

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

**23<sup>rd</sup> April 2015, Hexagon House, MEPA, 1630 - 1900**

### **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 – FKNK  
Mr Joe Perici Calascione – FKNK  
Mr Mark Gauci – Avifauna Expert  
Mr Marco Falzon – Member nominated by Government  
Mr Frank Vassallo– Hunting and Trapping Expert  
Mr Stephen Saliba – MEPA

**Excused:** Mr Gwido Baldacchino - Member nominated by Government

**Absent:** Ms Emeline Fenech – Member nominated by Government

**Other contributors present:** Insp. Jurgen Vella, ALE; another ALE officer (to include name), Mr Richard Lia, Manager of Policy Branch of WBRU

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

- 1.1 The agenda was adopted, subject to inclusion of the update on enforcement situation during spring season as requested by Birdlife (Malta).
- 1.2 Nicholas Barbara also asked to postpone discussion on the study concerning illegal killing of birds. This request was upheld.

#### **2. Adoption of the minutes of the meeting held on 2<sup>nd</sup> April 2015**

- 2.1 Minutes were adopted subject to the inclusion of reference to Chairman's correspondence with the Commissioner of Police. The Secretary will re-circulate revised minutes.
- 2.2 Stephen Saliba made reference to the minutes of the meeting held on 10<sup>th</sup> March, in which he inserted a clarification. Sergei Golovkin said this clarification was noted and included in the final minutes.

#### **3. Update on the enforcement situation**

3.1 Chairman invited Inspector Jurgen Vella to give an update on the enforcement situation. Inspector Vella said that compared with the past seasons, the situation is particularly quiet and very few illegalities were detected so far. He noted that apart from the widely reported Cuckoo and Lapwing shooting incident, and a trapping incident in Zebbug there were no other major illegalities so far. Very few minor irregularities were also noted. The ALE and District police as well as the AFM are deploying over seventy officers to monitor the situation in Malta, with ten patrol vehicles being deployed over two shifts. Each patrol is assigned specific areas to monitor, and each area is visited at

least five times during the two shifts. In all there are 52 such areas. Inspection records are passed on to WBRU on a daily basis for statistics purposes. The police are also conducting routine spot-checks on individual hunters – about a hundred such spot-checks are being conducted daily in addition to field inspections. Two night patrols are also being deployed daily. In Gozo, there are 12 officers deployed in three patrols. Inspector Vella also mentioned that the police received a report from CABS indicating the presence of several stationary bird callers active during the night. The police will be investigating these locations.

3.2 Chairman asked about the case of illegal trapping. Inspector Vella replied that a person was caught within limits of Zebbug trapping for protected species. Live decoys of pipits and short-toed lark were seized from the site. Chairman furthermore asked whether there was an increase in the number of trapping incidents during March, before spring hunting season was opened. Inspector Vella said there were a number of illegal trapping incidents detected during March, and most of these involved persons who were previously licensed to trap finches during last autumn. He said that it could be that since these were allowed to trap during last autumn, some have continued to be active even during spring.

3.3 Joe Perici Calascione noted that enforcement presence in the field was particularly intensive this spring and that this at times amounts to harassment of law-abiding hunters who are subjected to road blocks and multiple inspections. He asked whether the police is adopting similar draconian measures in other areas of law enforcement, such as for instance why would the police not inspect each and every vehicle driving on our roads. He also said that migration this spring so far is especially poor with most hunters not even seeing any turtle dove let alone quail and let alone within shooting distance.

3.4 Nicholas Barbara asked whether the email sent by the Chairman on behalf of Ornis to the Commissioner of Police has had any effect and whether there was any reply. Chairman said that the Commissioner responded by acknowledging Ornis suggestions and advising that these suggestions are already being implemented.

