

## **Meeting of the Malta Ornis Committee**

**3<sup>rd</sup> July 2013, Casa Leoni, Sta Venera**

### **Minutes**

#### Attendees:

Dr Louis F. Cassar – Chairman  
Mr Victor Agius – Secretary  
Mr Frank Vassallo – Hunting and Trapping Expert  
Mr Lino Farrugia – FKKNK (present only for item 2)  
Mr. Joe Perici Calascione - FKKNK (present only for item 2)  
Mr Nicholas Barbara – BIRDLIFE (MALTA)  
Mr Gwido Baldacchino - Member nominated by Government  
Mr Mark Gauci – Avifauna Expert  
Ms Emeline Fenech – Member nominated by Government  
Mr Marco Falzon – Member nominated by Government  
Mr Darrin Stevens – MEPA

Apologies for absence: Mr. Joseph Mangion - BIRDLIFE (MALTA);

In addition to Committee members, the following persons were present:

Mr Sergei Golovkin – Parliamentary Secretariat for Agriculture, Fisheries and Animal Rights  
Mr Steve Micklewright – BIRDLIFE (MALTA)

#### **1. Agenda**

1.1 The Chairman introduced the agenda as being a continuation of the meeting held on 28<sup>th</sup> June. The only additional point that, although already discussed at the meeting on 28<sup>th</sup> June but which, nonetheless required further discussion, was the objection, voiced by the FKKNK, over the proposed procedure for participation in Ornis meetings. In this respect, reference is made to Minute 4 of the 28/06 meeting, as well as to subsequent email by Mr. Perici Calascione which is reproduced in footnote to item 2 below.

## **2. Participation in Ornis meetings**

2.1 FKNK representatives expressed their strong reservations over the Committee's interpretation of the legal requirements of article 10 of the Legal Notice 79 of 2006 insofar as participation by Ornis members is concerned. FKNK's position is summarised in the email by Mr. Joe Perici Calscione dated 2<sup>nd</sup> July and addressed to Committee Secretary<sup>1</sup>.

2.2 The Chair acknowledged FKNK's concern, also noting however that at the meeting on 28<sup>th</sup> June the FKNK representative had agreed with the need for flexibility in relation to participation by representatives of organisations, whereby organisations may nominate their representatives to attend particular Committee meetings if the originally nominated members are unable to participate for whichever reasons. This stems from the need to ensure an effective and functional Committee work, whereby should one or both representatives of either Birdlife (Malta) or FKNK be unable to attend, the meetings may still proceed with participation of substitute members nominated by these respective organisations<sup>2</sup>.

2.3 The FKNK re-emphasized its point and insisted on seeking independent legal advice on this matter. Until such an advice is received, the FKNK representatives withdraw their participation in the Committee. At this point the FKNK representatives left the meeting in protest.

2.4 The Chair asked the Secretary to obtain independent legal advice on this matter. The meeting resumed in the absence of the FKNK.

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<sup>1</sup> Email from Mr. Joe Perici Calscione dated 2<sup>nd</sup> July 2013 and addressed to Ornis Committee Secretary: "Dear Mr. Agius, I refer to the recent procedures relating to the ongoing work of the Ornis Committee - Malta. I attended the first meeting and noticed that the procedure had changed completely and I am not one to resist change, but there are limitations. When I saw the representatives of Birdlife Malta, I had assumed that these had changed from the original persons specifically and personally nominated by Government to represent that organisation; it transpires that they did not change and that Mr. Joe Mangion and Mr. Nicholas Barbara are the persons personally nominated by Birdlife and appointed by Government. To date, as I was informed by my colleague that Mr. Micklewright has attended the second meeting of the Committee despite the fact that he is not the person personally appointed by government. If he were the appointed person, I would not be mentioning this point. With all due respect and with absolutely no personal implications at all, I cannot agree that persons who are personally appointed by Government can be changed at will; this defeats the scope of continuity and has never been accepted in the past and should not be accepted now. Furthermore there are persons who are not part of the Committee who are attending and listen to the Committee meeting procedures whilst they wait their turn. This also is unacceptable and has to change. The Committee is the Committee, made up of persons nominated and appointed in their personal capacity and anything that is said in camera has to remain so until the Committee itself decides otherwise. Guests, who may be invited to attend the meetings for specific purposes have to have a specific time allotted to them when they are invited into the room to participate but not before or after their brief or specific intervention is being made. If there exist specific instances where the Chair, in agreement with the Committee feels that it is in the interest of the better operation of the Committee for some specific person who is a Government employee and who is directly connected to the wider operation of the subject, to be present at Committee meetings, then the composition of the Committee should change to cater for this inclusion; otherwise, if a person is not appointed by Government to act on the Committee, he should not be present for Committee meetings. In view of the above, I would kindly ask you to regulate the procedures accordingly and ensure that only persons who are persons who are appointed on the Committee should be present. Should this request be ignored, I do not feel that I can accept such a situation and will have to challenge this officially, hopefully good sense will prevail and such action be uncalled for; I would also suggest that if there is still a failure to understand the importance of my position, one can also seek the advice of the Attorney General on the matter."

