

International
Conference

International Perspectives on Preventing Wild Life Crime



Athens
23-25
November 2018

ILLEGAL TRADE OF BIRDS

A journey through Europa

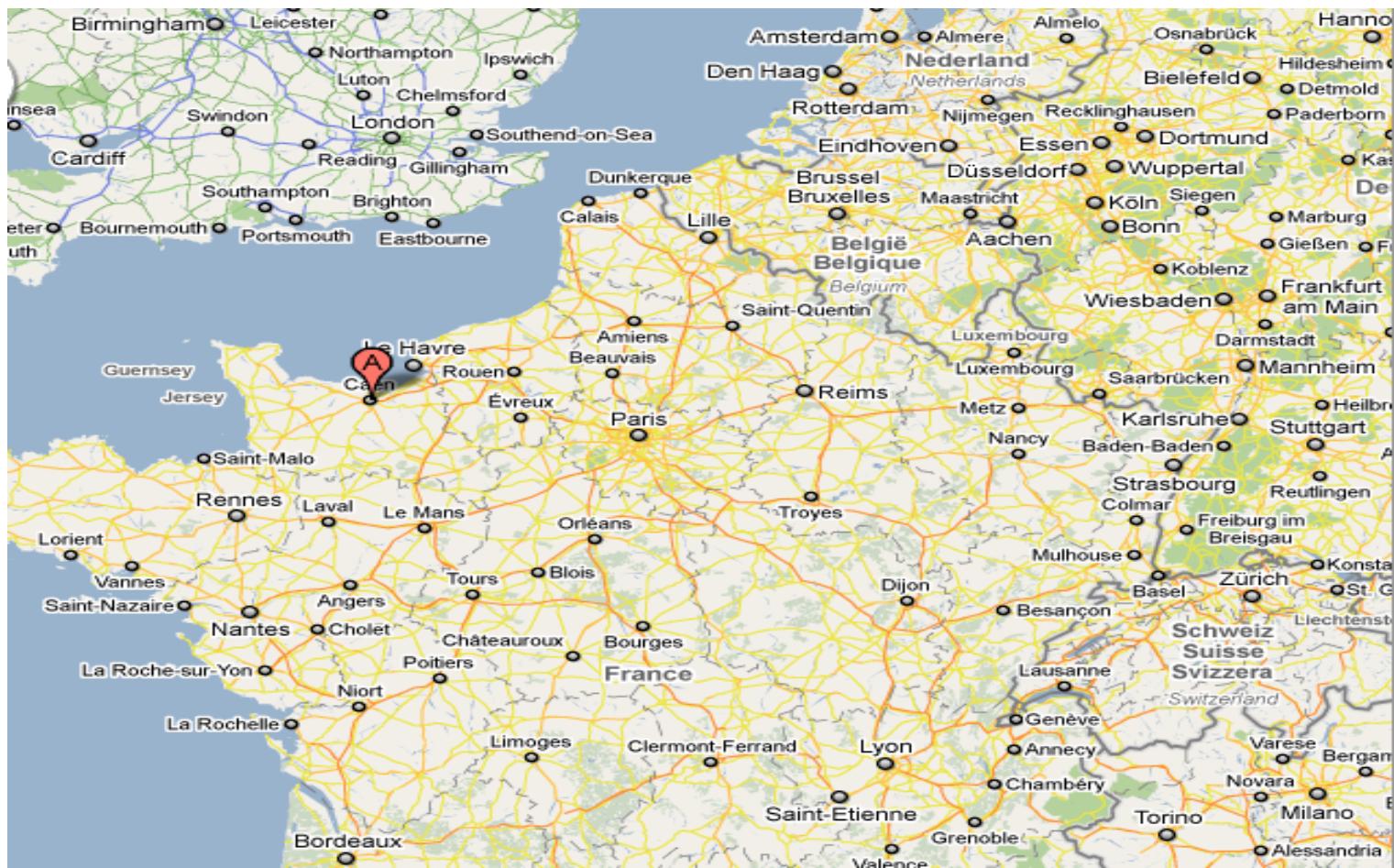
Jan Van den Berghe

Vice President Court First Instance East Flanders



Federal Public Service
Justice

.be



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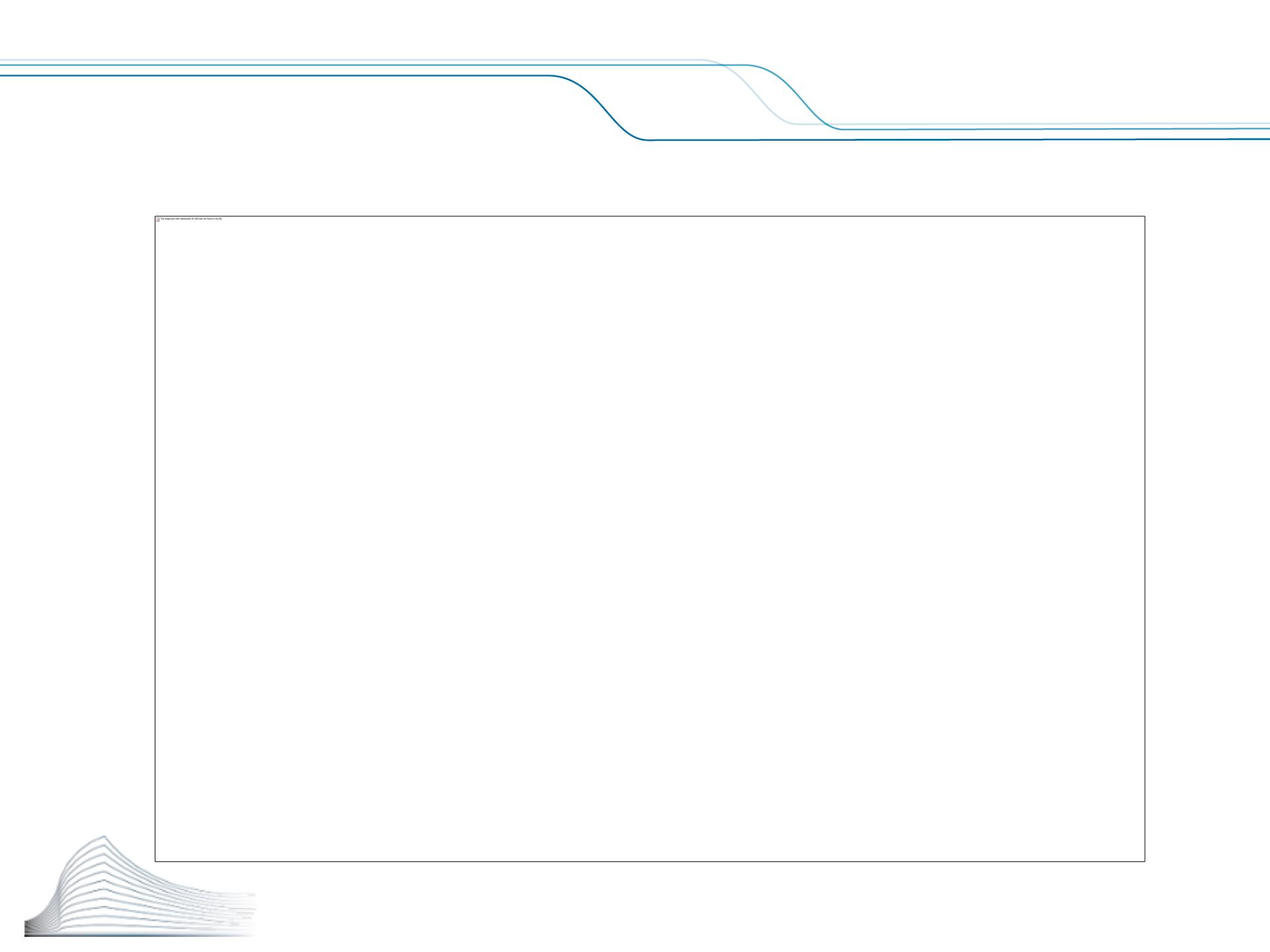


Branta Canadensis minima



Villysois. - [Een probleem melden](#)

Tribunal de Grande Instance Caen (Frankrijk)

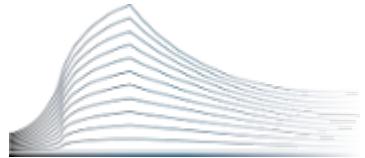




VERGY CASE

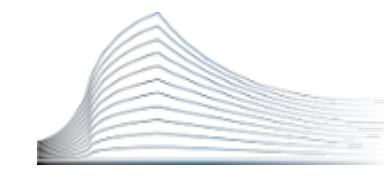
C-149/94

8/2/1996





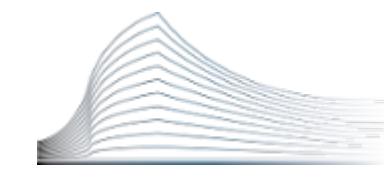
Directive 79/409 on the conservation of wild birds requires the Member States to prohibit trade in specimens belonging to a species of bird which is not listed in the annexes thereto in so far as the species concerned is a species of naturally occurring birds in the wild state in the European territory of the Member States to which the Treaty applies subject to the option to derogate provided for by Article 9.





The duty to provide such protection is unaffected by the fact that the natural habitat of the species in question may not occur in the territory of the Member State concerned.

The importance of complete and effective protection of wild birds throughout the Community, irrespective of the areas they stay in or pass through, causes any national legislation which delimits the protection of wild birds by reference to the concept of national heritage to be incompatible with the Directive.

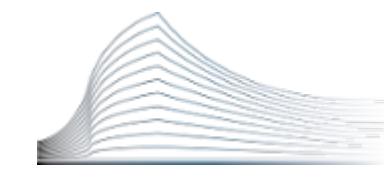


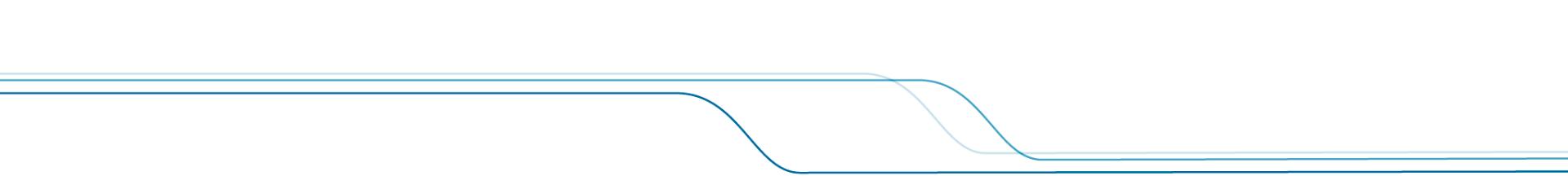


However, Directive 79/409 is not applicable to specimens of birds born and reared in captivity.

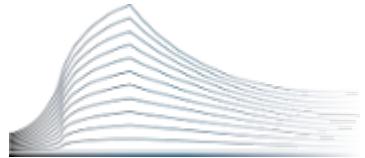
To extend the protective regime beyond bird populations present in their natural environment would not serve the environmental objective underlying the Directive.

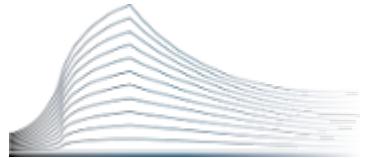
Furthermore, since the Community legislature has taken no action with regard to trade in specimens of birds born and raised in captivity, the Member States remain competent to regulate that trade, subject to Article 30 et seq. of the Treaty concerning products imported from other Member States.



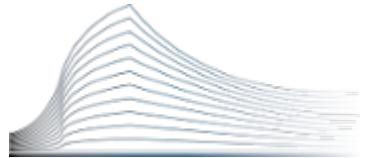
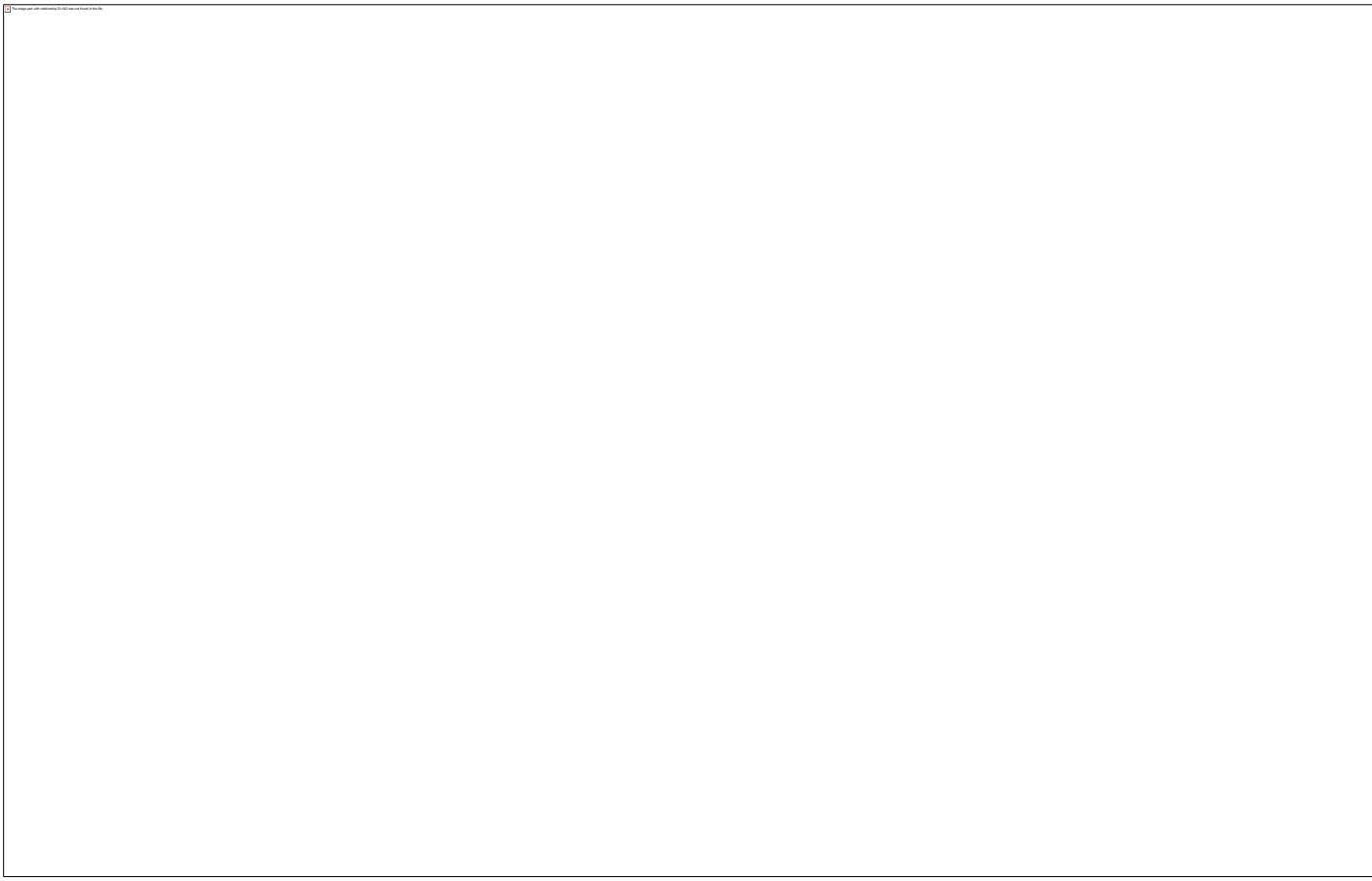