#### **4. Outcome of the 2014 autumn live-capturing derogation for Golden Plover and Song Thrush**

4.1 Sergei Golovkin presented a summary of the report on the outcome of the derogation which was circulated to Ornis members in previous week. The report documented an overview of the legal basis for the application of last year's derogation, including important legal changes effected in July last year. The report also documented the controls that were implemented as part of the strict supervision regime, including the exercise to register eligible sites and to digitalise all site plans for enforcement purposes. The report provided information on the number of licenses issued, which was marginally greater than the number of licenses issued in 2012 and 2013. The majority of the persons licensed to capture Golden Plover and Song thrush also obtained a special finch live-capturing license. A system of real time reporting catches was implemented and the summary of the catches reported was presented. There was an increase in the catches compared to those reported in 2013. The report also documented the number of officers deployed to supervise the derogation, the number of inspections and spot checks conducted upon individual trappers, and the number and nature of the offences detected. There was an overall increase in the number of offenders apprehended during this derogation in comparison with the 2013 derogation, however the proportion of more serious offences such as trapping without a license, targeting protected species or trapping within bird sanctuaries has gone down. The major part of infringements concerned relatively minor offences such as use of bird callers and failure to report the birds or fit them with a special single use ring.

4.2 Chairman said that failure to report should be considered a major offence since it can potentially undermine the parameters of the derogation. Sergei Golovkin acknowledged this and clarified that on an individual level an offender charged with non-reporting would face lesser penalties than an offender charged with targeting protected species or trapping without a license or within a bird

sanctuary. For this reason administrative offences such as non-reporting are considered to be comparatively minor. However he agreed that on the level of the derogation, if there is a potentially significant level of systemic under-reporting this would undermine the parameters of the derogation. However this was clearly not the case since the number of non-reporting cases was minuscule in comparison with the thousands of spot-checks conducted, which indicates that overall the level of compliance was very high. He specifically noted that the number of inspections and spot checks conducted in 2014 more than doubled in comparison with the same statistics in 2012 and 2013 making it much harder for potential offenders to evade the law.

4.3 Geoffrey Saliba asked whether this report will be submitted to European Commission. He also asked what is the Commission's opinion about this derogation and whether there have been any developments with regards to the infringement case.

4.4 Sergei Golovkin replied that the report was already transmitted to the Commission. As regards infringement, he said this arose way back in 2011 at the time when Malta did not have adequate legal framework to ensure strict supervision of this derogation. Trapping seasons were opened by virtue of an ad hoc legal notice, which did not specify bag limits or other controls. However following Malta's reply to the Reasoned Opinion in 2012, government has completely revamped the legal framework and published new framework regulations. The regulations were modelled on spring hunting framework regulations which were also accepted by the Commission after CJEU judgement in spring hunting case. New supervision mechanisms were established on the ground to control and supervise the derogation, such as for instance the real time reporting system. There was no further written correspondence with the Commission on this infringement after February 2013, although the Commission continued to receive Malta's reports and the matter was also discussed briefly within the framework of annual package meetings. It is understood that the Commission is satisfied with the legal framework and the regime in place as there is little doubt that if the contrary was true, the Commission would not have hesitated to escalate the procedure and refer the case to CJEU.

4.5 Geoffrey Saliba said it might be farfetched to refer to Commission's acceptance of Golden Plover and Song Thrush legislation and Birdlife (Malta) is not aware of such "acceptance". Perhaps a more correct reference would be "the Commission has so far did not challenge". Sergei Golovkin replied that he cannot speak on behalf of the Commission and that Birdlife (Malta) may wish to clarify this with the Commission directly. As far as he is aware there seem to be no major issues at present with the Commission with regards to this particular derogation.

## **5. Update on the conservation status assessment of Golden Plover and Song Thrush**

5.1 Chairman invited Richard Lia to present the updated assessment. Richard Lia said the assessment followed the format of the assessment conducted in 2014 and contains updates on the basis of latest scientific literature, chiefly the 2014 European Bird Census Council (EBCC) report. Article 12 reports submitted by Member States were also reviewed as part of this assessment. As regards Song Thrush, the assessment indicates that the population continues to enjoy a favourable conservation status and indeed continues to increase at both the pan-European level and EU level, the latter constituting the reference population for this species. In the case of Golden Plover the EBCC 2014 update (pan-European assessment) reported a decline in the short-term (1990–2012) trend from +121% in 2013 to +2% in 2014 (a reduction of -119% since the previous update) and from +24% to -12% in the long-term (1980–2012) trend, resulting in a decline of -36%.

