

Meeting of the Malta Ornis Committee

13th May 2014, Hexagon House, MEPA, 1600 - 1945

Minutes

Attending members:

Prof Mark Anthony Falzon – Chairman
Mr Sergei Golovkin - Secretary
Mr Lino Farrugia – FKNK
Mr Joe Perici Calascione - FKNK
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 Mark Gauci – Avifauna Expert

1. Adoption of the agenda

1.1 The agenda was adopted, subject to change in the order of discussion proposed by the FKNK. It was agreed that the proposed finch live-capturing derogation will be discussed after update on spring hunting, to be followed up by an information item concerning proposed Wild Rabbit Protection Regulations.

1.2 With regards to the latter item, the FKNK expressed reservations regarding whether the Ornis Committee has the mandate to discuss rabbit regulations. The Chair noted that this item may have implications on the implementation of conservation of wild birds regulations, and therefore the item seems to be of relevance to the Committee. The Secretary further added that this was meant to be a brief information item, and since the proposed draft regulations were circulated at an extremely short notice, the members are not expected to provide any substantive feedback today. He invited the members to submit any comments directly to WBRU.

2. Minutes of the previous meeting

2.1 Minutes of the meeting held on 9th April 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. Update on the outcome of spring hunting season

4.1 The Chairman asked Sergei Golovkin to present an update on the outcome of the spring hunting season. Prior to briefing the Committee on this item, Sergei Golovkin proposed whether it may be appropriate to invite members to share their opinion on the season. The Chair agreed and invited the members to share their views.

4.2 Joe Perici Calascione and Lino Farrugia said that from FKNK's point of view, the season was characterised, on the one hand, by very low levels of migration of Turtle Dove and Quail, and, on the other hand, by extremely high levels of enforcement and police scrutiny. The hunters had to put up with daily spot checks, road blocks, inspections and "provocations" from anti-hunting lobby, particularly from foreign activists, all of which detracted from hunters' enjoyment of the season. On the other hand there was substantial migration of protected birds, particularly raptors, and, contrary to how this was portrayed in the media, it was notable that there were virtually no illegalities involving these birds. The FKNK supports the government in its drive to strengthen enforcement, however at the same time the Federation is also concerned that things sometimes tend to go overboard and amount to harassment. However the Federation noted high levels of compliance amongst its members and it has thanked all members publically for compliance with the law. The Chair asked whether individual hunters may have sometimes been spot-checked multiple times. Lino Farrugia said that indeed the Federation received several complaints of this nature, which were transmitted to the police.

4.3 The Chair invited Birdlife (Malta) representatives to share their views. Geoffrey Saliba said that the NGO is still analysing data collected during the season and will be making its conclusions once all data has been processed. Overall, he noted, that although there seemed to have been an improvement in the levels of enforcement, this might have not translated itself in any substantial reduction in the level of illegalities witnessed by NGO volunteers. Sergei Golovkin asked to clarify whether Birdlife (Malta) noted any reduction in illegalities, particularly serious incidents involving targeting of protected birds. Geoffrey Saliba replied that there may have been slight improvement, but this is yet to be confirmed by data. On the other hand, he said, there was some deterioration in other areas such as levels of cooperation with the police. Birdlife (Malta) wishes to have genuine cooperation with all concerned, but the attitude of the authorities seems to be preventing this from happening.

4.4 In reaction to Geoffrey Saliba's statement, Sergei Golovkin said that the authorities very much welcome and appreciate cooperation with NGOs, which is valuable, but such cooperation must also be based on trust from the side of some NGOs which seems to be lacking. For example, he said, police's refusal to assign an officer with the BLM should not have been construed as a refusal to cooperate, but as a decision based on police's priorities and own procedures, which are to be respected. Instead of respecting this decision and enhancing cooperation in the field, the BLM chose to complain with the European Commission. Of course, the NGO is free to do as it wishes, but this example shows lack of trust. He also referred to an example where volunteers from CABS have mapped a number of suspected illegal bird callers, and, instead of notifying the police immediately, they chose to first publicise this information in the press and criticise the authorities for allegedly not dealing with these illegalities (which was not the case), and then, after several days, to write to WBRU with a formal "report", which was copied to EU Commissioner for the Environment and other Commission officials in Brussels. He said that whilst the authorities took immediate action and located and dismantled some of these bird callers, the CABS's approach shows that they are not interested in genuine cooperation, but are exploiting alleged illegalities for aggressive and partisan campaigning. If the NGO was genuinely interested in cooperation and eradication of illegalities, they should have first reported the illegality to the police, and then, if they deem this necessary, reported to the press, and not the other way around.