Bird laundering





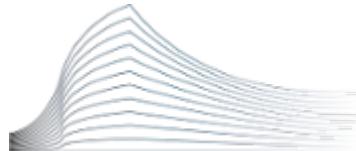


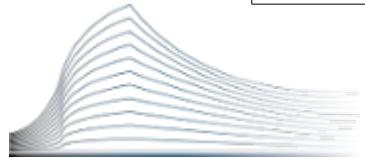
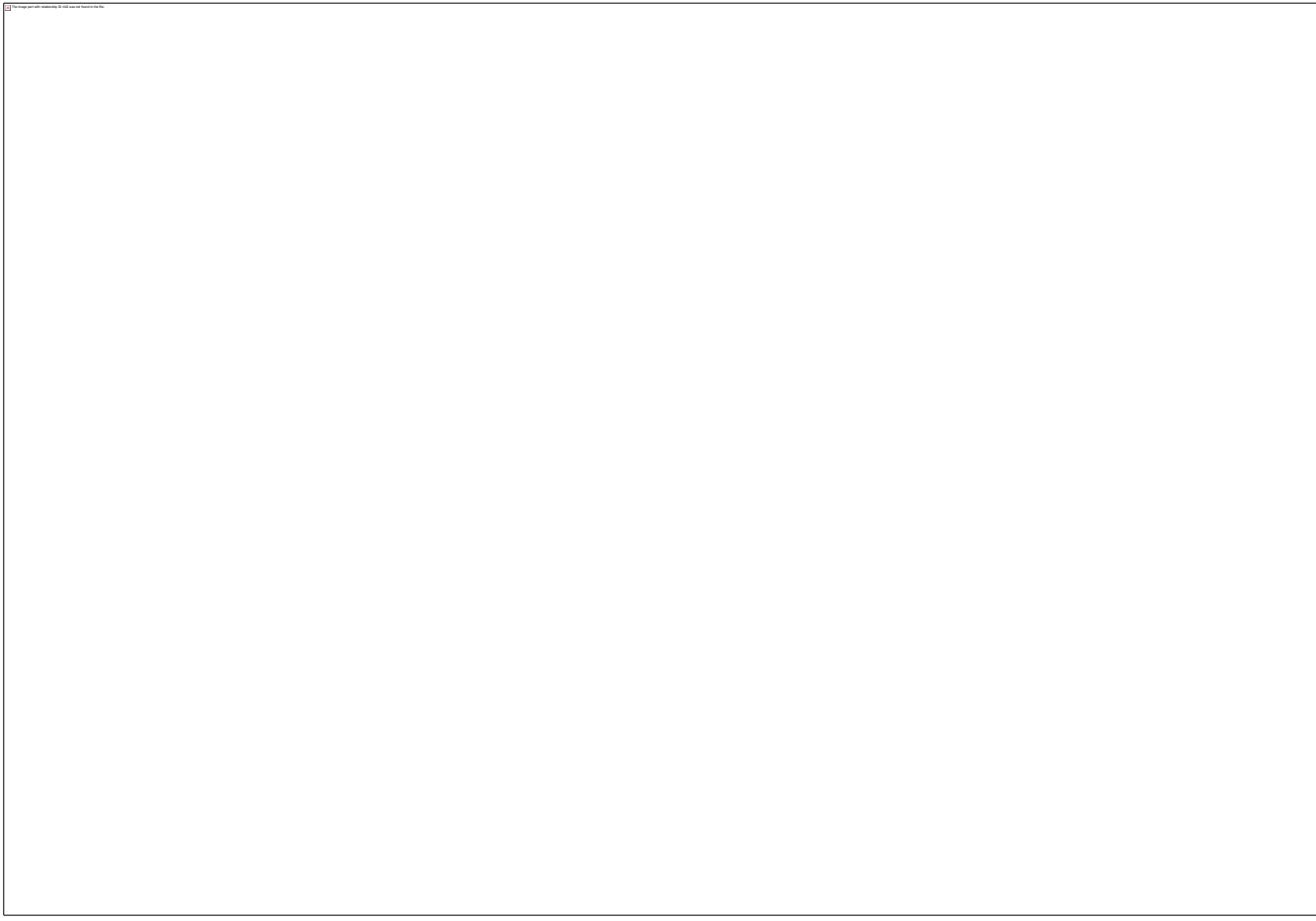




Extremadura April 17, 2004

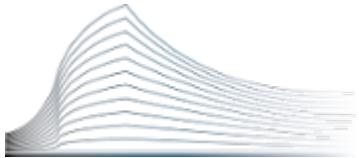
Arend Cornelis Kuiper
& Klaas Hein Walburg

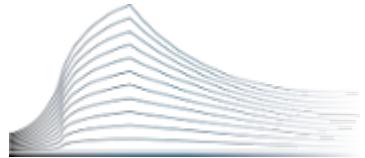




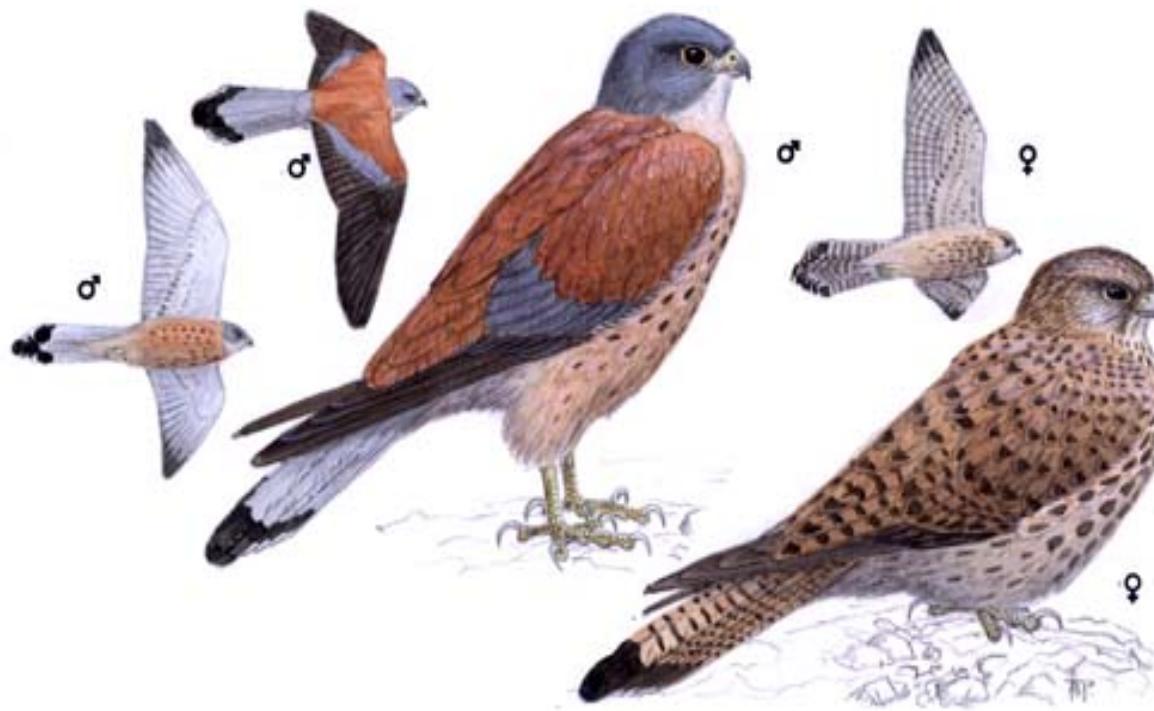


Pernis apivorus/Honey Buzzard/Bondrée
apivore / Wespendief: 2 Eggs





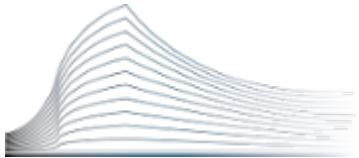
Milvus milvus / Kite / Milan royal / Rode wouw : 3
Eggs