<sup>2</sup> See footnote 1 in Minutes of 28 June 2013.

### **3. Information note regarding proposal to fix dates of autumn hunting season in legislation**

3.1 Mr. Sergei Golovkin informed the Committee that since the 28/06 meeting he sought further advice from Malta's Permanent Representation to the EU (PREU) on the issue of fixing autumn hunting dates in legislation, and that the PREU subsequently re-confirmed advice previously given, as noted under point 13.1 in the minutes of the 28/06 meeting. The advice is not to fix dates in legislation since this may expose Malta to a legal challenge concerning interpretation of the Birds Directive. It is also recommended that the hunters' concerns over the uncertainty of the season's dates can and should be alleviated by announcing season dates well in advance of the season, and not in the last weeks as used to be the predominant practice to date. Furthermore, should the FKNK decide to further pursue its proposal for fixing season dates, it would be helpful if the FKNK could provide information on which EU member states have their bird hunting seasons permanently fixed in legislation.

### **4. FKNK proposals for hunting during autumn and winter**

4.1 The Chair noted with regret that since the FKNK opted not to participate in this Ornis session, the debate on this item is not likely to cover the matter adequately. Therefore, the Chair preferred if a decision on the eventual recommendations to Government on this item is taken in the presence of the FKNK. Nevertheless, it would still be useful to have a debate to capture the views of all other members.

4.2 Mr. Sergei Golovkin presented the views of the Parliamentary Secretariat on this matter. He noted that the FKNK's proposal stems from a perception, which the FKNK believes is mistaken, that Maltese hunters have an uninterrupted five month hunting opportunity for Turtle Dove and Quail in autumn, which perception is being fuelled by anti-spring hunting lobbyists. In FKNK's opinion, this perception is clearly mistaken, not only because the ECJ and the Commission have recognised Malta's right to apply spring derogation due to absence of a satisfactory alternative in autumn, but also because the real hunting opportunity for Turtle Dove and Quail is limited to a brief season in September and October (for Turtle Dove) and September to November for Quail, which brief season is also 'interrupted' by what the FKNK believes to be an unjust and punitive 'curfew' applicable between 15th and 31st of September. Given this situation, the FKNK had previously proposed to legally limit the season for Turtle Dove to the period from 1st September to 31st October, and to limit the season for Quail to the period from 1st September to 30th November. It should however be noted that the EU Commission is satisfied with the current arrangement and is not challenging the duration of Malta's autumn season for Turtle Dove and Quail. The Commission has also acknowledged the ECJ judgement which ruled that autumn hunting opportunities for these two species, in Malta's case, do not constitute a satisfactory alternative to spring hunting. Furthermore, the Commission is fully aware of the actual periods of migration of Turtle Dove and Quail over the Maltese Islands in the autumn, because relevant scientific data has been reported to the Commission on numerous occasions by the Maltese Government. Hence, there is no need to 'placate' the Commission, or anti-spring hunting lobbyists by shortening the length of the season for Turtle Dove and Quail, whilst at the same time retaining the overall season length for all other species. On the other hand, should a differentiated season length be introduced, in practice it would lead to

complicating the existing enforcement regime, by, for example, creating new types of offences which previously did not exist. So, for example, somebody caught with a bagged Turtle Dove on the 1<sup>st</sup> of November, or with a Quail on the 1<sup>st</sup> of December, will be guilty of an offence. This would lead to confusion and will also create logistical difficulties for enforcement personnel in the field.

