

**UNIVERSITY OF TIMISOARA
FACULTY OF LAW**

**UNIVERSITY OF PÉCS
FACULTY OF LAW**

**JOURNAL OF EASTERN-EUROPEAN CRIMINAL LAW
No. 1/2016**

**Edited biannually by courtesy of the Criminal Law
Departments within the Law Faculties of the West University
of Timisoara and the University of Pécs**



From poaching to financing terrorism. Thoughts on poaching endangering society

ELEK BALÁZS

Judge, High Court of Appeal Debrecen,

Associate professor, Debrecen University Faculty of Law

Abstract

Poaching is a collective term for a series of actions opposing law and morals, and these amalgamate into a specific, standalone notion. Poaching means more than the simple stealing and destruction of game. Poaching is a dangerous activity, and by its nature it always implements the possibility of the realization of other, more serious crimes, or other dangerous crimes can connect to it, for example, misuse of firearms, homicide and assault, violence against public officials.

Poaching violates rights of ownership, violates the right of those entitled to wildlife management and hunting, endangers the stock of game, the interests regarding wildlife management and its hunting order, and at the same time, violates public safety.

In certain places of the world, such trans-boundary problems appear together as illegal or excessive fishing, trafficking of drug and people, piracy and terrorist threats. Terrorist threat, drug trafficking, human trafficking based on migration and other crimes supervised by organized criminal groups are present in Europe as well. Income is present.

Keywords: *incomes, terrorism, poaching, rights on ownership, human trafficking.*

Introductory thoughts

Until the new Criminal Code put into force on 1st July, 2012, poaching was not considered as a standalone crime in Hungary. The reasons for this are partly social, and partly historical. However, the legislator realized that the dangers of poaching go far beyond the damage caused by the stealing of game killed in any way. Poaching in Hungary does not threaten primarily the survival of certain endangered species.

Poaching is a collective term for a series of actions opposing law and morals, and these amalgamate into a specific, standalone notion. Poaching means more than the simple stealing and destruction of game. Poaching is a dangerous activity, and by its nature it always implements the possibility of the realization of other, more serious crimes, or other dangerous crimes can connect to it, for example, misuse of firearms, homicide and assault, violence against public officials.

Poaching violates rights of ownership, violates the right of those entitled to wildlife management and hunting, endangers the stock of game, the interests regarding wildlife management and its hunting order, and at the same time, violates public safety.¹

¹ Zoltán, Ödön: Az orvvadászatról és büntetéséről. Magyar Jog, 1995, október, 607-613.p.

Poaching as a global phenomenon

From this point on, poaching is such a global phenomenon that cannot be managed and interpreted in an isolated way. The notion of transnational crime refers to such crimes, the prevention, exploration and direct or indirect effect of which affects many countries. This scope includes, besides international drug and art treasure trafficking, terrorism and the market focusing on endangered wildlife.

In special literature, it is already considered as a fact that poaching generates such a vast income that is desired by organized crime groups as well. The price of rhino horn per kilo is higher than that of gold or platinum. Poaching provides a huge income with a relatively small risk.

Circles of organized crime have already attacked European museums in order to acquire rhino horns. According to the Metropolitan police, 20 thefts have taken place across Europe in the past six months – in Portugal, France, Germany, the Czech Republic, Belgium and Sweden as well as the UK. Scotland Yard and Europol are now advising galleries and collectors to consider locking up their rhino horn collections or keeping them away from public view. Several museums have removed their displays or replaced horns with replicas.² The global danger of the problem is shown by the fact that the thefts are attributed to an organized gang, allegedly active in Europe, Asia and North and South America.³

According to an estimation from 1993, the value of the black market focusing on the endangered wildlife is 6 billion USD. According to some estimations, wildlife trafficking is the second largest form of black market commerce, behind drug smuggling.⁴

Traffic International, which monitors wildlife trafficking for the UN, has claimed that it may have become the world's third-largest illegal trade after drugs and arms, with an annual turnover of \$5 billion to \$10 billion.⁵ According to estimations, wildlife trafficking has become the fourth most lucrative illegal activity after drugs, counterfeiting, and human trafficking.⁶ Statistics differ of course regarding the amount of income from poaching, but there is an agreement that at least part of this income is used to finance terrorist organizations.

