

Meeting of the Malta Ornis Committee

4th November 2015, WBRU, 1600 - 1830

Minutes

Attending members:

Prof Mark Anthony Falzon – Chairman
Mr Sergei Golovkin - Secretary
Mr Nicholas Barbara – Birdlife (Malta)
Mr. Geoffrey Saliba - Birdlife (Malta)
Mr Lino Farrugia – FKKNK
Mr Joe Perici Calascione – FKKNK
Mr Marco Falzon – Member nominated by Government
Ms Emeline Fenech – Member nominated by Government
Mr Frank Vassallo– Hunting and Trapping Expert
Mr Stephen Saliba – MEPA

Excused: Mr Gwido Baldacchino - Member nominated by Government; Mr Mark Gauci – Avifauna Expert

Other contributors present: Insp. Jurgen Vella, ALE

1. Adoption of the agenda

1.1 The agenda was adopted.

2. Adoption of the minutes of the meeting held on 28 August 2015

2.1 Nicholas Barbara made reference to the sentence in paragraph 4.1. He did not recall mentioning what was stated therein.

2.2 The minutes were adopted subject to deletion of 4.1.

3. Matters arising and matters to report

3.1 As a matter arising from previous discussion concerning Birdlife (Malta)'s report to the Bern Convention, and subsequent letter from the Secretariat of the same Convention, Sergei Golovkin took the floor to brief the Committee regarding outcome of the Bern Convention Expert Group meeting held in Strasbourg on the 12 October 2015.

3.2 In particular, he drew Committee's attention to the outcome of the discussion concerning Malta's case on-stand-by, regarding alleged illegal killing of birds. During this meeting, Malta's representative gave a brief overview of the measures implemented to eradicate illegal killing, as well as statistics and trends related to enforcement and incidence of bird-related crime. This presentation was followed by presentation by Birdlife International on behalf of Birdlife Malta, where a number of concerns previously expressed were reiterated.

3.3 According to official report of the meeting as published on Bern Convention's website, the outcome of the discussion that ensued following both presentations was as follows: *"In reaction to both presentations many Parties considered that the results achieved by Malta in such a limited*

period of time are proportional to the efforts devoted by the authorities to the task, and deserve congratulations. Parties expressed satisfaction for the way in which the authorities have handled the complaint, and congratulated them for the long-term approach implemented to illegal killing of birds, and for the substantial results already recorded. Parties also noted that the issue of trapping derogation is being assessed by the European Commission and does not fall under the scope of the present complaint. The Group agreed to convey its satisfaction about the present case-file to the Bureau, leaving to it the final decision on the complaint.”

3.4 The Committee took note of this information.

3.5 Lino Farrugia referred to his email to the Chairman, in which he requested Chairman’s attention to the fact that Birdlife Malta has “once again leaked” official minutes of the Committee without Committee’s permission, knowledge and approval. The minutes were appended to BLM’s submission to Bern Convention, and are now publically available on Convention’s website. FKNK considers it unacceptable that the Chair has ignored FKNK’s request for explanation, and that the Committee’s minutes are being used in this manner. In FKNK’s opinion this calls for point of order and the minutes should never be published without Committee’s consent.

3.6 In reply to Lino Farrugia, Chairman acknowledged that he did not respond to his email. However in substantive terms there is not much he can do since the Committee is a public organ and its records are by definition public. In Chair’s opinion, FKNK’s complaint appears to be more on the point of ethics, in that publication of the minutes should take place in a regular manner following Committee’s approval of the minutes, and not at the whim of individual members. However none can prevent any member from publishing or leaking minutes. He suggested that the Government should publish minutes once these are adopted by the Committee.

3.7 Lino Farrugia disagreed with inference that Committee’s minutes should be published. He is not against publication in principle, but against publication without Committee’s approval, especially at times when the discussion on any item within the Committee has not yet been completed and any leak of the minutes on the discussion in progress may be construed as an attempt to pressure and influence Committee’s work. There should ideally be a “gentlemen’s agreement”.

3.8 Sergei Golovkin said he personally agrees with the idea of publishing the minutes in a centralised manner once these are approved by the Committee. This would ensure that the public is informed holistically and provided with the full picture, and not fed snippets of information leaked by individual members in pursuance of their goals. If the Committee agrees, he will recommend this approach to the Government.

3.9 Nicholas Barbara said that members expressing their views at Ornis should be responsible for what they state, and the public has a right to be informed.

4. Update on enforcement

4.1 Inspector Jurgen Vella was invited to brief the Committee regarding enforcement situation.

4.2 Inspector Vella said that the ALE are conducting routine patrols and spot checks as in previous seasons. The ALE personnel are assisted by officers seconded from district units and the AFM. There are at present 24 ALE officers, 29 district officers and 12 AFM officers deployed, and this excludes deployment in Gozo. As in previous years, the Specialist Enforcement Branch of WBRU organised a training seminar for these officers.