Falco naumanni / Lesser kestrel / Fauco
crécerelette / Kleine torenvalk : 3 Eggs



Milvus migrans / Black Kite / Milan noir / Zwarte
wouw : 3 Eggs

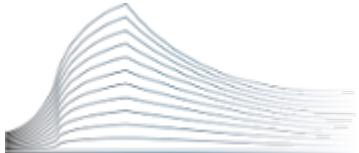


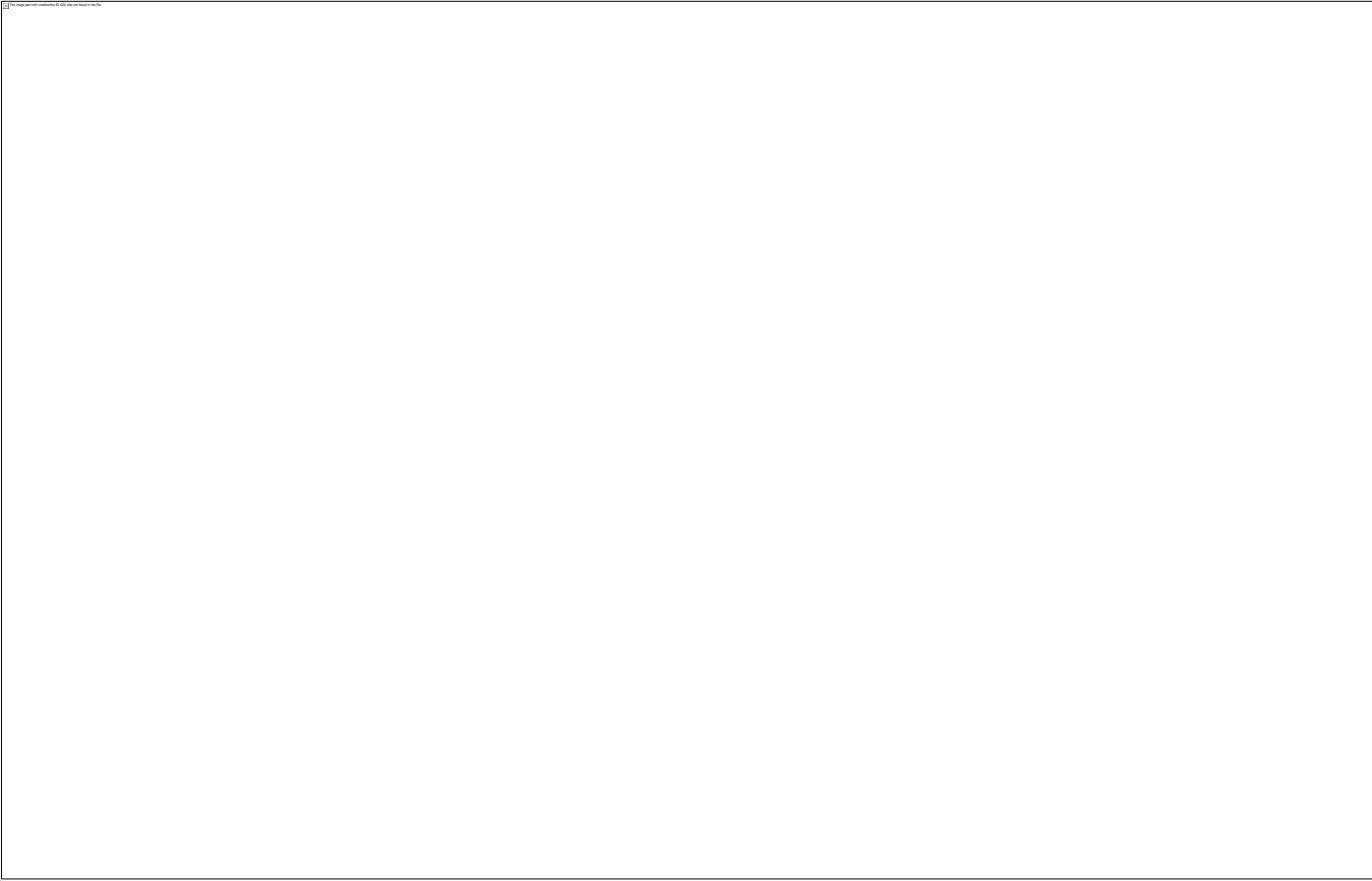


Buteo buteo / Buzzard / Buse variable /
Buizerd : 3 Eggs

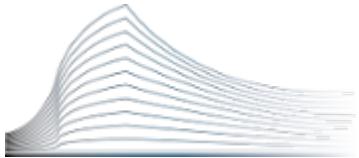


Hieraëtus pennatus / Booted Eagle / Aigle botté
Dwergarend : 3 Eggs



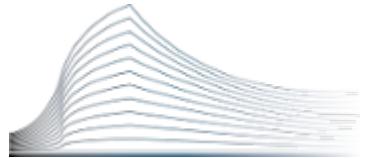


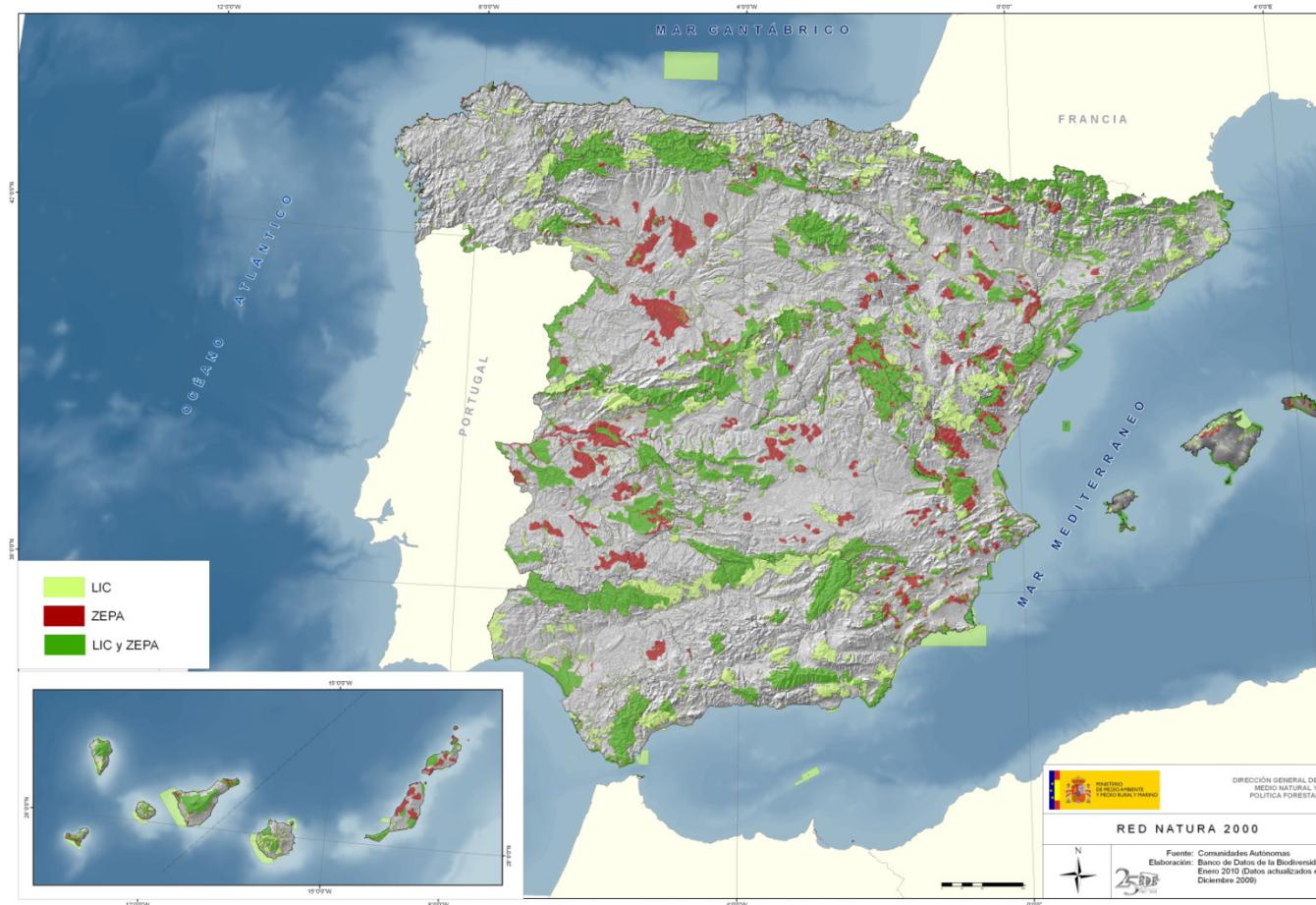
Egretta garzetta / Little Egret / Arigette garzette
Kleine zilverreiger : 114 Eggs

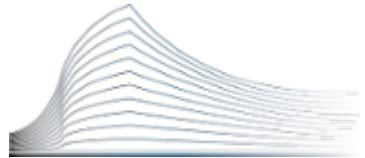


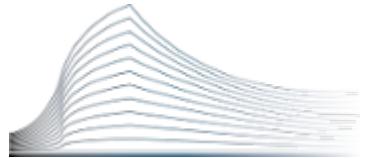
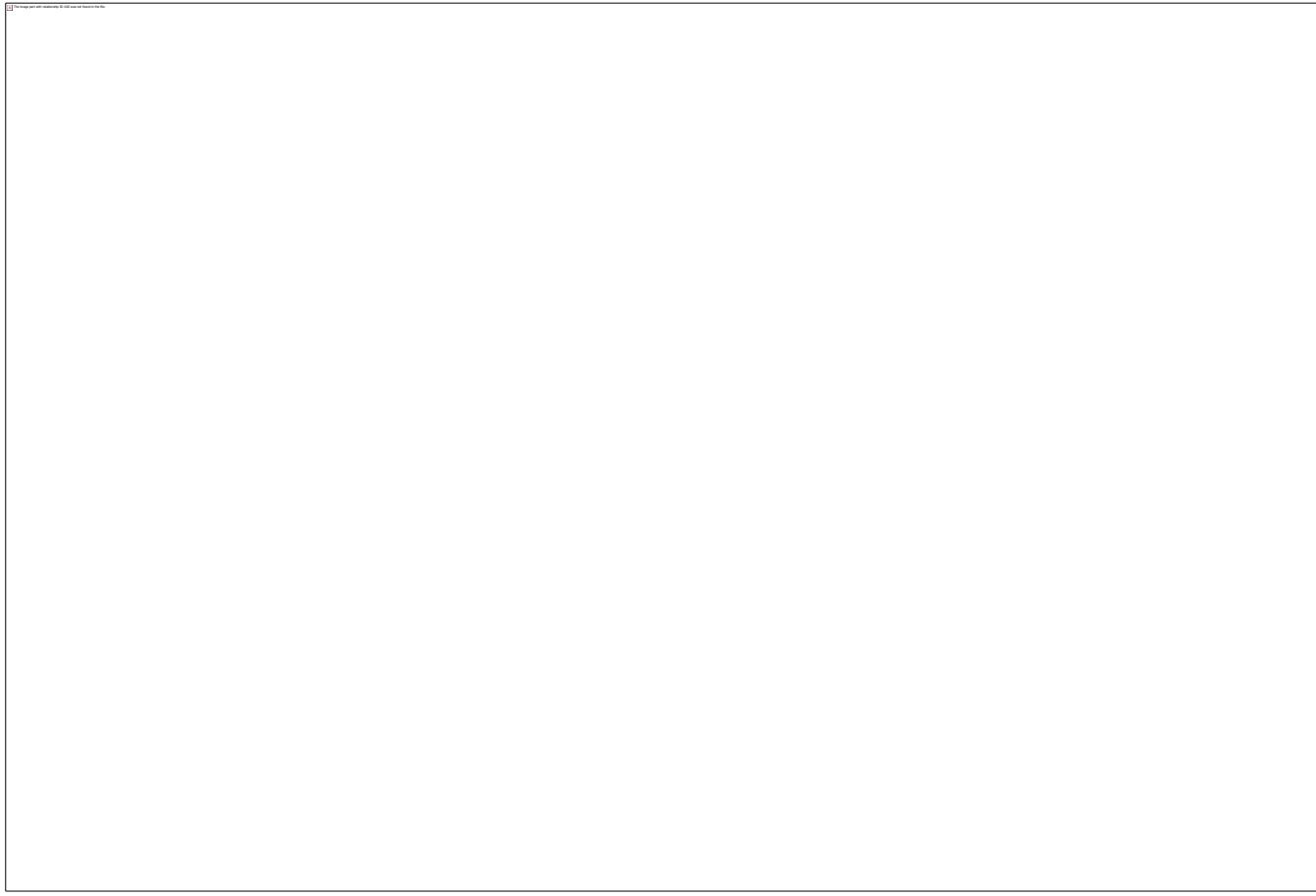


Luscinia / Nightingale / Rossignol philomèle
Nachtegaal : 8 Eggs







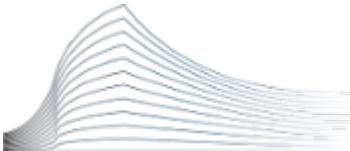


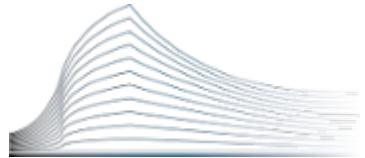
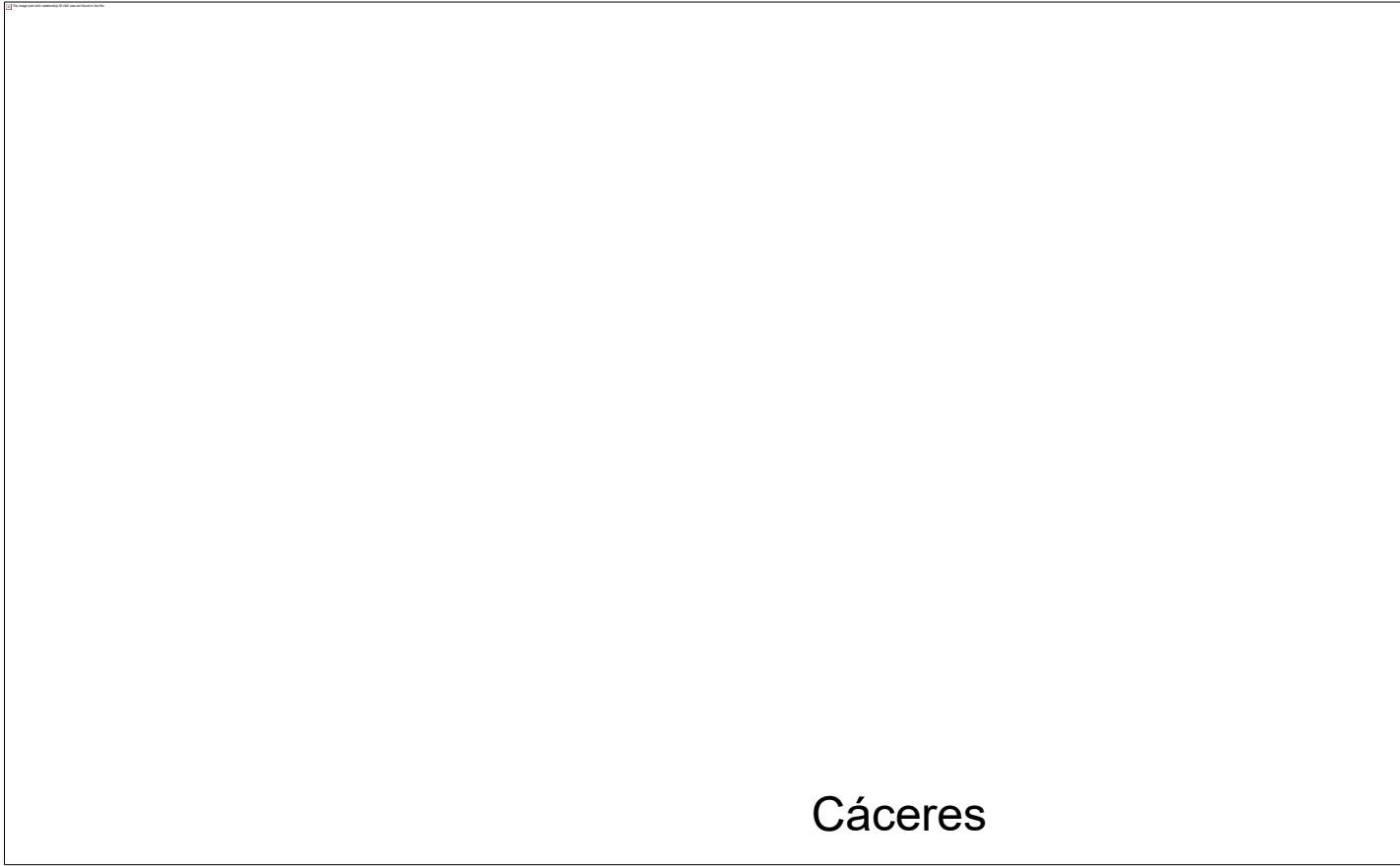


191 eggs

2 Honey Buzzard, 3 Red Kite, 114 Little Egret, 4 Corn Bunting, 8 Nightingale, 20 Azure Winged Magpie, 4 Great Tit, 3 Chaffinch, 2 Tree Sparrow, 3 Lesser Kestrel, 3 Booted Eagle, 3 Black Kite, 3 Buzzard, 2 Turtle Dove, 4 Song Thrush, 1 Mediterranean Gull
Only 9 had still living chicken in it !