The dangers of poaching and the trading of endangered species goes far beyond the environmental damage regarding certain endangered species. Those who are involved in the illegal wildlife trade also traffic in other illegal commodities, including drugs and weapons. A very lucrative form of transnational crime is the large scale theft of natural resources including wildlife. Participants in this form of crime include

² Esther Addley: Epidemic of UK rhino horn thefts linked to one criminal gang. the guardian, Monday 8 August, 2011<http://www.theguardian.com/environment/2011/aug/08/rhino-horn-thefts-chinese-medicine>.

³ Dr. Ranee Khooshie Lal Panjabi: For Trinkets, Tonics, and Terrorism: International wildlife poaching in the twenty-first century. Georgia Journal of International and Comparative Law, Volume 43, 2014, number 1, 1-92 pp.

⁴ Greg L. Warchol, Linda L. Zupan, Willie Clack: Transnational criminality: an analysis of the illegal wildlife market in Southern Africa. International Criminal Justice Review, Volume 13, 2003, 1-27 p.

⁵ Uli Schmetzer, Tribune Staff Writer: Old Chinese Cures Endangering Wildlife. Chicago Tribune, September 26, 1993http://articles.chicagotribune.com/1993-09-26/news/9310010039_1_endange-red-species-rhino-horn-white-rhinos.

⁶ How to Stop the Illegal Wildlife Trade From Funding Terrorist Groups. Scientific American, Decembe 01, 2013<http://www.scientificamerican.com/article/how-to-stop-the-illegal-wildlife-trade-from-funding-terrorist-groups/>.

poachers, traffickers and guerrilla insurgency groups, military units, and organized criminal syndicates.⁷ The potential financial gain from poaching, „coupled with low risk of detection and often inadequate penalties,” attracts known terrorist groups. These groups use such violent and aggressive hunting methods that park rangers cannot protect the elephants or, in some cases, themselves. As a result, poached ivory has earned the name „blood ivory”.⁸

This form of crime is so widespread that it presently threatens the political and economic stability of several developing African nations.⁹ A lot of African countries suffer at the same time from terrorism, poverty and crime, including poaching, and the trafficking of elephant tusks and rhino horns associated with it. Special literature considers the poaching of certain symbolic species as an attack against a whole nation. The rhino, for example, embodies the rich natural heritage of South Africa. An attack against this animal „becomes an attack on the nation itself, economically, ecologically, and symbolically”.¹⁰

Poaching as a way to finance terrorism

Terrorism is fundamentally a political phenomenon, behind which there are both structural and psychological factors as well. Modernization and untreated social tension may create such conditions, that could bring terrorism into life. Korinek defined terrorism as “a methodical application of violence or threat thereof, appearing in various forms, influenced by a different system of ideas, and obeying a peculiar logic, the aim of which is to reach political goals by forcing a compromising behavior on the victim, on the spectators, on the state or on society. The advertised goal is usually the forcing of radical changes of a political, ideological, religious, ethnic etc. nature, a series of activities applied to arrive at their goal. However, the means, as far as their legal point is concerned, are legal and violent criminal acts.”¹¹

Material resources are needed to execute a terrorist act. If the perpetrators do not have sufficient assets, then they need to obtain the missing money from an external source. Terrorist organizations are very diverse today, but they are all identical in one sense: they require material resources to organize and execute the attacks. Financing terrorism includes all activities during which one provides, in a direct or indirect way, resources that help realizing terrorist attacks.¹²

Wildlife poaching is a very lucrative, but the least risky criminal venture. Besides the huge profit, this is the other reason why it is a perfectly comfortable income for financing terrorism. Some terrorist organizations are funding their activities from

⁷ Venter, C. (2003): Organized crime: A perspective from South Africa. In J. Albanese, D. Das, & A. Verma (Eds.): Organised crime: World perspectives (pp. 379-391) Upper Saddle River, NJ: Prentice Hall.

⁸ Manley, Morgan V.: The (Inter)National Strategy: An Ivory Trade Ban in the United States and China. *Fordham International Law Journal*, Vol. 38, Issue 5 (August 2015), pp. 1511-1586.

⁹ Greg L. Warchol, Linda L. Zupan, Willie Clack: Transnational criminality: an analysis of the illegal wildlife market in Southern Africa. *International Criminal Justice Review*, Volume 13, 2003, 1-27 p.