4.3 There have so far been no major incidents. One incident of illegal targeting of protected species (a Sparrow) was disclosed. However action is being taken against several persons for violations the most common being use of bird callers during hunting or trapping, firearm-related irregularities, breaches

related to permitted hunting hours and hunting within prohibited distances. There were three incidents related to attempted hunting within the perimeter of areas designated as bird sanctuaries. Night-time surveillance and patrols were also held. One joint night patrol with CABS resulted in the dismantling of several illicit bird callers active at night. As regards the trapping derogation, patrols and spot checks are being conducted as usual. As was also the case last year, officers are equipped with GIS-enabled tablet computers to verify registration of any site. There were a few cases of trapping on unregistered sites and other trapping-related irregularities, such as exceedance in the number of live decoys or trapping without a valid special license.

4.4 Asked about his impression of the overall enforcement situation during derogation, and about any difficulties encountered so far, Inspector Vella said that so far the season is proceeding routinely and the level of compliance with regulations is high. However certain specific provisions are proving difficult to enforce in practice, such as the reporting obligation on the birds caught.

4.5 Sergei Golovkin added that although field enforcement of reporting obligations may not be easy, the relevant systems are in place to ensure compliance. He referred specifically to the real time telephonic game reporting system which is linked in real time with the database that is available to enforcement officers. Field officers would routinely check compliance with the ringing requirements, with the telephone reporting requirement, and with reporting in carnet de chasse. As was the case also last year, and independent monitoring study of finch migration is also underway. The online game reporting system shows a steady stream of reports for all species.

5. Update on live-capturing derogations

5.1 In response to request from Birdlife Malta, Sergei Golovkin tabled the following statistics pertaining to the number of licenses issued, site plans registered and rings issued for each derogation:

	MALTA	GOZO	TOTAL
Persons issued with finch live-capturing license	2859	1018	3877
Persons issued with Golden Plover and Song Thrush live-capturing license	946	182	1128
Number of persons holding both categories of license	668	131	799
Number of registered finch live-capturing sites	3256	1543	4799
Number of registered Golden Plover and Song Thrush live-capturing sites	349	69	418
Number of sites registered by persons holding both categories of license	1020	231	1251
Total number of sites registered for both seasons	4625	1843	6468

Rings	White	28076
	Green	6188
	Metal	4332
	Red	7192
	Yellow	5578

5.2 Geoffrey Saliba asked to clarify total number of licensed persons. Sergei Golovkin replied that there is overlap in the figures presented, since some persons hold only one type of license whilst

others hold both types of license. The total number of licensed persons for both derogations is around 4,200.

5.3 Sergei Golovkin also circulated a sample of single use rings pertaining to this year's derogations. Geoffrey Saliba requested to keep the sample however this request was refused. Geoffrey Saliba asked for reasons behind refusal, given that last year the samples were given to Birdlife Malta. Sergei Golovkin explained that whilst the WBRU is providing relevant environmental information regarding these rings and the members are free to examine these samples, no legal obligation exists to provide these samples for retention by any member of the Committee. To the contrary, these samples constitute regulatory material which is restricted to the regulatory purpose these rings are meant to serve in accordance with the law. The fact that last year samples were given for retention was an oversight on his part.

5.4 Joe Perici Calascione said it would have been odd if such samples were to be provided for retention by the FKNK. He sees no reason why Birdlife Malta should be treated differently in this respect.

5.5 Nicholas Barbara asked regarding status of finch trapping derogation in the context of Commission's announcement that it has referred Malta to CJEU. Sergei Golovkin replied that the government received a copy of Commission's application to the Court, and will be preparing relevant defence in appropriate time.

5.6 Nicholas Barbara furthermore asked whether there is request for interim measures and if yes, how will the government stop the season. Sergei Golovkin replied that he is not aware of any request for interim measures to date. However if in a hypothetical scenario the request is made, and the Court actually decides to uphold it, government will decide accordingly on how to comply. In practical terms this could involve the publication of relevant legal announcement and dissemination of information to licensees via SMS and other means including through hunting organisations. On the latter point Lino Farrugia remarked that the FKNK will not cooperate with such a request.

6. Information update regarding legal situation / procedures concerning handling of injured birds

6.1 Sergei Golovkin referred to Government Notice that was just published in the Gazette. The Notice invites expression of interest from qualified persons or entities to provide long-term care and rehabilitation for injured wild birds. He furthermore referred to the relevant provision of the Conservation of Wild Birds Regulations which states that persons / entities providing such care for veterinary purposes must be licensed by the Director of Veterinary Services. Any services provided without such authorisation are illegal. The purpose of the Notice was therefore to regularise provision of such services by providing an opportunity for interested and suitably equipped / qualified entities to apply for such authorisation in a structured manner. Authorisation will be subject to conditions imposed by the Director of Veterinary Services. In parallel, government will shortly be publishing commercial service tender for the provision of clinic facilities and the services of a qualified and warranted veterinarian who will be the sole focal point for the administration of any necessary treatment procedures / rehabilitation. Upon being treated by contracted veterinarian, birds that can be fully rehabilitated and eventually released into the wild will be referred to Tal Bosk facility once this is operational. Other birds that can successfully recuperate but due to nature of their injury will not be fit for release to the wild will be referred by the veterinarian in conjunction with the Director of Veterinary Services to the relevant licensed facility for long term care and rehabilitation.

