to convict him/her to pay fines and costs, as it is competent to rule on civil interests. Using its sovereign discretionary power, while referring to objective elements of assessment (e.g. number of killed animals, market value of species in the local or international market, etc.), the court will convict the defendant to pay damages. In any case, if the wildlife administration is not satisfied with the decision, it has several legal remedies.

2.2.4. Appeals

Any party can challenge the verdict. In wildlife matters, only the prosecution, the wildlife administration, and the defendant have the right to challenge the verdict within the statutory period. This right is granted to the wildlife administration by Article 147 of the 1994 Law, providing that it can “*lodge appeals as provided for by law, in accordance with ordinary law procedure, with the same effect as the appeals by the prosecution*”. In other words, rules pertaining to appeals are those from the CPC. There are two remedies against a court sentence rendered in first instance: appeal and objection.

2.2.4.1 Specific recourse for the wildlife administration: objection

Objection is a recourse procedure against judgments delivered in absentia, under which neither the defendant nor the wildlife administration was called at the hearing. Article 427 of the CPC: “*With the exception of the public prosecution, any party to a trial can object to a decision*”. Therefore, if a court decision was rendered in the absence of the wildlife administration, it has the sole right to object within a timeframe of ten days from the personal delivery of judgment, when the convict is in Cameroon, and within a timeframe of three months from the delivery overseas. The objection has a suspensive effect, suspending the execution of the decision.

2.2.4.2 Joint recourse of the public prosecution and the wildlife administration: appeal

In wildlife matters, appeal is filed against a judgment after trial or deemed to be so by the wildlife administration and/or the public prosecution. The effects of the appeal bring into effect the provisions of the wildlife law and of the CPC. Pursuant to Article 147 of the 1994 Law mentioned above, recourses exercised by the wildlife administration have the same effect as those by the public prosecution. This implies that in the case of an appeal filed by the wildlife administration, the Court of Appeal may rule on all or part of the decision (criminal penalty and/or civil interests), as it is the case if the appeal is filed by the public prosecution, pursuant to Article 458 of the CPC. However, the same CPC provides that if the appeal is filed by the sole civil party, in this case the wildlife administration, the Court of Appeal may only rule on civil interests (Article 456 Paragraph 1).

Therefore, this brings a conflict between the provisions of a special legislation, the 1994 Law, and a statute of general application, the CPC. In this case, the special legislation should derogate from the general laws. Article 147 of the 1994 Law should override Article 456 of the CPC, pursuant to the legal principle of *specialia generalibus derogant*, except that the CPC provides in its Article 746 that any previous provisions contrary to this law are abrogated, including Article 147 of the 1994 Law. In any case, one should refer to the provisions of the CPC as with regard to the hierarchy of legal norms, general principles are inferior to laws.

Two situations can occur here:

- When the appeal is solely filed by the wildlife administration: The Court of Appeal may only rule on civil interests and not on the criminal sanction (custodial sentence, fines and/or costs). However, a civil action must have been instituted in first instance. Pursuant to Article 455 of the CPC, the civil party (the wildlife administration) cannot institute a civil action for the first time in appeal;
- When the appeal is filed by the State Counsel, the Court of Appeal may rule on all or part of the judgment, including civil interests. The Court may modify the qualification of offences for the judgement appealed from. The wildlife administration may request an increase of the amount of damages, if it has suffered additional losses since the judgement appealed from, directly in relation with the infringement (Article 455 Paragraph 2 of the CPC).

At the expiration of the recourse deadlines, the judgement rendered becomes final, irrevocable, and enforceable.

3. Enforcement of court decisions

The enforcement of court decisions is regulated by the CPC. Several actors are involved in the enforcement of court decisions, pursuant to Article 545 Paragraph 3 of the CPC: “*the State Counsel and the parties pursue, each in its sphere, the enforcement of decisions that have become irrevocable*”. A distinction should be made between custodial sentence and monetary penalties.

