

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

**4<sup>th</sup> March 2014, Hexagon House, MEPA, 1600 - 1930**

### **Minutes**

#### **Attending members:**

Prof Mark Anthony Falzon – Chairman  
Mr Sergei Golovkin - Secretary  
Mr Lino Farrugia – FKNK (joined meeting during discussion on agenda item 5)  
Mr Nicholas Barbara – Birdlife (Malta)  
Mr. Saviour Balzan - Birdlife (Malta)  
Mr Gwido Baldacchino - Member nominated by Government  
Ms Emeline Fenech – Member nominated by Government  
Mr Marco Falzon – Member nominated by Government  
Mr Frank Vassallo – Hunting and Trapping Expert  
Mr Stephen Saliba – MEPA  
Mr Mark Gauci – Avifauna Expert

**Excused:** Mr Joe Perici Calascione - FKNK

#### **1. Adoption of the agenda**

1.1 It was agreed that the originally scheduled Item 5 (BLM reaction to conservation status assessment paper) will be discussed once Mr Richard Lia joins the meeting and therefore the order of discussion on items 5 and 6 may be changed depending on timing. The agenda was thus adopted.

#### **2. Minutes of the previous meeting**

2.1 Minutes of the meeting held on 18<sup>th</sup> February 2014 were adopted following amendments from Chairman and FKNK.

#### **3. Matters arising and matters to report**

3.1 There were no matters arising or matters to report.

#### **4. Derogation from Regulation 4 (1) (e) of the Conservation of Wild Birds Regulations to permit the sampling Yelkouan Shearwaters in Malta for scientific research**

4.1 Nicholas Barbara explained Birdlife (Malta)'s request for a derogation to permit live sampling of blood and feathers from 80 specimens of Yelkouan shearwaters during 2014 and 2015 breeding seasons for the purposes of scientific research, which is being conducted within the framework of LIFE+ Malta Seabirds Project.

4.2 Committee members had no reservations with regards to approving this request and recommending that the Minister should endorse this derogation in accordance with the provisions of Regulation 10(6) of the Conservation of Wild Birds Regulations (S.L. 504.71).

4.3 Sergei Golovkin said the Wild Birds Regulation Unit has assessed this proposal and has no objection to authorising this derogation. The Unit shall prepare the necessary publication in the Government Gazette and shall issue permit accordingly.

## **5. Overview of *Carnet De Chasse* records and their influence on spring hunting derogations – BLM**

5.1 Nicholas Barbara tabled a document, which summarises Birdlife (Malta)'s concerns with regards to the validity of *Carnet de Chasse* and SMS bag reporting data. The document contains two graphs, showing turtle dove and quail autumn and spring hunting bag statistics for 2002-2012 and 2002-2013 respectively, as well as a series of charts that depicted data pertaining to Birdlife (Malta) observations of shots heard, turtle dove and quail sightings, and birds reported shot via SMS system during 2011, 2012 and 2013 seasons. The document furthermore quotes several excerpts from various publications, including messages posted on FKNK's forum, an article in hunters' newspaper *Passatemp*, an article in the Times of Malta and a quote from the Consultation Paper published as part of the process of developing the National Environment Policy in 2010. In Birdlife (Malta)'s opinion, the data and quotes presented point to the conclusion that *Carnet de Chasse* and SMS reporting systems are seriously flawed, as they rely on hunters' declarations with no real means of verification, and given that hunters have an inherent incentive not to report their bags truthfully out of fear that the spring season would not be opened or that the season may terminate prematurely, the Ornis Committee should not base its assessment and recommendations on the opening of the 2014 Spring Hunting season on such flawed data. Birdlife (Malta) also warned the Ornis Committee to be aware that unless any additional measures are proposed and implemented, the spring 2014 season "shall in practice be a fully open season without any possible control over the numbers of turtle dove and quail to be hunted".

5.2 Lino Farrugia said he completely disagreed with the conclusions inferred by Birdlife (Malta), namely that *Carnet de Chasse* and SMS systems are seriously flawed. He said that there is no scientific basis whatsoever for doubting the validity of this data, which is the best available data we have. Furthermore, Lino Farrugia said that even though he doesn't mind being attributed the comments on FKNK's Forum as reported in BirdLife's report, he wasn't the only moderator of the Forum and so it was incorrect of BirdLife to jump to such conclusions. Lino Farrugia then once again excused his late arrival for the meeting, however, he had something to say about item 4, in that since derogations are discussed at Ornis Meetings, then all derogation applications should be brought to the Committee's attention for discussion, including derogations by application of which bird-ringing is permitted.