Value : 413.676 EURO

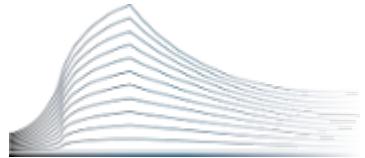


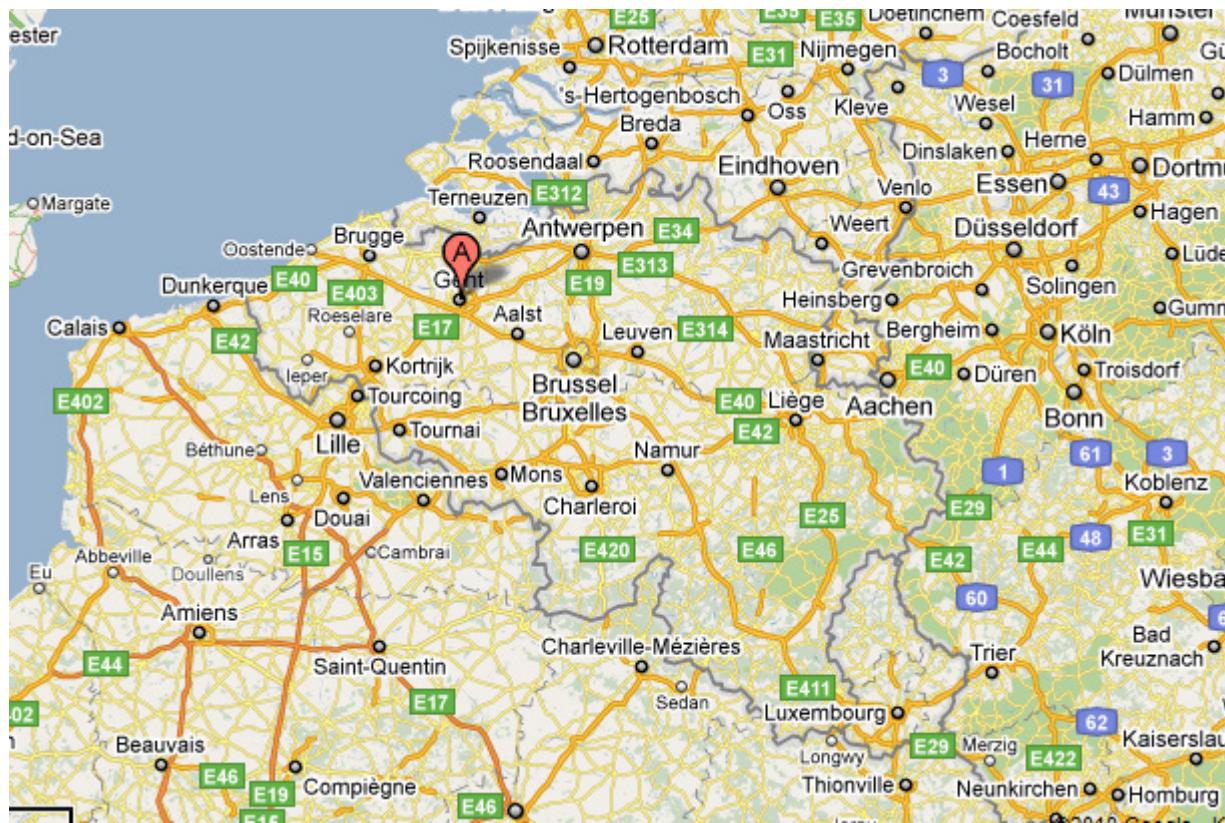




Criminal Court of Cáceres

Judgment N.312/ 2005 16/10/2005







Without closed ring: 5
euro

With closed ring: 20-25
euro

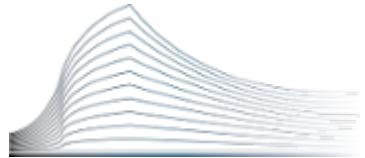
Carduelis spinus/Siskin/Tarin des aulnes/Sijs



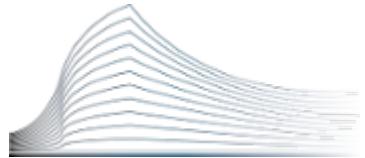
without closed ring :10
to 15 euro

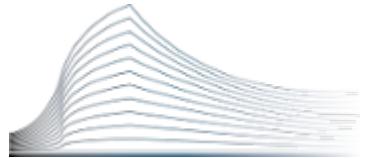
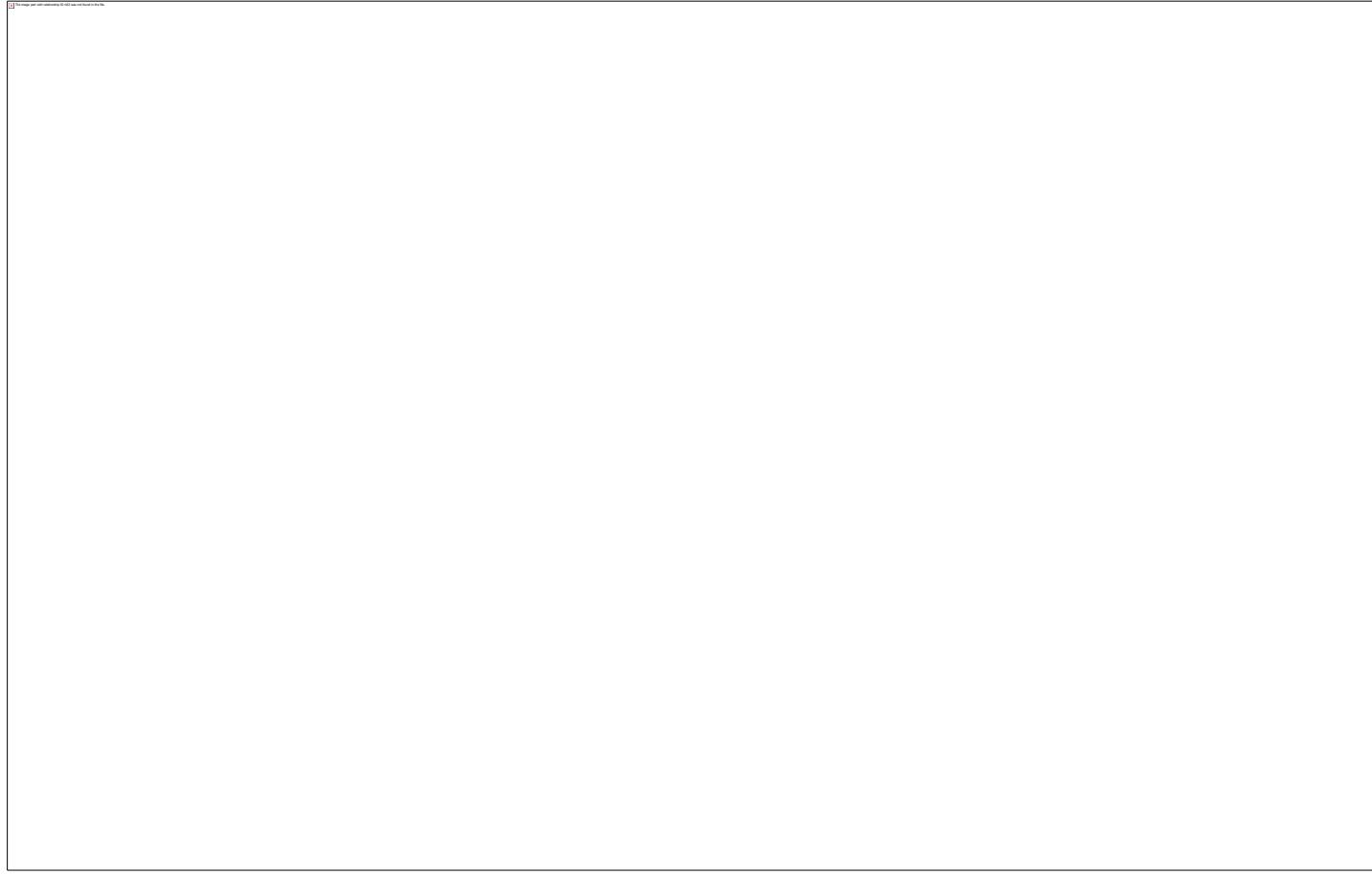
With closed ring: 45
euro

Carduelis
carduelis/Goldfinch/Chardonneret/Putter



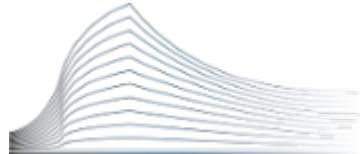


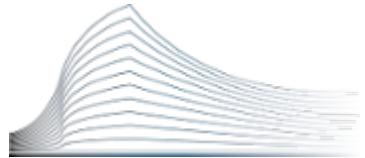
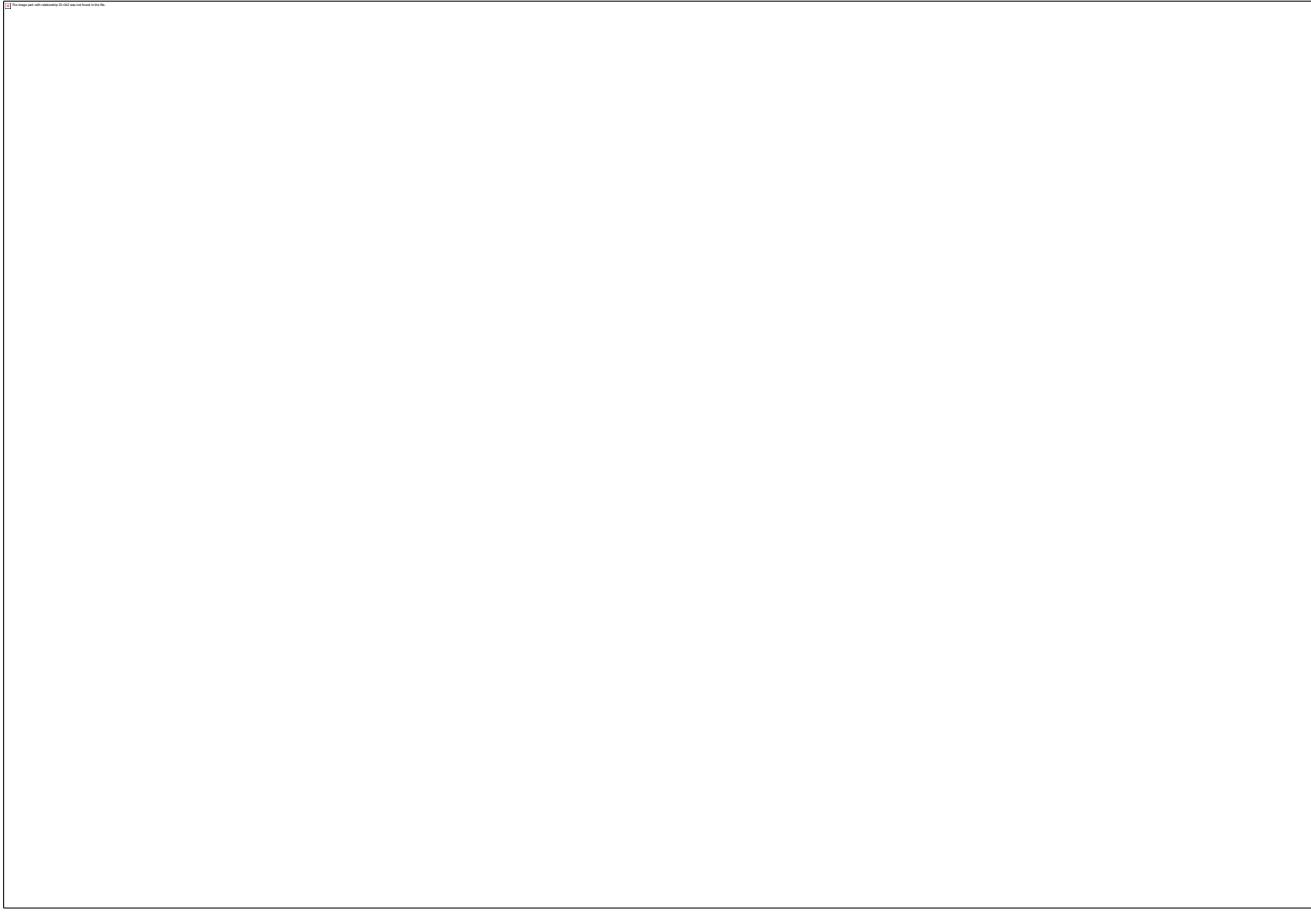