3.1 The prominent role of the wildlife administration in enforcing some monetary penalties: civil interests

When the court awards damages to the civil party (the wildlife administration), the latter must ensure the effective payment of such damages by the convict. During the collection process, the wildlife administration may request the services of bailiffs, *as its agents do not have the authority to carry out attachments-executions*, meaning here attachments for attribution or attachments for sale, pursuant to the provisions of Articles 91 to 98 of the Uniform Act organizing simplified recovery procedures and measures of execution.

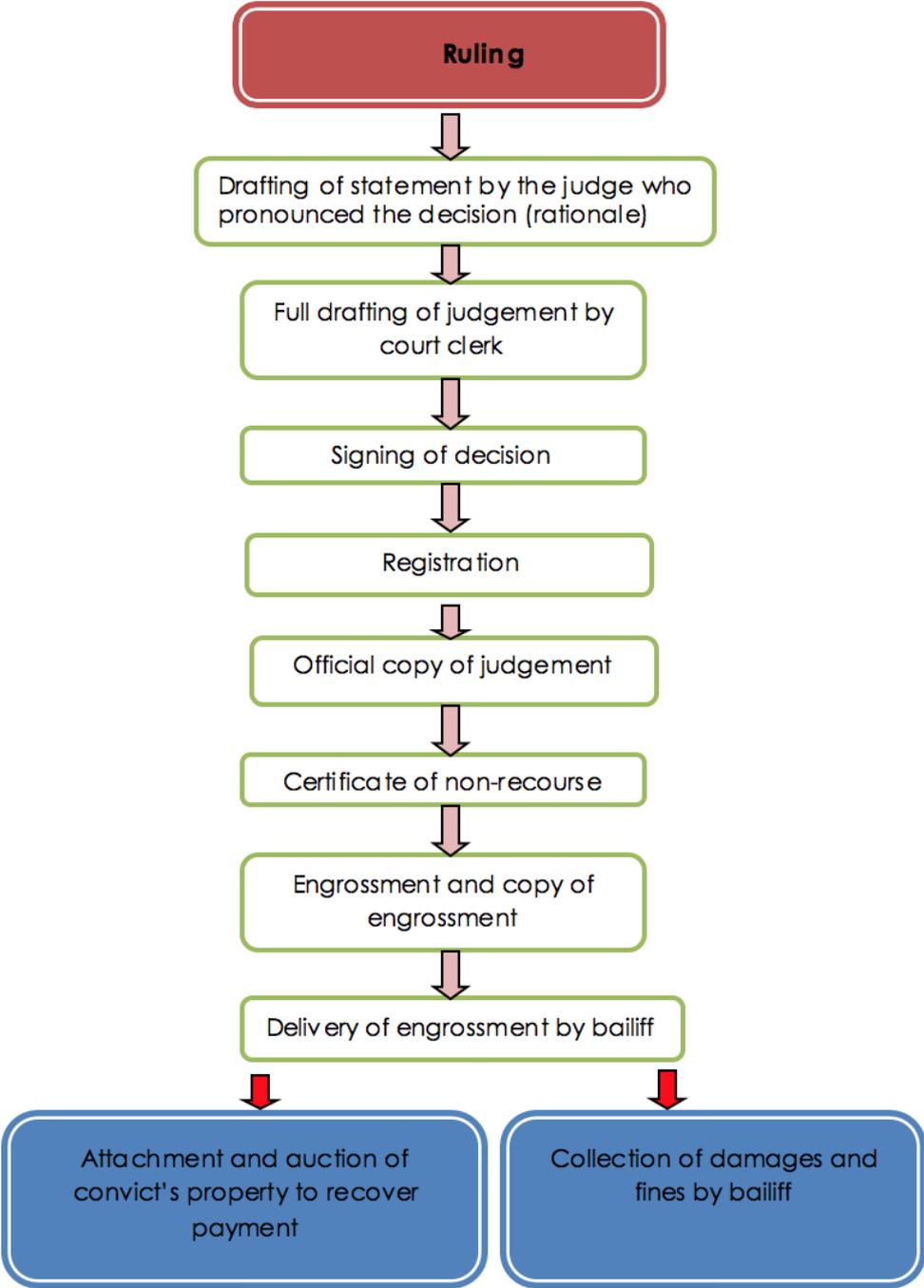
3.2 The prominent role of the public prosecution assisted by JPOGC in enforcing custodial sentences and fines