5.3 Sergei Golovkin said that the controls implemented by Wild Birds Regulation Unit over the past few months certainly increase overall confidence in reporting data, since there is now a clear counter-incentive to any under-reporting. He made reference to Ornis discussion on 18<sup>th</sup> February 2014 where these measures were explained in detail. Amongst recent improvements, there are hefty fines for any under-reporting, a requirement for *Carnet de Chasse* to be completed before leaving the hunting area (which improves enforcement), much greater rate of collection of *Carnet de Chasse* booklets at the end of the season (99.6% rate of return by the end of February 2014) and rigorous data quality controls during data extraction. He also said that additional verification measures are already in place, such as for instance the independent spring migration study, and a similar study which will from now on be carried out also in the autumn. Moreover, the Wild Birds Regulation Unit is liaising with the police to step up the practice of spot checks in the field, which spot checks would provide further deterrent against any potential underreporting. Some of the figures presented in Birdlife (Malta)'s graphs purportedly showing *Carnet de Chasse* statistics for past years appear to be incorrect, for example 8,505 turtle doves and 21,755 quails quoted for 2008 autumn season does not tally with official record of 5,735 turtle doves and 13,340 quails, and there is similar mismatch for other years' entries. The actual reported figures for autumn do fluctuate from one year to the next, due to unpredictable extent of migration, however a broad pattern can be discerned throughout these

statistics and there appears to be nothing in this pattern that could lead to the alarmist conclusions presented by Birdlife (Malta). This does not mean that the reporting systems cannot be improved further or that the Ornithology Committee cannot question validity of reports, particularly with regards to SMS figures reported towards the end of spring seasons, however in the opinion of the Wild Birds Regulation Unit there are no grounds to claim that all these reporting systems are fatally flawed.

5.4 Chairman referred to Nicholas Barbara's remark that the reporting system appears to be flawed because of an incentive to under-report and because the system is reliant on self-reporting by hunters. However if we extend this parallel to other areas of regulation, isn't a multitude of other systems, such as for instance tax reporting and compliance, based on the same principle? The fact that a system envisages an element of self-compliance does not automatically imply that the system is flawed, provided that relevant controls and deterrents against abuse are in place.

5.5 Saviour Balzan said that Birdlife (Malta)'s conclusions are what they are, and the report clearly shows that the system is flawed. He proposed that the Committee should take a vote on the paper presented.

5.6 Sergei Golovkin asked to clarify whether Saviour Balzan is proposing that the Committee should vote on whether it agrees or otherwise with the conclusions of the paper tabled by Birdlife (Malta). Saviour Balzan confirmed that this is the intention.

5.7 Chairman disagreed that this report is a voting matter. The report is noted and Birdlife (Malta)'s criticism of the reporting systems is duly registered, however this does not need to imply that the Committee should take a vote on each and every paper tabled by any member.

5.8 Saviour Balzan objected to this interpretation.

5.9 Chairman asked the Secretary to register this objection, but ruled that there is no cause for a vote on the report.

## **6. Birdlife (Malta)'s formal reaction to Conservation Status Document presented by WBRU during 18<sup>th</sup> February meeting**

6.1 Nicholas Barbara tabled a document on behalf of Birdlife (Malta), which summarises organisation's reaction to the document prepared by WBRU and discussed during 18<sup>th</sup> February Ornithology sitting. He said that Birdlife (Malta) insists that before making any recommendations concerning the application of derogation for spring hunting of turtle dove and quail, the Malta Ornithology Committee must be certain that the opening of the hunting season will not impact or further impoverish conservation status of either species. In Birdlife (Malta)'s opinion, an assessment of the conservation status prepared by WBRU is biased, since it focuses on global status of the species, which is hardly of any relevance to consideration of this derogation within the framework of EU Birds Directive, whilst at the same time omitting reference to crucial scientific sources that indicate that the status of both species is declining in Europe. These scientific sources provide ample evidence that hunting, amongst other causes, does contribute to the decline in the conservation status of turtle dove and quail, and this is not acknowledged in WBRU's report, which instead attempts to justify derogation. WBRU's report fails to prove that the population of these species enjoys favourable conservation status as required by Framework Regulations, and fails to demonstrate that the spring hunting derogation will not further jeopardise this status, or contribute to maintaining the population of these species at satisfactory level. In Birdlife (Malta)'s opinion, WBRU's report resorts to incorrect assumptions, exaggerated circumstances or irrelevant information and a lack of consideration of the causes for the real reasons why these birds rarely manage to breed in Malta. In view of this, Birdlife (Malta) disagrees with the conclusions of WBRU's report, and recommends that the Committee should adopt a precautionary approach until it is otherwise proven that the application of derogation will not jeopardise further the conservation status of the species concerned.