¹⁰ Elizabeth Lunstrum: Green Militarization: Anti-Poaching Efforts and the Spatial Contours of Kruger National Park. *Annals of the Association of American Geographers*. Published online: 04 Jun 2014, <http://www.tandfonline.com/loi/raag20>.

¹¹ Korinek László: A terrorizmus. In: Gönzöl Katalin, Kerecsi Klára, Korinek László, Lévy Miklós (szerkesztők): *Kriminológia-Szakkriminológia*. CompLex Kiadó, Budapest, 2006, 446. p.

¹² Gál István László: Bejelentés vagy feljelentés. A pénzmosás és a terrorizmus finanszírozása elleni küzdelemmel kapcsolatos feladatok és kötelezettségek. *Penta Uniós, Pécs*, 2013, 14. p.

poaching, and from the associated illegal trafficking. Wildlife trafficking is not an isolated trade. It is often part of a larger network of organized crime that involves drugs, guns, and people smuggling.¹³

Wildlife crime is a global issue that does not only threaten the environment, but the huge profit it offers turns it into a threat equal to drug-trafficking and gunrunning.

„The obvious and easily-acquired financial success of poaching and trafficking syndicates may have impelled some cash-strapped terror organizations to follow suit. After all, targeting wildlife is an easy way to make quick money. The animals are fairly easily accessible, defenseless against modern weapons and their parts yield vast sums for the purchase of weapons and other materials. So terrorists or those poachers they employ enter national parks and wildlife habitats on horseback or in vehicles, butcher numerous animals and disappear „like the wind“. This notorious linkage between poaching and terrorism raises wildlife killing to the level of a matter that is important for the national security of many states primarily those in the Western and democratic Asian world that are specifically targeted by terrorists. Their aim is apparently to destabilize entire societies and harming civilians is one method frequently used to increase the terror.”¹⁴

The killing of wildlife has become a route to finance and fund the killing of human beings.¹⁵ „Terrorist organizations require a constant and dependable source of funding, both to retain loyalists and to pay for their operations.” One of the most efficient ways to fight against terrorist organizations is to cut them from these sources of funding. It needs to be realized that the safety of mankind is closely connected to the safety of wildlife.

Dangers of poaching in Europe and in Hungary

Illegal wildlife traffickers are present in Europe, and thus, in Hungary as well, but poaching there entails entirely different (but in certain cases, somewhat similar) dangers as opposed to, for example, in Africa. As a result, the legislator codified unauthorized hunting as a criminal offense during the creation of the new Criminal Code, as opposed to its earlier status as a minor offense. Poaching violates many different interests. Examining these all together helps to understand it as a complex source of dangers.

Dangerous situations, attack against functionaries and public officials

Many of the poachers carry on with their activities for years. It is not about accidental, one-time theft, but a series of well-planned, well-conspired poaching. This process then often has serious consequences regarding the wildlife, foresters, hunters and of course, the poachers themselves. As poaching regularly leads to dangerous situations. By not registering in the safety areas – maintained by those who are entitled to hunt –, the poachers are already creating a risky situation just by wandering around in these areas.

One cannot say that in Hungary, poaching has a direct connection to terrorism, but due to the vast profit, organized criminal groups have already occupied this scene.

¹³ Dr. Ranee Khooshie Lal Panjabi, (2014) 1-92 pp.

¹⁴ Dr. Ranee Khooshie Lal Panjabi, (2014) 1-92 pp.

¹⁵ Dr. Ranee Khooshie Lal Panjabi, (2014) 1-92 pp.

Poaching produces dangerous criminals, who often attack state-employed professional hunters. They obtain the most sophisticated firearms, and most improved war gear, like night vision aiming devices fitted on the telescope of a gun. Illegal gunrunning creates dangerous criminals who can threaten the safety of the state as well. All this warns us not to underestimate the danger resulting from poaching, a danger threatening not only the environment and nature, but also public safety.

The poacher is a dangerous enemy of professional hunters, water bailiffs and wildlife rangers. There are no witnesses in the woods, no help can come, a cry for help or a shot gets lost in the thick forest, it dies in the night, gets swallowed by fog, along with the armed poacher. In certain cases, poachers, instead of taking responsibility for crimes like poaching and illegal possession of firearms, rather commit a more severe crime and threaten the life of another person.

Professional hunters, water bailiffs and wildlife guards are obligated to act against poachers, which is not without any dangers at all.