4.5 Geoffrey Saliba said that CABS are not affiliated with Birdlife Malta and therefore he cannot comment on their actions. Referring to police's refusal to provide an officer with Birdlife, he said that the fact that there was an officer assigned with the FKNK in Mizieb shows that the authorities applied two weights and two measures. The FKNK representatives reacted to the latter statement saying that

the police officer assigned to monitor Mizieb was a long-standing practice that is completely different with assigning an officer with Birdlife (Malta)'s "patrols".

4.6 Sergei Golovkin said that a detailed report on the outcome of the derogation will be circulated to Committee members in the coming days at the end of May. The report will also be published. On the basis of WBRU's assessment of the outcome of the season it is evident that the intensity of enforcement effort, the level of preparation, communication and coordination amongst the different enforcement players in the field was nothing short of exemplary and is simply unprecedented both in Malta and possibly anywhere in Europe.

4.7 Sergei Golovkin said that the WBRU received 9,806 spring hunting license applications (circa 3% more than in 2013), of which 8 applications were ineligible. A total of 9,798 license were approved, of which 44 remained physically uncollected by the end of the season. That means that the number of licensed persons was 9,754, of which 8,238 licensees were registered in Malta and 1,516 licensees were registered in Gozo. Around 70 licensees registered in Malta also obtained police permit to hunt in Gozo. As in the previous years, an independent migration study was conducted. Results were monitored daily, as well as SMS reports. By the end of the season, a total of 4,131 Turtle Doves and 637 Quails were reported shot via SMS. This is slightly higher than corresponding figures in 2013. On the basis of preliminary assessment of overall trends it appears that there was good correlation between observed migration trends and the number of SMS reports received for each of the two species, even though the observed migration intensity was rather low. Prior to and during the season, WBRU conducted intense awareness campaign to remind hunters of their legal obligations. There were daily TV spots on 3 national news stations, as well as bulk SMS notifications to licensed hunters as well as meetings with all hunting associations and hundreds of individual hunters. In parallel, the police conducted unprecedented amount of inspections and spot-checks on individual hunters. In all, there were 2,195 individual spot-checks and 2,819 field inspections conducted in response to reports of suspected illegalities or as part of routine patrols over priority surveillance areas. This is more than double the amount of inspections conducted during 2013 season, and almost five times the number conducted in 2012. Overall, between 71 and 100 officers were deployed in the field at any one time during morning shift between 0500 hours and 1500 hours. During afternoon shift between 1500 and 2130 hours the maximum field deployment ranged from 39 to 45 officers. Night patrols of 4 officers were deployed between 2130 hours and 0500 hours on specific nights to monitor significant roosts of protected birds. Drones were also deployed mainly over protected areas or during times when hunting was not permitted. A total of 53 persons were apprehended in conjunction with 69 suspected offences, of which 54 offences were of relatively minor nature, comprising mainly firearms and administrative irregularities. Fifteen violations are considered to be more serious as these involved suspected targeting of protected birds, hunting without a license, or hunting within a bird sanctuary. All cases are being prosecuted. Minor offences listed in Schedule VIII of the Conservation of Wild Birds Regulations (S.L. 504.71), provided that these are not committed in conjunction with any other offence, are being subjected to automatic fines in accordance with the Schedule. All other offences, including minor offences committed in conjunction with any other offence not listed in Schedule VIII are subjected to criminal prosecution and, upon conviction, to greatly increased penalties as enacted on 25th October 2013 and on 28th March 2014. In addition to disclosed offences, police officers located and dismantled 11 illegal electronic bird callers and investigated several reports of suspected targeting of protected birds. However, evidence gathered through these investigations was insufficient to identify and charge suspected offenders in court. By comparison, during 2012 spring hunting season, the police disclosed a total of 64 offences, of which 24 violations were of relatively more serious nature involving hunting without license during unpermitted hours, in prohibited areas, or illegal trapping of protected birds. During 2013 season, 53 hunting offences, of which 18 relatively more serious, were disclosed. The fact that during 2014 season, fewer serious incidents have been disclosed despite the greatly increased enforcement surveillance underscores that the overall rate of compliance has improved. This is, in part, due to the greatly increased legal deterrents against bird-related crimes, which, following legal amendments introduced in October 2013 and in March 2014 are today amongst the harshest in the EU, as well as due to more intense and effective field