5.2 Chairman asked to clarify whether the situation with the Golden Plover implies that there has been a decline in the rate of increase amongst reference populations. He also asked to clarify whether the data presented concerns nominate race of the *P. apricaria altifrons* sub-species. He also asked to clarify how it was inferred that the decline occurred within the Norwegian population, and not within Swedish or Finnish ones. Furthermore Chairman asked to clarify how reference populations were determined, since there appears to have been no reported ring recoveries of Golden Plover. Richard

Lia explained that for Golden Plover, the EBCC reports (pan-European assessment) focuses on the Northeast European (also known as the West Continental) population listing Norway, Sweden and Finland as the countries contributing to the data. Richard Lia made reference to page 7 of WBRU's report which shows a screenshot from EBCC 2014 update, showing both the long-term trend classification of the species, which is still Stable despite the recent decrease, and the list of participating countries (Norway, Sweden and Finland). Richard Lia explained that the Golden Plover reference population constitutes the Finnish and Swedish populations (*Pluvialis apricaria altifrons*); a broad-front migrant that winters in North Africa, unlike the nominate *Pluvialis apricaria apricaria* which has a more restricted wintering range, as confirmed by Wetlands International (Fig. 2 of WBRU's report). Both Finland and Sweden reported that their component Golden Plover populations continue to enjoy a favourable conservation status: Sweden—Stable in the short-term trend and Increasing (by up to 40%) in the long-term trend; Finland—Increasing (by up to 98%) in the short-term trend and Stable in the long-term trend (EEA, 2014, available at: <http://bd.eionet.europa.eu/article12/summary?period=1&subject=A140>). Richard Lia also compared the Article 12 trend classification and associated increase in the reference population with the information that was provided by these two Member States in Birds in Europe II (BirdLife International, 2004) and by the EU Management Plan for this species: the minimum breeding pairs in Sweden increased from 50,000 (36,890 according to the EU Management Plan) to 83,000 (Article 12 report) and in Finland from 40,000 (47,740 according to the EU Management Plan) to 120,000 (Article 12 report) breeding pairs. This implies that the reference population has in fact increased from a minimum of 84,630 breeding pairs (on the basis of the EU Management Plan's population estimate from which Malta's national bag limit is calculated) to a minimum of 203,000 breeding pairs. This also implies that the decline reported by the 2014 EBCC update is attributed to the Norwegian population which, according to the EU Management Plan for this species, constitutes 50% of the pan-European population. Richard Lia also pointed out that should a live-capturing derogation be considered this year, WBRU has no intention to increase the national bag limit, notwithstanding that the reference population has seen an increase in the minimum number of breeding pairs.

5.3 Mark Gauci said that it may be high time for a proper scientific study to be conducted to definitively identify the species of Golden Plover present in Malta. This issue was a recurrent one raised at previous Ornithology meetings, and it would be helpful for Ornithology to consider proper scientific evidence derived from genetic profiling. Considering that the WBRU dedicated substantial financial resources for migration studies, some funds can perhaps be spared for a genetic analysis study.

5.4 Sergei Golovkin said that the suggestion for a study was a valid one, however there is nothing that stops private researchers to undertake such research. He said at present there are several research projects ongoing with participation of BLM researchers and perhaps this initiative can also be taken up without the need for government to necessarily be involved.

5.5 Joe Perici Calascione remarked that the season's bag limits imposed on individual trappers may be counter-productive since these may discourage reporting and are unfair on those keen Golden Plover and Song thrush trappers who are not interested in other species. He said that it is clear on the basis of the scientific assessment presented, that the national quotas can be increased, especially for Song Thrush. Even an increased national quota would be well within the limits of sustainability and there is no objective need to impose any individual quotas since the authorities can control the update of the national quota.

