

Meeting of the Malta Ornis Committee

9th June 2016, WBRU, 1630 - 1945

Minutes

Attending members:

Prof Mark Anthony Falzon – Chairman
Mr Sergei Golovkin - Secretary
Mr Mark Sultana – Birdlife (Malta)
Mr Nicholas Barbara - Birdlife (Malta)
Mr Lino Farrugia – FKKNK
Mr Joe Perici Calascione – FKKNK
Mr Marco Falzon – Member nominated by Government
Mr Gwido Baldacchino - Member nominated by Government
Ms Emeline Fenech – Member nominated by Government
Mr Mark Gauci – Avifauna Expert
Mr Stephen Saliba – MEPA

Absent: Mr Frank Vassallo– Hunting and Trapping Expert

(1) Adoption of the agenda

1.1 The agenda was adopted.

(2) Approval of the minutes

2.1 Lino Farrugia proposed inclusion of additional sentence in point 6.17 of the minutes of the meeting held on 18/05/16, while Stephen Saliba proposed corrections to 4.18, 6.15 and 6.16. Mark Sultana requested further time to review draft minutes. The Committee agreed to review and approve minutes by written procedure, once comments from Birdlife Malta are received.

(3) Matters arising and matters to report

3.1 No matters arising were reported.

(4) Outcome of 2016 spring hunting derogation

4.1 The Chairman invited Sergei Golovkin to present the report, which was circulated to the Committee on the day of the meeting.

4.2 Sergei Golovkin explained that the report broadly follows the format of past reports on the outcome of spring hunting derogation, however contains some additional analysis, which was made possible due to the enhanced game reporting system developed this year. He also explained that the report focuses solely on the implementation of the derogation itself, and does not include any further developments that occurred after the derogation (e.g. the moratorium).

4.3 Sergei Golovkin then proceeded to outline salient points from the report. As regards the number of licensees, he explained that by the closing date for applications, the Wild Birds Regulation Unit received a total of 9,252 formal applications to obtain a special spring hunting licence. Upon verification, all these applications were considered as valid. The number of applications for the 2016 spring hunting season was approximately 2.4% lower than in 2015 (9,479) and 5.6% lower than in 2014 (9,806). A total of 7,781 licences were subsequently issued to applicants resident in Malta and 1,471 to applicants resident in Gozo. Of these, 68 licences remained unclaimed (13 pertaining to applicants resident in Gozo and 55 pertaining to applicants resident in Malta). Spring hunting licence conditions were established according to the provisions of the Framework Regulations (S.L. 549.57) and the provisions of Legal Notice 90 of 2016. Additionally, all licensed hunters were required to abide by the regulations laid down in the Conservation of Wild Birds Regulations (S.L. 549.42). A copy of the spring hunting licence, including details of the licence conditions, was attached in Annex 3 to the report circulated to Ornithologists.

4.4 In accordance with applicable legislation (Regulation 5(d) of the Framework Regulations (S.L. 549.57)), hunters in possession of the special spring hunting licence were obliged to immediately notify the authorities of any catches of Turtle Doves or Quails made during the season. The Special Licence required the hunters to do so by calling a single telephone number *via* their mobile phones immediately after shooting a bird. The telephone system subsequently guided the hunters through the reporting procedure via voice prompts. Each telephonic report was registered in the database in real time, and the hunters concerned received an SMS confirmation of a successful report. The system could only be used by hunters in possession of a Special Licence, and did not allow any reports from unlicensed persons. During the period of the derogation, the Wild Birds Regulation Unit made use of the telephonic game reporting system for the daily logging of hunters' reports. These reports were monitored in real time throughout the season, with the view of keeping track of a number of variables.

4.5 A total of 1,284 Turtle Doves 133 Quails were reported shot during the derogation. The daily uptake of Turtle Doves began to increase as from 23 May, peaking in the last days of the season. Similar pattern emerged also for Quail, although with significantly smaller numbers. Numbers of birds reported shot was subsequently correlated with independent migration study observations. The trends broadly followed a similar pattern except in the last two days of the season. This divergence was particularly marked in the case of Quail, wherein no sightings were observed through the study on the last three days of the season.

