

**Profiles in Legal Approaches to IKB:
Spotlight on Israel (Feb 2023)**



ISRAEL

1. As part of its ongoing work related to the implementation of the [Rome Strategic Plan \(RSP\) 2020-2030](#), the key strategic framework for the [Intergovernmental Task Force on Illegal Killing, Taking and Trade of Migratory Birds in the Mediterranean \(MIKT\)](#), the Secretariat of the Convention on the Conservation of Migratory Species of Wild Animals (CMS Secretariat) has undertaken a series of activities related to combatting the illegal killing, taking and trade of wild birds (IKB).
2. RSP Objective No. 3—“[t]o ensure that the illegal killing of birds is addressed effectively and efficiently in national legislation”—lies at the heart of the present effort. Specifically, Action 3.1 calls for, *inter alia*, (a) an expert assessment of national legislation addressing IKB to identify possible gaps, and (b) the development of “guidelines on effective legislation including examples of model legislation on combating IKB that has proved effective.”
3. In order to complete this work, the CMS Secretariat developed a short questionnaire for MIKT Members to complete. The questionnaire solicited information regarding national legislation relevant to IKB.
4. The responses to the questionnaire, together with supplemental research, were used to prepare an initial set of Legislative Guidance Materials and a Model Law on IKB.
5. In addition, the Secretariat has prepared a handful of national legislative profiles, including the present document, to enhance the MIKT community’s knowledge of different national approaches to IKB.
6. In some cases, although responding countries indicated they did not desire assistance, research suggested that analysis of the country’s approach could be helpful for other countries seeking inspiration and examples of how to address IKB.

7. Israel falls into this category.
8. Specifically, Israel stands out both for its comprehensive regulatory approach to the take and trade of wild animals—characterized by, *inter alia*, a default of protection for all species of wild animals, including birds, and broad definitions of key terms—and its approach to interdiction, enforcement, and penalization of IKB offenses.
9. With the foregoing in mind, the Secretariat has drafted this national legislation profile focused on select aspects of Israel’s approach to IKB. The content of the profile is based on the information provided in the questionnaire, limited supplemental research, and any dialogue that has taken place between the Secretariat and the Focal Point for Israel.
10. Due to differences in legislative systems worldwide, different interpretations, limitations with respect to translation capacity in the Secretariat, and the complexity of analyzing national laws, errors and/or omissions may exist.

1. Findings¹

2. Section 1—Israel’s Regulatory Approach

11. Israel implements the Convention on the Conservation of Migratory Species of Wild Animals (CMS or Convention) through domestic legislation on a cooperative basis, both across national agencies and with civil society,² seeking to coordinate efforts among all stakeholders.³
12. Israel has two pieces of national legislation implementing its responsibilities under the CMS.⁴ The first is the Wildlife Protection Law, 5715-1955,⁵ which is implemented by the Wildlife Protection Regulations, 5736-1976.⁶ The second is the National Parks, Nature Reserves, National Sites and Memorial Sites Law, 5758-1998 (Parks and Reserves Law),⁷

¹ Israel’s focal point graciously provided copies of the relevant legislation in both Hebrew and English. The discussion herein is based on the English versions.

² CMS COP 13, *Israel National Report*, pg. 10 (2019) (mentioning cooperation between the Israel Nature and Parks Authority (INPA), the Ministry of Environmental Protection, and major green NGOs) [hereinafter National Report], accessible at: https://www.cms.int/sites/default/files/document/2019_CMS_National_Report_Israel.pdf.

³ *Id.* at 11 (identifying local governments, the Air Force, and government ministries as examples of stakeholders included in the process).

⁴ *Id.* at 5.

⁵ Wildlife Protection Law, 5715-1955, Dinim vol.8, 4365 (Jan. 1, 1955, consolidated Apr. 5, 1998).