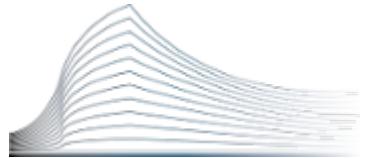
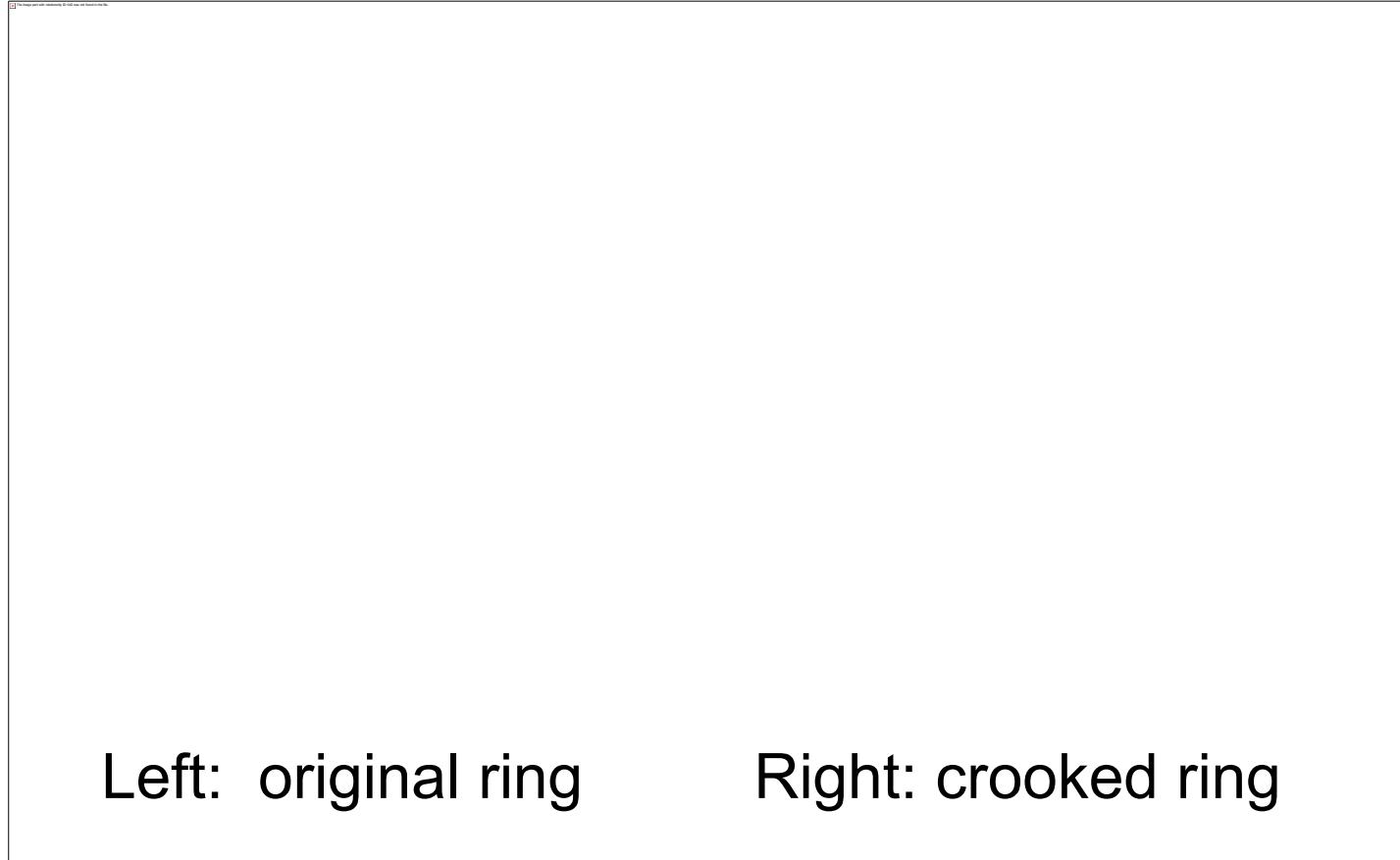




Call birds: *Coccothraustes c. Hawfinch*
Gros-bec Appelvink

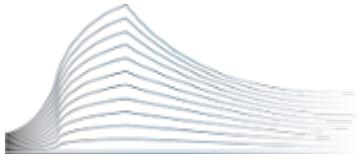


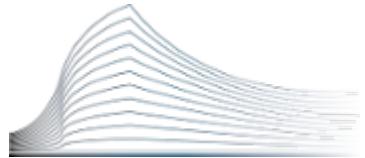
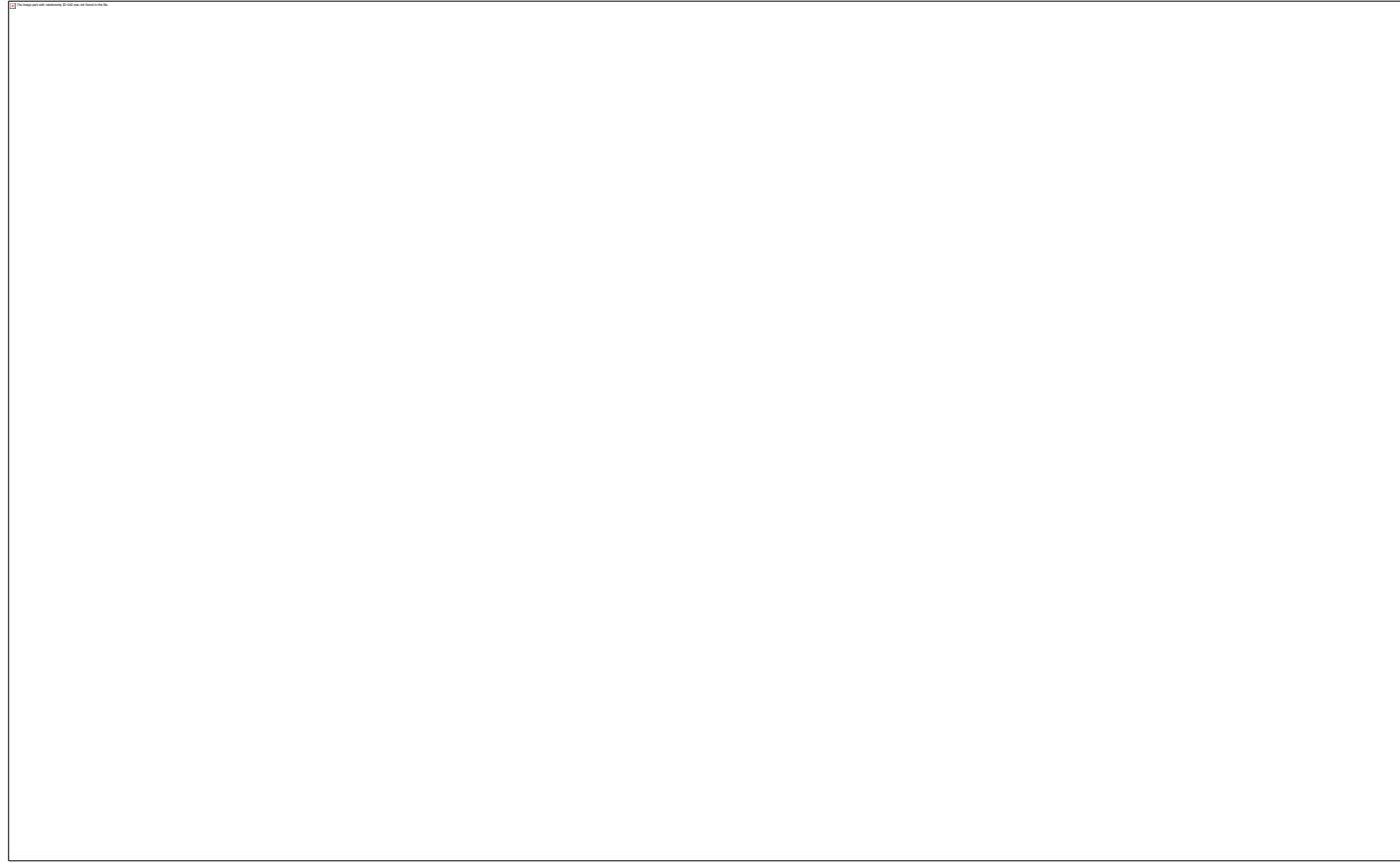


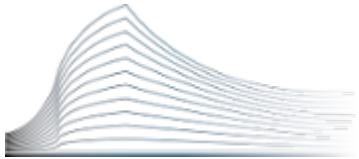




Tools used to enlarge inner diameter of ring

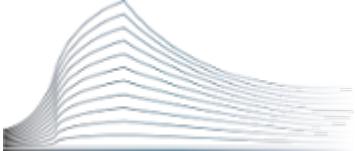






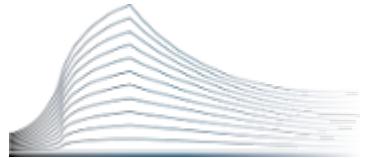


Special made tongs to reduce manipulated ring after ringing



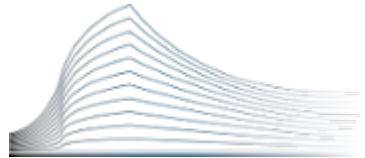


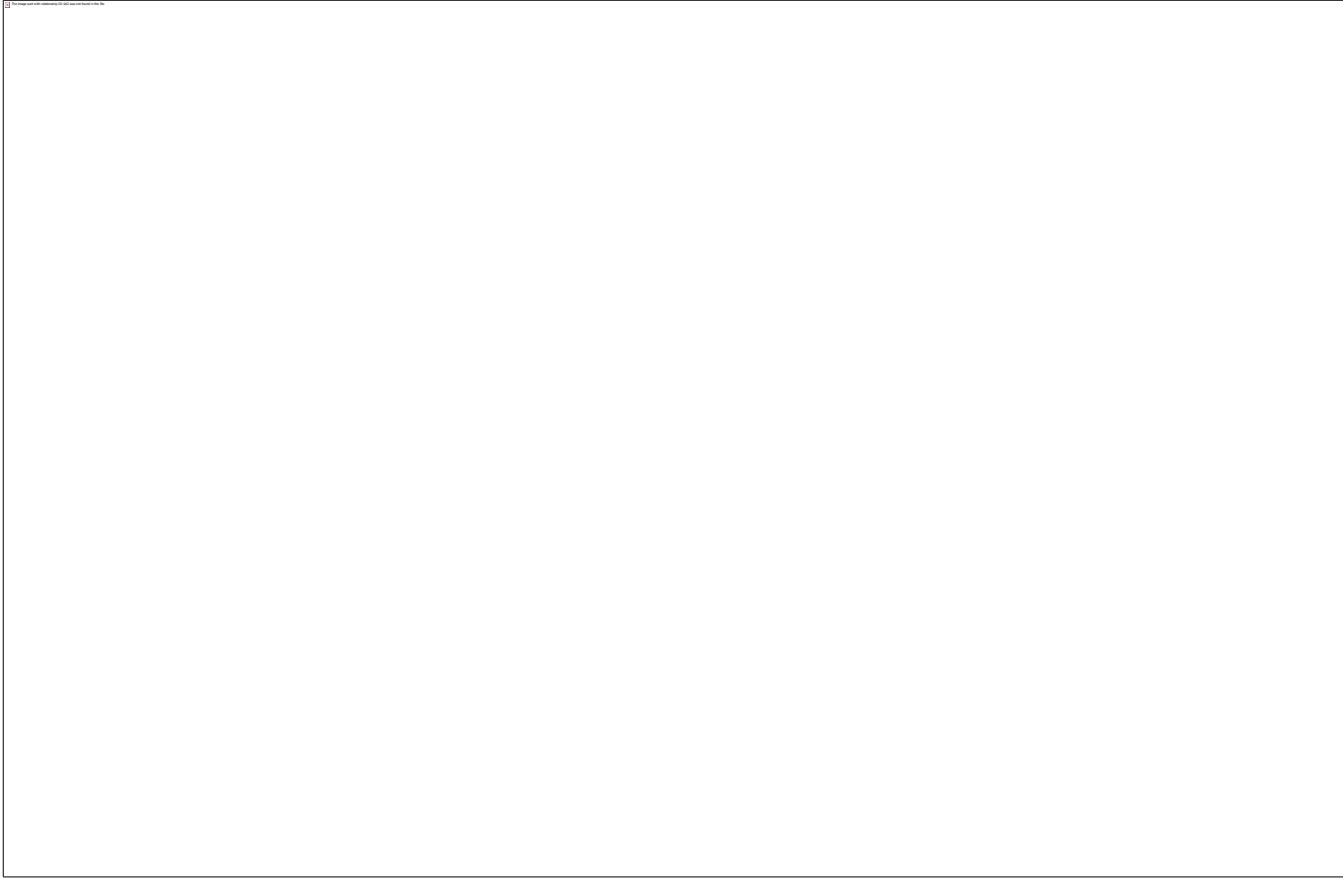
Cutted rings



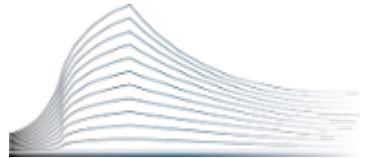


Tools used for cutting rings



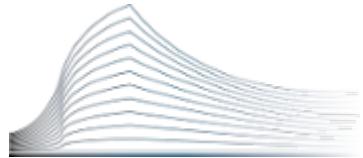


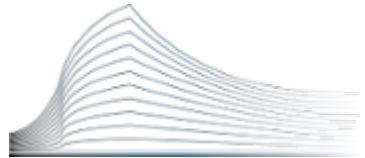
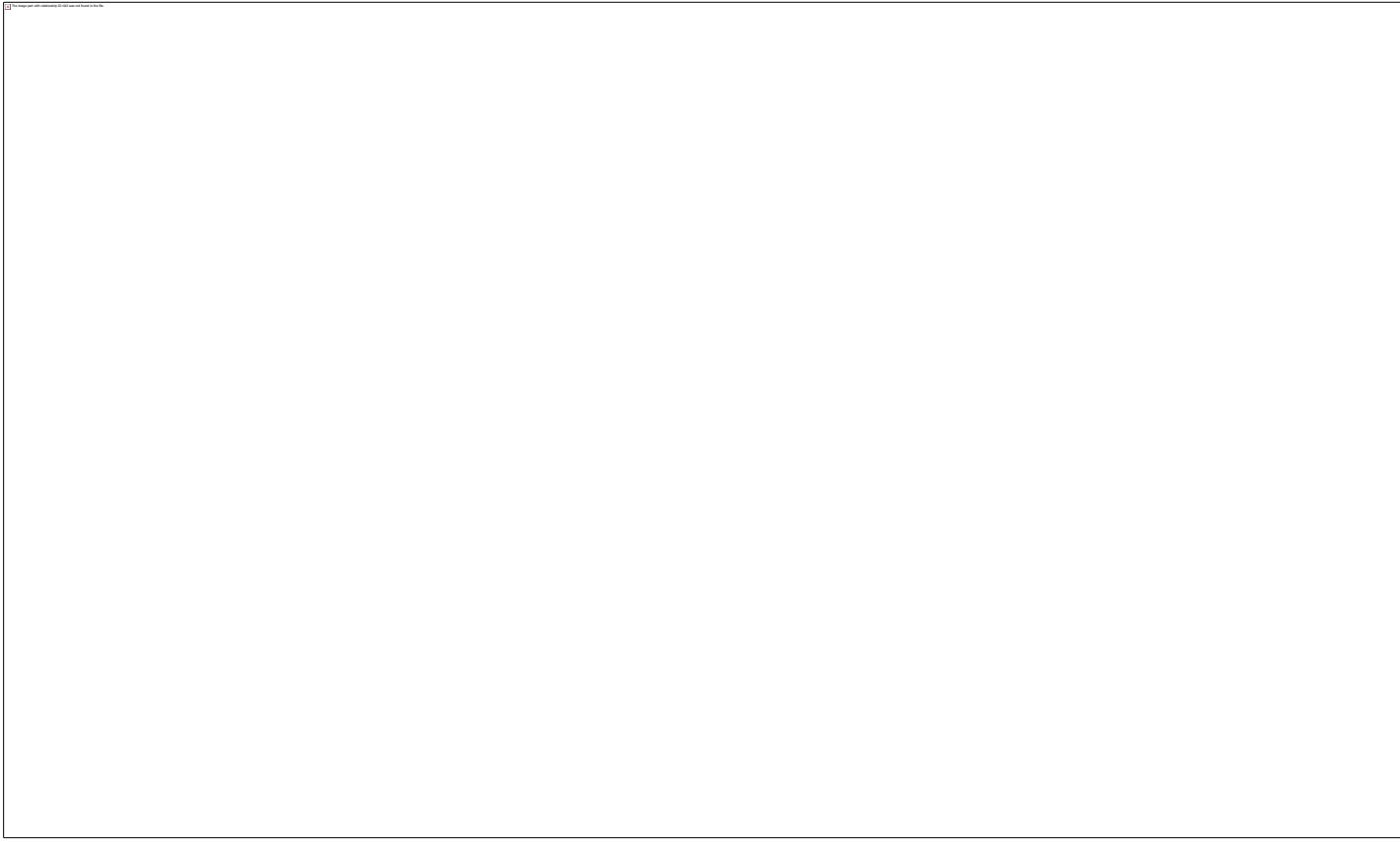
Goldfinch lost tarsus