It is quite difficult to catch a poacher red-handed, as they are on the move all the time, changing their hide, and usually avoid to appear at the same place more than once. The weapon they might carry with them is more dangerous than any other tool. Catching and disarming a poacher can be very dangerous. On the hunting-ground, a professional hunter can expect no help whatsoever. There are no witnesses around, so poachers rarely hesitate to use their weapons. Professional hunters and water bailiffs are in a tough situation – if they let the poacher go, they violate their oath and obligations, whereas if they employ force as expected, they risk their own life and safety. When using a weapon, they even have to consider the risk of the court sentence, if they cannot prove the necessity of lawful self-defense.

In this respect, we need to mention the wildlife ranger service, which operates in Hungary with members having uniforms and service weapons for the sake of guarding, of protecting and preventing the damaging of natural values and areas, especially of those under preservation. A member of the wildlife ranger service is an official employed by the state. During their service, wildlife rangers are required to take action if they notice any behavior, offense or crime violating or threatening the interests of nature protection.

According to the estimation of the President of the International Ranger Federation, during a single decade, 1000 rangers have been killed in 35 countries, but the real global number may be between 3-5000.¹⁶ So wildlife protection is a “huge national security issue.” Poachers have committed life-threatening crimes against professional hunters and rangers many times in Hungary as well. All this was a sign for the legislator, to regulate the phenomenon of poaching in a stricter way.

Gunfight on the hunting-ground

It has already occurred in Hungary as well that poachers attacked a professional hunter with illegally obtained firearms, which lead to a gunfight in the woods. The High Court of Justice published a guiding decision saying that as using lawful self-

¹⁶ Ruthless Crime Gangs Driving Global Wildlife Trade, Hindustan Times (India) (Sept. 3, 2013), <http://www.hindustantimes.com/world/ruthless-crime-gangs-driving-global-wildlife-trade/story-8tLDPxMuXPAYUe8mjfB1qJ.html>.

defense, the professional hunter, who averts the unlawful attack against his or her life by killing the poacher, cannot be punished for his or her act. The accused person in the case was the professional hunter of the hunting-ground, who lethally shot a poacher who was caught in the guarded hunting-ground, and attacked the hunter with his company.

The shot fired in the direction of the professional hunter understandably formed the realization in the accused that his attackers wanted to kill him. From this viewpoint, the circumstances in which the events took place must also be considered. The dark of the night, the beam of the searchlight pointed at him, the call saying that he will be shot, being outnumbered by the attackers, the threats repeated in short periods of time and in short sections of the road provided objective conditions for the formation of the contents of consciousness of the accused. The threatening situation had been maintained during the firing of all four shots, and his behavior aiming to avert the attack was necessary and proportionate with what the attack could have resulted in. Considering all of the above, the court acquitted the accused holding a professional hunter's position of the charges raised against him regarding voluntary endangerment committed in the line of duty resulting in death.¹⁷

Poacher in the prisoner's box

In another case, the court was deciding about a poacher attacking a professional hunter. The accused had been hunting without permission using an illegally obtained firearm. He obtained many weapons, so he had a pistol as well. The accused had previously been an enlisted, and later, a contracted soldier, and received sharpshooter-training. The accused had no official permit for either obtaining or keeping the pistol or the ammunition. The accused appeared in the area of the hunters' club in the middle of March, 2012, in the early morning hours, with his muzzle-loader gun to poach. The accused killed a hind of deer and a roe with the gun, in spite of not having a hunting permit, and also it was not open season. At this time did a professional hunter of the area and his companion arrive to the scene where the accused was gutting the deer killed by him? The accused became aware that the deer bodies had been discovered, so he decided to kill the injured with his pistol. One of the injured died from the pistol wounds, the professional hunter survived the attack. The court found the accused guilty in the crimes of repeated manslaughter, of abusing firearms and ammunition, and of attempted theft.¹⁸ The court sentenced the accused to incarceration for life as a cumulative sentence. The aim of the accused was to kill the injured in order to prevent them from reporting his poaching to authorities, and this qualified his action as aggravated.¹⁹

Poachers today are using the most advanced techniques as well. They have silenced weapons and telescopes with night vision mode, in order to avoid attention that spotlights get. Sometimes they even use bow and arrow.