⁶ Wildlife Protection Regulations, 5736-1976, Dinim vol.8 pp. 4371, §§ 1a, 2, (Sept. 9, 1956, May 25, 1999).

⁷ National Parks, Nature Reserves, National Sites and Memorial Sites Law, 5758-1998, Dinim Vol. 6 pp.3505 (Apr. 5, 1998) [hereinafter Parks and Reserves Law].

which is implemented by the Nature Reserves Regulations, 5739-1979⁸ and the Protected Species Declaration – 5765-2005.

13. Both pieces of legislation boast strict species protections in their implementation of CMS obligations, extending further than required by the treaty and enacting stronger protections than necessary under other overlapping international instruments such as CITES.⁹
14. Among other features relevant to IKB, Israel's legislative framework effectively implements a white-list approach through its definitions of various categories of wild animals.
15. As explained in the Legislative Guidelines, all else being equal, a white-list approach may be the most efficient, useful, and clear way to distinguish protected species from others. Under a white-list approach, national legislation affirmatively identifies the birds that may be hunted or collected, provided that licenses or permits have been acquired and all conditions are complied with. All other birds are considered protected birds and are subject to the take and trade prohibitions. With this approach, the legislation and/or regulations require amendment less often and take a more precautionary, inclusive approach to protection.
16. Through its definitions relating to wild fauna—and the operative effect of those definitions—Israel has functionally created a wildlife regime that employs the logic of a white list.
17. Specifically, Israel's Wildlife Protection Law separates most animals into five separate categories: "wildlife," "domesticated wildlife," "protected wildlife," "game," and "pest."¹⁰
18. Under the Wildlife Protection Law, "wildlife" is defined as a "mammal, bird, reptile or amphibian or any part thereof, or its offspring, which has originated within the area of Israel or outside of it, which by its very nature does not live amongst humans." This is set in contrast with "domesticated wildlife," which is any "wildlife" that has been domesticated or developed to raise in captivity for purposes of trade and designated such by the Minister of Agriculture. The Minister of Agriculture may further declare "wildlife" to be either "game" or a "pest."¹¹

⁸ Nature Reserves Regulations (Order and Conduct), 5739-1979, Dinim Vol. 6, p. 3549 (Jan. 10, 1973, consolidated June 11, 1985).

⁹ CITES Notification to the Parties, *Israel: Stricter domestic measures concerning import and export of wild flora and fauna*, UN Doc. No. 2019/043.

¹⁰ See Wildlife Protection Law, *supra* note 5, at § 1.

¹¹ *Id.*

19. "Protected wildlife," for its part, is defined as "wildlife that is neither game, pest nor domesticated wildlife."¹²
20. Significantly, the definition of "protected wildlife" creates a presumption of protection for wild vertebrates (except for fish), as the default status will be "protected" unless it falls in one of the other designations. It is important to note that the Wildlife Protection Regulations include lists of the wildlife species in all categories except "protected wildlife", so that any wildlife species that is not listed under any other category, is automatically protected.
21. As concerns the regulation of take and hunting, Israel's legislation deploys the foregoing definitions and other provisions to tightly regulate such activities.
22. The term "Hunting" has a very broad definition in the Wildlife Protection Law, as follows: 'Hunting' – includes the execution of any act with the intention of harming the life, welfare or freedom of wildlife, disturbing its rest or endangering the natural development of its eggs or any other form of its offspring;
23. With respect to take and hunting, Israel prohibits the taking of all CMS Appendix I species and other "protected wildlife," subject to a narrow exception regime. In language that closely tracks the CMS, Israel's domestic legislations authorize the Minister of Agriculture to permit, through general or special hunting permit, the hunting of protected wildlife only "for scientific purposes, reproduction, to maintain the balance of nature, prevent damage to agriculture, prevent danger to humans or animals and to prevent infectious diseases among them."¹³ However, according to its CMS 2019 National Report, Israel has not granted any exceptions to national prohibitions on the taking of Appendix I species of birds.¹⁴
24. To authorize the hunting of other species, those species may be declared by the Minister of Agriculture as "game," making them huntable so long as individuals obtain a hunting license or permit and comply with its terms.
25. Israeli law strictly regulates the acquisition of a hunting license. Among other possible restrictions, no hunting license will be granted to individuals who are younger than 18 years of age, who lack liability insurance from a third party, who do not have a license under the Firearms Law, or who have not passed the corresponding test. In addition, no game or protected wildlife permit shall be granted if the individual has not also practiced using a firearm in a shooting range for twelve months prior to the application or if the individual has been convicted of an offense under the Penal Law.¹⁵

