

Meeting of the Malta Ornis Committee

11th June 2014, Hexagon House, MEPA, 1600 - 1930

Minutes

Attending members:

Prof Mark Anthony Falzon – Chairman
Mr Sergei Golovkin - Secretary
Mr Joe Perici Calascione - FKNK
Mr Mark Gauci – Avifauna Expert
Mr Nicholas Barbara – Birdlife (Malta)
Mr. Geoffrey Saliba - 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

Excused: Mr Lino Farrugia – FKNK

1. Adoption of the agenda

1.1 Joe Perici Calascione said the FKNK expressed reservation with regards to Item 6, namely continuation of discussion concerning finches derogation proposed by Birdlife (Malta). He said the FKNK feels that the discussion on finches has been exhausted over the past 3 sessions, and a vote was taken. Therefore there is little point in–reopening this discussion again.

1.2 Chairman said that whilst the arguments pertaining to the proposed derogation were indeed exhausted, if Birdlife (Malta) feels they have any further contribution to make to add to previous discussion, the Committee should allow its member the space to do so.

1.3 Nicholas Barbara said that since the vote was taken on the principle of the derogation, there are still technical issues that may merit further discussion.

1.4 It was agreed that this item shall be retained, subject to noting FKNK’s reservation.

2. Minutes of the previous meeting

2.1 Nicholas Barbara said Birdlife (Malta) wishes to propose a number of amendments as follows: the last two sentences under point 2.2 to be replaced by new text; addition of point 3.3 to reflect the question regarding how the proposed wild rabbit law is being communicated to hunters; inclusion of reference to EAFRD Natura 2000 management planning project under point 4.2; editorial changes to point 4.10 and addition of a question regarding new licenses under point 4.12.

2.2 Sergei Golovkin objected to the proposed amendment to 2.2 on the grounds that it does not reflect clearly what has really been stated during the meeting. After some discussion, Geoffrey Saliba and Nicholas Barbara agreed to retain initial text of this point.

2.3 The Committee agreed to accept all amendments proposed by Birdlife, except amendment to 2.2. The Committee furthermore noted that Lino Farrugia may be proposing further reviews from his end, and thus the minutes will be adopted upon receiving and discussing amendments proposed by Lino Farrugia.

3. Matters arising and matters to report

3.1 The Chairman referred to the fact that documents presented to Ornis were leaked to the press, which subsequently quoted certain passages of the documentation selectively, thus giving rise to misinterpretation of Committee's discussion and the nature of the submissions made. He is not pointing fingers at anyone, however it is clear that such practice is not conducive to proper functioning of the Committee. Whilst there may be no way to control the leaks, the Committee may need to establish and adhere to appropriate rules. One possible solution may be to make all technical submissions made to the Committee public.

3.2 Sergei Golovkin added that by means of leaking internal Committee's documentation, the Committee is being subjected to undue pressure by interested parties and that this is not an acceptable way of influencing Committee's debate. He mentioned an example of the legal and technical assessment papers presented to Ornis by WBRU in April, which were subsequently leaked to the press, which cited certain parts of the documentation selectively and out of context, prompting the government to publish the entire documentation pack to ensure that the public are given complete and not partial and biased information. The Committee should be able to debate issues falling under its remit freely without such pressure. For this reason he supports Chairman's proposal to establish a procedural rule: either all Ornis documentation should be placed in the public domain, or, should the Committee decide otherwise, members must adhere to the rule of keeping internal documentation confidential.

3.3 Geoffrey Saliba said he supports proposal to make Ornis documentation public.

3.4 Joe Perici Calcione said he does not agree with such a sweeping approach, since some of the documentation presented and discussed constitutes work in progress, and prematurely publishing this material may actually misinform the public and prejudice fair discussion at the Committee.

3.5 Stephen Saliba said that he will need to check whether MEPA's submission can be published.

3.6 Chairman said that deliberations of a public committee may actually be legally subject to disclosure under Freedom of Information Act. This also applies to Ornis minutes, however he is against publication of the minutes.

3.7 Sergei Golovkin said that if the Committee decides to publish its materials, it would make sense to publish everything, including the minutes, since these show how discussion unfolds and thus gives proper context to the materials presented. He also urged caution regarding publication of certain type of material, such as for instance Birdlife's original submission to Ornis on the finches dossier which contains certain false allegations, that have since been clarified. Therefore if such material is published in its original form it would definitely be considered slanderous and libellous. One possible way forward may be to agree at the end of each meeting what material can be published or otherwise.

3.8 Mark Gauci said that he is not against publication of approved minutes since they provide the context for the materials discussed.

3.2 The Committee did not forge a uniform view of what can be published and therefore some further consideration of this issue may be merited.