6.2 Richard Lia said that WBRU's report does not in any manner attempt to justify any derogation, but rather makes reference to sources of scientific literature that provide an assessment of the conservation status of the species concerned. WBRU's report indeed makes reference to several sources which point to moderate decline in the conservation status of turtle dove and quail in some European regions, as well as improvement in conservation status in other regions. WBRU's report aims to present an assessment of the latest available scientific literature, in order to update assessments carried out in previous years. WBRU's report did not recommend or otherwise any derogation, but concluded that the magnitude of the latest reported negative trends in the population status is relatively insignificant, and, in the absence of other evidence, does not appear to warrant a reassessment of the conclusions reached in previous years. As discussed during the 18<sup>th</sup> February Committee meeting, WBRU's report clearly specifies that the latest update for the Turtle Dove is that provided by the European Bird Census Council (EBCC, 2013), which reports a decrease of 0.05% (annual change) in the short-term trend (1990–2011) and a decrease by 0.01% (annual change) in the long-term trend when compared with the same trend brackets in the EBCC 2012 report. The report also clearly mentions that the trend classification of Moderate Decline for both the short-term and the long-term trends remained the same, that is, no change in trend classification between the 2012 and 2013 EBCC reports. Given the extremely small magnitude of decline, and lack of clear scientific evidence that hunting of these species is a contributor or a cause of this decline, one cannot reach a conclusion that a limited application of a derogation to permit strictly supervised hunting of turtle dove and quail during 3 weeks in April would in any way exacerbate these trends.

6.3 Saviour Balzan added that WBRU's report is clearly whitewashing the situation for the sake of political expediency and that he has yet to see a government-appointed member of the Committee to vote against any proposal for spring hunting season. This shows that political expediency clearly takes precedence over scientific facts, casting doubt on the integrity of the Ornis Committee, which is meant to be an impartial and scientific advisory organ.

6.4 Sergei Golovkin said that he cannot understand why Birdlife (Malta) feels justified and warranted to level such serious accusations at fellow Committee members. In the first instance, it should be made clear that WBRU is not "pushing" for any derogation, but is mandated by law to present for Committee's consideration its assessment of the situation. It is clear that WBRU's report already made reference to moderate decline in the population status, and has also considered various sources pertaining to EU and pan-European conservation status, such as by citing EBCC (2013) data, as well as the by referring to EU Management Plans (Turtle Dove: 2007-2009; Quail: 2009-2011) and Birdlife International (2004) assessments. One therefore cannot claim that this report focuses only on global conservation status, or omits reference to pan-European decline. If there are any new sources of scientific literature that have not been reflected in WBRU's report, but which are highlighted in Birdlife (Malta)'s report, the WBRU will ensure that its original report is updated accordingly to reflect Birdlife (Malta)'s submission. This updated document will subsequently be submitted to the European Commission and will also be published. It is clear that Birdlife (Malta) does not agree with the conclusions of WBRU's report and that there is a difference of opinion as regards to whether the magnitude of reported decline in the conservation status would warrant a wholesale re-assessment of the situation. WBRU is of the opinion that the small scale of the decline and the absence of clear scientific evidence linking this decline to hunting in Malta does not warrant such a re-assessment, whilst Birdlife (Malta) is urging a precautionary approach. This is perfectly normal and this is why we have a Committee in the first place, in order to consider all available evidence and to make recommendations accordingly. This difference in opinions and interpretations should not be construed as political expediency, but as normal pluralism. This is why accusations of political expediency levelled by Mr Balzan are unwarranted. The Committee is clearly mandated by law to consider all the relevant technical and scientific aspects and there is no cause to doubt the Committee's integrity simply because an organisation represented in the Committee does not agree with conclusions of a report. He also said that he disagrees with the language used in Birdlife (Malta)'s report, which contains passages such as "WBRU has attempted to.." or "WBRU's document chooses to report...", "WBRU is unwilling to accept this information.." or "assuming that the Unit is pushing for a

derogation”, which clearly point to the fact that Birdlife (Malta)’s stance on the matter is itself politically motivated, demonstrating a degree of *a priori* rejection of any scientific arguments with which Birdlife (Malta) disagrees. He urged all committee members to contribute to the debate constructively and to refrain from unwarranted accusations.