¹² *Id.*

¹³ Wildlife Protection Law, *supra* note 5, at §§ 2-3.

¹⁴ National Report, *supra* note 2, at 5.

¹⁵ Wildlife Protection Regulations, *supra* note 6, at § 7(a).

26. Assuming a license has been obtained, huntable species are subject to additional restrictions such as hunting seasons, areas, time of day, methods, and types of firearms and ammunition, which may vary by depending on the game species.¹⁶
27. Certain methods of hunting are categorically prohibited, including hunting by dazzling lights; poisoning; stunning with narcotics; utilizing explosives; using traps, nets, or adhesives; and any other method or means prohibited by regulations promulgated by the Minister of Agriculture.¹⁷
28. Corresponding regulations further prohibit hunting with a dog, with a bow and arrow, from a motor vehicle, or with any firearm not firing lead pellets through a smooth-barreled shotgun, absent license or permit by the Director of the Israel Nature and Parks Authority (INPA).¹⁸
29. As for post-capture activities, the default Israeli regulatory scheme, subject to certain exceptions authorized under a permit, is to prohibit trading, transferring, or keeping wildlife that is neither classified a "pest" nor "domesticated wildlife" without a permit.¹⁹, in other words all protected wildlife.
30. Significantly, "trade" is defined by the Wildlife Protection Law to include "purchase, sale, export, re-export, import and introduction from the sea." Accordingly, "trade" includes not only international trade but also domestic market transactions.²⁰
31. Although trade, transfer, and possession of specimens of wildlife other than "pest" species and "domesticated wildlife" is generally prohibited, Israeli law contemplates the use of permits to authorize these otherwise prohibited activities in certain cases. Specifically, the Wildlife Protection Law provides as follows:²¹
- (a)(1) No person shall trade in wildlife that is neither pest nor domesticated wildlife except under general or special trading permit;
 - (2) No person shall transfer wildlife that is neither pest nor domesticated wildlife except under general or special transfer permit;
 - (3) No person shall hold wildlife that is neither pest nor domesticated wildlife except under general or special holding permit, or if said wildlife came into his possession from the holder of a general or special trading

¹⁶ *Id.* at §§ 3-5.

¹⁷ Wildlife Protection Law, *supra* note 5, at § 5.

¹⁸ Wildlife Protection Regulations § 6(a)-(d).

¹⁹ *Id.* at § 8(a)(1)-(3).

²⁰ Wildlife Protection Law, *supra* note 5, at § 1.

²¹ *Id.* at § 8(b).

permit or a general or special transfer permit, or if he is a lawful holder, as stated in subsection (b).

(b) Whosoever lawfully held wildlife prior to the entry into force of this law and continued to hold said wildlife, or received said wildlife without remuneration – shall be a lawful holder, and whosoever received wildlife without remuneration from a lawful holder under this subsection – shall be a lawful holder.

In addition, paragraph 12 of the Wildlife Protection Regulations stipulate that all permits for trade in protected species must comply with all provisions of the CITES treaty, which means the treaty as well as binding Resolutions.