Offenders sentenced to fines and legal fees must pay them immediately to the chief clerk of the court who issued the judgement. However, if an individual sentenced to fines and legal fees does not pay, imprisonment for debt may occur in accordance with the provisions of the CPC. Imprisonment for debt is executed without prior formal notice, as determined by the public prosecution, in case of non-execution of monetary sanctions or non-restitution of goods. It is an incarceration with compulsory labour (Article 557 of the CPC) which states that “*Imprisonment in default of payment shall be a procedure which aims at compelling a convict to execute a pecuniary sentence pronounced against him or make restitution ordered by a court in a criminal case. It shall be applicable without prior notice at the instance of the Legal Department in the event of non-execution of a pecuniary*

sentence or non-restitution of property. It shall consist of a term of imprisonment during which the debtor shall be obliged to work”.

Note: Execution of warrants: Upon judgment, the court issues the incarceration warrant and the arrest warrant; the public prosecution, represented by the State Counsel, shall ensure the execution of such warrants. The State Counsel transmits the warrants to the JPOGC (police and gendarmerie), who are in charge of executing all warrants and court decisions and ensures the transfer of detainees to jail (Article 82 of the CPC).

Figure 7: Diagram of execution of court decisions



PART III

ASSESSMENT OF THE DIFFERENT ACTIONS BY ACTORS INVOLVED IN WILDLIFE LAW ENFORCEMENT

In the course of research to produce this guide, field missions were carried out in several cities, including Yaoundé, Douala, Limbe, and Bafoussam. Meetings were held with 18 MINFOF agents, 16 policemen, 14 gendarmes, and 15 Customs officers.

- Among the 18 MINFOF agents, 11 had a good knowledge of wildlife legislation and criminal proceedings in wildlife matters.
- Among the 30 JPOGCs (policemen and gendarmes), 14 had a good knowledge of the criminal proceedings in wildlife matters and applicable regulations, while the others had fragmented knowledge.
- Only 6 out of the 15 Customs agents had relative knowledge of the criminal proceedings in wildlife matters and applicable regulations. The others had no awareness of the preliminary investigation pertaining to wildlife or Customs procedure. They also had approximate knowledge of related regulations.

A few practical cases are reviewed to address the abovementioned issues.

1. Some actions jointly carried out by actors involved in wildlife law enforcement

Case 1: Successful collaboration between the wildlife administration, Customs services, JPOGCs, and justice during the seizure of over 80 kg of pangolin scales by the Limbe Customs services.

In April 2013, a trafficker of Chinese nationality was arrested by Customs agents while attempting to export over 80 kg of Giant Pangolin scales to Nigeria. Beforehand, the Customs officers had apprehended the Chinese man's two intermediaries and had notified MINFOF agents, the gendarmerie and the State Counsel to devise a strategy to arrest the owner, the Chinese man. Members of the gendarmerie called the Chinese man, who lives in Douala, to come "negotiate" the release of the scales. Upon his arrival in Limbe, he was apprehended by the gendarmes and delivered to the MINFOF agents for the rest of the procedure.

However, it should be noted that the State Counsel had to intervene for the seized products to be handed over to the wildlife administration. The three offenders were brought to the MINFOF services, where they were interrogated, then brought to the State Counsel and placed under provisional detention order.

This collaboration also led to the arrest of the individual who provided the export documentation to the Chinese man, also the subject of a detention warrant. Following the trial, some good sentences were obtained notably - the Chinese national and the documentation supplier were respectively sentenced to 6 and 3 months of imprisonment.