6.2 Nicholas Barbara reacted to this announcement by stating that "WBRU has again published legislation without consultation". Sergei Golovkin responded that: (i) this is not legislation but a notice calling for expression of interest; (ii) the notice is published by the Director of Veterinary

Services and not WBRU; and (iii) this course of action was previously discussed extensively at Ornis two years ago, as documented in relevant minutes.

6.3 Geoffrey Saliba questioned the purpose of keeping alive birds that cannot be eventually released into the wild. He noted that there are “two schools of thought”. One argument maintains that any specimen withdrawn from the wild is “ecologically dead” and hence there is no purpose from conservation point of view to keep such specimen alive, considering also that keeping a wild animal with permanent injuries incapable of leading a life in the wild, alive, would be unnecessarily cruel. The other view is that the bird should be kept alive, with the argument being it is less cruel to keep the injured bird alive than to euthanize it. Birdlife subscribes to the first view and questions the purpose of keeping alive birds that cannot be released into the wild.

6.4 Joe Perici Calascione said Birdlife euthanized hundreds of protected birds which could have easily survived and kept in long term care. Some of these birds can be used for education, species reintroduction or scientific research. In his view it is very odd that Birdlife Malta “which routinely personifies birds through its campaigns”, on the other hand “consents and perpetrates the killing of the birds that could have otherwise survived”. Besides the animal welfare dimension, there is also the legal dimension involved in that the law does not authorise anyone to take matters into own hands and to kill any protected bird, especially for the sake of anti-hunting propaganda.

6.5 Nicholas Barbara queried as to who will have the authority to decide whether the bird should be euthanized or kept for long term care. Moreover, what will be the criteria for such decisions? Sergei Golovkin clarified that this decision will rest solely with the contracted veterinarian and the Director of Veterinary Services and the criteria used in decisions will be veterinary in nature.

6.6 Chairman said he agrees in principle with considerations concerning the welfare of the bird. If the bird can survive and live without suffering, there is no particular reason why it should be killed.

7. Information regarding further proposed legal amendments

7.1 Sergei Golovkin briefly explained that the Wild Birds Regulation Unit is considering proposals for further amendments to Conservation of Wild Birds Regulations. The amendments mainly aim to pave way for the reform of carnet de chasse, which will be replaced with a new five-year licensing system and a mandatory obligation to use real time game reporting system during all hunting seasons. Other amendments concern fine-tuning of provisions related to possession of non-EU territory birds, in the light of preliminary lessons learned since the introduction of the legal concept of non-EU birds in August this year. Another amendment concerns the setting up of a Conservation of Wild Birds Fund. Once the relevant draft is prepared and cleared for consultation, the Committee will be informed accordingly and will be invited to provide views.

7.2 Lino Farrugia expressed concern regarding the proposed removal of carnet de chasse, which has so far “proven to be amongst the best available tools in Europe”. He referred to the need for further discussion on this. Sergei Golovkin referred to a series of meetings held with hunting organisations regarding this reform, and at this stage the principle of the reform is committed. However the details will be discussed further with the affected stakeholders and therefore he will be following this up on a bi-lateral level with the FKNC. The Committee may also contribute to this discussion if it wishes to do so.

8. Public consultation on the proposed legislation to regulate falconry

8.1 Sergei Golovkin informed the Committee that the government published for public consultation a set of proposals concerning regulation of falconry. These proposals emerged as a result of preliminary discussions held with falconry clubs, individual falconers and other experts, as well as with the

International Association for Falconry and Conservation of Birds of Prey. The resulting draft is now available for comments and any input from Ornithologists would be welcome, within the relevant deadline.

9. Spring hunting derogation

9.1 Nicholas Barbara requested that the Committee should start an early discussion on the future of spring hunting derogation, in the light of the recently published re-classification of the conservation status of Turtle Dove. In particular he asked the Wild Birds Regulation Unit to state what it intends to do in the light of these developments.

9.2 Sergei Golovkin replied that discussion on this item is premature at this stage, since data on autumn season will only be available by early March, and since a comprehensive assessment of the latest available conservation data still needs to be carried out.

9.3 Chairman said that discussion at this point in the absence of data does seem to be premature, but on the other hand he also sees Birdlife's point of having an early debate in order not to be overwhelmed with documentation at the last moment.

9.4 Lino Farrugia said the FKNK does not see any point of discussion on spring hunting at this stage.

9.5 Geoffrey Saliba insisted that discussion should still take place early and also requested that the WBRU should carry out necessary assessments as early as possible. Sergei Golovkin responded that the WBRU will only be in a position to table relevant data and assessments by early March, as was always the case in previous years. This is because carnet de chasse booklets can only be collected in February, following closure of the season. Earlier dates would not be possible for logistical reasons. However if BLM wishes to discuss any aspects related to spring hunting, perhaps on the basis of its own constructive proposals, then he is not against any discussion taking place earlier, even in the absence of data.

9.6 Chairman said he will accommodate Birdlife's request to have this item scheduled on agenda for next session, which should be scheduled for early December.

9.7 The meeting was adjourned at 1820 hours.