32. Further, an individual who holds a hunting license or special hunting permit is exempt from the permit requirement for the holding or transfer of an animal's corpse that was lawfully hunted, so long as approval has been given by the Director of Veterinary Services.²² Any license or permit application to the Minister of Agriculture or Minister of Environmental Protection may be refused, granted with restrictions or stipulations, rescinded, or amended at any time.²³
33. Complementing the Wildlife Protection Law, Israel's Parks and Reserves Law supplies an additional layer of norms on area-based conservation in National Parks, Nature Reserves, and other designated sites, and also provide species-based protection.
34. Among other features, the Parks and Reserves Law addresses "natural assets," defined as "any thing or class of things in nature, or a part thereof, and any animal, vegetable or abiotic which has originated in an area of the State or outside it." Within this broad category, which includes wild animals and plants, the law authorizes the Minister of Environmental Protection to declare as "protected natural assets" those natural assets that the Minister believes are "worth preserving" or "in danger of extinction."²⁴

A comprehensive white list of the protected natural assets is contained in the National Parks, Nature Reserves, National Sites and Memorial Sites Declaration, 5765-2005, which is updated periodically.

In addition, there is a separate National Parks, Nature Reserves, National Sites and Memorial Sites Declaration, 5764-2004, which contains all the species listed in the Appendices to the CITES Convention and thereby declares them all as protected assets; this declaration is also updated periodically to keep the list current and in congruence

²² Wildlife Protection Regulations, *supra* note 6, at § 12(d).

²³ Wildlife Protection Law, *supra* note 5, at § 9; Parks and Reserves Law, *supra* note 7, at § 35.

²⁴ Parks and Reserves Law, *supra* note 7, at § 1.

with the CITES Appendices. The declaration ensures that all trade in CITES-listed species is carried out in accordance with the Parks and Reserves law.

35. In the case of “protected natural assets,” absent an exception authorized by permit, persons are prohibited from “damaging” or “trading” such assets.

Damaging is very broadly defined to include also taking and harming, and is defined in this law as :

"Damage" includes destructing, demolishing, breaking, injuring, plucking, uprooting, taking, removing, poisoning, altering the appearance or natural position of a natural asset or interfering in the process of its natural development, reproduction or preservation;

Trading is defined as:

"Trade" - includes purchase, sale, exchange, export, re-export, import, import from the sea as well as an offer to trade". This definition is very similar to the definition of trade in the Wildlife Law, but also includes the additional provision "offer to trade".

36. Further, as explained below, the Parks and Reserves Law plays an important role in both its articulation of offenses related to IKB and its investment of enforcement authority in designated officers.

Section II – Provisions Relating to Enforcement and Penalization of IKB Offense

37. As concerns enforcement, both the Wildlife Protection Law and the Parks and Reserves Law grant broad police powers to special investigators appointed under the law by the government official charged with implementing the law.²⁵ Within the scope of executing the duties required to enforce each law, investigators have authority to arrest, search, seize objects, and interrogate equivalent to the authority normally granted to police officers under the Penal Code.²⁶

38. For example, an inspector may seize and confiscate any wildlife (dead or alive) being held by a person without a permit and may even exterminate the wildlife if there is “no feasibility for its continued natural development.”²⁷

39. As regarding penalties, Israeli legislation establishes both administrative penalties and criminal penalties for violations of the Wildlife Protection Law and the Parks and Reserves Law.

²⁵ Wildlife Protection Law, *supra* note 5, at § 11(b).

²⁶ *Id.* at §§ 10-11; Parks and Reserves Law, *supra* note 7, at §§ 58-60.

²⁷ Wildlife Protection Law, *supra* note 5, at § 11(c).