surveillance and better coordination. Throughout the season, the public were kept informed through a series of 6 press releases which were published with an interval of 3-4 days.

4.8 Geoffrey Saliba said that he was surprised to see that some offences, which he would presume to be major, were listed as “minor illegalities”. He referred to a case of hunting using a modified gun fitted with a silencer, and 2 cases of possession of heavy gauge shot, which is normally used to target large protected birds. Sergei Golovkin replied by saying that the case of modified shotgun and hunting in a bird sanctuary was classified as a very serious one and never as a minor offence. Possession of heavy gauge shot in itself is considered a relatively minor offence, since intent to target protected birds cannot be proven merely on the basis of disclosed possession. Nonetheless even such a “minor” offence is punishable by a minimum of €500 fine, suspension of license and confiscation, with the maximum penalty going up to €2,500, which is not a small penalty at all even on first conviction. On second and subsequent conviction the penalties are even higher.

4.9 The Chair closed off this discussion by thanking the Secretary for his presentation, and members for sharing their views.

5. Continuation of discussion on the proposed finch live-capturing derogation

5.1 Chairman recalled that during previous meeting on 9th April the Committee heard presentation of the legal aspects of the proposal, and the scientific assessment conducted by WBRU. He noted that the assessment suggested that the derogation may be legally possible, and may also be feasible on scientific grounds. It remains however to be assessed how the derogation may be implemented in practice, and how the potential impacts of the derogation may be managed. He said that on the basis of the scientific assessment presented by WBRU there does not seem to be a cause for concern with regards to potential impact on the populations of finches. On the other hand the Committee must also consider potential impact on habitats. He said that it is important that a mechanism is put in place whereby trapping sites are vetted, in order to prevent any potential negative impact on habitats. A tourism and cultural dimension must also be taken into account. Before opening a discussion on these potential impacts, he invited Sergei Golovkin to present WBRU’s proposal on how the derogation may be implemented in practice.

5.2 Sergei Golovkin referred to the last part of the technical memorandum circulated to the Committee in March, which deals with suggestions for potential technical implementation of the proposed derogation. These suggestions are summed up as follows:

- There should be Framework Regulations, which shall stipulate the legal parameters within which derogation will be applied. The Regulations may be modelled on similar regulations enacted with respect to live-capturing derogations for Song Thrush and Golden Plover.
- A separate legal notice shall be published to declare the derogation.
- There shall be appropriate coordination of the legal and regulatory parameters applicable to finch trapping derogation with the corresponding parameters of other autumn trapping derogations, with the possibility of a single integrated regulatory framework.
- The legal minimum requirements for enforcement in the field as applicable in spring hunting and autumn live-capturing of Golden Plover and Song Thrush shall be maintained, and possibly exceeded.
- The season may be opened between 20th of October and 31st December¹.