Not manipulated ring but tarsus
manipulated with product



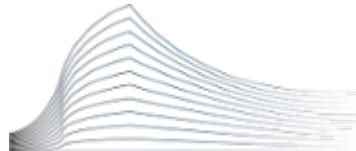




ECJ 10 /09 /2009

Commission v Belgium

C-100/08





Le Royaume de Belgique, - en soumettant l'importation, la détention et la vente d'oiseaux nés et élevés en captivité, qui ont été légalement mis sur le marché dans d'autres États membres, à des conditions restrictives imposant aux opérateurs concernés du marché de modifier le marquage des spécimens pour qu'il réponde aux conditions spécifiquement requises par la législation belge et en n'admettant pas le marquage accepté dans d'autres États membres ni les certificats délivrés conformément au règlement (CE) n° 338/97 du Conseil, du 9 décembre 1996, relatif à la protection des espèces de faune et de flore sauvages par le contrôle de leur commerce, et – en privant les marchands de la faculté d'obtenir des dérogations à l'interdiction de détenir des oiseaux indigènes européens légalement mis sur le marché dans d'autres États membres, a manqué aux obligations qui lui incombent en vertu de l'article 28 CE.



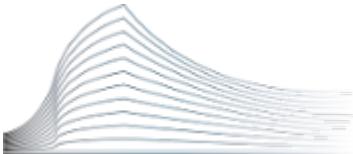
109 Le Royaume de Belgique observe que l'interdiction pour les marchands d'oiseaux de détenir des oiseaux, même correctement marqués à l'aide d'une bague fermée, qui est prévue à l'article 7 bis, cinquième alinéa, dudit arrêté royal, est particulièrement nécessaire en ce qui concerne les oiseaux qui ne sont pas mentionnés sur la liste de l'annexe I de cet arrêté afin de limiter les risques de braconnage ainsi que de vol tant des œufs que des jeunes oiseaux vivant dans la nature, puisque la mise en place de bagues anodisées est possible lorsque sont prélevés par braconnage de jeunes spécimens. Cette interdiction serait la seule mesure adaptée pour empêcher une éventuelle fraude à grande échelle. Ces risques augmenteraient en effet au fur et à mesure de l'accroissement de la demande du fait de la possibilité pour les marchands de détenir les spécimens en question.





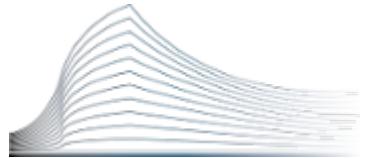
Appréciation de la Cour 111

Ladite interdiction absolue de détenir les espèces en question, qui constitue manifestement un obstacle considérable à l'utilisation et au commerce desdites espèces par les marchands d'oiseaux établis en Région flamande, ne saurait être regardée comme nécessaire pour atteindre l'objectif de lutte contre la fraude de grande envergure invoqué par le Royaume de Belgique.





Courthouse Ghent Belgium





Illegal traffic in birds of prey in
Europe

ARREST IN RARE BIRD PROBE

AN INTERNATIONAL bird-trafficking probe netted a rare Golden Eagle.

The police raids in the village of Gelli resulted in the examination of more than 130 birds - including the corpse of one of Britain's best protected predators.

The Golden Eagle is native to Scotland, weighs more than 10lbs. It preys on rabbits and lambs and has a wingspan of 7ft.

It is a criminal offence to injure or kill one, or damage its nest, eggs or chicks.

A South Wales Police spokesman said one man was arrested and bailed while officers look for evidence that the creatures were illegally imported.

Two men in Belgium were recently arrested as part of the same operation, targeting people who take birds and eggs from the wild to "launder" them into the legitimate market.

Species trafficked can include highly-valuable breeds like eagles, falcons, hawks and vultures.

A joint operation between Belgium's Federal Police, the National Wildlife Crime Unit, Animal Health and South Wales Police saw officers raid three properties in Gelli.

In total 137 birds were examined. No live birds were seized, but the dead

by ALEX MOORE

alex.moore@mediawales.co.uk
golden eagle was found and taken for tests.

Expert Jermima Parry-Jones MBE of the International Centre for Birds of Prey in Gloucestershire, said: "Golden Eagles haven't been in Wales for hundreds of years.

"I'd be surprised if bird-trafficking was still going on because it's so easy to breed them legally."

"But it is now very difficult to import birds from outside the EU because of Avian Flu."

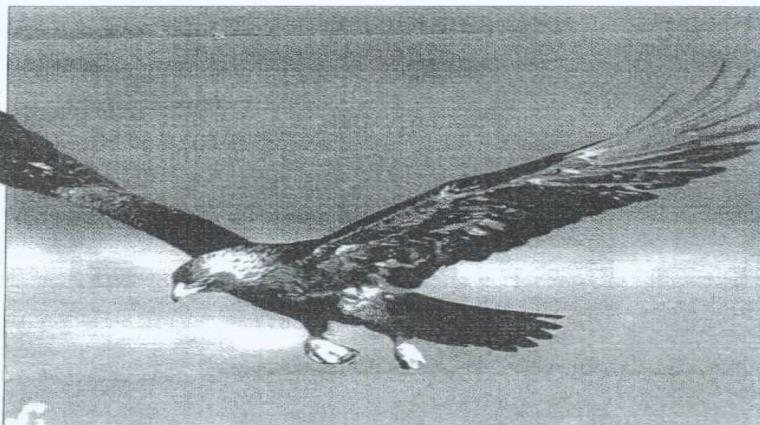
The eagles have the highest-level protection under the 1981 Wildlife and Countryside Act.

DNA tests on blood and feathers from 50 of the animals found at Gelli will now help officers investigating their origin.

South Wales Police Sergeant Ian Guildford said: "Our main objective is to assist the Belgian police in their continued investigations into the illegal sale of rare birds occurring across and numerous countries."

South Wales Police, along with other UK authorities, are investigating a number of cases of the possible 'laundering' of rare birds into the captive market, which is not only illegal but can have serious environmental consequences."

International operation leads to discovery of Golden Eagle in Gelli



POLICE RAID: Golden eagles are protected by law

Nieuwsblad.be

Zes Belgen opgepakt voor fraude met roofvogels - 29/05/2010

Zes Belgen opgepakt voor fraude met roofvogels

De politie van de Spaanse stad Bajadoz heeft een bende ontmaskerd die een illegale roofvogeltrafiek had opgezet naar het Midden-Oosten. Negen mensen zijn aangehouden, onder wie zes Belgen. Eén van hen zou de spil zijn in een grootse roofvogelcarrousel, met vertakkingen in Spanje, Rusland, Tsjechië, Oostenrijk en Italië. De politie kon zeventig zeldzame valken en arenden bevrijden en nam bij het Belgische kopstuk 1,5 miljoen euro in beslag.

De bende specialiseerde zich in het roven van eieren en kuikens van wilde roofvogels. Zodra de vogels volgroeid waren, werden ze met nagemaakte certificaten en valse ringen naar het Midden-Oosten gesmokkeld. Daar werden ze voor grof geld verkocht aan sjeiks.

(PHU)

Spaanse politie rolt Belgische roofvogelbende op

De Spaanse politie heeft een bende opgerold die een illegale roofvogeltrafiek had opgezet naar het Midden-Oosten. Een Belg zou de spil zijn van de bende.

De politie van de Spaanse stad Bajaduz slaagde erin de bende te ontmaskeren. In totaal werden negen mensen gearresteerd en konden zo'n 70 zeldzame aren- den en valken bevrijd worden, onder meer drie zwaar bedreigde visarenden. De politie vond ook 36 doodgevroren vogels, die wellicht dienden om opgezet te worden. Bij de leider van de bende werd bovendien anderhalf miljoen euro in beslag genomen.

De bende had zich gespecialiseerd in het roven van eieren en kuikens uit nesten van wilde roofvogels. De dieren werden grootgebracht, kregen valse ringen aangemeten en voorzien van valse certificaten. Zodra ze volgroeid waren, werden ze naar de Verenigde Arabische Emiraten gemaakte om voor



Eén van de geredde vogels.

Foto EPA

groot geld verkocht te worden aan sjeiks, die de roofvogels als een statussymbool zien. De valkenjacht is bovendien razend populair onder de rijken. De bende heeft vertakkingen in heel Europa. Het parket in ons land wil geen enkele commen taar kwijt over de zaak. (CDS/TV)

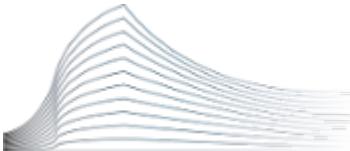


Monfragüe national park Extremadura Spain



CITES BIRD CASE – 27 June 2014

- illegal trade protected and endangered birds
- result of a long and extensive judicial inquiry
- international legal cooperation between Belgium, the United Kingdom, Spain, France, Germany, Austria and The Netherlands





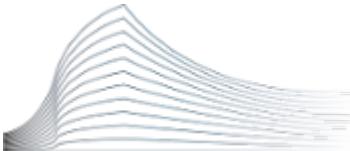
ILLEGALE VOGELHANDEL | ZWAAR BESTRAFT

Criminal court of First Instance East-Flanders, Ghent department,
sentence 27 June 2014



CITES BIRD CASE – charges & sentence

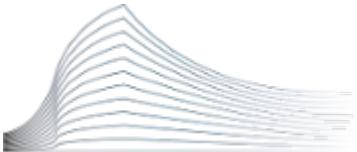
- Five defendants
- Forgery of breeder's declarations and CITES-certificates
- Use of the falsified documents
- Birds (of prey) listed in Annex A of the EU CITES – regulation 338/97 (which implements the Convention on International Trade in Endangered Species of Wild Fauna and Flora within the European Union).





MODUS OPERANDI

- Eggs and chicks of the birds stolen from the wild (south of France or Spain)
- Smuggled with mobile incubators
- Collaborators in Belgium for hatching out
- Young birds hand-reared and ringed



MODUS OPERANDI (2)

- Forging of rings and breeder's declarations
- CITES-certificates issued for “captive-born and bred species”
- Possibility to commercialize the birds in spite of the general prohibition with respect to Annex A species



ANNEX A SPECIES

Egyptian Vulture (*Neophron percnopterus*)

African Fish Eagle (*Haliaeetus vocifer*)

Imperial Eagle (*Aquila heliaca*)

Bald Eagle (*Haliaeetus leucocephalus*)

Bonelli's Eagle (*Aquila fasciata*)

Golden Eagle (*Aquila chrysaetos*)

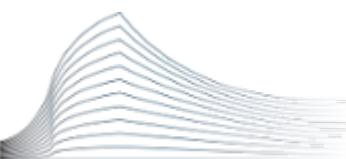
Booted Eagle (*Hieraaetus pennatus*)

Peregrine Falcon (*Falco peregrinus*)

Merlin Falcon (*Falco columbarius*)