4.6 The report also features a chapter related to enforcement, which explains the preparatory arrangements put in place prior to derogation, detailed explanation of enforcement deployment during the season itself, statistics pertaining to illegalities detected and action taken. Comparisons are also given with the enforcement results of the past four years. These statistics indicate that this year's season was the best season ever in terms of the lowest number of illegalities detected. Comparison with previous years indicated continuation of a sustained decline in the number of infringements. A total of five persons were charged with violations committed during the season. One case has already been decided by the courts (possession of ammunition after permitted hours) with the resulting €2,000 fine and three year suspension of license. Another case (non-reporting of a shot Turtle Dove) was processed administratively in accordance with Schedule VIII of SL 549.42 and the person concerned was fined €50.

4.7 Mark Gauci referred to the low numbers of Quail reported shot during the derogation. He said it seems clear that in the case of Quail autumn migration provides better hunting opportunities than spring, and this calls into question the issue of whether spring hunting of this species is indeed a satisfactory solution. This view was also supported by Mark Sultana.

4.8 Joe Perici Calascione said that one could not directly compare Quail catches made during half days in the last two weeks of April with catches made in the autumn months. Migration studies indicated that daily average spring migration of Quail was much more intense than daily average autumn migration, and one cannot simply look at the reported catches which indicate a measure of

hunting opportunities, which are artificially restricted in spring due to derogation parameters. For vast majority of hunters, an opportunity to be out there in the countryside with their dogs in spring is very significant, even if the actual hunting opportunities are severely restricted. It is obvious that one cannot expect to see many Quail at the end of April.

4.9 Sergei Golovkin pointed out that the issue of “no other satisfactory solution” was decided by the Court in 2009, and a manner on how this can objectively be worked out was subsequently developed in close consultation with EU Commission. Indeed the Framework Regulations which were enacted as a result of such discussions provide a clear legal definition of the threshold of autumn catch beyond which an autumn hunt can be deemed to be unsatisfactory, from legal point of view.

4.10 Chairman thanked Sergei Golovkin for his presentation, and suggested that the Committee should formally acknowledge the efforts made to ensure strict supervision and enforcement. He also commended the Wild Birds Regulation Unit for compiling this detailed report.

4.11 Mark Sultana asked whether this report will be submitted to European Commission. Sergei Golovkin confirmed that the report has been submitted to the Commission today (09/06).

(5) Blue Rock Thrush research proposal

5.1 Chairman said that further to Ornis decision on this item on 18/05 which was communicated to the proposer together with the explanation of the reasons behind this decision, he has received additional information and clarifications from the proposer, in response to the points raised. The Secretary has subsequently circulated excerpts from this correspondence for members’ information. Nicholas Barbara and Marco Falzon both questioned chairman why the matter is being put again for discussion, after a vote had been taken already. Nicholas Barbara commented that this might be setting a precedent for Ornis Committee decisions when a decision taken in a previous meeting is re-placed for voting/discussion. Chairman said he takes full responsibility of the matter

5.2 The Chairman furthermore received two emails, in relation to this proposed project.

5.3 One email was from Prof. XXXX¹ of the research institute that was indicated as a partner in the proposed research. In this email, Prof. XXXX has responded to Chairman’s request for information concerning the project, and in particular, on: (a) whether the birds intended for geotagging should also be ringed; and (b) what kind of training and skills would be required for the geotagging operation. In his reply to question (a), Prof. XXXX indicated that the birds intended for geotagging should indeed be ringed, and although this is not essential, the use of colour rings is strongly recommended. In reply to question (b), the respondent indicated that he assumed that an experienced person from Malta having necessary training and skills would be part of the project, and that on his part, he will be offering also his own expertise and guidance.