4.3 MEPA representative agreed with the Parliamentary Secretariat's reasoning, and further noted that the concept of applying differentiated season lengths for different species may present further difficulties. For example, it may lead the Commission to query as to why shortened seasons have been applied for Turtle Dove and Quail but not, for argument's sake – for Golden Plover and Song Thrush.

4.4 The Chair concluded by proposing to take a vote once the FKNK representatives are present. This was agreed to.

## **5. Proposed improvements to Carnet de Chasse system for autumn 2013 hunting season**

5.1 Birdlife (Malta) representative briefly explained the essence of the proposal, which aims to strengthen enforcement and monitoring of the uptake of autumn hunting bags. The proposal is particularly significant because of the link between the autumn bags for Turtle Dove and Quail and the quotas used for spring derogations. The proposal involves the introduction of a tagging system for bagged birds, whereby each bagged bird can be tagged with a tagging device bearing an identification number, which tags may be subsequently returned to the authorities possibly together with Carnet de Chasse. The system aims to provide an added verification mechanism in addition to Carnet de Chasse.

5.2 A debate ensued whereby several Committee members questioned the practicality and effectiveness of the proposal on the grounds of it being impractical and costly, possibly presenting a health hazard for the officials who may be charged with collecting tags at the end of the season, and not addressing the core issue of the veracity of reporting which hinges on self-compliance by hunters who are required by law to report their bags accurately through Carnet de Chasse. The proposal does not address the main issue of compliance because hunters who tend to ignore their legal obligation to report their bags truthfully through Carnet de Chasse are also likely to ignore their obligation to tag the birds and to send these tags to the authorities. The FKNK pointed out that similar systems are in use in other countries including in the US and Canada, it was also pointed out that these systems are designed mainly for large game hunting (deer, etc) or for trout fishing and as such are ill-suited for bird hunting.

5.3 It was however also noted that the underlying aim of the proposal, namely to strengthen enforcement and verification during autumn season is a valid one, and merits further discussion. BLM representative explained that we have now come at a point where all entities concerned are now recognising the fact that indeed there is under-reporting. BLM rep mentioned Delany report (2005) commissioned by the EC, as well as the National Environment Policy Consultation Phase 1 paper which also included a comment on discrepancies in Carnet De Chasse reporting. BLM rep commented that given that everyone acknowledges this problem, there should be a drive to address it concretely. BLM recounted that during former Ornis meetings, then MEPA Director Petra Bianchi had recommended the matter to be taken up by MEPA's avifauna section with assistance from BLM (FKNK had

opted completely out) in order to seek ways and means of improving the Carnet De Chasse system.

5.4 The Chairman suggested that a sub-committee be formed to discuss the matter further from a broader angle of introducing improvements to the current Carnet de Chasse.

5.5 The MEPA representative observed that whilst the current format of the Carnet de Chasse may be further improved, the present system is nonetheless valid, considering that many other member states, including for example Cyprus, according to Artemis information portal on huntable species in Europe, do not use Carnet de Chasse at all. In the case of Cyprus, the reporting system used consisted of telephone interviews with the hunters; it was thus concluded that the Maltese system is far better than that.

5.6 Birdlife (Malta) representative noted that it would be beneficial to continue this discussion and to examine the relevant statistics, such as to what extent the findings of the migration study correlated with reporting through Carnet de Chasse.

5.7 In response to this point Mr. Sergei Golovkin noted that the findings of the migration study cannot be directly correlated with the figures of Carnet de Chasse, but they can be used as an independent verification of the overall trends. It is Government's intention to also conduct an independent migration study in autumn, but such a study would depend on availability of funds. Financial estimates to that effect have been made and these form part of the request to the Ministry of Finance to allocate financing.

## **6. Proposal for extension of 3pm hunting curfew to cover peak bird of prey migration in September/October 2013**

6.1 Birdlife (Malta) representative presented a paper outlining Birdlife (Malta)'s observations regarding the efficacy of the 'curfew' in terms of helping to reduce the number of incidents of illegal persecution of raptors during their peak migration. The curfew is having an effect because any shot fired after 3pm during this period is illegal. BLM observations show that whilst the 3pm ban between 15<sup>th</sup> and 30<sup>th</sup> September which was introduced in 2007 has resulted in the reduction of such incidents, migration of raptors continues to the first week of October during which week the number of incidents of illegal shooting increases again. These findings are corroborated by detailed reports of observations conducted by last year's raptor Camp which extended its presence until 7<sup>th</sup> October, and which documented the presence of vagrant birds migrating in the first week of October. This is why there is a need to extend the curfew to until 7<sup>th</sup> of October.