40. In the area of administrative penalties under the Wildlife Protection Law and its implementing regulations, the Director of the Israel Nature and Parks Authority has discretion to temporarily suspend an individual's hunting license if the Director believes there are sufficient grounds for an indictment against an individual for a hunting offense. If a conviction results, the Director may choose not to grant or renew a license or may first require execution of conditions contained in a court decision. However, such decisions must be written, reasoned, and sent by registered mail to the individual concerned.²⁸
41. The Parks and Reserves Law, for its part, allows the Director of the Israel Nature and Parks Authority to issue an "administrative cessation order" if the Director "has reasonable grounds to presume" activity is taking place without a required permit or license in a nature reserve or national park.²⁹ The violation of an administrative cessation order carries liability of up to two years' imprisonment.³⁰
42. Also, under the Parks and Reserves Law, the Minister of Environmental Protection, with approval of the Minister of Justice and the Knesset (Parliament)'s Internal Affairs and Environmental Protection Committee, may institute a system of petty offense designations that establishes only fines as the result of certain violations. The Minister has broad discretion as to the rate and nature of these fines.³¹
43. With respect to criminal penalties, the default criminal penalty, if not otherwise stated, is one year of imprisonment for any violation of the Wildlife Protection Law or its regulations.³²
44. However, if the violation that occurs is an offense relating to hunting without a license or permit (§ 2), the Minister's authority to grant licenses or permits (§ 3), or prohibited means of hunting (§ 4) under the Wildlife Protection Law, criminal liability increases to two years' imprisonment or double the fine in the corresponding Penal Law. The criminal liability for a violation of any regulation made concerning the protection or preservation of wildlife also carries liability for two years' imprisonment.³³
45. For any continuing offense under the Wildlife Protection Law, a court may impose a fine pursuant to § 61(c) of the Penal Law, or two days' additional imprisonment for each day the offense continues. This additional time is measured from the date of receipt of written

²⁸ Wildlife Protection Regulations, *supra* note 6, at § 7b(a)-(b).

²⁹ Parks and Reserves Law, *supra* note 7, at § 54.

³⁰ *Id.* at § 57(c).

³¹ *Id.* at § 57a(b).

³² Wildlife Protection Law, *supra* note 5, at § 14(a).

³³ *Id.* at § 14(b)-(b1).

notice of violation from the INPA or from the day of conviction and is in addition to the other penalties above.³⁴

46. The Parks and Reserves Law, in turn, contains a broad range of criminal liability, ranging from three years' imprisonment concerning the most serious violations or those that cause irreversible damage,³⁵ to six months' imprisonment for violations of permit or license conditions or other regulations considered to have less serious consequences.³⁶
47. For continuing offenses under the Parks and Reserves Law, a court may impose additional fines pursuant to § 61(c) of the Penal Law or additional imprisonment of seven days for every day the offense continues. The court also has discretion to order other forms of equitable relief, such as measures to remedy any damage caused.³⁷

³⁴ *Id.* at § 14(c).

³⁵ Parks and Reserves Law, *supra* note 7, at § 57(a).

³⁶ *Id.* at § 57(b).

³⁷ *Id.* at § 56(f).

3. Annex 1 – CMS Bird Species for Which Israel is a Range State

APPENDIX I SPECIES³⁸		
Scientific Name	Date of App. I Listing	Appendix II History
<i>Acrocephalus griseldis</i>	2005	1979
<i>Anser erythropus</i>	1997	1979
<i>Aquila heliaca</i>	1997	1979
<i>Aquila nipalensis</i>	2017	1979
<i>Aythya nyroca</i>	1997	1979
<i>Branta ruficollis</i>	1997	1979
<i>Clanga clanga</i>	1997	1979
<i>Coracias garrulus</i>	2014	1985
<i>Falco cherrug</i>	2011	1979
<i>Falco naumanni</i>	1997	1979
<i>Falco vespertinus</i>	2011	1979
<i>Haliaeetus albicilla</i>	1985	1979
<i>Haliaeetus leucoryphus</i>	2002	1979
<i>Marmaronetta angustirostris</i>	1997	1979
<i>Neophron percnopterus</i>	2008	-
<i>Numenius tenuirostris</i>	1979	-
<i>Otis tarda</i>	2014	1985
<i>Oxyura leucocephala</i>	1994	1979
<i>Serinus syriacus</i>	1979	-
<i>Torgos tracheliotos</i>	2017	1979
<i>Vanellus gregarius</i>	1997	1979
Appendix II Species³⁹		
Scientific Name	Date of App. II Listing	Appendix I History
<i>Accipiter brevipes</i>	1979	-
<i>Accipiter nisus</i>	1979	-