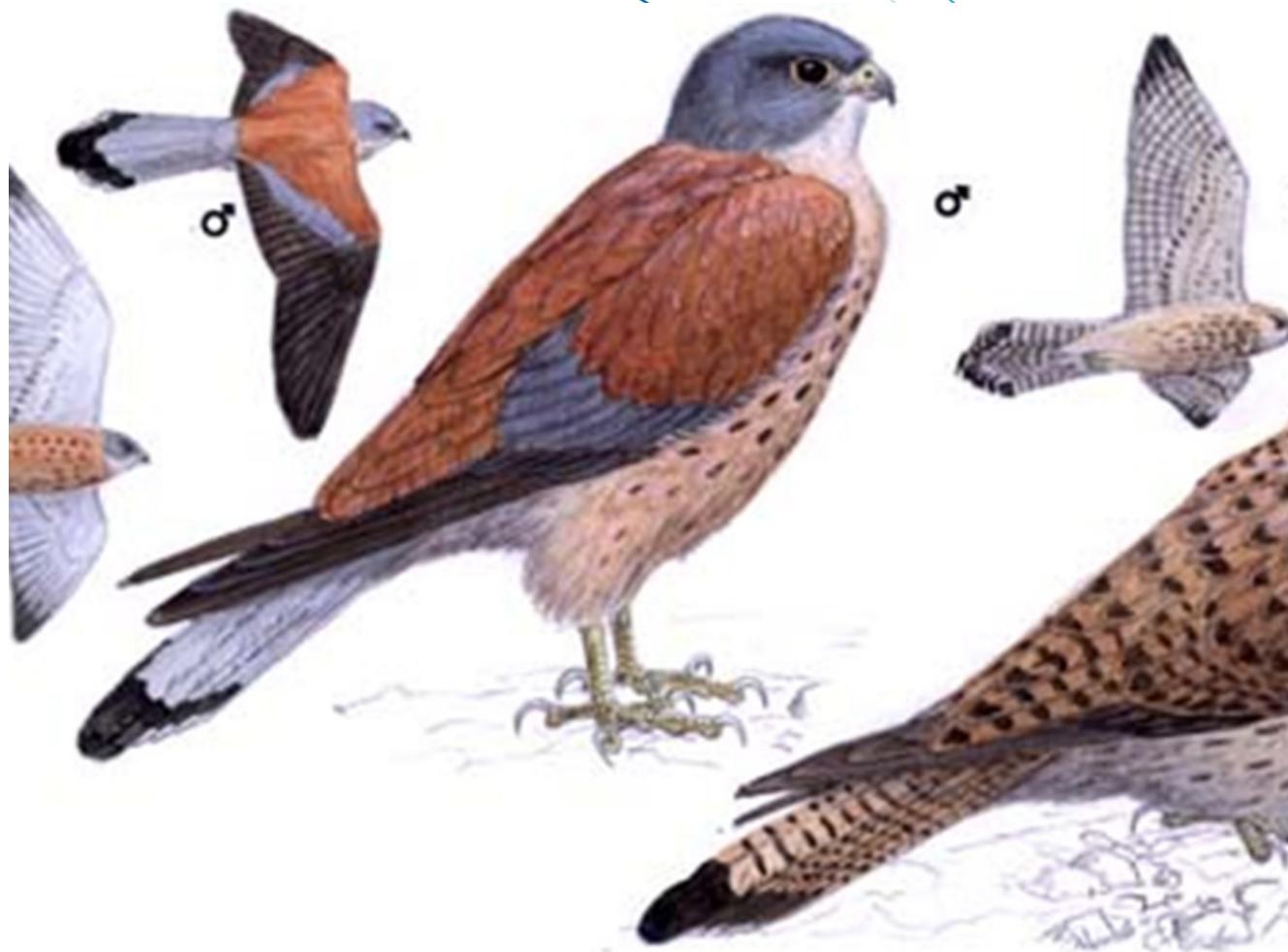
ANNEX A SPECIES (2)

- Hobby Falcon (*Falco subbuteo*)
 - Red-footed Falcon (*Falco vespertinus*)
 - Lesser Kestrel (*Falco naumanni*)
 - Blackwinged Kite (*Elanus caeruleus*)
 - Red Kite (*Milvus milvus*)
 - Black Kite (*Milvus migrans*)
 - Spoonbill (*Platalea leucorodia*)
 - Great Bustard (*Otis tarda*)
 - Great Grey Owl (*Strix laponica*)
 - Snowy Owl (*Nyctea scandiaca*), Short-eared Owl (*Asio flammeus*)
- 



© Mervyn S

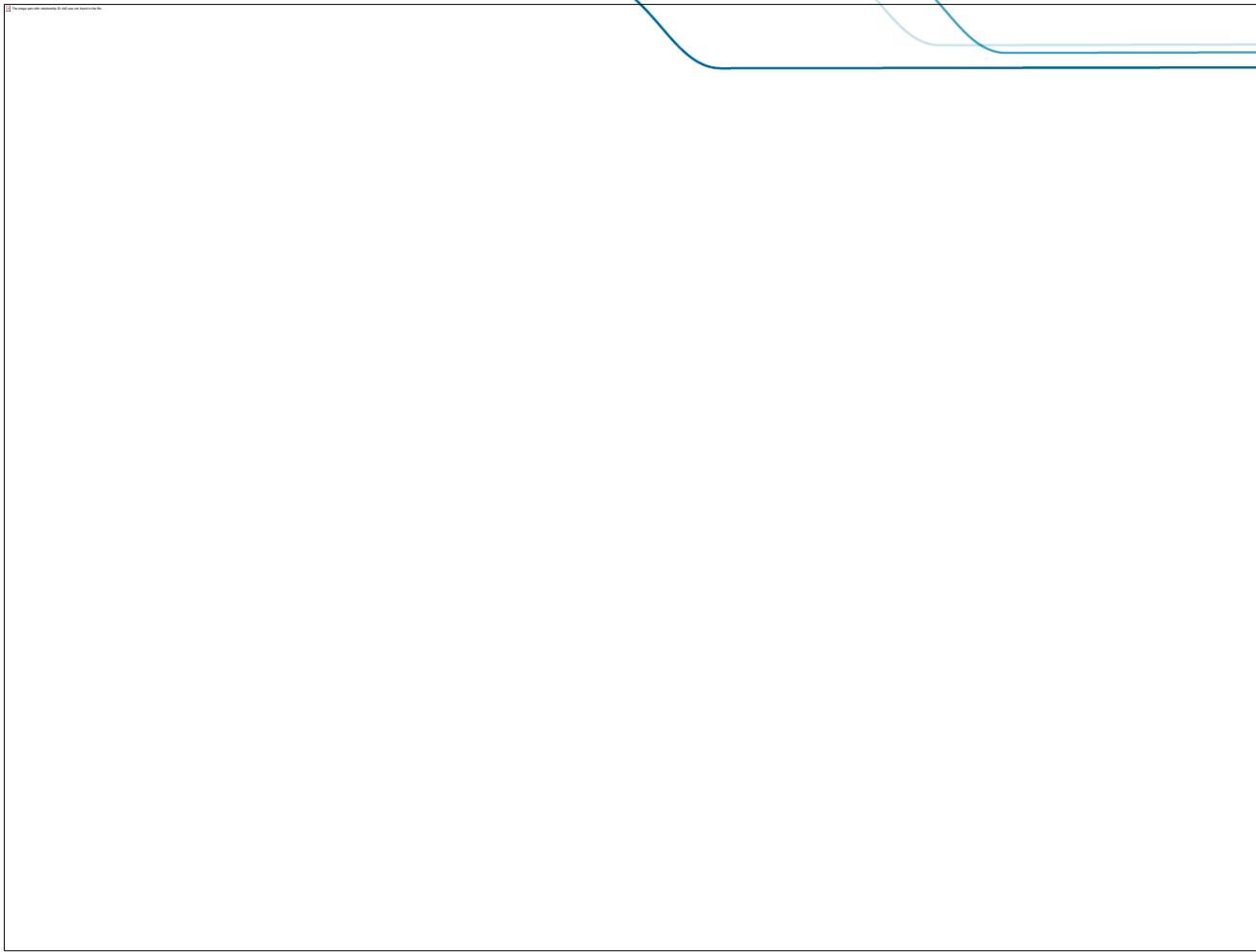
Milvus milvus / Kite / Milan royal / Rode wouw: 1.200 euro



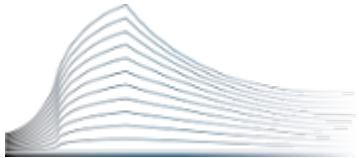
Falco naumanni / Lesser / Fauco crécerelette / Kleine torenvalk

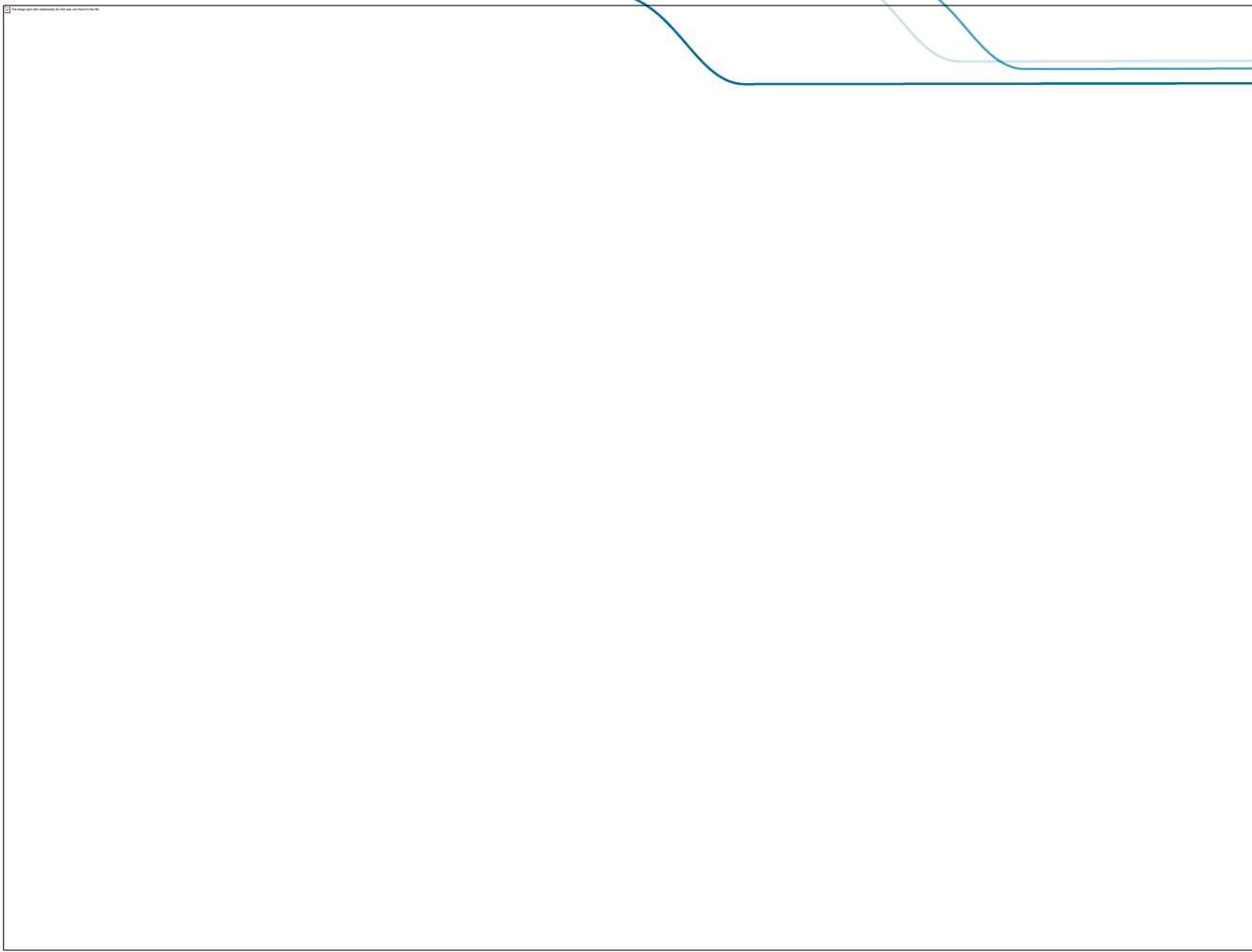


Milvus migrans / Black Kite / Milan noir / Zwarte wouw: 1.500 euro

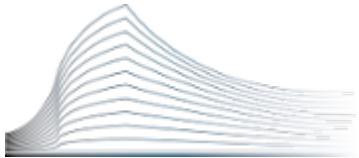


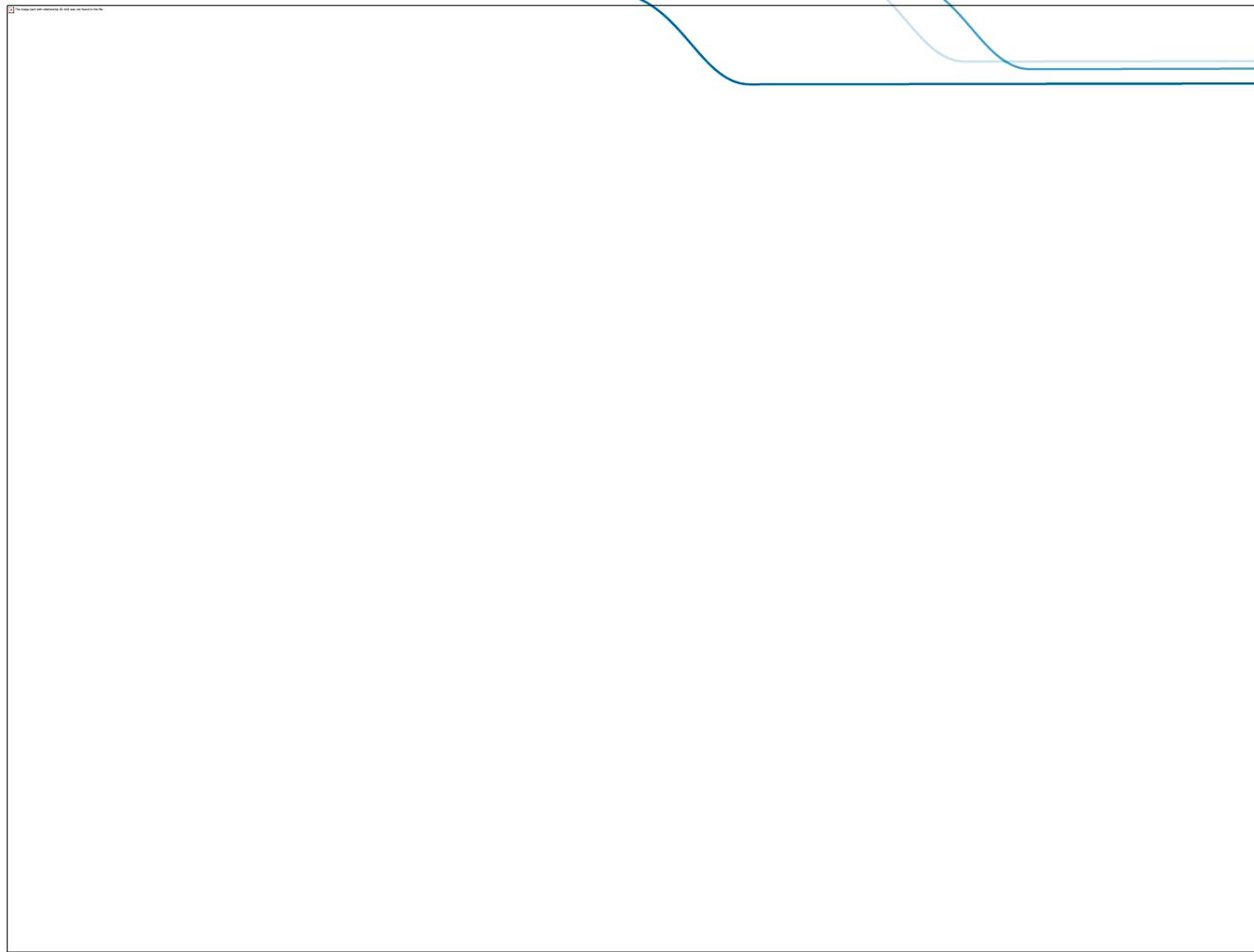
Elanus caeruleus / Black-Winged Kite / Elanion blanc / Grijze wouw
: 2000 Euro