<http://www.laga-enforcement.org/MonthlyAction/MonthlyAction2013/tabid/229/language/en-US/Default.aspx>



Photo 1: Handover of ivory seized by Customs to the MINFOF in Limbe, South-West Region, November 2015 © Sone Nkoke / TRAFFIC (above) in 2013



Photo 2a & 2b: Chinese national (below) arrested in possession of over 80 kg of pangolin scales (above) in 2013



Photo 3: 283 raw ivory pieces and tusks, weighing a total of 996.55 kg seized in Douala, 2009 © Sone Nkoke / TRAFFIC



Photo 4: raw ivory tusks seized in Edéa © Sanaga-Maritime DDFOF

Case 2: Successful collaboration between the wildlife administration and JPOGCs after the seizure of one tonne of ivory by the Judicial Police.

On September 28, 2009, after cross-checking information, members of the Regional Division of the Littoral Judicial Police seized a large consignment of raw ivory (283 raw ivory tusks and pieces, of a total weight of 996.55 kg), after apprehending two individuals in a large cargo truck. Immediately after the seizure, the State Counsel was notified and the products and the suspects delivered to the wildlife administration for the rest of the procedure. The suspects were interrogated and brought before the State Counsel, who ordered their detention at the Douala central prison. Following the trial, the suspects were sentenced to one year of imprisonment each and to jointly and severally pay 58,250,000 FCFA (USD116,500) as damages.

<http://www.laga-enforcement.org/Portals/0/Documents/Activity%20reports%202009/Activity%20Report%20-%20Sep.pdf>

Case 3: Poor collaboration between the wildlife administration and the Customs services.

On May 19, 2014, members of the Edéa mobile brigade seized 30 elephant tusks hidden in the luggage compartment of a public transportation bus. Immediately after the seizure, the State Counsel and the wildlife administration were notified. Unfortunately, before the arrival of MINFOF agents, a Customs agent who was in the bus had already notified his superiors in Douala, who hurried to recover the tusks and place them at their offices in Douala. This hampered the procedure because of the absence of the *corpus delicti*. Upon insistence of the State Counsel of Edéa, with the support of the General Prosecutor of the Court of Appeal of the Littoral region, the tusks were finally released to the wildlife administration. The wildlife administration closed the preliminary investigation and transferred the procedure to the State Counsel, who issued a detention warrant against the suspect. Following the trial, the suspect was sentenced to one year of imprisonment and to pay the amount of 44,500,000 FCFA (USD 89,000) as damages.

Reference: Sanaga Maritime Divisional Delegation of MINFOF (DDFOF) - Edéa

Amongst the various actors involved in wildlife law enforcement, numerous issues were identified, which can be classified in two categories: legal endogenous and exogenous challenges.

2. Endogenous challenges to wildlife law

In terms of transactions: the wildlife law provides that the Ministry of Forests and Wildlife and its regional representatives have the sole authority to transact within the limits provided by the regulation (Article 77 of the 1995 Decree). In many cases, offenders are apprehended in remote areas, far from the MINFOF regional structures. Agents do not always have the adequate equipment or vehicles, complicating the strict application of this requirement.

Furthermore, for transactions higher than 500,000 FCFA, and therefore solely restricted to the competent minister, agents dealing with the case do not always have the possibility to refer to the competent authority within the required timeframe, as they are also required to comply with the legal time period for custody. Indulgence or impunity might occur, as detention becomes illegal when the custody period expires.

The application of the provisions of Article 147 of the wildlife law is also faced with incompleteness or loopholes. According to this text, in the absence or non-performance of transaction, prosecution shall be initiated within 72 hours upon request from the administration and after prior formal notice to the suspect. There is a legal loophole here, as the law does not provide the form and the deadline of such formal notice, the period of 72 hours starting from the expiration of the formal notice deadline. By default, the formal notice deadline can arguably be considered as part of the 72 hours provided by the law. In practice, some procedures have been cancelled because of the differing interpretations of this text.

The law enforcement decree provides in its Article 78 that the transaction must be executed within three months. In practice, this implies that the offender might have been released. If he/she does not fulfill the payment defined for the transaction as he/she might have requested, a new apprehension, with a formal notice prior to prosecution to be executed within 72 hours, is a challenge. In most cases where the suspect is granted provisional release, with or without bail or guarantor, subpoenas are not even honoured, rendering the laws inefficient and the prosecution almost impossible.