Maybe it is natural that during fishing and hunting, people always tried to use the most advanced tools possible. After their appearance, firearms quickly spread from theaters of war to hunting-grounds. But today, the technology got so advanced, that

¹⁷ Bírósági Határozatok 2000.42.

¹⁸ 1978. évi IV. törvény (former Criminal Code) 166. § (1), (2) c), f), 263/a. § (1) a), 316. § (1), (4), a).

¹⁹ Pécs Courthouse 12.B.338/2012/31., High Court of Appeal Pécs Bf.I.51/2013/.

society is forced to control itself when using it, as it is endangering the preservation of nature in its original form, and of wildlife. Forbidden hunting and fishing methods and tools also belong under this scope.

Among hunters, the judging of so-called night vision accessories is not uniform. Many consider these as unbecoming for hunting, or unethical, while others would enable their use arguing for safe hunting. Their use is not lawful, even if their possession is, as hunting law qualifies hunting with an electronic optical device as the violation of the order of hunting, which is considered as an offense punishable with administrative sanctions, and may result in the cancellation of the hunting permit for two years.²⁰

All in all, poaching establishes an organized and desperate criminal circle, whose members possess the most advanced weaponry and military devices, and point them sometimes at the protectors of wildlife.

The damages of poaching on nature preservation

The question arises whether hunting has any relation to nature preservation, as this needs to be cleared up before stating anything regarding poaching itself.

There are two main viewpoints in public opinion. According to one, hunting and nature preservation are two things that cannot be reconciled. Hunting involves the destruction of a part of wildlife, so it cannot be anything else than an activity opposing the preservation of nature. The shooting of innocent animals, the killing of the peaceful little fawn is the most cited argument. This viewpoint is mostly based on emotional grounds, but it cannot be ignored. Most people approach hunting from the side that represents their love for the animals, and reject it because of the destruction of the beloved beings. Their knowledge about the biological, ecological and natural processes are quite shallow. However, it is without doubt that in certain parts of the world, ruthless and unscrupulous hunting contributed to the extinction or huge decrease of certain animal species. In certain areas of Hungary for example, the native otter population is clearly driven back by poaching. Poaching can be an actual threat for the survival of certain species as well.

According to the other viewpoint, hunting and wildlife management is also an act of nature preservation, where hunters ensure the survival of those species living in the wild that can be hunted. The way hunters are judged is primarily ushered towards the impression of doing nature preservation by the over-emphasis of wildlife protection. This viewpoint also has its own truth. The role of the hunters in the sense of nature preservation, when it comes to preventing the overpopulation of wild animals – for lack of natural predators – by simulating natural selection via sorting, is definitely positive. The establishment of open seasons is undoubtedly a serious long-term hunting interest, that entails nature preservation.

Eco-terrorists

Certain organizations are conducting violent preservationist campaigns against companies that otherwise operate legally, or at the border of lawfulness, with the aim

²⁰ Polt Péter (editor.): Új Btk. kommentár 6. kötet, különös rész. Nemzeti Közszerkeleti és Tankönyvkiadó, Budapest, 2013. Gál István László: Haditechnikai termékkel vagy szerkelettel visszaélés (Btk. 329. §), 65-69. p.

of protecting endangered species. An example of that are the activities of those organizing attacks against the Japanese whale-hunting fleet. The organizers of actions of such contradictory nature get a lot of supporters, but also condemnation from governments, and are often labeled as “eco-terrorists.”²¹ This expression tries to turn the public opinion against the activities of these organizations by referring to the word “terrorist”.

In my opinion, one can use the expression “eco-terrorist” on those associations calling themselves “green organizations” that conduct attacks against vehicles and tools (for example, high-stands) of state hunting authorities and professional hunters. Such activities are illegal, and come from a fundamentally wrong attitude, as the state-regulated hunting activity is at the same time a very important activity of nature preservation.

For example, a hunter is preserving nature when protecting natural habitats, when protecting species that one could once hunt, but that are now very scarce, when eliminating landscape wounds, when performing natural agriculture, silviculture and wildlife management, and when reconstructing habitats.²²

Consideration of nature preservation is also present in the provisions concerning hunting equipment, close seasons, and the protection of wildlife in general. During wildlife management and hunting, the enforcement of the interests regarding the preservation of nature and maintainable usage must be ensured, which means the maintenance of the biological diversity of the in-season species living in the wild. As a result, the hunting of the in-season wild species can be allowed only to such an extent that is not endangering the diversity and survival of the natural stock of the species.²³ Hunting can make a serious contribution to the preservation of nature by creating the appropriate balance between species, by preventing the overpopulation of certain species, which can help preventing also the spreading of diseases and damage to plant-life.