¹ FKNK is had proposed ing that, compared to the live-capturing seasons until 2008, the season for live-finch

- The number of live-capturing sites shall be limited to those that have been registered until 2008 and/or are visible on the 2008 aerial photographs. There should be strict controls and enforcement with regards to any unregistered sites that do not meet the above criteria.
- The number of licensed live-capturers may be capped, or, conversely, a one-time opportunity may be given to all who wish to apply for general trapping license.
- There should be a stringent special licensing requirement. All new licensees may be subject to a comprehensive examination on applicable policy and legislation, as well as species identification and other relevant subjects².
- Special Licenses should be issued against a fee, which shall be set at not less than €80, in order to recover the considerable costs involved in administering this derogation, including the costs of registration of sites, issuance and distribution of licenses, administration of SMS and *Carnet de Chasse* reporting system and extraction of data, costs of scientific monitoring of influx of finches, derogation reporting to the Commission, and other costs.
- A licensed live-capturer must present a maximum of two site plans registered with the Commissioner of Police with the boundary of the live-capturing site clearly marked. These site plans shall be digitalised and plotted on a GIS system that may be shared with the law enforcement entities.
- The footprint area of any permitted ‘mansab’ (clap-net area) for live-finches capture shall not exceed 37.81m² for each net as specified in Regulation 8(1) of SL 407.71. In addition, there should be clear legal definition of eligible live-capturing site, including restrictions on site configuration. Technical guidance should be provided in relation to format and quality of site plans.
- No live-capturing shall be allowed within areas delineated as Annex I habitat types, as listed in the Habitats Directive, and located within Natura 2000 sites.
- All decoys must be fitted with a single-use ring approved for this purpose by regulatory authority.
- The total number of decoys permitted within the live-capturing site shall not exceed 21 finches: either three per each species or any combination of species but not more than seven for a single species.
- Harvested finches must be fitted with a single-use ring, which will correlate with and help to enforce the established numbers of harvestable bag limits since the number of rings that will

capturing should be significantly shortened to 60 days, from 7 October to 7 December. Live-capturing until 2007 “consisted of 192 days of open season, starting from 1st October till the 10th April of the following year...69% fewer trapping days than was previously legally allowed” (Appendix V: 14, Section 7.0). It should be noted that in 2008, the live-capturing season was limited to the months of January and October–December. Should an autumn live-capturing season be considered, it is recommended that the period for all species be harmonised with that of the Song Thrush, that is, from 20 October until the end of December. This would mean that the season for Golden Plover is shortened by ten days to coincide with the live-capturing season of the Song Thrush and the seven finch species. This is recommended for the purposes of streamlining enforcement and strict supervision.

² The present institutional set-up is equipped to handle circa 700 examinations per year. It is envisaged that once a new proposed electronic system of examinations comes into place the authorities will be able to perform larger number of hunting / taking license tests.

be supplied to each licensee will not exceed the combined seasonal bag limit for the seven finch species subdivided by the number of licensees. There should also be a provision in framework regulations that would stipulate that, during the first year's derogation, only captive-bred close-ringed birds (A) and/or birds taken from the wild during that year's derogation (B) and identified as such by means of single use ring approved by WBRU for that year would be permitted for use as live decoys, the combined total number of birds present on site not exceeding 21. Should derogation be applied on subsequent years, the permitted live decoys (always not exceeding 21) may comprise any combination of captive-bred close ringed birds (A), and/or birds acquired from the wild during that year's derogation (C), and/or single use-ringed birds acquired during previous year's season and marked with a second single-use ring issued for that year that the derogation (BC).

- The live-capturing licence holder must immediately record a catch via a species-specific SMS and fitting the official single-use ring on the caught bird, besides entering the data in the *Carnet de Chasse* before leaving the live-capturing site. The Principal Regulations (SL 504.71) provide adequate deterrents against under-reporting.
- An independent study on the migration of the seven finch species should be commissioned between the months of October and December if this is deemed to provide an appropriate baseline for comparing the number of finches observed against the number of birds caught.
- All live-capturing hides will have to be compliant with the rules and regulations for hides/blinds issued by the responsible hunting organization.
- The licensees should also be required to participate in a finch migration study by filling a specific form that lists the dates when they practiced live-capturing and the dates and time when they observed migration of the respective species.
- FKNK and other associations shall be requested to hold information and awareness seminars to all finch live-capturers.

5.3 The Chair said that the proposed way forward does not sufficiently address the issue of protection of habitats. He invited MEPA representative to share his views on the matter.