5.4 The second, unsolicited, email was received from Dr Wolfgang Fiedler of Max Planck Institute for Ornithology, in his official capacity as Chairman of EURING. In this correspondence, Dr Fiedler made reference to being contacted by the Malta Bird Ringing Centre “who is deeply concerned by a project on the study of the migration of Blue Rock Thrushes” (*sic*). He furthermore stated that since the marking with conventional and official Maltese rings in addition to the geolocators is not intended, this “is not in accordance with the international conventions and rules under the EURING cooperation of all European bird marking agencies”. Therefore EURING requested that:

- (a) all birds that are studied in the project should also be marked with a conventional and official Maltese bird ring, since it is convention to always use a standard ring in addition to any

¹ The name of the corresponding foreign researcher and the name of the institute were supplied to the Committee members, but are withheld from public minutes due to data protection requirements

electronic device that may be attached to a bird. This is to ensure that the origin of the bird can always be tracked back, no matter where and in what condition it will be found, to document the life and condition of the bird also beyond the period when it carries a device and to include it in the European database for marked birds and to make sure that maximal benefit in terms of data for analyses can be gained from the individual after it has been affected in one or the other way by trapping and marking.

- (b) the use of European approved rings is mandatory. The system of bird ringing and recovery processing where scientific and conservation agencies all over Europe invest a lot of resources in can only function on the base of standardization and conventions. These conventions also regulate that – apart from a few historical exceptions - there is only one acknowledged ringing scheme per country. It is decided inside the country which institution or society is the official ringing centre of this country. In the case of Malta it is the Malta Ringing Scheme run by BirdLife Malta; and
- (c) the study should involve a bird ringer who is licensed under the official Maltese ringing centre and who ensures trapping and handling of the birds and all administrative issues around are performed according to national and international bird marking rules and conventions.

5.5 In view of the above further information and clarifications, Chairman decided to call the proposer to provide his views, and in particular on whether the project can be modified to address the concerns expressed by Ornis, and by the two foreign correspondents cited above. The Committee agreed with this approach

5.6 At this point, the proposer (P) was introduced to the Committee.

5.7 Mark Sultana asked the proposer whether he would consider ringing geotagged birds with official Malta EURING rings, in which case the ringing operation will have to be performed by licensed bird ringers.

5.8 In response, the proposer objected to the manner in which his project is being treated by the Committee. He referred to an email which he received from his foreign partner, which referred to his correspondence with Mark Sultana. The proposer said that it is unacceptable that an Ornis member contacted his foreign partner behind the scenes to cast the project in a bad light and to sow doubts about the proposal. This calls into question Birdlife Malta's conflict of interest which precludes from impartial consideration of the project. He referred to the duty of the Committee to be impartial and objective, something that the Committee failed to uphold on this occasion due to manifest conflicts of interest amongst some of its members. He also stressed that the law does not require a geotagging project to also include ringing; this is beyond the scope of this research proposal. Something which is not required by law cannot be imposed on him.

5.9 Mark Sultana responded to this allegation by explaining that Birdlife Malta is the official Maltese partner of EURING and in this capacity he has full right to enquire about the project with BLM's official EURING partners, which include EURING itself, and the institute that partners in the proposal. As regards the question of whether the project should or should not include ringing, it was clear also from the correspondence from EURING that best practice requires that all geotagged birds should also be ringed with official EURING rings. As a member of Ornis and EURING partner, BLM has full right to insist on this requirement, which should not be construed as conflict of interest.

5.10 Joe Perici Calascione referred to the fact that submission of this project proposal triggered an immediate objection from Birdlife Malta, which already indicates that there is conflict of interest. The project was not treated in the same manner as other similar project proposals submitted by persons affiliated with Birdlife Malta. Despite FKNK's strong objection, the Committee created a precedent of two weights and two measures by allowing Birdlife Malta's conflict of interest to get in the way of impartial consideration of the proposal on its own merits, in line with procedures followed on

previous occasions. In allowing this, the Committee thus broke its own rules, and the Chairman has allowed this breach to take place.

5.11 The Chairman defended the procedure adopted in this case, as the procedure focused on technical consideration of all relevant aspects of the proposal. If anyone feels aggrieved with the procedure followed, he is free to challenge the process before the Ombudsman and the Chairman would thus accept full responsibility. He reiterated the need to focus discussions on the technical aspects and ensure that the proposer gets a fair hearing.

5.12 The proposer said that the use of colour rings suggested by partner institute would not be a problem, however the project's scope does not require involvement of EURING. He furthermore mentioned examples of ringing schemes that do not form part of EURING. Since only Birdlife Malta is authorised to represent EURING in Malta and thus holds monopoly on ringing, he does not believe it is fair if the ringing requirement is imposed unnecessarily as a way of bringing any research proposal under Birdlife Malta's control.