4. Golden Plover and Song Thrush derogation

4.1 Sergei Golovkin briefly introduced this item by referring to detailed reports of 2012 and 2013 derogations, which were published and circulated to the Committee, as well as to legal requirements under the framework law. As part of these requirements, before deciding on the application of derogation, the Minister needs to consider issues pertaining to conservation status of the species concerned. However the Minister requires technical advice of the Committee before deciding. For this reason WBRU reviewed latest available scientific sources and compiled a paper that was circulated to members. Apart from the conservation status, there are a number of other issues which need to be considered, including certain proposed amendments to framework regulations. He invited Richard Lia to present WBRU's technical assessment paper.

4.2 Richard Lia referred to the initial assessment of the conservation status carried out by the Ornis Committee in August 2012 prior to the formulation of new framework regulations. An analysis of the conservation status was subsequently updated by WBRU in August 2013, and presented to Ornis prior to the application of 2013 derogation. As part of the analysis, mortality rates, population size and migratory routes were assessed. In the case of Golden Plover, the latest EBCC (2013) update indicates that there has been an update to the short term population trend status at pan-European level, which was previously indicated as "stable", but has now been revised to "moderate increase". The long term trend has remained "stable". In the case of Song Thrush, the status classification has remained as "moderate increase". At EU level, both the minimum and maximum estimates for Golden Plover have remained stable. In the case of Song Thrush, EU level populations have continued a trend of moderate increase. In the case of Golden Plover, the analysis delved into sub-specie level. With respect to reference population Golden Plover which migrates over the Maltese Islands from the North-eastern and West continental Europe, the WBRU noted that it appears that the initial calculation of reference populations conducted in 2012 took into account the entire EU population. However on the basis of migration data pertaining to *P. apricaria altifrons sub-species*, this calculation needs to be adjusted. In the revised assessment, only the Finland and Sweden populations have been taken into account. This translates into a decrease of Golden Plover bag limit from 1,150 to 738 birds. It was furthermore noted that the reported bags during 2012 and 2013 have not approached this limit.

4.3 Brief discussion ensued with regards to the manner in which "small numbers" estimate was divided equally between 3 presumed migratory routes. Joe Perici Calascione said that this method is unscientific as there are no indications that the magnitude of migration alongside each of the routes is of equal proportion.

4.4 Sergei Golovkin drew Committee's attention to the following additional proposals:

- (1) Proposal to shorten Golden Plover season by 10 days to harmonise with the season for Song Thrush and with potential finches season, for the sake of streamlining enforcement;
- (2) Proposal to introduce restrictions on the maximum size of the nets, as well as change to the definition of a trapping site;
- (3) Proposal to clarify reference to "mechanical means" in the framework law;
- (4) Proposal to include the same restrictions pertaining to site location and protection of habitats as applicable to the proposed finches derogation.

4.5 Joe Perici Calascione said that with reference to proposal to shorten the season, the FKNK does not agree with the logic of reducing the season for the sake of simplifying enforcement. Whilst the FKNK agrees in principle with the need to establish restriction on the maximum size of the nets, this restriction cannot be set at the same level as that proposed for finches, since the species are different and demand a different approach. Further discussion needs to take place on a reasonable restriction concerning size of nets.

4.6 Nicholas Barbara said Birdlife wishes to have more in-depth discussion on enforcement, since enforcement resources are likely to be stretched due to two separate derogations and due to concurrent hunting season. There is a need to discuss this issue with the ALE and with WBRU's Specialist Enforcement Branch. Birdlife is in principle against all trapping derogations, however notwithstanding its in-principle objection, it agrees with the need for restrictions on size and location of trapping sites. He also asked if the license fee for GP & ST derogation would be set at the same level as that for potential finches derogation.

4.7 Geoffrey Saliba asked if WBRU has any indication of the potential number of licenses under both derogations, and whether these licenses may be issued to the same individuals. He also asked whether the minimum enforcement deployment levels would apply to each derogation separately.

4.8 Responding to Birdlife (Malta)'s questions, Sergei Golovkin said that at this stage it is premature to have a meaningful in-depth discussion on enforcement, beyond the basic legal parameters, since there are as yet many unknowns, including potential number of licensees, which will determine the number of officers to be deployed. Such discussion should take place closer to the season. If the finches derogation is applied, it would, however, likely lead to a reduction in GP & ST licenses to possibly under 1,000. If both derogations are applied, this would result in a requirement to deploy certain number of officers to monitor each derogation, depending on the number of licenses issued. However given that the seasons will take place during the same period, and given the possibility that some licensees would hold more than one license, it is likely that enforcement of both derogations will be coordinated concurrently and simultaneously. Of course the total number of officers deployed will have to be proportionate to total number of licensed individuals, as required by law. As regards special license fee, the WBRU proposed that the same fee is set for both derogations. Applicants applying for license under both derogations will have to pay both fees. The idea is that part of the fees collected will be deposited into a conservation fund, which will finance habitat conservation projects.