In terms of penal procedures: The wildlife law also has some grey areas in terms of penal provisions, which are in contradiction with its spirit. There is much debate on the application or not of the provisions of Articles 155 and 158 to suppress infringements provided in Articles 78, 98 and 101 of the wildlife law.

In practice, Article 155 of the wildlife law prescribes a penalty of 50 000–200 000 FCFA and imprisonment of 20 days –2 months, or only one of these penalties, for the violation of the provisions of Articles 87, 98 and 101. Article 158 prescribes a fine of 3 000 000–10 000 000 FCFA and imprisonment of 1–3 years for the killing or capture of protected animals, either outside of the hunting season or within an area where hunting is prohibited or closed.

Both provisions seem to punish the same infringements differently. Specific legal distinction is required to prioritize one or the other. The two texts lead to differing opinions. During a case brought before the Yokadouma criminal court in the East region of Cameroon, a defendant found guilty of killing elephants and keeping and circulating elephant tusks benefited from the application of Article 155, while the provisions of Article 158 were more relevant.

However, the decision rendered in this case will be overturned more strictly in appeal, as the rulings remained consistent in the application of Article 158 for the violation of Articles 78, 98, and 101.

Swearing-in: Article 141 Paragraph 2 of the 1994 Law stipulates that sworn agents of the administrations in charge of forests, wildlife, and fisheries, take an oath before the competent court, upon request by the relevant administration. However, the law does not provide on all effects of the oath, particularly its territorial competence. According to one interpretation, the territorial competence of the oath covers the district where the oath was taken. Therefore, the oath of a MINFOF agent is a “mobile oath”, to be renewed each time the agent is assigned to a new district. This interpretation tends to restrict the scope of action of wildlife administration agents, therefore undermining the effective application of the wildlife law. An agent who took an oath in a district loses his/her status of sworn agent when assigned to a new district, and consequently the authority to qualify offences.

For the qualification of offences: According to the 1994 Law, only sworn agents have the authority of qualification of offences pursuant to Article 142, restricting the scope of action of wildlife administration agents. In some areas, there are no or not enough sworn agents to cover the entire territory.

Anti-trafficking airport units: The creation by Presidential Decree No 2014/413 of October 22, 2014 of anti-trafficking airport units was a welcome decision. However, the scope of actions of such units is very limited, as they are only present in international airports. Ports, which are entry and exit points of Cameroon, should also benefit from the same units. In addition, members of these units do not include the wildlife administration, while its representatives are present in all Cameroonian international airports and wildlife products are increasingly being trafficked at international level.

3. Exogenous challenges to the wildlife law

They are of various levels:

- Lack of knowledge of regulations and procedures: the insufficient knowledge of the wildlife law by actors involved in its enforcement leads to inefficiency;
- The weak enforcement against crimes on endangered wildlife is an important factor of inefficiency and must be addressed;
- Lengthy judicial procedures: Some procedures, even in flagrante delicto, are at a standstill, only because, for instance, a defendant disputes the nature of the animal found in his/her possession after the statement of qualification of offences, in which he/she first admitted the facts;
- The silo structure of the law enforcement bodies and the withholding of information and data;
- The absence of a database and of a formal network of information and data sharing and exchange between the various bodies involved in wildlife law enforcement;
- The lack of means to recognize and identify illicit products and the lack of knowledge of new methods of concealment;
- Frequent incompatibility when designating representatives of the wildlife administration in wildlife trials. In accordance with the wildlife law (Article 147 of the 1994 Law), this representative sits with the State Counsel, in uniform and in full view. The law seems to refer more to the sworn agent who drafted the statement of qualification of offence, as he/she can be heard as a witness in case the defendant pleads not guilty;
 - However, in practice, duplication is common: on the one hand, there is the sworn agent in uniform, belonging to the local competent unit of the MINFOF; on the other hand, there is a second plain-clothes agent sent by the central services with a mission order, often without any knowledge of the case. It results in a situation

where one sits in uniform by the State Counsel, and the other, often in plain clothes, will follow the trial like any other member of the public, after showing his/her letter of representation;