5.13 Chairman asked whether the proposer would perhaps consider cooperation with Birdlife Malta on a ringing element of this proposal, for as long as the proposer retains full intellectual property rights and exclusive ownership of the research design and execution of the project. This cooperation may address the issues highlighted by EURING Chairman, and also reflected in correspondence with proposer's own research partner.

5.14 The proposer replied that he is willing to consider the use of colour rings, but reiterated that these do not need to be EURING approved. As regards the use of EURING and licensed bird ringers, he asked whether Birdlife Malta would guarantee such cooperation according to research design.

5.16 Mark Sultana said that Birdlife Malta can consider involvement of bird ringers subject to an MoU.

5.17 The proposer reiterated that this would not be acceptable to him since he cannot depend on third parties to perform tasks that are being imposed on him without guarantees. Moreover, there is the issue of principle, since EURING ringing is not intended part of the project. He furthermore accused Birdlife Malta of abusing its privileged position as the sole EURING representative in Malta by having full monopoly over all research projects. He referred in particular to EU LIFE funded Malta Seabirds where he alleged that the mortality rates of geotagged seabirds was higher than published.

5.18 Lino Farrugia asked whether there are other official ringing schemes apart from EURING. He said that Birdlife Malta's monopoly is unacceptable. He cited as an example the possibility of FKNK conducting certain studies on huntable species which may involve tracking birds. In such cases, would cooperation with Birdlife also be mandatory, particularly where Birdlife Malta is opposed for political reasons to the need for such studies? How can the FKNK or anyone who disagrees with Birdlife Malta on certain issues be expected to depend on Birdlife Malta to conduct necessary research?

5.19 The proposer reiterated that if the Committee presses on with imposing a ringing requirement, then the Committee must make this instruction official and in writing. The Committee should keep in view the fact that ringing is not a prerequisite for research derogations. He also stressed that Ornis is autonomous from EURING and would act *ultra vires* if such a requirement is imposed.

5.20 Lino Farrugia asked whether derogations involving bird ringing require Ornis approval. Sergei Golovkin explained that from legal point of view, research-related derogations fall within the scope of regulations 9 and 10 of the Conservation of Wild Birds Regulations and are subject to Ornis scrutiny. However scientific bird ringing is exempted from this requirement since this activity falls under scope of regulation 23, which provides a sui generis derogation for bird ringing outside of the framework of responsibility of Ornis. Regulation 23, in turn, refers to licensed bird ringers who must be endorsed by an official EURING-affiliated scheme.

5.21 Mark Sultana noted that Ornis is indeed autonomous from EURING, however nothing precludes Ornis from seeking advice from reputable external bodies and from acting upon such advice in its considerations.

5.22 Chairman said that the proposer's partner institute indicated that ringing is not necessary, but desirable in the interests of best practice, as indicated in the correspondence referred to earlier. He also acknowledged that the law indeed does not impose a ringing requirement. On the other hand, the Committee cannot ignore best practice advice it has been given by reputable experts.

5.23 Chairman asked the proposer regarding training and experience of the researchers in bird handling and relevant techniques. The proposer objected to this request, stating that he has already provided the Committee with researchers' bionotes which also indicated their experience in bird handling. He elaborated further on his personal experience of bird handling and research, both locally and abroad.

5.24 Mark Gauci asked the proposer to elaborate on the methods of capture referred to in the proposal. The proposer replied that the methods include cage traps and clap nets.

5.25 Mark Sultana made reference to feeding the birds in order to lure them to the site of capture, and asked whether this method may potentially affect research results by altering the behaviour of the birds being studied. The proposer dismissed this concern by referring to the method of capture being a commonly used one.

5.26 Mark Sultana referred to the lack of accuracy of geotags which may not be appropriate for the stated scope of the proposed research. Such geotags have a margin of error of over 100km and are inappropriate for the study of local dispersion. Moreover, extraction of data from loggers will necessitate a recapture and therefore it is unclear how the proposer intends to ensure recapture of dispersed specimens. The proposer also dismissed this concern by stating that the researchers can often recognise individual birds by their feathers, let alone ensure tracking and recapture. Nicholas Barbara commented that recognising individual birds by their feathers is not a reliable method – which is the very reason why ringing birds with an individual unique number is the accepted method internationally of studying birds. He further commented that the method proposed by the proposer is totally flawed based on this assumption. There is no guarantee that a bird does not look exactly like another, birds undergo moulting of feathers, etc.