4.9 The Chairman asked the members if they have anything to add to this discussion at this stage and whether the Committee can adopt a position on this item. He proposed a vote on the principle of applying derogation.

4.10 Joe Perici Calascione said that apart from the vote in principle, the Committee may also decide on the proposals presented by WBRU.

4.11 Marco Falzon suggested that there may be two votes, one on the principle, and one on proposals.

4.12 Chairman said that this is up to the Committee, however such separate votes might not be feasible, since each of the proposals made may merit a more detailed discussion. On the other hand the Committee is not expected to vote on every single suggestion; this would effectively paralyse Committee's work. Sergei Golovkin added that the main output of Committee's work is a detailed documentation of the discussion that took place. That way the government is informed of the positions expressed by various stakeholders represented on the Committee, and thus can take their views into account in decision-making. He also said that there seems to be a common misconception that the Committee takes "decisions". In actual fact the Committee makes recommendations, and the Minister decides after considering recommendations. Thus even when a unanimous recommendation cannot be adopted, the Minister would still appreciate the fact that the Committee discussed the matter, and that stakeholders' positions were made clear.

4.13 Chairman formulated the motion to recommend application of derogation in principle. MEPA, FKNK and Government representatives voted in favour (5 votes), Birdlife voted against, whilst Chairman abstained.

5. Autumn hunting season

5.1 Sergei Golovkin said that the Committee is expected to advise Minister on the parameters of Autumn hunting season. He said the WBRU does not have any specific proposals in this regard and invited members to present their views.

5.2 Joe Perici Calascione said that the FKKNK has on several occasions requested dates of autumn season to be fixed in legislation. Malta appears to be the only country without a fixed autumn season.

5.3 Chairman asked why is this so?

5.4 Sergei Golovkin referred to advice obtained from Permanent Representative to the EU last year. The advice was not to have fixed dates since the Commission may construe this as going against the spirit of the Birds Directive, which requires Member States to ensure maintenance of the population of birds at satisfactory level. The Birds Directive places upon member states the obligation to monitor conservation status of wild birds including huntable species and thus any decisions concerning parameters of the hunting seasons should be subject to such an ongoing assessment. However it seems that this concern can be addressed by including proviso to the effect that Minister may revise the parameters of the autumn season at any time on the basis of relevant latest scientific advice.

5.5 A brief discussion ensued and the Committee unanimously agreed to recommend that Autumn season dates should be fixed in legislation, subject to the proviso proposed by WBRU as follows: hunting of birds on land between 1st September and 31st January, hunting of birds at sea between 1st October and 31st January.

5.6 Geoffrey Saliba proposed to discuss the issue of the “curfew”. Birdlife (Malta) previously made detailed technical submissions in this regard, which shows that the “curfew” applied in previous years was effective. A 7pm curfew imposed last year did not serve any purpose and was not scientifically justified. If necessary Birdlife (Malta) can present an updated submission that also incorporates data for last year. Birdlife (Malta) proposes to revert to previous 3pm curfew, as well as to extend this measure to 7th October.

5.7 Sergei Golovkin said that the government adopted a clear policy stance on this issue last year, Government is against “collective punishment” measures for as long as the regulations can be reasonably enforced in the field. In 2013 enforcement statistics pertaining to “curfew” period does not provide any indication that this policy stance should be changed. To the contrary, there has been a small decline in the number of incidents involving illegal targeting of protected birds during 2013 revised “curfew” period, in comparison with the same period in 2012. It is also notable that no incidents of illegal targeting were detected after 7pm during this period in 2013. Furthermore, major increase in the penalties adopted in October 2013 and in March 2014, as well as improvements in field enforcement and communication lent additional confidence to the policy stance that the 3pm curfew is not necessary at this junction.

5.8 Richard Lia added that there are also scientific grounds militating against the curfew. Research indicated that “collective punishment” measures lead to alienation and antagonism, which in turn increases probability of opportunistic illegal shooting in protest over such measures. Thus the curfew in its previous format was also counter productive in relation to the purpose it was meant to serve. Moreover it ignores the fact that those intent to break the law in the afternoons but prevented from doing so by the curfew may carry out their intent in the mornings, when birds of prey are equally vulnerable. Thus afternoon curfew is not a solution. The solution lies in education, field enforcement and legal deterrents.

5.9 Nicholas Barbara said that Birdlife Malta does not support a 7pm curfew – it is completely useless and it would not make any difference if it is removed altogether.

5.10 The Committee did not agree upon any recommendation concerning the “curfew”.

6. Any other business

7.1 The Committee did not discuss any other business.

Meeting was adjourned at 1945 hours.