

Meeting of the Malta Ornis Committee

26 August 2015, Hexagon House, MEPA, 1400 - 1630

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 Gwido Baldacchino - Member nominated by Government
Mr Frank Vassallo– Hunting and Trapping Expert
Mr Mark Gauci – Avifauna Expert
Mr Stephen Saliba – MEPA

Excused: Mr Joe Perici Calascione – FKNK; Mr Marco Falzon – Member nominated by Government

Absent: Ms Emeline Fenech – Member nominated by Government

1. Adoption of the agenda

- 1.1 Nicholas Barbara expressed reservation with regards to whether Agenda Item 6 (Amendment to Regulations) should remain in place, given that these amendments were already published “without any consultation” and the Committee is being faced with a “*fait accompli*”.
- 1.2 Sergei Golovkin referred to the discussion that took place within the Ornis committee in the autumn of 2014, whereby draft amendment regulations were presented and discussed. He clarified that the amendments published on 21st August have evolved directly as a result of these discussions, as well as following further consultations with other stakeholders. Item 6 was therefore intended to be an information item, to inform the Committee regarding the final published amendments.
- 1.3 Chairman noted that the publication of legislation was government prerogative.
- 1.4 The agenda was adopted.

2. Adoption of the minutes of the meeting held on 17 July 2015

- 2.1 Nicholas Barbara made reference to the last three sentences in paragraph 4.14 of the draft minutes. In his opinion, these sentences need to refer to a discussion that had ensued regarding the fact that should the illegal hunting situation in September/October worsen, the Ornis committee would be in a position to recommend appropriate measures to be taken straight away (such as re-introduction of the curfew). Moreover, it must also be made clear that there was no consensus within Ornis with regards to any legal amendment concerning Ornis powers, as also referred to in this paragraph.
- 2.2 Sergei Golovkin explained that paragraph 4.14 already states that the authorities are monitoring the enforcement situation and may consider taking further measures should the situation deteriorate. To make this point clearer, this can be stated under a separate paragraph.

2.3 The minutes were adopted subject to the above clarifications, as well as subject to amendments proposed by the FKNK in the text of the draft.

3. Matters arising and matters to report

3.1 There were no further matters arising or matters to report.

4. Autumn hunting season

4.1 Chairman invited Sergei Golovkin to brief the Committee regarding the parameters of the season as well as regarding enforcement.

4.2 Sergei Golovkin said the season's parameters are as stated in the Conservation of Wild Birds Regulations. The parameters will thus remain the same as in 2014 and in 2013. As regards enforcement, a similar contingent to that deployed last year is also being assembled. The contingent consists of the ALE core complement, police officers seconded from district and other units, as well as the AFM. Inspectors of the Specialist Enforcement Branch of the Wild Birds Regulation Unit will also be conducting surveillance operations. The Branch officers shall also be on call on a 24/7 basis.

4.3 Chairman asked to clarify the role of the Specialist Enforcement Branch. Sergei Golovkin explained that the Branch is mandated by law to assist the police in investigations concerning suspected breaches of Conservation of Wild Birds Regulations. This function was carried out since the Unit's inception in 2013. Inspectors of the Branch have the same enforcement powers as Environment Inspectors of MEPA. However the role of the Branch is distinct from the role of the police and is more of a complementary nature. As regards field duties, WBRU inspectors do not conduct any spot checks on individual hunters, but assist the police by providing intelligence gathering and covert surveillance, as well as by providing specialist bird identification services and testimony in court whenever the need arises.

5. Autumn trapping derogations

5.1 Nicholas Barbara referred to posts on FKNK's web forum as well as a Facebook post by a Parliamentary Secretariat Advisor, which referred to the fact that applications for trapping licenses were being accepted. On the basis of the above information it also appears that new trapping sites were being accepted for registration. However at the same time the government has not made any official announcements or published any notices of trapping derogations. He asked for an explanation of this situation, and in particular – how many trapping licenses were issued; how many sites were registered and what will be the parameters of the trapping season.

5.2 Sergei Golovkin explained that to date there was no government decision concerning autumn live-capturing derogations this year. No new legislation concerning trapping derogations was published to date. On the other hand, as was also the case with all other derogations including spring hunting, WBRU is mandated to ensure that should the government decide to apply trapping derogations this year, the necessary administrative and regulatory preparations are carried out well in advance of any such potential decision. For this reason, holders of general live-capturing license (Carnet de Chasse) were advised by means of letter that should the government decide to apply these derogations this year, eligible general license holders are free to express an interest in obtaining special live-capturing licenses by submitting an application. Such applications were received by the end of July and are being processed. No special licenses were issued to date. As regards registration of live-capturing sites, the Unit received and processed about 200 requests from persons who previously registered such sites in 2014 to effect changes to already registered sites. Changes were requested on the

grounds of personal circumstances of a general license holder, such as changes or disputes over land title and similar issues. In such cases the Unit considered registration of alternative sites instead of the previously registered ones, provided such alternative sites met all the prerequisites stipulated in legislation (e.g. not on protected habitats or within prohibited zones; sites must have existed prior to end of December 2012, not more than two live capturing stations can be registered per person etc). Compliance with the above requirements was assured through screening using the same system as in 2014. Applications from any person who is not already in possession of a valid general license were not accepted (no new license applicants).