6.2 Mr. Frank Vassallo noted that most protected birds are actually targeted in the morning when there is no curfew. Hence the issue is not the imposition of a curfew, but the need to strengthen enforcement and education across the board. The curfew is perceived as being fundamentally unjust, because it penalises law-abiding hunters because of the action of a few illegal poachers. This is why the authorities should focus their efforts on curbing abuse, but not on penalising law-abiding hunters, which is tantamount to collective punishment. He also noted that most raptors are being targeted over Messina Strait in Sicily, and that he is not aware of any curfew imposed on hunters in any foreign country.

6.3 Mr. Mark Gauci noted that the problem seems to be concentrated about a number of well-known hotspots. Mr. Frank Vassallo added that these hotspots can be easily monitored and policed. A debate on this assertion ensued, with some, including MEPA representative arguing that since raptors are very mobile and move between various spots, the efficacy of increased police presence in the field is limited, and hence some form of curfew may be necessary.

6.4 Birdlife (Malta) representative acknowledged the concerns of the hunters, however also noting that the authorities and the hunters must build a certain degree of credibility when it comes to curbing incidence of abuse. To date statistics shows that abuse still exists and presents significant risk to birds of prey during peak migration. This is why the curfew should not only remain but should actually be extended to the first week of October. He also noted that Malta's situation cannot be directly compared to any other member state since certain circumstances are unique. For example, Malta possibly has the largest per capita number of stuffed birds held in private collections. BLM representative also noted the fact that Turtle Dove and Quail hunting occurs mostly in the early hours of the morning, and though a curfew like that might appear to be depriving hunting effort, in reality hunting is by nature already very much limited in those hours given the pattern of migration of TD and Q, the only two game species that are present during the proposed 15 Sep – 7 Oct period.

6.5 Mr. Mark Gauci noted that removing the present curfew at this point, given the statistics showing abuse may be counterproductive and may not serve the interests of the hunters.

6.6 Mr. Sergei Golovkin observed that we have two diametrically opposed positions, namely the proposal to abolish the curfew since it is perceived as unjustly targeting law abiding hunters, and the position that the curfew is having an effect and should be extended. He argued that both positions have valid argumentation which cannot be dismissed by merely voting in favour of one or another. Mr. Golovkin believes that a compromise position must be found which would address the concerns of both opposing sides. Such a position may include the reduction of the present curfew to the period between 8pm onwards, to be applied between 15<sup>th</sup> and 30<sup>th</sup> September. This measure should be coupled with greatly increased enforcement which may be beefed up to the levels of derogations. Such a position would therefore address the concerns of the hunters, and at the same time address the concerns of Birdlife (Malta), since increased enforcement would result in the reduction of the possibility for abuse. On this point, the BLM representative commented that having the curfew from 8pm onwards has no logical reason given that the very reason why a 3pm curfew was considered in the first place is because in good migration days as well as unfavourable weather conditions roosting has been observed to occur that early. The curfew is meant to cover the behaviour by most birds of prey of circling around flying at low altitude in search of suitable roosting sites before it gets dark. Accordingly a curfew as late as 8pm will provide no effective cover.

6.7 The MEPA representative said that the issue of the curfew has been on Ornithology agenda during the past 3 years and the Committee never took a vote on the matter precisely because of the degree of polarisation. The issue is a complex one, also because a number of legal obligations of the Birds Directive need to be considered. He is also of the opinion (and this is a personal opinion, not the position of MEPA), that at this point in time it is too early to remove or reduce the curfew, since due to behaviour of the birds increased enforcement wouldn't necessarily be effective. The representative also noted that the biggest cause for raptor persecution is illegal taxidermy, which needs to be curbed.

6.8 Mr. Sergei Golovkin said that the problem of illegal taxidermy is one of the main priorities for the new Unit.

6.9 The Chair noted that the Committee is faced with several options, namely: (a) extend the curfew; (b) abolish the curfew; (c) retain status quo; (d) reduce the curfew and increase enforcement. Since no consensus has been reached, the matter should be put to the vote, which vote should preferably take place once the FK NK representatives are present. A follow-up meeting is thus being called for Monday 7<sup>th</sup> July at 1630.

**The meeting was adjourned at 2000 hours.**