5.6 Sergei Golovkin said that whilst in principle he agrees with Joe Perici Calascione's reasoning, account must also be taken of the fact that this derogation is still subject to an ongoing infringement procedure and is indeed at the last stage of this procedure. Removal of individual bag limits would certainly be perceived by the Commission as a weakening of a delicate balance, and it is unlikely that the Commission would be persuaded to trust the Maltese authorities over the fact that these authorities would control the national quota without individual quotas. Malta should do its utmost to convince the Commission that the authorities are credible and serious about enforcing the parameters of the derogation, which in reality is the case. Removal of the quotas would go counter to such an approach.

Moreover, since the reported bags are really low, there is no technical case for increasing national quotas or removing individual limits. Lino Farrugia said that in his opinion since no bag quotas are in place for song thrush and golden plover taking by hunters, it stands to reason that a similar situation should apply for trappers, which situation would encourage better reporting as already explained by Joe Perici Calascione earlier. To the Chairman's question whether thus, the FKNK would like to make such a proposal at this stage, Lino Farrugia said that the FKNK may consider to come forward with such a proposal in year/s to come, however, this will not be the case for this year.

5.7 Chairman asked whether the members feel that the items presented provide a comprehensive picture and whether the Committee needs any other material in relation to this derogation to consider potential recommendation to government.

5.8 Nicholas Barbara said that Birdlife (Malta) feels that conclusion on the Golden Plover and Song thrush derogation can only be reached once the Committee also considers the outcome of the finch trapping derogation since both derogations were implemented in parallel and since both relied on certain shared supervision mechanisms such as game reporting, licensing, enforcement in the field and so on. Therefore Birdlife Malta considers it premature to discuss any recommendation to government without hearing about finches derogation first.

5.9 Lino Farrugia objected to this interpretation by stating that the two derogations are entirely separate and can be considered separately.

5.10 Chairman asked other members for views regarding this. Marco Falzon and Frank Vassallo said that the two derogations are separate and there is nothing that should preclude the Committee from considering Golden Plover and Song Thrush derogation since the materials presented by the WBRU are exhaustive and comprehensive. Indeed even last year the two derogations were considered separately.

5.11 Chairman agreed with the above reasoning and did not uphold Birdlife (Malta)'s request to postpone further discussion until the outcome of finches derogation is presented. He called for a vote over whether, on the basis of the materials presented, the government should be recommended to apply Golden Plover and Song Thrush derogation this year subject to the same parameters as last year.

5.12 The recommendation was adopted following 3 votes in favour (MEPA, FKNK and Government Representative) and two abstentions (Chairman and Birdlife (Malta)).

5.13 Chairman explained his abstention with the need to maintain equidistance and impartiality. Nicholas Barbara explained Birdlife (Malta)'s abstention by the fact that the organisation disagreed with this vote being held before considering the outcome of the finches derogation.

## **6. Any other business**

6.1 Sergei Golovkin made reference to BLM's press release, published today, which refers to an injured cuckoo being picked up by a member of the public in Mizieb. The bird was passed on to Birdlife, examined by a vet who confirmed gunshot wounds and euthanized the bird. He said that the authorities learned about this case from the media. He said that it is illegal for anyone to handle any protected bird without permission of the authorities and urged that whenever Birdlife Malta receive such any injured or dead birds from the public, the authorities should be notified immediately. Moreover, there is no law that empowers Birdlife to determine the fate of any injured bird. Injured birds should be passed on to government veterinarian for examination. It is government veterinarian who would then determine the necessary course of action.

6.2 Lino Farrugia remarked that this was not the first time that BirdLife Malta has knowingly breached the relative regulations with regard handling of protected bird species and even though at present they are being charged in Court by the Police for similar offences. Furthermore, this is also not the first instance that BirdLife has issued similar 'sensational' news during an Ornithology Committee session.

6.3 Sergei Golovkin also mentioned that the WBRU is developing a proposal for the reform of the Carnet de Chasse system. The Committee will be briefed on the contents of this proposal in further sessions.

6.4 The meeting was adjourned at 1945 hours.