- This note is of importance, as proceedings are often slowed down due to the multiple notices for designation by the MINFOF of a civil representative from the central services. This occurs even if a sworn agent who participated in qualifying the offence is present and sits in uniform to ensure better court composition and to be heard as prosecution witness;
- The execution of court decisions on wildlife must be seriously and urgently considered, as the lack of execution is fatal to the efficiency of the law and results in important losses of revenue for the State, particularly when solvent defendants were sentenced to pay significant damages. The collection of such fines could add to the financial resources allocated to conservation;
- A major constraint to the efficiency of the wildlife law must be pointed out: corruption and influence peddling. Combatting this scourge should be enforced and include all related infringements;
- The lack of adequate equipment, such as supplies and vehicles, particularly to control sensitive areas (airports, ports, terrestrial borders) constitutes an equally significant obstacle to the efficient enforcement of wildlife law.





Gun confiscated from National Park in Cameroon
© Jaap van der Waarde / WWF-Netherlands

CONCLUSIONS AND RECOMMENDATIONS

The State of Cameroon has truly taken its responsibilities and made biodiversity one of the pillars of its development policy.

The aim is to combat the illegal trafficking of wildlife species successfully, in order to reduce it to an acceptable level and to improve conservation, or to eradicate it altogether.

While addressing the needs of the current wildlife populations without compromising the capacity of future generations to meet their own needs, the current challenges must be addressed. Legal and regulatory mechanisms, as well as practical tools, must be part of a dynamic process, evolving to adapt to realities better. A framework should be developed for all parties and actors to put forth and exchange their respective experiences, to seek adequate solutions, and to obtain better results. Some of the challenges encountered can be overcome in the short run, while others are more arduous.

To conclude, the following are a few recommendations for improvement:

- Wildlife protection is of public interest. Therefore, it is important to think (or to finalize the thinking process) about the possibility to treat trafficking of endangered species as serious offences, as crimes for instance, as sought by the United Nations Resolution 69/314 of July 30, 2015 on tackling the illicit trafficking in wildlife. Wildlife crimes cause significant ecological, economic, social or even environmental prejudices to the State, and therefore to public interest. Consequently, judicial investigation and temporary detention should become a norm in wildlife crime matters.
- The possibility to integrate a special wildlife hearing in the court process should also be considered, as is the case for road traffic accidents. This would lead to better application and enforcement of the legislative and regulatory tools designed for conservation.
- Training (initial or continued) of actors involved in wildlife law enforcement is needed, as well as retraining to improve the application of all relevant regulations.
- Increasing equipment and control around ports, airports, and border crossings is urgent as these have become outflow points for trafficking and illegal export of trophies from strictly protected species.
- Enhanced co-operation with international partners is also important to conclude strategic partnerships. This aspect was once included in the CITES action plan through 2005 at its 11th session.
- Wildlife law specialists and experts (lawyers, judges, and others) should be included in task forces and national, sub-regional, or international workshops to bring significant practical contributions based on their experience, to take efficient resolutions or for a change of methods.
- Enhance and broaden the prerogatives and functions of the anti-poaching committee to serve as a framework for collaboration, information and data exchange, or even joint task force.
- In the absence of any legal provision on the procedure to be adopted by Customs agents in case of seizure of illegally harvested wildlife products, it is advisable for these agents to refer immediately to the wildlife administration agents, who have inherent competence. If these agents cannot be reached, due to the distance from the location of the seizure, or in the absence of a forest or hunting control post, the State Counsel must be notified of the situation, as supervisor of all JPOs, whether with general or special competence, so that all adequate measures are taken to ensure the prosecution of a wildlife law offender.



Aerial view of Southeastern Cameroon
© WWF / Carlos Drews

ANNEX 1

Annex 1: Questionnaire for the production of a guide presenting the competences, attributions, duties, and responsibilities of the different bodies involved in wildlife law enforcement

1- Do you know the different bodies in charge of wildlife law enforcement? If yes, name them
.....