6.5 The Chairman agreed with the Secretary’s proposal to review the original report in the light of the sources of literature cited by Birdlife (Malta) and urged WBRU to work closely with Birdlife (Malta) to update the report accordingly wherever necessary.

## **7. Autumn 2013 bag statistics for turtle dove and quail and determination of potential spring 2014 bag limits in line with Legal Notice 221 of 2010**

7.1 Sergei Golovkin said that in 2013 there were 10,855 persons licensed to hunt birds on land and at sea. Some 10,517 licenses were returned by the legal deadline of 13th February 2014, whilst a further 338 persons were subjected to an administrative fine for late return (€50, increasing by €20 for each week of non-return). Of these, 303 persons paid the fine before 3rd March 2014 and returned their license. Thus the total number of returns stands at 10,820 (99.6% of hunters), and only 35 booklets have not been returned to date. This is 32 times less than was the case last year, when 1,153 licenses were not returned to the authorities by the end of March 2013.

7.2 The process of extracting turtle dove and quail data commenced immediately upon the close of the legal deadline for the return of licenses. This year the process was subjected to quadruple quality checks, which involved 3 quality checks by data operators, and one physical random sample check by WBRU, which reviewed data entry for 1,000 booklets or circa 9% of the total number collected. The final checked count stood at 7,106 turtle doves and 4,342 quails. A further 1,501 entries pertained to undetermined species (either TD or Q) and WBRU proposed that, as was the case in previous years, this figure should be divided equally and added to the respective turtle dove and quail counts.

7.3 At this point the Chairman said that equal apportioning would be statistically incorrect. Saviour Balzan added that the fact that WBRU proposes such equal apportioning points to lack of competence in dealing with the data.

7.4 It was agreed that the “undetermined species” count would be apportioned in proportion to the number of turtle doves and quail. A ratio of 1.6 TD (917) to 1 Q (584) was subsequently worked out, and thus the final number is 8,023 TD and 4,926 Q.

7.5 At this point Sergei Golovkin tabled a graph which showed how these figures compare to those reported in previous years. The reported figures are close to autumn bag averages reported between 2002 and 2012. Although there are substantial fluctuations from one year to the next, the figures reported for 2013 are within the normal distribution range.

7.6 The Committee’s attention was further drawn to Article 5 of the Legal Notice 221 of 2010 (as amended), which stipulates the requirement for the establishment of an overall bag limit for a spring hunting season for Quail and for Turtle Dove, on the basis of figures contained in Annex 1 to the same Regulations. The Regulations establish that, should a spring hunting season be declared open, the overall national spring hunting limits would be set at not more than a ceiling limit of 5,000 for Quail and 11,000 for Turtle Dove, and that a spring hunting season will not be opened in cases where the number of birds hunted during the previous autumn season reaches 20,000 in the case of Quail and 21,000 in the case Turtle Dove, with each species considered separately. The Regulations allow that the maximum bag limit for a spring hunting derogation may be fully allowed in cases when the number of Quail or Turtle Dove hunted during the previous autumn season does not exceed 10,000 for each species respectively.

7.7 Saviour Balzan asked regarding the number of hunters who have not declared either a turtle dove or quail shot during the 2013 autumn season. Upon checking with technical staff, Sergei Golovkin said that he does not have this data available at the moment, and it seems that immediate extraction of this data might not be technically possible due to the format of the database of the data extracted. Saviour Balzan asked when such data may be extracted. Sergei Golovkin replied that on the basis of technical advice received, it may be the case that the Unit will need several months to extract all remaining data from *Carnet de Chasse*, which would in turn enable the Unit to confirm the number of hunters who did not declare either turtle dove or quail catches.

7.8 Nicholas Barbara said that he cannot understand this technical difficulty, since last year this information was available at the Ornis meeting that took place at the end of March 2013, and it was minuted that the number of hunters who declared nil catches in 2012 was 7,703. It was therefore evident that such a large proportion of hunters did not bother to declare any catches and it is hard to believe that such a vast majority of hunters did not bag any turtle doves or quails at all. This further supports Birdlife (Malta)'s conclusion that the reporting system is fatally flawed and cannot be relied upon by the Ornis Committee.