These points of contact to nature preservation fall outside of the activities of poachers. Neither natural wildlife management, nor the protection of the off-season species, nor the keeping of the preservation-motivated hunting seasons are characteristic of the poacher.

Making wildlife-management impossible

The treacherous, forbidden and uncontrollable activities of a poacher endanger wildlife and the interests concerning the order of hunting, and at the same time, violates the lawful right of those entitled to hunt to wildlife management and hunting.

Based on the Hungarian law on hunting, any activity concerning the protection of wildlife stock and its habitat, and the regulation of wildlife stock qualifies as wildlife management.²⁴

²¹ Roeschke, Joseph Elliott: Eco-Terrorism and Piracy on the High Seas: Japanese Whaling and the Rights of Private Groups to Enforce International Conservation Law in Neutral Waters [comments] *Villanova Environmental Law Journal*, Vol. 20, Issue 1 (2009), pp. 99-138.

²² Kovács M.: Vad és természetvédelem. In.: Bán István (szerk.): Vadászetika. Lipták Kiadó, Budapest, 1996, 215-221. o

²³ Bezdán A.: A vadászat természetvédelmi vonatkozásai. *Jogelméleti Szemle*, 3 (1) 2007, 1-25. o.

²⁴ A vad védelméről, a vadgazdálkodásról, valamint a vadásatról szóló 1996. évi LV törvény 40. §.

Its aim is to formulate, maintain and rationally utilize an appropriate wildlife stock. All this has to be realized in accordance with agriculture, silviculture, with the preservation of the environment and nature.

Modern wildlife management and hunting require by all means a scientific grounding. Without the very thorough knowledge of the habitat, behavior, biology and essential conditions of the wild animals, wildlife management cannot be conducted today in an effective and refined way.

The goals of wildlife management include that the wildlife stock needs to be preserved for the future generations, and it needs to be improved within rational bounds as well. One needs to be especially careful with wild species, the stock of which is dropping for certain factors.

Poaching causes unmeasurable damages in this regard as well, as snares and traps kill without selection, and catch animals that stumble into them. Perpetrators are not motivated either to professionally kill for the sake of wildlife management when using a firearm, but to kill the game as fast as possible without being caught in the act. Poachers usually are not even familiar with the factors, principles and regulations that need to be considered when shooting a wild animal.

One can easily see the way how poaching makes it impossible for hunting companies, forestries and other organizations entitled to hunt to practice and plan their management, poaching being a factor which might be even harder to predict than the weather itself.

Not conforming to rules of animal protection

Hunters respect the game, and adhere to the written and unwritten rules of hunting as a profession, the methods and instruments of hunting, the hunting regulations and traditions.

However, it does not interest a poacher that it is forbidden to torture an animal. When killing the game, one needs to make the agony of the animal as short as possible. Game needs to be killed with a shot causing swift and immediate death out of consideration. However, the wire trap frequently used by poachers for example does not cause immediate death, so during the long death-struggle, infection or sepsis may occur. If the wild animal frees itself and survives the trap or snare, sometimes the infected limb mortifies, and the animal becomes crippled.

It is a fundamental hunting rule that hunters are required to track down the game that had been wounded by them, or which is otherwise seriously ill, in order to be able to kill it. After a shot taken hastily, from too far and in an uncomfortable pose, the chance is bigger that the game will flee wounded. As the search for blood traces would take too long, poachers do not spend the time with tracking wounded animals. All this leads to the unnecessary suffering of the animal.

Risks of poaching on food safety

All in all, poaching has a risk on food safety due to putting game meat on the market without the authorities checking it. Poachers today are shipping for kitchens as well, and often sell a kilogram of meat for one quarter of the actual market price, illegally. The issue brings up public health problems as well. It may happen that pathogens of dangerous illnesses are in the meat, the signs of which can only be recognized by specialists on the killed animals.

Poaching for game and fish in the Criminal Code

The statement of facts for the crime of poaching first appeared in the criminal code in force at the moment in Hungarian law, which legislation has been put into force on 1st July 2013.