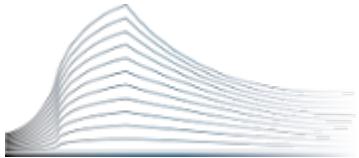


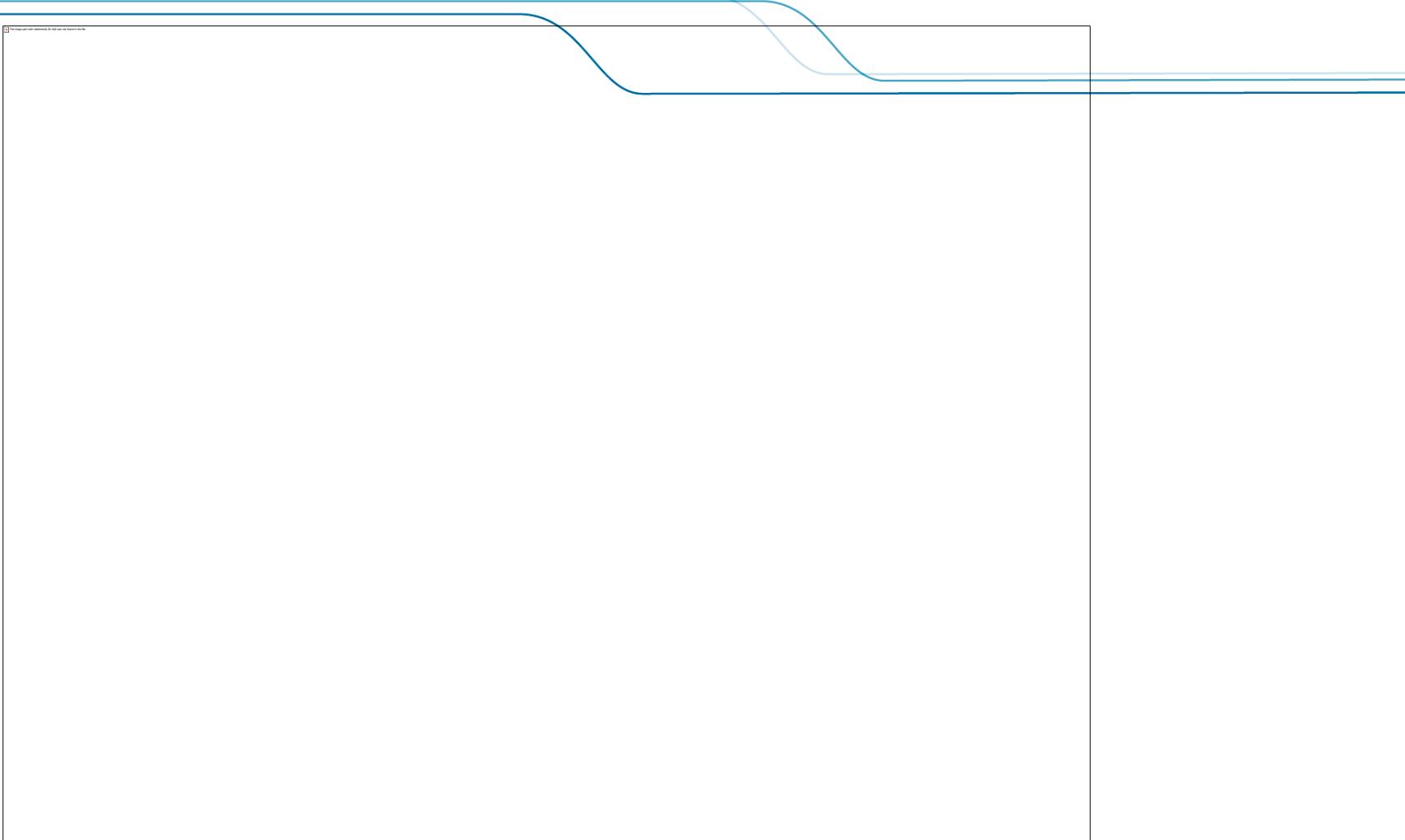
Otis tarda /Great Bustard / Outarde barbue / Grote Trap: 10.000
Euro



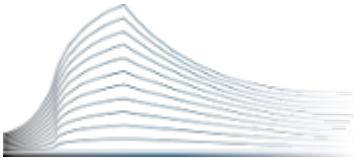


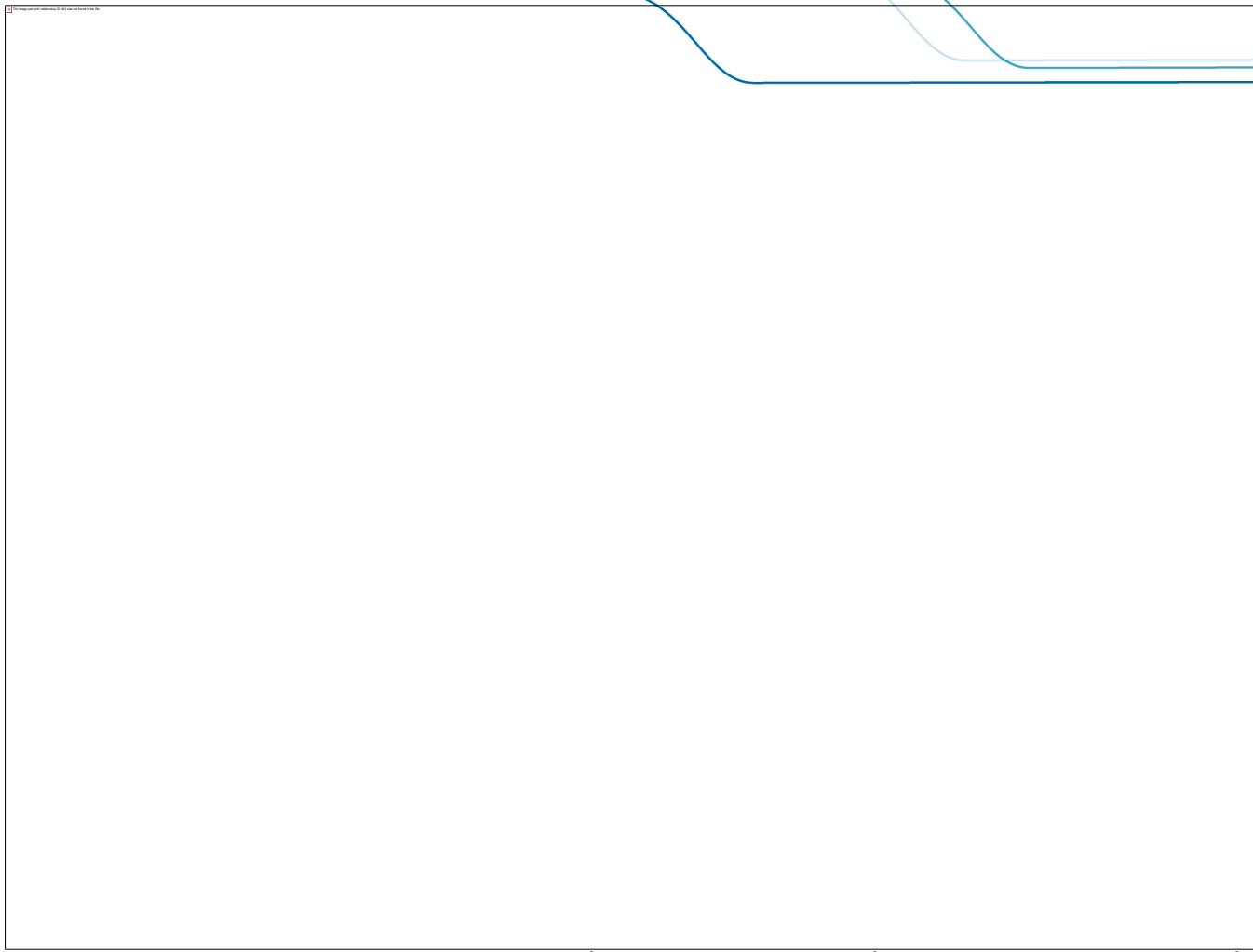
Hieraaëtus fasciatus / Bonneli's Eagle/ Aigle de Bonelli /
Havikarend: 7.500 – 10.000 Euro





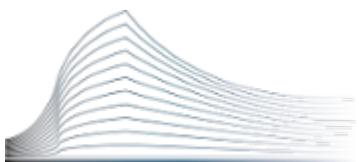
Hieraaetus pennatus / Booted Eagle / Aigle botté / Dwergarend :
5.000 euro





Neophron percnopterus / Egyptian Vulture / Percnoptère d'Egypte /
Aasgier:

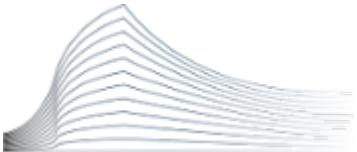
10.000 – 15.000 Euro





SENTENCE

- Fraud regarding CITES export permits
- Failure to keep CITES-register
- Use of illegal traps and nets



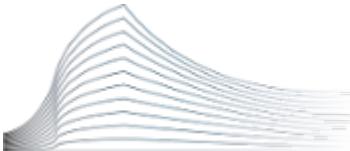
SENTENCE

- Participation in **criminal organisation** (art. 324bis and 324ter Belgian Criminal Code)
- **Branches** in Spain, the United Kingdom, Austria, Germany, France and The Netherlands
- **Purpose:** withdrawal of protected bird species from their habitats, obtaining forged CITES-certificates and marketing the birds
- **Characteristics** criminal organisation: clear hierarchy, division of tasks, use of (police) officials, creation of an animal zoo



SENTENCE – MONEY LAUNDERING

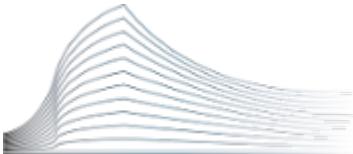
- birds of prey commerce extremely profitable (cf. supra Bonelli's Eagles sold for 10.000 euro)
- 2 defendants convicted of laundering of the profits through a contractors company





GROUNDS / MOTIVES

- International trade in endangered plant- and animal species approached scale and profitability comparable to international drugs and arms trafficking
- Lack of political priority and enforcement of the CITES-regulations
- Direct and irreversible assault on biodiversity
- Undermining national and international efforts to preserve and protect already vulnerable bird species



RESULT: PENALTIES IMPOSED + CONFISCATION

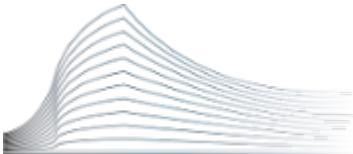
- Imprisonment: 4 years (1 year suspended), 2 years (1 year suspended), 18 months (suspended) and 1 year (suspended)
- Fines of 90.000 euro, 30.000 euro and 12.000 euro
- Confiscation of +/- 835.800 euro illegal gains of the trade (including real estate)
- Seized birds confiscated and entrusted to the Belgian CITES-authority

“PARTIE CIVILE”: NGO VOGBESCHERMING VLAANDEREN

- “Vogelbescherming Vlaanderen”, regional bird protection organisation (+ 8000 members)
- Recognised as “partie civile”
- Awarded 1 euro compensation for moral damages (15.000 euro claimed)
- 250 euro for material damages
- Compensation for litigation costs 220 euro
- Appeal

APPEAL

- 2 of 5 defendants launched appeal
- Court of Appeal of Ghent
- Decision March 18, 2016

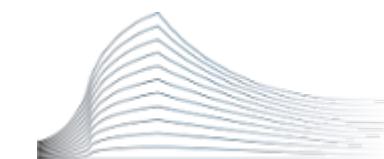


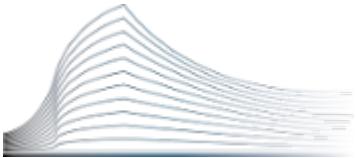
HOF VAN BE ROEP GENT





Decision March 18, 2016

- Imprisonment: 4 years (2 year suspended),
 - Fines of 90.000 euro and 2.750 euro
 - Confiscation of 1.155.800 euro illegal benefits of the trade
 - Confiscation of the real estate
 - Seized birds confiscated and entrusted to the Belgian CITES-authority
 - Expences of the case 47.217 euro
 - Compensation to NGO Protection of Birds 15.250 euro
- 



**Jan VAN DEN BERGHE, Vice-president, Court of First Instance
East-Flanders, Belgium
jan.vandenberghe@just.fgov.be**