7.9 Lino Farrugia disagreed with Nicholas Barbara's interpretation, stating that the fact that a large number of hunters did not bag any turtle doves or quails during autumn season actually supports CJEU's conclusion that in Malta's case, hunting for turtle doves and quail in the autumn cannot provide a satisfactory alternative to hunting for these species in spring. This is because the influx of these species during autumn is extremely limited and localised, which leaves a vast majority of hunters who have no or limited access to appropriate hunting grounds in the West of Malta, without any hunting opportunities in the autumn.

7.10 Sergei Golovkin said that he will double-check whether the data can be extracted and will confirm on the following day. It was subsequently confirmed (the day after the meeting, on 5th March) that 7,904 hunters, or *circa* 73% of all registered hunters did not report any turtle dove or quail catches during 2013 autumn season, which is consistent with the same metric reported for previous years.

## **8. EC's position on spring hunting**

8.1 As requested by Birdlife (Malta), Sergei Golovkin provided an overview of the latest status of interaction between the Government and the European Commission, on the issue of spring hunting. He recalled that in July 2006, the Commission initiated formal infringement proceedings against Malta concerning spring hunting and that these proceedings subsequently culminated in 2009 CJEU's judgement. Following this judgement, in line with the provisions of Directive 2009/147/EC on the Conservation of Wild Birds (Birds Directive) and after intensive consultation and discussions with the European Commission, the Government of Malta allowed a derogation for hunting in Spring in 2010, 2011, 2012 and 2013. Following the judgement, the Commission maintained a procedure under Article 260 of the Treaty on the Functioning of the European Union which allows the Commission to monitor closely Malta's compliance with the judgement. Within the framework of this procedure, the Commission has, in March 2013, initiated a process known as "EU Pilot", whereby it has sought detailed clarifications on Malta's application of spring hunting derogations. In particular, the Pilot request made reference to the so-called "Joint Report" compiled by several NGOs including Birdlife (Malta). The Commission requested the government to provide clarifications and response to certain criticism concerning Malta's application of spring derogations contained in that report. The Government replied to this request in May 2013, providing all the necessary information. A subsequent request for clarifications was made in July 2013, and the Government responded to that in early September 2013. The main issues of concern to the Commission were strict supervision and enforcement, as well as credibility of the *Carnet de Chasse* reporting system. Addressing these concerns, the Government has in autumn 2013 carried out a major overhaul of the Regulations, strengthening legal deterrent against infringements, as well as introducing stricter reporting

obligations and a system of administrative fines. In parallel, the Government boosted field enforcement and has committed itself to carrying out an additional independent monitoring study of the influx of turtle dove and quail in autumn. Further details regarding these developments were provided to the Commission within the framework of its annual package meeting, which took place in November 2013. The Commission has gone on record stating that it is satisfied with the legal regime in place, and that its monitoring of Malta's compliance is aimed at ensuring that there are no systemic flaws.

## **9. Recommendations to Government concerning application of 2014 spring hunting derogation**

9.1 Lino Farrugia said that prior to deciding on specific recommendations to Government, the Committee should be informed that earlier today FKKNK had submitted amended proposals for this year's spring hunting derogation which suggest that hunting during the spring derogated period should also be permitted on the three Sundays and the Public Holiday (Good Friday) that fall within the period up to 13:00 hours.

9.2 The Chairman referred to the information presented and debated during this Ornis session as well as during the previous session held on 18<sup>th</sup> February. He suggested that the Committee should at this point take a vote on whether the Government may be recommended to open the 2014 spring season.

9.3 A debate ensued regarding whether a separate vote should be taken on any specific recommended parameters of the season, such as on the proposal submitted by the FKKNK, or whether there should be a vote on the principle of whether or not derogation can be recommended, without going into the issue of specific parameters of such derogation which may require an in-depth debate of its own, or, alternatively, consideration of such parameters may be left at the discretion of the Government. After some deliberation, it was agreed that the Committee should vote on whether the derogation that follows 2013 season's parameters can be recommended in principle.

9.4 A motion on whether the Committee should recommend the opening of the 2014 season subject to the same parameters as in 2013 was subjected to a vote. Birdlife (Malta) voted against, the Chairman abstained, whilst the three government representatives, the representative of MEPA and the FKKNK voted in favour of the proposed derogation. The motion was therefore approved. Lino Farrugia further requested, that as had been the norm on previous occasions, besides being informed with the outcome of this vote, government should also be informed with FKKNK's proposal.

## **10. Any other business**

10.1 The Committee did not discuss any other business.