³⁸ CMS COP 13, *Israel National Report: Israel, Appendix I Species List* (Oct. 7, 2019) [list updated to reflect data on CMS website where conflicting: [https://www.cms.int/en/species?field_species_class_tid=421,](https://www.cms.int/en/species?field_species_class_tid=421) https://www.cms.int/sites/default/files/document/Section%20III%20Appendix%20I_Israel.pdf.

³⁹ CMS COP 13, *Israel National Report: Israel, Appendix II Species List* (Oct. 7, 2019) [list updated to reflect data on CMS website where conflicting: [https://www.cms.int/en/species?field_species_class_tid=421,](https://www.cms.int/en/species?field_species_class_tid=421) https://www.cms.int/sites/default/files/document/Section%20III%20Appendix%20II_Israel.pdf.

<i>Aegypius monachus</i>	1979	-
<i>Anas acuta</i>	1979	-
<i>Anas crecca</i>	1979	-
<i>Anas erythrorhyncha</i>	1979	-
<i>Aquila chrysaetos</i>	1979	-
<i>Aquila rapax</i>	1979	-
<i>Buteo buteo</i>	1979	-
<i>Buteo rufinus</i>	1979	-
<i>Calidris canutus</i>	1979	-
<i>Circaetus gallicus</i>	1979	-
<i>Circus aeruginosus</i>	1979	-
<i>Circus cyaneus</i>	1979	-
<i>Circus macrourus</i>	1979	-
<i>Circus pygargus</i>	1979	-
<i>Clanga pomarine</i>	1979	-
<i>Geronticus eremita</i>	1994	1979
<i>Gypaetus barbatus</i>	1979	-
<i>Gyps fulvus</i>	1979	-
<i>Hieraetus pennatus</i>	1979	-
<i>Larus audouinii</i>	1994	1979
<i>Larus leucophthalmus</i>	1994	1985
<i>Milvus migrans</i>	1979	-
<i>Pandion haliaetus</i>	1979	-
<i>Pelecanus crispus</i>	1994	1985
<i>Pelecanus onocrotalus</i>	1994	1985
<i>Pernis apivorus</i>	1979	-
<i>Terathopus ecaudatus*</i>	-	-

* This species was included in Israel's 2019 National CMS Report. The species is considered "endangered" by BirdLife International but was not present under either Appendix per data on the CMS website.

4. Annex 2 – Legislation Analyzed

5. **National Parks, Nature Reserves, National Sites and Memorial Sites Law**,
5758-1998, Dinim Vol. 6 pp. 3505 (Apr. 5, 1998) [Parks and Reserves Law].
6. **Nature Reserves Regulations (Order and Conduct)**,
5739-1979, Dinim Vol. 6, p. 3549 (Jan. 10, 1973, consolidated June 11, 1985).
7. **Wildlife Protection Law**,
5715-1955, Dinim vol.8, 4365 (Jan. 1, 1955, consolidated Apr. 5, 1998).
8. **Wildlife Protection Regulations**,
5736-1976, Dinim vol.8 pp. 4371, §§ 1a, 2, (Sept. 9, 1956, May 25, 1999).
9. **National Parks, Nature Reserves, National Sites and Memorial Sites Declaration** (Protected Natural Assets), 5765-2005,
10. **National Parks, Nature Reserves, National Sites and Memorial Sites Declaration** (for Compliance with the Convention on International Trade in Endangered Species of Wild Fauna and Flora) (Protected Natural Assets), 5764-2004,