5.4 Stephen Saliba said that MEPA is discussing this issue with WBRU on a bi-lateral basis. Several suggestions emerged as a result of this discussion. One suggestion to which WBRU has agreed is the need to broaden definition of protected habitats upon which live-capturing may be allowed to encompass all Annex I habitat types, and not only garigue. However the WBRU needs to find practical way of controlling and enforcing these restrictions in the field.

5.5. Richard Lia confirmed that indeed the WBRU agreed to include these habitats as “no-trapping” zones. There may however be exceptions with regards to cultivated agricultural land parcels located within the zones indicated in habitats' maps. Since impact of live-capturing on agricultural land is fully reversible, and since such agricultural land does not contain protected natural habitats, legislation may be styled to provide for such exemptions. As regards controls and enforcement, WBRU plans to physically screen all license applications and site plans. Indeed a common standard for site plans may be set, and all site plans will be plotted on GIS and screened against habitats database and 2012 aerial maps.

5.6 Nicholas Barbara (?) asked whether the proposed restrictions may apply to habitats in Natura 2000 sites only. He said that Birdlife (Malta) is concerned with impact on all natural habitats, as well as the land take up in general. Geoffrey Saliba added that Birdlife plotted various trapping sites in 2010 (?) and it resulted that these sites take up more land than Valletta. He asked whether it is wise to allow

the activity which takes up so much land, which is in such a precious supply, and transforms our landscape. He said there are multiple impacts on this that go beyond impacts on wildlife only. For example one may question whether having all these trapping sites is good for tourism? What about general public that wants unrestricted access to public countryside?

5.7 The Chair said that the concerns expressed by Birdlife are valid and appropriate technical solutions must be found. He does not see the draft presented by the WBRU as adequately addressing these concerns. More discussion is needed on this, and in particular, he needs MEPA to thoroughly consider this issue and give its own technical advice. Perhaps other authorities like MTA should also be consulted. The issue of public access is also a valid point.

5.9 Referring to the issue of land take-up Lino Farrugia said that most of these sites have been in existence for decade and we are not talking about new land take up here. Moreover most of these are located on private agricultural land. FKNK agrees with the need to control impact on habitats, however it does not see any particular problems with this and the proposal presented by WBRU already has a number of controls that address the issue. Moreover, private land ownership must be respected. Live-catchers practicing on own land do not restrict access to public countryside, but likewise the public must respect people's right to enjoy private property. FKNK also does not see any particular issue with tourism. Indeed there are examples where certain nature and cultural walks material explicitly make reference to traditional socio-cultural practices.

5.10 Richard Lia said that he agrees with the idea that all natural habitats should be protected, not only those within Natura 2000 sites. For this reason one may consider including natural habitats within areas scheduled for protection under national legislation, beyond Natura 2000 sites.

5.11 Sergei Golovkin asked whether, given the arguments heard and materials presented during these last two sittings, the Committee is in a position to come up with concrete recommendations to the government. These recommendations should be timely, as their value will be diminished if the Committee takes disproportionate amount of time on deliberating the matter without reaching even preliminary conclusions. It is clear that the FKNK supports, whilst the BLM opposes the derogation in principle. Therefore should the Committee perhaps take a vote on the issue of principle, before delving further into technicalities of the derogation?

5.12 Geoffrey Saliba reacted by saying that it seems that the matter is already a foregone conclusion, and the Committee is only expected to rubber-stamp this conclusion prior to MEP elections for the sake of political expediency. Sergei Golovkin replied that this is not the case, it is clear that the Committee already took over six hours deliberating this matter during two sittings, whilst the members had over a month and a half to consider written documentation circulated by WBRU in March. It is natural that the government, which has already received own technical advice on the matter, also expects to hear advice from Ornis before deciding. This is the Committee's legal remit. The government needs specific opinions or specific recommendations from Ornis. This does not call for a hasty vote, but it is very clear that the issue has indeed been discussed from multiple angles and some sort of conclusions can be reached at this stage.