2- Do you belong to one of the bodies involved in wildlife law enforcement? If yes, which one?
.....

3- What are the different regulations defining the duties, attributions, responsibilities and the competences of the body in which you work?
.....

4- What are your assessments of such regulations?
.....

5- As an actor of law enforcement, have you ever participated in the apprehension of a wildlife law offender?
.....

6- How did you conduct the preliminary investigation?
.....

7- Which regulations have you applied during preliminary investigation?
.....

8- Are seizures of wildlife products and arrests of offenders part of your field duties?
.....

9- If yes, what measures have you taken to ensure that arrested offenders are prosecuted?
.....

10- Who has the legal authority to keep seized wildlife products?
.....

11- Which body has the authority to represent the State of Cameroon in wildlife matters?
.....

12- Which of these bodies (Police, MINFOE, Gendarmerie and Customs) has the prime task of enforcing wildlife legislation?

.....

13- In the absence of the relevant body, which bodies may also seize wildlife products, arrest offenders, hear them on statements and bring them to court?

.....

14- Which legislation(s) gives (give) such bodies the authority to carry out preliminary investigations in the absence of the body mentioned under question 13?

.....

15- Do you have enough information on the legislations / regulations related to wildlife exploitation or conservation? If yes, which information are of interest to you?

.....

16- Society is aware of the poor collaboration amongst the actors in charge of wildlife law enforcement (Police, Gendarmerie, MINFOF and Customs). In your opinion, what are the causes of this poor collaboration?

.....

17- In your opinion, what are the main issues pertaining to the wildlife law enforcement procedure?

.....

18- Suggested solutions?

.....

19- Which body has the competence to enforce judicial decisions in wildlife matters?

.....

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1. Legislations

- The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Washington 1973;
- The Convention on Biological Diversity, 1992;
- The United Nations Convention against Corruption, New York 2003;
- The African Union Convention on Preventing and Combating Corruption, Maputo 2003;
- The COMIFAC (Central African Forests Commission) Convergence Plan
- Law No. 96/06 of January 18, 1996 revising the Constitution of June 2, 1972;
- Law No. 94/01 of January 20, 1994 establishing the regime of forests, wildlife, and fisheries;
- Law No. 2005/007 of July 27, 2005 establishing the Criminal Procedure Code;
- Law No. 2016/007 of July 12, 2016 establishing the Penal Code;
- Law No. 5/001-UEAC-097-CM-06 of August 3, 2001 establishing the CEMAC Customs Code;
- Finance Law of July 1996, excerpt on duties and taxes for sport hunting permits and other permits issued by the wildlife administration;
- Decree No. 95/466/PM of July 20, 1995 laying down the application of the wildlife legal regime;
- Decree No. 2015/434 of October 2, 2015 reorganizing the Government;
- Decree No. 2005/099 of April 6, 2005 organizing the Ministry of Forestry and Wildlife;
- Decree No.2005/495 of December 31, 2005 modifying and completing some provisions of Decree No.2005/099 of April 6, 2005 organizing the Ministry of Forestry and Wildlife;
- Decree No. 2006/088 of March 11, 2006 on the creation, organization, and operation of the National Anti-Corruption Commission;
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- Decree No. 2008/365 of November 8, 2008 on the organization of the Ministry of Finance;
- Decree No. 2001/181 of July 25, 2001 on the organization of the National Gendarmerie;
- Decree No. 2012 / 540 of November 19, 2012 on the organization of the National Delegation for National Safety;
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- Decision No. 000857/D/MINFOF of November 10, 2009 on the organization of bushmeat trade.

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4. Websites / Links

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- <http://www.laga-enforcement.org/MonthlyAction/MonthlyAction2013/tabid/229/language/en-US/Default.aspx>
- <http://www.laga-enforcement.org/Portals/0/Documents/Activity%20reports%202009/Activity%20Report%20-%20Sep.pdf>

TRAFFIC, the wildlife trade monitoring network, is the leading non-governmental organization working globally on trade in wild animals and plants in the context of both biodiversity conservation and sustainable development.

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