Any person who:

a) is engaged in activities for the killing or capturing of wild game on a hunting ground without hunting right, or as a hunter on the hunting ground of others without authorization,

b) kills or captures during the close season for game – provided for in specific other legislation covering all species of game – any wild game of that species,

c) is engaged in activities for the killing or capturing of wild game, or any vertebrate animal under special protection or any protected animal using unauthorized hunting equipment and methods provided for in specific other legislation, or on restricted hunting grounds, is guilty of a felony punishable by imprisonment not exceeding three years.²⁵

The new statement of facts means a significant change in the Criminal Code because it already orders the untitled hunting as punishable, independent from its effectiveness. When poaching is effective, and a game is killed, then the guiltiness of the perpetrator can be decided in further crimes, such as theft, abuse of firearms, abuse of forbidden military equipment, and damaging of nature. When attacking a professional hunter, the poacher commits violence, assault or murder against a public official.

Money laundering

The income coming from illegal hunting may become so large as a result of the activities of organized crime groups, that perpetrators may be forced to whiten their profit from this source. Money laundering is an illegal service which converts a “dirty” sum of money coming from an earlier crime into a sum that seemingly arrives from a legal source. The goal of the exercise is to make the illegal origin of the money unidentifiable.²⁶

This means that the money launderer returns the illegal income into the legal economy, and by doing this, strives to avoid the attention of investigators or the tax authorities. The fact that the illegal income from poaching is injected into a seemingly legal enterprise, means a competition for members of legal economy that is impossible to overcome. Such “entrepreneurs” get a competitive advantage in the business, who obtained part of their capital through criminal activities.²⁷

It is easy to see that out of two restaurants or butchers, the one obtaining ingredients from poachers for a small fraction of the market price will be able to offer game courses or game meat on a better price.

Poachers are responsible for money laundering by injecting their illegal income into the legal economy, but even when the direct result of poaching, fish, game meat is

²⁵ Criminal Code 245.§

²⁶ Gál István László: Bejelentés vagy feljelentés? A pénzmosás és a terrorizmus finanszírozása elleni küzdelemmel kapcsolatos feladatok és kötelezettségek. Penta Unió, Pécs, 2013, 5. p.

²⁷ Gál István László (2013) 5. p.

given to restaurants, or trophies given to ornament-makers so that their origin would become untraceable in the future.

Financing terrorism in the Criminal Code

Terrorism is a form of crime, and one of its most severe and dangerous forms. Thus, terrorist organizations are not afraid from committing other crimes. This usually has a smaller risk than the terrorist acts, as the sentence is less severe in such cases. Terrorists usually prefer such types of crime which bring a large income in a short period of time. Maybe the most preferred of these is drug trafficking, but serious sources of profit are kidnapping, human trafficking and money laundering as well.

The new Hungarian Criminal Code put in force on 1st July 2013 regulates the financing of terrorism in a separate statement of facts. Based on Section 318 of the Criminal Code, “any person who provides or collects funds with the intention that they should be used in order to carry out an act of terrorism, or who provides material assistance to a person who is making preparations to commit a terrorist act or to a third party on his behest is guilty of a felony punishable by imprisonment between two to eight years.” The value that is damaged by this crime is public safety, just like in the case of terrorism or poaching.

Fortunately we have not met with a criminal case in Hungary yet, where the income from poaching was spent on financing terrorism by the organized criminal groups. But seeing the tendencies in the world, the crime-fighting authorities must be prepared for this possibility as well.

Conclusion

In certain places of the world, such trans-boundary problems appear together as illegal or excessive fishing, trafficking of drug and people, piracy and terrorist threats.²⁸ Terrorist threat, drug trafficking, human trafficking based on migration and other crimes supervised by organized criminal groups are present in Europe as well. Poaching is also there due to the great abundance of game. Poaching creates dangerous situations, damages public safety, erodes the feeling of being safe in the public. Dangerous criminal groups are formulated, which possess the most modern weapons and other military equipment. Fortunately, poaching has no direct connection to terrorism in Hungary. We do not have direct evidence on the Hungarian poaching having a role in financing terrorism either. However, organized criminal groups sooner or later appear where the possibility of a great income.

²⁸ David Rosenberg, Christopher Chung: Maritime Security in the South China Sea: Coordinating Coastal and User State Priorities. *Ocean Development and International Law*, Vol. 39, Issue 1 (2008), pp. 51-68.