5.13 Geoffrey Saliba said that Birdlife Malta will be presenting its reaction to the documents circulated by WBRU, but it cannot do so at this sitting.

5.14 Joe Perici Calascione suggested that the Committee should take a vote on whether the derogation can be recommended in principle. If Birdlife has technical reservations or any specific reaction to the documents, these may be subsequently discussed at a later stage, but at least government would have advice on the principle. However after some deliberation, and upon being asked by the Chair to confirm that the FKNK wishes to have a vote during this session the FKNK retracted the proposal.

5.15 The Chair suggested that the matter should definitely be concluded at the next Ornis sitting as indeed the Committee cannot afford to dedicate 3 sessions to an issue and yet fail to produce any recommendations. He suggested that in preparation for the next session all members should put forward their proposals and reaction to the documents presented. In particular, MEPA should see how to address impacts on habitats.

5.16 Sergei Golovkin said that in order to focus this discussion, he may circulate draft framework regulations upon which the members may wish to comment.

5.17 It was agreed that the issue will continue to be discussed and should be concluded at the next sitting.

6. Proposed Wild Rabbit Protection Regulations

6.1 Sergei Golovkin said that given that the draft was circulated only hours before the meeting, he does not expect any substantive discussion or comments to be aired during this meeting. He invited members to submit any comments directly to WBRU.

6.2 He explained that at present, the Protection of Wild Birds and Wild Rabbit Regulations which were published in 1994 regulate rabbit hunting activity. These regulations are outdated and confusing. The law needs a complete overhaul, even for the sake of harmonisation with certain more recent provisions of the Conservation of Wild Birds Regulations, for instance provisions concerning penalties for offences. The new legislation proposed by WBRU aims to improve precision of regulation, safeguard traditional aspects of wild rabbit hunting, improve protection of the species, minimize possibility of abuse, provide necessary legal clarity and generally render the legal framework more streamlined and enforceable. Under the old regulatory regime, rabbit hunting season is open between 1st June and 31st December of each year, with no regulatory distinction being made between hunting of wild rabbit with gun, and capturing of wild rabbit using nets. Whilst the part of the old regulations that dealt with the protection of wild birds has already been repealed by the Conservation of Wild Birds Regulations, the part that regulated the protection and exploitation of wild rabbit severely lacked in a number of aspects, including with respect to protection measures, unharmonised enforcement and penalty regime, lack of provisions concerning wild rabbit bag data collection and lack of differentiation in regulatory approaches concerning various types of rabbit hunting activities. Under the new regulations, rabbit hunting season commences on 1st June and closes on 31st December, however rabbit hunting with gun during the months of June, July and August will only be permitted on land registered with the Department of Agriculture, and subject to written consent of the title holder. This requirement will not apply for rabbit hunting in the autumn, during such times that hunting of birds is permitted under the Conservation of Wild Birds Regulations, as well as to traditional capturing of wild rabbit using nets, in which case certain other restrictions will apply. During the wild rabbit hunting season, the shooting of wild rabbit may be practiced between two hours before sunrise and two hours after sunset from Monday to Saturday, and from two hours before sunrise and until one o'clock in the afternoon on Sundays and on public holidays. Shooting of wild rabbit will not be allowed during the period from 1st September to 31st December during such times when the hunting of wild birds is prohibited in terms of the Conservation of Wild Birds Regulations or any subsidiary Regulations thereof. However the above time restrictions will not apply to the capture of wild rabbit using nets, but excluding the use of gun. Under new regulations, licensed rabbit hunters will have a legal obligation to report their rabbit bags through Carnet de Chasse, which will enable the authorities to collect bag statistics. Penalties for violations of Wild Rabbit Protection Regulations have been drastically increased, to be in synch with the level of penalties for violations of Conservation of Wild Birds Regulations. Additional legal protection measures have been introduced to safeguard against any potential disturbance to ground nesting birds, such as for instance inclusion of Rdm Tal-Madonna SPA as an exclusion area where no capturing of wild rabbit can take place.

7. Any other business

7.1 The Committee did not discuss any other business.

Meeting was adjourned at 1945 hours.