



EU FORUM OF JUDGES FOR THE ENVIRONMENT
UE FORUM DES JUGES POUR L'ENVIRONNEMENT

*Statement for the CMS Task Force on
Illegal Killing, Taking and Trade of Migratory Birds in the Mediterranean*

Aware of the specific vulnerability of migratory species in general and aware of the particularly severe concern the illegal killing of migratory bird species on the migratory corridors deserving the crossing of the Mediterranean between Europe and Africa raises, the EU Forum of Judges for the Environment (EUFJE) supports the initiative of an Intergovernmental Task Force on Illegal Killing, Taking and Trade of Migratory Birds in the Mediterranean.

In accordance with its statutory goals, EUFJE is working to develop the knowledge of the aforementioned issues and related EU-based law among judges, especially criminal and administrative judges as these most often get to deal with implementation and enforcement cases with a direct impact on the conservation of migratory birds or on the conservation of habitats, such as wetlands, they depend upon. Chairing the Working Group *Sanctioning, prosecution and judicial practice* of the LIFE+ project (LIFE/GIE/UK/000043) *Improving capacity and effectiveness in prosecuting environmental crime in Europe* (2015-2020), EUFJE will include the problem of migratory birds in the scope of its activities regarding wildlife crime.

With regard to the EU-based legal framework relevant for the aforementioned issues, EUFJE wishes to stress that the precautionary principle applies in judicial adjudication within the Member States (MS) whenever interpreting vague notions. As widely known, the precautionary principle recognizes that where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for refraining from measures to prevent environmental degradation. It is recorded in the fundamental environmental law of the EU (Article 191(2) TFEU). Applied to biodiversity problems, the principle's bearing is increasingly summarized as "*in dubio pro natura*". It applies, for instance, when interpreting the notions "*negligible quantity*" and "*negligible impact*" in the MS-provisions implementing article 3(f) Eco-crime directive 2008/99/EC, which criminalizes the illegal killing, destruction, possession or taking of specimens of protected wild fauna of flora species, "*except for cases where the conduct concerns a negligible quantity of such specimens and has a negligible impact on the conservation status of the species*".

Brussels, 7 May 2016.