5. Amendments to Conservation of Wild Birds Regulations

5.1 Nicholas Barbara reiterated that these amendments were published by the WBRU without any consultation. He said the amendments grant WBRU “unprecedented powers”, “weaken” regulations concerning taxidermy, change a number of functions of the Ornithology Committee and include a list of species that were only recorded in Malta once or twice. BLM is particularly concerned over lack of consultation and increase in WBRU powers, since “WBRU is incapable of impartial enforcement” as for example was demonstrated by the recent case in Gozo where finches “bearing fake close rings were not seized”.

5.2 Responding to this, Sergei Golovkin noted that BLM also made these allegations publically through a press conference held earlier today. He said these allegations do not correspond to reality since multiple consultations took place over a 10 months period. The proposed amendments were discussed extensively during four meetings of the Ornithology Committee held in September, October, November and December 2014 and proceedings of these meetings were recorded in approved Ornithology minutes. In fact a draft legal notice was actually circulated to the Committee in November 2014. He recalled that BLM went on record with their critique of these amendments in December 2014 through several media articles including one by the BLM Executive Director. The amendments published on 21st August evolved as a direct result of these discussions, as well as a result of further consultations carried out in 2015. The Committee was informed of this work in progress in February 2015. The final published LN took into consideration submissions made by stakeholders including BLM. For example, the final law does not include the previously proposed registration scheme, so vehemently opposed by BLM in 2014. The new law also did not include the previously proposed drastic increase in the penalties. Over two thirds of the final published LN consists of amendments previously circulated and discussed within Ornithology.

5.3 As regards enforcement powers, Sergei Golovkin said that contrary to BLM claims, Legal Notice 281 of 2015 did not grant “unprecedented powers of enforcement”. Enforcement powers were already prescribed in the Environment and Development Planning Act and the Legal Notice simply ensured clarity of the fact that that these powers applied also to the executive regulatory entity, the Wild Birds Regulation Unit, for the purpose of strengthening overall enforcement of the Conservation of Wild Birds Regulations. He also recalled that following government decision in 2013, the Wild Birds Regulation Unit was formally tasked with assisting other authorities in enforcing regulations concerning conservation of wild birds. From the start, this role did not replace, but was complementary to the enforcement powers of other authorities including Police, Customs and MEPA. To carry out these enforcement functions, the Unit set up in September 2013 a dedicated Specialist Enforcement Branch. The documented improvement in the enforcement situation over the past two years and the reduction of wildlife crime is partially a result of WBRU’s enforcement work and the competence of WBRU staff which BLM appear to question without any reason or justification. As regards BLM allegation that finches bearing “fake close rings” were allegedly not seized in Gozo, this claim is also false. An inspection at two separate premises was conducted in Gozo. During inspection, 52 juvenile Goldfinches were seized since these birds did not bear close rings. A number of other birds found on the premises bearing close rings were also inspected. These were found to be kept in conformity with the law.

5.4 Chairman said that the Committee does not have a remit to discuss any disagreements between an NGO and the government. Legislation is the prerogative of the government. The Chair of the Committee ensures that the Committee's procedures are observed, which, unless any member objects, appears to have been the case so far.

5.5 Geoffrey Saliba said that BLM have a different view to that expressed by WBRU, and this view was also expressed publically. At this junction BLM do not see further scope for discussing this published LN within the Committee. Both BLM representatives excused themselves from the rest of the meeting.

5.6 Mark Gauci said that in his view a number of amendments were of positive nature, but he would have preferred if a more specific and detailed consultation was conducted on each specific amendment.

5.7 Chairman referred to the specific amendment that concerned the power of the Ornis Committee to make recommendations regarding changing of any parameter of any hunting season, which also includes the power to recommend to close any season prematurely. He said that it is unclear how this government decision may be implemented in practice, since the Committee lacks clear parameters that would potentially guide it in adopting such recommendations. He reiterated that the Committee's remit is a technical one, and therefore such recommendations must be backed by scientific and technical evidence. However it is unclear as to what sort of scientific or technical criteria can the Committee adopt to be in a position to make such recommendations. He suggested that this issue needs to be discussed and the Committee should adopt some form of guiding principles. In his view, any potential decision to close any hunting season prematurely can only be adopted following a truly "catastrophic" failure of the enforcement system, where the closure would be the only possible way of preventing total failure of the enforcement system. However this in itself raises the question as to what can be considered as a "catastrophic failure". He invited Committee members to consider this issue and to propose concrete parameters to be discussed further.

5.8 The meeting was adjourned at 1630 hours.