5.27 Mark Gauci asked who was meant to perform geotagging. The proposer replied that geotagging was meant to be performed by himself and by his foreign partner with whom Ornis corresponded.

5.28 Nicholas Barbara asked whether other persons would also be involved in capture. The proposer replied that two other locals will assist. Nicholas Barbara further asked whether one of the named locals has any research background and whether he is actually a trapping/hunting licence holder. The proposer confirmed that this individual indeed has a hunting licence but he is unaware whether this person also holds a trapping licence. The other person was mentioned as being someone who has a history of bird ringing training as well as bird handling. 5.29 Chairman thanked the proposer for providing the requested clarifications. At this point the proposer left the room and deliberations proceeded in his absence.

5.30 Marco Falzon said that in the light of new evidence and information presented to the Committee, it is important that the Committee reaffirms its position. In his personal view, the new information provided indicates that the proposal should not be approved due to lack of consideration of the ringing element and cooperation with licensed birds ringers. On the other hand, he also disagrees with the fact that Birdlife Malta has written to foreign institutions regarding the proposal without the proposer's knowledge. He proposed that a fresh vote should be taken on the subject.

5.31 Joe Perici Calascione reiterated that the FKNK strongly rejects the principle that is seemingly being established here, namely that unless someone works through Birdlife, any research project is turned down.

5.32 Lino Farrugia suggested that the proposer should be given the opportunity to present new project proposals.

5.33 Chairman said that the proposer as any citizen or entity has the right to submit fresh proposals at any time and Ornis is duty bound to consider each proposal on own merits. In view of the absence of a consensus, he seconded the suggestion by Marco Falzon to have a fresh vote in consideration of new information and clarifications presented.

5.34 The Committee proceeded to vote on the motion of whether to recommend to government, in view of clarifications received (suggested by Joe Perici Calascione), to approve the proposed derogation for Blue Rock Thrush. The motion was turned down with 6 votes against (Chair, 3 government representatives, ERA and BLM) and 1 vote in favour (FKNK).

5.35 The Chairman shall officially inform the proposer regarding Committee's decision.

(6) Consideration of potential 2016 live-capturing derogation for finches

6.1 The Chairman referred to the materials presented by WBRU during previous sittings and the debate on this item. He said the only pending consideration was the actual recommendation to government, which was postponed upon request from ERA.

6.2 Nicholas Barbara referred to the concerns expressed by ERA representative during the last sitting and asked whether these concerns are being addressed. He is therefore asking ERA to state its position.

6.3 Stephen Saliba said that further discussions took place between WBRU and the ERA pursuant to the last meeting. He read a statement which summarises ERA's position as follows: *"ERA would like to clarify that the position taken on this agenda item is solely determined by its main responsibility with respect to the EU Habitats Directive and its remit to safeguard protected areas and protected species. ERA has taken cognisance that since 2014 a great effort has been made by WBRU to curb illegal trapping through the introduction of new legislation to govern the registration process. For the first time, WBRU has succeeded in digitising the registrations enabling efficient monitoring and eventual enforcement. To ascertain that every effort is made to ensure that these protected areas are not being negatively affected, ERA will closely collaborate with the WBRU on this matter"*.

6.4 Nicholas Barbara asked for further details regarding enforcement cooperation between ERA and WBRU.

6.5 Sergei Golovkin said that routine cooperation between the two authorities regarding enforcement will take place on various levels, including through exchange of information, and through joint site inspections. Moreover, it was agreed that subject to an MoU, WBRU will provide ERA with a copy of latest site data once this has been plotted.

6.6 In conclusion of the debate, the Committee formulated a motion on whether to recommend to government to apply finch live-capturing derogation in 2016, subject to the same parameters as in 2016. This motion was approved with 6 votes in favour (Chairman, ERA, FKNK, Government representatives) and one against (Birdlife Malta).

6.7 The Committee agreed to postpone discussion on outstanding agenda items to the next session.

6.8 The meeting was adjourned at 1945 hrs.